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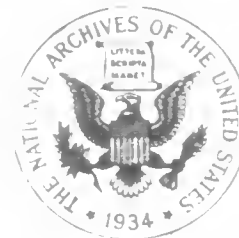
Wednesday, June 2, 1971

WASHINGTON, D.C.

Volume 36 ■ Number 106

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1971 Issuances

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1030-1059	1.00
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1090-1119	1.25
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11 [Reserved]	
14 Part 200-end	3.00
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16 Parts:	
0-149	3.00
150-end	2.00
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18 Parts:	
1-149	2.00
150-end	2.00
20 Parts:	
01-399	1.25
400-end	3.00
21 Parts:	
1-119	1.75
120-129	1.75
22	1.75
23	.50
24	2.75
25	1.75
26 Parts:	
1 (§§ 1.0-1-1.300)	3.00
1 (§§ 1.301-1.400)	1.00
1 (§§ 1.401-1.500)	1.50
1 (§§ 1.501-1.640)	1.25
1 (§§ 1.641-1.850)	1.50
1 (§§ 1.851-1.1200)	2.00
1 (§§ 1.1201-end)	3.25
2-29	1.25

Title	Price
30-39	1.25
40-169	2.50
170-299	3.50
300-499	1.50
500-599	1.75
600-end	.60
27	.45
28	.75
29 Parts:	
0-499	1.50
900-end	1.50
31	2.00
32 Parts:	
1-8	3.25
9-39	2.00
40-399	3.00
400-589	2.00
590-699	1.00
700-799	3.25
800-999	2.00
1000-1399	.75
1400-1599	1.50
1600-end	1.00
33 Part 200-end	1.75
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35	1.75
36	1.25
37	.70
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3-5D	1.75
18	3.25
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1-199	4.00
200-999	1.75
1000-1199	1.25
1200-1299	3.00
1300-end	1.00

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 349, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement

Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) Order, as amended. The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 908.649 (Valencia Reg. 349, 36 F.R. 9129) during the period May 21, 1971, through May 27, 1971, are hereby amended to read as follows:

§ 908.649 Valencia Regulation 349.

(b)

(1)

(i) District 1: 383,000 cartons;

(ii) District 2: 543,000 cartons;

(iii) District 3: 129,847 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 27, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Consumer and
Marketing Service.

[FR Doc. 71-7600 Filed 6-1-71; 8:46 am]

[Lime Reg. 30]

PART 911—LIMES GROWN IN FLORIDA

Quality and Size Regulation

On May 19, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9071) that consideration was being given to proposed regulation as hereinafter set forth in paragraph (a) (1) of § 911.332 Lime Regulation 30, which would limit the handling of limes grown in Florida. Such proposed regulation was recommended by the Florida Lime Administrative Committee, established pursuant to the marketing

agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 35 F.R. 16626), regulating the handling of limes grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Such notice provided 7 days during which interested persons could submit written data, views, or arguments for consideration in connection with the proposal. None were filed. However, the said committee met on May 19, 1971, and submitted to the Department the recommendation and supporting information for the regulatory requirements specified herein in § 911.332(a) (2), to be effective for the period June 7, 1971, through April 30, 1972.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Florida Lime Administrative Committee (established pursuant to the amended marketing agreement and order), and other available information, it is hereby found and determined that § 911.332 *Lime Regulation* 30, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The recommendations by the Florida Lime Administrative Committee reflects its appraisal of the Florida lime crop and the current and prospective market conditions. The size and grade requirements specified herein are necessary to provide consumers with good quality fruit, consistent with the overall quality of the supply available during the periods specified while maximizing returns to the producers pursuant to the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give additional preliminary notice to engage in further public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of Florida limes are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the regulation herein specified for the period June 1 through June 6, 1971 is identical with that now in effect; the recommendation and supporting information for regulation during the period June 7, 1971, through April 30, 1972 were promptly submitted to the Department after an open meeting of the Florida Lime Administrative Committee on May 19, 1971,

such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this regulation, including the effective times hereof, are identical with the recommendations of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such limes; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the periods hereinafter set forth so as to provide for the continued regulation of the handling of Florida limes, and compliance with this regulation, will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 911.332 Lime Regulation 30.

(a) Order. (1) During the period June 1, 1971, through June 6, 1971, no handler shall handle:

(i) Any limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(ii) Any limes of the group known as large-fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Turning: *Provided*, That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) limes shall apply; or

(iii) Any limes of the group known as large-fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1 7/8 inches in diameter.

(2) During the period June 7, 1971, through June 30, 1971, no handler shall handle:

(i) Any limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(ii) Any limes of the group known as large-fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which do not grade at least 85 percent U.S. No. 1 quality, except as to color: *Provided*, That not less than an aggregate area of three-fourths of the surface of each fruit shall meet the minimum color requirement for "mixed color": *And provided further*, That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet color requirements set forth in U.S. Standards for Persian (Tahiti) Limes shall apply; or

(iii) Any limes of the group known as large-fruited or Persian limes (including

Tahiti, Bearss, and similar varieties) which are of size smaller than 1 7/8 inches in diameter.

(3) Notwithstanding the provisions of paragraphs (1)(iii) and (2)(iii), not more than 10 percent, by count, of the limes in any lot of containers, other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided*, That no individual container of limes having a net weight of more than four pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirements.

(4) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Persian (Tahiti) Limes (§§ 51.1000-51.1016). (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 27, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Consumer and Mar-
keting Service.

[FR Doc. 71-7676 Filed 5-28-71; 12:40 pm]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 71-460]

PART 541—DEFINITIONS

PART 545—OPERATIONS

Participation Loan Transactions

May 18, 1971.

Resolved that, notice and public procedure having been duly afforded (36 F.R. 5710) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines to amend Parts 541 and 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Parts 541, 545) for the following purposes:

1. To delete the definition of the term "without recourse" since the same subject matter is covered by the Rules and Regulations for Insurance of Accounts (12 CFR Chapter V (Subchapter D)) which are also applicable to Federal savings and loan associations.

2. To broaden the authority of Federal savings and loan associations to participate in mortgage loan transactions within their regular lending area.

3. To restate the regulatory requirements relating to certain statutory percentage-of-assets limitations applicable to Federal savings and loan associations.

4. To effect certain other technical changes for purposes of clarification.

Accordingly, the Federal Home Loan Bank Board hereby amends said Parts 541 and 545 as follows, effective June 2, 1971:

§ 541.17 [Amended]

A. Said Part 541 is amended by re-voking § 541.17 thereof.

B. Said Part 545 is amended by revising § 545.6-4 thereof to read as follows:

§ 545.6-4 Participation loans.

(a) General.—(1) Authority for participations. A Federal association may participate in the making of a loan on the security of real estate with, or purchase a participation interest in such a loan from, an approved lender or lenders if the loan qualifies in all respects (including the location of the security property) as a loan which the association could otherwise make or purchase in its entirety except (i) only the amount of the investment in a participation interest is required to be counted toward the limitation in § 563.9-3 of this chapter on loans to one borrower, and (ii) the percentage-of-assets limitations in §§ 545.6X1(b) (4) and 545.6-7 are modified to the extent permitted by paragraph (c) of this section. A Federal association may sell a participation interest in a loan upon the security of real estate to any investing institution, fund, corporation, partnership, or trust. A Federal association shall comply with the provisions of Part 563 of this chapter with respect to the making of loans in participation with other approved lenders and with respect to the purchase and sale of participation interests in loans on the security of real estate.

(2) Exception for urban renewal loans. Investments in urban renewal loans pursuant to § 545.6-18(b) may be made in participation with other than approved lenders, as permitted by § 545.6-18(e).

(b) Board approval for other transactions. A Federal association may engage in a participation transaction other than one permitted by paragraph (a) of this section only if it has obtained the prior written approval of the Board with respect to such transaction. Any loan in which a Federal association participates or in which it purchases a participation interest pursuant to such approval may be repayable on such basis and within such period as the Board may authorize in such approval, without regard to any other provision of this part.

(c) Percentage-of-assets limitation—

(1) General limitation. No Federal association may engage in a participation transaction under this section, if, as a result of such transaction, the aggregate amount of its investment in participation interests in loans of the following types (unless excluded by subparagraph (2) of this paragraph) would exceed an amount equal to 20 percent of its assets:

(i) Loans secured by real estate located beyond the association's regular lending area which comprises (a) single-family dwellings or (b) homes; and

(ii) Loans secured by real estate, wherever located, which comprises (a) other dwelling units or (b) combinations of dwelling units, including homes, and business property involving only minor or incidental business use.

(2) Exclusions from limitation. Participation interests in any of the following types of loans shall not be counted toward the 20-percent-of-assets limitation of subparagraph (1) of this paragraph:

(i) Insured loans;

(ii) Guaranteed loans;

(iii) Loans secured by real estate located within the regular lending area of the association which holds a participation interest and which (a) meet the requirements of § 545.6-1(b) (4) and (b) are counted toward the 20-percent-of-assets limitation of that section;

(iv) Loans which are counted toward the 20-percent-of-assets limitation of § 545.6-7; and

(v) Loans which are counted toward the 5-percent-of-assets limitation of § 545.6-18.

(3) Applicability of other provisions. Participation interests which are counted toward the 20-percent-of-assets limitation of subparagraph (1) of this paragraph shall not be counted toward the 20-percent-of-assets limitation of § 545.6-7.

(d) Definition of approved lender. For the purposes of this section, the term "approved lender" means:

(1) Any lending institution whose accounts or deposits are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation;

(2) Any agency or instrumentality of the United States or of any State, including the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States, regularly engaged in the making, purchasing, or selling of loans on the security of real estate or in the purchasing or selling of participation interests in such loans;

(3) Any approved Federal Housing Administration mortgage meeting the requirements specified in subparagraph (4) of paragraph (a) of § 563.9 of this chapter; and

(4) Any service corporation in which the entire capital stock is held by one or more institutions which are insured or eligible to apply for insurance of accounts under title IV of the National Housing Act, as amended.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 7943-48 Comp., p. 1071)

Resolved further that, since the above amendments relieve restriction, publication of the amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendments is unnecessary; and the Board hereby provides that the amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc. 71-7627 Filed 6-1-71; 8:48 am]

[No. 71-489]

PART 545—OPERATIONS

PART 556—STATEMENTS OF POLICY

Eligibility Requirements for Branch Office Applications

May 25, 1971.

Resolved that, notice and public procedure having been duly afforded (36 F.R. 6839) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines to amend Parts 545 and 556 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Parts 545, 556) for the purpose of liberalizing the requirements which must be met for a Federal savings and loan association to be eligible to have a branch office application considered by the Board. Accordingly, the Federal Home Loan Bank Board hereby amends said Parts 545 and 556 as follows, effective June 2, 1971:

1. Said Part 545 is amended by revising paragraph (b) of § 545.14 thereof to read as follows:

§ 545.14 Branch office.

(b) Eligibility. A Federal association shall be eligible to have an application for permission to establish a branch office considered and processed only if, at the date on which such application is filed with the Board:

(1) The association does not have on file with the Board any other such application, excluding any application as to which more than 4 months have elapsed since the date of publication of notice thereof;

(2) More than 12 months have elapsed since the date of disapproval by the Board of an application to serve any substantial part of the same savings service area, as determined by the Supervisory Agent, but this requirement shall be applicable only if the association has filed two applications to serve any substantial part of such savings service area within the 12 months preceding such date of disapproval and both such applications have been disapproved by the Board;

(3) The sum of the applicant association's reserves and surplus is equal to at least 3 percent of its savings accounts;

(4) The association submits in support of its application evidence giving reasonable assurance, in the judgment of the Supervisory Agent, that the proposed branch office, if approved, will be opened within 12 months after the date of approval by the Board, or, if the proposed branch office is to be located in a shopping center having not less than 400,000 square feet of shopping space, within 36 months after the date of approval by the Board;

Provided, however, That the Board may, with respect to a particular application, determine to consider and process that application without regard to the eligibility requirements contained in subparagraph (1) of this paragraph.

2. Said Part 556 is amended by revising subparagraph (4) of paragraph (b) of § 556.5 thereof, to read as follows:

§ 556.5 Establishment of Federal savings and loan associations and branch offices and mobile facilities of such association.

(b) Policy on approval of branch offices mobile facilities.

(4) (i) As a general policy under § 545.14(b) of this chapter, the Board will not consider or process any application by a Federal association for permission to establish a branch office unless the applicant association meets all of the eligibility requirements contained in subparagraphs (1) through (4) of § 545.14(b) of this chapter. However, under the proviso to paragraph (b) of § 545.14 of this chapter, the Board may, in its discretion, permit the consideration and processing of particular branch applications even if the applicant association fails to meet the eligibility requirements contained in subparagraph (1) of § 545.14(b) of this chapter.

(ii) It is the intention of the Board to permit this special treatment in connection with applications for branches to serve low-income, innercity areas which are inadequately served by existing savings and loan facilities. Applicant associations wishing such special treatment with respect to a particular application must furnish the Supervisory Agent with detailed information demonstrating that the application (or a prior branch application, if less than 4 months have expired from the date of publication of notice thereof) is for a branch office (a) to be located within an area characterized by substandard family incomes, chronically high unemployment, a high percentage of welfare recipients, and substandard housing, and (b) to fulfill the objectives of facilitating the granting of loans in such area, particularly for construction or rehabilitation of housing, stimulating thrift and providing financial guidance among low-income residents of such area, and providing opportunities for employment or job training for residents of such area. If the Supervisory Agent is satisfied that the above criteria for special treatment of the application have been met, he may determine that the association is eligible under § 545.14(g) of this chapter, and the application may be processed as provided therein.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the above amendments relieve restriction, publication of the amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendments is unnecessary; and the Board hereby provides that the amendments shall become effective as hereinbefore set forth.

RULES AND REGULATIONS

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71-7625 Filed 6-1-71;8:48 am]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 71-461]

PART 561—DEFINITIONS

PART 563—OPERATIONS

Participation Loan Transactions

MAY 18, 1971.

Resolved that, notice and public procedure having been duly afforded (36 F.R. 5711) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines to amend Parts 561 and 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Parts 561, 563) for the following purposes:

1. To make a technical change in the definition of the term "without recourse" as it relates to the sale of loans or participation interests in loans by insured institutions.

2. To increase the authority of insured institutions with respect to participations in mortgage loan transactions in the following respects:

(a) Authorizing participation in mortgage loan transactions with additional classes of lenders;

(b) Broadening the types of real estate security for mortgage loans which may be the subject of participation transactions; and

(c) Decreasing the percentage of the participation in a mortgage loan transaction required to be retained by the institution which will service the mortgage loan, when the security is "residential real estate".

3. To effect certain other technical changes for purposes of clarification.

Accordingly, the Federal Home Loan Bank Board hereby amends said Parts 561 and 563 as follows, effective June 2, 1971:

A. Said Part 561 is amended by revising § 561.8 thereof to read as follows:

§ 561.8 Without recourse.

The term "without recourse" means, in connection with the sale of a loan or a participation interest in a loan, without any agreement or arrangement under which the purchaser is to be entitled to receive from the seller any sum of money or thing of value, whether tangible or intangible (including any substitution), upon default in payment of any loan or mortgage involved or any part thereof or to withhold or to have withheld from the seller any sum of money or any such thing of value by way of security against any such default.

B. Said Part 563 is amended as follows:

1. By revising § 563.9-1 thereof to read as follows:

§ 563.9-1 Participation loans.

(a) Loans on real estate located within normal lending territory. Any insured institution may, to the extent it has legal power to do so, participate with others in making any loan on the security of real estate located within its normal lending territory and purchase from or sell to others participation interests in such loans.

(b) Loans on real estate located beyond normal lending territory—(1) General. Subject to the provisions of this section, any insured institution, to the extent it has legal power to do so, may purchase from any other approved lender a participation interest in any loan secured by a first lien upon real estate located outside its normal lending territory, and may participate with any other approved lender or lenders in the making of any such loan, if:

(i) The loan is an insured loan or a guaranteed loan; or

(ii) The loan is secured by property located within 100 miles of an office of any other approved lender, which (a) services such loan and (b) at the close of the participation transaction has an interest in the loan of at least:

(1) 10 percent, if the loan is secured by residential real estate.

(2) 50 percent, if the loan is secured by real estate other than residential real estate.

(2) Scheduled items limitation. (i) No insured institution may, pursuant to subdivision (ii) of subparagraph (1) of this paragraph, purchase a participation interest from, or enter into a participation with, any insured institution which had at the close of its immediately preceding semiannual period, scheduled items (other than assets acquired in a merger instituted for supervisory reasons) in excess of 4 percent of its specified assets, unless the prior written approval of the Corporation has been obtained as provided in subdivision (ii) of this subparagraph.

(ii) An insured institution having scheduled items in excess of 4 percent of its specified assets may request Corporation approval for other insured institutions to purchase from it participation interests in loans and to participate with it in the making of loans pursuant to subparagraph (1) of paragraph (b) of this section. Any such request by the institution for Corporation approval shall be transmitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, with a copy thereof to the Supervisory Agent.

(3) Requirements as to servicer. An insured institution may maintain a participation interest in a loan, other than an insured loan or a guaranteed loan,

purchased or jointly originated pursuant to subdivision (ii) of subparagraph (1) of this paragraph, only if the loan is serviced by another approved lender having (i) an office located within 100 miles of the real estate securing the loan and (ii) an interest in such loan of at least (a) 10 percent, if the loan is secured by residential real estate, or (b) 50 percent, if the loan is secured by other than residential real estate. In the event that the requirements set forth in the preceding sentence cease to be met with respect to a loan in which an insured institution has a participation interest, such institution shall dispose of such participation interest within 90 days from the date that such requirements ceased to be met, unless it has, prior to the expiration of such 90-day period, obtained the written approval of the Corporation to maintain such investment for such longer period as the Corporation may provide.

(4) Percentage-of-assets limitation. No insured institution shall engage in a participation transaction under paragraph (b) of this section, except a transaction involving an insured loan or a guaranteed loan, if, as a result of such transaction, the aggregate amount of its investment in participation interests in loans on the security of real estate located beyond its normal lending territory, other than insured loans or guaranteed loans, would exceed an amount equal to 40 percent of its assets.

(c) Applicability of other provisions. The participation by an insured institution in the making of a loan pursuant to the approval granted by this section, or the purchase by an insured institution of a participation interest in a loan pursuant to such approval, shall not be subject to the provisions of § 563.10.

(d) Definitions. As used in this section—

(1) The term "approved lender" means:

(i) Any lending institution whose accounts or deposits are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation;

(ii) Any agency or instrumentality of the United States or of any State, including the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States, engaged in the making, purchasing, or selling of loans on the security of real estate or in the purchasing or selling of participation interests in such loans;

(iii) Any approved Federal Housing Administration mortgage meeting the requirements specified in subparagraph (4) of paragraph (a) of § 563.9; and

(iv) Any service corporation in which the entire capital stock is held by one or more insured institutions or institutions which are eligible to apply for insurance of accounts under title IV of the National Housing Act, as amended.

(2) The term "residential real estate" means real estate (i) improved by a structure or structures designed primarily for residential use and (ii) having at least 80 percent of its total value com-

prised of the land and improvements attributable to such residential use, but such term shall not include nursing homes, homes for the aging, and mobile home parks.

(3) The term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the insured institution is located or any other officer or employee of such bank designated by the Board as agent of the Corporation as provided in § 501.11 of this chapter.

2. By revising § 563.9-2 thereof to read as follows:

§ 563.9-2 Sale of participations in loans on real estate beyond normal lending territory.

Any insured institution may, to the extent it has legal power to do so, sell a participation interest in any loan upon the security of real estate which is located beyond its normal lending territory to any investing institution, fund, corporation, partnership, or trust.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR 1943-48 Comp., p. 1071)

Resolved further that, since the above amendments relieve restriction publication of the amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendments is unnecessary; and the Board hereby provides that the amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71-7628 Filed 6-1-71;8:48 am]

SUBCHAPTER E—DISTRICT OF COLUMBIA SAVINGS AND LOAN OFFICES

[No. 71-490]

PART 582—OFFICES

PART 582b—STATEMENTS OF POLICY

Eligibility Requirements for Branch Office Applications

MAY 25, 1971.

Resolved that, notice and public procedure having been duly afforded (36 F.R. 6840) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines to amend Parts 582 and 582b of the Regulations for District of Columbia Savings and Loan Offices (12 CFR Parts 582, 582b) for the purpose of liberalizing the requirements which must be met for a Federal savings and loan association to be eligible to have a branch office application considered by the Board. Accordingly, the Federal Home Loan Bank Board hereby amends said Parts 582 and 582b as follows, effective June 2, 1971:

1. Said Part 582 is amended by revising paragraph (b) of § 582.1 thereof to read as follows:

§ 582.1 Branch office.

(b) Eligibility. A Federal association shall be eligible to have an application for permission to establish a branch office considered and processed only if, at the date on which such application is filed with the Board:

(1) The association does not have on file with the Board any other such application, excluding any application as to which more than 4 months have elapsed since the date of publication of notice thereof;

(2) More than 12 months have elapsed since the date of disapproval by the Board of an application to serve any substantial part of the same savings service area, as determined by the Supervisory Agent, but this requirement shall be applicable only if the association has filed two applications to serve any substantial part of such savings service area within the 12 months preceding such date of disapproval and both such applications have been disapproved by the Board;

(3) The sum of the applicant association's reserves and surplus is equal to at least 3 percent of its savings accounts;

(4) The association submits in support of its application evidence giving reasonable assurance, in the judgment of the Supervisory Agent, that the proposed branch office, if approved, will be opened within 12 months after the date of approval by the Board, or, if the proposed branch office is to be located in a shopping center having not less than 400,000 square feet of shopping space, within 36 months after the date of approval by the Board.

Provided, however, That the Board may, with respect to a particular application, determine to consider and process that application without regard to the eligibility requirements contained in subparagraph (1) of this paragraph.

2. Said Part 582b is amended by revising § 582b.2 to read as follows:

§ 582b.2 Policy with respect to inner-city branch offices.

(a) As a general policy under § 582.1(b) of this chapter, the Board will not consider or process any application by an association for permission to establish a branch office unless the applicant association meets all of the eligibility requirements contained in subparagraphs (1) through (4) of § 582.1(b) of this chapter. However, under the proviso to paragraph (b) of § 582.1 of this chapter, the Board may, in its discretion, permit the consideration and processing of particular branch applications even if the applicant association fails to meet the eligibility requirements contained in subparagraph (1) of § 582.1(b) of this chapter. It is the intention of the Board to permit this special treatment in connection with

applications for branches to serve low-income, innercity areas which are inadequately served by existing savings and loan facilities.

(b) Applicant associations wishing such special treatment with respect to a particular application must furnish the Supervisory Agent with detailed information demonstrating that the application (or a prior branch application, if less than 4 months have expired from the date of publication of notice thereof) is for a branch office (1) to be located within an area characterized by substandard family incomes, chronically high unemployment, a high percentage of welfare recipients, and substandard housing, and (2) to fulfill the objectives of facilitating the granting of loans in such area, particularly for construction or rehabilitation of housing, stimulating thrift and providing financial guidance among low-income residents of such area, and providing opportunities for employment or job training for residents of such area. If the Supervisory Agent is satisfied that the above criteria for special treatment of the application have been met, he may determine that the association is eligible under § 582.1(g) of this chapter, and the application may be processed as provided therein.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the above amendments relieve restriction, publication of the amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendments is unnecessary; and the Board hereby provides that the amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.
[FR Doc. 71-7626 Filed 6-1-71; 8:48 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs,
Department of the Treasury
[T.D. 71-139]

MISCELLANEOUS AMENDMENTS TO CHAPTER

On January 13, 1971, notice of proposed rule making to amend the Customs Regulations pertaining to merchandise whose classification is dependent upon proof of actual use was published in the FEDERAL REGISTER (36 F.R. 432). Interested persons were given 60 days in which to submit written comments, suggestions, or objections regarding the proposed amendments.

The following changes have been made in the proposed amendments.

(1) In § 10.131, a new sentence has been added to make clear that special

marking or certification requirements may be applicable to merchandise the treatment of which is governed by §§ 10.131-10.139.

(2) In paragraph (b) of § 10.132, the item number of the Tariff Schedules of the United States applicable to woven bolting cloths, wholly of silk, is corrected to read Item 357.25.

(3) In § 10.134, the phrasing of the first sentence is changed to provide that the declaration of intent shall be filed with the entry.

(4) In § 25.18, paragraph (b) is deleted, rather than amended. Further study has established that the provision had application only in cases of proof of actual use, and is obsolete in view of the provisions of General Headnote 10 (e) (ii), Tariff Schedules of the United States, and prior changes in the regulations.

(5) Section 10.41a is amended to delete the cross reference to § 25.18(b) in the last sentence of subparagraph (2) of paragraph (a).

The proposed amendments including these changes are adopted as set forth below.

Effective date. These amendments shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

Approved: May 21, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE; SUBJECT TO A REDUCED RATE, ETC.

1. Part 10 is amended by adding at the end thereof a center heading and new §§ 10.131 through 10.139 reading as follows:

RATE OF DUTY DEPENDENT UPON ACTUAL USE

§ 10.131 Circumstances in which applicable.

The provisions of §§ 10.131 through 10.139 are applicable in those circumstances in which the rate of duty applicable to merchandise is dependent upon actual use, unless there is a specific provision in this part or Part 54 of this chapter which governs the treatment of the merchandise. However, specific marking or certification requirements, such as those for bolting cloths in section 10.58, may be applicable to merchandise subject to the provisions of sections 10.131-10.139.

§ 10.132 Examples of actual use provisions.

Examples of actual use provisions found in the Tariff Schedules of the United States (19 U.S.C. 1202) which will be subject to the provisions of §§ 10.131 through 10.139 are:

(a) Rice . . . Patna, cleaned, for use in the manufacture of canned soups

(Item 131.37, Tariff Schedules of the United States);

(b) Woven bolting cloths, wholly of silk, imported to be used for milling purposes, and marked so as to be fit for such purposes (Item 357.25, Tariff Schedules of the United States); and

(c) Limestone, crude, broken, or crushed, when imported to be used in the manufacture of fertilizer (Item 480.05, Tariff Schedules of the United States).

§ 10.133 Conditions required to be met.

When the tariff classification of any article is controlled by its actual use in the United States, three conditions must be met in order to qualify for free entry or a lower rate of duty unless the language of the particular item of the Tariff Schedules of the United States applicable to the merchandise specifies other conditions. The conditions are that:

(a) Such use is intended at the time of importation.

(b) The article is so used.

(c) Proof of use is furnished within 3 years after the date the article is entered or withdrawn from warehouse for consumption.

(77A Stat. 14; 19 U.S.C. 1202 (Gen. Hdnt. 10(e) (ii))

§ 10.134 Declaration of intent.

A showing of intent by the importer as to the actual use of imported merchandise shall be made by filing with the entry for consumption or for warehouse a declaration as to the intended use of the merchandise, or by entering the proper item number of an actual use provision of the Tariff Schedules of the United States and the reduced or free rate of duty on the entry form. Entry made under an actual use provision of the Tariff Schedules of the United States may be construed as a declaration that the merchandise is entered to be used for the purpose stated in the schedules, provided the district director is satisfied the merchandise will be so used. However, the district director shall require a written declaration to be filed if he is not satisfied that merchandise entered under an actual use provision will be used for the purposes stated in the schedules.

§ 10.135 Deposit of duties.

When the requirement of § 10.134 has been met the merchandise may be entered or withdrawn from warehouse for consumption without deposit of duty when proof of use will result in free entry, or with deposit of duty at the lower rate when proof of use will result in a lower rate of duty. For bond requirements, see section 8.28 of this chapter.

§ 10.136 Suspension of liquidation.

Liquidation of an entry covering merchandise for which a declaration of intent has been made pursuant to § 10.134 and any required deposit of duties made, shall be suspended until proof of use is furnished or the 3-year period allowed for production thereof has expired.

§ 10.137 Records of use.

(a) **Maintenance by importer.** The importer shall maintain accurate and de-

tailed records showing the use or other disposition of the imported merchandise. The burden shall be on the importer to keep records so that the claim of actual use can be readily established.

(b) **Retention of records.** The importer shall retain records of use or disposition for a period of 3 years from the date of liquidation of the entry.

(c) **Examination of records.** The records required to be kept by paragraph (a) shall be available at all times for examination and inspection by an authorized Customs officer.

§ 10.138 Proof of use.

Within 3 years from the date of entry or withdrawal from warehouse for consumption, the importer shall submit in duplicate in support of his claim for free entry or for a reduced rate of duty a certificate executed by (1) the superintendent or manager of the manufacturing plant, or (2) the individual end-user or other person having knowledge of the actual use of the imported article. The certificate shall include a description of the processing in sufficient detail to show that the use contemplated by the law has actually taken place. A blanket certificate covering all purchases of a given type of merchandise from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such manner as to be readily identified with each entry, the merchandise which he sold to such manufacturer or end-user during such period.

§ 10.139 Liquidation.

(a) **In general.** Upon satisfactory proof of timely use of the merchandise for the purpose specified by law, the entry shall be liquidated free of duty or at the lower rate of duty specified by law. When such proof is not filed within 3 years from the date of entry or withdrawal from warehouse for consumption, the entry shall be liquidated dutiable under the appropriate item of the Tariff Schedules of the United States.

(b) **Exception for blackstrap molasses.** An entry covering blackstrap molasses, as hereinafter defined, may be accepted and liquidated with duty at the lower rate after the filing of the declaration of intent required by § 10.134 and the deposit of estimated duties required by § 10.135 without compliance with §§ 10.136, 10.137, and 10.138. Blackstrap molasses is "final" molasses practically free from sugar crystals, containing not over 58 percent total sugars and having a ratio of

total sugars × 100

Brix

not in excess of 71. In the event of doubt, an ash determination may be made. An ash content of not less than 7 percent indicates a blackstrap molasses within the meaning of this paragraph.

2. Part 10 is further amended as follows:

In section 10.41a, the last sentence of subparagraph (2) of paragraph (a) is amended to read: When such proof is not filed within 3 years from the date of entry, the entry shall be liquidated dutiable under the appropriate item of the Tariff Schedules of the United States."

In § 10.43, paragraph (c) and footnote 40 appended thereto are deleted.

Section 10.88 and footnote 79 appended thereto are deleted.

Section 10.100 and footnotes 92a and 92b appended thereto are deleted.

Section 10.101 and footnote 93 appended thereto are deleted.

Section 10.111 is deleted.

Section 10.113 is deleted.

(R.S. 251, 77A Stat. 14, Sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1202 (Gen. Hdntes. 10 and 11), 1624)

PART 13—EXAMINATION, MEASUREMENT, AND TESTING OF CERTAIN PRODUCTS

3. Part 13 is amended by deleting § 13.4 and footnotes 3 and 4 appended thereto. (R.S. 251, Sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 16—LIQUIDATION OF DUTIES

4. In § 16.3, paragraph (b) is amended to read:

(b) The liquidation of entries covering articles entered at a conditionally reduced rate or conditionally free of duty under provisions of the Tariff Schedules of the United States in accordance with sections 10.131-10.135 of this chapter relating to actual use shall be suspended in accordance with section 10.136 of this chapter.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

5. In section 25.18, paragraph (b) is deleted.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

6. Part 54 is amended as follows:

Section 54.4 is deleted.

Section 54.7 is deleted.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

[FR Doc. 71-7610 Filed 6-1-71; 8:47 am]

[T.D. 71-138]

PART 10—ARTICLES CONDITIONALLY FREE; SUBJECT TO A REDUCED RATE, ETC.

Supplies and Equipment for Aircraft

In accordance with section 309(d), Tariff Act of 1930, as amended (19 U.S.C. 1309(d)), the Department of Commerce has found and under date of March 26, 1971, has advised the Treasury Department that, except for ground equipment, Thailand allows privileges to aircraft

registered in the United States and engaged in foreign trade substantially reciprocal to those provided for in sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317). Corresponding privileges are accordingly extended to aircraft registered in Thailand and engaged in foreign trade effective as of the date of such notification.

Under date of March 29, 1971, the Department of Commerce advised the Treasury Department that Yugoslavia allows privileges to aircraft registered in the United States and engaged in foreign trade substantially reciprocal to those provided for in sections 309 and 317 of the Tariff Act of 1930, as amended. The same privileges are therefore hereby extended to aircraft registered in Yugoslavia and engaged in foreign trade effective as of the date of such notification.

Accordingly, paragraph (f) of section 10.59, Customs Regulations, is amended by the insertion of "Thailand" and "Yugoslavia" in appropriate alphabetical order, the number of this Treasury decision in the opposite column headed "Treasury Decision(s)" and the wording "Not applicable to ground equipment" opposite "Thailand" in the column headed "Exceptions, if any, as noted" in the list of nations in that paragraph.

(Secs. 317, 624, 46 Stat. 696, as amended, 759; 19 U.S.C. 1317, 1624)

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

Approved: May 18, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc. 71-7612 Filed 6-1-71; 8:47 am]

[T.D. 71-140]

PART 10—ARTICLES CONDITIONALLY FREE; SUBJECT TO A REDUCED RATE, ETC.

Supplies and Equipment for Aircraft

In accordance with section 309(d), Tariff Act of 1930, as amended (19 U.S.C. 1309(d)), the Department of Commerce has found and under date of April 16, 1971, has advised the Treasury Department that the Republic of Korea allows privileges to aircraft registered in the United States and engaged in foreign trade substantially reciprocal to those provided for in sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317). The same privileges are therefore hereby extended to aircraft registered in the Republic of Korea and engaged in foreign trade effective as of the date of such notification.

Accordingly, paragraph (f) of § 10.59, Customs Regulations, is amended by the insertion of "Republic of Korea" in appropriate alphabetical order and the number of this Treasury decision in the opposite column headed "Treasury Decision(s)" in the list of nations in that paragraph.

(Secs. 309, 317, 624, 48 Stat. 690, as amended, 696, as amended, 759; 19 U.S.C. 1309, 1317, 1624)

[SEAL] MYLES, J. AMBROSE,
Commissioner of Customs.

Approved: May 21, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc. 71-7624 Filed 6-1-71; 8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

CERTIFICATION OF INSULIN AND ANTIBIOTIC DRUGS

Under authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 2.121 is amended to update the delegations of authority regarding certifying batches of insulin and antibiotics by revising paragraphs (h) and (i) to read as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

(h) *Delegations regarding certification of insulin.* The Director and Deputy Director of the Bureau of Drugs, the Director of the Office of Scientific Evaluation of that Bureau, the Deputy Director for Medical Affairs of that Office and Bureau, the Director and Deputy Director of the Division of Anti-Infective Drug Products of that Office and Bureau, and the Chief of the Certification Services Staff and the Chief of the Certifiable Drug Review Staff of that Division, Office, and Bureau are authorized to certify or reject batches of drugs containing insulin, pursuant to section 506(a) of the Federal Food, Drug, and Cosmetic Act.

(i) *Delegations regarding certification of antibiotic drugs.* The Director and Deputy Director of the Bureau of Drugs, the Director of the Office of Scientific Evaluation of that Bureau, the Deputy Director for Medical Affairs of that Office and Bureau, the Director and Deputy Director of the Division of Anti-Infective Drug Products of that Office and Bureau, and the Chief of the Certification Services Staff and the Chief of the Certifiable Drug Review Staff of that Division, Office, and Bureau are authorized to certify or reject batches of antibiotic

drugs, or any derivative of these drugs, pursuant to section 507(a) of the Federal Food, Drug, and Cosmetic Act.

Effective date. This order is effective upon publication in the FEDERAL REGISTER (6-2-71).

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: May 20, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7594 Filed 6-1-71; 8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

α-METHYLSTYRENE-VINYL TOLUENE;
IDENTIFICATION

No comments were received in response to the notice published in the FEDERAL REGISTER of August 29, 1970 (35 F.R. 13796), proposing that the food additive regulations providing for food-contact use of α-methylstyrene-vinyltoluene copolymer resins be amended by identifying the subject resins as those in a molar ratio of 1 α-methylstyrene to 3 vinyltoluene.

Accordingly, the Commissioner of Food and Drugs concludes that the proposed amendments should be adopted. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under authority delegated to the Commissioner (21 CFR 2.120), §§ 121.2520, 121.2526, 121.2562, and 121.2569 are amended by revising the subject items to read as follows:

§ 121.2520 Adhesives.

(c) . . .
(5) . . .

COMPONENTS OF ADHESIVES

Substances	Limitations
α-Methylstyrene-vinyltoluene copolymer resins (molar ratio 1 α-methylstyrene to 3 vinyltoluene).	

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

(b) . . .
(2) . . .

List of substances	Limitations
α-Methylstyrene-vinyltoluene copolymer resins (molar ratio 1 α-methylstyrene to 3 vinyltoluene).	

§ 121.2562 Rubber articles intended for repeated use.

(c) . . .
(4) . . .
(iv) . . .

α-Methylstyrene-vinyltoluene copolymer resins (molar ratio 1 α-methylstyrene to 3 vinyltoluene).

§ 121.2569 Resinous and polymeric coatings for polyolefin films.

(b) . . .
(3) . . .

List of Substances

(1) . . .
α-Methylstyrene-vinyltoluene copolymer resins (molar ratio 1 α-methylstyrene to 3 vinyltoluene).

Limitations

For use only in coatings that contact food under conditions of use D, E, F, or G described in table 2 of § 121.2526(c), provided that the concentration of α-methylstyrene-vinyltoluene copolymer resins in the finished food-contact coating does not exceed 1.0 milligram per square inch of food-contact surface.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-2-71).

(Sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: May 10, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7532 Filed 6-1-71; 8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service,
Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7118]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Treatment of Certain Insurance Receipts for Excess Living Expenses

On March 5, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to provide regulations under section 123 of the Internal Revenue Code of 1954 (relating to the treatment of certain insurance receipts for excess living expenses) was published in the FEDERAL REGISTER (36 F.R. 4387). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL]

DEAN J. BARRON,
Acting Commissioner
of Internal Revenue.

Approved: May 25, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary
of the Treasury.

In order to provide regulations under section 123 of the Internal Revenue Code of 1954, as amended by section 901 of the Tax Reform Act of 1969 (83 Stat. 709), the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Section 1.123 is amended by revising the section number in the title, the section number in the statutory material, and by revising the historical note. These amended provisions read as follows:

§ 1.124 Statutory provisions; cross references to other acts.

SEC. 124. Cross references to other acts.

[Sec. 124 as amended by section 501(t), Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 885); sec. 2201(25), Veterans' Benefits Act of 1957 (71 Stat. 160); sec. 13 (t), Act of Sept. 2, 1958 (Public Law 85-857, 72 Stat. 1266); as renumbered by sec. 206(a), Rev. Act 1964 (78 Stat. 38); as renumbered by sec. 1(a)(2), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 32); as renumbered by sec. 901, Tax Reform Act 1969 (83 Stat. 709)]

PAR. 2. There are inserted immediately following § 1.122-1 the following new sections:

§ 1.123 Statutory provisions; amounts received under insurance contracts for certain living expenses.

SEC. 123. Amounts received under insurance contracts for certain living expenses—
(a) General rule. In the case of an individual whose principal residence is damaged or destroyed by fire, storm, or other casualty, or who is denied access to his principal resi-

dence by governmental authorities because of the occurrence or threat of occurrence of such a casualty, gross income does not include amounts received by such individual under an insurance contract which are paid to compensate or reimburse such individual for living expenses incurred for himself and members of his household resulting from the loss of use or occupancy of such residence.

(b) *Limitation.* Subsection (a) shall apply to amounts received by the taxpayer for living expenses incurred during any period only to the extent the amounts received do not exceed the amount by which—

(1) The actual living expenses incurred during such period for himself and members of his household resulting from the loss of use or occupancy of their residence, exceed

(2) The normal living expenses which would have been incurred for himself and members of his household during such period.

[Sec. 123 as added by sec. 901, Tax Reform Act 1969 (83 Stat. 709)]

§ 1.123-1 Exclusion of insurance proceeds for reimbursement of certain living expenses.

(a) *In general.* (1) Gross income does not include insurance proceeds received by an individual on or after January 1, 1969, pursuant to the terms of an insurance contract for indemnification of the temporary increase in living expenses resulting from the loss of use or occupancy of his principal residence, or a part thereof, due to damage or destruction by fire, storm, or other casualty. The term "other casualty" has the same meaning assigned to such term under section 165(c)(3). The exclusion also applies in the case of an individual who is denied access to his principal residence by governmental authorities because of the occurrence (or threat of occurrence) of such a casualty. The amount excludable under this section is subject to the limitation set forth in paragraph (b) of this section.

(2) This exclusion applies to amounts received as reimbursement or compensation for the reasonable and necessary increase in living expenses incurred by the insured and members of his household to maintain their customary standard of living during the loss period.

(3) This exclusion does not apply to an insurance recovery for the loss of rental income. Nor does the exclusion apply to any insurance recovery which compensates for the loss of, or damage to, real or personal property. See section 165(c)(3) relating to casualty losses; section 1231 relating to gain on an involuntary conversion of a capital asset held for more than six months; and section 1033 relating to recognition of gain on an involuntary conversion. In the case of property used by an insured partially as a principal residence and partially for other purposes, the exclusion does not apply to the amount of insurance proceeds which compensates for the portion of increased expenses attributable to the nonresidential use of temporary replacement property during the loss period. In the case of denial of access to a principal residence by governmental authority, the exclusion provided by this section does not apply to an insurance recovery received by an individual

as reimbursement for living expenses incurred by reason of a governmental condemnation or order not related to a casualty or the threat of a casualty.

(4) (i) Subject to the limitation set forth in paragraph (b), the amount excludable is the amount which is identified by the insurer as being paid exclusively for increased living expenses resulting from the loss of use or occupancy of the principal residence and pursuant to the terms of the insurance contract.

(ii) When a lump-sum insurance settlement includes, but does not specifically identify, compensation for property damage, loss of rental income, and increased living expenses, the amount of such settlement allocable to living expenses shall, in the case of uncontested claims, be that portion of the settlement which bears the same ratio to the total recovery as the amount of claimed increased living expense bears to the total amount of claimed losses and expenses, to the extent not in excess of the coverage limitations specified in the contract for such losses and expenses.

(iii) In the case of a lump-sum settlement involving contested claims, the insured shall establish the amount reasonably allocable to increased living expenses, consistent with the terms of the contract and other facts of the particular case.

(iv) In no event may the amount of a lump-sum settlement which is allocable to increased living expenses exceed the coverage limitation specified in the contract for increased living expenses. Where, however, a coverage limitation is applicable to the total amount payable for increased living expenses and, for example, loss of rental income, the amount of an unitemized settlement which is allocable to increased living expenses may not exceed the portion of the applicable coverage limitation which bears the same ratio to such limitation as the amount of increased living expenses bears to the sum of the amount of such increased living expenses and the amount, if any, of lost rental income.

(5) The portion of any insurance recovery for increased living expenses which exceeds the limitation set forth in paragraph (b) shall be included in gross income under section 61 of the Code.

(b) *Limitation.* (1) *Amount excludable.* The amount excludable under this section is limited to amounts received which are not in excess of the amount by which (i) total actual living expenses incurred by the insured and members of his household which result from the loss of use or occupancy of their residence exceed (ii) the total normal living expenses which would have been incurred during the loss period but are not incurred as a result of the loss of use or occupancy of the principal residence. Generally, the excludable amount represents such excess expenses actually incurred by reason of a casualty, or threat thereof, for renting suitable housing and for extraordinary expenses for transportation, food, utilities, and miscellaneous services during the period of repair or replacement of the damaged principal residence

or denial of access by governmental authority.

(2) *Actual living expenses.* For purposes of this section, actual living expenses are the reasonable and necessary expenses incurred as a result of the loss of use or occupancy of the principal residence to maintain the insured and members of his household in accordance with their customary standard of living. Actual living expenses must be of such a nature as to qualify as a reimbursable expense under the terms of the applicable insurance contract without regard to monetary limitations upon coverage. Generally, actual living expenses include the cost during the loss period of temporary housing, utilities furnished at the place of temporary housing, meals obtained at restaurants which customarily would have been prepared in the residence, transportation, and other miscellaneous services. To the extent that the loss of use or occupancy of the principal residence results merely in an increase in the amount expended for items of living expenses normally incurred, such as food and transportation, only, the increase in such costs shall be considered as actual living expenses in computing the limitation.

(3) *Normal living expenses not incurred.* Normal living expenses consist of the same categories of expenses comprising actual living expenses which would have been incurred but are not incurred as a result of the casualty or threat thereof. If the loss of use of the residence results in a decrease in the amount normally expended for a living expense item during the loss period, the item of normal living expense is considered not to have been incurred to the extent of the decrease for purposes of computing the limitation.

(4) *Examples.* The application of this paragraph (b) may be illustrated by the following examples:

Example (1). On March 1, 1970, A's principal residence, a dwelling owned by A no part of which was rented to others or used for nonresidential purposes, was extensively damaged by fire. The damaged residence was under repair during the entire month of March making it necessary for A and his spouse to obtain temporary lodging and to take their meals at a restaurant. A and his spouse incur expenses of \$200 for lodging at a motel, \$180 for meals which customarily would have been prepared in his residence, and \$25 for commercial laundry service which customarily would have been done by A's wife. A makes (directly or through mortgage insurance), or remains liable for, the required March payment of \$190 on the mortgage note on his residence. The mortgage payment results from a contractual obligation having no causal relationship to the occurrence of the casualty and is not considered as an actual living expense resulting from the loss of use of the residence. A's customary commuting expense of \$40 for bus fares to and from work is decreased by \$20 for the month because of the motel's closer proximity to his place of employment. Other transportation expenses remain stable. Since there has been a decrease in the amount of A's customary bus fares, normal transportation expenses are considered not to have been incurred to the extent of the decrease. Finally, A does not incur cus-

tomary expenses of \$150 for food obtained for home preparation, \$75 for utilities expenses, and \$10 for laundry cleansers. The limitation upon the excludable amount of an insurance recovery for excess living expenses is \$150, computed as follows:

LIVING EXPENSES			
	Actual resulting from casualty	Normal not incurred	Increase (decrease)
Housing.....	\$200.00		\$200.00
Utilities.....		\$75.00	(75.00)
Meals.....	180.00	180.00	30.00
Transportation.....		20.00	(20.00)
Laundry.....	25.00	10.00	15.00
Total.....	405.00	285.00	150.00

Example (2). Assume the same facts as in example (1) except that the damaged residence is not owned by A but is rented to him for \$100 per month and that the risk of loss is upon the lessor. Since A would not have incurred the normal rental of \$100 for March, the excludable amount is limited to \$50 (\$150 as in previous example less \$100 normal rent not incurred).

(c) *Principal residence.* Whether or not property is used by the insured taxpayer and members of his household as their principal residence depends upon all the facts and circumstances in each case. For purposes of this section, a principal residence may be a dwelling or an apartment leased to the insured as well as a dwelling or apartment owned by the insured.

[FR Doc. 71-7638 Filed 6-1-71; 8:49 am]

[T.D. 7119]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Information Reporting in Respect to Medical Corporations

On October 23, 1970, a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 6041 of the Internal Revenue Code of 1954, relating to information reporting in respect to medical corporations, was published in the FEDERAL REGISTER (35 F.R. 16545). After consideration of all the relevant matter presented by interested persons regarding the rules proposed, the amendments so proposed are adopted subject to the change set forth below:

Paragraph (c) of § 1.6041-3, as set forth in the appendix to the notice of proposed rule making, is revised.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805.)

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner.

Approved: May 25, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary
of the Treasury.

PARAGRAPH (c) of § 1.6041-3, as set forth in the notice of proposed rule making, is revised to read as follows:

§ 1.6041-3 Payments for which no return of information is required under section 6041.

(c) Payments to a corporation, except payments made after December 31, 1970, to a corporation engaged in providing medical and health care services or engaged in the billing and collecting of payments in respect to the providing of medical and health care services, other than payments to—

(1) A hospital or extended care facility described in section 501(c)(3) which is exempt from taxation under section 501(a), or

(2) A hospital or extended care facility owned and operated by the United States, a State, the District of Columbia, a possession of the United States, or a political subdivision, agency or instrumentality of any of the foregoing.

For reporting requirements as to payments by cooperatives, and to certain other payments, see sections 6042, 6044, and 6049 and the regulations thereunder in this part;

[FR Doc. 71-7639 Filed 6-1-71; 8:49 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

PART 207—NAVIGATION REGULATIONS

Strait of Juan De Fuca, Wash., and Elliott Bay, Wash.

1. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 204.221 governing the use and navigation of a danger zone in the Strait of Juan De Fuca, Wash., is hereby revoked, effective on publication in the FEDERAL REGISTER, since the area is no longer needed, as follows:

§ 204.221 Strait of Juan de Fuca, Wash.; naval operations areas for nonexplosive air-to-surface target practice.

[Revoked]

[Regs., May 6, 1971, 1522-01—Strait of Juan De Fuca, Wash. (ENGW-ON)] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.750 is hereby amended, revoking paragraph (i) governing the use and navigation of a naval restricted area in Elliott Bay, Wash., effective on publication in the FEDERAL REGISTER, since the area is no longer needed, as follows:

§ 207.750 Puget Sound Area, Wash.

(i) Elliott Bay, Smith Cove; naval restricted area. [Revoked]

[Regs., May 6, 1971, 1522-01 Elliott Bay, Wash. (ENGW-ON)] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc. 71-7608 Filed 6-1-71; 8:46 am]

Title 42—PUBLIC HEALTH

Chapter IV—Environmental Protection Agency

PART 481—AIR QUALITY CONTROL REGIONS CRITERIA, AND CONTROL TECHNIQUES

Miscellaneous Amendments

During the period October 1, 1968, to May 1, 1971, the Environmental Protection Agency and its predecessor agency the Department of Health, Education, and Welfare, designated certain air quality control regions pursuant to the provisions of the Clean Air Act, as amended. The Agency has reviewed these designations as published in the FEDERAL REGISTER, and determined that a number of spelling errors, typographical errors, and incomplete descriptions were included therein. Accordingly, the following corrections to regulations in Part 481 of Title 42 in the Code of Federal Regulations are adopted effective upon publication:

1. Section 481.17, published January 29, 1969 (34 F.R. 1386), is corrected by changing "Grand" to read "Grant" in the description of the regional boundaries.

2. Section 481.34, published December 17, 1969 (34 F.R. 19758), is corrected by changing "Drake County" to read "Darke County" in the list of Ohio counties.

3. Section 481.132, published February 9, 1971 (36 F.R. 2602), is corrected by changing "Know County" to read "Knox County".

4. Section 481.134, published February 9, 1971 (36 F.R. 2602), is corrected by changing "Burleston County" to read "Burleson County".

5. Section 481.13, published February 13, 1971 (36 F.R. 2971), is corrected by changing "Newton Township" to read "Newtown Township" in the list of Connecticut townships.

6. Section 481.26, published March 9, 1971 (36 F.R. 4544), is corrected by changing "Agawan Township" to read "Agawam Township" in the list of Massachusetts townships.

7. Section 481.144, published March 19, 1971 (36 F.R. 5293), is corrected by changing "Albermarle" to read "Albemarle" in the list of Virginia counties.

8. Section 481.57, published March 19, 1971 (36 F.R. 5294), is corrected by changing "Intrastate" to read "Interstate" in the reference to the Eastern Tennessee-Southwestern Virginia region.

9. Section 481.217, published March 26, 1971 (36 F.R. 5693), is corrected by changing "Green County" to read "Greene County".

10. Section 481.251, published March 26, 1971 (36 F.R. 5695), is corrected by changing "Wabunsee County" to read "Wabunsee County".

11. Section 481.122, published April 1, 1971 (36 F.R. 5983), is corrected by changing "Tallahatchie County" to read "Tallahatchie County".

12. Section 481.195, published April 1, 1971 (36 F.R. 5986), is corrected by changing "Genesee County" to "Genesee County".

13. Section 481.194, published April 1, 1971 (36 F.R. 5992), is corrected by changing "Edmondson County" to read "Edmonson County", and by changing "Metcalfe County" to read "Metcalfe County".

14. Section 481.239, published April 1, 1971 (36 F.R. 5994), is corrected by substituting a comma for the period at the end of the phrase "Those portions of Rio Arriba County lying east of the Continental Divide" and by adding thereto the words "and not included within the Jicarilla Apache Indian Reservation."

15. Section 481.83, published April 1, 1971 (36 F.R. 5994), is corrected by substituting a comma for the period at the end of the phrase "Those portions of Sandoval County lying east of the Continental Divide" and by adding thereto the words "and not included within the Jicarilla Apache Indian Reservation."

(Sec. 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857g(a) as amended by sec. 15(c)(2) of Public Law 91-604)

Dated: May 26, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc. 71-7591 Filed 6-1-71; 8:45 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-77; Amdt. Nos. 172-9, 173-47, 176-4, 178-18, 179-6]

METHYLACETYLENE-PROPADIENE, STABILIZED

The purpose of this amendment to the Hazardous Materials Regulations is to provide specific requirements for the shipment of stabilized methylacetylene-propadiene, a flammable compressed gas, in cylinders, tank cars, and tank motor vehicles.

On February 4, 1971, the Hazardous Materials Regulations Board published a notice of proposed rulemaking, Docket No. HM-77; Notice No. 71-4 (36 F.R. 2404), which proposed to amend the regulations as described below.

Several comments noted that the proposal contained no provision for exemp-

tion of small quantity shipments under § 173.306(a), and requested that such provision be made. Statements were made that the Department had been supplied with sufficient data to assure that such exemptions would be appropriate.

It was pointed out that reference to specification 4BW in § 173.34(e)(10) was possibly accidentally omitted as the specification was proposed to be added under § 173.304(a)(2). Since that specification cylinder, used for other gases free from corroding components, is included in § 173.34(e)(10), the Board agrees that its omission from § 173.34(e)(10) was unintentional.

Another commenter observed that reference to specification 4E in §§ 173.34(e)(10) and 173.304(a) was also omitted. Inclusion of specification 4E in this Docket was never proposed by petitioner and consequently was not considered by the Board in its publication of the subject notice. The Board does agree that insofar as § 173.304(a)(2) is concerned, as supported by petitions, the intent was to provide essentially the same specification packaging for methylacetylene-propadiene mixtures as for liquefied petroleum gases, except that brazed seams were not to be permitted. On the other hand, the matter of generally authorizing inspection of specification 4E cylinders under the optional requirements of § 173.34(e)(10) is a separate issue under consideration in Docket No. HM-76; Notice No. 71-3 (36 F.R. 1153). The Board will decide if it should include these optional inspection provisions for 4E cylinders in methylacetylene-propadiene service on the basis of the outcome of that notice of proposed rulemaking.

On the basis of the above considerations, and in view of the fact that methylacetylene-propadiene mixtures have been successfully shipped for several years in packaging authorized for liquefied petroleum gases, the Board agrees that for this product: (1) Reference to § 173.306 should be included in § 172.5; (2) reference to specification 4BW should be included in § 173.34(e)(10); and, (3) § 173.304(a)(2) should be amended to provide for the use of specification 4E cylinders.

Comments were also received regarding the proper shipping name and descriptive text for methylacetylene-propadiene mixtures. Two commenters observed that the italicized phrase "containing at least 32 percent stabilizing diluents," used with the entry in § 172.5, suggests to the uninformed or inexperienced that a mixture containing these percentages of the product and diluents is stable and satisfactory for shipment. This is not necessarily true. It was suggested, in order to prevent the regulations from being misleading, that the proposed entry be changed by deleting the text in parentheses. Reliance would then be placed on § 173.21(b) to prevent shippers from offering unstable mixtures in

RULES AND REGULATIONS

APPENDIX A—FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 100

TABLE I-G
(Amendment No. 5)

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "70 SERIES" TYPE "R" RADIAL PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)										Test rim width (inches)	Minimum size factor (inches)	Section width (inches)			
	16	18	20	22	24	26	28	30	32	34				36	38	40
D170-13	800	950	1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5 1/2	32.29	8.05
D170-14	840	990	1,050	1,090	1,150	1,190	1,230	1,270	1,320	1,360	1,410	1,450	1,490	5 1/2	32.23	7.75
D170-15	880	1,030	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	1,530	5 1/2	32.78	7.90
E170-11	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,590	5 1/2	33.42	8.10
F170-14	1,020	1,090	1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,600	1,650	1,700	6	34.31	8.55
G170-13	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,550	1,600	1,650	1,700	1,750	1,800	6	35.12	8.80
H170-14	1,200	1,280	1,350	1,410	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6 1/2	36.31	9.10
I170-15	1,290	1,370	1,440	1,500	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6 1/2	36.86	9.35
J170-14	1,390	1,470	1,540	1,600	1,680	1,750	1,820	1,890	1,960	2,020	2,100	2,170	2,230	6 1/2	37.59	9.60
D170-15	800	950	1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5 1/2	33.31	7.75
E170-15	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,590	5 1/2	33.96	7.90
F170-15	1,020	1,090	1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,600	1,650	1,700	6	34.87	8.10
G170-15	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,550	1,600	1,650	1,700	1,750	1,800	6	35.65	8.35
H170-15	1,200	1,280	1,350	1,410	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6 1/2	36.83	8.60
I170-15	1,290	1,370	1,440	1,500	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6 1/2	37.31	8.85
K170-15	1,390	1,470	1,540	1,600	1,680	1,750	1,820	1,890	1,960	2,020	2,100	2,170	2,230	6 1/2	37.86	9.10
L170-15	1,490	1,570	1,640	1,700	1,780	1,850	1,920	1,990	2,060	2,120	2,190	2,260	2,330	6 1/2	38.66	9.35

Tire size ¹	Rim ²
Table I-K:	
E60-14.....	7-JJ.
F60-14.....	7-JJ.
G60-14.....	7-JJ.
J60-14.....	7½-JJ.
H60-14.....	6½-JJ, 7-JJ.
L60-14.....	8-JJ.
E60-15.....	6-JJ, 7-JJ, 8-JJ.
F60-15.....	6½-JJ, 7-JJ, 8-JJ.
G60-15.....	7-JJ, 8-JJ.
H60-15.....	7-JJ.
J60-15.....	7½-JJ.
L60-15.....	7½-JJ.

Table I-L:	
E50C-16.....	3½.
F50C-16.....	3½.
G50C-17.....	3½.
H50C-17.....	3½.
L50C-18.....	3½.

Table I-M:	
AR78-13.....	4½-JJ.
BR78-13.....	4½-JJ.
CR78-13.....	5-JJ.
DR78-14.....	4½-JJ.
ER78-14.....	5-JJ.
FR78-14.....	5-JJ.
GR78-14.....	6-JJ.
HR78-14.....	6-JJ.
JR78-14.....	6½-JJ.
AR78-15.....	4½-JJ.
BR78-15.....	4½-JJ.
PR78-15.....	4½-JJ.
ER78-15.....	5½-JJ.
GR78-15.....	6-JJ.
HR78-15.....	5½-JJ, 6-JJ.
JR78-15.....	6-JJ, 6½-JJ.
LR78-15.....	6-JJ, 6½-JJ.

Table I-N:	
165/70 R 13.....	4½-JJ, 5-JJ.
175/70 R 13.....	5-JJ, 5½-JJ.
185/70 R 13.....	4½-JJ, 5-JJ, 5½-JJ.
195/70 R 13.....	5½-JJ, 6-JJ.
155/70 R 14.....	4-JJ.
185/70 R 14.....	4½-JJ, 5-JJ, 5½-JJ.
195/70 R 14.....	5½-JJ, 6-JJ.
175/70 R 15.....	5-JJ.
185/70 R 15.....	5-JJ, 5½-JJ, 6-JJ.

Table I-O:	
140 R 12.....	4.00, 4.00-B, 4-JJ, 4.50, 4.50-B, 4½-JJ.
150 R 13.....	3½-JJ, 4.00B, 4½-JJ, 5-JJ.
160 R 13.....	4.00B, 4½-JJ, 5-JJ, 5½-JJ.

Table I-P:	
G45C-16.....	5.

Table I-R:	
FR60-15.....	7-JJ, 8-JJ.
GR60-15.....	7-JJ, 8-JJ.
HR60-15.....	7-JJ.

Table I-S:	
185/60 R 13.....	5-JJ, 5½-JJ.

NOTES

- ¹ Underline designations denote Test Rims.
² Where JJ rims are specified in the above Table J and JK rim contours are permissible.
³ Table designations refer to tables listed in Appendix A of FMVSS No. 109.

CHANGES

Table I-G:	
DR70-13, rim 5½-JJ added.	
CR70-14, rim 5½-JJ added.	
GR70-15, rim 8-K and 8½-L added.	
JR70-15, rim 6-JJ added.	
LR70-15, rim 6-JJ added.	
Table I-H:	
175R13, rim 4-JJ and 5½-JJ added.	
Table I-J:	
D78-13, rim 5½-JJ added.	
A78-15, rim 4½-JJ added.	
Table I-K:	
E60-14, rim 7-JJ added.	
H60-14, rims 6½-JJ and 7-JJ added.	

CHANGES—Continued

Table I-M:	
AR78-13, rim 4½-JJ added.	
CR78-13, rim 5-JJ added.	
BR78-14, rim 4½-JJ added.	
AR78-15, rim 4½-JJ added.	
Table I-R:	
FR60-15, rim 8-JJ added.	
GR60-15, rim 8-JJ added.	
HR60-15, rim 7-JJ added.	

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

Correction

In F.R. Doc. 71-6944 appearing at page 9069 in the issue of Wednesday, May 19, 1971, in the third line of amendatory paragraph 4. In the third column on page 9070 the figure "2" appearing in quotes should read "12".

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

SUBCHAPTER F—AID TO FISHERIES

PART 253—COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT

On page 18975 of the FEDERAL REGISTER of December 15, 1970, there was published a notice of proposed rule making setting forth amended procedures to be used by the Secretary in providing financial assistance to State agencies for research and development of the commercial fisheries resources of the Nation under the authority of the Commercial Fisheries Research and Development Act, 78 Stat. 197, as amended, at 82 Stat. 957, 16 U.S.C. 779 et seq. (Public Law 88-309), and Reorganization Plan Number 4 of 1970.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed amended regulations to the Director, National Marine Fisheries Service, Washington, D.C. In addition, every State commercial fishery agency was independently notified. Very few comments were received; however, interest was expressed for clarification of the requirement for State matching funds. Accordingly, this was accomplished through a supplemental notice of proposed rule making published on page 4506 of the FEDERAL REGISTER of March 6, 1971. This supplemental notice provided 30 days for comments, suggestions, or objections by interested persons and also an additional 30 days for such comments, suggestions, or objections regarding the notice of proposed rule making published in the FEDERAL REGISTER on December 15, 1970. Every State commercial fishery agency was independently notified. No comments from State fishery administrators following publication of

the supplemental notice on March 6, 1971, have been received. Other comments do not require revision.

Therefore, all comments having been fully considered and no other changes being deemed necessary, the part as so proposed is hereby adopted. These regulations are effective upon publication in the FEDERAL REGISTER.

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of Commerce.

ROBERT M. WHITE,
Administrator.

MAY 27, 1971.

Sec.	
253.1	Definitions.
253.2	Interpretation of the authorization.
253.3	General provisions.
253.4	Use of funds.
253.5	Environment.
253.6	Water pollution control.

AUTHORITY: The provisions of this Part 253 are issued under section 8 of the Commercial Fisheries Research and Development Act of 1964, 78 Stat. 199 (16 U.S.C. 779f), as modified by Reorganization Plan No. 4 of 1970, effective Oct. 3, 1970 (35 F.R. 15627).

§ 253.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Secretary.* The Secretary of Commerce or his authorized representatives.

(b) *Act.* The Commercial Fisheries Research and Development Act of 1964, Public Law 88-309, 78 Stat. 197, as amended by Public Law 90-551, 82 Stat. 957 (16 U.S.C. 779 et seq.).

(c) *Cooperator.* A State agency participating in a cooperative agreement with the Secretary.

(d) *Project proposal.* A description of work to be accomplished, including objectives, procedures, cost, location, and time required for completion, and such other information as may be required by the Secretary.

(e) *Cooperative agreement.* The contract for research and development activities to be carried on as provided by the Act and these regulations. Such agreement shall set forth the terms and conditions binding upon the cooperator and the Secretary, including the objectives, procedures, costs, the term of the agreement, and such other provisions as may be appropriate.

(f) *Aquatic plants and animals.* All animals and plants growing or living in or upon water, including finfish, shellfish, and other marine invertebrates, fur seals, whales and other marine mammals, frogs, turtles, and algae.

(g) *Commercial fisheries resources.* Any aquatic plant or animal available or potentially available for harvesting with the primary intent of commercial use as either raw or manufactured products.

§ 253.2 Interpretation of the authorization.

The terms used in the Act to describe the authorization to the Secretary for program and apportionment purposes are construed to be limited to the meanings ascribed in this section.

(a) *Research and development.* The words "research and development" mean

program of work, including construction and acquisition, designed to acquire knowledge of commercial fisheries resources and their environment and to develop and apply methods and techniques to enhance such commercial fisheries resources including their harvest, conservation, and utilization.

(b) *Raw fish harvested by domestic commercial fishermen and received within a State.* The words "raw fish harvested by domestic commercial fishermen and received within a State" mean aquatic plants and animals harvested by individuals, associations, partnerships or corporations resident in and authorized to do business in any State and engaged in harvesting of commercial fisheries resources or the processing and manufacturing of products therefrom. Aquatic plants and animals are received within a State when transferred from a catcher vessel within the jurisdiction of a State or permanently removed from a fish production facility.

(c) *Manufactured and processed fishery merchandise.* The words "manufactured and processed fishery merchandise" mean commercial fisheries resources or parts thereof after undergoing a change(s) contributing to or achieving a condition of readiness for sale.

(d) *Developing a new commercial fishery.* The words "developing a new commercial fishery" mean establishing a commercial fisheries resource not common to or being utilized in a State.

(e) *Commercial fishery failure due to a resource disaster arising from natural or undetermined causes.* The words "commercial fishery failure due to a resource disaster arising from natural or undetermined causes" mean a serious disruption of a commercial fisheries resource affecting present or future productivity. It does not include inability to sell raw fish or manufactured and processed fishery merchandise.

(f) *State.* The word "State" means the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

§ 253.3 General provisions.

(a) *Designation of State agency.* The Governor of each State shall notify the Secretary which agency of the State government is authorized under its laws to regulate commercial fisheries and is designated to submit project proposals and to enter into cooperative agreements. An official of such agency shall certify as to the official(s) authorized in accordance with State law to commit the State to participation under the Act, to sign project documents, and to receive payments. The Secretary shall be advised promptly of any changes made in such authorizations.

(b) *Project proposal.* (1) A project proposal shall be submitted for each proposed project for approval by the Secretary. An approved project proposal shall not be binding on the parties until incorporated in a cooperative agreement.

(2) Project proposals utilizing an allocation of State funds additional to amounts previously allocated by the State for commercial fishery research and development activities shall be preferred over project proposals utilizing an allocation of State funds which do not involve an increase of State funds dedicated to commercial fishery research and development programs. No project proposal which involves a reduction of State funds previously dedicated to commercial fishery research and development activities will be approved.

(c) *Cooperative agreement.* (1) After the Secretary has approved a project proposal, activities to be undertaken by the cooperator and the obligation of Federal funds shall be evidenced by a cooperative agreement executed by the cooperator and the Secretary. Such agreement may be amended by mutual consent of the parties.

(2) The cooperative agreement shall contain applicable provisions as required by Federal law and regulations. These provisions are identified in the Federal Aid for Fisheries Handbook, the most recent version of which may be obtained from the Director, National Marine Fisheries Service.

(d) *Prosecution of work.* (1) The prosecution of work by the cooperator shall be performed in a manner acceptable to the Secretary. Unsatisfactory performance shall be cause for the Secretary to withhold payments. Cooperative agreements may be terminated or suspended upon determination by the Secretary that satisfactory progress has not been maintained.

(2) All work shall be performed in accordance with applicable State laws except when such laws are in conflict with Federal laws or regulations, in which case such Federal law or regulations shall prevail.

(e) *Economy and efficiency of operations.* No cooperative agreement shall be executed until the cooperator has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency, including the avoidance of undesirable duplication, in the completion of a project.

(f) *Subcontracts.* In the performance of work under a cooperative agreement, subcontracts shall be solicited and awarded according to the laws and regulations of the State provided the Secretary is satisfied that adequate steps have been taken to insure economical and efficient services and impartial selection of subcontractors.

§ 253.4 Use of funds.

(a) *Apportionment and obligation of subsection 4(a) funds.* On July 1 of each year, or as soon thereafter as practicable, the Secretary shall notify respective States of the amount of funds authorized under subsection 4(a) of the Act and apportioned to each State under subsection 5(a) of the Act. Funds apportioned to a State in any fiscal year shall remain available to it for obligation until the end of the succeeding fiscal year, and if unobligated at that time, such funds shall be returned to the Treasury of the United States.

(b) *Use of authorized funds for commercial fisheries resource disaster.* (1) The Secretary shall cause to be published in the FEDERAL REGISTER a notice that a commercial fisheries resource disaster exists at the time such a finding is made. After such publication, project proposals for restoration of commercial fisheries resources affected by a resource disaster will be given preference over other project proposals with respect to the use of funds obtained under subsection 4(b) of the Act.

(2) Federal funds may be used for 100 percent of the cost of a project proposal if all the funds are obtained from appropriations authorized under subsection 4(b) of the Act.

(3) In the event that no commercial fisheries resource disaster has occurred, the Secretary may, if he deems such action to be in furtherance of the purposes of the Act, approve project proposals for funding under subsection 4(b) of the Act from funds carried over from previous fiscal years: *Provided, however,* That no project proposal from a State will be funded under this subsection until that State has obligated all available apportioned funds, if any, obtained from appropriations authorized under subsection 4(a) of the Act.

(c) *Use of funds for developing a new commercial fishery.* (1) Project proposals related to the development of a new commercial fishery may be approved only after the Secretary determines that such proposals will reasonably accomplish the development of a new commercial fisheries resource within the State.

(2) With respect to project proposals under this subsection, the Secretary may finance 100 percent of the cost of project proposals.

(3) A project proposal for the development of a new commercial fisheries resource may be approved without any requirement that the State submitting the project proposal has obligated all apportioned funds, if any, obtained from appropriation authorized under subsection 4(a) of the Act.

§ 253.5 Environment.

Projects contracted for shall be performed in such a manner so as to be consistent with the policies set forth in the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.).

§ 253.6 Water pollution control.

In the performance of work under a cooperative agreement the State shall take such action as is necessary to avoid pollution of water as a direct or indirect result of a contract activity. Water quality must be maintained at a level consistent with applicable water quality standards.

[FR Doc. 71-7621 Filed 6-1-71; 8:48 am.]

PART 254—CONTROL OR ELIMINATION OF JELLYFISH

On page 18977 of the *FEDERAL REGISTER* of December 15, 1970, there was published a notice of proposed rule making setting forth amended procedures to be used by the Secretary in providing financial assistance to State agencies for the control or elimination of jellyfish and other such pests and control of floating seaweed under the authority of the Jellyfish Act, 80 Stat. 1149, as amended, at 84 Stat. 922, 16 U.S.C. 1201 et seq. (Public Law 89-720), and Reorganization Plan Number 4 of 1970.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to that proposed amended regulations to the Director, National Marine Fisheries Service, Washington, D.C. In addition, every State commercial fishery agency was independently notified. Comments were not received from State agencies although three other interests inquired about program emphasis, objectives, and eligible activities. Revision of proposed regulations was not required. It was deemed advisable in the interests of clarity and uniformity to revise the requirements for State matching funds. Accordingly, this was accomplished through a supplemental notice of proposed rule making published on page 4506 of the *FEDERAL REGISTER* of March 6, 1971. This supplemental notice provided 30 days for comment, suggestions, or objections by interested persons and also an additional 30 days for such comments, suggestions, or objections regarding the notice of proposed rule making published in the *FEDERAL REGISTER* on December 15, 1970. Every State commercial fishery agency was independently notified. No comments from State fishery administrators or others following publication of the supplemental notice on March 6, 1971, have been received.

Therefore, in the absence of comments and changes are not being deemed necessary the part as so proposed is hereby adopted. These regulations are effective upon publication in the *FEDERAL REGISTER*.

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of Commerce.

ROBERT M. WHITE,
Administrator.

MAY 27, 1971.

Sec.
254.1 Definitions.
254.2 Funding priorities.
254.3 General provisions.
254.4 Availability of funds.
254.5 Use of funds.
254.6 Environment.
254.7 Water pollution control.
254.8 New work requirement.

AUTHORITY: The provisions of this part 254 are issued under 80 Stat. 1149 (16 U.S.C. 1201 et seq.), as modified by Reorganization Plan No. 4 of 1970, effective Oct. 3, 1970 (35 F.R. 15627).

RULES AND REGULATIONS

§ 254.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Secretary.* The Secretary of Commerce or his authorized representatives.

(b) *Act.* Public Law 89-720, 80 Stat. 1149, as amended by Public Law 91-451, 84 Stat. 922 (16 U.S.C. 1201 et seq.).

(c) *State.* Any coastal State of the United States and the Commonwealth of Puerto Rico.

(d) *State agency.* The department(s), division(s), or commission(s) of a State empowered under its laws to manage or administer fish and shellfish resources or water-based recreation programs.

(e) *Cooperator.* A State agency participating in a cooperative agreement with the Secretary.

(f) *Coastal waters.* For the purpose of this Act, coastal waters include all or part of the mouth of a navigable or interstate stream or body of water, bays, sounds, lagoons, channels, estuaries, and other such waters.

(g) *Jellyfish.* Commonly known as "sea nettle," belonging to the phylum Coelenterata.

(h) *Other such pests.* All other species belonging to the phyla Coelenterata and Ctenophora which adversely affect fish, shellfish or water-based recreation.

(i) *Floating seaweed.* Marine plants including marine algae.

(j) *Project proposal.* A description of work to be accomplished, including objectives, procedures, cost, location, and time required for completion, and such other information as may be required by the Secretary.

(k) *Cooperative agreement.* The contract for research, control, or elimination of jellyfish and other such pests or the control of floating seaweed to be carried on as provided by the Act and these regulations. Such agreement shall set forth the terms and conditions binding upon the cooperator and the Secretary, including the objectives, procedures, costs, the term of the agreement, and such other provisions as may be appropriate.

§ 254.2 Funding priorities.

Funding priorities shall be given to those activities having the greatest potential for controlling or eliminating jellyfish and other such pests for the purposes of conserving and protecting the fish and shellfish resources in coastal waters.

§ 254.3 General provisions.

(a) *Designation of State agency.* A State agency authorized under its laws to manage or administer fish or shellfish resources or water-based recreational programs may submit project proposals and enter into cooperative agreements with the Secretary.

(b) *Project proposal.* (1) A project proposal shall be submitted for each proposed project for approval by the Secretary. An approved project proposal shall

not be binding on the parties until incorporated in a cooperative agreement.

(2) Project proposals utilizing an allocation of State funds additional to amounts previously allocated by the State for the control or elimination of jellyfish and other such pests in coastal waters and for research on control of floating seaweed in such waters shall be preferred over project proposals utilizing an allocation of State funds which do not involve an increase of State funds dedicated to such programs. No project proposal which involves a reduction of State funds previously dedicated to such programs will be approved.

(c) *Cooperative agreement.* (1) After the Secretary has approved a project proposal, activities to be undertaken by the cooperator and the obligation of Federal funds shall be evidence by a cooperative agreement executed by the cooperator and the Secretary. Such agreement may be amended by mutual consent of the parties.

(2) The cooperative agreement shall contain applicable provisions as required by Federal law and regulations. These provisions are identified in the Federal Aid for Fisheries Handbook, the most recent version of which may be obtained from the Director, National Marine Fisheries Service.

(d) *Prosecution of work.* (1) The prosecution of work by the cooperator shall be performed in a manner acceptable to the Secretary. Unsatisfactory performance shall be cause for the Secretary to withhold payments. Cooperative agreements may be terminated or suspended upon determination by the Secretary that satisfactory progress has not been maintained.

(2) All work shall be performed in accordance with applicable State laws except when such laws are in conflict with Federal laws or regulations, in which case such Federal law or regulations shall prevail.

(e) *Economy and efficiency of operations.* No cooperative agreement shall be executed until the cooperator has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency, including the avoidance of undesirable duplication, in the completion of a project.

(f) *Subcontracts.* In the performance of work under a cooperative agreement, subcontracts shall be solicited and awarded according to the laws and regulations of the State provided the Secretary is satisfied that adequate steps have been taken to insure economical and efficient services and impartial selection of subcontractors.

§ 254.4 Availability of funds.

Language appearing in Appropriation Acts providing funds for this program will govern the period during which the funds may be obligated.

§ 254.5 Use of funds.

(a) *Apportionment and obligation of Jellyfish funds.* On July 1 of each year, or as soon thereafter as practicable, the Secretary shall notify the States through publication in the *FEDERAL REGISTER* of the amount of funds authorized under the Act to carry out the purpose of the Act. Federal funds are tentatively made available for obligation for a specified period within the fiscal year in which appropriated. If the total or any portion thereof is unobligated at the end of this allocation period, such funds may be withdrawn and reallocated for obligation.

(b) *Administrative funds.* The National Marine Fisheries Service will finance its administrative cost from the appropriation made available by the Act. This administrative cost shall not exceed eight (8) percent of the appropriation.

(c) *Level of Federal funding.* Cost of activities under cooperative agreements shall be borne equally by the Federal Government and by the Cooperator. Eligible Cooperator matching funds are those available to the Cooperator agency from any non-Federal source.

§ 254.6 Environment.

Projects contracted for shall be performed in such a manner so as to be consistent with the policies set forth in the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.).

§ 254.7 Water pollution control.

In the performance of work under a cooperative agreement the State shall take such action as is necessary to avoid pollution of water as a direct or indirect result of a contract activity. Water quality must be maintained at a level consistent with applicable water quality standards.

§ 254.8 New work requirement.

Project proposals shall set forth undertakings which constitute activities in addition to current programs. It is desirable that projects represent entirely new undertakings. However, expansion of existing programs for control or elimination of jellyfish and other such pests in coastal waters and research on control of floating seaweed in such waters is satisfactory provided such existing programs are not reduced insofar as the cooperator's financial participation is concerned.

[FR Doc.71-7622 Filed 6-1-71; 8:48 am]

RULES AND REGULATIONS

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER J—MISCELLANEOUS

[General Order 103, Amdt. 1]

PART 381—CARGO PREFERENCE—U.S.-FLAG VESSELS

Fair and Reasonable Participation

In F.R. Doc. 71-3503, appearing in the *FEDERAL REGISTER* issue of March 11, 1971 (36 F.R. 4707), notice was given that, pursuant to section 27 of the Merchant Marine Act of 1970, Public Law 91-469, the Assistant Secretary of Commerce for Maritime Affairs had under consideration the promulgation of regulations to be followed by all departments and agencies having responsibility under the Cargo Preference Act of 1954, section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241(b)), in the administration of their programs with respect to the Act, to insure a fair and reasonable participation by U.S.-flag commercial vessels in liner parcel cargoes subject to the Act.

Interested persons were given an opportunity to participate in the proposed rule making through the submission of comments. Pursuant to the notice, a number of comments have been received from steamship lines and other interested persons, and due consideration has been given to all relevant material presented.

A majority of the comments expressed agreement with the purpose of the proposed regulations to assure fair and reasonable participation by U.S.-flag vessels in liner parcel preference cargoes. Some questioned whether the concept of revenue per long ton is a realistic profit indicator, and felt that the proposed regulations were impractical and unnecessary. Some suggested that the participation should be calculated according to revenue per freight or payable ton rather than per long ton. Other comments indicated that the use of the word "formal procedure" to express the mechanism to be prescribed by the shipper agencies to insure compliance with the participation standard might be misunderstood.

In view of the comments received, the proposed regulations have been revised by deleting the words "formal procedure" and inserting in lieu thereof the words "regulations or formal staff instructions". It was decided, however, to keep the measurement of participation based on revenue per long ton. That standard of measurement assures equitable partici-

pation by U.S.-flag vessels, and, so long as it is applied to all liner parcel carriers, it will not result in one flag carrying only weight cargo and another carrying all measurement cargo. It will also facilitate and expedite reporting cargo preference activities to the Maritime Administration as required by the regulations under part 381 issued April 8, 1971 (36 F.R. 6894), because weight figures are universally cited on all shipping papers, whereas measurement or payable ton figures are not often noted on such documents.

In consideration of the foregoing, Part 381, Title 46, Chapter II, Code of Federal Regulations, is hereby amended to reflect the following changes:

1. Amend § 381.2 *Definitions* by adding a new paragraph reading as follows:

§ 381.2 Definitions.

(e) "Liner parcel" means any cargo, dry or liquid, normally carried under berth terms by common carriers in ocean trades.

2. Add a new section reading as follows:

§ 381.4 Fair and reasonable participation.

In order to insure a fair and reasonable participation by U.S.-flag commercial vessels in liner parcel cargoes subject to the Cargo Preference Act of 1954, as required by that Act, the head of each department or agency having responsibility under that Act shall prescribe regulations or formal staff instructions providing for the cargo mix of liner parcel cargoes transported on ocean vessels to be divided between privately owned U.S.-flag vessels and foreign-flag vessels in such a manner as to yield to the U.S.-flag vessels freight revenue per long ton at least equal to the freight revenue per long ton afforded the foreign-flag vessels participating in the same grant, loan, or purchase transaction. A copy of the regulations or staff instructions prescribed by each department or agency shall be furnished to the Secretary, Maritime Administration, no later than June 30, 1971, for approval.

Effective date. These regulations shall become effective as of July 1, 1971.

(Sec. 204, 49 Stat. 1987, as amended, 46 U.S.C. 1114)

Dated: May 27, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.
[FR Doc.71-7707 Filed 6-1-71; 9:08 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 944]

IMPORTS OF AVOCADOS

Notice of Proposed Rule Making

Consideration is being given to the following proposal, as hereinafter set forth, which would limit the importation of any avocados into the United States, pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944). This proposed import regulation is designed to prescribe size, quality, and maturity requirements which would be comparable to the proposed domestic regulation for avocados grown in the State of Florida, which would become effective June 14, 1971. This import regulation would be effective pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the seventh day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Such proposal reads as follows:

§ 944.11 Avocado Regulation 19.

(a) On and after the effective time of this section, the importation into the United States of any avocados is prohibited unless such avocados are inspected and meet the following requirements:

(1) All avocados imported during the period June 14, 1971, through April 30, 1972, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 5, 1971; (ii) from July 5, 1971, through July 12, 1971, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least 3 1/16 inches in diameter; and (iii) from July 13, 1971, through July 26, 1971, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least 3 3/16 inches in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to September 13, 1971; (ii) from September 13, 1971, through September 20, 1971, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 21, 1971, through October 4, 1971, unless the individual fruit in each such lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to August

9, 1971; (ii) from August 9, 1971, through August 23, 1971, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 1/16 inches in diameter; and (iii) from August 24, 1971, through September 6, 1971, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 3/16 inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian type including unidentified West Indian varieties, and West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to July 5, 1971; (ii) from July 5, 1971, through July 11, 1971, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from July 12, 1971, through August 1, 1971, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from August 2, 1971, through August 29, 1971, unless the individual fruit in each lot of such avocados weighs at least 14 ounces; and (v) from August 30, 1971, through September 19, 1971, unless the individual fruit in each lot of such avocados weighs at least 12 ounces. *Provided*, That any lot of such avocados may be imported without regard to the minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in the regulation shall not be imported (i) prior to September 20, 1971; (ii) from September 20, 1971, through October 17, 1971, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 18, 1971, through December 19, 1971, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit, contained in each lot may weigh less than the minimum specified and be less than the minimum specified diameter: *Provided*, That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, is

hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence there-of in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports of avocados. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the avocados will be imported:

Ports	Office	Advance notice
All Texas points.	L. M. Denbo, 506 South Nebraska St., San Juan, TX 78580 (Phone—512-787-4091) or A. D. Mitchell, Room 516, U.S. Courthouse, El Paso, Tex. 79901 (Phone—915-533-0331, Ex. 5340).	1 day.
All New York points.	Edward J. Boller, Room 28A Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-991-7668 and 7669) or Charles D. Renick, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14266 (Phone—716-824-1585).	Do.
All Arizona points.	B. O. Morgan, 225 Terraco Ave., Nogales, AZ 85621 (Phone—602-287-2602).	Do.
All Florida points.	Lloyd W. Boney, 1350 Northwest 12th Ave., Room 538, Miami, FL 33136 (Phone—365-371-2571) or Hubert S. Flynn, 775 Warner Lane, Orlando, FL 32812 (Phone—305-841-2141) or Kenneth C. McCourt, Unit 46, 335 Bright Ave., Jacksonville, FL 32205 (Phone—904-354-5983).	Do.
All California points.	Daniel P. Thompson, 784 South Central Ave., Room 24, Los Angeles, CA 90012 (Phone—213-622-8756).	3 days.
All Louisiana points.	Pascal J. Lamarea, 507 Federal Office Bldg., 701 Loyola Ave., New Orleans, LA 70013 (Phone—504-527-6741 and 6742).	1 day.
All other points.	D. S. Matheson, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (Phone—202-388-5870).	3 days.

PROPOSED RULE MAKING

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-80-81]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

Correction

In F.R. Doc. 71-6939 appearing on page 9075 in the issue for Wednesday, May 19, 1971, the airspace docket number in the bracket should appear as set forth above.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19200]

STANDARD BROADCAST STATIONS

Specification and Measurements of Power; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of Part 73 of the Commission's rules and regulations concerning the specification and measurements of power of Standard Broadcast Stations, RM-1628.

1. This proceeding was begun by notice of proposed rule making (FCC 71-352) adopted April 8, 1971, released April 13, 1971, and published in the FEDERAL REGISTER April 16, 1971, 36 F.R. 7260. The dates presently designated for filing comments and reply comments are May 21, 1971, and June 1, 1971, respectively.

2. On May 19, 1971, The Association of Federal Communications Consulting Engineers (AFCCCE) filed a request to extend the time for filing comments for a period of 60 days. AFCCCE states that at its annual meeting on April 23, 1971, the Commission's notice in this proceeding was discussed at some length, and it directed its Rules and Standards Committee to prepare comments for filing on its behalf. It further states that an additional 60 days is required to gather data and prepare such comments.

3. It appears that the additional time is warranted and would serve the public interest. Accordingly, it is ordered, That the request of the Association of Federal Communications Consulting Engineers is granted to and including July 21, 1971, for the filing of comments and August 2, 1971, for the filing of reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 313(r) of the Communications Act of 1934, as

(c) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any avocados to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement, if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(g) It is hereby determined, on the basis of the information currently available, that the maturity requirements set forth in this regulation are comparable to the maturity regulations applicable, during the effective time hereof, to shipments of avocados grown in south Florida.

(h) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(i) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(j) The terms relating to grade and diameter, as used herein, shall have the same meaning as when used in the U.S. Standards for Florida Avocados (§§ 51-3050-51.3069 of this title). Importation means release from custody of the U.S. Bureau of Customs.

Dated: May 26, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc.71-7623 Filed 6-1-71; 8:48 am]

amended, and § 0.281(d) (8) of the Commission's rules and regulations.

Adopted: May 21, 1971.

Released: May 24, 1971.

[SEAL] FRANCIS R. WALSH,
Chief, Broadcast Bureau.

[FR Doc.71-7596 Filed 6-1-71; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 278]

EQUAL OPPORTUNITY IN SURFACE TRANSPORTATION

Notice of Proposed Rule Making

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 6th day of May 1971.

This proceeding is being instituted, on our own motion, to examine and consider whether discrimination because of race, color, religion, sex or national origin exists in the employment and other practices of carriers subject to our jurisdiction, whether any discrimination as may be found to exist is violative of the law, whether we have the jurisdiction to deal with any unlawful discrimination which we may find and whether we should promulgate rules and regulations or undertake some other program in this area.

It is to consider and explore generally the issues relating to equal opportunity in surface transportation that we institute the instant proceeding, and, therefore:

It is ordered, That based upon the foregoing explanation and good cause appearing therefor, a proceeding be, and it is hereby, instituted under the authority of the National Transportation Policy, Parts I, II, III, and IV of the Interstate Commerce Act, and, more specifically, sections 2, 3(1), 12(1), 204(a) (1), (6) and (7), 216(d), 304(a), 305(c), 403 (a) and (e) and 404(b) thereof, 5 U.S.C. 553 and 559 to inquire into the foregoing; and

It is further ordered, That all carriers and other persons subject to our jurisdiction under the Interstate Commerce Act be, and they are hereby, made respondents to this proceeding; and

It is further ordered, That no oral hearings be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested person may participate in this proceeding by submitting for consideration written statements of facts, views and arguments on the subjects mentioned above,

or any other subjects pertaining to this proceeding; and

It is further ordered, That any person intending to participate in this proceeding by submitting initial statements or reply statements shall notify the Commission by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before June 1, 1971, the original and one copy of a statement of his intention to participate; that the Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be filed and that at the time of service of the service list the Commission will fix a time within which initial statements and replies must be filed.

And it is further ordered, That a copy of this order be served upon all respondents and upon the Department of Justice, the Equal Employment Opportunity Commission, the U.S. Commission on

Civil Rights, Office of Minority Business Enterprises of the Department of Commerce, Contracts Compliance Division of the U.S. Postal Service and the Civil Rights Section of the Department of Transportation; that it also be served upon all parties to the proceeding in No. MC-C-7255; that a copy be mailed to the Governor of every state and to the Public Utilities Commissions or Boards of each state having jurisdiction over transportation; that a copy be posted in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and that a copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7725 Filed 6-1-71; 8:50 am]

[49 CFR Ch. X]

[Ex Parte No. 278]

EQUAL OPPORTUNITY IN SURFACE TRANSPORTATION

Extension of Time

The date by which any person intending to participate in the above-captioned proceeding by submitting initial statements or reply statements to the Secretary, Interstate Commerce Commission, Washington, D.C.-20423, is extended to July 2, 1971. It should be noted that the provisions of Rule 73 of the Commission's general rules of practice (49 CFR 1100.73) are applicable to this proceeding.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7726 Filed 6-1-71; 8:50 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

MAY 20, 1971.

The Forest Service, Department of Agriculture, has filed an application, Serial No. AA-6060, for withdrawal of the lands described herein from location and entry under the public mining laws. The withdrawal would designate the land as a road travel influence zone and recreation area, and the Forest Service desires that the tract be preserved in a near-natural condition because of its superlative scenic and recreational values. The land is being used by the public for sightseeing and during the summer season approximately 10,000 visits are made to the site. Future use of this area for picnicking, hunting, hiking, and camping is expected to increase and appropriation of the land under the mining laws would not be compatible with this use.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, AK 99501.

The Department's regulation, 43 CFR 2351.4(c), provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

Notices

The land involved in this application is described as follows:

CROW CREEK ROAD TRAVEL INFLUENCE ZONE AND RECREATION AREA

CHUGACH NATIONAL FOREST

Seward Meridian, Alaska

T. 11 N., R. 2 E.,
Sec. 34, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 27, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and that portion of
NE $\frac{1}{4}$ SW $\frac{1}{4}$ not included in patented M.S.
753, Crow Creek Mining Co.

Containing approximately 270 acres located 5 miles northeast of the new townsite of Girdwood, Alaska, on the Crow Creek Road.

T. G. BINGHAM,
Acting State Director.

[FR Doc.71-7598 Filed 6-1-71; 8:46 am]

[Serial No. Idaho-09526]

IDAHO

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

MAY 24, 1971.

Notice of an application Serial No. I-09526, for withdrawal and reservation of lands was published in 23 F.R. 6269 No. 159, of the issue for August 14, 1958. The applicant agency has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Part 2353, such lands will be at 10:00 a.m. on June 9, 1971 relieved of the segregative effect of the above-mentioned application.

NEZPERCE NATIONAL FOREST
BOISE MERIDIAN, IDAHO

Jim Moore Administrative Site-Landing Field

T. 25 N., R. 9 E. (Unsurveyed, but when surveyed probably will be)

Sec. 22, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate about 70 acres in Idaho County.

E. D. BARNES,

Acting Chief,

Division of Technical Services.

[FR Doc.71-7637 Filed 6-1-71; 8:49 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[492.122]

METALLIZED VINYL TINSEL GARLAND

Tariff Classification

Metallized vinyl tinsel garland, approximately 3 inches wide, produced by

cutting metallized film in lengths to simulate cedar and pine needles, which are entwined in one operation at the time of cutting around a cotton or wire core so as to give the effect of 1½-inch needles branching off from a stem, appears to be classifiable under item 772.95, Tariff Schedules of the United States (TSUS), as Christmas tree ornaments, of plastics, and dutiable at the rate of 15 percent ad valorem.

This classification appears to be necessary because merchandise of this description is chiefly used to decorate Christmas trees.

Pursuant to section 16.10a(c) of the Customs Regulations (19 CFR 16.10a(c)), notice is hereby given that there is under review in the Bureau of Customs the existing established and uniform practice of classifying metallized vinyl tinsel garland as other Christmas decorations, of plastics, under item 772.97, TSUS, with duty at the rate of 10 percent ad valorem.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of this merchandise which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226. To insure consideration, such communications must be received in the Bureau not later than 30 days from the date of publication of this notice. No hearing will be held.

Heavier constructed metallized vinyl tinsel garland having simulated cedar and pine needles measuring approximately 4 inches is not affected by this notice and remains classifiable under item 772.97, TSUS, as other Christmas ornaments of plastics.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: May 13, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-7611 Filed 6-1-71; 8:47 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF CERTAIN TANKERS

Computation of Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board to compute the estimated foreign costs of the construction of tankers of about 225,000 d.w.t. pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended.

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations

may file written statements by the close of business on June 15, 1971, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Dated: May 26, 1971.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 71-7629 Filed 6-1-71; 8:48 am]

CONSTRUCTION OF CERTAIN TANKERS

Computation of Foreign Cost

Notice is hereby given of the Intent of the Maritime Subsidy Board to compute the estimated foreign costs of the construction of tankers of about 37,000 d.w.t. pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended.

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on June 15, 1971, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Dated: May 26, 1971.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 71-7630 Filed 6-1-71; 8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration WALLERSTEIN CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1A2655) has been filed by Wallerstein Co., Division of Travenol Laboratories, Inc., 6301 Lincoln Avenue, Morton Grove, Ill. 60053, proposing that § 121.1199 *Fermentation-derived, milk-clotting enzyme* (21 CFR 121.1199) be amended to provide for the safe use in cheese production of a milk-clotting enzyme derived from *Mucor michelii* (Cooney and Emerson) by a pure culture fermentation process.

Dated: May 24, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc. 71-7592 Filed 6-1-71; 8:45 am]

NOTICES

MONSANTO CO.

Notice of Withdrawal of Petition Regarding Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, has withdrawn its petition (FAP OB2474), notice of which was published in the FEDERAL REGISTER of December 24, 1969 (34 F.R. 20225), proposing that § 121.2511 *Plasticizers in polymeric substances* (21 CFR 121.2511) be amended to provide for additional safe use of butyl benzyl phthalate, alone or in combination with other phthalates, as a plasticizer in polyvinyl chloride, polyvinylidene chloride, and polyvinyl acetate film and sheet that contact food at temperatures not to exceed room temperature provided that total phthalates, calculated as phthalic acid, do not exceed 10 percent by weight of the finished film or sheet.

Dated: May 24, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc. 71-7593 Filed 6-1-71; 8:45 am]

[Docket No. FDC-D-149; NADA No. 2-586V etc.]

PITMAN-MOORE, INC., ET AL.

Drugs Containing N-Butyl Chloride; Notice of Withdrawal of Approval of New Animal Drug Applications

A notice of opportunity for a hearing on the proposal to withdraw approval of certain NADA's (new animal drug applications) for drugs containing n-butyl chloride was published in the FEDERAL REGISTER of February 18, 1971 (36 F.R. 3150). This proposal was made on the grounds that there is a lack of substantial evidence that the drugs are effective for their recommended use in removing whipworms in dogs.

Pitman-Moore, Inc., Camp Hill Road, Fort Washington, Pa. 19034, holder of NADA No. 2-586V for the drug Bu-chlorin, responded to said notice of opportunity for a hearing by advising the Commissioner of Food and Drugs that the drug has been discontinued and that they have elected to waive the opportunity for a hearing.

S. Pfeiffer Manufacturing Co., 3949 Laclede Avenue, St. Louis, Mo. 63108, holder of NADA No. 3-625V (Lynn's Dog Caps) and NADA No. 3-626V (Lynn's Puppy Caps), and Gabriel's Products Co., Tell City, Ind. 47586, holder of NADA No. 3-716V (Gabriel's Dog Capsules and Gabriel's Puppy Capsules), did not file a written appearance electing to avail themselves of the opportunity for a hearing. This is construed as an election by said firms not to avail themselves of the opportunity for a hearing.

The Commissioner, on the basis of his evaluation of new information before him with respect to said drugs together with the evidence available to him when the applications were approved, finds that there is a lack of substantial evidence that the drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

On the basis of the grounds set forth, the Commissioner concludes that approval of said NADA's should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 2-586V, NADA No. 3-625V, NADA No. 3-626V, and NADA No. 3-716V including all amendments and supplements thereto is hereby withdrawn effective on the date of the signature of this document.

Dated: April 26, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7595 Filed 6-1-71; 8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

MOTOR VEHICLE SAFETY STANDARDS

Interpretation Regarding Limits on State Enforcement Procedures

The Japan Automobile Manufacturers Association has brought to the attention of the NHTSA, in a petition for reconsideration of Standard No. 209, some leadtime problems that may be caused by the safety standard enforcement practices of some of the States. These States require manufacturers to submit samples of motor vehicle equipment covered by one of the standards, such as seat belt assemblies, to a State-authorized test laboratory. The test reports from the laboratory are then submitted to a State agency or an outside agency such as the American Association of Motor Vehicle Administrators, which issues an "approval" to the manufacturer. The problem arises in cases where the State does not permit the manufacturer to sell the equipment in that State until the approval is received. If the leadtime between the issuance of a standard or amendment and its effective date is fairly short, the manufacturer may not have time to prepare and submit samples and to obtain the State-required approval before the effective date of the standard. Thus, the manufacturer may be prohibited from selling his product in the State on and after the effective date, even though it fully complies with all applicable Federal standards and regulations.

The substantive relationship between Federal and State safety standards was established by Congress in section 103(d) of the National Traffic and Motor Vehicle Safety Act, which provides:

Whenever a Federal motor vehicle safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle or item of motor vehicle equipment any safety standard applicable to the same aspect of performance of such vehicle or item of equipment which is not identical to the Federal Standard.

Although this section makes it clear that State standards must be "identical" to the Federal standards to the extent of the latter's coverage, the procedural relationship between State and Federal enforcement of the standards is not explicitly stated in the Act. It has been the position of this agency that the Act permits the States to enforce the standards, independently of the Federal enforcement effort, since otherwise there would have been no reason for the Act to allow the States to have even "identical" standards. The question raised by the JAMA petition is to what extent the States may utilize an enforcement scheme that differs from the Federal one established by the Act.

The basic structure of the Act places the burden of conformity to the standards on the manufacturers, who must exercise due care to determine that all their products comply with applicable standards (Sections 103, 108, 15 U.S.C. 1392, 1397). They must certify each vehicle and item of covered equipment as conforming to the standards (section 114, 15 U.S.C. 1403). No prior approval of a manufacturer's products is provided for or contemplated by the Act. The NHTSA does not issue such approvals, but tests the products after they come onto the market to determine whether they conform. Thus, the effective date of a standard is established on the basis of the agency's judgment as to the length of time it will take manufacturers to design and prepare to produce a vehicle or item of equipment, and is not intended to allow time for obtaining governmental approval after production begins.

In this light, a State requirement of obtaining prior approval before a product may be sold conflicts with the Federal regulatory scheme. The legislative history does not offer specific guidance on the question, except for general statements such as the following by Senator Magnuson:

Some States have more stringent laws than others, but concerning the car itself we must have uniformity. That is why the bill suggests to States that if we set a minimum standard, a car complying with such standard should be admitted to all States. 1112 Cong. Rec. 13585, June 24, 1966.

[We have provided in the bill for foreign cars, that they must comply with the standards; and we have even allowed them to come in under a free-port arrangement, where, if they are not in compliance, dealers can bring them up to the standard. 112 Cong. Rec. 13587, June 24, 1966.]

It is true that Senator Magnuson in the above statements was not directly con-

sidering the question of State enforcement. But Congress does not appear to have contemplated the existence of State procedures that would restrict the free movement of vehicles and equipment, or place significant burdens on the manufacturers, in areas covered by the Federal standards, beyond those imposed by the standards themselves.

It is the position of this agency, therefore, that under the Act and the regulatory scheme that has been established by its authority a State may not regulate motor vehicles or motor vehicle equipment, with respect to aspects of performance covered by Federal standards, by requiring prior State approval before sale or otherwise restricting the manufacture, sale, or movement within the State of products that conform to the standards. This interpretation does not preclude State enforcement of standards by other reasonable procedures that do not impose undue burdens on the manufacturers, including submission of products for approval within reasonable time limits, as long as manufacturers are free to market their products while the procedures are being followed, as they are under the Federal scheme.

Issued on May 13, 1971.

DOUGLAS W. TOMS,
Acting Administrator.
[FR Doc. 71-7616 Filed 6-1-71; 8:47 am]

Office of the Secretary NATIONAL RAILROAD PASSENGER CORPORATION

Delegation of Authority To Act as Director

Pursuant to section 303(a) of the Rail Passenger Service Act, the President has appointed me as a director of the National Railroad Passenger Corporation. Under the provisions of that Act, the Secretary is authorized to appoint a delegate to carry out his functions. Therefore, John P. Olsson, Deputy Under Secretary of Transportation, is hereby delegated authority to act for me as a Director of the National Railroad Passenger Corporation when I am not present at meetings of the Board of Directors. David W. Oberlin, Administrator, St. Lawrence Seaway Development Corporation, is hereby delegated authority to act for me as Director of the National Railroad Passenger Corporation when neither Mr. Olsson nor I are present at meetings of the Board of Directors.

This delegation is made under the authority of the Rail Passenger Service Act of 1970 (84 Stat. 1327) and section 9 of the Department of Transportation Act (80 Stat. 931, 49 U.S.C. 1657).

Issued in Washington, D.C., on May 22, 1971.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc. 71-7617 Filed 6-1-71; 8:47 am]

NOTICES

CIVIL AERONAUTICS BOARD

[Dockets Nos. 21988, 22050; Order 71-5-131]

ALLEGHENY AIRLINES, INC., AND EASTERN AIR LINES, INC.

Order Regarding Temporary Suspension of Service at Wilmington, Del.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of May 1971.

Application of Allegheny Airlines, Inc., pursuant to Part 205 of the Board's economic regulations for a temporary suspension of service at Wilmington, Del., on Route 97. Application of Eastern Air Lines, Inc., pursuant to Part 205 of the Board's economic regulations for a temporary suspension of service at Wilmington, Del., on Routes 5 and 6.

By Order 70-9-104, dated September 21, 1970, the Board denied applications by Allegheny Airlines, Inc. (Allegheny), and Eastern Air Lines, Inc. (Eastern), for authority to temporarily suspend service at Wilmington, Del. Both carriers have filed petitions for reconsideration of the Board's decision.

We have decided to defer action on the petitions for reconsideration pending informal discussions between the community, interested air carriers, and the Board's staff, with respect to the possibility of an investigation of the certification of additional and/or replacement air service at Wilmington, as set forth below.

In various pleadings filed in connection with Allegheny's and Eastern's requests for a suspension, it has been alleged that the incumbent carriers find it difficult to provide air service to Wilmington, in view of the proximity of Wilmington to Philadelphia International Airport. These allegations raise the possibility that Wilmington might best be served by a carrier, or carriers, which, unlike Eastern and Allegheny, do not now hold authority to serve Philadelphia, as well as Wilmington. A Wilmington carrier not also serving Philadelphia might have the maximum incentives to aggressively promote and develop air service to Wilmington. The authorization of a new carrier or carriers at Wilmington could make it possible to suspend or delete the authority of Allegheny and/or Eastern.

Before reaching a determination as to whether the foregoing considerations warrant the institution of an investigation of the certification of additional and/or replacement air service at Wilmington, we consider it desirable to hold informal discussions to ascertain the views of the Wilmington community and interested air carriers. These meetings will be held under the direction of the Board's Bureau of Operating Rights and Office of Community and Congressional Relations, and these Bureaus will make

¹ Allegheny and Eastern have also each filed separate applications seeking the deletion of Wilmington as a point on their route systems, now pending in Dockets 21987 and 22049, respectively.

further announcements as to time and place of the meetings and the agenda for discussion. The meetings will be open to the public and a transcript will be maintained:

Accordingly, it is ordered, that:

1. The Directors of the Bureau of Operating Rights and of the Office of Community and Congressional Relations or their designees are authorized to conduct meetings to discuss whether the Board should institute an investigation to authorize additional and/or replacement air service at Wilmington, as set forth above;

2. Any meetings held under the authorization in paragraph 1 shall be open to all interested persons and a complete transcript shall be maintained;

3. The authority granted herein shall expire within 120 days of the effective date of this order; and

4. Copies of this order shall be served on all certificated air carriers and the city of Wilmington, Del.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-7632 Filed 6-1-71; 8:49 am]

[Docket No. 23021]

CHINA AIRLINES CHARTER SERVICE APPLICATION

Notice of Postponement of Prehearing Conference and Hearing

Under date of May 24, 1971, counsel for the applicant requested that the prehearing conference and hearing be postponed until after the Board's decision in Docket 22362. Accordingly, the prehearing conference and hearing in this proceeding now assigned to be held on June 2, 1971, is hereby postponed until further notice.

[SEAL] ROBERT M. JOHNSON,
Hearing Examiner.

[FR Doc.71-7633 Filed 6-1-71; 8:49 am]

[Docket No. 22162]

COUNTY OF SULLIVAN, STATE OF NEW YORK, AND SULLIVAN COUNTY AIRPORT COMMISSION

Notice of Rescheduling of Prehearing Conference

Notice is hereby given that prehearing conference in the above-entitled proceeding previously indefinitely postponed is hereby rescheduled to be held on June 4, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, Connecticut and Florida Avenues NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., May 26, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.71-7634 Filed 6-1-71; 8:49 am]

[Docket No. 22967]

EASTERN AIR LINES, INC.

Notice of Prehearing Conference Regarding Deletion of Bowling Green, Ky.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 18, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Louis W. Sornson.

In order to facilitate the conduct of the conference parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates on or before June 14, 1971.

Dated at Washington, D.C., May 27, 1971.

[SEAL] RALPH L. WISER,
Associate Chief Examiner.

[FR Doc.71-7635 Filed 6-1-71; 8:49 am]

[Docket No. 23397]

EASTERN PROVINCIAL AIRWAYS LTD.

Notice of Prehearing Conference and Hearing Regarding Application for Foreign Air Carrier Permit

Notice is hereby given that a prehearing conference in the above-entitled application is assigned to be held on June 15, 1971, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Thomas P. Sheehan.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement before June 11, 1971.

Dated at Washington, D.C., May 26, 1971.

[SEAL] RALPH L. WISER,
Associate Chief Examiner.

[FR Doc.71-7636 Filed 6-1-71; 8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19192 etc.; FCC 71-533]

NIAGARA COMMUNICATIONS, INC., ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Niagara Communications, Inc., for a Public Coast Class III-B radio station license at Salem, N.J., Docket No. 19192, File No. 1110-M-L-129; Radio Broadcasting Co. for a Public Coast Class III-B radio station license at Philadelphia, Pa., Docket No. 19193, File No. 357-M-L-120; and Robert L. Starer and (Mrs.) Anita Markovitz for a Public Coast Class

III-B radio station license at Westmont, N.J., Docket No. 19232, File No. 539-M-L-21.

1. On April 8, 1971, we designated for consolidated hearing the applications of Niagara Communications, Inc. (Niagara), and Radio Broadcasting Co. (Radio Broadcasting) for the facilities referred to above. Petitions to deny had been filed in the case of both applications, and we were unable to grant the applications without a hearing because of questions raised in the petitions including the question of need for new public coast stations in the area, and because of the possibility of mutually destructive electrical interference.

2. An additional application has been filed for a like class of station in the Philadelphia area by Robert L. Starer and (Mrs.) Anita Markovitz (Starer and Markovitz). This application is accompanied by a showing of asserted need for new public coast station facilities and proposes operation on the working frequencies 161.800, 161.825, and 161.850 MHz, which are the same three frequencies requested by Radio Broadcasting, and two of the same frequencies requested by Niagara. The application was on file, but was not completely processed, at the time we designated for hearing the applications of Niagara and Radio Broadcasting. The applicant proposes operation of a station with a transmitter in Westmont, N.J., and a control point at Moorestown, N.J. The transmitter point is across the Delaware River from Philadelphia and within the normal communication range of that city for radio stations of this class. The proposed system as described by the applicants, will provide manual and fully automatic service by direct dial, full-duplex calls between maritime units and landline stations initiated by either party when the maritime unit is equipped to interface with the proposed system on an automatic basis. Additionally, the applicants request waiver of our rules to permit identification of the telephony station by Morse code and to relieve the licensee from the rule requirements that calls be manually recorded in the station radio log since the applicant plans to automatically record calls. The application of Starer and Markovitz did not include a specific showing of need for more than one working frequency.

3. The Bell Telephone Company of Pennsylvania filed a petition to deny the application of Starer and Markovitz on the basis that: (a) The proposed station would compete with the petitioner's Station KGB 738 in Philadelphia; (b) there would be overlapping of coverage areas; and (c) the proposed station would provide service to the geographical area in which such service is already provided by petitioner's station.

4. The application of Starer and Markovitz is mutually exclusive with the application of Radio Broadcasting since both applicants propose operation on the same frequencies in the same area which would result in mutually destructive electrical interference, and the application may also be mutually exclusive with the

application of Niagara to the extent that both applicants propose operation about 30-40 miles apart on two frequencies which are the same. In addition to the questions of electrical interference raised by the proposed operation of the stations on the same frequencies, there is a question of whether additional radio facilities of this type are needed as requested by the applicants. Ordinarily, pursuant to § 81.303 of the rules, we do not authorize more than one VHF public coast station to serve a locality unless a satisfactory showing of need for additional facilities is made. In the case of the Starer and Markovitz application the application and petitions to deny rise a question of whether the showing of need for new facilities that accompanied the application is satisfactory. In view of these substantial and material questions the application of Starer and Markovitz must be designated for hearing, pursuant to §§ 1.227(b)(3) and 1.973(b) of the rules, in a consolidated proceeding with the applications of Niagara and Radio Broadcasting in these dockets.

5. With respect to the request of Starer and Markovitz for a waiver of the Commission's rules pertaining to the identification by Morse code of a telephony public coast station, no identification or emission rule waiver is necessary to operate such a station in this manner, since provision for doing so is already contained in §§ 81.132(b) (Authorized Classes of Emissions) and 81.310(a) (Identification of Station) of our rules. If and authorization is granted for the proposed Westmont or Philadelphia stations, however, the licensee must, submit to the Commission a complete description and specifies on the tone-modulated telegraphy device, using International Morse Code, that is to be used for transmitting the official call sign of the station, and obtain the Commission approval of the device prior to the commencement of operation of the station. The request of Starer and Markovitz for a waiver of the requirements of § 81.194 of the rules that require the manual recording in the station radio log of each communication exchanged, is found to be reasonable in the case of an automatic operation as proposed by the applicants. Such a rule waiver appears necessary in this instance. Although Radio Broadcasting did not request a waiver of that section of the rules in event its application is granted, we assume that such a waiver would be needed since we understand they propose a method of station identification that is essentially the same as that proposed by Starer and Markovitz. Thus, we will grant this request for rule waiver by Starer and Markovitz, and, on our own motion grant the same rule waiver for Radio Broadcasting in event that either of the applications of these parties is granted.

6. Markovitz is a party in another license application proceeding before this Commission (Docket No. 18827) in which one of the issues is her qualification to be a licensee of the Commission because of alleged repeated rule violations. Starer

is the principle in several Common Carrier applications concerning which questions of financial qualifications have been raised. There is a question, therefore, of Markovitz's qualifications to be a licensee of the Commission, and a question of the financial qualifications of Starer to be a licensee of the Commission.

7. With respect to the petition to deny filed by the Bell Telephone Company of Pennsylvania, that petition is granted to the extent that the application of Starer and Markovitz is designated for hearing on the issues specified herein and in all other respects is denied.

8. Accordingly, it is ordered, That the above-entitled application of Starer and Markovitz is designated for comparative hearing in a consolidated proceeding with the applications of Niagara and Radio Broadcasting in these dockets at a time and place to be specified in a subsequent order on the following issues which supersede the issues specified in our earlier order:

(a) To determine the need for new VHF public coast maritime radio facilities in the Salem, N.J., locality; and the need for more than one working frequency by that facility;

(b) To determine the coverage area of the proposed Salem, N.J., public coast station;

(c) To determine the need for additional VHF public coast maritime radio facilities using an automatic dial technique in Philadelphia, Pa.; and the need for more than one working frequency by such a facility;

(d) To determine the coverage area of the proposed additional VHF public coast station in Philadelphia, Pa.;

(e) To determine the coverage area of Stations KGB-738 and WEH;

(f) To determine the degree, if any, of cochannel electrical interference which would result from simultaneous operation of the proposed Niagara and Radio Broadcasting stations and whether such interference would be mutually destructive, and the applications, therefore, mutually exclusive;

(g) To determine the degree of overlap, if any, in the service area of the proposed station at Salem and Stations KGB 738 and WEH; and

(h) To determine whether overlap, if any in the service area of the proposed station at Salem and Stations KGB 738 and WEH constitutes wasteful duplication of available facilities and is therefore against the public interest.

(i) To determine whether Niagara is financially qualified to construct and operate its proposed station at Salem, N.J.;

(j) To determine the need for new VHF public coast maritime radio facilities in the Philadelphia, Pa., area by a station located at Westmont, N.J. using an automatic dial technique; and the need for more than one working frequency by such a facility;

(k) To determine the coverage area of the proposed Westmont, N.J., public coast station;

(l) With respect to the applications of Niagara and Starer and Markovitz

to determine the degree, if any, of cochannel electrical interference which would result from simultaneous operation of the stations and whether such interference would be mutually destructive and, whether the applications therefore, are mutually exclusive;

(m) To determine, if the applications of Niagara and Starer and Markovitz are found to be mutually exclusive, which, if either, of the applications, if granted, would provide the public with the best public coast station service based on the following considerations:

(1) Coverage area and its relation to the greatest number of users;

(2) Hours of operation;

(3) Ability to effectively participate in the maritime mobile radio safety system;

(4) Qualifications of management, operators, and other personnel;

(5) Rates and charges;

(6) Interconnection with landline facilities; and

(7) Reliability and efficiency of service.

(n) With respect to the applications of Radio Broadcasting and Starer and Markovitz to determine which, if either, of the applications, if granted, would provide the public with the best public coast station service based on the same considerations specified in issue m above;

(o) With respect to the applications of Niagara and Radio Broadcasting, if the applications are found to be mutually exclusive, to determine which, if either, of the applications, if granted, would provide the public with the best public coast station service based on the same considerations specified in issue m above.

(p) To determine the financial qualifications of Robert L. Starer to be a licensee of a public coast Class III-B station at Westmont, N.J.;

(q) To determine in the light of the evidence adduced on all the foregoing issues, which, if any, of the subject applications can be granted in the public interest, convenience, and necessity.

9. It is further ordered, That the burden of proceeding with the introduction of evidence on the issues is placed on the parties as follows:

(a) On issues (a), (b), and (i) on Niagara.

(b) On issues (c) and (d) on Radio Broadcasting.

(c) On issues (e) and (h) on Bell of Pennsylvania and Diamond State.

(d) On issues (j) and (k) on Starer and Markovitz.

(e) On issues (m) on Starer and Markovitz and Niagara to the extent that the items therein pertain to each of these parties.

(f) On issue (n) on Radio Broadcasting and Starer and Markovitz to the extent that the items therein pertain to each of these parties.

(g) On issue (o) on Niagara and Radio Broadcasting to the extent that the items therein pertain to each of these parties;

(h) On issue (p) on Robert L. Starer.

(i) Issues (f), (g), (l), and (q) are conclusory.

10. It is further ordered, That the guide and reference source for preparing

NOTICES

exhibits showing the geographical area in which satisfactory ship-shore maritime communications can be technically exchanged by the proposed station at Westmont, N.J., will be the same criteria to be used by other parties in these proceedings as specified in our designation order adopted April 8, 1971, in these Dockets; i.e. that contained in the Commission's notice of proposed rule making released August 28, 1970, in Docket 18944 which proposes technical standards for the computation of service areas for Public Coast III-B stations.

11. It is further ordered, That the provisions of § 81.194 of the Commission's rules that requires the manual recording of calls and communications exchanged are waived in the cases of Radio Broadcasting and Storer and Markovitz in event that either of the applications by them in these dockets is granted for operation of a public coast station using automatic dialing equipment.

12. It is further ordered. That for Strarer and Markovitz to avail themselves of an opportunity to be heard; pursuant to § 1.221(c) of the rules, they shall within 20 days of the mailing of this order file with the Commission in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order.

13. It is further ordered, That if, in the light of the evidence on all the issues in these dockets, it is found that the public interest would be served by the grant of the application of Starer and Markovitz, the grant of the application will be held in abeyance pending a satisfactory resolution of the issue in Docket 18827 as to whether Markovitz is qualified to be a licensee of the Commission with respect to compliance with the Commission's rules.

Adopted: May 19, 1971.

Released: May 26, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,¹
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-7597 Filed 6-1-71;8:46 am]

FEDERAL MARITIME COMMISSION
CERTIFICATES OF FINANCIAL
RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p) (1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

¹ Commissioners Bartley and Robert E. Lee absent.

Certificate No.	Owner/Operator and Vessels	Certificate No.	Owner/Operator and Vessels
05056---	Ethiopian Shipping Lines: Lalibella.	03453---	Kyosel Kisen Kabushiki Kaisha: YeiJu Maru.
01290---	Eiseafarers Inc.: Captain John L.		Housho Maru.
01560---	Det Nordenfjeldske Dampskibsselskab, Trondheim, Norway: Chemical Rubl.	03468---	Nihonkai Kisen Kabushiki Kaisha: Taikai Maru.
01569---	Salix Compania Naviera S.A.: Captain Xilas.	03501---	Osaka Shosen Mitsui Senpaku K.K.: Mifunesan Maru.
01570---	Rimnes Compania Naviera S.A.: Panagiotis Xilas.	03711---	Raymond-Dravo-Langenfelder (a joint venture): Catskill.
01571---	Armadora Naviera Proestos S.A.: Proestos.		Charles E. Kohlhepp.
02021---	Atlantska Plovidba: Dubrovnik.		Wm. H. McElwain.
02022---	C. T. Gogstad & Co.: Lido.		No. 146.
02192---	Eretria Development Corp. S.A. Panama: Mikrasiatitis.		No. 201.
02246---	Blue Star Line, Ltd.: California Star.		No. 221.
02334---	Colle Towing Co., Inc.: Colle 141. Colle 121. Colle 120.		No. 212.
02362---	"Rethymnon" Shipping Co., Ltd.: Rethymnon.		No. 211.
02470---	La Grosse Dredging Corp.: Calumet. Engler. J. W. Wilkinson.		No. 208.
02567---	Falmouth Shipping Co., Ltd.: Falmouth.		No. 205.
02568---	Eaton Shipping Co., Ltd.: Eaton.		Suzanne.
02606---	Partenreederij M.V. Kathe Bos: Kathe Bos.		No. 26.
02607---	Partenreederij ms Annette Bos: Annette Bos.		Downing.
02613---	Partenreederij ms Hendrik Bos: Hendrik Bos.		Raymond J. Ketchell.
02634---	Partenreederij ms "Irmgard Bos": Irmgard Bos.		Clyde A. Mullen.
02955---	"Saronis" Shipping Co., Ltd.: Saronis.		Edwin H. Werner.
02984---	Maremar Compania Naviera S.A. Panama R.P.: Aetos.		Joseph Strnad.
02988---	Somia Compania Martima S.A. Panama: Sandra N.		Capitol.
03048---	Seven Isles Shipping Corp.: Calypso.		Raritan.
03115---	Pansurena Navegacion sa Panama: Aristovoulos.		No. 21.
03118---	Oceano Galante Navegacion S.A. Panama: Aristofonis.		No. 19.
03119---	Garante Compania Naviera S.A. Panama: Stylianos Restis.		No. 11.
03127---	Global Delta, Inc.: Clipper.		Charleston.
03128---	Global Seas, Inc.: First Lady.		SC No. 90.
03129---	Orion Navigation Corp.: Tichi.		Bay 6.
03141---	Tamar Shipping Co., Ltd.: Ionic Queen.		Bay 5.
03163---	Caprice Navigation Corp.: Tigris.		Sea Scow.
03154---	Valiant Navigation Corp.: Delfini.		Cree.
03155---	Leo Navigation Corp.: Aris.		SC. No. 115.
03156---	Deneb Navigation Corp.: Trechon.		No. 1401.
03157---	Scorpio Navigation Corp.: Tolmires.		Hughes No. 136.
03158---	Aequarius Navigation Corp.: Stolt Edia.		Cayuga.
03159---	Tavros Navigation Corp.: Tavros.		Gape Sable.
03160---	Libra Navigation Corp.: Nimar.		Cape Kelly.
03161---	Andromeda Navigation Corp.: Telena.		Cape Donlin.
03256---	Upper Mississippi Towing Corp.: WRT-14. Ellis-3003.	03722---	Kerr-McGee Corp.: Yon-183.
03341---	General Navigation, Ltd.: African Lady.		Tank Barge II.
03342---	Cla Armadora San Francisco: Lagos Superior. Legos Erie.	03732---	Consolidation Coal Co., Inc.: Humphrey.
03395---	A/S Oljefart II and Skibs A/S Mototank: M/T Jenny. M/T Harry Borthen.		Mathies.
			Arkwright.
			R. L. Ireland.
		03862---	Tramp Shipping Co., Inc.: M/V Agia Erini II.
			Shingra Kalun Kabushiki Kaisha:
		03923---	Tetsuho Maru.
			Tetsuyo Maru.
		04019---	Nord-Transport Strandheim & Stensaker:
			Vestfaalk.
			Hanseat.
			Kings.
		04128---	J. Brunvall.
			Rumba.
		04182---	Kaj Ove Skou.
			Lady Vivian.
		04194---	Missouri Pacific Railroad Co.: Ste. Genevieve.
		04289---	Dixie Carriers, Inc.: ETT 117. ETT 116. DXE 1110.
		04318---	Overseas Minerals, Ltd.: Daphne. Athena.
		04451---	Venus International Corp.: Venus Dignity.
		04495---	Taisei Suisan Kabushiki Kaisha: Taisei Maru No. 3.

NOTICES

Certificate No.	Owner/Operator and Vessels	Certificate No.	Owner/Operator and Vessels	Certificate No.	Owner/Operator and Vessels
04503---	Okutau Sulsan Kabushiki Kaisha: Zenko Maru No. 8.	05444---	Europa-Societa Generale D'Armamento S.P.A.:	05831---	N.V. Scheepvaartbedrijf Kroon-
04670---	Standard Products Co., Inc.:		Caterina M.		burgh:
04680---	Konkar Maritime Enterprises S.A.:	05448---	Elshippers, Inc.:	05832---	Poolster.
04681---	Konkar Pioneer.		Grace L.		Amasis Reederel G.m.b.H. & Co.
04699---	Konkar Resolute Corp.:	05467---	Naviera Coronel S.A.:		KG.:
	Konkar Resolute.		Boca Maule.	05835---	Amasis.
	Partenreederel MS Gerd Bos:	05514---	Scarsdale Shipping Co., Ltd.:		Kabushiki Kaisha Otorimaru
	Gerd Bos.		Eurofreighter.		Gyogyo:
04841---	Hydromar Corp. of Delaware:	05534---	Barold Division, National Lead	05848---	Otorimaru No. 38.
	Hydro-Atlantic.		Co.:		Navimex S.A.:
04889---	Cory Brothers & Co. (Italy), Ltd.:	05554---	George L. Ratcliffe.		Rio Frlo.
	Mayrose.		The Mackinac Transportation Co.:	05852---	Marilina Compania Naviera D.V.
04948---	Partenreederel M.V. "Bremer-	05571---	Chief Wawatam.		S.A.:
	sand".		Pine Bluff Sand & Gravel Co.:		Dolly Maria.
	M/V Bremerland.		Sand Hog.	05856---	Neuenfelder Reederel J. & B.
04949---	Partenreederel M.V. "Wesersand":	05598---	Spud Barge (Co. No. 2921).		Wesch KG:
	M/V Wesersand.	05597---	Slorian Navigation Co., Ltd.:		Gerd Wesch.
04950---	Partenreederel M.V. "Nordsee-		Cunningham Navigation Co., Ltd.:	05857---	Coral Marine Enterprise Panama
	sand".		M/V Caribbean Tiuna.		Co. S.A.:
	M/V Nordseesand.	05601---	M/V Caribbean Tamaeao.		Coral Green.
04951---	Partenreederel M.V. "Langwarder-		Trading Shipping Corp., Monro-	05858---	Interislands Shipping Co., Ltd.:
	sand".		via:		Coral Islands.
	M/V Langwardersand.	05657---	Calypso.	05859---	Ocean Bulk Shipping Corp.:
04952---	Partenreederel M.V. "Langlutjen-		United Towing, Ltd.:		Filipinas-I.
	sand".		Statesman.	05860---	Sea Bird Navigation Corp.:
	M/V Langlutjensand.		Englishman.		Sea Falcon.
04953---	Partenreederel M.V. "Elnwarder-		Welshman.	05861---	Ocean Glory Navigation Corp.:
	sand".	05660---	Irishman.		Ocean Glory.
	M/V Elnwardersand.		Edward E. Gillen Co.:	05862---	World Tide Shipping Corp.:
04954---	Partenreederel M.V. "Rugwarder-	05665---	Number 25.		Theomar.
	sand".		C.J. Langenfelder & Son, Inc.:	05863---	Compania Maritima Virona S.A.:
	M/V Rugwardersand.		2400.		Virona.
04955---	Partenreederel M.V. "Surwunder-		Barton.		Becky.
	sand".		Conrad.	05864---	Efnaval Compania S.A.:
	M/V Surwundersand.		Laruno.		Anna F.
04984---	C.V. M/S "Tempo":	05685---	World Wide, Inc.:	05866---	Efmariters Compania S.A. Pan-
	Tempo.		Conquistador.		ama:
05072---	Zannis Compania Naviera S.A.,	05686---	M/V Cabrillo:		Kaptayanni.
	Panama:		Cabrillo.	05867---	Ocean Carriers Corp.:
	Harlet.	05687---	Blue Pacific, Inc.:		Aztec.
05079---	N.V. Gebr. Van Uden's Scheep-		M/V Blue Pacific.	05868---	Astro Pacifico Navegacion S.A.:
	vaart & Agentuur Mij.:	05705---	Astro Castellano Navegacion SA:		Sovereign Crystal.
	Parkhaven.		Irlin.	05869---	McAllister Towing, Ltd.:
05239---	Zapata Off-Shore Co.:	05739---	Limon Shipping Co.:		McAllister No. 1.
	Intrepid.		M/N Puerto Limon.		McAllister No. 2.
05251---	Navigation Maritime Bulgare:	04741---	Willi Maurer:		McAllister No. 3.
	Buzhduja.		Mia Maurer.		McAllister No. 4.
	Ludogoretz.	05748---	Alpha Fishing Co.:		Mapleheath.
	Persenk.		Mary S.		P. S. Barge No. 1.
05255---	Alple Marine Co.:	05757---	Compagnie De Transports Mar-	05870---	Skibsaktsjelskapet Bratsberg:
	Hlawatha.		times Petrolers:		Maraton.
05300---	Marine Transocean, Ltd.:		Champs Elysees.	05871---	Compania Naviera Zurubi S.A.:
	Splendid Sun.		Germinal.		Nefos II.
05301---	European Commerce & Navigation		Messidor.	05874---	Sonoda Kisen K.K.:
	Co.:		Pierre Poulain.		itohamunaru No. 1.
	Tenacidad.		Fructidor.	05879---	Les Chargeurs Unis, Inc.:
05338---	Genimar Development Corp.:	05766---	Obernal.		Aigle D'Ocean.
	Genimar.		South Coast Towing Co.:		Aigle Marin.
05337---	Kentauros Development Corp.:		Island.		Blanc Sablon.
	M/V Nicodemos.	05770---	Caribe Sun.	05881---	Elite Shipping Co., S.A.:
05416---	Gallini Shipping Co. S.A.:		C. A. Venezolana De Navegacion:		Asia Fidelity.
	Gerania.		Santo Tome.	05885---	Marcaminos Tropicos Navigation
05341---	Oswego Steamship Co., Inc.:		Guayana.		S.A.:
	Rainbow.		C. De Valencia.		Stuttgart.
	Silver Ibis.		C. De Cumana.	05895---	Black Navigation Co. Inc.:
	Silver Owl.		C. De Maracaibo.		Barge Takotna.
	Silver Gull.		C. De Barquisimeto.		Barge Stony.
	Silver Swan.		Anzoategui.		Barge Aniak.
	Silver Lark.		Suere.	05904---	Tutsa Shipping Co. A.S. Panama:
05417---	Vlassocean de Navegacion S.A.:		Yaracuy.		Vasia.
	Telemachos.		Merida.	05906---	Northern Freedom Shipping Co.:
05420---	Euroship Navigation Co. S.A.:	05779---	Guarico.		Pacqueen.
	Eurodawn.		Nueva Esparta.	05916---	"Catalana Maritima, S.A.":
05421---	Duenos Armadora S.A.:		Glenco, Ltd.:		Tintore.
	Lambros.	05785---	Irving Glen.		
05422---	Compania de Vapores Laertis S.A.:		K.G.:		
	Teleonos.		Nordsee Pioneer.		
05423---	Autolykos Comp. de Vapores, S.A.:	05793---	Zoya Compania Naviera S.A.:		By the Commission.
	Mastro Stellos.		Zoya.		
05439---	Silver Wave Shipping Co. SA. of	05818---	Union Pacific Shipping Co., Inc.:		FRANCIS C. HURNEY,
	Panama:		Solar Trader.		Secretary.
	Silver Wave.	05820---	Ramon Garzon:		
			Ragar.		

[FR Doc.71-7813 Filed 6-1-71;8:47 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-400 etc.]

FRED W. SHIELD ET AL.
Notice of Applications for "Small Producer" Certificates¹

May 24, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 17, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

Docket No.	Date filed	Name of applicant
CS71-400...	4-26-71	Fred W. Shield, 1442 Milam Bldg., San Antonio, TX 78245.
CS71-401...	4-26-71	Illcks Durham, Agent, 225 Johnson Bldg., Shreveport, LA 71101.

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

NOTICES

Docket No.	Date filed	Name of applicant	Docket No.	Date filed	Name of applicant
CS71-402...	4-26-71	Patell Corp., 1442 Milam Bldg., San Antonio, TX 78245.	CS71-437...	4-27-71	H. W. Bass & Sons, Inc., 1150 Mercantile Dallas Bldg., Dallas, Tex. 75201.
CS71-403...	4-26-71	Oil Finders, Inc., 2000 National Bank of Tulsa Bldg., Tulsa, OK 74103.	CS71-438...	4-27-71	Clark Fuel Producing Co. (Operator), 2100 First City National Bank Bldg., Houston, TX 77002.
CS71-404...	4-26-71	D. R. Snow, 2000 National Bank of Tulsa Bldg., Tulsa, OK 74103.	CS71-439...	4-22-71	Evan A. Thomas, 201 West Glenn Dr., Longview, TX 75601.
CS71-405...	4-26-71	J. M. Well Service, Inc., Post Office Box 3710, Station 1, McAllen, TX 78501.	CS71-440...	4-23-71	Nora Laskey Minter, c/o The First National Bank of Shreveport, Post Office Box 1116, Shreveport, LA 71102.
CS71-406...	4-26-71	Frances M. O'Quinn, 2020 Centenary, Shreveport, LA 71101.	CS71-441...	4-27-71	Winston Jenkins, Post Office Box 925, Mission, TX 75572.
CS71-407...	4-26-71	M. L. Kinne, 604 Johnson Bldg., Shreveport, LA 71101.	CS71-442...	4-26-71	W. A. Stockard et al., 943 Houston Natural Gas Bldg., Houston, TX 77002.
CS71-408...	4-26-71	Pauline F. VanCleave Cruise, Post Office Box 1324, Shreveport, LA 71102.	CS71-443...	4-26-71	Commercial National Bank in Shreveport, Trustee for Mrs. Cecil Ezelle Whitwell, Post Office Box 1119, Shreveport, LA 71102.
CS71-409...	4-26-71	Roy Thompson, 7529 Hornwood, Apt. No. 103, Houston, TX 77056.	CS71-444...	4-26-71	Mallonee-Mahoney, Inc., et al., 925 Sutton Pl., Wichita, KS 67202.
CS71-410...	4-26-71	M. A. Schellhardt, 2101 South Houston, Apt. No. 3, Tulsa, OK 74111.	CS71-445...	4-26-71	William H. Cook, Deceased, et al., 1009 Lane Bldg., Shreveport, LA 71101.
CS71-411...	4-26-71	Fancy Oil Co., Inc., 300 South Main St., Borger, TX 79007.	CS71-446...	4-27-71	Mrs. James R. Dougherty et al., Post Office Box 640, Beeville, TX 78102.
CS71-412...	4-26-71	C. Arnold Brown (Operator) et al., 1125 National Bank of Tulsa Bldg., Tulsa, Okla. 74103.	CS71-447...	4-27-71	Clark Oil Producing Co., 2626 Humble Bldg., Houston, TX 77002.
CS71-413...	4-26-71	Robert L. Bayless, Post Office Box 1541, Farmington, N. Mex. 87401.	CS71-448...	4-27-71	P. Douglass Farr, Post Office Drawer 307, West Union, WV 26456.
CS71-414...	4-26-71	Summit Energy, Inc. (successor to Western Oil Fields, Inc.), 1925 Mercantile Dallas Bldg., Dallas, Tex. 75201.	CS71-449...	4-27-71	Tate & Gribble, Post Office Drawer 307, West Union, WV 26456.
CS71-415...	4-26-71	Beverly Ann Laskey King, 935 Thora Blvd., Shreveport, LA 71106.	CS71-450...	4-27-71	Gribble & Hartman, Post Office Drawer 307, West Union, WV 26456.
CS71-416...	4-26-71	Linda Marie Laskey, 742 Erie St., Shreveport, LA 71106.	CS71-451...	4-30-71	Mac Donald, Burns, & Norris No. 2, Post Office Box 206, Torrancia, CA 95607.
CS71-417...	4-26-71	Donna Elizabeth Laskey Newton, 742 Erie St., Shreveport, LA 71106.	CS71-452...	4-27-71	Smith & Gribble, Post Office Drawer 307, West Union, WV 26456.
CS71-418...	4-26-71	Belgian Oil Co., Inc., Post Office Box 1736, Shreveport, La. 71102.	CS71-453...	4-27-71	Houston Oil & Minerals Corp., 242 The Main Bldg., Houston, Tex. 77002.
CS71-419...	4-26-71	Loughorn Service & Drilling Co., 194 East 3d St., Monahan, TX 77556.	CS71-454...	4-27-71	Dorothy Hewitt Blakeney et al., Post Office Box 610, Beeville, TX 78102.
CS71-420...	4-26-71	Penton & Penton, Post Office Box 388, De Quincey, LA 70633.	CS71-455...	4-27-71	Carolyn E. (Gribble) Farr, Post Office Drawer 307, West Union, WV 26456.
CS71-421...	4-26-71	Prairie Producing Co., 504 The Main Bldg., Houston, Tex. 77002.	CS71-456...	4-27-71	Farr & Gribble et al., Post Office Drawer 307, West Union, WV 26456.
CS71-422...	4-26-71	David C. Blinliff, 1309 Bank of the Southwest Bldg., Houston, TX 77002.	CS71-457...	4-27-71	Empire Oil Co., Post Office Drawer 307, West Union, WV 26456.
CS71-423...	4-26-71	Daniel C. Arnold, 1309 Bank of the Southwest Bldg., Houston, Tex. 77002.	CS71-458...	4-27-71	James Zalloa, Sol Zalloa & Sidney Lamb, 4404 Emerson Rd., Wilmington, DE 19802.
CS71-424...	4-26-71	Jack G. Taylor, 1309 Bank of the Southwest Bldg., Houston, TX 77002.	CS71-459...	4-28-71	Gene McCutchin, Post Office Box 1585, Dallas, TX 75221.
CS71-425...	4-26-71	Joseph E. Moss, 1309 Bank of the Southwest Bldg., Houston, TX 77002.	CS71-460...	4-28-71	Benjamin C. McCutchin, Post Office Box 1585, Dallas, TX 75221.
CS71-426...	4-26-71	Estate of J. Blair Cherry, 1124 Lubbock National Bank Bldg., Lubbock, TX 79401.	CS71-461...	4-28-71	Bonray Oil Co., 1361 First National Bldg., Oklahoma City, Okla. 73102.
CS71-427...	4-26-71	The Ohio Fuel Supply Co., 903 City National Bldg., Oklahoma City, Okla. 73102.	CS71-462...	4-28-71	Texana Oil Co., 145 Security Life Bldg., Denver, Colo. 80202.
CS71-428...	4-26-71	Edwin J. Post, Trustee (Assignee of Johnny Jones Post, d.b.a. Post Oil Co.), 502 North Crown Bldg., 830 Northeast Loop 410, San Antonio, TX 78204.	CS71-463...	4-28-71	Robert T. Rasmussen, 510 Midland Savings Bldg., Denver, Colo. 80202.
CS71-429...	4-26-71	The First National Bank of Amarillo, Trustee, Betty Teel Trust, Post Office Box 1331, Amarillo, TX 79103.	CS71-464...	4-28-71	Gerald T. Tresner, 910 Midland Savings Bldg., Denver, Colo. 80202.
CS71-430...	4-26-71	Shinedan Oil Corp., 301 Little Bldg., Ardmore, Okla. 73401.	CS71-465...	4-28-71	G. M. Close Co., Ltd., First National Bldg., Oklahoma City, Okla. 73102.
CS71-431...	4-27-71	S & G Oil Co., Inc., 725 Wright Bldg., Tulsa, Okla. 74103.	CS71-466...	4-28-71	G. M. Close, First National Bldg., Oklahoma City, Okla. 73102.
CS71-432...	4-27-71	Oil & Gas Futures, Inc., Suite 700, 2200 South Post Oak Rd., Houston, TX 77027.	CS71-467...	4-28-71	GMC Oil & Gas Corp., First National Bldg., Oklahoma City, Okla. 73102.
CS71-433...	4-27-71	A. J. Hodges Industries, Inc., Post Office Box 1817, Shreveport, LA 71102.	CS71-468...	4-28-71	Prenatala Corp., Operator et al., Post Office Box 2514, Casper, WY 82401.
CS71-434...	4-26-71	Mar L. Thomas, 943 Mercantile Bank Bldg., Dallas, Tex. 75201.	CS71-469...	4-28-71	Phil K. Cochran, 469 Unadilla St., Shreveport, LA 71106.
CS71-435...	4-27-71	Corpus Christi Leaseholds, Inc., c/o Emmet C. Wilson, Post Office Box 779, Corpus Christi, TX 78403.	CS71-470...	4-28-71	Westtrans Petroleum, Inc., 250 Park Ave., New York, N.Y. 10017.
CS71-436...	4-27-71	Strahan Oil & Gas Co., Inc., Operator et al., 224 Old Bastrop Rd., Monroe, LA 70017.	CS71-471...	4-28-71	F. W. Strait, Inc., Box 90, El Dorado, KS 67042.

NOTICES

Docket No.	Date filed	Name of applicant
CS71-472...	4-28-71	Kenmore Oil Co., Inc., 526 Whitney Bldg., New Orleans, La. 70130.
CS71-473...	4-28-71	Emerald Oil Co., Post Office Box 51325, Lafayette, LA 70501.
CS71-474...	4-28-71	Joan Bristol Wakefield, 2800 Texas Ave., 423 B&B L Bldg., Bryan, TX 77801.
CS71-475...	4-28-71	William V. Montin, 1302 First National Bldg., Oklahoma City, Okla. 73102.
CS71-476...	4-28-71	H. W. Perritt, 423 Commercial National Bank Bldg., Shreveport, La. 71101.
CS71-477...	4-28-71	Nathan Kalvin, 509 Madison Ave., New York, NY 10022.
CS71-478...	4-28-71	The Estate of Jack Frost, 1802 NHC Bldg., San Antonio, Tex. 78205.
CS71-479...	4-28-71	Jerry McCutchin, Post Office Box 1585, Dallas, TX 75221.
CS71-480...	4-28-71	Alma McCutchin (Operator), Post Office Box 1585, Dallas, TX 75221.
CS71-481...	4-28-71	Ronald Lee McCutchin, Post Office Box 1585, Dallas, TX 75221.
CS71-482...	4-28-71	Robert W. O'Meara, 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-483...	4-28-71	J. Harry Henderson, Jr., Post Office Box 1907, Alexandria, LA 71301.
CS71-484...	4-28-71	National Exploration Co., One Elizabethtown Plaza, Elizabeth, N.J. 07207.
CS71-485...	4-27-71	Dixon Management Corp., 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-486...	4-27-71	W. B. Ferguson III, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-487...	4-27-71	Charles T. Rehschmidt, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-488...	4-27-71	W. K. Bromley, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-489...	4-27-71	Lester R. Knight, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-490...	4-27-71	Estate of William S. Sneed, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-491...	4-27-71	Raid Tewksbury, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-492...	4-27-71	H. Victor Crawford, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-493...	4-27-71	H. D. Burns, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-494...	4-27-71	Boss Jo Benish, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-495...	4-27-71	Charles S. Sneed, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-496...	4-27-71	Michael T. Judd, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-497...	4-27-71	J. Keet Lewis, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-498...	4-27-71	William B. Hirsch, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-499...	4-27-71	Robert O'Banion, 3210 One Shell Plaza, Houston, Tex. 77002.
CS71-500...	4-27-71	Jane P. Bromley, 3210 One Shell Plaza, Houston, Tex. 77002.

[FR Doc. 71-7528 Filed 6-1-71; 8:45 am]

[Dockets Nos. RP71-108, RP71-110]

PANHANDLE EASTERN PIPE LINE CO.
Order Providing for Hearing, Rejecting Proposed Revised Tariff Sheets, Accepting and Suspending Proposed Alternative Revised Tariff Sheets, and Permitting Interventions

May 20, 1971.

Panhandle Eastern Pipe Line Co. (Panhandle) on April 26, 1971 tendered for

filing in Docket No. RP71-108 revised tariff sheets¹ proposing changes in its FPC Gas Tariff, Original Volume No. 1, to become effective on May 27, 1971, subject, however, to Panhandle's agreement in Dockets Nos. RP69-35 and RP70-20 not to make effective any general rate increase (allowing for notice and maximum suspension) prior to September 1, 1971. The revised tariff sheets provide for an increase in annual jurisdictional revenues of \$38,279,361 based upon sales volumes for the 12-month period ended January 31, 1971, as adjusted. The proposed tariff changes would be applicable to Panhandle's Rate Schedules G-1, G-2, G-3, SG-1, SG-2, SG-3, LS-1, LS-2, S-1, SS-1, CS-1, I-1, I-2, and I-3.

Panhandle's filing consists of two alternate sets of revised tariff sheets, the first of which contains a new section to be included in the general terms and conditions of the tariff, providing for adjustments for changes in gas supply costs and a provision for flow-through of gas supplier refunds.² The alternate set is comprised of identical sheets, with all reference to a purchase gas adjustment provision removed. Panhandle requests that, if the Commission finds that the proposed purchase gas adjustment provision is prohibited by § 154.38(d) (3) of the Commission's regulations under the Natural Gas Act and does not waive the terms of that section for purposes of Panhandle's filing, the Commission accept for filing the alternate revised sheets, which do not contain a purchase gas adjustment provision nor a provision for flow-through of gas supplier refunds.

Panhandle states that the reasons and basis for the proposed rate increases are: (a) Changes in operations as a result of expansion and gas supply projects; (b) increased interest, capital, and other financial costs; (c) increased Federal and State income taxes, ad valorem and other taxes; (d) increased gas purchase costs, including the effect of the Pan Eastern Exploration Co., project in Docket No. CP71-237 and the revision in depreciation (unit of production versus straight-line) of gathering facility investment; and (e) increased costs of labor, materials, supplies, and services. The proposed rates include a claimed 80-percent rate of return.

The reasonableness of including a purchase gas adjustment provision in Panhandle's tariff has not been tested in any evidentiary proceeding. If accepted at this time, this provision would become operative after suspension. The purchase gas adjustment provision raises a number of substantive issues which should be fully explored and resolved before the rates and charges to Panhandle's customers are subjected to changes by application of this proposed adjustment provision. Accordingly, we deem it inappropriate

¹ The revised tariff sheets (excluding Purchased Gas Adjustment clause) are listed in Appendix A hereto.

² Proposed Original Sheets Nos. 43-1 and 43-2.

ate at this time to waive the provisions of § 154.38(d) (3) of the Commission's regulations under the Natural Gas Act to permit the filing of Panhandle's revised tariff sheets, containing a purchase gas adjustment provision. From and after the effective date of the proposed alternate revised tariff sheets, and prior to the determination of this issue, however, Panhandle will not be precluded from requesting permission to track supplier rate increases which increase the purchase gas cost included by Panhandle in this filing.

On April 27, 1971, Panhandle filed in Docket No. RP71-110, a petition for authorization to use liberalized depreciation with normalization for accounting and rate purposes on all eligible pre-1969 properties effective at the same time its proposed increased rates become effective in Docket No. RP71-108. Panhandle requests that this issue be consolidated with proceedings concerning the general rate increase requested in Docket No. RP71-108.

Review of the rate filing indicates that the issues therein raised require development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

Petitions to intervene were filed by the parties listed in Appendix B hereto. The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Panhandle's FPC Gas Tariff, as proposed to be amended in Dockets Nos. RP71-108 and RP71-110, and that the proposed tariff sheets listed in Appendix A hereto be suspended, and the use thereof be deferred as herein provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedures set forth below.

(3) The participation of the named petitioners in Appendix B hereto may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch I), a public hearing shall be held commencing with a prehearing conference on July 7, 1971, at 10 a.m. e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Panhandle's FPC Gas Tariff, as proposed to be revised herein.

(B) Pending such hearing and decision thereon, Panhandle's revised tariff sheets listed in Appendix A hereto, are suspended, and the use thereof deferred until October 27, 1971, and until

such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Panhandle's revised tariff sheets containing a purchase gas adjustment provision are hereby rejected for filing. These proposed tariff sheets may be made a part of the record herein, to be considered, along with any modifications thereof or alternative provisions submitted by the parties or the Commission Staff, as a proposed purchased gas adjustment provision to be included in Panhandle's tariff.

(D) At the prehearing conference on July 7, 1971, Panhandle's prepared testimony (Statement P), together with its entire rate filing as submitted and served on April 26 and 27, 1971, shall be admitted to the record as Panhandle's complete case-in-chief as provided by § 154.63(e) (1) of the Commission's regulations under the Natural Gas Act, and Order No. 254, 28 FPC 495, subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference fully prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice and procedure, including a useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto.

(E) On or before August 28, 1971, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before September 8, 1971. Any rebuttal evidence by Panhandle shall be served on or before September 28, 1971. Cross-examination on the evidence filed will commence on October 5, 1971. The Presiding Examiner, upon a showing of good cause, may grant such extensions of time as he deems appropriate.

(F) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 16 CFR 3.5(d)), shall preside at the hearing in this proceeding; shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(G) The petitioners named in Appendix B are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene: *And provided, further*, That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(H) Dockets Nos. RP71-108 and RP71-110 are hereby consolidated for purposes of hearing and decision.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A: PANHANDLE EASTERN PIPE LINE COMPANY Alternate Tariff Sheets (Excluding Purchased Gas Adjustment Clause)

Fifth Revised Sheet No. 1.
Alternate Original Sheet No. 3-A.
Twentieth Revised Sheet No. 4.
Sixteenth Revised Sheet No. 5.
Sixteenth Revised Sheet No. 6.
Twentieth Revised Sheet No. 7.
Sixteenth Revised Sheet No. 8.
Sixteenth Revised Sheet No. 9.
Twentieth Revised Sheet No. 10.
Sixteenth Revised Sheet No. 11.
Sixteenth Revised Sheet No. 12.
Twentieth Revised Sheet No. 13.
Twentieth Revised Sheet No. 14.
Twentieth Revised Sheet No. 16.
Twentieth Revised Sheet No. 17.
Twenty-first Revised Sheet No. 19.
Twentieth Revised Sheet No. 20.
Twentieth Revised Sheet No. 22.
Sixteenth Revised Sheet No. 23.
Sixteenth Revised Sheet No. 24.
Twelfth Revised Sheet No. 24-A.
Ninth Revised Sheet No. 24-B.
Ninth Revised Sheet No. 24-C.
Twenty-fourth Revised Sheet No. 25.
Fifteenth Revised Sheet No. 26-A.
Fifteenth Revised Sheet No. 26-B.
Fourteenth Revised Sheet No. 26-E.
Tenth Revised Sheet No. 26-F.
Tenth Revised Sheet No. 26-G.
Twenty-first Revised Sheet No. 27.
Twentieth Revised Sheet No. 29.
Twentieth Revised Sheet No. 31.

APPENDIX B Intervenors

Associated Natural Gas Co.
Central Illinois Light Co.
Central Illinois Public Service Co.
Central Indiana Gas Co.
City of Fulton, Mo.
City of Indianapolis, Ind.
City of Macon, Mo.
Columbia Gas of Ohio, Inc.
Dayton Power and Light Co.
Illinois Municipal Utilities Association.
Illinois Power Co.
Industrial Gas Co.
Industrial Gas Consumers Committee.
Robert L. Kunzig, Administrator of General Services.
Missouri Edison Co.
Missouri Power and Light.
Missouri Public Service Co.
Michigan Gas Storage Co.
Michigan Gas Utility Co.
Northern Illinois Gas Co.
Northern Indiana Public Service Co.
The Gas Service Co.
The Ohio Fuel Gas Co.
The Toledo Edison Co.
Illinois Commerce Commission.

[FR Doc. 71-7602 Filed 6-1-71; 8:46 am]

[Docket No. RP71-107]

NORTHERN NATURAL GAS CO.

Order Providing for Hearing, Denying
Motions To Reject, Rejecting Pro-
posed Revised Tariff Sheets, Ac-
cepting for Filing and Suspending
Proposed Alternative Revised Tariff
Sheets, Establishing Procedures,
and Permitting Intervention

MAY 26, 1971.

Northern Natural Gas Co. (Northern),
on April 26, 1971, tendered for filing re-

vised tariff sheets,¹ proposing changes in its FPC Gas Tariff, Third Revised Volume No. 1, to become effective on May 27, 1971. The revised tariff sheets provide for an increase in annual jurisdictional revenues of approximately \$18,323,823, based upon sales volumes for the 12-month period ended December 31, 1970, as adjusted.

Northern's filing consists of two alternate sets of revised tariff sheets, the first of which contains a new section to be included in the general terms and conditions of the tariff, providing for adjustments for changes in gas supply costs and a provision for flow-through of gas supplier refunds.² The alternate set is comprised of identical sheets with all reference to a purchased gas adjustment provision removed. Northern requests that, if the Commission finds that the proposed purchased gas adjustment provision is prohibited by § 154.38(d) (3) of the Commission's regulations under the Natural Gas Act, unless the terms of that Section are waived for purposes of Northern's filing, the Commission accept for filing the alternate revised sheets, which contain neither a purchased gas adjustment provision nor provision for flow-through of gas supplier refunds.

The reasonableness of including a purchased gas adjustment provision in Northern's tariff has not been tested in any evidentiary proceeding. If accepted at this time, this provision would become operative after suspension. The purchased gas adjustment provision raises a number of substantive issues which should be fully explored and resolved before the rates and charges to Northern's customers are subjected to changes by application of this proposed adjustment provision. Accordingly, we deem it inappropriate at this time to waive the provisions of § 154.38(d) (3) of the Commission's regulations to permit the filing of Northern's revised tariff sheets, containing a purchased gas adjustment provision. From and after the effective date of the proposed alternate revised tariff sheets, and prior to the determination of this issue, however, Northern will not be precluded from requesting permission to track supplier rate increases which increase the purchased gas cost included by Northern in this filing.

Northern states that the reasons and basis for its proposed rates are increases in (a) cost of gas supplies; (b) income, property and payroll taxes; (c) cost of construction, wages and supplies expenses; and advance payments required to obtain a new source of gas supply from Canada and Montana. The proposed rates include a claimed 9-percent rate of return.

The tariff sheets as submitted propose, among other things, the following: (1)

¹ The revised tariff sheets (excluding Purchased Gas Adjustments clause) are listed in Appendix A hereto.

² Those sheets are identified as follows: Original Sheets Nos. 4a, 6a, 29a, 29b, 29c, 29d, 30a, 30b, 67, 68, 69, 70, 71, and 72; and First Revised Sheets Nos. 1, 15 through 26, 28, 34, 37 through 40, 59 through 66, 75, and 79.

A limitation in the applicability provision of the CD-1 Rate Schedule which would restrict Northern's customers from consuming gas in their own plants or reselling it to large-volume consumers if the total fuel input requirements of such plants or large-volume consumers are in excess of 25,000 Mcf per day equivalent; (2) changes in penalty provisions which would be as much as \$20 per Mcf for takes of unauthorized overrun gas in excess of 5 percent of the contract demand; (3) revisions in Northern's PL-1 Rate Schedule to incorporate some of the changes to be made in the CD-1 Rate Schedule; (4) a notice of cancellation of Northern's R-1 Rate Schedule and the filing of a proposed AOS-1 Rate Schedule providing for the sale of any interruptible overrun gas which may become available on the basis of the ratio that each purchaser's contract demand bears to the total contract demand of the customers to whom overrun gas may be offered in a given operational area; (5) the filing of a proposed EG-1 Rate Schedule which would permit the sale of excess gas, when available, to customers for meeting the requirements of large-volume consumers whose total fuel input requirements exceed 25,000 Mcf per day equivalent, such gas to be offered in the ratio that each customer's interruptible industrial plant requirements for excess gas bears to the total of such requirements of all customers desiring to purchase such gas in a given operational area; (6) a notice of cancellation of the PO-1 Rate Schedule which provided for the sale of interruptible pipeline overrun service; (7) a notice of cancellation of the IPS-1 Rate Schedule which provided for initial period service for newly certificated communities; and (8) a large number of changes to the general terms and conditions of Northern's tariff, including revisions of paragraph 9 to state clearly that Northern shall have the right to reduce the delivery of gas below the contract demand during the months of April to October, both inclusive, to facilitate the annual replenishment of underground storage by permitting Northern to curtail down to 85 percent of the contract demand in the months of April and October and down to 70 percent of the contract demand in the months of May through September.

The proposed new curtailment provisions in paragraph 9, permitting curtailment of contract demand down to 70 percent, would become effective under the proposed new tariff sheets, only after sales to large-volume consumers using more than 25,000 Mcf per day have been discontinued, unless, and to the extent, there is an outstanding certificate of public convenience and necessity issued by the Commission specifically authorizing the sale of gas on a firm basis to such a large-volume consumer (First Revised Sheet No. 15).

On May 17, 1971, Northern filed a report in response to Order No. 431, issued April 15, 1971, in Docket No. R-418. In that filing, Northern stated that it will implement § 9.2 of the general terms and conditions of its presently effective tariff

for this storage injection season. The report noted that Northern had previously filed in this docket proposed revisions to its tariff in order to establish curtailment procedures for future injection seasons. In our order issued April 19, 1971, in Northern Natural Gas Co., Docket No. RP71-89, we permitted Northern to withdraw a previously filed amendment to Section 9.2 of its tariff. In that order, we deferred acting on issues raised by Michigan Power Co. and Iowa Power and Light Co. pertaining to Northern's curtailment plan contained in section 9.2 of its presently effective tariff. We there stated that, after consideration, we would issue an order providing for a hearing to be held on the questions raised by Michigan Power and Iowa Power with respect to Northern's past and presently contemplated curtailment procedures. Inasmuch as we are ordering a separate hearing on the propriety of the curtailment plan proposed by Northern in this proceeding, the issues raised by Northern's reliance on section 9.2 of its presently effective tariff should be considered in that stage of this proceeding.

Review of the rate filing indicates that the issues therein raised require development in an evidentiary proceeding. We believe that the issues pertaining to Northern's present and proposed curtailment procedures should be heard separately from the hearing on the issues involving Northern's proposed rate levels. Accordingly, we shall establish procedures to expedite both of those hearings.

Petitions to intervene and notices of intervention were filed by the parties listed in Appendix B hereto.

In their petitions to intervene, Terra Chemicals International, Inc., and Farmland Industries, Inc., filed motions to reject certain of Northern's tendered tariff sheets pertaining to the proposed revision of paragraphs 9.1 and 9.3 of the general terms and conditions of its tariff. Michigan Power Co., on May 20, 1971, filed a motion to reject certain of Northern's tendered tariff sheets, which propose to revise paragraph 9 of its tariff and to limit the applicability of Northern's CD-1 Rate Schedule. In support of their motions, each asserts arguments that were advanced to the Commission in the prior proceeding involving Northern's curtailment procedures (Northern Natural Gas Company, Docket No. RP71-89). We answered those arguments in our order issued February 26, 1971 (mimeo., pp. 8-9) and our order issued March 19, 1971 (mimeo., p. 4). The arguments advanced here do not warrant any change or modification of our rationale and decisions in those orders. Consequently, we affirm those decisions and will deny the motions to reject.

The Commission finds:

(1) The proposed curtailment provisions and the proposed increased rates and charges tendered by Northern on April 26, 1971, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the changes proposed by Northern to its FPC Gas Tariff, Third Revised Volume No. 1, and that the proposed tariff sheets listed in Appendix A hereto be accepted for filing, suspended and the use thereof be deferred as herein provided.

(3) Good cause exists for denying the motions to reject and for rejecting for filing Northern's tendered revised tariff sheets identified in footnote 2 above.

(4) The disposition of this proceeding should be expedited in accordance with the procedures hereinafter ordered.

(5) The participation in this proceeding of the named petitioners in Appendix B hereto may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held on June 15, 1971, at 10 a.m. e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the curtailment provisions contained in Northern's FPC Gas Tariff as proposed to be revised herein and the propriety of Northern's curtailment procedures as set forth in its presently effective tariff.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing with a prehearing conference on August 3, 1971, at 10 a.m. e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, and services (exclusive of the issues involved in the proceeding pursuant to paragraph (A) above) contained in Northern's FPC Gas Tariff as proposed to be revised herein.

(C) Pending such hearings and decisions thereon, Northern's revised tariff sheets identified in Appendix A hereto are hereby accepted for filing, suspended and the use thereof deferred until October 27, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) The motions to reject filed by Farmland Industries, Inc., Terra Chemicals International, Inc., and Michigan Power Co. are hereby denied.

(E) Northern's revised tariff sheets identified in footnote 2 above are hereby rejected for filing. Those proposed tariff sheets, however, may be made a part of the record herein, to be considered, along with any modifications thereof or alternative provisions submitted by the parties or the Commission Staff, as a proposed purchased gas adjustment provision to be included in Northern's tariff.

(F) On June 3, 1971, Northern shall file with the Commission with service on

all parties to this proceeding a statement setting forth the specific proposed tariff sheets (including any that give notice of cancellation of existing sheets) that pertain to the issues involved in its curtailment procedures, both present and proposed, as well as the specific parts of its testimony and exhibits pertaining to those issues, which were served in this proceeding on May 10, 1971.

(G) At the hearing on June 15, 1971, the part of Northern's prepared testimony (Statement P) relevant to the curtailment issues, together with the part of its rate filing pertaining to those issues, shall be admitted to the record as Northern's complete case-in-chief on those issues as provided by § 154.63(e)(1) of the Commission's regulations under the Natural Gas Act, and Order No. 254, 28 FPC 495, subject to appropriate motions, if any, by parties to the proceeding. Thereafter, cross-examination of Northern's witnesses will commence followed immediately with oral direct testimony of intervenors and Commission Staff, cross-examination thereon, and Northern's oral rebuttal testimony with cross-examination thereon. This hearing shall be continuous until concluded; provided, however, that very brief recesses may be allowed by the Presiding Examiner upon a showing of good cause therefor.

(H) At the pre-hearing conference on August 3, 1971, Northern's prepared testimony (Statement P) pertaining to the rate level issues, together with its rate filing relevant to those issues, shall be admitted to the record as Northern's complete case-in-chief as provided by § 154.63(e)(1) of the Commission's regulations under the Natural Gas Act, and Order No. 254, 28 FPC 495, subject to appropriate motions, if any, by parties to the proceeding. Following admission of Northern's complete case-in-chief, the parties shall proceed to effectuate the intent and purpose of § 2.59 of the Commission's rules of practice and procedure, particularly subsection (f) thereof, and of this order as set forth above.

(I) On or before August 31, 1971, the Commission Staff shall serve its prepared testimony and exhibits on the rate level issues. The prepared testimony and exhibits on those issues of any and all intervenors shall be served on or before September 9, 1971. Any rebuttal evidence by Northern shall be served on or before September 29, 1971. Cross-examination of all evidence relevant to the rate level issues shall commence October 12, 1971. The Presiding Examiner, upon a showing of good cause, may grant such extensions of time as he deems appropriate.

(J) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearings in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in section 2.59 of the Commission's rules of practice and procedure.

(K) The petitioners named in Appendix B are hereby permitted to intervene in this proceeding, subject to the

rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene: *And provided, further*, That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(L) Unless otherwise ordered by the Commission, Northern shall not change the terms or provisions of its tariff as proposed to be revised herein or as presently effective until this proceeding has been terminated or until the period of suspension has expired.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

NORTHERN NATURAL GAS COMPANY
Alternate Tariff Sheets (Excluding Purchased Gas Adjustment Clause)

Original Sheets Nos. 6a, 29a, 29b, 29c, 29d, 30a, and 30b.

First Revised Sheets Nos. 1, 15 through 26, 28, 34, 37 through 65, 75, and 79.

APPENDIX B

Intervenors

Minnesota Natural Gas Co.
Municipal Defense Group.
Michigan Power Co.
Farmland Industries, Inc.
Northern Illinois Gas Co.
Wisconsin Michigan Pipe Line Co.
Terra Chemicals International, Inc.
Producers Gas Equities, Inc.
Iowa State Commerce Commission.
City of Minneapolis, Minn.
Metropolitan Utilities District of Omaha.
Iowa Public Service Co.
Iowa-Illinois Gas and Electric Co.
Iowa Southern Utilities Co.
Lake Superior District Power Co.
Northwestern Public Service Co.
Kansas-Nebraska Natural Gas Co., Inc.
Interstate Power Co.
Northern States Power Co. (Minnesota).
Northern States Power Co. (Wisconsin).
Iowa Power and Light Co.
Nebraska Natural Gas Co.
Northern Central Public Service Co., Division of Donovan Companies, Inc.
Lloyd V. Crum, Jr.
Central Telephone & Utilities Corp.
Suburban Rate Authority.
Minneapolis Gas Co.
Cleveland-Cliffs Iron Co.
Public Service Commission of Wisconsin.
State Corporation Commission of the State of Kansas.
Reserve Mining Co.
Michigan Public Service Commission.
Wisconsin Gas Co.
Inter-City Gas Ltd.
Iowa Electric Light and Power Co.
St. Croix Valley Natural Gas Co., Inc.
The Hanna Mining Co.

[FR Doc. 71-7603 Filed 6-1-71; 8:46 am]

[Docket No. CP71-273]

SOUTHERN NATURAL GAS CO.

Notice of Application

MAY 26, 1971.

Take notice that on May 17, 1971, Southern Natural Gas Co. (applicant),

Post Office Box 2563, Birmingham, AL 35202, filed in Docket No. CP71-273 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of facilities for the development and operation of a natural gas storage project to be known as the Muldon Field, located in Monroe County, Miss., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks authorization for the following:

(a) Acquisition of all necessary mineral, royalty, and working interests, and all storage, surface and other rights and interests necessary to develop and operate the Muldon Field as a gas storage facility.

(b) The drilling, construction and operation of a total of 35 injection-withdrawal wells at the Muldon Field, together with certain wellhead measuring equipment and other ancillary facilities.

(c) The conversion of six existing wells in Muldon Field into observation wells and the plugging and abandonment of one existing well.

(d) The construction and operation of a central plant in the Muldon Field which will consist of a 21,750-horsepower compressor station, a dehydration plant, and other ancillary facilities.

(e) The construction and operation of certain field pipeline facilities connecting the central plant to the various injection and withdrawal wells to be drilled and constructed. The field lines will consist of approximately 2,767 miles of 12-inch pipeline, 1,801 miles of 10-inch pipeline, and 4,458 miles of 8-inch pipeline.

(f) The construction and operation of approximately 36 miles of 30-inch pipeline extending from the central plant site at the Muldon Field to applicant's presently existing north main line facilities near the Brooksville, Miss., junction; a regulating station to be located adjacent to applicant's facilities near the Brooksville junction, and certain telemetering equipment to be located near the Brooksville junction and at the central plant site.

(g) The injection of approximately 61,200,000 Mcf of natural gas into the Muldon Field by applicant during the period April 1, 1972, to November 1, 1972, and the withdrawal of up to 34,200,000 Mcf of natural gas during the 1972-73 winter heating season.

(h) The injection of sufficient volumes of natural gas into Muldon Field during subsequent years of operation so as to enable applicant to reach an active working gas inventory of approximately 42,800,000 Mcf which will be available to applicant for withdrawal during winter heating seasons at an average daily rate of approximately 285,000 Mcf, with a maximum daily withdrawal rate of approximately 459,000 Mcf.

Applicant states that no expansion of its system delivery capacity will result from construction of the proposed facilities and that no additional sales or service are proposed. The estimated cost

of the development proposed herein is \$38,582,662, which cost applicant states will be financed by the use of bank loans and permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 14, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-7604 Filed 6-1-71; 8:46 am]

[Docket No. CP71-276]

SOUTHERN NATURAL GAS CO.

Notice of Application

MAY 26, 1971.

Take notice that on May 19, 1971, Southern Natural Gas Co. (applicant), Post Office Box 2563, Birmingham, AL 35202, filed in Docket No. CP71-276 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate facilities to connect with and transport regasified LNG from an LNG terminal facility presently proposed by Southern Energy Co., to applicant's main transmission system. The facilities necessary therefor are:

(a) Two 30-inch pipelines, each approximately 13.25 miles in length, from Southern Energy's proposed terminal facility on Elba Island to applicant's existing Savannah Regulator Station both of which are located in Chatham County, Ga.; and

(b) Approximately 105 miles of 26-inch pipeline from the Savannah Regulator Station to applicant's existing Wrens Compressor Station, Wrens, Ga., on its South Main Line.

Applicant states that the facilities proposed herein, when constructed in 1975, will enable it to receive and transport to its main transmission system approximately 475,000 Mcf of regasified LNG per day. The estimated cost of the facilities proposed herein is \$27,862,790, which cost applicant states will be financed initially from bank loans which will be repaid from cash, funds generated by normal operations, and long-term financing.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-7605 Filed 6-1-71; 8:46 am]

[Docket No. E-6489]

WEST TEXAS UTILITIES CO. AND COMISION FEDERAL DE ELECTRICIDAD

Notice of Application

MAY 25, 1971.

Take notice that West Texas Utilities Co. (West Texas), incorporated under the laws of the State of Texas with its principal place of business at Abilene, Tex., filed an application in the above docket on April 12, 1971 for a supplemental order, pursuant to section 202(e) of the Federal Power Act, authorizing an increase in the amount and rate of transmission of electric energy which West Texas may transmit from the United States to Mexico. A joinder in West Texas' application was filed on April 12, 1971 by Comision Federal De Electricidad (Comision Electricidad), an agency of the Republic of Mexico.

By Commission order issued July 5, 1963 in the above docket (30 FPC 55), West Texas and Comision Electricidad (applicants) were authorized to transmit electric energy from the United States to Mexico in an amount not in excess of 6,400,000 kw.-hr. per year at a rate of transmission not to exceed 800 kw. over certain 2,300-volt facilities of Comision Electricidad located at the international border between the United States and Mexico and covered by the presidential permit signed by the President of the United States on August 26, 1941 (Docket No. IT-5657), as amended by amendments signed by the Chairman of the Federal Power Commission on November 10, 1958 (Docket No. IT-5657), and July 3, 1963 (Docket No. E-6489). Comision Electricidad is currently the holder of that presidential permit, as amended.

Applicants now seek authorization to export electric energy in an amount not in excess of 16 million kw.-hrs. per year at a rate of transmission not to exceed 2,000 kw. from a point near Presidio, Tex., adjacent to the Rio Grande and opposite Ojinaga, Mexico, for the purpose of meeting the growth in the electric service requirements of Comision Electricidad's customers in Ojinaga and vicinity. Comision Electricidad will continue to be the transmitter and West Texas will continue to be the supplier of the exported energy.

West Texas represents that it has adequate capacity to furnish the additional amount of electric energy at the increased transmission rate to Comision Electricidad, as described above, as well as to furnish the electric service needs of its present and prospective customers in the United States.

Concurrently with the filing of its above-mentioned joinder in West Texas' application, Comision Electricidad filed an application in Docket No. E-6489, pursuant to Executive Order No. 10485, dated September 3, 1953, for further amendment of the presidential permit signed by the President of the United

States on August 26, 1941, referred to above, so as to authorize Comision Electricidad to construct and operate certain 12,500-volt facilities at the United States-Mexican border which would replace the facilities currently utilized for exporting electric energy purchased by Comision Electricidad from West Texas.

Any person desiring to be heard or to make any protest with reference to said application for the supplemental export order should on or before June 14, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-7606 Filed 6-1-71; 8:46 am]

FEDERAL RESERVE SYSTEM

FAIR CREDIT REPORTING ACT

Guidelines for Financial Institutions

Public Law 91-508, signed by the President October 26, 1970, amended the Consumer Credit Protection Act by adding a new title VI, the "Fair Credit Reporting Act."

The Board of Governors of the Federal Reserve System has approved distribution of a pamphlet containing Question and Answer Guidelines regarding financial institutions and the Fair Credit Reporting Act. The Guidelines, which are not a regulation of the Board, are issued for the guidance of financial institutions. They were prepared jointly by the staff of the Board of Governors, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.

By order of the Board of Governors, May 6, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-7614 Filed 6-1-71; 8:47 am]

A copy of the Guidelines is filed as a part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Banks.

GREAT LAKES HOLDING CO.

Amended Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (1)), by Great Lakes Holding Co., Kalamazoo, Mich., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of not less than 89 percent nor more than 92 percent of the voting shares of Industrial State Bank & Trust Co., Kalamazoo, Mich.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company and the bank concerned, and the convenience and needs of the community to be served.

Comments and views regarding the proposed acquisition may be filed with the Board to be received not later than June 10, 1971. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

This amends a notice with regard to receipt of this application which was published in the FEDERAL REGISTER on May 29, 1971.

By order of the Board of Governors, May 28, 1971.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[FR Doc. 71-7708 Filed 6-1-71; 9:08 am]

OFFICE OF ECONOMIC OPPORTUNITY

[OEO Contract No. B99-4816]

LABOR MARKET STRUCTURE AND SOCIAL MOBILITY

Notice of Reported Findings

Pursuant to section 606b of the Economic Opportunity Act, as amended, it is announced that as a result of OEO Contract No. B99-4816, Stanford University (Professor M. W. Reder, Principal Investigator) has furnished to the Agency a report entitled, "Labor Market Structure and Social Mobility."

The Report consists of a set of papers which center on the theme of the interaction between economic and social forces in determining one's well being in a material sense as well as the more intangible concept of one's status. The following papers comprise the Report:

"Labor Market Structure and Social Mobility" (a summary and integrative paper)
"Unemployment Among New Labor Market Entrants"
"The Theory of Occupational Wage Structure"
"The Political Economy of Social Class: The Case of the American Negro"
"Human Capital and Economic Discrimination"
"Changes in White-Nonwhite Income Differentials Over Time"

A copy of this report has been filed with the clearinghouse for Federal, Scientific, and Technical Information, U.S. Department of Commerce.

WESLEY L. HJORNEVIK,
Deputy Director.

MAY 25, 1971.

[FR Doc. 71-7615 Filed 6-1-71; 8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2954]

ARNOLD BERNHARD & CO., INC., ET AL.

Notice of Application for Exemption and Temporary Order of Exemption Pending Determination of the Application

MAY 26, 1971.

Notice is hereby given that Arnold Bernhard & Co., Inc. (A B & Co.), Value Line Securities, Inc. (Securities), Arnold Bernhard (Bernhard), Value Line Appraisals (Appraisals) and David Bruce Huxley (Huxley), 5 East 44th Street, New York, NY, have filed an application pursuant to section 9(c) of the Act (1) for an order exempting applicants from

the provisions of section 9(a) of the Act, and, without prejudice to the Commission's consideration of such application, (2) for a temporary order of exemption from section 9(a) pending the Commission's determination of the application. All interested persons are referred to the application on file with the Commission for a statement of the representations therein.

Bernhard is the president and chairman of the board of directors and owner of 100 percent of the voting stock of A B & Co. A B & Co. is the publisher of the various Value Line investment advisory services. A B & Co. is also investment adviser to the following companies registered under the Investment Company Act of 1940 (Act), as open-end diversified companies i.e., The Value Line Fund (Line Fund), The Value Line Income Fund, Inc. (Income Fund), and the Value Line Special Situations Fund, Inc. (Special Fund). The Value Line Development Capital Corp. (Development Fund), registered under the Act as a closed-end diversified company, is also advised by A B & Co. Securities, a wholly owned subsidiary of A B & Co., is the principal underwriter of the aforementioned open-end companies. Huxley is the secretary of the corporate applicants and of the aforementioned funds.

On the 26th day of May 1971, the U.S. District Court for the Southern District of New York entered a Final Judgment of Permanent Injunction and for Other Relief against applicants. The judgment, inter alia, enjoins the defendants and their agents etc. from publishing articles, etc. making recommendations with respect to securities, or from publishing sales literature or soliciting proxies, without disclosing therein any agreements on behalf of Arnold Bernhard & Co. or any subsidiary to act as finder in return for compensation, and from accepting payment for services related to sales transactions of any affiliated registered investment company, except as authorized by section 17(e) of the Act or failing to disclose, in investment advisory contracts with a registered investment company, payment received for services arising out of the purchase or sale of securities by such registered investment company.

Section 9(a) of the Act, in so far as it is pertinent here, makes it unlawful for any person (or any company with which such person is affiliated) to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company or principal underwriter for any registered open-end company, registered unit investment trust or registered face amount certificate company, if such person is by reason of any misconduct enjoined by order of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with any activity as an underwriter, broker, dealer, or investment adviser or as an affiliated person, salesman, or employee of an investment company.

Section 9(c) provides that upon application the Commission shall grant an exemption from the provisions of section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants contend that the standards for exemption, specified in section 9(c) of the Act are entirely satisfied by the facts in this case.

Applicants represent that the complaint filed by the Commission was based upon alleged violations of various Acts administered by the Commission stemming from two activities, both of which involved alleged nondisclosure, for which the applicants or some of them were allegedly responsible: (a) Undertaking to find partners for mergers, acquisitions and financing without stating these facts in the various Value Line investment service publications of A B & Co. and in various prospectuses, sales literature and proxy solicitations (Finders Activity), and (b) instances of receipt of small fees for services in preparing formal documents to expedite the purchase of restricted securities by two of A B & Co.'s managed funds (Special Fund and Development Fund), amounting to a total of \$17,242 (Service Fees).

Applicants represent that all the service fees, in the amount of \$17,242, which A B & Co. received from 23 companies for services in the preparation of materials for formal documents necessary to reflect purchases of restricted securities by Special Fund and Development Fund, have been remitted to the two Funds. Applicants also represent that A B & Co. has terminated its activities which gave rise to those fees.

Applicants also represent that A B & Co.'s activity as a finder was not a major corporate activity and that such activity had no effect on the Funds under the management of A B & Co. Applicants represent that this activity has been terminated and all reasonable steps have been taken to insure that neither A B & Co. nor any of the employees of A B & Co. will engage in such activity without adequate disclosure.

Applicants represent that Bernhard has been engaged in the field of securities analysis and investment guidance since 1931 and that A B & Co. is a well-known publisher of investment advisory services and has about 425 employees.

Except for the aforementioned injunction action and an Administrative Proceeding which includes as respondents A B & Co., Securities and Bernhard, with respect to which the respondents have submitted an offer of settlement, applicants represent that none of the applicants has ever been charged by the Commission or the Government in either a

formal administrative proceeding or a court action with violations of any of the securities laws.

In addition, applicants represent that the continued uninterrupted services of all of the applicants is essential to the protection and welfare of the Funds under the management of A B & Co. and their shareholders.

The Commission has considered the matter and finds that:

(1) the conduct of the applicants has been such as not to make it against the public interest or protection of investors to grant the application for a temporary exemption from section 9(a) pending determination of the application, and

(2) In order to maintain uninterrupted management of the investment companies under the management of A B & Co. it is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that the temporary order of exemption be issued forthwith.

Accordingly, it is ordered, Pursuant to section 9(c) of the Act that applicants be and they are hereby temporarily exempted from the provisions of section 9(a) of the Act pending determination by the Commission of applicants' application for an order exempting applicants from the provisions of section 9(a).

Notice is further given that any interested person may, not later than June 16, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Associate Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc. 71-7609 Filed 6-1-71; 8:46 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

MAY 27, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42212—*Liquid caustic soda from Geismar, La.* Filed by O. W. South, Jr., agent (No. A6259), for interested rail carriers. Rates on sodium (soda), caustic, in tank carloads, as described in the application, from Geismar, La., to Chattanooga, Tenn.

Grounds for relief—Rate relationship. Tariff—Supplement 189 to Southern Freight Association, agent, tariff ICC S-699. Rates are published to become effective on July 8, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc 71-7620 Filed 6-1-71; 8:47 am]

[Notice 303]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 26, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 42487 (Sub-No. 772 TA), filed May 17, 1971. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: V. R. Oldenburg, Post

NOTICES

Office Box 5138, Chicago, IL 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), serving points in Wright Township, Luzerne County, Pa., as off-route points in connection with carrier's regular-route operations, to and from Wilkes-Barre, Pa., authorized herein, for 180 days. Note: Applicant will tack with its other outstanding authorities in Docket MC 42487 at Wilkes-Barre, Pa., and will interline at Wilkes-Barre, Pa. Supporting shippers: Cornell Iron Works, Inc., Crestwood Industrial Park, Wilkes-Barre, Pa. 18707; King Fifth Wheel Co., Crestwood Industrial Park, Post Office Box 68, Mountaintop, PA 18707. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 44639 (Sub-No. 36 TA), filed May 16, 1971. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials, and supplies used in the manufacture of wearing apparel*, between Crewe, Va., on the one hand, and, on the other, New Smyrna Beach and Miami, Fla., for 150 days. Note: Applicant intends to tack with its permanent and temporary authority at Crewe, Va. Supporting shippers: Gerson & Gerson, Inc., 519 Eighth Avenue, New York, NY 10018; Lady Bird Apparel, Inc., 1005 Shenandoah Avenue NW, Roanoke, VA 24016. Send protests to: District Supervisor Joel Morris, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 66121 (Sub-No. 18 TA), filed May 18, 1971. Applicant: INDIAN BOW TRUCK LINES, LTD., 103 Harvard Avenue, Smithtown, NY 11787. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refuse containers*, from Copiague and Deer Park, N.Y., to points in Minnesota, Wisconsin, Iowa, Missouri, Arkansas, Mississippi, Alabama, Tennessee, Kentucky, Georgia, South Carolina, North Carolina, West Virginia, Texas, and Kansas, and (2) *refuse compactor systems and commodities used in the manufacture and distribution of refuse compactor systems and refuse containers*, between Copiague and Deer Park, N.Y., on the one hand, and, on the other, points in and east of Minnesota, Iowa, Missouri, Kansas, Oklahoma, and Texas, for 180 days. Supporting shipper: Sanitary Controls Inc., 225 Marcus Boulevard, Deer Park, NY 11729. Send protests to: Anthony Chiusano,

District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 95540 (Sub-No. 807 TA), filed May 17, 1971. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Appendix 1, sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and pelts, and commodities in bulk, in tank vehicles), from Joslin, Ill., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and the District of Columbia, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 95876 (Sub-No. 111 TA), filed May 18, 1971. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, Post Office Box 844, St. Cloud, MN 56301. Applicant's representative: Richard A. Rennie (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, poles, and piling*, treated or not treated, (1) from ports of entry on the United States-Canada boundary at or near Grand Portage, Minn., and International Falls, Minn., to points in Illinois, Indiana, Louisiana, Kansas, Michigan, Minnesota, New York, Ohio, Pennsylvania, South Dakota, and Wisconsin and (2) from Superior, Wis., to points in Illinois, Indiana, Louisiana, Kansas, Michigan, Minnesota, New York, Ohio, Pennsylvania, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Great West Timber, Ltd., Post Office Box 444, Postal Station P, Thunder Bay, Ontario. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 107983 (Sub-No. 10 TA), filed May 13, 1971. Applicant: COLDWAY EXPRESS, INC., Post Office Box 23, 1069 Johnson Street, Morton, IL 61550. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (a) *Gravity flow farm boxes, related parts, and running gear*, from the plantsite of Ficklin Manufacturing Co., Onarga, Ill., on the one hand,

and, on the other, points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, Ohio, South Dakota, Tennessee, and Wisconsin; (b) *gravity boxes, augers, running gears, grinder mixers, and related parts*, from the plantsite of Helix Corp., Crown Point, Ind., Oelwein and Osage, Iowa, on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin; and (c) *wagons and running gears, breaking plows, fertilizing equipment, and related parts*, from the plantsite of M & W Gear Co., Gibson City, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Texas, and Wisconsin, for 180 days. Supporting shippers: M & W Gear Co., Route 47 South, Gibson City, IL 60936; Helix Corp., Crown Point, Ind., and Ficklin Manufacturing Co., Onarga, Ill. Send protests to: District Supervisor Raymond E. Mauk, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 108119 (Sub-No. 31 TA), filed May 17, 1971. Applicant: E. L. MURPHY TRUCKING COMPANY, 3033 Sibley Memorial Highway, Post Office Box 3010, 55101, St. Paul, MN 55111. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron steel articles*, from Duluth, Minn., to Indiana, Michigan, Ohio, and Pennsylvania, for 180 days. Supporting shipper: United States Steel Corp., 202 South La Salle Street, Chicago, IL 60690. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 111594 (Sub-No. 51 TA), filed May 17, 1971. Applicant: C. W. TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494. Applicant's representative: Gordon G. Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Encapsulated dye intermediate slurry*, in bulk, in tank vehicles, from Hartford City, Ind., to Nekoosa and Stevens Point, Wis., for 180 days. Supporting shipper: Minnesota Mining & Manufacturing Co. (3M Co.), 3M Center, St. Paul, MN 55101. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 117698 (Sub-No. 9 TA) (Correction), filed April 6, 1971, published FEDERAL REGISTER issue April 17, 1971, and corrected and republished as corrected this issue. Applicant: LEO H. SEARLES, doing business as L. H. SEARLES, South Worcester, N.Y. 12197. Applicant's representative: Harold C. Vrooman, 140 Main Street, Oneonta, NY 13820. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream and ice cream products*, in refrigerated trailers (except in bulk, in tank vehicles), from Scranton and Philadelphia, Pa.; Laurel, Md.; Newark, N.J.; and Suffield, Conn., to points in New York State within 100-mile radius of Oneonta, N.Y., for 150 days. Note: Applicant states it intends to tack the authority here applied for to other authority held by it, but not to interline with other carriers in MC 117698 Sub 1 and Sub 3 and Sub 6 and Sub 8. Supporting shipper: Simonson Bros. Ice Cream Co., Inc., Oneonta, N.Y. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, NY 12207. Note: The purpose of this republication is to include the exceptions and add Newark, N.J., as an origin point.

No. MC 117940 (Sub-No. 46 TA), filed May 18, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: M. James Levitus (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite or storage facilities of Illini Beef Packers, Inc., at Joslin, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restriction: Restricted to traffic originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 118861 (Sub-No. 3 TA), filed May 18, 1971. Applicant: H. L. DRAPER TRUCKING, INC., Rural Delivery No. 3, Indiana, Pa., 15701. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slag and aggre-*

gates, from points in Erie County, N.Y., to points in Crawford, Erie, and Warren Counties, Pa., for 150 days. Supporting shipper: The Buffalo Slag Co., Inc., 111 Great Arrow Avenue, Buffalo, NY 14216. Send protests to: Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, Pa. 15222.

No. MC 123233 (Sub-No. 35 TA), filed May 13, 1971. Applicant: PROVOST CARTAGE INC., 7887 Second Avenue, Ville d'Anjou 437, PQ Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in hopper-type trailers, from the ports of entry on the United States-Canada boundary line located at or near Trout River and Champlain, N.Y.; Highgate Springs, Derby Line, and Norton, Vt.; Jackman, Van Buren, Houlton, Vanceboro, and Calais, Maine; to all points in the States of New York, New Hampshire, Vermont, Maine, Massachusetts, and Connecticut. Restriction: To traffic originating in the Province of Quebec, Canada, for 180 days. Supporting shipper: Miron Co., Ltd., 2201 Jarry Street East, Montreal 455, PQ Canada. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 124402 (Sub-No. 6 TA), filed May 18, 1971. Applicant: FLEET LINE, INC., 2919 Eighth Avenue, Post Office Box 7026, Chattanooga, TN 37410. Applicant's representative: Joseph P. Tuohy, 111 Wacker Drive, Chicago, IL 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils, animal fats, vegetable oils, and products including blends thereof* (except in bulk, in tank trailers), in vehicles equipped with mechanical refrigeration, from Chattanooga, Tenn., to points in Kentucky, Tennessee, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi, limited to a transportation service to be performed under a continuing contract, or contracts with Armour & Co., of Chicago, Ill., for 180 days. Supporting shipper: Transportation and Distribution, Dairy, Poultry, and Oils Division, Armour & Co., 111 East Wacker Drive, Chicago, IL 60601. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803-1808 West End Building, Nashville, Tenn. 37203.

No. MC 128030 (Sub-No. 29 TA), filed May 17, 1971. Applicant: THE STOUT TRUCKING COMPANY, INC., Post Office Box 177, Rural Route No. 1, Urbana, IL 61801. Applicant's representative: James F. Flanagan, 111 Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating oil*, in containers, from Oil City, Pa., to Urbana, Ill., for 180 days. Supporting shipper: Russell G. Stewart, President; Russell Stewart Oil Co., Urbana, Ill. Send protests to: Robert G. Anderson, District

Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 135589 (Sub-No. 1 TA), filed May 13, 1971. Applicant: AARON SCHAD AND JANICE SCHAD, a partnership, doing business as HASTINGS DISTRIBUTING, Post Office Box 992, Hastings, NE 68901. Applicant's representative: Gailyn L. Larsen, Post Office Box 8086, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Malt beverages and related advertising materials*, from the facilities of The Walter Brewing Co. at or near Pueblo, Colo., to Grand Island, Hastings, Lincoln, and North Platte, Nebr.; (b) *used empty beverage containers and incidental facilities* used in transporting malt beverage from the named destinations in (a) above to the facilities of The Walter Brewing Co. at or near Pueblo, Colo., under continuing contract or contracts with The Walter Brewing Co., for 150 days. Supporting shipper: The Walter Brewing Co., Edmund B. Kooler, President, Hickory and LaCrosse Streets, Pueblo, CO. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 326 Federal Building and U.S. Courthouse, Lincoln, Nebr. 68508.

No. MC 135594 TA, filed May 12, 1971. Applicant: JOSEPH O. BATTLES, Center Road, Bradford, NH 03221. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Saw mill equipment*, from Contoocook, N.H., to points in Maine, Vermont, Connecticut, Rhode Island, Massachusetts, New York, Louisiana, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, Arkansas, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Ohio, Missouri, Kentucky, Michigan, Wisconsin, Indiana, Illinois, Mississippi, Minnesota, and Texas, limited to a transportation service to be performed under a continuing contract or contracts, with HMC Corp. of Contoocook, N.H., for 180 days. Supporting shipper: HMC Corp., Contoocook, N.H. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 135597 (Sub-No. 1 TA), filed May 16, 1971. Applicant: C. K. BROUGH, doing business as STRAIGHT ARROW TRUCKING COMPANY, 5387 South 5030 West Street, Kearns, UT 84118. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Component parts, materials and supplies* used in the construction of truck bodies and finished truck bodies and accessories, between points in Utah, Nevada, California, Arizona, Idaho, Oregon, Washington,

New Mexico, Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Ohio, Michigan, Illinois, and Indiana, under a continuing contract with Williamsen Body & Equipment Co., Williamsen's Inc., and Williamsen Idaho Equipment Co., Inc., for 180 days. Supporting shippers: Williamsen Body & Equipment Co., 1925 West Indiana Avenue, Salt Lake City, UT 84104 (L. Carr Williamsen, President); Williamsen Idaho Equipment Co., Inc., 8151 West Chinden Boulevard, Boise, ID 83702 (L. Clair Williamsen, President); Williamsen's Inc., 1925 West Indiana Avenue, Salt Lake City, UT 84104 (L. Clair Williamsen, Vice President). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, Utah 84111.

No. MC 135607 TA, filed May 17, 1971. Applicant: VANCOUVER AIRLINE CARTAGE LTD., Vancouver International Airport, Richmond, British Columbia. Applicant's representative: J. Stewart Black, 1322 Laburnum Street, Vancouver 9, BC Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General freight*, excepting household goods and explosives, that has been moved or is to move over air freight between Vancouver, International Airport, British Columbia, and Sea-Tac Airport, Wash., over Interstate Highway No. 5, for 180 days. Supporting shippers: Air Canada, 1171 West Hastings Street, Vancouver 1, B.C.; Pacific Western Airlines, Vancouver International Airport Central B.C. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-7618 Filed 6-1-71; 8:47 am]

[Notice 304]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 27, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965; effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and

will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9325 (Sub-No. 54 TA), filed May 20, 1971. Applicant: K LINES, INC., 341 Foothills Road, Lake Oswego, OR 97034. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Ore. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urca and dry fertilizer*, in bulk, from points in Walla Walla, Spokane, Franklin, and Benton Counties, Wash., and Kootenai County, Idaho, to points in Oregon, Montana, and Washington, for 150 days. Supporting shippers: Webfoot Fertilizer Co., Inc., 201 Southeast Washington Street, Portland, OR 97214; Northwest Nitro-Chemicals Sales, Ltd., Industrial Park Building 10, Spokane, Wash. 99216; Collier Carbon and Chemical Corp., Post Office Box 60455, Los Angeles, CA 90060; Cominco American, Inc., 818 West Riverside Avenue, Spokane, WA 99201; CF Industries, Inc., 17331 Southeast Stark Street, Portland, OR 97233. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Ore. 97204.

No. MC 19193 (Sub-No. 12 TA), filed May 18, 1971. Applicant: LAFFERTY TRUCKING COMPANY, 3703 Beale Avenue, Altoona, PA 16601. Applicant's representative: S. Berne Smith, 100 Pine Street, Post Office Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* (except liquid chemicals and coal tar products, in bulk, in tank vehicles) as is dealt in by wholesale, retail, and chain grocery and food business houses and, in connection therewith, equipment, material, and supplies (except liquid chemicals and coal tar products, in bulk, in tank vehicles) used in the conduct of such business, between Salem, Ohio, on the one hand, and, on the other, (a) Greensburg, Rimersburg, and Kane, Pa., and points in Fayette, Greene, and Washington Counties, Pa.; (b) points in Monongahela, Marion, Taylor, Preston, Barbour, Randolph, and Tucker Counties, W. Va.; (c) Hancock, Md., and points in Garrett County, Md., and (d) points within the territory bounded by a line beginning at Tionesta, Pa., and extending south through Shippenville, Pa., and Oakland, Md., to Thomas, W. Va., thence in a southeasterly direction to Petersburg, W. Va., thence in a northeasterly direction through Moorefield, W. Va., McConnellsburg, and Duncannon, Pa., to Millersburg, Pa., thence in a northwesterly direction to Jersey Shore, Pa., and thence west

through Renovo, Emporium, Johnsonburg, and St. Marys, Pa., to Tionesta, including the points named, excluding points in Garrett County, Md., Fayette County, Pa., and Tucker County, W. Va. Restriction: The operations described under the commodity description above are limited to a transportation service to be performed under a continuing contract, or contracts, with The Great Atlantic & Pacific Tea Co., Inc., for 180 days. Supporting shipper: The Great Atlantic & Pacific Tea Co., Inc., Central Region, Altoona Division, 29th Street and Industrial Way, Altoona, PA 16603. Send protests to: Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, Pa. 15222.

No. MC 30837 (Sub-No. 435 TA), filed May 17, 1971. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Post Office Box 160, 53141, Kenosha, WI 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Folding tent campers*, designed to be drawn by passenger automobiles, in truckaway service, from Somerset, Pa., to points in the United States and the return to Somerset of *damaged and repossessed units*, for 150 days. Supporting shipper: The Coleman Co., Wichita, Kans. 67201. (C. G. Dolloff, Corporate Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 35442 (Sub-No. 5 TA), filed May 19, 1971. Applicant: W. CLARENCE OWENS AND HALET W. OWENS, a partnership, doing business as W. W. OWENS AND SONS TRANSFER & STORAGE, 501 Ward Street, Elizabeth City, NC 27909. Applicant's representative: W. Clarence Owens (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Camden, Currituck, Dare, Tyrrell, Perquimans, Pasquotank, Chowan, Gates, Hertford, Northampton, Washington, Bertie, Martin Counties, N.C. Restriction: The service applied for is to be restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points above referred to and further restricted to the performance of pickup and delivery service in connection with packing, crating or containerization, or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shippers: J. T. Crowe, Chief Warrant Officer, U.S. Coast Guard, Transportation Officer, Department of Transportation, U.S. Coast Guard, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705; G. J. Rou, Commander, U.S. Coast Guard, Commanding Officer (Acting) Aircraft Repair and Supply Center, Elizabeth City, NC 27909. Send protests to: Archie W.

Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, NC 27611.

No. MC 64932 (Sub-No. 495 TA), filed May 17, 1971. Applicant: ROGERS CARTAGE CO., 1439 West 103d Street, Chicago, IL 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, from the plantsite of United States Steel Corp. at or near Haverhill (Scioto County), Ohio, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: James T. Curtis, Jr., Manager-Rates and Movement Services, United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1439 West 103d Street, Chicago, IL 60643.

No. MC 109448 (Sub-No. 13 TA), filed May 20, 1971. Applicant: PARKER TRANSFER COMPANY, Telegraph Road, Post Office Box 256, Elyria, OH 44035. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furnace tubes and furnace parts*, from Erie, Pa., to Elyria, Ohio, for 180 days. Supporting shipper: Abex Corp., Engineered Products Division, Elyria, Ohio 44035. Send protests to: District Supervisor Baccell, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 111170 (Sub-No. 162 TA), filed May 19, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, from Pine Bluff, Ark., to points in Texas, for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 2061R, Morristown, NJ 07960. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 112801 (Sub-No. 121 TA), filed May 17, 1971. Applicant: TRANSPORT SERVICE CO., Post Office Box 50272, 5100 West 41st Street, Chicago, IL 60603. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Illinois, Minnesota, and Wisconsin, for 180 days. Supporting Shipper: Bart M. LaMonica, Distribution Analyst, Allied Chemical Corp., Post Office Box 2061R, Morristown, NJ 07960. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 114295 (Sub-No. 6 TA), filed May 19, 1971. Applicant: M & M CONSTRUCTION SERVICE, INC., 35 West Seventh Street, New Albany, IN 47150. Applicant's representative: Ollie L. Merchant, 140 South Fifth Street, Louisville, KY 40202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, as are ordinarily transported in dump trucks and can properly be unloaded by dumping in dump trucks, from Mauckport, Ind., to points in Jefferson County, Ky., for 180 days. Supporting shippers: Jefferson Concrete Co., 1901 Outer Loop, Post Office Box 19138, Louisville, KY 40219; Modern Concrete Supply Co., 2323 Ralph Avenue, Louisville, KY 40216; Ruby Construction Co., Inc., Post Office Box 16160, Louisville, KY; Shamrock Corp. of Kentuckiana, 258 Eiler Avenue, Louisville, KY 40214. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 802, Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 115311 (Sub-No. 117 TA), filed May 19, 1971. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: K. Edward Wolcott, Suite 1600, First Federal Building, Atlanta, GA. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum and gypsum products*, from the plantsite of Georgia Pacific Corp. at Brunswick, Ga., to points in Alabama, North Carolina, South Carolina, and Tennessee; and, (2) *particle board*, from the plantsite of Georgia Pacific Corp. at Vienna, Ga., to points in Alabama, Florida, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia, for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 909, Augusta, GA 30903. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW, Atlanta, GA 30309.

No. MC 126709 (Sub-No. 4 TA), filed May 17, 1971. Applicant: SABER, INC., 514 South Floyd Boulevard, Sioux City, IA 51101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats*, in bulk, in tank vehicles, from Luverne, Minn., to Sioux City, Iowa for 180 days. Supporting shipper: Iowa Beef Packers, Inc., Dakota City, Nebr. 68731.

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Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 127867 (Sub-No. 6 TA), filed May 24, 1971. Applicant: TRANSOL COMPANY, 116 Forest Avenue, Des Moines, IA 50314. Applicant's representative: Marvin F. Peterson, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Solvents*, from Freeport, Tex., to Des Moines, Bettendorf, and Council Bluffs, Iowa for 180 days. Supporting shipper: Barton Solvents, Inc., Barton Solvents Co., Barton Naphtha Corp., Post Office Box 221, Des Moines, IA 50301. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 129659 (Sub-No. 4 TA), filed May 17, 1971. Applicant: T-P STORAGE AND LEASING, INC., 4 Colonial Terrace, Pompton Plains, NJ 07444. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pile drivers* (pile driver hammers) or *pile extractors* or *pullers*, or *pile driver extractor* or *puller cylinders*, *grips*, *heads*, *clamps*, *pistons*, *rams*, *retainers*, *side straps*, or *tie rods*, *separate or combined*, *steel pipe*, *piling*, *rails*, *railway track accessories* and *bridge and highway railing*, between Newark, Windsor, N.J.; Philadelphia, Pa.; New Haven, Conn., on the one hand, and, on the other, points in New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, under contract with L. B. Foster Co., for 150 days. Supporting shipper: L. B. Foster Co., Post Office Box 548, Carnegie, PA 15106. Send protests to: District Supervisor Joel Morrows, Bureau of Opera-

tions, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 135557 (Sub-No. 1 TA), filed May 17, 1971. Applicant: FLORIDA MOVING & STORAGE OF JACKSONVILLE, INC., 678 North Edgewood Avenue, Jacksonville, FL 32205. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Florida on and north of Florida Highway 40 and on and east of U.S. Highway 19 and points in Georgia on and east of U.S. Highway 19 and on and south of U.S. Highway 84. Restriction: Prior or subsequent movement in containers, beyond points authorized, and further restricted to performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper: Mitchell Overseas Movers, Post Office Box 88728, Tukwila Station, Seattle, WA 98168. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 135590 (Sub-No. 1 TA), filed May 17, 1971. Applicant: GOLD COAST TRUCKING & EXPRESS, INC., 278 Southwest 32d Court, Fort Lauderdale, FL 33315. Applicant's representative: Richard B. Austin, 5720 Southwest 17th Street, Room 109, Miami, FL 33155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic supplies*, and *electric equipment*, classification 63035-A-10 N.M.F.C., as a distribution carrier, from, to, between points in Dade, Broward, and Palm Beach Counties, Fla., on traffic having a prior out-of-State movement, for 180 days. Supporting shippers: The Magnavox Co., Fort Wayne, Ind. 46804; Eastman Kodak Co., Rochester, N.Y. 14650. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 South-

west 17th Street, Room 105, Miami, FL 33155.

No. MC 135606 TA, filed May 17, 1971. Applicant: MARC A. ROBIN, No. 5 York Building, Viewmont Village, Scranton, PA 18508. Applicant's representative: Thomas J. Jones, 502-505 Brooks Building, Scranton, PA 18503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used batteries and lead*, between the Borough of Throop, Lackawanna County, Pa., on the one hand, and, on the other, points in the States of West Virginia, Virginia, Michigan, Ohio, Delaware, Maryland, Massachusetts, Maine, Vermont, New Hampshire, Rhode Island, Connecticut, New Jersey, New York, and the District of Columbia, for 180 days. Supporting shipper: Marjol Battery & Equipment Co., 600 Delaware Avenue, Throop, PA 18512. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 135614 TA, filed May 19, 1971. Applicant: ESKELIN, INC., 4604 Wornall Road, Kansas City, MO 64112. Applicant's representative: Max G. Morgan, 600 Leninger Building, Oklahoma City, OK 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural insecticides and defoliants*, except in bulk, between the plant and warehouse of Chemagro Corp., Kansas City, Mo., and points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, and Texas, for 180 days. Supporting shipper: Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, MO. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 110 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

By the Commission.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7619 Filed 6-1-71;8:47 am]

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

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PROCLAMATION:	39 (5 documents) 10779-10781	PROPOSED RULES:
4057 10769	71 (2 documents) 10781	117 (4 documents) 10799-10801
	75 10781	
5 CFR	PROPOSED RULES:	39 CFR
213 (6 documents) 10771	39 10801	171 10783
	47 10801	
7 CFR	71 10802	45 CFR
51 10771	249 10803	206 10783
722 10772	371 10803	
725 10772	399 10806	47 CFR
908 10773	16 CFR	73 10784
910 10773	500 10781	PROPOSED RULES:
944 10774	21 CFR	25 10806
1090 10775	28 10781	73 10806
1098 10775	24 CFR	83 10807
1103 10775	60 10781	49 CFR
1104 10775	200 10781	177 10784
1106 10775	26 CFR	178 10785
1421 10777	301 10782	1033 10785
	PROPOSED RULES:	PROPOSED RULES:
12 CFR	1 10787	395 10802
222 (2 documents) 10777-10778	13 10787	1100 10807
265 (2 documents) 10778-10779		

Presidential Documents

Title 3—The President

PROCLAMATION 4057

National Peace Corps Week

By the President of the United States of America

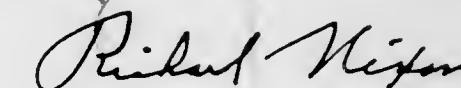
A Proclamation

This year marks the tenth anniversary of the Peace Corps, which has sent more than 45,000 volunteers overseas to serve in nearly 70 developing countries.

Few governmental organizations have so inspired and captured the imaginations of Americans both young and old. I therefore take special pleasure in complying with Senate Joint Resolution 29, requesting that the week beginning May 30, 1971, and ending June 5, 1971, be designated as National Peace Corps Week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week of May 30 through June 5, 1971, as National Peace Corps Week; and I invite the Governors of the States and appropriate local government officials to issue similar proclamations.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of May, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.



[FR Doc.71-7781 Filed 6-1-71;12:32 pm]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Effective on June 30, 1971, paragraph (e) of § 213.3199 having expired by its own terms is revoked, reflecting termination of the White House Conference on Children and YOUTH.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7648 Filed 6-2-71;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that one position of Confidential Assistant to the Deputy Director of Defense Research and Engineering (Test and Evaluation) is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-3-71), subparagraph (40) is added to paragraph (a) of § 213.3306 as set out below.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* . . .

(40) One Confidential Assistant to the Deputy Director of Defense Research and Engineering (Test and Evaluation).

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7643 Filed 6-2-71;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Army

Section 213.3307 is amended to show that the position of Confidential Assistant to the Deputy Under Secretary of the Army (International Affairs) is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-3-71), subparagraph (3) of paragraph (a) of § 213.3307 is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7644 Filed 6-2-71;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to remove the position of Commissioner, Federal Water Pollution Control Administration from the Department of Interior's listing of Schedule C positions.

Effective on publication in the FEDERAL REGISTER (6-3-71), paragraph (n) of § 213.3312 is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7647 Filed 6-2-71;8:45 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to show that the position of Commissioner, Water Quality Office, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-3-71), paragraph (q) is added to § 213.3318 as set out below.

§ 213.3318 Environmental Protection Agency.

(q) Commissioner, Water Quality Office.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7645 Filed 6-2-71;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that (1) one position of Special Assistant to the Secretary is no longer excepted under Schedule C, and (2) one position of Staff Assistant to the Special Assistant to the Secretary for Mort-

gage Interest Rates is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-3-71), subparagraph (12) is amended, and subparagraph (30) is added to paragraph (a) of § 213.3384 as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* . . .

(12) Three Special Assistants to the Secretary.

(30) One Staff Assistant to the Special Assistant to the Secretary for Mortgage Interest Rates.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7646 Filed 6-2-71;8:45 am]

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Subpart—U.S. Standards for Grades of Potatoes

U.S. Extra No. 1; CORRECTION

In F.R. Doc. 70-15938 appearing in the issue of Tuesday, December 1, 1970 (35 F.R. 18257), the word "Blackheart" was inadvertently omitted under (f) of § 51.1540 in column 3 of page 18258 which is corrected to read as follows:

§ 51.1540 U.S. Extra No. 1.

- (f) Free from:
- (1) Freezing;
 - (2) Blackheart;
 - (3) Late blight, southern bacterial wilt and ring rot; and,
 - (4) Soft rot and wet breakdown.

Dated: May 28, 1971.

G. R. GRANGE,
*Deputy Administrator,
Marketing Services.*

[FR Doc.71-7732 Filed 6-2-71;8:52 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 2]

PART 722—COTTON

Subpart—Base Acreage Allotments for 1971, 1972, and 1973 Crops of Upland Cotton

HISTORY ACREAGE OF COTTON ON THE FARM

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purpose of this amendment is to delete the provision prohibiting adjustment of history acreage now set forth in § 722.404 (f) (2) (i) in cases of farms owned by the Federal Government with a restrictive lease prohibiting the planting of upland cotton. Such deletion will affect a limited number of federally owned farms which were acquired before 1950 for which pooling of allotments under 7 U.S.C. 1378 was not applicable.

The regulations under this subpart (36 F.R. 4853, 6733, 7509) are amended by revising paragraph (f) (2) of § 722.404 to read as follows:

§ 722.404 Definitions.

(f) *History acreage of cotton on the farm.* . . .

(2) No adjustment in history acreage under subparagraph (1) of this paragraph shall be made for a farm if the cotton base acreage allotment is established in the eminent domain pool under Part 719 of this chapter.

(Secs. 301, 344a, 350, 375, 52 Stat. 38, as amended, 79 Stat. 1197, as amended, 79 Stat. 1193, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1344b, 1350, 1375)

Effective date: Upon filing of this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on May 26, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 71-7682 Filed 6-2-71; 8:48 am]

[Amdt. 4]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1970-71 and Subsequent Marketing Years

REINSTATEMENT OF DISCOUNT VARIETY PROVISIONS

On page 7462 of the FEDERAL REGISTER of April 20, 1971, there was published a notice of proposed rule making to issue an amendment to the regulations to reinstate provisions with respect to de-

terminations of discount varieties of Flue-cured tobacco effective for the 1972 and subsequent crops. Interested persons were given 15 days after publication of such notice in which to submit written data, views, and recommendations with respect to the proposed regulations to be sure of consideration. No data, views, or recommendations were submitted pursuant to said notice.

The amendment herein is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended. The amendment reinstates for 1972 and subsequent crops the provisions of § 725.110 of the regulations in this subpart which was revoked for the 1971 crop.

Section 725.110 is reinstated effective for the 1972 and subsequent crops, to read as follows:

DISCOUNT VARIETIES

§ 725.110 Determination of discount varieties.

(a) *Definition.* "Discount Variety" means any of the Flue-cured tobacco seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244, or a mixture or strain of such seed varieties, or any breeding line of Flue-cured tobacco seed varieties, including, but not limited to, 187-Golden Wilt (also designated by such names as No-Name, XYZ, Mortgage Lifter, Super XYZ), having the quality and chemical characteristics of the seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244: *Provided*, That where there is growing in a field off-type plants of not more than 2 percent, such off-type plants shall not be considered in certifying the Flue-cured tobacco variety being produced. Flue-cured tobacco which is not certified to be discount variety shall be considered as "acceptable variety".

(b) *Producer's report.* (1) For each farm on which Flue-cured tobacco is produced in the current year, the farm operator or any producer on the farm shall file with the county office a report on MQ-32, Certification of Flue-Cured Tobacco Varieties Planted, showing whether or not discount variety tobacco was planted on the farm.

(2) If the farm operator or any producer on a farm certifies on MQ-32 that there was not planted on the farm any discount variety of Flue-cured tobacco, all of the Flue-cured tobacco produced on such farm shall be considered by the county committee to be acceptable variety tobacco. If the farm operator or any producer thereon has executed and filed a report with the county office on MQ-32, which shows there was not planted on such farm(s) in the current year, any of the discount varieties of Flue-cured tobacco, and the operator or a producer on the farm wishes to change the MQ-32 to show there was planted on such farm(s) a discount variety he may, at any time prior to the issuance of a marketing card for the farm, be permitted to file a new MQ-32 which shall supersede and replace the first MQ-32.

(3) If the farm operator or any producer on a farm certifies on MQ-32 that there was planted on the farm any discount variety of Flue-cured tobacco, all of the Flue-cured tobacco produced on such farm shall be considered by the county committee to be discount variety tobacco.

(c) *Failure to file report.* If the operator of a farm on which Flue-cured tobacco is being produced in the current years fails or refuses, within 7 days after a request of the county committee on MQ-34-1, Notice of Action Required Regarding Determination of Seed Varieties of Flue-Cured Tobacco, to file a report on MQ-32, showing whether or not there was planted any of the discount varieties of Flue-cured tobacco on such farm, all Flue-cured tobacco produced on such farm shall be considered by the county committee to be discount variety tobacco, unless the county committee finds that failure to comply with the request was due to circumstances beyond the control of the farm operator.

(d) *Notice to farm operator.* The farm operator having discount variety tobacco shall be given written notice by certified mail on MQ-34-2, Notice of Determination of Discount Variety of Flue-Cured Tobacco. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(e) *Producer's right to recertify.* Any producer on a farm who received a Form MQ-34-2 notifying him that the farm has discount variety tobacco when in fact an acceptable variety is being produced may recertify on Form MQ-32.

(f) *Issuance of marketing cards.* (1) *Notation on card.* If a farm is considered to have discount variety tobacco available for marketing and the farm is eligible for price support, the county executive director shall issue MQ-76, bearing the notation "Discount Variety—Limited Price Support". If the farm is considered to have discount variety tobacco but it is not eligible for price support, the county executive director shall issue MQ-76, bearing the notation "Discount Variety—No Price Support".

(2) *Exchange of cards.* (i) Where an MQ-76, bearing the notation "Discount Variety—Limited Price Support" is issued for a farm, the card may be exchanged at the county office for an MQ-76 without the notation, or (ii) where an MQ-76, bearing the notation "Discount Variety—No Price Support" is issued for a farm the card may be exchanged at the county office for an MQ-76 with the notation "No Price Support": *Provided*, That the farm operator establishes to the satisfaction of the county committee that there has been no commingling or substitution of discount variety tobacco produced on the farm or on any other farm operated by him, and that all discount variety tobacco has been marketed or satisfactorily disposed of, or accounted for.

(3) *Cards for publicly owned experiment stations.* MQ-76 issued to identify

marketings of tobacco grown for experimental purposes by or for publicly owned experiment stations shall bear the notation "Discount Variety—Limited Price Support" if such tobacco is discount variety tobacco.

(g) *Identification of Flue-cured leaf account tobacco as acceptable variety and reports on MQ-79-1, Flue-cured.* Whenever the Director determines there is a significant amount of discount variety tobacco available for marketing in any marketing year he may cause to be initiated the provisions of this paragraph. In addition, the Director may terminate any action initiated hereunder when he determines no discount variety of Flue-cured tobacco remains available for sale during the remainder of the current marketing season. Notification to warehousemen of action required under this paragraph shall be by the State executive director.

(1) *Warehouseman.* (i) Each warehouseman who offers for auction sale any leaf account Flue-cured tobacco on a warehouse floor other than his own, and who requests the other warehouseman to identify such tobacco as being "acceptable variety" shall execute MQ-79-1 (Flue-cured), Dealer's Certification—Resale Tobacco.

(ii) Each warehouseman who is participating in the Commodity Credit Corporation price support program, and who identifies resale tobacco with a "certified" basket ticket indicating that such tobacco, by virtue of an executed MQ-79-1 (Flue-cured), is of an acceptable variety shall at the time the tobacco is weighed in have such tobacco covered by an executed MQ-79-1.

(iii) Each executed MQ-79-1 (Flue-cured) shall show the following information with respect to each lot of resale tobacco:

(a) Crop year.
(b) Name and address of warehouse where the tobacco is being offered for sale.

(c) Tobacco sale bill number and date.
(d) Date, signature of dealer and current address, and dealer identification number.

(2) *Dealer.* (i) Each dealer or any other person who offers for auction sale any resale Flue-cured tobacco on a warehouse floor which is participating in the Commodity Credit Corporation price support program and on which floor eligible resale Flue-cured tobacco is identified with a "certified" basket ticket, and who requests the warehouseman to identify his tobacco as being of an "acceptable variety", shall execute MQ-79-1 (Flue-cured), Dealer's Certification—Resale Tobacco.

(ii) Each executed MQ-79-1 (Flue-cured) shall show the following information with respect to resale tobacco:

(a) Crop year.
(b) Name and address of warehouse where the tobacco is being offered for sale.

(c) Date, signature of dealer and current address, and dealer identification number.

(d) Tobacco sale bill number and date.
(iii) Each dealer or any person who acquires acceptable variety tobacco in a manner which would make it ineligible for certification on MQ-79-1, or who has on hand both discount variety tobacco and acceptable variety tobacco, and desires to dispose of acceptable variety tobacco prior to disposing of the discount variety tobacco, may apply in writing to the State executive director for a special authorization to have the acceptable variety tobacco certified when offered for auction sale.

(h) *Estimate of production.* For any farm on which discount variety tobacco is being grown, a Form MQ-92, Estimate of Production, shall be obtained. (Secs. 375, 52 Stat. 66, 401, 63 Stat. 1054; 7 U.S.C. 1375, 1421)

Effective date. This amendment shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 26, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 71-7678 Filed 6-2-71; 8:48 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 351]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.651 Valencia Orange Regulation 351.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of

this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 1, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 4, 1971, through June 10, 1971, are hereby fixed as follows:

(i) District 1: 240,000 cartons;
(ii) District 2: 442,000 cartons;
(iii) District 3: 68,000 cartons.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 2, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-7859 Filed 6-2-71; 11:21 am]

[Lemon Reg. 481, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910 as amended (7 CFR Part 910), regulating the handling of lemons

grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the *FEDERAL REGISTER* (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (ii) of § 910.781 (Lemon Reg. 481, 36 F.R. 9289) during the period May 23, 1971, through May 29, 1971, are hereby amended to read as follows:

§ 910.781 Lemon Regulation 481.

- (b) *Order.* (1) . . .
(ii) District 2: 285,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 27, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Consumer and Mar-
keting Service.

[FR Doc. 71-7677 Filed 6-2-71; 8:48 am]

[Lime Reg. 5; Reg. 4 Terminated]

**PART 944—FRUIT; IMPORT
REGULATIONS**

Limes

§ 914.204 Lime Regulation 5.

(a) On and after the effective date of this section, the importation into the United States of any limes is prohibited unless such limes are inspected and meet the following requirements:

(1) Such limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms), meet the requirements of at least U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(2) Such limes of the group known as large-fruited or Persian limes (including Tahiti, Bearss, and similar varieties) grade at least 85 percent U.S. No. 1 quality, except as to color: *Provided,*

That an aggregate area of three-fourths of the surface of each fruit shall meet the minimum color requirement for "mixed color": *And provided further,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet color requirements set forth in the U.S. Standards for Persian (Tahiti) Limes, shall apply;

(3) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) are of a size not smaller than 1 7/8 inches in diameter; and

(4) Notwithstanding the provisions of subparagraph (3) of this paragraph, not to exceed 10 percent, by count, of limes in any lot of containers may fail to meet the applicable size requirement: *Provided,* That no individual container of limes having a net weight of more than 4 pounds may have more than 15 percent, by count, of limes which fail to meet such applicable size requirement:

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of limes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of limes, is required on all imports of limes. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of limes should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the limes will be imported:

Ports	Office	Advance notice
All Texas points..	L. M. Denbo, 606 South Nebraska St., San Juan, TX 78599 (Phone—512-787-4001), or A. D. Mitchell, Room 516, U.S. Courthouse, El Paso, Tex. 79901 (Phone—915-633-9351, Ext. 5340).	1 day.
All New York points.	Edward J. Beller, Room 28A, Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-991-7668 and 7669), or Charles D. Renick, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14206 (Phone—716-824-1585).	Do. Do.

Ports	Office	Advance notice
All Arizona points.	B. O. Morgan, 225 Terrace Ave., Nogales, AZ 85621 (Phone—602-287-2902).	Do.
All Florida points.	Lloyd W. Boney, 1350 Northwest 12th Ave., Room 538, Miami, FL 33136 (Phone—305-571-2871), or Hubert S. Flynt, 775 Warner Lane, Orlando, FL 32812 (Phone—305-811-2141), or Kenneth C. McCourth, Unit 46, 335 Bright Ave., Jacksonville, FL 32205 (Phone—904-354-5883).	Do. Do. Do.
All California points.	Daniel P. Thompson, 754 South Central Ave., Room 244, Los Angeles, CA 90012 (Phone—213-622-8756).	3 days.
All Louisiana points.	Pascal J. Lamarea, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, LA 70013 (Phone—504-527-6741 and 6742).	1 day.
All other points..	D. S. Matheson, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (Phone—202-358-5870).	3 days.

(c) Inspection certificates shall cover only the quantity of limes that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any limes to be imported into the United States shall set forth, among other things:

- (1) The date and place of inspection;
- (2) The name of the shipper, or applicant;
- (3) The commodity inspected;
- (4) The quantity of the commodity covered by the certificate;
- (5) The principal identifying marks on the container;
- (6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and
- (7) The following statement if the facts warrant: "Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended."

(f) Notwithstanding any other provision of this section, any importation of limes which, in the aggregate does not exceed 250 pounds, net weight, may be imported without regard to the restrictions specified herein.

(g) No provisions of this section shall supersede the restrictions or prohibitions on limes under the Plant Quarantine Act of 1912.

(h) Nothing contained in this section shall be deemed to preclude any importer from reconditioning prior to importation, any shipment of limes for the purpose of making it eligible for importation.

(i) The terms used herein relating to grade and diameter shall have the same meaning as when used in the U.S. Standards for Persian (Tahiti) Limes (§§ 51.1000-51.1016 of this title). Importation means release from custody of the U.S. Bureau of Customs.

(j) Lime Regulation 4 (35 F.R. 17107 36 F.R. 7002) is hereby terminated at the effective time hereof.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this regulation beyond that herein-after specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions as are being made applicable to domestic shipments of limes under Lime Regulations 30 (§ 911.332), which becomes effective June 7, 1971; (c) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof; (d) notice hereof in excess of three days, the minimum that is prescribed by section 3e, is given with respect to such regulation; and (e) such notice is hereby determined under the circumstances, to be reasonable.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated May 27, 1971, to become effective June 7, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Consumer and Mar-
keting Service.

[FR Doc. 71-7731 Filed 6-2-71; 8:52 am]

**Chapter X—Consumer and Marketing
Service (Marketing Agreements
and Orders; Milk), Department of
Agriculture**

[Milk Orders Nos. 90, 98, 103, 104, 106,
121, 130]

**MILK IN CHATTANOOGA, TENN., AND
CERTAIN OTHER MARKETING AREAS**

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), with respect to the orders regulating the handling of milk in the Chattanooga, Tenn.; Nashville, Tenn.; Mississippi;

Red River Valley; and Oklahoma Metropolitan marketing areas. This order does not suspend any provision of the orders regulating the handling of milk in the South Texas and Corpus Christi marketing areas.

Notice of proposed rule making was published in the *FEDERAL REGISTER* (36 F.R. 7318) concerning a proposed suspension of certain provisions of the seven above-named orders. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that pending public hearing procedure on proposed revisions of the order in this respect, the following provisions of the orders do not tend to effectuate the declared policy of the Act:

**PART 1090—MILK IN CHATTA-
NOOGA, TENN., MARKETING AREA**

1. In § 1090.11, paragraph (b) (1).
2. In § 1090.74(a), the word "pool" wherever appearing.

**PART 1098—MILK IN NASHVILLE,
TENN., MARKETING AREA**

1. In § 1098.11, paragraph (c).
2. In § 1098.53(a) the word "pool" preceding the word "plant."
3. In § 1098.83(b), the word "pool" wherever appearing.

**PART 1103—MILK IN MISSISSIPPI
MARKETING AREA**

1. In § 1103.11, paragraph (c).
2. In § 1103.15, in the introductory text, "Provided, That milk diverted in accordance with the provisions of said paragraph shall be deemed to have been received by the diverting handler at the location of the pool plant from which it was diverted and:"
3. In § 1103.53(a) the word "pool" preceding the word "plant."
4. In § 1103.92(a), the word "pool" wherever appearing.

**PART 1104—MILK IN RED RIVER
VALLEY MARKETING AREA**

1. In § 1104.52(a) the word "pool" preceding the word "plant."
2. In § 1104.63, paragraphs (b) and (c).
3. In § 1104.63(d) the words "during the months of September through December."
4. In § 1104.74, the word "pool" preceding the word "plant."

**PART 1106—MILK IN OKLAHOMA
METROPOLITAN MARKETING AREA**

1. In § 1106.9, paragraph (c).
2. In § 1106.11, the portion of paragraph (c) which reads: "which owns or

operates a plant described in § 1106.9(c)."

3. In § 1106.12, the words appearing in the second sentence "and milk so diverted shall be deemed to have been received at the pool plant from which diverted for the purpose of determining location differentials pursuant to § 1106.81."

4. In § 1106.53(a) the word "pool" which precedes the word "plant."

5. In § 1106.81(a), the word "pool" in both instances where it precedes the word "plant."

Statement of consideration. This order suspends (1) from the Oklahoma Metropolitan, Nashville, and Mississippi orders the provisions under which cooperative associations may designate for pool plant status plants they operate without any requirement to ship milk therefrom to the market; (2) from the Oklahoma Metropolitan, Red River Valley, Nashville, Mississippi, and Chattanooga orders the provisions that provide that the pricing point for producer milk diverted from the market is the plant from which it is diverted; and (3) from the Red River Valley order the provision which allows unlimited diversion during certain months of the year.

Basically, a Federal milk order is designed to establish minimum prices to be paid to milk producers in order to insure an adequate quantity of pure and wholesome milk for a marketing area. It accomplishes this end by establishing orderly marketing conditions by classifying and pricing milk according to its use and by providing an equitable pooling of the returns among all producers for the market to provide a uniform return to all producers in the form of a uniform blend price. The types of provisions included in the various orders differ depending on the marketing conditions involved and were included in the order to assure that equity is created in the pooling of the milk of all producers. As marketing conditions change then also provisions in the orders need to be changed.

Some supplies of milk normally associated with the milk market are not needed to meet the daily fluid milk requirements of milk distributors. This is the result of daily, weekly, and seasonal fluctuation of milk supplies and milk sales. The cooperative in many markets receives at its plant much of this reserve supply not needed by the milk handlers at any particular time. This is normally called "balancing the supply" for the market. To allow the cooperative association to perform this function and at the same time guarantee its members delivering this reserve milk a market at going market prices automatic pooling status to certain cooperative milk plants as well as the privilege of the cooperative to divert milk at marketing area prices, were provided in the orders because only by that means under the marketing conditions prevailing at that time could equity between members and nonmembers of cooperatives be assured. Adequate provision was also made by other terms

of the order for the pooling of any additional milk supplies which might actually be needed in the market.

It is now found that the automatic cooperative pool plant provisions and the provisions for the payment of the f.o.b. market prices on diverted milk are being used as the means of pooling substantial quantities of milk not previously a part of the market's supply and which in fact are not actually needed or shipped to the market.

This has been accomplished by the cooperatives shipping milk from distant sources for as little as 1 day to their plants having automatic pooling status. The milk thereafter was shipped directly from the farm to the nonpool plant from which it originated near the source of production. It was utilized in that nonpool plant for manufacturing purposes before being pooled and now continues to be used at that plant for manufacturing purposes. Nevertheless, the cooperative draws out of the pool the f.o.b. market blend price for such milk because the five orders, which are the subject of suspension action herein, provide that diverted milk is presumed to be received, for pricing purposes, at the marketing area pool plant from which it is diverted rather than the nonpool plant where it is actually received. The automatic pool plant and diverted milk pricing provisions, used together, provide the economic incentive for large quantities of milk delivered at plants in distant areas to be pooled in these orders, although not needed, without actually any milk being shipped to the market.

For example, under such provisions in the Oklahoma Metropolitan order such milk has been pooled because of as little as 1 day's delivery to a cooperative's marketing area plant having automatic pool plant status and then "diverted" to the manufacturing plant with which it had previously been associated. The milk, because it is used for manufacturing, is accounted for in the pool at the lower Class II price. As a result the average or "blend" price for all milk in the Oklahoma Metropolitan pool has been reduced. The blend price was reduced further because the milk was credited to the cooperative at the f.o.b. Oklahoma price instead of at the lower price applicable to the location of the plant at which it was actually delivered.

The situation in March 1971 is an example of how this is accomplished. Some of the distant milk supplies thus pooled in the Oklahoma market were produced and normally utilized for manufacture in central Wisconsin. The Oklahoma f.o.b. market blend price of \$5.62 per hundredweight is the price for that milk at which the cooperative is given credit in the Oklahoma pool. The Chicago blend price in the central Wisconsin area for milk being delivered to Chicago, and which can be considered a competitive price in that area, was \$5.07 per hundredweight. If this milk had actually been shipped to Oklahoma the cost of shipment would have more than offset this difference of 55 cents. But the milk was not actually shipped; therefore,

the cooperative did not have this cost. The cooperative, under the terms of the Act, is not required to pay the minimum price to its members and needed to pay only approximately the competitive price in the central Wisconsin area. Therefore, it had the advantage of approximately all of the 55 cents difference in price. The pooling of this milk and other distant milk reduced the Oklahoma blend price in March 1971 about 45 cents per hundredweight. The producer who was not a member of the cooperative received this announced price (\$5.62 per hundredweight) exclusive of any premium which his handler might have paid him. The cooperative, on the other hand, paid its member producers delivering directly to Oklahoma more than \$5.62, and this was accomplished without additional cost to the cooperative. The exact amount is difficult to determine because the cooperative pays on a base and excess plan.

Somewhat the same kind of pooling of distant and unshipped milk supplies is taking place under the Nashville and Mississippi orders with essentially the same results on the blend prices to producers in those orders. As in Oklahoma, after limited delivery to the market, the distant milk is not shipped to the marketing area but is retained in its originating area and continues to be used for manufacturing products.

Essentially the same effect was also accomplished in the Red River Valley market by the use of the provision which provides for unlimited diversion of producer milk for the months of January through August. Again, this provision was included in the order to provide the local cooperative with a means to perform the market's balancing functions. This provision is now being used to pool additional and unneeded supplies with as little as 1 day's shipment to the marketing area and then diverting the milk to plants not shipping any milk to the Red River Valley market.

It is to be noted that these five orders make adequate provision for pooling any additional milk supplies needed to supply the market's fluid needs. The provisions herein suspended are not needed for this purpose as other provisions in the orders are still available if additional supplies are required in the markets. Moreover, with today's changed marketing conditions, particularly the regionalization of cooperatives and their reblending of proceeds from the sale of milk over wide areas, the cooperatives will still be able to continue to perform the markets' balancing functions.

The above pooling practices are not limited to the examples cited but involve varying periods of time and varying quantities of milk in each of the five subject markets. The potential for their continuation would extend indefinitely unless the subject orders are modified.

It is hereby found and determined necessary, by reason of the fact that the actions previously referred to are permissible under the provisions to be suspended herein, that prompt suspension action be taken to provide, to the extent possible by this means, relief from the adverse effects resulting from

the manner in which these provisions are presently being used. It is concluded from the data, views, and argument submitted and other available information that this suspension action will not interfere unduly with the marketing arrangements of cooperatives or the handling of normal market requirements for milk in the markets affected. Similar action will be taken in any other market or markets if and when circumstances warrant.

Action is reserved with respect to the provisions of the Corpus Christi and South Texas orders proposed to be suspended in the notice issued April 13, 1971, by the Deputy Administrator, Regulatory Programs, Consumer and Marketing Service (36 F.R. 7318). Although some additional milk supplies have been added to these markets, the shifting of supplies here may involve basically a supply adjustment to equalize the burden of the reserve milk supplies among these and other nearby markets. Similarly, no suspension action is now taken with respect to a similar provision in the Chattanooga order. Suspension action as to these orders can be reconsidered as may be necessary at a future time.

Data, views, and arguments were invited from interested parties. Suspension of these provisions from the specified orders was opposed by the regional cooperatives operating in the several markets. These cooperatives submitted few facts, data, or views with respect to conditions in the markets in question, but rather mainly raised questions of a general nature with respect to the marketing order program, contending that the provisions proposed for suspension are not significantly different from corresponding provisions in many other Federal orders where no suspension action is being considered at this time. The cooperatives also allege that any revision of these order provisions should result from formal amendatory hearing procedure. On the other hand suspension was favored in submissions by producers and handlers who asserted substantial injury by reason of conditions in their markets.

Notice has been issued to all interested parties in such markets inviting proposals for consideration at public hearings to amend the orders in relation to the milk handling problems involved here. Hearing proposals may be filed by June 1, 1971. A hearing is contemplated soon after these proposals are received.

No action need be taken to suspend a provision of the Nashville order (Part 1098) inadvertently appearing in the notice of proposed suspension or termination and reading as follows:

1. In § 1098.7 "Milk so diverted shall be deemed to have been received at the pool plant from which diverted if for the account of the handler operating such pool plant or at a pool plant at the location of the pool plant from which diverted if for the account of a cooperative association."

Such language was deleted previously by amendment action dated August 25, 1970, and published in *FEDERAL REGISTER* August 29, 1970 (35 F.R. 13784).

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing areas by providing prompt relief from the adverse effects upon producer prices pending amendment hearings;

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective June 15, 1971.

It is therefore ordered, That the aforesaid provisions of the orders are hereby suspended beginning June 15, 1971, for an indefinite period.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: June 15, 1971.

Signed at Washington, D.C., on May 28, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc. 71-7730 Filed 6-2-71; 8:52 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1971
Crop Oat Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1971 Crop Oat Loan and Purchase Program

Correction

In F.R. Doc. 71-7016 appearing at page 9236 in the issue for Friday, May 21, 1971, the following changes should be made in § 1421.274(a):

1. The Idaho county listed as "Booner" should read "Bonner".
2. The rate per bushel for Howell County, Mo., now reading "\$0.58", should read "\$0.62".

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 222—BANK HOLDING COMPANIES

Nonbanking Activities of Bank Holding Companies

By notice of proposed rule making published in the *FEDERAL REGISTER* on

January 29, 1971 (36 F.R. 1430), the Board of Governors proposed to implement its regulatory authority under section 4(c)(8) of the Bank Holding Company Act to permit holding companies to engage directly or through a subsidiary in activities that are "so closely related to banking or managing or controlling banks as to be a proper incident thereto."

A hearing was held before members of the Board on April 14, 1971, regarding all issues raised by the proposals, except the extent to which data processing and insurance agency activities are closely related to banking.

Following consideration of the comments received and the record of the hearing, as its initial implementation of its authority under section 4(c)(8) of the Act as revised by the 1970 amendments to the Act, the Board has amended § 222.4 (a), (b), and (c) of Regulation Y to read as set forth below, effective June 15, 1971. (Former paragraphs (b) and (c) were nonsubstantive.) An accompanying interpretation expresses the Board's views on several questions that arose during the course of its consideration of this matter.

§ 222.4 Nonbanking activities.

(a) *Activities closely related to banking or managing or controlling banks.* In accordance with the procedures set forth in paragraphs (b) and (c) of this section, any bank holding company may engage, or retain or acquire an interest in a company that engages, solely in one or more of the activities specified below, including such incidental activities as are necessary to carry on the activities so specified. Any bank holding company that is of the opinion that other activities in the circumstances surrounding a particular case are closely related to banking or managing or controlling banks may file an application in accordance with the procedures set forth in paragraph (b)(2) of this section. As to such an application, the Board will publish in the *FEDERAL REGISTER* a notice of opportunity for hearing only if it believes that there is a reasonable basis for the holding company's opinion. The following activities have been determined by the Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto:

(1) Making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts), such as would be made, for example, by a mortgage, finance, credit card, or factoring company;

(2) Operating as an industrial bank, Morris Plan bank, or industrial loan company, in the manner authorized by State law so long as the institution does not both accept demand deposits and make commercial loans;

(3) Servicing loans and other extensions of credit for any person;

¹ Operating a savings and loan association is not regarded by the Board as within the description of this activity. Whether to propose expanding activity (2) to include operating that type of financial institution is under consideration by the Board.

(4) Performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company (including activities of a fiduciary, agency, or custodian nature), in the manner authorized by State law so long as the institution does not both accept demand deposits and make commercial loans;

(5) Acting as investment or financial adviser, including (i) serving as the advisory company for a mortgage or a real estate investment trust and (ii) furnishing economic or financial information;

(6) Leasing personal property and equipment, or acting as agent, broker, or adviser in leasing of such property, where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property;

(7) Making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas.

(b) (1) *De novo entry.* A bank holding company may engage de novo (or continue to engage in an activity earlier commenced de novo) directly or indirectly, solely in activities described in paragraph (a) of this section, 45 days after the company has furnished its Reserve Bank with a copy of a notice of the proposal (in substantially the same form as F.R. Y-4A) published within the preceding 30 days in a newspaper of general circulation in the communities to be served, unless the company is notified to the contrary within that time or unless it is permitted to consummate the transaction at an earlier date on the basis of exigent circumstances of a particular case. If adverse comments of a substantive nature are received by the Reserve Bank within 30 days after the company has so published its proposal, or if it otherwise appears appropriate in a particular case, the Reserve Bank may inform the company that (i) the proposal shall not be consummated until specifically authorized by the Reserve Bank or by the Board or (ii) the proposal should

² Acting as investment adviser to an open-end investment company or as a management consultant is not regarded by the Board as within the description of this activity. Whether to propose expanding activity (5) to include acting in either or both of those capacities is under consideration by the Board.

³ Investing in an industrial development corporation is not regarded by the Board as within the description of this activity. Whether to propose adding that and other activities to the list is under consideration.

⁴ If a Reserve Bank decides that adverse comments are not of a substantive nature, the person submitting the comments may request review by the Board of that decision in accordance with the provisions of § 265.3 of the Board's Rules Regarding Delegation of Authority (12 CFR 265.3) by filing a petition for review with the Secretary of the Board.

[Reg. Y]

PART 222—BANK HOLDING COMPANIES**Nonbanking Activities of Bank Holding Companies****§ 222.123 Activities closely related to banking.**

(a) Effective June 15, 1971, the Board of Governors has amended § 222.4(a) of Regulation Y to implement its regulatory authority under section 4(c)(8) of the Bank Holding Company Act. In some respects activities determined by the Board to be closely related to banking are described in general terms that will require interpretation from time to time. The Board's views on some questions that have arisen are set forth below.

(b) Section 222.4(a) states that a company whose ownership by a bank holding company is authorized on the basis of that section may engage solely in specified activities. That limitation refers only to activities the authority for which depends on section 4(c)(8) of the Act. It does not prevent a holding company from establishing one subsidiary to engage, for example, in activities specified in § 222.4(a) and also in activities that fall within the scope of section 4(c)(1)(C) of the Act—the "servicing" exemption.

(c) The amendments to § 222.4(a) do not apply to restrict the activities of a company previously approved by the Board on the basis of section 4(c)(8) of the Act. Activities of a company authorized on the basis of section 4(c)(8) either before the 1970 Amendments or pursuant to the amended § 222.4(a) may be shifted in a corporate reorganization to another company within the holding company system without complying with the procedures of § 222.4(b), as long as all the activities of such company are permissible under one of the exemptions in section 4 of the Act.

(d) Permissible leasing activities are limited to transactions where the lease is the functional equivalent of an extension of credit to the lessee. Accordingly, a company may engage in leasing under § 222.4(a) if, at the time of the acquisition of the property by the lessor, there is a lease agreement that will yield a return from (1) rentals, (2) estimated salvage value at the end of the minimum useful life allowed by the Internal Revenue Service, and (3) estimated tax benefits (investment tax credit and tax deferral from accelerated depreciation) that would result in full recovery of the lessor's acquisition cost. The Board understands that by law some municipal corporations may not enter into a lease for a period in excess of 1 year. Such an impediment does not disqualify a company authorized under § 222.4(a) from entering into a lease with the municipality if the company reasonably anticipates that the municipality will renew the lease annually until such time as the company is fully compensated for its investment in the leased property. A company authorized under § 222.4(a) may also engage in so-called "bridge" lease financing where the lease is short term pending completion of long-term financing, by the same or another lender.

(e) The authority of holding companies under § 222.4(a) to invest in corporations designed to promote the welfare of their community is intended to permit holding companies to fulfill their civic responsibilities. Under that authority a holding company may invest in community development corporations established pursuant to Federal or State law. It may also participate in other civic projects, such as a municipal parking facility sponsored by a local civic organization as a means to promote greater use by the public of the community's facilities. It does not, however, authorize investments (for example, ownership of an apartment complex) that are entered into to a substantial extent for profit even though to some extent the investment will benefit the community.

(f) Under the procedures in § 222.4(c), a holding company that wishes to change the location at which it engages in activities authorized pursuant to § 222.4(a) must publish notice in a newspaper of general circulation in the community to be served. The Board does not regard minor changes in location as within the coverage of that requirement. A move from one site to another within a 1-mile radius would constitute such a minor change if the new site is in the same State.

(Interprets and applies 12 U.S.C. 1843 (c)(8))

By order of the Board of Governors, May 20, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-7658 Filed 6-2-71; 8:46 am]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY**Nonbank Acquisitions by Certain One-Bank Holding Companies**

Effective March 18, 1971, the Board implemented its authority to impose conditions upon bank holding company acquisitions and expansions on the basis of section 4(c)(12) of the Bank Holding Company Act. Under the amendment, acquisitions of a going concern by a company that became a bank holding company as a result of the 1970 amendments and has elected to divest itself of its bank may normally be made following a simple notification procedure. The Board has

delegated to the Reserve Banks authority to administer that procedure.

The delegation is reflected in the following amendment to § 265.2(f) of the Board's Rules Regarding Delegation of Authority:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district:

(19) Under § 222.4(d) of this chapter (Regulation Y),

(i) To notify a bank holding company that has informed it of a proposed acquisition of a going concern that, because the circumstances surrounding the application indicate that additional information is required or that the acquisition should be considered by the Board, the acquisition should not be consummated until specifically authorized by the Reserve Bank or by the Board.

(ii) To permit a bank holding company that has informed it of a proposed acquisition of a going concern to make the acquisition before the expiration of the 45-day period referred to in that paragraph, because exigent circumstances justify consummation of the acquisition at an earlier time.

Effective date. This amendment is effective May 21, 1971.

By order of the Board of Governors, May 13, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-7659 Filed 6-2-71; 8:46 am]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY**Nonbank Activities Commenced de novo**

Effective June 15, 1971, the Board has implemented its authority under section 4(c)(8) of the Bank Holding Company Act to permit holding companies to engage directly or through a subsidiary in activities that are "so closely related to banking or managing or controlling banks as to be a proper incident thereto." As permitted by section 4(c)(8), the Board differentiated in the procedures that holding companies must follow in expanding their activities under section 4(c)(8) between activities commenced de novo and activities commenced by the acquisition of a going concern.

The Board has delegated to the Reserve Banks authority to permit holding companies to engage de novo in activities the Board has determined to be closely related to banking.

The delegation is reflected in the following amendment to § 265.2(f) of the Board's Rules Regarding Delegation of Authority:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district:

(20) Under § 222.4(b)(1) of this chapter (Regulation Y), and subject to § 265.3 if a person submitting adverse comments that the Reserve Bank has decided are not substantive files a petition for review by the Board of that decision,

(i) To permit a bank holding company that has furnished it with a copy of a duly published notice of a proposal to engage de novo in activities specified in § 222.4(a) of this chapter (or retain shares in a company established de novo and engaging in such activities) if its evaluation of the considerations specified in section 4(c)(8) of the Bank Holding Company Act leads it to conclude that the proposal can reasonably be expected to produce benefits to the public.

(ii) To notify a bank holding company that has furnished it with a duly published notice of the kind described in subdivision (i) of this subparagraph that the proposal should not be consummated until specifically authorized by the Reserve Bank or by the Board or that the proposal should be processed in accordance with the procedures of § 222.4(b)(2) of this chapter.

(iii) To permit a bank holding company that has furnished it with a duly published notice of the kind described in subdivision (i) of this subparagraph to consummate the proposal before the expiration of the 45-day period referred to in § 222.4(b)(1) of this chapter, because exigent circumstances justify consummation at an earlier time.

(21) Under § 222.4(c)(2) of this chapter (Regulation Y) to permit or stay a proposed de novo modification or relocation of activities engaged in by a bank holding company on the same basis as de novo proposals under subparagraph (20) of this paragraph.

Effective date. This amendment is effective June 15, 1971.

By order of the Board of Governors, May 20, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-7656 Filed 6-2-71; 8:46 am]

Title 14—AERONAUTICS AND SPACE**Chapter I—Federal Aviation Administration, Department of Transportation**

[Docket No. 71-CE-16-AD; Amdt. 39-1222]

PART 39—AIRWORTHINESS DIRECTIVES**Beech 99 Series Airplanes**

The following Airworthiness Directives Currently affect Beech Models 99 and

99A airplanes, namely: AD 69-6-6 (Amendments 39-740 and 39-757), AD 69-8-2 (Amendments 39-744 and 39-758), AD 69-13-5 (Amendment 39-790), AD 69-15-10 (Amendment 39-806), AD 69-16-3 (Amendment 39-811), AD 69-16-6 (Amendment 39-818), AD 69-18-6 (Amendments 39-834 and 39-875), AD 69-18-7 (Amendment 39-836), AD 69-18-8 (Amendment 39-839), AD 69-23-7 (Amendment 39-876), AD 69-24-2 (Amendment 39-879), AD 70-10-1 (Amendment 39-986), AD 70-23-6 (Amendment 39-1108), AD 71-5-3 (Amendment 39-1159), and AD 71-6-1 (Amendment 39-1170).

As a result of corrective action taken by the manufacturer, inspections and modifications performed on the airplane and changes made to the appropriate type design data, type certificate data sheet, airplane flight manual, maintenance manual, equipment list and parts manual, the objectives of certain of the aforementioned ADs have been accomplished. Accordingly, ADs 69-13-5, 69-15-10, 69-16-3, 69-16-6, 69-18-6, 69-18-7, 69-18-8, and 69-23-7 are being rescinded. These rescissions are set forth in paragraph A of this AD.

In addition, following the introduction of new model designs of the Beech 99 series airplanes it is necessary to change the applicability statements of ADs 69-6-6, 69-8-2, 69-24-2, 70-10-1, 70-23-6, 71-5-3, and 71-6-1 to reflect that these ADs are applicable to all Beech 99 series airplanes. These changes are set forth in paragraph B of this AD.

Based on comments received from the public it will be necessary to further revise ADs 69-24-2 and 70-23-6 by clarifying the contents thereof. These two ADs will be amended in the near future to reflect these changes.

Since this amendment relieves restrictions and provides clarification, it imposes no additional burden on any person. Consequently, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended as follows:

(A) ADs 69-13-5 (Amendment 39-790), 69-15-10 (Amendment 39-806), 69-16-3 (Amendment 39-811), 69-16-6 (Amendment 39-818), 69-18-6 (Amendments 39-834 and 39-875), 69-18-7 (Amendment 39-836), 69-18-8 (Amendment 39-839) and 69-23-7 (Amendment 39-876) are hereby rescinded.

(B) The applicability statements of ADs 69-6-6 (Amendments 39-740 and 39-757), 69-8-2 (Amendments 39-744 and 39-758), 69-24-2 (Amendment 39-879), 70-10-1 (Amendment 39-986), 70-23-6 (Amendment 39-1108), 71-5-3 (Amendment 39-1159), and 71-6-1 (Amendment 39-1170) are hereby amended to delete reference to Models 99 and 99A airplanes, where it appears and substitute therefore: "All 99 series airplanes".

This amendment becomes effective June 3, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on May 24, 1971.

JOHN A. HARGRAVE,
Acting Director, Central Region.
[FR Doc.71-7684 Filed 6-2-71;8:48 am]

[Docket No. 71-EA-74; Amdt. 39-1221]

PART 39—AIRWORTHINESS DIRECTIVES

Cleveland Aircraft Products

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations by amending AD 71-6-8 applicable to wheel assembly P/N 3080C.

Subsequent to the adoption of AD 71-6-8, it was determined that the brake disc assembly could be inspected without its removal from the wheel assembly. This amendment will delete such removal requirements.

Since this amendment is relaxatory in nature and does not impose any additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 71-6-8 as follows:

1. By amending the second sentence of paragraph (a) to read as follows: "Remove wheel assembly, P/N 3080C from the aircraft and inspect the brake disc assembly, P/N 164-32, for cracks in the weld attaching the disc to the cup, using a 10-power glass or other FAA-approved equivalent means."

2. By adding the following statement: "Upon submission of substantiating data through an FAA Maintenance Inspector, by an owner or operator, the Chief, Engineering and Manufacturing Branch, may permit compliance at an established inspection period of the owner or operator."

This amendment is effective June 8, 1971.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 21, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.
[FR Doc.71-7685 Filed 6-2-71;8:48 am]

[Docket No. 71-EA-51; Amdt. 39-1223]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to

amend AD 71-1-1 as applicable to DeHavilland DHC-6 type airplanes.

The amendment will permit the use of a later revision to the incorporated service bulletin as well as an equivalency inspection approved by the Chief, Engineering and Manufacturing Branch, Eastern Region, New York.

Since the foregoing is clarifying in nature and relaxatory in that it permits equivalent inspections, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 71-1-1 as follows:

1. Delete the date "September 9, 1969" and insert in lieu thereof "December 9, 1969".

2. Insert after the date as amended the following: "or later approved revision or equivalent inspection either of which must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region."

This amendment is effective June 8, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 24, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.
[FR Doc.71-7687 Filed 6-2-71;8:49 am]

[Airworthiness Docket No. 71-WE-12-AD; Amdt. 39-1217]

PART 39—AIRWORTHINESS DIRECTIVES

Douglas Model DC-9 and Military C-9A Airplanes

Pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) an airworthiness directive was adopted on May 10, 1971, and made effective immediately as to all known U.S. operators of Douglas DC-9 and Military C-9A airplanes. The directive requires installation of a placard or certain alternate procedures to verify instrument panel security.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Douglas DC-9 and Military C-9A airplanes by individual telegrams dated May 10, 1971. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Pursuant to the authority of the Federal Aviation Act of 1958, delegated to me by the Administrator, the following airworthi-

ness directive, applicable to all operators of Douglas DC-9 and Military C-9A airplanes, is effective immediately upon receipt of this telegram. Because of repeated incidents of the pilot's or first officer's instrument panel assemblies sliding aft, and in one instance, producing control column interference, one of the following alternate actions is to be accomplished within 25 flight hours in service after receipt of this telegram:

(1) Install placard on captain and first officer instrument panel stating "Check panel security before takeoff." Or

(2) Incorporate a check item in flight crew aircraft acceptance check list stating "Check security of captain and first officer instrument panels." Or

(3) In the maintenance program include security of captain and first officer instrument panel as a "required inspection item" whenever the panels are disturbed, subject to the approval of the assigned principal inspector.

(4) Secondary safety latches may be installed in accordance with Douglas Service Bulletin 31-16, dated October 14, 1969, or later FAA-approved revision. Accomplishment of this modification will constitute of itself compliance with this AD.

Equivalent methods of compliance must be referred to the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective upon publication in the FEDERAL REGISTER (6-3-71) for all persons except those to whom it was made effective immediately by telegram dated May 10, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on May 20, 1971.

LEE E. WARREN,
Acting Director,
FAA Western Region.

[FR Doc.71-7686 Filed 6-2-71;8:49 am]

[Docket No. 71-EA-44; Amdt. 39-1220]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-23 type airplanes.

There has been a report of a failure of the engine control support bracket on the cockpit control pedestal of the PA-23. Since this deficiency can exist or develop in airplanes of similar design, an airworthiness directive is being issued which will require a repetitive inspection of the bracket.

Since a situation exists which requires expeditious adoption of this amendment, it is found that notice and public procedure hereon are impracticable and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PIPER AIRCRAFT. Applies to all PA-23 and PA-23-160 type aircraft serial Nos. 23-1 and up and PA-23-250 aircraft serial Nos. 27-1 through 27-140 inclusive.

Compliance required as indicated unless already accomplished.

To prevent failure of the engine controls support bracket in the cockpit pedestal, accomplish the following:

1. Within 15 hours' time in service for airplanes with 2,000 hours or more total time and 50 hours' time in service with less than 2,000 hours' total time after the effective date of this AD, visually inspect P/N 17892-00 engine control cable support bracket for cracks, distortion and security of attachment. Any part found cracked or distorted must be replaced prior to further flight.

2. The inspection described in paragraph (1) above must be accomplished at intervals of 100 hours' time in service until an improved bracket, Piper P/N 16975-00 or an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, is installed. Upon installation of the improved part, the above repetitive inspections are no longer required.

3. Upon submission of substantiating data through an FAA maintenance inspector by an owner or operator, the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, may adjust the compliance time specified in this AD.

(Piper Aircraft Corp. Service Bulletin No. 335 pertains to this subject).

This amendment is effective June 8, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y. on May 21, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.
[FR Doc.71-7688 Filed 6-2-71;8:49 am]

[Airspace Docket No. 71-WE-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

Correction

In F.R. Doc. 71-6935 appearing on page 9067 in the issue for Wednesday, May 19, 1971, the reference to "236" in the 11th line of the description of the Hanksville, Utah, transition area should read "286".

[Airspace Docket No. 71-SW-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Federal Airways and Jet Route Segments

On March 18, 1971, F.R. Doc. 71-3758 was published in the FEDERAL REGISTER

(36 F.R. 5211) effective on June 24, 1971.

This document amended Parts 71 and 75 of the Federal Aviation Regulations by altering VOR Federal airway and jet route segments in the vicinity of El Paso, Tex., to conform to the relocation of the El Paso VORTAC.

Subsequent to the publication of these amendments, it was determined that the relocation of the El Paso VORTAC would not be completed by the designated effective date. Accordingly, action is taken herein to delay the effective date of the amendments until July 22, 1971.

Since this amendment is minor in nature and no substance change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (6-3-71), F.R. Doc. 71-3758 (36 F.R. 5211) is amended by deleting "effective 0901 G.m.t., June 24, 1971," and substituting "effective 0901 G.m.t., July 22, 1971," therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act 49 U.S.C. 1655(c)))

Issued in Washington, D.C., on May 25, 1971.

T. McCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.
[FR Doc.71-7689 Filed 6-2-71;8:49 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER E—RULES, REGULATIONS, STATEMENT OF GENERAL POLICY OR INTERPRETATION AND EXEMPTIONS UNDER THE FAIR PACKAGING AND LABELING ACT

PART 500—REGULATIONS UNDER SECTION 4 OF THE FAIR PACKAGING AND LABELING ACT

Measurement of Commodities

Correction

In F.R. Doc. 71-7423 appearing at page 9625 in the issue for Thursday, May 27, 1971, the word "quality" in the first line of § 500.11 should read "quantity".

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS PART 28—FRUIT PIES

Order Extending Effective Date of Identity Standard and Quality Standard for Frozen Cherry Pie

In the matter of establishing a definition and standard of identity (§ 28.1)

and a standard of quality (§ 28.2) for frozen cherry pie:

A notice of proposed rule making in the above-identified matter was published on the initiative of the Commissioner of Food and Drugs in the FEDERAL REGISTER of November 1, 1967 (32 F.R. 15116). An order adopting the proposal, with changes, was published February 23, 1971 (36 F.R. 3364), to become effective in 60 days unless stayed by objections filed within 30 days.

Eight responses were filed within the 30-day period. One of these includes a proposal to establish a standard of identity and a standard of fill of container for all frozen fruit pies and a standard of quality for frozen cherry pie that deviates from § 28.2. Several requested that the effective date of §§ 28.1 and 28.2 be extended to provide time for compliance.

The Commissioner finds that additional time, 60 days, is needed (1) for determining if any of the responses constitute valid objections and (2) for evaluating the new proposal regarding all frozen fruit pies.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): It is ordered, That the effective date of §§ 28.1 and 28.2 be changed to June 23, 1971.

Dated: May 24, 1971.
SAM D. FINE,
Associate Commissioner for
Compliance.
[FR Doc.71-7665 Filed 6-2-71;8:47 am]

Title 24—HOUSING AND HOUSING CREDIT

[Docket No. R-71-114]

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

PART 60—RACIAL AND ETHNIC DATA

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart I—Nondiscrimination and Fair Housing

IDENTIFICATION OF MINORITY GROUPS

The following new Part 60—Racial and Ethnic Data is added to 24 CFR. Part 60 provides for the furnishing of information concerning minority-group identification of participants in Housing and Urban Development programs.

The Secretary is responsible for administering a variety of civil rights laws and Executive orders including title VIII of the Civil Rights Act of 1968, title VI

of the Civil Rights Act of 1964, and Executive Order 11063 concerning nondiscrimination in housing and related facilities. In order to carry out these responsibilities, and to enable the Secretary to act affirmatively in eliminating discrimination in all HUD programs, information as to the racial and ethnic composition of applicants for and recipients of HUD assistance is essential.

In an amendment to 24 CFR Part 200 (36 F.R. 4542) published March 9, 1971, the furnishing of information concerning minority-group identification was required in connection with all programs administered by the Assistant Secretary for Mortgage Credit and Housing Production. This amendment is superseded by new Part 60, which applies to all HUD programs.

In view of the fact that the furnishing of minority-group identification is already required in those HUD programs where the largest volume of such information is generated, and since there is an immediate need for such information in other HUD programs, notice and public procedure and a deferred effective date are impracticable and contrary to the public interest, and new Part 60 is effective immediately. However, all interested persons are invited to submit written comments or suggestions with respect to this regulation, which may be later revised in the light of comments received. Three copies of such comments should be filed on or before July 6, 1971, and addressed to the Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. A copy of each communication will be available for public inspection during business hours in the HUD Information Center, at the above address.

1. New Part 60 is added to 24 CFR to read as follows:

Sec.
60.1 Purpose.
60.2 Minority-group identification.

AUTHORITY: The provisions of this Part 60 issued under Executive Order 11063, 27 F.R. 11527; sec. 602, 72 Stat. 252, 42 U.S.C. 2000d-1; sec. 808, 82 Stat. 84, 42 U.S.C. 3608; sec. 2, 48 Stat. 1246, 12 U.S.C. 1703; sec. 7(d), 79 Stat. 670, 42 U.S.C. 3535(d).

§ 60.1 Purpose.

The purpose of this part is to enable the Secretary to carry out his responsibilities under the provisions of Executive Order 11063, dated November 20, 1962, title VI of the Civil Rights Act of 1964, and title VIII of the Civil Rights Act of 1968 prohibiting discrimination and providing for fair housing and directing the Secretary to administer Housing and Urban Development programs and activities in a manner affirmatively to further these policies.

§ 60.2 Minority-group identification.

Participants in Housing and Urban Development programs shall furnish such information as the Secretary may require concerning minority-group identification to assist the Secretary in carrying out his responsibility for adminis-

tering the national policies prohibiting discrimination and providing for fair housing.

2. In Part 200, the table of contents is amended by deleting the title of § 200.306 under Subpart I:

Sec.
200.306 [Reserved]

§ 200.306 [Deleted]

3. Section 200.306 *Minority-group identification* is deleted, and the section is reserved.

Effective date. This regulation is effective June 2, 1971.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-7697 Filed 6-2-71;8:50 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7121]

PART 301—PROCEDURE AND ADMINISTRATION

Suspension of Running of Period of Limitation

On March 18, 1971, notice of proposed rule making with respect to the amendment of the Regulations on Procedure and Administration (26 CFR Part 301) under section 6503 (b), (c), and (g) of the Internal Revenue Code of 1954 (relating to the suspension of the running of period of limitation) was published in the FEDERAL REGISTER (36 F.R. 5243). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: May 28, 1971.

EDWIN S. COHEN,
Assistant Secretary
of the Treasury.

In order to conform the Regulations on Procedure and Administration (26 CFR Part 301) under section 6503 of the Internal Revenue Code of 1954 to sections 106 (a) and (b) of the Federal Tax Lien Act of 1966 (80 Stat. 1125) and to provide regulations under section 6503(g) of such Code, as added by section 106(c) of such Act, such regulations are amended as follows:

PARAGRAPH 1. Section 301.6503(b) is amended by revising section 6503(b) and by adding a historical note. These amended and added provisions read as follows:

§ 301.6503(b) **Statutory provisions; suspension of running of period of limitation; assets of taxpayer in control or custody of court.**

Sec. 6503. *Suspension of running of period of limitation.* . . .

(b) *Assets of taxpayer in control or custody of court.* The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of the United States or of any State or of the District of Columbia, and for 6 months thereafter.

[Sec. 6503(b) as amended by sec. 106(a), Federal Tax Lien Act 1966 (80 Stat. 1139)]

PAR. 2. Section 301.6503(b)-1 is amended to read as follows:

§ 301.6503(b)-1 **Suspension of running of period of limitation; assets of taxpayer in control or custody of court.**

Where all or substantially all of the assets of a taxpayer are in the control or custody of the court in any proceeding before any court of the United States, or of any State of the United States, or of the District of Columbia, the period of limitations on collection after assessment prescribed in section 6502 is suspended with respect to the outstanding amount due on the assessment for the period such assets are in the control or custody of the court, and for 6 months thereafter. In the case of an estate of a decedent or an incompetent, the period of limitations on collection is suspended only for periods beginning after November 2, 1966, during which assets are in the control or custody of a court, and for 6 months thereafter.

PAR. 3. Section 301.6503(c) is amended by revising section 6503(c) and by adding a historical note. These amended and added provisions read as follows:

§ 301.6503(c) **Statutory provisions; suspension of running of period of limitation; taxpayer outside United States.**

Sec. 6503. *Suspension of running of period of limitation.* . . .

(c) *Taxpayer outside United States.* The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period during which the taxpayer is outside the United States if such period of absence is for a continuous period of at least 6 months. If the preceding sentence applies and at the time of the taxpayer's return to the United States the period of limitations on collection after assessment prescribed in section 6502 would expire before the expiration of 6 months from the date of his return, such period shall not expire before the expiration of such 6 months.

[Sec. 6503(c) as amended by sec. 106(b), Federal Tax Lien Act 1966 (80 Stat. 1139)]

PAR. 4. Section 301.6503(c)-1 is amended to read as follows:

§ 301.6503(c)-1 **Suspension of running of period of limitation; location of property outside the United States or removal of property from the United States; taxpayer outside of United States.**

(a) *Property located outside, or removed from, the United States prior*

to November 3, 1966. The running of the period of limitations on collection after assessment prescribed in section 6502 is suspended for the period of time, prior to November 3, 1966, that collection is hindered or delayed because property of the taxpayer is situated or held outside the United States or is removed from the United States. The total suspension of time under this provision shall not in the aggregate exceed 6 years. In any case in which the district director determines that collection is so hindered or delayed, he shall make and retain in the files of his office a written report which shall identify the taxpayer and the tax liability, shall show what steps were taken to collect the tax liability, shall state the grounds for his determination that property of the taxpayer is situated or held outside, or is removed from, the United States, and shall show the date on which it was first determined that collection was so hindered or delayed. The term "property" includes all property or rights to property, real or personal, tangible or intangible, belonging to the taxpayer. The suspension of the running of the period of limitations on collection shall be considered to begin on the date so determined by the district director. A copy of the report shall be mailed to the taxpayer at his last known address.

(b) *Taxpayer outside United States after November 2, 1966.* The running of the period of limitations on collection after assessment prescribed in section 6502 (relating to collection after assessment) is suspended for the period after November 2, 1966, during which the taxpayer is absent from the United States if such period is a continuous period of absence from the United States extending for 6 months or more. In a case where the running of the period of limitations has been suspended under the first sentence of this paragraph and at the time of the taxpayer's return to the United States the period of limitations would expire before the expiration of 6 months from the date of his return, the period of limitations shall not expire until after 6 months from the date of the taxpayer's return. The taxpayer will be deemed to be absent from the United States for purposes of this section if he is generally and substantially absent from the United States, even though he makes casual temporary visits during the period.

PAR. 5. Immediately after § 301.6503(f) there are added new §§ 301.6503(g) and 301.6503(g)-1. These new provisions read as follows:

§ 301.6503(g) **Statutory provisions; suspension of running of period of limitation; wrongful seizure of property of third party.**

Sec. 6503. *Suspension of running of period of limitation.* . . .

(g) *Wrongful seizure of property of third party.* The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secre-

tary or his delegate to the date the Secretary or his delegate returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of the period of limitations on collection after assessment shall be suspended under this subsection only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

[Sec. 6503(g) as added by sec. 106(c), Federal Tax Lien Act 1966 (80 Stat. 1140)]

§ 301.6503(g)-1 **Suspension of running of period of limitation; wrongful seizure of property of third party.**

The running of the period of limitations on collection after assessment prescribed in section 6502 (relating to collection after assessment) shall be suspended for a period equal to a period beginning on the date property (including money) is wrongfully seized or received by a district director and ending on the date 30 days after the date on which the district director returns the property pursuant to section 6343(b) (relating to authority to return property) or the date 30 days after the date on which a judgment secured pursuant to section 7426 (relating to civil actions by persons other than taxpayers) with respect to such property becomes final. The running of the period of limitations on collection after assessment shall be suspended under this section only with respect to the amount of such assessment which is equal to the amount of money or the value of specific property returned. This section applies in the case of property wrongfully seized or received after November 2, 1966.

Example. On June 1, 1968 (at which time 10 months remain before the period of limitations on collection after assessment will expire), the district director wrongfully seizes \$1,000 in B's account in Bank X and properly seizes \$500 in taxpayer A's account in Bank Y in an attempt to satisfy A's assessed tax liability of \$1,500. The district director determines that the \$1,000 seized in Bank X was not the property of taxpayer A and, on March 1, 1969, he returns the \$1,000 to B. As a result of the wrongful seizure, the running of the period of limitations on collection after assessment of the amount owed by taxpayer A is suspended for the 9-month period (beginning June 1, 1968, when the money was wrongfully seized and ending March 1, 1969, when the money was returned to B), plus 30 days. Therefore, the period of limitations on collection after assessment prescribed in section 6502 will not expire until February 1, 1970, which is 10 months plus 30 days after the money was returned.

[FR Doc.71-7733 Filed 6-2-71;8:52 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 171—MONEY ORDERS

Cashing of Money Orders

Section 5(f) of the Postal Reorganization Act provides in part that "provisions of title 39, U.S.C., in effect im-

mediately prior to the effective date of this section, but not re-enacted by this Act, shall remain in force as rules or regulations of the Postal Service established by this Act" One such provision that is not explicitly covered in codified postal regulations is 39 U.S.C. sec. 5103 (c) which reads as follows: "The records of the Department shall serve as the basis for adjudicating claims for payment of money orders." Title 39 CFR 171.3(a) is amended to include this provision.

Since the amendment does not change existing legal rules, notice of proposed rulemaking and a delayed effective date are unnecessary. Accordingly, § 171.3(a) is amended to read as follows:

§ 171.3 Cashing money orders.

(a) *Restrictions on payment.* No money orders shall be paid after 20 years from the last day of the month of original issue. The records of the Postal Service shall serve as the basis for adjudicating claims for payment of money orders.

Effective date. The foregoing amendment is effective upon publication in the FEDERAL REGISTER (6-3-71).

(5 U.S.C. 301, 39 U.S.C. 501, 5103(c))

DAVID A. NELSON,
General Counsel.

[FR Doc.71-7698 Filed 6-2-71;8:50 am]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), De- partment of Health, Education, and Welfare

PART 206—APPLICATION, DETERMI- NATION OF ELIGIBILITY AND FUR- NISHING OF ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

State Plan Requirements

Part 206 of Chapter II of Title 45 of the Code of Federal Regulations is amended to make clear that persons who accompany and assist applicants and recipients in their contacts with the welfare agency, may also represent them. Since this amendment is for purpose of clarification, and simply restores language which appeared in the notice of proposed regulations published in the FEDERAL REGISTER on Thursday, December 3, 1970 (35 F.R. 18402), the proposed rule making procedure is not repeated. Accordingly, § 206.10(a)(1) is revised to read as set forth below:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV-A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(1) Each individual wishing to do so will have the opportunity to apply for

assistance without delay. Under this requirement: (i) The agency accepts application from the applicant himself, his designated representative, or someone acting responsibly for him, in person, by mail or by telephone; (ii) an applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility, and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them; (iii) individuals eligible for financial assistance are eligible for medical assistance without a separate application.

(Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302).

Effective date. The regulations in this section shall be effective on the date of their publication in the FEDERAL REGISTER (6-3-71).

Dated: April 29, 1971.

JOHN D. TWINAME,
Administrator, Social and
Rehabilitation Service.

Approved: May 26, 1971.
ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-7696 Filed 6-2-71; 8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19102; FCC 71-564]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations; Table of Assignments, Benton, Ill., etc.

Report and order. In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Benton, Ill.; Salem, Ill.; West Frankfort, Ill.)

1. The Commission here considers the notice of proposed rule making, adopted December 2, 1970, in this proceeding (FCC 70-1259; 35 F.R. 18678).

2. The Commission on its own motion considered amendments to the FM Table of Assignments (§ 73.202(b) of the rules). The specific problem is that Channel 252A at Benton, Ill., no longer complies with the spacing requirements of the rules. The short-spacing was the result of moving the transmitter site of Station KRCH, Channel 251, St. Louis, Mo., from Zone I to Zone II, with the resulting change in class from B to C, and a required mileage separation of 105 miles (distance is 89 miles).

3. On August 14, 1970, Rend Lake Broadcasting Co. tendered an application for filing for the Channel 252A assignment at Benton, Ill. That application is in pending status while this proceeding is considered in order to make changes in the FM Table of Assignments that would eliminate the short-spacing. More specifically, the notice proposed that Channel 292A would be assigned to Benton; while there would be a short-spacing of about 3 miles to Station KSGM-FM, Channel 289, Ste. Genevieve, Mo., sites are available east of Benton which would obviate this short-spacing. In order to make these changes, it was also necessary to propose the substitution of Channel 261A for 249A at Salem, Ill., and Channel 249A for 292A at West Frankfort, Ill. The latter would also remove about a 3-mile short-spacing to Station KSGM-FM.

4. Filing comments and favoring the proposed changes are the respective applicants for channels at Salem and West Frankfort: The applicant for the Salem channel is Thomas S. Rand and Bryan Davidson, doing business as Salem Broadcasting Co. (BPH-6321). In this respect, paragraph 4 of the notice indicated that in the event that the Salem FM allocation is changed, Salem Broadcasting Co. would be allowed to amend its application to change channel without fee and remain in hearing status (Docket No. 18290). The other party filing comments was Pyramid Radio Broadcasting and Television Co., Inc., licensee of daytime radio Station WFRX, West Frankfort, Ill., and applicant for the FM channel at that community (BPH-7199). This party indicated that it supported the rule making since it would eliminate a slight short spacing between Station KSGM-FM, Ste. Genevieve, Mo., and West Frankfort and would reduce the prohibitive short spacing between Channel 252A at Benton and Station KRCH.¹ As already indicated, the application of Rend Lake Broadcasting Co. has remained in a tendered status pending the outcome of this proceeding.

5. It would appear that the public interest, convenience, and necessity would be served by making the proposed changes as set out in our notice.

6. Accordingly, pursuant to the authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, the FM Table of Assignments, § 73.202(b) is amended, effective July 13, 1971, as concerns the following communities in Illinois:

City	Channel No.
Benton, Ill.	292A
Salem, Ill.	261A
West Frankfort, Ill.	249A

7. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

¹ The proposed use of Channel 292A at Benton would involve a slight short spacing to Station KSGM-FM, but sites east of Benton are available.

Adopted: May 26, 1971.

Released: May 28, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-7709 Filed 6-2-71; 8:50 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-65; Amdt. 177-16]

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

Bonding and Grounding Flammable Liquid Cargo Tanks

The purpose of this amendment to the Department's Hazardous Materials Regulations is to provide specific requirements for bonding and grounding cargo tanks before and during transfer of loading. Also, the requirements for transfer of flammable liquids while the motor vehicle engine is running are clarified.

On December 2, 1970, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-65; Notice No. 70-21 (35 F.R. 18323) which proposed this amendment. Interested persons were invited to give their views and several comments were received by the Board. On April 20, 1971, at the invitation of the Secretary of the Board, a meeting was held between the commenters and the Department to give all interested persons the opportunity to clarify their comments to this Docket.

Several commenters noted that proposed § 177.837(c)(2) overlooked the possibility that a dangerous condition could be created by an open vent close to a vapor-tight connection, as the Department's regulations do not specify the relative location of vents to connections. Other commenters suggested that this subparagraph should cover unloading. Several commenters objected to proposed § 177.837(c)(3), noting that its purpose from a safety standpoint was not apparent. They stated that application of the proposed rule would result in serious difficulties in tank truck operations. Several suggestions were made to revise the wording. The Board finds that these comments have merit and has incorporated appropriate changes in this amendment.

Accordingly, 49 CFR Part 177 is amended as follows:

In § 177.837, paragraph (a) and the first sentence of paragraph (b) are amended; a new paragraph (c) is added to read as follows:

² Commissioner Wells absent.

§ 177.837 Flammable liquids.
(See also § 177.834 (a) to (k).)

(a) *Engine stopped.* Unless the engine of the motor vehicle is to be used for the operation of a pump, no flammable liquid shall be loaded into, or on, or unloaded from any motor vehicle while the engine is running.

(b) *Bonding and grounding containers other than cargo tanks prior to and during transfer of loading.* . . .

(c) *Bonding and grounding cargo tanks before and during transfer of loading.* (1) When a cargo tank is loaded through an open filling hole, one end of a bond wire shall be connected to the stationary system piping or integrally connected steel framing, and the other end to the shell of the cargo tank to provide a continuous electrical connection. (If bonding is to the framing, it is essential that piping and framing be electrically interconnected.) This connection must be made before any filling hole is opened, and must remain in place until after the last filling hole has been closed. Additional bond wires are not needed around All-Metal flexible or swivel joints, but are required for nonmetallic flexible connections in the stationary system piping. When a cargo tank is unloaded by a suction-piping system through an open filling hole of the cargo tank, electrical continuity shall be maintained from cargo tank to receiving tank.

(2) When a cargo tank is loaded or unloaded through a vapor-tight (not open hole) top or bottom connection, so that there is no release of vapor at a point where a spark could occur, bonding or grounding is not required. Contact of the closed connection must be made before flow starts and must not be broken until after the flow is completed.

(3) Bonding or grounding is not required when a cargo tank is unloaded through a nonvapor-tight connection into a stationary tank provided the metallic filling connection is maintained in contact with the filling hole.

This amendment is effective August 31, 1971; however, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831-835, Title 18, United States Code; sec. 9, Department of Transportation Act (49 U.S.C. 1657))

Issued in Washington, D.C., on May 27, 1971.

KENNETH L. PIERSON,
Acting Director, Bureau of
Motor Carrier Safety, Federal
Highway Administration.

[FR Doc.71-7694 Filed 6-2-71; 8:49 am]

[Docket No. HM-71; Amdt. 178-19]

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Specification 3HT Cylinders—Tensile Strength Limitation

The purpose of this amendment to the Department's Hazardous Materials Reg-

ulations is to increase the maximum allowable tensile strength of the steel in specification 3HT cylinders from 160,000 p.s.i. to 165,000 p.s.i.

On December 16, 1970, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-71; Notice No. 70-26 (35 F.R. 19025), which proposed this amendment.

Interested persons were invited to give their views on the proposal. No objections were received. One commenter noted that the proposed text did not clearly state if all cylinders in a rejected lot would require measurement of the sidewall thickness. It is the intent of the Board to require that all cylinders be checked. The Board believes that the sidewall verification on specification 3HT cylinders is more critical than for other cylinders because of the thinness of the wall. A change has been made in the text to clarify the intent of the regulation.

Accordingly, 49 CFR Part 178 is amended as follows:

In § 178.44-21, paragraph (a)(2) is amended; in § 178.44-22, paragraph (b) is added to read as follows:

§ 178.44 Specification 3HT; inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

§ 178.44-21 Acceptable results of tests.

(a) . . .
(2) Tensile strength shall not exceed 165,000 p.s.i.

§ 178.44-22 Rejected cylinders.

(b) For each cylinder subjected to reheat treatment during original manufacture, sidewall measurements must be made to verify that the minimum sidewall thickness meets specification requirements after the final heat treatment.

This amendment is effective August 31, 1971, however, compliance with the regulations as amended herein is authorized immediately.

(Sec. 831-835, Title 18, United States Code; sec. 9, Department of Transportation Act (49 U.S.C. 1657); title VI, sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472(h))

Issued in Washington, D.C., on May 27, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard,
By direction of Commandant,
U.S. Coast Guard.

CARL V. LYON,
Acting Administrator,
Federal Railroad Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

SAM SCHNEIDER,
Board Member, For the
Federal Aviation Administration.
[FR Doc.71-7695 Filed 6-2-71; 8:49 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[4th Rev. S.O. 1061]

PART 1033—CAR SERVICE

Return of Hopper Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of May 1971.

It appearing, that an acute shortage of hopper cars exists on the railroads named in paragraph (a) (1) herein; that shippers located on the lines of these carriers are being deprived of hopper cars required for loading, resulting in an emergency, forcing curtailment of their operations, and thus creating great economic loss and reduced employment of their personnel; that hopper cars, after being unloaded, are being appropriated and being retained in services for which they have not been designated by the car owner; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of hopper cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1061 Service Order No. 1061.

(a) Regulations for return of hopper cars: Each common carrier by railroad subject to the Interstate Commerce Act, with the exception of those carriers named in Service Order No. 1043 (Service Order No. 1043 remains in effect, and carriers named therein must continue to comply with its provisions), shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty, except as otherwise authorized in subparagraphs (4), (5), and (6) of this paragraph, all hopper cars owned by the following railroads:

The Akron, Canton & Youngstown Railroad Co.
Reporting marks: ACY.
Burlington Northern, Inc.
Reporting marks: BN, CB&Q, GN, NP, SP&S.
Chicago & Eastern Illinois Railroad Co.
Reporting marks: C&EI.
The Colorado and Southern Railway Co.
Reporting marks: C&S.
Illinois Central Railroad Co.
Reporting marks: IC.
Fort Worth and Denver Railway Co.
Reporting marks: FW&D.
Missouri-Illinois Railroad Co.
Reporting marks: M-I.
Missouri-Kansas-Texas Railroad Co.
Reporting marks: MKT, BKT.
Reporting marks: MKT, BKT.

Missouri Pacific Railroad Co.
Reporting marks: MP.
St. Louis-San Francisco Railway Co.
Reporting marks: SLSF.
Texas-New Mexico Railway Co.
Reporting marks: T-NM.
The Texas and Pacific Railway Co.
Reporting marks: T&P, TP.
Union Pacific Railroad Co.
Reporting marks: UP.

(2) The following companies will be considered as one railroad in the application of subparagraphs (1), (4), (5), and (6) of this paragraph:

Chicago & Eastern Illinois Railroad Co.
Missouri-Illinois Railroad Co.
Missouri Pacific Railroad Co.
The Texas and Pacific Railway Co.
Texas-New Mexico Railway Co.

(3) The following companies will be considered as one railroad in the application of subparagraphs (1), (4), (5), and (6) of this paragraph:

Burlington Northern, Inc.
The Colorado and Southern Railway, Co.
Fort Worth and Denver Railway Co.

(4) Hopper cars described in subparagraph (1) of this paragraph may be loaded to stations on the lines of the owning railroad. Cars located at a point other than a junction with the car owner shall not be backhauled empty, except for the purpose of loading to a junction

with the car owner or to a station on the lines of the car owner.

(5) Except as authorized in subparagraph (6) of this paragraph, hopper cars described in subparagraph (1) of this paragraph, empty at a junction with the owner, must be delivered to the owner at that junction.

(6) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner. Such modifications must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission.

(7) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded hopper car for movements contrary to the provisions of subparagraphs (4) and (5) of this paragraph.

(b) The term "hopper cars" as used in this order, means freight cars having a mechanical designation "HD," "HM," "HK," or "HT," in the Official Railway Equipment Register, ICC R.E.R. No. 379, issued by E. J. McFarland, or reissues thereof.

(c) Application: The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) Effective date: This order shall become effective at 12:01 a.m., May 27, 1971.

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., June 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2), interprets or applies secs. 1(10-17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17 (2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-7706 Filed 6-2-71; 8:50 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 13]

INCOME TAX

Treatment of Property Transferred in Connection With Performance of Services

Proposed amendments to regulations under sections 61 and 421, relating to the receipt of certain stock and other property subject to restrictions, appear in the FEDERAL REGISTER for October 26, 1968 (33 F.R. 15870), as corrected by a notice of proposed rule making in the FEDERAL REGISTER for January 10, 1969 (34 F.R. 397). Notice is hereby given that such proposed regulations are hereby withdrawn.

Further, notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 6, 1971. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commission by July 6, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; U.S.C. 7805).

RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to prescribe regulations under section 83 of the Internal Revenue Code of 1954, as enacted by section 321(a) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 588), the following regulations are prescribed. In addition, the Income Tax Regulations (26 CFR Part 1) under sections 61, 162, 402(b), 403(c), 403(d), 404(a)(5), 421, and 721 of the Internal Revenue Code of 1954 are amended to conform to section 321(b) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 590). These regulations are prescribed and amended by superseding temporary regulations § 13.1 (published in the FEDERAL REGISTER for January 17, 1970, as corrected in the FEDERAL REGISTER for January 22, 1970) as follows:

PARAGRAPH 1. Paragraph (d) of § 1.61-2 is amended by revising subparagraph (1), by revising subdivision (i) of subparagraph (2), by revising subparagraphs (4) and (5), and by adding new subparagraph (6) to read as follows:

§ 1.61-2 Compensation for services, including fees, commissions, and similar items.

(d) Compensation paid other than in cash—(1) In general. If services are paid for in property on or before June 30, 1969 (or in paragraph (b) of § 1.83-8 applies), the fair market value of the property taken in payment must be included in income as compensation. If services are paid for in exchange for other services, the fair market value of such other services taken in payment must be included in income as compensation. If the services were rendered at a stipulated price, such price will be presumed to be the fair market value of the compensation received in the absence of evidence to the contrary. However, for special rules relating to certain options received as compensation, see § 1.61-15 and section 421 and the regulations thereunder.

(2) Property transferred to employee or independent contractor. (i) Except as otherwise provided in section 421 and the regulations thereunder (relating to employee stock options) and § 1.61-15, if property is transferred on or before June 30, 1969 (or in paragraph (b) of § 1.83-8 applies), by an employer to an employee or to an independent contractor, as compensation for services for an amount less than its fair market value, then regardless of whether the transfer is in the form of a sale or exchange, the difference between the amount paid for the property and the amount of its fair market value at the time of the transfer is compensation and shall be included in the gross income of the employee or independent contractor. In computing the gain or loss from the subsequent sale of such property, its basis shall be the amount paid for the property increased by the amount of such difference included in gross income.

(4) Stock and notes transferred to employee or independent contractor. Except as otherwise provided by section 421 and the regulations thereunder (relating to employee stock options) and § 1.61-15, if a corporation transfers its own stock on or before June 30, 1969 (or if paragraph (b) of § 1.83-8 applies), to an employee or independent contractor as compensation for services, the fair market value of the stock at the time of transfer shall be included in the gross income of the employee or independent contractor. Notes or other evidences of indebtedness received in payment for

services on or before June 30, 1969, constitute income in the amount of their fair market value at the time of the transfer. A taxpayer receiving as compensation a note regarded as good for its face value at maturity, but not bearing interest, shall treat as income as of the time of receipt its fair discounted value computed at the prevailing rate. As payments are received on such a note, there shall be included in income that portion of each payment which represents the proportionate part of the discount originally taken on the entire note.

(5) Property transferred on or before June 30, 1969, subject to restrictions. Notwithstanding any other provision of this paragraph, if any property is transferred as compensation for services, performed by an employee or independent contractor, and such property is subject to a restriction which has a significant effect on its value at the time of transfer, the rules of § 1.421-6(d)(2) shall apply in determining the time and the amount of compensation to be included in the gross income of the employee or independent contractor. For special rules relating to options to purchase stock or other property which are issued as compensation for services, see § 1.61-15 and section 421 and the regulations thereunder. This subparagraph is applicable only to transfers after September 24, 1959, and before July 1, 1969 (unless paragraph (b) of § 1.83-8 applies).

(6) Property transferred to employee or independent contractor after June 30, 1969. For rules with respect to property transferred in connection with the performance of services after June 30, 1969, see section 83 and the regulations thereunder. For rules with respect to premiums paid by an employer for an annuity contract which is not subject to section 403(a), see section 403(c) and the regulations thereunder. For the rules with respect to contributions made to an employee's trust which is not exempt under section 501(a), see section 402(b) and the regulations thereunder.

PAR. 2. Paragraphs (a) and (d) of § 1.61-15 are amended to read as follows: § 1.61-15 Options received as payment of income.

(a) In general. If any person receives an option in payment of an amount constituting compensation of such person (or of any other person) on or before June 30, 1969 (except if paragraph (b) of § 1.83-8 applies), such option is subject to the rules contained in § 1.421-6 for purposes of determining when income is realized in connection with such option and the amount of such income. In this regard, the rules of § 1.421-6 apply to an option received in payment of an amount constituting compensation regardless of the form of the transaction.

Proposed Rule Making

Thus, the rules of § 1.421-6 apply to an option transferred for less than its fair market value in a transaction taking the form of a sale or exchange if the difference between the amount paid for the option and its fair market value at the time of transfer is the payment of an amount constituting compensation of the transferee or any other person. This section, for example, makes the rules of § 1.421-6 applicable to options granted in whole or partial payment for services of an independent contractor. If an amount of money or property is paid for an option to which this paragraph applies, then the amount paid shall be part of the basis of such option. For the rules with respect to an option granted in connection with the performance of services after June 30, 1969, see section 83 and the regulations thereunder.

(d) *Effective date.* This section shall apply to options granted after July 11, 1963, and before July 1, 1969 (unless paragraph (d) of § 1.83-8 applies) other than options required to be granted pursuant to the terms of a written contract entered into before July 11, 1963.

PAR. 3. There are inserted after § 1.79-3 the following new sections:

§ 1.83 Statutory provisions: property transferred in connection with the performance of services.

SEC. 83. *Property transferred in connection with performance of services.*—(a) *General rule.* If, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of—

(1) The fair market value of such property (determined without regard to any restriction other than a restriction which by its terms will never lapse) at the first time the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over

(2) The amount (if any) paid for such property,

shall be included in the gross income of the person who performed such services in the first taxable year in which the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable. The preceding sentence shall not apply if such person sells or otherwise disposes of such property in an arm's length transaction before his rights in such property become transferable or not subject to a substantial risk of forfeiture.

(b) *Election to include in gross income in year of transfer.*—(1) *In general.* Any person who performs services in connection with which property is transferred to any person may elect to include in his gross income, for the taxable year in which such property is transferred, the excess of—

(A) The fair market value of such property at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), over

(B) The amount (if any) paid for such property.

If such election is made, subsection (a) shall not apply with respect to the transfer of such property, and if such property is subsequently forfeited, no deduction shall be allowed in respect of such forfeiture.

(2) *Election.* An election under paragraph (1) with respect to any transfer of property shall be made in such manner as the Secretary or his delegate prescribes and shall be made not later than 30 days after the date of such transfer (or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969). Such election may not be revoked except with the consent of the Secretary or his delegate.

(c) *Special rules.* For purposes of this section—

(1) *Substantial risk of forfeiture.* The rights of a person in property are subject to a substantial risk of forfeiture if such person's rights to full enjoyment of such property are conditioned upon the future performance of substantial services by any individual.

(2) *Transferability of property.* The rights of a person in property are transferable only if the rights in such property of any transferee are not subject to a substantial risk of forfeiture.

(d) *Certain restrictions which will never lapse.*—(1) *Valuation.* In the case of property subject to a restriction which by its terms will never lapse, and which allows the transferee to sell such property only at a price determined under a formula, the price so determined shall be deemed to be the fair market value of the property unless established to the contrary by the Secretary or his delegate, and the burden of proof shall be on the Secretary or his delegate with respect to such value.

(2) *Cancellation.* If, in the case of property subject to a restriction which by its terms will never lapse, the restriction is cancelled then, unless the taxpayer establishes—

(A) That such cancellation was not compensatory, and

(B) That the person, if any, who would be allowed a deduction if the cancellation were treated as compensatory, will treat the transaction as not compensatory, as evidenced in such manner as the Secretary or his delegate shall prescribe by regulations,

the excess of the fair market value of the property (computed without regard to the restrictions) at the time of cancellation over the sum of—

(C) The fair market value of such property (computed by taking the restriction into account) immediately before the cancellation, and

(D) The amount, if any, paid for the cancellation,

shall be treated as compensation for the taxable year in which such cancellation occurs.

(e) *Applicability of section.* This section shall not apply to—

(1) A transaction to which section 421 applies,

(2) A transfer to or from a trust described in section 401(a) or a transfer under an annuity plan which meets the requirements of section 404(a)(2),

(3) The transfer of an option without a readily ascertainable fair market value, or

(4) The transfer of property pursuant to the exercise of an option with a readily ascertainable fair market value at the date of grant.

(f) *Holding period.* In determining the period for which the taxpayer has held property to which subsection (a) applies, there shall be included only the period beginning at the first time his rights in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier.

(g) *Certain exchanges.* If property to which subsection (a) applies is exchanged for property subject to restrictions and conditions substantially similar to those to which the property given in such exchange was subject, and if section 354, 355, 356, or 1036 (or

so much of section 1031 as relates to section 1036) applied to such exchange, or if such exchange was pursuant to the exercise of a conversion privilege—

(1) Such exchange shall be disregarded for purposes of subsection (a), and

(2) The property received shall be treated as property to which subsection (a) applies.

(h) *Deduction by employer.* In the case of a transfer of property to which this section applies or a cancellation of a restriction described in subsection (d), there shall be allowed as a deduction under section 162, to the person for whom were performed the services in connection with which such property was transferred, an amount equal to the amount included under subsection (a), (b), or (d) (2) in the gross income of the person who performed such services. Such deduction shall be allowed for the taxable year of such person in which or with which ends the taxable year in which such amount is included in the gross income of the person who performed such services.

(i) *Transition rules.* This section shall apply to property transferred after June 30, 1969, except that this section shall not apply to property transferred—

(1) Pursuant to a binding written contract entered into before April 22, 1969,

(2) Upon the exercise of an option granted before April 22, 1969,

(3) Before May 1, 1970, pursuant to a written plan adopted and approved before July 1, 1969,

(4) Before January 1, 1973, upon the exercise of an option granted pursuant to a binding written contract entered into before April 22, 1969, between a corporation and the transferor requiring the transferor to grant options to employees of such corporation (or a subsidiary of such corporation) to purchase a determinable number of shares of stock of such corporation, but only if the transferee was an employee of such corporation (or a subsidiary of such corporation) on or before April 22, 1969, or

(5) In exchange for (or pursuant to the exercise of a conversion privilege contained in) property transferred before July 1, 1969, or for property to which this section does not apply (by reason of paragraphs (1), (2), (3), or (4)), if section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) applies, or if gain or loss is not otherwise required to be recognized upon the exercise of such conversion privilege, and if the property received in such exchange is subject to restrictions and conditions substantially similar to those to which the property given in such exchange was subject.

(Sec. 83 as added by sec. 321(a) Tax Reform Act 1969 (83 Stat. 588))

§ 1.83-1 Property transferred in connection with the performance of services.

(a) *In general.* Section 83 provides rules for the taxation of property transferred to an employee or independent contractor (or beneficiary thereof) in connection with the performance of services by such employee or independent contractor. In general, the excess of—

(1) The fair market value of such property (determined without regard to any restriction other than a restriction which by its terms will never lapse) when the transfer of such property becomes complete, over

(2) The amount (if any) paid for such property,

shall be included as compensation in the gross income of such employee or independent contractor for the taxable

year in which such transfer becomes complete. Until such transfer becomes complete, the transferor shall be regarded as the owner of such property, and any income from such property received by the employee or independent contractor (or beneficiary thereof) or the right to the use of such property by the employee or independent contractor constitutes additional compensation and shall be included in the gross income of such employee or independent contractor for the taxable year in which such income is received or such use is made available. The forfeiture of such property after its transfer becomes complete shall be treated as a disposition of such property upon which there is recognized a loss equal to the amount of the taxpayer's adjusted basis in such property, and if such property is a capital asset in the hands of the taxpayer, such loss shall be a capital loss. This paragraph applies to a transfer of property in connection with the performance of services notwithstanding that the transferor is not the person for whom such services were performed. See section 83(h) and § 1.83-6 for rules for the treatment of employers and other transferors of property in connection with the performance of services.

(b) *Subsequent sale or other disposition.* If property transferred in connection with the performance of services is subsequently sold or otherwise disposed of in an arm's length transaction before such transfer becomes complete, the excess of—

(1) The amount realized on such sale or other disposition, over

(2) The amount (if any) paid for such property,

shall be included as compensation in the gross income of the person who performed such services for the taxable year of such sale or other disposition. The preceding sentence shall not apply to any exchange to the extent that the property received is not transferable and is subject to a substantial risk of forfeiture, and the property received in such an exchange shall be treated as property to which section 83 applies. If property is forfeited after a disposition to which this paragraph applies, such forfeiture shall be treated as a disposition of such property upon which there is recognized a loss equal to the amount of the taxpayer's adjusted basis in such property. If such property is a capital asset in the hands of the taxpayer, such loss shall be a capital loss.

(c) *Dispositions not at arm's length.* If property transferred in connection with the performance of services is disposed of in a transaction which is not at arm's length occurring before such transfer becomes complete, the person who performed the services in connection with which such property was transferred realizes compensation includible in his gross income in the amount of money or other property (which is transferable or not subject to a substantial risk of forfeiture) received in such disposition in accordance with his method of accounting. The amount

of such compensation shall not exceed the fair market value (determined without regard to any restrictions other than a restriction which by its terms will never lapse) at the time of disposition of the property disposed of less the price originally paid for such property. Moreover, the person who performed the services realizes additional compensation at the time and in the amount determined under paragraphs (a) and (b) of this section, except that the amount of compensation determined under such paragraphs shall be reduced by any amount previously includible in gross income under this paragraph. For example, if in 1971 an employee pays \$50 for a share of stock which has a fair market value of \$100 and which is not transferable and is subject to a substantial risk of forfeiture, and later in 1971 (at a time when the property still has a fair market value of \$100) the employee disposes of, in a transaction not at arm's length, the share of stock to his wife for \$10, the employee realizes compensation of \$10 in 1971. If in 1972 when the stock has a fair market value of \$120 the share of stock first becomes transferable and not subject to a substantial risk of forfeiture, the employee realizes additional compensation in 1972 in the amount of \$60 (the \$120 fair market value of the stock less \$50 price paid for the stock plus \$10 taxed as compensation in 1971). For the purpose of this paragraph, if property is transferred to a person other than the person who performed the services and the transferee dies holding the property before such transfer becomes complete when the person who performed the services is still living, the transfer which results by reason of the death of such person is a transfer not at arm's length.

(d) *Certain transfers upon death.* If property is transferred in connection with the performance of services and the person who performed such services dies before such transfer becomes complete, any income subsequently realized in respect of such property is income in respect of a decedent to which the rules of section 691 apply. In such a case the income in respect of such property shall be taxable under section 691 to the estate or beneficiary of the person who performed the services in accordance with section 83 and the regulations thereunder. If, however, such transfer becomes complete by reason of death of the person who performed the services, any income realized upon such death is not income in respect of a decedent and is includible in gross income for such person's last taxable year.

(e) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). On November 1, 1973, X corporation sells to E, an employee, 100 shares of X corporation stock at \$10 per share. At the time of such sale the fair market value of the X corporation stock is \$100 per share. Under the terms of the sale, each share of stock is nontransferable and subject to a substantial risk of forfeiture which will not lapse until November 1, 1978. Evidence of these restrictions is stamped on the face of

E's stock certificates. In addition, no dividends are paid on the X stock during 1973. Since E's stock is nontransferable and is subject to a substantial risk of forfeiture, such transfer is not complete, and E does not include any amount in his gross income as compensation for 1973, despite the fact that the fair market value (\$100 per share) of the X corporation stock exceeds the price E paid for the stock (\$10 per share).

Example (2). Assume the facts are the same as in example (1) except that on November 1, 1978, each share of stock of X corporation in E's hands could as a matter of law be transferred to a bona fide purchaser who would not be required to forfeit the stock if the risk of forfeiture materialized. In the event, however, that the risk materializes, E would be liable in damages to X. Since E's stock is transferable within the meaning of § 1.83-3(e) in 1978, the transfer is complete, and E must include \$24,000 (100 shares of X corporation stock × \$250 fair market value per share less \$10 price paid by E for each share) as compensation in 1978.

Example (3). Assume the facts are the same as in example (2), except that on November 1, 1978, each share of stock of X corporation in E's hands could as a matter of law be transferred to a bona fide purchaser who would not be required to forfeit the stock if the risk of forfeiture materialized. In the event, however, that the risk materializes, E would be liable in damages to X. Since E's stock is transferable within the meaning of § 1.83-3(e) in 1978, the transfer is complete, and E must include \$24,000 (100 shares of X corporation stock × \$250 fair market value per share less \$10 price paid by E for each share) as compensation in 1978.

Example (4). Assume the facts are the same as in example (1) except that, in 1974 E sells his 100 shares of X corporation stock in an arm's length sale to I, an investment company, for \$120 per share. At the time of this sale each share of X corporation's stock has a fair market value of \$200. Under paragraph (b) of this section, E must include \$11,000 (100 shares of X corporation stock × \$120 amount realized per share less \$10 price paid by E per share) as compensation in 1974 notwithstanding that the stock remains nontransferable and is still subject to a substantial risk of forfeiture at the time of such sale. Under subparagraph (2) of § 1.83-4(b), I's basis in the X corporation stock is \$120 per share.

§ 1.83-2 Election to include in gross income in year of transfer.

(a) *In general.* Under section 83(b), if property is transferred in connection with performance of services and such transfer is not complete at the time it is made, the person performing such services may elect to treat such transfer as a complete transfer and to include in his gross income for the taxable year in which such property is transferred, the excess of the fair market value of such property at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse) over the amount (if any) paid for such property. If this election is made, section 83(a) and the regulations thereunder, do not apply with respect to such property, and except as otherwise provided in section 83(d)(2) and the regulations thereunder, any subsequent appreciation in the value of the property is not taxable as compensation. In computing the gain or loss from the subsequent sale or exchange of such property, its basis shall be the amount paid for the property increased by the amount included in gross income under

section 83(b). However, notwithstanding the preceding sentence if the property is later forfeited or sold in an arm's length transaction before the transfer of such property becomes complete, such forfeiture or sale shall be treated as a disposition upon which there is recognized a loss equal to the excess (if any) of—

- (1) The amount that the taxpayer actually paid for such property, over
- (2) The amount realized (if any) upon such forfeiture or sale.

If such property is a capital asset in the hands of the taxpayer, such loss shall be a capital loss.

(b) *Manner of making election.* The election referred to in paragraph (a) of this section is made by filing one copy of a written statement with the internal revenue officer with whom the person who performed the services files his return. In addition, one copy of such statement shall be submitted with his income tax return for the taxable year in which such property was transferred.

(c) *Additional copies.* The person who performed the services shall also submit a copy of the statement referred to in paragraph (b) of this section to the person for whom the services are performed, and, in addition, if the person who performs the services in connection with which property is transferred and the transferee of such property are not the same person, the person who performs the services shall submit a copy of such statement to the transferee of the property.

(d) *Content of statement.* The statement shall be signed by the person making the election and shall indicate that it is being made under section 83(b) of the Code, and shall contain the following information:

- (1) The name, address, and taxpayer identification number of the taxpayer;
- (2) A description of each property with respect to which the election is being made;
- (3) The date or dates on which the property is transferred and the taxable year (for example, "calendar year 1970" or "fiscal year ending May 31, 1970") in which such election was made;
- (4) The nature of the restriction or restrictions to which the property is subject;
- (5) The fair market value at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse) of each property with respect to which the election is being made;
- (6) The amount (if any) paid for such property; and
- (7) With respect to elections made after (date of filing of the Treasury decision) a statement to the effect that copies have been furnished to other persons as provided in paragraph (c) of this section.

(e) *Time for making election.* The statement referred to in paragraph (b) of this section shall be filed not later than 30 days after the date the property was transferred (or, if later, January 29,

1970). Any statement filed before February 15, 1970, which was amended not later than February 16, 1970, in order to make it conform to the requirements of paragraph (d) of this section shall be deemed a proper election under section 83(b).

(f) *Revocability of election.* An election under section 83(b) may not be revoked except with the consent of the Commissioner. In any event, a decline in value of the property with respect to which an election under section 83(b) has been made or a failure to perform an act contemplated at the time of transfer of such property will not alone constitute grounds of revocation.

§ 1.83-3 Meaning and use of certain terms.

(a) *Transfer.* (1) For purposes of section 83 and the regulations thereunder, a transfer of property occurs when a person acquires rights in property which, without the payment of further consideration (other than the performance of substantial services), may ripen into an ownership interest in such property, or when a person becomes subject to a binding commitment to purchase an ownership interest in such property. Thus, the grant of an option does not constitute a transfer of the property subject to the option, and no transfer of such property occurs until the option is exercised and the optionee pays or incurs a personal liability to pay the option price. If a person acquires an interest in property and gives an evidence of indebtedness without personal liability in exchange therefor, such person is considered to have been granted an option to purchase such property, and a transfer of such property occurs only when, and to the extent that, payments are made in discharge of such indebtedness. No transfer of property occurs upon a person's acquisition of an interest in property for the sole purpose of securing the payment of deferred compensation; see, however, section 402(b) and the regulations thereunder for rules relating to the taxability of beneficiaries of employees' trusts which are not exempt under section 501(a) and of other similar deferred compensation arrangements.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). On January 3, 1971, X corporation purports to transfer to E, an employee, 100 shares of stock in X corporation. The X stock is subject to the sole restriction that E must sell such stock to X on termination of employment for any reason for an amount which is equal to the excess (if any) of the book value of the X stock at termination of employment less book value on January 3, 1971. The stock is not transferable by E and the restrictions on transfer are stamped on the certificate. Under these facts and circumstances, E's rights in the X stock are more in the nature of a security interest for the payment of deferred compensation than an ownership interest in property and, accordingly, there is no transfer of property in connection with the performance of services within the meaning of section 83.

Example (2). Assume the same facts as in example (1) except that E pays for the X

stock with a promissory note without personal liability with a face value equal to the book value of the X stock on January 3, 1971. In addition, X is obligated to repurchase the X stock at E's termination of employment for an amount equal to the book value of the X stock at such time. Under these facts and circumstances, for purposes of section 83, a transfer of the X stock to E occurs only when and to the extent that E makes payments of principal to X under the terms of the promissory note.

Example (3). Assume the same facts as in example (1) except that the X stock is subject to the sole restriction that it must be sold to X upon E's termination of employment for the total amount of dividends that have been declared on the X stock from January 3, 1971, to the date of E's termination of employment. Under these facts and circumstances, as in example (1), E's rights in the stock are more in the nature of a security interest for the payment of deferred compensation than an ownership interest in property and, accordingly, there is no transfer within the meaning of section 83.

Example (4). On February 28, 1971, Y corporation sells to E, an employee, stock in Z corporation, a large computer manufacturer. The purchase price for the Z stock is determined under a formula price to be an amount equal to one-half of the book value per share of the Z stock on February 28, 1971. In addition, the stock is subject to the sole restriction that E must sell the Z stock to Y when E retires or terminates employment for an amount equal to three-quarters of the book value per share of Z stock on the date of E's retirement or termination of employment. Under these facts and circumstances, E acquired a property interest on February 28, 1971, because on that date E obtained a valuable right which could increase or decrease in value dependent upon future economic success or failure of Z's computer business. Therefore, there has been a transfer of the Z stock to E within the meaning of section 83.

Example (5). G, a corporation, transfers to E, an employee, a new home in which his interest is nontransferable and is subject to a substantial risk of forfeiture for a 10-year period. However, G allows E to live rent free in the home during the 10-year period. Since E's interest in the home is nontransferable and subject to a substantial risk of forfeiture, the transfer of the home to E is not complete. Under these facts and circumstances, E must include the fair rental value of the home in his gross income as compensation for each taxable year until the transfer of the home becomes complete. When the transfer to E of the home first becomes complete, E must include in his gross income as compensation the then existing fair market value of the home less any amount he has paid or is required to pay to complete such transfer.

(b) *Complete transfer.* For purposes of section 83 and the regulations thereunder, a transfer of property in connection with performance of services by an employee or independent contractor becomes complete when the rights of the employee or independent contractor or beneficiary thereof in such property cease to be subject to a substantial risk of forfeiture or become transferable, whichever occurs earlier.

(c) *Substantial risk of forfeiture.* (1) For purposes of section 83 and the regulations thereunder, the rights of a person in property are subject to a substantial risk of forfeiture if such person's rights to full enjoyment of such property

are conditioned upon the future performance, or the refraining from the performance, of substantial services by any individual. Whether such services are substantial depends upon the particular facts and circumstances. The regularity of the performance of services and the time spent in performing such services tend to indicate whether services are substantial. In addition, the fact that the person performing such services has the right to decline to perform such services may tend to establish that services are insubstantial. Thus, for example, a requirement that an employee must return property transferred to him in connection with his performance of services for his employer if he does not complete an additional period of substantial services would cause such property to be subject to a substantial risk of forfeiture. On the other hand, a requirement that the property be returned to the employer if the employee commits a crime will not be considered to result in a substantial risk of forfeiture. An enforceable requirement that the property be returned to the employer if the employee accepts a job with a competing firm will not ordinarily be considered to result in a substantial risk of forfeiture unless the particular facts and circumstances indicate to the contrary. Factors which may be taken into account in determining whether a covenant not to compete constitutes a substantial risk of forfeiture are the age of the employee, the availability of alternative employment opportunities, the likelihood of the employee's obtaining such other employment, the degree of skill possessed by the employee, the employee's health, and the practice (if any) of the employer to enforce such covenants. Similarly, rights in property transferred to a retiring employee subject to the sole requirement that it be returned unless he renders consulting services upon the request of his former employer would not be considered subject to a substantial risk of forfeiture unless he is in fact expected to perform substantial services. Rights in property transferred to an employee (or beneficiary thereof) of a corporation who owns, directly or indirectly, more than 5 percent of the total combined voting power or value of all classes of stock of the employer corporation or of its parent or subsidiary corporation will not be considered subject to a substantial risk of forfeiture unless the possibility that the employee will not satisfy the requirement claimed to result in such risk is substantial; in determining whether the possibility is substantial, there will be taken into account (i) the employee's relationship to other stockholders and the extent of their control, potential control and possible loss of control of the corporation, (ii) the position of the employee in the corporation and the extent to which he is subordinate to other employees, (iii) the employee's relationship to the officers and directors of the corporation, (iv) the person or persons who must approve the employee's discharge, and (v) past actions of the employer in enforcing the provisions of

(2) The rules stated in this paragraph may be illustrated by the following examples:

Example (1). On November 1, 1971, corporation X transfers in connection with the performance of services to E, an employee, 100 shares of corporation X stock for \$90 per share. Under the terms of the transfer, E will be subject to a binding commitment to resell the stock to corporation X at \$90 per share if he leaves the employment of corporation X for any reason prior to the expiration of a 10-year period from the date of such transfer. Since E must perform substantial services to corporation X, E's rights in the stock is subject to a substantial risk of forfeiture.

Example (2). On November 25, 1971, corporation X gives to E, an employee, in connection with his performance of services to corporation X, a bonus of 100 shares of corporation X stock. Under the terms of the bonus arrangement E is obligated to return the corporation X stock to corporation X if he terminates his employment for any reason. However, for each year occurring after November 25, 1971, during which E remains employed with corporation X, E ceases to be obligated to return 10 shares of the corporation X stock. Since in each year occurring after November 25, 1971, for which E remains employed he is not required to return 10 shares of corporation X's stock, E's rights in 10 shares each year for 10 years cease to be subject to a substantial risk of forfeiture for each year he remains so employed.

Example (3). Assume the same facts as in example (2) except that for each year occurring after November 25, 1971, for which E remains employed with corporation X, agrees to pay, in redemption of the bonus shares given to E if he terminates employment for any reason, 10 percent of the fair market value of each share of stock on the date of such termination of employment. Since corporation X will pay E 10 percent of the fair market value of the corporation X stock for

each year E remains employed, the corporation X stock in E's hands is not subject to a substantial risk of forfeiture to the extent of such additional 10 percent amount each year which corporation X agrees to pay any amount to E in exchange for such shares.

Example (4). On January 7, 1971, corporation X, a computer service company, transfers to E, a 45-year-old employee, 100 shares of corporation X stock for \$50. E is a highly compensated salesman who sold X's products in a three-state area since 1960. At the time of transfer each share of X stock has a fair market value of \$100. The stock was transferred to E in connection with his termination of employment with X. Each share of X stock is subject to the sole condition that E can keep such share only if he does not engage in competition with X for a 5-year period in the three-state area where E had previously sold X's products. In order for E to establish the necessary business contacts to enable him to earn a salary in another industry comparable to his current compensation, E would have to expend considerable time and effort. In view of the substantial possibility under these facts and circumstances that E will compete with X in the three-state area, the X stock in his hands is subject to a substantial risk of forfeiture.

(d) *Transferability of property.* For purposes of section 83 and the regulations thereunder, the rights of a person in property are transferable if such person can transfer any interest in the property to any person other than the transferor of the property, but only if the rights in such property of any such transferee are not subject to a substantial risk of forfeiture. Accordingly, property is transferable if the person performing the services or receiving the property can sell, assign, or pledge as collateral for a loan or as security for the performance of an obligation or for any other purpose his interest in the property to any person other than the transferor of such property and if the transferee is not required to give up the property or its value in the event the substantial risk of forfeiture materialize. On the other hand, property is not considered to be transferable merely because the person performing the services or receiving the property may designate a beneficiary to receive the property in the event of his death.

(e) *Property.* For purposes of section 83 and the regulations thereunder, the term "property" includes both reality and personality other than money and other than an unfunded and unsecured promise to pay deferred compensation. In the case of a transfer of a life insurance contract, retirement income contract, endowment contract, or other contract providing life insurance protection, only the cash surrender value of the contract is considered to be property. In this connection, the rules relating to the taxation of the cost of life insurance protection provided in paragraph (b) of § 1.72-16 shall apply.

(f) *Property transferred in connection with the performance of services.* In general, property transferred to an employee or an independent contractor or beneficiary thereof in recognition of the performance of services is considered transferred in connection with the performance of services within the meaning of

section 83. The transfer of property is subject to section 83 whether such transfer is in respect of past, present, or future services.

§ 1.83-4 Special rules.

(a) *Holding period.* Under section 83 (f), the holding period of property to which section 83(a) applies shall begin when the transfer of such property becomes complete. However, if the person who has performed the services in connection with which property is transferred has made an election under section 83(b), the holding period of such property shall begin on the date such property was transferred. If property to which section 83 and the regulations thereunder apply is transferred at arm's length, the holding period of such property in the hands of the transferee shall begin on the date of such transfer.

(b) *Basis.* (1) Except as provided in subparagraph (2) of this paragraph, if property to which section 83 and the regulations thereunder apply is acquired by any person (including a person who acquires such property in a subsequent transfer which is not at arm's length), such person's basis for the property so acquired shall be the sum of any amount paid for such property and any amount included in the gross income of the person who performed the services in connection with which such property was transferred.

(2) If property to which § 1.83-1 applies is transferred at arm's length, the basis of the property in the hands of the transferee shall be determined under section 1012 and the regulations thereunder.

(c) *Certain notes transferred to employee or independent contractor.* Notes or other evidences of indebtedness transferred in connection with the performance of services constitute compensation in accordance with section 83 and the regulations thereunder. A taxpayer receiving a note shall treat the receipt of such note as compensation in an amount and at the time determined in accordance with section 83 and the regulations thereunder at its fair market value, including any adjustment for discount or premium computed with reference to the prevailing interest rate. As payments are received on such a note, there shall be included in income that portion of each payment which represents the proportionate part of the discount originally taken on the entire note.

§ 1.83-5 Certain restrictions which will never lapse.

(a) *Definition of nonlapse restrictions.* For purposes of section 83 and the regulations thereunder, a restriction which by its terms will never lapse (hereinafter called a nonlapse restriction) is—

- (1) A limitation on the subsequent transfer of property transferred in connection with the performance of services.
- (2) Which allows the transferee of the property to sell such property at a price determined under a formula, and
- (3) Which will continue to apply to, and to be enforced against any subse-

quent holder (other than the transferor).

A requirement resulting in a substantial risk of forfeiture will not be considered to result in a nonlapse restriction. Registration requirements imposed by Federal or State securities law or similar laws with respect to sales or other dispositions of stock or securities will not be considered to result in a nonlapse restriction. An obligation to resell property transferred in connection with the performance of services to the person for whom such services were performed at its fair market value at the time of such sale is not a nonlapse restriction.

(b) *Valuation.* In the case of property subject to a nonlapse restriction, the price, determined under the formula price shall be deemed to be the fair market value of the property unless established to the contrary by the Commissioner, and the burden of proof shall be on the Commissioner with respect to such value. If stock in a corporation is subject to a nonlapse restriction which allows the transferee to sell such stock only at a formula price based upon book value or a reasonable multiple of earnings, the price so determined will ordinarily be regarded as determinative of the value of such property for purposes of section 83.

(c) *Cancellation.* (1) *In general.* Under section 83(d) (2), if a nonlapse restriction to which property is subject is canceled, then, unless the taxpayer establishes—

- (i) That such cancellation was not compensatory, and
- (ii) That the person, if any, who would be allowed a deduction if the cancellation were treated as compensatory, will treat the transaction as not compensatory, as provided in subparagraph (2) of this paragraph,

the excess of the fair market value of the property (computed without regard to the restrictions) at the time of cancellation, over the sum of—

- (iii) The fair market value of such property (computed by taking the restriction into account) immediately before the cancellation, and
- (iv) The amount, if any, paid for the cancellation,

shall be treated as compensation for the taxable year in which such cancellation occurs. Whether there has been a non-compensatory cancellation of a nonlapse restriction depends upon the particular facts and circumstances. Ordinarily the fact that the employee is required to perform additional services or that the employee's salary is adjusted to take such cancellation into account indicates that such cancellation has a compensatory purpose. On the other hand, the fact that the original purpose of such restriction no longer exists may indicate that the purpose of such cancellation is non-compensatory. Thus, for example, if a so-called "buy-sell" restriction was imposed on a corporation's stock to limit ownership of such stock and is being

canceled in connection with a public offering of the stock, such cancellation will generally be regarded as noncompensatory. However, the mere fact that the employer is willing to forego a deduction under section 83(h) is insufficient evidence to establish a noncompensatory cancellation of a nonlapse restriction. In addition, a corporation's refusal to repurchase its own stock subject to a right of first refusal in such corporation will generally be treated as a cancellation of such nonlapse restriction.

(2) *Evidence of noncompensatory cancellation.* In addition to the information necessary to establish the factors described in subparagraph (1) of this paragraph, the taxpayer referred to in subparagraph (1) of this paragraph shall request his employer to furnish him with a written statement indicating that the employer will not treat the cancellation of the nonlapse restriction as a compensatory event, and that no deduction will be taken with respect to such cancellation. The taxpayer shall file such written statement with his income tax return for the taxable year in which or with which such cancellation occurs.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). On November 1, 1971, X corporation whose shares are closely held and not regularly traded, transfers to E, an employee, 100 shares of X corporation stock subject to the sole condition that, if he desires to dispose of such stock during the period of his employment, he must resell the stock to his employer at its then existing book value, and he or his estate is obligated to offer to sell the stock at his retirement or death to his employer at its then existing book value. Under these facts and circumstances, the restriction to which the shares of X corporation stock are subject is a nonlapse restriction. Consequently, the fair market value of the X stock is includible in E's gross income as compensation for taxable year 1971. However, in determining the fair market value of the X stock, the book value formula price will be regarded as being determinative of such value.

Example (2). Assume the facts are the same as in example (1), except that the X stock is subject to the sole condition that if E desires to dispose of the stock during the period of his employment he must resell the stock to his employer at a multiple of earnings per share that is in this case a reasonable approximation of value at the time of transfer to E, and he is obligated to offer to sell the stock at his retirement or death to his employer at the same multiple of earnings. Under these facts and circumstances, the restriction to which the X corporation stock is subject is a nonlapse restriction. Consequently, the fair market value of the X stock is includible in E's gross income for taxable year 1971. However, in determining the fair market value of the X stock, the multiple-of-earnings formula price will be regarded as determinative of such value.

Example (3). On January 1, 1971, X corporation transfers to E, an employee, 100 shares of stock in X corporation. Each such share of stock is subject to an agreement between X and E whereby E agrees that such shares are to be held solely for investment purposes and not for resale (a so-called investment letter restriction). Since E's rights in such stock are not subject to a substantial risk

of forfeiture, the fair market value of each share of X corporation stock is includible in E's gross income as compensation for taxable year 1971. Since such an investment letter restriction does not constitute a nonlapse restriction, in determining the fair market value of each share the investment letter restriction is disregarded.

§ 1.83-6 Deduction by employer.

(a) *In general.* In the case of a transfer of property in connection with the performance of services or a compensatory cancellation of a restriction described in section 83(d), there is allowed as a deduction under section 162 or 212, to the person for whom such services were performed, an amount equal to the amount included, under subsection (a), (b), or (d) (2) of section 83 as compensation, in the gross income of the person who performed such services, but only to the extent such amount meets the requirements of section 162 or 212 and the regulations thereunder. Such deduction shall be allowed only for the taxable year of such person in which or with which ends the taxable year for which such amount is included as compensation in the gross income of the person who performed such services. However, no deduction is allowed under section 83(h) to the extent that property transferred in connection with the performance of services constitutes a capital expenditure. In such a case, the basis of the property to which such capital expenditure relates shall be increased at the same time and to the same extent as any amount is includible in the employee's gross income in respect of such transfer. Thus, for example, no deduction is allowed to a corporation in respect of a transfer of its stock to a promoter upon its organization, notwithstanding that such promoter must include the value of such stock in his gross income in accordance with the rules stated in section 83. For purposes of this paragraph, any amount excluded from gross income under section 101(b) of subchapter N shall be considered to have been included in gross income.

(b) *Recognition of gain or loss.* The transfer of property in connection with the performance of services constitutes, at the time a deduction is allowed under section 83(h) and paragraph (a) of this section in respect of such transfer, a disposition of such property upon which, except as provided in section 1032 and the regulations thereunder, gain or loss is recognized. For purposes of determining the amount of such gain or loss, the amount realized from such disposition is the amount allowed as a deduction under section 83(h) and paragraph (a) of this section.

(c) *Forfeitures.* If, under section 83 (h) and paragraph (a) of this section, a deduction was allowed in respect of a transfer of property and such property is subsequently forfeited, the person to whom such deduction was allowed shall include in gross income as ordinary gain the excess of the fair market value of such property at the time of such forfeiture over the amount paid (if any) upon such forfeiture. If its own stock is

forfeited to a corporation, the amount includible in gross income shall not exceed the amount of such deduction.

(d) *Special rules.* Where a shareholder of a corporation transfers stock to an employee of such corporation in consideration of services performed for the corporation, the transaction shall be considered to be a contribution of such stock to the capital of such corporation by the shareholder and a transfer of the stock by the corporation to the employee. Similarly, where a corporation transfers its stock to a person who has performed services for a subsidiary of such corporation, the transaction shall be considered—

- (1) A contribution of money by the corporation to its subsidiary's capital,
- (2) A purchase of the stock by the subsidiary from the corporation for its full value, and
- (3) A transfer of the stock by the subsidiary to its employee.

§ 1.83-7 Taxation of options not subject to sections 421-425.

(a) *In general.* (1) If there is granted, in connection with performance of services, an option to which section 421 does not apply, and which has a readily ascertainable fair market value (determined in accordance with paragraph (b) of this section) at the time the option is granted, the person who performed such services realizes compensation in accordance with the rules stated in § 1.83-1.

(2) If there is granted, in connection with the performance of services, an option to which section 421 does not apply and which does not have a readily ascertainable fair market value (determined in accordance with paragraph (b) of this section) at the time the option is granted, the person who performed such services realizes compensation when the property subject to the option is transferred upon the exercise of such option in accordance with the rules stated in § 1.83-1, even though the fair market value of such option may become readily ascertainable before such time.

(b) *Readily ascertainable defined.* (1) *Actively traded on an established market.* Options have a value at the time they are granted, but that value is ordinarily not readily ascertainable unless the option is actively traded on an established market. If an option is actively traded on an established market, the fair market value of such option is readily ascertainable for purposes of this section by applying the rules of valuation set forth in § 20.2031-2 of this chapter (the Estate Tax Regulations).

(2) *Not actively traded on an established market.* (i) When an option is not actively traded on an established market, the fair market value of the option is not readily ascertainable unless the fair market value of the option can be measured with reasonable accuracy. For purposes of this section, if an option is not actively traded on an established market, the option does not have a readily ascertainable fair market value when granted unless the taxpayer can show that all of the following conditions exist:

(a) The option is transferable by the optionee;

(b) The option is exercisable immediately in full by the optionee;

(c) The option or the property subject to the option is not subject to any restriction or condition (other than a lien or other condition to secure the payment of the purchase price) which has a significant effect upon the fair market value of the option; and

(d) The fair market value of the option privilege is readily ascertainable in accordance with subdivision (ii) of this subparagraph.

(ii) The fair market value of an option includes the value attributable to the option privilege and may include the value attributable to the right to make an immediate bargain purchase of the property subject to the option. If the option provides an option price which is less than the fair market value of the property subject to the option at the time it is granted, an immediate gain may be realized by exercising the option at the bargain price and selling the property so acquired. However, irrespective of whether there is a right to make an immediate bargain purchase of the property subject to the option, the fair market value of the option includes the value of the option privilege. The option privilege is the opportunity to benefit at any time during the period the option may be exercised from any appreciation during such period in the value of the property subject to the option without risking any capital. Therefore, the fair market value of an option is not merely the difference which may exist at a particular time between the option price and the value of the property subject to the option but also includes the value of the option privilege. Accordingly, for purposes of this section, the fair market value of the option is not readily ascertainable unless the value of the option privilege can be measured with reasonable accuracy. In determining whether the value of the option privilege is readily ascertainable, and in determining the amount of such value when such value is readily ascertainable, it is necessary to consider—

(a) Whether the value of the property subject to the option can be ascertained;

(b) The probability of any ascertainable value of such property increasing or decreasing; and

(c) The length of the period during which the option can be exercised.

§ 1.83-8 Applicability of section and transitional rules.

(a) *Scope of section 83.* Section 83 is not applicable to—

(1) A transfer of an option to which section 421 applies;

(2) Except as provided in sections 402 (b) and 403(c) and the regulations thereunder, a transfer to or from a trust for the benefit of employees (whether or not qualified under section 401(a)), a transfer under an annuity plan whether or not it meets the requirements of section

404(a)(2), or a transfer under an annuity plan whether or not it meets the requirements of section 403(b):

(3) The transfer of an option without a readily ascertainable fair market value (as defined in paragraph (b)(1) of § 1.83-7); or

(4) The transfer of property pursuant to the exercise of an option with a readily ascertainable fair market value at the date of grant.

However, section 83 does apply to a transfer to or from a trust or under an annuity plan for the benefit of a person (other than an employee) who performs services for the transferor.

(b) *Transitional rules*—(1) *In general.* Except as otherwise provided in this paragraph, section 83 and the regulations thereunder shall apply to property transferred after June 30, 1969.

(2) *Binding written contracts.* Section 83 and the regulations thereunder shall not apply to property transferred pursuant to binding written contract entered into before April 22, 1969. For purposes of this paragraph, a binding written contract means only a written contract under which the employee has an enforceable right to compel the transfer of property or to obtain damages upon the breach of such contract. A contract which provides that the individual's right to such property is contingent upon the happening of an event (including the passage of time) may satisfy the requirements of this paragraph. However, if the event itself, or the determination of whether the event has occurred, rests with the board of directors or any other individual or group acting on behalf of the employer (other than an arbitrator), the contract will not be treated as giving the employee an enforceable right for purposes of this paragraph. However, the binding nature of the contract will not be negated by a provision in such contract which allows the employee or independent contractor to terminate the contract for any year and receive cash instead of property if such election would cause a substantial penalty, such as a forfeiture of part or all of the property received in connection with the performance of services in an earlier year.

(3) *Options granted before April 22, 1969.* Section 83 shall not apply to property received upon the exercise of an option granted before April 22, 1969.

(4) *Certain written plans.* Section 83 shall not apply to property transferred (whether or not by the exercise of an option) before May 1, 1970, pursuant to a written plan adopted and approved before July 1, 1969. A plan is to be considered as having been adopted and approved before July 1, 1969, only if prior to such date the transferor of the property undertook an ascertainable course of conduct which under applicable State law does not require further approval by the board of directors or the stockholders of any corporation. For example, if a corporation transfers property to an employee in connection with the performance of services pursuant to a plan adopted and approved before July 1, 1969, by the board of directors of such corpora-

tion, it is not necessary that the stockholders have adopted or approved such plan if State law does not require such approval. However, such approval is necessary if required by the articles of incorporation or the bylaws or if, by its terms, such plan will not become effective without such approval.

(5) *Certain options granted pursuant to a binding written contract.* Section 83 shall not apply to property transferred before January 1, 1973, upon the exercise of an option granted pursuant to a binding written contract (as defined in subparagraph (2) of this paragraph) entered into before April 22, 1969, between a corporation and the transferor of such property requiring the transferor to grant options to employees of such corporation (or a subsidiary of such corporation) to purchase a determinable number of shares of stock of such corporation, but only if the transferee was an employee of such corporation (or a subsidiary of such corporation) on or before April 22, 1969.

(6) *Certain tax free exchanges.* Section 83 shall not apply to property transferred in exchange for (or pursuant to) the exercise of a conversion privilege contained in property transferred before July 1, 1969, or for property to which section 83 does not apply (by reason of paragraphs (1), (2), (3), or (4) of section 83(i), if section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036)) applies, or if gain or loss is not otherwise required to be recognized upon the exercise of such conversion privilege, and if the property received in such exchange is subject to restrictions and conditions substantially similar to those to which the property given in such exchange was subject.

PAR. 4. Section 1.162-9 is amended to read as follows:

§ 1.162-9 Bonuses to employees.

Bonuses to employees will constitute allowable deductions from gross income when such payments are made in good faith and as additional compensation for the services actually rendered by the employees, provided such payments when added to the stipulated salaries do not exceed a reasonable compensation. It is immaterial whether such bonuses are paid in cash or in property or partly in cash and partly in property. For the rules with respect to when compensation paid in property, and the amount, is included in the gross income of the employees and when it is deductible by employers, see section 83 and the regulations thereunder. Donations made to employees and others, which do not have in them elements of compensation or which are in excess of reasonable compensation for services are not deductible from gross income.

PAR. 5. Paragraph (c) of § 1.162-10 is amended to read as follows:

§ 1.162-10 Certain employee benefits.

(c) *Other plans providing deferred compensation.* For the rules relating to the deduction of amounts paid to or un-

der a stock bonus, pension, annuity, or profit sharing plan or amounts paid or accrued under any other plan deferring the receipt of compensation, see section 404 and the regulations thereunder. For the rules relating to the deduction for property transferred in connection with the performance of services, see section 83(h) and the regulations thereunder.

PAR. 6. Section 1.402(b) is amended to read as follows:

§ 1.402(b) Statutory provisions; taxability of beneficiary of employee's trust, nonexempt trust.

Sec. 402. Taxability of beneficiary of employee's trust. . . .

(b) *Taxability of beneficiary of nonexempt trust.* Contributions to an employee's trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with the performance of services), except that the value of the employee's interest in such trust shall be substituted for the fair market value of the property for purposes of applying such section. The amount actually distributed or made available to any distributee by any such trust shall be taxable to him in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(1) (relating to amount not received as annuities). A beneficiary of any such trust shall not be considered as the owner of any portion of such trust under subpart E of Part I of subchapter J (relating to grantors and others treated as substantial owners).

(Sec. 402(b) as amended by sec. 232(e)(2), Rev. Act 1964 (78 Stat. 111) and sec. 321(b)(1), Tax Reform Act 1969 (83 Stat. 590))

PAR. 7. Section 1.402(b)-1 is amended to read as follows:

§ 1.402(b)-1 Treatment of beneficiary of trust not exempt under section 501(a).

(a) *Taxation by reason of employer contributions made after August 1, 1969.* (1) *Taxation of contributions.* Any contribution (other than a contribution described in paragraph (d)(1)(ii) of this section) made by an employer after August 1, 1969, on behalf of an employee to a trust during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt under section 501(a) shall be included as compensation in the gross income of the employee for his taxable year during which the contribution is made, but only to the extent to which the employee's interest in such contribution is vested at the time the contribution is made.

(2) *Meaning of vested.* An employee's beneficial interest in a contribution or premium is vested for purposes of sections 402(b), 403(c) and 404(a)(5) to the extent such employee's interest in such contribution or premium is transferable (as defined in paragraph (d) of § 1.83-3) or not subject to a substantial

risk of forfeiture (as defined in paragraph (c) of § 1.83-3).

(3) *Determination of amount of employer contributions.* If, for an employee, the actual amount of employer contributions (as defined in subparagraph (1) of this paragraph) for any taxable year are not known, such amount shall be either an amount equal to the excess of—

(i) The amount determined in accordance with the formula described in subparagraph (4) of § 1.403(b)-1(d) as of the end of such taxable year, over

(ii) The amount determined in accordance with the formula described in subparagraph (4) of § 1.403(b)-1(d) as of the end of the prior taxable year,

or the amount determined under any other method utilizing recognized actuarial principles which are consistent with the provisions of the plan under which such contributions are made and the method adopted by the employer for funding the benefits under the plan.

(b) *Taxability of employee when rights under nonexempt trust change from nonvested to vested.* (1) *In general.* If rights of an employee under a trust during a taxable year of the employee (ending after August 1, 1969) which ends within or with a taxable year of the trust for which the trust is not exempt under section 501(a) change from nonvested to vested, the value of the employee's interest in the trust on the date of such change shall, to the extent provided in subparagraph (3) of this paragraph, be included in his gross income for the taxable year. If an employee's rights in a trust which is exempt under section 501(a) are fully vested at a time when such trust ceases to be so exempt, then such employee must include the value of his interest in such trust in his gross income as compensation for his taxable year which ends within or with the taxable year of the trust in which it ceases to be so exempt. However, in such a case the employer shall not be allowed a deduction for any amount previously deductible in any prior taxable year in respect of the employee's interest in the trust.

(2) *Value of an employee's interest in a trust.* (i) For purposes of this section, the term "the value of an employee's interest in a trust", means the amount of the employee's beneficial interest (whether or not vested) in the net fair market value of all the assets in such trust as of any day when such employee's interest in such trust changes from nonvested to vested. The net fair market value of all the assets in a trust is the total amount of the fair market values (determined without regard to any restriction other than a restriction which by its terms will never lapse) of all the assets in the trust less the amount of all the liabilities (including taxes) to which such assets are subject or which such trust has assumed (other than the rights of any employee in such assets), as of any day when an employee's interest in such trust changes from nonvested to vested.

(ii) If a separate account in a trust for the benefit of two or more employees

is not maintained for each employee, the value of an employee's interest in such trust shall be determined in accordance with the formula described in subparagraph (4) of § 1.403(b)-1(d).

(iii) If there is no valuation of a non-exempt trust's assets on the date of the change referred to in subparagraph (1) of this paragraph, the value of an employee's interest in such trust is determined by taking the weighted average of the means between the nearest valuation dates occurring before and after the date of such change. The average is to be weighted inversely by the respective number of days between the valuation dates and the date of such change. The average is to be determined in the manner described in paragraph (b) of § 20.2031-2 of this chapter (the Estate and Gift Tax Regulations).

(3) *Extent to which value of an employee's interest in trust is includable in employee's gross income.* For purposes of subparagraph (1) of this paragraph, there shall be included in the gross income of an employee for his taxable year in which his rights under an employee's trust change from nonvested to vested only an amount equal to the portion of the value of the employee's interest in such trust on the date of such change attributable to contributions made by the employer after August 1, 1969. However, the preceding sentence shall not apply—

(i) To the extent such value is attributable to a contribution made on the date of such change, and

(ii) To the extent such value is attributable to contributions described in paragraph (d)(1)(ii) of this section, relating to contributions made pursuant to a binding written contract entered into before April 22, 1969.

For purposes of this subparagraph, the value of an employee's interest in a trust which is attributable to contributions made by the employer after August 1, 1969, in an amount which bears the same ratio to the value of the employee's interest as the contributions made by the employer after such date bear to the total contributions made by the employer.

(4) *Partial vesting.* If, during any taxable year of an employee, only part of his rights under an employee's trust which is not exempt under section 501(a) changes from nonvested to vested, then only the corresponding part of the value of the employee's interest in such trust is includable in the employee's gross income for such taxable year. In such a case, it is first necessary to compute, under the rules in subparagraphs (1) and (2) of this paragraph the amount which would be includable in the employee's gross income for the taxable year if his interest had changed to a fully vested interest during such year. The amount which is includable in the gross income of the employee for the taxable year in which the change occurs is an amount equal to the amount determined under the preceding sentence multiplied by the percent of the employee's interest which changed to a vested interest during the taxable year.

(5) *Basis.* The basis of an employee's interest in a trust which is not exempt under section 501(a) shall be increased by the amount included in his gross income under this section.

(6) *Treatment as owner of trust.* A beneficiary of an employee's trust shall not be considered to be the owner under subpart E, part I, subchapter J, chapter 1 of the Code of any portion of such trust which is attributable to contributions to such trust made by the employer after August 1, 1969, or to incidental contributions made by the employee after such date. However, where contributions made by the employee are not incidental in relation to contributions made by the employer, such beneficiary shall, if the applicable requirements of such subpart E are satisfied, be considered to be the owner of the portion of the trust which is attributable to contributions made by the employee. For purposes of this subparagraph, contributions made by an employee are not incidental in relation to contributions made by his employer if the employee's total contributions as of any date exceed the employer's contributions as of such date.

(7) *Example.* The provisions in this paragraph may be illustrated by the following example:

Example. M corporation establishes an employee's trust which is not exempt under section 501(a) on January 1, 1968, for A, one of its employees, reserving the right to discontinue contributions at any time. M corporation contributes \$5,000 to the trust on February 1, 1968. At the time of contribution A's rights were 50 percent vested. On January 1, 1971, and January 1, 1974, M corporation makes additional \$5,000 contributions to the trust. A's interest in the trust changed from a 50 percent vested interest to a fully vested interest in the trust on December 31, 1974. The value of the employee's interest in the trust on December 31, 1974, which is attributable to employer contributions made after August 1, 1969, is calculated to be \$11,000 under subparagraph (3) of this paragraph. The amount includable in A's gross income for 1971 and 1974 is computed as follows:

	1971
(i) Amount of M corporation's contribution made on January 1, 1971, to the trust which is includable in A's gross income under subparagraph (1) of this paragraph (50 percent vested interest in the trust times \$5,000 contribution).....	\$2,500
	1974
(i) Amount of M corporation's contribution made on January 1, 1974, to the trust which is includable in A's gross income under subparagraph (1) of this paragraph (50 percent vested interest in the trust times \$5,000 contribution).....	\$2,500
(ii) Amount which would have been includable if A's entire interest had changed to a vested interest (value of employee's interest in the trust attributable to employer contributions made after August 1, 1969)	\$11,000
(iii) Percent of A's interest that changed to vested interest on December 31, 1974.....	50%

(iv) Amount includable in A's gross income for 1974 in respect of his percentage change from a nonvested to vested interest in the trust (50 percent of \$11,000)..... \$5,500
 (v) Total amount includable in A's gross income for 1974 ((i) plus (iv))..... \$8,000

(c) *Taxation of distributions from trust not exempt under section 501(a)*—
 (1) *In general.* Any amount actually distributed or made available to any distributee by an employee's trust which is not exempt under section 501(a) for the taxable year of the trust in which the distribution is made shall be taxable in the year in which so distributed or made available under section 72 (relating to annuities). For taxable years beginning before January 1, 1964, section 72(e)(3) (relating to the treatment of certain lump sums), as in effect before such date, shall not apply to such amounts. For taxable years beginning after December 31, 1963, such amounts may be taken into account in computations under sections 1301 through 1305 (relating to income averaging). If, for example, the distribution from such a trust consists of an annuity contract, the amount of the distribution shall be considered to be the entire value of the contract at the time of distribution, and such value is includible in the gross income of the distributee at the time of the distribution to the extent that such value exceeds the investment in the contract determined by applying sections 72 and 101(b). The distributions by such an employee's trust shall be taxed as provided in section 72 whether or not the employee's rights to the contributions were nonforfeitable (within the meaning of paragraph (d)(2)(i) of this section, relating generally to employer contributions made on or before August 1, 1969) or vested (within the meaning of paragraph (a)(1) of this section) when the contributions were made or at any time thereafter. For rules relating to the treatment of employer contributions to a nonexempt trust as part of the consideration paid by the employee, see section 72(f). For rules relating to the treatment of the limited exclusion allowable under section 101(b)(2)(D) as additional consideration paid by the employee, see the regulations under that section.

(2) *Distributions before annuity starting date.* Any amount distributed or made available to any distributee before the annuity starting date (as defined in section 72(c)(4)) by an employee's trust which is not exempt under section 501(a) for the taxable year of the trust in which the distribution is made shall be treated as being made in the following order—

(i) First, from the employee's nonvested interest in the trust but only to the extent that such a distribution is treated as such under the plan of which such trust is a part,

(ii) Second, from the portion of the employee's vested interest in the trust which has not been previously includible in his gross income, and

(iii) Third, from the portion of the employee's vested interest in the trust

which has been previously includible in his gross income.

(d) *Taxation by reason of employer contributions made on or before August 1, 1969.* (1) Except as provided in section 402(d), any contribution made by an employer on behalf of an employee—

(i) On or before August 1, 1969, or
 (ii) After such date, if pursuant to a binding written contract (as defined in paragraph (b)(2) of § 1.83-8) entered into before April 22, 1969, or pursuant to a written plan in which the employee participated on such date and under which the obligation of the employer is essentially the same as under a binding written contract,

to a trust during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt under section 501(a) shall be included in income of the employee for his taxable year during which the contribution is made if the employee's beneficial interest in the contribution is nonforfeitable at the time the contribution is made. If the employee's beneficial interest in the contribution is forfeitable at the time the contribution is made, even though his interest becomes nonforfeitable later the amount of such contribution is not required to be included in the income of the employee at the time his interest becomes nonforfeitable.

(2) (i) An employee's beneficial interest in the contribution is nonforfeitable within the meaning of sections 402(b), 403(c), and 404(a)(5) prior to the amendments made thereby by the Tax Reform Act of 1969 and section 403(b) at the time the contribution is made if there is no contingency under the plan which may cause the employee to lose his rights in the contribution. Similarly, an employee's rights under an annuity contract purchased for him by his employer change from forfeitable to nonforfeitable rights within the meaning of section 403(d) prior to the repeal thereof by the Tax Reform Act of 1969 at that time when, for the first time, there is no contingency which may cause the employee to lose his rights under the contract. For example, if under the terms of a pension plan, an employee upon termination of his services before the retirement date, whether voluntarily or involuntarily, is entitled to a deferred annuity contract to be purchased with the employer's contributions made on his behalf, or is entitled to annuity payments which the trustee is obligated to make under the terms of the trust instrument based on the contributions made by the employer on his behalf, the employee's beneficial interest in such contributions is nonforfeitable.

(ii) On the other hand, if, under the terms of a pension plan, an employee will lose the right to any annuity purchased from, or to be provided by, contributions made by the employer if his services should be terminated before retirement, his beneficial interest in such contributions is forfeitable.

(iii) The mere fact that an employee may not live to the retirement date, or

may live only a short period after the retirement date, and may not be able to enjoy the receipt of annuity or pension payments, does not make his beneficial interest in the contributions made by the employer on his behalf forfeitable. If the employer's contributions have been irrevocably applied to purchase an annuity for the employee provided only the trustee is obligated to use the employer's contributions to provide an annuity for the employee provided only that the employee is alive on the dates the annuity payments are due, the employee's rights in the employer's contributions are nonforfeitable.

PAR. 8. Section 1.403(c) is amended to read as follows:

§ 1.403(c) *Statutory provisions: taxation of employee annuities, taxability if beneficiary under nonqualified annuity.*

Sec. 403. *Taxation of employee annuities.* . . .

(c) *Taxability of beneficiary under nonqualified annuities or under annuities purchased by exempt organization.* Premiums paid by an employer for an annuity contract which is not subject to subsection (a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of such contract shall be substituted for the fair market value of the property for purposes of applying such section. The preceding sentence shall not apply to that portion of the premiums paid which is excluded from gross income under subsection (b). The amount actually paid or made available to any beneficiary under such contract shall be taxable to him in the year in which so paid or made available under section 72 (relating to annuities).

[Sec. 403(c) as relettered by sec. 23(a) Technical Amendments Act 1958 (72 Stat. 1620), as amended by sec. 232(e)(6), Rev. Act 1964 (78 Stat. 111) and as amended by sec. 321(b)(2) of the Tax Reform Act of 1969 (83 Stat. 571)]

PAR. 9. Section 1.403(c)-1 is amended to read as follows:

§ 1.403(c)-1 *Taxability of beneficiary under a nonqualified annuity.*

(a) *Taxability of vested interest in premiums.* If an employer (whether or not exempt under section 501(a) or 521(a)) purchases an annuity contract (other than an annuity contract described in paragraph (d)(1)(ii) of this section), and if the premiums paid for the contract after August 1, 1969, are not subject to paragraph (a) of § 1.403(a)-1 the amount of such premiums shall, to the extent it is not excludible under paragraph (b) of § 1.403(b)-1, be included as compensation in the gross income of the employee for the taxable year during which such premiums are paid, but only to the extent to which the employee's rights in such premiums are vested at the time the premiums are paid. As to what constitutes vested rights, see paragraph (a)(2) of § 1.402(b)-1. If an employer has purchased annuity contracts and transferred them to a trust for the purpose of providing annuity contracts for his employee, the amount so paid or contributed shall be

treated as a contribution to a trust described in section 402(b). For the rules relating to the taxation of the cost of life insurance protection and the proceeds thereunder, see § 1.72-16.

(b) *Taxability of employee when rights under annuity contract change from nonvested to vested.*—(1) *In general.* If, during a taxable year of an employee ending after August 1, 1969, the rights of such employee under an annuity contract purchased for him by an employer (whether or not exempt under section 501(a) or 521(a)) change from nonvested to vested, the value of the annuity contract on the date of such change shall, to the extent provided in subparagraph (2) of this paragraph, be included in the employee's gross income for such taxable year. The preceding sentence shall not apply, however, to an annuity contract purchased and held as part of a plan which met at the time of such purchase and continues to meet the requirements of section 404(a)(2) or an annuity contract described in paragraph (d)(1)(ii) of this section. For purposes of this section, the value of an annuity contract on the date the employee's rights change from nonvested to vested means the cash surrender value of such contract on such date.

(2) *Extent to which value of annuity contract is includible in employee's gross income.* For purposes of subparagraph (1) of this paragraph, there shall be included in the gross income of an employee for his taxable year in which his rights under an annuity contract change from nonvested to vested only an amount equal to the portion of the value of such contract on the date of such change attributable to premiums which were paid after August 1, 1969, and which are not excludible from the employee's gross income under paragraph (b) of § 1.403(b)-1. However, the preceding sentence shall not apply—

(i) To the extent such value is attributable to a premium paid on the date of such change, and

(ii) To the extent such value is attributable to premiums described in paragraph (d)(1)(ii) of this section, relating to premiums paid pursuant to a binding written contract entered into before April 22, 1969.

The value of such an annuity contract is not includible in the gross income of the employee for the year in which the change occurs to the extent that it is excludible under paragraph (b) of § 1.403(b)-1. See paragraph (b)(2) of § 1.403(b)-1 which provides that the amount otherwise includible in gross income under section 403(c) is considered to be a contribution by the employer for purposes of the exclusion provided in paragraph (b) of § 1.403(b)-1.

(3) *Partial vesting.* If, during any taxable year of an employee, only part of his beneficial interest in an annuity contract changes from a nonvested to a vested interest, then only the corresponding part of the value of the annuity contract on the date of such change is includible in the employee's gross in-

come for such taxable year. In such a case, it is first necessary to compute, under the rules in subparagraphs (1) and (2) of this paragraph but without regard to any exclusion allowable under paragraph (b) of § 1.403(b)-1, the amount which would be includible in the employee's gross income for the taxable year if his entire beneficial interest in the annuity contract had changed to a vested interest during such year. The amount that is includible (without regard to any exclusion allowed by paragraph (b) of § 1.403(b)-1) in the gross income of the employee for the taxable year in which the change occurs is an amount equal to the amount determined under the preceding sentence multiplied by the percent of the employee's beneficial interest which changed to a vested interest during the taxable year. If at the time the employee's interest changes to a vested interest, the employer is an organization described in section 501(c)(3) and exempt from tax under section 501(a), then the amount that is includible in the employee's gross income under this subparagraph is considered as an employer contribution to which the exclusion provided in paragraph (b) of § 1.403(b)-1 applies (see paragraph (b)(2) of § 1.403(b)-1).

(c) *Amounts received or made available under an annuity contract.* The amounts received by or made available to the employee under an annuity contract shall be included in the gross income of the employee for the taxable year in which received or made available, as provided in section 72 (relating to annuities). Such amounts may be taken into account in computations under sections 1301 through 1305 (relating to income averaging). For rules relating to the treatment of employer contributions as part of the consideration paid by the employee, see section 72(f). See also section 101(b)(2)(D) for rules relating to the treatment of the limited exclusion provided thereunder as part of the consideration paid by the employee.

(d) *Taxability of beneficiary under a nonqualified annuity on or before August 1, 1969.* (1) Except as provided in section 402(d), if an employer purchases an annuity contract and if the amounts paid for the contract—

(i) On or before August 1, 1969, or

(ii) After such date, if pursuant to a binding written contract (as defined in paragraph (b)(2) of § 1.83-8) entered into before April 22, 1969, or pursuant to a written plan in which the employee participated on such date and under which the obligation of the employer is essentially the same as under a binding written contract,

are not subject to paragraph (a) of § 1.403(a)-1 or paragraph (a) of § 1.403(b)-1, the amount of such contribution shall, to the extent it is not excludible under paragraph (b) of § 1.403(b)-1, be included in the income of the employee for the taxable year during which such contribution is made if, at the time the contribution is made, the employee's rights under the annuity contract are

nonforfeitable, except for failure to pay future premiums. If the annuity contract was purchased by an employer which is not exempt from tax under section 501(a) or section 521(a), and if the employee's rights under the annuity contract in such a case were forfeitable at the time the employer's contribution was made for the annuity contract, even though they became nonforfeitable later the amount of such contribution is not required to be included in the income of the employee at the time his rights under the contract become nonforfeitable. On the other hand, if the annuity contract is purchased by an employer which is exempt from tax under section 501(a) or section 521(a), all or part of the value of the contract may be includible in his employee's gross income at the time his rights under the contract become nonforfeitable (see section 403(d) prior to the repeal thereof by the Tax Reform Act of 1969 and the regulations thereunder). As to what constitutes nonforfeitable rights of an employee, see § 1.402(b)-1(d)(2). The amounts received by or made available to the employee under the annuity contract shall be included in the gross income of the employee for the taxable year in which received or made available, as provided in section 72 (relating to annuities). For taxable years beginning before January 1, 1964, section 72(e)(3) (relating to the treatment of certain lump sums), as in effect before such date, shall not apply to such amounts. For taxable years beginning after December 31, 1963, such amounts may be taken into account in computations under sections 1301 through 1305 (relating to income averaging). For rules relating to the treatment of employer contributions as part of the consideration paid by the employee, see section 72(f). See also section 101(b)(2)(D) for rules relating to the treatment of the limited exclusion provided thereunder as part of the consideration paid by the employee.

(2) If an employer has purchased annuity contracts and transferred them to a trust, or if an employer has made contributions to a trust for the purpose of providing annuity contracts for his employees as provided in section 402(d) (see paragraph (a) of § 1.402(d)-1), the amount so paid or contributed is not required to be included in the income of the employee, but any amount received by or made available to the employee under the annuity contract shall be includible in the gross income of the employee for the taxable year in which received or made available, as provided in section 72 (relating to annuities). For taxable years beginning before January 1, 1964, section 72(e)(3) (relating to the treatment of certain lump sums), as in effect before such date, shall not apply to any amount received by or made available to the employee under the annuity contract. For taxable years beginning after December 31, 1963, amounts received by or made available to the employee under the annuity contract may be taken into account in computations under sections 1301 through 1305 (relating to income

averaging). In such case the amount paid or contributed by the employer shall not constitute consideration paid by the employees for such annuity contract in determining the amount of annuity payments required to be included in his gross income under section 72 unless the employee has paid income tax for any taxable year beginning before January 1, 1949, with respect to such payment or contribution by the employer for such year and such tax is not credited or refunded to the employee. In the event such tax has been paid and not credited or refunded the amount paid or contributed by the employer for such year shall constitute consideration paid by the employee for the annuity contract in determining the amount of the annuity required to be included in the income of the employee under section 72.

(3) For taxable years beginning before January 1, 1958, the provisions contained in section 403(c) prior to the amendment made thereby by the Tax Reform Act of 1969, were included in section 403(b) of the Internal Revenue Code of 1954. Therefore, the regulations contained in this paragraph shall, for such taxable years, be considered as the regulations under section 403(b) as in effect for such taxable years. For the rules with respect to contributions paid after August 1, 1969, see paragraphs (a), (b), and (c) of this section.

PAR. 10. Section 1.403(d) is amended by revising the historical note to read as follows:

§ 1.403(d) Statutory provisions: taxation of employee annuities; taxability of beneficiary under certain forfeitable contracts furnished by exempt organizations.

(Sec. 403(d) as added by sec. 23(c), Technical Amendments Act of 1968 (72 Stat. 1622) and repealed by sec. 321(b)(2) of the Tax Reform Act of 1969 (83 Stat. 571))

PAR. 11. Section 1.403(d)-1 is amended by revising paragraphs (a) and (c) (2) and adding paragraph (d) to read as follows:

§ 1.403(d)-1 Taxability of employee when rights under contracts purchased by exempt organizations change from forfeitable to nonforfeitable.

(a) In general. If, during a taxable year of an employee beginning after December 31, 1957, the rights of such employee under an annuity contract (other than an annuity contract purchased and held as part of a plan which met at the time of such purchase and continues to meet the requirements of section 404(a)(2) or an annuity contract described in paragraph (d)(2) of this section) purchased for him by an employer which is exempt from tax under section 501(a) or 521(a) change from forfeitable to nonforfeitable rights (except if paragraph (b) of § 1.403(c)-1 applied), then the value of such annuity contract on the date of such change shall, to the extent provided in paragraph (b) of this section, be included in the employee's gross income for such

taxable year. For purposes of this section, the value of an annuity contract on the date the employee's rights change from forfeitable to nonforfeitable rights means the cash surrender value of such contract on such date. As to what constitutes nonforfeitable rights of an employee, see § 1.402(b)-1(d)(2).

(c) Partial vesting. . . .
(2) Example. The provisions in subparagraph (1) of this paragraph may be illustrated by the following example:

Example. X Organization purchased an annuity contract for A, one of its employees who reports his income on a calendar year basis. X contributed one-third of the amount necessary to purchase the contract before January 1, 1958, and the remaining two-thirds after December 31, 1957. At the time of the contributions, X was an organization exempt from tax under section 501(a) and A's rights under the contract were forfeitable. The annuity contract was not purchased as part of a qualified plan and A made no contributions toward the purchase of the contract. On December 31, 1965, 50 percent of A's interest in the contract changed from a forfeitable to a nonforfeitable interest, and on December 31, 1968, the remaining 50 percent of A's interest in the contract changed to a nonforfeitable interest. The cash surrender value of the contract was \$9,900 on December 31, 1965, and \$12,000 on December 31, 1968. The amount includible in A's gross income for 1965 and 1968 is computed as follows—

	1965	
(i) Amount which would have been includible if A's entire interest had changed to a nonforfeitable interest (cash surrender value of contract on December 31, 1965, attributable to contributions made after December 31, 1957) $\frac{2}{3} \times \$9,900$	\$6,600	
(ii) Percent of A's interest that changed to a nonforfeitable interest on December 31, 1965	50%	
(iii) Amount includible in A's gross income for 1965 (ii) \times (i)	\$3,300	
	1968	
(iv) Amount which would have been includible if A's entire interest had changed to a nonforfeitable interest (cash surrender value of contract on December 31, 1968, attributable to contributions made after December 31, 1957) $\frac{2}{3} \times \$12,000$	\$8,000	
(v) Percent of A's interest that changed to a nonforfeitable interest on December 31, 1968	50%	
(vi) Amount includible in A's gross income for 1968 (v) \times (iv)	\$4,000	

If, on December 31, 1965, X is an organization described in section 501(c)(3) and exempt from tax under section 501(a), then only so much of the \$3,300 as is not excludable under paragraph (b) of § 1.403(b)-1 is includible in A's gross income for 1965. Similarly, if, on December 31, 1968, X is an organization described in section 501(c)(3) and exempt from tax under section 501(a), then only so much of the \$4,000 as is not excludable under paragraph (b) of § 1.403(b)-1 is includible in A's gross income for 1968.

(d) Effective date. The provisions of section 403(d), repealed by section 321(b) of the Tax Reform Act of 1969 (83 Stat. 571), applied for taxable years beginning after December 31, 1957, only with respect to premiums paid for an annuity contract—

(1) On or before August 1, 1969, or
(2) After such date, if pursuant to a binding written contract (as defined in paragraph (b)(2) of § 1.83-8) entered into before April 22, 1969, or pursuant to a written plan in which the employee participated on such date and under which the obligation of the employer is essentially the same as under a binding written contract.

For the rules with respect to premiums paid after August 1, 1969, under an annuity contract (other than an annuity contract purchased and held as part of a plan which met at the time of such purchase and continues to meet the requirements of section 404(a)(2) or an annuity contract described in subparagraph (2) of this paragraph), purchased for an employee by an employer which is exempt from tax under section 501(a) or 521(a), see section 403(c) and the regulations thereunder.

PAR. 12. Paragraph (5) of § 1.404(a) is amended to read as follows:

§ 1.404(a) Statutory: deductions for contributions of an employee's trust or annuity plan and compensation under a deferred-payment plan; general rule.

Sec. 404. Deduction for contribution of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan—(a) General rule. . . .

(5) Other plans. If the plan is not one included in paragraph (1), (2), or (3), in the taxable year in which an amount attributable to the contribution is includible in the gross income of employees participating in the plan, but, in the case of a plan in which more than one employee participates only if separate accounts are maintained for each employee.

(Sec. 404(a) as amended by sec. 24, Technical Amendments Act 1958 (72 Stat. 1623); sec. 3, Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 819); sec. 2(b), Act of Oct. 23, 1962 (Public Law 87-863, 76 Stat. 1141); sec. 321(b)(3), Tax Reform Act 1969 (83 Stat. 591))

PAR. 13. Section 1.404(a)-12 is amended to read as follows:

§ 1.404(a)-12 Contributions of an employer under a plan that does not meet the requirements of section 401(a); application of section 404(a)(5).

(a) In general. Section 404(a)(5) covers all cases for which deductions are allowable under section 404(a) but not allowable under paragraph (1), (2), (3), (4), or (7) of such section.

(b) Contributions or payments made or accrued after August 1, 1969—(1) In general. No deduction is allowable under section 404(a)(5) for any contribution paid or accrued after August 1, 1969, by an employer under a stock bonus, pension, profit-sharing, or annuity plan or for any compensation paid or accrued on account of any employee under a plan deferring the receipt of such compensation except in the taxable year in which an amount attributable to such contribution is includible as compensation in the

gross income of the employees participating in the plan, and then only to the extent allowable under section 404(a). See § 1.404(a)-1. A deduction is allowable under section 404(a)(5) even though the employee or his beneficiary excludes any part of a contribution or payment from his gross income under section 101(b) or subchapter N.

(2) Special rule for unfunded pensions and certain death benefits. If unfunded pensions are paid directly to former employees, such payments are includible in their gross income when paid, and accordingly, such amounts are deductible under section 404(a)(5) when paid. Similarly, if amounts are paid as a death benefit to the beneficiaries of an employee (for example, by continuing his salary for a reasonable period), and if such amounts meet the requirements of section 162 or 212, such amounts are deductible under section 404(a)(5) in any case when they are not deductible under the other paragraphs of section 404(a).

(3) Separate accounts for plans with more than one employee. In the case of a plan under which more than one employee participates no deduction is allowable under section 404(a)(5) with respect to any contribution meeting the requirements of subparagraph (1) of this paragraph unless separate accounts are maintained for each employee. This requirement does not apply to unfunded pensions. In addition, the requirement of separation is deemed satisfied even if separate trusts are not maintained under the plan, but only if the trust instrument provides for the allocation of each contribution made to the trust to each employee participating in the plan. If an amount is contributed during the taxable year to a trust or under a plan where separate accounts are not maintained for each employee, no deduction is allowed for such amount for any taxable year. For the rules with respect to the taxability of an employee when rights under a nonexempt trust change from nonvested to vested, see paragraph (b) of § 1.402(b)-1.

(c) Contributions paid or accrued on or before August 1, 1969. No deduction is allowable under section 404(a)(5) for any contribution paid or accrued on or before August 1, 1969, by an employer under a stock bonus, pension, profit-sharing, or annuity plan, or for any compensation paid or accrued on account of any employee under a plan deferring the receipt of such compensation except in the year when paid, and then only to the extent allowable under section 404(a). See § 1.404(a)-1. If payments are made under such a plan and the amounts are not deductible under the other paragraphs of section 404(a), they are deductible under paragraph (5) of such subsection to the extent that the rights of individual employees to, or derived from, such employer's contribution or such compensation are nonforfeitable at the time the contribution or compensation is paid. If unfunded pensions are paid directly to former employees, their

rights to such payments are nonforfeitable, and accordingly, such amounts are deductible under section 404(a)(5) when paid. Similarly, if amounts are paid as a death benefit to the beneficiaries of an employee (for example, by continuing his salary for a reasonable period), and if such amounts meet the requirements of section 162 or 212, such amounts are deductible under section 404(a)(5) in any case where they are not deductible under the other paragraphs of section 404(a). As to what constitutes nonforfeitable rights of an employee in other cases, see § 1.402(b)-1(d)(2). If an amount is accrued but not paid during the taxable year, no deduction is allowed for such amount for such year.

PAR. 14. Paragraph (a)(2) of § 1.421-6 is amended to read as follows:

§ 1.421-6 Options to which section 421 does not apply.

(a) Scope of section. . . .

(2) This section is applicable to options granted on or after February 26, 1945, and before July 1, 1969 (except to the extent that paragraph (b) of § 1.83-8 applies), except that this section is not applicable to—

(i) Property transferred pursuant to an option exercised before September 25, 1959, if the property is transferred subject to a restriction which has a significant effect on its value, or

(ii) Property transferred pursuant to an option granted before September 25, 1959, and exercised on or after such date, if, under the terms of the contract granting such option, the property to be transferred upon the exercise of the option is to be subject to a restriction which has a significant effect on its value and if such property is actually transferred subject to such restriction. However, if an option granted before September 25, 1959, and on or after February 26, 1945, is sold or otherwise disposed of before exercise, the provisions of this section shall be fully applicable to such disposition.

PAR. 15. Paragraph (b)(1) of § 1.721-1 is amended to read as follows:

§ 1.721-1 Nonrecognition of gain or loss on contributions.

(b) (1) Normally, under local law, each partner is entitled to be repaid his contributions of money or other property to the partnership (at the value placed upon such property by the partnership at the time of the contribution) whether made at the formation of the partnership or subsequent thereto. To the extent that any of the partners gives up any part of his right to be repaid his contributions (as distinguished from a share in partnership profits) in favor of another partner as compensation (or in satisfaction of an obligation), section 721 does not apply. The transfer of such a partnership interest transferred to a partner as compensation constitutes income to the partner as follows:

(i) If the partnership interest is transferred after June 30, 1969 (except to the extent paragraph (b) of § 1.83-8 applies), then the transfer of such interest in partnership capital shall be treated as a transfer of property to which section 83 and the regulations thereunder applies.

(ii) If the partnership interest is transferred on or before June 30, 1969, then the value of the interest in such partnership capital so transferred to a partner as compensation for services shall constitute income to the partner under section 61. The amount of such income is the fair market value of the interest in capital so transferred, either at the time the transfer is made for past services, or at the time the services have been rendered where the transfer is conditioned on the completion of the transferee's future services. The time when such income is realized depends on all the facts and circumstances, including any substantial restrictions or conditions on the compensated partner's right to withdraw or otherwise dispose of such interest. To the extent that an interest in capital representing compensation for services rendered by the decedent prior to his death is transferred after his death to the decedent's successor in interest, the fair market value of such interest is an item of income in respect of a decedent under section 691.

[FR Doc. 71-7510 Filed 6-2-71; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 71-47]

NORTH RIVER, MASS.

Drawbridge Operation

The Coast Guard is considering revising the regulations for the Massachusetts State 3A bridge across the North River, to allow the draw to be maintained in the closed position. The reason for this consideration is the infrequent openings for the passage of vessels (41 over the past 6 years).

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, First Coast Guard District, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203. Each person submitting comments should include his name and address, identifying the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, First Coast Guard District.

The Commander, First Coast Guard District, will forward any comments received before July 9, 1971, with his recommendations to the Chief, Office of

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Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

Accordingly, it is proposed that Part 117 of 33 CFR be amended by revising § 117.77 to read as follows:

§ 117.77 North River, Massachusetts Route 3A bridge.

The draw need not open for the passage of vessels.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: May 28, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-7720 Filed 6-2-71; 8:52 am]

[33 CFR Part 117]

[CGFR 71-49]

SOUTH RIVER, MD.
Drawbridge Operation

The Coast Guard is considering amending the regulations for the Maryland Route 2 drawbridge across South River at Edgewater, Md., to allow the draw to remain closed from April 1 through November 30, Monday through Friday, except holidays, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m. The proposal would add these closed periods to the present regulations set forth in § 117.245(f) (10). The increased flow of vehicular traffic during this period is the reason for this consideration.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name and address, identifying the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District, will forward any comments received before July 9, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

Accordingly, it is proposed that Part 117 be amended by revising § 117.245 (f) (10) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(f)
(10) South River, Md., Md. Route 2 bridge at Edgewater. From April 1 through November 30, the draw shall open on signal, except that from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m., Monday through Friday, except holidays, the draw need not open for the passage of vessels. From December 1 through March 31, from 10 a.m. Monday through 7:30 p.m. Friday, the draw shall open promptly on signal if at least 3 hours notice has been given from 7 a.m. to 4:30 p.m. Monday through Friday. From 7:30 p.m. Friday through 10 a.m. Monday the draw shall open on signal if notice has been given from 7 a.m. to 4:30 p.m., Monday through Friday.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: May 28, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-7722 Filed 6-2-71; 8:52 am]

[33 CFR Part 117]

[CGFR 70-144]

OKLAWAHA RIVER, FLA.
Drawbridge Operation

The Coast Guard is considering amending the regulations for drawbridges across the Oklawaha River to include the Marion County drawbridge near Sharpes Ferry and the Norris Cattle Co. drawbridge near Muclan Farms, Ocala. These two bridges are presently required to open on signal at all times. All other drawbridges across the Oklawaha River are required to open on signal from 7 a.m. to 7 p.m., and from 7 p.m. to 7 a.m. after at least 3 hours' notice. This change is being considered because of the infrequent openings required for the Marion County and Norris Cattle Co. bridges from 7 p.m. to 7 a.m.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Seventh Coast Guard District, Room 1018, Federal Building, 51 Southwest First Avenue, Miami, FL 33130. Each person submitting comments should include his name and address, identifying the bridge, and give

reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before July 9, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

Accordingly, it is proposed to amend Part 117 of Title 33 by revising the heading and paragraphs (a) and (c) of § 117.434 to read as follows:

§ 117.434 Oklawaha River, Haines Creek and Dead River, Fla.

(a) Bridges across Oklawaha River and Haines Creek. From 7 a.m. to 7 p.m. the draws shall open on signal. From 7 p.m. to 7 a.m. the draws shall open on signal if at least 3 hours' notice has been given.

(c) The owner of or agency controlling a bridge in this section shall post the procedures for giving notice to open the draw from 7 p.m. to 7 a.m. on both the upstream and downstream sides of the bridge, in such a manner that they can be read at any time from an approaching vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: May 28, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-7721 Filed 6-2-71; 8:52 am]

[33 CFR Part 117]

[CGFR 71-48]

DODGE ISLAND, BISCAYNE BAY, FLA.
Drawbridge Operation

The Coast Guard is considering amending the regulations for the drawbridges across Biscayne Bay from Miami to the west side of the Port of Miami on Dodge Island to allow the draws to remain closed to marine traffic from 7:30 a.m. to 9 a.m., 11:30 a.m. to 1:30 p.m., and 4:30 p.m. to 6 p.m. Monday through Saturday, excluding legal holidays, except on the quarter-hour and three-quarter hour when the draws shall open to allow vessels to pass. Public vessels of the United States, commercial tows, regularly scheduled cruise boats and vessels in distress shall be passed at any time.

Present regulations require that the draws of these bridges open on signal. This proposal is made in an effort to alleviate vehicular congestions.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Seventh Coast Guard District, Room 1018 Federal Building, 51 Southwest First Avenue, Miami, FL 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before July 9, 1971, with his recommendations to the Chief, Office of Operations, who will consider the proposal and all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

Accordingly, it is proposed that Part 117 be amended by adding § 117.446f to read as follows:

§ 117.446f Dodge Island bridges.

(a) Except as provided in paragraphs (b) and (c) of this section the draws shall open on signal for the passage of vessels.

(b) From 7:30 a.m. to 9 a.m., 11:30 a.m. to 1:30 p.m., and 4:30 p.m. to 6 p.m., Monday through Saturday except legal holidays, the draws need open only on the quarter- and three-quarter hour.

(c) The draws shall open on four blasts of a whistle at any time for the passage of public vessels of the United States, commercial tows, regularly scheduled cruise boats, or vessels in distress.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: May 28, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-7719 Filed 6-2-71; 8:51 am]

Federal Aviation Administration
[14 CFR Part 39]

[Docket No. 71-CE-13-AD]

CESSNA 150, 172, 175, AND 182
AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive applicable to Cessna Models 150, 172, 175, and 182 airplanes. There have been an increasing number of reports of nose gear fork failures on these model airplanes caused

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by severe nose wheel shimmy and/or hard landings. This situation results in extensive damage to the airframe structure and exposes the occupants to an unnecessary risk. Agency investigation of this problem discloses that failures of the nose gear unit occur between 1,000 and 2,300 hours' time in service.

In order to prevent this condition an AD is being proposed requiring repetitive inspections of early type nose gear forks which have accumulated 1,000 hours' time in service and the retirement thereof upon reaching 1,500 hours' time in service. Airplanes with nose gear fork P/N 0442503-497, 0543043-497, or 0543043-498 installed will not be affected by this AD.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Docket Number and be submitted in duplicate to the Director, Central Region, Attention: Regional Counsel, Airworthiness Rules Docket, 601 East 12th Street, Kansas City, MO 64106. All communications received within 30 days after publication of the notice in the FEDERAL REGISTER will be considered before action is taken upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available; both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new AD.

CESSNA. Applies to Models 150, 172, 175, and 182 airplanes with 1,000 or more hours' time in service with earlier type nose gear fork installed but does not include the above model airplanes with nose gear fork bearing P/Ns 0442503-497, 0543043-497, or 0543043-498 installed.

Compliance: Required as indicated, unless already accomplished.
To decrease the possibility of failure of the nose gear structure:

(A) On or before September 1, 1971, and thereafter at intervals not to exceed 100 hours' time in service from the date of the previous inspection, or at any time following severe nose wheel shimmy and/or hard landings, inspect the nose gear fork for cracks in the radius of the milled section of the nose gear strut attachment bolt using the dye penetrant inspection or equivalent non-destructive inspection method.

(B) If cracks are found during the inspections required by paragraph A, before further flight, replace the affected part with applicable nose gear fork P/N 0442503-497, 0543043-497, or 0543043-498.

(C) Upon accumulation of 1,500 hours' total time in service replace earlier type forks with applicable nose gear fork P/N 0442503-497, 0543043-497, or 0543043-498.

(D) Upon incorporation of the applicable nose gear fork P/N 0442503-497, 0543043-497, or 0543043-498, compliance with the provisions of paragraph A are no longer required. Cessna Service Letter 63-31 dated July 16, 1963, pertains to this same subject.

This amendment is proposed under the authority of sections 313(a), 601 and 603

of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 19, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-7690 Filed 6-2-71; 8:49 am]

[14 CFR Part 47]

[Docket No. 11113; Notice 71-17]

AVAILABILITY OF ONE TO THREE
SYMBOL AIRCRAFT IDENTIFICATION
NUMBERS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 47 of the Federal Aviation Regulations to remove the regulatory restrictions on the assignment and reservation of one to three symbol aircraft identification numbers.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20590. All communications received on or before July 5, 1971, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 47.15(d) provides, in part, that each United States aircraft identification number (registration mark) of one to three symbols is reserved for an FAA owned aircraft, or for an aircraft that cannot accommodate a larger number. In the latter case, under paragraph (e) of this section an applicant for a one to three symbol number must submit with his application a statement of an FAA inspector that the structural configuration or design of the aircraft prevents the placing of a number of more than three symbols on the fuselage or vertical tail surface.

Paragraph (g) of § 47.15, as amended by Amendment 47-8 issued 16 July 1969 (34 F.R. 12214), provides that the owner of an aircraft need not surrender a one to three symbol aircraft identification number assigned to his aircraft. The purpose of that amendment was to allow the transfer or reservation of an assigned one to three symbol number at the request of the current owner (previously, only the person to whom the aircraft was registered on 18 August 1964), regardless of when the aircraft was registered in his name, and to allow him to apply either for reassignment of the number to

another aircraft he owns or for reservation of the number for later assignment. By its terms, this relaxatory provision was not applicable to one to three symbol numbers assigned in accordance with paragraph (e) of § 47.15. An aircraft owner would have no future need for such a number unless he should later acquire an aircraft meeting the structural configuration or design requirement of § 47.15(e)—in which case § 47.15(e) again would be available to him. Thus, paragraph (g) is applicable to situations where one to three symbol numbers have been assigned pursuant to petitions for exemption based upon reasons other than the one applicable under § 47.15(e). Twelve of these petitions for exemption were processed by the FAA during the period 1 July 1968 through 30 June 1970.

It is now proposed to remove the restrictions on the assignment and reservation of one to three symbol aircraft identification numbers stated in § 47.15(e). As to aircraft owned by the FAA, its fleet is fairly constant in number, and in practice the Aircraft Registry assigns a larger number to an aircraft before the FAA disposes of it, thereby retaining the small number for later assignment. Also, without a regulatory provision the FAA could, like others, reserve some unassigned small numbers for its future needs, and it is anticipated that this would be done as to a moderate supply. Accordingly, further reservation of numbers for FAA aircraft by regulatory provisions is not now considered necessary, and removal of this rule should not affect the future assignment of small numbers of those aircraft. Furthermore, the FAA and the public have had an undue burden attendant upon processing requests for assignment of one to three symbol numbers under § 47.15(e), as well as in processing a substantial number of petitions for exemption. Finally removing the special rules on the assignment or reservation of one to three symbol numbers would not have an adverse effect on owners of small aircraft, since § 45.29(f) provides relief as to the size of required marks for small surfaces.

The FAA contemplates that after issuance of the proposed amendments as a final rule it would release one to three symbol aircraft identification numbers on a "first come, first served" basis. Each assignment or reservation of one of these numbers would require payment of the \$10 fee for a special identification number.

In consideration of the foregoing, it is proposed to strike out paragraphs (e) and (g) of § 47.15 of the Federal Aviation Regulations, and to amend paragraph (d) of that section to read as follows:

§ 47.15 Identification number.

(d) Any unassigned U.S. identification number may be assigned as a special identification number. An applicant who wants a special identification number or who wants to change the identification number of his aircraft may apply for it to

the FAA Aircraft Registry. The fee required by § 47.17 must accompany the application.

These amendments are proposed under the authority of sections 307(c) and 313(a), and Title V of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1401 et seq.); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and § 1.47(a) of the Regulations of the Office of the Secretary of Transportation.

Issued in Oklahoma City, Okla., on May 20, 1971.

A. L. COULTER,
Director, Aeronautical Center.
[FR Doc. 71-7691 Filed 6-2-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-88]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Dothan, Ala., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Dothan transition area described in § 71.181 (36 F.R. 2140) would be amended as follows: " . . . Dothan VORTAC 350° radial . . . " would be deleted and " . . . Dothan VORTAC 350° radial; within a 6.5-mile radius of Wheelless Airport (lat. 31°13'35" N., long. 85°29'30" W.); excluding the portion northwest of Dothan VOR 237° radial . . . " would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Wheelless Airport. A prescribed instrument approach pro-

cedure to this airport, utilizing the Dothan VOR, is proposed in conjunction with the alteration of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on May 24, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.
[FR Doc. 71-7692 Filed 6-2-71; 8:49 am]

Federal Highway Administration

[49 CFR Part 395]

[Docket No. MC-27; Notice No. 71-8]

DRIVER'S LOG

Use of Old Forms

The Director of the Bureau of Motor Carrier Safety proposes to delete from § 395.8 of the Motor Carrier Safety Regulations (49 CFR 395.8) the provision which authorizes carriers and their drivers to use forms other than Form MCS-59 for the purpose of preparing required drivers logs.

Under the proposal, the last sentence of the first paragraph of the note at the end of § 395.8 would be deleted. That sentence provides as follows: "Stocks of logs in the possession of carriers or their suppliers as of the effective date of these regulations may be used, provided the information required by these regulations is entered thereon." The purpose of that provision, when it was originally adopted, was to avoid hardship during the period of transition to the general use of the form of driver's daily log found in § 395.8. Its objective was to permit carriers to exhaust stocks of existing forms which were in their possession or in the inventories of their suppliers at the time the new form was adopted. It is now more than 3 years since the date the revised form was adopted, and carriers have had ample time to exhaust stocks of old forms on hand as of that date.

It has come to the attention of the Director, however, that some carriers have misinterpreted the note to permit them to continue the use of a form of driver's log other than the prescribed Form MCS-59 and to reorder and reprint old forms so long as those forms were in use at the time the new form was prescribed. This indicates that the sentence quoted above not only has no further useful purpose but also may be misleading some persons into inadvertent violations of the law. For this reason, the Director proposes to delete it.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposal. Comments must identify the docket and notice number set forth above and must be submitted to the Director, Bureau of Motor Carrier Safety, Washington, D.C.

20591. All comments received before the close of business on August 1, 1971 will be considered before further action is taken on the proposal. All comments will be available for examination in the docket in Room 4134, 400 Seventh Street SW., Washington, DC before and after the closing date for comments.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority in 49 CFR 1.48 and 389.4.

Issued on May 25, 1971.

KENNETH L. PIERSON,
Acting Director,
Bureau of Motor Carrier Safety.
[FR Doc. 71-7693 Filed 6-2-71; 8:49 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 249, 371]

[Docket No. 23442; EDR-202, SPDR-23]

UNIFORM REPORTING OF CONSUMER COMPLAINT STATISTICS AND RETENTION OF DATA

Notice of Proposed Rule Making

MAY 27, 1971.

Notice is hereby given that the Civil Aeronautics Board has under consideration the enactment of a new Part 371 (14 CFR Part 371) of the special regulations, and the amendment of Part 249 (14 CFR Part 249) of the economic regulations, to establish uniform reporting of statistics with regard to consumer complaints received by air carriers, and to provide for the retention of data used in the preparation of the reports. The uniform reporting would be designed to enable the Board, the carriers, and other interested persons and groups to keep informed of trends in consumer complaints, to become aware of problem areas, and to compare the experiences of individual carriers in a meaningful way.

The background of the proposed part is described in the explanatory statement below and the proposed new part as well as the proposed amendment to Part 249 are set forth in the proposed rule below. The new part and the amendment to Part 249 are proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before July 6, 1971, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in

the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

Explanatory statement. On October 28, 1969, the Director of the Board's Bureau of Enforcement sent a letter to the certificated direct air carriers located in the continental United States requesting specific statistics regarding consumer complaints received by the carriers during the 12-month period ending June 30, 1969, along with information as to the customer relations organizations of the carriers, the carriers' handling and use of complaints, and the aspects of the carriers' operations which were the source of the greatest number of complaints.

While all carriers provided the requested information, some objected to making the statistics available to the public. They pointed out that the carriers vary in their methods of compiling complaint records, and that some carriers actively solicit passenger complaints while others do not. Thus it was argued that attempts to compare the complaint records of various carriers upon the basis of these statistics could result in misleading and unfair conclusions. Accordingly, it was urged by some carriers that the reports be withheld from public disclosure until a uniform method of maintaining and reporting the data could be adopted. The Board, however, determined that the two carriers who formally requested that the information be withheld from public disclosure had failed to establish that such disclosure would adversely affect their interests, and the Board concluded that withholding of the information would not be in the public interest.²

We recognize that the consumer complaint statistics would be more meaningful if the data were compiled and reported on a uniform basis, and this notice proposes a quarterly reporting form which would accomplish that purpose.

In addition to the information which would be required on the report form, it is proposed to require each carrier to report any significant changes or improvements in its customer relations organization, its handling and use of the complaints, and in problem areas of the carrier's operations which give rise to the most complaints.

We believe that uniformity of reporting complaint statistics, together with other information which would be required, should give the Board more adequate and complete information as to the type of problems travelers are experiencing. We regard such information to be particularly important in the area

¹ This request for information was intended to update a consumer complaint survey which was completed in September 1967, and released to the public on Feb. 2, 1970. The updated information was released on Dec. 22, 1970.

² Order 70-12-17, Dec. 3, 1970.

of baggage complaints. Baggage difficulties, such as loss, theft, damage, or delay, appear to constitute a high proportion of the problems encountered by air travelers, and we believe that we require more complete data as to this problem than is presently available.

For this reason, the proposed report form would require that baggage complaints be reported in somewhat greater detail than other complaints. As to the categories of complaints other than baggage, subcategories illustrative of the items which should be included in each proposed report form category are listed in Appendix B. Should the comments filed in response to this notice, or future experience with the reporting system, indicate a need for more detailed reporting of the categories other than baggage, the subcategories presently listed in Appendix B could be written into the report form.

We believe that uniformity in reporting consumer complaint statistics would benefit the carriers by pinpointing areas where remedial action should be taken and by providing meaningful comparisons between their own complaint records and those of other carriers. Additionally, such reporting would be in accord with the general policy of recognizing the importance of providing information to consumers.

Although the original survey, as well as the updated information, encompassed only the scheduled route carriers located in the continental United States, the increased number of complaints against other segments of the industry suggests a need for obtaining similar information from all-cargo carriers, supplemental air carriers, and indirect air carriers insofar as they are located in the continental United States. The categories which would apply to these classes of carriers are indicated in the proposed rule.

Additionally, it is proposed to amend Part 249 of the economic regulations so as to require that the data used in preparing the consumer complaint reports be retained by the carrier for a period of 1 year after the report is filed with the Board.

It is proposed to make the first quarterly report due by October 30, 1971.

Proposed rule. I. It is proposed to amend Part 249 of the economic regulations as follows:

1. Amend § 249.8 as follows:

§ 249.8 Period of preservation of records by supplemental carriers.

Category of records	Period to be retained
15. All written complaints and memoranda and records pertaining thereto, regarding which reports are required to be filed pursuant to Part 371 of the special regulations.	1 year after filing of report with the Board.

2. Amend § 249.13(f) as follows:

§ 249.13 Period of preservation of records by certificated route air carriers.

(f)

SCHEDULE OF RECORDS

Category of records	Period to be retained	Microfilm indicator
305. All written complaints, and memoranda, and records pertaining thereto, regarding which reports are required to be filed pursuant to Part 371 of the special regulations.	1 year after filing of report with the Board.	...

3. Amend § 249.27 as follows:

§ 249.27 Prescribed periods of retention.

SCHEDULE OF RECORDS

Item number and category of records	Retention periods	Microfilm indicator (§ 249.23)
...
K. MISCELLANEOUS	...	...
5. All written complaints, and memoranda, and records pertaining thereto, regarding which reports are required to be filed pursuant to Part 371 of the special regulations.	1 year after filing of report with the Board.	...

II. It is proposed to add a new Part 371 of the special regulations to read as follows:

PART 371—UNIFORM REPORTING OF CONSUMER COMPLAINT STATISTICS

- Sec.
- 371.1 Definitions.
- 371.2 Applicability of CAB Form 371 filing requirements.
- 371.3 Other information required.
- 371.4 Extension of filing time.
- 371.5 Certification.
- 371.6 Examination by interested persons.
- 371.7 Report form.

§ 371.1 Definitions.

As used in this part, unless the context otherwise requires:

"Complaint" means a written comment from a member of the public, received by any employee of the carrier, expressing dissatisfaction with any aspect of carrier service or operations which are outlined in Appendix B of this part. Complaints received on comment forms placed on the aircraft by the carrier shall be identified as indicated on the report form.

"Direct air carrier" means any combination route air carrier which engages directly in the operation of aircraft, pur-

suant to a certificate of public convenience and necessity issued under section 401 of the Act.

"Indirect air carrier" means any citizen of the United States, as defined in section 1(13) of the Act, which engages indirectly in interstate air transportation of property only, and which does not engage directly in the operation of aircraft in air transportation.

"Supplemental air carrier" means any air carrier which engages in the operation of aircraft pursuant to a certificate issued under section 401(d)(3) of the Act, or a special operating authorization issued under section 417 of the Act.

"All-cargo carrier" means an air carrier which engages directly in the operation of aircraft, pursuant to a certificate of public convenience and necessity issued under section 401 of the Act, and which is thereby authorized to carry property only or property and mail only.

§ 371.2 Applicability of CAB Form 371 filing requirements.

(a) This part applies to all direct air carriers, indirect air carriers, supplemental air carriers and all-cargo carriers, as defined in § 371.1.

(b) VAB Form 371, entitled "Report of Consumer Complaint Statistics" shall be filed quarterly. The report shall be completed in triplicate and addressed to the Civil Aeronautics Board, Washington, D.C. 20428, Attention: Bureau of Accounts and Statistics. It shall be filed so as to be received by the Civil Aeronautics Board not later than 30 days after the termination of each reporting period.

(c) Direct air carriers shall report on all categories on the report form CAB Form 371, entitled, "Report of Consumer Complaint Statistics." Supplemental air carriers shall report on all categories except B, N, V, W, X, and Y. Indirect air carriers shall report only on categories E, H, I, J, M, N, O, P, Q, R, S, and T. All-cargo carriers shall report only on categories C, D, F, G, H, I, J, M, N, O, P, Q, R, S, and T.

§ 371.3 Other information required.

(a) Each carrier to which this part applies shall, within the time for filing the first quarterly report pursuant to § 371.2, file a report describing the following aspects of the carrier's operations:

- (1) Customer relations organization.
- (2) Processing of complaints.
- (3) Use of information obtained from complaints.
- (4) Aspects of the carrier's operations which give rise to particularly large proportions of complaints received.

(b) Each carrier to which this part applies shall, within the time for filing each quarterly report pursuant to § 371.2 subsequent to the first such report, file a report indicating any significant changes or improvements with respect to

those aspects of the carrier's operation with are enumerated in paragraph (a) (1) through (4) of this section. If there is no change in one or more of the aspects of the carrier's operations which are enumerated in paragraph (a) (1) through (4) of this section, that fact shall be stated in the report.

(c) All reports filed pursuant to this section shall be prepared in triplicate and addressed to the Civil Aeronautics Board, Washington, D.C. 20428, Attention: Bureau of Accounts and Statistics.

§ 371.4 Extension of filing time.

Reports shall be filed within the prescribed time limit unless the Board or its delegate has granted an extension of time upon receipt of a written request therefor. Such a request must give good and sufficient reason to justify granting an extension of time and must be filed in sufficient time to enable the Board or its delegate to pass thereon before the prescribed due date. Requests for extensions of time will be granted only in extraordinary circumstances and for good cause shown.

§ 371.5 Certification.

The certificate of an officer of the reporting carrier shall accompany each Form 371 filed with the Board. If the reports required by § 371.3 are filed attached to Form 371, the certificate filed with Form 371 shall be deemed to apply to such reports. In all other cases, reports filed pursuant to § 371.3 shall be accompanied by the certificate of an officer of the reporting carrier. The original of each certification pursuant to this section shall be accompanied by two conformed copies thereof.

§ 371.6 Examination by interested persons.

The information included in the forms and reports filed pursuant to this part shall be available for inspection by interested persons in the Public Reference Room of the Board, Room 710 Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

§ 371.7 Report form.

(a) Each air carrier shall file CAB Form 371, "Report of Consumer Complaint Statistics" (Appendix A to this part) in accordance with § 371.2.

(b) Data called for on CAB Form 371 shall be reported on a system basis.

(c) For each of the categories A through P, column (1) shall reflect the total number of complaints received from members of the public, including those received on comment forms placed on the aircraft by the carrier; column (2) shall reflect only those complaints received on comment forms placed on the aircraft.

(d) As a guide toward uniformity in reporting by all carriers, an explanation of the categories listed on CAB Form 371 is provided in Appendix B to this part.

APPENDIX A OMB NO.
CAB Form 371

CIVIL AERONAUTICS BOARD
WASHINGTON, D.C. 20428

REPORT OF CONSUMER COMPLAINT STATISTICS

(To be filed with the Bureau of Accounts and Statistics within 30 days after the end of each calendar quarter)

Air carrier: Quarter ended: 19..

(1) (2)

A. Flight irregularities:

Canceled:

Delayed:

Other:

B. Reservations:

Overbooked:

Other:

C. Baggage:

Lost:

Damaged (incl. rough handling):

Delayed:

Not boarded:

Boarded wrong flight:

Over carry:

Slow delivery to claim area:

Delivery to home or hotel:

Other:

Filtered:

Claim system:

Porter service:

Excess charges:

Size limitations:

Pets as baggage:

Cabin baggage:

Limit of liability:

Lost and found:

(unchecked items)

Dollars paid in claims: \$

D. Fares and refunds:

Personnel attitude:

Flight information:

In-flight service:

H. Equipment and facilities:

Communications:

Airport:

Aircraft:

I. Service in general:

Service unsatisfactory:

Service inadequate, competition needed:

Schedules:

Discrimination against passengers or shippers:

Racial:

Other:

Boarding priorities including standbys:

Accommodations during delay:

K. Customer assistance:

L. Ticketing:

M. Advertising:

N. Cargo:

Lost:

Damaged:

Delayed:

Other:

O. Miscellaneous:

P. Total complaints received:

Q. Total compliments (optional):

R. Legal actions brought by consumers:

Pending:

Completed:

S. Man-years devoted to processing complaints:

T. Backlog of complaints end of period (exclusive of claims):

Not acknowledged:

Acknowledged and pending:

U. Backlog of unsettled baggage claims pending end of period:

Number pending over 90 days:

V. Total number of denied boardings due to oversales (whether or not compensation was paid, includes upgrades and downgrades):

W. Amount paid as denied boarding compensation: \$

X. Performance:

Percentage of system scheduled flights arriving within 15 minutes of scheduled arrival time (includes all flight segments):

Y. Number of revenue passenger enplanements (000):

CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

REPORT OF CONSUMER COMPLAINT STATISTICS

Calendar quarter ended: 19..

(Full name of reporting air carrier)

(Certification 1)

I, the undersigned:

(Title of officer in charge of accounts)

of the:

(Full name of reporting air carrier)

do certify that this report and all schedules and supporting documents which are submitted herewith, filed for the above indicated calendar quarter, have been prepared by me or under my direction; that I have carefully examined them and declare that, to the best of my knowledge and belief, the information contained therein is complete and accurate.

(Signature):

(Air carrier post office address)

Date: 19..

Certification CAB Form 371

APPENDIX B

Explanation of Categories on CAB Report Form 371

"REPORT OF CONSUMER COMPLAINT STATISTICS"

A. Flight Irregularities:

Canceled:

Weather:

Mechanical:

Air Traffic delays:

Airport congestion:

Delayed:

Weather:

Mechanical:

Air traffic delays:

Airport congestion:

Misconnection:

Hold for connection:

Loading cargo:

Boarding passengers:

Unscheduled stop:

Other:

Termination short of destination:

No stop at scheduled stop:

Equipment substitution:

Early departure:

B. Reservations:

Overbooked:

Denied boarding:

Upgrades:

Downgrades:

Other:

No record:

Canceled in error:

Change in class of service:

Telephone service:

¹ Title 18 U.S.C. section 1001, Crimes and Criminal Procedure, make it a criminal offense, subject to a maximum fine of \$10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within jurisdiction of any agency of the United States.

Explanation of Categories on CAB Report Form 371

Misinformation or lack of information re booking.

Wait list/standby procedures.

Advance seat selection.

Seat selection.

Reconfirmation.

Reservation service generally poor.

C. Baggage:

D. Fares and Refunds:

Misquote fare over phone.

Fare increase.

Promotional fares:

Restrictions.

Tariff rules.

Credit procedures.

Refunds:

Long delay in paying.

Lost tickets.

Service charge on refunds not credited.

Difference between air and surface transportation.

Charging proposed fares.

E. Personnel Attitude:

Discourtesy, rudeness or indifference displayed to passenger by any airline employee.

F. Flight Information:

Telephone.

Display boards.

In-flight information.

G. In-flight Service:

In-flight entertainment:

Quality.

Charges.

Multiclass service.

Meals:

Availability.

Type.

Special.

Quality.

Timeliness.

Liquor:

Availability.

Quantity.

Quality.

Charges.

Drinking water.

Soft drinks.

Magazines.

Writing portfolio.

H. Equipment and Facilities:

Communications:

Airport announcements.

TV monitors.

Paging service.

Telephone answering capability.

Airport:

Checking counters.

Gate space.

VIP lounge.

Curbside baggage checking.

Taxi and limousine.

Baggage claim facilities.

Baggage storage facilities.

Airport parking.

Restaurant facilities.

Restroom facilities.

Concessions.

Directional signs.

Aircraft:

Exterior cleanliness.

Passenger cabin:

Windows.

Seats—comfort (spacing) and cleanliness.

Headrest covers.

Ashtrays.

Blankets and pillows.

Call button.

Reading light.

Seatbelt.

Folding tables.

Public address system.

Explanation of Categories on CAB Report
Form 371

- Smoking.
Lavatories—cleaned and stocked—number.
Cabin temperature.
Cabin ventilation or pressure.
- I. Service In General:
Service unsatisfactory.
Service inadequate, competition needed.
Schedules:
Insufficient.
Changed too often.
Suitability.
- J. Discrimination Against Passengers or Shippers:
Racial.
Other:
Boarding priorities.
Interrupted trip expenses.
- K. Customer Assistance:
General assistance by:
Reservations.
Passenger service:
Wheelchair.
Children.
Elderly.
Holding flight for late passengers.
Baggage service.
Flight crew.
Assistance during irregularity:
Meals.
Hotel.
Surface transportation.
Alternate air transportation.
Information during delays.
Message delivery.
- L. Ticketing:
Correctness.
Legibility.
Type of ticket sold.
Waiting time.
Preparation time.
- M. Advertising:
Misleading.
Offensive subject matter.
Timing.
- N. Cargo—Includes written complaints regarding cargo handling and all claims resulting from cargo mishandling.
Lost.
Damaged:
Rough handling.
Delayed:
Not boarded.
Boarded wrong flight.
Slow delivery.
- Other:
Pilfered.
Excessive rates.
Live animals and perishables.
Remittance of c.o.d. monies.
Rerouting.
Size limitations.
Limit of liability:
Amount.
No notice.
- O. Miscellaneous.

[FR Doc.71-7631 Filed 6-2-71;8:45 am]

[14 CFR Part 399]

[Docket No. 23310; PSDR-30A]

"CONFIRMED RESERVED SPACE" BY
TELEPHONE AS AN UNFAIR OR DE-
CEPTIVE PRACTICESupplemental Notice of Proposed Rule
Making

May 28, 1971.

The Board, by notice of proposed rule making PSDR-30 dated April 23, 1971, and published at 36 F.R. 8058, gave notice that it had under consideration an

amendment to Part 399 of the regulations (14 CFR Part 399) which would establish a policy that the practice of air carriers or ticket agents in orally confirming reserved space to prospective passengers on scheduled flights in air transportation before a ticket is issued be regarded as an unfair or deceptive practice and an unfair method of competition in air transportation or the sale thereof within the meaning of section 411 of the Act. Interested persons were invited to participate by the submission of twelve (12) copies of written data, views or arguments pertaining thereto to the Docket Section of the Board on or before June 1, 1971. Subsequent to the issuance of the notice, the Air Transport Association on behalf of a number of member air carriers requested a 15-day extension of time for filing comments on the proposed rule. It states that the extension is needed for preparation of consolidated comments on the proposed rule which will present the Board with industry comments that are well-balanced and complete.

The undersigned finds that good cause has been shown for additional time for filing comments to the extent hereinafter granted. Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's organization regulations, the undersigned hereby extends the time for submitting comments to June 16, 1971. (Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

CHARLES A. HASKINS,
Acting Associate General Counsel,
Rules and Rates.

[FR Doc.71-7714 Filed 6-2-71;8:51 am]

FEDERAL COMMUNICATIONS
COMMISSION

[47 CFR Part 25]

[Docket No. 16495]

ESTABLISHMENT OF DOMESTIC COM-
MUNICATIONS-SATELLITE FACILI-
TIES BY NON-GOVERNMENTAL
ENTITIESOrder Extending Time for Filing Reply
Comments

Upon consideration of the "Motion for Extension of Time," filed by the GTE Telephone Operating Companies on May 12, 1971, and the "Petition for Extension of Time," filed by MCI Lockheed on May 21, 1971:

It is hereby ordered, Pursuant to § 0.303 of the Commission's rules and regulations, that the time for filing reply comments in this proceeding, including pleadings with respect to terrestrial interconnection facilities, is extended to July 12, 1971.

Adopted: May 27, 1971.

[SEAL] BERNARD STRASSBURG,
Chief, Common Carrier Bureau.

[FR Doc.71-7712 Filed 6-2-71;8:51 am]

[47 CFR Part 73]

[Docket No. 19254; FCC 71-565]

FM BROADCAST STATIONS

Table of Assignments; Ellensburg,
Wash., etc.

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations (Ellensburg, Wash.; Leaksville and Eden, N.C.; Eau Gallie and Melbourne, Fla.); Docket No. 19254.

1. From time to time, our review of our FM Table of Assignments in § 73.202 of our rules indicates the need of amendment of that section of our rules, on our own motion, in order to eliminate assignments in violation of our minimum mileage separation requirements or in order to redesignate assignments formally made to communities, which have merged with other communities, forming new towns or cities. In this proceeding we give notice of three such proposed minor amendments. All population statistics cited herein are from the 1970 U.S. Census.

Ellensburg, Wash. 2. The county of Kittitas, Wash., with a population of 25,039, contains the significant community of Ellensburg. This small city, with 13,568 residents receives a noncommercial educational FM service on Channel 218 (KCWS-FM, located in Ellensburg). At the present time FM Channel 221A is the only commercial FM assignment at Ellensburg. It is unoccupied. KXLE, Inc. has recently offered an application for Channel 221A in order to bring the community its first local commercial FM service. In light of § 73.207(a) of our rules the application has not been accepted by the Commission, in that, there is an obvious minimum mileage separation problem between operative Channel 218 and assigned Channel 221A, both at Ellensburg. In order to solve the minimum mileage separation problem and to provide for a first local commercial FM service at Ellensburg, we propose to replace Channel 221A with a new assignment, Channel 237A. After any such revision of our Table of FM Assignments, applications, which are in order, will be accepted for Channel 237A at Ellensburg.

3. In view of the fact that Ellensburg is within 250 miles of the United States-Canadian border and the existence of the United States-Canadian Agreement on such FM assignments, the proposed assignment of Channel 237A to Ellensburg is subject to concurrence by the Canadian authorities.

Leaksville and Eden, N.C. 4. The North Carolina county of Rockingham, with a population of 72,402 has previously contained the independent community of Leaksville. In 1967 the communities of Leaksville, Spray, and Draper, N.C., and the unincorporated areas between these towns were consolidated into one city known as Eden, N.C. Our FM Table of Assignments presently indicates that FM Channel 233 is assigned to Leaksville and has no assignment for Eden. In view of the merger of the above communities

into Eden we propose to delete any assignment for Leaksville, N.C., and to redesignate Channel 233 as an Eden, N.C., assignment. Eden's population is 15,871. WEAJ (which operates on the Leaksville assignment, Channel 233) is licensed to WLOE, Inc., as an Eden service.

Eau Gallie and Melbourne, Fla. 5. The small community of Eau Gallie, Fla. has, in recent years, merged into Melbourne, Fla., with its population of 40,236. The former community of Eau Gallie and the present community of Melbourne are located in Brevard County which has 230,006 residents. Our FM Table of Assignments indicates that FM Channel 296A is assigned to Eau Gallie, Fla. In order to up-date and correct this assignment we propose to redesignate Channel 296A as a Melbourne assignment. There are two applications pending for the use of the channel (BPH-6903 and BPH-7147). Neither application is expected to be affected by our proposed action. Melbourne, Fla., presently has assigned to it Channel 272A on which Station WYRL provides a broadcast service.

6. In view of the above facts and presentation we find that it is in the public interest to propose, on our own motion, the following amendments to § 73.202 of our rules:

City	Channel No.	
	Present	Proposed
Ellensburg, Wash.	221A	237A
Leaksville, N.C.	233	
Eden, N.C.		233
Eau Gallie, Fla.	296A	
Melbourne, Fla.	272A	272A, 296A

7. Authority for the actions proposed herein, is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations interested parties may file comments on or before July 13, 1971, and reply comments on or before July 23, 1971. All submissions by parties to this proceeding, or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

9. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission.

Adopted: May 26, 1971.

Released: May 28, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-7711 Filed 6-2-71;8:51 am]

¹ Commissioner Wells absent.

[47 CFR Part 83]

[Docket No. 19253; FCC 71-554]

SHIP RADAR STATIONS

Clarification and Improvement of
Servicing Requirements

In the matter of amendment of § 83.164 of the Rules to clarify and improve requirements concerning servicing of ship radar stations; Docket No. 19253.

1. Notice of proposed rule making is hereby given in the above-entitled matter.

2. The Commission proposes to amend § 83.164(a)(2) as follows:

a. Delete the words "while it is radiating energy" from the subparagraph.

b. Delete the words "or of receiving-type tubes" from the proviso to the subparagraph.

3. The first deletion is proposed so that the subparagraph, as amended, would unequivocally require a licensed operator, with radar endorsement, to perform the adjustments or tests, to which the subsection refers, regardless of whether the equipment "is radiating energy." The second deletion from the proviso clause, would limit nonlicensed persons to replacement of fuses.

4. The first proposed amendment is designed to preclude major adjustments or tests by unlicensed persons on the basis that the equipment was not at the time radiating energy. The fact that the transmitter portion is not radiating energy when such adjustments are made would not alter the potentially harmful effects of the adjustments when the transmitter portion is turned on. The second proposed amendment is designed to eliminate the possibility that unlicensed persons might make tube replacements which would affect the transmitter portion of the equipment.

5. These proposed amendments, as set forth below, are issued pursuant to authority contained in section 4(i) and 303 (e) (f) and (r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the rules, interested persons may file comments on or before July 13, 1971, and reply comments on or before July 23, 1971. Section 1.419 of the rules requires the original and fourteen (14) copies of comments or reply comments to be filed. All relevant and timely comments and reply comments will be considered by the Commission prior to final action in this proceeding. In reaching its decision in this proceeding, the Commission may also take into consideration other relevant information before it, in addition to the specific comments invited by this notice.

Adopted: May 26, 1971.

Released: May 28, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-7711 Filed 6-2-71;8:51 am]

¹ Commissioner Wells absent.§ 83.164 Waivers of operator require-
ments.

(a) . . .

(2) All adjustments or tests during or coincident with the installation, servicing, or maintenance of the equipment must be performed by or under the immediate supervision and responsibility of a person holding a temporary limited radiotelegraph operator license or a first- or second-class commercial radio operator license, radiotelephone or radiotelegraph, containing a ship-radar endorsement, who shall be responsible for the proper functioning of the equipment in accordance with the radio law and the Commission's rules and regulations and for the avoidance and prevention of harmful interference from improper transmitter external effects: *Provided, however*, That nothing in this subparagraph shall be construed to prevent persons not holding such licenses, or not holding such licenses so endorsed, from making replacement of fuses.

[FR Doc.71-7710 Filed 6-2-71;8:51 am]

INTERSTATE COMMERCE
COMMISSION

[49 CFR Part 1100]

[Ex Parte No. 55 (Sub-No. 4)]

IMPLEMENTATION OF NATIONAL
ENVIRONMENTAL POLICY

Notice of Proposed Rule Making

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 16th day of April 1971.

The National Environmental Policy Act of 1969 (NEPA) declares—

That it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

To implement this policy the Congress, in the same statute,¹ authorized and directed, among other things, "that, to the fullest extent possible: (1) The policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality . . . , which will insure that presently unquantified environmental amenities and values may be given

¹ Section 102.

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appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) The environmental impact of the proposed action;

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) Alternatives to the proposed action;

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes.

The policies and goals set forth in the NEPA are made supplementary to those set forth in existing authorizations of Federal agencies, and all such agencies, including this Commission, are required to review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of that act.

BACKGROUND

The year 1970 marked the beginning of a new environmental emphasis. The Council on Environmental Quality has expressed² the hope of all citizens that the ecological problems now facing mankind can be resolved expeditiously. As the Council stated:

... much can be done to reverse the deadly downward spiral in environmental quality. Citizens, industries, and all levels of government have already begun to act in many ways which will improve environmental quality. ... Efforts to solve the problems in the past have merely tried—not very successfully—to hold the line against pollution and exploitation. Each environmental problem was treated in an ad hoc fashion, while the strong, lasting interactions between various parts of the problem were neglected. Even today most environmental problems are dealt with temporarily, incompletely, and often only after they have become critical.

The isolated response is symptomatic of the environmental crisis. Americans in the past have not adequately used existing in-

² The First Annual Report of the Council on Environmental Quality, transmitted to the Congress August 1970, at page 18.

stitutions to organize knowledge about the environment and to translate it into policy and action.

The National Environmental Policy Act was signed into law on January 1, 1970. In his comprehensive Message on the Environment, February 10, 1970, President Nixon said:

At the turn of the century, our chief environmental concern was to conserve what we had—and out of this concern grew the often embattled but always determined "conservation" movement. Today, "conservation" is as important as ever—but no longer is it enough to conserve what we have; we must also restore what we have lost. We have to go beyond conservation to embrace restoration.

The task of cleaning up our environment calls for a total mobilization by all of us. It involves governments at every level; it requires the help of every citizen. It cannot be a matter of simply sitting back and blaming someone else. Neither is it one to be left to a few hundred leaders. Rather, it presents us with one of those rare situations in which each individual everywhere has an opportunity to make a special contribution to his country as well as his community.

By the terms of Executive Order 11514, Protection and Enhancement of Environmental Quality, dated March 5, 1970, President Nixon gave practical effect to these general policies. The Federal Government was directed to "provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life," and Federal agencies were specifically required to "initiate measures needed to direct their policies, plans, and programs so as to meet national environmental goals." Consonant with this policy, the heads of Federal agencies are required, among other things, (1) to "initiate, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment;" and (2) to "develop procedures to insure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action."

The Congress, through The Environmental Quality Improvement Act of 1970, Public Law 91-224, enacted April 3, 1970, also has declared that there is a national policy which provides for the enhancement of environmental quality and that this policy is "evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development." And, finally, the Council on Environmental Quality has released interim guidelines³ dated April 30, 1970,⁴

³ These guidelines are proposed to be revised by notice of the Council on Environmental Quality which was published in 36 F.R. 1398; and see Statements on Proposed Federal Actions Affecting the Environment; Interim Guidelines, 35 F.R. 7390.

to govern statements on proposed Federal actions affecting the environment. The year 1970 may truly be called "The Year of the Environment."

This Commission has been advised by the chairman of the President's Council on Environmental Quality that certain of the proceedings pending before this Commission may have an environmental impact and that we are required by the NEPA to include a statement in each of the decisions that may be reached in such proceedings as to the probable environmental effects of the proposed action and any adverse environmental consequences that cannot be avoided should the proposal be implemented.

The investigation and rulemaking proceeding initiated by this notice is in furtherance of our continuing concern with environmental problems facing the people of our Nation. We recently expressed one aspect of this concern in the notice of proposed rulemaking and order entered December 21, 1970, in Ex Parte No. 85, Transportation of "Waste" Products for Reuse and Recycling (General Motor Carrier Licensing), a proceeding instituted to promote the reuse and recycling of "waste" materials, an ecological program specifically supported by President Nixon.

It is the goal of this proceeding to develop the procedures necessary to implement the national environmental policies expressed in the NEPA and related statutes and requirements. We intend to adopt special procedural rules and guidelines which will best enable us to come to grips with those environmental matters which are within our regulatory jurisdiction.

IMPLEMENTATION

This Commission must and will implement the directives of the NEPA and related pronouncements. We must and will investigate the methods of meeting these statutory directives to create a more meaningful relationship between this Commission's regulatory responsibilities and the Nation's battle to save the environment. Our regulatory duties are broad, and we are daily confronted with a sweeping variety of cases ranging from a relative simple motor carrier licensing application to a complex rail merger or general rate increase proceeding, and affecting the public interest and the national transportation policy to varying degrees. We must and will, therefore, adopt practical procedures that are adaptable to the wide variety of cases we handle.

Some of the alternatives here under consideration include the following:

(1) The adoption of rules requiring or permitting all parties filing initial papers with this Commission to include an environmental impact statement, and a copy of that statement would be required to be served upon the Council on Environmental Quality. In addition, a notice to the public would be published

⁴ President's Message on the Environment Feb. 10, 1970.

in the FEDERAL REGISTER to inform interested persons that environmental issues apparently are present in a particular proceeding and to invite such interested parties to participate in the proceeding. Involved Federal, State, and local agencies also would be consulted prior to final disposition of the proceeding pursuant to procedures as to which comments are specifically invited herein. In proceedings presently before this Commission, additional statements might be required to aid us in reaching a final determination; and

(2) Because the NEPA does not contemplate that all Commission proceedings be subject to the scrutiny proposed in the first alternative, even though all such proceedings may have some slight environmental impact, rules might be adopted which would provide for adequate notice and participation by interested persons in proceedings determined to have a significant effect on the quality of the environment. This alternative would require the adoption of rules permitting any person to file a separate environmental statement in any proceeding. It is believed that the requirement of filing environmental impact statements in all proceedings (or with all initial papers filed with the Commission) is not administratively feasible.

A somewhat more specific proposal being considered by this Commission is set forth below as Appendix A to this notice. This proposal represents a consolidation of alternatives presently being considered by this Commission. It as well as the foregoing general considerations and alternatives represent proposals only, as to which the comments of interested persons are invited in this proceeding.

PROCEDURAL MATTERS

Oral hearings do not appear to be necessary at this time and none is contemplated. Anyone wishing to present their views and evidence, either in support of, or in opposition to, the action proposed in this order may do so by the submission of written data, views, or arguments.

It is ordered, That, based on the foregoing explanation, a proceeding be, and it is hereby, instituted under the authority of the Interstate Commerce Act, the National Environmental Policy Act, Executive Order 11514, and 5 U.S.C. 553 and 559 (the Administrative Procedure Act), for the purpose of determining how this agency can best implement the national environmental policy and meet its statutory obligations, and for the purpose of taking such other and future action as the facts and circumstances may justify or require.

It is further ordered, That no hearings be scheduled for the receiving of oral testimony unless a need therefor should later appear, but anyone interested in making representations in favor of, or against the proposed regulations is hereby invited to do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views,

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or arguments shall be filed with the Commission on or before July 1, 1971, and a copy thereof shall be served simultaneously upon each of the Commission's regional headquarters identified in Appendix B to this notice and order. All such statements will be a part of the record in the proceeding.

And it is further ordered, That notice to the general public of the matter here under consideration will be given by depositing a copy of this notice in the Office of the Secretary of this Commission, and in each of this Commission's regional headquarters identified in Appendix B to this notice for public inspection and by filing a copy thereof with the Director, Office of the Federal Register; and that a copy of this notice shall be served on the Council on Environmental Quality and on the Environmental Protection Agency.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

APPENDIX A—PROPOSED ADDITION TO SPECIAL RULES OF PRACTICE

SPECIAL RULES PERTAINING TO ALL PROCEEDINGS BEFORE THE COMMISSION TO INSURE THAT ENVIRONMENTAL AMENITIES AND VALUES ARE GIVEN APPROPRIATE CONSIDERATION

(a) *Scope of special rules.* These special rules are applicable to all proceedings before the Commission. They are intended to assist the Commission in discharging its duties under the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852) which authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies for the protection of the environment declared in that act.

(b) *Detailed environmental statement.* It shall be the general policy of the Interstate Commerce Commission to adopt and adhere to the objectives and aims of the National Environmental Policy Act in performing its regulatory duties and powers under the Interstate Commerce Act and related statutes. Among other things, the National Environmental Policy Act requires, to the fullest extent possible, a detailed environmental statement in all reports and recommendations on legislative proposals and other major Federal actions which will significantly affect the quality of the human environment.

In compliance with this requirement, a detailed environmental statement will be made when the regulatory action taken by us under the applicable statutes will have such a significant environmental impact. The detailed statement shall fully develop the five factors listed below, among other relevant factors including the justification of a proposed action as compared to its alternatives. The following factors are listed merely to illustrate the kinds of values that must be considered in the statement and in no respect is this listing to be construed as covering all factors relevant to the disposition of any particular proceeding:

(1) The environmental impact of the requested action;

(2) Any adverse environmental effects which cannot be avoided should the requested action be granted;

(3) Alternatives to the requested action;

(4) The relationship, if any, between local short-term uses of man's environment and maintenance and enhancement of long-term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the requested action should it be granted.

The procedures set forth in this rule are intended to encourage, to the fullest extent possible, public and governmental participation in those formal proceedings which might significantly affect the quality of the human environment, and to the end of insuring that a complete record is developed which will enable the Commission to consider fully the environmental impact of a contemplated action.

(c) *Applicable general and special rules not affected.* The Commission's general and/or special rules heretofore applicable to a proceeding shall remain in effect and govern the procedure therein. These special rules shall supplement the applicable existing rules.

(d) *Determination of environmental impact.* The National Environmental Policy Act does not contemplate that all of this Commission's proceedings shall be subject to the scrutiny of an environmental investigation even though all such proceedings may have some slight environmental impact. For example, it would not be administratively feasible to require environmental statements and determinations in the vast number of individual motor carrier operating rights applications filed with this Commission each year.

The following classifications of proceedings have been determined to be among those which might have a significant effect on the quality of the environment:

1. Rulemaking proceedings except those relating to rules of agency organization, procedure, or practice.

2. Application for a certificate authorizing the construction, extension, or abandonment of all or a portion of a line of railroad. Section 1(18)-(20).

3. Notice or petition to discontinue train or ferry service. Section 13a.

4. Application for approval of, or to amend a rate agreement. Section 5a.

5. Application for authority to establish released value rates or ratings. Sections 20(11), 22(1), 219, and 413.

6. Proceedings concerning the lawfulness of rates for the future on waste products or reusable materials or on substitute raw materials. Sections 1(5), 2, 3(1), and 15a(2).

7. Application for the common use of terminal facilities. Section 3(5).

8. Application for authority to combine or consolidate. Section 5.

9. Application for authority to issue securities or to assume obligation or liability in respect of the securities of others. Sections 20a and 214.

Nothing in this section shall preclude this Commission from determining that any matter not listed above will have a significant effect on the quality of the environment.

(e) *Papers to show effect of subject matter of proceeding on the quality of human environment.* (1) In any initial papers filed by any party in a proceeding, there may be filed a statement indicating the presence or absence of any effect of the requested Commission action on the quality of human environment. If any such effect is alleged to be present, the paper shall include statements relating to each of the relevant factors set forth in part (b) (1)-(5) above.

(2) In all proceedings determined to have a significant effect on the quality of the environment, all parties shall file statements submitting information relating to the relevant factors set forth in part (b) (1)-(5) above.

(3) Statements filed pursuant to this part shall include specific information and data relating to the environmental issues involved.

Statements may be rejected by the Commission on the ground that they are vague or indefinite.

(f) *Notice to appropriate governmental agencies.* (1) A notice of all proceedings determined to have a significant effect on the quality of human environment, and of all proceedings in which environmental allegations are made will be transmitted by the Commission to the Council on Environmental Quality and to appropriate governmental bodies—Federal, regional, State, and local—with a request for public comments on the environmental considerations listed in part (b) (1)–(5) above.

(2) An initial review shall be made of all papers submitted in compliance with these rules, and any deficiency as to form shall be called to the attention of the person or persons submitting the papers with a direction that such papers be appropriately revised. The paper, as so revised, shall then be served by the person or persons submitting it on those governmental bodies given notice pursuant to paragraph (1) of this section. The person or persons submitting the revised statement also shall supply 10 copies of the statement, as revised, to the Council on Environmental Quality.

(3) All interveners, including other Government agencies, taking a position on environmental matters shall file with the Commission an explanation of their environmental position, specifying any differences with the original party's detailed statement upon which interveners wish to make its views known, and including therein a discussion of that position in the context of the factors enumerated in part (b) above. All interveners shall be responsible for filing 10 copies of their submission with the Council on Environmental Quality at the time they file with the Commission and shall also sup-

ply a copy of such submission to all participants to the proceeding. Nothing herein shall preclude an intervener from filing a detailed environmental statement. The Commission will consider all representations submitted prior to the final disposition of the proceeding.

(4) The views of the Council on Environmental Quality, if any, should be made in a written statement served upon the secretary of the Commission and all parties of record.

(g) *Official notice.* The Commission may take official notice of any facts relating to the environmental situations before it. This shall include, but not be limited to, scientific studies, governmental reports, and maps which have not been presented in evidence by any of the parties of record.

(h) *Determinations.* The determinations in all proceedings which investigate environmental issues should include an evaluation of the environmental factors enumerated in part (b) (1)–(5) above, and the views expressed in conjunction therewith by all persons making formal comment pursuant to the provisions of this section. Specific findings should be made in each such proceeding as to whether the relief sought is or is not environmentally advantageous.

(i) *Review of initial decision on environmental impact.* Any initial decision with respect to the environmental issue will be subject to Commission review in the same manner as other issues in the proceeding.

(j) *Proceedings in progress.* With respect to those proceedings already in progress, the Commission recognizes that it may not be possible to comply fully with the procedures outlined herein and, in particular, that it may not be possible in every instance to include within the record all of the material relating to the environmental impact of the

contemplated action which might otherwise be developed. Nonetheless, it is the policy of the Commission to apply these procedures to the fullest extent possible to proceedings already in progress.

APPENDIX B—REGIONAL HEADQUARTERS

REGION 1

Regional Manager, Robert L. Abare, Interstate Commerce Commission, John Fitzgerald Kennedy Building, Government Center, Room 2211B, Boston, MA 02203.

REGION 2

Regional Manager, Fred E. Cochran, Interstate Commerce Commission, 16th Floor, 1518 Walnut Street, Philadelphia, PA 19102.

REGION 3

Regional Manager, James B. Weber, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, GA 30309.

REGION 4

Regional Manager, Charles W. Haas, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

REGION 5

Regional Manager, Harold M. Gregory, Interstate Commerce Commission, 9A27 Fritz Garland Lanham Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

REGION 6

Regional Manager, Ernest D. Murphy, Interstate Commerce Commission, 13001 Federal Building, 450 Golden Gate Avenue, Post Office Box 36004, San Francisco, CA 94102.

[FR Doc.71-7728 Filed 6-2-71;8:53 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

LOSTWOOD NATIONAL WILDLIFE REFUGE

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (Public Law 88-577; 78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 7:30 p.m. on August 4, 1971, at the Courthouse in Bowbells, Burke County, N. Dak., on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior, regarding the desirability of including Lostwood Wilderness proposal within the National Wilderness Preservation System. The wilderness proposal consists of approximately 5,486 acres within the Lostwood National Wildlife Refuge and is located in Burke and Mountrail Counties, N. Dak.

A brochure containing a map and information about the Lostwood Wilderness proposal may be obtained from the Refuge Manager, Lostwood National Wildlife Refuge, Lostwood, N. Dak. 58754, or the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by September 6, 1971.

J. P. LINDUSKA,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

MAY 28, 1971.

[FR Doc.71-7673 Filed 6-2-71;8:47 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions

By notice in the FEDERAL REGISTER of February 20, 1971, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 2 (pp. 3930-31), April 6 (pp. 6526-28), and May 4 (pp. 8333-36). Further notice is hereby given that certain amendments or revisions, in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

Notices

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been added to the National Register since May 4:

ALABAMA

Montgomery County

Montgomery, *Ordeman-Shaw Historic District*, bounded on the west by a line midway between McDonough and Hull Streets; on the north by Randolph Street; on the east by a line midway between Hull and Decatur Streets (to Jefferson Street) and by Decatur Street; and on the south by Madison Avenue.

CALIFORNIA

Amador County

Volcano vicinity, *Indian Grinding Rock (Chaw'se)*, 2.25 miles southwest of Volcano on Pine Grove-Volcano Road.

Butte County

Chico vicinity, *Patrick Rancheria*, 3 miles south of Chico.

Colusa County

Grimes vicinity, *Nouri Rancheria*, 1 mile southeast of Grimes on California 45.

Contra Costa County

Danville vicinity, *O'Neill, Eugene, House*, 1.5 miles west of Danville.

Kern County

Lebec vicinity, *Fort Tejon*, 3 miles northwest of Lebec on U.S. 99.

Kings County

Kettleman City vicinity, *Witt Site*, 12 miles west of Kettleman City on Utica Avenue.

Los Angeles County

Los Angeles, *Lummis Home*, 200 E Avenue 43. Pasadena (San Marino), *Old Mill (El Molino Viejo)*, 1120 Old Mill Road.

San Fernando, *Lopez Adobe*, 1100 Pico Street. San Gabriel, *San Gabriel Mission*, Junipero Street and West Mission Drive.

Wilmington, *Banning Home*, 401 East M Street.

Nevada County

French Lake vicinity, *Meadow Lake Petroglyphs*, east of French Lake, sec. 22, T. 18 N., R. 13 E.

Plumas County

Gold Lake vicinity, *Lakes Basin Petroglyphs*, northwest of Gold Lake, sec. 8, T. 21 N., R. 12 E.

Sacramento County

Locket, *Locke Historic District*, bounded on the west by the Sacramento River, on the north by Locke Road, on the east by Alley Street, and on the south by Levee Street. Sacramento, *Woodlake Site*, 0.5 mile southwest of KXOA radio towers.

San Diego County

Camp Pendleton, *Santa Margarita Ranch House*, off Vandegrift Boulevard. San Diego, *Villa Montezuma (Jesse Shepard House)*, 1925 K Street.

San Francisco County

San Francisco, *Phelps, Abner, House*, 329 Divisadero Street.

San Luis Obispo County

Nipomo, *Dana Adobe*, southern end of Oak Glen Avenue.

Shasta County

Redding vicinity, *Olsen Petroglyphs*, Bear Mountain Road, northeast of Redding.

Sierra County

Gold Lake vicinity, *Hawley Lake Petroglyphs*, west of Gold Lake, sec. 14, T. 21 N., R. 11 E. Truckee vicinity, *Sardine Valley Archeological District*, Portions of secs. 7 and 18, T. 19 N., R. 17 E.

COLORADO

Clear Creek County

Silver Plume, *Silver Plume Depot*, Interstate 70.

CONNECTICUT

Hartford County

Hartford, *Day House*, 77 Forest Street.

Litchfield County

Woodbury, *Bacon, Jabez, House*, north side of Hollow Road just above the intersection with U.S. 6.

DELAWARE

Kent County

Magnolia, *Louber, Mathew, House*, east of Main Street, north of the intersection.

New Castle County

New Castle Hundred, *Buena Vista*, on U.S. 13, 1.5 miles south of its junction with U.S. 40.

DISTRICT OF COLUMBIA

Washington, *Anderson, Larz, House*, 2118 Massachusetts Avenue NW.

FLORIDA

Leon County

Tallahassee, *The Columns (Benjamin Chaires House)*, corner of Adams Street and Park Avenue.

St. Johns County

St. Augustine, *Rodriguez-Avero-Sanchez House*, 52 St. George Street.

ILLINOIS

Cook County

Chicago, *Clarke, Henry B., House*, 4526 South Wabash Avenue.

KANSAS

Atchison County

Atchison, *Earhart, Amelia, Birthplace*, 223 North Terrace.

Chase County

Strong City vicinity, *Springhill Farm and Stock Ranch House*, 3 miles north of Strong City on Kansas 177.

NOTICES

MICHIGAN
Oakland County
 Ortonville, Ortonville Mill, 336 Mill Street.
Ottawa County
 Holland, Third Reformed Church, 110 West 12th Street.
Washtenaw County
 Ann Arbor, White, Orrin, House (Robert Hodges Residence), 2940 Fuller Road.
Wayne County
 Detroit, Orchestra Hall, 3711 Woodward Avenue.
MISSISSIPPI
Adams County
 Natchez, King's Tavern, 611 Jefferson Street.
Carroll County
 Avalon vicinity, Teoc Creek Site, SW $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 9, T. 20 N., R. 2 E.
 Carrollton vicinity, Malmanson Site, 6 miles northeast of Carrollton in N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 7, T. 19 N., R. 3 E.
Louise County
 Columbus, Lee House (Blewett-Harrison-Lee House), 314 North Seventh Street.
MISSOURI
Buchanan County
 St. Joseph, Pony Express Stables, 914 Penn Street.
Jackson County
 Kansas City, Majors (Alexander) House, 8145 State Line Road.
New York
New York County
 New York City, 170-176 John Street Building, 170-176 John Street.
Tompkins County
 Ithaca, Boardman House, 120 East Buffalo Street.
NORTH CAROLINA
Johnston County
 Clayton vicinity, Sanders-Hair House, Route 1525 south of Clayton.
Orange County
 Hillsborough, Eagle Lodge, 142 West King Street.
Vance County
 Williamsboro, St. John's Episcopal Church, Route 1329.
 Williamsboro vicinity, Burnside Plantation House, on Route 1335 about 1.8 miles east of Williamsboro Crossroads.
Wake County
 Raleigh, Federal Building (Raleigh Post Office and Courtroom), 300 Fayetteville Street.
 Raleigh, Seaboard Coast Line Railroad Co. Office Building, 325 Halifax Street.
 Raleigh, White-Holman House, 209 East Morgan Street.
OHIO
Butler County
 Oxford, Fisher Hall (Oxford Female College), Miami University campus.
Greene County
 Fairborn vicinity, Huffman Field, Wright-Patterson Air Force Base, 1 mile southwest of Fairborn.
Lucas County
 Toledo, Successful Sales Co. (Oliver House), 27 Broadway.
Summit County
 Tallmadge, Tallmadge Town Square Historic District, Public Square.

PENNSYLVANIA
Chester County
 West Chester, Old Main, West Chester State College, northwest corner of High Street and Rosedale Avenue.
Lancaster County
 Lancaster, Herr, Hans, House, 1851 Hans Herr Drive.
RHODE ISLAND
Newport County
 Newport, Baldwin, Charles H., House, Bellevue Avenue opposite Perry Street.
 Newport, Gale, Levi H., House, 89 Touro Street.
 Newport, Lucas-Johnston House, 40 Division Street.
 Newport, Whitehouse, Samuel, House, 414 Thames Street.
Providence County
 Chepachet, Chapachet Village Historic District, along both sides of Rhode Island 102—U.S. 44 north from the intersection of U.S. 44 and Rhode Island 102 to the intersection of Rhode Island 100 and 102—U.S. 44; included are properties on both sides of Dorr Drive, Douglas Hook Road, Point Lane, and Oil Mill Lane.
 Providence, The Arcade, 130 Westminster Street and 65 Weybosset Street.
SOUTH CAROLINA
Abbeville County
 Abbeville, Trinity Episcopal Church and Cemetery, Church Street.
Anderson County
 Pendleton vicinity, Woodburn, end of Woodburn Road, 1.5 miles west of Pendleton.
Charleston County
 Charleston, Citizens and Southern National Bank of South Carolina, 50 Broad Street.
 Edisto Island vicinity, Old House Plantation, northeast of Edisto Island via South Carolina 174, County Route 768, and unnumbered road.
 Edisto Island vicinity, Middleton's Plantation, 3.5 miles north of Edisto Island, then south 2 miles via unnumbered road.
 Edisto Island vicinity, Seabrook, William, House, north of Edisto Island via South Carolina 174 and County Routes 968 and 768.
 Mount Pleasant, Old Courthouse, 311 King Street.
Chester County
 Chester vicinity, Catholic Presbyterian Church, 14 miles southeast of Chester on South Carolina 97 and County Route 355.
 Chester vicinity, Lewis Inn, 6.5 miles northeast of Chester on South Carolina 72, then 0.5 mile west on South Carolina 909.
 Richburg vicinity, Elliott House, 0.3 mile north of Richburg on South Carolina 901, then 1 mile on County Route 136.
Darlington County
 Hartsville vicinity, Kelley, Jacob, House, 3 miles west of Hartsville, Route 2, South Carolina S-16-12.
Dillon County
 Dillon, Dillon, James W., House, 1302 West Main Street.
Dorchester County
 Summerville vicinity, Middleton Place, 10 miles southeast of Summerville on South Carolina 61.
Edgefield County
 Edgefield vicinity, Horn Creek Baptist Church, south of Edgefield via Routes 34, 133, and a dirt road.

North Augusta vicinity, Big Stevens Creek Baptist Church, about 8 miles northwest of North Augusta on South Carolina 230.

Fairfield County
 Monticello vicinity, Davis Plantation, 0.25 mile south of Monticello on South Carolina 215.
 Ridgeway vicinity, St. Stephen's Episcopal Church, about 1 mile northeast of Ridgeway on County Route 106.
 Ridgeway vicinity, Valencia, about 2 miles northwest of Ridgeway on County Route 106.

Georgetown County
 Georgetown, Prince George Winyah Church (Episcopal) and Cemetery, corner of Broad and Highmarket Streets.

Greenville County
 Greenville, Christ Church (Episcopal) and Churchyard, 10 North Church Street.

Kershaw County
 Camden, City of Camden Historic District, bounded on the south by the city limits, on the east and west by the Southern Railroad right-of-way, and on the north by Dickey Creek Road.

Richland County
 Columbia, Caldwell-Hampton-Boylston House, 829 Richland Street.
 Columbia, Chestnut Cottage, 1718 Hampton Street.

Columbia County
 Columbia, Columbia Historic District I, bounded on the south by Laurel Street; on the west by a line midway between Gadsden and Wayne Streets and a line midway between Gadsden and Lincoln Streets; on the north by a line two-thirds of the distance north of Calhoun Street between Calhoun and Elmwood Avenue; and on the east by a line midway between Assembly and Park Streets and by Park Street.

Columbia County
 Columbia, Columbia Historic District II, bounded on the south by Taylor Street and a line midway between Taylor and Blanding Streets; on the west by a line between Marion and Sumter Streets; on the north by Richland Street and a line between Richland and Calhoun Streets; and on the east by Bull Street, then through the block between Barnwell and Henderson, by Pickens, and by Henderson.

Columbia County
 Columbia, Horry-Guignard House, 1527 Senate Street.
 Columbia, Picricorn House (Hale-Elmore-Seibels House), 1601 Richland Street.

Sumter County
 Sumter vicinity, Stateburg Historic District, within a rectangle bounded by the following coordinates: On the northwest, latitude 33°59'37.6" N., longitude 82°32'30" W.; on the northeast, latitude 33°59'37.6" N., longitude 82°29'21.4" W.; on the southeast, latitude 33°56'42.9" N., longitude 82°29'21.4" W.; and on the southwest, latitude 33°56'42.9" N., longitude 82°32'30" W.

Union County
 Cross Keys vicinity, Padgett's Creek Baptist Church, 2 miles east of Cross Keys.

TENNESSEE
Davidson County
 Nashville, Belair, 2250 Lebanon Road.
 Nashville, Belmont, Belmont Boulevard.
 Nashville, Nashville Children's Museum (Lindsay Hall, University of Nashville), 724 Second Avenue South.
 Nashville, Ryman Auditorium (Grand Old Opry House), 116 Opry Place.

Hickman County
 Nunnely vicinity, Pinewood, approximately 3 miles north of Nunnely on Pinewood Road (Route 3).

Knox County
 Knoxville, Marble Springs, Neubert Springs Road.

Montgomery County
 Clarksville, Sevier Station, west side of Walker Street, 216 feet south of B Street.

Robertson County
 Cedar Hill vicinity, Wessington, about 3 miles south of Cedar Hill, near Calebs Creek.

UTAH
Boz Elder County
 Brigham City, Boz Elder Stake Tabernacle, Main Street between Second and Third South Streets.

Piute County
 Junction, Piute County Courthouse, Main Street at Center Street.

Salt Lake County
 Salt Lake City, The Council Hall (Old City Hall), Capitol Hill, head of State Street.
 Salt Lake City, Ottinger Hall, 233 Canyon Road.

Summit County
 Park City vicinity, Kimball Stage Stop, NE $\frac{1}{4}$ SW $\frac{1}{4}$ sec. 20, T. 1 S., R. 4 E.

Wasatch County
 Midway, Watkins-Coleman House, 5 East Main Street.

Washington County
 Washington, Washington Cotton Factory, on U.S. 91 (Frontage Road West).

VERMONT
Chittenden County
 Burlington, Ethan Allen Engine Co. No. 4, Church Street.

WASHINGTON
King County
 Seattle, Alaska Trade Building (Union Record Building), 1915-1919 First Avenue.

WEST VIRGINIA
Jefferson County
 Shepherdstown, Shepherd's Mill, High Street.

ERNEST ALLEN CONNALLY,
 Chief, Office of Archeology and Historic Preservation.
 [FR Doc.71-7672 Filed 6-2-71; 8:47 am]

Office of the Secretary
THOMAS C. LOCKHART
 Report of Appointment and Statement of Financial Interests

MARCH 22, 1971.
 Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

Name of appointee: Thomas C. Lockhart.
 Name of employing agency: U.S. Department of the Interior, Office of Oil and Gas, Emergency Petroleum and Gas Administration.

The title of the appointee's position: Regional Administrator, Region 4, EPGA.

NOTICES

The name of the appointee's private employer or employers: Great Northern Oil Co.

The statement of "financial interests" for the above appointee is set forth below.

ROGERS C. B. MORTON,
 Secretary of the Interior.

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on January 4, 1971, as Regional Administrator, Region 4, Emergency Petroleum & Gas Administration, an officer or director:

Vice President and Director of Great Northern Oil Co.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Aquatain Ltd.	Canadian Hydrocarbon
Pacific Petroleum.	SMC Corp.
Gulf Oil Corp.	Chadbourne, Inc.
National Industries, Inc.	Ladd Petroleum Corp.
Mobil Oil Corp.	Boise Cascade Corp.
Sola Basic.	Tenneco, Inc.
Duro Test Corp.	Lucky Stores
Roblin Industries.	Martin Marietta.
American General Insurance Co.	Aztec Oil & Gas.
Pan American World Airways.	Northwest Airlines.
	Chrysler Corp.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

The Villages.
 320 Limited.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

THOMAS C. LOCKHART.
 APRIL 30, 1971.
 [FR Doc.71-7666 Filed 6-2-71; 8:47 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

GRAINS AND SIMILARLY HANDLED COMMODITIES

Notice of Final Date for Redemption of Warehouse Storage Loans Made Under 1967, 1968, and 1969 Crop Price Support Programs; Correction

In the notice of final date for redemption of warehouse storage loans made under 1967, 1968, and 1969 Crop Price Support Programs published at 36 F.R. 8268, all final dates for repayment shown as "May 31, 1971" are corrected to read "June 1, 1971."

(Secs. 4 and 5, 62 Stat. 1070, as amended; secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended; 15 U.S.C. 1421, 1425, 1441, 1447)

Effective upon publication in the FEDERAL REGISTER (6-3-71).

Signed at Washington, D.C., on May 27, 1971.

CARROLL G. BRUNTHAVER,
 Acting Executive Vice President,
 Commodity Credit Corporation.
 [FR Doc.71-7679 Filed 6-2-71; 8:48 am]

GRAINS AND SIMILARLY HANDLED COMMODITIES

Notice of Final Date for Redemption of Warehouse Storage Loans Made Under 1970 Price Support Programs; Correction

In the notice of final date for redemption of warehouse storage loans made under 1970 Price Support Programs published at 36 F.R. 8410, all final dates for repayment shown as "May 31, 1971" are corrected to read "June 1, 1971."

(Secs. 4 and 5, 62 Stat. 1070, as amended; secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1421, 1425, 1441, 1447)

Effective upon publication in the FEDERAL REGISTER (6-3-71).

Signed at Washington, D.C., on May 27, 1971.

CARROLL G. BRUNTHAVER,
 Acting Executive Vice President,
 Commodity Credit Corporation.
 [FR Doc.71-7680 Filed 6-2-71; 8:48 am]

[Amdt. 14]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1971)

The CCC Monthly Sales List for the fiscal year ending June 30, 1971, published in 35 F.R. 10922, is amended by the insertion of a section 51, which reads as follows:

51. *Butter—export sales.* Competitive offers, or at announced prices, as specified in invitations issued by the Minneapolis ASCS Commodity Office under the terms and conditions of Announcement MP-23. The invitations will indicate the type of export sales authorized, whether sales will be made by competitive offers or at announced prices, and the period of time for submission of offers.

Signed at Washington, D.C., on May 27, 1971.

CARROLL G. BRUNTHAVER,
 Acting Executive Vice President,
 Commodity Credit Corporation.
 [FR Doc.71-7681 Filed 6-2-71; 8:48 am]

Food and Nutrition Service

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance

On April 16, 1971, at pages 7240-54, the Food and Nutrition Service, Depart-

ment of Agriculture, published a notice of proposed rule making revising the regulations governing the operation of the Food Stamp Program. On April 16 and 17, 1971, the Food and Nutrition Service, Department of Agriculture, published the following three notices prescribing the maximum monthly allowable income standards and the basis of coupon issuance for the 48 States and D.C.; Alaska; and Hawaii:

FSP No. 1971-1, appearing at page 7273 in the issue of Friday, April 16, 1971;
FSP No. 1971-2, appearing at page 7320 in the issue of Saturday, April 17, 1971; and
FSP No. 1971-3, appearing at pages 7320-21 in the issue of Saturday, April 17, 1971.

Notice is hereby given that it was and is the intent of the Food and Nutrition Service, Department of Agriculture that material contained in the three notice documents referred to above is subject to the aforementioned proposed rule making and, therefore, shall not go into effect until the proposed rule making shall be adopted.

RICHARD LYNG,
Assistant Secretary.

[FR Doc. 71-7683 Filed 6-2-71; 8:48 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File Nos. 23 (70)-20, 22 (70)-8]

BERNARD CHOLLET

Order Temporarily Denying Export Privileges

In the matter of Bernard Chollet, Maugarny 15, 95 Montlignon, France, respondent.

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, pursuant to the provisions of § 388.11 of the Export Control Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations), has applied to the Compliance Commissioner for an order temporarily denying all export privileges to the above named respondent. The Compliance Commissioner has reviewed the application and the evidence presented in support thereof and has submitted his report, together with his recommendation that the application be granted and that a temporary denial order be issued for 60 days.

On the evidence presented there is reasonable basis to believe that the respondent acting in his own name, and also under the name of another individual residing in France, has ordered substantial quantities of commodities of various types from U.S. suppliers; that some of these commodities have been of a strategic nature; that some of these commodities have been exported from the United States consigned to parties designated by respondent, and that some of the commodities so exported from the United States to France have been re-exported to unauthorized destinations. There is also reasonable basis to believe

that in connection with the investigation of this case the respondent has made false and misleading statements regarding his participation in transactions relating to the procurement and attempted procurement of commodities which have been exported and which were ordered for exportation from the United States.

Pending further investigations and proceedings, I find that it is reasonably necessary for the protection of the public interest that an order be issued against the respondent temporarily denying all U.S. export privileges for a period of 60 days.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent appears or participates in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondent is hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent but also to his assigns, representatives, agents and employees and to any person, firm, corporation, or business organization with which he now or hereafter may be related by ownership or control or which he could use to evade the purposes of this order.

IV. This order shall take effect forthwith and shall remain in effect for a period of 60 days from the date hereof, unless it is hereafter extended, amended, modified, or vacated in accordance with the provisions of the U.S. Export Control Regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with

respect thereto, in any manner or capacity, on behalf of or in any association with respondent or whereby the respondent may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any said respondent; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served upon the respondent.

VII. In accordance with the provisions of § 388.11(c) of the Export Control Regulations, the respondent may move at any time to vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request an oral hearing thereon which, if requested, shall be held before the Compliance Commissioner, in Washington, D.C., at the earliest convenient date.

Dated: May 26, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc. 71-7699 Filed 6-2-71; 8:45 am]

National Oceanic and Atmospheric Administration

GROUND FISH FISHERIES

Closure of Season

Notice is hereby given pursuant to § 240.8(a)(4), Title 50, Code of Federal Regulations, as follows:

On May 27, 1971, the Director, National Marine Fisheries Service, determined that U.S. vessels operating in regulatory area Subarea 5, west of 69°00' W. longitude, defined in § 240.1(b)(5) and § 240.6(b)(2) had reached the quarterly catch limit for yellowtail flounder of 1,400 metric tons for the period April 1-June 30, 1971, as described in § 240.6(b)(2), published in the FEDERAL REGISTER 36 F.R. 158-164.

I hereby announce that the season for taking yellowtail flounder without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate at 0001 hours local time in the area affected June 4, 1971. The restriction will remain in effect until 0001 hours local time July 1, 1971.

Issued at Washington, D.C., and dated May 28, 1971.

PHILIP M. ROEDER,
Director, National Marine
Fisheries Service.

[FR Doc. 71-7675 Filed 6-2-71; 8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

J. M. HUBER CORP.

Notice of Filing of Petition for Food Additive Silicon Dioxide

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (MF-3457V) has been filed by J. M. Huber Corp., Post Office Box 310, Harve de Grace, Md. 21078, proposing that § 121.229 Silicon dioxide be amended to provide for the safe use of silicon dioxide as an anticaking agent in animal feed at a level not to exceed 2 percent by weight of finished feed.

Dated: May 18, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7660 Filed 6-2-71; 8:47 am]

[Docket No. FDC-D-339; NADA No. 10-056V]

UPJOHN CO.

Parvex Powder; Notice of Withdrawal of Approval of New Animal Drug Application

An announcement concerning Parvex Powder which contains piperazine-carbon disulfide complex was published in the FEDERAL REGISTER of December 11, 1968 (33 F.R. 18408). The announcement set forth the findings of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, and the Food and Drug Administration that the drug is an effective swine anthelmintic.

In addition the announcement provided 6 months for The Upjohn Co., Kalamazoo, Mich. 49001, holder of NADA (new animal drug application) No. 10-056V for the drug Parvex Powder, to submit revised labeling or to submit adequate documentation in support of the labeling used. No revised labeling or documentation in support of the current labeling was received. The Upjohn Co. advised the Food and Drug Administration that the preparation had been discontinued and requested that approval of said NADA be withdrawn.

The Commissioner of Food and Drugs concludes, on the basis of the information before him with respect to said drug, that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 10-056V including all amendments and supplements thereto is hereby withdrawn effective

tive on the date of signature of this document.

Dated: May 25, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7662 Filed 6-2-71; 8:47 am]

[DESI 11250]

CERTAIN DRUGS USED FOR TREATMENT OF AMMONIA INTOXICATION Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for parenteral use:

1. R-Gene Injection containing arginine hydrochloride; Cutter Laboratories, Inc., Fourth and Park Streets, Berkeley, Calif. 94710 (NDA 11-250).
2. Glutavene Solution for Injection containing sodium glutamate; Tilden-Yates Laboratories, Inc., Fairfield Road, Wayne, N.J. 07470 (NDA 12-036).
3. Glutavene-K Solution for Injection containing sodium glutamate and potassium glutamate; Tilden-Yates Laboratories, Inc. (NDA 12-037).

4. Modumate Solution for Injection containing arginine glutamate; Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 11-640).
These drugs are regarded as new drugs. The effectiveness, classification, and marketing status are described below.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's reports as well as other available evidence, and concludes that these drugs are possible effective for their labeled indications relating to use in conditions associated with elevated blood ammonia levels.

B. Marketing status. 1. Holders of previously approved new drug applications and any person marketing any such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and to submit in a supplemental or original new drug application data to provide substantial evidence of effectiveness for those indications for which these drugs have been classified as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a

sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

2. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drugs will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new drug applications for such drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drugs on the market to be new drugs for which an approval is not in effect.

The above-named holders of the new drug applications for these drugs have been mailed a copy of the Academy's report. Any interested person may obtain a copy of these reports by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11250, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 6, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7663 Filed 6-2-71; 8:47 am]

[DESI 9698; Docket No. FDC-D-227; NDA 9-698, etc.]

MEPROBAMATE

Drugs for Human Use; Drug Efficacy Study Implementation; Correction

In F.R. Doc. 70-12484 appearing at page 14663 in the FEDERAL REGISTER of September 19, 1970, the portion setting forth labeling is corrected as follows:

1. Under "Oral Meproamate—Warnings," second paragraph, last sentence, change "symptoms usually cease within the next 12- to 14-hour period" to "symptoms usually cease within the next 12- to 48-hour period."

2. Under "Oral Meproamate—Overdosage," last paragraph, change "hemodialysis" in next to last sentence to "hemodialysis" and change "Replace" in the last sentence to "Relapse".

Dated: May 25, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7661 Filed 6-2-71; 8:47 am]

[DESI 12911]

METRAPONE AND METRAPONE DITARTRATE

Drugs for Human Use; Drug Efficacy Study Implementation

In the FEDERAL REGISTER of May 28, 1968 (33 F.R. 7762), it was proposed (21 CFR Part 130, Subpart D) that metyrapone and metyrapone ditartrate be listed as drugs for human use that under specified conditions would not require an approved new drug application. Upon reconsideration, the Commissioner of Food and Drugs has determined that these drugs should continue to be regarded as new drugs. The conclusions concerning them are described below.

The drugs evaluated by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, were:

1. Metopirone Tablets containing metyrapone (NDA 12-911), and
2. Metopirone Injection containing metyrapone ditartrate (NDA 12-913), both marketed by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N. J. 07901.

Such drugs are regarded as new drugs (21 U.S.C. 321 (p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that metyrapone and metyrapone ditartrate are effective for use as a diagnostic test for hypothalamo-pituitary function.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Metyrapone preparations are in tablet form suitable for oral administration or, if present as the ditartrate, in an injectable form suitable

for intravenous infusion.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (Labeling guidelines are available from the Administration on request.)

INDICATIONS

A diagnostic test drug for hypothalamo-pituitary function.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approval" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of an abbreviated supplement for updating information and for oral tablet forms adequate data to show the biologic availability of the drug in the formulation which is marketed, as described in paragraphs (a) (1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include for oral tablet forms adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a) (3) (ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

A copy of the Academy's report has been furnished to Ciba Pharmaceutical Co. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12911, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number):
Office of Scientific Evaluation (BD-100),
Bureau of Drugs.
Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-5),
Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 5, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7664 Filed 6-2-71; 8:47 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CG 71-50]

NEW LONDON HARBOR

Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b) (1), 80 Stat. 937, 49 U.S.C. 1655(b) (1), 49 CFR 1.46(b) and the redelegation of authority to Chief, Office of Operations, U.S. Coast Guard, as contained in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8279), I hereby affirm for publication in the FEDERAL REGISTER the order of B.B. Leland, Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

NEW LONDON HARBOR SECURITY ZONE

Under the present authority to section 1 of Title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173 as amended and 14 U.S.C. 91, I declare that from 5:30 p.m., e.d.s.t., on Friday, June 4, 1971, until "USS Silversides" is secured to the wet dock at Electric Boat Division, General Dynamics, the following area is a security zone and I order it be closed to any person or vessel due to launching of the "USS Silversides" (SSN 679) from the north ways of Electric Boat Co.

The waters of New London Harbor, New London, Conn., within the coordinates latitude 41°20'32" North and 41°21'03" North. No person or vessel shall remain in or enter this security zone without permission of the Captain of the Port.

The Captain of the Port, New London, Conn., shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or of any State or political subdivision thereof.

For violation of this order, section 2 of Title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of

any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than \$10,000.

"(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than \$10,000."

Dated: May 28, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc. 71-7723 Filed 6-2-71; 8:52 am]

National Highway Traffic Safety Administration

[Docket 3-3; Notice 4A]

FLAMMABILITY OF INTERIOR MATERIALS

Denial of Petition for Reconsideration

Federal Motor Vehicle Safety Standard No. 302, "Flammability of Interior Materials in Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses" was published January 8, 1971 (36 F.R. 289). Following issuance of the standard, one petition for reconsideration, from American Motors Corp., was received. The petition requested that the maximum allowable burn rate specified by the standard be changed from 4 inches per minute to 10 inches per minute. Pursuant to §§ 553.35, 553.37, and 553.39 of Title 49, Code of Federal Regulations, notice is hereby given that this petition is denied.

American Motors noted that a particular material may be required to have a burn rate specification of substantially less than 4 inches per minute in order for a manufacturer to be reasonably certain that all vehicles in a production run will be in conformity with the standard. The reason for establishing the burn rate requirement at 4 inches per minute, with a horizontal test, was discussed in the preamble to the standard. As stated therein, the agency has determined that this burn rate is necessary to prevent injury to occupants from rapidly spreading interior fires, to allow sufficient time for the driver to stop the vehicle, and, if necessary, for occupants to leave it before injury occurs. In addition, studies which the NHTSA has conducted have disclosed that many materials presently available and in use will meet this requirement.

The agency recognizes that the performance level established in the standard will require manufacturers to use materials whose actual test performance exceeds that level; this is true of all

safety standards that set quantitative performance requirements. The degree to which test performance must exceed the requirements depends on the uniformity of the materials used, the effectiveness of quality control procedures, and the safety margin that the manufacturer chooses to build into his product. This is the intended result of the National Traffic and Motor Vehicle Safety Act.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. secs. 1392, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on May 28, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

[FR Doc. 71-7724 Filed 6-2-71; 8:52 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-13]

BABCOCK & WILCOX CO.

Order Authorizing Dismantling of Facility

By application dated April 2, 1971, and supplement thereto dated April 20, 1971, the Babcock & Wilcox Co. has requested authorization to dismantle and dispose of the Split Table Critical Experiments (STCE) Facility and its fuel under Facility License No. CX-12. The STCE Facility is located in the Lynchburg Research Center at Lynchburg, Va.

The Commission has reviewed the application, as supplemented, in accordance with the provisions of the Commission's regulations and has found that the dismantlement, decontamination, and disposal of the component parts of the STCE Facility and the disposal of its fuel in accordance with the regulations in 10 CFR Chapter I, and the application will not be inimical to the common defense and security or to the health and safety of the public.

Accordingly, it is hereby ordered that the Babcock & Wilcox Co. may, under Facility License No. CX-12, as amended, dismantle, decontaminate, dispose of component parts of the STCE Facility and dispose of its fuel in accordance with its application dated April 2, 1971, and supplement thereto dated April 20, 1971.

Upon completion of the dismantlement of the STCE Facility, decontamination and disposal of the components parts and an inspection by representatives of the Atomic Energy Commission, consideration will be given to the issuance of an order terminating Facility License No. CX-12.

This order is effective as of the date of issuance.

Date of issuance: May 25, 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director.

Division of Reactor Licensing.

[FR Doc. 71-7674 Filed 6-2-71; 8:47 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 23423, 23381; Order 71-5-133]

NORTHEAST AIRLINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of May 1971.

By tariff revisions¹ marked to become effective June 1, June 11, and June 27, 1971, Northeast Airlines, Inc. (Northeast), proposes to establish round-trip family excursion fares between Baltimore/Washington, Bangor, Boston, Hartford, New York, Philadelphia, Portland, Maine, Presque Isle, on the one hand, and Miami/Fort Lauderdale, on the other. The discounts could range up to 28 percent from existing family fares depending on the size and composition of the group. The fares are subject to a minimum stay requirement of 7 days, and a maximum stay of 21 days. The fares are marked to expire December 15, 1971.²

Northeast asserts that its filing is made to meet the family excursion fares recently proposed by Eastern Air Lines, Inc. (Eastern), modified "to provide a more usable tariff . . .". The essential differences between Northeast's and Eastern's proposals are that Northeast's fares are somewhat higher for groups of comparable size but the rules of applicability are more liberal, particularly in that the fares are available for northbound as well as southbound originations and are not subject to the weekend blackout periods traditional with family fares.

National Airlines, Inc. (National), filed a complaint against Northeast's proposal alleging that it is untimely in view of imminent Board decision in Phase 5 (Discount Fares) of the Domestic Passenger-Fare Investigation, and involves a substantial risk of revenue dilution.

Upon consideration of the tariff proposal, the complaint, and other relevant matters the Board finds that the proposal may be unjust, unreasonable, unduly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the fares should be suspended pending investigation.

In determining to suspend Eastern's earlier family excursion fare proposal, we noted that the magnitude of the discounts would result in significant yield erosion at a time when the industry is expressing considerable concern over maintaining or increasing yield. While the discounts here proposed by Northeast are somewhat less, they are nevertheless substantial and result in fares which may be unreasonably low. Moreover, the more extensive availability of the fares can

¹ Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB Nos. 136 and 142.

² National Airlines, Inc. (National), has filed a defensive tariff matching Northeast.

³ The Board suspended and placed under investigation Eastern's proposed family excursion fares by Order 71-5-100, May 21, 1971.

only enhance the probability of yield erosion. On this basis, we conclude that the fares should not be permitted without investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204 and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A hereto,⁴ and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto⁴ are suspended and their use deferred to and including August 29, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaint of National Airlines, Inc., in Docket 23381 is hereby dismissed;

4. The investigation ordered herein is hereby consolidated into Docket 23423; and

5. A copy of this order will be filed with the aforesaid tariffs and served upon National Airlines, Inc., and Northeast Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:⁵

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-7715 Filed 6-2-71; 8:51 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Director for Business Opportunities, Office of Minority Business Enterprise.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc. 71-7654 Filed 6-2-71; 8:46 am]

⁴ Appendix A filed as part of the original document.

⁵ Dissenting statement issued jointly by Members Minetti and Murphy filed as part of original document.

DEPARTMENT OF DEFENSE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Director of Defense Research and Engineering (Test & Evaluation), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.
[FR Doc. 71-7649 Filed 6-2-71; 8:45 am]

DEPARTMENT OF DEFENSE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Principal Deputy Director, Office of Ocean Affairs.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.
[FR Doc. 71-7650 Filed 6-2-71; 8:46 am]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Director of Policy Planning, Antitrust Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.
[FR Doc. 71-7651 Filed 6-2-71; 8:46 am]

DEPARTMENT OF THE NAVY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Navy to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary of the Navy.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.
[FR Doc. 71-7653 Filed 6-2-71; 8:46 am]

DEPARTMENT OF THE TREASURY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Economic Policy, Office of the Under Secretary for Monetary Affairs.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.
[FR Doc. 71-7652 Filed 6-2-71; 8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19248; FCC 71-535]

NEWSVISION CO. (WFTT)

Order Designating Application for Oral Argument on Stated Issue

In regard application of Kenneth M. Cooper, General Partner, and Edwin B. Laughlin, James K. Patrick, Jr., John H. Staah, II, and Arthur R. Bell, Limited Partners; doing business as Newsvision Co. (WFTT), Bridgeport, Conn.; license to cover construction permit; Docket No. 19248, File No. BLCT-1717.

1. The Commission has before it the request of Newsvision Co. (Newsvision) for reinstatement of the construction permit, call sign and application for license of television broadcast station WFTT, Channel 43, Bridgeport, Conn.

2. Newsvision completed the construction of Station WFTT and filed the present license application (BLCT-1717) on September 20, 1967. Program test authority was awarded the station on September 26, 1967, but it has yet to commence broadcasting. Newsvision claimed that it could not begin operations until the Commission acted upon a request filed in conjunction with its license application which sought a waiver of § 73.651(c) of the Commission's rules so as to allow Station WFTT to carry non-integrated audiovisual transmissions. However, in response to our request for updated information dated July 13, 1970, Newsvision stated that it was no longer interested in obtaining such a waiver and instead intended to assign its construction permit to Limotharo, Inc.¹ After the lapse of several months during which no assignment application was filed, it became evident that this assignment would not be completed, and accordingly, the Chief of the Broadcast Bureau, acting pursuant to delegated authority,² dis-

¹ A contract for the sale of station WFTT dated Oct. 9, 1969, and amended Jan. 16, 1970, has been filed with the Commission.

² Section 0.281(n) of the Commission's rules.

missed Newsvision's license application for failure to prosecute under § 1.568(b) of the Commission's rules, and canceled the WFTT construction permit and deleted the call sign.

3. Newsvision requested and was granted a stay of action for 90 days in order to negotiate an assignment of its construction permit to the University of Bridgeport, but it was unable to complete this proposal either, and on February 16, 1971, it filed the present request for reinstatement of its construction permit, call sign, and license application, and asked to participate in a hearing concerning the basis for the dismissal of its license application.

4. Accordingly, it is ordered, That the construction permit, call sign, and license application (BLCT-1717) of television broadcast station WFTT, Channel 43, Bridgeport, Conn., are reinstated.

5. It is further ordered, That the application (BLCT-1717) of the Newsvision Co. for a license to cover television broadcast station WFTT, Channel 43, Bridgeport, Conn., is designated for oral argument before the Review Board in Washington, D.C., at a time and place to be specified in a subsequent order, upon the following issue: To determine whether the failure of the Newsvision Co. to commence operation of Station WFTT for over 3 years after receiving a grant of program test authority, constitutes a failure to prosecute within the meaning of § 1.568(b) of the Commission's rules, and if so, whether the station's license application should be dismissed.

6. It is further ordered, That to avail itself of the opportunity to be heard, Newsvision Co., in person, or by attorney, shall within ten (10) days of the mailing of this order, file with the Commission an original and nineteen (19) copies of a written appearance stating an intention to appear on the date fixed for the oral argument and present arguments on the issue specified and shall have until May 28, 1971, to file briefs or memoranda of law.

Adopted: May 19, 1971.

Released: May 26, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-7713 Filed 6-2-71; 8:51 am]

FEDERAL MARITIME COMMISSION

AUSTRALIA/U.S. ATLANTIC AND GULF CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

¹ Commissioners Bartley and Robert E. Lee absent.

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. E. F. Reardon, Australia/U.S. Atlantic and Gulf Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 9450-5 between the member lines of the Australia/U.S. Atlantic and Gulf Conference amends Article 4 of the basic agreement, as amended, to provide for the implementation of the concept of centralization by permitting the Conference to adopt rules authorizing the parties to (1) "at their own expense receive at one loading port and means to another loading port," and (2) "equalize a shippers cost of delivering cargo to loading ports."

Dated: May 28, 1971.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc. 71-7717 Filed 6-2-71; 8:51 am]

FARRELL LINES, INC., AND MOORE-McCORMACK LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Baldwin Elnarson, Esquire, Kirilin, Campbell & Keating, 120 Broadway, New York, NY 10005.

Agreement No. 9950, between Farrell Lines Inc., and Moore-McCormack Lines Inc., provides that the parties may meet from time to time and discuss mail transportation costs, space availability, sailing schedules and related matters and agree as to rates, terms and conditions for carriage of U.S. mail in the trade between U.S. Atlantic and Gulf ports and ports in South and East Africa. Such matters agreed upon shall be used as a basis for discussions with the U.S. Postal Service for the purpose of negotiating rates, terms, and conditions for the carriage of U.S. mail in the aforesaid trade.

Dated: May 27, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-7716 Filed 6-2-71; 8:51 am]

FEDERAL POWER COMMISSION

[Docket No. G-3732, etc.]

GETTY OIL CO. ET AL.

Findings and Order

MAY 24, 1971.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, canceling docket number, dismissing applications, permitting and approving abandonment of service, terminating certificates, terminating proceedings, substituting respondents, making successors co-respondent, redesignating proceedings, and accepting related rate schedules and supplements for filing.

Each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural

gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificates herein are at rates either equal to or below the ceiling prices established by the Commission's Statement of General Policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that initial sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Robert L. Adams, applicant in Docket No. CI63-334, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Tenneco Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 18. Said rate schedule will be redesignated as that of Applicant. The present rate under said rate schedule is in effect subject to refund in Docket No. RI70-624. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

Aztec Oil & Gas Co. (Operator) et al., applicant in Docket No. CI64-783, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to N.A. Steed (Operator) et al., FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of applicant. The present rate under Steed's rate schedule is in effect subject to refund in Docket No. RI64-566. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

Delcie B. Sanford, applicant in Docket No. CI65-565, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to John T. Sanford FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of applicant. The present rate under said rate schedule is in effect subject to refund in Docket No. RI68-575. Therefore, applicant will be substituted in lieu of John T. Sanford as respondent in said proceeding and the proceeding will be redesignated accordingly.

Sun Oil Co., as applicant in Docket No. CI70-468, and Sun Oil Co. (Operator) et al., as applicant in Docket No. CI63-1239, proposes to continue the sales of natural gas heretofore authorized in said dockets to be made pursuant to Southern Minerals Corp. FPC Gas Rate Schedule No. 7 and Southern Minerals Corp. (Operator) et al., FPC Gas Rate Schedule No. 1, respectively. Said rate schedules will be redesignated as those of applicant. The present rates under Southern

Minerals' FPC Gas Rate Schedules Nos. 1 and 7 are in effect subject to refund in Docket No. RI70-679 for sales of casinghead gas and in Docket No. RI70-1655, respectively. Applicant indicates in its certificate applications that it intends to assume Southern Minerals' entire refund obligations. Therefore, applicant will be substituted in lieu of Southern Minerals as respondent in each of the proceedings pending in Dockets Nos. RI70-679 and RI70-1655 and said proceedings will be redesignated accordingly.

W. M. Gallaway, applicant in Docket No. CI71-527, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI64-994 to be made pursuant to Tenneco Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 36. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The present rate under Tenneco's rate schedule is in effect subject to refund in Docket No. RI69-465. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

Jerome P. McHugh et al., applicants in Docket No. CI71-606, propose to continue in part the sales of natural gas heretofore authorized in Dockets Nos. G-15516 and CI65-534 to be made pursuant to Occidental Petroleum Corp. FPC Gas Rate Schedule No. 1 and Thomas A. Dugan FPC Gas Rate Schedule No. 4. The contract comprising said rate schedules will also be accepted for filing as a rate schedule of applicants. The present rate under Dugan's rate schedule in effect subject to refund in Docket No. RI69-627. Therefore, applicants will be made co-respondents in said proceeding¹ with respect to sales made from the properties acquired from Dugan and said proceeding will be redesignated accordingly. Applicants indicate in their certificate application that in addition to the refund obligation required by § 154.82(d)(3) of the regulations under the Natural Gas Act, they intend to be responsible for the total refund from the date that the increased rate of their assignor became effective subject to refund.

Houston Oil & Minerals Corp., as applicant in Docket No. CI71-621, and Houston Oil & Minerals Corp. (Operator) et al., as applicant in Docket No. CI71-622, proposes to continue in part the sales of natural gas heretofore authorized in Dockets Nos. G-3075 and G-9465, respectively, to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 14 and Humble Oil & Refining Co. (Operator) et al., FPC Gas Rate Schedule No. 390, respectively. The contracts comprising said rate schedules will also be designated as rate schedules of applicant. The present rate under Humble's FPC Gas Rate Schedule No. 14, is effective subject to refund in Docket No. RI68-474 and the present rate under Humble's FPC Gas Rate Schedule No. 390 is effective subject to refund in

¹Jerome P. McHugh is presently a co-respondent in Docket No. RI69-627 with respect to sales under another rate schedule.

Docket No. RI68-307. Therefore, applicant will be made co-respondent in said proceedings and the proceeding will be redesignated accordingly.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, petitions to intervene and notices of intervention were filed in the following dockets:

Docket No.	Intervener
G-3732-----	North Shore Gas Co. Natural Gas Pipeline Company of America. The Peoples Gas Light and Coke Co. Illinois Power Co. Iowa-Illinois Gas and Electric Co.
G-9357-----	Natural Gas Pipeline Company of America.
CI66-1060-----	The Public Service Commission of the State of New York.
CI70-415-----	Long Island Lighting Co.
CI70-434-----	Long Island Lighting Co.
CI70-624-----	The Public Service Commission of the State of New York.

The interveners have either withdrawn their objections or support the granting of the applications. No other petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on May 17, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Docket No. CI70-1019 should be canceled and the application filed therein should be treated as a petition to amend the certificate heretofore issued in Docket No. CI67-184.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered and conditioned.

(7) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the abandonments of service should be permitted and approved in Dockets Nos. CI64-232, CI67-262, and CI68-970; that the temporary certificates heretofore issued in said dockets should be terminated; and that the certificate applications filed in said dockets should be dismissed.

(9) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate suspension proceeding pending in Docket No. RI71-700 should be terminated only with respect to sales made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 405.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate suspension proceeding pending in Docket No. RI65-128 should be terminated.

(13) It is necessary and appropriate in carrying out provisions of the Natural Gas Act that Robert L. Adams should be made a co-respondent in the proceeding pending in Docket No. RI70-624 and that said proceeding should be redesignated accordingly.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Aztec Oil & Gas Co.

(Operator) et al., should be made a co-respondent in the proceeding pending in Docket No. RI64-566 and that said proceeding should be redesignated accordingly.

(15) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Delcie B. Sanford should be substituted in lieu of John T. Sanford as respondent in the proceeding pending in Docket No. RI68-575 and that said proceeding should be redesignated accordingly.

(16) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Sun Oil Co. (Operator) et al., should be substituted in lieu of Southern Minerals Corp. (Operator) et al., as respondent in the proceeding pending in Docket No. RI70-679; that Sun Oil Co. should be substituted in lieu of Southern Minerals Corp. as respondent in the proceeding pending in Docket No. RI70-1655; and that said proceedings should be redesignated accordingly.

(17) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that W. M. Gallaway should be made a co-respondent in the proceeding pending in Docket No. RI69-465 and that said proceeding should be redesignated accordingly.

(18) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Jerome P. McHugh et al., should be made co-respondents in the proceeding pending in Docket No. RI69-627 and that said proceeding should be redesignated accordingly.

(19) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Houston Oil & Minerals Corp. should be made a co-respondent in the proceeding pending in Docket No. RI68-474; that Houston Oil & Minerals Corp. (Operator) et al., should be made a co-respondent in the proceeding pending in Docket No. RI68-407; and that said proceedings should be redesignated accordingly.

(20) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificates issued herein and the amended certificates are subject to the following conditions:

(a) The rates for sales authorized in Dockets Nos. CI61-1429, CI67-184, CI71-366, CI71-386, CI71-387, CI71-462, CI71-588, CI71-610, and CI71-628 shall be the applicable area base rates prescribed in Opinion No. 468, as modified by Opinion No. 368-A, and Opinion No. 586, whichever are applicable, as adjusted for quality of gas, or the contract rates, whichever are lower.

(b) If the quality of the gas delivered by applicants in Dockets Nos. CI61-1429, CI67-184, CI71-366, CI71-386, CI71-387, CI71-462, CI71-588, CI71-610, and CI71-628 deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468-A, and Opinion No. 586, whichever are applicable, so as to require a downward adjustment of the existing rates, notices of changes in rates shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however*, That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rates.

(c) Within 90 days from the date of initial delivery applicant in Docket No. CI71-387 shall file three copies of a rate schedule quality statement in the form prescribed in Opinion No. 586.

(d) Within 90 days from the date of this order applicant in Docket No. CI71-462 shall file three copies of a rate schedule quality statement in the form prescribed in Opinion No. 586.

(e) Within 90 days from the date of initial delivery applicant in Docket No. CI61-1429 shall file three copies of a rate schedule quality statement in the form prescribed in Opinion No. 468-A.

(f) The authorizations granted in Dockets Nos. CI71-386 and CI71-610 are conditioned upon any determination

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule Description and date of document	No. Supp.
C170-444 A 1-27-71	Ada Land Co. (Operator) et al.	Southern Natural Gas Co., Kokomo Field, Wadhall County, Miss.	Ratified 3-28-70 ¹	1
C171-366 (C167-48) F 10-26-70	R. T. Goldberg (Operator) et al. (Guarantee Gas Corp.)	Natural Gas Pipeline Co. of America, acreage in Ochiltree County, Tex.	Ratified 3-12-70 ¹ Contract 3-12-70 ¹ Assignment 3-28-70 ¹ Assignment 6-9-69 ¹ Assignment 9-20-69 ¹ Contract 10-30-70 ¹	1 1 1 1 1 1
C171-384 A 11-3-70	Tenneco Oil Co. et al.	Cities Service Gas Co., Earles Unit, Union, Okla., Canadian County, Okla.	Contract 9-22-70 ¹	565
C171-387 A 11-5-70	Amoco Production Co.	Northern Natural Gas Co., Kane Field, Seward County, Kans.	Contract 8-28-67 ¹ Contract 7-16-67 ¹ Assignment 12-9-70 ¹	6 6 6
C171-469 (G 24-66) F 12-4-70	Surto Oil Co. et al. (Operator) et al. (Guarantee Gas Corp.)	Northern Natural Gas Co., Kane Field, Seward County, Kans.	Assignment 7-8-70 ¹ Effective date: 7-1-70 ¹ Assignment 8-19-70 ¹ Effective date: 9-1-70 ¹	6 6 6 3
C171-527 (G 24-66) F 1-15-71	W. M. Galloway (Operator) et al. (Tenneco Oil Co.)	El Paso Natural Gas Co., West Run, Canyon Pictorial Cliffs Field, San Juan County, N. Mex.	Contract 1-15-71 ¹	378
C171-529 (G 24-66) B 1-19-71	Shell Oil Co.	Natural Gas Pipeline Co., Willacy County, Tex.	Notice of cancellation 1-14-71 ¹	340
C171-542 A 1-25-71	Cities Service Oil Co.	El Paso Natural Gas Co., Bagley Field, Lea County, N. Mex.	Contract 1-4-71 ¹	48
C171-572 (C161-814) B 2-4-71	Colorado Oil & Gas Corp.	El Paso Natural Gas Co., Beaver County, Okla.	Notice of cancellation 1-28-71 ¹	4
C171-581 A 2-10-71	W. A. Moncrief et al.	El Paso Natural Gas Co., Beaver County, Okla.	Contract 1-1-71 ¹	46
C171-586 (G 24-66) B 2-12-71	Sun Oil Co.	Lone Star Gas Co., Garvin County, Okla.	Notice of cancellation 2-9-71 ¹	109
C171-588 (G 24-66) B 2-12-71	Gulf Oil Corp.	El Paso Natural Gas Co., Logan County, Okla.	Notice of cancellation 2-12-71 ¹	12
C171-589 (G 24-66) B 2-12-71	Hall-Jones Oil Corp. (successor to Union Chemical Corp.)	Panhandle Eastern Pipe Line Co., Wynoka Field, Woods County, Okla.	Contract 5-3-67 ¹ Assignment 11-21-69 ¹	1
C171-590 (C163-431) B 2-22-71	Freddie Morgan Field, Administrative	Northern Natural Gas Co., Gate Lake Field, Okla.	Notice of cancellation 2-15-71 ¹	1
C171-601 (C160-237) B 2-22-71	Isaac Arnold, et al.	Gate Lake Field, Okla.	Notice of cancellation 2-15-71 ¹	1
C171-605 A 2-23-71	Hanson Oil Corp. (Operator) et al.	El Paso Natural Gas Co., Texas Valley (McKee) Field, Pecos County, Tex.	Contract 2-2-71 ¹	1
C171-606 (C165-430) F 2-26-71	Jerome P. McHugh (Operator) et al. (Tenneco Oil Co.)	El Paso Natural Gas Co., Texas Valley (McKee) Field, Pecos County, Tex.	Contract 1-2-48 ¹ Ratified 7-11-69 ¹ Assignment 1-12-71 ¹ Assignment 1-13-71 ¹ Effective date: 1-13-71 ¹	9 9 9 9
C171-610 (C170-530) F 2-24-71	Oliver et al. (Operator) et al. (Successor to Nichols Drilling Co. et al.)	Panhandle Eastern Pipe Line Co., Rhodes Field, Barber County, Kans.	Contract 9-22-69 ¹ Assignment 8-13-70 ¹ Assignment 2-1-71 ¹ Notice of cancellation 2-26-71 ¹	1 1 1 38
C171-611 (C168-436) B 2-24-71	Pinedale Oil Co.	Transcontinental Gas Pipeline Corp., Bayou Charles Parish, La.	Notice of cancellation 2-26-71 ¹	1

FEDERAL REGISTER, VOL. 36, NO. 107—THURSDAY, JUNE 3, 1971

NATIONAL GAS SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating Member

MAY 26, 1971.

The Federal Power Commission by orders issued April 6, 1971, established an Executive Advisory Committee of the National Gas Survey.

1. **Membership.** Mr. Denis B. Kemball-Cook, by letter dated May 7, 1971, resigned his membership in the Executive Advisory Committee. A new member to the Executive Advisory Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Harry Bridges, President, Shell Oil Co.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7718 Filed 6-2-71; 8:51 am]

- 3 Conveys interest from LVO Corp. (formerly Livingston Oil Co.) to applicant (previously dedicated under LVO's FPC GRS No. 1).
- 4 Conveys interest from The Superior Oil Co. to applicant (previously undedicated acreage).
- 5 Conveys interest from Solito Petroleum Co. to applicant (previously undedicated acreage).
- 6 Conveys interest from LVO Corp. to applicant (includes certain acreage previously dedicated under LVO's FPC GRS Nos. 1, 4, and 6, plus certain previously undedicated acreage).
- 7 Conveys interest from Sun Oil Co. to applicant (previously undedicated acreage).
- 8 Conveys interest from Sun Oil Co. to applicant (previously undedicated acreage).
- 9 Includes letter agreement dated Aug. 5, 1969, between LVO Corp. and Sun Oil Co. and assignment dated Dec. 1, 1969, conveying interest from LVO Corp. to Sun Oil Co. and Big Chief Drilling Co.
- 10 Applicant requests authorization to gather and compress the subject gas. Applicant will gather the gas, process and compress the gas in its Webster Parish Plant and deliver such gas to Texas Gas Transmission Corp. under FPC gas rate schedule of Bodaw Co. Bodaw's sales to Texas Gas Transmission Corp. are authorized in Dockets Nos. C170-415 and C170-434.
- 11 Application erroneously notified Mar. 29, 1971 in Docket No. G-254 et al., as a partial abandonment.
- 12 Rate of 23.79 cents per Mcf was made effective Jan. 10, 1970 subject to refund in Docket No. R171-100. No monies were ever collected thereunder, therefore, the rate suspension proceeding pending in Docket No. R171-100 will be terminated insofar as it pertains to applicant's FPC GRS No. 435.
- 13 From Charles B. Read (Operator) et al., to Read & Stevens, Inc. (Operator), et al.
- 14 Complies with temporary certificate issued Jan. 28, 1970. Applicant states willingness to accept a permanent certificate conditioned to an initial rate of 17.35 cents per Mcf.
- 15 Complies with temporary certificate issued Apr. 27, 1970. Applicant states its willingness to accept permanent certificate at a rate of 17 cents per Mcf.
- 16 Amendment to application filed to cover interest of co-owners.
- 17 Between Miss-Tex Oil Producers and Southern Natural ratifying basic contract.
- 18 Between Central Oil Co. and Southern Natural ratifying basic contract.
- 19 Between King Resources Co. and Southern Natural ratifying basic contract.
- 20 On file as Texas Oil & Gas Corp. FPC GRS No. 48.
- 21 Conveys interest from Texas Oil & Gas Corp. to Jack L. Waldrop.
- 22 Conveys interest from Jack L. Waldrop to R. T. Goldberg and H. F. Smith.
- 23 Conveys interest from R. T. Goldberg and H. F. Smith to Robert Metzger.
- 24 Conveys interest from R. T. Goldberg and H. F. Smith to Robert Metzger.
- 25 By letter filed Feb. 26, 1971, applicant advised willingness to accept permanent certificate at a rate of 20 cents per Mcf and conditioned to R-338.
- 26 On file as Skelly Oil Co. FPC GRS No. 119.
- 27 From Skelly Oil Co. to applicant.
- 28 Between The Bay Petroleum Corp., a subsidiary of Tennessee Gas Transmission Co. (now Tenneco Oil Co.), and El Paso Natural Gas Co.; on file as Tenneco Oil Co. (Operator) et al., FPC GRS No. 36.
- 29 From Tenneco Oil Co. and Big Chief Drilling Co. to W. M. Galloway.
- 30 Rate of 17.896 cents per Mcf in effect subject to refund in Docket No. R170-114.
- 31 Applicant has agreed to accept certificate conditioned to 22 cents per Mcf at 14.65 p.s.i.a.
- 32 Rate of 12 cents per Mcf in effect subject to refund in Docket No. R165-599.
- 33 From Union Texas Petroleum, a division of Allied Chemical Corp. to applicant.
- 34 Other sales covered under the certificate in Docket No. C163-431; therefore, the certificate in said docket will be terminated only with respect to applicant's FPC GRS No. 1.
- 35 On file as Occidental Petroleum Corp. FPC GRS No. 1 and Thomas A. Dugan FPC GRS No. 4.
- 36 From Dugan to Nassau Resources, Inc. Also includes acreage that Occidental assigned to Dugan, but Dugan never sought certificate authorization covering subject acreage.
- 37 From Nassau Resources, Inc., to Jerome P. McHugh et al.
- 38 On file as Nichols Drilling Co. et al., FPC GRS No. 1.
- 39 Conveys interest from Nichols to applicant (Stratman Unit).
- 40 Conveys interest from Nichols to applicant (Hickie Unit).
- 41 Conveys interest from Adamana to applicant (Christensen Unit).
- 42 Between Humble Oil & Refining Co. and Texas Eastern Transmission Corp. On file as Humble Oil & Refining Co. FPC GRS No. 14.
- 43 Assigns acreage from Humble Oil & Refining Co. to Houston Oil & Minerals Corp. to a depth 100' below 7,500' Wilcox Sand.
- 44 No certificate filing made or necessary; rate filing submitted.
- 45 Assigns acreage from Humble Oil & Refining Co. (FPC GRS No. 14) to Houston Oil & Minerals Corp.
- 46 Between R. O. Maennum et al., and Texas Eastern Transmission Corp. On file as Humble Oil & Refining Co. (Operator) et al., FPC GRS No. 390.
- 47 Assigns acreage from Humble Oil & Refining Co. to Houston Oil & Minerals Corp. to a depth 100' below 7,500' Wilcox Sand.
- 48 Assigns acreage from Humble Oil & Refining Co. (FPC GRS No. 390) to Houston Oil & Minerals Corp.
- 49 Application erroneously filed in Docket No. C163-886.
- 50 Rate of 23.8 cents per Mcf in effect subject to refund in Docket No. R164-317.
- 51 Rate of 7.2 cents per Mcf being collected subject to refund in Docket No. R165-128.
- 52 Rate of 7.2 cents per Mcf being collected subject to refund in Docket No. R165-128.

[FR Doc.71-7529 Filed 6-2-71; 8:45 am]

FEDERAL RESERVE SYSTEM
HEARTLAND, CENTRAL N.Y. CORP.

Notice of Application for Approval of Acquisition of Shares of Banks

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Heartland, Central N.Y. Corp., Albany, N.Y., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Commercial Bank and Trust Co., Albany, N.Y., and 100 percent of the voting shares of First Trust & Deposit Company, Syracuse, N.Y.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to

monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

By order of the Board of Governors,
May 25, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7655 Filed 6-2-71; 8:46 am]

INTERSTATE COMMERCE
COMMISSION

McKEE LINES, INC., ET AL.

Assignment of Hearings

MAY 28, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-129307 Sub 41, McKee Lines, Inc., assigned June 7, 1971, at Kansas City, Mo., canceled and application dismissed.

MC-C-7287 et al., Aaacon Auto Transport, Inc.—Investigation & Revocation of Certificate. Assigned July 12, New York, transferred to Room C-2200-2204, 26 Federal Plaza, instead of Room 2705.

MC 14321 Sub 7, Engel Brothers, Inc., assigned June 7, 1971, at New York, N.Y., will be held at the Barbizon Plaza Hotel, 106 Central Park, South instead of Room 2705, New Federal Building, 26 Federal Plaza.

I & S No. 8625, Passenger Fares Between Pennsylvania and Delaware, assigned June 7, 1971, at Philadelphia, Pa., canceled.

FEDERAL REGISTER, VOL. 36, NO. 107—THURSDAY, JUNE 3, 1971

MC-F-10960, Briggs Transportation Co.—Purchase (Portion)—Ringsby Truck Lines, Inc., assigned July 19, 1971, at Denver, Colo., in Room 571, Federal Building and Courthouse.

MC 52709 Sub 313, Ringsby Truck Lines, Inc., assigned July 19, 1971, at Denver, Colo., in Room 571, Federal Building and Courthouse.

MC-51146 Sub 184, Schneider Transport & Storage, Inc., assigned July 22, 1971, Chicago, postponed indefinitely.

MC 113495 Sub 47, Gregory Heavy Haulers, Inc., assigned July 7, 1971, for continued hearing, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC-F-10840, Western Transportation Co.—Purchase—Norman McCrimmon, assigned June 22, 1971, for continued hearing, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC 113495 Sub 47, Gregory Heavy Haulers, Inc., assigned July 7, 1971, for continued hearing, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC 130130, Couzens Warehouse & Distributors, Inc., assigned June 1, 1971, at Chicago, Ill., canceled and reassigned July 12, 1971, at Chicago, Ill., in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7729 Filed 6-2-71; 8:52 am]

[Notice 13]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 28, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-2908 (Deviation No. 3), CAPITAL MOTOR LINES, 520 North Court Street, Montgomery, AL 36104, filed May 19, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From Meridian, Miss., over combined Interstate Highways 20 and 59 to junction U.S. Highway 80 near Kewanee, Miss., and re-

turn over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Andalusia, Ala., over U.S. Highway 29 (formerly Alabama Highway 9) to Brantley, Ala., thence over U.S. Highway 331 (formerly Alabama Highway 9) to Montgomery, Ala., thence over U.S. Highway 80 (portion formerly unnumbered highway) via Selma and Demopolis, Ala., to junction Alabama Highway 28 (formerly U.S. Highway 80), thence over Alabama Highway 28 to Livingston, Ala., thence over U.S. Highway 11 (formerly U.S. Highway 80) to junction U.S. Highway 80, thence over U.S. Highway 80 to Meridian, Miss. (also from Montgomery, Ala., over U.S. Highway 31 to junction Alabama Highway 14, thence over Alabama Highway 14 via Prattville, Ala., to Selma), and return over the same route.

No. MC-46879 (Deviation No. 1), WALTERS TRANSIT CORP., 525 11th Avenue, New York, NY 10018, filed May 14, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage in the same vehicle with passengers, over a deviation route as follows: From White Plains, N.Y., over Interstate Highway 287 to junction Interstate Highway 684, thence over Interstate Highway 684 to junction U.S. Highway 202, northeast of Brewster, N.Y., with the following access routes:

(1) From junction Interstate Highway 684 and New York Highway 35, near Katonah, N.Y., over New York Highway 35 to junction U.S. Highway 202—New York Highway 118 near Yorktown Heights, N.Y.; and (2) from junction Interstate Highways 84 and 684, east of Brewster, N.Y., over Interstate Highway 84 to junction U.S. Highway 202, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From New York, N.Y., over New York Highway 100 to junction New York Highway 100A, thence over New York Highway 100A to junction New York Highway 100, thence over New York Highway 100 to Croton Falls, N.Y., thence over New York Highway 22 to junction unnumbered highway near Bog Brook Reservoir, thence over unnumbered highway to the New York-Connecticut State line; (2) from junction New York Highways 100 and 100A over New York Highway 100 to White Plains, N.Y., thence over New York Highway 119 to junction New York Highway 100A; and (3) from Croton Lake, N.Y., over New York Highway 118 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction New York Highway 22 near Brewster, N.Y., and return over the same routes.

No. MC-13300 (Deviation No. 20), CAROLINA COACH COMPANY, 1201 South Blount Street, Raleigh, NC 27602, filed May 19, 1971. Carrier's representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW, Washington, DC 20004. Carrier proposes to operate as a

common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From Salisbury, Md., over U.S. Highway 13 to junction Delaware Highway 28, thence over Delaware Highway 28 to Georgetown, Del., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Baltimore, Md., over Maryland Highway 2 to Annapolis, Md., thence over combined U.S. Highways 50 and 301 to Queenstown, Md., thence over U.S. Highway 50 via Easton, Cambridge, and Salisbury, Md., to Ocean City, Md.; (2) from Pocomoke City, Md., over U.S. Highway 113 to Dover, Del.; and (3) from Norfolk, Va., over U.S. Highway 13 via Bayview, Va., and Salisbury, Md., to Philadelphia, Pa., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7702 Filed 6-2-71; 8:50 am]

[Notice 18]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 28, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-52953 (Deviation No. 15), ET & WNC TRANSPORTATION COMPANY, 132 Legion Street, Johnson City, TN 37601, filed May 18, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Greenville, S.C., over Interstate Highway 85 to junction Interstate Highway 285 near Atlanta, Ga., thence over Interstate Highway 285 to junction Interstate Highway 75 (U.S. Highway 41), thence over Interstate Highway 75 (U.S. Highway

41) to junction U.S. Highway 411, thence over U.S. Highway 411 to Rome, Ga., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chattanooga, Tenn., over U.S. Highway 11 to Knoxville, Tenn., thence over U.S. Highway 11W (also U.S. Highway 11E) to Bristol, Va., thence over U.S. Highway 19 to junction U.S. Highway 19E, thence over U.S. Highway 19E via Hampton, Tenn., to junction North Carolina Highway 194, thence over North Carolina Highway 194 to Vilas, N.C., thence over U.S. Highway 421 to Greensboro, N.C., thence over U.S. Highway 70 to Raleigh, N.C. (also from Chattanooga, Tenn., as specified above, thence over Tennessee Highway 67 to Mountain City, Tenn., thence over U.S. Highway 421 to Vilas, N.C., thence to Raleigh as specified);

(2) From Knoxville, Tenn., over U.S. Highway 70 to Newport, Tenn., thence over Tennessee Highway 35 to Greeneville, Tenn., thence over Tennessee Highway 70 to the Tennessee-North Carolina State line, thence over North Carolina Highway 208 to junction U.S. Highway 70, thence over U.S. Highway 70 to Asheville, N.C. (also from Newport over U.S. Highway 70 to Asheville, N.C.); thence over U.S. Highway 74 to Charlotte, N.C., thence over U.S. Highway 29 via Concord, N.C., to junction Alternate U.S. Highway 29, thence over Alternate U.S. Highway 29 to junction U.S. Highway 29 near China Grove, N.C., thence over U.S. Highway 29 to Greensboro, N.C.; (3) from Kingsport, Tenn., over U.S. Highway 23 to Asheville, N.C., thence over U.S. Highway 25 to Greenville, S.C., thence over U.S. Highway 276 to Laurens, S.C.; (4) from Chattanooga, Tenn., over U.S. Highway 27 via Rome, Ga., to Cedartown, Ga. (also from Chattanooga to Rome, Ga., as specified, thence over Georgia Highway 53 to Cave Springs, Ga., thence over Georgia Highway 53 to Cave Springs, Ga., thence over Georgia Highway 161 to Cedartown); (5) from Cleveland, Tenn., over U.S. Highway 64 to Ranger, N.C., thence over U.S. Highway 19 to Blarville, Ga., thence over U.S. Highway 76 to Westminster, S.C., and return over the same routes; and (6) from Greenville, S.C., over U.S. Highway 123 to Westminster, S.C., and return from Westminster over South Carolina Highway 183 to Walhalla, S.C., thence over South Carolina Highway 28 to junction U.S. Highway 123, thence over U.S. Highway 123 to Liberty, S.C., thence over U.S. Highway 178 to Pickens, S.C., thence over South Carolina Highway 8 to Easley, S.C., thence over U.S. Highway 123 to Greenville, S.C.

No. MC-52953 (Deviation No. 16), ET & WNC TRANSPORTATION COMPANY, 132 Legion Street, Johnson City, TN 37601, filed May 18, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Cave Springs, Ga., over U.S. Highway 411 to Gadsden, Ala., thence over U.S. Highway

[Notice 44]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 28, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 72495 (Sub-No. 7) (Republication), filed March 9, 1970, published in the FEDERAL REGISTER issue of June 11, 1970, and republished this issue. Applicant: DON SWART TRUCKING, INC., Box 49, Wellsburg, WV 26070. Applicant's representative: Ronald W. Kasserman, 900 Riley Law Building, Wheeling, W. Va. 26003. A report and recommended order of the Hearing Examiner of March 19, 1971, which was made effective on April 19, 1971, and notice served April 28, 1971, finds: that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle in interstate or foreign commerce of petroleum coke, over irregular routes, from Cresap, W. Va., to Baltimore, Md. Because it is possible that other persons who may have relied upon the notice of the application as published in the FEDERAL REGISTER may have an interest in and would be prejudiced by the lack of proper notice, a notice of the authority actually granted applicant will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 123048 (Sub-No. 183) (Republication), filed November 12, 1970, published in the FEDERAL REGISTER issue of December 3, 1970, and republished this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703, and Paul L. Martinson (same address as applicant). The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated May 11, 1971, and served May 24, 1971, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor

278 to Cullman, Ala., thence over U.S. Highway 31 to Decatur, Ala., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes, as follows: (1) From Florence, Ala., over U.S. Highway 72 via Huntsville, Ala., to junction U.S. Highway 64 near South Pittsburg, Tenn.; (2) from Florence, Ala., over U.S. Highway 72 to junction Alternate U.S. Highway 72, at or near Tusculumbia, Ala., thence over Alternate U.S. Highway 72 to Huntsville, Ala.; (3) from Savannah, Tenn., over U.S. Highway 64 to Chattanooga, Tenn.; (4) from Chattanooga, Tenn., over U.S. Highway 27 via Rome, Ga., to Cedartown, Ga. (also from Chattanooga to Rome as specified, thence over Georgia Highway 53 to Cave Springs, Ga., thence over Georgia Highway 161 to Cedartown); (4) from Memphis, Tenn., over U.S. Highway 64 to Selmer, Tenn., thence over U.S. Highway 45 to Corinth, Miss., thence over U.S. Highway 72 to Florence, Ala.; and (5) from Selmer, Tenn., over U.S. Highway 64 to Waynesboro, Tenn., thence over Tennessee Highway 13 to Tennessee-Alabama State line, thence over Alabama Highway 17 (formerly Alabama Highway 34) to Florence, Ala., and return over the same routes.

No. MC-89723 (Deviation No. 19), MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, MO 63103, filed May 18, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: Between Nebraska City, Nebr., and Lincoln, Nebr., over Nebraska Highway 2, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From the Kansas-Nebraska State line over U.S. Highway 73 to Omaha, Nebr.; and (2) from Union, Nebr., over U.S. Highway 34 to Lincoln, Nebr., and return over the same routes.

No. MC-103017 (Deviation No. 4), MERCURY MOTOR FREIGHT LINES, INC., 954 Hersey Street, St. Paul, MN 55114, filed May 17, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 14 and Illinois Highway 31 over Illinois Highway 31 to junction Illinois Highway 62, thence over Illinois Highway 62 to junction Barrington Road, thence over Barrington Road to junction Interstate Highway 90, thence over Interstate Highway 90 to Chicago, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: Between Madison, Wis., and Chicago, Ill., over U.S. Highway 14.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7701 Filed 6-2-71; 8:50 am]

vehicle, over irregular routes, of (1) (a) tractors (except those with vehicle beds, bed frames and fifth wheels); (b) equipment designed for use in connection with tractors; (c) agricultural, industrial and construction machinery and equipment; (d) trailers designed for the transportation of the above described commodities (except trailers designed to be drawn by passenger automobiles); (e) attachments for the above described commodities; (f) internal combustion engines; and (g) parts of the above described commodities when moving in mixed loads with such commodities, from the plants, warehouse sites, and experimental farms of Deere & Co. in Rock Island County, Ill., to points in Indiana, Kentucky, Ohio, West Virginia, and points in the Lower Peninsula of Michigan; and

(2) Returned shipments on return from the destination States named above to the named plants, warehouse sites, and experimental farms of Deere & Co. in Rock Island County, Ill., restricted in (1) above to the transportation of traffic originating at the plants, warehouse sites and experimental farms of Deere & Co. and in (2) above to the transportation of traffic destined to such facilities of Deere & Co.; subject to the following conditions: (1) That the above-entitled proceeding be, and it is hereby, held open for further consideration of applicant's fitness subsequent to the determination of No. MC-123048 (Sub-No. 185); (2) that any grant of authority ultimately issued in this order, and applicant's existing authority that it duplicates, shall be construed as conferring only a single operating right; (3) that because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and for a period of 30 days from the date of such publication, any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 126645 (Sub-No. 3) (republication), filed September 27, 1970, published in the FEDERAL REGISTER issue of October 15, 1970, and republished in this issue. Applicant: ROSCOE ORWICK AND FRANCES ORWICK, a partnership, doing business as: ROSCOE AND FRANCES, 163 Kings Highway, Altoona, PA 16602. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. The modified procedure has been followed in this proceeding, and an order of the Commission, Operating Rights Board, dated April 23, 1970, and served May 20, 1971, finds; that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of ice cream, frozen dairy products, fruit juices, sherbet, milk, cottage cheese and buttermilk, in vehicles equipped with mechanical refrigeration,

from Pittsburgh, Pa., to points in Maryland and the District of Columbia, under a continuing contract or contracts with Sealtest Foods, Division of Kraftco Corp., of Pittsburgh, Pa., will be consistent with the public interest and the national transportation policy. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 134631 (Sub-No. 4) (Republication), filed November 12, 1970, published in the FEDERAL REGISTER issue of December 3, 1970, and republished in this issue. Applicant: SCHULTZ TRANSIT, INC., Post Office Box 503, Winona, MN 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 29, 1971, and served May 20, 1971, finds; (1) that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of candy and cherries, from Winona, Minn., to Atlanta, Ga., Boston, Mass., Charlotte, N.C., and points in Illinois, Indiana, Kentucky, Michigan, New Jersey, New York, Ohio, and Pennsylvania, under a continuing contract with Schuler Chocolates, Inc., of Winona, Minn., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that an appropriate permit should be issued; and (2) that the holding by applicant of the permit authorized to be issued in this proceeding and the holding by applicant of a certificate heretofore issued in No. MC-118202 will be consistent with the public interest and the national transportation policy, subject to the conditions that the permit granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that applicant's operations conform to the provisions of section 210 of the Interstate Commerce Act. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene or other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

lished in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134935 (Republication) filed September 14, 1970, published in the FEDERAL REGISTER issue of October 8, 1970, and republished in this issue. Applicant: DENOYER BROS. MOVING & STORAGE CO., a corporation, Post Office Box 109, Traverse City, MI 49684. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, Suite 1700, Detroit, MI 48226. The modified procedure has been followed in this proceeding and a report and order of the Commission, Review Board No. 3, decided May 10, 1971, and served May 19, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of used household goods, between points in Emmet, Cheboygan, Charlevoix, Otsego, Antrim, Leelanau, Benzie, Grand Traverse, Kalkaska, Crawford, Manistee, Wexford, Misaukee, Roscommon, Mason, Lake, Oscoda, Clare, Oceana, Newago, Mecosta, Isabella and Muskegon Counties, Mich., restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pick up and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such shipments. Because it is possible that other parties, who have relied upon the notice as published, may have interest in and would be prejudiced by the lack of proper notice of the authority described in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene or other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 109533 (Sub-No. 47), filed May 5, 1971. Applicant: OVERNITE TRANSPORTATION CO., a corp., 1100 Commerce Road, Richmond, VA 23224. Applicant's representative: Eugene T. Lilpfert, Suite 1100, 1660 L Street NW., Washington, DC 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Cabell, Putnam, Kanawha, Mason, Jackson, Roane, Calhoun, Gilmer, Wirt, Wood, Lewis, Upshur, Randolph, and Ritchie Counties, W. Va., which are within 75 miles of Gatewood, W. Va., and which are located on and north of U.S. Highway 60. Note: The instant application is a matter directly related to No. MC-F-11172 published in the FEDERAL REGISTER issue of May 26, 1971. Applicant states that the requested authority would connect with its existing authority at South Charleston, W. Va., or other common points, authorizing service to West Virginia points within 75 miles of Bluefield, W. Va. This authority in turn connects with applicant's other authority to serve points in Virginia, Tennessee, North Carolina, South Carolina, Georgia, and Alabama. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11180. Authority sought for purchase by McLEOD TRUCKING, INC., 2401 East Fifth Street, Reno, NV 89504, (Mailing address: Post Office Box 366), of a portion of the operating rights of RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver, CO 80216, and for acquisition by FRANK BENDER, Post Office Box 4300, Reno, NV 89501 and JOHN TOM ROSS, Post Office Box 635, Carson City, NV 89701, of control of such rights through the purchase. Applicants' attorney: Martin J. Rosen, 140 Montgomery Street, San Francisco, CA 94104. Operating rights sought to be transferred: General commodities, excepting among others, livestock, household goods and commodities in bulk, as a common carrier over regular routes, between Yerington and Reno, Nev., serving the intermediate and off-route points of Weeks, Wabuska, Smith, Wellington, and Mason, Nev.; feed, ranch machinery, and supplies, over irregular routes, from Reno and Fallon, Nev., to Yerington, Nev., and points within 35 miles thereof, between points within 35 miles of Yerington, Nev., including Yerington, Nev. Vendee is authorized to operate as a common carrier in Nevada and California. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11181. Authority sought for purchase by BEKINS MOVING & STORAGE CO., a Washington Corporation, 9401 Aurora Avenue North at 95th Street, Seattle, WA 98103, of the operating rights of (A) BEKINS MOVING & STORAGE CO. (Oregon corporation), 407 North Broadway, Portland, OR 97208 and (B) BEKINS MOVING & STORAGE CO. (Idaho corporation), 631 South

Ninth Street, Boise, ID 83707, and for acquisition by CLAUDE and FRED BEKINS, both of Seattle, Wash. 98103, and BRUCE J. BEKINS, Route 3, Box 755, Bend, OR 97701, of control of such rights through the purchase. Applicants' attorney: Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Operating rights sought to be transferred: (A) Household goods, as defined by the Commission, as a common carrier over irregular routes, between points in Oregon, on the one hand, and, on the other, points in Washington within 50 miles of Portland, Ore.; (B) household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between points and places in Idaho. Vendee is authorized to operate as a common carrier in Idaho and Washington. Application has not been filed for temporary authority under section 210a(b). Note: MC-84719 Sub 6 is a matter directly related.

No. MC-F-11182. Authority sought for purchase by GOTTRY CORP., 999 Beahan Road, Rochester, NY 14624, of the operating rights of J. N. WILSON CO., INC., 128 West Third Street, Erie, PA 16507, and for acquisition by RICHARD HIGGINS, 146 Hillside Drive, Orchard Park, NY and WILLIAM HIGGINS, 130 Brantwood, Snyder, NY, of control of such rights through the purchase. Applicants' attorney: Robert V. Gianniny, 900 Midtown Tower, Rochester, NY 14604. Operating rights sought to be transferred: Heavy machinery, road and building construction equipment, and such commodities, other than those specified above, as required special handling or rigging because of size or weight, and such incidental tools, materials, equipment, and supplies as are usually transported in connection with all these aforesaid commodities, as a common carrier over irregular routes, between points in Erie County, Pa., on the one hand, and, on the other, points in New York and Ohio, and the Lower Peninsula of Michigan. Vendee is authorized to operate as a common carrier in New York, Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11183. Authority sought for purchase by DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46621, of a portion of the operating rights of STEFFEN TRANSFER CO., 3165-67 South Kingshighway Boulevard, St. Louis, MO 63139, and for acquisition by PAUL A. MAVIS, also of South Bend, Ind. 46621, of control of such rights through the purchase. Applicants' attorneys: Austin C. Knetzger, 1011 International Office Building, 722 Chestnut Street, St. Louis, MO 63101 and Charles Pieroni, 4000 West Sample Street, South Bend, IN 46621. Operating rights sought to be transferred: General commodities, as a common carrier over irregular routes, between points in the

St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission. Vendee is authorized to operate as a common carrier in all of the States in the United States (except Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11184. Authority sought to be purchased by CENTRAL TRUCK LINES, INC., 3825 Henderson Boulevard, Post Office Box 18464, Tampa, FL 33609, of a portion of the operating rights of MOTOR EXPRESS, INC., 410 Lincoln Building, Cleveland, Ohio 44114, and for acquisition by U.S. TRUCK LINES, INC. OF DELAWARE, 1602 Union Commerce Building, Cleveland, Ohio 44115, of control of such rights through the purchase. Applicants' attorney: David M. Schwartz, Suite 300, 1700 Pennsylvania Avenue, NW., Washington, DC 20006. Operating rights sought to be transferred: General commodities, with exceptions, as a common carrier, over regular routes, between Cleveland and Akron, Ohio, serving all intermediate points. Vendee is authorized to operate as a common carrier in Georgia, Florida, Ohio, Louisiana, Alabama, Kentucky, and Tennessee. Application has not been filed for temporary authority under section 210a(b). Note: Transferee and transferor are both controlled by U.S. Truck Lines, Inc., of Delaware through 100 percent stock ownership. The purpose of the proposed transaction is to permit transferee to serve Cleveland and those points in the Cleveland commercial zone not already authorized transferee.

No. MC-F-11185. Authority sought for purchase by TERMINAL TRANSPORT CO., INC., 248 Chester Avenue SE., Atlanta, GA 30316, of a portion of the operating rights of (A) MICHIGAN EXPRESS, INC., 1122 Freeman Avenue SW., Grand Rapids, MI 49502, and (B) CUSHMAN MOTOR DELIVERY CO., 1480 West Kinzie Street, Chicago, IL 60622, and for acquisition by AMERICAN COMMERCIAL LINES, INC., Box 13244, Houston, TX 77019, and TEXAS GAS TRANSMISSION CORP., 300 Frederica Street, Post Office Box 1160, Owensboro, KY 42301, of control of such rights through the purchase. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: (A) General commodities, excepting among others, livestock, classes A and B explosives, household goods and commodities in bulk, as a common carrier, over regular routes, between Chicago, Ill., and St. Louis, Mo., serving the intermediate point of East St. Louis, Ill., and the intermediate and off-route points in the Chicago, Ill., Commercial Zone, as defined by the Commission in 1 M.C.C. 673, between Springfield, Ill., and Hammond, Ind., between Rock Island, Ill., and Chicago, Ill., serving all intermediate points, and the off-route points of Rock Falls, Ill., those in the Chicago, Ill., Commercial Zone as defined by the Commission in 1 M.C.C. 673, and those in the Davenport-Rock Island and Moline Commercial

Zone as defined by the Commission in 41 M.C.C. 557, between Dixon, Ill., and La Salle, Ill., serving all intermediate points and the off-route points and the off-route point of Peru, Ill., between Aurora, Ill., and junction U.S. Highways 52 and 30, serving no intermediate points, over one alternate route for operating convenience only, between junction Illinois Highways 2 and 78 and junction Illinois Highways 78 and 92, between junction Illinois Highways 2 and 88 and junction Illinois Highways 88 and 92, between junction Illinois Highways 2 and 26 and junction Illinois Highways 26 and 92, between junction Illinois Highways 92 and 89 and La Salle, Ill., between junction U.S. Highway 51 and alternate U.S. Highway 30 and junction U.S. Highways 51 and 52, in connection with carrier's regular route operations authorized above, serving no intermediate points, between junction U.S. Highways 30 and 52 at or near Lee Center, Ill., and junction U.S. Highway 30 and Illinois Highway 2 at Rock Falls, Ill., serving the intermediate point of Rock Falls, Ill.; *general commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, over irregular routes, between points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission in 2 M.C.C. 285, between points in the Chicago, Ill., Commercial Zone as defined by the Commission in 1 M.C.C. 673, between Rock Island, Milan, Moline, East Moline, Silvis, and Carbon Cliff, Ill., and Davenport and Bettendorf, Iowa; and

(B) General commodities, except commodities in bulk, over regular routes, between Chicago Ill., and Milwaukee, Wis., between Chicago, Ill., and junction U.S. Highway 41 and Illinois Highway 42-A (near Gurnee, Ill.), between Chicago, Ill., and junction Eden's Expressway and U.S. Highway 41, somewhat north of Lake Avenue, in connection with carrier's regular route operations authorized herein, serving no intermediate points, with restriction, over one alternate route for operating convenience only; over irregular routes in the commercial area of Milwaukee, Wis., as described in appendix I, White Fish Bay, Shorewood, North Milwaukee, Wauwatosa, West Allis, Root Creek, Cudahy, Fox Point, Greendale, South Milwaukee and intermediate points. Vendee is authorized to operate as a common carrier in Indiana, Alabama, Georgia, Florida, Illinois, Tennessee, Kentucky, Ohio, Michigan, and Missouri. Application has been filed for temporary authority under section 210a (b). Note: Authority sought in (B) is pursuant to MC-F-9856, approved by order of December 20, 1968, and consummated July 8, 1969, certificate not yet issued.

No. MC-F-11186. Authority sought for purchase by POTTER FREIGHT LINES, INC., Post Office Box 428, Sparta, TN 38583, of a portion of the operating rights of TENNESSEE CAROLINA TRANSPORTATION, INC., 40 Nance Lane, Post Office Box 7308, Nashville, TN 37210, and for acquisition by WAYMAN

Hill, and CHARLES HERSHISER, both of Sparta, TN 38583, and STANTON D. TUBB, 200 South Carter, Sparta, TN 38583, of control of such rights through the purchase. Applicants' attorney: James Clarence Evans, 1800 Third National Bank Building, Nashville, Tenn. 37219. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a common carrier over regular routes, between Livingston, Tenn., and Cookeville, Tenn., serving all intermediate points. Vendee is authorized to operate as a common carrier in Tennessee. Application has not been filed for temporary authority under section 210a (b).

No. MC-F-11187. Authority sought for control by MOTEK CORP., a noncarrier, Van Buren and Madison Streets, Valley Forge Industrial Park, Valley Forge, PA 19481, of C.S.I., INC., doing business as CONTRACT SERVICE, INC., Trewigton Road, Colmar, PA 18915, and for acquisition by MARK R. HERR AND BYRON E. READING, both of Valley Forge, Pa. 19481, of control of C.S.I., INC., through the acquisition by MOTEK CORPORATION. Applicants' attorney: Maxwell A. Howell, 1511 K Street NW., Washington, DC 20005. Operating rights sought to be controlled: *Soil pipe and fittings*, as a common carrier, over regular routes, from Quakertown, Pa., to Rosslyn, Va., serving the intermediate point of Washington, D.C., restricted to delivery only; and the off-route point of Lansdale, Pa., restricted to pickup only; *asbestos and asbestos products*, over irregular routes, from Ambler, Pa., to points in Delaware, Maryland, New Jersey, New York, Virginia, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, and the District of Columbia, from Meredith, N.H., to Ambler, Pa., from the plantsite of Nicolet Industries, Inc., at Norristown, Pa., to points in Delaware, Maryland, Virginia, Connecticut, Rhode Island, Massachusetts, New York (except points in Nassau and Westchester Counties, N.Y., commercial zone, as defined by the Commission), and New Jersey (except Paterson, Clifton, Passaic, Hackensack, Teaneck, Garfield, Rutherford, Ridgefield, Ridgefield Park, Palisades Park, Cliffside Park, and Fort Lee, N.J.), and the District of Columbia;

Asbestos products, from Lansdale and Quakertown, Pa., to Baltimore, and Crisfield, Md., Bridgeton, Camden, and Newark, N.J., Wilmington, Del., and Washington, D.C.; *tile*, from Lansdale, Pa., to points in Delaware, Maryland, New Jersey, New York, Virginia, Massachusetts, Rhode Island, Connecticut, and the District of Columbia, from the plantsite of the American Olean Tile Co., Inc., Richland Township, Pa., to Lansdale, Pa.; *soil pipe and soil pipe fittings*, from Lansdale and Quakertown, Pa., to points in Delaware, Maryland, New Jersey, New York, Virginia, Massachusetts, Rhode Island, Connecticut, and the District of Columbia, from Philadelphia, Pa., to points in Delaware, Maryland, New Jersey, New

York, Virginia, and the District of Columbia, from Ambler, Pa., to Baltimore and Crisfield, Md., Bridgeton, Camden, and Newark, N.J., Wilmington, Del., and Washington, D.C.; *plumbing supplies*, from Ambler, Lansdale, and Quakertown, Pa., to Baltimore and Crisfield, Md., Bridgeton, Camden, and Newark, N.J., Wilmington, Del., and Washington, D.C.; *plumbers' castings*, from Lansdale, Quakertown, and Philadelphia, Pa., to points in Delaware, Maryland, New Jersey, New York, Virginia, and the District of Columbia; *manufactured fertilizers and fertilizer ingredients*, dry in bags (not including fertilizers for flower beds or garden use), from Baltimore, Md., and points within 15 miles of Baltimore, to certain specified points in Pennsylvania; *dry earth pigments*, in bags, casks, and barrels, between Bethlehem, Pa., on the one hand, and, on the other, Newark, N.J., and points in New Jersey within 25 miles of Newark, points in New York within the New York commercial zone as defined by the Commission in New York, N.Y., Commercial Zone, 1 M.C.C. 665, 2 M.C.C. 191, Baltimore, Md., and the District of Columbia; *materials* used in the manufacture of tile, from points in Kentucky, Tennessee, New Hampshire, Massachusetts, Maine, Virginia, Delaware, West Virginia, New Jersey, North Carolina, New York, and Maryland, to Lansdale, Pa.; *scrap iron and other materials* used in the manufacture of soil pipe and soil pipe fittings, from points in Massachusetts, Rhode Island, New York, Connecticut, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia; *clay facing tile*, and *china ware bathroom fixtures*, from Lansdale, Pa., to Chicago, Ill., Detroit, Mich., Kansas City, Mo., and points in Florida; *plumbers' castings*, *soil pipe and soil pipe fittings*, from Lansdale and Quakertown, Pa., to points in Maine, New Hampshire, and Vermont, with restriction; *conduit, pipe and accessories* for installation of such conduit and pipe, from Ambler, Pa., to Philadelphia, Pa.;

Asbestos-cement pipe and conduit; *plastic pipe and conduit*; *asbestos-cement building materials*; *the following building materials*: *siding*, *building wall and insulating boards*, *gutters*, *spouts*, and *roofing materials*; and *fittings, accessories, and equipment* to be used in the installation of the foregoing commodities, excluding, as to all of the transportation authorized in this paragraph the transportation of commodities in bulk, and the transportation of commodities which, because of size or weight, requires special equipment, and returning with return shipments of the above-specified commodities, from the plantsite and warehouse of Certain-Teed Products Corp., Cheektowaga, N.Y., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. MOTEK CORPORATION holds

no authority from this Commission. However, it is affiliated with LANSDALE TRANSPORTATION CO., INC., 1330 North Broad Street, Post Office Box 392, Landsdale, PA 19446, which is authorized to operate as a common carrier in Pennsylvania, New York, New Jersey, Virginia, Delaware, Maryland, and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7703 Filed 6-2-71;8:50 am]

[Notice 697]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 28, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72836. By order of May 26, 1971, the Motor Carrier Board, approved the transfer to Willis Day Moving & Storage Co., a corporation, Toledo, Ohio, of the operating rights in Certificate No. MC-60602, issued November 28, 1950, to Willis Day Storage Co., a corporation, Toledo, Ohio, authorizing the transportation of: Household goods as defined by the Commission in 17 M.C.C. 467, over irregular routes, between points in Ohio, Delaware, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Pennsylvania, and the District of Columbia. Walter E. Apple, attorney for applicants, 405 Madison Avenue, Toledo, OH 43604.

No. MC-FC-72866. By order of May 26, 1971, the Motor Carrier Board approved the transfer to Zipp Trucking, Inc., Marion, Ohio, of Permit No. MC-128364, issued July 5, 1967, to C. C. Plumley, Marion, Ohio, authorizing the transportation of: Iron and steel and iron and steel products, from Marion, Ohio, to

points in the lower Peninsula of Michigan. David L. Pemberton, attorney, 88 East Broad Street, Columbus, OH 43215.

No. MC-FC-72873. By order of May 25, 1971, the Motor Carrier Board approved the transfer to John Himmer Transfer, Inc., Pittsburgh, Pa., of the operating rights in Certificate No. MC-27789 (Sub-No. 2), issued February 19, 1957, to John W. Brown, Jr., Inc., Pittsburgh, Pa., authorizing the transportation of building materials and building contractors' equipment and supplies, between points in Allegheny, Washington, Westmoreland, and Fayette Counties, Pa. Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC-FC-72877. By order of May 26, 1971, the Motor Carrier Board approved the transfer to Banning Transportation, Inc., Oklahoma City, Okla., of certificate No. MC-113851 and No. MC-113851 (Sub-No. 1), issued March 20, 1969 and November 30, 1970, respectively, to Dempsey Transportation, Inc., authorizing the transportation of: Houses, except knocked-down houses, between points in Texas, New Mexico, Oklahoma, and a described portion of Kansas; heavy machinery and engines from and to points on rail lines in a described portion of Kansas and a described portion of Nebraska; portable houses and buildings, between points in a described portion of Colorado, Kansas, and Nebraska; and buildings, complete, knocked down or in sections, and all component parts and materials used in assembling, erection or completion of such buildings, between points in Kansas, on the one hand, and, on the other, points in Colorado and Nebraska. Richard Freeman, Suite 701, Hightower Building, Oklahoma City, Okla., and David D. Brunson, 419 Northwest Sixth Street, Oklahoma City OK 73102, attorney for applicants.

No. MC-FC-72879. By order of May 26, 1971, the Motor Carrier Board approved the transfer to Willard D. Perreault, Valentia, Ontario, Canada, of the operating rights in certificate No. MC-116106 issued April 2, 1963, to Smithlands Ltd., Oshawa, Ontario, Canada, authorizing the transportation of livestock, other than ordinary, between ports of entry on the United States-Canada boundary line at Buffalo and Niagara Falls, N.Y., on the one hand, and, on the other, points in New York, Pennsylvania, New Jersey, Virginia, Ohio, Illinois, Indiana, Maryland, and Michigan; between ports of entry at or near Buffalo, Niagara Falls, Ogdensburg, and Alexandria Bay, N.Y., and Detroit and Port Huron, Mich., on the one hand, and, on the other, points in New Hampshire, North Caro-

lina, South Carolina, Georgia, and Florida; ponies, other than ordinary, between ports of entry at or near Buffalo, Niagara Falls, Ogdensburg, and Alexandria Bay, N.Y., on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, and Florida; ponies, other than ordinary, from ports of entry at or near Buffalo, Niagara Falls, Ogdensburg, and Alexandria Bay, N.Y., and Detroit and Port Huron, Mich., to points in Illinois, Indiana, and Michigan; and livestock, other than ordinary, from ports of entry at or near Ogdensburg and Alexandria Bay, N.Y., and Detroit and Port Huron, Mich., to points in Illinois, New York, Pennsylvania, New Jersey, Virginia, Ohio, Indiana, Maryland, and Michigan. William J. Hirsch, 35 Court Street, Buffalo, NY 14202, attorney for applicants.

No. MC-FC-72900. By order of May 26, 1971, the Motor Carrier Board approved the transfer to Harris Oil Co., a corporation, Imperial, Calif., of the operating rights in certificate No. MC-124588 issued December 6, 1962 to Stevens H. Harris, doing business as Harris Oil Co., Imperial, Calif., authorizing the transportation of liquid petroleum products from Colton, Niland, and Imperial, Calif., to specified points and areas in California and Arizona. Phil Jacobson, 510 West Sixth Street, Los Angeles, CA 90014, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7705 Filed 6-2-71;8:50 am]

[Notice 697-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 28, 1971.

Application filed for temporary authority under section 210(a) (b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-72920. By application filed May 26, 1971, TAN LINE, INC., 2 Johnsfeld Court, Huntington Station, NY 11745, seeks temporary authority to lease the operating rights of UNITED SERVICES & PROJECTS, INC., 145-79 226th Street, Rosedale, NY, under section 210a (b). The transfer to TAN LINE, INC., of the operating rights of UNITED SERVICES & PROJECTS, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7704 Filed 6-2-71;8:50 am]

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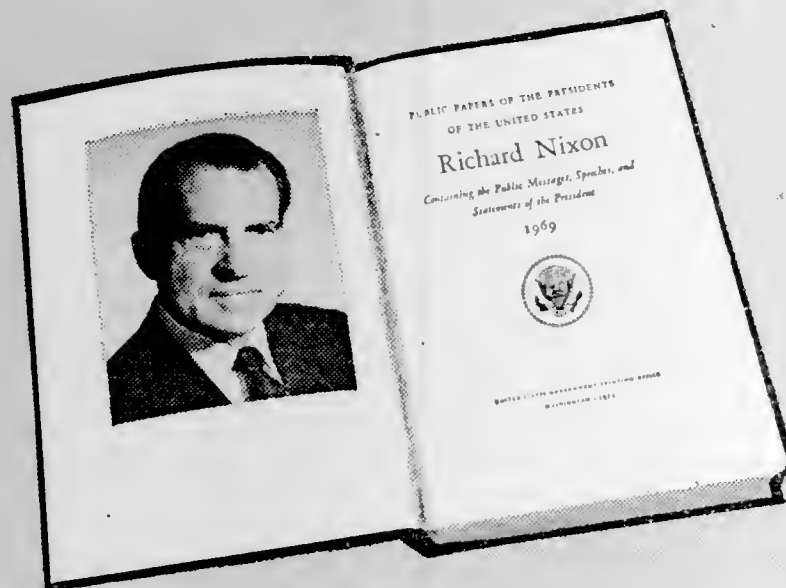
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Title 3—The President

PROCLAMATION 4058

Medical Library Association Day

By the President of the United States of America

A Proclamation

Since its establishment in 1898 as the only national professional organization in its field, the Medical Library Association has devoted itself to making the vast treasures of biomedical development accessible to science. The Association has been responsible for advancing the practice of medical library science, improving the professional standards of medical libraries, and maintaining a liaison with other organizations dedicated to the improvement of health.

As a tribute to our medical librarians, the Congress, by Senate Joint Resolution 103, has requested the President to issue a proclamation designating June 1, 1971, as Medical Library Association Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Tuesday, June 1, 1971, as Medical Library Association Day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of June, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.



[F R Doc.71- 7912 Filed 6 3 71;8:56 am]

Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS

Correction

In F.R. Doc. 71-7158 appearing at page 9814 in the issue of Friday, May 28, 1971, the following changes should be made:

1. The first word in the penultimate line of § 59.110(a) reading "by" should read "be".
2. The first word in § 59.118 reading "inspector" should read "inspectors".
3. The word "any" appearing in the ninth line of § 59.146(d) should read "an".
4. The third line of § 59.200(a) now reading "any egg or egg products in commerce" should read "any eggs or egg products in commerce".
5. The figures in § 59.415 have been transposed and should be changed so that Figure 3 in paragraph (a) appears as Figure 4 in paragraph (b) and Figure 4 in paragraph (b) appears as Figure 3 in paragraph (a).
6. The first word in the penultimate line of § 59.500(k) reading "utilize" should read "utilized".
7. In § 59.540(h) the word "so" should be added to the second line so that it will read "be so constructed as will facilitate thorough".
8. In the first line of § 59.640(b) (3) the word "a" should be added so that the line will read "(3) Request a final survey be made by a".
9. The word "regarded" appearing in the first line of § 59.720(b) (2) should read "regraded".

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[953.208]

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment, to be effective under Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953), regulating the handling of Irish potatoes grown in the Southeastern States production area which is comprised of certain designated counties of Virginia and North Carolina, was published in the FEDERAL REGISTER May 21, 1971 (36 F.R. 9252). This regulatory program is effective under the Agricultural Marketing

Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than 7 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matter presented, including the proposals set forth in the aforesaid notice which were recommended on May 6 by the Southeastern Potato Committee, established pursuant to said amended marketing agreement and order, it is hereby found and determined that:

§ 953.208 Expenses and rate of assessment.

(a) The expenses the Secretary finds may be necessary to be incurred by the Southeastern Potato Committee, established pursuant to Marketing Agreement No. 104, as amended and this part, to enable such committee to carry out its functions pursuant to provisions of the aforesaid amended marketing agreement and order, during the fiscal period ending March 31, 1972, will amount to \$11,125.

(b) The rate of assessment to be paid by each handler in accordance with the amended Marketing Agreement and this part shall be one-fourth of one cent (\$0.0025) per hundredweight of potatoes handled by him as the first handler thereof during the said fiscal period: *Provided*, That potatoes for canning, freezing, and "other processing" as defined in the February 20, 1970, amendment to the act (Public Law 91-196) shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section shall have the same meaning as when used in the said amended marketing agreement and this part.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable potatoes from the beginning of such fiscal period, and (2) the current fiscal period began on April 1, 1971, and the rate of assessment herein fixed will automatically apply to all assessable potatoes beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: June 1, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc. 71-7827 Filed 6-3-71; 8:54 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 74—SCABIES IN SHEEP

Interstate Movement

Pursuant to the provisions of sections 4 through 7 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and section 1 through 4 of the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126), Part 74, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended, is hereby further amended in the following respects:

1. Section 74.2 is amended as follows:
a. By changing the heading and the introductory paragraph to read, respectively:

§ 74.2 Designation of free areas.

Notice is hereby given that sheep in the following States, Territories, and District are not known to be infected with scabies, and such States, Territories, and District are hereby designated as free areas:

b. By inserting "New Jersey," in alphabetical order in the list of free areas in subparagraph (d) (1); and

c. By deleting "(1)" preceding the list of free areas in paragraph heretofore designated as (a) (1) and by deleting all of subparagraph (2) and paragraph (b).

2. Section 74.3 is amended to read as follows:

§ 71.3 Notice concerning sheep scabies.

Notice is hereby given that although sheep scabies is not known to exist in any State, Territory, or District designated as a free area in § 74.2 at this time, scabies is a disease which by its nature may exist without showing symptoms during the summer months and reappear during cold-weather months. Historically some outbreaks of scabies have occurred in areas which immediately theretofore appeared to be free of scabies. Therefore in view of the nature of the disease and its prior existence in the United States, it is necessary to continue surveillance over flocks in the areas designated as free areas and to continue to regulate the interstate movement of sheep as provided in this part.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126; 29 F.R. 16210, as amended)

The foregoing amendments terminate the designation of Gloucester County and Hunterdon County, N.J., as infected areas and eradication areas, and classify New Jersey as a free area for purposes of the regulations. The amendments relieve restrictions heretofore applicable to the interstate movement of sheep from or into infected or eradication areas, but leave in effect other provisions of the regulations relating to the interstate movement of sheep from or into free areas. The amendments must be made effective promptly to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER. However, the revocation by such amendments of the designation of infected areas or eradication areas shall not affect violations of the regulations that occurred, liabilities that were incurred, or rights that accrued prior to said effective date.

Done at Washington, D.C., this 28th day of May 1971.

F. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-7824 Filed 6-3-71; 8:54 am]

[Docket No. 71-566]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, paragraph (e)(5) relating to the State of Texas is amended to read:

(5) *Texas.* (i) All of Collin, Harris, Galveston, Montgomery, and Tom Green Counties.

(ii) That portion of the State of Texas comprised of all of Bell, Bosque, Callahan, Comanche, Eastland, Ellis, Erath, Hill, Hood, Johnson, McLennan, Somervell, Tarrant, and Williamson Counties and portions of Brown, Coryell, Hamilton, Limestone, Mills, Navarro, and Stephens Counties, and bounded by a line

beginning at the junction of the Tarrant-Dallas-Ellis County lines; thence, following the Dallas-Ellis County line in an easterly direction to the junction of the Dallas-Ellis-Kaufman County lines; thence, following the Kaufman-Ellis County line in a southeasterly direction to the junction of the Kaufman-Ellis-Henderson County lines; thence, following the Ellis-Henderson County line in a southeasterly direction to the junction of the Ellis-Henderson-Navarro County lines; thence, following the Ellis-Navarro County line in a southwesterly direction to Interstate Highway 45 in Ellis County; thence, following Interstate Highway 45 in a southeasterly direction to State Highway 14 in Navarro County; thence, following State Highway 14 in a southwesterly direction to the Navarro-Freestone County line; thence, following the Navarro-Freestone County line in a southwesterly direction to the junction of the Navarro-Freestone-Limestone County lines; thence, following the Limestone-Freestone County line in a southeasterly direction to State Highway 14 in Limestone County; thence, following State Highway 14 in a southwesterly direction to State Highway 7 in Limestone County; thence, following State Highway 7 in a southwesterly direction to the Limestone-Falls County line; thence, following the Limestone-Falls County line in a northwesterly direction to the junction of the Limestone-Falls-McLennan County lines; thence, following the McLennan-Falls County line in a southwesterly direction to the junction of the McLennan-Falls-Bell County lines; thence, following the Bell-Falls County line in a southeasterly direction to the junction of the Bell-Milam-Falls County lines; thence, following the Bell-Milam County line in a southwesterly direction to the junction of the Bell-Milam-Williamson County lines; thence, following the Williamson-Milam County line in a southeasterly direction to the junction of the Williamson-Milam-Lee County lines; thence, following the Williamson-Lee County line in a southwesterly direction to the junction of the Williamson-Lee-Bastrop County lines; thence, following the Williamson-Bastrop County line in a generally northwesterly direction to the junction of the Williamson-Bastrop-Travis County lines; thence, following the Williamson-Travis County line in a generally northwesterly direction to the junction of the Williamson-Travis-Burnet County lines; thence, following the Williamson-Burnet County line in a northeasterly direction to the junction of the Williamson-Burnet-Bell County lines; thence, following the Bell-Burnet County line in a northwesterly direction to the junction of the Bell-Burnet-Lampasas County lines; thence, following the Bell-Lampasas County line in a northerly direction to the junction of the Bell-Lampasas-Coryell County lines; thence, following the Bell-Coryell County line in a northeasterly direction to State Highway 36 in Bell County; thence, following State Highway 36 in a northwesterly direction to U.S. Highway

84 in Coryell County; thence, following U.S. Highway 84 in a generally northwesterly direction to the Coleman-Brown County line; thence, following the Coleman-Brown County line in a northerly direction to the junction of the Coleman-Brown-Callahan County lines; thence, following the Callahan-Coleman County line in a westerly direction to the junction of the Callahan-Coleman-Taylor County lines; thence, following the Callahan-Taylor County line in a northerly direction to the junction of the Taylor-Callahan-Jones-Shackelford County lines; thence, following the Shackelford-Callahan County line in an easterly direction to the junction of the Shackelford-Callahan-Eastland County lines; thence, following the Shackelford-Eastland County line in an easterly direction to the junction of the Shackelford-Eastland-Stephens County lines; thence, following the Shackelford-Stephens County line in a northerly direction to U.S. Highway 180; thence, following U.S. Highway 180 in an easterly direction to State Highway 67 in Stephens County; thence, following State Highway 67 in a northeasterly direction to Farm to Market Road 717 in Stephens County; thence, following Farm to Market Road 717 in a southeasterly direction to U.S. Highway 180 in Stephens County; thence, following U.S. Highway 180 in an easterly direction to the Stephens-Palo Pinto County line; thence, following the Stephens-Palo Pinto County line in a southerly direction to the junction of the Stephens-Palo Pinto-Eastland County lines; thence, following the Palo Pinto-Eastland County line in an easterly direction to the junction of the Palo Pinto-Eastland-Erath County lines; thence, following the Palo Pinto-Erath County line in an easterly direction to the junction of the Palo Pinto-Erath-Hood County lines; thence, following the Palo Pinto-Hood County line in a northerly direction to the junction of the Palo Pinto-Hood-Parker County lines; thence, following the Parker-Hood County line in an easterly direction to the junction of the Parker-Hood-Johnson County lines; thence, following the Parker-Johnson County line in an easterly direction to the junction of the Parker-Johnson-Tarrant County lines; thence, following the Parker-Tarrant County line in a northerly direction to the junction of the Parker-Tarrant-Wise County lines; thence, following the Tarrant-Wise County line in an easterly direction to the junction of the Tarrant-Wise-Denton County lines; thence, following the Tarrant-Denton County line in an easterly direction to the junction of the Tarrant-Denton-Dallas County lines; thence, following the Tarrant-Dallas County line in a southerly direction to its junction with the Ellis County line.

(iii) That portion of Potter County bounded by a line beginning at the junction of the Potter-Oldham County line and the south bank of the Canadian River; thence, following the south bank of the Canadian River in a generally northeasterly direction to the south bank

of Lake Meredith; thence, following the south bank of Lake Meredith in a generally northeasterly direction to the Potter-Moore County line; thence, following the Potter-Moore County line in an easterly direction to the junction of the Potter-Moore-Carson County lines; thence, following the Potter-Carson County line in a southerly direction to the junction of the Potter-Carson-Armstrong-Randall County lines; thence, following the Potter-Randall County line in a westerly direction to the junction of the Potter-Randall-Oldham County lines; thence, following the Potter-Oldham County line in a northerly direction to its junction with the south bank of the Canadian River.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes all of Liberty and San Jacinto Counties and portions of Taylor, Falls, Coleman, and Shackelford Counties in Texas from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from non-quarantined areas contained in said Part 76 will apply to the excluded areas. No areas in Liberty, San Jacinto, Taylor, Falls, Coleman, and Shackelford Counties in Texas remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of May 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-7771 Filed 6-3-71; 8:49 am]

[Docket No. 71-567]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, the introductory portion of paragraph (e) is amended by adding thereto the name of the State of Michigan; paragraph (g) is amended by deleting the name of the State of Michigan; and a new subparagraph (e)(7) relating to the State of Michigan is added to read:

(7) Michigan. That portion of Cass County comprised of Newberg Township and that portion of St. Joseph County comprised of Fabius Township.

2. In § 76.2, in paragraph (e)(4) relating to the State of North Carolina, a new subdivision (vi) relating to Onslow and Duplin Counties is added to read:

(4) *North Carolina.* . . .
(vi) The adjacent portions of Onslow and Duplin Counties bounded by a line beginning at the junction of the Onslow-Jones County line and U.S. Highway 258 in Onslow County; thence, following U.S. Highway 258 in a southeasterly direction to State Highway 24; thence, following State Highway 24 in a westerly direction to Secondary Road 1238; thence, following Secondary Road 1238 in a southeasterly direction to Secondary Road 1231; thence, following Secondary Road 1231 in a southerly direction to Secondary Road 1229; thence, following Secondary Road 1229 in a southeasterly direction to Secondary Road 1219; thence, following Secondary Road 1219 in a southwesterly direction to Secondary Road 1218; thence, following Secondary Road 1218 in a northwesterly direction to Secondary Road 1810 in Duplin County; thence, following Secondary Road 1810 in a generally westerly direction to Secondary Road 1715; thence, following Secondary Road 1715 in a generally northerly direction to State Highway 41; thence, following State Highway 41 in a northeasterly direction to Secondary Road 1713; thence, following Secondary Road 1713 in a southeasterly direction to the Duplin-Onslow County line; thence, following the Duplin-Onslow County line in a northwesterly direction to the junction of the Onslow-Duplin-Jones County lines; thence, following the Onslow-Jones County line in a northeasterly direction

to its junction with U.S. Highway 258 in Onslow County.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Cass and St. Joseph Counties in Michigan, and portions of Onslow and Duplin Counties in North Carolina because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portions of such counties.

The amendments also delete Michigan from the list of hog cholera free States in § 76.2(g), and the special provisions pertaining to the interstate movement of swine and swine products from or to such free States are no longer applicable to Michigan.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. The amendments also relieve restrictions on shipments into Michigan. Such restrictions are deemed unnecessary in view of the existence of hog cholera in Michigan. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of May 1971.

T. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-7772 Filed 6-3-71; 8:49 am]

[Docket No. 71-568]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of

March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, the introductory portion of paragraph (e) is amended by adding thereto the name of the State of Indiana, and a new subparagraph (e) (1) relating to the State of Indiana is added to read:

(1) Indiana. The adjacent portions of Wabash and Kosciusko Counties bounded by a line beginning at the junction of County Road 100 West and State Highway 114 in Wabash County; thence, following County Road 100 West in a northerly direction to County Road 100 East in Kosciusko County; thence, following County Road 100 East in a northerly direction to State Highway 14; thence, following State Highway 14 in an easterly direction to County Road 700 East; thence, following County Road 700 East in a southerly direction to County Road 500 East in Wabash County; thence, following County Road 500 East in a southerly direction to State Highway 114; thence, following State Highway 114 in a westerly direction to its junction with County Road 100 West in Wabash County.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines portions of Wabash and Kosciusko Counties in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portions of such counties.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of May 1971.

F. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc. 71-7773 Filed 6-3-71; 8:49 am]

PART 79—SCRAPIE IN SHEEP

Deletion of Disinfectant

Pursuant to the provisions of sections 4 through 7 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 1 through 4 of the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126) § 79.5 of Part 79, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended, is hereby further amended to read as follows:

§ 79.5 Disinfection of facilities.

Railroad cars, trucks, boats, aircraft and other means of conveyance, and all other facilities, including facilities for feeding, watering, and resting sheep, which are used in connection with the interstate movement of sheep from a quarantined area shall be thoroughly cleaned and disinfected immediately after each such use. Sodium hydroxide (Lye) prepared in a fresh solution in the proportion of not less than 1 pound avoirdupois of sodium hydroxide of not less than 95 percent purity to 6 gallons of water, or one 13½-ounce can to 5 gallons of water, shall be used in such disinfection.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 29 F.R. 16210, as amended)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (6-4-71).

The foregoing amendment deletes sodium carbonate from the list of disinfectants specified for use in disinfecting facilities under the provisions of § 79.5 of the regulations relating to scrapie in sheep. It has recently been established that sodium carbonate, by virtue of being a weak acid in solution, is ineffective against the virus of scrapie.

The amendment should be made effective promptly in order to facilitate the eradication of scrapie in sheep. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of May 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc. 71-7825 Filed 6-3-71; 8:54 am]

¹ Due to the extremely caustic nature of sodium hydroxide solution, precautionary measures such as the wearing of rubber gloves, boots, raincoat, and goggles should be observed. An acid solution such as vinegar should be kept readily available in case any of the sodium hydroxide solution should come in contact with the body.

Title 12—BANKS AND BANKING

Chapter VII—National Credit Union Administration

PART 741—REQUIREMENTS FOR INSURANCE

On April 14, 1971, notice of proposed rule making regarding requirements for insurance was published in the FEDERAL REGISTER 36 F.R. 7073-7074. After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted, subject to the following change:

1. In § 741.3, line 9, change the word "impaired" to "unimpaired."

Effective date. This regulation is effective June 10, 1971.

HERMAN NICKERSON, JR.,
Administrator.

MAY 25, 1971.

New Part 741 reads as follows:

Sec.
741.1 Minimum surety bond requirements.
741.2 Minimum period for verification of accounts.
741.3 Maximum borrowing authority.

AUTHORITY: The provisions of this Part 741 are issued under Section 209, 85 Stat. 1015, Public Law 91-468.

§ 711.1 Minimum surety bond requirements.

Any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act must possess the minimum surety bond coverage stated in 12 CFR 701.20 in order for its application for such insurance to be approved and for such insurance coverage to continue.

§ 711.2 Minimum period for verification of accounts.

The Supervisory Committee of any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act must verify or cause to be verified, under controlled conditions, the members' passbooks and accounts with the records of the treasurer not less frequently than once every 2 years. If such verification has not been made within 2 years prior to the date of submission of the application for insurance, the credit union concerned shall cause such verification to be completed prior to submission of such application and at least every 2 years thereafter.

§ 741.3 Maximum borrowing authority.

Any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit

Union Act, in order for such application to be approved and for such insurance coverage to continue, must not borrow, from any source, an aggregate amount in excess of 50 per centum of its paid-in and unimpaired capital and surplus.

[FR Doc. 71-7727 Filed 6-3-71; 8:45 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The 23d Gen. Rev. of the Export Regs. (Amdt. 23) Parts 370, 372, 373, and 379 of the Code of Federal Regulations are amended to read as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.)

Effective Date: June 1, 1971.

RAUER H. MEYER,
Director, Office of Export Control.

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

1. In § 370.10, a new paragraph (i) is added to read as follows:

§ 370.10 Exports controlled by U.S. Government agencies other than Office of Export Control.

(i) U.S. Endangered Native Fish and Wildlife and Migratory Birds. Regulations administered by the Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, govern the export of migratory birds and U.S. endangered native fish and wildlife subject to the Endangered Species Conservation Act of December 5, 1969 (83 Stat. 275; 16 U.S.C. § 668cc (1969)). The regulations are issued under the authority of the above-cited reference.

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

2. In § 372.8, paragraph (c) is amended to read as follows:

§ 372.8 Special types of individual license applications.

(c) Temporary exports—(1) Applications. General License GTE (see § 371.22) authorizes the temporary export of commodities under certain conditions. The provisions of this § 372.8(c) apply to the temporary export of a commodity not exportable under General License GTE or any other general license. An appli-

cation for a license covering a temporary export does not require the usual supporting documentation issued by either the consignee or the country of ultimate destination. Instead, the application shall include the following statement in the item entitled "Additional Information" or on an attachment thereto:

"The commodities described on this application are to be temporarily exported for (state purpose of export; e.g.: demonstration, testing, exhibition) and returned promptly to the United States after their use abroad as authorized, unless other disposition has been specifically requested and authorized in writing by the Office of Export Control.

In addition, since the applicant retains title to the commodities, he shall be shown on the application as the ultimate consignee, in care of the person who will have custody of the commodities abroad.

(2) Return of commodities to the United States. When commodities are returned to the United States after temporary use abroad in Country Group Q, S, W, X, or Z, the applicant shall notify the Office of Export Control in writing. The notice shall include the case number shown on the related U.S. validated export license, the customs import entry number (if any) of the returned shipment, the date of return, and the port of entry at which all or any part of the commodities were returned to the United States. If only a part of the commodities are covered by the notification, a full explanation shall be included, and an additional written notification sent to the Office of Export Control for each partial return until the entire shipment described on the related export license is returned.

(3) Commodities not returned to the United States. If it is decided that the commodities are not to be returned to the United States, Form IA-1145, Request To Dispose of Commodities or Technical Data Previously Exported, or a letter, shall be sent to the Office of Export Control (Attn: 854), requesting authorization to dispose of the commodities. (See § 374.3.) In addition, except where the commodities are to be used on a temporary basis only at the proposed reexport destination and returned to the United States after such use, the reexport request shall be accompanied by any documents that would be required in support of an export license application for shipment of the same commodity directly to the proposed destination.

(4) Action by Office of Export Control. If Form IA-1145 or the letter request is approved, the Office of Export Control will validate and issue the second copy of Form IA-1145. If the request is disapproved, the applicant will be advised of such action. If it is subsequently desired to make any other use or disposition of the commodities that is not authorized by the validated Form IA-1145, a properly documented written request for amendment of the form shall be submitted. (Reexport or distribution authority does not relieve any person

from complying with foreign laws. (See § 374.9)."

PART 373—SPECIAL LICENSING PROVISIONS

3. Supplement 1 to Part 373, Commodities Excluded From Certain License Procedures, is amended by adding or deleting the commodities set forth below.

The following commodities are added:

Export Control Commodity Number and Commodity Description

513(7) Monocrystalline and polycrystalline forms of the following metals: Beryllium, hafnium, tantalum, and zirconium.

513(9) Boric acid in which the boron-10 isotope comprises more than 20 percent of the total boron content.

513(28a) Helium isotopically enriched in the helium-3 isotope, in any form or quantity, and whether or not admixed with other materials, or contained in any equipment or device.

514(31) Rhenium compounds.

663(12) Beryllium oxide ceramic tubes, crucibles, and shapes in semifabricated or fabricated form.

683(10) (11) Nickel powder with a nickel content of 99 percent or more and a particle size of over 200 microns. Gallium metal powders; and gallium metal alloys, and amalgams, except electronic grades containing less than 1 percent gallium.

6895(8) Zirconium or zirconium alloy welding rods and wires containing more than 50 percent zirconium in which the ratio of hafnium content to zirconium content is less than one part to 500 parts by weight.

6988(15) Calcium metal castings and forgings containing less than one hundredth (0.01) percent by weight of impurities other than magnesium and less than 10 parts per million of boron.

6989(12) Gallium or gallium alloy castings and forgings, except electronic grades containing less than 1 percent gallium.

6989(23) Thermoelectric materials with a maximum product of the figure of merit (Z) and the temperature (T in °K) in excess of 0.75.

71510(1) Machine tools incorporating Laser, Maser, or Iraser devices.

71510(3) Tracer controlled machine tools, as follows: (a) Milling and boring machines with an accuracy of plus or minus 0.001 inch (plus or minus 0.025 mm.) and a repeatability of 0.0005 inch (0.012 mm.) or better and (b) lathes with an accuracy of plus or minus 0.0004 inch (plus or minus 0.01 mm.) and a repeatability of plus or minus 0.0002 inch (plus or minus 0.005 mm.) or better.

71510(4) Jig boring and/or jig grinding machines with accuracies better than plus or minus 0.00012 inch (0.003 mm.).

71510(13) Spin-forming machines with drive motors of 50 horsepower or over.

71510(14) Electron beam machines (including equipment utilizing the stimulated electromagnetic radiation technique, such as Lasers, Masers, and Irasers), except equipment using the "sparking" technique.

- 7191(7) Cryogenic refrigeration equipment specially designed for maintaining ambient temperatures below minus 170° C. and (a) designed for use in marine, airborne, or space application, (b) ruggedized for mobile ground use or (c) designed to maintain operating temperatures for electrical, magnetic, or electronic equipment or components; and parts, n.e.c.
- 7191(9) Cryogenic refrigeration equipment consisting of, or containing as components thereof, jacketed containers for the storage or transportation of liquefied gases at temperatures below minus 274° F. (minus 170° C.), including mobile units, specially designed for (a) liquid fluorine; (b) liquid oxygen, nitrogen, or argon, with (i) multilaminar type insulation under vacuum, or (ii) other types of insulation and (1) having a fixed storage capacity of 500 tons or more, or (2) having a mobile capacity exceeding 1,200 gallons (4,542 liters) and an evaporation loss rate of less than 1.5 percent per day as determined at an ambient temperature of 75° F. (24° C.) without exposure to direct sunlight; or (c) liquefied gases boiling at temperatures below minus 328° F. (minus 200° C.) with (i) multilaminar type insulation under vacuum, or (ii) other types of insulation, having a liquid capacity of more than 250 gallons (946 liters) and an evaporation loss rate of less than 3 percent per day as determined at an ambient temperature of 75° F. (24° C.) without exposure to direct sunlight; and specially designed parts, n.e.c.
- 7191(11) Environmental chambers capable of pressures of 26 Torr or less for treating materials by a process involving a change in temperature; and specially designed parts and accessories, n.e.c.
- 7191(13) Equipment specially designed for the production of uranium hexafluoride (UF₆); and specially designed parts and accessories, n.e.c.
- 7192(33) Centrifugal countercurrent solvent extractors; and parts, n.e.c.
- 7195(5) Parts, accessories, and attachments specially designed for electron beam machines, except equipment using the "sparkling" technique.
- 71980(1) Environmental chambers capable of pressures of 26 Torr or less, including those which also have a capability of simulating other constant environments, such as radiation and temperature; and specially designed parts and accessories, n.e.c.
- 722(12) Thermoelectric generators or devices, as follows: (a) Junctions and/or combinations of junctions using any thermoelectric material having a maximum product of the figure of merit (Z) and the temperature (T in °K) in excess of 0.75, (b) heat absorbing and/or electrical power generating devices containing any of the aforementioned junctions, or (c) other power generating devices which generate in excess of 10 watts per pound or 500 watts per cubic foot of the devices' basic thermoelectric components; and specially designed parts, components, and subassemblies, n.e.c.
- 7295(44) Numerical control servo-driven measuring or gauging machines specially designed for measuring at any point of the contour the dimensional shape and contour characteristics of two- or three-dimensional objects, including objects of revolution.
- 7295(51) Process control instruments specially designed or modified for monitoring or controlling the processing of irradiated fissionable or fertile materials or irradiated lithium.
- 7295(66) Centrifugal testing apparatus or equipment having any of the following characteristics: (a) Driven by a motor or motors having a total rated horsepower greater than 400 horsepower, (b) capable of carrying a payload of 250 pounds or more, or (c) capable of exerting a centrifugal acceleration of 8 or more g on a payload of 200 pounds or more.
- 7295(78) Control instruments specially designed for environmental chambers capable of pressures of 26 Torr or less, including those which also have a capability of simulating other environments such as radiation and temperature.
- 7299(12) Electric arc devices, n.e.c., for generating a flow of ionized gas in which the arc column is constricted, except (a) devices wherein the flow of gas is for isolation purposes only, and (b) devices of less than 80 kilowatts for cutting, welding, plating and/or spraying; equipment incorporating such devices; and specially designed parts, accessories, and controls, n.e.c.
- 86140(5) Cameras incorporating image converters; and specially designed parts and accessories, n.e.c.
- 8619(44) Centrifugal testing apparatus or equipment having any of the following characteristics: (a) Driven by a motor or motors having a total rated horsepower greater than 400 horsepower, (b) capable of carrying a payload of 250 pounds or more, or (c) capable of exerting a centrifugal acceleration of 8 or more g on a payload of 200 pounds or more; and specially designed parts, n.e.c.
- 8619(36) Control equipment specially designed for hot or cold isostatic presses under No. 71980 which are subject to the Import Certificate/Delivery Verification procedure.
- 8619(37) Control equipment specially designed for other hot or cold isostatic presses under No. 71980 and parts, n.e.c.
- 8619(38) Control instruments specially designed for environmental chambers capable of pressures of 26 Torr or less, including those which also have a capability of simulating other environments, such as radiation and temperature; and specially designed parts, n.e.c. (See § 399.2 Int. 17.)
- The following commodities are deleted:
Export Control Commodity Number and Commodity Description
- 513 Hafnium oxides containing 15 percent hafnium or less by weight; and monocrystalline gallium compounds.

- 514 Boron hydrides and nitrides, and boron carbides with a boron content of 73 percent or less by weight.
- 514 Hafnium compounds containing 15 percent or less hafnium by weight.
- 514 Zirconium compounds containing one part hafnium or more to 500 parts of zirconium.
- 662 High temperature refractory brick and similar shapes, cement, mortar, and other refractory construction materials, n.e.c. containing zirconium oxide, or zirconium oxide stabilized with lime and/or magnesium oxide.
- 663 Crucibles and refractory products other than refractory construction materials, n.e.c., containing 96 percent or less by weight of magnesium oxide, or zirconium oxide, or containing zirconium oxide stabilized with lime and/or magnesium oxide.
- 683 Nickel powder with a nickel content of 98 percent or less regardless of particle size.
- 683 Other bars, rods, angles, shapes, sections, and wire of nickel alloy containing 32 percent or more nickel, except nickel-copper alloys containing not more than 6 percent of other alloying elements.
- 714 Other electronic computers, analog or digital (including digital differential analyzers) not identified by the code letter "A," following the Export Control Commodity Number on the Commodity Control List.
- 726 X-ray machines having any of the following characteristics: (a) Peak power exceeding 500 MW., (b) output voltage exceeding 500 KV, or (c) output current exceeding 2,000 amperes with pulse width of 0.2 microseconds or less; and parts and accessories, n.e.c.

PART 379—TECHNICAL DATA

4. In § 379.4(e)(1), subdivision (iii) is amended by adding the following commodity thereto:

(aa) Pulse Doppler Sonar Navigation Systems (Export Control Commodity No. 7295).

[FR Doc.71-7809 Filed 6-3-71; 8:52 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER E—RULES, REGULATIONS, STATEMENTS OF GENERAL POLICY OR INTERPRETATION AND EXEMPTIONS UNDER THE FAIR PACKAGING AND LABELING ACT

PART 501—EXEMPTIONS FROM REQUIREMENTS AND PROHIBITIONS UNDER PART 500

Candles

Notice is given that no objections were filed in the matter of § 501.7 which prescribed an exemption for packaged and labeled tapered and irregularly shaped decorative candles from the requirements of § 500.7 of Part 500 of the Fair

Packaging and Labeling Act's regulations (36 F.R. 5689). Accordingly, the effective date of § 501.7, April 26, 1971, is confirmed.

Issued: May 24, 1971.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-7823 Filed 5-3-71; 8:53 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs,
Department of the Treasury

[T. D. 71-143]

PART 22—DRAWBACK

Miscellaneous Amendments

On November 18, 1970, notice of proposed rule making setting forth proposed amendments to the Customs Regulations, under which an investigation on the applicant's premises by the Customs Agency Service and assistance in preparing the applicant's drawback statement would be discontinued, was published in the FEDERAL REGISTER (35 F.R. 17724). Interested persons were given 30 days from the date of publication of the notice to submit relevant written data, views, or arguments regarding the proposed amendments to the regulations. Representations submitted pursuant to the notice have been carefully considered.

The amendments as proposed are hereby adopted subject to the following changes:

1. Section 22.4(h) is amended by providing that the drawback statement shall be furnished to the regional commissioner of customs in triplicate rather than in quadruplicate, and that the drawback statement shall be submitted to the Commissioner of Customs in quadruplicate rather than in quintuplicate.

2. Section 22.6(a) is amended by providing that the drawback statement shall be furnished to the regional commissioner of customs in triplicate rather than in duplicate, and that statements and supplemental statements in quadruplicate rather than quintuplicate relating to products covered by paragraph (g-1) of the section shall be forwarded to the Bureau for approval.

3. Section 22.6(a) is also amended by changing "(g)(1)" in the first and last sentences thereof to "(g-1)", the correct identity of the paragraph, and by substituting the word "forwarded" for "referred" in the last sentence.

4. Section 22.26(c) is corrected to refer to section 22.20(f) rather than to section 22.20(c).

5. Section 22.43 is amended to provide that schedules, supplemental schedules, and supplemental advisory schedules, when not incorporated in a drawback statement or supplemental statement, shall be referred for verification upon receipt by the regional commissioner.

The text of the amendments to sections 22.4, 22.6, and 22.43, and the correction of section 22.26, Part 22, Chapter I, title 19, Code of Federal Regulations, as adopted, is set forth below.

Effective date. These amendments shall become effective on July 1, 1971.

Applications which are pending on the effective date of the amendments may be processed under the regulations in their present form, or under the regulations as amended, at the option of the applicant.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: May 25, 1971.

WILLIAM L. DICKEY,
Acting Assistant Secretary
of the Treasury.

§ 22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates.

(h) Each manufacturer or producer shall submit to the regional commissioner of customs where his drawback entries will be liquidated a statement in triplicate describing the methods which he will follow and the records which he will keep for the purpose of establishing that the articles upon which drawback will be claimed have been manufactured or produced in the United States with the use of imported duty-paid merchandise within the meaning of section 313(a), Tariff Act of 1930, and that the records of identification, manufacture, or production and storage prescribed in this section have been maintained. In the case of operations under section 313(b), (d), or (g), Tariff Act of 1930, as amended, and in the case of operations under any combination of section 313(a) with section 313(b), (d), or (g), the statement in quadruplicate shall be submitted to the Commissioner of Customs. The statement shall contain an agreement to follow the methods and keep the records described therein with respect to all articles manufactured or produced for exportation with benefit of drawback. Provision for the use of duty-paid merchandise or drawback products, the manufacture or production of articles not specified in the application for the rate, or the use of factories not named therein may be included in the statement prepared as a result of such application.

(i) If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. The procedure outlined in this and the preceding paragraph shall be followed, so far as applicable, when applications for amendments of drawback rates, or supplemental statements, schedules, or supplemental advisory schedules are filed in accordance with paragraph (o), (p), or (q) of this section.

(j) If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner in a case under

section 313(a), Tariff Act of 1930, or the Bureau in a case under section 313(b), (d), or (g), Tariff Act of 1930, as amended, and in the case of any combination of section 313(a) with section 313(b), (d), or (g), will issue the rate of drawback on the articles described in the statement. In cases under § 22.6, the procedure in paragraphs (a) and (b) of that section shall be followed. When the statement in a case under section 313(a), Tariff Act of 1930, shows that entries are to be filed with more than one regional commissioner, the regional commissioner at the place first listed shall issue the rate, if that action is warranted.

(o) When a manufacturer or producer in whose behalf a rate of drawback has been established desires to have his rate amended under section 313(a), Tariff Act of 1930, or to change his statement filed under § 22.6 to cover additional articles, to include additional factories, to permit the use of other kinds of imported duty-paid merchandise or drawback products, to provide for a different basis for the liquidation of drawback entries, or to cover different methods of identification or manufacture, or other changes, he shall file an application therefor with the regional commissioner, district director, or port director of customs. The supplemental statement prepared as a result of such application shall be submitted to the regional commissioner where drawback entries filed under the existing rate of drawback are liquidated who shall issue the amendment, if that action is warranted. If entries are liquidated by more than one regional commissioner, the supplemental statement shall identify all such regional commissioners and the regional commissioner at the place first listed shall issue the amendment. The foregoing procedure shall also apply to applications for amendments under section 313(b), (d), or (g), Tariff Act of 1930, as amended, and in the case of any combination of section 313(a) operations with section 313(b), (d), or (g) operations, but the supplemental statement in such cases shall be submitted to the Commissioner of Customs except as provided in subparagraph (1) of this paragraph. No drawback shall be allowed on articles exported before the date on which the application was received by the regional commissioner, district director, or port director, unless specifically authorized by the Bureau, or by the regional commissioner in cases within the provisions of § 22.6 or of this paragraph.

(p) When a rate of drawback provides that the drawback allowance shall be determined on the basis of a schedule filed by the manufacturer or producer showing the quantity of imported material used or appearing in each unit of finished articles, and the rate authorizes the filing of supplemental schedules showing changes in the quantity of imported materials used or appearing in

each unit, or different styles or capacities of containers, such supplemental schedules shall be filed with the regional commissioner, district director, or port director of customs. Drawback may be allowed on the articles covered by a supplemental schedule after it has been approved by the regional commissioner.

(q) In cases where the drawback allowance is determined on a quantity-used or appearing-in basis, regional commissioner of customs may request, for the information of liquidating officers in addition to the information required to be filed with the drawback entry, a supplemental advisory schedule showing the quantity of imported merchandise used or appearing in each unit of finished articles. Such schedules shall be filed with the regional commissioner, district director, or port director of customs. Drawback may be allowed on articles covered by a supplemental advisory schedule after it has been approved by the regional commissioner.

In § 22.6 paragraphs (a) and (b) are amended to read:

§ 22.6 General drawback rates in effect; approval of drawback statements by the Bureau and by regional commissioners.

(a) Drawback statements; filing and approval by one regional commissioner. Each manufacturer or producer of articles covered by a drawback rate in this section, except under paragraph (g-1), shall submit to the regional commissioner where drawback entries will be filed, a statement in triplicate describing the methods used in the manufacture or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner shall approve the statement and promptly notify the applicant, in writing, of such action. Statements and supplemental statements in quadruplicate relating to products covered by paragraph (g-1) of this section shall be forwarded to the Bureau for approval.

(b) Drawback statements; filing and approval at more than one place. If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commissioner at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing, of such action.

Section 22.26(c) is amended to read: (c) The amount of drawback due having been ascertained, such amount

shall be certified for payment in accordance with section 22.20(f).

Section 22.43 is amended to read:

§ 22.43 Verification of drawback claims by Customs Agency Service.

The first drawback claim filed under a drawback rate shall be forwarded by the regional commissioner to the special agent in charge of the area in which the factory covered by the claim is located, for verification. The agent shall verify the claim and the material set forth in the drawback statement. Similar action shall be taken upon receipt of the first drawback claim filed under an amendment of a drawback rate. Verification as to drawback rates and amendments shall include an examination of not only the manufacturing records but also the sales and financial records relating to the transaction. Schedules, supplemental schedules, and supplemental advisory schedules, when not incorporated in a drawback statement or supplemental statement, shall be referred for verification upon receipt by the regional commissioner. Regional commissioners shall cause drawback documents to be referred to the Customs Agency Service for verification whenever such reference is believed to be required for orderly and efficient administration of the drawback law and regulations, and occasionally in any case.

(Secs. 313, 624, 46 Stat. 693, as amended, 759; 19 U.S.C. 1313, 1624)

[FR Doc. 71-7784 Filed 6-3-71; 8:50 am]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965—)

Subpart A—Hospital Insurance Benefits

Subpart C—Exclusions, Recovery of Overpayment, and Liability of a Certifying Officer

POSTHOSPITAL EXTENDED CARE

On October 28, 1969, there was published in the FEDERAL REGISTER (34 F.R. 17390) a notice of proposed rule making with proposed amendments to Subpart A, Regulations No. 5 which define and describe "skilled nursing services on a continuing basis" for purposes of reimbursement as extended care services under title XVIII of the Social Security Act. All comments submitted with respect to the proposed amendments were considered and the following changes were made as a result of comments received: Paragraphs (a) and (b) of § 405.120 and

paragraph (b) of § 405.165 are amended to include references to new §§ 405.126-405.128. The reference to oral drug therapy has been deleted from § 405.127(b) insofar as the administration of nearly every drug involves some degree of risk. The determination as to whether the administration of oral medication in any specific instance is considered a skilled service will be made in accordance with the general principles described in §§ 405.127(c) and 405.128(b). Paragraph (a) of § 405.127 has been revised to indicate specifically that physician direction is a basic requirement in the provision of skilled nursing care. In § 405.128, the phrase "continuous presence of skilled nurses" has been changed to read "continuing availability of skilled nurses" in order to avoid any inference that private-duty nursing is required. Also the term "intravenous injections" in paragraph (a) of that section has been changed to read "intramuscular injections." The definition of "skilled observation" found in paragraph (b) of this section, has been clarified to emphasize the importance of this aspect of skilled nursing care as a basis for an extended care level of services. Several comments have been received requesting that less stringent criteria for extended care coverage be applied to postoperative cataract patients in that they require primarily personal care in a protective environment rather than skilled nursing services on a continuing basis. However, since the law requires as the basis for coverage of extended care services that there be a need for skilled nursing services on a continuing basis, no exception can be made in these cases. A new § 405.129 has been added which sets forth conditions under which an extended care facility may be assured payment for a limited time based on a presumption that the patient required posthospital extended care. Finally, paragraph (g) of § 405.310 has been revised to specify that, with respect to extended care services, no payment may be made for care that does not meet the specifications of §§ 405.126-405.128. Accordingly, the amendments are, with the aforementioned changes and additions, adopted.

(Secs. 1102, 1812-1815, 1871, 49 Stat. 647 as amended, 79 Stat. 291-297; 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.)

Effective date. The amendments set forth below shall be effective upon publication in the FEDERAL REGISTER (6-4-71).

Dated: April 27, 1971.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: May 27, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health,
Education, and Welfare.

1. Section 405.120 is amended by revising paragraph (a) (1) and adding a new paragraph (b) (3) to read as follows:

§ 405.120 Posthospital extended care services; scope of benefits.

(a) *Benefits and conditions for entitlement.* (1) An individual who meets the requirements described in § 405.102 and who requires the services referred to in §§ 405.126-405.128, is eligible to have payment made on his behalf to a participating extended care facility (see § 405.150) for up to 100 days of extended care services (§ 405.124) furnished to him in a spell of illness if he is admitted to such extended care facility within 14 days (as defined in paragraph (d) of this section) after his discharge from a hospital in which he was an inpatient for not less than 3 consecutive calendar days (as defined in paragraph (c) of this section) and such discharge occurred on or after the first day of the month in which the individual attained age 65, or after June 30, 1966, whichever is later.

(b) *Services for which payment is not made.*

(3) Where an individual has been furnished services in an extended care facility, no payment may be made for such services if he did not require posthospital extended care as specified in §§ 405.126-405.128, irrespective of whether the other requirements of this section were met.

2. Sections 405.126, 405.127, 405.128, and 405.129 are added to read as follows:

§ 405.126 Posthospital extended care; defined.

Posthospital extended care is that level of care provided after a period of intensive hospital care to a patient who continues to require skilled nursing services (as defined in § 405.127) on a continuing basis (see § 405.128) but who no longer requires the constant availability of medical services provided by a hospital.

§ 405.127 Posthospital extended care; skilled nursing services.

(a) *Defined.* A skilled nursing service is one which must be furnished by or under direct supervision of licensed nursing personnel and under the general direction of a physician in order to assure the safety of the patient and achieve the medically desired result. Skilled nursing includes:

- (1) Observation and assessment of the total needs of the patient;
- (2) Planning and management of a treatment plan; and
- (3) Rendering direct services to the patient.

(b) *Specific services; services which are skilled.* Based upon the general principles set forth in paragraph (a) of this section skilled nursing services include but are not limited to:

- (1) Intravenous or intramuscular injections and intravenous feeding;
- (2) Levine tube and gastrostomy feedings;
- (3) Naso-pharyngeal aspiration;
- (4) Insertion or replacement of catheters;

(5) Application of dressings involving prescription medications and aseptic techniques;

(6) Treatment of extensive decubiti or other widespread skin disorder;

(7) Heat treatments specifically ordered by a physician as part of active treatment and which require observation by skilled personnel to adequately evaluate the patient's progress;

(8) Initial phases of a regimen involving administration of medical gases;

(9) Restorative nursing procedures, including the related teaching and adaptive aspects of skilled nursing, which are part of active treatment and require the presence of licensed nurses at the time of performance.

(c) *Evaluation of services as skilled or unskilled.* In evaluating whether services not enumerated in paragraph (b) of this section are skilled or unskilled nursing services, the following principles shall be applied:

(1) The classification of a particular service as either skilled or unskilled is based on the technical or professional training required to effectively perform or supervise the service. For example, a patient, following instructions, can normally take a daily vitamin pill. Consequently, the act of giving the vitamin pill to the patient because he is too senile to take it himself would not be a skilled service. Similarly, State law may require that all institutional patients receive medication only from a licensed nurse. This fact would not make administration of a medication a skilled nursing service if such medication can be prescribed for administration at home without the presence of a skilled nurse.

(2) The importance of a particular service to an individual patient does not necessarily make it a skilled service. For example, a primary need of a nonambulatory patient may be frequent changes of position in order to avoid development of decubiti. Since changing of position can ordinarily be accomplished by unlicensed personnel, it would not be a skilled service.

(3) Skilled paramedical services involving specialized training outside the nursing curriculum are not skilled nursing services. For example, physical, occupational, and speech therapy are discrete treatment modalities requiring specialized training for proper performance. A need for one or more of these therapies would not necessarily indicate a need for skilled nursing care.

(4) Any generally nonskilled service could, because of special medical complications, require skilled performance, supervision, or observation. In such cases, the complications and special services involved must be documented by physician orders and/or nursing notes. For example, the existence of a plaster cast on an extremity would not generally indicate a need for skilled care. However, a preexisting acute skin problem and a need for special traction of the injured extremity might require skilled personnel in order to properly observe for complications and adjust traction accordingly.

Such procedures would be undertaken only on specific physician order and would be documented in nursing reports. The possibility of adverse effects from improper performance of an otherwise unskilled service does not make it a skilled service.

(d) *Specific services; supportive or unskilled services.* Supportive services which can be learned and performed by the average nonmedical person (and which are not skilled services in the absence of conditions specified in paragraph (c) (5) of this section) include but are not limited to:

(1) Administration of routine oral medications, eye drops, and ointments;

(2) General maintenance care of colostomy or ileostomy;

(3) Routine services in connection with indwelling bladder catheters;

(4) Changes of dressings in noninfected postoperative or chronic conditions;

(5) Prophylactic and palliative skin care, including bathing and application of creams, or treatment of minor skin problem;

(6) General methods of treating incontinence, including use of diapers and rubber sheets;

(7) General maintenance care in connection with a plaster cast;

(8) Routine care in connection with braces and similar devices;

(9) Use of heat for palliative and comfort purposes;

(10) Administration of medical gases after initial phases of instituting the therapy;

(11) General supervision of exercises which have been taught to the patient;

(12) Assistance in dressing, eating, and going to the toilet.

§ 405.128 Posthospital extended care; "continuing basis."

Skilled nursing services are required on a continuing basis (see § 405.126) when the continuing availability of skilled nursing personnel is warranted. In determining whether the continuing availability of skilled nursing personnel is warranted, the following principles apply:

(a) *Frequency of services.* The frequency of skilled nursing services required, rather than their regularity, is the controlling factor in determining whether the continuing availability of skilled nursing personnel is warranted. For example, a patient may require intramuscular injections on a regular basis every second day. If this is the only skilled service required, it would not necessitate the continuing availability of skilled nurses.

(b) *Observation.* Observation may be the principal continuous service when the unstabilized condition of the patient requires the skills of a licensed nurse to detect and evaluate the patient's need for possible modification of treatment or institution of medical procedures. For example, pending stabilization of the condition, a patient suffering from arteriosclerotic heart disease may require

continuous close observation by skilled nurses for signs of decompensation and loss of fluid balance in order to determine whether the digitalis dosage should be changed or other therapeutic measures should be taken. Similarly, in some cases, surgical patients (including cataract patients) are transferred from a hospital to an extended care facility while still in the immediate unstabilized postoperative period during which the possibility of adverse reaction to anesthesia and other aspects of the operative procedure necessitates close skilled monitoring. (This latter situation is, of course, the converse of the "uncomplicated" convalescent stage following the "average" hospital stay for surgery.)

§ 405.129 Assurance of payment.

(a) *General.* Whether a patient in an extended care facility required and received posthospital extended care as referred to in §§ 405.126-405.128 will ordinarily be decided from the facts as presented in or in connection with a request for payment made on behalf of an individual who has received care in an extended care facility. However, where such facility has been determined by its intermediary (see § 405.651) to meet the requirements of paragraph (b) of this section, and in an individual case submits adequate medical information to such intermediary in accordance with paragraph (c) of this section, such patient can be presumed to require posthospital extended care as specified in paragraph (d) of this section.

(b) *Eligibility for assurance of payment procedure.* The presumptions referred to in paragraph (a) of this section may be made with respect to patients of an extended care facility when the conditions and circumstances of submission of claims for posthospital extended care services assure that payment is not being requested for care clearly not falling within the scope of §§ 405.126-405.128 and that the facility promptly identifies to the intermediary, in accordance with paragraph (c) of this section, those cases where there is reasonable doubt whether a patient may require or continue to require posthospital extended care (as referred to in §§ 405.126-405.128). In determining whether such conditions and circumstances exist, the extended care facility's intermediary shall take into account: (1) The adequacy of utilization review in such facility; (2) the facility's effectiveness in applying the definition of posthospital extended care (§§ 405.126-405.128) and limiting its requests for payment for services furnished to patients who required such care; (3) the facility's continuing effectiveness in restricting its requests under this assurance-of-payment procedure to those cases where there is less than certainty but reasonable likelihood that the services a patient may require constitutes such care, as demonstrated by medical information which is forwarded to the intermediary within the time period specified in paragraph (c) of this section;

and (4) the adequacy of the medical information the facility submits to the intermediary.

(c) *Request for determination.* The medical information referred to in paragraphs (a) and (b) of this section shall not be deemed adequate unless: (1) It includes physician's orders for the patient's care in the facility, a profile of the patient's condition, and the services expected to be needed; and (2) it has been provided by the extended care facility's director of nursing services, its charge nurse, or a physician; and (3) it is based on either the attending physician's orders or medical information from the hospital from which the patient was transferred.

(d) *Effect of procedure.* Where the medical information is submitted in accordance with the preceding provisions of this section, the intermediary shall review the medical information and inform the extended care facility of its findings as promptly as possible. For a reasonable number of days necessarily intervening between the time medical information is forwarded to the intermediary, or from the date of admission when such information is forwarded within 48 hours of such admission, and whichever of the following events first occurs, the intermediary may presume that such a patient required posthospital extended care: (1) The facility is advised by the intermediary that the care being provided is not posthospital extended care, or that additional supporting evidence is required; or (2) the patient's condition clearly changes from the condition that existed on a date with respect to which the medical information was submitted, so that there is no longer doubt as to the individual's need for posthospital extended care.

3. In § 405.165, the material in paragraph (b) preceding subparagraph (1) is revised to read as follows:

§ 405.165 Payment for posthospital extended care services: conditions.

(b) When required, a physician (other than a doctor of podiatry or surgical chiropody) certifies and recertifies (see Subpart P of this part) that such services were required to be given on an inpatient basis because the individual needed skilled nursing care on a continuing basis (as defined in §§ 405.126-405.128):

4. Paragraph (g) of § 405.310 is revised to read as follows:

§ 405.310 Types of expenses not covered.

(g) Custodial care (in the case of extended care services, any care which does not meet the definition of extended care in §§ 405.126-405.128);

[FR Doc.71-7753 Filed 6-3-71; 8:47 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Flumethasone

The Commissioner of Food and Drugs has evaluated a new animal drug application (36-211V) filed by Syntex Laboratories, Inc., 3401 Hillview Drive, Palo Alto, Calif. 94304, proposing the safe and effective use of flumethasone for the treatment of specified conditions in horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(d), 82 Stat. 347; 21 U.S.C. 360b(d)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding the following new section:

§ 135b.32 Flumethasone suspension veterinary.

(a) *Chemical name.* 6a,9a-Difluoro-11 β ,17,21-trihydroxy-16 α -methylpregna-1,4-diene-3,20-dione.

(b) *Specifications.* Flumethasone suspension veterinary is sterile and each milliliter of the drug contains: 2 milligrams of flumethasone, 20 milligrams of propylene glycol, 9 milligrams of benzyl alcohol (as preservative), 8 milligrams of sodium chloride, 0.02 milligram of polysorbate-80, 0.1 milligram of citric acid, and water for injection q.s.

(c) *Sponsor.* See code No. 036 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) It is recommended in the various disease states involving synovial structures (joints) of horses where excessive synovial fluid of inflammatory origin is present and where permanent structural changes do not exist. Such conditions include arthritis, carpalitis, and osselets.

(2) The drug is administered intra-articularly at a dosage level of 6 to 10 milligrams per injection. The dosage level is dependent upon the size of the involved synovial structure and the degree of severity of the condition under treatment. The dosage is limited to a single injection per week in any one synovial structure.

(3) Clinical and experimental data have demonstrated that corticosteroids administered orally and parenterally to animals during the last trimester of pregnancy may induce the first stage of parturition and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis. The drug is not to be used in horses intended for slaughter for food purposes.

(4) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-4-71).

(Sec. 512(l), 82 Stat. 347; 21 U.S.C. 360b(l))

Dated: May 21, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-7741 Filed 6-3-71; 8:46 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Endothall

A petition (PP 0F0972) was filed by the Pennwalt Corp., Post Office Box 1297, Tacoma, WA 98401, proposing establishment of a tolerance for residues of endothall (7-oxabicyclo-(2.2.1) heptane-2,3-dicarboxylic acid) in or on the raw agricultural commodity cottonseed at 0.1 part per million from use of its mono-*N,N*-dimethylalkylamine salt as a defoliant on cotton, wherein the alkyl group is the same as in the fatty acids of coconut oil.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerance is being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to this tolerance.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the defoliant in meat, milk, poultry, and eggs. The uses are classified under § 420.6(a)(3).

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), Part 420 is amended by adding the following new section to Subpart C:

§ 420.293 Endothall; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the defoliant endothall (7-oxabicyclo-(2.2.1) heptane-2,3-dicarboxylic acid) from use of its mono-*N,N*-dimethylalkylamine salt, wherein the alkyl group is the same as in the fatty acids of coconut oil, in or on the raw agricultural commodity cottonseed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street, NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-4-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 28, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-7774 Filed 6-3-71; 8:49 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

N'-(4-Chloro-o-Tolyl)-N,N-Dimethylformamide

A petition (PP 0F0980) was filed by Ciba Agrochemical Co., Division of Ciba Corp., Post Office Box 1105, Vero Beach, FL 32960, and Nor-Am Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098 in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a) proposing establishment of tolerances for residues of the insecticide N'-(4-chloro-o-tolyl)-N,N-dimethylformamide and its metabolites containing the 4-chloro-o-toluidine moiety calculated as N'-(4-chloro-o-tolyl)-N,N-dimethylformamide in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, and cauliflower at 2 parts per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the insecticide in meat, milk, poultry, and eggs. The uses are classified in the category specified in § 420.6(a)(3).

2. The tolerances established by this order are safe and will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.285 is amended by adding a new paragraph "2 parts per million * * *" after the paragraph "3 parts per million * * *", as follows:

§ 420.285 N'-(4-chloro-o-tolyl)-N,N-dimethylformamide; tolerances for residues.

Two parts per million in or on broccoli, brussels sprouts, cabbage, and cauliflower.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-4-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 28, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-7775 Filed 6-3-71; 8:49 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7120]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Special Rules for Determining Tax Credit for Foreign Income Taxes Paid by Controlled Foreign Corporations

On April 20, 1965, a notice of proposed rule making to conform the Income Tax Regulations (26 CFR Part 1) to section 960 of the Internal Revenue

Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1006), was published in the *FEDERAL REGISTER* (30 F.R. 5595). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.960-1, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising the captions of such section and of paragraph (c), by redesignating paragraphs (c)(3) as paragraph (c)(4), by revising examples (1) and (3) in paragraph (c)(4) as so redesignated and adding example (5) thereto, by revising the examples in paragraph (c)(2), by adding paragraph (i), and by reserving paragraph (c)(1)(iii) and (3).

PAR. 2. Section 1.960-2, as set forth in paragraph 1 of the notice of proposed rule making, is changed.

PAR. 3. Section 1.960-3, as set forth in paragraph 1 of the notice of proposed rule making, is changed.

PAR. 4. Section 1.960-4, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising paragraph (a)(2), the caption of paragraph (d), and the introductory statement of facts in examples (1), (3), and (4) in paragraph (f).

PAR. 5. Section 1.960-5, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is changed.

PAR. 6. Section 1.960-6, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising the introductory statement of facts in the example in paragraph (b).

PAR. 7. Section 1.78-1, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraph (b) and by adding a new amendment of paragraph (e)(2).

PAR. 8. Section 1.959-4 is amended.

PAR. 9. Section 1.963-3 is amended by revising paragraphs (b)(1) and (c) and example (2) in paragraph (h).

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] VERNON D. ACREE,
Commissioner of Internal Revenue.

Approved: May 25, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary
of the Treasury.

PARAGRAPH 1. There are inserted immediately after § 1.959-4 the following new section:

§ 1.960-1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

(a) *Scope of regulations under section 960.* This section prescribes rules for determining the foreign income taxes deemed paid under section 960(a)(1) by a domestic corporation which is required under section 951 to include in gross income an amount attributable to a first-tier or second-tier corporation's earnings

and profits. Section 1.960-2 prescribes rules for applying section 902 to dividends paid by a second-tier corporation or a first-tier corporation from earnings and profits attributable to an amount which is, or has been, included in gross income under section 951. Section 1.960-3 provides special rules for the application of the gross-up provisions of section 78 where an amount is included in gross income under section 951. Section 1.960-4 prescribes rules for increasing the applicable foreign tax credit limitation under section 904(a) of the domestic corporation for the taxable year in which it receives a distribution of earnings and profits in respect of which it was required under section 951 to include an amount in its gross income for a prior taxable year. Section 1.960-5 prescribes rules for disallowing a deduction for foreign income taxes for such taxable year of receipt where the domestic corporation received the benefits of the foreign tax credit for such previous taxable year of inclusion. Section 1.960-6 provides that the excess of such an increase in the applicable limitation under section 904(a) over the tax liability of the domestic corporation for such taxable year of receipt results in an overpayment of tax.

(b) *Definitions.* For purposes of section 960 and §§ 1.960-1 through 1.960-6—
(1) *First-tier corporation.* The term "first-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by the domestic corporation described in paragraph (a) of this section.

(2) *Second-tier corporation.* The term "second-tier corporation" means a foreign corporation at least 50 percent of the voting stock of which is owned by such first-tier corporation.

(3) *Foreign income taxes.* The term "foreign income taxes" means income, war profits, and excess profits taxes, and taxes included in the term "income, war profits, and excess profits taxes" by reason of section 903, imposed by a foreign country or a possession of the United States.

(4) *Less developed country corporation.* The term "less developed country corporation" means a less developed country corporation as defined in section 902(d) and § 1.902-4.

(c) *Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951—*

(1) *In general.* For purposes of section 901—(i) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a first-tier corporation for any taxable year, such domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid, accrued, or deemed (in accordance with paragraph (b) of § 1.960-2) to be paid, by such first-tier corporation on or with respect to the earnings and profits of such first-tier corporation for its taxable year as the

amount so included in the gross income of the domestic corporation under section 951 with respect to such first-tier corporation bears to the total earnings and profits of such first-tier corporation for its taxable year.

(ii) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a second-tier corporation for any taxable year, such domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid or accrued by such second-tier corporation on or with respect to the earnings and profits of such second-tier corporation for its taxable year as the amount (determined without regard to section 958(a)(2)) so included in the gross income of the domestic corporation under section 951 with respect to such second-tier corporation bears to the total earnings and profits of such second-tier corporation.

(iii) [Reserved]
(iv) This subparagraph applies whether or not the first-tier corporation or the second-tier corporation makes a distribution for the taxable year of its earnings and profits which are attributable to the amount included in the gross income of the domestic corporation under section 951.

(v) This subparagraph does not apply to an increase in current earnings invested in United States property which, but for paragraph (c) of § 1.963-3, would be included in the gross income of the domestic corporation under section 951 (a)(1)(B) but which, pursuant to such paragraph, counts toward a minimum distribution for the taxable year.

(2) *Taxes paid or accrued on or with respect to earnings and profits of foreign corporation—(i) Rule where first-tier corporation is not a less developed country corporation.* For purposes of subparagraph (1) of this paragraph, where the first-tier corporation is not a less developed country corporation for the taxable year or years described in paragraph (c) of this section, the foreign income taxes paid or accrued by such first-tier corporation or its second-tier corporation, as the case may be, on or with respect to its earnings and profits for its taxable year shall be the total amount of the foreign income taxes paid or accrued by such foreign corporation for such taxable year.

(ii) *Rule where first-tier corporation is a less developed country corporation.* For purposes of subparagraph (1) of this paragraph, where the first-tier corporation is a less developed country corporation for the taxable year or years described in paragraph (c) of this section, the foreign income taxes paid or accrued by such first-tier corporation or its second-tier corporation, as the case may be, on or with respect to its earnings and profits for its taxable year shall be the same proportion of the total foreign income taxes paid or accrued by such foreign corporation for such taxable year as the

to the sum of its earnings and profits and its total foreign income taxes for such year.

(3) [Reserved]

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation. Both corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income \$50 attributable to the earnings and profits of A Corporation for such year, but A Corporation does not distribute any earnings and profits for such year. The foreign income taxes paid by A Corporation for 1965 which are deemed paid by N Corporation for such year under section 960(a)(1)(C) are determined as follows upon the basis of the facts assumed:

Pretax earnings and profits of A Corporation	\$100.00
Foreign income taxes (20%)	20.00
Earnings and profits	80.00
Amount required to be included in N Corporation's gross income under sec. 951	50.00
Dividends paid to N Corporation	0.
Foreign income taxes paid on or with respect to earnings and profits of A Corporation	20.00
Foreign income taxes of A Corporation deemed paid by N Corporation under sec. 960(a)(1)(C) (\$50/\$80 × \$20)	12.50

Example (2). The facts are the same as in example (1) except that for 1965 A Corporation is a less developed country corporation. The foreign income taxes paid by A Corporation for 1965 which are deemed paid by N Corporation for such year under section 960(a)(1)(D) are determined as follows:

Foreign income taxes paid on or with respect to earnings and profits of A Corporation (\$80/\$100 × \$20)	\$16.00
Foreign income taxes of A Corporation deemed paid by N Corporation under sec. 960(a)(1)(D) (\$50/\$80 × \$16)	10.00

Example (3). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income \$45 attributable to the earnings and profits of B Corporation for such year, but is not required to include any amount in gross income under section 951 attributable to the earnings and profits of A Corporation for such year. Neither B Corporation nor A Corporation distributes any earnings and profits for 1965. The foreign income taxes paid by B Corporation for 1965 which are deemed paid by N Corporation for such year under section 960(a)(1)(C) are determined as follows upon the basis of the facts assumed:

Pretax earnings and profits of B Corporation	\$100.00
Foreign income taxes (40%)	40.00
Earnings and profits	60.00
Amounts required to be included in N Corporation's gross income under sec. 951 with respect to B Corporation	45.00
Dividends paid	0
Foreign income taxes paid on or with respect to earnings and profits	

of B Corporation	40.00
Foreign income taxes of B Corporation deemed paid by N Corporation under sec. 960(a)(1)(C) (\$45/\$60 × \$40)	30.00

Example (4). The facts are the same as in example (3) except that for 1965 A Corporation is a less developed country corporation. The foreign income taxes paid by B Corporation for 1965 which are deemed paid by N Corporation for such year under section 960(a)(1)(D) are determined as follows:

Foreign income taxes paid on or with respect to earnings and profits of B Corporation (\$60/\$100 × \$40)	\$24.00
Foreign income taxes of B Corporation deemed paid by N Corporation under sec. 960(a)(1)(D) (\$45/\$60 × \$24)	18.00

Example (5). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns 25 percent of the one class of stock of controlled foreign corporation B, not a less developed country corporation. N Corporation also directly owns 75 percent of the one class of stock of B Corporation. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income \$60 attributable to the earnings and profits of B Corporation and \$76 attributable to the earnings and profits of A Corporation. For 1965, B Corporation distributes \$15 to N Corporation and \$5 to A Corporation, but A Corporation makes no distribution to N Corporation. The foreign income taxes paid by corporations A and B which are deemed paid by N Corporation for such year under section 960(a)(1)(C) are determined as follows upon the basis of the facts assumed:

<i>B Corporation (second-tier corporation):</i>	
Pretax earnings and profits	\$100.00
Foreign income taxes (40%)	40.00
Earnings and profits	60.00
Amount required to be included in N Corporation's gross income under sec. 951 with respect to B Corporation	60.00
<i>A Corporation (first-tier corporation):</i>	
Pretax earnings and profits (including \$5 dividend from B Corporation)	100.00
Foreign income taxes (20%)	20.00
Earnings and profits	80.00
Amount required to be included in N Corporation's gross income with respect to A Corporation (\$95 - [\$95 × .20])	76.00

<i>N Corporation (domestic corporation):</i>	
Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) with respect to—	
B Corporation (\$60/\$75) / \$60 × \$40	30.00
A Corporation (\$76/\$80 × \$20)	19.00
Total taxes deemed paid under sec. 690(a)(1)(C)	49.00

(d) *Time for stock ownership—(1) First-tier corporation.* The 10-percent stock ownership requirement referred to in paragraph (b)(1) of this section with respect to a first-tier corporation having earnings and profits for its taxable year in respect of which an amount is included under section 951 in the gross income for the taxable year of a domestic corporation must be satisfied on the last

day in such taxable year of such first-tier corporation on which such first-tier corporation is a controlled foreign corporation.

(2) *Second-tier corporation.* Both the 10-percent and the 50-percent stock ownership requirements referred to in paragraph (b)(1) and (2) of this section with respect to a second-tier corporation having earnings and profits for its taxable year in respect of which an amount is included under section 951 in the gross income for the taxable year of a domestic corporation must be satisfied on the last day in such taxable year of such second-tier corporation on which such second-tier corporation is a controlled foreign corporation, whether or not the first-tier corporation is a controlled foreign corporation on such day.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Domestic corporation N is required for its taxable year ending June 30, 1964, to include in gross income under section 951 an amount attributable to the earnings and profits of controlled foreign corporation A for 1963 and another amount attributable to the earnings and profits of controlled foreign corporation B for such year. Corporations A and B use the calendar year as the taxable year. Such amounts are required to be included in N Corporation's gross income by reason of its ownership of stock in A Corporation and in turn by A Corporation's ownership of stock in B Corporation. Corporation A is a controlled foreign corporation throughout 1963, but B Corporation is a controlled foreign corporation only from January 1, 1963, through September 30, 1963. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1964, for foreign income taxes paid by A Corporation for 1963, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on December 31, 1963. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1964, for foreign income taxes paid by B Corporation for 1963, only if on September 30, 1963, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 50 percent of the voting stock of B Corporation.

Example (2). The facts are the same as in example (1) except that A Corporation is a controlled foreign corporation only from January 1, 1963, through March 31, 1963. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1964, for foreign income taxes paid by A Corporation for 1963, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on March 31, 1963. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1964, for foreign income taxes paid by B Corporation for 1963, only if on September 30, 1963, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 50 percent of the voting stock of B Corporation.

(c) *Time for less-developed-country qualification—(1) In general.* In order for the less-developed-country rule of paragraph (c) of this section to apply for the taxable year of the domestic corporation, the first-tier corporation must be a less developed country corporation—

(i) For its taxable year ending with or within the taxable year of the domestic

corporation for which such domestic corporation is required to include in gross income under section 951 an amount attributable to the earnings and profits of such year of such first-tier corporation in respect of which the foreign tax credit is claimed by such domestic corporation, and

(ii) For its taxable year in which falls the date, as described in paragraph (d) (2) of this section, on which the 10-percent and 50-percent stock ownership requirements must be satisfied with respect to the taxable year of a second-tier corporation in respect of which the domestic corporation is required to include in gross income under section 951 an amount attributable to the earnings and profits of such year of such second-tier corporation in respect of which the foreign tax credit is claimed by such domestic corporation.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Throughout 1963 domestic corporation N owns 10 percent of the one class of stock of A Corporation which in turn owns from January 1, 1963, through September 30, 1963, 50 percent of the one class of stock of B Corporation. Corporation A is a controlled foreign corporation throughout 1963, but B Corporation is a controlled foreign corporation only from January 1, 1963, through September 30, 1963. Corporations A and B use the calendar year as the taxable year. Corporation N is required for its taxable year ending June 30, 1964, to include in gross income under section 951 an amount attributable to the earnings and profits of A Corporation for 1963 and another amount attributable to the earnings and profits of B Corporation for such year. The less-developed-country rule of paragraph (c) (2) (ii) of this section applies for N Corporation's taxable year ending June 30, 1964, with respect to the earnings and profits for 1963 of both A Corporation and B Corporation if A Corporation is a less-developed-country corporation for 1963.

Example (2). From January 1, 1963, through June 30, 1964, domestic corporation N owns 10 percent of the one class of stock of A Corporation which in turn owns from July 1, 1963, through June 30, 1964, 50 percent of the one class of stock of B Corporation. Corporation A which uses the calendar year as the taxable year, is a controlled foreign corporation throughout 1963 but is not a controlled foreign corporation at any time thereafter. Corporation B is a controlled foreign corporation throughout its taxable year ending June 30, 1964. Corporation N is required for its taxable year ending June 30, 1964, to include in gross income under section 951, an amount attributable to the earnings and profits of A Corporation for 1963 and another amount attributable to the earnings and profits of B Corporation for its taxable year ending June 30, 1964. The less-developed-country rule of paragraph (c) (2) (ii) of this section applies for N Corporation's taxable year ending June 30, 1964, with respect to A Corporation for 1963 and B Corporation's taxable year ending June 30, 1964, if A Corporation is a less-developed-country corporation for both 1963 and 1964.

(f) *Information to be furnished.* If the credit for foreign income taxes claimed under section 901 includes taxes deemed paid under section 960(a) (1), the domestic corporation must furnish the same information with respect to the taxes so deemed paid as it is re-

quired to furnish with respect to the taxes actually paid or accrued by it and for which credit is claimed. See § 1.905-2. For other information required to be furnished by the domestic corporation for the annual accounting period of certain foreign corporations ending with or within such corporation's taxable year, see section 6038 and § 1.6038-2.

(g) *Reduction of foreign income taxes paid or deemed paid.* For reduction of the amount of foreign income taxes paid or deemed paid by a foreign corporation for purposes of section 960, see section 6038(b) and the regulations thereunder, relating to failure to furnish information with respect to certain foreign corporations.

(h) *Amounts under section 951 treated as distributions for purposes of applying effective dates.* For purposes of applying section 902 in determining the amount of credit allowed under section 960(a) (1) and paragraph (c) of this section, the effective date provisions of § 1.902-5 shall apply, and for purposes of so applying § 1.902-5, any amount attributable to the earnings and profits for the taxable year of a first-tier corporation which is included in the gross income of a domestic corporation under section 951 shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such first-tier corporation is a controlled foreign corporation.

(i) *Source of income and country to which tax is deemed paid—(1) Source of income.* For purposes of section 904—

(i) The amount included in gross income of a domestic corporation under section 951 for the taxable year with respect to a first-tier corporation or a second-tier corporation, plus

(ii) Any section 78 dividend to which such section 951 amount gives rise by reason of taxes deemed paid by such domestic corporation under section 960(a) (1) (C),

shall be deemed to be derived from sources within the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation of such second-tier corporation, is created or organized.

(2) *Country to which taxes deemed paid.* For purposes of section 904, the foreign income taxes paid by the first-tier corporation or the second-tier corporation and deemed to be paid by the domestic corporation under section 960(a) (1) by reason of the inclusion of the amount described in subparagraph (1) (i) of this paragraph in the gross income of such domestic corporation shall be deemed to be paid to the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation of such second-tier corporation, is created or organized.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following example:

Example. Domestic corporation N owns all the one class of stock of controlled foreign corporation A, incorporated under the laws of foreign country X, which owns all the one class of stock of controlled foreign corporation B, incorporated under the laws of foreign country Y. All such corporations use the calendar year as the taxable year, and A Corporation is not a less developed country corporation for 1965. For 1965, N Corporation is required under section 951 to include in gross income \$45 attributable to the earnings and profits of B Corporation for such year and \$50 attributable to the earnings and profits of A Corporation for such year. For 1965, because of the inclusion of such amounts in gross income, N Corporation is deemed under section 960(a) (1) (C) and paragraph (c) of this section to have paid \$15 of foreign income taxes paid by B Corporation for such year and \$10 of foreign income taxes paid by A Corporation for such year. For purposes of section 904, the amount (\$95) included in N Corporation's gross income under section 951 attributable to the earnings and profits of Corporations A and B is deemed to be derived from sources within country X, and the section 78 dividend consisting of the foreign income taxes (\$25) deemed paid by N Corporation under section 960(a) (1) (C) with respect to such \$95 is deemed to be derived from sources within country X. The \$25 of foreign income taxes so deemed paid by N Corporation are deemed to be paid to country X for purposes of section 904.

§ 1.960-2 *Interrelation of section 902 and section 960 when dividends are paid by second-tier corporation or by first-tier corporation.*

(a) *Scope of this section.* This section prescribes rules for the application of section 902 in a case where dividends are paid by a second-tier corporation or a first-tier corporation, as the case may be, from the earnings and profits for a taxable year when an amount attributable to such earnings and profits is included in the gross income of a domestic corporation under section 951 or when such earnings and profits are attributable to an amount excluded from the gross income of such foreign corporation under section 959(b) and § 1.959-2 with respect to the domestic corporation.

In making determinations under this section, any portion of a distribution received from a first-tier corporation by the domestic corporation which is excluded from the domestic corporation's gross income under section 959(a) and § 1.959-1 shall be treated as a dividend for purposes of taking into account under section 902 any foreign income taxes which are not deemed paid by the domestic corporation under section 960(a) (1) and § 1.960-1. For purposes of this section, earnings and profits of a first-tier corporation or a second-tier corporation attributable to an increase in current earnings invested in United States property which, pursuant to paragraph (e) of § 1.963-3, count toward a minimum distribution for the taxable year shall not be treated as being attributable to an amount which is, or has been, included in the gross income of a domestic corporation under section 951.

(b) *Application of section 902(b) to dividends received by first-tier corporation from second-tier corporation.* For

purposes of paragraph (a) of this section and paragraph (c) (1) (i) of § 1.960-1, section 902(b) shall apply to all dividends received by the first-tier corporation for its taxable year from the second-tier corporation other than dividends attributable to earnings and profits of such second-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such second-tier corporation.

(c) *Application of section 902(a) to dividends received by domestic corporation from first-tier corporation.*—(1) *In general.* For purposes of paragraph (a) of this section, section 902(a) shall apply to all dividends received by the domestic corporation for its taxable year from the first-tier corporation other than dividends attributable to earnings and profits of such first-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such first-tier corporation.

(2) *[Reserved]*

(d) *Allocation of earnings and profits of first-tier corporation having income excluded under section 959(b).* If the first-tier corporation for its taxable year receives from the second-tier corporation dividends to which, in accordance with paragraph (b) of this section, section 902(b) applies and other dividends to which section 902(b) does not apply, then in applying section 902(a) pursuant to this section, and in applying section 960(a) (1) pursuant to paragraph (c) (1) (i) of § 1.960-1, with respect to the foreign income taxes deemed paid by such first-tier corporation for such taxable year under section 902(b)—

(1) The earnings and profits of the first-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to such other dividends from the second-tier corporation, and

(2) For purposes of so applying section 902(a), distributions to the domestic corporation from such earnings and profits which are attributable to such other dividends from the second-tier corporation shall not be treated as a dividend.

(e) *Illustrations.* The application of this section may be illustrated by the following examples, in all of which it is assumed that the effective rate of foreign income taxes paid or accrued by the first-tier corporation in respect to dividends received from the second-tier corporation is the same as the effective rate of foreign income taxes paid or accrued by the first-tier corporation in respect to its other income:

Example (1). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include \$50 in gross income attributable to the earnings and profits of A Corporation for

such year, but is not required to include any amount in gross income under section 951 attributable to the earnings and profits of B Corporation. For such year, B Corporation distributes a dividend of \$45, but A Corporation does not make any distributions. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a) (1) (C), after applying section 902(b) (1) for such year of A Corporation, are determined as follows upon the basis of the facts assumed:

B Corporation (second-tier corporation):	
Pretax earnings and profits.....	\$100.00
Foreign income taxes (40%).....	40.00
Earnings and profits.....	60.00
Dividends paid to A Corporation.....	45.00
Foreign income taxes paid by B Corporation on or with respect to its accumulated profits.....	40.00
Foreign income taxes of B Corporation deemed paid by A Corporation for 1965 under sec. 902(b)(1) (\$45/\$60×\$40).....	30.00
A Corporation (first-tier corporation):	
Pretax earnings and profits.....	\$45.00
Dividends from B Corporation.....	100.00
Other income.....	100.00

Total pretax earnings and profits.....	145.00
Foreign income taxes (20%).....	29.00
Earnings and profits.....	116.00
Foreign income taxes paid, and deemed to be paid, by A Corporation on or with respect to its earnings and profits (\$29+\$30).....	59.00
Amount required to be included in N Corporation's gross income under sec. 951 with respect to A Corporation.....	50.00
Dividends paid to N Corporation.....	0
N Corporation (domestic corporation):	
Foreign income taxes of A Corporation deemed paid by N Corporation for 1965 under sec. 960(a)(1)(C) (\$50/\$116×\$59).....	25.43

Example (2). The facts are the same as in example (1) except that for 1965 A Corporation is a less developed country corporation. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a) (1) (D), after applying section 902 (b) (2), are \$17.76, determined as follows:

B Corporation (second-tier corporation) on or with respect to its accumulated profits (\$60/\$100×\$40).....		24.00
Foreign income taxes of B Corporation deemed paid by A Corporation for 1965 under sec. 902(b)(2) (\$45/\$60×\$24).....	18.00	
Foreign income taxes paid by A Corporation on or with respect to its earnings and profits (\$18+\$12×\$20).....	23.20	
Foreign income taxes paid, and deemed to be paid, by A Corporation on or with respect to its earnings and profits (\$23.20+\$18).....	41.20	
Foreign income taxes of A Corporation deemed paid by N Corporation for 1965 under sec. 960(a)(1)(D) (\$50/\$116×\$41.20).....	17.76	

Example (3). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income \$150 attributable to the earnings and profits of B Corporation for such year, which B Corporation distributes during such year. Corporation N is not required for 1965 to include any amount in gross income under section 951 attributable to the earnings and profits of A Corporation, but A Corporation distributes for such year \$135 from its earnings and profits attributable to B Corporation's dividend. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a) (1) (C), and section 902(a) (1) are determined as follows upon the basis of the facts assumed:

B Corporation (second-tier corporation):	
Pretax earnings and profits.....	\$250.00
Foreign income taxes (20%).....	50.00
Earnings and profits.....	200.00
Amounts required to be included in N Corporation's gross income under sec. 951 with respect to B Corporation.....	150.00
Foreign income taxes paid on or with respect to earnings and profits of B Corporation.....	50.00
Dividends paid to A Corporation.....	150.00

A Corporation (first-tier corporation):	
Pretax earnings and profits.....	\$150.00
Dividends from B Corporation.....	200.00
Other income.....	200.00
Total pretax earnings and profits.....	350.00
Foreign income taxes (10%).....	35.00
Earnings and profits.....	315.00
Dividends paid to N Corporation.....	135.00
Foreign income taxes paid by A Corporation on or with respect to its accumulated profits.....	35.00
N Corporation (domestic corporation):	
Foreign income taxes of B Corporation deemed paid by N Corporation for 1965 under sec. 960(a)(1)(C) (\$150/\$350×\$35).....	15.00
Foreign income taxes of A Corporation deemed paid by N Corporation for 1965 under sec. 902(a)(1) (\$135/\$315×\$35).....	15.00
Total foreign income taxes deemed paid by N Corporation under sec. 901.....	30.00

Example (4). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include \$180 in gross income attributable to the earnings and profits of A Corporation for such year, but is not required to include any amount in gross income under section 951 attributable to the earnings and profits of B Corporation. Corporation B distributes from its earnings and profits for 1965 a dividend of \$50. For 1965, A Corporation distributes \$180 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income for such year with respect to A Corporation and \$20 from its other earnings and profits. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a) (1) (C), after applying section 902 for such year, are determined as follows upon the basis of the facts assumed:

B Corporation (second-tier corporation):	
Pretax earnings and profits.....	\$100.00
Foreign income taxes (40%).....	40.00
Earnings and profits.....	60.00
Dividends paid to A Corporation.....	50.00
Foreign income taxes paid by B Corporation on or with respect to its accumulated profits.....	40.00
Foreign income taxes of B Corporation deemed paid by A Corporation for 1965 under sec. 902(b)(1) (\$50/\$60×\$40).....	33.33
A Corporation (first-tier corporation):	
Pretax earnings and profits.....	\$50.00
Dividends from B Corporation.....	200.00
Other income.....	200.00

Total pretax earnings and profits.....	250.00
Foreign income taxes (10%).....	25.00
Earnings and profits.....	225.00
Foreign income taxes paid, and deemed to be paid, by A Corporation on or with respect to its earnings and profits (\$25.00+\$33.33).....	58.33
Amounts required to be included in N Corporation's gross income for 1965 under sec. 951 with respect to A Corporation.....	180.00
Dividends paid to N Corporation:	
Dividends to which sec. 902(a) does not apply (from A Corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N Corporation's gross income with respect to A Corporation).....	\$180.00
Dividends to which sec. 902(a)(1) applies (from A Corporation's other earnings and profits).....	20.00
Total dividends paid to N Corporation.....	200.00
N Corporation (domestic corporation):	
Foreign income taxes of corporations A and B deemed paid by N Corporation under sec. 960(a)(1)(C) (\$180/\$225×\$58.33).....	46.66
Foreign income taxes of corporations A and B deemed paid by N Corporation under sec. 902(a)(1) (\$20/\$225×\$58.33).....	5.18
Total foreign income taxes deemed paid by N Corporation under sec. 901.....	51.84

Example (5). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include \$150 in gross income attributable to the earnings and profits of B Corporation for such year, which B Corporation distributes during such year. Corporation N is not required for 1965 to include any amount in gross income under section 951 attributable to the earnings and profits of A Corporation, but A Corporation distributes for such year \$135 from its earnings and profits attributable to B Corporation's dividend. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a) (1) (C), and section 902(a) (1) are determined as follows upon the basis of the facts assumed:

dar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income \$150 attributable to the earnings and profits of B Corporation for such year and \$22.50 attributable to the earnings and profits of A Corporation for such year. For 1965, B Corporation distributes \$175, consisting of \$150 from its earnings and profits attributable to amounts required under section 951 to be included in N Corporation's gross income with respect to B Corporation and \$25 from its other earnings and profits. Corporation A does not distribute any dividends for 1965. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) are determined as follows upon the basis of the facts assumed:

B Corporation (second-tier corporation):	
Pretax earnings and profits.....	\$250.00
Foreign income taxes (20%).....	50.00
Earnings and profits.....	200.00
Amounts required to be included in N Corporation's gross income under sec. 951 with respect to B Corporation.....	150.00
Dividends paid by B Corporation:	
Dividends to which sec. 902(b)(1) does not apply (from B Corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N Corporation's gross income with respect to B Corporation).....	\$150.00
Dividends to which sec. 902(b)(1) applies (from B Corporation's other earnings and profits).....	25.00
Total dividends paid to A Corporation.....	175.00
Foreign income taxes paid by B Corporation on or with respect to its accumulated profits.....	50.00
Foreign income taxes deemed paid by A Corporation for 1965 under sec. 902(b)(1) (\$25/\$200×\$50).....	6.25
A Corporation (first-tier corporation):	
Pretax earnings and profits.....	175.00
Foreign income tax (10 percent).....	17.50
Earnings and profits.....	157.50
Earnings and profits after exclusion of amounts attributable to dividends to which sec. 902(b) does not apply (\$157.50 less [\$150÷(\$150×0.10)]).....	22.50
Amount required to be included in N Corporation's gross income for 1965 under sec. 951 with respect to A Corporation.....	22.50
Dividends paid to N Corporation.....	0
N Corporation (domestic corporation):	
Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) with respect to A Corporation:	
Tax actually paid by A Corporation (\$22.50/\$157.50×\$17.50).....	\$2.50
Tax of B Corporation deemed paid by A Corporation under sec. 902(b)(1) (\$22.50/\$22.50×\$6.25).....	6.25
Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) with respect to B Corporation (\$150/\$200×\$50).....	37.50
Total taxes deemed paid under sec. 960(a)(1)(C).....	46.25

Example (6). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income \$150 attributable to the earnings and profits of B Corporation for such year and \$22.50 attributable to the earnings and profits of A Corporation for such year. For 1965, B Corporation distributes \$175, consisting of \$150 from its earnings and profits attributable to amounts required under section 951 to be included in N Corporation's gross income with respect to B Corporation and \$25 from its other earnings and profits. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) and section 902(a)(1) are determined as follows upon the basis of the facts assumed:

B Corporation (second-tier corporation):	
Pretax earnings and profits.....	\$250.00
Foreign income taxes (20%).....	50.00
Earnings and profits.....	200.00
Amounts required to be included in N Corporation's gross income for 1965 under sec. 951 with respect to B Corporation.....	150.00
Dividends paid by B Corporation:	
Dividends to which sec. 902(b)(1) does not apply (from B Corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N Corporation's gross income with respect to B Corporation).....	\$150.00
Dividends to which sec. 902(b)(1) applies (from B Corporation's other earnings and profits).....	25.00
Total dividends paid to A Corporation.....	175.00
Foreign income taxes paid by B Corporation on or with respect to its accumulated profits.....	50.00
Foreign income taxes deemed paid by A Corporation for 1965 under sec. 902(b)(1) (\$25/\$200×\$50).....	6.25
A Corporation (first-tier corporation):	
Pretax earnings and profits.....	\$175.00
Dividends received from B Corporation.....	175.00
Other income.....	100.00
Total pretax earnings and profits.....	275.00
Foreign income taxes (10 percent).....	27.50
Earnings and profits.....	247.50
Earnings and profits after exclusion of amounts attributable to dividends to which sec. 902(b) does not apply (\$247.50 less [\$150÷(\$150×0.10)]).....	112.50
Amount required to be included in N Corporation's gross income for 1965 under sec. 951 with respect to A Corporation.....	22.50
Distributions paid by A Corporation:	
Dividends to which sec. 902(a) does not apply (From A Corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N Corporation's gross income with respect to A Corporation).....	\$22.50
Dividends to which sec. 902(a)(1) applies (from A Corporation's other earnings and profits).....	202.50
Total dividends paid to N Corporation.....	202.50
N Corporation (domestic corporation):	
Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) with respect to:	
B Corporation (\$150/\$200×\$50).....	37.50
A Corporation:	
Tax paid by A Corporation (\$22.50/\$247.50×\$27.50).....	\$2.50
Tax of B Corporation deemed paid by A Corporation under sec. 902(b)(1) (\$22.50/\$112.50×\$6.25).....	1.25
Total taxes deemed paid under sec. 960(a)(1)(C).....	41.25
Foreign income taxes deemed paid by N Corporation under sec. 902(a)(1) with respect to A Corporation:	
Tax paid by A Corporation (\$202.50/\$247.50×\$27.50).....	\$22.50
Tax of B Corporation deemed paid by A Corporation (\$67.50/\$112.50×\$6.25).....	3.75
Total taxes deemed paid under sec. 902(a)(1).....	26.25
Total foreign income taxes deemed paid by N Corporation under sec. 901.....	67.50

§ 1.960-3 Gross-up of amounts included in income under section 951.

(a) **General rule for including taxes in income.** Any taxes deemed paid by a domestic corporation for the taxable year pursuant to section 960(a)(1)(C) shall, except as provided in paragraph (b) of this section, be included in the gross income of such corporation for such year as a dividend pursuant to section 78 and § 1.78-1. See also paragraph (a)(8) of § 1.902-3.

(b) **Certain taxes not included in income.** Any taxes deemed paid by a do-

mestic corporation for the taxable year pursuant to section 902(a)(1) or section 960(a)(1)(C) shall not be included in the gross income of such corporation for such year as a dividend pursuant to section 78 and § 1.78-1 to the extent that such taxes are paid or accrued by the first-tier corporation or its second-tier corporation, as the case may be, on or with respect to an amount which is excluded from the gross income of such foreign corporation under section 959(b) and § 1.959-2 as distributions from the earnings and profits of another controlled foreign corporation attributable to an amount which is, or has been, required to be included in the gross income of the domestic corporation under section 951.

(c) **Illustrations.** The application of this section may be illustrated by the following examples:

Example (1). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, B Corporation, after having paid \$20 of foreign income taxes, has \$80 in earnings and profits, which are attributable to the amount required to be included in N Corporation's gross income for such year under section 951 with respect to B Corporation and all of which are distributed to A Corporation in such year. The dividend so received from B Corporation is excluded from A Corporation's gross income under section 959(b) and § 1.959-2. An income tax of 10 percent is required to be withheld from such dividend by the foreign country under the laws of which B Corporation is created, and the foreign country under the laws of which A Corporation is created imposes an income tax of \$22 on the dividend received from B Corporation. For 1965, A Corporation's earnings and profits are \$50 (\$80-[0.10×\$80])=\$72, which it distributes in such year to N Corporation. For 1965, N Corporation is required under section 951 to include \$80 in gross income with respect to B Corporation and also is required under the gross-up provisions of section 960 to include in gross income \$20 (\$80/\$80×\$20), the amount equal to the foreign income taxes of B Corporation which are deemed paid by N Corporation under section 960(a)(1)(C). Under paragraph (b) of this section N Corporation is not required to include in gross income the \$30 (\$8+\$22) of foreign income taxes which are paid by A Corporation in connection with the dividend received from B Corporation and which are deemed paid by N Corporation under section 902(a)(1) and paragraph (c) of § 1.960-2.

Example (2). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B, which in turn owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1965, C Corporation, after having paid \$20 of foreign income taxes, has \$80 in earnings and profits, which are attributable to the amount required to be included in N Corporation's gross income for such year under section 951 with respect to C Corporation and all of which are distributed to B Corporation in such year. After hav-

ing paid foreign income taxes of \$10 on the dividend received from C Corporation, B Corporation distributes the balance of \$70 to A Corporation. After having paid foreign income taxes of \$5 on the dividend received from B Corporation, A Corporation distributes the balance of \$65 to N Corporation. The dividend so received by B Corporation, and in turn by A Corporation, is excluded from the gross income of such corporations under section 959(b) and § 1.959-2. Under paragraph (b) of this section N Corporation is not required to include in gross income the \$15 (\$10+\$5) of foreign income taxes which are paid by corporations B and A, respectively, in connection with the dividend so received and which are deemed paid by N Corporation under section 902(a)(1) and paragraphs (b) and (c) of § 1.960-2.

§ 1.960-4 Additional foreign tax credit in year of receipt of previously taxed earnings and profits.

(a) **Increase in section 904(a) limitation for the taxable year of exclusion—(1) In general.** The applicable limitation under section 904(a) for a taxpayer's taxable year (hereinafter in this section referred to as the "taxable year of exclusion") in which he receives an amount which is excluded from gross income under section 959(a)(1) and which is attributable to a controlled foreign corporation's earnings and profits in respect of which an amount was required to be included in the gross income of such taxpayer under section 951(a) for a taxable year (hereinafter in this section referred to as the "taxable year of inclusion") previous to the taxable year of exclusion shall be increased under section 960(b)(1) by the amount described in paragraph (b) of this section if the conditions described in subparagraph (2) of this paragraph are satisfied.

(2) **Conditions under which increase in limitation is allowed for the taxable year of exclusion.** The increase in limitation described in subparagraph (1) of this paragraph for the taxable year of exclusion shall be made only if the taxpayer—

(i) For the taxable year of inclusion either chose to claim a foreign tax credit as provided in section 901 or did not pay or accrue any foreign income taxes,

(ii) Chooses to claim a foreign tax credit as provided in section 901 for the taxable year of exclusion, and

(iii) For the taxable year of exclusion pays, accrues, or is deemed to have paid foreign income taxes with respect to the amount, described in subparagraph (1) of this paragraph, which is excluded from his gross income for such year under section 959(a)(1).

(b) **Amount of increase in limitation for the taxable year of exclusion.** The amount of increase under section 960(b)(1) in the applicable limitation under section 904(a) for the taxable year of exclusion shall be—

(1) The amount by which the applicable section 904(a) limitation for the taxable year of inclusion was increased, determined as provided in paragraph (c) of this section, by reason of the inclusion of the amount in the taxpayer's income for such year under section 951(a), reduced by

(2) The amount of foreign income taxes allowed as a credit under section 901 for such taxable year of inclusion and which were allowable to such taxpayer solely by reason of the inclusion of such amount in his gross income under section 951(a), as determined under paragraph (d) of this section, and then by

(3) The additional reduction for such taxable year of inclusion arising by reason of increases in limitation under section 960(b)(1) for taxable years intervening between such taxable year of inclusion and such taxable year of exclusion, as determined under paragraph (e) of this section in respect of such inclusion under section 951(a).

except that the amount of increase determined under this paragraph for the taxable year of exclusion shall in no case exceed the amount of foreign income taxes paid, accrued, or deemed to be paid by such taxpayer for such taxable year of exclusion with respect to the amount, described in paragraph (a)(1) of this section, which is excluded from gross income for such year under section 959(a)(1).

(c) **Determination of increase in limitation for the taxable year of inclusion.** The amount of the increase in the applicable limitation under section 904(a) for the taxable year of inclusion which arises by reason of the inclusion of the amount in gross income under section 951(a) shall be the amount of the applicable limitation under section 904(a) for such year reduced by the amount which would have been the applicable limitation under section 904(a) for such year if the amount had not been included in gross income for such year under section 951(a).

(d) **Determination of foreign income taxes allowed for taxable year of inclusion by reason of section 951(a) amount.** The amount of foreign income taxes allowed as a credit under section 901 for the taxable year of inclusion which were allowable solely by reason of the inclusion of the amount in gross income for such year under section 951(a) shall be the amount of foreign income taxes allowed as a credit under section 901 for such year reduced by the amount of foreign income taxes which would have been allowed as a credit under section 901 for such year if the amount had not been included in gross income for such year under section 951(a). For purposes of this paragraph, the term "foreign income taxes" includes foreign income taxes paid or accrued, and foreign income taxes deemed paid under section 902, section 904(d), and section 960(a), for the taxable year of inclusion.

(e) **Additional reduction for the taxable year of inclusion arising by reason of increases in limitation for intervening years.** The amount of increase in the applicable limitation under section 904(a) for the taxable year of inclusion shall also be reduced, after first deducting the foreign income taxes described in paragraph (b)(2) of this section, by any increases in limitation which arise under section 960(b)(1)—by reason of any

earlier exclusions under section 959(a)(1) in respect of the same inclusion under section 951(a) for such taxable year of inclusion—for the first, second, third, fourth, etc., succeeding taxable years of exclusion, in that order, which follow such taxable year of inclusion and precede the taxable year of exclusion in respect of which the increase in limitation under section 960(b)(1) and paragraph (b) of this section is being determined. The amount of any increase in limitation which arises under section 960(b)(1) for any such succeeding taxable year of exclusion shall be the amount of foreign income taxes allowed as a credit under section 901 for each such taxable year reduced by the amount of foreign income taxes which would have been allowed as a credit under section 901 for each such year if the limitation for each such year were not increased under section 960(b)(1). For any such succeeding taxable year of exclusion for which the taxpayer does not choose to claim a foreign tax credit as provided in section 901, the same increase in limitation under section 960(b)(1) shall be treated as having been made, for purposes of this paragraph, which would have been made for such taxable year if the taxpayer had chosen to claim the foreign tax credit for such year.

(f) **Illustrations.** The application of this section may be illustrated by the following examples:

Example (1). Domestic corporation N owns all of the one class of stock of controlled foreign corporation A, not a less developed country corporation. Corporation A, after paying foreign income taxes of \$30, has earnings and profits for 1965 of \$70, all of which are attributable to an amount required under section 951(a) to be included in N Corporation's gross income for 1965. Both corporations use the calendar year as the taxable year. For 1966 and 1967, A Corporation has no earnings and profits attributable to an amount required to be included in N Corporation's gross income under section 951(a); for each such year it makes a distribution of \$35 (from its earnings and profits for 1965) from which a foreign income tax of \$8 is withheld. For each of 1965, 1966, and 1967, N Corporation derives taxable income of \$50 from sources within the United States and claims a foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax payable by N Corporation is determined as follows, the surtax exemption under section 11(d) being disregarded for purposes of simplification:

1965	
Taxable income of N Corporation:	
U.S. sources.....	\$70.00
Sources without the U.S.:	
Amount required to be included in N Corporation's gross income under sec. 951(a).....	\$70.00
Foreign income taxes deemed paid by N Corporation under sec. 902(a)(1) (C) and included in N Corporation's gross income under sec. 78 (\$30×\$70/\$70).....	30.00
Total taxable income.....	150.00
U.S. tax payable for 1965:	
U.S. tax before credit (\$150×0.48).....	72.00
Credit: Foreign income taxes of \$30, but not to exceed overall limitation of \$48 for 1965 (\$100/\$150×\$72).....	30.00
U.S. tax payable.....	42.00

1966	
Taxable income of N Corporation, consisting of income from U.S. sources	\$50.00
U.S. tax before credit (\$50.00×0.48)	24.00
Section 904(a)(2) overall limitation for 1966: Limitation for 1966 before increase under sec. 904(b)(1) (\$24×\$0.50)	0
Plus: Increase in overall limitation for 1966 under sec. 904(b)(1): Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 (\$48-[(50×0.48)×\$0.50])	\$48.00
Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951(a) inclusion (\$30-\$0)	30.00
Balance	18.00
But: Such balance not to exceed foreign income taxes paid by N Corporation for 1966 with respect to \$35 distribution excluded under sec. 959(a)(1) (\$9 tax withheld)	6.00 6.00
Overall limitation for 1966	6.00
U.S. tax payable for 1966:	
U.S. tax before credit (\$50×0.48)	24.00
Credit: Foreign income taxes of \$6, but not to exceed overall limitation of \$6 for 1966	6.00
U.S. tax payable	18.00
1967	
Taxable income of N Corporation, consisting of income from U.S. sources	50.00
U.S. tax before credit (\$50×0.48)	24.00
Section 904(a)(2) overall limitation for 1967: Limitation for 1967 before increase under sec. 904(b)(1) (\$24×\$0.50)	0
Plus: Increase in overall limitation for 1967 under sec. 904(b)(1): Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 (\$48-[(50×0.48)×\$0.50])	\$48.00
Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951(a) inclusion (\$30-\$0)	30.00
Tentative balance	18.00
Less: Increase in overall limitation under sec. 904(b)(1) for 1966 by reason of such sec. 951(a) inclusion	6.00
Balance	12.00
But: Such balance not to exceed foreign income taxes paid by N Corporation for 1967 with respect to \$35 distribution excluded under sec. 959(a)(1) (\$9 tax withheld)	6.00 6.00
Overall limitation for 1967	6.00
U.S. tax payable for 1967:	
U.S. tax before credit (\$50×0.48)	24.00
Credit: Foreign income taxes of \$6, but not to exceed overall limitation of \$6 for 1967	6.00
U.S. tax payable	18.00

Example (2). The facts for 1965, 1966, and 1967, are the same as in example (1), except that in 1964, to which the section 904(a)(2) overall limitation applies, N Corporation pays \$18 of foreign income taxes in excess of the overall limitation and that such excess is not absorbed as a carryback to 1962 or 1963 under section 904(d). Therefore, there is no increase under section 904(b)(1) in the overall limitation for 1966 or 1967 since the amount (\$48) by which the 1965 overall limitation was increased by reason of the inclusion in N Corporation's gross income for 1965 under section 951(a), less the foreign income taxes (\$48) allowed as a credit which were allowable solely by reason of such inclusion, is zero. The foreign income taxes so allowed as a credit for 1965 which were allowable solely by reason of such section 951(a) inclusion consist of the \$30 of foreign income taxes deemed paid for 1965 under section 904(a)(1)(C) and the \$18 of foreign income taxes for 1964 carried over and deemed paid for 1965 under section 904(d).

Example (3). (a) Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which in turn owns all the one class of stock of controlled foreign corporation B. All corporations use the calendar year as the taxable year. Corporation B, after paying foreign income taxes of \$30, has earnings and profits for 1965 of \$70, all of which is attributable to an amount required under section 951(a) to be included in N Corporation's gross income for 1965, and \$35 of which it distributes in such year to A Corporation. For 1965, A Corporation, after paying foreign income taxes of \$5 on such dividend from B Corporation, has total earnings and profits of \$30, all of which it distributes in such year to N Corporation, a foreign income tax of \$3 being withheld therefrom.

(b) For 1966, B Corporation has no earnings and profits, but distributes in such year to A Corporation the \$35 remaining of its earnings and profits for 1965. For 1966, A Corporation, after paying foreign income taxes of \$5 on such dividend from B Corporation, has total earnings and profits of \$30, all of which it distributes to N Corporation, a foreign income tax of \$3 being withheld therefrom.

(c) For each of 1965 and 1966, N Corporation has taxable income of \$100 from United States sources and claims a foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax payable by N Corporation is determined as follows, the surtax exemption under section 11(d) being disregarded for purposes of simplification:

1965	
Taxable income of N Corporation:	
U.S. sources	\$100
Amount required to be included in N Corporation's gross income under sec. 951(a) with respect to B Corporation	\$70
Foreign income taxes deemed paid by N Corporation under sec. 904(a)(1)(C) and included in N Corporation's gross income under sec. 78 (\$30×\$0.50)	30 100
Total taxable income	200
U.S. tax payable for 1965:	
U.S. tax before credit (\$200×0.48)	96
Credit: Foreign income taxes of \$38 (\$30×\$0.70+\$8 (\$30×\$0.48)×\$0.50), but not to exceed overall limitation of \$48 (\$36×\$100/\$200)	38
U.S. tax payable	58
1966	
Taxable income of N Corporation, consisting of income from U.S. sources	100
U.S. tax before credit (\$100×0.48)	48
Section 904(a)(2) overall limitation for 1966: Limitation for 1966 before increase under sec. 904(b)(1) (\$48×\$0.50)	0
Plus: Increase in overall limitation for 1966 under sec. 904(b)(1): Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 (\$48-[(100×0.48)×\$0.50])	\$48
Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951(a) inclusion (\$38-\$0)	38
Balance	10
But: Such balance not to exceed foreign income taxes paid and deemed paid by N Corporation for 1966 with respect to \$30 distribution excluded under sec. 959(a)(1) (\$5×\$30/\$30+\$3)	8 8
Overall limitation for 1966	8
U.S. tax payable for 1966:	
U.S. tax before credit (\$100×0.48)	48
Credit: Foreign income taxes of \$8 (\$3+\$5), but not to exceed overall limitation of \$8 for 1966	8
U.S. tax payable	40

Example (4). (a) Domestic corporation N directly owns all of the one class of stock of each of controlled foreign corporations A and B, neither of which is a less developed country corporation. All such corporations use the calendar year as the taxable year. Corporation A, after paying foreign income taxes of \$110,000, has earnings and profits for 1965 of \$90,000, all of which is attributable to an amount required under section 951(a) to be included in N Corporation's gross income for 1965. For 1966, A Corporation has no earnings and profits but distributes to N Corporation its entire earnings and profits for 1965, from which distribution foreign income taxes of \$9,000 are withheld.

(b) For each of 1965 and 1966 B Corporation, after paying foreign income taxes of \$2,500, has earnings and profits of \$47,500, no part of which is attributable to an amount required under section 951(a) to be included in N Corporation's gross income, and all of which B Corporation distributes to N Corporation in each such year. For 1965 and 1966, N Corporation claims the foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax payable by N Corporation is determined as follows, after taking into account the surtax exemption under section 11(d):

1965	
Taxable income of N Corporation:	
Amount required to be included in N Corporation's gross income under sec. 951(a) with respect to A Corporation	\$90,000
Foreign income taxes deemed paid by N Corporation under sec. 904(a)(1)(C) and included in N Corporation's gross income under sec. 78 (\$110,000×\$90,000/\$90,000)	110,000
Amount included in N Corporation's gross income under sec. 61 as a dividend from B Corporation	47,500
Foreign income taxes deemed paid by N Corporation under sec. 904(a)(1)(C) and included in N Corporation's gross income under sec. 78 (\$2,500×\$47,500/\$47,500)	2,500 50,000
Total taxable income	250,000
U.S. tax payable for 1965:	
U.S. tax before credit (\$250,000×0.22)+(\$225,000×0.26)	113,500
Credit: Foreign income taxes of \$112,500 (\$110,000+\$2,500), but not to exceed overall limitation of \$113,500 (\$113,500×\$250,000/\$250,000)	112,500
U.S. tax payable	1,000
1966	
Taxable income of N Corporation:	
Amount included in N Corporation's gross income under sec. 61 as a dividend from B Corporation	17,500
Foreign income taxes deemed paid by N Corporation under sec. 904(a)(1)(C) and included in N Corporation's gross income under sec. 78 (\$2,500×\$17,500/\$17,500)	2,500
Total taxable income	50,000
U.S. tax before credit (\$50,000×0.22)+(\$25,000×0.26)	17,500
Section 904(a)(2) overall limitation for 1966: Limitation for 1966 before increase under sec. 904(b)(1) (\$17,500×\$50,000/\$50,000)	17,500
Plus: Increase in overall limitation for 1966 under sec. 904(b)(1): Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 (\$17,500×\$50,000/\$50,000)	\$96,000
Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951(a) inclusion (\$12,500-\$2,500)	110,000
Balance (\$96,000-\$110,000), but not to be less than zero	0

But: Such balance not to exceed foreign income taxes paid by N Corporation for 1966 with respect to \$90,000 distribution excluded under sec. 959(a)(1) (\$9,000 tax withheld)	9,000	0
Overall limitation for 1966	17,500	
U.S. tax payable for 1966:		
U.S. tax before credit (\$50,000×0.22)+(\$25,000×0.26)	17,500	
Credit: Foreign income taxes of \$17,500 (\$9,000+\$8,500), but not to exceed overall limitation of \$17,500	17,500	
U.S. tax payable	6,000	

§ 1.960-5 Credit for taxable year of inclusion binding for taxable year of exclusion.

(a) Taxes not allowed as a deduction for taxable year of exclusion. In the case of any taxpayer who—

(1) Chooses to claim a foreign tax credit as provided in section 901 for the taxable year for which he is required to include in gross income under section 951(a) an amount attributable to the earnings and profits of a controlled foreign corporation, and

(2) Does not choose to claim a foreign tax credit as provided in section 901 for a taxable year in which he receives an amount which is excluded from gross income under section 959(a)(1) and which is attributable to such earnings and profits of such controlled foreign corporation, no deduction shall be allowed under section 164 for the taxable year of such exclusion for any foreign income taxes paid or accrued on or with respect to such excluded amount.

(b) **Illustration.** The application of this section may be illustrated by the following example:

Example. Domestic Corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation. Both corporations use the calendar year as the taxable year. All of A Corporation's earnings and profits of \$80 for 1965 (after payment of foreign income taxes of \$20 on its total income of \$100 for such year) are attributable to amounts required under section 951(a) to be included in N Corporation's gross income for 1965. For 1965, N Corporation chooses to claim a foreign tax credit for the \$20 of foreign income taxes which for such year are paid by A Corporation and deemed paid by N Corporation under section 904(a)(1)(C) and paragraph (c)(1) of § 1.960-1. For 1966, A Corporation distributes the entire \$80 of 1965 earnings and profits, a foreign income tax of \$8 being withheld therefrom. Although N Corporation does not choose to claim a foreign tax credit for 1966, it may not deduct such \$8 of foreign income taxes under section 164. Corporation N may, however, deduct under such section a foreign income tax of \$4 which is withheld from a distribution of \$40 by A Corporation during 1966 from its 1966 earnings and profits.

§ 1.960-6 Overpayments resulting from increase in limitation for taxable year of exclusion.

(a) **Amount of overpayment.** If an increase in the limitation under section 904(b)(1) and § 1.960-4 for a taxable year of exclusion exceeds the tax (determined before allowance of any credits against tax) imposed by chapter 1 of the Code for such year, the amount of such excess shall be deemed an overpayment of tax for such year and shall be refunded or credited to the taxpayer in

accordance with chapter 65 (section 6401 and following) of the Code.

(b) **Illustration.** The application of this section may be illustrated by the following example:

Example. Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation. Both corporations use the calendar year as the taxable year. For 1965, A Corporation has total income of \$100,000 on which it pays foreign income taxes of \$20,000. All of A Corporation's earnings and profits for 1965 of \$80,000 are attributable to an amount which is required under section 951(a) to be included in N Corporation's gross income for 1965. By reason of such income inclusion N Corporation is deemed for 1965 to have paid under section 960(a)(1)(C), and is required under section 78 to include in gross income for such year, the \$20,000 (\$20,000×\$80,000/\$80,000) of foreign income taxes paid by A Corporation for such year. Corporation N also derives \$100,000 taxable income from sources within the United States for 1965. For 1966, N Corporation has \$25,000 of taxable income, all of which is derived from sources within the United States. No part of A Corporation's earnings and profits for 1966 is attributable to an amount required under section 951(a) to be included in N Corporation's gross income. During 1966, A Corporation makes one distribution consisting of its \$80,000 earnings and profits for 1965, all of which is excluded under section 959(a)(1) from N Corporation's gross income for 1966, and from which distribution foreign income taxes of \$10,000 are withheld. For 1965 and 1966, N Corporation claims the foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax of N Corporation is determined as follows for such years:

1965	
Taxable income of N Corporation:	
U.S. sources	\$100,000
Amount required to be included in N Corporation's gross income under sec. 951(a)	\$80,000
Foreign income taxes deemed paid by N Corporation under sec. 904(a)(1)(C) and included in N Corporation's gross income under sec. 78 (\$20,000×\$80,000/\$80,000)	20,000 100,000
Total taxable income	200,000
U.S. tax payable for 1965:	
U.S. tax before credit (\$200,000×0.22)+(\$175,000×0.26)	89,500
Credit: Foreign income taxes of \$20,000, but not to exceed overall limitation of \$44,750 (\$89,500×\$100,000/\$200,000)	20,000
U.S. tax payable	69,500
1966	
Taxable income of N Corporation, consisting of income from U.S. sources	\$25,000
U.S. tax before credit (\$25,000×0.22)	5,500
Section 904(a)(2) overall limitation for 1966: Limitation for 1966 before increase under sec. 904(b)(1) (\$5,500×\$25,000/\$25,000)	0
Plus: Increase in overall limitation for 1966 under sec. 904(b)(1): Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 (\$44,750-[\$41,500×\$0/\$100,000])	\$44,750
Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951(a) inclusion (\$20,000-\$0)	20,000
Balance	24,750
But: Such balance not to exceed foreign income taxes paid by N Corporation for 1966 with respect to \$80,000 distribution excluded under sec. 959(a)(1) (\$10,000 tax withheld)	10,000 10,000
Overall limitation for 1966	10,000

U.S. tax payable for 1966:	
U.S. tax before credit (\$25,000×0.22)	5,500
Credit: Foreign income taxes of \$10,000, but not to exceed overall limitation of \$10,000 for 1966	10,000
U.S. tax payable	None

Overpayment of tax for 1966: Increase in limitation under sec. 904(b)(1) for 1966..... 10,000
Less: Tax imposed for 1966 under chapter 1 of the Code..... 5,500
Excess treated as overpayment..... 4,500

PAR. 2. Paragraph (b) of § 1.78-1 is amended to read as follows:

§ 1.78-1 Dividends received from certain foreign corporations by certain domestic corporations choosing the foreign tax credit.

(b) **Certain taxes not treated as a section 78 dividend.** Foreign income taxes deemed paid by a domestic corporation under section 902(a)(1) or section 960(a)(1)(C) shall not, to the extent provided by paragraph (b) of § 1.960-3, be treated as a section 78 dividend where such taxes are imposed on certain distributions from the earnings and profits of a controlled foreign corporation attributable to an amount which is, or has been, included in gross income under section 951.

(c) **Effective dates for the application of section 78—(1) In general.** This section shall apply to amounts of foreign income taxes deemed paid under section 902(a)(1) and paragraph (a)(2) of § 1.902-3, or under section 960(a)(1)(C) and the regulations thereunder, by reason of a distribution received by a domestic corporation—

(i) After December 31, 1964, or
(ii) Before January 1, 1965, in a taxable year of such domestic corporation beginning after December 31, 1962, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year of such foreign corporation beginning after December 31, 1962.

For special rules relating to determination of accumulated profits for such purposes, see § 1.902-5.

(2) **Amounts under section 951 treated as distributions.** For purposes of this paragraph, any amount attributable to the earnings and profits for the taxable year of a first-tier corporation (as defined in paragraph (b)(1) of § 1.960-1) which is included in the gross income of a domestic corporation under section 951(a) shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such first-tier corporation is a controlled foreign corporation.

§ 1.902-3 Credit for domestic corporate shareholder of a foreign corporation (after amendment by Revenue Act of 1962).

(a) **Domestic shareholder owning stock in a first-tier corporation.** . . .
(8) **Gross-up of dividends by taxes deemed paid.** Any taxes deemed paid by a domestic shareholder for the taxable year pursuant to section 902(a)(1) and subparagraph (2) of this paragraph

shall, except as provided in paragraph (b) of § 1.960-3, be included in the gross income of such shareholder for such year as a dividend pursuant to section 78 and § 1.78-1.

§ 1.959-4 Distributions to United States persons not counting as dividends.

Except as provided in section 960(a)(3) and § 1.960-2, any distribution to a United States person which is excluded from the gross income of such person under section 959(a)(1) and § 1.959-1 shall be treated for purposes of chapter 1 (relating to normal taxes and surtaxes) of subtitle A (relating to income taxes) of the Code as a distribution which is not a dividend. However, see paragraph (b)(1) of § 1.956-1, relating to the dividend limitation on the amount of a controlled foreign corporation's investment of earnings in United States property.

§ 1.963-3 Distributions counting toward a minimum distribution.

(a) *Conditions under which earnings and profits are counted toward a minimum distribution.*—(1) *In general.* A distribution to the United States shareholder by a single first-tier corporation or by a foreign corporation included in a chain or group shall count toward a minimum distribution for the taxable year of such shareholder to which the election under section 963 relates only to the extent that—

(i) It is received by such shareholder during such year or within 180 days thereafter,

(ii) It is a distribution of the type described in paragraph (b) of this section.

(iii) Under paragraph (c) of this section, it is deemed to be distributed from the earnings and profits of the foreign corporations for the taxable year of such corporation to which the election relates, and

(iv) Such shareholder chooses to include it in gross income for the taxable year of such shareholder to which the election relates notwithstanding that such distribution, by reason of its receipt after the close of such year, would ordinarily be includible in the gross income of a subsequent year.

Amounts taken into account under this subparagraph as gross income of the United States shareholder for the taxable year to which the election relates shall not be considered to be includible in the gross income of such shareholder for a subsequent taxable year. For purposes of determining the foreign tax credit under sections 901 through 905, foreign income tax paid or accrued by such shareholder on or with respect to such amounts shall be treated as paid or accrued during the taxable year of such election.

(2) *Distributions made prior to acquisition of stock.* A United States shareholder which owns within the meaning of section 958(a) stock in a foreign corporation with respect to which such shareholder elects to secure an exclusion under section 963 for the taxable year

may count toward the minimum distribution any distribution made with respect to such stock, and before its acquisition by the United States shareholder, to any other domestic corporation not exempt from income tax under chapter 1 of the Code, to the extent that such distribution is made out of the United States shareholder's proportionate share, as determined under paragraph (d)(2) of § 1.963-2, of such corporation's earnings and profits for the taxable year and would have counted toward a minimum distribution if it had been distributed to such United States shareholder. The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation A, which uses the calendar year as the taxable year, has for 1963 \$100 of earnings and profits and 100 shares of only one class of stock outstanding. Domestic corporation M, not exempt from income tax under chapter 1 of the Code, directly owns all of such shares during the period from January 1, 1963, through June 30, 1963. On June 30, 1963, M Corporation transfers all of such shares to domestic corporation N, which owns them throughout the remainder of 1963 and elects to secure an exclusion under section 963 for such year with respect to the subpart F income of A Corporation. During 1963, M Corporation receives a dividend of \$75 from A Corporation, which would count toward a minimum distribution if it had been distributed to N Corporation for such year. Corporation N's proportionate share of the earnings and profits of A Corporation for 1963 is \$100; N Corporation may count toward a minimum distribution for 1963 the entire dividend of \$75 paid to M Corporation.

Example (2). The facts are the same as in example (1) except that M is a nonresident alien individual. Since A Corporation is not a controlled foreign corporation from January 1, 1963, through June 30, 1963, N Corporation's proportionate share of the earnings and profits of A Corporation for 1963 is \$50.41 (\$100 × 184/365), as determined under paragraph (d)(2)(iii) of § 1.963-2. Although \$25.41 (\$75—\$49.59) of the \$75 distribution to M is paid from N Corporation's proportionate share of A Corporation's 1963 earnings and profits, N Corporation may not count toward a minimum distribution any part of the \$75 dividend distributed to M, since M is not a domestic corporation.

(b) *Qualifying distributions.*—(1) *Amounts not counted toward a minimum distribution.* No distribution received by a United States shareholder shall count toward a minimum distribution for the taxable year with respect to such shareholder to the extent the distribution is excludable from gross income to the extent gain on the distribution is not recognized, or to the extent the distribution is treated as a distribution in part or full payment in exchange for stock. Undistributed amounts required to be included in gross income under section 551 as undistributed foreign personal holding company income or under section 951 as undistributed amounts of a controlled foreign corporation shall not count toward a minimum distribution under section 963. An amount received by a United States shareholder as a distribution which under section 302 or section 331 is

treated as a distribution in part or full payment in exchange for stock shall not count toward a minimum distribution even though such account is includible in gross income under section 1248 as a dividend. For purposes of this subparagraph, any portion of a distribution of earnings and profits which is attributable to an increase in current earnings, invested in United States property which, but for paragraph (e) of this section, would be included in the gross income of the United States shareholder under section 951(a)(1)(B) shall not be treated as an amount excludable from gross income.

(2) *Inclusion of tax on intercorporate distributions.* In the case of a chain or group election, the United States shareholder's proportionate share of the amount of the foreign income tax paid or accrued for the taxable year by a foreign corporation in the chain or group with respect to distributions received by such corporation from the earnings and profits, of another foreign corporation in such chain or group, for the taxable year of such other corporation to which the election relates shall count toward a minimum distribution from such chain or group for the taxable year, but only if the United States shareholder does not choose under paragraph (d)(1)(iii) of § 1.963-2 to take such tax into account in determining the effective foreign tax rate of such chain or group for the taxable year. To the extent that foreign income tax counts toward a minimum distribution under this subparagraph, it shall be applied against and reduce the amount of the minimum distribution required to be received by the United States shareholder, determined without regard to this paragraph.

(c) *Rules for allocation of distributions to earnings and profits for a taxable year.* To determine whether a distribution to the United States shareholder by a single first-tier corporation or by a foreign corporation in a chain or group is made from the earnings and profits of such corporation for the taxable year to which the election under section 963 relates, the following subparagraphs shall apply:

(1) *Exception to section 316.* Section 316 shall apply except that a distribution of earnings and profits made by a foreign corporation either to another foreign corporation or to the United States shareholder shall be treated as having been paid from the earnings and profits of the distributing corporation for the taxable year of such corporation to which the election relates only if it is made during its distribution period (described in paragraph (g) of this section) for such year.

(2) *Distributions from other corporations.* The earnings and profits of a foreign corporation shall be determined in accordance with paragraph (d)(1) of § 1.963-2 (applied as though the United States shareholder had chosen under subparagraph (1)(iii) of such paragraph to take the tax described therein into account in determining the effective

foreign tax rate) except that, in the case of a chain or group election, a distribution received by a foreign corporation in the chain or group from another foreign corporation in such chain or group shall be taken into account as earnings and profits of the recipient corporation for the taxable year of such recipient corporation to which the election relates but only to the extent that—

(i) The distribution is received by the recipient corporation during the distribution period for the taxable year of such recipient corporation to which the election relates.

(ii) If the distribution had been received by the United States shareholder, it would have constituted a distribution of the type described in paragraph (b) of this section, and

(iii) The distribution is made from the earnings and profits of the distributing corporation for the taxable year of such distributing corporation to which the election relates.

(d) *Year of inclusion in income of foreign corporation and effect upon subpart F income.* To the extent that a distribution to the United States shareholder counting toward a minimum distribution from a chain or group consists of earnings and profits distributed to a foreign corporation in the chain or group after the close of the recipient corporation's taxable year but during its distribution period for such year by another foreign corporation in such chain or group, such amount shall be treated as received by the recipient corporation on the last day of such taxable year and shall not be regarded as foreign personal holding company income (within the meaning of section 553(a) or 954(c)) of such corporation for the taxable year in which such amount is actually received. The extent to which a distribution counting toward a minimum distribution consists of earnings and profits distributed to a foreign corporation in a chain or group shall be determined under the ordering rules of paragraph (b)(3) of § 1.963-4 (applied in each instance as though the United States shareholder had not chosen under paragraph (d)(1)(iii) of § 1.963-2 to take the tax described therein into account in determining the effective foreign tax rate). However, for such purpose, the amount of foreign income tax, if any, which counts toward the minimum distribution shall be determined without regard to paragraph (b)(2) of this section but in accordance with paragraph (b)(3)(iii) of § 1.963-4.

(e) *Distribution of current earnings invested in United States property.* A distribution made by a foreign corporation during its distribution period for a taxable year shall, notwithstanding section 959(c), first be attributed to earnings and profits for such year described in section 959(c)(3) and then to other earnings and profits. For such purposes, earnings and profits of such foreign corporation for such year attributable to amounts which would otherwise be included in gross income of the United

States shareholder under section 951(a)(1)(B) for such year shall be treated as earnings and profits to which section 959(c)(3) applies, shall not be excluded from gross income under section 959(a) or (b), and shall count toward a minimum distribution for such year. See paragraph (c)(1)(v) of § 1.960-1 and paragraph (a) of § 1.960-2.

(f) *Cumulative dividends in arrears.* A distribution in satisfaction of arrearages shall be treated as being made out of earnings and profits of the foreign corporation for the taxable year to which the election under section 963 applies only to the extent the dividend is not attributed, under paragraph (d)(2)(i)(d) of § 1.963-2, to the earnings and profits of such corporation remaining from prior taxable years beginning after December 31, 1962. The application of this paragraph may be illustrated by the following example:

Example. For 1963, single first-tier corporation A, which uses the calendar year as the taxable year, has earnings and profits of \$50; for 1964, a deficit in earnings and profits of \$20; for 1965, earnings and profits of \$100; and for 1966, earnings and profits of \$240. For each of such years preferred dividends accumulate at the rate of \$60; but no dividend is paid until 1966 during which year the current dividend is paid and \$180 is distributed toward the arrearages. Of this \$180, only \$50 (\$180—\$130) shall be treated as paid from 1966 earnings and profits.

(g) *Distribution period of a foreign corporation.*—(1) *General distribution period.* Except as provided by subparagraph (2) of this paragraph, the distribution period with respect to a foreign corporation for its taxable year shall begin immediately after the close of the distribution period for the preceding taxable year and shall end with the close of the 60th day of the next succeeding taxable year. If no election to secure an exclusion under section 963 applied to the preceding taxable year, the distribution period for the taxable year shall begin with the 61st day of the taxable year.

(2) *Special extended distribution period.* If the United States shareholder of the foreign corporation so elects in statement filed with its return for the taxable year for which the election to secure the exclusion under section 963 is made, the distribution period with respect to such foreign corporation for its taxable year to which the election to secure the exclusion applies shall end with any day which occurs no earlier than the last day of such taxable year of such foreign corporation and no later than the 180th day after the close of such taxable year. The statement shall designate the day so elected as the end of the distribution period.

(h) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). For 1963 domestic corporation M makes a chain election with respect to controlled foreign corporation A, all of whose one class of stock M Corporation directly owns, and controlled foreign corpora-

tion B, all of whose one class of stock is directly owned by A Corporation. All such corporations use the calendar year as the taxable year, and the distribution periods of corporations A and B for 1963 coincide. Corporations A and B each have earnings and profits (before distributions) of \$100 for 1963. On June 1, 1963, B Corporation distributes earnings and profits of \$120, of which \$100 is from its earnings and profits for 1963 and \$20 is from prior earnings. For 1963, A Corporation pays no income tax and distributes earnings and profits of \$150 to M Corporation. Under paragraph (c) of this section, such \$150 is allocated to A Corporation's earnings and profits of \$200 for 1963, consisting of its total earnings and profits for that year of \$220 less the \$20 received as a distribution from B Corporation's prior earnings.

Example (2). Domestic corporation M directly owns all of the one class of stock of controlled foreign corporation A. Both corporations use the calendar year as the taxable year, and A Corporation's taxable year and its distribution period for 1963 coincide. For 1963, \$50 is included in the gross income of M Corporation under section 951(a)(1)(B) as A Corporation's increase in earnings invested for such year in United States property. For 1964, M Corporation makes a first-tier election with respect to A Corporation. For 1964, A Corporation has earnings and profits of \$100, including \$10 attributable to an increase in earnings invested for such year in United States property. During 1964, A Corporation distributes earnings and profits of \$80 to M Corporation. Without regard to paragraph (e) of this section, \$10 of this distribution is attributable under section 959(c)(1) to A Corporation's 1964 earnings and profits required to be included in M Corporation's gross income under section 951(a)(1)(B). Pursuant to paragraph (e) of this section, however, the entire distribution of \$80 counts toward a minimum distribution for 1964 and is considered to be from earnings and profits of A Corporation for 1964 described in section 959(c)(3). Thus, the entire distribution of \$80 is included in M Corporation's gross income as a dividend and the foreign tax credit in respect of such amount is determined in accordance with § 1.963-4. On the other hand, if A Corporation made no distributions for 1964, no part of the \$10 of A Corporation's increase in earnings invested in United States property for such year would count toward a minimum distribution for any other year but would be included in the gross income for M Corporation for 1964 under section 951(a)(1)(B), and the foreign tax credit in respect of such amount would be determined in accordance with § 1.960-1.

Example (3). For 1964 domestic corporation M makes a chain election with respect to controlled foreign corporation A, all the one class of stock of which is owned directly by M Corporation, and controlled foreign corporation B, all the one class of stock of which is owned directly by A Corporation. Corporation M makes no election under section 963 for 1963 or 1965. Corporations M and B use the calendar year as the taxable year, and A Corporation uses for its taxable year a fiscal year ending on September 30. Corporation M elects to have the distribution period for each controlled foreign corporation end on March 29, 1965, such date being the 180th day after the close of A Corporation's taxable year ending on September 30, 1964. Corporation A's distribution period for its taxable year ending on September 30, 1964, begins on November 30, 1963, the 61st day of such taxable year. The distribution period of B Corporation for 1964 begins on March 1, 1964, the 61st day of such taxable year. A distribution count-

ing toward a minimum distribution for 1964 may be made from the earnings and profits of B Corporation only if the amount thereof is distributed by B Corporation to A Corporation, and in turn by A Corporation to M Corporation, during the period of March 1, 1964, through March 29, 1965.

Example (4). The facts are the same as in example (3), except that for their taxable years ending in 1964, corporations A and B each have earnings and profits (before distributions) of \$100. On March 10, 1965, B Corporation distributes to A Corporation a dividend of \$80 upon which A Corporation incurs foreign income tax at the rate of 10 percent. On March 15, 1965, A Corporation distributes to M Corporation a dividend of \$50. Corporation M chooses to take into account as gross income for 1964 from such distribution only \$40. For purposes of applying this section, the distribution counting toward a minimum distribution is \$44.44, consisting of the \$40 of earnings and profits actually received by M Corporation plus the \$4.44 (\$40/\$72 x \$8) of foreign income tax incurred by A Corporation attributable thereto; A Corporation is deemed to have received \$44.44 (\$40 + 0.90) of the distribution from B Corporation on September 30, 1964, the last day of the taxable year of A Corporation to which the election relates; and the foreign personal holding company income derived by A Corporation for its taxable year ending in 1965 from the distribution from B is only \$35.56 (\$80 - \$44.44). Assuming that no exceptions, exclusions, or exemptions were applicable, subpart F income would be realized by A Corporation for its taxable year ending on September 30, 1965, upon the distribution by B Corporation to A Corporation, but only in the amount of \$32 (\$35.56 less a deduction under section 954 (b) (5) for taxes of \$3.56).

§ 1.964-5 Effective date of Subpart F.

Sections 951 through 964 and §§ 1.951 through 1.964-4 shall apply with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such corporations end.

[FR Doc.71-7640 Filed 6-3-71; 8:45 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order No. 457-71]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart M—Land and Natural Resources Division

CRIMINAL POLLUTION LITIGATION

Under existing regulations, the Criminal Division has responsibility for prosecuting Federal crimes unless otherwise assigned. (28 CFR 0.55(a)). This order assigns responsibility for criminal pollution litigation to the Land and Natural Resources Division.

By virtue of the authority vested in me by 5 U.S.C. 301, and 28 U.S.C. 509, 510, § 0.65 of Subpart M of Part 0 of Chapter I of Title 28, Code of Federal Regula-

tions, is amended by adding a new paragraph (d) to read as follows:

§ 0.65 General functions.

(d) Criminal suits and matters involving air and water pollution.

Dated: May 22, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-7766 Filed 6-3-71; 8:48 am]

[Order No. 459-71]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart X—Authorizations With Respect to Personnel and Certain Administrative Matters

CERTIFICATION OF OBLIGATIONS

Section 1311(b) of the Supplemental Appropriation Act, 1955 (68 Stat. 831; 31 U.S.C. 200(c)) requires the head of each Federal agency to report to Congress and certain Government officers the amount of each appropriation remaining obligated but unexpended on June 30 each year.

Section 1311(c) of said Act requires each report to be supported by certifications of officials designated by the head of the agency.

By virtue of the authority vested in me by sections 509 and 510 of Title 28 and section 301 of title 5 of the United States Code, § 0.147 of Subpart X of Part 0 of Chapter I of Title 28 of the Code of Federal Regulations, listing such designated officials for the Department of Justice, is amended by deleting the period at the end thereof and inserting the following: "or the Director, Office of Budget and Accounts, Administrative Division."

Dated: May 25, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-7749 Filed 6-3-71; 8:47 am]

[Order No. 458-71]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Consumer Affairs Litigation

This order centralizes responsibility for certain consumer affairs litigation in the Antitrust Division.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.41(b) of Subpart H is amended to read as follows:

§ 0.41 Special functions.

(b) All civil and criminal litigation arising under the Federal Trade Commission Act, the Federal Food, Drug and Cosmetic Act, the Federal Cautic Poison Act, the Federal Hazardous Sub-

stances Act, and the Federal Cigarette Labelling and Advertising Act.

§ 0.55 [Amended]

2. Section 0.55(c) is amended by deleting the words "the Federal Food, Drug, and Cosmetic Act."

3. Section 0.55(d) is amended by deleting the following language: "Federal Cautic Poisons Act," and "Federal Trade Commission Act, (in case foods, drugs, or cosmetics are involved)."

4. Paragraph (n) of § 0.55 is deleted.

Dated: May 22, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-7767 Filed 6-3-71; 8:49 am]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Appendix to Subpart Y—Redelegations of Authority To Compromise and Close Civil Claims

Tax Division

[Directive No. 16]

REDELEGATION OF AUTHORITY TO COMPROMISE, SETTLE, AND CLOSE CLAIMS

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly §§ 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is ordered as follows:

SECTION 1. The chiefs of the General Litigation Section, the Appellate Section, the Court of Claims Section, and the Refund Trial Sections are authorized to reject offers in compromise, regardless of amount, without reference to the Review Section, provided that such action is not opposed by the agency or agencies involved.

SEC. 2. The Executive Assistant and the Chief of the Litigation Control Unit are authorized to reject offers in compromise in postjudgment collection cases, regardless of amount, without reference to the Review Section: *Provided*, That such action is not opposed by the agency or agencies involved.

SEC. 3. Subject to the conditions and limitations set forth in section (8) hereof, the chiefs of the Court of Claims Section and the Refund Trial Sections are authorized to accept offers in compromise of claims against the United States in cases in which the amount of the refund does not exceed \$20,000 provided that such action is not opposed by the agency or agencies involved.

SEC. 4. Subject to the conditions and limitations set forth in section (8) hereof, the chief of the General Litigation Section is authorized to accept offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$20,000. *Provided*, That such action is not opposed by the agency or agencies involved.

SEC. 5. Subject to the conditions and limitations set forth in section (8) hereof, the Executive Assistant and the Chief of the Litigation Control Unit are authorized to accept offers in compromise of claims in behalf of the United States in postjudgment collection cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$20,000: *Provided*, That such action is not opposed by the agency or agencies involved.

SEC. 6. Subject to the conditions and limitations set forth in section (8) hereof,

the Chief of the Review Section shall have authority to—

(A) Accept offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$50,000, and of claims against the United States in all cases in which the amount of the refund does not exceed \$50,000;

(B) Approve administrative settlements not exceeding \$50,000;

(C) Close (other than by compromise or by entry of judgment) civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed \$50,000; and

(D) Reject offers in compromise, regardless of amount.

Provided, That the action is not opposed by the agency or agencies involved or the chief of the section to which the case is assigned.

SEC. 7. Subject to the conditions and limitations set forth in section (8) hereof, the Deputy Assistant Attorneys General and the Deputy for Refund Litigation each shall have authority to—

(A) Accept offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$250,000, and of claims against the United States in all cases in which the amount of the refund does not exceed \$250,000;

(B) Approve administrative settlements not exceeding \$250,000;

(C) Close (other than by compromise or by entry of judgment) civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed \$250,000; and

(D) Reject offers in compromise, or disapprove administrative settlements or closings, regardless of amount.

Provided, That the limiting amount in (A), (B), and (C) shall be \$100,000, if the proposed disposition of the claim is opposed by the agency or agencies involved or if the case is subject to reference to the Joint Committee on Internal Revenue Taxation.

SEC. 8. The authority redelegated herein shall be subject to the following conditions and limitations:

(A) When, for any reason, the compromise or administrative settlement or closing of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totaling more than the respective amounts designated in sections (2), (3), (4), (5), (6), and (7), the case shall be forwarded for review at the appropriate level.

(B) When, because of the importance of a question of law or policy presented, the position taken by the agency or agencies or by the U.S. attorney involved, or any other considerations, the person otherwise authorized herein to take final action is of the opinion that the proposed disposition should be reviewed at a higher level, he shall forward the case for such review.

(C) Nothing in this directive shall be construed as altering any provision of Subpart Y of Part 0 of Title 28 of the Code of Federal Regulations requiring the submission of certain cases to the Attorney General or the Solicitor General.

(D) Authority to approve recommendations that the Government confess error, or make administrative settlements, in cases on appeal, is excepted from the foregoing redelegations.

(E) The Assistant Attorney General, at any time, may withdraw any authority delegated by this directive as it relates to any particular case or category of cases, or to any part thereof.

SEC. 9. This Directive supersedes Tax Division Directive No. 14 of March 3, 1970.

SEC. 10. This Directive shall become effective on the date of its publication in the FEDERAL REGISTER.

JOHNNIE M. WALTERS,
Assistant Attorney General.

Approved: May 22, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-7768 Filed 6-3-71; 8:49 am]

[Order No. 456-71]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart R—Bureau of Narcotics and Dangerous Drugs

DELEGATING AUTHORITY TO RELEASE CERTAIN INFORMATION RELATING TO CONTROLLED SUBSTANCES

Department of Justice regulations require the approval of the Attorney General prior to disclosing, in response to subpoena or demand of a court or other authority, information or material from Department files or information or material acquired as part of the performance of the employees official duties (28 CFR 16.11-16.14). Disclosure of information from investigative reports also can be made only upon authorization of the Attorney General. This order removes the requirement of obtaining prior approval of the Attorney General for disclosure of certain information relating to controlled substances on the part of officials of the Bureau of Narcotics and Dangerous Drugs by delegating this authority to the Director of BNDD. The purpose of this order is to facilitate cooperation with Federal, State, and local officials concerned with traffic in controlled substances and in suppressing abuse of controlled substances.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, and section 501 of the Controlled Substances Act (84 Stat. 1270, 21 U.S.C. 871), Subpart R of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new § 0.102:

§ 0.102 Release of Information.

(a) The Director of the Bureau of Narcotics and Dangerous Drugs is authorized

(1) To release information obtained by BNDD and BNDD investigative reports to Federal, State, and local officials engaged in the enforcement of laws related to controlled substances.

(2) To release information obtained by BNDD and BNDD investigative reports to Federal, State, and local prosecutors, and State licensing boards, engaged in the institution and prosecution of cases before courts and licensing boards related to controlled substances.

(3) To authorize the testimony of BNDD officials in response to subpoenas issued by the prosecution in Federal, State, or local criminal cases involving controlled substances.

(b) Except as provided in paragraph (a) of this section, all other production of information or testimony of BNDD officials in response to subpoenas or demands of courts or other authorities is governed by Subpart B of Part 16 of this Title. However, it should be recognized that Subpart B is not intended to restrict the release of noninvestigative information and reports as deemed appropriate by the Director of BNDD. For example, it does not inhibit the exchange of information between governmental officials concerning the use and abuse of controlled substances as provided for by section 503(a) (1) of the Controlled Substances Act (21 U.S.C. 873(a) (1)).

Dated: May 22, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71 7765 Filed 6-3-71; 8:48 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 7—PRACTICE BEFORE THE WAGE APPEALS BOARD

Pursuant to Secretary of Labor's Orders Nos. 24-70 (36 F.R. 306) and 13-71 (36 F.R. 8755) and the statutory authority cited in this document, Part 7 of Title 29, Code of Federal Regulations, is hereby revised in the manner indicated below.

The revision reflects the power conferred upon the Board by the aforementioned Order to hear appeals upon the vote of one member, and also codifies procedural practices and policies which have developed in the course of the Wage Appeals Board's experience in reviewing Davis-Bacon wage determination cases and other cases within its jurisdiction; e.g., the Wage Appeals Board under no circumstances will request any procurement agency to postpone any contract action because of the filing of a petition to the Board (this is a matter which must be resolved between the petitioner and the procurement agency); the Wage Appeals Board regards itself as essentially an appellate agency, and it will not hear matters de novo except upon a showing of extraordinary circumstances; some matters of service are clarified; express provisions dealing with motions and extensions of time are added, etc.

The revision shall be effective upon publication in the FEDERAL REGISTER (6-3-71).

Part 7 of Title 29, Code of Federal Regulations, is revised to read as follows:

Subpart A—Purpose and Scope

Sec.

7.1 Purpose and scope.

Subpart B—Review of Wage Determinations

7.2

Who may file petitions for review.

7.3

Where to file.

7.4

When to file.

7.5

Contents of petitions.

7.6

Filing of wage determination record.

- Sec.
7.7 Presentations of other interested persons.
7.8 Disposition by the Wage Appeals Board.
- Subpart C—Review of Other Proceedings and Related Matters**
- 7.9 Review of decisions in other proceedings.
- Subpart D—Some General Procedural Matters**
- 7.11 Right to counsel.
7.12 Intervention, other participation.
7.13 Consolidations.
7.14 Oral proceedings.
7.15 Public information.
7.16 Filing and service.
7.17 Variations in procedures.
7.18 Motions; extensions of time.

AUTHORITY: The provisions of this Part 7 issued under Reorg. Plan No. 14 of 1950, 64 Stat. 1267; 5 U.S.C. 301, 3 CFR, 1949-1953 Comp., p. 1007; sec. 2, 48 Stat. 948 as amended; 40 U.S.C. 276c; secs. 104, 105, 76 Stat. 358, 359; 40 U.S.C. 330, 331; 65 Stat. 290; 36 F.R. 306, 8755.

Subpart A—Purpose and Scope

§ 7.1 Purpose and scope.

(a) This part contains the rules of practice of the Wage Appeals Board (hereinafter referred to as the Board).

(b) The Board has jurisdiction to hear and decide in its discretion appeals concerning questions of law and fact from final decisions under Parts 1, 3, and 5 of this subtitle including decisions as to the following: (1) Wage determinations issued under the Davis-Bacon Act and its related minimum wage statutes; (2) debarment cases arising under Part 5 of this subtitle; (3) controversies concerning the payment of prevailing wage rates or proper classifications which involve significant sums of money, large groups of employees, or novel or unusual situations; and (4) recommendations of a Federal agency for appropriate adjustment of liquidated damages which are assessed under the Contract Work Hours and Safety Standards Act.

(c) In exercising its discretion to hear and decide appeals, the Board shall consider, among other things, timeliness, the nature of the relief sought, matters of undue hardship or injustice, or the public interest.

(d) In considering the matters within the scope of its jurisdiction the Board shall act as the authorized representative of the Secretary of Labor. The Board shall act as fully and finally as might the Secretary of Labor concerning such matters.

(e) The Board is an essentially appellate agency. It will not hear matters de novo except upon a showing of extraordinary circumstances. It may remand under appropriate instructions any case for the taking of additional evidence and the making of new or modified findings by reason of the additional evidence.

Subpart B—Review of Wage Determinations

§ 7.2 Who may file petitions for review.

(a) Any interested person who is seeking a modification or other change in a

wage determination under Part 1 of this subtitle and who has requested the administrative officer authorized to make such modification or other change under Part 1 and the request has been denied, after appropriate reconsideration shall have a right to petition for review of the action taken by that officer.

(b) For purpose of this section, the term "interested person" is considered to include, without limitation:

(1) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any laborer or mechanic, or any labor organization which represents a laborer or mechanic, who is likely to be employed or to seek employment under a contract containing a particular wage determination, and (2) any Federal, State, or local agency concerned with the administration of a proposed contract or a contract containing a particular wage determination issued pursuant to the Davis-Bacon Act or any of its related statutes.

§ 7.3 Where to file.

The petition (original and four copies) accompanied by a statement of service shall be filed with the Wage Appeals Board, U.S. Department of Labor, Washington, D.C. 20210. In addition, copies of the petition shall be served upon each of the following: (a) The Federal, State, or local agency, or agencies involved; (b) the officer issuing the wage determination; and (c) any other person (or the authorized representatives of such persons) known, or reasonably expected, to be interested in the subject matter of the petition.

§ 7.4 When to file.

(a) Requests for review of wage determinations must be timely made. Timeliness is dependent upon the pertinent facts and circumstances involved, including without limitation the contract schedule of the administering agency, the nature of the work involved, and its location.

(b) The Board shall under no circumstances request any administering agency to postpone any contract action because of the filing of a petition. This is a matter which must be resolved directly with the administering agency by the petitioner or other interested person.

§ 7.5 Contents of petitions.

(a) A petition for the review of a wage determination shall: (1) Be in writing and signed by the petitioner or his counsel (or other authorized representative); (2) be described as a petition for review by the Wage Appeals Board; (3) identify clearly the wage determination, location of the project or projects in question, and the agency concerned; (4) state that the petitioner has requested reconsideration of the wage determination in question and describe briefly the action taken in response to the request; (5) contain a short and plain statement of the

grounds for review; and (6) be accompanied by supporting data, views, or arguments.

(b) A petition shall indicate whether or not the petitioner consents to the disposition of the questions involved by a single member of the Board.

§ 7.6 Filing of wage determination record.

(a) In representing the officer issuing the wage determination the Solicitor shall, among other things, file promptly with the Board a record supporting his findings and conclusions, after receipt of service of the petition.

(b) In representing the officer issuing the wage determination the Solicitor shall file with the Board a statement of the position of the officer issuing the wage determination concerning any findings challenged in the petition; and shall make service on the petitioner and any other interested persons.

§ 7.7 Presentations of other interested persons.

Interested persons other than the petitioner shall have a reasonable opportunity as specified by the Board in particular cases to submit to the Board written data, views, or arguments relating to the petition. Such matter (original and four copies) should be filed with the Wage Appeals Board, U.S. Department of Labor, Washington, D.C. 20210. Copies of any such matter shall be served on the petitioner and other interested persons.

§ 7.8 Disposition by the Wage Appeals Board.

(a) The Board may decline review of any case whenever in its judgment a review would be inappropriate or because of lack of timeliness, the nature of the relief sought, or other reasons.

(b) The Board shall decide the case upon the basis of all relevant matter contained in the entire record before it. The Board shall notify interested persons participating in the proceeding of its decision.

(c) Decisions of the Board shall be by majority vote. A case will be reviewed upon the affirmative vote of one member.

Subpart C—Review of Other Proceedings and Related Matters

§ 7.9 Review of decisions in other proceedings.

(a) Any party or aggrieved person shall have a right to file a petition for review with the Board (original and four copies), within a reasonable time from any final decision in any agency action under Part 1, 3, or 5 of this subtitle.

(b) The petition shall state concisely the points relied upon, and shall be accompanied by a statement setting forth supporting reasons. Further, the petition shall indicate whether or not the petitioner consents to the disposition of the questions involved by a single member.

(c) A copy of the presentation shall be served upon the officer who issued the decision, and upon any other party or known interested person, as the case may be. In representing the officer who issued the final decision in any agency action under Parts 1, 3, or 5 of the subtitle, the Solicitor shall, among other things, file promptly with the Board a record supporting the officer's decision, including any findings upon which the decision is based, after receipt of service of the petition.

(d) In representing the officer issuing a final decision in any agency action under Parts 1, 3, and 5 of this subtitle, the Solicitor shall file with the Board a statement of the position of the officer who issued the final decision at issue, concerning the decision challenged; and shall make service on the petitioner and any other interested persons.

(e) The Board shall afford any other parties or known interested persons a reasonable opportunity to respond to the petition. Copies of any such response shall be served upon the officer issuing the decision below and upon the petitioner.

(f) The Board shall pass upon the points raised in the petition upon the basis of the entire record before it, and shall notify the parties to the proceeding of its decision. In any remand of a case as provided in § 7.1(e), the Board shall include any appropriate instructions.

Subpart D—Some General Procedural Matters

§ 7.11 Right to counsel.

Each interested person or party shall have the right to appear in person or by or with counsel or other qualified representative in any proceeding before the Board.

§ 7.12 Intervention; other participation.

For good cause shown, the Board may permit any interested person or party to intervene or otherwise participate in any proceeding held by the Board. Except when requested orally before the Board, a petition to intervene or otherwise participate shall be in writing (original and four copies) and shall state with precision and particularity: (a) The petitioner's relationship to the matters involved in the proceedings, and (b) the nature of the presentation which he would make. Copies of the petition shall be served to all parties or interested persons known to participate in the proceeding, who may respond to the petition. Appropriate service shall be made of any response.

§ 7.13 Consolidations.

Upon its own initiative or upon motion of any interested person or party, the Board may consolidate in any proceeding or concurrently consider two or more appeals which involve substantially the same persons or parties, or issues which are the same or closely related, if it finds that such consolidation or concurrent review will contribute to a proper dispatch of its business and to the ends

of justice, and it will not unduly delay consideration of any such appeals.

§ 7.14 Oral proceedings.

(a) With respect to any proceeding before it, the Board may upon its own initiative or upon request of any interested person or party direct the interested persons or parties to appear before the Board or its designee at a specified time and place in order to simplify the issues presented or to take up any other matters which may tend to expedite or facilitate the disposition of the proceeding.

(b) In its discretion, the Board, or a single presiding member, may permit oral argument in any proceeding. The Board or the presiding member, shall prescribe the time and place for argument and the time allotted for argument. A petitioner wishing to make oral argument should make the request therefor in his petition.

§ 7.15 Public information.

(a) Subject to the provisions of §§ 1.15, 5.6, and Part 70 of this subtitle, all papers and documents made a part of the official record in the proceedings of the Board and decisions of the Board shall be made available for public inspection during usual business hours at the office of the Wage Appeals Board, U.S. Department of Labor, Washington, D.C. 20210.

(b) Facsimile copies of such papers, documents and decisions shall be furnished upon request. There shall be a charge of 25 cents for each facsimile page reproduction except for copies of materials duplicated for distribution for no charge as provided in paragraph (c). Postal fees in excess of domestic first class postal rates as are necessary for transmittal of copies will be added to the per-page fee specified unless stamps or stamped envelopes are furnished with the request.

(c) No charge need to be made for furnishing: (1) Unauthenticated copies of any rules, regulations, or decisions of general import, (2) copies to agencies which will aid in the administration of the Davis-Bacon and related acts, (3) copies to contractor associations and labor organizations for general dissemination of the information contained therein, and (4) only occasionally unauthenticated copies of papers and documents.

§ 7.16 Filing and service.

(a) **Filing.** All papers submitted to the Board under this part shall be filed with the Executive Secretary of the Wage Appeals Board, U.S. Department of Labor, Washington, D.C. 20210.

(b) **Number of copies.** An original and four copies of all papers shall be submitted.

(c) **Manner of service.** Service under this part shall be by the filing party or interested person, service may be personal or may be by mail. Service by mail is complete on mailing.

(d) **Proof of service.** Papers filed with the Board shall contain an acknowledgment of service by the person served or proof of service in the form of a state-

ment of the date and the manner of service and the names of the person or persons served, certified by the person who made service.

§ 7.17 Variations in procedures.

Upon reasonable notice to the parties or interested persons, the Board may vary the procedures specified in this part in particular cases.

§ 7.18 Motions; extensions of time.

(a) Except as otherwise provided in this part, any application for an order or other relief shall be made by motion for such order or relief. Except when made orally before the Board, motions shall be in writing and shall be accompanied by proof of service on all other parties or interested persons. If a motion is supported by briefs, affidavits, or other papers, they shall be served and filed with the motion. Any party or interested person, as the case may be, may respond to the motion within such time as may be provided by the Board.

(b) Requests for extensions of time in any proceeding as to the filing of papers or oral presentations shall be in the form of a motion under paragraph (a) of this section.

Signed at Washington, D.C., this 5th day of May 1971.

OSCAR S. SMITH,
Chairman.

CLARENCE BARKER,
Member.

STUART ROTHMAN,
Member.

[FR Doc 71-7752 Filed 6-3-71; 8:47 am]

PART 50—NEIGHBORHOOD YOUTH CORPS PROJECTS

PART 51—WORK TRAINING AND EXPERIENCE PROGRAMS

Limitations on Federal Assistance

Pursuant to authority contained in section 602 of the Economic Opportunity Act of 1964, as amended (78 Stat. 528, 79 Stat. 973, 80 Stat. 1451, 81 Stat. 672, 83 Stat. 827, 42 U.S.C. 2701 et seq.), the delegation of authorities to the Secretary of Labor by the Director of the Office of Economic Opportunity, 33 F.R. 15139 and Secretary's Order No. 7-71, Part 50 of Subtitle A of Title 29 of the Code of Federal Regulations is hereby amended and Part 51 is hereby revised in the manner set forth below. The purpose is to bring Part 51 into conformity with current provisions of the Act and to bring Part 50 into conformity with the Part 51 revision.

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) requiring notice and public procedure are not applicable since these regulations involve only matters that relate to public benefits. Further, I do not believe that such procedure would serve a useful purpose here. The amendments shall become

effective 30 days after publication in the FEDERAL REGISTER.

Part 50 is amended as follows:

§ 50.32 [Revoked]

Section 50.32 and its table of sections reference are revoked.

Part 51 is revised to read as follows:

Sec.

51.1 Purpose.

51.2 Limitations on Federal assistance.

AUTHORITY: The provisions of this Part 51 issued under 78 Stat. 528; 42 U.S.C. 2942.

§ 51.1 Purpose.

This part sets forth basic policy of the Secretary of Labor in the award of grants, agreements, and contracts for programs under Title I, Part B and Part E of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2701 et seq.).

§ 51.2 Limitations on Federal assistance.

Any program or activity subject to the 90 percentum limitation on Federal financial assistance required by section 131 of the Economic Opportunity Act of 1964, as amended, shall be undertaken in a manner to assure non-Federal contribution in cash or in kind of at least 10 percentum of the cost of the program or activity. This requirement may be waived to the extent it can be shown that:

(a) The project is sponsored by an Indian tribe whose public facilities (including, but not limited to, schools, hospitals, parks, and other recreational facilities) are owned by the Federal Government or receive more than 75 percentum of revenues from the Federal Government; or

(b) The agreement for operation of the project provides that enrollees will participate only on work which is necessary to cope with the effects of a major disaster, as defined in section 102 of the Disaster Relief Act of 1970 (84 Stat. 1745, Public Law 91-606); or

(c) Enrollees will participate only on work or training sites owned by or subject to the control of Federal, State, or local governmental agencies; or

(d) Enrollees will participate only on work or training sites within sections of concentrated unemployment or underemployment, or areas of substantial unemployment, or persistent unemployment, as classified by the Secretary of Labor pursuant to Part 8 of this subtitle; or

(e) Special circumstances exist, such as the nature of the program or activity, or needs of the community, bearing on the inability to fully contribute the required non-Federal share. The basis for such special circumstances, the amount of non-Federal share which can be provided, and the extent reasonable efforts have been made to raise a larger non-Federal share, shall be submitted to the Secretary of Labor or his duly authorized representative for his prior determination.

(78 Stat. 528; 42 U.S.C. 2942)

Signed at Washington, D.C., this 28th day of May 1971.

MALCOLM R. LOVELL, Jr.,
Assistant Secretary for Manpower.

[FR Doc.71-7751 Filed 6-3-71; 8:47 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 603—GLOVES AND MITTENS INDUSTRY IN PUERTO RICO

PART 612—NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 208) and Reorganization Plan No. 6 of 1950 (3 CFR, 1949-53 Comp., p. 1004) and by means of Administrative Order No. 614 (35 F.R. 15226), the Secretary of Labor appointed and convened Industry Committee No. 100-A for the Gloves and Mittens Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it. The recommendations of Committee 100-A relate to all the classifications under pre-1961 coverage and to the fabric and leather gloves classification under 1961 and 1966 coverage within the purview of 29 CFR Part 603.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 100-A are hereby published, to be effective June 20, 1971, in this order revising Parts 603 and 612 of Title 29, Code of Federal Regulations. For a more systematic alignment of the gloves and mittens industry in Puerto Rico, the knit gloves classification, currently included in Part 612 of this title, is transferred to and incorporated into Part 603.

Parts 603 and 612 of Title 29, Code of Federal Regulations are hereby revised as set out below.

1. As revised, Part 603 reads as follows:

Sec.
603.1 Definition.
603.2 Wage rates.
603.3 Notices.

AUTHORITY: The provisions of this Part 603 issued under secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208.

§ 603.1 Definition.

The gloves and mittens industry in Puerto Rico is defined as: The manufacture from any material of gloves and mittens made by knitting, crocheting, cutting, sewing, embroidering, or other processes: *Provided, however,* That the industry shall not include the manufacture of sport and athletic gloves and mitts, or the manufacture of rubber or molded plastic gloves and mittens.

§ 603.2 Wage rates.

Wages at rates not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the gloves and mittens industry in Puerto Rico who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(a) *Pre-1961 coverage classifications.* The classifications in this paragraph (a) apply to all activities in the gloves and mittens industry in Puerto Rico to which section 6 of the Fair Labor Standards Act would have applied prior to the Fair Labor Standards Amendments of 1961.

(1) *Hand-sewing on fabric gloves classification.* (i) The minimum wage for this classification is 47 cents an hour.

(ii) This classification is defined as the operations of hand-sewing, hand-embroidering, hand-embellishing, ornamental hand-stitching, hand-drawing of threads, and similar hand operations involving decorative effects on fabric gloves (gloves or mittens manufactured from woven or knitted fabric), except mending, repairing, sewing of labels, tacking, and similar operations on fabric gloves that are wholly or chiefly machine-sewn.

(2) *Hand-sewing on leather gloves classification.* (i) The minimum wage for this classification is 76 cents an hour.

(ii) This classification is defined as the operations of hand-sewing, hand-embroidering, hand-embellishing, ornamental hand-stitching, hand-drawing of threads, and similar hand operations involving decorative effects on leather gloves (gloves or mittens manufactured from leather or from leather in combination with other material), except mending, repairing, sewing of labels, tacking, and similar operations on leather gloves that are wholly or chiefly machine-sewn.

(3) *Knit gloves classification.* (i) The minimum wage for this classification is \$1.55 per hour.

(ii) This classification is defined as the manufacture of knit or crocheted gloves and mittens, except the attaching of leather or leather substitutes to otherwise complete knit or crocheted gloves and/or mittens.

(4) *Other operations classification.* (i) The minimum wage for this classification is \$1.50 per hour.

(ii) This classification is defined as all operations except those included in the hand-sewing on fabric gloves classification, the hand-sewing on leather gloves classification and the knit gloves classification.

(b) *1961 coverage classifications.* The classifications in this paragraph (b) apply to all activities of employees in the gloves and mittens industry in Puerto Rico to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1961.

(1) *Fabric and leather gloves classification.* (i) The minimum wage for this classification is \$1.50 per hour.

(ii) This classification is defined as all activities in the manufacture of gloves and mittens, except those included in the knit gloves classification.

(2) *Knit gloves classification.* (i) The minimum wage for this classification is \$1.60 an hour.

(ii) This classification is defined as the manufacture of knit or crocheted gloves and mittens.

(c) *1966 coverage classifications.* The classifications in this paragraph (c) apply to all activities of employees in the industry to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(1) *Fabric and leather gloves classification.* (i) The minimum wage for this classification is \$1.50 an hour.

(ii) This classification is defined as the manufacture of gloves and mittens, except those included in the knit gloves classification.

(2) *Knit gloves classification.* (i) The minimum wage for this classification is \$1.60 an hour.

(ii) This classification is defined as the manufacture of knit or crocheted gloves and mittens.

§ 603.3 Notices.

Every employer subject to the provisions of § 603.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 603.2 are working such notice of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the U.S. Department of Labor and shall give such other notice as the Administrator may prescribe.

2. As revised, Part 612 reads as follows:

Sec.
612.1 Definition.
612.2 Wage rates.
612.3 Notices.

AUTHORITY: The provisions of this Part 612 issued under secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208.

§ 612.1 Definition.

The needlework and fabricated textile products industry in Puerto Rico is defined as follows: The manufacture from any material of all apparel and apparel furnishings and accessories made by knit-

ting, crocheting, cutting, sewing, embroidering, or other process; and the manufacture of all textile products and the manufacture of like articles in which a synthetic material in sheet form is the basic component: *Provided, however,* That the industry shall not include any product or activity included in the artificial flower, decoration, and party favor industry in Puerto Rico (Part 688 of this chapter), the button, jewelry, and lapidary work industry in Puerto Rico (Part 616 of this chapter), the corsets, brassieres, and allied garments industry in Puerto Rico (Part 614 of this chapter), the gloves and mittens industry in Puerto Rico (Part 603 of this chapter), the hosiery industry in Puerto Rico (Part 687 of this chapter), the men's and boys' clothing and related products industry in Puerto Rico (Part 615 of this chapter), the shoe and related products industry in Puerto Rico (Part 601 of this chapter), the straw, hair, and related products industry in Puerto Rico (Part 613 of this chapter), the textile and textile products industry in Puerto Rico (Part 699 of this chapter), the handkerchief, scarf, and art linen industry in Puerto Rico (Part 608 of this chapter), the women's and children's underwear and women's blouse industry in Puerto Rico (Part 609 of this chapter), the sweater and knit swimwear industry in Puerto Rico (Part 611 of this chapter), and the children's dress and related products industry in Puerto Rico (Part 610 of this chapter), as defined in the wage orders for these industries.

§ 612.2 Wage rates.

(a) *Requirement.* Wages at not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the industry who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(b) *Pre-1961 coverage classifications.* The classifications in this paragraph (b) apply to all activities in the needlework and fabricated textile products industry in Puerto Rico to which section 6 of the Act would have applied before the Fair Labor Standards Amendments of 1961.

(1) *Knit slipper socks classification.* (i) The minimum wage for the knit slipper socks classification is \$1.48 an hour.

(ii) This classification is defined as the manufacture of knit or crocheted slipper socks, mukluks, and similar types of footwear.

(2) *Hand-crocheting and hand-embroidery of crocheted hats classification.* (i) The minimum wage for this classification is \$1.15 an hour.

(ii) This classification is defined as the operations of hand-crocheting, hand-knitting, and hand-embroidery of crocheted or knitted headwear for women, misses, girls, and infants 3 years of age or under.

(3) *Other operations on crocheted hats classification.* (i) The minimum wage for this classification is \$1.45 an hour.

(ii) This classification is defined as any operation on crocheted or knitted headwear for women, misses, girls, and infants 3 years of age or under, other than the hand-crocheting and hand-embroidery operations, as defined above.

(4) *General classification.* (i) The minimum wage for this classification is \$1.52 an hour.

(ii) This classification is defined as the manufacture from any material of all apparel and apparel furnishings and accessories, and all textile products and like articles in which a synthetic material in sheet form is the basic component, which are not included in any other classification of the needlework and fabricated textile products industry in Puerto Rico nor in the new coverage classifications; the outlining or embroidery of lace by machine and embroidery of any article or trimming on a bonnaz embroidery machine, or by a crochet beading process, or with bullion thread, and all operations immediately incidental thereto; the manufacture of crocheted slippers; the manufacture of slacks, pedal pushers, culottes, dungarees, shorts, and similar apparel for women, misses, and girls.

(c) *1961 coverage classification.* (i) The minimum wage for this classification is \$1.60 an hour.

(2) This classification is defined as all activities of employees covered by section 6 of the Act, only by reason of the Fair Labor Standards Amendments of 1961 who are not included in any other classification of this industry or any other industry in Puerto Rico.

(d) *1966 coverage classification.* (1) The wage for this classification is \$1.45 an hour for the period beginning February 1, 1970, and ending January 31, 1971, and \$1.60 an hour thereafter.

(2) This classification is defined as all activities in the needlework and fabricated textile products industry in Puerto Rico to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

§ 612.3 Notices.

Every employer subject to the provisions of § 612.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 612.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the U.S. Department of Labor and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D.C., this 25th day of May 1971.

HORACE E. MENASCO,
Administrator, Wage and Hour
Division, U.S. Department of
Labor.

[FR Doc.71-7642 Filed 6-3-71; 8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 60—Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

PART 60-6—SAN FRANCISCO PLAN

Affirmative Action Program to Assure Compliance With Equal Employment Opportunity Requirements of Executive Order 11246 for Federally Involved Construction Contractors.

Pursuant to a notice of hearing appearing in the FEDERAL REGISTER on December 1, 1970 (35 F.R. 18306), representatives of the Department of Labor conducted public hearings in San Francisco, Calif., on December 15, 16, and 17, 1970, for the purpose of determining what action should be taken to ensure equal employment opportunity in the construction industry in San Francisco, Calif. As a result of the findings made during those hearings, the San Francisco Plan is hereby issued and published in the FEDERAL REGISTER. A copy of the findings made as a result of the above noted hearings has been submitted with these regulations and is on file.

Therefore, and pursuant to Executive Order 11246 (30 F.R. 12319, 3 CFR 1964-65 Comp., p. 406) and §§ 60-1.1 and 60-1.40 of Title 41 of the Code of Federal Regulations, Chapter 60 of these regulations is hereby amended by adding a new Part 60-6 to read as set forth below.

Subpart A—Purpose; Applicability; Background

- 60-6.1 Purpose of the San Francisco Plan.
- 60-6.2 Applicability.
- 60-6.3 Background.

Subpart B—General Findings; Minority Participation in Specific Trades; Availability; Need for Training; Impact Upon Existing Labor Force

- 60-6.10 General findings.
- 60-6.11 Minority participation in the specified trades.
- 60-6.12 Availability of minority group persons for employment.
- 60-6.13 Need for training.
- 60-6.14 The impact of the plan upon the existing labor force.
- 60-6.15 Conclusions of findings.

Subpart C—Nondiscriminatory Purpose of the Plan; the Order; Exemptions From the Order; Authority; Effective Date

- 60-6.20 Nondiscriminatory purpose of the plan.
- 60-6.21 The requirements, ranges of minority manpower utilization.
- 60-6.22 Exemptions.
- 60-6.23 Effective date.

Subpart D—Appendix A

- 60-6.30 Appendix A.

Authority: The provisions of this Part 60-6 are issued under secs. 201, 202, 205, 211, 301, 302, and 303 of Executive Order 11246 (30 F.R. 12319, 3 CFR 1964-65 Comp., p. 406) and secs. 60-1.1 and 60-1.40 of Title 41 of the Code of Federal Regulations.

RULES AND REGULATIONS

Subpart A—Purpose; Applicability; Background

§ 60-6.1 Purpose.

The purpose of these regulations is to implement the provisions of Executive Order 11246, and the rules and regulations issued pursuant thereto, requiring a program of equal employment opportunity by Federal contractors and subcontractors and federally assisted construction contractors and subcontractors in the city and county of San Francisco, Calif., the area in which the most significant construction is being and will be performed.

§ 60-6.2 Applicability.

While a contractor or subcontractor is performing on Federal or federally involved construction contracts for projects, in the city and county of San Francisco, Calif., the estimated total cost of which exceeds \$500,000, all construction activities (including all activities on non-federally involved work) of such a contractor or subcontractor within the city and county of San Francisco shall be subject to the requirements of these regulations: *Provided, however*, That if an areawide agreement is developed for any trade covered by these regulations or any such trade is covered by a multitrade agreement and such an agreement is among contractors, unions, and the minority community, then the Office of Federal Contract Compliance (OFCC) may, in its complete discretion, accept such program in lieu of any or all of the requirements of these regulations, subject to such terms and conditions as OFCC may specify.

§ 60-6.3 Background.

Public hearings were conducted by representatives of the Department of Labor in San Francisco, Calif., on December 15, 16, and 17, 1970, to determine what action should be taken to insure equal employment opportunity in the construction industry in San Francisco, Calif. Testimony was heard and data received on the following:

- (a) The current extent of minority group participation in the construction trades as journeymen, apprentices, trainees, and helpers;
- (b) The effectiveness of present employee recruitment methods;
- (c) The availability of qualified and qualifiable minority group persons for employment in each construction trade, including where they are now working, how they may be brought into the trades;
- (d) The effectiveness of existing training programs in the area, including the number of minorities and other recruited into the programs, the number who complete training, the length and extent of training, employer experience with trainees, the need for additional or expanded training programs;
- (e) The number of additional workers that could be absorbed into each trade without displacing present employees, including consideration of

present employee shortages, projected growth of the trade, projected employee turnover;

(f) The availability and utilization of minority contractors on federally involved contracts;

(g) The desirability and extent, including the geographical scope, of possible Federal action to ensure equal employment opportunity in the construction trades;

(h) Recommendations of governmental compliance agencies active in the San Francisco, Calif., area.

Subpart B—General Findings; Minority Participation in Specific Trades; Availability; Need for Training; Impact Upon Existing Labor Force

§ 60-6.10 General findings.

As a result of the material presented at the public hearing in San Francisco and as a result of other investigations, it is apparent that minority workers (Negroes, Spanish surname American, Orientals, and American Indians) have been prevented from fully participating in certain construction trades. This exclusion is due in great measure to the special nature of employment practices in the construction industry where contractors and subcontractors rely on construction craft unions as their prime or sole labor source. Collective bargaining agreements and/or established custom between construction contractors and subcontractors and unions frequently provide for, or result in, exclusive hiring halls. Even where the collective bargaining agreement contains no such hiring hall provisions or the custom is not rigid, as a practical matter most people working in these classifications are referred to the jobs by the unions. As a result, referral by the union is a virtual necessity for obtaining employment in union construction projects. Minorities often have not gained admittance into membership of certain unions and into certain apprenticeship programs, and, thus, in addition to other reasons, have not been referred for employment.

§ 60-6.11 Minority participation in the specified trades.

(a) The overall minority population in the city and county of San Francisco is approximately 30 percent. Minority representation among journeymen employees in the San Francisco area construction industry is approximately 15.5 percent. However, very few of these minorities are located in certain "skilled" trades.

(b) Statistical data. The most reliable data developed at the recent hearings reveals the following as the current minority representation in unions in selected trades for the San Francisco area.

Asbestos Workers, 7.4 percent.
Electricians, 8.3 percent.
Pipefitters-Plumber-Steamfitter, 5.2 percent.
Carpenters, 14.5 percent.
Elevator Constructors, 17.5 percent.

Lathers, 13 percent.
Painters and Paperhangers, 30 percent.
Bricklayers, 28 percent.
Sheet Metal Workers, 10.5 percent.
Structural Metal Workers, 7.2 percent.
Tile and Terrazzo Workers, 4.8 percent.
Plasterers and Cement Masons, 34 percent.
Glaziers, 14.5 percent.
Operating Engineers, 17.5 percent.
Roofers and Slaters, 23.5 percent.

It is apparent from the foregoing that certain trades evidence a significant under utilization of minority employees. Most of the above-designated trades however, in the opinion of the Secretary as supported by finding of fact in that regard, do not appear to be engaged in the underutilization of minorities and accordingly will not be included under the requirements of these regulations, at this time.

As indicated below, the trade of tile and terrazzo workers whose statistical composition indicates the underutilization of minorities is a diminishing trade with few, if any, contemplated new jobs projected for the next 4 years. Thus, because the requirements of these regulations would otherwise require the possible displacement of incumbent employees by contractors attempting to meet the goals established pursuant to these regulations, that trade shall be excluded from the requirements of these regulations, subject to inclusion hereunder if subsequent review indicates a new job potential in the trade. Therefore, the requirements of these regulations shall apply only to the selected trades of asbestos workers, electricians, pipefitters-plumbers-steamfitters, sheet metal workers, and structural metal workers.

§ 60-6.12 Availability of minority group persons for employment.

(a) *Population.* Specific data was presented at the hearings and indicated that the minority percentage of the San Francisco population is approximately 30 percent or slightly less than one-third of the total population. However, testimony presented at the hearing and since updated, indicates that the unemployment rate for minorities nationally is approximately 9.6 percent and therefore exceeds 1½ times the unemployment rate for white persons of 5.3 percent. The unemployment rates for the State of California, at less than 6 percent for white persons while 9.5 percent for minorities closely parallels the national figures. Additionally, an estimated 37,500 minorities are classified as underemployed and underutilized, in the San Francisco area, in that they are employed part time only, employed full time with incomes below established poverty levels or are excluded from the work force due to employment barriers. Information presented at the hearing also indicates that there are approximately 1,000 minority construction helpers and apprentices in the San Francisco area. These persons have been working with journeymen in the various crafts and should be considered available for training that would upgrade their skills to journeymen level.

RULES AND REGULATIONS

(b) There are active vocational training programs in a San Francisco CEP program with well over 100 enrollees.

(c) *Community involvement.* Testimony presented at the hearings revealed, and it has consistently been this Department's experience, that the effectiveness of recruitment of minority trainees and workers depends in large measure upon the active involvement of minority organizations in the community. Various representatives of minority organizations indicated that they would have little, if any, difficulty in recruiting minority workers for training and jobs in sufficient numbers to meet the manpower needs of the San Francisco construction industry.

(d) *Minority subcontractors.* Information gained at the hearing indicated, and it is found, that a number of minority subcontractors are operating effectively within the San Francisco area. Utilization of these subcontractors by contractors could significantly expand the participation of minority craftsmen on projects of Federal construction contractors.

§ 60-6.13 Need for training.

(a) *Existing programs.* (1) Testimony at the hearing revealed that training programs are in existence but that there is further need for training at all levels from preapprenticeship through skills refinement training for those about to become journeymen, with a particular need for the training of craftsmen who could become fully qualified journeymen with a limited amount of training. There are currently twenty-two (22) minority youths receiving training for employment in the construction industry and ninety-one (91) minority enrollees receiving training in the San Francisco CEP program.

(2) Through such programs as MDTA, OIC, AIC, CEP, high school vocational education and others, substantial numbers of minority persons annually receive preapprenticeship training in the selected trades, in San Francisco. From testimony received at the hearing, it appears that such organizations could train a sufficient number of minorities annually to satisfy present and prospective manpower needs of the industry if complemented by additional training programs and adequate funding.

(b) *Trainable persons.* It is found and determined that substantial number of minority persons can receive training annually in the San Francisco area through existing programs with additional funding. Specifically, it is believed that the number of minority persons receiving training in the selected trades can be increased threefold with reasonably expanded funding and facilities. The Manpower Administration of the Department of Labor is committed to make available such funds as may be necessary to carry out reasonable and effective training programs in furtherance of the objectives of these regulations and consistent with the policies and standards of the Manpower Administration as amplified in the

President's statement of March 17, 1970, directing a 50 percent increase in construction skills training over the next 5 years.

§ 60-6.14 The impact of the program upon the existing labor force.

(a) *Contractors commitments.* A contractor could commit himself to minority hiring up to the annual rate of job vacancies for each trade without adverse impact upon the existing labor force. On the basis of specific information presented at the hearings plus national statistics from a Bureau of Labor Statistics Report of 1967 indicating new jobs requirements and outmigration from the construction trades covered by these regulations, it is expected that there will be 2,200 new job opportunities in San Francisco through 1975. These projections are not inconsistent with conservative national statistics which reveal that approximately 7.5 percent of construction trade workers are replaced each year due to death, retirement, disability, and outmigration.

(b) *Timetable.* In an effort to provide an affirmative action program and practical ranges for utilization of minority manpower which can be met by employers in hiring productive, trained minority craftsmen, these rules should be developed to cover an extended period of time. Testimony at the hearing indicated that a 4-year duration for the Plan is proper as the greatest need for additional manpower in the industry will take place during the first part of the decade. Therefore, it is found and determined that in order for these regulations to effect equal employment to the fullest extent, the standards of minority utilization should be determined for the next 4 years.

(c) *Projected new jobs.* (1) The annual percentage of new job opening per craft from 1971-75 are as follows:

1. Asbestos Worker	13.0
2. Electricians	3.3
3. Pipefitters	3.5
4. Sheet Metal Workers	3.0
5. Structural Metal Workers	5.0

(2) It is estimated that new job openings for the above-listed trades will total approximately 2,200 over the next 4 years.

(3) Data submitted at the hearing indicates that the tile and terrazzo workers trade contemplates an annual reduction in available work equal to 10 percent and an attrition rate of 10 percent, leaving no new job opportunities in that trade.

§ 60-6.15 Conclusions of findings.

(a) *Current minority participation.* It is found that in the San Francisco work force data submitted at the public hearings that minority representation is approximately 30 percent among the "helpers" while in the skilled trades the minority representation is an extremely low, i.e., 5.2 percent among the pipefitters, and is far below that which should have resulted from participation in the past without regard to race, color,

or national origin. Therefore, it is determined that these rules are necessary to provide full minority participation in the following trades:

Asbestos Workers.
Electricians.
Pipefitters-Plumbers-Steamfitters.
Sheet Metal Workers.
Structural Metal Workers.

(b) *Effect of plan.* A construction contractor working in San Francisco could increase the minority participation in his trade significantly by hiring only minorities to fill new job openings (attrition plus growth). However, to do so would inevitably result in the exclusion of qualified nonminorities from such job opportunities. Based upon the fact that the minority population in San Francisco (a major source of construction manpower) is approximately 30 percent of the total population, upon the fact that minority unemployment rate in the San Francisco area is greater than one and one-half that of nonminority unemployment, upon the fact that there exists substantial minority underemployment in the area and upon the fact that significant and effective training programs now exist, it may be reasonably expected that in the filling of new and vacant jobs effective affirmative action efforts should produce at least one minority applicant for each nonminority applicant for effective construction employment.

(c) *Increased minority participation.* If new and vacant positions in only the trades covered by these rules totaling approximately 2,200 through 1975 were filled by one minority worker for each nonminority worker, the resultant increased minority participation in those trades alone through May 1975 would be approximately 1,100 workers. It has earlier been stated that between 1,000 and 1,200 minority persons are presently available to fill such jobs, most with some training. With the anticipated increase in those who should be available over the next 4 years it appears that more than sufficient numbers of minority workers will be available to effectively fill new and vacant construction trade positions.

(d) *Purpose of ranges.* By establishing ranges which anticipate good faith efforts by construction contractors to fill new and vacant jobs on at least a 1-to-1 minority-to-nonminority basis through May 1975, contractors may recruit from available minority manpower without displacing any existing craftsmen and without discriminating against any non-minority applicant for employment.

(e) *Evaluation and advisory recommendations.* The Department recognizes that the contractors, unions, and minority community, who must operate on a day-to-day basis under the requirements of these regulations, are in the best positions to evaluate the effectiveness of these regulations. Therefore, the Department shall make every effort to encourage and develop a voluntary committee representing these three groups, which committee shall periodically review the effectiveness of these regulations and

make advisory recommendations to the Department in this regard.

Subpart C—Nondiscriminatory Purpose of the Plan; the Order; Exemptions From the Order; Authority; Effective Date

§ 60-6.20 Nondiscriminatory purpose of the plan.

The purpose of the contractor's commitment to specific goals is to meet the contractor's affirmative action obligations and is not intended and shall not be used to discriminate against any qualified applicant or employee.

§ 60-6.21 Requirements.

(a) After full consideration and in view of the foregoing it is determined that:

(1) No contracts or subcontracts shall be awarded for Federal and federally assisted construction in the city and county of San Francisco, Calif., on projects whose estimated cost exceeds \$500,000 unless the bidder completes and submits, prior to bid opening, the document identified as Appendix A, Notice of Requirement for Submission of Affirmative Action Plan to Insure Equal Employment Opportunity or a substantially similar document, which shall include specific goals of minority manpower utilization for each trade designated below which will be used by the contractor on all of his work (both Federal and non-Federal) within the city and county of San Francisco, Calif., during the term of his performance of the contract, such goals to be established by the contractor at least within the ranges established by these regulations. Minority manpower means, for the purposes of these rules, Negroes, Spanish surnamed Americans, Orientals, and American Indians. The trades utilizing the following classifications of employees are covered by these rules:

Electricians.
Plumbers, Pipefitters and Steamfitters.
Structural Metal Workers.
Sheet Metal Workers.
Asbestos Workers.

(2) A bidder who fails or refuses to complete or submit such goals shall not be deemed a responsive bidder and may not be awarded the contract or subcontract, but such goals need be submitted only for those trades to be used in the performance of the federally involved contract. In no case shall there be any negotiation over the provisions of the specific goals submitted by the bidder after the opening of bids and prior to the award of the contract.

(b) Each agency shall include, or require the applicant to include, in the invitation for bids, or other solicitation used for a federally involved (Federal or federally assisted) construction contract, when the estimated total cost of the construction project exceeds \$500,000, a notice stating that to be eligible for award, each bidder will be required to comply with these rules for the hereinbefore designated trades to be used during the term

of the performance of the contract whether or not the work is subcontracted. The form of such notice shall be substantially similar to the one designated as Appendix A of these regulations.

(c) The following percentages, constituting acceptable ranges within which a prospective contractor or subcontractor must establish his goals, are hereby established as the standards for minority manpower utilization for each of the designated trades in the city and county of San Francisco, Calif., for the next 4 years:

Trade	Range of minority group employment	
	From May 1, 1971	Until Apr. 30, 1972
	Percent	Percent
Electricians.....	10	12
Plumbers, pipefitters and steamfitters.....	7	9
Structural metal workers.....	12	14
Sheet metal workers.....	14	20
Asbestos workers.....		
	From May 1, 1972	Until Apr. 30, 1973
Electricians.....	12	13
Plumbers, pipefitters and steamfitters.....	9	10
Structural metal workers.....	12	15
Sheet metal workers.....	14	18
Asbestos workers.....	20	27
	From May 1, 1973	Until Apr. 30, 1974
Electricians.....	13	15
Plumbers, pipefitters and steamfitters.....	10	12
Structural metal workers.....	15	17
Sheet metal workers.....	16	20
Asbestos workers.....	27	33
	From May 1, 1974	Until Apr. 30, 1975
Electricians.....	15	17
Plumbers, pipefitters and steamfitters.....	12	14
Structural metal workers.....	17	20
Sheet metal workers.....	17	19
Asbestos workers.....	33	40

(1) After the first year of the program, the standards (trades and ranges) set forth herein shall be reviewed to determine whether the projections on which these standards are based adequately reflect the construction labor market situation at that time. Reductions or other significant fluctuations in federally involved construction shall be specifically reviewed from time to time as to their effect upon the practicality of the standards. In no event, however, shall the standards be increased or trades be added for the contractors after bids have been received.

(2) The contractor's or subcontractor's goals established within the above ranges shall express the contractor's or subcontractor's commitment of the percentage of minority personnel who will be working in each specified craft on each of his projects (whether federally involved or otherwise) within the city and county of San Francisco during the term of the covered contract. The man hours for minority workers must be substantially uniform throughout the entire length of the contract for each of the designated

trades, to the effect that the percentage of minority workers in the designated trades must be working throughout the length of work on each project in each trade. The contractor or subcontractor shall be deemed to have met his commitment to specific goals for minority manpower utilization:

(i) If the minority manpower utilization rate of the contractor or subcontractor itself meets the goals on the total of all of the contractor's or subcontractor's facilities within the city and county of San Francisco: *Provided, however,* That if the contractor has denied equal employment opportunity, he shall not be in compliance with these rules, or

(ii) If the contractor or subcontractor can establish that it is a member of a contractor association or other employer organization or association, which has as one of its purposes the expanded utilization of minority manpower and that the total utilization rate of minority craftsmen by all member contractors and subcontractors of such an association or organization on all projects in which they are involved within the city and county of San Francisco meets the contractor's or subcontractor's commitments: *Provided, however,* That if the contractor has denied equal employment opportunity, he shall not be in compliance with these rules, or

(iii) If the contractor or subcontractor can establish that it has a collective bargaining agreement with a union or other employee organization, that it utilizes that union or organization as its source for over 80 percent of its manpower needs and that the total minority utilization range in the craft or crafts for which the union or organization has referred manpower on all projects within the San Francisco area to which such union or organization has referred manpower meets the contractor's or subcontractor's commitments: *Provided, however,* That if the contractor has denied equal employment opportunity he shall not be in compliance with these rules.

(3) Whenever a contractor or subcontractor uses trades covered by these regulations which were not contemplated at the time of his bid and therefore he does not submit goals for such trades, he shall be deemed to be committed to the minority group employment goal of the minimum percentage range for that trade for the appropriate year.

(4) In the event that under a contract subject to these regulations any work by a covered trade is performed after April 30, 1975, the determined ranges of minority group employment for the year ending April 30, 1975, shall be applicable to such work.

(d) The contractor's and subcontractor's commitment to specific goals is to meet affirmative action obligations and is not intended and shall not be used to discriminate against any qualified applicant or employee. Whenever it comes to the bidder's or contractor's attention that the goals are being used in a discriminatory manner, he shall immediately report that fact to the Office of Federal Contract Compliance of the U.S.

Department of Labor in order that appropriate proceedings may be instituted.

(e) The contractor's or subcontractor's (collectively hereinafter referred to as "contractor") commitment to specific goals for minority manpower utilization as required by these rules shall constitute a commitment to make every good faith effort to meet such goals. If the contractor has failed to meet his goals, a determination of "good faith" will be based upon his efforts to broaden his recruitment base which efforts shall include but not be limited to the following:

(1) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.

(2) The contractor shall maintain a file of the names and addresses of each minority worker referred to him and what action was taken with respect to each such referred worker. If such worker was not sent to the union hiring hall for referral or if such worker was not employed by the contractor, the contractor's file should document this and the reasons therefor.

(3) The contractor shall notify the OFCC Area Coordinator when the union or unions with whom the contractor has a collective bargaining agreement has not referred to the contractor a minority worker sent by the contractor or the contractor has other information that the union referral process has impeded him in his effort to meet his goal.

(4) The contractor shall participate in training programs in the area, especially those funded by the Department of Labor.

(5) The contractor shall disseminate his EEO policy within his own organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc., by conducting staff, employee and union representatives' meetings to explain and discuss the policy, by posting the policy, and by specific review of the policy with minority employees.

(6) The contractor shall disseminate his EEO policy externally by informing and discussing it with all recruitment sources, by advertising in news media, specifically including minority news media, by notifying and discussing it with all known minority organizations, and by notifying and discussing it with all subcontractors and suppliers.

(7) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority organizations, schools with minority students, minority recruitment organizations, and minority training organizations, within the contractor's recruitment area.

(8) The contractor shall make specific efforts to encourage present minority employees to recruit their friends and relatives.

(9) The contractor shall validate all man specifications, selection requirements, tests, etc.

(10) The contractor shall make every effort to provide afterschool, summer and vacation employment to minority youths.

(11) Where reasonable the contractor shall develop on-the-job training opportunities and participate and assist in any association or employer group training programs relevant to the contractor's employee needs.

(12) The contractor shall continually inventory and evaluate all minority personnel for promotion opportunities and encourage minority employees to seek such opportunities.

(13) The contractor shall make sure that seniority practices, job classifications, etc., do not have a discriminatory effect.

(14) The contractor shall make certain that all facilities and company activities are nonsegregated.

(15) The contractor shall continually monitor all personnel activities to insure that this EEO policy is being carried out.

(16) The contractor shall solicit bids for subcontracts from available minority subcontractors with the trades covered by these rules, including circulation of minority contractor associations.

(f) Each agency shall review contractor's and subcontractor's employment practices during the performance of the contract. If the contractor or subcontractor meets its goals or if the contractor or subcontractor can demonstrate that it has made every good faith effort to meet these goals, the contractor shall be presumed to be in compliance with Executive Order 11246, the implementing regulations and its obligations under this order and no formal sanctions shall be instituted unless the agency otherwise determined that the contractor or subcontractor is not providing equal employment opportunities. Where the agency finds that the contractor or subcontractor has failed to comply with the requirements of Executive Order 11246, the implementing regulations and its obligations under the order, the agency shall take such action and impose such sanctions as may be appropriate under the Executive order and the regulations. When the agency proceeds with such formal action it has the burden of proving that the contractor has not met the requirements of these specifications, but the contractor's failure to meet his goals shall shift to him the requirement to come forward with evidence to show that he has met the "good faith" requirements of these rules. Such noncompliance by the contractor or subcontractor shall be taken into consideration by Federal agencies in determining whether such contractor or subcontractor can comply with the requirements of Executive Order 11246 and is therefore a "responsible prospective contractor" within the meaning of the Federal procurement regulations.

(g) It shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer

minority employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the Labor Management Relations Act and title VII of the Civil Rights Act of 1964. It is the long-standing uniform policy of OFCC that contractors and subcontractors have a responsibility to provide equal employment opportunity if they want to participate in federally involved contracts. To the extent they have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their obligations pursuant to Executive Order 11246, as amended, such contractors cannot be considered to be in compliance with Executive Order 11246, as amended, or the implementing rules, regulations, and orders.

(h) All prime contractors and subcontractors shall include in all bid invitations or other prebid communications, written or otherwise, with respect to their prospective subcontractors, the goals, as applicable, which are required under these regulations. Whenever a prime contractor or subcontractor subcontracts a portion of the work in any trade designated herein, he shall include in such subcontract his commitment made under this order, as applicable, which shall be adopted by his subcontractor, who shall be bound thereby and by this order to the full extent as if he were the prime contractor. The prime contractor shall not be accountable for the failure of his subcontractor to fulfill his requirements, however, the prime contractor or subcontractor shall give notice to the Area Coordinator of the Office of Federal Contract Compliance of the Department of Labor and the contracting agency, of any refusal or failure of any subcontractor to fulfill his obligations under these regulations. Failure of compliance by any subcontractor will be treated in the same manner as such failure by the prime contractor.

(i) Nothing in these rules shall be interpreted to diminish the responsibilities of the contracting and administering agencies nor the obligations of contractors pursuant to Executive Order 11246 for those trades and those contracts not covered by these regulations.

(j) The procedures set forth in these rules shall not apply to any contract when the head of the contracting or administering agency determines that such contract is essential to the national security and that its award without following such procedures is necessary to the national security. Upon making such a determination, the agency head will notify, in writing, the Director of the Office of Federal Contract Compliance within 30 days.

(k) Nothing in these rules shall be interpreted to diminish the present contract compliance review and complaint programs.

§ 660-6.22 Exemptions.

Requests for exemptions from these rules must be made in writing, with justifi-

fication, to the Director, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C. 20210, and shall be forwarded through and with the endorsement of the agency head.

§ 60-6.23 Effective date.

The provisions of this part will be effective with respect to transactions for which the invitations for bids or other solicitations for bids, or additions or amendments thereto, are sent on or after the publication of these regulations.

Subpart D—Appendix A

§ 60-6.30 Appendix A.

For inclusion in the Invitation or Other Solicitation for Bids for a Federally Involved Construction Contract in the City and County of San Francisco, Calif., when the estimated total cost of the construction project exceeds \$500,000.

NOTICE OF REQUIREMENT FOR SUBMISSION OF AFFIRMATIVE ACTION PLAN TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

NOTICE

TO BE ELIGIBLE FOR AWARD OF THE CONTRACT, EACH BIDDER MUST FULLY COMPLY WITH THE REQUIREMENTS, TERMS, AND CONDITIONS OF THIS APPENDIX A.

The following are hereby submitted by the undersigned bidder as its goals for minority manpower utilization ("minority" being Negro, Spanish surnamed American, Oriental, and American Indian) to be achieved on all work of the bidder within the city and county of San Francisco, Calif., during the term of his performance of this contract in the trades specified below in conformity with the requirements, terms, and conditions of this Appendix A hereinafter set forth:

Total number of manhours to be worked by minority persons on all bidder's projects within the city and county of San Francisco including on this contract, expressed in terms of a percentage of the total number of manhours to be worked until April 30, 1972.

Trade: Electricians _____
Plumbers, Pipefitters and Steamfitters _____
Structural Metal Workers _____
Sheetmetal Workers _____
Asbestos Workers _____

Total number of manhours to be worked by minority persons on all bidder's projects within the city and county of San Francisco including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from May 1, 1972, until April 30, 1973.

Trade: Electricians _____
Plumbers, Pipefitters and Steamfitters _____
Structural Metal Workers _____
Sheetmetal Workers _____
Asbestos Workers _____

Total number of manhours to be worked by minority persons on all bidder's projects within the city and county of San Francisco including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from May 1, 1973, until April 30, 1974.

Trade: Electricians _____
Plumbers, Pipefitters and Steamfitters _____
Structural Metal Workers _____
Sheetmetal Workers _____
Asbestos Workers _____

Total number of manhours to be worked by minority persons on all bidder's projects within the city and county of San Francisco including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from May 1, 1974, until April 30, 1975.

Trade: Electricians _____
Plumbers, Pipefitters and Steamfitters _____
Structural Metal Workers _____
Sheetmetal Workers _____
Asbestos Workers _____

REQUIREMENTS, TERMS, AND CONDITIONS

1. No contracts or subcontracts shall be awarded for Federal or federally assisted construction in the city and county of San Francisco, Calif., on projects whose estimated cost exceeds \$500,000 unless the bidder completes and submits, prior to bid opening, this document designated as Appendix A, or a substantially similar document, which shall include specific goals of minority manpower utilization for each trade designated below which will be used by the contractor on all his work within the city and county of San Francisco, Calif., during the term of his performance of the contract, such goals to be established by the contractor at least within the ranges established by this appendix in Section 3 thereof. Minority manpower means, for the purposes of this appendix, Negroes, Spanish surnamed Americans, Orientals, and American Indians. The trades utilizing the following classifications of employees are covered by this appendix:

Electricians _____
Plumbers, Pipefitters and Steamfitters _____
Structural Metal Workers _____
Sheet Metal Workers _____
Asbestos Workers _____

A bidder who fails or refuses to complete or submit such goals shall not be deemed a responsive bidder and may not be awarded the contract or subcontract, but such goals need be submitted only for those trades which the contractor contemplates to be used in the performance of the federally involved contract. In no case shall there be any negotiations over the provisions of the specific goals submitted by the bidder after the opening of bids and prior to the award of the contract.

2. Each Federal agency shall include, or require the applicant to include, in the invitation for bids, or other solicitation used for a federally involved (Federal or federally assisted) construction contract, when the estimated total cost of the construction project exceeds \$500,000, a notice stating that to be eligible for award, each bidder will be required to comply with this appendix for the hereinbefore designated trades to be used during the term of the performance of the contract—whether or not the work is subcontracted. The form of such notice shall be substantially similar to this Appendix A.

3. The following ranges, constituting acceptable minimums upon which a prospective contractor or subcontractor must establish his goals are hereby established as the standards for minority manpower utilization for each of the designated trades in the city and county of San Francisco, Calif., for the next 4 years:

Trade	Range of minority group employment	
	From May 1, 1971, until Apr. 30, 1972	From May 1, 1972, until Apr. 30, 1973
Electricians	10	12
Plumbers, pipefitters and steamfitters	7	9
Structural metal workers	10	12
Sheet metal workers	12	14
Asbestos workers	14	16
From May 1, 1973, until Apr. 30, 1974		
Electricians	12	13
Plumbers, pipefitters and steamfitters	9	10
Structural metal workers	12	15
Sheet metal workers	14	15
Asbestos workers	20	27
From May 1, 1974, until Apr. 30, 1975		
Electricians	13	15
Plumbers, pipefitters and steamfitters	10	12
Structural metal workers	15	17
Sheet metal workers	15	17
Asbestos workers	27	33
From May 1, 1975, until Apr. 30, 1976		
Electricians	15	17
Plumbers, pipefitters and steamfitters	12	11
Structural metal workers	17	20
Sheet metal workers	17	19
Asbestos workers	33	40

After the first year of the program, the standards (trades and ranges) set forth herein shall be reviewed to determine whether the projections on which these standards are based adequately reflect the construction labor market situation at that time. Reductions or other significant fluctuations in federally involved construction shall be specifically reviewed from time to time as to their effect upon the practicality of the standards. In no event, however, shall the standards be increased or trades be added for the contracts after bids have been received.

The contractor's or subcontractor's goals established within the above ranges shall express the contractor's or subcontractor's

commitment of the percentage of minority personnel who will be working in each specified craft on each of his projects (whether federally involved or otherwise) within the city and county of San Francisco, Calif., during the term of the covered contract.

The man hours for minority workers must be substantially uniform throughout the entire length of the contract for each of the designated trades, to the effect that the percentage of minority workers in the designated trades must be working throughout the length of work on each project in each trade. The contractor or subcontractor shall be deemed to have met his commitment to specific goals for minority manpower utilization:

(a) If the minority manpower utilization rate of the contractor or subcontractor itself meets the goals on the total of all of the contractor's or subcontractor's facilities within the city and county of San Francisco: *Provided, however*, That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix, or

(b) If the contractor or subcontractor can establish that it is a member of a contractor's association or other employer organization or association, which has as one of its purposes the expanded utilization of minority manpower and that the total utilization rate of minority craftsmen by all member contractors and subcontractors of such an association or organization on all projects in which they are involved within the city and county of San Francisco meets the contractor's or subcontractor's commitments: *Provided, however*, That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix, or

(c) If the contractor or subcontractor can establish that it has a collective bargaining agreement with a union or other employee organization, that it utilizes that union or organization as its source for over 80 percent of its manpower needs and that the total minority utilization rate in the craft or crafts for which the union or organization has referred manpower on all projects within city and county of San Francisco to which such union or organization has referred manpower, meets the contractor's or subcontractor's commitments: *Provided, however*, That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix.

4. Whenever a contractor or subcontractor uses trades covered by this appendix which were not contemplated at the time of his bid and he therefore does not submit goals for such trades, he shall be deemed to be committed to the minority group employment goal of the minimum percentage range for that trade for the appropriate year.

In the event that under a contract subject to this appendix any work by a trade covered by this appendix is performed after April 30, 1975, the determined ranges of minority group employment for the year ending April 30, 1976, shall be applicable to such work.

5. The contractor's and subcontractor's commitment to specific goals is to meet affirmative action obligations and is not intended and shall not be used to discriminate against any qualified applicant or employee. Whenever it comes to the bidder's or contractor's attention that the goals are being used in a discriminatory manner, he shall immediately report that fact to the Office of Federal Contract Compliance of the U.S. Department of Labor in order that appropriate proceedings may be instituted.

6. The contractor's or subcontractor's (collectively hereinafter referred to as "con-

tractor") commitment to specific goals for minority manpower utilization as required by this Appendix A shall constitute a commitment to make every good faith effort to meet such goals. If the contractor has failed to meet his goals, a determination of "good faith" will be based upon his efforts to broaden his recruitment base which efforts shall include but not be limited to the following:

(a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' response.

(b) The contractor shall maintain a file of the names and addresses of each minority worker referred to him and what action was taken with respect to each such referred worker. If such worker was not sent to the union hiring hall for referral or if such worker was not employed by the contractor, the contractor's file should document this and reasons therefor.

(c) The contractor shall promptly notify the OFCC Area Coordinator when the union or unions with whom the contractor has a collective bargaining agreement has not referred to the contractor a minority worker sent by the contractor or the contractor has other information that the union referral process has impeded him in his efforts to meet his goal.

(d) The contractor shall participate in training programs in the area, especially those funded by the Department of Labor.

(e) The contractor shall disseminate his EEO policy within his own organization by including it in any policy manual; by publicizing it in company newspapers, annual report, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority employees.

(f) The contractor shall disseminate his EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority news media; and by notifying and discussing it with all subcontractors and suppliers.

(g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority organizations, schools with minority students, minority recruitment organizations, and minority training organizations, within the contractor's recruitment area.

(h) The contractor shall make specific efforts to encourage present minority employees to recruit their friends and relatives.

(i) The contractor shall validate all man specifications, selection requirements, tests, etc.

(j) The contractor shall make every effort to provide afterschool, summer, and vacation employment to minority youths.

(k) Where reasonable the contractor shall develop on-the-job training opportunities and participate and assist in any association or employer-group training programs relevant to the contractor's employee needs.

(l) The contractor shall continually inventory and evaluate all minority personnel for promotion opportunities and encourage minority employees to seek such opportunities.

(m) The contractor shall make sure that seniority practices, job classifications, etc., do not have a discriminatory effect.

(n) The contractor shall make certain that all facilities and company activities are non-segregated.

(o) The contractor shall continually monitor all personnel activities to insure that his EEO policy is being carried out.

(p) The contractor shall solicit bids for subcontracts from available minority subcontractors with the trades covered by this

order, including circulation of minority contractor associations.

7. Each agency shall review contractors' and subcontractors' employment practices during the performance of the contract. If the contractor and subcontractor meets its goals or if the contractor or subcontractor can demonstrate that it has made every good faith effort to meet those goals, the contractor shall be presumed to be in compliance with Executive Order 11246, the implementing regulations and its obligations under this appendix and no formal sanctions or proceedings leading toward sanctions shall be instituted unless the agency otherwise determines that the contractor or subcontractor is not providing equal employment opportunities. Where the agency finds that the contractor or subcontractor has failed to comply with the requirements of Executive Order 11246, the implementing regulations and its obligations under its Appendix, the agency shall take such action and impose such sanctions as may be appropriate under the Executive order and the regulations. When the agency proceeds with such formal action it has the burden of proving that the contractor has not met the requirements of this appendix, but the contractor's failure to meet his goals shall shift to him the requirement to come forward with evidence to show that he has met the "good faith" requirements of this appendix. Such noncompliance by the contractor or subcontractor shall be taken into consideration by Federal agencies in determining whether such contractor or subcontractor can comply with the requirements of Executive Order 11246 and is therefore a "responsible prospective contractor" within the meaning of the Federal procurement regulations.

8. It shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the National Labor Relations Act, as amended, and Title VII of the Civil Rights Act of 1964. It is the long-standing uniform policy of OFCC that contractors and subcontractors have a responsibility to provide equal employment opportunity if they want to participate in federally involved contracts. To the extent they have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their obligations pursuant to Executive Order 11246, as amended, such contractors cannot be considered to be in compliance with Executive Order 11246, as amended, or the implementing rules, regulations, and orders.

9. All prime contractors and subcontractors shall include in all bid invitations or other prebid communications, written or otherwise, with respect to their prospective subcontractors, the goals, as applicable, which are required under this appendix. Whenever a prime contractor or subcontractor subcontracts a portion of the work in any trade designated herein, he shall include in such subcontract his commitment made under this appendix, as applicable, which shall be adopted by his subcontractor, who shall be bound thereby and by this appendix to the full extent as if he were the prime contractor. The prime contractor shall not be accountable for the failure of his subcontractor to fulfill his requirements. However, the prime contractor or subcontractor shall give notice to the Area Coordinator of the Office of Federal Contract Compliance of the Department of Labor and the contracting agency of any refusal or failure of any subcontractor to fulfill his obligations under

this appendix. Failure of compliance by any subcontractor will be treated in the same manner as such failure by the prime contractor.

10. Contractors and subcontractors must keep such records and file such reports relating to the provisions of this appendix as shall be required by the contracting or administering agency.

11. Nothing in this appendix shall be interpreted to diminish the responsibilities of the contracting and administering agencies nor the obligations of contractors or subcontractors pursuant to Executive Order 11246 for those trades and those contracts not covered by this Appendix.

12. The procedures set forth in this Appendix shall not apply to any contract when the head of the contracting or administering agency determines that such contract is essential to the national security and that its award without following such procedures is necessary to the national security. Upon making such a determination, the agency head will notify, in writing, the Director of the Office of Federal Contract Compliance within 30 days.

13. Nothing in this appendix shall be interpreted to diminish the present contract compliance review and complaint programs.

14. Requests for exemption from this appendix must be made in writing, with justification, to the Director, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C. 20210, and shall be forwarded through and with the endorsement of the agency head.

15. This appendix shall be signed in the space provided below.

By _____
(Bidder)
(Date)

Signed at Washington, D.C., this 27th day of May 1971.

J. D. HODGSON,
Secretary of Labor.

ARTHUR A. FLETCHER,
Assistant Secretary for
Employment Standards.

JOHN L. WILKS,
Director, Office of
Federal Contract Compliance.

[FR Doc. 71-7782 Filed 6-3-71; 8:45 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS PART 54—GRANTS FOR SPECIALIZED SERVICE FACILITIES

Subpart B—Designation of Urban and Rural Poverty Areas

A notice of proposed rulemaking was published in the FEDERAL REGISTER (36 F.R. 6114) on April 2, 1971, proposing methods and procedures for determining the community mental health center catchment areas of the several States which will be designated as urban or rural poverty areas, in accordance with the provisions of sections 220(b) (2),

224(b), 242(b) (2), 243(d), 251(b), 271(b) (3), 401(h) (3), and 410 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended (42 U.S.C. 2661 et seq.).

Interested persons were invited to submit within 30 days, written comments, suggestions, or objections regarding the proposed methods of designating poverty areas.

Fifteen responses were received, principally from State health or mental health officials in 13 States. All but one expressed some dissatisfaction with the proposed method. Twenty-nine States, however, proceeded to apply the proposed method tentatively, pending final promulgation, and submitted their ranked lists of catchment areas without comment, apparently experiencing no difficulty. Twelve other States have notified the National Institute of Mental Health that they are still working on their data but did not comment adversely on the methodology.

The substance of the written comments received and the Department's response to these comments is set forth below.

1. Use of 1960 data not satisfactory.

Upon analysis of the comments, it appears that the majority of the objections were not directed to the method itself but to the fact that "the latest available published data from the Department of Commerce, Bureau of the Census" which the States were directed to use in determining the percentage of families in each catchment area with incomes below the poverty level is current only through 1960.

We agree that it is unfortunate that 1970 data will not be available in time to make the 1971 determinations. It is not expected to be published until January 1972. The 1960 data in many instances does not accurately reflect present income levels and may perhaps unduly favor more sparsely populated rural areas. To alleviate the situation, every State agency was informed through our Regional Offices that if it can demonstrate satisfactorily through use of some alternative data that the income level of families in a specific catchment area has changed sufficiently since the taking of the 1960 census to justify a revision in the ranking of that catchment area, such revision may be approved. The State agency must request authority to make such a revision through the Regional Health Director to the Director, NIMH, who will act on the request on behalf of the Secretary.

The only other alternative to use of 1960 data is to wait for release of the 1970 data. This was not acceptable because it would deprive a large number of existing grantees who the Secretary believes will be determined to be serving poverty areas of much needed supplemental award in fiscal year 1971.

2. Certain areas known to be poor do not appear to qualify.

The second most frequent objection was again not directly related to the method of determining poverty areas but

to the fact that certain areas or facilities in the writer's home State, generally regarded as very poor, would not qualify.

Upon further review, it was determined that in most of the instances cited, the State had either failed to apply the additional poverty area designation method set forth in section 54.103 of the proposed regulations, or had applied it incorrectly. For example, contrary to the assertion of the Secretary of Health of Puerto Rico that few if any of his areas would qualify as poverty areas, it was found that upon applying the additional method correctly, 17 of the 18 catchment areas would probably be so qualified. This was also true of a particular area cited in New Mexico by the director of a community mental health center located in that area, and of two urban catchment areas in New Orleans, Louisiana. The Health Services and Mental Health Administration, through the NIMH and its regional offices, will provide consultation and assistance to the respective State agencies in applying the additional method correctly.

3. Percentages vs. absolute numbers of poor families.

Four responses urged that the total number rather than the percentage of poor families in a catchment area should be used in applying the primary method of designating poverty areas to avoid inadvertently discriminating against the urban poor.

This suggestion was given serious consideration. It was felt, however, that since the Act requires the designation of poverty catchment areas, the population of which may vary between 75,000 and 200,000, the whole number approach would not be acceptable. Moreover, the percentage approach best reflects the ability or inability of the catchment area as a whole to pay for community mental health services. Presumably the catchment areas with a smaller percentage of poor families will have a larger percentage of persons who can pay for services.

4. Total catchment area concept.

One mental health authority objected to the concept that an entire catchment area could benefit from poverty level funding even though some of its families were relatively affluent. Under the authorizing legislation, however, the poverty designations (and the resulting advantages) apply to catchment areas as a whole and not to specific families or individuals. Every community mental health center is required to serve all the residents of its area regardless of their economic circumstances.

5. The method is too difficult and costly to apply.

The Division of Health from the State of Washington expressed the fear that the proposed methods would be too difficult and costly for the State to use realistically.

It was determined that the Division of Health is not the State agency directly involved in ranking community mental health center catchment areas in Washington. Two other agencies, which have this particular responsibility,

have nearly completed their preliminary work with no apparent difficulty or objection.

6. Separate lists for ranking. It was suggested that each State use four separate lists of areas for ranking: Urban with funded centers; urban without funded centers; rural with funded centers; and rural without funded centers.

Adoption of this suggestion would greatly complicate the ranking procedures. It would be very difficult to differentiate clearly between urban and rural catchment areas. When 1970 census data is available, which data gives appropriate weight to the distinction between farm and nonfarm family incomes, this should alleviate the necessity for separate lists.

7. Priority for areas with funded centers.

It was suggested that catchment areas with funded community mental health centers be given priority in the rankings over areas which have not yet established such a center.

Even an area with no funded center derives certain specific benefits from a poverty area designation. For example, eligibility for an initiation and development grant depends on the area in question having received this designation. Also, a prospective center applicant who is not yet ready to provide all five services required by the regulations can be permitted to "phase in" two of the five services only if the area he serves has been designated as a poverty area. For these reasons, assignment of priority to areas with funded centers does not seem justified.

8. A differential Federal percentage should be applied.

It was recommended that a smaller number than 25 should be subtracted from the State's Federal percentage for those States with the largest number of poor families. The writer suggested a "regional ranking" system rather than a national ranking system so that poor States would qualify for more aid than more affluent States.

The estimated Federal percentage is actually a kind of regional ranking system since poorer States are assigned a higher Federal percentage. Therefore a large percentage of the catchment areas in such a State will qualify as poverty catchment areas.

9. Financial ability of each area to meet its own needs should be a factor.

The proposed method was criticized for not taking into account the financial ability of the catchment area to meet its own needs.

The determination of the need for a Federal grant in relation to the financial ability of the catchment area to provide needed services, with or without preferential funding, is always carefully considered at the time an application for a grant is reviewed. The designation of a catchment area as a poverty area does not preclude the awarding of a grant at less than the maximum level of Federal

participation should the area's ability to provide for its own needs warrant this determination.

10. States should be permitted to designate their own areas.

Two State health officials felt that each State should be permitted to establish its own criteria for designating poverty areas.

We believe that only if the same objective criteria are made applicable to all States can nationally consistent determinations be made.

Having carefully considered all the comments and suggestions received, and in view of the fact that the method of designating poverty areas will be reviewed annually and revised as experience dictates, the proposed regulation is hereby adopted without change and is set forth below.

Effective date. This regulation shall be effective upon publication in the FEDERAL REGISTER.

REGISTER (6-4-71).

VERNON E. WILSON,
Administrator, Health Services
and Mental Health Adminis-
tration

Approved: June 1, 1971.

ELLIOT L. RICHARDSON
Secretary.

PART 54—GRANTS FOR SPECIALIZED SERVICE FACILITIES

Subpart B—Designation of Urban and Rural Poverty Areas

§ 54.101 State ranking.

(a) Using the latest available published data from the Department of Commerce, Bureau of the Census, each State shall determine what percentage of families living in each catchment area within its territorial borders have incomes below the poverty level described in subparagraph (2) of this paragraph.

(1) The term "catchment area" means a geographic area designated by a State which is served or will be served by an existing or proposed community mental health center.

(2) In determining the poverty level, the following standards shall be used:

(i) Revised OEO Income Poverty Guidelines (Published in OEO Instructions, No. 6004-1.b., dated Dec. 1, 1970) for the 50 States and the District of Columbia. Those Guidelines are as follows:

ALL STATES (INCLUDING THE DISTRICT OF COLUMBIA) EXCEPT ALASKA AND HAWAII

Family size	Nonfarm family	Farm family
1-----	\$1,900	\$1,600
2-----	2,500	2,000
3-----	3,100	2,500
4-----	3,800	3,200
5-----	4,400	3,700

For families with more than five members, add \$600 for each additional member in a nonfarm family and \$500 for each additional member in a farm family.

ALASKA		
Family size	Nonfarm family	Farm family
1-----	\$2,400	\$2,000
2-----	3,150	2,265
3-----	3,900	3,275
4-----	4,750	3,975
5-----	5,500	4,600

For families with more than five members, add \$750 for each additional member in a nonfarm family and \$625 for each additional member in a farm family.

HAWAII		
Family size	Nonfarm family	Farm family
1-----	\$2,250	\$1,875
2-----	2,900	2,400
3-----	3,550	2,950
4-----	4,250	3,550
5-----	4,900	4,075

For families with more than five members, add \$650 for each additional member in a nonfarm family and \$525 for each additional member in a farm family.

(ii) Income poverty levels established by territorial or commonwealth governments for the following: American Samoa, Guam, Puerto Rico, Trust Territories of the Pacific Islands, and the Virgin Islands.

(b) Each State shall rank its catchment areas according to the percentage of families whose incomes fall below the poverty level in each area. The catchment area in each State with the highest percentage of families whose incomes fall below the poverty level shall be designated as number 1, and areas with lower percentages of such families shall be arrayed in ascending numerical order.

§ 54.102 Designation of poverty areas.

The Secretary will designate as poverty areas a percentage of catchment areas in each State to be determined as follows:

(a) The percentage of poverty catchment areas for each State shall be determined by subtracting 25 percent from each State's Federal percentage.

(b) The State's Federal percentage is the percentage established pursuant to section 401(i) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (42 U.S.C. 2661 et seq.) (hereinafter referred to as the "Act"), and promulgated in 33 F.R. 18593, for fiscal years 1971 and 1972.

EXAMPLE: If the Federal percentage for State X is 50 percent, 25 percent would be subtracted, leaving a balance of 25 percent. This means that the highest ranking 25 percent of the catchment areas listed by each State pursuant to § 54.101(b) would be designated as poverty areas.

§ 54.103 Additional poverty area designations.

(a) An applicant for a grant under any program authorized by Title II of the Act who wishes to serve a catchment area which was not designated as an urban or rural poverty area in accordance with the above procedures may apply to the Secretary to have such area designated as a poverty area under the provisions of section 410 of the Act.

(b) The Secretary shall add the area in question to the list of poverty areas with respect to the particular project if the applicant demonstrates to the Secretary's satisfaction that:

(1) At least one-half the population of the catchment area lives in one or more impoverished subareas.

(2) The percentage of families with incomes below the poverty level (as determined in accordance with § 54.101 (a)) who lives in these subareas is at least one and one-half times greater than the percentage of families with incomes below the poverty level living in the lowest ranked area for that State which has been designated as a poverty area pursuant to section 54.102.

(3) The project, facility, or program of services for which the applicant seeks support does, or will, focus on the needs of persons living in such subareas of poverty.

[FR Doc.71-7806 Filed 6-3-71; 8:52 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-577]

PART 74—EXPERIMENTAL, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Suspension of Community Antenna Television Mandatory Origination Rule Pending Further Judicial Review

MAY 27, 1971.

Section 74.1111 of the Commission's rules requires Community Antenna Television Systems having 3,500 or more subscribers to operate to a significant extent as local outlets by cablecasting, i.e., the origination of program material not picked up from television broadcast stations. By decision of May 13, 1971, the U.S. Court of Appeals for the Eighth Circuit has held this requirement to be beyond the Commission's statutory authority. Midwest Video Corporation v. U.S., Case No. 20,439. The Commission has decided to request the Solicitor General of the United States to seek a writ of certiorari in this case. Pending the outcome of further judicial review the Commission is suspending application of § 74.1111. This suspension of course does not affect the right of CATV systems to cablecast upon a voluntary basis, or to make channels available to local citizens, nor does it affect the continuing applicability of other rules governing cablecasting operations. See § 74.1113 et seq.

Action by the Commission May 26, 1971. Commissioners Burch (Chairman), Bartley, Robert E. Lee, Johnson, H. Rex Lee and Houser.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-7814 Filed 6-3-71; 8:53 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

LAKE MEAD NATIONAL RECREATION AREA, ARIZONA-NEVADA

Colorado River Whitewater Trips

Notice is hereby given that pursuant to the authority contained in section 6 of the Act of October 8, 1964 (78 Stat. 1040; 16 U.S.C. 460n-5), section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), 245 DM1 (27 F.R. 6395) as amended, National Park Service Order No. 58 (36 F.R. 5627), it is proposed to amend § 7.48 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Lake Mead National Recreation Area, from the common boundary with Grand Canyon National Monument to Diamond Creek at approximately river mile 226. The proposed regulations have become necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendments to the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, NV 89005, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Paragraph (e) of § 7.48 is added to read as follows:

§ 7.48 Lake Mead National Recreation Area.

(e) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River within Lake Mead National Recreation Area, downstream to Diamond Creek at approximately river mile 226: (1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55.

(2) U.S. Coast Guard approved life preservers (jacket-type) must be worn by every person while on the river or while lining or portaging near rough water. One extra preserver must be carried for each ten (10) persons.

(3) No person shall conduct, lead or guide a river trip unless such person possesses a permit issued by the Super-

intendent, Grand Canyon National Park. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(1) The Superintendent, Grand Canyon National Park shall issue a permit upon a determination that the person leading, guiding, or conducting a river trip is experienced in running rivers in whitewater navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(ii) No person shall conduct, lead, guide, or outfit a commercial river trip or engage in any business activity regarding river trips without first securing the above permit and possessing an additional permit authorizing the conduct of a commercial or business activity in the national recreation area.

(iii) An operation is commercial if any fee, charge, or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(4) All human waste will be taken out of the Canyon and will be deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(5) No person shall take a dog, cat, or other pet on a river trip.

(6) The kindling of a fire is permitted only on beaches. The fire must be completely extinguished only with water before abandoning the area.

(7) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(8) Possession of a permit to conduct, guide, outfit, or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party.

(9) All persons issued a river trip permit shall comply with all the terms and conditions of the permit.

JOSEPH C. RUMBERG, Jr.,
Director, Western Region.

[FR Doc.71-7667 Filed 6-3-71; 8:45 am]

[36 CFR Part 7]

MARBLE CANYON NATIONAL MONUMENT, ARIZ.

Colorado River Whitewater Trips

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and 245 DM1

(27 F.R. 6395), and National Park Service Order No. 21 (27 F.R. 7903) as amended, it is proposed to add § 7.88 to Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this addition is to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Marble Canyon National Monument. The proposed regulations are necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed amendment to the Superintendent, Grand Canyon National Park, Grand Canyon, Ariz. 86023, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 7.88 is added to read as follows:

§ 7.88 Marble Canyon National Monument.

(a) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River within Marble Canyon National Monument:

(1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55.

(2) U.S. Coast Guard approved life preservers (jacket-type) must be worn by every person while on the river or while lining or portaging near rough water. One extra preserver must be carried for each ten (10) persons.

(3) No person shall conduct, lead or guide a river trip unless such person possesses a permit issued by the Superintendent, Grand Canyon National Park. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(i) The Superintendent, Grand Canyon National Park shall issue a permit upon a determination that the person leading, guiding or conducting a river trip is experienced in running rivers in whitewater navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(ii) No person shall conduct, lead, guide, or outfit a commercial river trip without first securing the above permit

and possessing an additional permit authorizing the conduct of a commercial or business activity in the monument.

(iii) An operation is commercial if any fee, charge or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(4) All human waste will be taken out of the canyon and will be deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(5) No person shall take a dog, cat, or other pet on a river trip.

(6) The kindling of a fire is permitted only on beaches. The fire must be completely extinguished only with water before abandoning the area.

(7) Picnicking is permitted on beach areas along the Colorado River.

(8) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(9) Possession of a permit to conduct, guide, outfit or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party; provided, however, no person shall camp at Red Wall Cavern.

(10) All persons issued a river trip permit shall comply with all the terms and conditions of the permit.

EDWARD A. HUMMEL,
Assistant Director,
National Park Service.

[FR Doc.71-7668 Filed 6-3-71; 8:45 am]

[36 CFR Part 7]

GLEN CANYON RECREATION AREA, UTAH-ARIZONA

Pets and Colorado River Whitewater Trips

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and 245 DM1 (27 F.R. 6395), and National Park Service Order No. 21 (27 F.R. 7903) as amended, it is proposed to amend § 7.70 of Title 36 of the Code of Federal Regulations to correct the title of this section and to add § 7.70 (d), (e), and (f) as set forth below.

The purpose of these amendments is to correct the title of § 7.70 to read Glen Canyon Recreation Area, to provide for stricter control of pets within the recreation area, to regulate assembly, launching, and storage of rafts and boats at Lees Ferry, Ariz., and to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Glen Canyon Recreation Area from the Paria Riffle at river mile zero downstream. The proposed regulations concerning use of lands along the Colorado River are necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendments to the Superintendent, Glen Canyon Recreation Area, Post Office Box 1507, Page, AZ 86040, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 7.70 is amended to read as follows:

§ 7.70 Glen Canyon Recreation Area.

(d) *Pets and other animals.* Pets and other animals shall be restrained so as to prevent noise, annoyance, or threat to the safety of persons.

(e) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River in Glen Canyon Recreation Area, from the Paria Riffle at river mile zero downstream:

(1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55 without a permit from the Superintendent.

(2) U.S. Coast Guard approved life preservers (jacket type) shall be worn by every person while on the river, or while lining or portaging near rough water. One extra preserver must be carried on each vessel for each ten (10) passengers.

(3) No person shall conduct, lead, or guide a river trip unless such person possesses a permit issued by the Superintendent, Grand Canyon National Park. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(4) The Superintendent, Grand Canyon National Park, shall issue a permit upon a determination that the person leading, guiding, or conducting a river trip is experienced in running rivers in whitewater navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(5) No person shall conduct, lead, guide, or outfit a commercial river trip without first securing the above permit and possessing an additional permit authorizing the conduct of a commercial or business activity in the recreation area.

(6) An operation is commercial if any fee, charge or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(7) All human waste will be taken out of the canyon and deposited in established receptacles or disposed of by such

means as is determined by the Superintendent.

(8) No person shall take a dog, cat, or other pet on a river trip.

(9) The kindling of a fire is permitted only on beaches. All fires must be completely extinguished only with water before abandoning the area.

(10) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(11) No camping is allowed along the river bank between the junction of the Paria River with the Colorado River and Marble Canyon National Monument.

(12) All persons issued a river trip permit shall comply with all terms and conditions of the permit.

(13) *Assembly and launching of river rafts and boats.* The following regulations shall apply to all persons designated under paragraph (e) of this section (Colorado whitewater trips):

(1) The assembly and launching of rafts or boats, and parking or storing of any related equipment or supplies is restricted to those areas designated by the Superintendent.

(2) Within such designated areas, the Superintendent may assign or limit space and designate time periods of operation for each individual river trip or operator.

EDWARD A. HUMMEL,
Assistant Director,
National Park Service.

[FR Doc.71-7669 Filed 6-3-71; 8:45 am]

[36 CFR Part 7]

GRAND CANYON NATIONAL PARK, ARIZ.

Colorado River Whitewater Trips

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), section 2 of the Act of February 26, 1919 (40 Stat. 1177; 16 U.S.C. 222), and section 2 of the Act of February 25, 1927 (44 Stat. 1240; 16 U.S.C. 221b), 245 DM1 (27 F.R. 6395), and National Park Service Order No. 21 (27 F.R. 7903) as amended, it is proposed to amend § 7.4 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Grand Canyon National Park. The proposed regulations have become necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Superintendent, Grand Canyon National Park, Grand Canyon, Ariz.

86023, within 30 days of the publication of this notice in the FEDERAL REGISTER. Section 7.4 is amended to read as follows:

§ 7.4 Grand Canyon National Park.

(h) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River in Grand Canyon National Park:

(1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55.

(2) U.S. Coast Guard approved life preservers (jacket type) must be worn by every person while on the river or while lining or portaging near rough water. One extra preserver must be carried for each ten (10) persons.

(3) No person shall conduct, lead or guide a river trip unless such person possesses a permit issued by the Superintendent. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(4) The Superintendent shall issue a permit upon a determination that the person leading, guiding, or conducting a river trip is experienced in running rivers in whitewater navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(5) No person shall conduct, lead, guide or outfit a commercial river trip without first securing the above permit and possessing an additional permit authorizing the conduct of a commercial or business activity in the park.

(6) An operation is commercial if any fee, charge or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(7) All human waste will be taken out of the Canyon and will be deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(8) No person shall take a dog, cat or other pet on a river trip.

(9) The kindling of a fire is permitted only on beaches. The fire must be completely extinguished only with water before abandoning the area.

(10) Picnicking is permitted on beach areas along the Colorado River.

(11) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(12) Possession of a permit to conduct, guide, outfit or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party; provided, however, no person shall camp at Elves Chasm or the mouth of Havasu Creek.

(10) All persons issued a river trip permit shall comply with all the terms and conditions of the permit.

EDWARD A. HUMMEL,
Assistant Director,
National Park Service.

[FR Doc.71-7670 Filed 6-3-71; 8:45 am]

[36 CFR Part 7]

GRAND CANYON NATIONAL MONUMENT, ARIZ.

Colorado River Whitewater Trip

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and 245 DM1 (27 F.R. 6395), and National Park Service Order No. 21 (27 F.R. 7903) as amended, it is proposed to amend § 7.60 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Grand Canyon National Monument. The proposed regulations are necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed amendment to the Superintendent, Grand Canyon National Park, Grand Canyon, Ariz. 86023, within 30 days of the publication of this notice in the FEDERAL REGISTER. Section 7.60 is amended to read as follows:

§ 7.60 Grand Canyon National Monument.

(a) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River within Grand Canyon National Monument:

(1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55.

(2) U.S. Coast Guard approved life preservers (jacket-type) must be worn by every person while on the river or while lining or portaging near rough water. One extra preserver must be carried for each ten (10) persons.

(3) No person shall conduct, lead or guide a river trip unless such person possesses a permit issued by the Superintendent, Grand Canyon National Park. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(4) The Superintendent, Grand Canyon National Park shall issue a permit upon a determination that the person leading, guiding or conducting a river trip is experienced in running rivers in white water navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(5) No person shall conduct, lead, guide or outfit a commercial river trip without first securing the above permit and possessing an additional permit authorizing the conduct of a commercial or business activity in the monument.

(6) An operation is commercial if any fee, charge or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(7) All human waste will be taken out of the Canyon and will be deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(8) No person shall take a dog, cat, or other pet on a river trip.

(9) The kindling of a fire is permitted only on beaches. The fire must be completely extinguished only with water before abandoning the area.

(10) Picnicking is permitted on beach areas along the Colorado River.

(11) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(12) Possession of a permit to conduct, guide, outfit, or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party.

(13) All persons issued a river trip permit shall comply with all the terms and conditions of the permit.

EDWARD A. HUMMEL,
Assistant Director, National
Park Service.

[FR Doc.71-7671 Filed 6-3-71; 8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1079]

MILK IN DES MOINES, IOWA, MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Des Moines, Iowa, marketing area is being considered for the month of June 1971 and continuing until a hearing can be held and the order amended with respect to supply plant provisions.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should

file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

In § 1079.10 all of the provisions of paragraph (b).

The proposed suspension would make inoperative the pool supply plant provisions of the order.

The suspension action is requested by Associated Milk Producers, Inc., Farmers Cooperative Creamery Association, and Mid-America Dairymen, Inc., to preclude circumvention of the intent of the pool supply plant performance provisions of the order.

These producer associations, which represent most of the producers in this market, state that during the month of May 1971 a pool distributing plant at Ottumwa, Iowa, began receiving milk transported in tank trucks from a non-pool supply plant at Fredericksburg, Iowa, and reloading the milk back into the same tank trucks for shipment back to the Fredericksburg location. All of the fluid milk requirements of the Ottumwa distributing plant are being met with milk directly shipped from producers' farms as has been the case for a number of years.

The producer associations contend that the pool supply plant provisions were intended to help identify the sources of milk being used in meeting the demands of the fluid market, but that the backhauling practice now going on between the Fredericksburg and Ottumwa locations constitutes a predetermined commitment of pool milk to manufacturing use, contrary to the basic intent of the shipping performance requirements of the Des Moines order.

Signed at Washington, D.C., on June 1, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc. 71-7828 Filed 6-3-71; 8:54 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 422]

[Reg. No. 22]

ORGANIZATION AND PROCEDURES

Hearings and Review—Materials Available to the Public

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C.

552 et seq.) that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments to the regulations (1) expand and clarify the provisions relating to the procedures on hearings and appeals with respect to determinations under the Medicare program, (2) reflect that rights to hearings and appeals are applicable to determinations under the Black Lung benefit provisions of the Federal Coal Mine Health and Safety Act of 1969, and (3) add additional manuals and instructions to the list of materials which are available to the public for inspection and copying.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication in the FEDERAL REGISTER.

The proposed amendments are to be issued under the authority contained in sections 205, 1102, 1869, and 1871, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 79 Stat. 330, 331; section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 1302, and 1395hh; 5 U.S.C. 552. Section 422.203(a) is also to be issued under section 413(b) of title IV of the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 794; 30 U.S.C. 923(b).

Dated: May 6, 1971.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: May 28, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health,
Education, and Welfare.

Regulations No. 22 of the Social Security Administration are amended as set forth below.

1. Subpart C is amended by revising §§ 422.201, 422.203, and 422.205 to read as follows:

§ 422.201 Material included in this subpart.

This subpart describes in general the procedures relating to hearings before a hearing examiner of the Bureau of Hearings and Appeals, review by the Appeals Council of the hearing examiner's decision or dismissal, and court review. It also describes the procedures for requesting such hearing or Appeals Council review, and for instituting a civil action for court review. For regulations relating to hearings under Part B of title XVIII where an individual enrolled under the supplementary medical insurance plan is dissatisfied with the carrier's determination denying a request for payment, or with the amount of payment, or when he believes that the re-

quest for payment is not being acted upon with reasonable promptness, see Subpart H of Part 405 of this chapter.

§ 422.203 Hearing before hearing examiner.

(a) *Right to request a hearing.* (1) After (i) a reconsidered or a revised determination of a claim for benefits or any other right under title II of the Social Security Act, or (ii) a reconsidered or a revised determination as to entitlement to benefits under Part A or Part B of title XVIII of the act, or (where the amount in controversy is \$100 or more) as to the amount of benefits under Part A of such title XVIII, and party to such a determination may, pursuant to section 205, 221, or 1869 of the Act, as applicable, file a written request for a hearing on the determination. After a reconsidered determination of a claim for benefits under Part B of title IV (Black Lung benefits) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 921-924) a party to the determination may file a written request for a hearing on the determination.

(2) After (i) a reconsidered or revised determination that an institution, facility, agency, or clinic does not qualify as a provider of services, or (ii) a determination terminating an agreement with a provider of services, such institution, facility, agency, or clinic may, pursuant to section 1869 of the Act, file a written request for a hearing on the determination. After a reconsidered or revised determination that an independent laboratory or supplier of portable X-ray services does not meet the conditions for coverage of its services or a determination that it no longer meets such conditions has been made, such laboratory or supplier may, pursuant to § 405.1530 of this chapter, file a written request for a hearing on the determination. (For hearing rights of laboratories and suppliers of portable X-ray services, see § 405.1501(c).)

(b) *Request for hearing.* A request for a hearing under paragraph (a) of this section may be made on Form HA-501, "Request for Hearing," or by any other writing requesting a hearing. The request shall be filed at an office of the Social Security Administration, usually a district office or a branch office, or at the Veterans' Administration Regional Office in the Philippines, or with a hearing examiner or the Appeals Council. A qualified railroad retirement beneficiary may, if he prefers, file a request for a hearing under Part A of title XVIII with the Railroad Retirement Board. Form HA-501 may be obtained from any social security district office or branch office, from the Bureau of Hearings and Appeals, Social Security Administration, Washington, D.C. 20203, or from any other office where a request for a hearing may be filed. (See § 404.918 of this chapter.)

(c) *Decision or other action by hearing examiner.* Generally, the hearing examiner will either decide the case after

hearing (unless hearing is waived) or, if appropriate, dismiss the request for hearing. With respect to a hearing on a determination under paragraph (a) (1) of this section, the hearing examiner may certify the case with a recommended decision to the Appeals Council for decision. (See § 404.939 of this chapter.) If the determination on which the hearing request is based relates to the amount of benefits under Part A of title XVIII of the Act, the hearing examiner shall dismiss the request for hearing if he finds that the amount in controversy is less than \$100. Hearing examiner decisions must be based on the evidence of record, under applicable provisions of the law and regulations and appropriate precedents.

§ 422.205 Review by Appeals Council.

Any party to a hearing examiner's decision or dismissal may request a review of such action by the Appeals Council. The Bureau of Health Insurance is a party to a hearing on a determination under § 422.203(a) (2) (see § 405.1532 of this chapter for parties to a hearing on such a determination). This request may be made on Form HA-520, "Request for Review of Hearing Examiner's Action," or by any other writing specifically requesting review. Form HA-520 may be obtained from any social security district office or branch office, from the Bureau of Hearings and Appeals, Social Security Administration, Washington, D.C. 20203, or at any other office where a request for a hearing may be filed.

(a) Whenever the Appeals Council reviews a hearing examiner's decision in accordance with § 404.947 of this chapter and the claimant does not appear personally or through representation before the Council in Washington, D.C., such review will be conducted by a panel of not less than two members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman of the Council. In the event of disagreement between a panel composed of only two members, the Chairman or Deputy Chairman, or his delegate, who must be a member of the Council, shall participate as a third member of the panel. When the claimant appears in person or through representation before the Council in Washington, D.C., the review will be conducted by a panel of not less than three members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman. Concurrence of a majority of a panel shall constitute the decision of the Appeals Council unless the case is considered as provided under paragraph (d) of this section.

(b) The denial or dismissal of a request for review or the refusal of a request to reopen a hearing examiner's or Appeals Council's decision concerning a determination under § 422.203(a) (1) as provided by §§ 404.947 and 404.952 of this chapter shall be by such member or members of the Appeals Council as may be designated in the manner prescribed by the Chairman or Deputy Chairman.

(c) A review or a denial of review of a hearing examiner's decision or a dismissal of a request for review with respect to (1) denial of certification or termination of an agreement of a provider of services, or (2) whether an independent laboratory or supplier of portable X-ray services does not meet or no longer meets the conditions for coverage of its services under title XVIII (see § 422.203(a) (2)) will be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S. Public Health Service designated by the Surgeon General, Public Health Service, Department of Health, Education, and Welfare, or his delegate. This person shall serve on an ad hoc basis and shall be considered for this purpose as a member of the Appeals Council. Concurrence of a majority of the panel shall constitute the decision of the Appeals Council unless the case is considered as provided under paragraph (d) of this section.

(d) On call of the Chairman, or upon request of any of its members approved by the Chairman or Deputy Chairman, the Council may consider any case arising under paragraph (a), (b), or (c) of this section en banc. A majority vote of the Appeals Council members present and voting is required for disposition of any case considered by the entire Council.

(e) For detailed information about the time and place for filing a request for review, the functions of the Appeals Council, procedures before the Appeals Council on review, and the rights of parties to the review, see §§ 404.938, 404.941-404.952, 404.954, 404.955, 405.1559, and 405.1561-405.1595 of this chapter.

2. Subpart E is amended by revising §§ 422.428, 422.430, and 422.432 to read as follows:

§ 422.428 Where requests for information or records may be made.

Requests for information, for copies of records, or to inspect or copy records may be made at any of the Social Security Administration district offices or branch offices. Similar requests relating to information or records available in the Bureau of Hearings and Appeals may be made at any of its field offices. For materials which are available or will be made available at district offices and branch offices, see § 422.430. Although all of the materials listed in § 422.430 are not maintained in all district offices and branch offices, any item listed will be obtained by an office and made available to the requester. For materials in Bureau of Hearings and Appeals field offices, see § 422.432. The materials available at district offices and branch offices are also available at the Social Security Administration headquarters, Social Security Building, 6401 Security Boulevard, Baltimore, MD 21235, and at the Washington Inquiries Section of the Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room

4193, 330 Independence Avenue SW., Washington, DC 20201. The materials available at the Bureau of Hearings and Appeals field offices are also available at the latter office. In addition, a request for information or a record may be submitted through any office of the Social Security Administration or to any employee of the Social Security Administration in the regular course of his conduct of official business.

§ 422.430 Materials available at district offices and branch offices.

(a) *Materials available for inspection.* The following are available or will be made available for inspection at the district offices and branch offices:

(1) Compilation of the Social Security Laws.

(2) The Public Information Regulation of the Department of Health, Education, and Welfare (45 CFR Part 5).

(3) Regulations of the Social Security Administration under the retirement, survivors, disability, and health insurance programs, i.e., Regulation No. 1 (Part 401 of this chapter), Regulations No. 4 (Part 404 of this chapter), Regulations No. 5 (Part 405 of this chapter), regulations under Part B of title IV (Black Lung Benefits) of the Federal Coal Mine Health and Safety Act of 1969, Regulations No. 10 (Part 410 of this chapter), and Regulations No. 22 (this Part 422).

(4) Social Security Rulings.

(5) Social Security Handbook.

(b) *Materials available for inspection and copying.* The following materials are available or will be made available for inspection and copying at the district offices and branch offices:

(1) Claims Manual of the Social Security Administration.

(2) Department Staff Manual on Organization, Department of Health, Education, and Welfare, Part 8, Chapter 8-000.

(3) Handbook for State Social Security Administrators.

(4) Disability Insurance State Manual.

(5) Parts 2 and 3 of the Part A Intermediary Manual (Provider Services under Medicare).

(6) Part 3 of the Part B Intermediary Manual (Physician and Supplier Services under Medicare).

(7) BHI (Bureau of Health Insurance) Intermediary Letters Related to Parts 2 and 3 of the Part A Intermediary Manual.

(8) BHI Intermediary Letters Related to Part 3 of the Part B Intermediary Manual.

(9) State Buy-In Handbook (State Enrollment of Eligible Individuals under the Supplementary Medical Insurance Program) and Letters.

(10) Group Practice Prepayment Plan Manual (HIM-8) and Letters.

(11) State Operations Manual (HIM-7).

(12) BHI Letters to State Agencies.

(13) Extended Care Facility Manual (HIM-12).

(14) Hearing Officers Handbook (Supplementary Medical Insurance Program—HIM-21).

(15) Hospital Manual (HIM-10).

(16) Home Health Agency Manual (HIM-11).

(17) Outpatient Physical Therapy Provider Manual (HIM-9).

(18) Provider Reimbursement Manual (HIM-15).

(19) Audit Program Manuals for Hospitals (HIM-16), Home Health Agencies (HIM-17), and Extended Care Facilities (HIM-18).

(20) Service Area Directory (including the addresses and geographic areas serviced by district offices, branch offices, regional offices, and payment centers).

(21) Indexes to the materials listed in paragraph (a) of this section and in this paragraph (b) and an index to the Bureau of Hearings and Appeals Handbook.

§ 422.132 Materials in field offices of the Bureau of Hearings and Appeals.

(a) *Materials available for inspection.* The following materials are available for inspection in the field offices of the Bureau of Hearings and Appeals:

(1) Title 45 of the Code of Federal Regulations (including the public information regulation of the Department of Health, Education, and Welfare).

(2) Regulations of the Social Security Administration (see § 422.430(a)(3)).

(3) Title 5, United States Code.

(4) Compilation of the Social Security Laws.

(5) Social Security Rulings.

(6) Social Security Handbook.

(b) *Handbook available for inspection and copying.* The Bureau of Hearings and Appeals Handbook is available for inspection and copying in the field offices of the Bureau of Hearings and Appeals.

[FR Doc.71-7808 Filed 6-3-71; 8:52 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[49 CFR Parts 173, 177, 178]

[Docket No. HM-86; Notice No. 71-15]

TRANSPORTATION OF HAZARDOUS MATERIALS

Cargo Tank Use and Testing, Compressed Gases in Portable and Cargo Tanks, and Specification MC 331

The Hazardous Materials Regulations Board is considering amending §§ 173.33, 173.315, 177.824, 177.840, and 178.337 of the Department's Hazardous Materials Regulations. The proposed changes involve: (1) Editing to update the requirements of §§ 173.33 and 173.315 by using the more recently developed text from § 178.337; (2) removing duplicate text by replacement with references; (3) pro-

viding for a 5-year retest requirement for MC 331 cargo tanks; (4) canceling obsolete one-time test requirements for MC 330 and MC 331 cargo tanks; and (5) modifying some requirements for safety relief devices and remotely controlled internal valves.

The proposal is based, in part, on a petition by the Compressed Gas Association regarding a 5-year retest cycle for MC 331 cargo tanks and improved safety relief device criteria for use and installation on cargo and portable tanks.

The proposed changes to the following sections are intended to be editorial:

Sec.
173.33(g), introductory text;
173.315(a)(1), Note 2 and Note 4;
173.315(h), introductory text;
173.315(i)(12) and (13);
178.337-1(e);
178.337-2(c);
178.337-9(a) and (b);
178.337-11(a)(2), (4), and (b);
178.337-14(a) and (b);
178.337-15(a).

The proposed changes to the following sections would consist generally of transferring text from § 178.337 to §§ 173.33 and 173.315: § 173.33(g)(1), (2), (9), § 173.33(i)(1), (3), § 173.315(h)(2), and § 173.315(i)(1) through (11).

It is proposed to amend § 173.33(e) to cover cargo tanks on the basis of design rather than use. Section 173.33(e)(1) would require a 5-year retest cycle for MC 331 cargo tanks for which there are currently no periodic retest requirements; paragraph (e)(5) is proposed to be deleted, because in the Board's opinion, this provision is now obsolete. Testing of non-specification cargo tanks is covered by special permit and § 177.824(c)(4). Section 173.315(h)(3) and (4) and § 178.337-11(a)(3) would be changed to require orifice sizes based on a dimensional measurement of the opening. Section 173.315(i) would be amended by deleting the present table in paragraph (i)(2) by replacing it with general criteria equally applicable to all gases (see proposed § 173.315(i)(3) herein). Section 177.824 would be amended by the deletion of obsolete testing requirements in paragraphs (a), (e), (f), and (h). However, some of the present reporting requirements would be retained. Section 178.337 would be amended to correct a reference in paragraph (i) and to reduce the retention time for certain records. Section 177.840 would be amended by adding a new paragraph (g), to require that remotely controlled internal valves be in a closed position during transportation. Section 178.337-11(c) would be amended to apply to vapor discharge openings as well as liquid openings in tanks, consistent with conditions prescribed for cargo tanks authorized by special permits. Section 178.337-11(c)(5) would be revised to raise the melting point maximum of fusible elements to 250° F., and to more clearly specify the location of heat actuated elements on emergency control devices. Section 178.337-15(c) would be amended by addition of a cross reference to § 173.315(h)(3) and (4) and would no longer contain an

exemption for carbon dioxide and nitrous oxide. The Board is proposing this latter change because it is unable to establish any basis for continuation of this exemption.

The changes proposed by the Board are intended to improve regulatory language and standardize containment requirements for gases in MC 330 and MC 331 cargo tanks. The Board believes that the changes proposed have merit and that safety in transportation of gases will be enhanced by their adoption.

Several petitions were received requesting other changes that are not included in this notice:

(1) A request was made to change § 178.337-2(a)(4), stating that the current requirement that the final rolling of shell material be in the circumferential orientation of the tank shell was for use only with quenched and tempered steel (QT). The Board is of the opinion that the rule provides safety and is not unnecessarily burdensome. Ordinarily, flat steel is rolled lengthwise of the piece, and for practical reasons, the length of the piece is made the circumferential orientation of the tank. However, if material is cross-rolled (a practice not necessarily limited to QT steel), then the rule becomes important.

(2) A change was requested in § 178.337-9(b)(1). The petitioner contends the present rule implies that threaded fittings are not acceptable, but in the opinion of the petitioner, should be acceptable. The rule requires use of welded fittings wherever possible. Threaded fittings are not to be used if connection by a welded joint is possible. The petitioner suggests stronger piping be used for threaded fittings to offset any strength loss caused by the cutting of threads. This would, of course, be satisfactory for the bursting strength of pipe. But the pipe failures that have come to our attention have been cracks or breakage at threads, generally attributable to fatigue induced by jarring, vibration, or flexing, and not due to lack of strength to resist bursting. The Board believes that welded fittings are more desirable under continued, constant use.

(3) A change in § 178.337-9(b)(6) was also requested, to provide for any number of groupings of pipes, fittings, and openings on a cargo tank. The present rule requires openings to be grouped in one location. It is the Board's opinion that a rule permitting several openings in a tank shell in a variety of locations would not provide as adequate a safeguard as is now the case. The principle in such matters should be to reduce the number of openings, and to gather those necessary into one protected area.

(4) An amendment to § 178.337-11(c) was requested to discontinue requiring use of remotely controlled internal valves in openings under 2 inches in diameter. Presumably such openings would be protected by excess flow valves. Before full consideration can be given to this request, specific data must be presented as to why such remotely controlled valves are not necessary in smaller lines, and

as to the degree to which excess flow valves in smaller size vapor and liquid openings may be expected to assure the necessary protection.

(5) A petition was made to include valves operated by electromechanical means in § 178.337-11(c)(4). This proposal has not been included in this document. The Board will give full consideration to such a proposal if it can be shown that such valves incorporate a fail-safe mechanism that would result in a valve being closed in the event of loss of electrical power.

(6) A change was requested in § 178.337-14(a) to permit location of a rotary gage on the rear head of cargo tanks of 3,500 gallon capacity or less. The current requirement for a mid-point location, longitudinally and laterally, is to insure against overfilling. Location of the inner end of a rotary gage tube near the rear of a vehicle frequently could result in overfilling. The petitioner presented no data and did not suggest any means whereby overfilling would be prevented. The Board believes that to change the rule as proposed could lead to a serious reduction in safety in transportation of compressed gases.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 173, 177, and 178 as follows:

I. In Part 173:

(A) In § 173.33, the introductory text of paragraph (e) and paragraphs (e)(1), (g)(1), (2), (9), (i)(1) and (3) would be amended; the note following paragraph (i)(3) and paragraphs (e)(5) and (g)(5) would be canceled as follows:

§ 173.33 Cargo tank use authorization.

(e) A cargo tank designed for a service pressure of 100 p.s.i.g. or higher must not be used unless it has successfully passed the following tests, as applicable:

(1) Each DOT Specification MC 330 or MC 331 (§ 178.337 of this chapter) cargo tank must be tested at least once every 5 years in accordance with subparagraphs (2), (3), and (4) of this paragraph. Tanks and safety valves of cargo tanks used for the transportation of chlorine must be retested at least once every 2 years.

(5) [Canceled.]

(g) On tanks used for compressed gases except chlorine, the bursting strength of all piping, pipe fittings, hose, and other pressure parts except safety relief devices must be at least four times the design pressure of the tank. In addition, the bursting strength may not be less than four times any higher pressure to which each pipe, pipe fittings, hose, and other pressure part may be subjected in service by the action of a pump or other device. For tanks used in transporting chlorine, see subparagraphs (9) through (11) of this paragraph.

(1) Welded pipe joints must be used wherever possible. Where copper tubing

is permitted, joints must be brazed or be of equally strong metal union type. The melting point of brazing material must be no lower than 1,000° F. The method of joining must not decrease the strength of tubing and pipe, such as by the cutting of threads. Fittings must be extra heavy. Nonmalleable metals must not be used in the construction of valves or fittings.

(2) Each hose coupling must be designed for a pressure at least 20 percent in excess of hose design pressure and so there will be no leakage when connected.

(5) [Canceled.]

(9) No piping, hose, or other means of loading or unloading may be attached to the valves of a cargo tank containing chlorine except at the time of loading or unloading. No hose, piping, or tubing used for loading or unloading may be mounted or carried on the motor vehicle. Except at the time of loading or unloading, the pipe connections of the angle valves must be closed with screw plugs which are chained or otherwise fastened to prevent misplacement.

(i)

(1) Excess-flow valves must close automatically at the rated flow of gas or liquid as specified by the valve manufacturer. The flow rating of the piping, fittings, valves, and hose on both sides of the excess-flow valve must be greater than that of the excess-flow valve. If branching or other necessary restrictions are incorporated in the system so that flow ratings are less than that of the excess-flow valve at the tank, additional excess-flow valves must be located where the flow rates are reduced.

(3) Filling and discharge lines must be provided with manual shutoff valves located as close to the tank as practicable. However, when a self-closing internal shutoff valve is used, a manual shutoff valve must be located in the line ahead of the hose connection. The use of back flow check valves or excess-flow valves to satisfy the requirements of this rule and of paragraph (i) of this section with one valve is prohibited.

NOTE: [Canceled.]

(B) In § 173.315(a)(1) Table Notes 2 and 4 would be amended; the introductory text of paragraph (h) and subparagraphs (h)(2), (3), (4) would be amended; paragraph (i) would be amended.

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a)

(1)

Table

NOTE 2: See § 173.32 for authority to use other portable tanks.

NOTE 4: In the design of tanks for sulfur dioxide and chlorine a corrosion factor must

be applied as required by §§ 178.245-3(a) and 178.337-3(a) of this chapter.

(h) Each cargo tank and portable tank, except tanks filled by weight, must be equipped with one or more of the following gaging devices which indicate accurately the maximum permitted liquid level. Additional gaging devices may be installed but may not be used as primary controls for filling of cargo tanks and portable tanks. Gage glasses are not permitted on any cargo tank or portable tank.

(2) If the primary gaging device is adjustable, it must be capable of adjustment so that the end of the tube will be in the location specified in subparagraph (3) of this paragraph for at least one of the ladings to be transported, at a filling level corresponding to an average loading temperature. Exterior means must be provided to indicate this adjustment. The gaging device should be legibly and permanently marked in increments not exceeding 20° F. (or not exceeding 25 p.s.i.g. on tanks for carbon dioxide or nitrous oxide), to indicate the maximum levels to which the tank may be filled with liquid at temperatures above 20° F. If it is not practicable to mark the gaging device, this information must be legibly and permanently marked on a plate affixed to the tank adjacent to the gaging device. (Table remains the same.)

(3) A dip tube gaging device consists of a pipe or tube with a valve at its outer end, with its intake limited by an orifice not larger than 0.060 inch in diameter. If a fixed length dip tube is used the intake must be located midway of the tank both longitudinally and laterally and at maximum permitted filling level. In tanks for liquefied petroleum gases, the intake must be located at the level reached by the lading when the tank is loaded to maximum filling density at 40° F.

(4) Openings for pressure gages must be restricted at or inside the tank by orifices no larger than 0.060 inch in diameter.

(i) *Safety relief devices.* Each tank must be provided with one or more safety devices which, unless otherwise specified, must be safety relief valves of the spring-loaded type. Each device must be arranged to discharge upward and without obstruction to the outside of the protective housing to prevent any impingement of escaping gas upon the tank. For chlorine tanks, see special protective housing requirements as set forth in the applicable specification.

(1) Safety relief valves on any tank must have a total relieving capacity as determined by the flow formulae contained in the CGA Pamphlet S-1.2. As an alternative, total relieving capacity may be determined by the Fetterly's formula¹ for Specification MC 330 cargo

¹ Copies of Fetterly's formula dated Nov. 27, 1928, may be obtained from the Bureau of Explosives.

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tanks. Safety relief valves must have a total relieving capacity sufficient to prevent a maximum pressure in the tank of more than 120 percent of the design pressure. For an insulated tank the required relieving capacity of the relief valves must be the same as for an uninsulated tank, unless the insulation will remain in place and will be effective under fire conditions. In this case, the insulated tank must be covered by a sheet metal jacket of not less than 16 gage nominal thickness.

(2) Each safety relief valve must be arranged to minimize the possibility of tampering. If the pressure setting or adjustment is external to the valve, the safety relief valve must be provided with means for sealing the adjustment and must be sealed.

(3) Safety relief valves on each tank must be set to start-to-discharge at a pressure no higher than 110 percent of the tank design pressure and no lower than the pressure specified in subparagraph (a)(1) of this section for the gas transported.

(4) Each safety relief valve must be plainly and permanently marked with the pressure in p.s.i.g. at which it is set to discharge, with the actual rate of discharge of the device in cubic feet per minute of the gas or of air at 60° F. and atmospheric pressure, and with the manufacturer's name or trade name and catalog number. The start-to-discharge value must be visible after the valve is installed. The rated discharge capacity of the device must be determined at a pressure of 120 percent of the design pressure of the tank.

(5) Each safety relief valve must have direct communication with vapor space in the tank.

(6) Connections to safety relief valves must be of sufficient size to provide the required rate of discharge through the safety relief valves.

(7) No shutoff valve may be installed between a safety relief valve and the tank, except in cases where two or more safety relief valves are installed on the same tank, and one or more safety shutoff valves are arranged to always provide the required relief capacity through at least one of the safety relief valves.

(8) Each safety relief valve outlet must be provided with a protective device to prevent the entrance and accumulation of dirt and water. This device must not impede flow through the valve.

(9) On tanks for carbon dioxide or nitrous oxide, each safety relief device must be installed and located so that the cooling effect of the contents will not prevent the effective operation of the device. In addition to the required safety relief valves, these tanks may be equipped with one or more pressure controlling devices.

(10) Each tank for carbon dioxide also may be equipped with one or more frangible disc devices set to function at a pressure not over two times nor less than 1.3 times the design pressure of the tank.

(11) Each portion of connected liquid piping or hose that can be closed at both ends must be provided with a safety relief valve without an intervening shutoff valve.

(12) Subject to conditions of subparagraph (a)(1) of this section for the methyl chloride and sulfur dioxide optional portable tanks, one or more fusible plugs approved by the Bureau of Explosives may be used in place of safety relief valves of the spring-loaded type. The fusible plug or plugs must be in accordance with CGA Pamphlet S-1.2, to prevent a pressure rise in the tank of more than 120 percent of the design pressure. If the tank is over 30 inches long, each end must have the total specified safety discharge area.

(13) Safety relief valves on chlorine tank motor vehicles must conform with the standard of The Chlorine Institute, Inc., Type 1½ JQ225 Dwg. H51970 dated October 7, 1968.

II. In Part 177.

(A) In § 177.824, paragraph (a)(1) and paragraphs (e), (f), (h), and (i) would be amended to read as follows:

§ 177.821 Retesting and inspection of cargo tanks.

(a) * * *

(1) Every cargo tank, except specifications MC 330 and MC 331 cargo tanks, must comply with the testing requirements prescribed in paragraphs (a), (b), (c), and (d) of this section. Every cargo tank must be marked in accordance with the marking requirements of paragraph (h) of this section.

(e) *Compressed gas cargo tanks, specifications MC 330 and MC 331.* Every cargo tank constructed in compliance with specification MC 330 or MC 331 (§ 178.337 of this chapter) must be inspected and tested in accordance with § 178.33 of this chapter.

(f) *Reporting requirements.* Each motor carrier shall file a complete listing of MC 330 and MC 331 cargo tanks he has in service, with the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20591. Each motor carrier, when he acquires or places in service any MC 330 or MC 331 cargo tank (other than cargo tanks used in interchange service which are reported by another carrier), shall file a supplemental report with that Bureau.

(1) The initial listing and each subsequent report must include the following information:

(i) The carrier's name, address, and telephone number.

(ii) Each cargo tank identified as follows:

(a) Carrier's equipment number;
(b) Manufacturer's name;
(c) Manufacturer's serial number;
(d) Specification MC 330 or MC 331;
(e) "QT" (Quenched and tempered) or "NQT" (Not quenched and tempered).

(2) A copy of each report required by this paragraph must be retained by the

carrier during the period the tank is in the carrier's service and for 1 year thereafter.

(h) *Test date markings.* The month and year of the last test must be durably and legibly marked on the tank in letters not less than 1¼ inches high, near the metal certification plate.

(i) *Withdrawal of certification.* If, as the result of an accident or for any other reason a cargo tank no longer meets the applicable specification, the carrier shall remove the metal certification plate or make it illegible (see § 173.24(c)(1)(v) of this chapter). The details of the conditions necessitating withdrawal of the certification must be recorded and signed on the written certificate for that cargo tank. The vehicle owner shall retain the certificate for at least 1 year after withdrawal of the certification.

(B) In § 177.840, paragraph (g) would be added to read as follows:

§ 177.840 Compressed gases.

(g) Each liquid discharge valve on a cargo tank must be closed during transportation except during loading and unloading.

III. In Part 178:

In § 178.337-1 paragraph (e) would be amended; in § 178.337-2 paragraph (c) would be amended; in § 178.337-4 paragraph (b) would be amended; in § 178.337-8 paragraph (b) would be amended; in § 178.337-9 paragraphs (a) and (b) would be amended, paragraphs (c) and (d) would be redesignated (d) and (e) respectively, a new paragraph (e) would be added; in § 178.337-11 paragraph (a)(2), (3) would be amended, subparagraph (a)(4) and Note 1 following paragraph (b) would be canceled, paragraph (b), the introductory text of paragraph (c) and paragraph (c)(5) would be amended, paragraph (c)(6) would be added; in § 178.337-13 paragraphs (a) and (b) would be amended; in § 178.337-14 paragraphs (a), (b), (c) would be amended; in § 178.337-15 paragraph (a) would be amended to read as follows:

§ 178.337 Specification MC 331: cargo tanks constructed of steel, primarily for transportation of compressed gases as defined in the Compressed Gas Section.

§ 178.337-1 General requirements.

(e) *Insulation for carbon dioxide, chlorine, and nitrous oxide tanks.* See § 173.33(j) of this chapter.

§ 178.337-2 Material.

(c) *For anhydrous ammonia.* See § 173.33(h)(1) of this chapter.

§ 178.337-4 Joints.

(b) Welding procedure and welder performance tests must be made annu-

ally in accordance with section IX of the ASME Code. In addition to the essential variables named therein, the following must be considered as essential variables: Number of passes; thickness of plate; heat input per pass; and manufacturer's identification of rod and flux. When fabrication is done in accordance with Part UHT of the ASME Code, filler material containing more than 0.08 percent vanadium must not be used. The number of passes, thickness of plate, and heat input per pass may not vary more than 25 percent from the procedure or welder qualifications. Records of the qualifications must be retained for at least 5 years by the tank manufacturer and must be made available to duly identified representatives of the Department of Transportation and the owner of the tank.

§ 178.337-8 Outlets.

(b) *Chlorine tank valves.* See §§ 173.33(g)(10) and (i)(4) of this chapter. Regarding chlorine tank outlets, see also § 178.337-1(c)(2).

§ 178.337-9 Safety relief devices, valves and connections.

(a) See §§ 173.33(g), 173.301(d), and 173.315(i) of this chapter.

(b) Each valve must be designed, constructed, and marked for a rated pressure not less than the tank design pressure at the temperature expected to be encountered.

(c) Piping and fittings must be grouped in the smallest practicable space and protected from damage as required by § 178.337-10.

§ 178.337-11 Emergency discharge control.

(a) * * *

(2) Excess-flow valve design and operation. See § 173.33(i) of this chapter.

(3) *Chlorine tanks.* See § 173.33(i)(4) of this chapter.

(4) [Canceled]

(b) Shutoff valves. See § 173.33(i)(3) of this chapter.

NOTE 1: [Canceled]

(c) Every vapor and liquid discharge opening in tanks for flammable liquids, flammable compressed gases, and for anhydrous ammonia must be fitted with a remotely controlled internal shutoff valve. Each valve must conform to the following requirements:

(5) On a tank over 3,500 gallons water capacity, each internal shutoff valve must be provided with remote means of automatic closure, both mechanical and thermal, that are installed at the ends of the tank in at least two, diagonally opposite, locations. If the discharge connection at the tank is not in the general vicinity of one of the two locations specified above, one additional fusible element must be installed so that heat from a fire in that

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area will activate the emergency control system. Fusible elements used may not have a melting point exceeding 250° F.

(6) On a tank of 3,500 gallons water capacity or less, each internal shutoff valve must be provided with at least one remote control station, and the actuating means may be mechanical. This station must be at one end of the tank, away from the discharge connection area.

§ 178.337-13 Supporting and anchoring.

(a) A cargo tank that is not permanently attached to or integral with a vehicle chassis must be secured by turnbuckles or equally efficient securing devices for drawing the tank down tight on the frame. Means must be provided to present relative motion between the tank and the vehicle chassis when the vehicle is in operation.

(b) Any tank motor vehicle designed and constructed so that the cargo tank constitutes in whole or in part the stress member used in place of a frame must have the tank supported by external cradles. Cargo tanks mounted on frames must be supported by external cradles or longitudinal members. The cradles, where used, must subtend at least 120 degrees of the shell circumference. The design calculations for the supports must include beam stress, shear stress, torsion stress, bending moment and acceleration stress for the loaded vehicle as a whole, using a factor of safety of four, based in the ultimate strength of the material and on two "g" of longitudinal and lateral loading and three times static weight in vertical loading (see Appendix G of the ASME Code).

§ 178.337-11 Gaging devices.

(a) *Level gaging devices.* See § 173.315 of this chapter.

(b) *Pressure gages.* See § 173.33(g)(8) of this chapter.

(c) *Orifices.* See § 173.315(h)(3) and (4) of this chapter.

§ 178.337-15 Pumps and compressors.

(a) See § 173.33(g)(7) and (11) of this chapter.

Interested persons are invited to give their views on the proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before August 10, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, section 9 of the De-

partment of Transportation Act (49 U.S.C. 1657)

Issued in Washington, D.C. on May 28, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast
Guard, By direction of Com-
mandant U.S. Coast Guard.

KENNETH L. PIERSON,
Acting Director, Bureau of Mo-
tor Carrier Safety, Federal
Highway Administration.

[FR Doc. 71-7769 Filed 6-3-71; 8:49 am]

Office of Pipeline Safety

[49 CFR Part 192]

[Notice 71-2; Docket No. OPS-10]

MINIMUM FEDERAL SAFETY
STANDARDS FOR GAS PIPELINES

Deactivation of Service Lines

The Department of Transportation is considering an amendment to the minimum Federal safety standards for gas pipelines that would require certain steps be taken to prevent the unauthorized introduction of gas into inactive service lines. The amendment would also make several minor changes in terminology in the affected regulation to provide more consistent use of language.

During the past winter two serious gas explosions resulting from similar causes have demonstrated the need for an amendment to the minimum Federal safety standards. The National Transportation Safety Board, in making a recommendation on the subject, described the two accidents as follows:

In the first, 12 people were killed and more than 60 injured when a restaurant owner in New York City, on December 11, 1970, allegedly opened a shutoff valve located outside in the street, allowing gas to flow through unconnected house piping into the building where the gas exploded. In the second case, similar circumstances existed. On January 4, 1971, in Miami Beach, Fla., the new owner of a restaurant reportedly opened the valve at the gas meter behind the building which supplied his premises. The meter valve had been turned off by the gas utility at the request of the old owner. When the gas valve for the restaurant was turned on, the valves of the two other meters located behind the building were also opened. The gas lines leading from one of the other meters had been disconnected previously, but were not capped. When the valve for this meter was opened, it allowed gas to flow into the building. An explosion resulted which killed one person and injured 34 others.

These two occurrences clearly demonstrate the need for regulatory action in this regard.

The proposed rule making would involve a revision of § 192.727 of the minimum Federal standards and the addition of two new paragraphs. One new paragraph would require the locking of valves or physical disconnection and

sealing of the service line. When deactivation is for an indefinite period or for more than 1 year, the other new paragraph would require removal of the meter. Other changes to this section would involve use of the word "pipeline" as opposed to the words "facility" or "line".

Interested persons are invited to participate by submitting written comments on the proposal contained in this notice. Communications should identify the regulatory docket and notice numbers and be submitted in duplicate to the Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590. Communications received before July 15, 1971, will be considered before taking final action on the notice. All comments will be available for examination by interested persons at the Office of Pipeline Safety before and after the closing date for comments. The proposal contained in this notice may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend § 192.727 of Title 49 of the Code of Federal Regulations to read as follows:

§ 192.727 Abandonment or deactivation of pipelines.

(a) Each operator shall provide in its operating and maintenance plan for abandonment or deactivation of pipelines, including provisions for meeting each of the requirements of this section.

(b) Each pipeline abandoned in place, or, except when undergoing maintenance, each pipeline not subject to gas pressure, must be disconnected from all sources and supplies of gas, purged of gas, and the ends sealed. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(c) Whenever service to a customer is discontinued, one of the following must be complied with:

(1) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.

(2) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

(d) Each customer meter on an inactive service line must be removed and the connection to the gas supply sealed,

unless the operator has been requested to reactivate the service line in less than 1 year. This paragraph does not apply to shutting off gas for short periods during a changeover of customers.

(e) If air is used for purging, the operator shall ensure that a combustible mixture is not present after purging.

(f) Each abandoned vault must be filled with a suitable compacted material.

This notice is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. § 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1) and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

Issued in Washington, D.C., on May 28, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-7792 Filed 6-3-71;8:51 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1332]

[Ex Parte No. 276]

FILING OF SURFACE MAIL TRANSPORTATION SERVICE ORDERS OR DETERMINATIONS AND CONTRACTS

Request for Public Advice

MAY 12, 1971.

The Commission has received a request from the Post Office Department for reconsideration of certain portions of the order entered in this proceeding on March 23, 1971, 36 F.R. 6425. The Commission's order adopted new regulations to carry out its statutory responsibility under the Postal Reorganization Act, Public Law 91-375, 84 Stat. 719, enacted August 12, 1970.

In seeking reconsideration, the Department has requested changes in the newly adopted regulations governing the filing of mail transportation contracts with the Commission. The requested changes would allow the filing of photocopies of contracts, in lieu of actually signed

copies, and permit alteration of the contract numbering system used by the Commission to correspond to the system used by the Department in its internal operations. All of these changes involve Part 1332 of Subchapter D of Chapter X of Title 49, Code of Federal Regulations.

The Department requests that the following changes be made in these provisions:

1. The last sentence of paragraph (b) of § 1332.3 should be revised to read as follows: "Both copies may be photocopies, provided that they both shall be photocopies of the signed original, and that they both clearly indicate the names and when applicable, the official titles of the officers or officials executing the document on behalf of the respective contracting parties."

2. Paragraph (d) of § 1332.3 should be revised by deleting the words in parenthesis and adding the following language to the end of the paragraph: "... or in such other manner as the U.S. Postal Service and this Commission mutually agree."

3. Paragraph (e) of § 1332.3 should be revised to read as follows:

(e) *Renewal and replacement contracts.* Copies of all orders issued by the U.S. Postal Service terminating contracts prior to their normal expiration date shall be filed with this Commission. Copies of all contracts renewing or replacing prior contracts shall also be filed. Such orders and contracts will show the numbers of the prior contracts which are thereby terminated, renewed or replaced.

Any persons interested in the matters involved in this petition may, on or before 20 days from the date of publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the proposed modification. An original and 15 copies of such replies must be filed with the Commission and parties must show service of two copies upon the Assistant General Counsel, Transportation, Post Office Department, Washington, D.C. 20260. Thereafter, the Commission will proceed to dispose of the matter, observing any additional requirements that appear warranted to assure due process of law.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7885 Filed 6-3-71;8:52 am]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 91]

OVERSEAS PRIVATE INVESTMENT CORPORATION

Delegation of Authority Relating to Certain Loans

1. Pursuant to the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State, dated November 3, 1961 (26 F.R. 10608), I hereby redelegate to the Overseas Private Investment Corporation, the following:

a. Authority pursuant to section 104 (e) of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), as amended, to authorize, negotiate, execute, amend, and implement loan agreements and other related agreements, to make collections under such loan agreements, to make related approvals and determinations, and to take all appropriate action in the exercise of the authority delegated hereby.

b. The authority delegated herein shall extend to loans heretofore entered into under section 104(e) of Public Law 480 by the Agency for International Development and the Export-Import Bank of Washington.

2. The authority delegated herein may be redelegated successively and may be exercised by persons who are performing the functions of designated officers in an acting capacity. The authority delegated herein may also be redelegated to the Director or Deputy Director of any United States A.I.D. Mission abroad or to the principal diplomatic officer in any foreign country.

3. Notwithstanding any provision of this Delegation of Authority, the Administrator, A.I.D., may, through any A.I.D. officer, exercise concurrently any function delegated herein to the Overseas Private Investment Corporation.

4. This delegation of authority supercedes paragraph 1, D of A.I.D. Delegation of Authority No. 39, as amended.

5. This Delegation of Authority shall be effective immediately.

Dated: May 24, 1971.

MAURICE J. WILLIAMS,
Acting Administrator.

[FR Doc.71-7754 Filed 6-3-71;8:47 am]

Notices

DEPARTMENT OF JUSTICE

[Directive No. 1-71]

DEPUTY ASSISTANT ATTORNEYS GENERAL, INTERNAL SECURITY DIVISION

Delegation of Authority

Redelegation of authority with respect to application for orders compelling testimony or production of evidence by witnesses.

By virtue of the authority vested in me by section 0.178 of Title 28 of the Code of Federal Regulations, the authority delegated to me by §§ 0.175, 0.176, and 0.177 of that title is hereby redelegated to the Deputy Assistant Attorneys General of the Internal Security Division, to be exercised by any of them solely during my absence from the City of Washington.

This directive shall become effective on May 25, 1971.

Dated: May 25, 1971.

ROBERT C. MARDIAN,
Assistant Attorney General.

[FR Doc.71-7750 Filed 6-3-71;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management CALIFORNIA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

MAY 27, 1971.

Notice of a Forest Service, U.S. Department of Agriculture application Sacramento 047049 for withdrawal and reservation of lands for the Bear Valley Administrative Site was published as FEDERAL REGISTER Document 57-7081 on page 6995 of the issue for August 30, 1957. The applicant agency has canceled its application insofar as it affects the lands described below.

Therefore, pursuant to the regulations in 43 CFR Subpart 2350, such lands, at 10 a.m. on July 6, 1971, will be relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

MOUNT DIABLO MERIDIAN

STANISLAUS NATIONAL FOREST

Administrative Site—Bear Valley

T. 7 N., R. 18 E.,
Sec. 18, SW 1/4 NE 1/4.

The area described aggregates 40 acres in Alpine County.

ELIZABETH H. MIDTBY,
Chief,
Lands Adjudication Section.

[FR Doc.71-7745 Filed 6-3-71;8:46 am]

[Sacramento 654]

CALIFORNIA

Order Providing for Opening of Public Lands

MAY 27, 1971.

1. In exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, the following described lands have been conveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 41 N., R. 7 W.,
Sec. 4, SW 1/4 NW 1/4, N 1/2 SW 1/4, NW 1/4 SE 1/4;
Sec. 7, Lots 1, 2, 3, 4, E 1/2 W 1/2;
Sec. 8, W 1/2 NE 1/4.
T. 41 N., R. 8 W.,
Sec. 13, N 1/2, SW 1/4.

The area described aggregates 1,040.28 acres.

2. The land is located in Scott Valley, Siskiyou County, and is accessible from Yreka to the northeast, Somes Bar to the west, Trinity Center to the south, and Gazelle to the east. The topography ranges from gentle to steep slopes. The soil on the hills is shallow with a scattered overburden of rock and gravels from light to heavy on some of the tracts. The vegetation consists of cut over stands of Ponderosa pine on portions of the floor of the gulch. The north slopes are dense brush-covered hillsides consisting of buck brush, scrub white oaks, scattered mountain mahogany and junipers.

3. Subject to valid existing rights and the requirements of applicable law, the lands are hereby opened to application, petition, location, and selection including location under the U.S. mining laws. All valid applications received at or prior to 10 a.m., July 6, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, E-2807 Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

ELIZABETH H. MIDTBY,
Chief,

Lands Adjudication Section.

[FR Doc.71-7746 Filed 6-3-71;8:47 am]

[New Mexico 13339]

NEW MEXICO**Designation of Organ Mountain Recreation Lands**

May 28, 1971.

Pursuant to the authority in 43 CFR, Subpart 2070 and the authorization from the Director dated May 13, 1971, I hereby designate the public lands in the following described areas as the Organ Mountain Recreation Lands:

NEW MEXICO PRINCIPAL MERIDIAN

- T. 22 S., R. 3 E.,
 Sec. 10, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 12, lots 15 to 20, inclusive;
 Sec. 13, lots 3, 4, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$;
 Sec. 14, lots 8 to 16, inclusive and W $\frac{1}{2}$;
 Secs. 15 and 22;
 Sec. 23, lots 7, 8, 9, 10, and E $\frac{1}{2}$ E $\frac{1}{2}$;
 Sec. 24;
 Sec. 25, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and W $\frac{1}{2}$ W $\frac{1}{2}$ excluding patented mining claims;
 Sec. 26, lots 1, 2, 3, 4, E $\frac{1}{2}$ E $\frac{1}{2}$ excluding mining claims and W $\frac{1}{2}$;
 Secs. 27, 34, and 35;
 Secs. 36, lots 1, 2, and 3.
 T. 23 S., R. 3 E.,
 Secs. 3, 9, and 10;
 Sec. 11, lots 1, 2, W $\frac{1}{2}$ lot 4 and lot 8;
 Sec. 14, lot 5;
 Sec. 15;
 Sec. 23, lots 1, 2, 3, 4, 9, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 24, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 25, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 26, W $\frac{1}{2}$ W $\frac{1}{2}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Secs. 27 and 34;
 Sec. 35, W $\frac{1}{2}$;
 T. 24 S., R. 3 E.,
 Secs. 1, 3, and 10;
 Sec. 11, W $\frac{1}{2}$ E $\frac{1}{2}$ and W $\frac{1}{2}$;
 Sec. 12, N $\frac{1}{2}$ and S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 13;
 Sec. 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 15 and 22;
 Sec. 23, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ and S $\frac{1}{2}$;
 Sec. 24, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Secs. 25, 26, and 27;
 Sec. 34, NE $\frac{1}{4}$, W $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$ and SE $\frac{1}{4}$.
 T. 25 S., R. 3 E.,
 Sec. 3.
 T. 22 S., R. 4 E.,
 Sec. 6, lots 16, 17, 20, 21, 22, and 23;
 Secs. 7 and 8;
 Sec. 16, lot 1, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 17 and 18;
 Sec. 20, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
 Secs. 32 and 33;
 Sec. 34, NE $\frac{1}{4}$ and S $\frac{1}{2}$;

The areas described aggregate approximately 27,167 acres in Dona Ana County.

The Organ Mountain Recreation Lands are a "Class II—General Outdoor Recreation Area" under the Bureau of Outdoor Recreation system of classification.

W. J. ANDERSON,
State Director.

[FR Doc.71-7747 Filed 6-3-71;8:47 am]

WYOMING**Notice of Restricted Vehicle Use; Closure Order**

Notice is hereby given in accordance with title 43 CFR 6014.4, that the follow-

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ing described public lands under the administration of the Bureau of Land Management, are closed to unauthorized motor vehicles:

SIXTH PRINCIPAL MERIDIAN, WYOMING**NATRONA COUNTY**

- T. 31 N., R. 78 W.,
 Sec. 6, S $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 7, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 31 N., R. 79 W.,
 Sec. 1, SE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and that portion of the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ lying east of the loop road;
 Sec. 12, NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and that portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ lying east of the loop road.

The above described lands contain approximately 630 acres.

Two small recreation sites within 300 feet of the loop road and within the above described land will be opened to motorized vehicles when completed.

It has been determined that continued use of the area by motor vehicles would eventually alter the natural state of the land, cause damage to the vegetation cover, resulting in erosion problems, and would be detrimental to wildlife in the area, especially elk.

Therefore, all unauthorized motor vehicles are excluded and the lands closed to such use effective June 7, 1971. Authorization to operate motor vehicles in the area will be handled by the Casper District Office of the Bureau of Land Management. Signs will be posted to identify the exterior boundaries of the closed area.

Maps showing the closed area are posted at the Post Office and Natrona County Courthouse, Casper, Wyo., and in the Casper District BLM Office, Federal Building, Casper, Wyo.

The cooperation and assistance of the public will be sincerely appreciated.

Dated: May 28, 1971.

JOHN R. KILLOUGH,
Acting State Director,
Bureau of Land Management.

[FR Doc.71-7748 Filed 6-3-71;8:47 am]

DEPARTMENT OF AGRICULTURE**Office of the Secretary****TENNESSEE****Designation of Areas for Emergency Loans**

On the basis of the May 18, 1971 declaration by the President of a major disaster and the consequent areas determination by the Director, Office of Emergency Preparedness, the following counties in the State of Tennessee are hereby designated for the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) as modified by section 232 of the Disaster Relief Act of 1970 (Public Law 91-606):

TENNESSEE

Benton.
 Carroll.

Emergency loans will not be made in these counties under this designation after June 30, 1972, except subsequent loans to qualified borrowers who receive initial loans under this designation on or before that date.

Done at Washington, D.C., this 28th day of May, 1971.

CLIFFORD M. HARDIN,
Secretary of Agriculture.
 [FR Doc.71-7826 Filed 6-3-71;8:54 am]

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[Docket No. B-517]

KENNETH CUSHMAN**Notice of Loan Application**

May 26, 1971.

Kenneth Cushman, Friendship, Maine 04547, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 30 feet in length, to engage in the fishery for lobsters.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 142c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.
 [FR Doc.71-7739 Filed 6-3-71;8:46 am]

Office of the Secretary
BRIGHAM YOUNG UNIVERSITY**Notice of Decision on Application for Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and

the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00245-33-46040. Applicant: Brigham Young University, Purchasing Department, Provo, UT 84601. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used as a teaching and training instrument for undergraduate and graduate students in the biological sciences. Courses include Electron Microscopy, Electron Microscopy Laboratory, Cell Biology, and Ultrastructural Interpretation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forglor Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 5, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
 [FR Doc.71-7785 Filed 6-3-71;8:50 am]

DUKE UNIVERSITY**Notice of Decision on Application for Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the

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regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00243-33-46040. Applicant: Duke University Medical Center, Department of Anatomy, Post Office Box 3011, Durham, NC 27706. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article will be used for studies of isolated protein molecules, crystalline bovine serum albumin, subunit structure of several crystalline protein molecules, and of metallic replicas of membrane fragments.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forglor Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
 [FR Doc.71-7786 Filed 6-3-71;8:50 am]

MAYO FOUNDATION**Notice of Decision on Application for Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the

regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00244-33-46040. Applicant: Mayo Foundation, Rochester, MN 55901. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for medical research concerning studies of the enlarged heart in experimental animals and in man; electron microscopic studies of the central nervous system; and for an investigation of degeneration of unmyelinated fibers in the central nervous system as well as the study of synaptic contacts and degeneration of these in brain stem nuclei.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forglor Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
 [FR Doc.71-7787 Filed 6-3-71;8:50 am]

LOUISIANA STATE UNIVERSITY**Notice of Decision on Application for Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00237-46040. Applicant: Louisiana State University, 510 East Stoner Avenue, Shreveport, LA 71101. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for high resolution studies of the micromorphology and capsomere structure of papovaviruses, picornaviruses and picodnaviruses; for comparative studies of osteolytic and osteogenic states induced by picodnaviruses in fetal hamsters; and for attempts to identify virus-like particles in human osteosarcoma.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7788 Filed 6-3-71;8:50 am]

NORTHWESTERN UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00274-33-46040. Applicant: Northwestern University Medical School, Department of Pathology, 303 East Chicago Avenue, Chicago, IL 60611. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for studies of the properties of renal tubular basement membrane; the nature of structural and biochemical changes in irreversible ischemic cellular injury; and for protein transport studies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7789 Filed 6-3-71;8:50 am]

PASSAVANT MEMORIAL HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00235-33-46040. Appli-

cant: Passavant Memorial Hospital, 303 East Superior Street, Chicago, IL 60611. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used in the study of a wide variety of materials for both diagnostic and research purposes. Routine tissue section techniques will be used for the study of surgical biopsy material, particularly renal biopsy material, particularly renal biopsies and tumor pathology. Also, material is being collected for the study of the relationship of viruses to human disease, particularly their presence in certain tumors.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7790 Filed 6-3-71;8:51 am]

ROCKEFELLER UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00349-33-46040. Applicant: The Rockefeller University, York Avenue and 66th Street, New York, NY 10021. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used in the Department of Biochemical Cytology for studies at all levels of resolution, including very high resolution, of different cytological phenomena occurring in normal and pathologically altered cells. The major problems to be studied include combined morphological and biochemical studies on lysosomes and peroxisomes in mammalian liver and other tissues and in the protozoan *Tetrahymena pyriformis*.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 20, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-7791 Filed 6-3-71;8:51 am]

ROCKEFELLER UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office

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of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00266-33-46040. Applicant: Rockefeller University, The Population Council Bio-Medical Division, 66th and York Avenue, New York, NY 10021. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for high resolution studies of the mechanism of action of steroid hormones, namely estrogens at the sub-cellular level in target cells, by means of autoradiography, study of macromolecules such as proteins and nucleic acids, cellular organelles such as lysosomes, endoplasmic reticulum, golgi body, nuclear and cell membranes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7793 Filed 6-3-71;8:51 am]

WM. H. SINGER MEMORIAL RESEARCH INSTITUTE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00317-33-46040. Applicant: Wm. H. Singer Memorial Research Institute of the Allegheny General Hospital, 320 East North Avenue, Pittsburgh, PA 15212. Article: Two electron microscopes, Model EM 300 and accessories. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use or article: The article will be used for a study of the ultrastructure of several oncogenic simian adenoviruses with respect to the mechanism by which these viruses produce cancer in host animals; and for an investigation of the fine structure of simian viruses and Herpes virus with particular reference to the processes of multiplication and replication in tissue culture cell lines.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7794 Filed 6-3-71;8:51 am]

AGRICULTURAL RESEARCH STATION, SALINAS, CALIF.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00195-33-46040. Applicant: U.S. Agricultural Research Station, 1636 East Alisal Street, Post Office Box 5098, Salinas, CA 93901. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article will be used for research on viruses of sugar beets in isolated states and in sections of infected material. Another area of research will be the study of pollen development and cytoplasmic male sterility in sugar beet. Additionally, other projects on bacterial and fungal pathogenesis and related topics may be carried out as the need arises.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgglo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.
[FR Doc.71-7795 Filed 6-3-71;8:51 am]

UNIVERSITY OF SOUTHERN CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c)

of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00341-33-46040. Applicant: University of Southern California, School of Medicine, Department of Pathology, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Electron microscope, Model HS-8F. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used primarily for educational purposes and secondarily in the study of diseases of the human central nervous system. Human brain tissues obtained at surgery or at autopsy will be studied. Ultrastructural Pathology and Neuropathology courses for graduate students, residents and fellows, will teach electron microscopy and the pathology of the central nervous system.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgglo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 5, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.
[FR Doc.71-7796 Filed 6-3-71;8:51 am]

UNIVERSITY OF COLORADO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00340-33-46040. Applicant: University of Colorado, Department of Molecular, Cellular and Developmental Biology, Boulder, CO 80302. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used for educational purposes. Cell and tissue biology, a course for undergraduates, will introduce the students at the laboratory level to the techniques and instrumentation of electron microscopy, the procedures of cell fractionation, cytochemistry, histochemistry and autoradiography, and the isolation and examination of macromolecules from cells and tissues. Techniques of biological research, a course for graduate students, is designed to provide rigorous training in the techniques of cell biology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgglo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 5, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.
[FR Doc.71-7797 Filed 6-3-71;8:51 am]

ILLINOIS STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00299-33-46070. Applicant: Illinois State University, Normal, IL 61761. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used for studies involving seed, pollen, and leaves, fungus mycelium and spores, other microbiological specimens, cuticular surface features of insects, insect eggs, and various invertebrate parasites. Investigations will also include the study of freeze-etched surfaces of cells, cell membranes, and cell organelles. The application of the scanning electron microscopy will be taught to graduate students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with a dual diffusion pump system which permits the vacuum in the column and the specimen chamber to be independently maintained. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 10, 1971, that the dual diffusion pump system of the foreign article is pertinent to the applicant's research studies. HEW further advises that it knows of no domestically manufactured scanning electron microscope that provides the pertinent characteristic.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such

article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.
[FR Doc.71-7798 Filed 6-3-71;8:51 am]

UNIVERSITY OF MINNESOTA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00366-33-46040. Applicant: University of Minnesota, St. Paul, MN 55101. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used primarily as a teaching instrument for the training of professional staff and graduate students in the College of Veterinary Medicine. Emphasis will be placed on specimen preparation, microtomy, and interpretation of electron micrographs.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgglo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 20, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.
[FR Doc.71-7799 Filed 6-3-71;8:51 am]

UNIVERSITY OF NORTH CAROLINA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00319-33-46040. Applicant: University of North Carolina, School of Medicine, Department of Pathology, Chapel Hill, NC 27514. Article: Electron microscope, Model JEM 100B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan.

Intended use of article: The article will be used for ultrastructural studies of biological materials related to a research program concerning the "Subcellular or Ultrastructural Pathology of Heavy Metals". Detailed changes in organelles (subcellular structures) in cells of animal organs as affected by ingestion of heavy metals is being studied in order to understand the manner in which metal contaminants in our environment affect the metabolism of cells and human health.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgglo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the

Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7800 Filed 6-3-71;8:51 am]

UNIVERSITY OF SOUTHERN CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00302-33-46040. Applicant: University of Southern California, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Electron Microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for ultrastructural studies on cell membranes and membrane components. A continuing project concerns red blood cell membranes, another study is on viruses and virus components, and other research is planned on Australian antigen (hepatitis) and the structure of myxo-virus such as influenza.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgglo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 19, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the

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Model EMU-4C is not of equivalent scientific value to the foreign articles for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-7801 Filed 6-3-71;8:52 am]

UNIVERSITY OF TENNESSEE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00240-65-86300. Applicant: The University of Tennessee, Department of Chemical and Metallurgical Engr., Knoxville, TN 37916. Article: Viscoelastometer, Model DDV-II. Manufacturer: Toyo Measuring Instruments Co., Ltd., Japan.

Intended use of article: The article will be used for the measurement of dynamic modulus and loss modulus for fibers, plastic, elastomers and composites over a range of frequencies and temperatures.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has the ability to make torsional as well as extension measurements on fibers, plastics, elastomers, and composites at a wide range of temperatures and frequencies. We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 26, 1971, that the capabilities described above are pertinent to the purposes for which the foreign article is intended to be used. NBS further advises that it knows of no comparable domestic instrument which can be used for all the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such

article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7802 Filed 6-3-71;8:52 am]

UNIVERSITY OF TEXAS (SOUTHWESTERN)

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00297-33-46040. Applicant: The University of Texas (Southwestern), Medical School at Dallas, 5323 Harry Hines Boulevard, Dallas, TX 75235. Article: Electron microscope Model EM-9S. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used by the Department of Anatomy for research on the development and differentiation in Drosophila. The Department of Internal Medicine's research centers around changes in the thickness of the capillary basement membrane in the tissues of persons suffering from diabetes mellitus. Courses in which the electron microscope will be used are Cell Biology, Techniques in Cell Biology, Advanced Topics in Anatomy—Electron Microscopy, and Research in Anatomy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgglo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 10, 1971, that the relative sim-

plicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7803 Filed 6-3-71;8:52 am]

CHILDREN'S HOSPITAL OF SAN FRANCISCO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00330-33-46040. Applicant: Children's Hospital of San Francisco, 3700 California Street, San Francisco, CA 94119. Article: Electron microscope, EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used in the study of biologic fixed tissue. This includes tumors excised from the human body at surgery, experimental animal tissues before and after experimental alterations, and tissue fluids to be studied for the presence of virus particles. The Department of Pathology will train post-doctoral fellows, students, and coworkers in the use of the microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgglo Corp. The Model EMU-4C elec-

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tron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 26, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7804 Filed 6-3-71;8:52 am]

UNIVERSITY OF WISCONSIN

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00255-33-46040. Applicant: University of Wisconsin, 750 University Avenue, Madison, WI 53706. Article: Electron microscope, Model HU-11E-1. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used by a research group whose prime interest is the integrated study of the structure and function of biological membranes in general and, since it is structurally a system of membranes, of the mitochondrion in particular. Such diverse membranes as human and animal red blood cell ghost membranes, chloroplast membranes from plants and retinal rod membranes from animal eyes will be studied.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by

the Forgglo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-7805 Filed 6-3-71;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration [DESI 6686]

[Docket No. FDC-D-317; NDA 6-686, etc.]

DIMENHYDRINATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs containing dimenhydrinate for oral, parenteral, or rectal use:

1. Dramamine Suppositories (suppositories); G. D. Searle and Co., Post Office Box 5110, Chicago, Illinois 60680 (NDA 8-310).

2. Dramamine Tablets and Dramamine Liquid; G. D. Searle and Co. (NDA 6-686).

3. Dramamine Injection; G. D. Searle and Co. (NDA 8-153).

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. Dimenhydrinate is effective for use in motion sickness.

2. Dimenhydrinate is probably effective for use in the control of nausea and vomiting postoperatively, and following radiation and electroshock therapy.

3. Dimenhydrinate is possibly effective for use in nausea, vomiting, and vertigo associated with Meniere's syndrome, postmenstruation syndrome, and migraine; and nausea and vomiting of pregnancy.

4. Dimenhydrinate lacks substantial evidence of effectiveness for use in nausea, vomiting, and vertigo associated with hypertension; vertigo of unknown origin; labyrinthitis; nausea and vomiting of narcotization; and as an adjunct with antibiotic therapy particularly streptomycin.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Dimenhydrinate preparations are in tablet or liquid, sterile solution, or suppository form suitable for oral, parenteral, or rectal administration respectively.

2. *Labeling conditions for Dimenhydrinate Tablets or Liquid for OTC use.* a. The drug is labeled to comply with all requirements of the Act and regulations promulgated thereunder, and its labeling bears adequate directions and warnings under which a layman can use the drug safely and for the purpose for which it is intended.

b. The statement of identity, which includes the general pharmacological category or principal intended action, required under § 1.102a (21 CFR 1.102a) appears in bold face type on the principal display panel.

c. The indications for use are: For prevention and treatment of motion sickness.

3. *Labeling conditions for Dimenhydrinate Suppositories and Injection for Prescription Use.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

Dimenhydrinate is indicated in prophylaxis and treatment of motion sickness; for the control of nausea and vomiting postoperatively and following radiation and electroshock therapy.

4. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273) as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed (except when administered intravenously), as described in paragraphs

(a) (1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed (except for the intravenous administration), as described in paragraph (a) (3) (ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section for prescription forms above) and possibly effective (not included in the "Indications" section above), continued use (in labeling of prescription forms and that labeling directed to the practitioner concerning over-the-counter forms) as described in paragraphs (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A (Effectiveness classification) of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order may cause any such drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling or why the drug should not be removed from the market. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice

must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6686, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852.

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.
Request for a hearing (Identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-62, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 255) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7742 Filed 6-3-71; 8:46 am]

[DESI 10773]

CERTAIN OTC LAXATIVE DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following laxative drugs for oral use:

1. Mucilose-Super Powder containing hemicellulose and tyloxapol; Winthrop

Laboratories, 90 Park Avenue, New York, New York 10016 (NDA 11-623).

2. Correctol Tablets containing phenolphthalein and dioctyl sodium sulfosuccinate; Pharmaco, Inc., Post Office Box 1141, Union, New Jersey 07083 (NDA 10-773).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are possibly effective for their labeled indications.

B. *Marketing status.* Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 10773, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852.

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 5, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7743 Filed 6-3-71; 8:45 am]

Public Health Service

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration), formerly part 5, of the Statement of Organization, Functions, and Delegations of Authority for

the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968, as amended by 35 F.R. 12030, July 25, 1970), is hereby amended with regard to Section 3-B, formerly 5-B, Organization, as follows:

In lieu of the section *Division of Manpower and Training Programs* (2445), insert the following:

Division of Manpower and Training Programs (3745). (1) Plans and administers programs of support for training of mental health personnel for research and service on a nationwide basis, including training in the mental health care disciplines, specialized training for professionals and subprofessionals in allied fields, and experimental training for current and newly emerging programs and activities; (2) develops and utilizes various types of grant and contract mechanisms to support these training programs; (3) conducts intramural and collaborative programs designed to increase knowledge of the processes and techniques of mental health education and training, and to develop new approaches to mental health curricula and methods; and (4) collects and evaluates data on national mental health manpower.

Also, in lieu of the sections *National Center for Mental Health Services, Training, and Research* (3771); *St. Elizabeths Hospital-Division of Clinical and Community Services* (377103); *Seymour D. Vestermark Division of Intramural Training* (377105); and *Winifred Overholser Division of Clinical Research* (377107), insert the following:

St. Elizabeths Hospital-Division of Clinical and Community Services (3771). (1) Provides treatment, care, and rehabilitation services for psychiatric patients including a security treatment facility; (2) operates a model comprehensive community mental health center; (3) conducts and coordinates Hospital training and research programs; and (4) provides administrative and logistical support to other NIMH research activities located in the facilities of the Hospital.

Date: May 26, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc. 71-7807 Filed 6-3-71; 8:52 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Designation

SECTION A. *Designation.* The officials appointed to, or designated to serve as Acting during a vacancy in, the following positions are hereby designated to serve as Acting Assistant Secretary for Housing Management during the absence of the Assistant Secretary for Housing Management with all the powers, functions, and duties delegated or assigned to

the Assistant Secretary for Housing Management: *Provided*, That no official is authorized to serve as Acting Assistant Secretary for Housing Management unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

1. Deputy Assistant Secretary for Housing Management;
2. Director, Office of Housing Programs;
3. Director, Office of Program Development;
4. Director, Office of Property Disposition.

Sec. B. *Authorization.* Each head of an organizational unit of Housing Management is authorized to designate an employee under his jurisdiction to serve as Acting during the absence of the head of the unit.

Sec. C. *Supersedures.* This designation supersedes the designation of Acting Assistant Secretary for Renewal and Housing Management et al. published at 35 F.R. 4769, March 19, 1970.

(Secretary's delegation of authority to designate Acting officials, 36 F.R. 5004, March 16, 1971)

Effective date. This delegation of authority is effective as of March 11, 1971.

NORMAN V. WATSON,
Assistant Secretary for
Housing Management.

[FR Doc. 71-7749 Filed 6-3-71; 8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-358]

CINCINNATI GAS & ELECTRIC CO.
ET AL.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matter

The Cincinnati Gas & Electric Co. (Cincinnati), Fourth and Main Streets, Cincinnati, OH 45202; Columbus and Southern Ohio Electric Co. (Columbus), 215 North Front Street, Columbus, OH 43215; and The Dayton Power and Light Co. (Dayton), 25 North Main Street, Dayton, OH 45401, pursuant to the Atomic Energy Act of 1954, as amended, have filed an application dated April 6, 1970, for construction permits and facility licenses to authorize construction and operation of two single cycle, forced circulation, boiling water nuclear reactors on a site on the east shore of the Ohio River, just north of Moscow and about 24 miles southeast of Cincinnati, in Washington Township, Clermont County, Ohio. In a subsequent amendment to the application, dated December 15, 1970, the applicants amended the application to reflect a single unit.

The proposed reactor, designated by the applicants as the Wm. H. Zimmer Nuclear Power Station Unit 1 (Zimmer

Station), is designed for initial operation at approximately 2,436 megawatts (thermal), with a net electrical output of approximately 807 megawatts.

Cincinnati, Columbus, and Dayton will share undivided ownership of the proposed Zimmer Station as tenants in common, and will share in the engineering and construction costs in proportion to their ownership interests as set forth in the application. Cincinnati, acting for itself and as agent for Columbus and Dayton, will have responsibility for the design, construction and operation of Zimmer Station.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after May 21, 1971.

A copy of the application, including amendments, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Clermont County Library, Third and Broadway, Batavia, OH.

Dated at Bethesda, Md., this 14th day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,

Division of Reactor Licensing.

[FR Doc.71-7039 Filed 5-20-71;8:45 am]

[Dockets Nos. 50-329, 50-330]

CONSUMERS POWER CO.

Location of Hearing

The hearing in the above captioned matter will be continued on June 21, 1971, at the following location:

Jefferson Junior High School Gymnasium,
800 Chapel Lane, Midland, MI 48640.

Dated: May 28, 1971.

For the Atomic Safety and Licensing Board.

ARTHUR W. MURPHY,
Chairman.

[FR Doc.71-7736 Filed 6-3-71;8:46 am]

[Docket No. 50-321]

GEORGIA POWER CO.

Notice of Receipt of Application for Facility Operating License

Please take notice that the Georgia Power Co., 270 Peachtree Street, Atlanta, GA 30303, pursuant to the Atomic Energy Act of 1954, as amended (the Act) has filed an application dated March 12, 1971, accompanied by a Final Safety Analysis Report, for a license to operate a nuclear power reactor on its site on the south side of the Altamaha River in northwestern Appling County, about 11 miles north of Baxley, Ga.

The nuclear power reactor is a boiling water reactor, designated by the applicant as the Edwin I. Hatch Nuclear Plant

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Unit 1, which is designed for initial operation at approximately 2,436 megawatts thermal with a net electrical output of approximately 786 megawatts.

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Appling County Public Library, Parker Street, Baxley, Ga.

Dated at Bethesda, Md., this 27th day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,

Division of Reactor Licensing.

[FR Doc.71-7737 Filed 6-3-71;8:46 am]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Notice of Receipt of Application for Facility Operating License

Please take notice that Sacramento Municipal Utility District, 6201 S Street, Post Office Box 15830, Sacramento, CA 95813, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application dated May 1, 1971, together with a final safety analysis report, for a license to operate a nuclear power reactor at its site in Sacramento County, CA.

The nuclear power reactor is a pressurized water nuclear reactor designated by the applicant as the Rancho Seco Nuclear Generating Station Unit No. 1, and is designed for initial operation at approximately 2,772 megawatts (thermal) with a net electrical output of approximately 955 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Sacramento City County Library, 1930 T Street, Sacramento, CA 95814, Mrs. Dorothy Drake, Librarian.

Dated at Bethesda, Md., this 21st day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,

Division of Reactor Licensing.

[FR Doc.71-7738 Filed 6-3-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23378]

SURINAAMSE LUCHTVRACHT ONDERNEMING N.V.

Application for Foreign Air Carrier Permit; Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled

application is assigned to be held on June 16, 1971, at 10 a.m., local time, in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Edward T. Stodola.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement before June 14, 1971.

Dated at Washington, D.C., June 1, 1971.

[SEAL]

RALPH L. WISER,
Associate Chief Examiner.

[FR Doc.71-7829 Filed 6-3-71;8:54 am]

[Docket No. 23456; Order 71-6-4]

WTC AIR FREIGHT

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1971.

By tariff revisions¹ effective January 29, 1971, WTC Air Freight (WTC), an air freight forwarder, established airport-to-airport specific commodity rates on various toilet preparations and related articles having a density of 15 pounds per cubic foot or more from New York/Newark to Los Angeles. WTC's rates result in reductions ranging from 13 to 40 percent below the previously applicable rates on the same commodities with no density requirements.

United Air Lines, Inc. (United), filed a complaint on February 2, after WTC's rates had become effective, requesting an expedited investigation. United's complaint states, inter alia, that the purpose of the revisions is to capture traffic through attractive, but economically destructive rates. United contends that these rates are for the purpose of implementing the charter contract between Airlift International, Inc. (Airlift), and the freight forwarder, Shulman, Inc. (Shulman), and the joint loading agreement between Shulman and WTC, which have been opposed by United. United further alleges that the rates complained of are considerably below compensatory levels to WTC's and are filed as loss leaders.

An answer to United's complaint was filed by Airlift, stating, inter alia, that while the complaint is directed against WTC's rates, the main thrust is against the Airlift-Shulman charter agreement (Docket 22057) and that United makes no effort to show that the rates would be available only on freight moving under the charter.

WTC has submitted no economic data or any other justification in support of its rates.

Upon consideration of the tariff, the complaint, the answer of Airlift and all other relevant factors, the Board finds that WTC's rates may be unjust, unreasonable, unjustly discriminatory, un-

¹ Revisions to Tariff CAB No. 5 issued by WTC Air Freight.

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upon WTC Air Freight and United Air Lines, Inc., which are hereby made parties to Docket 23456.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL]

HARRY J. ZINK,
Secretary.

[FR Doc.71-7830 Filed 6-3-71;8:54 am]

ENVIRONMENTAL PROTECTION AGENCY

BASF WYANDOTTE CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1140) has been filed by The BASF Wyandotte Corp., 100 Cherry Hill Road, Post Office Box 181, Parsippany, NJ 07054, proposing the establishment of tolerances (21 CFR Part 420) for combined negligible residues of the herbicide 2-chloro-N-(1-methyl-2-propynyl) acetanilide and its metabolites (calculated as the herbicide) in or on the raw agricultural commodities grain of field corn and sorghum at 0.15 part per million.

The analytical method proposed in the petition for determining residues of the herbicide and its metabolites is a procedure in which alkaline hydrolysis releases isobutynyl aniline, which is determined by gas chromatography using a nitrogen detector.

Dated: May 28, 1971.

LOWELL E. MILLER,

Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-7776 Filed 6-3-71;8:49 am]

CIBA-GEIGY CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1152) has been filed by The Ciba-Geigy Corp., Ardsley, N.Y. 10502, proposing the establishment of a tolerance (21 CFR Part 420) for negligible residues of the herbicide 2-tert-butylamino-4-ethylamino-6-methylthio-s-triazine in or on the raw agricultural commodity barley (grain, green fodder, and straw) at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using a flame photometric detector with a sulfur filter at 394 nanometers.

Dated: May 28, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-7777 Filed 6-3-71;8:50 am]

HERCULES, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1118) has been filed by Hercules, Inc., Wilmington, Del. 19899, proposing the establishment of tolerances (21 CFR Part 420) for residues of the insecticide toxaphene (chlorinated camphene containing 67 percent—69 percent chlorine) in or on the raw agricultural commodities alfalfa hay at 1 part per million and milk at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic procedure using an electron capture detector.

Dated: May 28, 1971.

LOWELL E. MILLER,

Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-7778 Filed 6-3-71;8:50 am]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1159) has been filed by E. I. du Pont de Nemours and Co., Wilmington, Del., 19898, proposing the establishment of a tolerance (21 CFR Part 420) for residues of the insecticide methomyl (S-methyl N-(1-methylcarbamoyl)oxylthioacetimidate) in or on the raw agricultural commodity alfalfa at 10 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is that of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry", Vol. 16, July/August 1968, pp. 554-557.

Dated: May 28, 1971.

LOWELL E. MILLER,

Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-7779 Filed 6-3-71;8:50 am]

NACA INDUSTRY TASK FORCE ON PHENOXY HERBICIDE TOLERANCES Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1102) has been filed by the National Agricultural Chemicals Association's Industry Task Force on Phenoxy Herbicide Tolerances, 1155 15th Street NW., Washington, D.C. 20005, proposing the establishment of tolerances (21 CFR Part 420) for residues of the herbicide 2, 4,5-T (2,4,5-trichlorophenoxyacetic acid) in or on the raw agricultural commodities: grass at 300 parts per million; and apples, barley, blueberries, corn, oats, rice, rye, sugarcane, and wheat at 0.2 part per million (negligible residue) from application of the herbicide in either the acid form or in the form of one or more of the following salts or esters:

1. The amine salts: alkyl (C-12), alkyl (C-13), alkyl (C-14), *N,N*-dimethylethylamine, *N,N*-dimethylinoleylamine, *N*-oleyl-1,3-propylenediamine, triethanolamine, and triethylamine.

2. The esters: alkyl (C₂H₅-C₂H₅), amyl, butyl, butoxyethyl, butoxypropyl, dipropylene glycol isobutyl ether, 2-ethylhexyl (isooctyl), propylene glycol butyl ether, propylene glycol isobutyl ether, and tripropylene glycol isobutyl ether.

The analytical methods proposed in the petition for determining residues of the herbicide are:

1. A procedure in which the residue is converted to the methyl ester of 2,4,5-T and analyzed by gas chromatography using an electron capture detection system.

2. A procedure in which the residue is converted to the methyl ester and analyzed by gas chromatography using a microcoulometric detection system.

3. A modification of the method of R. P. Marquardt and E. N. Luce, "Jour. Agr. Food Chem.", 3:51-3 (1955).

Dated: May 28, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant Ad-
ministrator, for Pesticides
Programs.

[FR Doc. 71-7780 Filed 6-3-71; 8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15752, etc.; FCC 71R-160]

CHARLES W. JOBBINS ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Charles W. Jobbins, Costa Mesa-Newport Beach,

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Calif., Docket No. 15752, File No. BP-16157; Goodson-Todman Broadcasting, Inc., Pasadena, Calif., Docket No. 15754, File No. BP-16159; Orange Radio, Inc., Fullerton, Calif., Docket No. 15755, File No. BP-16160; Pacific Fine Music, Inc., Whittier, Calif., Docket No. 15756, File No. BP-16161; C. D. Funk and George A. Baron, a partnership doing business as Topanga Malibu Broadcasting Co., Topanga, Calif., Docket No. 15758, File No. BP-16164; California Regional Broadcasting Corp., Pasadena, Calif., Docket No. 15759, File No. BP-16165; Robert S. Morton, Arthur Hanisch, Macdonald Carey, Ben F. Smith, Donald C. McBain, Robert Breckner, Louis R. Vincenti, Robert C. Mardian, James B. Boyle, Robert M. Vaillancourt and Edwin Earl, doing business as Crown City Broadcasting Co., Pasadena, Calif., Docket No. 15762, File No. BP-16168; Voice in Pasadena, Inc., Pasadena, Calif., Docket No. 15764, File No. BP-16172; Western Broadcasting Corp., Pasadena, Calif., Docket No. 15765, File No. BP-16173; Pasadena Broadcasting Co., Pasadena, Calif., Docket No. 15766, File No. BP-16174; for construction permits.

1. In a decision adopted this same date, the Review Board has denied the above-described low-power applications of Charles W. Jobbins and of Topanga Malibu Broadcasting Co. because their proposed low-power use of this existing high power frequency assignment of 1110 kHz (a) is incompatible with fundamental considerations relating to our national and international schemes of allocation and of assignment of AM radio frequencies; and (b) would not result in a better allocation of this frequency under section 307(b). As a second totally independent ground of decision with respect to the application of Topanga Malibu Broadcasting Co., we denied that application because its proposal does not comport with the requirements of § 73.24(d) of the Commission's rules, and on this ground, standing alone, its proposal is grossly inefficient. With respect to the remaining applications described above, all are high-power proposals, and we denied all of those applications, with the exception of Orange Radio, Inc., on basic threshold disqualifying grounds relating (a) to their respective sites, (b) to their ability to maintain and adjust their directional antenna patterns, and (c) to interference to KFAB, Omaha, Nebr., the dominant I-B station on this channel. Hence, on the basis of our findings of fact and conclusions in our Decision, we would have granted the application of Orange Radio, Inc. However, on February 16, 1971—many months after the oral argument of this proceeding held before a panel of the Review Board—Western filed a petition to enlarge the issues, reopen the record and remand this proceeding for further hearing seeking the addition of several issues which would inquire into the basic qualifications of

Orange.¹ The questions raised by this petition must be resolved in Orange's favor before its application can be granted.

2. In its petition, Western seeks the addition of the following issues against Orange:

(1) To determine whether Orange Radio, Inc. (Orange) and/or its stockholder, Robert A. Maheu, have made false or misleading representations with respect to the nature of Mr. Maheu's business interests and activities, including particularly in relation to Howard R. Hughes, Hughes Tool Co. and Hughes' Nevada Operations;

(2) To determine whether the proposal of Orange for Mr. Maheu to perform certain duties and devote certain time to the proposed Orange station was made in bad faith and without intention to perform the proposed duties;

(3) To determine whether Robert A. Maheu, at any time between March 1967 and December 1970, exercised control over the operation of Station KLAS-TV, Channel 8, Las Vegas, Nev., in violation of section 310(b) of the Communications Act of 1934, as amended (47 U.S.C. section 319(b)), and whether Hughes Tool Co., of which Orange stockholder Frank W. Gay is a Director and Senior Vice President, at any time within the aforesaid period relinquished control over Station KLAS-TV in violation of section 310(b) of the Communications Act with respect to operational responsibility for said station;

(4) To determine whether Orange Radio, Inc., has failed to report significant and material changes in information previously furnished to the Commission, by amending its application and hearing representations from time-to-time as required by § 1.65 of the Commission's rules;

(5) To determine, in light of the foregoing, whether Orange Radio, Inc., possesses the requisite qualifications to be a licensee of the Commission.

3. Petitioner bases its request upon alleged inconsistencies between various oral and written representations made to the Commission by Orange during the course of this proceeding concerning the relationship between Robert A. Maheu, a 15 percent stockholder and one of the founding principals of Orange, and Howard Hughes, and statements and testimony made in connection with an action in the Eighth Judicial District Court of Nevada, brought in December,

¹Related pleadings before the Review Board are: (a) Opposition, filed Mar. 8, 1971, by Orange; (b) comments of Broadcast Bureau, filed Mar. 9, 1971; (c) motion of Orange for leave to respond to Broadcast Bureau's comment and response, filed Mar. 19, 1971; and (d) reply to opposition, filed Mar. 22, 1971, by Western. Orange has shown sufficient reason for acceptance of its response to the Broadcast Bureau's comment and, therefore, its motion will be granted and its response will be accepted.

1970, by Mr. Maheu against various individuals connected with Hughes who had attempted to strip him of his duties in relation to Hughes' enterprises.² Specifically, Western argues that Orange has represented that Mr. Maheu is a public relations consultant for Howard Hughes when, in fact, he has exercised broad executive control over the Hughes Nevada operations; that Orange and Maheu repeatedly have stated that Hughes and the Hughes organization are not the only clients of Mr. Maheu's public relation firm, whereas in the Las Vegas litigation, Mr. Maheu stated that in 1962, Hughes asked him to give up his other clients and devote 100 percent of his time to Hughes' affairs; that Orange represented that Sands, Inc., of which Mr. Maheu is the President and Director, is only a passive landlord corporation, even though testimony in the Nevada litigation indicates that it has become, directly or through subsidiaries, an operating or management company with respect to the Hughes Nevada operations; that Orange's "Opposition to Petition to Enlarge Issues," filed September 5, 1968, "implicitly denied" that Maheu actively participated in the matter of the Hughes Tool-ABC tender offer, whereas in his testimony in the Nevada court proceeding he stated that Hughes gave him sole authority to decide whether to extend the option on the tender offer, which involved \$154 million. Western argues that all of these matters indicate a readiness on the part of Orange to deceive the Commission, which goes to the heart of its qualifications to be a licensee.

4. Further, petitioner argues that Maheu's testimony in the Nevada litigation brings into doubt the good faith of Orange's proposal that Maheu devote not less than 2 hours a day nor less than 20 hours per week to the operation of the proposed station. Western points to Maheu's claim that in 1962, Hughes requested him to give up his other clients and devote himself 100 percent to Hughes' interest; to Maheu's assertion that he and Hughes had a pact for the rest of their natural lives; and to the fact that Maheu moved to Las Vegas in 1966 at Hughes' request and has remained there since.

5. Next, Western notes that when the Commission announced on February 23, 1968, that it had granted the application to assign the license of Station KLAS-TV, Channel 8, Las Vegas, to Hughes Tool Co. (BAPUT-91), it ordered the assignee to file a statement "designating the natural person . . . who will have the authority and responsibility for establishing and controlling the policies of the station and managing its operations"; that Hughes Tool designated Mr. Raymond M. Holliday, a resident of Houston, Tex., and a Hughes Tool Co.

²Maheu v. Davis, et al. (Case No. A-84241), Hughes Tool Co. filed a countersuit, Hughes Tool Company v. Maheu, et al. (Case No. A-86259). Western attaches, as Exhibits C and D of its petition, copies of the complaints of Maheu and Hughes Tool.

Director and Officer as the responsible official; and that no change has been made in this designation. Petitioner then points to Maheu's statement in his verified complaint in Case No. A-84241, that he exercised control over the operation of KLAS-TV. Western concludes that Maheu's sworn allegations "raise a question as to whether he exercised control over Station KLAS-TV in violation of section 310(b) of the Communications Act" and a further question as to whether Hughes Tool violated the condition upon its grant or misled the Commission when it designated Raymond M. Holliday. Petitioner argues that the latter question also bears upon Orange's qualifications since Frank Gay, a director and senior vice-president of Hughes Tool, is a 15-percent stockholder in Orange.

6. Western contends that even if all of the foregoing issues could be resolved in Orange's favor, there would still remain Orange's failure to report significant changes in the material furnished by it to the Commission, as required by § 1.65 of the Commission's rules. In support of this final contention Western points to its allegations concerning Maheu's relationship to Hughes' Las Vegas interest; the doubt which now hangs over Orange's integration proposal as it relates to Maheu; the alleged transformation of Sands, Inc. into an operating company; and Maheu's connection with KLAS-TV.³

7. In opposition, Orange first argues that Western's petition "is so grossly untimely, as to be rejected out of hand at this very late stage in the proceeding." The applicant notes that the court documents relied upon by petitioner were filed on December 5 and 7, 1970, over 10 weeks before the instant petition was filed on February 16, 1971. Orange contends that Western has not attempted to demonstrate the good cause for its late filing required by § 1.229 of the rules; that no unusual or compelling circumstances are present here; that no substantial likelihood that the petitioner's allegations can be proven has been established; and that the questions raised by Western are not of decisional significance in this case.

8. With regard to the substance of Western's petition, Orange relies upon an attached statement by Maheu concerning his relationship with Hughes and the Hughes Nevada interests. Orange and Maheu argue that no misrepresentations have been made concerning Maheu's relationship with Hughes; that, indeed, such misrepresentations could not be made considering the extensive press coverage to which that relationship has been subject in the last several years. Rather, Orange contends that the charge of misrepresentation is "based upon innuendo, half-truths and calculated attempts to distort

³The Broadcast Bureau, in its comments, supports Western's petition and states its belief "that the Review Board cannot grant Orange Radio's application without inquiring into the several character questions Western raises."

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the record." Specifically, Orange and Maheu maintain that there is no inconsistency between Maheu's representation that he has been a public relations consultant for Hughes and the fact that he has exercised broad executive responsibilities with respect to the Hughes Nevada operations; that public relations is not a narrowly defined field and that Hughes cannot be considered a conventional public relations client; and that the question of Maheu's activities on behalf of the Hughes interests has never been at issue in this proceeding, but merely the nature of the business relationship between Maheu and Hughes, to which Orange has fully and truthfully addressed itself. Further, Orange argues that it did not misrepresent Maheu's interest in Sands, Inc., but directly complied with the Examiner's request for a showing "of the exact nature of Mr. Maheu's title, functions and duties with Sands, Inc., and his business relationships with that organization." Moreover, in answer to the allegation that Sands, Inc., has become an active operating company, Orange maintains that it still remains a passive corporation. Finally, Orange and Maheu contend that it is accurate to state that Maheu "was not a participant in the so-called Hughes Tool-ABC Tender Offer or the litigation concerning it," but was only responsible for determining that the tender offer should not be extended for an additional week.

9. In regard to Western's charge that Orange's integration proposal as to Maheu was made in bad faith, Orange claims that there is no basis for the belief that Maheu's lifetime arrangement with Hughes would exclude other activities and points to Maheu's affirmation that Hughes would not object to the time which would be devoted to the proposed station.⁴ In response to the allegations concerning transfer of control of Station KLAS-TV, Maheu explains that the word "control" in his complaint in the Nevada court proceeding was used not "as a term or word of art in a regulatory sense but rather in a vicarious lay sense to delineate a relationship germane to possessory authority over physical properties in the context of litigation dealing with possessory rights" and that he did not mean to suggest that his function superseded the responsibilities of Raymond M. Holliday.

10. In answer to the allegations concerning Orange's failure to keep its application current, Orange contends: (1) that the assertion that Robert A. Maheu Associates is no longer merely a public relations firm is incorrect; (2) that there was no reason to change the Orange integration proposal since there is no reason to doubt Maheu's commitment;

⁴Orange also contends that it did not misrepresent whether Hughes and the Hughes organizations were the only clients of Robert A. Maheu Associates. It notes that, while Maheu testified that he intended to give up other clients at Hughes' request, he did this "slowly."

(3) that Sands, Inc., as previously asserted, remains a passive corporation, despite its acquisition of two wholly owned subsidiaries that are operating companies; and (4) that Maheu's connection with Station KLAS-TV is not reportable under Commission rules.

11. First, the Review Board is in agreement with the position of the Broadcast Bureau, in its comments, that Western has met the requirements for a reopening of the record in this proceeding, i.e., the petition is supported by new evidence; the facts relied upon could not with due diligence have been known at the time of hearing; and the new evidence, if true, would be of decisional effect. See Community Television Corporation, FCC 60-1459, 20 RR 1105. Moreover, although Western's pleading is admittedly late-filed, it raises serious public interest questions which require consideration on their merits under the doctrine of The Edgefield-Saluda Radio Company, 5 FCC 2d 168, 4 RR 2d 611 (1966).

12. Turning to the substance of Western's petition, we are of the opinion that the first requested issue must be granted. Maheu's sworn statements in connection with his Nevada suit are in basic conflict with representations made to the Commission at various times during this proceeding. This conflict raises serious questions of whether Orange has consistently sought to mislead the Commission in regard to Maheu's relationship with Howard Hughes and the Hughes organization. If Maheu's complaint and testimony in the Nevada litigation are taken as true (and Orange's opposition pleading does not challenge them), Maheu performed broad executive functions and exercised very substantial control over Hughes' properties and interests in Nevada. Paragraph 1 of Maheu's verified complaint, a copy of which is attached to Western's petition, states that:

1. Commencing in or about March 1967, and continuing thereafter until the filing of the complaint herein, the plaintiff Robert A. Maheu has exercised control over the operation in the State of Nevada of certain properties, including, but not limited to, hotel, gaming, convention, dining, shopping, entertainment, and recreational facilities to the public and vacant lands suitable as potential hotel-casino locations, among which are the following:

- (a) The Sands Hotel, Clark County, Nev.;
- (b) Desert Inn, Clark County, Nev.;
- (c) Castaways Hotel, Clark County, Nev.;
- (d) Frontier Hotel, Clark County, Nev.;
- (e) Silver Slipper, Clark County, Nev.;
- (f) Landmark Hotel, Clark County, Nev.;
- (g) Harold's Club, Washoe County, Nev.;
- (h) KLAS TV 8, Clark County, Nev.;
- (i) Nevada Airport Operations, Clark County, Nev.;

(j) General Fund Bank Accounts of all the above in Valley Bank of Nevada, Nevada National Bank, First National Bank of Nevada, Nevada State Bank, and Bank of Nevada.²

Further, excerpts from the transcript of testimony in the Nevada actions (attached as Appendix A to Western's reply pleading and touched upon by the Broadcast Bureau in its comments) disclose that Maheu, among other relevant statements, referred to "the broad authority that I had for all of the so-called Hughes Nevada Operations, for the full authority that I had pertaining to the TWA litigation, for the authority that I had on all land holdings of the Hughes Tool Co., to the authority that I had relative to the Hughes Sports Network * * *"; stated that "there had not been any major acquisition made by the Hughes Tool Co., or Mr. Hughes personally since 1966, which had not been handled by me personally on his behalf"; characterized himself as the "chief executive officer of the Hughes Nevada Operation"; and provided a picture of involvement in Hughes' operation and acquisition in Nevada at a high level of responsibility. Hughes Tool Co., in its pleading in connection with its counter-suit seeking to strip Maheu of authority, states that "among the responsibilities of Robert A. Maheu Associates since April 1967, has been the management and operation of some of the properties owned by Plaintiff in Nevada."

13. In contrast to the above statements must be placed Orange's repeated assertion that the relationship between Maheu and the Hughes organization was that of public relations agent and client. While it is undoubtedly true that Robert Maheu Associates has done public relations work for Hughes, it would appear from the pleadings and testimony in the Nevada litigation that such a characterization provides a misleadingly partial picture of the Maheu-Hughes relationship. Maheu does not directly contradict the picture of that relationship provided by those pleadings and that testimony. His explanation that he understands the term "public relations" as one which covers the extremely broad executive and management functions which he has exercised over the Hughes Nevada interests is difficult to accept, absent an evidentiary inquiry into all of the facts and circumstances of that relationship. Nor can we accept Orange's contention that Maheu could not mislead the Commission about

² It may be true, as Orange contends in its response to the Broadcast Bureau's comments, that the Bureau was in error in concluding that all of the properties owned by Hughes at the time of the litigation and listed in Maheu's complaint, were also owned in Mar. 1967. However, any misapprehension on the part of the Bureau is understandable in light of the wording of the above statement, and in any case, whether all of the above properties were involved in Mar. 1967 or not, does not materially affect the questions raised concerning Orange's representations to the Commission.

the matters under consideration since the question of his relationship with Hughes has been the subject of media coverage for several years. The Commission cannot be placed in the position of obtaining full information concerning applicants from secondary sources.

14. The testimony and pleadings in the Nevada litigation also raise substantial questions concerning the good faith of Orange's integration proposal as it involves Maheu. Orange Exhibit 41 proposes that Maheu will devote not less than 2 hours each day, nor less than 20 hours per week to the proposed station. When Orange's opponents originally challenged the validity of this representation, Orange submitted an affidavit of Maheu, dated November 4, 1966, in which he stated that he was not an employee of Hughes and that Hughes and Hughes Tool Co. were just two of several public relations clients; and James Simons testified that Hughes' interests did not require a great deal of Maheu's time. However, Maheu concedes that as early as 1962 Hughes requested him to give up all other clients and devote himself solely to the Hughes interests; that he did in fact proceed to divest himself of other clients; and that the pact between Maheu and Hughes was to run for the rest of their lives. These facts, combined with Maheu's move from Los Angeles to Las Vegas in 1967, raise serious questions of whether Orange exercised good faith in initially making its integration proposal as to Maheu or whether it failed to change it when Maheu's situation was altered. Maheu's unsupported assurance, in his statement attached to Orange's opposition, that he will be able to fulfill his commitment to the proposed station without any objection from Hughes does not sufficiently meet the questions raised, and Western's second requested issue will therefore also be added.

15. The statement in paragraph 1 of Maheu's verified complaint in the Nevada litigation that Station KLAS-TV was one of the Hughes properties, and that he (Maheu) "exercised control" over the station raises substantial questions as to whether Maheu exercised control over a broadcast entity without authorization in violation of section 310(b) of the Communications Act of 1934, as amended, and whether the Hughes Tool Co. of which Frank Gay, one of Orange's two largest stockholders, is a Director and Senior Vice-President, relinquished control over the station in violation of the same section of the Act and the accuracy of its representation to the Commission that Raymond M. Holliday would be the Hughes Tool Co. official responsible for establishing and controlling the policies of the station. Again Maheu's explanation falls considerably short of resolving these questions on the basis of the pleadings. His statement that the word "control" did not imply that he had preempted the responsibility vested in Mr.

Holliday and that the word was not used in the sense of control over policy or operations of the properties listed conflicts with the plain meaning and context of the words used in paragraph 1 of his complaint: "the plaintiff Robert A. Maheu has exercised control over the operation in the State of Nevada of certain properties * * *" (emphasis added.) The matter of the control of Station KLAS-TV must be the subject of hearing upon remand. For this limited purpose the Hughes Tool Co. will be made a party to this proceeding. Western's request for a Rule 1.65 issue will also be granted. If petitioner's allegations concerning Maheu's relationship with Hughes; Orange's integration proposal as it pertains to Maheu; and Maheu's connection with KLAS-TV, are true, then questions arise as to whether Orange has failed to keep its application current by disclosure of material changes to the Commission.³

16. As previously indicated, in our decision in the instant proceeding, adopted concurrently with this memorandum opinion and order, we have denied the applications of all of the applicants, with the exception of Orange. Therefore, in accordance with our determinations above, the record in this proceeding will be reopened and Orange's application alone will be remanded for further hearing under the issues added in response to Western's petition. Although all other applicants will remain parties to the proceeding, we emphasize that evidence introduced at the reopened hearing should be restricted to that which is pertinent and relevant to the resolution of the issues designated herein. We contemplate no relitigation of the issues previously designated and no changes in the determinations made except as they may be required by the evidence adduced at the reopened hearing under the issues specified herein. The initial decision of the Hearing Examiner, therefore, should be confined to a discussion of such evidence, and ultimate determinations which are necessitated by reason of the new facts developed at the reopened hearing.

17. Accordingly, it is ordered, That the "Motion of Orange Radio, Inc. for Leave to File Response to Broadcast Bureau's Comments on Petition To Enlarge Issues," filed March 19, 1971, is granted, and its response is accepted; and

18. It is further ordered, That the "Petition To Enlarge Issues, Re-Open The Record and Remand For Further Hearing," filed February 16, 1971, by Western Broadcasting Corp. is granted; that the record in this proceeding is reopened; that the issues in this proceeding are enlarged by the addition of the following issues:

a. To determine whether Orange Radio, Inc. (Orange), and/or its stockholder, Robert A. Maheu, have made

³ There appears to be no basis for Western's allegation that Orange failed to report that Sands, Inc., originally represented to be a passive corporation, has become an operating company.

false or misleading representations with respect to the nature of Mr. Maheu's business interests and activities, particularly including their relation to Howard R. Hughes, Hughes Tool Co. and Hughes' Nevada Operation;

b. To determine whether the proposal of Orange for Mr. Maheu to perform certain duties and devote certain time to the proposed Orange station was made in bad faith and without intention that he perform the proposed duties;

c. To determine whether Robert A. Maheu, at any time between March 1967 and December 1970, exercised control over the operation of Station KLAS-TV, Channel 8, Las Vegas, Nev., in violation of section 310(b) of the Communications Act of 1934, as amended (47 U.S.C. section 310(b)), and whether Hughes Tool Co., of which Orange stockholder Frank W. Gay is a Director and Senior Vice President, at any time within the aforesaid period relinquished control over Station KLAS-TV in violation of section 310(b) of the Communications Act or made false or misleading representations to the Commission with respect to operational responsibility for said station;

d. To determine whether Orange Radio, Inc., has failed to report significant and material changes in information previously furnished the Commission, by amending its application and hearing representations from time-to-time as required by § 1.65 of the Commission's rules;

e. To determine, in light of the foregoing, whether Orange Radio, Inc., possesses the requisite qualifications to be a licensee of the Commission;

and that the application of Orange Radio, Inc., is severed from this consolidated proceeding and is remanded for further hearing on the issues added herein; and that all applicants in the consolidated proceeding shall remain parties in this further hearing; and

19. It is further ordered, That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Western Broadcasting Corp., and that the burden of proof shall be on Orange Radio, Inc.; and

20. It is further ordered, That Hughes Tool Co. is made a party to this proceeding, for the limited purposes of participating with regard to issue (c) added herein.

Adopted: May 14, 1971.

Released: May 26, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-7815 Filed 6-3-71;8:53 am]

[Docket No. 19251; FCC 71-541]

WILLIAM E. RICHARDSON

Order Designating Application for
Hearing on Stated Issues

In regard application of William E. Richardson, 405 Chatterton Avenue, La

Puente, CA 91744, for amateur radio station and Technician Class operator license, Docket No. 19251.

The Commission has under consideration the above-entitled application for an amateur radio station license and amateur radio operator (Technician) license filed by William E. Richardson on June 1, 1970.

There is a substantial question concerning the qualifications of the applicant to hold an amateur radio station and operator license arising:

(a) From the revocation of his Class D license in the Citizens Radio Service on June 30, 1969, as a result of numerous violations of Part 95 of the Commission's rules;

(b) From his apparent unlicensed operation of radio apparatus on December 6, 7, and 12, 1969, and November 12, 1970; and

(c) From his apparent radio transmissions during the aforementioned periods, specified in paragraph (b) hereof, which, had he been licensed, would have been in violation of the Commission's rules governing the Citizens Radio Service or the Amateur Radio Service.

The Commission is unable to find that a grant of the captioned application would serve the public interest, convenience and necessity and must, therefore, designate the application for hearing. Except for the issues specified herein, the applicant is otherwise qualified to hold an amateur radio station license and an amateur radio operator (Technician) license.

Accordingly, it is ordered, Pursuant to section 309(c) of the Communications Act of 1934, as amended, and § 1.973(b) of the Commission's rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent order, upon the following issues:

1. To determine the nature and extent of the violations of the Commission's rules, which resulted in the revocation of the applicant's Class D license in the Citizens Radio Service on June 30, 1969.

2. To determine, based upon the evidence adduced pursuant to the foregoing issue, whether the applicant can be relied upon to operate a station in the Amateur Radio Service, in accordance with the terms of his license and the rules and regulations of the Commission.

3. To determine whether, subsequent to the revocation of his license, the applicant engaged in unlicensed operation of radio transmitting apparatus on December 6, 7, and 12, 1969, and November 12, 1970, in violation of section 301 of the Communications Act of 1934, as amended.

4. To determine whether the applicant's transmissions on December 6, 7, and 12, 1969, and November 12, 1970, would have been in violation of the Commission's rules had he been a radio station licensee. These sections include: Sections 95.95(c), 95.41(d), 95.83(a)(1), 97.61 and 97.123.

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5. To determine, in light of the evidence adduced pursuant to issues 1 through 4, whether the applicant possesses the qualifications to be a licensee of the Commission.

6. To determine whether, in light of the evidence adduced in respect to the foregoing issues, the grant of the subject application for an amateur radio station and operator (Technician) license would serve the public interest, convenience and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and to present evidence on the issues specified in this order.

Adopted: May 19, 1971.

Released: May 28, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-7816 Filed 6-3-71; 8:53 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL
RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p) (1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certifi- cate No.	Owner/Operator and Vessels
01094---	St. Andrews Shipping Co., Ltd.: SCHM Dunblane.
02149---	Tomlinson Fleet Corp.: S/S Sylvania. S.S.O.A. Tomlinson.
02158---	Koraal Scheepvaart Maatschappij N.V.: Coral Obelia. Coral Actinia. Coral Acropora.
02324---	Monticello Tanker Co.: Monticello Victory.
02631---	Partenreederei MS Johannes Bos: Johannes Bos.
02780---	Baltico Compania Naviera S.A.: Phalcon.

¹ Commissioners Bartley and Robert E. Lee absent.

Certifi- cate No.	Owner/Operator and Vessels	Certifi- cate No.	Owner/Operator and Vessels
02956---	Ashland Oil, Inc.: L. C. LaDuca. M/V Ashland. M/V Aetna-Louisville. M/B Allied-Ashland. A.O. & R. CO. C-245. M/V Valvoline. A.O. & R. CO. C-249. A.O. & R. CO. C-231. A.O. & R. CO. S-247. A.O. & R. CO. S-251. A.O. & R. CO. C-235. A.O. & R. CO. C-239. A.O. & R. CO. B-244. A.O. & R. CO. B-248. A.O. & R. CO. S-237. A.O. & R. CO. S-241. A.O. & R. CO. C-252. A.O. & R. CO. B-234. A.O. & R. CO. B-238. A.O. & R. CO. S-233. A.O. & R. CO. B-230. A.O. & R. CO. C-201. A.O. & R. CO. B-242. A.O. & R. CO. B-243. A.O. & R. CO. B-220. A.O. & R. CO. S-223. A.O. & R. CO. S-202. A.O. & R. CO. B-200. A.O. & R. CO. B-203. A.O. & R. CO. C-204. A.O. & R. CO. S-205. A.O. & R. CO. B-206. A.O. & R. CO. C-207. A.O. & R. CO. C-210. A.O. & R. CO. S-208. A.O. & R. CO. B-209. A.O. & R. CO. S-211. A.O. & R. CO. B-212. A.O. & R. CO. C-213. A.O. & R. CO. S-214. A.O. & R. CO. B-224. A.O. & R. CO. S-225. A.O. & R. CO. C-232. A.O. & R. CO. C-246. A.O. & R. CO. C-250. A.O. & R. CO. C-240. A.O. & R. CO. 536. A.O. & R. CO. C-236. A.O. & R. CO. C-253. A.O. & R. CO. C-215. A.O. & R. CO. C-216. A.O. & R. CO. C-217. A.O. & R. CO. C-228. A.O. & R. CO. C-229. A.O. & R. CO. C-219. A.O. & R. CO. 100. A.O. & R. CO. 93. A.O. & R. CO. 94. A.O. & R. CO. 95. A.O. & R. CO. 96. A.O. & R. CO. 97. A.O. & R. CO. 98. A.O. & R. CO. 90. A.O. & R. CO. 91. A.O. & R. CO. 92. TH 1950. TH 2050. A.O. & R. CO. C-226. A.O. & R. CO. C-227. A.O. & R. CO. C-218. A.O. & R. CO. 31. A.O. & R. CO. C-51. A.O. & R. CO. C-54. A.O. & R. CO. C-57. A.O. & R. CO. C-81. A.O. & R. CO. C-84. A.O. & R. CO. C-87. A.O. & R. CO. 34. A.O. & R. CO. 30. A.O. & R. CO. 32. A.O. & R. CO. 33. A.O. & R. CO. 35.	A.O. & R. CO. 1. A.O. & R. CO. S-52. A.O. & R. CO. S-55. A.O. & R. CO. S-56. A.O. & R. CO. S-60. A.O. & R. CO. S-62. A.O. & R. CO. S-64. A.O. & R. CO. S-82. A.O. & R. CO. S-85. A.O. & R. CO. S-88. A.O. & R. CO. C-221. A.O. & R. CO. C-222. A.O. & R. CO. 28. A.O. & R. CO. 29. A.O. & R. CO. 39. A.O. & R. CO. B-50. A.O. & R. CO. B-53. A.O. & R. CO. B-56. A.O. & R. CO. B-59. A.O. & R. CO. B-61. A.O. & R. CO. B-63. A.O. & R. CO. B-80. A.O. & R. CO. B-83. A.O. & R. CO. B-86. A.O. & R. CO. 19. A.O. & R. CO. 42. A.O. & R. CO. 25. A.O. & R. CO. 26. A.O. & R. CO. 27. A.O. & R. CO. 36. A.O. & R. CO. 37. A.O. & R. CO. 38. A.O. & R. CO. 40. A.O. & R. CO. 41. A.O. & R. CO. 2. A.O. & R. CO. 3. A.O. & R. CO. 4. A.O. & R. CO. 7. A.O. & R. CO. 8. A.O. & R. CO. 9. A.O. & R. CO. 10. A.O. & R. CO. 11. A.O. & R. CO. 12. A.O. & R. CO. 13. A.O. & R. CO. 14. A.O. & R. CO. 17. A.O. & R. CO. 18. A.O. & R. CO. 20. A.O. & R. CO. 21. A.O. & R. CO. 22. A.O. & R. CO. 23. A.O. & R. CO. 24. A.O. & R. CO. 15. A.O. & R. CO. 16. STC-2521-B. STC 3022. STC 3023. MOS 104. Trina. Lang. Mississippi. STC 2002. Chuck. Jonna B. Memphis. SS 2021. SS 2022. NBC 801. Ken. Shad. E.S.-928. E.S.-929. ST-120. ST-121. Ellis 2003. ST-122. Ellis 2004. ST-123. STC 1524 B. STC 1525 B. STC 1526 B. GBL-9. GBL-10.	

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Certifi- cate No.	Owner/Operator and Vessels	Certifi- cate No.	Owner/Operator and Vessels	Certifi- cate No.	Owner/Operator and Vessels
03613---	Western Transportation Co.: No. 46. No. 35. Western Meteor.	04307---	C. F. Bean Inc.: C. F. Bean. M. H. Bean. Mall Spud Barge No. 7. S. B. Whittington. Kitty Bean. Buster Bean. Bean No. 19. J. E. Jumonville. Barge No. 504.	04072---	Pinasec Investment Corp.: Panama: Nigeria.
04125---	Atlantic Towing Ltd.: Irving Seallon. Irving Dolphin. Irving Shark. Irving Birch. Scotia Trader. Irving Maple.	04407---	Domar Inc.: Domar 2503. Domar 2502. Ceco 2501. Z-122. Z-120. Z-102. Z-101. Z-100. Z-111. Z-110. Z-112. Z-71.	04437---	Lebeouf Bros. Towing Co. Inc.: H-2001.
04463---	Lloret Lopez Sociedad Anonima: L. Lopez II. L. Lopez III. L. Lopez I.	04778---	Protoklitos Shipping Co., Ltd.: Protoklitos.	04857---	Leendert Van Nood: Joma.
04980---	Netherlands Mead N.V.: Santo Antonio.	05210---	Protoapostolos Shipping Co., Ltd.: Protoapostolos.	05347---	Compania Argentina de Navega- cion Intercontinental: Pampa Argentina.
05381---	Doumarsia Shipping Co. S.A.: Ioannis.	05493---	Vasco-Antillean Navigation Co., Ltd.: Aurrera.	05499---	Sitia Compania Naviera S.A.: Costis.
05535---	Naviera Anayak de Panama, S.A.: Bizkaya.	05613---	International World Oceanic Fi- nancing & Investment Co. S.A.: Kastraki.	05649---	Hekkenikos Ploutos Shipping Co. S.A.: Atlantis.
05736---	Flota Cubana de Pesca: Playa Duaba. Mar del Plata. Dorado. Albacora. Aguja. Agua. Jaguar. Castro. Puerto Esperanza. Jucaro. Moron.	05744---	Compania de Navegacion "Colina- Raja": Federal Salso.	05746---	Campanella Corp. U 701.
		05756---	Compagnie Nationale de Navega- tion: Nivose. Passy. Ventrose. Concorde. Frimaire.	05760---	Reoch Transports Ltd.: S/S Nordale. S/A Westdale. S/S Grovedale. S/S Pinedale. S/S Elmada.
		05764---	Cerrahogullari Umumi Nakliyat Vapurculuk ve Ticaret T.A.S.: M/S Eregli. S/S Nadir. S/S Turkiye.	05845---	Shinto Katun K.K.: Prima Maru.
		05853---	Sea Hawk Shipping Co., Ltd.: Megalopolis.	05872---	Saronikos Compania S.A.: S/S Pan.
		05873---	Hong Kong Atlantic Shipping Co., Ltd.: Ngomei Chau.	05887---	Sincere Navigation Co.: Fortune Enterprise.
		05890---	Enterprise Shipping Co., Ltd.: Robert Clifton. Friendship. Hawthorne Enterprise.	05891---	Geneva Steamship Co., Inc.: Silver Dove.
		05897---	Glory Steamship Corp.: Natlona.		

Certifi- cate No.	Owner Operator and Vessels
05899...	Silvies Transportation Ltd.: Silviculture.
05900	Glacial Sand and Gravel Co.: Big Elmer.
05901...	St. John Shipping Co., Ltd.: Skipper.
05907...	Kommandit-Selskabet AF 4.10- 1965: Esbern Snare.
05908...	Kommandit-Selskabet AF 21.11.- 1966: Asser Rig.
05909...	Elnavigatørs Inc.: Patrici L.
05914...	Miaoulis Shipping Enterprises: Aegis Legend.
05918	Cla. General de Pesquerias y Frigorificos, S.A.: Rio Ason.
05925...	Komrowski Befrachtungskontor KG: Monsoon Current.
05926...	Maritime Services G.m.b.H.: Flery Cross Isle. Lordofthe Isle. Spindrift Isle.
05934	Oinoussal Shipping Co., Ltd.: Dalmarin.
05955...	Vega Tanker Corp.: Vega I.
05956...	Procyon Shipping Corp.: Procyon.
05957...	Pollux Shipping Corp.: Pollux.
05958...	Perseus Tanker Corp.: Perseus.
05959...	Cheyenne Shipping Corp.: Pegasus.
05960...	Castor Shipping Corp.: Castor.
05961...	Aries Tanker Corp.: Aries.
05962...	Apache Tanker Corp.: Andromeda.
05963...	Antares Tanker Corp.: Antares.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-7822 Filed 6-3-71;8:53 am]

AMERICAN UNION TRANSPORT, INC., ET AL.

Inactive Tariffs; Notice of Intent to Cancel

The domestic offshore files of the Federal Maritime Commission contain several tariffs which have for a period of time been classified as inactive either due to the absence of any tariff changes for a period of 1 year or longer; or because the Commission's staff has been unable to correspond with the tariff filers; or because the Commission's staff has been advised that the tariff filers no longer offer a common carrier service. The following carriers, including their last known address, fall into the "inactive tariff" category.

American Union Transport, Inc., 15 East 26th Street, New York, NY 10010.
Caribe Isle Shipping Corp., 1218 Northeast 98th Street, Miami Shores, FL 33018.
San Juan Shipping Corp., 2910 Northwest 10th Avenue, Miami, FL 33127.
Scanstar Puerto Rico, Inc., International Trademark, Suite 2346, New Orleans, La. 70130.
Twin Line, Inc., 1039 Paterson Plank Road, Secaucus, NJ 07094.

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U.S. Hydrofoils, Lehigh Distribution Services, Inc., 20 Evergreen Place, East Orange, NJ 07018.

Inactive tariffs reflect inaccurate information to the shipping public and serve no useful purpose in the Commission's files. Further, Rule 18(g) of Tariff Circular No. 3, as amended (46 CFR 531.18(g)), requires the cancellation of inactive tariffs; and, accordingly, the Commission proposes to cancel these tariffs in the absence of a showing of good cause as to why they should not be canceled.

Now, therefore, it is ordered, That the above carriers advise the Director, Bureau of Compliance at 1405 I Street NW., Washington, DC 20573 in writing within 30 days after the publication of this order in the FEDERAL REGISTER of any reasons why the Commission should not cancel inactive tariffs.

It is further ordered, That a copy of this Order be sent by registered mail to the last known address of the carriers listed herein;

It is further ordered, That the tariffs of all carriers named herein not responding to this Order be, and they are in such event hereby canceled;

It is further ordered, That this notice be published in the FEDERAL REGISTER and a copy thereof filed with any tariff canceled pursuant to this notice.

By the Commission pursuant to authority delegated by section 7.15 of Commission Order No. 1 (Revised) dated September 29, 1970.

AARON W. REESE,
Managing Director.

[FR Doc.71 7819 Filed 6-3-71;8:53 am]

MED-GULF CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances

said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

G. Ravera, Secretary, Med-Gulf Conference,
Post Office Box 1070, 16100 Genoa, Italy.

Agreement No. 9522-16, between the member lines of the Med-Gulf Conference, modifies subparagraph (c) of Article 6 of the basic agreement to provide that member lines represented by proxy at Owners Meetings will contribute to form the prescribed quorum.

Dated: June 1, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-7820 Filed 6-3-71;8:53 am]

[No. 71-60 (Sub. 1)]

PACIFIC AUSTRALIA DIRECT LINE AND PACIFIC COAST AUSTRALASIAN TARIFF BUREAU

Rescheduling of Filing Dates

MAY 28, 1971.

Upon request of counsel for respondents and good cause appearing, filing dates in this proceeding are rescheduled as follows:

1. Requests for hearing and respondents' affidavits of fact and memoranda of law shall be filed on or before June 9, 1971.

2. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and interveners, if any, on or before June 15, 1971.

3. Petitions to intervene shall be filed on or before June 3, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-7821 Filed 6-3-71;8:53 am]

FEDERAL RESERVE SYSTEM

TEXAS COMMERCE BANCSHARES, INC.

Order Approving Action To Become a Bank Holding Company

In the matter of the application of Texas Commerce Bancshares, Inc., Houston, Tex., for approval of action to become a bank holding company.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and section 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Texas Commerce Bancshares, Inc., Houston, Tex. (Applicant), for the Board's prior approval of action whereby Applicant would become a bank holding

company through the acquisition of the successor by merger to Texas Commerce Bank National Association, Houston, Tex. (Texas Commerce). As an incident to the merger, Applicant would acquire the beneficial ownership of more than 20 but less than 25 percent of the shares of each of the following six Texas banks: Airline National Bank of Houston (24.9 percent); North Freeway Bank, Houston (24.9 percent); Reagan State Bank of Houston (24.9 percent); First National Bank of Stafford (24.7 percent); Chemical Bank and Trust Company, Houston (21.1 percent); and Lockwood National Bank of Houston (20.4 percent).

The described shares of the six banks other than Texas Commerce are owned by Texas Commerce Shareholders Co., all the shares of which are held by trustees for the benefit of the shareholders of Texas Commerce. As a result of the merger, Applicant will succeed to beneficial ownership of all of the shares of Texas Commerce Shareholders Co., and, indirectly, of the described shares of the six banks.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and the Texas Commissioner of Banking, and requested their views and recommendations. Both recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 24, 1971 (36 F.R. 5537), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a newly-formed organization and has no operating history. Upon acquisition of Texas Commerce (\$865 million of deposits), Applicant would become the fourth largest bank holding company in the State and would control about 4 percent of the deposits in the State. (All banking data are as of June 30, 1970, and reflect holding company acquisitions approved through April 30, 1971.)

Texas Commerce is located in downtown Houston. It is the second largest banking organization in the Houston area with control of 16.3 percent of the deposits in the Houston SMSA, which approximates the relevant market. (Texas Commerce will be merged into a nonoperating bank which has significance only as a vehicle to accomplish the acquisition of all the shares of Texas Commerce. Acquisition of the shares of the resulting bank is treated as an acquisition of the shares of Texas Commerce.)

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Airline National Bank of Houston (\$24 million of deposits), North Freeway Bank (\$3 million of deposits), Reagan State Bank of Houston (\$54 million of deposits), First National Bank of Stafford (\$7 million of deposits), Chemical Bank and Trust Company (\$19 million of deposits), and Lockwood National Bank (\$26 million of deposits) are all located in areas in or adjacent to the city of Houston.

Texas Commerce acquired its indirect interest in five of the six banks in 1968 in order to establish correspondent relationships with these retail banks and make it a stronger competitor of the other large Houston banks. In 1969 it participated in the organization of, and thereby acquired an interest in, North Freeway Bank. While Texas Commerce presently exerts some influence over the operations of these six banks, the Board notes Applicant's assertion that they "will not be controlled by Applicant [and] they will not be subsidiaries of Applicant within the meaning of the term 'subsidiaries' as defined in the Act." Since it appears that the proposed transaction is essentially a corporate reorganization of existing interests and reflects neither expansion of the group nor an increase in the banking resources controlled by it, consummation of Applicant's proposal is not expected to affect existing or potential banking competition.

On the basis of the record before it, the Board concludes that consummation of this proposal would not have a significant adverse effect on competition in any relevant area. Considerations relating to financial and managerial resources and prospects as they relate to Applicant, Texas Commerce and the six associated banks are consistent with approval of the application. Applicant will begin operations in a satisfactory financial condition and will be able to draw management expertise from Texas Commerce. Its prospects, which depend largely on those of Texas Commerce, are favorable. The convenience and needs of the Houston area will be materially affected by consummation of Applicant's proposal. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

It is hereby ordered, For the reasons summarized above, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this Order or (b) later than 3 months after the date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,
May 27, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7740 Filed 6-3-71;8:46 am]

Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Malsel, Brimmer, and Sherrill.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.;
Temporary Reg. F-105]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to enter into a multiyear contract for purchase of refuse collection and disposal services from the county of Sacramento, Calif., for use at McClellan Air Force Base, Calif.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(3) and 205(d) (40 U.S.C. 481(a)(3) and 486(d)), authority is delegated to the Secretary of Defense to enter into a contract for a period not to exceed 10 years for the purchase of refuse collection and disposal utility services from the county of Sacramento, Calif., for use at McClellan Air Force Base, Calif.

b. The delegation of authority shall be subject to all provisions of law with respect to such a contract.

c. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

d. A copy of said contract, and any amendments thereto, shall be furnished to the General Services Administration as soon as practicable after the execution thereof.

Dated: May 28, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc.71-7818 Filed 6-3-71;8:53 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (71-6)]

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Public Notice Regarding Availability

Notice is hereby given of the public availability of the draft Environmental Impact Statement for the Applications Technology Satellite Program of the National Aeronautics and Space Administration.

This ongoing program envisions the utilization of a total of seven satellites (spacecraft), five of which have been launched to date. Experiments carried by the spacecraft relating to the useful applications of space include investigation in the disciplines of communications, navigation, meteorology, data collection,

geodesy, and environment definition. Remaining launches from the Eastern Test Range, Cape Kennedy, Fla., are currently planned for 1973 and 1975.

Comments on the draft Environmental Statement and on matters set forth therein are solicited from, and may be submitted by, State and local agencies and members of the public. Such comments should be submitted to the Associate Administrator, National Aeronautics and Space Administration, Washington, D.C. 20546. All comments must be received within 60 calendar days of the publication of this Notice in the FEDERAL REGISTER in order to be considered in the preparation of the final Environmental Statement and in the ultimate program or activity reassessment. Copies of the draft statement may be purchased (price \$1 each) or examined at any of the following locations:

- (a) National Aeronautics and Space Administration, Public Documents Room (Room 126), Independence Avenue SW., Washington, DC 20546.
- (b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.
- (c) Flight Research Center, NASA (Building 4800, Room 1017), Post Office Box 273, Edwards, CA 93523.
- (d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.
- (e) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.
- (f) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.
- (g) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.
- (h) Manned Spacecraft Center, NASA (Building 1, Room 136), Houston, Tex. 77058.
- (i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, Ala. 35812.
- (j) Mississippi Test Facility, NASA (Building 1100, Room A-213), Bay St. Louis, Miss. 39520.
- (k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.
- (l) Wallops Station, NASA (Library Building, Room E-105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 29th day of May 1971.

By direction of the Administrator,
WM. E. LILLY,
Assistant Administrator
for Administration.

[FR Doc.71-7783 Filed 6-3-71; 8:50 am]

RAILROAD RETIREMENT BOARD RAILROAD RETIREMENT TAX ACT

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)) as amended by section 5(a) of Public Law

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91-215, the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1971, shall be at the rate of 6 cents.

Dated: May 27, 1971.

By authority of the Board.

[SEAL] RICHARD F. BUTLER,
Secretary of the Board.

[FR Doc.71-7770 Filed 6-3-71; 8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

MAY 28, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6-percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors; It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 31, 1971, through June 9, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7755 Filed 6-3-71; 8:47 am]

[811-1088]

DELTA CAPITAL CORP.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Com- pany

MAY 27, 1971.

Notice is hereby given that Delta Capital Corp. (Applicant), Post Office Drawer 708, Slidell, LA 70458, a Louisiana corporation licensed as a small business investment company under the Small Business Investment Act of 1958 and registered as a closed-end non-diversified management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested

persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Applicant represents that on April 3, 1969, and May 29, 1969, the board of directors and shareholders of Applicant, respectively, adopted a plan of liquidation and dissolution. The dissolution became effective upon certification by the Secretary of State on June 11, 1969.

Applicant further represents that on June 26, 1969, all of its portfolio assets, exclusive of a cash reserve and 22,224 shares of DASA Corp. stock held by Applicant, were transferred to Delta Capital Inc., a wholly owned subsidiary of AVC Corp. for \$860,979.30. In addition, Applicant transferred cash to the purchaser in the amount of \$521,500, representing principal of \$500,000 and accrued interest to date of transfer of Applicant's 5½ percent note to SBA. On July 11, 1969, a pro rata distribution from the proceeds of the sale of Applicant's portfolio securities was made in the aggregate of \$1,057,343, and shareholders received their proportionate number of shares of the DASA Corp. stock. With the exception of \$208,182 in cash, retained by the Liquidator for the payment of remaining liabilities and any income taxes which may be due for the fiscal year ending March 31, 1969, or until the final dissolution, total assets have been distributed according to the above pro rata distribution.

Section 8(f) of the Act provides in pertinent part that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 24, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the

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Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7756 Filed 6-3-71; 8:48 am]

[File No. 1-4692]

FAS INTERNATIONAL, INC.

Order Suspending Trading

MAY 27, 1971.

The common stock, 2 cents par value and the 5 percent convertible subordinated debentures due 1989 of FAS International, Inc., being traded on the New York Stock Exchange, Inc., pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of FAS International, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 27, 1971, 12 m., e.d.t., through June 5, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7757 Filed 6-3-71; 8:48 am]

[File No. 24NY-6943]

FANTONIX ENTERPRISES, INC.

Order Permanently Suspending Exemption

MAY 27, 1971.

I. Fantonix Enterprises, Inc. (Fantonix) 510 Avenue of the Americas, New York, N.Y., is a New York corporation located at 510 Avenue of the Americas, New York, N.Y. On September 29, 1969, it filed a notification in the New York Regional Office pursuant to Regulation A in connection with a proposed offering of 60,000 shares of its \$0.01 par value common stock at \$5 per share.

The offering was to be conducted by Fox Securities Co. as underwriter on a best efforts "one-half (30,000) or none" basis. The notification became effective on January 5, 1970.

According to the offering circular Fantonix was organized "for the purpose

of engaging in the business (through wholly owned subsidiaries) of importing, wholesaling and retailing merchandise"

II. The Commission on April 14, 1971, temporarily suspended the Regulation A exemption of Fantonix, stating that it had reasonable cause to believe from information reported to it by the staff that:

A. The notification and offering circular contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, with respect to the following:

1. The offering circular contained untrue statements of material facts concerning the business of Fantonix, in particular the operations of its two subsidiaries, Fantastic Crates Canal Corp. ("Fantastic") and The House of Onix, Inc. ("Onix");

2. The offering circular contained untrue statements of material facts concerning the proposed use of proceeds of the offering, in particular, that \$67,000 of the proceeds will be used to promote the business of Fantastic and Onix through the use of advertising and trade shows; and for assembly facilities for Onix;

3. The offering circular omitted to state material facts concerning the operation of a "rock" magazine called "Crawdaddy" by Fantonix.

B. The terms and conditions of Regulation A have not been complied with in that the issuer has failed to file a Form 2-A report, required by Rule 260, which became due on August 5, 1970.

C. The use of the offering circular by the issuer operated as a fraud and deceit upon purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

D. The terms and conditions of Regulation A were not complied with in that the underwriter sold securities of the issuer in violation of Rule 256, which requires the offering circular to be delivered concurrently with, or prior to, the confirmation of the sale.

E. The underwriter (Fox Securities Co.) engaged in practices designed to defraud purchasers, in violation of section 17(a) of the Securities Act of 1933, by means of untrue statements of material facts and omission to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

III. No hearing having been requested by the issuer within 30 days after the entry of an order temporarily suspending the exemption of the issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be permanently suspended, therefore: It is ordered, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regu-

lation A be, and it hereby is, permanently suspended.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7758 Filed 6-3-71; 8:48 am]

[812-2797]

GENERAL HOST CORP.

Notice of Filing of Application for an Order

MAY 26, 1971.

Notice is hereby given that General Host Corp. (Applicant), 245 Park Avenue, New York, NY, a New York corporation and a closed-end, nondiversified management investment company registered under the Investment Company Act of 1940 (Act),¹ has filed an application for an order pursuant to sections 6(c) and 23(c)(3) of the Act, permitting Applicant to purchase, pursuant to an option described below, 437,700 shares (16.7 percent) of Applicant's common stock from The Goldfield Corp. (Goldfield). All interested persons are referred to the application, as amended, which is on file with the Commission, for a statement of the representations therein, which are summarized below.

The 437,700 shares of Applicant's common stock were pledged by Goldfield in 1968 to Union Bank to secure indebtedness to Union Bank of Goldfield in the amount of \$4,900,000 (Goldfield Note) and its guaranty of the indebtedness to Union Bank of one of its subsidiary companies, Tantalum Mining Corporation of Canada, Ltd., in the amount of \$6,100,000 (Tanco Note). In October 1969, Applicant purchased the "Goldfield Indebtedness" (the Goldfield Note, the Tanco Note, Goldfield's guaranty of the Tanco Note, and the pledge of said 437,700 shares as collateral thereon) from Union Bank by issuing its own note to Union Bank for \$11 million. Applicant's note to Union Bank is in turn secured by the Goldfield Indebtedness.

In return for extension of the due date of the Goldfield Note from December 31, 1969 to January 31, 1971, Goldfield granted to Applicant the "Goldfield Option", that is, the right to purchase as a block the 437,700 shares pledged to secure the Goldfield Note and Goldfield's guaranty of the Tanco Note, with the option exercise price to be the average of the daily mean between the high and low sales prices for Applicant's common stock on the New York Stock Exchange on the last 10 trading days prior to the date of Applicant's notice of exercise of the option. Payment may be made by application of the exercise price in payment of the unpaid interest on and principal

¹ Applicant filed a notification of registration on May 15, 1970 and a registration statement on Aug. 13, 1970, each of which states that its filing does not constitute an admission that General Host Corp. is an investment company within the meaning of the Act and sets forth Applicant's express disclaimer that it is an investment company.

amount of the Goldfield Note and the Tanco Note. On February 25, 1970, Applicant's shareholders voted to give Applicant's management discretionary authority to exercise the Goldfield Option.

Upon default in any obligation of Goldfield or Tanco to pay the principal of their indebtedness to Applicant or upon Applicant's failure to enforce its rights against the collateral or in certain other events, the Union Bank may declare Applicant's note to it due and payable and Union Bank may, at its option, realize upon the collateral. Union Bank may also realize upon the collateral under certain other circumstances, including attempts to waive the terms or obligations of the Goldfield Indebtedness or default by Applicant in payment of principal or interest on Applicant's note to Union Bank.

Applicant states that as of June 15, 1970, the \$8.1 million Tanco Note was in default in respect to payment of \$360,069 of interest and \$610,000 of principal, and has remained so since. On or about July 2, 1970 the Applicant formally declared a default with respect to the Tanco Note. Applicant states that as of June 30, 1970, because of \$308,836.76 of overdue interest payments on the \$4.9 million Goldfield note and the failure of Goldfield to meet certain conditions required for Applicant's consent to the acquisition by Goldfield of real estate in Florida, Goldfield was in default with respect to such note, and has remained so since. On July 20, 1970, Applicant formally declared a default with respect to the Goldfield Note. Applicant states that it is entitled to cause the pledge shares to be sold and apply the proceeds to the Tanco Note and the Goldfield Note.²

Applicant indicated that, in order to permit Applicant to recover the maximum amount on the value of the defaulted Goldfield and Tanco notes, it was necessary for Applicant to exercise the Goldfield Option prior to its expiration on January 31, 1971. In an amendment to its application filed January 15, 1971, Applicant represented that, in order to avoid loss of the option through its expiration, it intended to exercise the Goldfield Option on or after January 22, 1971, pursuant to its terms, and requested that if the exercise of the option took place prior to the issuance of the requested exemptive order, the Commission issue an order pursuant to Sections 6(c) and 23(c) (3) to permit the exercise of the option in accordance with its terms. Applicant has undertaken to segregate the 437,700 shares purchased by the exercise of the Goldfield Option so that, in the event that the requested order is not granted, Applicant will be enabled to rescind its exercise of the Goldfield Option or to dispose of such shares in some other manner to which the Commission shall consent.

² Goldfield has contested Applicant's declarations of default, and Applicant and Goldfield are presently involved in litigation which involves, among other things, Applicant's right to claim the pledged shares.

Applicant states that on January 25, 1971, Applicant delivered notice of exercise of the Goldfield Option, thereby exercising the Goldfield Option, and that on January 28, 1971, pursuant to the terms of the Goldfield Option, its exercise was complete without any further act by Applicant. The exercise price was \$12.9625 per share, resulting in an aggregate exercise price of \$5,673,686.25, and was paid by applying that amount to accrued interest on the Goldfield Note, overdue interest on the Tanco Note, and \$4,374,945.51 of principal of the Goldfield Note.

Section 23(c) of the Act provides, in pertinent part, that no registered closed-end investment company shall purchase any securities of any class of which it is the issuer except (1) on a securities exchange, (2) pursuant to tenders, or (3) under such other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors to insure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 15, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be informed if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advise as to whether a hearing is ordered will receive notice of further developments in this matter,

including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7759 Filed 6-3-71; 8:48 am]

[File No. 500-1]

LADD MOUNTAIN MINING CO.

Order Suspending Trading

MAY 27, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Ladd Mountain Mining Co. and all other securities of Ladd Mountain Mining Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 27, 1971, 2 p.m., e.d.t., through June 5, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7760 Filed 6-3-71; 8:48 am]

[912-1350]

PARIBAS CORP.

Notice of Filing of Application for Order Rescinding Prior Order Exempting Company From All Provisions of the Act

MAY 27, 1971.

Notice is hereby given that Paribas Corp. (Applicant), 40 Wall Street, New York, NY 10005, a Delaware corporation, has applied for an order of the Commission rescinding an earlier order which, pursuant to section 6(c) of the Investment Company Act of 1940 (Act), conditionally exempted Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was caused to be organized on October 11, 1960, by Banque de Paris et des Pays Bas, S.A. (Banque de Paris), a French corporation, for the purpose of eventually engaging primarily in underwriting and distributing securities; selling securities to customers; and participating in brokerage transactions. Applicant required at that time, an order of exemption from all provisions of the Act since it was initially to engage primarily in investing, reinvesting and trading securities for its own account.

Applicant received an order of the Commission (1961 order) (Investment

Company Act Release No. 3179, January 25, 1961) exempting it from all provisions of the Act provided that:

(1) Paribas will notify the Commission of the issuance by it of any securities (other than short-term paper) to any person other than Banque de Paris;

(2) Paribas will provide the Commission with a copy of each annual report of Banque de Paris beginning with the report for 1960;

(3) Paribas will notify the Commission of any offering in the United States by Banque de Paris of any security of which said Banque de Paris is the issuer, and, so far as is known to it, of the holding by any U.S. resident of any security issued by Banque de Paris.

The Commission also reserved jurisdiction to modify or revoke the 1961 order if, in its opinion, subsequent facts made such action necessary or appropriate.

Applicant states that when the 1961 order was requested, it was anticipated that the brokerage activities described above would eventually become its primary business, and at such time Applicant would be excepted from the definition of an investment company as a broker-dealer pursuant to the provisions of section 3(c) (2) of the Act. The 1961 order stated "When such activities shall have become the primary business of Paribas . . . Paribas will be excepted from the definition of an investment company . . . pursuant to the provisions of section 3(c) (2) . . ." Section 3(c) (2) of the Act excepts from investment company status, "Any person primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, and acting as broker, or any one or more of such activities, whose gross income normally is derived principally from such business and related activities."

Applicant asserts that it is a broker-dealer registered in California, Connecticut, Maine, Maryland, New York, Massachusetts, New Hampshire, Ohio, Rhode Island, Vermont, and Wisconsin; that for at least the past 3 years Applicant's primary business activity has been as a major participant in the underwriting business; and that Applicant is primarily engaged in and normally derives its income from underwriting, selling securities to customers, and acting as a broker.

The application sets forth the following percentage breakdown of gross income for Applicant for the years ended September 30, 1967, 1968, and 1969:

Source of Income	Oct. 1, 1966 to Sept. 30, 1967	Oct. 1, 1967 to Sept. 30, 1968	Oct. 1, 1968 to Sept. 30, 1969
Underwriting	50.44	51.31	50.60
Trading accounts	27.05	18.25	19.61
Commissions	10.22	2.64	5.78
Investment securities	8.09	22.64	15.19
Dividends	2.72	1.82	2.08
Interest income	1.48	.85	4.50
Private placement fees		2.49	11.46
	100.00	100.00	100.00

¹ Paribas sustained substantial losses in trading accounts during 1969.

Applicant, therefore, asserts it is not an investment company pursuant to section 3(c) (2) of the Act and requests that the 1961 order be rescinded.

Notice is further given that any interested person may not later than June 21, 1971, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advise as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7761 Filed 6-3-71; 8:48 am]

[File No. 24NY-6823]

TECH-EC SYSTEMS, INC.

Order Permanently Suspending Exemption

MAY 27, 1971.

1. Tech-Ec Systems, Inc. (TES), 124 East 40th Street, New York, NY, is a New York corporation located at 124 East 40th Street, New York, NY. On June 17, 1969 it filed a notification in the New York Regional Office pursuant to Regulation A in connection with a proposed offering of 60,000 shares of its \$0.01 par value common stock at \$5 per share. The offering was to be conducted by the company through its officers and directors without the use of an underwriter. The offering commenced on September 21, 1969.

On October 28, 1969 a post-effective amendment was filed adding TDA Securities, Inc. (TDA) as an underwriter of the offering.

The offering recommenced on May 22, 1970. The amended offering circular provided that TES would offer 100,000 shares of its \$0.01 par value common stock at \$3 per share on a best efforts "one-fifth (20,000 shares) or none" basis. If the minimum number of shares was not sold within 90 days of the amended effective

date, all funds were to be returned to subscribers.

According to the offering circular TES was organized "for the purpose of offering a broad range of management, consulting, investment, and financial services . . ."

II. The Commission on January 28, 1971, temporarily suspended the Regulation A exemption of TES, stating that it had reasonable cause to believe from information reported to it by the staff that:

A. The notification and offering circular contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, with respect to the following:

1. The offering circular is materially false and misleading in that the issuer failed to conduct the offering in accordance with the terms set forth therein. More particularly the minimum number of shares required to be sold within a 90-day designated period was never reached yet the offering was continued and no funds were ever returned to subscribers as conditioned in the offering circular. In addition, funds received from the public were deposited in the "special account" described in the offering circular, after the 90-day period had expired.

2. The notification and offering circular failed to state that one Michael Hellerman would participate as an underwriter in the offering as that term is defined in section 2(11) of the Securities Act of 1933.

3. The offering circular omitted to state material facts concerning an injunction filed November 24, 1969, in the U.S. District Court for the Southern District of New York restraining Michael Hellerman from further violations of sections 5(a) and 5(c) of the Securities Act of 1933 in connection with the sale of Trimatrix, Inc., stock.

4. The offering circular contained untrue statements concerning the sale of shares to the public, in particular, that 100,000 shares of TES would be issued to the public only if payment in the amount of \$300,000 (less commissions and expenses of the underwriter) was received by TES. In fact only a small fraction of that amount was received by TES despite the issuance of 100,000 shares of stock to the public.

B. Michael Hellerman, an undisclosed underwriter, and the subject of an injunction restraining him from further violation of sections 5(a) and 5(c) of the Securities Act of 1933, commenced participation in the offering after the filing of the notification and such participation is therefore deemed an event which would have rendered the exemption unavailable if it had occurred prior to such filing.

C. The use of the offering circular by the issuer operated as a fraud and deceit upon purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

III. No hearing having been requested by the issuer within 30 days after the entry of an order temporarily suspending the exemption of the issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be permanently suspended, therefore: *It is ordered*, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, permanently suspended.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc. 71-7782 Filed 6-3-71; 8:48 am]

[812-2929]

WASHINGTON NATIONAL INSURANCE CO. AND WASHINGTON NATIONAL VARIABLE ANNUITY FUND B

Notice of Application for Exemption From the Provisions of the Act as Amended

MAY 27, 1971.

Notice is hereby given that Washington National Insurance Co. (Washington National), 1630 Chicago Avenue, Evanston, IL 60201, a stock life insurance company organized under the laws of the State of Illinois, and Washington National Variable Annuity Fund B (Variable Fund B), a unit investment trust registered under the Investment Company Act of 1940, as amended (Act), hereinafter collectively called "Applicants", have filed an application pursuant to section 6(c) of the Act for an order of exemption to the extent noted below from the provisions of section 27(h)(5) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Variable Fund B was established by Washington National in connection with the proposed sale to individuals of variable annuity contracts (Contracts). Net purchase payments under Contracts will be allocated to Variable Fund B and invested in shares of Washington National Fund, Inc. (Fund), an open-end investment company registered under the Act.

Variable Fund B was established by the Board of Directors of Washington National on April 30, 1968, pursuant to the laws of Illinois. Under these laws, Variable Fund B is an integral part of Washington National. The latter holds all of the assets of Variable Fund B and is responsible for the performance of the obligations of Variable Fund B under the Contracts. However, under the Illinois Insurance Code, the income, gains and losses of Variable Fund B may be credited to or charged against the amounts allocated to it in accordance with the Contracts without regard to the other income, gains or losses of Washington Na-

tional, and the assets of Variable Fund B are not chargeable with liabilities arising out of any other account or business Washington National may conduct.

Applicants request exemption from the following provisions of the Act to the extent stated below:

Section 27(h)(5), in pertinent part, prohibits the sale of periodic payment plan certificates if the first payment on such certificate is less than \$20 or any subsequent payment is less than \$10.

The periodic payment Contracts issued by Applicants prohibit any payment of less than \$10 and require a purchase payment schedule of at least \$100 annually. It is, therefore, possible that an initial payment of less than \$20 may be made. Applicants further state that a requirement of a minimum initial payment of \$20 might eliminate uniformity in periodic payments and would create administrative and accounting burdens for Variable Fund B and for any employers making payroll deductions. The sales and administrative expense deduction is made from each periodic payment through the first year of each Contract and there is no special charge imposed solely upon or in connection with the first such payment. Deductions will be uniform over the period of the first year of each Contract, and Applicants represent that there is no need for any special treatment of the initial payment.

On October 17, 1969, Washington National and Variable Fund B were granted various exemptions from the 1940 Act. Release IC-5850. Included in the exemption order was an exemption from section 27(a)(4) to permit initial purchase payments under periodic purchase payment Contracts to be less than \$20 (but not less than \$10). The provisions of section 27(h)(5) are identical to (and alternative to) the provisions of section 27(a)(4). Variable Fund B intends to elect under section 27(g) to be governed by the provisions of section 27(h) rather than those of section 27(a), and an exemption from section 27(h)(5) is requested to the same extent as the present exemption from section 27(a)(4).

Section 6(c) provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 10, 1971 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be

served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc. 71-7783 Filed 6-3-71; 8:48 am]

[812-2943]

WASHINGTON NATIONAL INSURANCE CO. AND WASHINGTON NATIONAL VARIABLE ANNUITY FUND A

Notice of Application for Exemption From the Provisions of the Act as Amended

MAY 27, 1971.

Notice is hereby given that Washington National Insurance Co. (Washington National), 1630 Chicago Avenue, Evanston, IL 60201, a stock life insurance company organized under the laws of the State of Illinois, and Washington National Variable Annuity Fund A (Variable Fund A), a unit investment trust registered under the Investment Company Act of 1940 (Act), hereinafter collectively called "Applicants", have filed an application pursuant to section 6(c) of the Act for an order of exemption to the extent noted below from the provisions of section 27(h)(3) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Variable Fund A was established by Washington National in connection with the proposed sale of variable annuity contracts (Contracts) intended to provide annuities under plans or trusts initially qualifying under section 401 or 403 of the Internal Revenue Code. Net purchase payments under Contracts will be allocated to Variable Fund A and invested in shares of Washington National Fund, Inc., an open-end investment company registered under the Act.

On September 8, 1969, Washington National and Variable Fund A were granted various exemptions from the

Act. Release IC-5806. Included in the exemption order was an exemption from section 27(a)(3) to permit a sales and administrative deduction of 6 percent, plus a charge of 50 cents per payment. *Provided, however*, That the aggregate of such charges with respect to any payment shall not exceed 9 percent.

Variable Fund A intends to elect under section 27(g) of the Act to be governed by section 27(h) (effective June 14, 1971) rather than section 27(a). Section 27(h)(3) contains provisions similar to those of section 27(a)(3) prohibiting any sales charge made during a period, included among certain specified periods, from exceeding proportionately any other sales charge on any other payment made during the same period. Applicants request an exemption from section 27(h)(3) to the same extent as the exemption previously granted from section 27(a)(3) in order to permit the 50 cents per payment charge which, if the amount of any payment made during a period varied from the amount of any other payment, would result in a proportionately different sales charge.

Applicants represent that under the group Contracts the deduction from each and every payment will be uniform and not more than 9 percent, that is, 6 percent, plus 50 cents; and that the 50 cents per payment deduction relates to the cost of processing each purchase payment and is fair and equitable to the participants because the cost of processing a purchase payment is the same regardless of the size of the payment.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 10, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for

hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc. 71-7764 Filed 6-3-71; 8:48 am]

TARIFF COMMISSION

[TEA-F-23]

PLA MOC INC.

Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

Investigation instituted. Upon petition under section 301(a)(2) of the Trade Expansion Act of 1962, filed by Pla Moc Inc., Lynn, Mass., the U.S. Tariff Commission, on June 1, 1971, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with women's and misses' footwear of the types produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The petitioner has not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

Inspection of petition. The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: June 1, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.
[FR Doc. 71-7831 Filed 6-3-71; 8:54 am]

INTERSTATE COMMERCE COMMISSION

[Notice 45]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

MAY 28, 1971.

The following applications are governed by Special Rule 100.247¹ of the

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Commission's general rules of practice (49 C.F.R., as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2962 (Sub-No. 46), filed May 5, 1971. Applicant: A. & H. TRUCK LINE, INC., 1111 East Louisiana Street, Evansville, IN 47717. Applicant's representative: Robert H. Kinker, 711 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Hammond and Indianapolis, Ind., from Hammond over Interstate Highway 80 to the junction of Interstate Highway 65, thence over Interstate Highway 65 to Indianapolis, Ind., and return over the same route, as an alternate route for operating convenience only in connection with applicant's authorized regular-route operations, serving no intermediate points and serving the termini for purpose of joinder only. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 2860 (Sub-No. 98), filed May 12, 1971. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ 08360. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt and cereal beverages and beer tonic*, in glass bottles or cans, in boxes or in bulk in barrels, from Winston-Salem, N.C., to points in New Jersey and New York, N.Y., and its commercial zone; and (2) *empty containers, barrels, bottles, cartons, pallets, fillers, and partitions*, from points in New Jersey and New York, N.Y., and its commercial zone to Winston-Salem, N.C., on return. **NOTE:** Applicant states that tacking is feasible at the New Jersey destination points to and from New England and Middle Atlantic States. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 3468 (Sub-No. 161), filed May 13, 1971. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., 705 South Dort Highway, Flint, MI 48501. Applicant's representative: Harry C. Ames, Jr., Suite 705-666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers), in initial movements, in truckaway service, from Linden, N.J., and Wilmington, Del., to points in Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and West Virginia. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 5470 (Sub-No. 62), filed May 11, 1971. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, PA 16137. Applicant's representative: Donald E. Cross, 917 Munsey Building, 1329 E Street NW., Washington, DC 20004. Au-

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys and ores*, in dump vehicles, from Ashtabula and Marietta, Ohio, and Alloy, W. Va., to points in North Carolina and South Carolina. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 10173 (Sub-No. 12) (Correction), filed May 3, 1971, published in the FEDERAL REGISTER issue of May 27, 1971, and republished in part, as corrected, this issue. Applicant: MARVIN HAYES LINES, INC., Guthrie Highway-Hayes Circle, Clarksville, TN. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219. **NOTE:** The sole purpose of this partial republication is to show the correct docket number as MC 10173 (Sub-No. 12) in lieu of MC 107173 (Sub-No. 12) which was inadvertently shown in the previous publication. The rest of the application remains as previously published.

No. MC 11220 (Sub-No. 122), filed May 10, 1971. Applicant: GORDONS TRANSPORTS, INC., 185 West McLeMORE Avenue, Memphis, TN 38102. Applicant's representative: Robert E. Joyner, 211 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment), serving the plantsite and storage facilities of Wm. Wrigley, Jr., Co. at or near Flowery Branch, Ga., as an off-route point in connection with carrier's regular-route operation from and to Atlanta, Ga., restricted to the transportation of shipments moving from, to, or through points in Alabama and/or Tennessee. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 25869 (Sub-No. 107) (Correction), filed April 15, 1971, published in the FEDERAL REGISTER issue of May 6, 1971, corrected, and republished as corrected this issue. Applicant: NOLTE BROS. TRUCK LINE, INC., 4734 South 27th Street, Omaha, NE 68107. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 9100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, from Greeley, Colo., to points in Minnesota, Indiana, Missouri, Iowa, and Nebraska. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. The

purpose of this application is to redescribe the scope of authority sought. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Denver, Colo.

No. MC 25869 (Sub-No. 108), filed May 10, 1971. Applicant: NOLTE BROS. TRUCK LINE, INC., 4734 South 27th Street, Omaha, NE 68107. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Iowa City and Muscatine, Iowa, to points in Nebraska. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 34227 (Sub-No. 5) (Correction), filed April 9, 1971, published in the FEDERAL REGISTER issues of May 13 and May 27, 1971, and republished in part, as corrected, this issue. Applicant: PACIFIC INLAND TRANSPORTATION CO., a corporation, 15 South Broadway, Cortez, CO 81321. Applicant's representatives: David R. Parker, Post Office Box 82028, Lincoln, NE 68501, and A. Jack Hamilton (same address as applicant). **NOTE:** The sole purpose of this partial republication is to also reflect Mr. David R. Parker as applicant's representative, which was inadvertently omitted from the previous publication. The rest of the application remains as previously published.

No. MC 44639 (Sub-No. 35) (Amendment), filed April 23, 1971, published in the FEDERAL REGISTER issue of May 20, 1971, and republished as amended, this issue. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacturing of wearing apparel (except commodities in bulk), between Roxobel, N.C., on the one hand, and, on the other, Emporia and Crewe, Va., and New York, N.Y. **NOTE:** Applicant states it will tack at Crewe and Emporia, Va., to provide through service to points in New Jersey and New York. The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Wilson, N.C., or Washington, D.C.

No. MC 45134 (Sub-No. 7), filed May 10, 1971. Applicant: COLLINS TRUCK LINE, INC., 3705 Marshall Street, Minneapolis, MN 55451. Applicant's representative: Louis I. Dailey, Suite 2205 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and*

petroleum products, in containers, *gasoline additives*, in containers, *antifreeze*, in containers, *tires, batteries, and service station accessories and supplies*, from the blending plant, warehouses and storage facilities of Mobil Oil Corp. in the St. Paul-Minneapolis, Minn., commercial zone to points in Montana, traversing North Dakota and/or South Dakota for operating convenience only. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Kansas City or St. Louis, Mo.

No. MC 45134 (Sub-No. 8), filed May 10, 1971. Applicant: COLLINS TRUCK LINE, INC., 3705 Marshall Street, Minneapolis, MN 55451. Applicant's representative: Louis I. Dailey, Suite 2205 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in containers, *gasoline additives*, in containers, *antifreeze*, in containers, *tires, batteries, and service station accessories and supplies*, from the blending plant, warehouses and storage facilities of Mobil Oil Corp. located in the St. Paul-Minneapolis, Minn., commercial zone as defined by the Interstate Commerce Commission to points in North Dakota; and (2) *building and roofing materials*, from points in the St. Paul-Minneapolis, Minn., commercial zone to points in North Dakota, traversing South Dakota for operating convenience only in (1) and (2). **NOTE:** Applicant states that the commodities described in Part (1) hereof must all originate at the blending plant, warehouses and storage facilities of Mobil Oil Corp. located in the St. Paul-Minneapolis commercial zone whereas Part (2) is not so restricted. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Kansas City or St. Louis, Mo.

No. MC 46280 (Sub-No. 70) (Correction) filed April 22, 1971, published in the FEDERAL REGISTER issue of May 13, 1971, and republished as corrected this issue. Applicant: KEY LINE FREIGHT, INC., 15 Andre Street SE., Grand Rapids, MI 49507. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Detroit, Mich., on the one hand, and, on the other, Omaha, Nebr.; Louisville, Ky.; St. Louis, Mo.; Evansville and Vincennes, Ind., those in Iowa on and east of U.S. Highway 65; those in Minnesota,

on, east, and south of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 65 to Minneapolis, Minn., and from Minneapolis along U.S. Highway 12 to the Minnesota-Wisconsin State line. **NOTE:** This application does not involve service to any new points to or from Detroit, Mich., and is filed for the sole purpose to eliminate the necessity of going through the present gateway point of Bath, Mich. Applicant is already engaged in extensive operations between Detroit and the involved points and thus the elimination of the gateway will not result in service to any new points or any different service from that which has been conducted by applicant for a considerable period of time. Actually by bypassing the tacking point of Bath, Mich., the mileage savings to all of the involved territory will be less than 10 percent. Applicant further states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe and clarify the authority sought, a portion which was inadvertently omitted from previous publication. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 57311 (Sub-No. 9), filed May 10, 1971. Applicant: PUTNAM TRANSFER & STORAGE CO., a corporation, 1502 Woodlawn Avenue, Zanesville, OH 43701. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular/irregular routes, transporting: (1) Regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, and those requiring special equipment), between Crooksville and Zanesville, Ohio; From Crooksville over Ohio Highway 75 to Zanesville, and return over the same route. Service is authorized to and from all intermediate points, and the off-route points of Redfield, Saltillo, Zanesville Municipal Airport, and the intersection of Interstate Highway 70 and Ohio Highway 797. (2) Irregular routes: Between Zanesville Municipal Airport, Perry Township, Muskingum County, Ohio, and the intersection of Interstate Highway 70 and Ohio Highway 797, on the one hand, and, on the other, points in Ohio. **NOTE:** Applicant states it intends to tack the authority sought in Part (1) with that sought in Part (2) and with present authority in Sub 5, so as to provide service between all points in Ohio. Applicant presently holds authority in its Subs 1 and 7 to perform all service sought. The purpose of this application is to obtain the alternate gateway of intersection of Interstate Highway 70 and Ohio Highway 797. No duplicate authority is being sought and it is willing to accept any appropriate restriction concerning same. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 58549 (Sub-No. 12), filed May 12, 1971. Applicant: CLINE MUNDY, doing business as GENERAL MOTOR LINES, 526 Orange Avenue, Roanoke, VA 24016. Applicant's representative: Francis W. McInerney, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Roanoke, Va., on the one hand, and, on the other, Alleghany and Bath Counties, Va. **NOTE:** Applicant states it proposes to tack at Roanoke, Va., with existing authorities to provide a through service. If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va.

No. MC 67200 (Sub-No. 36) (Amendment), filed April 21, 1971, published in the FEDERAL REGISTER issue of May 13, 1971, and republished as amended this issue. Applicant: THE FURNITURE TRANSPORT COMPANY, INC., Post Office Box 392, Furniture Row, Milford, CT 07470. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wheel goods, baby and doll carriages and parts, carriage hardware and parts, children's vehicles, including, but not limited to bicycles and tricycles*, from Mahwah, N.J., and Gardner, Mass., to points in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, and the District of Columbia. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to add Gardner, Mass., as an origin point and West Virginia, North Carolina, South Carolina, Georgia, and Alabama as destination States. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or New York, N.Y.

No. MC 69224 (Sub-No. 39), filed May 6, 1971. Applicant: H & W MOTOR EXPRESS COMPANY, a corporation, 3000 Elm Street, Dubuque, IA 52001. Applicant's representative: Urban R. Haas, 3000 Elm Street, Dubuque, IA 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers*, as defined by the Commission (except commodities in bulk in tank vehicles, and hides), between plant and warehouse facilities of the Dubuque Packing Co., Dubuque, Iowa, on the one hand, and, on the other, points in Illinois, Indiana, Minnesota, and Wisconsin, and the St. Louis, Mo., commercial

zone as defined by the Commission. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at (1) Dubuque, Iowa, (2) Chicago, Ill., or (3) Des Moines, Iowa.

No. MC 69275 (Sub-No. 41), filed May 3, 1971. Applicant: M & M TRANSPORTATION COMPANY, a corporation, 186 Alewife Brook Parkway, Cambridge, MA 02138. Applicant's representative: Herbert Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other loading), over regular routes, between Scranton, Pa., and Syracuse, N.Y., serving all intermediate points in New York, off-route points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 15 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 6; and on and south of U.S. Highway 6 from said junction of U.S. Highways 6 and 11 to the Pennsylvania-New York State line; and those in Broome, Cayuga, Chemung, Chenango, Cortland, Madison, Onondago, Schuyler, and Tioga Counties, N.Y., from Scranton over U.S. Highway 11 to Syracuse and return over the same route. NOTE: Applicant will tack at Syracuse, N.Y., in order to provide service between all points which it is presently authorized to serve in the State of New York, and at Scranton, Pa., in order to provide service to all points which it is presently authorized to serve in the Commonwealth of Pennsylvania. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 69901 (Sub-No. 25), filed May 14, 1971. Applicant: COURIER-NEWSOM EXPRESS, INC., Post Office Box 270, Columbus, IN 47201. Applicant's representative: L. R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, (1) between Madison and Columbus, Ind., over Indiana Highway 7 and (2) between Louisville, Ky., and Madison, Ind., as follows: From Louisville, Ky., over Interstate Highway 65 to junction Indiana Highway 62, thence over Indiana Highway 62 to Madison, Ind., and return over the same route. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 74361 (Sub-No. 9), filed May 4, 1971. Applicant: BOB MENDENHALL,

doing business as OKLAHOMA BORDER EXPRESS, 903 South Y Street, Fort Smith, AR 72901. Applicant's representative: Thomas Harper or Tom Harper, Jr., Post Office Box 43, Kelley Building, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Webberville, Okla., and Tulsa, Okla.; from Webberville Falls over U.S. Highway 64 to junction Muskogee Turnpike, thence over Muskogee Turnpike and Oklahoma Highway 51 to Tulsa and return by the same route, serving no intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., Fort Smith, Ark., or Oklahoma City, Okla.

No. MC 102343 (Sub-No. 13), filed May 6, 1971. Applicant: JOHN KAUSER TRUCKING SERVICE, INC., 850 West Harrison, Paulding, OH 45879. Applicant's representative: James M. Burch, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Jackson Township, Paulding County, Ohio, to points in Indiana and Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 103993 (Sub-No. 635), filed May 11, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representatives: Paul D. Borgheani (same address as applicant) and Ralph H. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements, from points in Outagamie County, Wis., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 105045 (Sub-No. 31), filed May 13, 1971. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, IN 47708. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum articles, and carbon electrodes*, from Lake Charles, La., to points in New Mexico, Colorado, Nebraska, South Dakota, North Dakota, and all points east thereof. NOTE: Applicant states that tacking is possible but does not identify the points or territories which can be served through tacking.

Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 106274 (Sub-No. 15), filed May 10, 1971. Applicant: RAEFORD TRUCKING COMPANY, a corporation, Landis Street, Sanford, NC 27330. Applicant's representative: J. L. Keith, Post Office Box 45, Sanford, NC 27330. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, wood fiberboard faced, or finished with decorative and/or protective material, and accessories and supplies used in installation thereof* (except commodities in bulk), from Moncure, N.C., to points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., or Washington, D.C.

No. MC 106644 (Sub-No. 118), filed May 10, 1971. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW, Post Office Box 916, Atlanta, GA 30301. Applicant's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, and parts used on the construction, assembly, servicing, and operation of boats, barges, ships, and other vessels, between the plantsites of Litton Systems, Inc., at Pascagoula, Miss., on the one hand, and, on the other, points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin. NOTE: Applicant states that there are tacking possibilities but it has no present intention to tack. Applicant could tack with its existing size and weight authority in its lead certificate, Sub 30, Sub 41, and Sub 106. Applicant has pending under MC 104724 Sub 93, contract carrier authority, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at (1) New Orleans, La., (2) Miami, Fla.*

No. MC 107162 (Sub-No. 30), filed May 10, 1971. Applicant: NOBLE GRAHAM, Brimley, Mich. 49715. Applicant's representative: Philip H. Porter or John D. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hardwood flooring systems;*

hardwood flooring; lumber and lumber products; and accessories and supplies used in the installation thereof, from the plant warehouse sites of Robbins Flooring Co., at or near Ishpeming, Mich., and White Lake, Wis., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, District of Columbia, and east of U.S. Highway 183 in Nebraska; and (2) materials, equipment, and supplies used in the manufacture and distribution of commodities above from the above-named destination States to plant and warehouse sites of Robbins Flooring Co., located at Ishpeming, Mich., and White Lake, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Green Bay, Madison, or Milwaukee, Wis.

No. MC 107496 (Sub-No. 810), filed May 10, 1971. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, IA 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, including *paint and paint materials, fillers, lacquers, stains, varnish, resins, and shellacs*, from Fort Wayne, Ind., to points in West Virginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee, Alabama, Mississippi, Ohio, Pennsylvania, and Indiana; (2) *Municipal sewage, sewage sludge, and salt water*, in bulk, from points in the United States to Rothschild, Wis., and (3) *Resin and lacquer*, in bulk, from Kansas City, Mo., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Nebraska, Ohio, Oklahoma, Wisconsin, and Wyoming. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 111170 (Sub-No. 161), filed May 14, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, El Dorado, AR 71730. Applicant's representative: Don A. Smith, Post Office Box 43, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defluorinated phosphate*

feed supplements, in bulk, and in bags, from North Little Rock, Ark., to points in Louisiana, Missouri, Mississippi, Kansas, Kentucky, Illinois, Oklahoma, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 111231 (Sub-No. 169) (Amendment), filed December 7, 1970, published in the FEDERAL REGISTER issue of January 14, 1971, and republished as amended, this issue. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, Post Office Box 869, Springdale, AR 72764. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (a) *Iron or steel or iron or steel articles*, having prior water transportation, from points in Arkansas and Oklahoma located on the Arkansas-Verdigris Rivers, to points in Arkansas, Kansas, Oklahoma, and Texas; and (b) *iron or steel articles*, from Carlinville, Ill., to points in Arkansas, Oklahoma, Missouri (except St. Louis County, Mo.), Kansas, and Texas. NOTE: Applicant states that it proposes to tack with existing authorities in its base certificate No. MC 111231. The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Fort Smith or Little Rock, Ark., or St. Louis or Kansas City, Mo.

No. MC 111812 (Sub-No. 423), filed May 12, 1971. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing-houses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the plantsite or storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Ohio, Pennsylvania, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, Maine, Delaware, Maryland, Virginia, West Virginia, the District of Columbia, Washington, Oregon, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, and Minnesota, restricted to traffic originating at the named origin and destined to the named destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 111812 (Sub-No. 424), filed May 6, 1971. Applicant: MIDWEST

COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery, and related advertising materials*, from Delavan, Wis., and Chicago, Ill., to points in Minnesota, South Dakota, North Dakota, Montana, Wyoming, Idaho, Washington, Oregon, New Mexico, Colorado, Nebraska, Iowa, Utah, and Arizona. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority under its Sub 200 at Sioux Falls, S. Dak., to perform a through service to California, but indicates that it has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Omaha, Nebr.

No. MC 112223 (Sub-No. 88), filed May 14, 1971. Applicant: QUICKIE TRANSPORT COMPANY, a corporation, 501 11th Avenue South, Minneapolis, MN 55415. Applicant's representative: Earl Hacking, 503 11th Avenue South, Minneapolis, MN 55415. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid concrete admixtures* in bulk, in specialized equipment, from Minneapolis, Minn., to points in Minnesota, Wisconsin, North Dakota, South Dakota, and Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 112304 (Sub-No. 48), filed May 6, 1971. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Ravenna, Mich., to points in Illinois, Indiana, Iowa, New York, Ohio, Pennsylvania, and Wisconsin, and (2) *equipment, materials, and supplies used in the manufacture and processing of iron and steel articles*, on return. NOTE: Applicant states that tacking possibilities exist with its Sub 1 "size and weight" authority to serve all points in Michigan, but it is not contemplated at this time. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113362 (Sub-No. 213), filed May 13, 1971. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Raymond W. Ellsworth, Post Office Box 227, Seneca, PA 16346. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood furniture parts, hardwood squares, hardwood rounds, edge glued hardwood*

panels, and millwork, from points in Cattaraugus and Chautauque Counties, N.Y., and points in Venango County, Pa., to points in Virginia, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Buffalo, N.Y.

No. MC 113828 (Sub-No. 191), filed May 17, 1971. Applicant: O'BOYLE TANK LINES, INC., Post Office Box 30006, Washington, DC 20014. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006 and John F. Grimm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk from facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at the District of Columbia.

No. MC 114106 (Sub-No. 84), filed May 11, 1971. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Post Office Box 849, Lexington, N.C. 27292. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, dry, and in bulk, from Charlotte, N.C., to points in Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant holds contract carrier authority under MC 115176 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114211 (Sub-No. 152), filed May 10, 1971. Applicant: WARREN TRANSPORT, INC., 324 Manhard, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Charles W. Singer, Suite 1625, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except those with vehicle beds, bed frames, and fifth wheels), (2) *equipment*, designed for use in conjunction with tractors, (3)

agricultural, industrial, and construction machinery and equipment, (4) *trailers*, designed for the transportation of the above-described commodities (except those designed to be drawn by passenger automobiles), (5) *attachments*, for the above-described commodities, (6) *internal combustion engines*, (7) *parts*, of the above-described commodities when moving in mixed loads with such commodities, and (8) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1) through (7) above between Grand Island, Nebr., on the one hand, and, on the other, points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, New York, Pennsylvania, West Virginia, Virginia, North Carolina, Michigan, South Carolina, Georgia, Florida, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, and Maryland. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at same time and place as duplicate applications of Daily Express and International Transport, or Chicago, Ill.

No. MC 115113 (Sub-No. 23), filed May 10, 1971. Applicant: IOWA PACKERS EXPRESS, INC., Post Office Box 231, Spencer, IA 51301. Applicant's representative: Bill Husby (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk) as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and warehouse facilities utilized by United Packing of Iowa, located at or near Sioux City, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restrictions: The service proposed herein are restricted to the transportation of traffic originating at the above-named origin points and destined to the above-named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 115152 (Sub-No. 228), filed May 6, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's represent-

ative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle board*, from the plantsite and storage facilities of Duraflake South, Inc., at or near Simsboro, La., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico, restricted to traffic originating at the named origin and destined to points in the named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., Memphis, Tenn., Atlanta, Ga., or Washington, D.C.

No. MC 115523 (Sub-No. 165), filed May 11, 1971. Applicant: CLARK TANK LINES COMPANY, a corporation, 1450 Beck Street, Salt Lake City, UT 84116. Applicant's representative: Haines D. Stratford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth*, in bulk, and *diatomaceous earth* in bags, in mixed loads with diatomaceous earth, in bulk, from Clark and Colado, Nev., to points in Arizona, Oregon, and Washington. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Reno, Nev., and Salt Lake City, Utah.

No. MC 115826 (Sub-No. 217), filed May 12, 1971. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088 T.A., Denver, CO 80217. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, requiring refrigeration, from Lafayette, Ind., to points in Indiana (South of U.S. Highway 36), Illinois, Iowa, Colorado, Kansas, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.—Chicago, Ill.

No. MC 116101 (Sub-No. 9), filed May 14, 1971. Applicant: QUICK AIR FREIGHT, INC., Cargo Building, Port Columbus Airport, Columbus, Ohio. Applicant's representatives: James R. Stiverson-Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mining machine parts*, in emergency service, from Columbus, Ohio to points in the United States east of the Mississippi River, except points in Illinois, Indiana, Kentucky, Louisiana, Michigan, Minnesota, New York, Pennsylvania, and West Virginia and (2) *used mining machine parts*, from points in the United States east of the Mississippi River, except points in Illinois, Indiana, Kentucky,

Louisiana, Michigan, New York, Minnesota, Pennsylvania, and West Virginia to Columbus, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 116763 (Sub-No. 192), filed May 7, 1971. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel wire, cable, strand and spirals*, from Jacksonville, Fla., to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana. NOTE: Applicant states that the requested authority may have tacking possibilities with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 116821 (Sub-No. 6) (Correction), filed April 15, 1971, published in the *Federal Register* issue of May 13, 1971 and republished as corrected this issue. Applicant: FURNITURE DELIVERY, INC., Box 374, Columbiana, OH 44408. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. NOTE: The purpose of this partial republication is to show the subject carrier as being located in Columbiana, Ohio, in lieu of Columbia, Ohio, as incorrectly shown in previous publication. The rest of the application remains the same.

No. MC 116935 (Sub-No. 11) (Amendment), filed January 12, 1971, published in the *Federal Register* issues of February 11, 1971 and March 18, 1971, respectively, and republished as amended, this issue. Applicant: COMMERCIAL FURNITURE DISTRIBUTORS, INC., 1000 Belleville Turnpike, Kearny, NJ 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, in containers, between the facilities of Commercial Furniture Distributors, Inc., at Kearny and Harrison, N.J., on the one hand, and, on the other, points in Nassau, Suffolk, Westchester, Orange, Rockland, and Putnam Counties, N.Y., and points in New York, N.Y., and New Jersey, restricted to shipments having prior movement via rail or motor carrier. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to add Harrison, N.J., thereby, making the movement applicable from said plantsite. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 117574 (Sub-No. 203), filed May 10, 1971. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, PA 17013. Applicant's representatives: E. S. Moore, Jr. (same address as applicant) and James W. Hagar, 100 Pine Street, Post Office Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water and sewer pipe, conduit, attachments, and fittings* for conduit, water and sewer pipe (except clay pipe, conduit, attachments, and fittings), between St. Louis, Mo., on the one hand, and, on the other, points in Delaware, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the authority sought herein can be tacked with existing authority held by applicant. It is not however, the applicant's present intention to tack, and therefore the tacking authorities are not identified herein. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or St. Louis, Mo.

No. MC 117815 (Sub-No. 175), filed May 10, 1971. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Wisconsin. Restricted to traffic originating at the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 118831 (Sub-No. 80), filed May 12, 1971. Applicant: CENTRAL TRANSPORT, INC., Post Office Box 5044 (Uwharrie Road), High Point, NC 27262. Applicant's representative: Richard E. Shaw (same address as above) and E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from New Hanover County, N.C., and Spartanburg County, S.C., to points in Tennessee,

see. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore, does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 119422 (Sub-No. 49), filed May 21, 1971. Applicant: Ee-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, East St. Louis, IL 62204. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, fertilizer ingredients, herbicides, fungicides, pesticides, and rodenticides* in containers, from East St. Louis, Ill., to points in Missouri, Kansas, Oklahoma, Arkansas, Nebraska, Iowa, Kentucky, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 119626 (Sub-No. 8), filed May 21, 1971. Applicant: ILL.-PAC. COAST TRANSPORTATION CO., a corporation, 1601 Market Street, Madison, IL 62060. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from St. Louis, Mo., Springfield and Chicago, Ill., to points in Arizona, New Mexico, and Nevada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 119767 (Sub-No. 269), filed May 6, 1971. Applicant: BEAVER TRANSPORT CO., a corporation, Post Office Box 188, Pleasant Prairie, WI 53158. Applicant's representative: Allan B. Torhorst, Post Office Box 186, Pleasant Prairie, WI 53158. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and products* used in or produced by the food processing industry (except commodities in bulk), between Lawton, Decatur, and Paw Paw, Mich., on the one hand, and, on the other, points in Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be

involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 119908 (Sub-No. 12), filed May 4, 1971. Applicant: WESTERN LINES, INC., Post Office Box 1145, Houston, TX 77001. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the plantsite of Woodward Walker Willamette, Inc., at Minden, La., and from the plantsite of Santiam Southern, Inc., at Ruston, La., to points in Arkansas on and south of U.S. Highway 70, and points in that part of Mississippi on and south of U.S. Highway 78. **NOTE:** Applicant holds contract carrier authority under MC 110814 and subs, therefore, dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 119945 (Sub-No. 32), filed May 21, 1971. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer ingredients, insecticides, herbicides, fungicides, pesticides, and rodenticides*, in containers, from East St. Louis, Ill., to points in Kentucky, Arkansas, Missouri, Kansas, Oklahoma, Nebraska, Iowa, and South Dakota. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 123407 (Sub-No. 81), filed May 7, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board, and materials, accessories, and supplies* used in the installation thereof, from points in Alpena County, Mich., to points in the United States in and east of Montana, Wyoming, Colorado, Oklahoma, Arkansas, and Louisiana (except North Dakota, South Dakota, and Minnesota); and (2) *materials, supplies, and equipment* used in the manufacture of composition board, from points in the above described destination area to points in Alpena County, Mich. **NOTE:** Common control may be involved. Applicant states that the requested authority cannot be tacked to its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

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No. MC 125168 (Sub-No. 19), filed May 13, 1971. Applicant: OIL TANK LINES, INC., Post Office Box 190, Darby, PA 19023. Applicant's representatives: James R. Stiversen and Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum oils*, in bulk, in tank vehicles, from Bradford and Karns City, Pa., to The Pennsylvania Refining Co. plant at or near North Bergen, N.J.; from Paulsboro and Pettys Island, N.J., to Karns City, Pa. The operations sought herein above limited to a transportation service to be performed under a continuing contract with The Pennsylvania Refining Co.; (2) *petroleum oils*, in bulk, in tank vehicles; (a) from Pettys Island, N.J., to Rouseville, Pa.; (b) from Paulsboro, N.J., to Rouseville and Reno, Pa., and Falling Rock, W. Va.; (c) from Reno, Pa., to Jersey City, N.J.; (d) from Falling Rock, W. Va., to Clifton, Jersey City, Newark and Searan, N.J.; and (e) from Rouseville, Pa., to North Bergen, Paterson, Pennsauken, Pettys Island, Piscataway, and Searan, N.J., Falling Rock, W. Va., Baltimore and Beltsville, Md.; (3) *Petroleum wax*, in bulk, in tank vehicles, from Rouseville, Pa., to Bayonne, Brainards, Harrison, Kenvil, and Parlin, N.J., and Falling Rock, W. Va.; and (4) *petroleum oils and wax*, in bulk, in tank vehicles, from Reno and Rouseville, Pa., to New York, N.Y. The operators sought in Items 2, 3 and 4 herein above are limited to a transportation service to be performed under a continuing contract with Pennzoil United, Inc. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 125440 (Sub-No. 11), filed May 10, 1971. Applicant: JULES TISCHLER, doing business as RARITAN MOTOR EXPRESS, 129 Lincoln Boulevard, Middlesex, NJ 08846. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete panels, and materials, supplies, and equipment* used in the manufacture, erection or installation thereof (except commodities in bulk and those which because of their size and weight, require the use of special equipment), between Worcester, Mass., on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, under contract with Granite Research Industries, Inc. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 126196 (Sub-No. 5), filed May 13, 1971. Applicant: LUVERNE S. CHRISTENSEN, doing business as CHRISTENSEN TRUCK LINE, 206 West 11th Street, Redwood Falls, MN 56283. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Build-

ing, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from Redwood Falls, Minn., to Boston, Mass., Chicago, Ill., Detroit, Mich., Houston, Tex., New Orleans, La., New York, N.Y., Philadelphia, Pa., and St. Louis, Mo. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 126241 (Sub-No. 1), filed May 5, 1971. Applicant: PRYOR TRUCKING, INC., 816 Orleans Avenue, Keokuk, IA 52632. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, fiberboard, pulpboard and fiberboard products, machinery, materials, and supplies*, used in the manufacture of paper and boxes, and *starch and chemicals* used in the manufacture of glue (except commodities in bulk); (1) between Keokuk, Iowa, on the one hand, and, on the other, points in Kansas and Nebraska; (2) between Burlington, Iowa, on the one hand, and, on the other, points in Illinois; (3) between Des Moines, Iowa, on the one hand, and, on the other, points in Nebraska; and (4) between Montrose, Iowa, on the one hand, and, on the other, points in Illinois, Kansas, Missouri, and Nebraska, under contract with Hoerner Waldorf Corp. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Des Moines, Iowa.

No. MC 126537 (Sub-No. 26), filed May 7, 1971. Applicant: KENT I. TURNER, KENNETH E. TURNER, AND ERVIN L. TURNER, a partnership, doing business as TURNER EXPEDITING SERVICE, Post Office Box 21333, Standiford Field, Louisville, KY 40221. Applicant's representative: George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Tri-Cities Airport, Sullivan County, Tenn., and points in Roanoke and Tazewell Counties, Va.; (2) from Tazewell County, Va., to Newark Airport, Newark, N.J.; and (3) between Standiford Field, Louisville, Ky., and John F. Kennedy Airport, Jamaica, N.Y., restricted to shipments having a prior or subsequent movement by air. **NOTE:** Applicant has contract carrier authority under MC 129652, therefore dual operations may be involved. Applicant states tacking is proposed at all common points with applicant's existing authority for through service between those points sought to be served herein and all points

presently authorized to be served by applicant. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn., or Charlotte, N.C.

No. MC 126585 (Sub-No. 4), filed May 10, 1971. Applicant: L. TRETON TRANSPORT, LTD., Lime Ridge, PQ Canada. Applicant's representative: Edwin W. Free, Jr., 25 Keith Avenue, Barre, VT 05641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, from ports of entry located in Maine and New Hampshire, on the international boundary line between the United States and Canada, to points in Massachusetts, Maine, New Hampshire, and Vermont, under contract with Dominion Lime, Ltd. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Burlington, Vt.

No. MC 127028 (Sub-No. 7), filed May 12, 1971. Applicant: BREDEHOEFT PRODUCE COMPANY, INC., Decatur, Ark. 72722. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, vinegars, alcohol, and ammonia* (except commodities in bulk), from Rogers, Ark., to points in the United States (except Alaska and Hawaii); (2) *glass and plastic containers, including closures and corrugated paper cartons* therefor, from Jackson, Miss., New Orleans, La., Palestine, Tex., and Okmulgee, Sand Springs, Ada, and Muskogee, Okla., to Rogers, Ark.; (3) *sugar*, from Supreme, La., to Rogers, Ark.; and (4) *fertilizer*, from Selma, Mo., to Rogers, Ark. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Little Rock, Ark.

No. MC 128273 (Sub-No. 96), filed May 12, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, products produced or distributed by manufacturers or converters of paper and paper products, materials, equipment, and supplies* used in the manufacture and distribution of paper products (except commodities in bulk, and commodities which because of size or weight, require the use of special equipment), between Asheville, Canton, and Waynesville, N.C.; Hamilton and Piqua, Ohio; Houston, Tex., and Lawrence County, Ala., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 128343 (Sub-No. 17), filed May 11, 1971. Applicant: C-LINE, INC.,

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Tourtellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulated copper and aluminum wire and cable and related accessory parts*, from Lincoln, R.I., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, South Dakota, Ohio, Oklahoma, Texas, Wisconsin, and Rhode Island; and (2) *materials, equipment, and supplies* (except in bulk), from the destination states in (1) above to Lincoln, R.I., under contract with Collyer Insulated Wire Co., a Gulf & Western Systems Co. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Providence, R.I.

No. MC 128471 (Sub-No. 1), filed May 14, 1971. Applicant: LAHMANN FILM SERVICE, INC., 5657 Green Acres Court, Cincinnati, OH 45211. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, OH 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, vinegars, alcohol, and ammonia* (except commodities in bulk), from Rogers, Ark., to points in the United States (except Alaska and Hawaii); (2) *glass and plastic containers, including closures and corrugated paper cartons* therefor, from Jackson, Miss., New Orleans, La., Palestine, Tex., and Okmulgee, Sand Springs, Ada, and Muskogee, Okla., to Rogers, Ark.; (3) *sugar*, from Supreme, La., to Rogers, Ark.; and (4) *fertilizer*, from Selma, Mo., to Rogers, Ark. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati or Columbus, Ohio.

No. MC 129187 (Sub-No. 2), filed May 7, 1971. Applicant: CLAY PRODUCTS TRANSPORT, INC., Post Office Box 429, Dover, OH 44622. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and related supplies* used in the manufacture of iron and steel, between Dover Township, Tuscarawas County, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, West Virginia, and Wisconsin, under a continuing contract with The Greer Steel Co. **NOTE:** Applicant holds common carrier authority under MC 87532 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 129713 (Sub-No. 6), filed May 13, 1971. Applicant: CHESTERFIELD STEEDE AND EDWIN STEEDE, doing business as STEEDE TRUCKING, 194-55 111th Road, Hollis, NY 11412. Applicant's representative: William J. Hanlon, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract*

carrier, by motor vehicle, over irregular routes, transporting: *Hospital and laboratory instruments, equipment, and materials*, between Piscataway, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau County, N.Y., under contract with IPCO Hospital Supply Corp., and its wholly owned subsidiaries. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 129718 (Sub-No. 3), filed May 14, 1971. Applicant: ARNOLD P. BANWART, doing business as BANWART TRUCKING COMPANY, West Bend, Iowa 50597. Applicant's representative: Clayton L. Wornson, 824 Brick & Tile Building, Mason City, Iowa. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Animal and poultry feed additives* (except liquid animal and poultry feed additives in bulk), from West Bend, Iowa, to Alpha, Ill., under contract with West Bend Processing Co., West Bend, Iowa. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Mason City or Des Moines, Iowa.

No. MC 134458 (Sub-No. 1), filed May 12, 1971. Applicant: BUD'S CHAMPLIN SERVICE, INC., doing business as BUD'S WRECKER SERVICE, a corporation, 406 First Avenue West, Spencer, IA 51301. Applicant's representative: Marshall D. Becker, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Repossessed vehicles*, by use of wrecker equipment only, from points in the United States (except Alaska, Hawaii, and Nebraska), to Omaha, Neb.; and (2) *wrecked, disabled, stolen and replacement vehicles, including trailers* (but not those classified as mobile homes), by use of wrecker equipment only, between points in the United States east of the eastern boundaries of Montana, Wyoming, Colorado, and New Mexico. **NOTE:** Applicant states that authority is sought to transport wrecked and disabled vehicles even though such transportation normally falls within the exemption of section 203(b)(10) because, in many cases, the wrecked and disabled vehicles will first be taken to a garage where they will then be picked up by applicant. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 134910 (Sub-No. 4), filed May 10, 1971. Applicant: CALLIS TRUCKING, INC., Clay and Market Streets, Box 25, Centerton IN 46116. Applicant's representative: Warren C. Moberly 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from points in Marion County, Ohio, to points in an area in Indiana bounded on the north by Indiana State Highway 218 at the Indiana-Ohio State line; thence running in a westerly direction along said Indiana State Highway 218 to its junction with Indiana

State Highway 15; thence northwesterly along Indiana State Highway 15 to its junction with Indiana State Highway 16; thence westerly along Indiana State Highway 16 to its junction with U.S. Highway 41; thence north along U.S. Highway 41 to its junction with Indiana State Highway 114; thence westerly along Indiana State Highway 114 to the Indiana-Illinois State line; and bounded on the south by U.S. Highway 50, under continuing contract, or contracts, with Richard D. Light, doing business as Architectural Brick Sales. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 134922 (Sub-No. 10), filed May 18, 1971. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603, and George Harris (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products* (other than frozen), from Mitchell, S. Dak., to points in Louisiana, Texas, Oklahoma, New Mexico, Arkansas, Arizona, Colorado, Nevada, California, Utah, Washington, Oregon, Idaho, and Montana. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Chicago, Ill.

No. MC 134922 (Sub-No. 11), filed May 10, 1971. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603, and George Harris (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes in bags*, from Cotter, Ark., to points in Oklahoma, Arkansas, Tennessee, Illinois, Missouri, Kansas, Nebraska, Iowa, Colorado, Arizona, Mississippi, Louisiana, Texas, and California. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 135075 (Sub-No. 1), filed May 7, 1971. Applicant: M. M. SMITH STORAGE WAREHOUSE, INC., 811 Old Wilmington Road, Post Office Box 3535, Fayetteville, NC 28305. Applicant's representative: Vaughan S. Winborne, 1108 Capitol Club Building, Raleigh, N.C. 27601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, having a prior or subsequent movement by rail-trailers on flatcar service (piggy back operation), between points in Cumberland, Sampson, Harnett, Lee, Hoke, Moore, Scotland, Robeson, Bladen, and Edgecombe Counties, N.C. **NOTE:** Common control may be involved.

If a hearing is deemed necessary, applicant requests it be held at Raleigh or Fayetteville, N.C.

No. MC 135121 (Sub-No. 1), filed May 5, 1971. Applicant: DODSWORTH, INCORPORATED, doing business as GENERAL PARCEL SERVICE, 324 Short Street, Erie, PA 16512. Applicant's representative: John Guandolo, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, and commodities requiring special equipment), (1) between Cleveland-Hopkins Airport, Ohio, and Port Erie International Airport, Pa.; and (2) between points in Erie and Crawford Counties, Pa., restricted to shipments having a prior or subsequent movement by air. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Erie, Pa., or Cleveland, Ohio.

No. MC 135183 (Sub-No. 2), filed May 18, 1971. Applicant: KERR CONTRACT CARRIAGE, INC., Route 4, Salem, MO 65560. Applicant's representative: B. W. LA TOURETTE, JR., 611 Olive Street, Suite 1850, St. Louis, MO 63101. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquettes, and associated barbecue items*, from the plant site of Floyd Charcoal Co. near Salem, Mo., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Ohio, Oklahoma, Wisconsin, Pennsylvania, Texas, Virginia, and Tennessee and (2) *Cornstarch* from Paris, Ill., and *Paper bags*, from Savannah, Ga., and West Monroe, La., to the plant site of Floyd Charcoal Co., near Salem, Mo., under contract with Floyd Charcoal Co., and Cupples Co. Manufacturers. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 135299 (Sub-No. 1), filed May 10, 1971. Applicant: LEE'S TRUCKING, INC., 1 19th Avenue South, Minneapolis, MN 55404. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, which are at the time moving on bills of lading of Freight Forwarders, from Chicago, Ill., to Minneapolis, Minn. **NOTE:** Applicant now holds contract carrier authority under its No. MC 133490 Subs No. 1 and 3, therefore dual operations may be involved. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 135488 (Sub-No. 1), filed May 14, 1971. Applicant: RICHARD CARLTON, doing business as DICK CARLTON TRUCKING, 257 West Royal Parkway, Williamsville, NY 14221. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580.

Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Fredonia, N.Y., to points in Connecticut, Florida, Iowa, Georgia, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, and Wilmington, Del., and from North Abington, Mass., plant site to points in Connecticut, Maine, Maryland, New Hampshire, New Jersey, Rhode Island, and New York, N.Y., Philadelphia, Pa., and Wilmington, Del., under a continuing contract with Mitchell Foods, Inc. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Buffalo or Rochester, N.Y.

No. MC 135583, filed May 4, 1971. Applicant: STAR MOVING AND STORAGE, INC., Post Office Box 579, Laramie, WY 82070. Applicant's representative: Ward A. White, Post Office Box 568, Cheyenne, WY 82001. Authority sought to operate as common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Laramie, Wyo., on the one hand, and points in the State of Wyoming. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cheyenne, Wyo.

No. MC 135585, filed May 6, 1971. Applicant: SID COCKRELL, doing business as COMMERCIAL AUTO DELIVERY, 8647 Scott Street, Rosemead, CA 91770. Applicant's representative: Roger J. Nichols, 510 South Spring Street, Los Angeles, CA 90013. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Automobiles and trucks* in secondary movements in driveway and in truck-away service, from points in California to points in the United States (except Hawaii), and from points in the United States (except Hawaii) to points in California. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 135604, filed May 12, 1971. Applicant: COVE TRANSFER & STORAGE, INC., Post Office Box 421, East Highway 190, Copperas Cove, TX 76522. Applicant's representative: Charles W. Lynch, Post Office Drawer 31, Lampasas, TX 76550. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, between Copperas Cove, Tex., on the one hand, and, on the other, points in Coryell, Lampasas, Burnet, Williamson, Bell, Falls, and McLennan Counties, Tex. Restriction: The authority sought above is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points applied for, and further restricted to the performance of pickup and delivery service in connection with packing,

crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Austin, Waco or Fort Worth, Tex.

No. MC 135605, filed May 14, 1971. Applicant: WILKINSON TRANSPORT, INC., Post Office Box 25, Barton, AR 72312. Applicant's representative: R. Connor Wiggins, Suite 909, 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals and ingredients thereof*, between the plant site of the Helena Chemical Co., at West Helena, Ark., on the one hand, and, on the other, Conroe, El Campo, Lubbock, Mission, and Greenville, Tex.; Hatt, Mo.; Humboldt, Tenn.; Tunica, Belzoni, Cleveland, and Yazoo City, Miss.; Bossier City, Delhi, Ferriday, Bunkie, Thibodeaux, and Kinder, La.; Tanner, and Dothan, Ala.; and Cordele, Ga. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

MOTOR CARRIER PASSENGERS

No. MC 228 (Sub-No. 72), filed April 29, 1971. Applicant: HUDSON TRANSIT LINES INC., 17 Franklin Turnpike, Mahwah, N.J. Applicant's representative: Samuel B. Zinder, Station Plaza East, Great Neck, N.Y. 11021. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspaper* in the same vehicle with passengers and their baggage: (a) from junction U.S. Highway 6 and Interstate Highway 84 at or near Matamoras, Pa., over Interstate Highway 84 to junction Pennsylvania Highway 507 at or near Greentown, Pa.; thence over Pennsylvania Highway 507 to junction U.S. Highway 6 at or near Tafton, Pa., and return over the same route, serving all intermediate points; and (b) from junction Interstate Highway 84 and Pennsylvania Highway 402 at or near Blooming Grove, Pa., over Pennsylvania Highway 402 to junction U.S. Highway 6 at or near Tafton, Pa., and return over the same route serving all intermediate points. **NOTE:** Common control may be involved. Applicant states no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Honesdale, Pa., or Port Jervis, N.Y.

No. MC 1515 (Sub-No. 166), filed May 11, 1971. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in round-trip sightseeing or pleasure tours, beginning and ending at points in Wayne, Iredell, and Gaston Counties, N.C.; and Chester, Chesterfield, Lancaster, and York Coun-

ties, S.C., and extending to points in the United States including Alaska, but excluding Hawaii. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 1515 (Sub-No. 167), filed May 11, 1971. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, in round-trip sightseeing or pleasure tours, beginning and ending at points in Allen, Athens, Auglaize, Belmont, Franklin, Guernsey, Harrison, Jefferson, Licking, Logan, Meigs, Muskingum, Pickaway, Ross, Union, and Washington Counties, Ohio, and extending to points in the United States (including Alaska, but excluding Hawaii). **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Cambridge, or Lima, Ohio.

No. MC 29957 (Sub-No. 88), filed May 12, 1971. Applicant: CONTINENTAL SOUTHERN LINES, INC., 1785 Highway 80 West, Jackson, MS 39204. Applicant's representative: D. Paul Stafford, 315 Continental Avenue, Dallas TX 75207. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, (1) between Fort Polk, La., and the junction of Louisiana Highway 184 and Louisiana Highway 8, from Fort Polk over Louisiana Highway 184 to the junction of Louisiana Highway 8 and Louisiana Highway 184; and (2) between Fort Polk, La., and the junction of Louisiana Highway 469 and Louisiana Highway 8, from Fort Polk over Louisiana Highway 469 to the junction of Louisiana Highway 8 and Louisiana Highway 469, and return over the same routes, and serving all intermediate points in (1) and (2) above. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Alexandria, La., or Jackson, Miss.

No. MC 61802 (Sub-No. 4), filed May 13, 1971. Applicant: THE COLONIAL TRANSIT COMPANY, INCORPORATED, 310 Charlotte Street, Fredericksburg, VA 22401. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, between Dale City, Va., and Washington, D.C., as follows: From Dale City over Virginia Highway 642 to its junction with Interstate Highway 95, thence over Interstate Highway

95 to Washington, D.C., and return over the same route, serving no intermediate points. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Dale City, Va., or Washington, D.C.

No. MC 107583 (Sub-No. 49), filed May 5, 1971. Applicant: SALEM TRANSPORTATION CO., INC., 133-03 35th Avenue, Flushing, NY 11354. Applicant's representative: George H. Rosen, 265 Broadway, Post Office Box 348, Monticello, NY 12701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, express and newspapers*, in the same vehicle with passengers, in special and charter operations, over irregular routes, between points in Burlington, Camden, and Mercer Counties, N.J., on the one hand, and, on the other, John F. Kennedy International Airport, La Guardia Airport, New York, N.Y., and the piers and docks in the New York, N.Y., commercial zone as defined by the Commission. **NOTE:** Common control may be involved. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Trenton or Camden, N.J.

No. MC 135572, filed May 4, 1971. Applicant: PITT LIMO, INC., 46 River Road, Wheeling, WV 26003. Applicant's representative: D. L. Bennett, 129 Edgington Lane, Wheeling, WV 26003. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, between Morgantown, W. Va., on the one hand, and, on the other, the Greater Pittsburgh Airport, located on U.S. Highway 22 near Pittsburgh, Pa. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 135602, filed May 12, 1971. Applicant: ROAD HOG, INC., 1 William Street, New York, NY 10004. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage and personal effects*, in charter and special operations, consisting of nonscheduled service conducted in vehicles equipped with berths and dining, kitchen, lavatory, and recreational equipment storage facilities and limited to not more than nine passengers, not including the driver, in any one vehicle, beginning and ending at New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y.; Bergen, Passaic, Hudson, Essex, Morris, Union, Middlesex, and Monmouth Counties, N.J., and Fairfield County, Conn., and extending to points in the United States (except Hawaii). **NOTE:** If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130145, filed May 10, 1971. Applicant: RUSSELL RICKER COOK, Sr., doing business as RUSSELL R. COOK TRAVEL SERVICE, R.F.D. Merriam Hill, Greenville, N.H. 03048. For a license (BMC-5) to engage in operations as a broker at Greenville, N.H., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of passengers and their baggage, both as individuals and in groups, in special and charter operations, beginning and ending at points in Worcester County, Mass., and Hillsboro and Cheshire Counties, N.H., and extending to points in the United States.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 103993 (Sub-No. 634), filed May 10, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representatives: Paul Borghesani and Ralph H. Miller (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Trailers, designed to be drawn by passenger automobiles in initial movements, from points in Middlesex County, N.J., to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 114877 (Sub-No. 7), filed May 6, 1971. Applicant: CARGO-IMPERIAL FREIGHT LINES, INC., 23 South Essex Avenue, Orange, NJ 07051. Applicant's representative: Irving Klein, 280 Broadway, New York, NY 10007. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); Route 1. (a) Between the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., on the one hand, and, on the other, the junction of Massachusetts Highway 15/Interstate Highway 186 and U.S. Highway 20 at or near Sturbridge, Mass., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: From the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., thence over New York Highway 63 to the junction of U.S. Highway 15, thence over U.S. Highway 15 to the junction of New York Highway 17, thence over New York Highway 17 to the Interstate Highway 184, thence over Interstate Highway 184 to Newburgh, N.Y., thence over Interstate Highway 184 to Hartford, Conn., thence over Interstate Highway 186 to the Massachusetts/Connecticut State line, thence over Massachusetts Highway 15/186 to the junction of U.S. Highway

20 at or near Sturbridge, Mass., and return over the same route;

(b) Between the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., on the one hand, and, on the other, Springfield, Mass., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: From the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., over the routes aforesaid to Hartford, Conn., thence over Interstate Highway 191 to Springfield, Mass., and return over the same route. Route 2. Between the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., on the one hand, and, on the other, Hartford, Waterbury, and Bridgeport, Conn., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: (a) from the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular routes described in "Route 1", thence over Interstate Highway 184 to Hartford, Conn., and return over the same route; (b) from the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular route described in "Route 1", thence over Interstate Highway 184 to Waterbury, Conn., and return over the same route; (c) from the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular route described in "Route 1", thence over Interstate Highway 84 to the junction of Connecticut Highway 34, thence over Connecticut Highway 34 to the junction with Connecticut Highway 114, thence over Connecticut Highway 114 to the junction of U.S. Highway 1, thence over U.S. Highway 1 to Bridgeport, and return over the same route.

Route 3. (a) Between the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., on the one hand, and, on the other, Providence, R.I., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: From the junction of New York Highways 33 and 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular route described in "Route 1", thence over Interstate Highway 84 to the junction of Connecticut Highway 34, thence over Connecticut Highway 34 to the junction with Connecticut Highway 122, thence over Connecticut Highway 122 to the junction with Interstate Highway 195, thence over Interstate Highway 195 to Providence, R.I., and return over the same route. Route 4. (a) Between the junction of New York Highways 33 and 63 at Batavia, N.Y., on the one hand, and, on the other, Albany, N.Y., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: From the junction of New York Highways 33 and 63 at Batavia, N.Y., to Newburgh, N.Y.,

over the regular route described in "Route 1", thence over Interstate Highway 187 to Albany, N.Y., and return over the same route. Note: Common control may be involved.

No. MC 126561 (Sub-No. 3) (Correction), filed March 15, 1971, published FEDERAL REGISTER, issue of April 8, 1971, and republished as corrected this issue. Applicant: STARLIN MITCHELL, doing business as MITCHELL TRUCKING COMPANY, Route 3, Box 194 H. Corbin, KY 40701. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, KY 40402. Note: The purpose of this republication is to correct the docket number assigned thereto as shown above. Previous publication gave Sub-No. 2, which was in error. The rest of the notice remains as previously published.

No. MC 135599, filed May 5, 1971. Applicant: GLENN WITTENBURG, doing business as WITTENBURG TRUCK LINES, Readlyn, Iowa. Applicant's representative: James E. O'Donohoe, 26 North Chestnut Avenue, New Hampton, IA 50659. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Plastic agricultural drain tile, plastic water pipe, and plastic storm and sanitary drain tile, from Oelwein, Iowa, and points in Iowa, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Illinois, Wisconsin, and Minnesota, to the city of Findlay, Ohio.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7700 Filed 6-3-71; 8:45 am]

MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

Administrative Ruling on Assessment of Storage Charges During Strike

MAY 20, 1971.

The following is an administrative ruling of the Bureau of Operations made in response to questions propounded by the public, indicating what is deemed by the Bureau to be the correct application and interpretation of the Act. Rulings of this kind are tentative and provisional and are made in the absence of authoritative decisions upon the subject by the Commission.

Question: May a motor common carrier of household goods which has a shipment in its possession, but has made no tender of delivery at the destination residence, place such goods in storage-in-transit and assess storage and other related charges on the ground that delivery cannot be accomplished because employees of household goods carriers or employees of agents or warehousemen used by such carriers located in the destination area are on strike?

Answer: No. Under section 216(b) of the Interstate Commerce Act (49 U.S.C. 316(b)), it is the duty of every common carrier of property by motor vehicle to

provide adequate service, equipment, and facilities for the transportation of property in interstate or foreign commerce and to establish, observe and enforce just and reasonable practices relating thereto. It is also made a condition of every certificate of public convenience and necessity issued by the Commission that the holder shall render reasonably continuous and adequate service to the public in pursuance of the authority granted.

In Pickup and Delivery Restrictions, 303 I.C.C. 579, 594, it was held that "the mere existence of a strike or picketing does not necessarily prevent performance of pickup and delivery service." It was pointed out that the "intangible barriers of peaceful picket lines coupled with union contractual provisions acquiesced in by the carriers constitute something less than the physical obstructions historically acceptable at common law," and that the Interstate Commerce Act reinforces the common law obligation to serve shippers. In other words, physical obstruction to performance by the carrier must be analogous to what was considered at common law as an overwhelming, intervening force outside the legal control of the carrier.

Additionally, in Galveston, 73 M.C.C. 617, 626, 627, it was held that the provisions of the Act and the duties and obligations of common carriers under the Act are not subordinate to the requirements of labor unions and that where failure to provide service is claimed to be excusable, the burden is on the carrier to show that it did everything in its power to fulfill its obligation to the public and was prevented from so doing by circumstances clearly beyond its control.

In view of the foregoing, it is the position of this Bureau that in the circumstances cited in the question, the assessing of storage and attendant charges against the householder or shipper is not permissible.

[SEAL] R. D. PFAHLER,
Director,
Bureau of Operation.

[FR Doc.71-7813 Filed 6-3-71; 8:53 am]

[Notice 305]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 28, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One

copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9325 (Sub-No. 53 TA), filed May 20, 1971. Applicant: K LINES, INC., 341 Foothills Road, Lake Oswego, OR 97034. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Ore. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry commodities, in bulk, excluding cement, lime, urea, sugar, and wood residuals, between points in Oregon and Washington, for 180 days. Supporting shippers: Webfoot Fertilizer Co., Inc., 201 Southeast Washington Street, Portland, OR 97214; Peavey Co., 1100 Board of Trade Building, Portland, Ore. 97204; Albers Milling Co., 1118 Northwest Front Street, Portland, OR 97209; Mill-Rite Farms, Route 2, Box 84, Albany, OR 97321; Cominco American, Inc., 2312 Lloyd Center, Portland, OR 97232; North Pacific Trading Co., 1505 Southeast Gideon Street, Portland, OR 97208; Portland Rendering Co., Post Office Box 17201, Portland, OR 97217; Pacific Supply Cooperative, 915 Northeast Davis Street, Portland, OR 97208; and H. J. Stoll & Sons, Inc., 2320 Southeast Grand Avenue, Portland, OR 97214. Send protests to: District Supervisor A. E. Odums, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Ore. 97204.

No. MC 30837 (Sub-No. 436 TA), filed May 23, 1971. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Post Office Box 160, Kenosha, WI 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Boat trailers, designed to be drawn by passenger automobiles, in truckaway service, from Algonac, Mich., to Cortland, N.Y., for 180 days. Supporting shipper: (Charles Creque) Chris Craft Corp., Cortland, N.Y. 13046. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 41657 (Sub-No. 1 TA), filed May 23, 1971. Applicant: ROSENDO DIAZ AND JOSE GARCIA DE LOS SALMONES, a partnership, doing business as JENSEN MOVERS, 5527 North Second Street, Philadelphia, PA 19120. Authority sought to operate as a common carrier, by motor vehicle, over irregular

routes, transporting: Household goods, as defined by the Commission, between Philadelphia, Pa., and Camden, N.J., on the one hand, and, on the other, points in Florida, for 180 days. Note: Applicant states it intends to tack the authority here applied for to other authority held by it, or to interline with other carriers, under MC 41657. Supporting shipper: There are approximately 14 statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the Field Office named below. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 41951 (Sub-No. 13 TA), filed May 20, 1971. Applicant: WHEATLEY TRUCKING, INC., 125 Brohawn Avenue, Post Office Box 458, Cambridge, MD 21613. Applicant's representative: Marion L. Wheatley, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fertilizer and fertilizer materials, dry, in bulk (except in hopper or pneumatic equipment), and in bags, from Chesapeake, Va., to Seaford, Del., and Berlin and Cambridge, Md., for 180 days. Supporting Shipper: George W. Olson, Traffic Manager, Distribution Department, Smith-Douglass, Division of Borden Chemical, Borden, Inc., Norfolk, Va. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Old Post Office Building, Salisbury, MD 21801.

No. 88368 (Sub-No. 25 TA), filed May 19, 1971. Applicant: CARTWRIGHT VAN LINES, INC., 4411 East 119th Street, Grandview, MO 64030. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission, in containers, (1) between points in California and Arizona, on the one hand, and, on the other, Colorado, Kansas, Missouri, Oklahoma, Texas, Louisiana, and Nebraska and (2) between Colorado, Kansas, Missouri, Oklahoma, Texas, Louisiana, and Nebraska on the one hand, and, on the other, Florida, Virginia, New Jersey, Maryland, New York, and South Carolina, for 180 days. Supporting shippers: Karevan, Inc., Post Office Box 9240, Queen Anne Station, Seattle, WA 98109; Sunpak Movers, Inc., 534 Westlake Avenue North, Seattle, WA 98109; Columbia Export Packers, Inc., 19032 South Vermont Avenue, Torrance, CA 90502; International Export Packers, Inc., 5360 Eisenhower Avenue, Alexandria, VA 22304; Higa Fast Pac, Inc., 465 California Street, Suite 530, San Francisco, CA 94104; Stan's Vans, 1335 West 11th Street, Long Beach, CA 90813, and Door to Door International, Inc., 308 Northeast

72d Street, Seattle, WA 98115. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 107295 (Sub-No. 514 TA), filed May 21, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilators, ventilator systems, parts and equipment thereof*, from the plantsite and warehouse facilities of Swartwout Division of Zurn Industries, Inc., at Kokomo, Ind., to points in California, Nevada, Utah, and Arizona, for 180 days. Supporting shipper: Zurn Industries, Inc., Swartwout Division, 1000 North Touby Pike, Kokomo, IN 46901. Send protests to: Harold Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107403 (Sub-No. 811 TA), filed May 21, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polypropylene dry plastic materials*, in pellet form, in bulk, from Asbury Park, N.J., to Syracuse, N.Y., for 180 days. Supporting shipper: Shell Oil Co., Melrose Building, Post Office Box 2099, Houston, TX 77001. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 107496 (Sub-No. 811 TA), filed May 21, 1971. Applicant: RUAN TRANSPORT CORPORATION, Thrd and Keosauqua Way, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid calcium chloride*, in bulk, in tank vehicles, from Duluth, Minn., to points in Wisconsin, for 150 days. Supporting shipper: The Dow Chemical Co., Bennett Building, 2030 Dow Center, Midland, Mich. 48640. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 110988 (Sub-No. 268 TA), filed May 24, 1971. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neehah, WI 54936. Applicant's representative: Dabid A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank or hopper-type vehicle, from Hartford City, Ind., to points in Wisconsin, for 180 days.

Supporting shipper: Minnesota Mining and Manufacturing Co. (3M Company), 3M Center, St. Paul, Minn. 55101. (K. A. Kumm, Manager, Transportation Operations). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 113267 (Sub-No. 267 TA), filed May 21, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in appendix 1, sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and facilities of Illini Beef Packers, Inc., Joslin, Ill., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: G. James Bonnette, Director of Traffic, Illini Beef Packers, Inc., Joslin, Ill. 61201. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 114273 (Sub-No. 90 TA), filed May 21, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, 3930 16th Avenue SW., Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, commodities in bulk, in tank vehicles), from the plantsite and/or storage facilities utilized by Aristo Kansas Meat at Holton and Topeka, Kans., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Ohio, Michigan, Indiana, Wisconsin, Illinois, and the District of Columbia, for 150 days. Supporting shipper: Kansas Meat Packers, Division of A. F., Inc., Post Office Box 327, Holton, KS 66436. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 114273 (Sub-No. 91 TA), filed May 21, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, 3930 16th Avenue SW., Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite

315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses as described in appendix 1, sections A and C, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (specifically excepting hides, pelts, and commodities in bulk, in tank vehicles), from Joslin, Ill., to points in Colorado, Connecticut, Indiana, Maine, Massachusetts, Michigan, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, restricted to traffic originating at the plantsite and/or storage facilities utilized by Illini Beef Packers, Inc., at or near Joslin, Ill., and destined to the named destinations, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 116544 (Sub-No. 126 TA), filed May 24, 1971. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: Robert Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), from the plantsite and storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Texas, and Memphis, Tenn., for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 116996 (Sub-No. 7 TA), filed May 20, 1971. Applicant: B & B BARRIERS, INC., Post Office Box 207, Coatesville, PA 19320. Applicant's representative: William R. Keen, Jr. (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, from Claymont, Del., to Conshohocken, Pa., for 180 days. NOTE: Applicant states it intend to tack the authority here applied for to other authority held by it, or to interline with other carriers, under MC 116996. Supporting shipper: International Mill Service, Post Office Box 348, Coatesville, PA 19320. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 1910.

No. MC 117132 (Sub-No. 1 TA), filed May 23, 1971. Applicant: NYARI TRUCKING, INC., Post Office Box 46, Bryan, OH 43506. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron*, from Bryan and Defiance, Ohio, to Danville, Ill., for 150 days. Supporting shipper: George Isaac Co., Post Office Box 667, Bryan, OH 43506. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 125194 (Sub-No. 14 TA), filed May 19, 1971. Applicant: STATE LINE DAIRY, INC., 1015 State Line Road, Niles, MI 49120. Applicant's representative: J. M. Neath, Jr., One Vanderberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk and dairy products and filled or imitation milk and dairy products, fruit drinks and salads*, from Indianapolis, Ind., to Angola, Mishawaka, Kendallville, Warsaw, East Chicago, Portage, Goshen, Plymouth, Michigan City, South Bend, Gary, Elkhart, La Grange, Mappanee, La Porte, and Munster, Ind. (Applicant states operations will be conducted via Niles, Mich.), with return of damaged or rejected merchandise only, for 180 days. Supporting shipper: Dairy Foods Division, The Kroger Co., 6801 English Avenue, Indianapolis, IN 46219. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 128075 (Sub-No. 12 TA), filed May 21, 1971. Applicant: LEON JOHNSTON, 409 Second Avenue SW., Cresco, IA 52136. Applicant's representative: C. J. Anderson, Post Office Box 136, Elwood & Anderson Building, Cresco, IA 52136. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Decorah, Iowa, to Spencer, Wis., for 180 days. Supporting shipper: Decorah Creamery Co., Decorah, Iowa. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 129350 (Sub-No. 12 TA), filed May 20, 1971. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, Post Office Box 212, 410 North 10th Street, Billings, MT 59101. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Rosebud County, Mont., to Denver, Colo., and the commercial zone thereof, for 180 days. NOTE: Applicant states it does intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Support-

ing shipper: Ashland Lumber Co., Post Office Box 78, Ashland, MT 59003. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 133390 (Sub-No. 1 TA), filed May 21, 1971. Applicant: H. IMME & SONS, INC., West 145 S6550 Tess Corners Drive, Muskego, WI 53150. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Potato chips, shoe-string potatoes, popcorn, nut meats, corn twists, corn chips, caramels, cheese corn, pretzels, and tomato juice*, from Milwaukee, Wis., to points in the Upper Peninsula of Michigan, for the account of Geiser's Potato Chip Co., for 180 days. Supporting shipper: Geiser's Potato Chip Co., 3113 West Burleigh Street, Milwaukee, WI 53210 (George Schulkewitz, General Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Milwaukee, WI 53203.

No. MC 135007 (Sub-No. 5 TA), filed May 24, 1971. Applicant: AMERICAN TRANSPORT, INC., Post Office Box 37406, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant, warehouse and storage facilities utilized by National Beef Packing Co. at or near Liberal, Kans., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland, Delaware, District of Columbia, West Virginia, Ohio, and Virginia, under continuing contract with National Beef Packing Co., for 150 days. Supporting shipper: National Beef Packing Co., 1501 East Eighth Street, Liberal, KS. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 135281 (Sub-No. 3 TA), filed May 20, 1971. Applicant: RAYMOND LANGLEY, doing business as LANGLEY TRUCKING, Route No. 4, Box 61, Elizabethtown, KY 42701. Applicant's representative: George Catlett, Suite 703-706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement clinker*, in bulk, in dump vehicles, from the plantsite of Louisville Cement Co., at Speed, Ind., to the plantsite of Kosmos Portland Cement Co., at Kosmosdale, Ky., for 180 days. Supporting shipper:

Tom Mobley, Kosmos Portland Cement Co., Dixie Highway, Kosmosdale, Ky. 40272. Send protests to: Wayne L. Merillatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 135363 (Sub-No. 1 TA), filed May 24, 1971. Applicant: CONSOLIDATED PACKAGE DELIVERY, INC., 1036 Baronne Street, Post Office Box 50926, New Orleans, LA 70150. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cosmetics, toilet preparations, toilet articles and premiums*, and (2) *Equipment and supplies* used in connection with items in (1) above, from New Orleans, La., to Louisiana parishes of Iberia, St. Mary, Iberville, part of St. Martin, Assumption, Ascension, Livingston, East Feliciana, St. Helena, Tangipahoa, St. James, Terrebonne, LaFourche, St. Charles, St. Tammany, St. John the Baptist, Orleans, Jefferson, St. Bernard, Plaquemines, and Washington and to points in the counties of Jefferson, Adams, Wilkinson, Franklin, Amite, Lincoln, Pike, Lawrence, Walthall, Jefferson Davis, Marion, Covington, Lamar, Jones, Forrest, Perry, Wayne, Greene, Stone, Pearl River, Hancock, Harrison, George, and Jackson, Miss., for 180 days. Supporting shipper: Avon Products, Inc., 2200 Cottillion Drive, Atlanta, GA 30302, W. R. Dykes, Branch Transportation Manager. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T-4009 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 135617 TA, filed May 20, 1971. Applicant: LIL'S TRUCKING SERVICE, INC., 5029 Express Drive, Rokonkoma (Suffolk County), NY 11779. Applicant's representative: Samuel B. Zinder, Station Plaza East, Great Neck, N.Y. 11021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radios, televisions, hi-fi equipment, tape recorders and parts and materials thereof*, between Moonachie, N.J., and New York, N.Y., under continuing contract with Sony Corporation of America, for 150 days. Supporting shipper: Sony Corporation of America, Eastern Distribution Center, One Sony Drive, Moonachie, NJ 07074. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 135623 TA, filed May 21, 1971. Applicant: RAINBOW EXPRESS, INC., 3400 Old Highway 99, Marysville, WA 98270. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from

points in Minnesota to points in Washington, for 180 days. Supporting shippers: National Distributing Co., 621 East 25th Street, Tacoma, WA 98421; Anacortes Distributing Co., 735 Fairhaven Avenue, Burlington, WA 98233; Totem Beverages, Inc., 1520 Grady Way SW., Renton, WA 98055; Ruget Sound Distributors, 239 Bruen Avenue, Bremerton, WA 98310. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

MOTOR CARRIER OF PASSENGERS

No. MC 29850 (Sub-No. 6 TA), filed May 21, 1971. Applicant: TRENTON-PHILA. COACH CO., 200 West Wyoming Avenue, Philadelphia, PA 19140. Applicant's representative: F. Berdan, Jr. (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, (a) from the intersection of Whitman Boulevard and Haddonfield-Berlin Road, then on Haddonfield-Berlin Road to Evesham Avenue, to Burnt Mill Road, to its intersection with Haddonfield-Berlin Road, and return; (b) beginning at the intersection of Chapel Avenue and Kings Highway, then on Chapel Avenue, Haddonfield Road, Church Road and Kings Highway to its intersection with Chapel Avenue; Restriction: No interstate passengers will be transported whose trip begins or ends along Chapel Avenue or Haddonfield Road; (c) beginning at the intersection of Marlton Pike (New Jersey Route 70) and Green Tree Road, then on Green Tree Road to Olney Avenue, to Pin Oak Drive, to Springdale Road, to its intersection with Marlton Pike, and return, and (d) beginning at the intersection of Kings Highway and Munn Avenue, then over Kings Highway to Linden Street, to Euclid Avenue, to Port Authority Transit Corp. Station Driveway, and return. Restriction: No interstate passengers will be transported whose trip begins or ends on the portion of Kings Highway delineated, or Linden Street or Euclid Avenue, for 180 days. Note: Applicant intends to tack the authority here applied for to MC 29850 Sub 5. Supporting shippers: Board of Commissioners, Township Council, Cherry Hill Township, Cherry Hill, N.J., and Board of Commissioners, Borough of

Haddonfield, Haddonfield, N.J. Send protests to: F. W. Doyle, District Supervisor, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7810 Filed 6-3-71;8:52 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 1, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42213—*Salt to Charlotte, N.C.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3004), for interested rail carriers. Rates on salt, common (sodium chloride), in bulk, in carloads, as described in the application, from Watkins, Glen, N.Y., and Akron, Ohio, to Charlotte, N.C.

Grounds for relief—Market competition.

Tariffs—Supplements 99 and 82 to Traffic Executive Association-Eastern Railroads, agent, tariffs ICC A-907 (Boin series), and C-262, respectively. Rates are published to become effective on July 1, 1971.

FSA No. 42214—*Fertilizer and fertilizer materials from points in Canada.* Filed by Southwestern Freight Bureau, agent (No. B-239), for interested rail carriers. Rates on fertilizer, dry and fertilizer material, dry, in carloads, as described in the application, from specified points in Canada, to points in southwestern territory.

Grounds for relief—Market competition and rate relationship.

Tariff—Canadian Pacific Railway (West), tariff ICC W. 1091. Rates are published to become effective on July 2, 1971.

FSA No. 42215—*Wheat, wheat flour and barley from specified points in Montana.* Filed by North Pacific Coast Freight Bureau, agent (No. 71-5), for and on behalf of Chicago, Milwaukee, St.

Paul and Pacific Railroad Co. Rates on wheat, wheat flour, and barley, in carloads, as described in the application, from specified points in Montana, to specified ports in Washington and Oregon.

Grounds for relief—Unregulated truck competition.

Tariff—Supplement 72 to North Pacific Coast Freight Bureau, agent, tariff ICC 1117. Rates are published to become effective on July 1, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7811 Filed 6-3-71;8:52 am]

J. V. McNICHOLAS TRANSFER CO., ET AL.

Assignment of Hearings

JUNE 1, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-14552 Sub 40, J. V. McNicholas Transfer Co., assigned June 7, 1971, Washington, D.C., hearing canceled and application dismissed.

FD-23178, Chesapeake & Ohio Railway Co. and Baltimore & Ohio Railroad Co.—Control—Western Maryland Railway Co. assigned July 19, 1971, Washington, D.C., postponed indefinitely.

MC-79658 Sub 12, Atlas Van-Lines, Inc., assigned June 23, 1971, in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill.

No. 35377, Oklahoma Intrastate Freight Rates and Charges, 1971, assigned September 8, 1971, at Oklahoma City, Okla., at a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7812 Filed 6-3-71;8:53 am]

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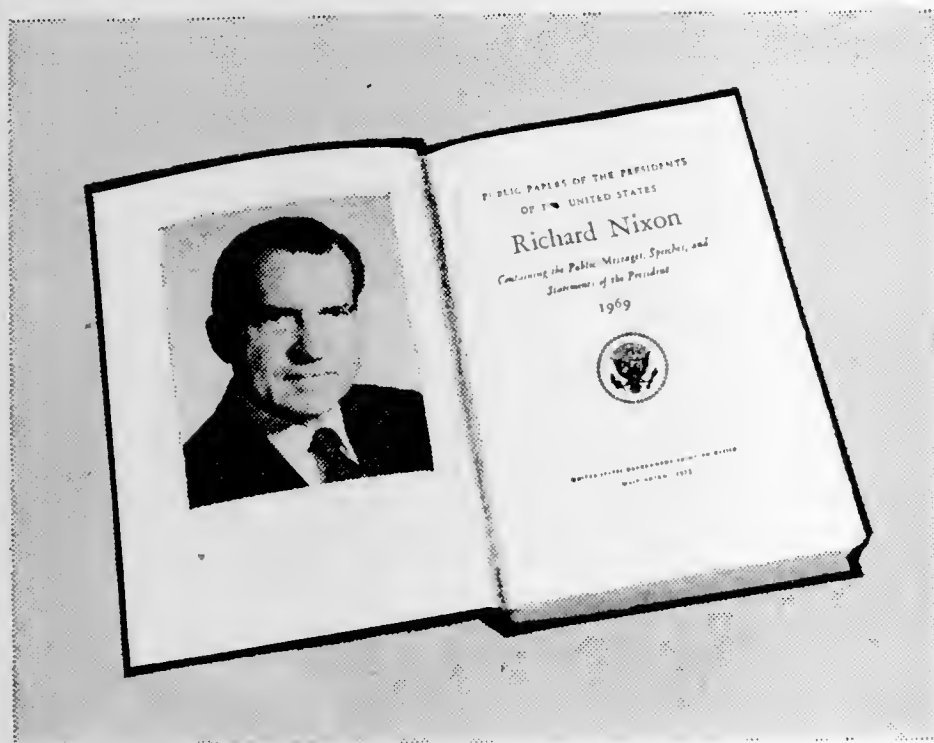
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Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 55—GRADING AND INSPECTION OF EGG PRODUCTS

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND U.S. CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

Issuance of Grading Certificates

Correction

In F.R. Doc. 71-7519 appearing at page 9841 in the issue of Saturday, May 29, 1971, the following changes should be made:

1. Section 55.47 should read as follows:

§ 55.47 Disposition of grading certificates.

The original and a copy of each grading certificate, issued pursuant to § 55.46, and not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records. Additional copies of any such certificate may be supplied to any interested party as provided in § 55.63.

2. The first sentence of § 56.56(a) should read as follows: "Certificates will be issued only upon request therefor by the applicant or the Service."

3. In § 70.201(b), the word "designed" appearing in the eighth line should read "designed".

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Appendix—Second Apportionment of Special Milk Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1971

Pursuant to section 3 of the Child Nutrition Act of 1966, Public Law 89-642; 80 Stat. 885-6, milk assistance funds available for the fiscal year ending June

30, 1971, are reapportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama.....	\$2,026,970	\$1,959,184	\$67,786
Alaska.....	38,813	38,813	.....
Arizona.....	446,611	446,611	.....
Arkansas.....	1,079,308	1,030,940	48,368
California.....	8,411,669	8,411,669	.....
Colorado.....	971,734	886,200	85,534
Connecticut.....	1,775,152	1,775,152	.....
Delaware.....	317,928	281,388	36,540
Del. St. Dist.	.....	.....	.....
Agency.....	18,050	18,050	.....
District of Columbia.....	580,605	580,605	.....
Florida.....	1,982,000	1,982,000	.....
Georgia.....	1,637,945	1,597,945	40,000
Hawaii.....	130,801	92,501	38,300
Idaho.....	213,947	163,902	50,045
Illinois.....	6,648,477	6,648,477	.....
Indiana.....	2,999,601	2,999,601	.....
Iowa.....	1,407,902	1,228,849	179,053
Kansas.....	1,063,598	1,063,598	.....
Kentucky.....	2,077,623	2,077,623	.....
Louisiana.....	684,263	684,263	.....
Maine.....	517,658	445,492	72,166
Maryland.....	2,315,708	1,997,136	318,572
Md. Budget & Proc.	88,659	88,659	.....
Massachusetts.....	3,464,912	3,464,912	.....
Michigan.....	5,663,146	4,752,170	911,026
Minnesota.....	2,887,044	2,592,088	294,956
Mississippi.....	1,335,390	1,335,390	.....
Missouri.....	2,404,757	2,338,257	66,500
Montana.....	211,488	183,050	28,438
Nebraska.....	660,871	551,881	108,990
Nevada.....	168,575	147,150	21,425
New Hampshire.....	505,435	433,087	72,348
New Jersey.....	3,729,015	3,190,337	608,678
New Mexico.....	678,033	402,504	275,529
New York.....	9,201,648	9,201,648	.....
N.Y. Off. Gen. Serv.	424,498	424,498	.....
North Carolina.....	3,369,145	3,369,145	.....
North Dakota.....	359,518	321,786	37,732
Ohio.....	6,600,360	5,804,837	795,523
Ohio Dept. Pub. Wel.	193,649	193,649	.....
Oklahoma.....	1,121,654	1,121,654	.....
Oregon.....	627,676	604,837	22,839
Pennsylvania.....	5,321,278	4,702,670	618,608
Rhode Island.....	568,798	568,798	.....
South Carolina.....	622,770	528,720	94,050
South Dakota.....	365,762	365,762	.....
Tennessee.....	1,983,257	1,907,277	75,980
Texas.....	4,209,874	3,048,756	1,161,118
Utah.....	339,331	334,491	4,840
Vermont.....	292,300	279,776	12,524
Virginia.....	1,962,697	1,809,166	153,531
Washington.....	1,374,628	1,168,917	205,711
West Virginia.....	941,875	906,729	35,146
Wisconsin.....	3,752,364	3,054,264	698,100
Wyoming.....	116,019	116,019	.....
Total.....	103,051,829	96,741,703	6,310,126

(Secs. 2, 3, 6, and 8-16, 80 Stat. 885-890; 42 U.S.C. 1771, 1772, 1775, 1777-1785)

Dated: June 1, 1971.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.71-7860 Filed 6-4-71; 8:47 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 483]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.783 Lemon Regulation 483.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and

Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 1, 1971.

(b) Order. (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period June 6, 1971, through June 12, 1971, are hereby fixed as follows:

- (i) District 1: Unlimited;
- (ii) District 2: 275,000 cartons;
- (iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as

when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 2, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc.71-7933 Filed 6-4-71; 8:52 am]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

Findings. (a) Pursuant to Marketing Agreement No. 143 and Order No. 959 (7 CFR Part 959) regulating the handling of onions grown in designated counties in South Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the South Texas Onion Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the expenses and rate of assessment will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of onions have already begun and the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable onions from the beginning of such fiscal period, (2) compliance with this section will not require any special preparation on the part of handlers, and (3) the budget and rate of assessment were recommended by the South Texas Onion Committee at an open meeting held in the production area.

§ 959.211 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1971, by the South Texas Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to \$53,000.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be three-fourths cent (\$0.0075) per 50-pound sack of onions, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Unexpected income in excess of expenses for the fiscal period ending July 31, 1971, may be carried over as a reserve.

RULES AND REGULATIONS

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 2, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Veg-
etable Division, Consumer and
Marketing Service.

[FR Doc.71-7904 Filed 6-4-71; 8:51 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 40—LICENSING OF SOURCE MATERIAL

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

Safeguards Reporting Requirements for Source Material

On February 6, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 2567) proposed amendments to its regulations, 10 CFR Part 40, "Licensing of Source Material" and 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274," which would extend the requirement for reporting thefts or diversions of source material to additional licensees who possess such material and delete the requirement for reporting exports or imports of source material by persons who do not actually receive or transfer the material.

All interested persons were invited to submit written comments and suggestions in connection with the proposed amendments within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. Upon consideration of the comments received in response to the notice of proposed rule making, and other factors involved, the Commission has adopted the amendments set forth below which are identical to those published for public comment.

The extension of the reporting requirements to all thefts or diversions of licensed source material of more than 15 pounds at any one time, or 150 pounds in any 1 calendar year is expected to better enable the Commission to assure that source material is safeguarded against diversion to unauthorized use. The reporting requirement for imports and exports, as differentiated from transfers and receipts, has been eliminated as unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments of title 10, Chapter I, Code of Federal Regulations,

Parts 40 and 150, are published as a document subject to codification, to be effective thirty (30) days after publication in the FEDERAL REGISTER.

1. Paragraphs (a) and (c) of § 40.64 of 10 CFR Part 40 are amended to read as follows:

§ 40.64 Reports.

(a) Except as specified in paragraph (d) of this section, and except for exports of unimportant quantities of source material specified in § 40.13 (b), (c), and (d), each licensee who transfers or receives at any one time 1,000 kilograms or more of uranium or thorium, or any combination thereof, shall complete and distribute a Nuclear Material Transfer Report on Form AEC-741, in accordance with the printed instructions for completing the form. Each licensee who transfers such material shall submit a completed copy of Form AEC-741 to the Commission and three copies to the receiver of the material promptly after the transfer takes place. Each person who receives such material shall submit a completed copy of Form AEC-741 to the Commission and to the shipper of the material within ten (10) days after the material is received. The Commission's copies of the reports shall be submitted to the U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, TN 37830.

(c) Except as specified in paragraph (d) of this section, each licensee who is authorized to possess uranium or thorium pursuant to a specific license shall report promptly to the Director, Division of Nuclear Materials Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545, by telephone, telegram, or teletype any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or more than 150 pounds of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the Director, Division of Nuclear Materials Safeguards, which sets forth the details of the incident and its consequences. Subsequent to the submission of the written report required by this paragraph, the licensee shall promptly inform the Division of Nuclear Materials Safeguards by means of a written report of any substantive additional information, which becomes available to the licensee, concerning an attempted or apparent theft or unlawful diversion of source material.

(Secs. 65, 161 b, o, 68 Stat. 933, 948, 950, as amended; 42 U.S.C. 2095, 2201 (b), (o))

2. Paragraphs (a) and (c) of § 150.17 of 10 CFR Part 150 are amended to read as follows:

§ 150.17 Submission to Commission of source material transfer reports.

(a) Except as specified in paragraph (d) of this section, each person who,

pursuant to an Agreement State License, transfers or receives at any one time 1,000 kilograms or more of uranium or thorium, or any combination thereof, shall complete and distribute a Nuclear Material Transfer Report on Form AEC-741, in accordance with the printed instructions for completing the form. Each person who transfers such material shall submit a completed copy of Form AEC-741 to the Commission and three copies to the receiver of the material promptly after the transfer takes place. Each person who receives such material shall submit a completed copy of Form AEC-741 to the Commission and to the shipper of the material within ten (10) days after the material is received. The Commission's copies of the reports shall be submitted to the U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, TN 37830.

(c) Except as specified in paragraph (d) of this section, each person who is authorized to possess uranium or thorium pursuant to a specific license from an Agreement State shall report promptly to the Director, Division of Nuclear Materials Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545, by telephone, telegram, or teletype any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or more than 150 pounds of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the Director, Division of Nuclear Materials Safeguards, which sets forth the details of the incident and its consequences. Subsequent to the submission of the written report required by this paragraph, each person subject to the provisions of this paragraph, shall promptly inform the Division of Nuclear Materials Safeguards by means of a written report of any substantive additional information, which becomes available to such person, concerning an attempted or apparent theft or unlawful diversion of source material.

(Secs. 161b, 274m, 68 Stat. 948, 73 Stat. 688; 42 U.S.C. 2201(b), 2021(m))

Dated at Washington, D.C. this 19th day of May 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-7834 Filed 6-4-71; 8:45 am]

RULES AND REGULATIONS

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 71-500]

PART 563—OPERATIONS

Federal Insurance Reserve Requirements

MAY 28, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 563.13 of the rules and regulations for Insurance of Accounts (12 CFR 563.13) for the purpose of liberalizing the requirements relating to maintenance of Federal insurance reserve accounts by insured institutions, in the following respects:

1. By requiring that an insured institution meet the higher "bench-mark" requirement for a given insurance anniversary year only on the closing date following the insurance anniversary date; and

2. By suspending, for closing dates occurring during the months of May through October 1971, all requirements for insured institutions to make transfers to Federal insurance reserve accounts.

Accordingly, on the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said § 563.13 by revising paragraph (a) thereof to read as follows, effective May 28, 1971:

§ 563.13 Required amounts and maintenance of Federal insurance reserve.

(a) **Minimum reserve level.** (1) After the fiscal year in which a certificate of insurance is issued to an insured institution, it shall build up its Federal insurance reserve account so that as of the close of business on the closing date following the anniversary of the date of insurance of accounts stated in the table set forth in this subparagraph, such reserve account shall be at least equal to the following percentage of the total of its savings accounts on each such closing date:

Percentage:	Anniversary
0.50	2
0.75	3
1	4
1.25	5
1.50	6
1.75	7
2	8
2.25	9
2.50	10
2.75	11
3	12
3.25	13

Percentage:	Anniversary
3.50	14
3.75	15
4	16
4.25	17
4.50	18
4.75	19
5 percent at the 20th anniversary and thereafter.	

(2) After the fiscal year in which a certificate of insurance is issued to an insured institution, it shall build up its net worth so that as of the close of business on the closing date following the anniversary of the date of insurance of accounts stated in the table set forth in subparagraph (1) of this paragraph, its net worth shall be at least equal to the appropriate Federal insurance reserve account requirement plus 15 percent of its scheduled items in 1964 and plus 20 percent of its scheduled items thereafter.

(3) Notwithstanding the provisions of subparagraph (1) of this paragraph, no insured institution shall be required to make any transfer to its Federal insurance reserve account on any closing date occurring during the months of May through October 1971. For the purposes of compliance with the provisions of subparagraph (2) of this paragraph during such period, the term "appropriate Federal insurance reserve account requirement" shall refer to the requirement as of the immediately preceding closing date.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 P.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that such amendment become effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and, since such amendment relieves restriction, publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is unnecessary; and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71-7884 Filed 6-4-71; 8:49 am]

Chapter VII—National Credit Union Administration

PART 748—MINIMUM SECURITY DEVICES AND PROCEDURES

On March 16, 1971, notice of proposed rule making regarding minimum security devices and procedures required for federally insured credit unions was published in the FEDERAL REGISTER, 36 F.R. 4996-5001. After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted, subject to the following changes:

1. In § 748.0, paragraph (a), line 11, insert the word "federally" following the word "which".
2. In § 748.0, paragraph (b) is changed.
3. Section 748.1 is changed.
4. In § 748.2, line 1, change "On or before May 1, 1971" to "Within 60 days of the effective date of this part"; in line 6 change the word "the" to "that."
5. Section 748.3 is changed.
6. Section 748.4, paragraph (a), is changed.
7. Section 748.4, paragraph (b), is changed.
8. Section 748.5, paragraph (a), is changed.
9. Section 748.5, paragraph (b), is changed.
10. Section 748.5, paragraph (c), line 1, insert the word "federally" following the word "Each".
11. Section 748.6 is changed.
12. Section 748.7 is changed.
13. In § 748.8, line 2, change "an insured" to "a federally insured".
14. Section 748.9, the introductory text of paragraph (a), is changed.
15. In § 748.9, paragraph (a) (1), line 9, change "the credit union" to "the federally insured credit union's".
16. In § 748.9, paragraph (a) (2), line 23, change "the credit union" to "the federally insured credit union's"; and in line 27, change "the credit union" to "that credit union's".
17. In § 748.9, paragraph (b), lines 2 and 3, change "each credit union" to "each federally insured credit union's".
18. In § 748.9, paragraph (b) (1), line 5, change "the credit union" to "the federally insured credit union's".
19. In § 748.9, paragraph (b) (2), line 8, change "a credit union" to "a federally insured credit union's".
20. In § 748.9, paragraph (b) (3), line 1, change "Safeguard" to "Safeguarded".
21. Section 748.9, paragraph (c) (2), is changed.
22. In § 748.9, paragraph (d), line 4, change "June 30, 1971" to "the effective date of this part".
23. In § 748.9, paragraph (e), line 7, change "June 30, 1971" to "the effective date of this part".
24. Section 748.9, paragraph (e) (1) is changed.
25. Section 748.9, paragraph (e) (2), is changed.
26. In § 748.9, paragraph (e) (3), line 4, change "June 30, 1971" to "the effective date of this part".

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27. In § 748.1 the paragraph defining "Branch" is changed.
Effective date. This regulation is effective June 15, 1971.

HERMAN NICKERSON, Jr.,
Administrator.

JUNE 1, 1971.

Sec.	Scope.
748.0	Definitions.
748.1	Designation of a security officer.
748.2	Security devices.
748.3	Security procedures.
748.4	Filing of reports.
748.5	Corrective action.
748.6	Storage of vital records.
748.7	Penalty provision.
748.8	Minimum standards for security devices.
748.9	Proper employee conduct during and after a robbery.

AUTHORITY: The provisions of this Part 748 issued under sec. 205-E, 84 Stat. 1002, Public Law 91-468.

§ 748.0 Scope.

(a) This part establishes minimum standards which federally insured credit unions shall comply with in respect to their actions and the installation, maintenance, and operation of security devices and procedures to discourage robberies, burglaries, and larcenies, to assist in the identification and apprehension of persons who commit such actions, and to provide standards for storing vital records; sets time limits within which federally insured credit unions shall comply with these standards; and provides for the submission of reports with respect to compliance.

(b) It is realized that federally insured credit unions will be of various sizes, from small ones that operate from an officer's home with limited assets to large ones with many millions of dollars of assets that are involved in a complex operation. It is the intent of this regulation to make the security requirements fit the circumstance of the credit union. Accordingly, small federally insured credit unions may be required to have a considerably less elaborate security program as compared to large federally insured credit unions. Therefore, the circumstances of each federally insured credit union will be reviewed on its own merits in determining compliance with each section of this part. If a federally insured credit union does not believe it can comply with any section of this part, such credit union shall submit the reasons therefor to the Regional Director for approval or disapproval.

§ 748.1 Definitions.

"Branch" includes any branch credit union, branch office, branch agency, additional office, or any branch place of business located in any State of the United States, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, at which member accounts are established or money lent.

"Business hours" means the time during which an office is open for the normal

transaction of business with members of federally insured credit unions.

"Office" includes the principal office of a federally insured credit union and any branch thereof.

"Regional Director" means the Regional Director of the National Credit Union Administration in the region where the federally insured credit union is located who is responsible for the supervision of the federally insured credit union's activities for insurance purposes.

"Teller station or window" means a location in a place of business in which a federally insured credit union's members routinely conduct transactions with that credit union which involve the exchange of funds, including a walkup or drive-in teller's station or window.

§ 748.2 Designation of security officer.

Within 60 days of the effective date of this part, or within 30 days after the effective date of insurance of a federally insured credit union, whichever is later, the Board of Directors of each such credit union shall designate an officer or other employee of that credit union who shall be charged, subject to the supervision by the credit union's Board of Directors, with responsibility for installation, maintenance, and operation of security devices and for the development and administration of a security program which equals or exceeds the standards prescribed by this part.

§ 748.3 Security devices.

(a) *Installation, maintenance, and operation of appropriate devices.* Within 180 days of the effective date of this part, or within 90 days after the effective date of insurance of funds, whichever is later, the security officer of each federally insured credit union, under such direction as shall be given him by that credit union's Board of Directors, shall survey the needs for security devices in each of the credit union's offices and shall provide for the installation, maintenance, and operation in each such office of:

- (1) A lighting system for illuminating during the hours of darkness the area around the vault or safe if the vault or safe is visible from outside the office;
- (2) Tamper-resistant locks such as dead bolt, ring and bar, double cylinder, or similar types on exterior doors and exterior windows designed to be opened;
- (3) An alarm system or other appropriate device for promptly notifying the nearest responsible law enforcement officers, guards, or security personnel of an attempted or perpetrated robbery or burglary; and
- (4) Such other devices as the security officer, after seeking the advice of law enforcement officers and any other appropriate source, shall deem to be appropriate for discouraging robberies, burglaries, and larcenies and for assisting in the identification and apprehension of persons who commit such crimes.

(b) *Considerations relevant to determining appropriateness.* For the purpose of subparagraphs (3) and (4) of paragraph (a) of this section, considerations

relative to determining appropriateness include, but are not limited to:

- (1) The incidence of crimes against the particular office or financial institutions in the area in which the office is or will be located;
- (2) The amount of currency or other valuables exposed to robbery, burglary, or larceny;
- (3) The distance of the office from the nearest law enforcement offices, guards, or security personnel and the time required for such personnel to arrive at the office;
- (4) The cost of security devices;
- (5) Other security measures in effect at the office or within the area, such as the office being located within the compound of a military installation, within the complex of a business or factory which has security, etc.; and
- (6) The physical characteristics of the office structure and its surroundings.

(c) *Implementation.* It is appropriate for officers of federally insured credit unions in areas with a high incidence of crime to install more devices and institute more procedures which would not be practicable because of cost for small offices in areas substantially free of crimes against financial institutions.

Each federally insured credit union shall consider the appropriateness of installing, maintaining, and operating security devices and where used should give a general level of protection at least equivalent to the standards described in § 748.9. In those institutions where security devices are already installed it is not intended that they be replaced but every effort will be made to bring them up to the standards set forth in § 748.9. In any case, on the basis of the factors listed in paragraph (b) of this section or similar ones, where the use of other measures or the decision that technological change allows the use of other measures judged to give equivalent protection, it is decided not to install, maintain, and operate devices at least equivalent to these standards, the federally insured credit union shall preserve in its own records a statement of the reasons for such decision and forward a copy of that statement to the Regional Director. In the case of federally insured State-chartered credit unions, this statement shall be mailed to the Regional Director. If the appropriate State supervisory authority desires, this statement shall be mailed to the Regional Director via the State supervisory authority. In any event, a copy of the statement shall always be sent to the appropriate State supervisory authority.

§ 748.4 Security procedures.

(a) *Development and administration.* On or before October 1, 1971, or within 90 days after the effective date of insurance of the credit union by the National Credit Union Administration, whichever is later, each federally insured credit union shall develop and provide for the administration of a security program to

protect each of its offices, branches, or places of business from robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such crimes. The security program shall be reduced to writing, approved by the federally insured credit union's Board of Directors, and retained by that credit union in such form as will readily permit determination of its adequacy and effectiveness, and a copy shall be filed with the Regional Director with the certification required by § 748.5 and with the appendix to this part pertaining to the Report on Security Measures. In the case of federally insured State-chartered credit unions, these items shall be mailed to the Regional Director. If the appropriate State supervisory authorities desires, these items shall be mailed to the Regional Director via the State supervisory authority. In any event, copies of these items shall always be sent to the appropriate State supervisory authority.

(b) *Contents of the security program.* Such security program shall:

- (1) Provide for establishing a schedule for the inspection, testing, and servicing of all security devices installed in each office; provide for designating the officer or other employee who shall be responsible for seeing that such devices are inspected, tested, serviced, and kept in good working order and require such officer or other employee to keep a record of such inspections, testings, and servings;
- (2) Require that each office's currency be kept at a reasonable minimum and provide procedures for safely removing excess currency (currency kept on hand overnight should not be in excess of an amount that would be recoverable under the surety bond);
- (3) Require that the currency at each teller's station or window be kept at a reasonable minimum and provide procedures for safely removing excess currency and negotiable securities to a locked vault, safe, or other protected place that provides as a minimum the level of protection set forth in § 748.7 against the hazard of fire and as set forth in § 748.9 against the hazard of burglary and hold-up;
- (4) Require that the currency at each teller's station or window or place where funds are disbursed or received include bait money, i.e., used Federal Reserve notes, the denominations, banks of issue, serial numbers, and series years of which are recorded, verified by a second officer or employee, and kept in a safe place;
- (5) Require that all currency and negotiable securities be placed in a vault or safe at the earliest time practicable after business hours; that the vault or safe be locked at the earliest practicable time after business hours and be opened at the latest time practicable before business hours. In those cases where the federally insured credit union is so small that it is determined to be economically not feasible to purchase a safe or vault, funds

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or securities in excess of \$500 will not be kept by the credit union but deposited in an authorized depository.

(6) Provide where practicable for designation of a person or persons to open each office or branch and require him or them to inspect the premises to ascertain that no unauthorized persons are present and to signal to the employees that the premises are safe before permitting them to enter;

(7) Provide for designation of a person or persons who will assure that all security devices are turned on and are operating during the periods and at such times as such devices are intended to be used and that all locks on windows, doors, and methods of ingress and egress are properly locked;

(8) Provide for a person (or persons, where practicable) to inspect after the closing hour all areas of each office where currency and negotiable securities are normally handled or stored in order to assure that such currency and negotiable securities have been put away, that no unauthorized persons are present in such areas, and that the vault or safe and all other receptacles with locks are securely locked and secured;

(9) Provide that securities not kept in a safe or vault shall be kept in a safe deposit box which requires two authorized signatures to open in a financial institution;

(10) Provide that armored car service where practicable shall be used in transporting money to and from the bank or armed guards, where practicable, should accompany employees when they transport funds between the federally insured credit union and the bank. Funds should not be transported to the bank by less than two persons.

(11) Provide that windows and doors that are not readily observable from the outside and through which unauthorized entry may be attempted shall, where practicable, be protected by burglary-resistant bars or grills;

(12) Provide that arrangements will be made, if feasible, with local police, internal security guards, or other security personnel to inspect the exterior of the office with reasonable frequency and to be present before opening and just after closing hours;

(13) Provide that the installation of an alarm system which can be activated by an employee without endangering his life, preferably a silent system connected with the police or a security agency, should be considered and installed where conditions indicate such necessity and it is economically feasible. During hours when the office is closed, an alarm should be considered that can be activated upon unauthorized or forced entry.

(14) Provide that a study be made to determine whether a surveillance system is needed and is practicable, considering such things as photographic recording and monitoring devices. Such systems are not only helpful in identifying and apprehending the burglar or robber but also serve as a deterrent to the

planning of a burglary or robbery. Notices of such devices will be prominently displayed.

(15) Provide that employees will be fully instructed as to the procedures and actions to follow during the course of a robbery, including the importance of a good description of the robber. They will be thoroughly familiar with the importance of refraining from any action or reaction that might endanger their lives or the lives of any other employees in the office at the time. (See § 748.10)

(16) Provide that employees will be given initial training and periodic retraining in their responsibilities under the security program, including the proper use of any security devices.

(17) Provide that if a federally insured credit union's office is located in a building owned by the employer of the members, consideration will be given to locating the office on an upper floor where practicable.

(18) Provide that consideration will be given to using clear wired glass in doors and windows facing corridors or streets so that persons passing will have a good view of the federally insured credit union's office.

(19) Be cognizant of the fact that the Federal Bureau of Investigation has a decal which states that the FBI has jurisdiction to investigate robberies, burglaries, and larcenies committed against federally insured credit unions. Where the FBI has jurisdiction, arrangements will be made through the local FBI office to acquire these decals and they will be posted in a conspicuous place.

§ 748.5 Filing of reports.

(a) Compliance reports: Within 180 days of the effective date of this part or within 90 days after the effective date of insurance of funds, whichever is later, each federally insured credit union shall file with its Regional Director a statement certifying to its compliance with the requirements of this part. Thereafter such a statement will be presented to the federal examiner. The statement shall be dated and signed by the President of the federally insured credit union or other managing officer of that credit union and may be in a form substantially as follows:

I hereby certify to the best of my knowledge and belief that this credit union has developed and administers a security program that equals or exceeds the standards prescribed by Section 748.4 of the Rules and Regulations; that such security program has been reduced to writing, approved by this credit union's Board of Directors, and retained by this credit union in such form as will readily permit determination of its adequacy and effectiveness; and that this credit union's security officer, after seeking the advice of law enforcement officers, has provided for the installation, maintenance, and operation of security devices, if appropriate, as prescribed by Section 748.3 of the Rules and Regulations in each of the credit union's offices.

In the case of federally insured State-chartered credit unions, this statement shall be mailed to the Regional Director at the same time as the annual payment

of its insurance premium as provided in title II of the Federal Credit Union Act. If the appropriate State supervisory authority desires, this statement shall be mailed to the Regional Director via the State supervisory authority. In any event, a copy of the statement shall always be sent to the appropriate State supervisory authority.

(b) Crime and catastrophic act reports: Each time a crime or catastrophic act listed in the appendix is committed or attempted or occurs at an office operated by a federally insured credit union, that credit union shall, within 5 working days, file a report with the Regional Director in conformity with the requirements of the appendix to this part. State-chartered credit unions shall, in addition, file one copy of such report with the appropriate State supervisory authority. Three copies of such report shall be filed by each federally insured credit union with the Regional Director. If all information required in such report is not available within 5 days, then all available information shall be forwarded as a preliminary report within such 5-day period and the remainder forwarded as soon as it is compiled.

(c) Each federally insured credit union shall file such other reports as the Administrator may from time to time require.

§ 748.6 Corrective action.

Whenever the Administrator determines that the security devices or procedures used by a federally insured credit union are deficient in meeting the requirements of this part or that the requirements of this part should be varied in the circumstances of a particular office, he may take or require that credit union to take the necessary corrective action. If the Administrator determines that such corrective action is appropriate or necessary, that credit union will be so notified and will be furnished a statement of what the credit union must do to comply with the requirements of this part.

§ 748.7 Storage of vital records.

Records considered vital, as defined in the Accounting Manual for Federal Credit Unions, for the continued operation of a federally insured credit union in the event of their loss (such as ledgers, etc.) must be secured in a fire-resistant container or vault prior to the securing of the office or building each day. Fire-resistant vaults used for the protection of federally insured credit unions' records as determined by the Board of Directors shall be constructed in accordance with specifications established by the National Fire Protection Association for a Class 2-hour rating and must comply with any other applicable local fire regulations. As a minimum, fire-resistant vault doors shall be listed with the Underwriters Laboratories as a 2-hour vault door and frame and equipped with an Underwriters Laboratories listed Group 2 combination lock. Fire-resistant containers used for the protection of such records shall meet the minimum specifications

established by the Underwriters Laboratories for a UL 1-hour label. For the purpose of certification that fire-resistant vaults or containers meet these standards, a written certification from a contractor, manufacturer, or supplier to the credit union that the equipment equals or exceeds the requirements established above will satisfy the federally insured credit union's compliance with this regulation.

§ 748.8 Penalty provision.

Pursuant to section 2053 of Public Law 91-468 of 1970, a federally insured credit union which violates any provision of this part shall be subject to a civil penalty not to exceed \$100 for each day of the violation.

§ 748.9 Minimum standards for security devices.

General: The following minimum standards for security devices should be met if it is determined that the criteria established in this Part 748 requires that such security devices be installed.

(a) *Surveillance systems.* Surveillance systems should be equipped with one or more photographic recording, monitoring, or like devices capable of reproducing images of persons in the federally insured credit union's office with sufficient clarity to facilitate (through photographs capable of being enlarged to produce a 1-inch vertical head size of persons whose images have been reproduced) the identification and apprehension of robbers or other suspicious characters. The device should be reasonably silent in operation and designed and constructed so that necessary services, repairs, or inspections can be readily made. Any camera used in such a system should be capable of taking at least one picture every two seconds and, if it uses film, should contain enough unexposed film at all times to be capable of operating for not less than 3 minutes.

(1) *Installation, maintenance, and operation of surveillance systems providing surveillance of other than walkup or drive-in teller stations or windows.* Surveillance devices for other than walkup or drive-in teller stations or windows should be located so as to produce identifiable images of persons either leaving the federally insured credit union's office or in a position to transact business at each station or window and should be capable of activation by initiating devices located at each teller's station or window.

(2) *Installation, maintenance, and operation of surveillance systems providing surveillance of walkup or drive-in teller stations or windows.* Surveillance devices for walkup or drive-in teller stations or windows should be located in such a manner as to reproduce identifiable images of persons in a position to transact business at each such station or window and area of such station or window that is vulnerable to robbery or larceny. Such devices should be capable of activation by one or more initiating devices located within or in close proximity to such

station or window. Such devices could be omitted in the case of a walkup or drive-in teller's station or window in which the teller is effectively protected by bullet-resistant barrier from persons outside the station or window, but if the teller is vulnerable to larceny or robbery by members of the public who enter the federally insured credit union's office the teller should have access to a device to activate a surveillance system that covers the area of vulnerability or the exits of that credit union's office.

(b) *Robbery alarm systems.* A robbery alarm should be provided for each federally insured credit union's office at which the police ordinarily can arrive within 5 minutes after an alarm is activated. Robbery alarm systems should be:

(1) Designed to transmit to the police, either directly or through an intermediary, a signal (not detected by unauthorized persons) indicating that a crime against the federally insured credit union's office has occurred or is in progress;

(2) Capable of activation by initiating devices located at each teller's station or window (except walkup or drive-in teller's stations or windows in which the teller is effectively protected by a bullet-resistant barrier and effectively isolated from persons, other than fellow employees, inside a federally insured credit union's office of which such station or window may be a part);

(3) Safeguarded against accidental transmission of an alarm;

(4) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(5) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 24 hours in the event of failure of the usual source of power.

(c) *Burglar alarm systems.* Burglar alarm systems should be:

(1) Capable of detecting promptly an attack on the outer door, walls, floor, or ceiling of each vault, and each safe not stored in a vault, in which currency, negotiable securities, or similar valuables are stored when the office is closed, and any attempt to move any such safe;

(2) Designed to transmit to the police, either directly or through an intermediary, a signal (not detectable by unauthorized persons) indicating that any such attempt is in progress; and designed to activate a loud sounding bell or other device that is audible inside the federally insured credit union's office; and for a distance of approximately 500 feet outside that credit union's office;

(3) Safeguarded against accidental transmission of an alarm;

(4) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(5) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 80

hours in the event of failure of the usual source of power.

(d) *Walkup and drive-in teller's stations or windows.* Walkup and drive-in teller's stations or windows contracted for after the effective date of this part should be constructed in such a manner that tellers are effectively protected by bullet-resistant barriers from robbery or larceny by persons outside such stations or windows. Such barriers should be of glass at least 1 $\frac{1}{16}$ inches thick,¹ or of material of at least equivalent bullet-resistance. Pass-through devices should be designed and constructed so as not to afford a person outside the station or window a direct line of fire at a person inside the station or window.

(e) *Vaults, safes, and night depositories.* Vaults and safes (if not to be stored in a vault) in which currency, negotiable securities, or similar valuables are to be stored when the office is closed, and night depositories, contracted for after the effective date of this part, should meet or exceed the following standards:

(1) *Vaults.* Vault walls, roof, and floor contracted for after the effective date of this part, should be made of steel-reinforced concrete, at least 18 inches thick or the equivalent; vault doors should be made of steel or other drill and torch-resistant material, at least 3 $\frac{1}{2}$ inches thick, and be equipped with a dual combination lock and a time lock and a substantial, lockable daygate; or vaults and vault doors shall be constructed of materials that afford at least equivalent burglary-resistance.

(2) *Safes.* Safes contracted for after the effective date of this part, should weigh at least 750 pounds empty or be securely anchored to the premises where located. The door should be equipped with a combination lock and with a relocking device that will effectively lock the door if the combination lock is punched. The body should consist of steel, at least 1 inch in thickness, with an ultimate tensile strength of 50,000 pounds per square inch, either cast or fabricated, and be fastened in a manner equal to a continuous $\frac{1}{4}$ -inch penetration weld having an ultimate tensile strength of 50,000 pounds per square inch. One hole not exceeding $\frac{3}{16}$ -inch diameter may be provided in the body to permit insertion of electrical conductors but should be located so as not to permit a direct view of the door or locking mechanism. The door should be made of steel that is at least 1 $\frac{1}{2}$ inches thick and at least equivalent in strength to that specified for the body; or safes should be constructed of materials that afford at least equivalent burglary-resistance.

(3) *Night depositories.* Night depositories (excluding envelope drops not used to receive substantial amounts of

¹ It should be emphasized that this thickness is merely bullet-resistant and not bullet-proof.

currency) contracted for after the effective date of this part, should consist of a receptacle chest having cast, or welded, steel walls, top and bottom, at least 1 inch thick; a combination locked steel door at least 1 $\frac{1}{2}$ inches thick; and a chute, made of steel that is at least 1 inch thick, securely bolted or welded to the receptacle and to a depository entrance of strength similar to the chute; or night depositories should be constructed of materials that afford at least equivalent burglary-resistance. The depository entrance should be equipped with a lock. Night depositories should be equipped with a burglar alarm and be designed to protect against the "fishing" of a deposit from the deposit receptacle and to protect against the "trapping" of a deposit for extraction.

Each device mentioned in this section should be installed and regularly inspected, tested, and serviced by competent persons so as to assure realization of its maximum performance capabilities. Activating devices for surveillance systems and robbery alarms should be operable with the least risk of detection by unauthorized persons that can be practically achieved.

§ 748.10 Proper employee conduct during and after a robbery.

With respect to proper employee conduct during and after a robbery, employees should be instructed—

(a) To avoid actions that might increase danger to themselves or others;

(b) To activate the robbery alarm system and the surveillance system during the robbery, if it appears that such activation can be accomplished safely;

(c) To observe the robber's physical features, voice, accent, mannerisms, dress, the kind of weapon he has, and any other characteristics that would be useful for identification purposes;

(d) That if the robber leaves evidence (such as a note) to try to put it aside and out of sight, if it appears that this can be done safely; retain the evidence, do not handle it unnecessarily, and give it to the police when they arrive; and refrain from touching, and assist in preventing others from touching, articles or places the robber may have touched or evidence he may have left, in order that fingerprints of the robber may be obtained;

(e) To give the robber no more money than the amount he demands and include "bait" money in the amount given;

(f) That if it can be done safely, to observe the direction of the robber's escape and the description and license plate number of the vehicle used, if any;

(g) To telephone the police, if they have not arrived, and the nearest office of the Federal Bureau of Investigation, or inform a designated officer or other employee who has this responsibility that a robbery has been committed;

(h) That if the robber leaves before the police arrive, to assure that a designated officer or other employee waits outside the office, if it is safe to do so, to

Inform the police when they arrive that the robber has left;

(i) To attempt to determine the names and addresses of other persons who witnessed the robbery or the escape and request them to record their observations or to assist a designated officer or other employee in recording their observations; and

(j) To refrain from discussing the details of the robbery with others before recording the observations respecting the robber's physical features and other characteristics as hereinabove described and the direction of escape and description of vehicle used, if any.

APPENDIX

NATIONAL CREDIT UNION ADMINISTRATION
REPORT ON SECURITY MEASURES

Pursuant to the Federal Credit Union Act

Credit Union Name _____
Address _____
City _____ Zip _____
State _____
_____ Federally Chartered
_____ State Chartered

Does Credit Union Occupy:

- (a) Own building _____
(b) Sponsor's space _____
(c) Outside rental space _____
(d) Other _____

FINANCIAL:

Assets: Loan Balance _____ Share Balance _____
No. of Members _____ Potential Membership _____
President _____
Treasurer/Manager _____
Name of Security Officer _____
Number of Employees _____
Full Time _____ Part Time _____
LOSSES: (Last 5 Years)

Type	Date	Amount	Covered by Insurance?
_____	_____	_____	Yes/No _____
_____	_____	_____	Yes/No _____
_____	_____	_____	Yes/No _____
_____	_____	_____	Yes/No _____

I. Armed Guard Protection

1. In office during office hours:
a. _____ Yes. Number _____
b. _____ No.
2. In office during nonbusiness hours:
a. _____ Yes. Number _____
b. _____ No.

II. Surveillance System

- A. Type of equipment:
1. _____ Photographic camera. Number used _____
2. _____ Television cameras and recorders—Number of TV cameras used _____
3. _____ Other, specify type and number _____
B. Specifications:
1. Size of film, if applicable:
a. _____ 16 mm. or larger.
b. _____ Other, specify _____
2. Photographing capabilities:
a. _____ Rapid speed for photographing at _____ frames per minute.
b. _____ Slow speed for continuous surveillance at _____ frames per hour.
C. Coverage (check all applicable categories):
a. _____ Exits. Number of devices used _____
b. _____ Teller positions. Number of devices used _____

D. Operation:

1. Method of activation (check all applicable items):
a. _____ Automatic and continuous.
b. _____ Activating device at each teller position.
c. _____ Other, specify _____
2. Audibility of system when in operation:
a. _____ Relatively silent so as not to attract attention.
b. _____ Readily audible.
3. Visible to public view?
a. _____ Yes.
b. _____ No.
4. Public informed through decals or other means of use of surveillance system?
a. _____ Yes.
b. _____ No.

E. Installation and maintenance:

1. Installation by:
a. _____ Equipment supplier.
b. _____ Central station alarm service.
c. _____ Other, specify _____
2. Maintenance by:
a. _____ Credit Union employee.
b. _____ Installer.
c. _____ Other, specify _____

III. Accessibility of Law Enforcement Officers

(In developing this information, it may be necessary to consult with local law enforcement officials.)

- A. _____ Distance from credit union office to nearest local law enforcement station having jurisdiction.
B. _____ Estimate of shortest time within which enforcement officers could be expected to arrive at office after being summoned.

IV. Burglar Alarm Systems

- A. Installation:
1. _____ By equipment supplier.
2. _____ By central station alarm company.
3. _____ By other, specify _____
B. Signal transmission method:
1. _____ Wires or cables.
2. _____ Wireless equipment (for some or all signals).
3. Means to instantly indicate circuit failure, malfunction or tampering attempts in system?
a. _____ Yes.
b. _____ No.
4. Emergency power supply for use in case of failure of regular power supply.
a. _____ Yes.
b. _____ No.
C. Reporting location for alarms:
1. _____ At central station alarm company that is in service 24 hours per day.
2. _____ At local law enforcement office that is in service 24 hours per day.
3. _____ Other, specify _____
D. Activation of robbery alarms:
1. _____ At teller stations.
2. _____ Elsewhere, specify _____
E. Does burglar alarm system have a loud bell outside the credit union office?
a. _____ Yes.
b. _____ No.
F. Can activating devices be unobtrusively operated?
1. _____ Yes.
2. _____ No.

- G. Door-type, window-type, or other intrusion detection alarms:
1. _____ Yes, specify type _____
2. _____ No.
3. Noise-generating device audible outside office?
a. _____ Yes.
b. _____ No.

V. Fire Alarms Systems

- A. Installation:
1. _____ By equipment supplier.
2. _____ By central station alarm company.
3. _____ By other, specify _____
B. Signal transmission method:
1. _____ Wires or cables.
2. _____ Wireless equipment (for some or all signals).
3. Emergency power supply for use in case of failure of regular power supply.
a. _____ Yes.
b. _____ No.
C. Reporting location for alarms:
1. _____ At central station alarm company that is in service 24 hours per day.
2. _____ At local fire station that is in service 24 hours per day.
3. _____ Other, specify _____
D. Activation of fire alarms:
1. _____ Specify where sensors are _____
2. _____ Specify where else can be (manually) activated _____
E. Does fire alarm system have a loud bell outside the credit union office?
a. _____ Yes.
b. _____ No.

- F. Type of sensors:
1. _____ Smoke detection.
2. _____ Rate of temperature rise.
3. _____ Products of combustion.
4. _____ Other, specify type _____
G. Other fire protection devices:
1. _____ Extinguishers.
2. _____ Sprinkler systems.
3. _____ Insulated files and cabinets.
4. _____ Other, explain _____

VI. Vaults and Safes

- A. Vault construction:
1. Material:
a. _____ Concrete and steel, thickness _____ (in inches).
b. _____ Other, specify _____ and thickness _____ (in inches).
2. _____ Thickness of vault doors (in inches).
B. Vault equipment:
1. Combination dial locks:
a. _____ Yes.
b. _____ No.
2. "Time" lock:
a. _____ Yes.
b. _____ No.
3. Lockable day-gate:
a. _____ Yes.
b. _____ No.
4. Alarm:
a. _____ Yes.
b. _____ No.
C. If vault is visible from outside office, is it illuminated area?
1. _____ Yes.
2. _____ No.

- D. Safes:
1. Alarm:
a. _____ Yes.
b. _____ No.
2. Type:
a. _____ Record (Fire).
b. _____ Money (Burglar).
3. Rating:
a. _____

VII. Other Security Devices

- A. Night depository:
1. Alarm:
a. _____ Yes.
b. _____ No.
2. Construction:
a. _____ In conformance with standards in § 748.9.
b. _____ Other, specify _____

B. Safe deposit boxes:

- a. _____ Yes. Number _____
b. _____ No.
C. Are all exterior doors and windows that can be opened equipped with tamper-resistant locks?
a. _____ Yes.
b. _____ No.

D. Is a security lighting system used?

- a. _____ Yes, briefly describe _____
b. _____ No.

E. Is there a program and a schedule for periodic inspection, testing, and servicing of all security devices?

- a. _____ Yes. What is the testing frequency? _____
b. _____ No.

F. Is there a program for training and periodic retraining regarding the security programs?

- a. _____ Yes. What is the meeting frequency? _____
b. _____ No.

G. Is your security program committed to writing?

- a. _____ Yes. What changes were made during the past year? _____
b. _____ No.

H. Is your credit union using grating and/or steel bars on windows?

- a. _____ Yes.
b. _____ No.

I. Is your credit union using a member identification system?

- a. _____ Yes. Please describe _____
b. _____ No.

J. Other than listed above, is your credit union using any security devices to protect credit union employees?

- a. _____ Yes. Please list _____
b. _____ No.

NATIONAL CREDIT UNION ADMINISTRATION
REPORT OF CRIME OR CATASTROPHIC ACT

Pursuant to the Federal Credit Union Act

1. Name and address of head office: _____

2. If crime being reported occurred at a branch office, give name and address: _____

3. Type of crime or catastrophic act:
a. _____ Robbery.
b. _____ Burglary.
c. _____ Nonemployee larceny.
d. _____ Embezzlement.
e. _____ Fire.
f. _____ Other, specify _____

4. _____ 19. Date of loss.

5. _____ Day of week.

6. _____ Time of day. (If actual not known, estimate.)

7. Amount of loss:
a. \$ _____ Currency loss.
b. \$ _____ Securities loss.
c. \$ _____ Damage to credit union property. (May be estimate.)
d. \$ _____ Other, specify _____
Total loss.

8. _____ Number of robbers participating in crime.

9. Weapons:

- a. _____ Robbers had weapons or it appeared they may have had weapons. Specify kind _____
b. _____ There was no evidence of weapons.
c. _____ Other intimidation was used. Specify _____

10. Were robbers wearing masks or otherwise disguised?

- a. _____ No.
b. _____ Yes. Indicate how _____

11. Was a description of the robbers obtained and recorded?

- a. _____ Yes.
b. _____ No. Why? _____

12. Was a description and/or license number of vehicle(s) obtained?

- a. _____ Yes.
b. _____ No. Why? _____

13. Estimated minutes between beginning and end of robbery.

- a. _____ Yes.
b. _____ No. Why? _____

14. Modus Operandi:

- a. _____ Robber(s) passed a note to teller demanding money.
b. _____ Robber(s) vocally demanded money.
c. _____ Robber(s) subdued employees and took money from containers.
d. _____ Other, specify _____

15. Harm to persons:

- a. _____ Neither employees nor members were physically harmed.
b. _____ Persons were harmed. Give details _____

16. A hostage or threat of holding a hostage was used:

- a. _____ No.
b. _____ Yes. Give details _____

17. Was cash or valuables taken from other than teller drawers?

- a. _____ No.
b. _____ Yes. Specify _____

18. Was "bait" money given out or taken during the robbery and was the identification of this money furnished to the law enforcement officers?

- a. _____ Yes.
b. _____ No. Why? _____

19. Was the cash contained in the teller drawer(s) within the maximum permitted by the credit union's security program?

- a. _____ Yes.
b. _____ No. Why? _____

20. Cameras (or other surveillance devices):

- a. _____ Camera(s) recorded useful pictures during this robbery.
b. _____ Camera(s) did not record useful picture during this robbery. Why? _____

21. Robbery alarm:

- a. _____ Alarm was effective during this robbery. How? _____
b. _____ Alarm was not effective during this robbery. Why? _____

22. Robber left note or other item which was retained and preserved for use of enforcement officers?

- a. _____ Yes. What? _____
b. _____ No. Explain if necessary _____

23. Was conduct and performance of employees in conformance with the credit union's security procedure?

- a. _____ Yes.
b. _____ No. Explain _____

IF CRIME OF BURGLARY HAS BEEN PERPETRATED OR ATTEMPTED ANSWER THIS SECTION

24. How did burglars gain entrance to the premises?
a. _____ Break-in. Where and how? _____
b. _____ Other, specify _____

25. Vault:

- a. _____ No apparent attempt was made to gain access to vault.
b. _____ Vault wall, floor or ceiling was penetrated or attempted. How? _____

26. Vault door was opened or penetrated. How?

- a. _____ Yes.
b. _____ No. Explain _____

27. Were the lights turned on?

- a. _____ Yes.
b. _____ No. Explain _____

28. Money safe:

- a. _____ No apparent attempt made to gain access to contents.
b. _____ A penetration or an attempted penetration of safe was made. How? _____

29. Night depository:

- a. _____ Safe door opened or an attempt made to open. How? _____
b. _____ Other, specify _____

30. Burglary alarms:

- a. _____ Alarms were of value in connection with this crime. How? _____
b. _____ Alarms were not of value in connection with this crime. Why? _____

31. Estimated length of time during which burglary was being committed.

- a. _____ Yes.
b. _____ No. Why? _____

32. Modus Operandi of larceny:

- a. _____ Money or valuables left exposed where thief had access. Explain _____
b. _____ Theft by trick or pretext. Explain _____
c. _____ Other, specify _____

33. Cause _____

- a. _____ Type of damage (fire, wind, smoke, water, etc.) _____

- b. Items damaged -----
- ALL CREDIT UNIONS ANSWER THIS SECTION
35. ----- Length of time after beginning of crime/catastrophic act when call for help was transmitted to appropriate law enforcement agency.
36. ----- Length of time after beginning of crime before first law enforcement personnel arrived at the credit union.
37. Did law enforcement personnel arrive at credit union office before violators departed?
- a. ----- Yes.
- b. ----- No.
38. Arrests of violators:
- a. ----- None have been arrested as of the date of this report.
- b. ----- Some or all arrested before they escaped from the office.
- c. ----- Some or all arrested subsequent to leaving the office.
39. Would improvements in protection facilities or employee performance be helpful in preventing or handling any future similar occurrences?
- a. ----- No.
- b. ----- Yes. Indicate what and any plans the credit union has to take corrective action -----
40. Set forth below any information about the crime or the protection measures that is not adequately covered previously: (Use additional pages and/or furnish photographs or sketches if necessary to completely describe the crime being reported.)
- Signature -----
- Name (type) -----
- Title -----
- Date -----
- [FR Doc.71-7844 Filed 6-4-71;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 69-WE-12-AD; Amdt. 39-1225]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707/720 Series Airplanes

Pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) an airworthiness directive was adopted on April 27, 1971, and made effective immediately by telegram as to all known U.S. operators of Boeing 707/720 series airplanes. The directive requires a special inspection, after each actual or simulated No. 3 or No. 4 engine power failure, or flight with No. 3 or No. 4 engine shutdown, or prior to ferry flight with No. 3 or No. 4 engine inoperative, of the rudder actuator attach fittings.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. Operators of Boeing 707/720 series air-

planes by individual telegrams dated April 27, 1971. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

"Pursuant to the authority of the Federal Aviation Act of 1958, delegated to me by the Administrator, the following airworthiness directive amendment to AD 71-9-2 applicable to operators of Boeing 707/720 airplanes is effective immediately upon receipt of this telegram because of possible failure of rudder actuator support fitting following power failure on the No. 3 or No. 4 engine.

Add a new paragraph (1) as follows:

Following each actual or simulated No. 3 or No. 4 engine power failure, or flight with No. 3 or No. 4 engine shutdown, or prior to ferry flight with No. 3 or No. 4 engine inoperative, perform either an ultrasonic inspection or, with bushings removed, an eddy current inspection before further flight to detect any evidence of a crack in the rudder actuator support fitting. Any fitting exhibiting evidence of a crack must be replaced per (f) above, or reworked per (g) above, before further flight.

This amendment becomes effective June 8, 1971, for all persons except those to whom it was made effective immediately by telegram dated April 27, 1971. (Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on May 27, 1971.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.71-7850 Filed 6-4-71;8:47 am]

[Airspace Docket No. 71-EA-23]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 5620 of the FEDERAL REGISTER for March 25, 1971, the Federal Aviation Administration published a proposed rule which would alter the Utica, N.Y., control zone (36 F.R. 2286).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., July 22, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 20, 1971.

GEORGE M. GARY,
Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Utica, N.Y.,

control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 43°08'45" N., 75°22'55" W. of Onondaga County Airport, Utica, N.Y.; within 2 miles each side of the 317° bearing from the Utica RBN, extending from the 5-mile-radius zone to 3 miles northwest of the RBN; within 2 miles each side of the Utica VORTAC 306° radial, extending from the 5-mile-radius zone to 1 mile northwest of the VORTAC, excluding the portion within the Rome, N.Y., control zone.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Utica, N.Y., 700-foot floor transition area; "and within 2 miles each side of the Utica VOR 306° radial extending from the 12-mile radius to the VOR; within 2 miles each side of a bearing 137° from the Utica radio beacon extending from the 12-mile radius to 8 miles southeast of the radio beacon; within 2 miles each side of a bearing 132° from the Utica radio beacon extending from the 12-mile radius to 9 miles southeast of the radio beacon"; and insert the following in lieu thereof; "and within 3.5 miles each side of the 137° bearing from the Utica RBN, extending from the 12-mile-radius area to 11.5 miles southeast of the RBN".

[FR Doc.71-7851 Filed 6-4-71;8:47 am]

[Airspace Docket No. 71-SO-49]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On April 23, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7688), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Anniston, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Anniston, Ala., transition area is amended as follows: " * * * excluding the portion within R-2101 * * * " is deleted and " * * * within an 8-mile radius of St. Clair County Airport, Pell City, Ala. (lat. 33°33'22" N., long. 86°14'58" W.); excluding the portion within R-2101 * * * " is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 27, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[FR Doc.71-7852 Filed 6-4-71;8:47 am]

[Airspace Docket No. 71-SO-62]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Areas

On April 23, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7688), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the La Grange and Winder, Ga., transition areas.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

LA GRANGE, GA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Callaway Airport (lat. 33°00'30" N., long. 85°04'20" W.); within 1.5 miles each side of La Grange VORTAC 110° radial, extending from the 6-mile-radius area to the VORTAC.

WINDER, GA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Winder Airport (lat. 33°58'52" N., long. 83°40'02" W.); within 2 miles each side of Athens VORTAC 277° radial, extending from the 6-mile-radius area to 13.5 miles west of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 27, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[FR Doc.71-7853 Filed 6-4-71;8:47 am]

[Airspace Docket No. 71-EA-64]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On May 1, 1971, F.R. Doc. 71-6134 was published in the FEDERAL REGISTER (36 F.R. 8210) effective on July 22, 1971.

This document amended Parts 71 and 75 of the Federal Aviation Regulations by making editorial changes in the descriptions of Control Areas 1143, 1145, and 1146; the Cod and Haddock domestic reporting points; and the Boston, Mass., terminal jet advisory area occasioned by decommissioning of the Nantucket, Mass., CONSOLAN station and replacing it with a radio beacon (RBN).

Subsequent to the publication of this document, it was discovered that the description of the Nantucket transition

area also included reference to the Nantucket CONSOLAN. Accordingly, action is taken herein to change the description of the Nantucket transition area by deleting reference to the Nantucket CONSOLAN and substituting Nantucket RBN therefor.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (6-5-71), F.R. Doc. 71-6134 (36 F.R. 8210) is amended by adding the following item:

4. In § 71.181 (36 F.R. 2140) the Nantucket, Mass., transition areas is amended by deleting the phrases "Nantucket CONSOLAN (Monitor site at latitude 41°-15'35" N., longitude 70°09'19" W.)" and "Nantucket CONSOLAN station" and substituting therefor "Nantucket RBN" in each instance.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 27, 1971.

T. McCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.71-7854 Filed 6-4-71;8:47 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

HYDROGENATED α -METHYLSTYRENE-VINYLTOLUENE COPOLYMER RESINS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0B2487) filed by Hercules Inc., 910 Market Street, Wilmington, Del. 19899, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of hydrogenated α -methylstyrene-vinyltoluene copolymer resins as a component of polyolefin film intended for food-contact use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2615 Hydrogenated α -methylstyrene-vinyltoluene copolymer resins.

Hydrogenated α -methylstyrene-vinyltoluene copolymer resins having a molar ratio of 1 α -methylstyrene to 3 vinyltoluene may be safely used as components of polyolefin film intended for use in contact with food, subject to the following provisions:

(a) Hydrogenated α -methylstyrene-vinyltoluene copolymer resins have a drop-softening point of 125° to 165° C. and a maximum absorptivity of 0.17 liter per gram centimeter at 266 nanometers, as determined by methods available upon request from the Commissioner of Food and Drugs.

(b) The polyolefin film is produced from olefin polymers complying with § 121.2501, and the average thickness of the film in the form in which it contacts food does not exceed 0.002 inch.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-5-71).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 26, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-7837 Filed 6-4-71;8:45 am]

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Fenthion

The Commissioner of Food and Drugs has evaluated a new animal drug application (34-641V) filed by Chemagro Corp. proposing the safe and effective use of fenthion as a pour-on formulation for the control of grubs in cattle. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding the following new section:

§ 135a.7 Fenthion.

(a) *Chemical name.* O,O-Dimethyl O - (4 - (methylthio) - m - tolyl)phosphorothioate.

(b) *Specifications.* The drug is in a liquid form containing 3 percent of fenthion.

(c) *Sponsor.* Chemagro Corp., Hawthorn Road, Kansas City, Mo. 64120.

(d) *Special considerations.* Do not use on animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(e) *Related tolerances.* See § 120.214 of this chapter.

(f) *Conditions of use.* (1) The drug is used as a pour-on formulation for the control of grubs in beef and nonlactating dairy cattle.

(2) It is used at the rate of one-half fluid ounce per 100 pounds of body weight placed on the backline of the animal. Only one application should be made per season, and it should be made as soon as possible after hefly activity has ceased and at least 6 weeks prior to appearance of grubs in the back. The drug must not be used within 35 days of slaughter nor within 28 days of freshening. If freshening occurs within 28 days following treatment, milk taken for the balance of the 28-day interval must not be used for food. Do not treat lactating dairy cattle; calves less than 3 months old; or sick, convalescent, or stressed livestock. Do not treat cattle for 10 days before or after shipping, weaning, or dehorning or after exposure to contagious or infectious diseases.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-5-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1))

Dated: May 19, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-7838 Filed 6-4-71;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Tylosin

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12-585V) filed by Elanco Products Co., a Division of Eli Lilly and Co., Indianapolis, Ind. 46206, proposing additional safe and effective uses of tylosin by injection for the treatment of certain conditions in chickens and turkeys. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135b.2 is amended in the table in paragraph (e) by revising item 1 and by adding a new item 4, as follows:

§ 135b.2 Tylosin.

(e)

RULES AND REGULATIONS

FOR INJECTION

	Amount	Limitations	Indications for use
1. Tylosin	6.25 mg.-12.5 mg. per sinus.	For turkeys; do not use in laying turkeys producing eggs for human consumption; inject 6.25 mg. or 12.5 mg. per sinus, depending on severity of condition; treatment may be repeated in 10 days if the swelling persists; do not inject within 5 days of slaughter; as tylosin tartrate; may be used in conjunction with tylosin in drinking water as indicated in item 2 of the table in § 135c.4(e) of this chapter.	As an aid in the control and treatment of infectious sinusitis caused by <i>Mycoplasma gallisepticum</i> sensitive to tylosin.
4. Tylo-in	25 mg. per 2 pounds of body weight.	For chickens; not for use in laying chickens producing eggs for human consumption; inject 25 mg. per 2 pounds of body weight under the loose skin of the neck behind the head; if no improvement is noted within 5 days, the diagnosis should be reconfirmed; do not inject within 3 days of slaughter; as tylosin tartrate.	As an aid in the control and treatment of chronic respiratory disease caused by <i>Mycoplasma gallisepticum</i> sensitive to tylosin.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-5-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1))

Dated: May 21, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-7839 Filed 6-4-71;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Navy

Section 213.3308 is amended to show that the position of General Counsel is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-5-71), subparagraph (12) is added to paragraph (a) of § 213.3308 as set out below.

§ 213.3308 Department of the Navy.

(a) *Office of the Secretary.* . . .
(12) General Counsel.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-7970 Filed 6-4-71;8:49 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one additional position of Assistant to the Special Assistant to the Secretary, Office of Legislative Liaison, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-5-71), subparagraph (8) of paragraph (a) of § 213.3315 is amended as set out below.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* . . .

(8) Three Assistants to the Special Assistant to the Secretary, Office of Legislative Liaison.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-7969 Filed 6-4-71;8:49 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7124]

PART 3—CAPITAL CONSTRUCTION FUND

Execution of Agreements and Deposits

The following regulations relate to the application of section 607 of the Merchant Marine Act of 1936 (46 U.S.C. 1177) as amended by section 21(a) of the Merchant Marine Act of 1970 (84 Stat. 1026) and to the requirements of the execution of agreements relating to capital construction funds and deposits therein. The regulations set forth herein are temporary and are designed to provide transitional rules with respect to the execution of agreements relating to capital construction funds and deposits therein. The regulations are effective until the issuance of final regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary or his delegate and prescribed by the Secretary of Commerce or his delegate. These regulations have been issued jointly by the Secretary of the Treasury and the Secretary of Commerce and also appear under 46 CFR Part 390.

In order to extend the time within which deposits may be made in capital construction funds with respect to in-

come reported on the taxpayer's 1970 return, § 3.1 of Chapter I of 26 CFR is deleted and a new § 3.1 is added which reads as follows:

§ 3.1 Capital construction fund.

In the case of a taxable year of a taxpayer beginning after December 31, 1969, and before January 1, 1971, the rules governing the execution of agreements and deposits under such agreements shall be as follows:

(a) A capital construction fund agreement executed and entered into by the taxpayer on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year or years will be deemed to be effective on the date of the execution of such agreement or as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates, whichever day is earlier.

(b) Notwithstanding the provisions of paragraph (a) of this section, a capital construction fund agreement executed and entered into by a taxpayer after the due date for the filing of his Federal income tax return for such taxable year or years, but prior to January 1, 1972 (or, if earlier, 60 days after the publication of final joint regulations under section 607 of the Merchant Marine Act, 1936, as amended), will be deemed to be effective as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates.

(c) Deposits made in a capital construction fund pursuant to such an agreement within 60 days after the date of execution of the agreement, or on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year or years, whichever date shall be later, shall be deemed to have been made on the date of the actual deposit or as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates, whichever day is earlier.

(d) Nothing in this section shall alter the rules and regulations governing the timing of deposits with respect to existing capital and special reserve funds or with respect to the treatment of deposits for any taxable year or years other than a taxable year or years beginning after December 31, 1969, and before January 1, 1971.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d).

(Sec. 607, Merchant Marine Act of 1936 (46 U.S.C. 1177) as amended by sec. 21(a), Merchant Marine Act of 1970 (84 Stat. 1026);

sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of
Internal Revenue.

Approved: May 18, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary
of the Treasury.

[FR Doc.71-7968 Filed 6-4-71;11:00 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 316—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES E

Miscellaneous Amendments

Correction

In F.R. Doc. 71-7359 appearing at page 9866 in the issue of Saturday, May 29, 1971, the following changes should be made:

1. The first table on page 9867 should be designated "Table 2-A". In addition, in Table 2-A:

a. Opposite the entry "First 1/2 year" (5/1/71), the entry in the third column reading "\$201.17" should read "\$201.12".

b. Opposite the entry "1 to 1 1/2 years" (5/1/72), the entry in the third column reading "213.32" should read "212.32".

c. The last entry in the table should be designated "THIRD EXTENDED MATURITY VALUE (40 years from issue date)" (5/1/81).

2. In Table 3-A:

a. Opposite the entry "4 to 4 1/2 years" (6/1/75), the entry in the third column reading "252.54" should read "252.44".

b. The last entry in the column headed "(2) From beginning of third extended maturity period to beginning of each half-year period" reading "45.50" should read "5.50" preceded by the footnote reference "4".

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGFR 71-46]

PART 2—GENERAL DUTIES AND JURISDICTION

Waters Subject to Coast Guard Jurisdiction

The purpose of these amendments to the Coast Guard jurisdiction regulations is to include those waters of the United States which have recently been deter-

mined by the Commandant, U.S. Coast Guard, to be navigable and subject to the jurisdiction of the Coast Guard and those waters determined by the Commandant not to be under Coast Guard jurisdiction.

When a question arises as to whether certain waters are subject to Coast Guard jurisdiction in the administration and enforcement of navigation and vessel inspection laws, the matter is determined by the Commandant after investigation of the particular waterway and consultation with other interested Federal agencies. When a determination is made that the waters are or are not subject to the jurisdiction of the Coast Guard, it represents the Coast Guard's view until the status of the waters is determined conclusively through judicial or legislative proceedings.

Recently certain waters have been the object of such determinations by the Commandant. They are as follows:

The Susitna River, Alaska, is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from its mouth, at Cook Inlet, to the village of Gold Creek, a distance of approximately 115 miles. This portion of the river has the capacity for launch-borne interstate and foreign commerce. Accordingly, a new § 2.22-1 is added.

Tecolotito Creek/Goleta Slough, Calif., is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from the Fowler Street Bridge, Santa Barbara County, to the Pacific Ocean. This portion of the waterway is tidal having the capacity for low tide navigation by vessels subject to the laws enforced by the Coast Guard. Accordingly, a new § 2.25-25 is added.

The Androscoggin River, Maine, is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from its mouth, in Merrymeeting Bay, to the dam adjacent to the Maine Street Bridge (State Route 24), in Brunswick, Maine. In this portion of the waterway there is a history of navigation, as published in the 1891 and 1882 reports of the Corps of Engineers. Accordingly, a new § 2.41-10 is added.

The Lumber River, N.C.-S.C., is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from its mouth at Little Pee Dee River, S.C., to Lumberton, N.C. Between 1889 and 1897, this portion of the waterway was improved by the Corps of Engineers and, consequently, it is now, in its natural state, navigable in fact. Accordingly, § 2.55-45 is added and § 2.63-40 is revised.

The Lehigh River, Pa., is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from its mouth to White Haven, Pa. This portion of the waterway has a history of interstate commercial navigation. Accordingly, § 2.60-20 is added.

The following waters are not under Coast Guard jurisdiction due to the lack of present or past history of or susceptibility of usage for interstate or foreign

commerce: Lake Martin on the Tallapoosa River, Ala.; Lakes Louise, Susitna, and Tyone, and the Tyone River, Alaska; Androscoggin River, from Lewiston, Maine, downstream to the dam adjacent to the Maine Street Bridge (State Route 24) in Brunswick, Maine; and the Pound River, including the John W. Flannagan Reservoir, Va. Accordingly, §§ 2.99-5(b), 2.99-10 (a)-(d), 2.99-105 (a), and 2.99-245(b) are added.

Since the amendments in this document concern interpretative rules, they are exempted from the rule making provisions of 5 U.S.C. 553 and may be made effective in less than 30 days.

In consideration of the foregoing, Part 2 is amended as follows:

1. By adding Subpart 2.22, consisting of § 2.22-1 to read as follows:

Subpart 2.22—Navigable Waters of the United States—Alaska

§ 2.22-1 Susitna River.

Susitna River, from its mouth to Gold Creek.

2. By adding § 2.25-25 to read as follows:

§ 2.25-25 Tecolotito Creek/Goleta Slough.

Tecolotito Creek/Goleta Slough, from the site of the Fowler Street Bridge, Santa Barbara County, to the Pacific Ocean.

3. By adding § 2.41-10 to read as follows:

§ 2.41-10 Androscoggin River.

Androscoggin River, from its mouth to the dam adjacent to the Maine Street Bridge (State Route 24) in Brunswick.

4. By adding § 2.55-45 to read as follows:

§ 2.55-45 Lumber River.

Lumber River, from its mouth at Little Pee Dee River, S.C., to Lumberton, N.C.

5. By adding § 2.60-20 to read as follows:

§ 2.60-20 Lehigh River.

Lehigh River, from its mouth to White Haven.

6. By revising § 2.63-40 to read as follows:

§ 2.63-40 Lumber River.

Lumber River, from its mouth at Little Pee Dee River, S.C., to Lumberton, N.C.

7. By adding paragraph (b) to § 2.99-5 to read as follows:

§ 2.99-5 Alabama.

(b) Lake Martin in the Tallapoosa River.

8. By adding § 2.99-10 to read as follows:

§ 2.99-10 Alaska.

- (a) Lake Louise.
- (b) Lake Susitna.
- (c) Lake Tyone.
- (d) Tyone River.

9. By adding § 2.99-105 to read as follows:

§ 2.99-105 Maine.

(a) Androscoggin River, from Lewiston, downstream to the dam adjacent to the Maine Street Bridge (State Route 24) in Brunswick.

10. By adding paragraph (b) to § 2.99-245 to read as follows:

§ 2.99-245 Virginia.

(b) Pound River, including the John W. Flannagan Reservoir.

(Sec. 633, 63 Stat. 545, sec. 6(b) (1), 80 Stat. 937; 14 U.S.C. 633, 49 U.S.C. 1655(b) (1); 49 CFR 1.46(b))

Effective date. These amendments shall become effective on the date of their publication in the FEDERAL REGISTER (6-5-71).

Dated: May 26, 1971.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.71-7880 Filed 6-4-71; 8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

GSA FORMS USED IN CONNECTION WITH FEDERAL SUPPLY SCHEDULES AND CHANGES IN GSA SECTION OF FEDERAL SUPPLY CATALOG

This amendment (1) prescribes the use of and illustrates revised GSA forms used in connection with Federal Supply Schedules; (2) deletes reference to shelf life data which is being removed from the Management Data List; (3) informs agencies that the present National Supplier Change Index is being replaced by two separate publications; and (4) informs agencies that Federal supply catalogs and related publications are available from the GSA Region 8 Centralized Mailing List Services.

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

The table of contents for Part 101-26 is amended as follows:

Sec. 101-26.4902-457 GSA Form 457, FSS Publications Mailing List Application.
101-26.4902-1424 GSA Form 1424, GSA Supplemental Provisions.

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

1. Section 101-26.402-3 is revised to read as follows:

§ 101-26.402-3 Distribution.

Agency offices desiring to receive current copies and to be placed on distri-

bution lists for receiving Federal Supply Schedules and contractors' catalogs shall execute GSA Form 457, FSS Publications Mailing List Application (illustrated at § 101-26.4902-457), and forward the completed GSA Form 457 to General Services Administration, Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, CO 80225. Copies of GSA Form 457 may be obtained from General Services Administration (3 BRD), Washington, D.C. 20407. From time to time, the Centralized Mailing List Services will request information from agency offices for use in maintaining up-to-date distribution lists.

2. Section 101-26.402-5(b) is revised to read as follows:

§ 101-26.102-5 Contract provisions.

(b) Standard Form 32, General Provisions (Supply Contract) (illustrated at § 1-16.901-32), and GSA Form 1424, GSA Supplemental Provisions (illustrated at § 101-26.4902-1424), are incorporated by reference in Federal Supply Schedule contracts. A "Scope of Contract" statement, special provisions pertinent to a particular schedule, and any necessary exceptions to the general provisions are printed in the schedule.

Subpart 101-26.49—Illustrations of Forms

Sections 101-26.4902-457 and 101-26.4902-1424 are revised as follows:

§ 101-26.4902-457 GSA Form 457, FSS Publications Mailing List Application.

§ 101-26.4902-1424 GSA Form 1424, GSA Supplemental Provisions.

NOTE: The forms and instructions listed in §§ 101-26.4902-457 and 101-26.4902-1424 are filed as part of the original document. Copies of the forms listed may be obtained from the General Services Administration (3 BRD), Washington, D.C. 20407.

PART 101-30—FEDERAL CATALOG SYSTEM

The table of contents for Part 101-30 is amended as follows:

Sec. 101-30.603-4 [Reserved]
101-30.603-5 Change bulletins.

Subpart 101-30.6—GSA Section of the Federal Supply Catalog

1. Section 101-30.603 is revised to read as follows:

§ 101-30.603 GSA Federal supply catalogs.

§ 101-30.603-1 Guide to Sources of Supply and Service.

This catalog, published annually, contains a short introduction describing the GSA programs and sources of supply and services available to Federal agencies and applicable ordering procedures, an alpha index of commodities and services, an index of national and regional Federal Supply Schedule contracts, and an index of term contract commodities and

services available through contracts executed by regional offices.

§ 101-30.603-2 Stock Catalog.

This catalog, published annually, contains descriptive and ordering data for all items stocked by GSA except those stocked exclusively for the use of DOD activities. Also listed are certain non-stocked items for which orders are filled by direct shipment from contractors.

§ 101-30.603-3 Management Data List.

This catalog, published annually, lists in Federal Stock Number (FSN) sequence coded supply information for all GSA managed items with an assigned FSN, including those stocked exclusively for the use of DOD activities. The Management Data List serves two supply functions: (a) An ordering tool for agencies requisitioning GSA stock items by stock number and (b) a supply management reference tool for determining essential requisitioning information such as Acquisition Advice and Source of Supply Code, unit of issue, and unit price.

§ 101-30.603-4 [Reserved]

§ 101-30.603-5 Change bulletins.

Changes to the Guide of Sources of Supply and Service and the GSA Stock Catalog are effected by quarterly publications entitled "Change Bulletin to the Guide to Sources of Supply and Service" and "Change Bulletin to the GSA Stock Catalog." These change bulletins will serve as the media to notify agencies of additions, deletions, and other pertinent changes occurring between the annual publication of these two catalogs.

2. Section 101-30.604 is revised to read as follows:

§ 101-30.604 Availability.

Agencies that require current copies of, and desire to be placed on distribution lists to receive Federal supply catalogs and change bulletins shall execute GSA Form 457, FSS Publications Mailing List Application (illustrated at § 101-26.4902-457), and forward the completed GSA Form 457 to General Services Administration, Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, CO 80225. Copies of GSA Form 457 may be obtained from General Services Administration (3 BRD), Washington, D.C. 20407. From time to time Centralized Mailing List Service will request information from agency offices for use in maintaining up-to-date distribution lists.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (6-5-71).

Dated: May 28, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc.71-7877 Filed 6-4-71; 8:49 am]

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

PART 101-35—TELECOMMUNICATIONS

Subpart 101-35.3—Utilization and Ordering of Telecommunications Services

MISCELLANEOUS AMENDMENTS

This amendment (1) requires that agencies furnish GSA copies of their written determinations when ordering from GSA facilities equipment other than that covered by GSA standards, (2) clarifies that larger capacity key station and Call Director equipment may be used when necessary to provide more lines, and (3) permits the installation of color telephones where there is no additional charge for such instruments.

Sections 101-35.307, 101-35.308-2, 101-35.308-3, 101-35.308-5, and 101-35.308-9(g) are revised to read as follows:

§ 101-35.307 Control of telephone station equipment.

Agencies shall establish controls, including periodic surveys, of the installation and use of telephone station equipment to insure that only station equipment necessary to carry out assigned missions is provided. The standards provided in § 101-35.308 are applicable to the ordering of such equipment except where the head of an agency or his authorized designee determines, in writing, that deviation is essential to the effective execution of agency responsibilities or is required by operational needs (to be specified). Orders for equipment deviating from the standards and placed through GSA facilities shall be accompanied by a copy of the written determination. When orders for such equipment are placed directly with commercial common carriers, the determination shall be retained in the agency's file.

§ 101-35.308-2 Key stations.

Key stations should be provided only where traffic volume and work methods require an instrument to have access to more than one line and at secretarial locations to permit answering calls for several persons on more than one line. Where a six-button key station will not provide capacity for the required number of lines, key stations of larger capacity (10-button, 6051-type, or Call Director) may be used. The need for this equipment often can be eliminated by limiting the lines appearing on each station or by providing external buttons for inoffice signaling. The type of station to be installed should be selected by determining which equipment will satisfy the need at the least cost.

§ 101-35.308-3 Call Directors.

Call Directors may be provided only when the number of lines required exceeds the capacity of the 12-button strip. Call Directors may be used as a portion of a "package tariff" rate where there is

no specific charge for the type of station to be provided.

§ 101-35.308-5 Touch-tone instruments.

Touch-tone instruments are prohibited, unless they are (a) provided without additional cost under a general tariff applicable to all instruments associated with the same PBX arrangement, (b) required for a physically handicapped employee to perform his official duties, provided the instrument can be substituted for regular service without modification to the switchboard, or (c) used only as data input devices in a data communications system.

§ 101-35.308-9 Special service and equipment.

(g) Color telephones are permitted where required to identify emergency or security telephone lines or where instruments may be installed without an additional charge for such instruments.

(Sec. 205(c), Stat. 390; 40 U.S.C. 486(C))

Effective date. These regulations are effective June 15, 1971.

Dated: May 28, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc.71-7876 Filed 6-4-71; 8:48 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 120—INTERCHANGE OF PERSONNEL WITH STATES

Revocation

In view of the repeal of section 553, title V, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 867) as of March 6, 1971, by sections 403 and 404 of the Intergovernmental Personnel Act (Public Law 91-648), the regulations implementing the aforementioned section 553—Part 120 of Chapter I of Title 45 of the Code of Federal Regulations—are hereby revoked. All existing assignments under the provisions of section 553, title V, of the Elementary and Secondary Education Act of 1965 shall remain in effect under the terms of the applicable agreements, until the agreements terminate by their terms, as if the regulations in this part had remained in effect.

(Public Law 91-648, secs. 403, 404)

Dated: May 11, 1971.

S. P. MARLAND, JR.,
Commissioner of Education,
Approved: May 31, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health,
Education, and Welfare.
[FR Doc.71-7888 Filed 6-4-71; 8:50 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-77; Amdt. Nos. 172-9, 173-47, 176-4, 178-18, 179-6]

PART 173—SHIPPERS

Methylacetylene-Propadiene, Stabilized

Correction

In F.R. Doc. 71-7546 appearing at page 10731 in the issue of Wednesday, June 2, 1971, the amendments to Part 173 should appear as set forth below:

(A) In § 173.34, paragraph (e) (9) is amended by inserting the phrase "methylacetylene-propadiene, stabilized" immediately following the phrase "liquefied petroleum gas", in the first sentence; paragraph (e) (10) Table is amended as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

(e)
(10)

Cylinders made in compliance with— Used exclusively for—

(add)

DOT-3A480, DOT-3AA480, DOT-3B, DOT-4B, DOT-4BA, DOT-4BW, Methylacetylene-propadiene, stabilized which is commercially free from corroding components.

(B) In § 173.301, paragraph (d) (3) is amended to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

(d)

(3) Manifolding is authorized for cylinders of the following gases: ethane, ethylene, propylene, liquefied petroleum gases, methylacetylene-propadiene, stabilized, and liquefied hydrocarbon gases. Individual cylinders must be equipped with approved safety relief devices as required by § 173.34(d). Each such cylinder must be equipped with an individual shut-off valve, or valves, which must be tightly closed while in transit. Each such cylinder must be separately charged, and shippers shall insure that no interchange of cylinder contents can occur during transportation. Manifold branch lines to individual shut-off valves must be sufficiently flexible to prevent injury to the valves which otherwise might result from the use of rigid branch lines.

RULES AND REGULATIONS

(C) In § 173.304, paragraph (a) (2) Table is amended and Note 6 thereto is canceled as follows:

(a)
(2)

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(d) (see notes following table).
(add)		
Methylacetylene-propadiene, stabilized (see Note 5).	Not liquid full at 130° F.	DOT-4B240, without brazed seams; DOT-4BA240, without brazed seams; DOT-3A240, DOT-3AA240; DOT-3B240; DOT-3E180; DOT-4BW240; DOT-4E240; DOT-4B240ET; DOT-4; DOT-4L.
(cancel)		
Methylacetylene-15% to 20% propadiene mixture (see Note 6).	50	ICC-3A240; ICC-3AA240; ICC-3B240; ICC-4B240; ICC-4BA240; ICC-4BW240; ICC-4B240ET.

NOTE 6: [Canceled]

(D) In § 173.314, paragraph (c) Table and paragraph (e) are amended as follows:

§ 173.314 Requirements for compressed gases in tank cars.

(c)

Kind of gas	Maximum permitted filling density, Note 1	Required tank car, see § 173.31(a) (2) and (3)
(add)	(Percent)	
Methylacetylene-propadiene, stabilized.	Note 22	DOT-105A300W; 112A340W; 114A340W; 105A300X, Notes 4 and 9.
(cancel)		
Methylacetylene-15% to 20% propadiene mixture.	55	ICC-105A300W.

(e) Verification of content. The amount of liquefied gas loaded into each tank may be determined either by measurement or calculation of the weight. If by measurement, the weight must be checked after disconnecting the loading line by the use of proper scales. If by calculation, the weight of liquefied petroleum gas, methylacetylene-propadiene, stabilized, dimethylamine, monomethylamine, or trimethylamine may be calculated using the outage tables supplied by the tank car owners and the specific

gravities as determined at the plant, and this computation must be checked by determination of specific gravity of product after loading. Carriers may verify calculated weights by use of proper scales.

(E) In § 173.315, paragraphs (a) (1) Table, (h) (2) Table, and (i) (2) Table are amended as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a)
(1)

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (i) of this section)	Type (see Note 2)	Minimum design pressure (p.s.i.g.)
(add)				
Methylacetylene-propadiene, stabilized (see Note 13).	53	90	DOT-51, MC-330, MC-331.	200.

Kind of gas	Permitted gaging device	Kind of gas	Minimum start-to-discharge pressure (p.s.i.g.)
(h) (2)		(1) (2)	
(add)		(add)	
Methylacetylene-propadiene, stabilized.	Rotary tube; adjustable slip tube; fixed length dip tube.	Methylacetylene-propadiene, stabilized.	200.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Industrial Development Bonds

Notice is hereby given that the notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 103 (relating to industrial development bonds) of the Internal Revenue Code published in the FEDERAL REGISTER (34 F.R. 508) on January 14, 1969, is hereby withdrawn.

Further, notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 6, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 6, 1971. A decision whether a public hearing will be held will be made and announced subsequent to July 6, 1971, and notice of the time, place, and date of the public hearing if one is to be held will be given at that time. The proposed regulations are to be issued under the authority contained in sections 103(c) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 82 Stat. 1349; 26 U.S.C. 103, 7805).

[SEAL]

HAROLD T. SWARTZ,
Acting Commissioner of
Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954 to the provisions of section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90-364, 82 Stat. 251) and section 401 of the Renegotiation Amendments Act of 1968 (Public Law 90-634, 82 Stat. 1349), relating to industrial development bonds, and section 601 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 656), relating to arbitrage bonds, such regulations are amended to read as follows:

PARAGRAPH 1. Section 1.103 is amended

by redesignating subsection (c) of section 103 as subsection (e), by adding new subsections (c) and (d) to section 103, and by adding a historical note. These amended and added provisions read as follows:

§ 1.103 Statutory provisions: interest on certain governmental obligations.

Sec. 103. Interest on certain governmental obligations—(a) General rule. . . .

(c) Industrial Development Bonds—(1) Subsection (a) (1) Not To Apply. Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a) (1).

(2) Industrial Development Bond. For purposes of this subsection, the term "industrial development bond" means any obligation—

(A) Which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (within the meaning of paragraph (3)), and

(B) The payment of the principal or interest on which (under the terms of such obligation or any underlying arrangement) is, in whole or in major part—

(i) Secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or

(ii) To be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

(3) Exempt Person. For purposes of paragraph (2)(A), the term "exempt person" means—

(A) A governmental unit, or

(B) An organization described in section 501(c) (3) and exempt from tax under section 501(a) (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization).

(4) Certain Exempt Activities. Paragraph (1) shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide—

(A) Residential real property for family units,

(B) Sports facilities,

(C) Convention or trade show facilities,

(D) Airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly related to any of the foregoing,

(E) Sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy, gas, or water, or

(F) Air or water pollution control facilities.

(5) Industrial Parks. Paragraph (1) shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used for the acquisition or development of land as the site for an industrial park. For purposes of the preceding sentence, the term "development of land" includes the provision of water, sewage, drainage, or similar facilities, or of transportation, power, or communication facilities, which are incidental to use of the site as an industrial park, but, except with respect to such facilities, does not include the provision of structures or buildings.

Proposed Rule Making

(6) Exemption For Certain Small Issues—(A) In General. Paragraph (1) shall not apply to any obligation issued as part of an issue the aggregate authorized face amount of which is \$1 million or less and substantially all of the proceeds of which are to be used (i) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or (ii) to redeem part or all of a prior issue which was issued for purposes described in clause (i) or this clause.

(B) Certain Prior Issues Taken Into Account. If—

(i) The proceeds of two or more issues of obligations (whether or not the issuer of each such issue is the same) are or will be used primarily with respect to facilities located in the same incorporated municipality or located in the same county (but not in any incorporated municipality),

(ii) The principal user of such facilities is or will be the same person or two or more related persons, and

(iii) But for this subparagraph, subparagraph (A) would apply to each issue,

then, for purposes of subparagraph (A), in determining the aggregate face amount of any later issue there shall be taken into account the face amount of obligations issued under all prior such issues and outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).

(C) Related person. For purposes of this paragraph and paragraph (7), a person is a related person to another person if—

(i) The relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

(ii) Such persons are members of the same controlled group of corporations (as defined in section 1563(a)), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

(D) \$5-million Limit In Certain Cases. At the election of the issuer, made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe, with respect to any issue, this paragraph shall be applied—

(i) By substituting "\$5,000,000" for "\$1,000,000" in subparagraph (A), and

(ii) In determining the aggregate face amount of such issue, by taking into account not only the amount described in subparagraph (B), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (E) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding issues to which subparagraph (A) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in subparagraph (B).

(E) Facilities Taken Into Account. For purposes of subparagraph (D)(ii), the facilities described in this subparagraph are facilities—

(i) Located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

(ii) The principal user of which is or will be the same person or two or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

(F) *Certain Capital Expenditures Not Taken Into Account.* For purposes of subparagraph (D) (ii), any capital expenditure—

(i) To replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced.

(ii) Required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance, or

(iii) Required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed \$250,000),

shall not be taken into account.

(G) *Limitation On Loss Of Tax Exemption.* In applying subparagraph (D) (ii) with respect to capital expenditures made after the date of any issue, no obligation issued as a part of such issue shall be treated as an obligation not described in subsection (a) (1) by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

(H) *Certain Refinancing Issues.* In the case of any issue described in subparagraph (A) (ii), an election may be made under subparagraph (D) only if all of the prior issues being redeemed are issues to which subparagraph (A) applies. In applying subparagraph (D) (ii) with respect to such a refinancing issue, capital expenditures shall be taken into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under subparagraph (A).

(7) *Exception.* Paragraphs (4), (5), and (6) shall not apply with respect to any obligation for any period during which it is held by a person who is a substantial user of the facilities or a related person.

(d) *Arbitrage Bonds—(1) Subsection (a) (1) Not To Apply.* Except as provided in this subsection, any arbitrage bond shall be treated as an obligation not described in subsection (a) (1).

(2) *Arbitrage Bond.* For purposes of this subsection, the term "arbitrage bond" means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly—

(A) To acquire securities (within the meaning of section 165(g) (2) (A) or (B)) or obligations (other than obligations described in subsection (a) (1)) which may be reasonably expected at the time of issuance of such issue, to produce a yield over the term of the issue which is materially higher (taking into account any discount or premium) than the yield on obligations of such issue, or

(B) To replace funds which were used directly or indirectly to acquire securities or obligations described in subparagraph (A).

(3) *Exception.* Paragraph (1) shall not apply to any obligation—

(A) Which is issued as part of an issue substantially all of the proceeds of which are reasonably expected to be used to provide permanent financing for real property used or to be used for residential purposes for the personnel of an educational institution (within the meaning of section 151(e) (4))

which grants baccalaureate or higher degrees, or to replace funds which were so used, and

(B) The yield on which over the term of the issue is not reasonably expected, at the time of issuance of such issue, to be substantially lower than the yield on obligations acquired or to be acquired in providing such financing.

This paragraph shall not apply with respect to any obligation for any period during which it is held by a person who is a substantial user of property financed by the proceeds of the issue of which such obligation is a part, or by a member of the family (within the meaning of section 318(a) (1)) of any such person.

(4) *Special Rules.* For purposes of paragraph (1), an obligation shall not be treated as an arbitrage bond solely by reason of the fact that—

(A) The proceeds of the issue of which such obligation is a part may be invested for a temporary period in securities or other obligations until such proceeds are needed for the purpose for which such issue was issued, or

(B) An amount of the proceeds of the issue of which such obligation is a part may be invested in securities or other obligations which are part of a reasonably required reserve or replacement fund.

The amount referred to in subparagraph (B) shall not exceed 15 percent of the proceeds of the issue of which such obligation is a part unless the issuer establishes that a higher amount is necessary.

(5) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(e) *Cross References.* . . .

[Sec. 103 as amended by sec. 107(a), Revenue and Expenditure Control Act 1968 (82 Stat. 266); sec. 401(a), Renegotiation Amendments Act 1968 (82 Stat. 1349); sec. 601(a), Tax Reform Act 1969 (83 Stat. 656)]

PAR. 2. Section 1.103-1 is amended to read as follows:

§ 1.103-1 Interest upon obligations of a State, territory, etc.

(a) Interest upon obligations of a State, territory, a possession of the United States, the District of Columbia, or any political subdivision thereof (hereinafter collectively or individually referred to as "State, etc., governmental unit") is not includable in gross income, except as provided under section 103(c) and (d) and the regulations thereunder.

(b) Obligations issued by or on behalf of any State, etc., governmental unit by constituted authorities empowered to issue such obligations are the obligations of such a unit. However, section 103(a) (1) and this section do not apply to industrial development bonds except as otherwise provided in section 103(c). See section 103(c) and §§ 1.103-7 through 1.103-12 for the rules concerning interest paid on industrial development bonds.

See section 103(d) for rules concerning interest paid on arbitrage bonds. Certificates issued by a political subdivision for public improvements (such as sewers, sidewalks, streets, etc.) which are evidence of special assessments against specific property, which assessments become a lien against such property and which the political subdivision is required to enforce, are, for purposes of this section, obligations of the political subdivi-

sion even though the obligations are to be satisfied out of special funds and not out of general funds or taxes. The term "political subdivision", for purposes of this section denotes any division of any State, etc., governmental unit which has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any State, etc., governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of any such unit.

PAR. 3. The following new sections are added after § 1.103-6:

§ 1.103-7 Industrial development bonds.

(a) *In general.* Under section 103(c) (1) and this section, an industrial development bond issued after April 30, 1968, shall be treated as an obligation not described in section 103(a) (1) and § 1.103-1. Accordingly, interest paid on such a bond is includable in gross income unless the bond was issued by a State, etc., governmental unit to finance certain exempt facilities (see section 103(c) (4) and § 1.103-8), to finance an industrial park (see section 103(c) (5) and § 1.103-9), or as part of an exempt small issue (see section 103(c) (6) and § 1.103-10). For applicable rules when an industrial development bond is held by a substantial user (or a person related to a substantial user) of such an exempt facility, or an industrial park, or a facility financed with the proceeds of such an exempt small issue, see section 103(c) (7) and § 1.103-11. See also § 1.103-12 for the transitional provisions concerning the interest paid on certain industrial development bonds issued before January 1, 1969, and certain other industrial development bonds. Even if section 103(c) does not prevent a bond from being treated as an obligation described in section 103(a) (1) and § 1.103-1, such bond shall nevertheless be treated as an obligation which is not described in section 103(a) (1) and § 1.103-1 if under section 103(d) it is an arbitrage bond. For purposes of section 103(c), the term "issue" includes a single obligation such as a single note issued in connection with a bank loan as well as a series of notes or bonds.

(b) *Industrial development bonds—(1) Definition.* For purposes of this section, the term "industrial development bond" means any obligation—

(i) Which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (as defined in subparagraph (2) of this paragraph), and

(ii) The payment of the principal or interest on which, under the terms of such obligation or any underlying arrangement (as described in subparagraph (4) of this paragraph), is in whole

or in major part (i.e., major portion)—

(a) Secured by any interest in property used or to be used in a trade or business,

(b) Secured by any interest in payments in respect of property used or to be used in a trade or business, or

(c) To be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

See subparagraphs (3) and (4) of this paragraph for the trade or business test and the security interest test respectively.

(2) *Exempt person.* The term "exempt person" means a governmental unit as defined in this subparagraph, or an organization which is described in section 501(c) (3) and this subparagraph and is exempt from taxation under section 501(a). For purposes of this subparagraph, the term "governmental unit" means a State, etc., governmental unit (as defined in § 1.103-1) and the United States of America (or an agency or instrumentality of the United States of America). For purposes of this subparagraph, a tax-exempt organization is an exempt person only with respect to a trade or business it carries on which is not an unrelated trade or business. Whether a particular trade or business carried on by a tax-exempt organization is an unrelated trade or business is determined by applying the rules of section 513(a) (relating to general rule for unrelated trade or business) and the regulations thereunder to the tax-exempt organization without regard to whether the organization is an organization subject to the tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

(3) *Trade or business test.* (i) The trade or business test relates to the use of the proceeds of a bond issue. The test is met if all or a major portion of the proceeds of a bond issue is used in a trade or business carried on by a nonexempt person. For example, if all or a major portion of the proceeds of a bond issue is to be loaned to one or more private business users, or is to be used to acquire, construct, or reconstruct facilities to be leased or sold to such private business users, and such proceeds or facilities are to be used in trades or businesses carried on by them, such proceeds are to be used in a trade or business carried on by persons who are not exempt persons, and the debt obligations comprising the bond issue satisfy the trade or business test. If, however, less than a major portion of the proceeds of an issue is to be loaned to nonexempt persons or is to be used to acquire or construct facilities which will be used in a trade or business carried on by a nonexempt person, the debt obligations will not be industrial development bonds. Also, when publicly owned facilities which are intended for general public use, such as toll roads or bridges, are constructed with the proceeds of a bond issue and used by nonexempt persons in their trades or businesses on the same basis as other members of the public, such use does not constitute a use in the trade

or business of a nonexempt person for purposes of the trade or business test.

(ii) In determining whether a debt obligation meets the trade or business test, the indirect, as well as the direct, use of the proceeds is to be taken into account. For example, the debt obligations comprising a bond issue do not fail to satisfy the trade or business test merely because the State, etc., governmental unit uses the proceeds to engage in a series of financing transactions for property to be used by private business users in trades or businesses carried on by them. Similarly, if such proceeds are to be used to construct facilities to be leased or sold to any nonexempt person for use in a trade or business it carries on, such proceeds are to be used in a trade or business carried on by a nonexempt person and the debt obligations comprising such issue satisfy the trade or business test. If such proceeds are to be used to construct facilities to be leased or sold to an exempt person who will, in turn, lease or sell the facilities to a nonexempt person for use in a trade or business, such proceeds are to be used in a trade or business carried on by a nonexempt person and the debt obligations comprising such issue satisfy the trade or business test. In addition, proceeds will be treated as being used in the trade or business of a nonexempt person in situations involving other arrangements, whether in a single transaction or in a series of transactions, whereby a nonexempt person uses property acquired with the proceeds of a bond issue in its trade or business.

(iii) The use of more than 25 percent of the proceeds of an issue of obligations in the trades or businesses of nonexempt persons will constitute the use of a major portion of such proceeds in such manner. In the case of the direct or indirect use of the proceeds of an issue of obligations or the direct or indirect use of a facility constructed, reconstructed, or acquired with such proceeds, the use by all nonexempt persons in their trades or businesses must be aggregated to determine whether the trade or business test is satisfied. If more than 25 percent of the proceeds of a bond issue is used in the trades or businesses of nonexempt persons, the trade or business test is satisfied. For special rules with respect to certain public utility facilities, see subdivision (v) of this subparagraph.

(iv) (a) The use by one or more nonexempt persons of a major portion of the output of facilities constructed, reconstructed, or acquired with the proceeds of an issue may have the effect of transferring the benefits and burdens of ownership of such facilities to such nonexempt persons so as to constitute the indirect use by them of a major portion of such proceeds. This occurs, for example, in the case of a facility constructed, reconstructed, or acquired with the proceeds of an issue which is ostensibly owned and operated by an exempt person but where one or more nonexempt persons agree, pursuant to one or more long-term contracts, to take, or to take or pay for, a major portion (more than

25 percent) of the output of such facility (whether or not conditioned upon the production of such output) for periods of time which are substantial in relation to the term of the bonds.

(b) Facilities will not be treated as indirectly used in the trades or businesses of nonexempt persons where such persons purchase the output of the facilities on terms which are customary in the industry for sale of such output and which do not have the effect of transferring to them the benefits and burdens of ownership of such facilities. Thus, a facility for furnishing electric energy which is owned by, and is operated by or for, a State, etc., governmental unit will not be treated as used in the trades or businesses of nonexempt persons if the output of such facility is sold on a kilowatt-hour basis without any guarantee of minimum payment by one or more customers, or is sold to a substantial number of unrelated customers under a rate schedule (which may include demand charges) of general application, provided that no single customer pays annually a demand charge or guaranteed minimum payment which exceeds 2½ percent of the average annual debt service with respect to the obligations in question. For purposes of this subdivision (b), two or more related persons within the meaning of section 103(c) (6) (C) shall be treated as a single customer. Where any single customer pays a demand charge or guaranteed minimum payment exceeding such 2½ percent, the question whether the facilities are to be treated as used in the trades or businesses of nonexempt persons (i.e., whether the benefits and burdens of ownership have in substance been transferred to such nonexempt persons) shall be determined under (a) of this subdivision by reference to all the facts and circumstances, including the total number of customers served, the relationship of demand charges or guaranteed minimum payments to output actually delivered, and other relevant considerations.

(v) A major portion of the proceeds of an issue of obligations issued by a State, etc., governmental unit to finance a facility described in this subdivision shall not be considered to be used in the trade or business of a nonexempt person. A facility is described in this subdivision if—

(a) It is a public utility facility for furnishing electric energy, gas, water, or services for sewage or solid waste disposal which is owned by, and operated by or for, a State, etc., governmental unit.

(b) At least 50 percent of the output of the facility is used by the State, etc., governmental unit or is sold by or on behalf of the State, etc., governmental unit to a substantial number of customers of the unit who are not related persons (within the meaning of paragraph (e) of § 1.103-10) under a rate schedule (which may include demand charges) of general application, and under conditions which do not have, under subdivision (iv)

of this subparagraph, the effect of transferring to any such customers the benefits and burdens of ownership of such facilities.

(c) It is expected, pursuant to a reasonable projection, that substantially all of the output of the facility will be used by the State, etc., governmental unit or will be sold by or on behalf of the State, etc., governmental unit to a substantial number of persons who are its customers under a rate schedule (which may include demand charges) of general application, and under conditions which do not have, under subdivision (iv) of this subparagraph, the effect of transferring the benefits and burdens of ownership of such facilities, within a period equal to the shorter of 15 years or a period of years equal to one-half of the estimated actual useful life of the facility, commencing from the date of such facility is originally placed in service, and

(d) The projection, which shall be based, in part, on past and current population and industry growth, indicates that the use by the State, etc., governmental unit or a substantial number of persons who are its customers will increase gradually over the period described in (c) of this subdivision.

In the case of a facility for furnishing electric energy, the projections and output described in this subdivision shall be based on actual generating capacity (i.e., nameplate capacity).

(4) *Security interest test.* The security interest test relates to the nature of the security for, and the source of, the payment of the principal or interest on a bond issue. The nature of the security for, and the source of, the payment may be determined from the terms of the bond indenture or on the basis of an underlying arrangement. An underlying arrangement to provide security for, or the source of, the payment of the principal or interest on an obligation may result from separate agreements between the parties or may be determined on the basis of all the facts and circumstances surrounding the issuance of the bonds. The property which is the security for, or the source of, the payment of the principal or interest on a debt obligation need not be properly acquired with bond proceeds. The security interest test is satisfied if, for example, a debt obligation is secured by unimproved land or investment securities used, directly or indirectly, in any trade or business carried on by any private business user. A pledge of the full faith and credit of a State, etc., governmental unit will not prevent a debt obligation from otherwise satisfying the security interest test. For example, if the payment of the principal or interest on a bond issue is secured by both a pledge of the full faith and credit of a State, etc., governmental unit and any interest in property used or to be used in a trade or business, the bond issue satisfies the security interest test.

(c) *Examples.* The application of the rules contained in section 103(c) (2) and (3) and paragraph (b) of this section are illustrated by the following examples:

Example (1). State A and corporation X enter into an agreement under which A is to provide a factory which X will lease for 20 years. The arrangement provides (1) that A will issue \$10 million of bonds, (2) that the proceeds of the bond issue will be used to purchase land and to construct and equip a factory in accordance with X's specifications, (3) that X will rent the facility (land, factory, and equipment) for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by X and the facility itself will be the security for the bonds. The bonds are industrial development bonds since they are part of an issue of obligations (1) all of the proceeds of which are to be used (by purchasing land and constructing and equipping the factory) in a trade or business by a nonexempt person, and (2) the payment of the principal and interest on which is secured by the facility and payments to be made with respect thereto.

Example (2). The facts are the same as in example (1) except that (1) X will purchase the facility, and (2) annual payments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds will be made by X. The bonds are industrial development bonds for the reasons set forth in example (1).

Example (3). State B and corporation X enter into an arrangement under which B is to loan \$10 million to X. The arrangement provides (1) that B will issue \$10 million of bonds, (2) that the proceeds of the bond issue will be loaned to X to provide additional working capital and to finance the acquisition of certain new machinery, (3) that X will repay the loan in annual installments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that the payments on the loan and the machinery will be the security for only the payment of the principal on the bonds. The bonds are industrial development bonds since they are part of an issue of obligations (1) all of the proceeds of which are to be used in a trade or business by a nonexempt person, and (2) the payment of the principal on which is secured by payments to be made in respect of property to be used in a trade or business. The result would be the same if only the payment of the interest on the bonds were secured by payments on the loan and machinery.

Example (4). The facts are the same as in example (1), (2), or (3) except that the annual payments required to be made by corporation X exceed the amount necessary to amortize the principal and pay the interest on the outstanding bonds. The bonds are industrial development bonds for the reasons set forth in such examples. The fact that corporation X is required to pay an amount in excess of the amount necessary to pay the principal and interest on the bonds does not affect their status as industrial development bonds. Similarly, if the annual payments required to be made by corporation X were sufficient to pay only a major portion of either the principal or the interest on the outstanding bonds, the bonds would be industrial development bonds for the reasons set forth in such examples.

Example (5). The facts are the same as in example (1), (2), (3), or (4) except that the issuer is a political subdivision which has taxing power and the bonds are general obligation bonds. Since both the trade or business and the security interest tests are met, the bonds are industrial development bonds notwithstanding the fact that they constitute an unconditional obligation of the issuer payable from its general revenues.

Example (6). (a) State C issues its general obligation bonds to purchase land and construct a hotel for use by the general public (i.e., tourists, visitors, travelers on business, etc.). The bond indenture provides (1) that C will own and operate the project for the period required to redeem the bonds, and (2) that the project itself and the revenues derived therefrom are the security for the bonds. The bonds are not industrial development bonds since (1) the proceeds are to be used by an exempt person in a trade or business carried on by such person, and (2) a major portion of such proceeds is not to be used, directly or indirectly, in a trade or business carried on by a nonexempt person. Use of the hotel by hotel guests who are traveling in connection with trades or businesses of non-exempt persons is not an indirect use of the hotel by such nonexempt persons for purposes of section 103(c).

(b) The facts are the same as in paragraph (a) of this example except that the hotel is constructed in the vicinity of the industrial plant of corporation Y and it will be used by the customers and employees of Y. Y enters into a long-term agreement with C that Y will rent more than one-fourth of the rooms on an annual basis for a period approximately equal to one half of the term of the bonds. The bonds are industrial development bonds because (1) a major portion of the proceeds used to construct the hotel is to be used in the trade or business of corporation Y (a nonexempt person) and (2) a major portion of the principal and interest on such issue will be derived from payments in respect of the property used in the trade or business of Y.

Example (7). (a) State D and corporation Y enter into an agreement under which Y will lease for 20 years three floors of a 12-story office building to be constructed by D on land which it will acquire. D will occupy the grade floor and the remaining eight floors of the building. The portion of the costs of acquiring the land and constructing the building which are allocated to the space to be leased by Y is not in excess of 25 percent of the total costs of acquiring the land and constructing the building. Such costs, whether attributable to the acquisition of land or the acquisition, construction, reconstruction, or improvement of the building, were allocated to leased space in the same proportion that the reasonable rental value of such leased space bears to the reasonable rental value of the entire building. From the facts and circumstances presented, it is determined that such allocation was reasonable. The agreement between D and Y provides that D will issue \$10 million of bonds, that the proceeds of the bond issue will be used to purchase land and construct an office building, that Y will lease the designated floor space for 20 years at its reasonable rental value, and that such rental payments and the building itself shall be security for the bonds. The bonds are not industrial development bonds since a major portion of the proceeds is not to be used, directly or indirectly, in the trade or business of a nonexempt person.

(b) The facts are the same as in paragraph (a) of this example except that corporation Y will lease four floors, and the costs allocated to these floors are in excess of 25 percent of D's investment in the land and building. The bonds are industrial development bonds because (1) a major portion of the building is to be used in the trade or business of a nonexempt person, and (2) a major portion of the principal and interest on such issue is secured by the rental payments on the building.

Example (8). The facts are the same as in paragraph (b) of example (7) except that,

instead of leasing any space to corporation Y, State D will lease the four floors to numerous unrelated private business users to be used in their trades or businesses. A major portion of the principal and interest will be paid from the revenues that D will derive from such leases. The fact that the activities of D, an exempt person, may amount to a trade or business of leasing property is not material, and the bonds are industrial development bonds for the reasons set forth in paragraph (b) of example (7).

Example (9). State E issues its obligations to finance the construction of dormitories for educational institution Z which is an organization described in section 501(c)(3) and exempt from tax under section 501(a). The dormitories are to be owned and operated by Z and their operation does not constitute an unrelated trade or business. The bonds are not industrial development bonds since the proceeds are to be used by an exempt person in a trade or business carried on by such person which is not an unrelated trade or business, as determined by applying section 513(a) to Z.

Example (10). State F issues its obligations to finance the construction of a toll road and the cost of erecting related facilities such as gasoline service stations and restaurants. Such related facilities represent less than 25 percent of the total cost of the project and are to be leased or sold to non-exempt persons. The toll road is to be owned and operated by F. The revenues from the toll road and from the rental of related facilities are the security for the bonds. The bonds are not industrial development bonds since a major portion of the proceeds is not to be used, directly or indirectly, in the trades or businesses of nonexempt persons. The fact that vehicles owned by nonexempt persons engaged in their trades or businesses may use the road in common with, or as a part of, the general public is not material.

Example (11). City G issues its obligations to finance the construction of a municipal auditorium which it will own and operate. The use of the auditorium will be open to anyone who wishes to use it for a short period of time on a rate-scale basis. The rights of such a user are only those of a transient occupant rather than the full legal possessory interests of a lessee. It is anticipated that the auditorium will be used by schools, church groups, and fraternities, and numerous commercial organizations. The revenues from the rentals of the auditorium and the auditorium building itself will be the security for the bonds. The bonds are not industrial development bonds because such use is not a use in the trade or business of a nonexempt person.

Example (12). The facts are the same as in example (11) except that one nonexempt person will have a 20-year rental agreement providing for exclusive use of the entire auditorium for more than 3 months of each year at a rental comparable to that charged short-term users. The bonds are industrial development bonds since such use is a use in the trade or business of a nonexempt person and, therefore, a major portion of the proceeds of the issue will be used in the trade or business of a nonexempt person and a major portion of the principal or interest on such issue will be secured by a facility used in such trade or business and by payments with respect to such facility.

Example (13). In order to construct an electric generating facility of a size sufficient to take advantage of the economies of scale: (1) City H will issue \$50 million of its 40-year bonds and Z (a privately owned electric utility) will use \$100 million of its funds for construction of a facility they will jointly own as tenants in common. (2) Each of the participants will share in the ownership, output, and operating expenses of the fa-

cility in proportion to its contribution to the cost of the facility, that is, one-third by H and two-thirds by Z. (3) H's bonds will be secured by H's ownership in the facility and by revenues to be derived from the sale of H's share of the power output of the facility. (4) Because H will need only 50 percent of its share of the power output of the facility, it agrees to sell to Z 25 percent of its share of such power output for a period of 20 years pursuant to a contract under which Z agrees to take or pay for such power in all events. (5) H also agrees to sell the remaining 25 percent of its share of the output to numerous other private utilities under a prevailing rate schedule including demand charges. (6) No contracts will be executed obligating any person other than Z to purchase any specified amount of the power for any specified period of time and no one such person (other than Z) will pay a demand charge or other minimum payment under conditions which, under paragraph (b) (3) (iv) of this section, result in a transfer of the benefits and burdens of ownership of such facilities. The bonds are not industrial development bonds because H's one-third interest in the facility (financed with bond proceeds) shall be treated as a separate property interest and, although 25 percent of H's interest in the power output of the facility will be used directly or indirectly in the trade or business of Z, a nonexempt person, under the rule of paragraph (b) (3) (iii) of this section, such portion constitutes less than a major portion. If more than 25 percent of H's interest in the power output of the facility were to be sold to Z pursuant to the take or pay contract, the bonds would be industrial development bonds since they would be secured by H's ownership in the facility and revenues therefrom, and under the rules of paragraph (b) (3) (iii) and (iv) of this section a major portion of the proceeds of the bond issue would be used in the trade or business of Z, a nonexempt person.

Example (14). (a) Because of the need to provide electric generating facilities several years in advance to meet anticipated power requirements and also to obtain economies of scale available only through construction of own electric system generating power and distributing it to the general populace (consisting of business and residential users), plans to issue 30-year obligations and use the proceeds to construct a 600-megawatt electric power generating facility at a total cost of \$100 million to service its present and anticipated customers and to provide for its own needs. Revenues from the facility and the facility itself will be the security for the bonds. Estimates by engineers, based upon actual capacity (i.e., nameplate capacity), establish that I will initially require a minimum of one-half of the output of the new electric generating facility for itself and for a substantial number of persons who are its customers under a rate schedule, including demand charges, of general application and under conditions which do not result in the transfer of the benefits and burdens of ownership of such facility to any such persons as provided in paragraph (b) (3) (iv) of this section. Such estimates also establish that substantially all of the remaining output of the facility will be required for such purposes as a result of projected general community growth within a period of 15 years thereafter. The projection, based, in part, on past and current growth, also indicates that the power requirements of the community will increase gradually over the 15 years after the electric generating facility is placed in service. Until such time as it requires the full capacity, I plans to sell to Z, a privately owned public utility company, the remaining output of the generating facility. Under the rule of paragraph (b) (3) (v) of this section (relating to certain public

utility facilities), the bonds issued to finance the construction of the electric generating facility are not industrial development bonds because a major portion of the proceeds of such issue is not used in the trade or business of a nonexempt person.

(b) The facts are the same as in paragraph (a) of this example except that instead of selling the excess capacity to corporation Z, I enters into an agreement to sell more than 25 percent of the capacity of the facility to corporation M, an industrial user, under terms whereby M agrees to take or pay for such percentage for a period approximately equal to the term of the bond issue. Payments with respect to such contract and the facility itself will be the security for the bonds. Further, since M will take or pay for 25 percent of the capacity for a period approximately equal to the term of the bond issue, it does not appear that I will use substantially all of the output of the facility for its own use or for the use of its customers under a rate schedule, including demand charges, of general application within a period equal to the shorter of 15 years or one half of the estimated actual useful life of the facility. Since under paragraphs (b) (3) (iii) and (iv) of this section a major portion of the output of the facility will be used by one or more nonexempt persons pursuant to a take or pay contract for a period which is substantial in relation to the term of the bonds, and since the conditions for application of the exception in paragraph (b) (3) (v) of this section do not exist, the trade or business test is satisfied. Since the trade or business test is satisfied, and since a major portion of the security for such bonds is the facility and payments with respect to the facility, the bonds are industrial development bonds.

Example (15). J, a political subdivision of a state, will issue several series of bonds from time to time and will use the proceeds to rehabilitate urban areas. More than 25 percent of the proceeds of each issue will be used for the rehabilitation and construction of buildings which will be leased or sold to non-exempt persons for use in their trades or businesses. There is no limitation either on the number of issues or the aggregate amount of bonds which may be outstanding. No group of bondholders has any legal claim prior to any other bondholders or creditors with respect to specific revenues of J, and there is no arrangement whereby revenues from a particular project are paid into a trust or constructive trust, or sinking fund, or are otherwise segregated or restricted for the benefit of any group of bondholders. There is, however, an unconditional obligation by J to pay the principal and interest on each issue of bonds. Further, it is apparent that J requires the revenues from the lease or sale of buildings to nonexempt persons in order to pay in full the principal and interest on the bonds in question. The bonds are industrial development bonds because a major portion of the proceeds will be used in the trades or businesses of nonexempt persons and, pursuant to an underlying arrangement, payment of the principal and interest is, in major part, to be derived from payments in respect of property or borrowed money used in the trades or businesses of nonexempt persons.

Example (16). Power Authority K, a political subdivision created by the legislature in State X to own and operate certain power generating facilities, sells all of the power from its existing facilities to four private utility systems under contracts executed in 1970, whereby such four systems are required to take or pay for specified portions of the total power output until the year 2000. Currently, existing facilities supply all of the present needs of the four utility

systems but their future power requirements are expected to increase substantially. K issues 20-year general obligation bonds to construct a large nuclear generating facility. A fifth private utility system contracts with K to take or pay for 30 percent of the power of the new facility for 25 years. The balance of the power output of the new facility will be available for sale as required, but initially it is not anticipated there will be any need for such power. The revenues from the contract with the fifth private utility system will be sufficient to pay only approximately 20 percent of the principal and interest on the bonds. The balance will be paid from revenues from the contracts with the four systems from sale of power produced by the old facilities. The bonds will be industrial development bonds because a major portion of the proceeds will be used in the trade or business of a nonexempt person, and payment of the principal and interest, pursuant to an underlying arrangement, will be derived in major part from payments in respect of property used in the trades or businesses of nonexempt persons.

(d) *Certain refunding issues*—(1) *General rule.* In the case of an issue of obligations issued to refund the outstanding face amount of an issue of obligations, the proceeds of the refunding issue will be considered to be used for the purpose for which the proceeds of the issue to be refunded were used. The rules of this subparagraph shall apply regardless of the date of issuance of the issue to be refunded.

(2) *Obligations issued prior to effective date.* In the case of an issue of obligations issued to refund the outstanding face amount of an issue of obligations issued before April 30, 1968 (or before January 1, 1969, if the transitional rules of § 1.103-12 are applicable) which would have been industrial development bonds within the meaning of section 103(c)(2) had they been issued after such date, the refunding issue shall not be considered to be an issue of industrial development bonds if it does not make funds available for any purpose other than the debt service on the obligations. For rules as to arbitrage bonds, see section 103(d).

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1969, State A issued \$20 million of 20-year revenue bonds the proceeds of which were used to construct a sports facility which qualifies as an exempt facility described in section 103(c)(4)(B) and paragraph (c) of § 1.103-8. The sports facility will be owned and operated by X, a nonexempt person, for the use of the general public. In 1975, A issues \$15 million of revenue bonds in order to refund the outstanding face amount of the 1969 issue. Since the proceeds of the 1969 issue were used for an exempt facility, the proceeds of the 1975 refunding issue will be considered to be used for the same purposes and section 103(c)(1) shall not apply to the 1975 refunding issue. The result would have been the same if the original issue had been issued in 1965. For rules as to a refunding obligation held by substantial users of facilities constructed with the proceeds of the issue refunded, see section 103(c)(7) and § 1.103-11.

Example (2). In 1967, prior to the effective date of section 103(c), city B issued \$10 million of revenue bonds the proceeds of which were used to construct a manufacturing facility for corporation Y, a nonexempt per-

son. Lease payments by Y were security for the bonds. In 1975, B issues \$7 million of revenue bonds. In 1975, B issues \$7 million of revenue bonds of the 1967 issue. The interest rate of the 1975 issue is one and one-half percentage points lower than the interest rate on the 1967 issue. Both issues sold at par. All of the terms of the 1975 issue are the same as the terms of the 1967 issue with the exception of the interest rate. The 1975 refunding issue will not be considered to be an issue of industrial development bonds since the refunding issue will not make funds available for any purpose other than the debt service on the outstanding obligations.

Example (3). The facts are the same as in example (2) except that the interest rate on the refunding issue is the same as the interest rate on the issue to be refunded. Assume further that city B issued the 1975 refunding issue in order to extend the term of the obligations issued in 1967 as the result of its inability to pay such obligations due to insufficient revenues. The results will be the same as in example (2) for the reasons stated therein.

§ 1.103-8 Interest on bonds to finance certain exempt facilities.

(a) *In general*—(1) *General rule.* (i) Under section 103(c)(4), interest paid on an issue of obligations issued by a State, etc., governmental unit (as defined in § 1.103-1) is not includable in gross income if substantially all of the proceeds of such issue is to be used to finance one or more of the exempt facilities listed in subparagraphs (A) through (F) of section 103(c)(4) and in this section. However, interest on an obligation of such issue is includable in gross income if the obligation is held by a substantial user or a related person (as described in section 103(c)(7) and § 1.103-11). If substantially all of the proceeds of a bond issue is to be used to finance such exempt facilities, the debt obligations are treated as obligations described in section 103(a)(1) and § 1.103-1 even though such obligations may be industrial development bonds as defined in section 103(c)(2) and § 1.103-7.

(ii) The provisions of subdivision (i) of this subparagraph shall also apply to an issue of obligations substantially all of the proceeds of which is to be used to finance exempt facilities described in this section and for either or both of the following purposes: (a) To acquire or develop land as the site for an industrial park described in section 103(c)(5) and § 1.103-9, (b) to finance facilities to be used by an exempt person.

(iii) Section 103(c)(4) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that obligations are industrial development bonds within the meaning of section 103(c)(2). For rules as to exempt facilities including property functionally related and subordinate to such facilities, see subparagraph (3) of this paragraph. For rules with respect to the ultimate use of proceeds of obligations, see paragraph (4) of this paragraph. For the interrelationship of the rules provided in this section and the exemption for certain small issues provided in section 103(c)(6), see § 1.103-10.

(2) *Public use requirement.* To qualify under section 103(c)(4) and this section as an exempt facility, a facility must serve or be available for general public use, or be a part of a facility so used, as contrasted with similar types of facilities which are constructed for the exclusive use of a limited number of nonexempt persons in their trades or businesses. For example, a private dock or wharf owned by or leased to, and serving only a single manufacturing plant would not qualify as a facility for general public use, but a hangar or repair facility at a municipal airport, or a dock or a wharf, would qualify even if it is owned by, or leased or permanently assigned to, a nonexempt person provided that such nonexempt person directly serves the general public, such as a common passenger carrier or freight carrier. Similarly, an airport owned or operated by a nonexempt person for general public use is a facility for public use. Sewage or solid waste disposal facilities and air or water pollution control facilities, described in sections 103(c)(4)(E) and (F) and paragraphs (f) and (g) of this section, will be treated in all events as serving a general public use although they may be part of a nonpublic facility such as a manufacturing facility used in the trade or business of a nonexempt user.

(3) *Functionally related and subordinate.* An exempt facility includes any land, building, or other property functionally related and subordinate to such facility. Property is not functionally related and subordinate to a facility if it is not of a character and size commensurate with the character and size of such facility. Since substantially all of the proceeds of a bond issue must be used for the exempt facility (or for any combination of exempt facilities, industrial parks, and facilities to be used by exempt persons), including property functionally related and subordinate thereto, an insubstantial amount of the proceeds of a bond issue may be used for facilities which are neither exempt facilities (or a combination of exempt facilities, industrial parks and facilities to be used by exempt persons) nor functionally related and subordinate to exempt facilities. Thus, for example, where substantially all of the proceeds of an urban redevelopment bond issue are to be used by a State urban redevelopment agency for residential real property for family units within the meaning of section 103(c)(4)(A) and paragraph (b) of this section, an insubstantial amount may be used for an industrial or commercial project or for any other purpose that is not functionally related and subordinate to the residential real property for family units.

(4) *Ultimate use of proceeds.* The question whether substantially all of the proceeds of an issue of obligations are to be used to finance one or more of the exempt facilities listed in subparagraphs (A) through (F) of section 103(c)(4) and in this section is to be resolved by reference to the ultimate use of such proceeds. For example, such proceeds will be treated as used to provide residential

real property for family units whether the State, etc., governmental unit (i) constructs such property and leases or sells it to any person who is not an exempt person for use in such person's trade or business of selling or leasing such property; (ii) lends the proceeds to any such person for such purpose; or (iii) lends the proceeds to banks or other financial institutions in order to increase the supply of funds for mortgage lending under conditions requiring such banks or other financial institutions to use such proceeds only for further mortgage lending on residential real property for family units.

(5) *Example.* The principles of this paragraph may be illustrated by the following example:

Example. State A issues its bonds and plans to use substantially all of the proceeds from such bond issue to purchase land and build a facility which will be for one of the purposes described in section 103(c)(4) and this section. The arrangement provides that (1) A will issue bonds the proceeds of which (after deducting bond election costs, costs of publishing notices, attorneys' fees, printing costs, trustees' fees for fiscal agents, and similar expenses) will be \$20 million; (2) \$18 million of the proceeds of the bond issue will be used to purchase land and to construct such facility; (3) \$2 million of the proceeds will be used for an unrelated facility which will be used by X, a nonexempt person, in a separate trade or business and for a purpose not described in section 103(c)(4) or (5); (4) X will rent both facilities for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds; and (5) such payments by X and the facilities will be the security for the bonds. On these facts, substantially all of the proceeds will be used in connection with an exempt facility described in section 103(c)(4) and this section. Accordingly, section 103(c)(1) does not apply to the bonds unless such bonds are thereafter held by a person who is a substantial user of the facilities or a related person within the meaning of section 103(c)(7) and § 1.103-11.

(b) *Residential real property*—(1) *General rule.* Section 103(c)(4)(A) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide residential real property for family units. In order to qualify under section 103(c)(4)(A) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for use by members of the general public.

(2) *Family units defined.* (i) For purposes of section 103(c)(4)(A) and this paragraph, the term "family unit" means a building or any portion thereof which contains complete living facilities which are to be used on other than a transient basis by one or more persons and facilities functionally related and subordinate thereto. Thus, an apartment which is to be used on other than a transient basis by a single person or by a family which contains complete facilities for living, sleeping, eating, cooking, and sanitation, constitutes a family unit. Such a unit may be served by centrally located

machinery and equipment as in a typical apartment building. To qualify as a family unit the living facilities must be a separate, self-contained building or constitute one unit in a building substantially all of which consists of similar units, together with functionally related and subordinate facilities and areas. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, sanitariums, rest homes, and trailer parks and courts for use on a transient basis do not constitute residential real property for family units.

(ii) Under paragraph (a)(3) of this section, facilities which are functionally related and subordinate to residential real property actually used for family units include, for example, facilities for use by the occupants such as a swimming pool, a parking area, and recreational facilities.

(c) *Sports facilities*—(1) *General rule.* Section 103(c)(4)(B) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide sports facilities. In order to qualify as an exempt facility under section 103(c)(4)(B) and this paragraph, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for use by members of the general public either as participants or as spectators.

(2) *Sports facility defined.* (i) For purposes of section 103(c)(4)(B) and this paragraph, the term "sports facilities" includes both outdoor and indoor facilities. The facility may be designed either as a spectator or as a participation facility. For example, the term includes both indoor and outdoor stadiums for baseball, football, ice hockey, or other sports events, as well as facilities for the participation of the general public in sports activities, such as golf courses, ski slopes, swimming pools, tennis courts, and gymnasiums. The term does not include, however, facilities such as a golf course, swimming pool, or tennis court, which are constructed for use by members of a private club or as integral or subordinate parts of a hotel or motel, or the use of which will be restricted to a special class or group or to guests of a particular hotel or motel, since they are not facilities for the use of the general public as required by paragraph (a)(2) of this section.

(ii) Under paragraph (a)(3) of this section, facilities which are functionally related and subordinate to a sports facility, such as a parking lot, clubhouse, ski slope warming house, bath house, or ski tow, are considered to be part of a sports facility. A ski lodge which consists primarily of overnight accommodations is not functionally related and subordinate to a sports facility.

(d) *Convention or trade show facilities*—(1) *General rule.* Section 103(c)(4)(C) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are a part of an issue substantially all

of the proceeds of which are to be used to provide convention or trade show facilities. In order to qualify under section 103(c)(4)(C) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for an appropriate charge or rental, on a rate scale basis, for use by members of the general public. The public use requirement is not satisfied if the use of a convention or trade show facility is limited by long-term leases to a single user or group of users.

(2) *Convention or trade show facilities defined.* For purposes of section 103(c)(4)(C) and this paragraph, the term "convention or trade show facilities" means special-purpose buildings or structures, such as meeting halls and display areas, which are generally used to house a convention or trade show, including, under paragraph (a)(3) of this section, facilities functionally related and subordinate to such facilities such as parking lots or railroad sidings. A hotel or motel which is available to the general public, whether or not it is intended primarily to house persons attending or participating in a convention or trade show, is neither a convention or trade show facility nor functionally related and subordinate thereto.

(e) *Certain transportation facilities*—(1) *General rule.* Section 103(c)(4)(D) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide (i) airports, docks, wharves, mass commuting facilities, or public parking facilities, or (ii) storage or training facilities directly related to any such facility. In order to qualify under section 103(c)(4)(D) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for use by members of the general public or for use by common carriers which serve members of the general public.

(2) *Definitions.* For purposes of section 103(c)(4)(D) and this paragraph—

(i) An airport includes service accommodations for the public such as terminals, retail stores in such terminals, runways, hangars, loading facilities, repair shops, parking areas, and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the airport, such as facilities for the preparation of in-flight meals, restaurants and accommodations for temporary use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies, and airlines. Overnight accommodations are not functionally related and subordinate to the airport.

(ii) A dock or wharf and property which, under paragraph (a)(3) of this section, is functionally related and subordinate to a dock or wharf such as the structure alongside which a vessel docks, the equipment needed to receive and

to discharge cargo and passengers from the vessel, such as cranes and conveyors, related storage, handling, office, and passenger areas, and similar facilities.

(iii) A mass commuting facility includes real property together with improvements and personal property used therein, such as machinery, equipment, and furniture, serving the general public commuting on a day-to-day basis by bus, subway, rail, ferry, or other conveyance which moves over prescribed routes. Such property also includes terminals and facilities which, under paragraph (a) (3) of this section, are functionally related and subordinate to the mass commuting facility, such as parking garages, car barns, and repair shops. Use of mass commuting facilities by noncommuters in common with commuters is immaterial. Thus, a terminal leased to a common carrier bus line which serves both commuters and long distance travelers would qualify as an exempt facility.

(3) *Related storage or training facility.* Section 103(c)(4)(D) includes only those storage or training facilities which are both (i) directly related to a facility to which subparagraph (1)(i) of this paragraph applies and (ii) physically located on or adjacent to such a facility. For example, a storage facility would include a grain elevator, silo, warehouse, or oil and gas storage tank used in connection with a dock or wharf and located on or adjacent to such dock or wharf. Similarly, a training facility would include a building located at or adjacent to an airport for the training of flight personnel or a paved area immediately adjoining a bus garage used to train bus drivers.

(4) *Certain public utility facilities.* (i) *General rule.* Section 103(c)(4)(E) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide sewage disposal facilities, solid waste disposal facilities, or facilities for the local furnishing of electric energy, gas, or water. In order to qualify under section 103(c)(4)(E) as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section. A public utility facility described in this subparagraph (with the exception of sewage and solid waste disposal facilities which will be treated in all events as serving the general public) will satisfy the public use requirement only if such facility, or the output thereof, is available for use by members of the general public.

(ii) A facility for the local furnishing of electric energy, gas, or water is, for purposes of applying the public use test in paragraph (a)(2) of this section, available for use by members of the general public if (a) the owner or operator of the facility is obligated, by a legislative enactment, local ordinance, regulation, or the equivalent thereof, to furnish electric energy, gas, or water to all persons who desire such services and who are within the service area of the

owner or operator of such facility, and (b) it is reasonably expected that such facility will serve or be available to a large segment of the general public in such service area.

(2) *Definitions.* For purposes of section 103(c)(4)(E) and this paragraph—
(i) The term "sewage disposal facilities" means any property used for the collection, storage, treatment, utilization, processing, or final disposal of sewage.

(ii) The term "solid waste disposal facilities" means any property used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste. For purposes of this paragraph, the term "solid waste" shall have the same meaning as in section 203(4) of the Solid Waste Disposal Act (42 U.S.C. § 3252(4)). Such section 203(4) provides that:

(4) The term "solid waste" means garbage, refuse, and other discarded solid materials, including solid-waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

The term does not include facilities for collection, storage, or disposal of liquid or gaseous waste except where such facilities are facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to a solid waste disposal facility.

(iii) The term "facilities for the local furnishing of electric energy, gas, or water" means property which—

(a) Is either property of a character subject to the allowance for depreciation provided in section 167 or land,

(b) Is used to produce, collect, generate, transmit, store, distribute, or convey electric energy, gas, or water,

(c) Is used in the trade or business of furnishing electric energy, gas, or water, and

(d) Is a part of a system providing service to the general populace of one or more communities or municipalities, but in no event more than 2 contiguous counties (or a political equivalent) whether or not such counties are located in one State.

For purposes of this subdivision, a city which is not within, or does not consist of, one or more counties (or a political equivalent) shall be treated as a county (or a political equivalent). A facility for the generation of electric energy otherwise qualifying under this subdivision will not be disqualified because it is connected to a system for interconnection with other public utility systems for the emergency transfer of electric energy. Artesian wells, a reservoir, and the related pumping equipment and pipelines which furnish water to the general populace of one or more communities or municipalities, but in no event more than 2 contiguous counties (or a political equivalent), are facilities for the local

furnishing of water. The facilities need not be located in the area served by them. Also, the term "facilities for the local furnishing of electric energy, gas, or water" does not include coal, oil, gas, fissionable materials, or other materials performing a similar function.

(g) *Air or water pollution control facilities.* (1) *General rule.* Section 103(c)(4)(F) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide air or water pollution control facilities. Such facilities are in all events treated as serving the general public and, thus, satisfy the public use requirement of paragraph (a)(2) of this section.

(2) *Definitions.* (i) For purposes of section 103(c)(4)(F) and this paragraph, property is a pollution control facility to the extent that the test of either subdivision (iii) or (iv) of this subparagraph is satisfied, but only if—

(a) It is property which is described in subdivision (ii) of this subparagraph and is either of a character subject to the allowance for depreciation provided in section 167 or land, and

(b) It meets or exceeds Federal, State, or local standards for the control of atmospheric pollutants or contaminants, or water pollution, as the case may be, in effect at the time such facility is placed in service, or, if no standards are in effect at such time, standards which have been promulgated but which are not yet in effect.

(ii) Property is described in this subdivision if it is property used, in whole or in part, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. In the case of property used to control water pollution, such property includes the necessary intercepting sewers, pumping, power, and other equipment, and their appurtenances.

(iii) In the case of an expenditure for property which is placed in service for no significant purpose other than the control of pollution, the total expenditure for such property satisfies the test of this subdivision. Thus, where property which serves no function other than the control of pollution is added to an existing manufacturing or production facility, the total expenditure for such property satisfies the test of this subdivision. Also, if an expenditure for property would not have been made but for the purpose of controlling pollution, and if the expenditure has no significant purpose other than the purpose of pollution control, the total expenditure for such property satisfies the test of this subdivision even though such property serves one or more functions in addition to its function as a pollution control facility.

(iv) In the case of property placed in service for the purpose of controlling pollution and for a significant purpose other than controlling pollution, only the incremental cost of such facility satisfies

the test of this subdivision. The "incremental cost" of property is the excess of its total cost over that portion of its cost expended for a purpose other than the control of pollution.

(v) An expenditure has a significant purpose other than the control of pollution if it results in an increase in production or capacity, or in a material extension of the useful life of a manufacturing or production facility or a part thereof.

(h) *Examples.* The application of section 103(c)(4) and this section are illustrated by the following examples:

Example (1). City A plans to issue \$10 million of bonds to be used to finance the construction of residential housing for family units to be available to members of the general public. It enters into an agreement with corporation X whereby X will lease and operate the facility for 25 years, and the lease payments and the property itself will be the security for the payment of principal and interest on the bonds. Corporation X has an option to purchase the facility at the end of the 25-year period. The bonds are industrial development bonds, but because the proceeds are to be used for construction of residential housing for family units which is an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103-11 apply.

Example (2). The facts are the same as in example (1), except that the facility is constructed adjacent to a factory owned by X, which is in an industrial area, and X reserves the privilege of giving preference to its employees in selecting tenants. The bonds are industrial development bonds and the facility is not an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section because it is not a facility constructed for use by the general public.

Example (3). City B plans to issue \$10 million of bonds to be used to construct a sports stadium. The revenues from the facility and the facility itself will be the security for the bonds. A professional football team rents the facility on a long-term lease for part of the year and a professional baseball team rents the sports facility for the remainder of the year. Tickets are sold by the teams to the general public. The bonds are industrial development bonds, but since the proceeds are used for a spectator facility for general public use, which is an exempt facility under section 103(c)(4)(B) and paragraph (c) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103-11 apply.

Example (4). City C plans to issue \$10 million of bonds to be used to construct a convention hall which it will own. City C plans to lease the convention hall for 25 years to corporation Y, a nonexempt person, which will operate and maintain it. The terms of the lease obligate Y to make the convention hall generally available for civic, business, and recreational shows, meetings, performances, and similar activities serving or benefiting the community. Lease payments from Y and the facility will be security for the bonds. The bonds are industrial development bonds, but since the proceeds are to be used for a facility for general public use, which is an exempt facility under section 103(c)(4)(C) and paragraph (d) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103-11 apply.

Example (5). City D issues \$100 million of its bonds and uses the proceeds to finance construction of an airport for the use of the general public. D will own and operate

the airport. A major portion of the rentable space in the terminal building is leased on a long-term basis to commercial airlines. The bonds will be secured by the airport landing and runway charges and by payments with respect to such long-term leases from such commercial airlines. Such commercial airline payments are expected to constitute more than 50 percent of the total revenues from the airport. The bonds are industrial development bonds, but since the proceeds are to be used for an airport for use by the general public and by carriers serving the general public, which is an exempt facility under section 103(c)(4)(D) and paragraph (e) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103-11 apply. The result would be the same if D hired an airport management firm to operate the airport.

Example (6). City E issues \$6 million of its bonds and uses the proceeds to finance construction of an airport landing strip to be located adjacent to the factories of corporations Y and Z with preferential treatment with respect to the use of the airport to be given to Y and Z. The landing strip will be used in the trades or businesses of Y and Z and general public use will be negligible. The lease payments by Y and Z for the use of the facility are the security for the bonds. The bonds are industrial development bonds and the facility is not an exempt facility under section 103(c)(4)(D) and paragraph (c) of this section because it is not a facility constructed for general public use.

Example (7). State F and corporation Z enter into an arrangement which provides that F will issue \$10 million of its bonds and use the proceeds to construct a facility for Z the only purpose of which is to control air and water pollution at Z's plant. The principal and interest on the bonds will be secured by the charges which F will impose on Z. The bonds are industrial development bonds, but since the proceeds are to be used for air and water pollution facilities designed to abate pollution by private persons, such facilities are for the benefit of the general public and are exempt facilities under section 103(c)(4)(E) and paragraph (f) of this section. Accordingly, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103-11 apply.

Example (8). City G issues \$20 million of its bonds and will use \$6 million to finance construction of residential real property for family units which qualifies as an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section, \$9 million to finance construction of a stadium which qualifies as an exempt facility under section 103(c)(4)(B) and paragraph (c) of this section, and \$5 million for convention facilities which qualify as exempt facilities under section 103(c)(4)(C) and paragraph (d) of this section. The facilities will be used in the trades or businesses of nonexempt persons and rental payments with respect to such facilities and the facilities themselves will be the security for the bonds. The bonds are industrial development bonds, but since all the proceeds are to be used for facilities which are exempt facilities under section 103(c)(4), section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103-11 apply. The result would be the same, if instead of using \$9 million to finance construction of a stadium, the \$9 million were used to finance construction of a Capitol building.

§ 1.103-9 Interest on bonds to finance industrial parks.

(a) *General rule.* (1) Under section 103(c)(5), interest paid on an issue of

obligations issued by a State, etc., governmental unit (as defined in § 1.103-1) is not includable in gross income if substantially all of the proceeds of such issue is to be used to finance the acquisition or development of land as the site for an industrial park (referred to in this section as "industrial park bonds"). However, interest on an obligation of such an issue is includable in gross income if the obligation is held by a substantial user or a related person (as described in section 103(c)(7) and § 1.103-11). If substantially all of the proceeds of a bond issue is to be so used to finance an industrial park, the debt obligations are treated as obligations described in section 103(a)(1) and § 1.103-1 even though such obligations are industrial development bonds within the meaning of section 103(c)(2) and § 1.103-7.

(2) The provisions of subparagraph (1) of this paragraph shall also apply to an issue of obligations substantially all of the proceeds of which is to be used to acquire or develop land as the site for an industrial park described in section 103(c)(5) and this section and either or both of the following purposes: (i) To finance exempt facilities described in section 103(c)(4) and § 1.103-8, (ii) to finance facilities to be used by an exempt person.

(3) Section 103(c)(5) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that the obligations are industrial development bonds within the meaning of section 103(c)(2). For the interrelationship of the rules provided in this section and the exemption for certain small issues provided in section 103(c)(6), see § 1.103-10.

(b) *Definition of an industrial park.* For purposes of section 103(c)(5) and this section, the term "industrial park" means a tract of land, other than a tract of land intended for use by a single enterprise, suitable primarily for use as building sites by a group of enterprises engaged in industrial, distribution, or wholesale businesses if either—

(1) The control and administration of the tract is vested in an exempt person (within the meaning of paragraph (b)(2) of § 1.103-7), or

(2) The uses of the tract are normally (i) regulated by protective minimum restrictions, ordinarily including the size of individual sites, parking and loading regulations, and building setback lines, and (ii) designed to be compatible, under a comprehensive plan, with the community in which the industrial park is located and with the uses of the surrounding land.

(c) *Development of land defined.* For purposes of section 103(c)(5) and this section, the term "development of land" includes the provision of certain improvements to an industrial park site if such improvements are incidental to the use of the land as an industrial park. Such incidental improvements include the building or installation of incidental water, sewer, sewage and waste disposal, drainage, or similar facilities (whether

surface, subsurface, or both). Such incidental improvements include the provision of incidental transportation facilities, such as hard-surface roads (including curbs and gutters) and railroad sidings; power distribution facilities, such as gas and electric lines; and communication facilities. The provision of structures or buildings of any kind is not included within the meaning of the term "development of land," except for those structures or buildings which are necessary in connection with the incidental improvements encompassed by the term, such as, for example, a water pump-house and storage tank needed in connection with the incidental provision of water facilities in an industrial park.

(d) *Examples.* The application of the rules contained in section 103(c)(5) and this section are illustrated by the following examples:

Example (1). City A and corporations X, Y, and Z (unrelated companies) enter into an arrangement under which A is to acquire a tract of land suitable for use as an industrial park. The arrangement provides that: (1) A will issue \$10 million of bonds to be used for the acquisition and development of a suitable tract of land; (2) the tract will be controlled and administered by A, pursuant to a comprehensive zoning plan, for the use of a group of enterprises; (3) A will install necessary water, sewer, and drainage facilities on the tract; (4) A will sell substantial portions of the developed tract to X for use as a factory site and to Y for use as a warehouse site; (5) A will lease a sizeable portion of the tract to Z for 20 years as a distribution center site; and (6) the developed tract and the proceeds from the sale or lease of parts of the tract will be the security for the bonds. The bonds are industrial development bonds. Since, however, the proceeds of the issue are to be used for the acquisition and development of a tract of land as the site for an industrial park under section 103(c)(5), section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103-11 apply.

Example (2). The facts are the same as in example (1) except that \$1 million of the proceeds of the \$10 million issue are to be used for the construction of a factory by corporation W or X. The bonds are industrial development bonds. Under these circumstances, substantially all of the proceeds are treated as used or to be used for the acquisition and development of a tract of land as the site for an industrial park described in section 103(c)(5). Accordingly, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103-11 apply.

§ 1.103-10 Exemption for certain small issues of industrial development bonds.

(a) *In general.* Section 103(c)(6) applies to certain industrial development bond issues (referred to in this section as "exempt small issues") and bonds issued to refund certain issues (referred to in this section as "exempt small refunding issues"). If an issue is an exempt small issue or an exempt small refunding issue, then under the requirements of section 103(c)(6) and this section the interest paid on the debt obligations is not includable in gross income, and the obligations are treated as obligations described in section 103(a)(1) and § 1.103-

1, even though such obligations are industrial development bonds as defined in section 103(c)(2) and § 1.103-7. However, interest on an obligation of such an issue is includable in gross income if the obligation is held by a substantial user of the financed facilities or a related person (as described in section 103(c)(7) and § 1.103-11). Section 103(c)(6) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that the obligations are industrial development bonds within the meaning of section 103(c)(2).

(b) *Small issue exemption.* (1) \$1 million or less. Section 103(c)(6)(A) provides that section 103(c)(1) shall not apply to any debt obligation issued by a State, etc., governmental unit as part of an issue where—

(i) The aggregate authorized face amount of such issue (determined by aggregating the outstanding face amount of any prior exempt small issues described in paragraph (d) of this section and the face amount of the issue of obligations in question) is \$1 million or less; and

(ii) Substantially all of the proceeds of such issue is to be used for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation under section 167. The exemption requirements are not satisfied if more than an insubstantial amount of the proceeds of such issue is loaned to a borrower for use as working capital or to finance inventory. Any obligation which is an industrial development bond within the meaning of section 103(c)(2) and which satisfies the \$1 million small issue exemption requirements is an exempt small issue. See paragraph (c)(1) of this section for the treatment of refunding issues of \$1 million or less.

(2) \$5 million or less. (i) Under section 103(c)(6)(D), the issuing State, etc., governmental unit may elect to have an aggregate authorized face amount of \$5 million or less, in lieu of the \$1 million exemption otherwise provided for in section 103(c)(6)(A), with respect to issues of obligations which are industrial development bonds (within the meaning of section 103(c)(2)) issued after October 24, 1968. If such election is made, the bonds will be treated as obligations of a State, etc., governmental unit described in section 103(a)(1) and § 1.103-1 if the sum of—

(a) The aggregate face amount of the issue including the aggregate face amount of any prior outstanding \$1 million or \$5 million exempt small issues take into account under section 103(c)(6)(B) and paragraph (d) of this section, and

(b) The aggregate amount of "section 103(c)(6)(D) capital expenditures" (within the meaning of subdivision (ii) of this subparagraph)

is \$5 million or less. In the case of an issue of obligations which qualified for exemption under section 103(c)(6)(A) and this paragraph, if a section 103(c)(6)(D) capital expenditure made after

the date of issue has the effect of making taxable the interest on such issue, under section 103(c)(6)(G) the loss of tax exemption for such interest shall begin only with the date on which the expenditure which caused the issue to cease to qualify under the \$5 million limit was paid or incurred. See subdivision (vi) of this subparagraph for the time, place, and manner by which the issuer may elect the \$5 million exemption. See section 103(c)(6)(H) and paragraph (c)(2) of this section for the treatment of certain refinancing issues of \$5 million or less.

(ii) The term "section 103(c)(6)(D) capital expenditure" is defined in this subdivision. Special rules for applying such definition in the case of certain expenditures paid or incurred by a State, etc., governmental unit are prescribed in subdivision (iii) of this subparagraph. Except as excluded by subdivision (iv) or (v) of this subparagraph, an expenditure (regardless of how paid, whether in cash, notes, or stock in a taxable or nontaxable transaction) is a section 103(c)(6)(D) capital expenditure if—

(a) The capital expenditure was financed other than out of the proceeds of issues taken into account under subdivision (i) (a) of this subparagraph.

(b) The capital expenditures were paid or incurred during the 6-year period which begins 3 years before the date of issuance of the issue in question and ends 3 years after such date.

(c) The principal user of the facility in connection with which the property resulting from the capital expenditures is used and the principal user of the facility financed by the proceeds of the issue in question is the same person or are two or more related persons (as defined in section 103(c)(6)(C) and paragraph (c) of this section).

(d) Both facilities referred to in (c) of this subdivision were (during the period described in (b) of this subdivision or a part thereof) located in the same incorporated municipality or in the same county outside of the incorporated municipalities in such county).

(e) The capital expenditures were properly chargeable to the capital account of any person or State, etc., governmental unit (whether or not such person is the principal user of the facility or a related person) determined, for this purpose, without regard to any rule of the Code which permits expenditures properly chargeable to capital account to be treated as current expenses.

(iii) Amounts properly chargeable to capital account under subdivision (ii) (c) of this subparagraph include capital expenditures made by a State, etc., governmental unit with respect to an exempt facility or an industrial park, within the 6-year period described in subdivision (ii) (b) of this subparagraph, out of the proceeds of bond issues to which section 103(c)(1) did not apply by reason of section 103(c)(4) or (5) (relating to certain exempt activities and industrial parks). Thus, for example, the cost to the lessor of a leased plant site financed out of the proceeds of an issue for an

exempt air pollution control facility under section 103(c)(4)(F) and paragraph (g) of § 1.103-8 would constitute a section 103(c)(6)(D) capital expenditure. However, in the case of an industrial park, only the land costs allocated on an area basis to the plant site and the actual cost of any improvements made on the plant site, or to be used principally in connection with the actual plant site occupied by a principal user or a related person, shall be taken into account as capital expenditures. Where the actual amount of capital expenditures made with respect to a facility by a person (including a State, etc., governmental unit) other than the user of such facility (or a related person) cannot be ascertained, the fair market value of the property with respect to which the capital expenditures were made, at the time of such capital expenditures, shall be deemed to be the amount of such capital expenditures. In the case of a transaction which is not in form a purchase but which is treated as a purchase for Federal income tax purposes, the purchase price for Federal income tax purposes shall constitute a capital expenditure.

(iv) A section 103(c)(6)(D) capital expenditure shall not include any "excluded expenditure" described in (a) through (e) of this subdivision (iv).

(a) A capital expenditure is an excluded expenditure if either it is made by a public utility company which is not the principal user of the facility financed by the proceeds of the issue in question (or a related person) with respect to property of such company, or it is made by a State, etc., governmental unit with respect to property of such unit, and if in either case it meets all of the following three conditions. Such property of such company or unit (as the case may be) must be used to provide gas, water, sewage disposal services, electric energy, or telephone service. Such property must be installed in, or connected to, the facility but must not consist of property which is such an integral part of the facility that the cost of such property is ordinarily included as part of the acquisition, construction, or reconstruction cost of such facility. Such property must be of a type normally paid for by the user (or a related person) in the form of periodic fees based upon time or use.

(b) A capital expenditure is an excluded expenditure if it is made by a person other than the user, a related person, or a State, etc., governmental unit and if it is made with respect to tangible personal property (within the meaning of paragraph (c) of § 1.48-1), or intangible personal property, leased to the user (or a related person) of a facility. However, the preceding sentence shall apply only if the facility is leased by the manufacturer of such tangible or intangible personal property, or by a person in the trade or business of leasing property the same as, or similar to, such personal property, and only if, pursuant to general business practice, property of such type is ordinarily the subject of a lease.

(c) A capital expenditure is an excluded expenditure if it is made to replace property damaged or destroyed by fire, storm, or other casualty, to the extent that these expenditures do not exceed in dollar amount the fair market value (determined immediately before the casualty) of the property replaced.

(d) A capital expenditure is an excluded expenditure if it is required by a change made after the date of issue in a Federal or State law, or a local ordinance which has general application, or if it is required by a change made after such date in rules and regulations of general application issued under such law or ordinance.

(e) A capital expenditure is an excluded expenditure if it is required by or arises out of circumstances which could not reasonably be foreseen on the date of issue or which arise out of a mistake of law or fact. However, the aggregate dollar amount taken into account under this subdivision (e) with respect to any issue may not exceed \$250,000.

(v) (a) If the assets of a corporation are acquired by another corporation in a transaction to which section 381(a) (relating to carryovers in certain corporate acquisitions) applies, the exchange of consideration by the acquiring corporation for such assets is not a section 103(c)(6)(D) capital expenditure by such acquiring corporation.

(b) However, if an exchange referred to in (a) of this subdivision occurs during the 6-year period beginning 3 years before the date of issuance of an issue of obligations and ending 3 years after such date, the transferor and transferee shall be treated as having been related persons for the portion of such 6-year period preceding the date of the exchange for purposes of determining whether section 103(c)(6)(D) capital expenditures have been made. For purposes of this (b), the date of an exchange to which section 381 applies shall be the date of distribution or transfer within the meaning of paragraph (b) of § 1.381(b)-1.

(c) If section 351(a) applies to a transfer of property to a corporation solely in exchange for its stock or securities, the issuance of such stock or securities in such exchange is not a section 103(c)(6)(D) capital expenditure by such corporation.

(d) However, if such a transfer referred to in (c) of this subdivision occurs during the 6-year period beginning 3 years before the date of issuance of an issue of obligations and ending 3 years after such date, and if, with respect to the property transferred, expenditures made within such period would have been section 103(c)(6)(D) capital expenditures if the transferor and transferee had been related persons for such period, then such expenditures shall be considered to be section 103(c)(6)(D) capital expenditures made by the transferee. In addition, if a transferor and transferee are related persons immediately following such transfer, such transferor and transferee shall also be treated as having been related persons for the

portion of such 6-year period preceding the date of such transfer.

(e) For purposes of this subdivision (v), the term "issue of obligations" means an issue being tested for purposes of qualifying or continuing to qualify under an election pursuant to section 103(c)(6)(D) as to which an amount which would be a section 103(c)(6)(D) capital expenditure solely by reason of (b) or (d) of this subdivision must be taken into account.

(f) If with respect to an issue of obligations an expenditure would not have been a section 103(c)(6)(D) capital expenditure but for the application of (b) or (d) of this subdivision, and if such section 103(c)(6)(D) capital expenditure has the effect of making taxable the interest on an issue of obligations which qualified for exemption under section 103(c)(6)(A) and this paragraph, the loss of tax exemption for such interest shall begin not earlier than the date of such exchange or transfer referred to in this subdivision (v).

(vi) (a) The issuer may make the election provided by section 103(c)(6)(D) and this subparagraph (assuming that the bonds otherwise qualify under section 103(c)(6)) by means of a statement signed by a duly authorized official that the governmental unit elects to have the provisions as to the \$5 million limit in section 103(c)(6)(D) apply to an issue of industrial development bonds. The statement shall be filed prior to the issuance of such industrial development bonds, or within 90 days after June 5, 1971, if such bonds were issued prior to such date, with the district director or director of the regional service center with whom the principal user or users of the proceeds of such issue, or facilities acquired, constructed, reconstructed, or improved with the proceeds of such issue, are required to file their income tax returns (as provided in section 6091) for the taxable year during which the election is made. A copy of such statement shall be attached to the income tax returns of such principal users for such taxable year.

(b) The statement shall contain the following information:

(1) The name and address of the governmental unit,

(2) The name, address, and employer identification number of the principal user or users of such proceeds or facilities,

(3) The date and face amount of the issue,

(4) The date and amount of any outstanding issues the proceeds of which have been or will be used primarily with respect to facilities the principal user or users of which are or will be the same or related persons as those listed in (2) of this subdivision (vi) (b) and which are located in the same incorporated municipality or in the same county (outside of the incorporated municipalities in such county), and

(5) The date and amount of any section 103(c)(6)(D) capital expenditures

paid or incurred within the 3 years preceding the date of the issue for which the election is made with respect to facilities described in (4) of this subdivision (vi) (b).

(c) Each principal user shall also file a supplemental statement which lists by date and amount any subsequent section 103(c)(6)(D) capital expenditures. Such supplemental statement must be filed with the district director or director of the regional service center with whom the user's income tax return is required to be filed (as prescribed in section 6091) on the due date prescribed for filing such return (without regard to any extensions of time).

(c) *Refunding or refinancing issue exemption.*—(1) \$1 million or less refunding issue. Section 103(c)(6)(A) also provides that section 103(c)(1) shall not apply to any debt obligation issued by a State, etc., governmental unit as part of an issue the aggregate authorized face amount of which is \$1 million or less, if substantially all of the proceeds of such issue are to be used—

(i) To redeem part or all of a prior issue substantially all of the proceeds of which were used to acquire, construct, reconstruct, or improve land or property of a character subject to the allowance for depreciation, or

(ii) To redeem part or all of a prior exempt small refunding issue.

(2) \$5 million or less refinancing issue. Section 103(c)(6)(H) provides that section 103(c)(1) shall not apply to any debt obligation issued by a governmental unit as part of an issue which is \$5 million or less if the condition of section 103(c)(6)(H) is met and if substantially all of the proceeds are to be used—

(i) To redeem part or all of one or more prior exempt small issues, or

(ii) To redeem part or all of one or more prior exempt small refunding issues.

The condition of section 103(c)(6)(H) is that an election by the issuer of the \$5 million exemption in lieu of the \$1 million limit for a refunding issue may be made only if each prior issue being redeemed is an issue which qualified either for the \$1 million exemption or, by reason of an election under section 103(c)(6)(D), for the \$5 million exemption. In addition, in applying the capital expenditures test under section 103(c)(6)(D)(ii) and paragraph (b)(2)(i)(b) of this section to refinancing issues, section 103(c)(6)(D) capital expenditures are taken into account only for purposes of determining whether prior issues which were made under the section 103(c)(6)(D) election qualified under section 103(c)(6)(A) and would have continued to qualify under that section but for the redemption.

(d) *Certain prior issues taken into account.*—(1) *In general.* Section 103(c)(6)(B) provides, in effect, that if (i) a prior issue specified in subparagraph (2) of this paragraph is an exempt small issue (including for this purpose an exempt small refunding issue) under section 103(c)(6)(A) and this section, and (ii) such prior issue is outstanding at

the time of issuance of a subsequent issue, then in determining the aggregate face amount of such subsequent issue (for purposes of determining whether such issue is a \$1 million or \$5 million exempt small issue under section 103(c)(6)(A) and this section) there shall be taken into account the outstanding face amount of such prior exempt small issue. For purposes of this paragraph, the outstanding face amount of a prior exempt small issue does not include the face amount of any obligation which is to be redeemed from the proceeds of such subsequent issue.

(2) *Prior issues specified.* The face amount of an outstanding prior exempt small issue is taken into account under subparagraph (1) of this paragraph if—

(i) The proceeds of both the prior exempt small issue and of the subsequent issue (whether or not the State, etc., governmental unit issuing such obligation is the same unit for each such issue) are or will be used primarily with respect to facilities located or to be located in the same incorporated municipality or located or to be located in the same county outside of an incorporated municipality in such county, and

(ii) The principal user of the financed facilities referred to in subdivision (i) of this subparagraph is or will be the same person or two or more related persons (as defined in section 103(c)(6)(C) and paragraph (e) of this section).

(3) *Rules of application.* The rules of this paragraph shall apply—

(i) Only in the case of outstanding prior exempt small issues which are industrial development bonds to which section 103(c)(1) would have applied but for the provisions of section 103(c)(6). Thus, for example, the provisions of this paragraph do not apply in respect of a prior issue of obligations issued before April 30, 1968. In addition, the provisions of this paragraph do not apply in respect of a prior issue for an exempt facility under section 103(c)(4) and § 1.103-8, or for an industrial park under section 103(c)(5) and § 1.103-9, whether or not the issue might also have qualified as an exempt small issue under section 103(c)(6)(A) and this section.

(ii) To all prior exempt small issues which meet the requirements of this paragraph. Thus, for example, in determining the aggregate face amount of an issue under section 103(c)(6)(A), the outstanding face amount of prior \$1 million or \$5 million exempt small issues which meet the requirements of this paragraph shall be taken into account in determining the aggregate face amount of a subsequent issue being tested for the \$1 million small issue exemption. Similarly, in determining the aggregate face amount of an issue under section 103(c)(6)(A) and (D), the outstanding face amount of prior \$1 million or \$5 million exempt small issues which meet the requirements of this paragraph shall be taken into account in determining the aggregate face amount of a subsequent issue being tested for the \$5 million small issue exemption.

(e) *Related persons.* For purposes of section 103(c) and §§ 1.103-7 through

1.103-11, the term "related person" means a person who is related to another person if, on the date of issue of an issue of obligations—

(1) The relationship between such persons would result in a disallowance of losses under section 267 (relating to disallowance of losses, etc., between related taxpayers) and section 707(b) (relating to losses disallowed, etc., between partners and controlled partnerships) and the regulations thereunder, or

(2) Such persons are members of the same controlled group of corporations, as defined in section 1563(a), relating to definition of controlled group of corporations (except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)) and the regulations thereunder.

(f) *Examples.* The application of the rules contained in section 103(c)(6) and this section are illustrated by the following examples:

Example (1). County A and corporation X enter into an arrangement under which the county will provide a factory which X will lease for 25 years. The arrangement provides (1) that A will issue \$1 million of bonds on March 1, 1970, (2) that the proceeds of the bond issue will be used to acquire land in County A (but not in an incorporated municipality) and to construct and equip a factory on such land in accordance with X's specifications, (3) that X will rent the facility for 25 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by X and the facility itself shall be the security for the bonds. Although the bonds issued are industrial development bonds, the bonds are an exempt small issue under section 103(c)(6)(A) and this section since the aggregate authorized face amount of the bond issue is \$1 million or less and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property. The result would be the same if the arrangement provided that X would purchase the facility from A.

Example (2). The facts are the same as in example (1) except that, instead of acquiring land and constructing a new factory, the arrangement provides that A will acquire a vacant existing factory building and rebuild and equip the building in accordance with X's specifications. The bonds are an exempt small issue for the same reasons as in example (1).

Example (3). The facts are the same as in example (1) or (2) except that the financed facilities are additions to facilities which were financed by an issue of bonds to which section 103(c)(1) does not apply because such bonds were issued prior to May 1, 1968, or were subject to the transitional provisions of § 1.103-12. The bonds are an exempt small issue since neither of the prior bond issues are taken into account under section 103(c)(6)(B) and this section in determining the status of industrial development bonds which are issued after April 30, 1968, and which are not subject to the transitional provisions of § 1.103-12.

Example (4). The facts are the same as in example (1) except that, subsequently, corporation X proposes to County A that A build a \$400,000 warehouse located in Town M (an unincorporated town located in County A) for X under terms similar to the factory arrangement described in example (1). On the

proposed issue date of the subsequent bond issue, \$600,000 of the first exempt small issue will be outstanding. If A issues \$400,000 of bonds for such purposes, the bonds will be an exempt small issue under section 103(c)(6) and this section since, under the rules of section 103(c)(6)(B) and paragraph (d) of this section, if the aggregate authorized face amount of the new issue and the outstanding prior exempt small issue will be \$1 million or less, the new issue will be an exempt small issue. If, however, the aggregate authorized face amount of the prior issue outstanding on the date of the subsequent issue were in excess of \$600,000, the subsequent issue would not qualify as an exempt small issue because (1) the combined aggregate face amount of the outstanding prior issue and the new issue would be in excess of \$1 million, (2) the facilities financed by both issues are to be located in unincorporated areas in the same county, (3) the same taxpayer will be the principal user of both facilities, and (4) but for the rules of section 103(c)(6)(B) and paragraph (d) of this section the prior issue would be an exempt small issue.

Example (5). The facts are the same as in example (1) except that subsequently corporation X proposes to City P and City R (incorporated municipalities located in County A) that P and R each issue bonds and each build \$1 million facilities to be located in Cities P and R for the use of X under terms similar to the arrangement in example (1). Each of the \$1 million issues will be an exempt small issue because each proposed facility is located within a different incorporated municipality and the proceeds of the prior outstanding exempt small issue were used to construct facilities outside of an incorporated area.

Example (6). The facts are the same as in example (1) except that \$95,000 of the \$1 million will be used by the corporation as working capital. The bonds are an exempt small issue for the same reason as in example (1) since substantially all of the proceeds will be used for the acquisition of land and the construction of depreciable property.

Example (7). The facts are the same as in example (1) except that on November 1, 1969, County A issued \$10 million of industrial development bonds, all of the proceeds of which were issued for the acquisition of land as the site for an industrial park within the meaning of section 103(c)(5) and § 1.103-9. The proceeds of the \$1 million of bonds issued in 1970 will be used to construct a factory for corporation X to be located in the industrial park. The bonds issued in 1970 are industrial development bonds within the meaning of section 103(c)(2) and § 1.103-7. Since, however, the prior 1969 issue is not an issue to which section 103(c)(6)(A) applied (see paragraph (d)(3)(i) of this section), the bonds issued in 1970 are an exempt small issue for the reasons stated in example (1).

Example (8). County B enters into three separate arrangements with three unrelated corporations whereby the county will provide separate storage facilities for each corporation. The arrangement provides (1) that the county will issue bonds and loan to each corporation \$250,000 of the proceeds which will be used to acquire land in the county and to construct the facilities, (2) that the rental payments by the corporations will be equal to the amount necessary to amortize the principal and pay the interest on any outstanding bonds issued by the county, and (3) that the payments by the corporations and the facilities themselves shall be the security for the industrial development bonds. For convenience, the county issues one series of bonds in the face amount of

\$750,000 rather than three separate series of bonds of \$250,000 each. The issue is an exempt small issue under section 103(c)(6)(A) and paragraph (b)(1) of this section since the aggregate authorized face amount of the bond issue is \$1 million or less, and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property.

Example (9). City C and corporation Y enter into an arrangement under which C will provide a factory which Y will lease for 25 years. The arrangement provides (1) that C will issue \$4 million of bonds on March 1, 1969, after making the election under section 103(c)(6)(D) and paragraph (b)(2) of this section, (2) that the proceeds of the bond issue will be used to acquire land in the city and to construct and equip a factory on such land in accordance with Y's specifications, (3) that Y will rent the facilities for 25 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, (4) that such payments by Y and the facility itself shall be the security for the bonds, and (5) that, if corporation Y pays or incurs capital expenditures in excess of \$1 million within 3 years from the date of issue which disqualify the bonds as an exempt small issue under section 103(c)(6)(D), it will either furnish funds to C to redeem such bonds at par or at a premium, or increase the rental payments to C in an amount sufficient to pay a premium interest rate. Although the bonds issued are industrial development bonds, they are an exempt small issue under section 103(c)(6)(A) by reason of the election under section 103(c)(6)(D) and paragraph (b)(2) of this section, since the aggregate authorized face amount of the bond issue is \$5 million or less and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property. The provisions for redemption of the bonds or an increase in rental if the bonds are disqualified as an exempt small issue under section 103(c)(6)(A) will not disqualify an otherwise valid election under section 103(c)(6)(D) and paragraph (b)(2) of this section.

Example (10). The facts are the same as in example (9) except that corporation Y subsequently proposed to the city that it build a \$1 million warehouse next to the plant for the use of Y under terms similar to the factory arrangement. Assume further that the factory building was completed by March 1, 1970, and that on January 15, 1972, the proposed issue date of the subsequent bond issue, \$2 million of the first exempt small issue will be outstanding. In determining the aggregate authorized face amount of the new issue, the original face amount of a prior outstanding issue must be reduced by that portion which is to be redeemed before it is added to the face amount of the new issue. Therefore, if the city issues \$3 million of bonds to redeem the remaining \$2 million of bonds and to construct the warehouse the bonds will be an exempt small issue under section 103(c)(6)(A) if an election is made under section 103(c)(6)(D) and paragraph (b)(2) of this section since (1) the face amount of the new issue (\$3 million), plus (2) the face amount of the prior outstanding exempt small issue minus the amount of such issue to be refunded (\$2 million minus \$2 million), plus (3) capital expenditures during the preceding 3 years financed other than out of the proceeds of outstanding issues to which section 103(c)(6)(A) and paragraph (b) of this section applied (\$2 million), do not exceed \$5 million. If, however, the amount of the January 15, 1972, issue were \$3½ million, the issue would not qualify as an exempt small issue under section 103(c)(6)(A) and paragraph (b)(2) of this section.

Example (11). The facts are the same as in example (9), except that on June 15, 1971, Y purchases from an unrelated motor carrier business a warehouse terminal in the same city at a cost of \$250,000 and tractor-trailers and other automotive equipment based at the terminal at a cost of \$1 million. This subsequent expenditure by Y has the effect of making the interest on the city C bonds includable in the gross income of the holders of such bonds as of June 15, 1971, because the face amount of the March 1, 1969, issue (\$4 million) plus the subsequent capital expenditures within 3 years of the date of issue (\$1,250,000) exceed \$5 million. (See section 103(c)(6)(D) and paragraph (b)(2)(i) of this section.)

Example (12). The facts are the same as in example (9), except that in March, 1970, Y will move \$3 million of additional used machinery and equipment into the factory from its factory in another city. The expenditures for such machinery and equipment were incurred by Y more than 3 years prior to the date of issue of the bonds. The transfer of such used equipment into city C does not constitute a section 103(c)(6)(D) capital expenditure within the meaning of paragraph (b)(2)(ii) of this section since the expenditures with respect to such property were incurred more than 3 years prior to the date of issue of the bonds. Had the capital expenditures with respect to such property been incurred during the 6-year period beginning 3 years before the date of issue of the bonds and in the 3 years after such date, they would constitute section 103(c)(6)(D) capital expenditures.

Example (13). The facts are the same as in example (9), except that in March 1970, corporation Y enters into an arrangement with respect to machinery and equipment to be used in the facility. The arrangement is labeled by the parties as a lease but is treated as a sale for Federal income tax purposes. The amount treated as the purchase price of the machinery and equipment is a section 103(c)(6)(D) capital expenditure.

Example (14). On February 1, 1970, city D issues \$5 million of its bonds to finance construction of an addition to the manufacturing plant of corporation Z. The bonds will be secured by the facility and lease payments to be made by Z which will be sufficient to pay the principal and interest on such bonds. Assume that the bonds qualify as an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of this section. On February 1, 1971, D plans to issue \$1 million of its bonds to construct a pollution control facility to be leased to Z for use at its manufacturing plant. The rental payments from the lease will be sufficient to pay the principal and interest on the bonds. The bonds will be secured by such facility and the lease payments. Capital expenditures for the pollution control facility will be paid or incurred beginning before February 1, 1973. Although the pollution control facility is an exempt facility under section 103(c)(4)(F) and paragraph (g) of § 1.103-8, amounts used for the pollution control facility shall be considered to be a section 103(c)(6)(D) capital expenditure and the interest on the February 1, 1970, issue will become taxable as of the date such capital expenditure began to be paid or incurred. See section 103(c)(6)(G) and paragraph (b)(2)(i) of this section.

Example (15). On February 1, 1970, City E issues \$500,000 of its bonds to acquire and develop an industrial park within the meaning of section 103(c)(5) and paragraph (b) of § 1.103-9. The park consists of 100 acres and is divided into one 50-acre plant site and 4 smaller sites. The aggregate acquisition cost of the undeveloped land is \$150,000 or

an average per acre cost of \$1,500. Roads, sidewalks, sewers, utilities, sewage, and waste disposal facilities serving the entire industrial park cost \$300,000. On September 1, 1970, E leases to corporation Y for 30 years the 50 acre plantsite (with an allocated cost of \$75,000) and a railroad spur track from the railroad right of way to Y's plantsite for Y's exclusive use. The spur track was constructed using \$50,000 of the proceeds of the industrial park bond issue. E also proposes to issue on September 1, 1970, \$4,875,000 of its bonds to construct and equip a building on the leased plantsite to be leased to Y at an additional rental sufficient to pay the principal and interest on this issue of bonds. The September 1, 1970, issue will be an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of this section since the sum of the amount of the second issue (\$4,875,000) and the capital expenditures allocated to the plantsite (\$75,000 for 50 acres of land plus \$50,000 for the railroad spur track, totaling \$125,000) does not exceed \$5 million. The sum of \$300,000 which was spent in development of the industrial park provided facilities which will serve or benefit the users generally and hence under paragraph (b)(2)(iii) of this section is not considered to have provided facilities as to which Y will be the principal user.

Example (16). On June 1, 1970, corporation Z simultaneously enters into separate arrangements with City F and City G under which each city will issue a \$5 million exempt small issue of bonds the proceeds of which will be used by Z to construct separate facilities in each city. By June 1, 1971, the facilities have been completed in the respective cities. On January 1, 1972, Cities F and G, through a valid legal proceeding, merge into a new City FG. Since in this case F and G were separate cities on June 1, 1970 (the date of the bond issues), the factories are not considered to be located in the same incorporated municipality. Accordingly, each \$5 million issue by City F and G will continue to qualify as an exempt small issue.

Example (17). On June 1, 1973, City H issues an exempt small issue of \$4.75 million to finance a facility of corporation S to be located in City H. On October 1, 1974, S and corporation T, previously unrelated to S, consummate a statutory merger which qualifies as a reorganization described in section 368(a)(1)(A) and thus as a transaction described in section 381(a). In the transaction, T transferred to S assets with a fair market value of \$1.5 million in exchange for stock of S, \$300,000 of securities of S, and \$100,000 cash. On March 23, 1971, T made \$400,000 of capital expenditures for an addition to its factory located in City H. For purposes of testing the H issue of June 1, 1973, such expenditures would have been section 103(c)(6)(D) capital expenditures if T and S had been related persons. Under the provisions of paragraph (b)(2)(v)(a) of this section, the exchange of \$1.5 million of stock, securities, and cash by S does not constitute a section 103(c)(6)(D) capital expenditure. Since, however, S and T are treated as related persons starting 3 years prior to the date of issue of the obligations, the \$400,000 of expenditures by T constitute section 103(c)(6)(D) capital expenditures. Thus, the interest on the June 1, 1973, issue of obligations would become taxable (since the \$5 million limit would be exceeded) on the date of the merger.

Example (18). In 1965 City I issues \$10 million of industrial development bonds to construct and equip a factory for corporation Z. In 1975 the remaining principal amount of the bonds outstanding is \$4.1 million. If I issues \$4.5 million of bonds to

redeem the balance of the prior issue, and for other purposes, such issue cannot qualify as an exempt small issue under section 103(c)(6)(D) and paragraph (b)(2) of this section even though at the time of issue the interest on the 1965 bonds was tax-exempt since the prior issue must be one which qualified under section 103(c)(6)(A) and this section. Further, the 1975 issue will be an issue of industrial development bonds notwithstanding the provisions of paragraph (d)(2) of § 1.103-7 which provides that certain bonds issued to refund an issue of obligations issued before April 30, 1968 (or January 1, 1969, in certain cases) will not be so treated. Paragraph (d)(2) of § 1.103-7 is not applicable because the 1975 issue makes funds available for a purpose other than the debt service obligation on the 1965 bonds.

Example (19). In 1969 City J issues \$4 million of industrial development bonds which qualify as an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of this section. In 1971, by reason of a \$2 million addition to the factory built with the proceeds of the issue, the 1969 exempt small issue loses its tax-exempt status. In 1972, the city issues a \$5 million issue to redeem the prior 1969 issue. The redemption issue will not qualify as an exempt small issue since the prior 1969 issue did not continue to qualify under section 103(c)(6)(A) and this section.

§ 1.103-11 Bonds held by substantial users.

(a) *In general.* Section 103(c)(4), (5), or (6) (relating respectively to interest on bonds to finance certain exempt facilities, interest on bonds to finance industrial parks, and the exemption for certain small issues of industrial development bonds) does not apply, as provided in section 103(c)(7), with respect to any obligation for any period during which such obligation is held either by a person who is a substantial user of the facilities with respect to which the proceeds of such obligation were used or by a related person (within the meaning of section 103(c)(6)(C) and paragraph (e) of § 1.103-10). Therefore, in such a case, interest paid on such an obligation is includable in the gross income of a substantial user (or related person) for any period during which such obligation is held by such user (or related person).

(b) *Substantial user.* In general, a substantial user of a facility includes any nonexempt person who regularly uses a part of such facility in his trade or business. However, depending upon the facts and circumstances, a nonexempt person may not be a substantial user of a facility a part of which he regularly uses in his trade or business if the area of the facility used by such nonexempt person is not substantial with respect to the area of the entire facility and the amount of revenue derived by such nonexempt person is insubstantial with respect to the revenue derived from the entire facility. Under certain facts and circumstances, where a nonexempt person has a contractual or preemptive right to the exclusive use of property or a portion of property, such person may be a substantial user of such property. A substantial user may also be a lessee or sublessee of all or any portion

of the facility. A licensee or similar person may also be a substantial user where his use is regular and is not merely a casual, infrequent, or sporadic use of the facility. Absent special circumstances, individuals who are physically present on or in the facility as employees of a substantial user shall not be deemed to be substantial users.

(c) *Examples.* The application of section 103(c)(7) and this section are illustrated by the following examples:

Example (1). Pursuant to an arrangement with corporation X, County A issues \$4 million of its bonds (an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of § 1.103-10) and will use the proceeds to finance construction of a manufacturing facility which is to be leased to X for an annual rental of \$500,000. X subleases space to a restaurant operator at an annual rental of \$25,000 for the operation of a canteen and lunch counter for the convenience of X's employees. The canteen is required to be open at least 5 days each week (except holidays) from 8:30 a.m. to 5 p.m., and the lunch counter must be in operation during the noon hour. The canteen regularly sells cigarettes, candy, and soft drinks, and uses advertising displays and dispensers with product names. The space physically occupied and the amount of revenue derived by the restaurant operator are substantial in relation to the facility as a whole. Both X and the restaurant operator are substantial users. However, absent special circumstances none of X's employees, the employees of the restaurant operator, or the customers or salesmen who regularly visit the premises to do business either with X or the restaurant operator are substantial users. Similarly, the manufacturers, distributors, and dealers of products sold in the canteen ordinarily are not substantial users.

Example (2). The facts are the same as in example (1) except that X rents business machines and a computer from the manufacturers. The machines are regularly serviced by local dealers under a contract with X or with the manufacturers of the machines and computers. Title to and ownership of the office machines are retained by the manufacturer. Neither the manufacturers nor the local dealers are deemed to be substantial users. Such dealers and manufacturers do not occupy a substantial part of the facility and they do not contribute to the rental paid for the facility.

Example (3). The facts are the same as in example (1) except that for the convenience of the employees, X arranges for the installation of coin-operated telephones, for coin-operated newspaper dispensing machines, and for the local transit company to operate a bus route to service the plant. A bus stop and waiting shelters are constructed by X on the premises. For the reasons indicated in examples (1) and (2), neither the telephone company, the newspaper distributor, nor the transit company are substantial users.

Example (4). City B proposes to issue \$3 million of bonds which qualify as an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of § 1.103-10 in order to construct a medical building for a number of physicians and dentists. The facility will contain twenty offices to be leased on equal terms and for the same rental rates to doctors and dentists for use in their trades or businesses. Each doctor or dentist will be a substantial user of the facility. The result would be the same

in the case of an office building for general commercial use.

Example (5). City C proposes to expand the airport it owns and operates with the proceeds of its bonds which qualify as bonds issued for an exempt facility under section 103(c)(4)(D) and paragraph (e) of § 1.103-8 and which are secured by a pledge of airport revenues. The airport is serviced by several commercial airlines which have long-term agreements with C for the use of runways, terminal space, and hangar and storage facilities. C also leases counter and vehicle servicing and parking areas to car rental companies, space for restaurants, kiosks for the sale of newspapers and magazines, and space for the operations of a charter plane company. The latter operates its own planes, offers flying lessons and services, and stores private planes for local businesses and individuals. An airport limousine company has an exclusive franchise for passenger pickup at the terminal. Other taxi, transfer, freight, and express companies regularly deliver passengers and freight to the terminal but do not have space regularly assigned to them, nor do they have operating agreements with C. Various business concerns have advertising product displays in the terminal building. In addition to regular telephone service, coin-operated telephones, provided by the telephone company, are located throughout the terminal, at locations specified by C. For the reasons set forth in examples (1) and (2), only the following would be deemed to be substantial users: the commercial airline companies, the car rental agencies, the operators of the restaurants and newsstands, the charter plane operator, and the airport limousine company. However, in the absence of special circumstances, neither the employees of these companies nor any of their customers or members of the general public would be considered to be substantial users. Notwithstanding the fact that other businesses, such as taxis and cargo handlers, regularly use the public areas or areas assigned to permanent tenants such as airlines, if they have no arrangements with C giving them a right to the exclusive use of any part of the airport facilities and their use is either incidental to utilization by the general public or to the business of one of the substantial users, ordinarily they are not substantial users. The storage of airplanes by customers of the charter plane operator in his facilities under his supervision and without any arrangement with C is not so substantial either in relation to the area occupied or the revenues produced by the airport to place such customers in the category of substantial users of the airport. Similarly, neither the telephone company nor the businesses which advertise through signs or displays are substantial users. They do not occupy a substantial area in the airport nor do they produce substantial airport revenues.

Example (6). City D issues \$25 million of its revenue bonds and will use \$10 million of the proceeds to finance construction of a sports facility which qualifies as an exempt facility under section 103(c)(4)(B) and paragraph (c) of § 1.103-8, \$8 million to acquire and develop land as the site for an industrial park within the meaning of section 103(c)(5) and § 1.103-9, and \$7 million to finance the construction of an office building to be used exclusively by the city, an exempt person. The revenues from the sports facility and the industrial park and all the facilities themselves will be the security for the bonds. The sports facility and the industrial park sites will be used in the trades or businesses of nonexempt persons. The bonds are industrial development bonds, but under the provisions of paragraph (a)(1) of § 1.103-

8 and paragraph (a) of § 1.103-9, the interest on the \$25 million issue will not be includable in gross income. However, the interest on bonds held shall be includable in the gross income of a substantial user of the sports facility or the industrial park if such substantial user holds any of the obligations of the \$25 million issue.

§ 1.103-12 Transitional provisions.

(a) *In general.* Section 103(c) and § 1.103-7 through § 1.103-11 do not apply with respect to any obligation issued by a State, etc., governmental unit before January 1, 1969, if before May 1, 1968, any one of the conditions contained in paragraphs (b) through (e) of this section is satisfied. In addition, the interest paid on obligations described in paragraphs (f) and (g) of this section will not be includable in gross income by reason of the provisions of section 103(c) and §§ 1.103-7 through 1.103-11 if the provisions of those paragraphs are satisfied even though such obligations were issued after January 1, 1969. For purposes of this section, obligations are considered to be issued on the date on which there is a physical delivery of the evidences of indebtedness in exchange for the amount of the issue price. For example, a bond issue is "issued" when the issuer physically exchanges the bonds for the underwriter's (or other purchaser's) check. Obligations which are taken down after December 31, 1968, by purchasers pursuant to a delayed delivery agreement with the issuer are, therefore, subject to the rules contained in section 103(c) and § 1.103-7 to § 1.103-11.

(b) *Authorized or approved by State, etc., governmental unit.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103-7 through 1.103-11 if, before May 1, 1968, the issuance of the obligation (or the project in connection with which the proceeds of the bond issue are to be used) was authorized or approved by the governing body of the unit issuing the obligation or by the voters of such unit. Therefore, if the governing body of the State, etc., governmental unit issuing industrial development bonds had, prior to May 1, 1968, adopted a resolution or an ordinance which authorized or approved either (1) the project being financed or (2) the bond issue, then the rules of section 103(c) and § 1.103-7 do not apply to the bond issue. A resolution or an ordinance may, for example, have authorized the later issuance of one or more series of bonds to finance the project. It may have approved the submission of a particular bond issue to the voters for their authorization. Similarly, if prior to May 1, 1968, the voters of a State, etc., governmental unit have approved the issuance of such bonds for a designated project, section 103(c) is not applicable to the bond issue.

(c) *Significant financial commitment by State, etc., governmental unit.* The interest paid on any such industrial development bond is not includable in

gross income by reason of section 103(c) and § 1.103-7 through § 1.103-11 if, before May 1, 1968, a State, etc., governmental unit made a significant financial commitment in connection with the issuance of such obligation, with the use of the proceeds to be derived from the sale of such obligation, or with the property to be acquired or improved with such proceeds. The unit making the significant financial commitment with respect to a project financed by the proceeds of an industrial development bond issue need not be the same unit issuing the bonds. For example, a significant financial commitment may be made if a State builds access roads to a project in one of its counties which will issue the bonds. Similarly, if a city or county makes a significant financial commitment to build roads, power lines, or sewer lines to a project within its jurisdiction which is being financed by a separate State, etc., governmental unit, such as an industrial development board, the condition of this subparagraph is satisfied. For purposes of this subparagraph, the term "significant financial commitment" means the expenditure of (or a commitment to expend) a sizable amount of money. The amount involved need not be compared to the size of the financed project. For example, a commitment to expend \$250,000 in connection with a \$10 million project would be considered significant.

(d) *Expenditures equal to 20 percent of bond proceeds.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103-7 through 1.103-11 if, before May 1, 1968, any person other than a State, etc., governmental unit who will use the proceeds to be derived from the sale of such obligation, or who will use the property to be acquired or improved with such proceeds, expended (or entered into a binding contract to expend), for purposes which are related to the use of such proceeds or property, an amount equal to or in excess of 20 percent of such proceeds. A prospective user of the proceeds of an industrial development bond issue, or property to be acquired with such proceeds, will be considered to have entered into a binding contract to expend money for purposes related to the project if (1) such person entered into a contract for fuel, power, water, or raw materials and (2) any conditions to which the obligations of one or more parties to such contract are subject are beyond the control of such parties. For example, a binding contract for alumina entered into in connection with the financing of an aluminum reduction mill or such a contract to purchase timber land in connection with a paper mill are contracts related to the use of the financed facility. For purposes of determining whether the expenditures of the prospective user are equal to or in excess of 20 percent of the bond proceeds, binding contracts will be taken into account on the basis of the amounts to be expended over the term of the contract.

(c) *Approval by economic development agency.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103-7 through 1.103-11 if, before May 1, 1968, in the case of an obligation issued in conjunction with a project where financial assistance will be provided by a governmental agency concerned with economic development, such agency approved the project or an application for financial assistance was pending. For purposes of this subparagraph, the term "financial assistance" includes a guaranty by the agency of the payment of the principal and interest on an obligation by a State, etc., governmental unit as well as direct financial aid such as a loan or grant-in-aid made by the unit. For example, section 103(c) and § 1.103-7 do not apply if the Federal Economic Development Administration has approved a grant in connection with a project to be financed by industrial development bonds. Similarly, where a State agency has approved a project and the agency has guaranteed the payment of the principal and interest on the bonds, those rules do not apply. The governmental agency concerned with economic development may be a Federal, State, or local agency. The financial assistance extended need not be directly either to the State, etc., governmental unit issuing the industrial development bonds or to the person who will use the property acquired or constructed with the bond proceeds. It is sufficient that the assistance extended be in conjunction with a project which includes the property in respect of which the bonds are issued.

(f) *Certain cost overrun issues.* (1) If substantially all of the proceeds of one or more issues of obligations is to be used to finance a cost overrun (within the meaning of subparagraph (2) of this paragraph) on a facility used in the trade or business of a nonexempt person, the provisions of section 103(c) and § 1.103-7 through § 1.103-11 shall not apply to such cost overrun issue or issues.

(2) For purposes of this paragraph, the term "cost overrun" means the amount necessary to complete a facility, but only if such facility was reasonably expected to be completed with the proceeds of one or more prior issues described in subparagraph (3) of this paragraph, and only if all of the following conditions of this subparagraph are satisfied. Such facility must have been financed with the proceeds of one or more such prior issues in accordance with architectural and engineering plans adopted at the time such prior issue (or the latest prior issue if more than one such prior issue) was issued. The amount of "cost overrun" shall be limited to the amount by which the actual cost of such facility exceeds the reasonably estimated cost of such facility in accordance with such plans at the time that such prior issue (or the latest such prior issue if more than one such prior issue) was issued.

(3) A prior issue of obligations is described in this subparagraph if section 103(c) (1) did not apply to such prior

issue because it was issued before May 1, 1968 (or before January 1, 1969, if the transitional provisions of paragraphs (a) through (e) of this section apply to such issue).

(g) *Special rule for certain State, etc., governmental obligations authorized prior to June 5, 1971.* (1) For purposes of section 103(c) and paragraph (b) (3) of § 1.103-7, the use of 35 percent or less of the proceeds of an issue of obligations described in subparagraph (2) of this paragraph in the trades or businesses of nonexempt persons shall not constitute the use of a major portion of such proceeds in such manner.

(2) An issue of obligations is described in this subparagraph if—

(i) Such issue of obligations was issued prior to June 6, 1971, or

(ii) (a) The issuance of such obligations was specifically authorized by an Act or Ordinance of a State, etc., governmental unit enacted prior to June 5, 1971,

(b) The aggregate face amount of obligations which may be issued pursuant thereto is limited to a specific dollar amount by such Act or Ordinance, and

(c) The sum of the aggregate face amount of obligations issued pursuant to such authorization prior to the time of issuance of the issue being tested and the face amount of the issue being tested does not exceed the dollar amount of such limitation in effect on June 5, 1971.

[FR Doc 71-7734 Filed 6-4-71; 8:45 am]

[26 CFR Parts 53, 143]

FOUNDATION EXCISE TAXES

Taxes on Self-Dealing

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 6, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 6, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

VERNON D. ACREE,
Acting Commissioner of Internal Revenue.

The following regulations are prescribed under section 4941 of the Internal Revenue Code of 1954, as enacted by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 498), relating to taxes on acts of self-dealing between a disqualified person and a private foundation. Temporary Treasury Regulations § 143.2 (T.D. 7030, 35 F.R. 4293) (1970), § 143.4 (T.D. 7034, 35 F.R. 4703) (1970), § 143.5 (T.D. 7036, 35 F.R. 6322) (1970), and (insofar as related to section 4941) § 143.8 (T.D. 7042, 35 F.R. 7727) (1970) are superseded and the following regulations are added. Except as otherwise specifically provided, these regulations are applicable to all acts of self-dealing engaged in after December 31, 1969.

Subpart B—Taxes on Self-Dealing

Sec. 53.4941(a) Statutory provisions; initial taxes.
53.4941(a)-1 Initial taxes.
53.4941(b) Statutory provisions; additional taxes.
53.4941(b)-1 Additional taxes.
53.4941(c) Statutory provisions; special rules.
53.4941(c)-1 Special rules.
53.4941(d) Statutory provisions; self-dealing defined.
53.4941(d)-1 Self-dealing defined.
53.4941(d)-2 Specific acts of self-dealing.
53.4941(d)-3 Exceptions to self-dealing.
53.4941(d)-4 Transitional rules.
53.4941(e) Statutory provisions; other definitions.
53.4941(e)-1 Other definitions.
53.4941(f)-1 Effective dates.

Subpart B—Taxes on Self-Dealing

§ 53.4941(a) Statutory provisions; exempt organizations; private foundations; taxes on self-dealing.

Sec. 4941. *Taxes on self-dealing.*—(a) *Initial taxes.*—(1) *On self-dealer.* There is hereby imposed a tax on each act of self-dealing between a disqualified person and a private foundation. The rate of tax shall be equal to 5 percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any disqualified person (other than a foundation manager acting only as such) who participates in the act of self-dealing.

In the case of a government official (as defined in section 4946(e)), a tax shall be imposed by this paragraph only if such disqualified person participates in the act of self-dealing knowing that it is such an act.

(2) *On foundation manager.* In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any foundation manager in an act of self-dealing between a disqualified person and a private foundation, knowing that it is such an act, a tax equal to 2½ percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who participated in the act of self-dealing.

§ 53.4941(a)-1 Imposition of initial taxes.

(a) *Tax on self-dealer.*—(1) *In general.* Section 4941(a) (1) of the Code imposes an excise tax on each act of self-dealing between a disqualified person (as defined in section 4946(a)) and a private foundation. Except as provided in subparagraph (2) of this paragraph, this tax

shall be imposed on a disqualified person even though he had no knowledge at the time of the act that such act constituted self-dealing. The tax imposed by section 4941(a) (1) is at the rate of 5 percent of the amount involved (as defined in section 4941(e) (2) and § 53.4941(e)-1(b)) with respect to the act of self-dealing for each year or partial year in the taxable period (as defined in section 4941(e) (1)) and shall be paid by any disqualified person (other than a foundation manager acting only in the capacity of a foundation manager) who participates in the act of self-dealing. However, if a foundation manager is also acting as a self-dealer, he may be liable for both the tax imposed by section 4941(a) (1) and the tax imposed by section 4941(a) (2).

(2) *Government officials.* In the case of a government official (as defined in section 4946(c)), the tax shall be imposed only if the government official who participates in the act has knowledge that such act is an act of self-dealing. For purposes of section 4941, a government official shall be considered to have participated in an act "knowing" that it is an act of self-dealing if he knows or has reason to know that it is an act of self-dealing.

(3) *Participation.* For purposes of this paragraph, a disqualified person shall be treated as participating in an act of self-dealing in any case in which he engages or takes part in the transaction by himself or with others, or directs any person to do so.

(b) *Tax on foundation manager.*—(1) *In general.* Section 4941(a) (2) of the Code imposes an excise tax on the participation of any foundation manager in an act of self-dealing between a disqualified person and a private foundation. This tax is imposed in any case in which a tax is imposed by section 4941(a) (1) if such participating foundation manager has knowledge that the act is an act of self-dealing, unless the participation by the foundation manager is not willful and is due to reasonable cause. The tax imposed by section 4941(a) (2) is at the rate of 2½ percent of the amount involved with respect to the act of self-dealing for each year or partial year in the taxable period and shall be paid by any foundation manager who participated in the act of self-dealing.

(2) *Participation.* The term "participation" shall include silence or inaction on the part of a foundation manager where he is under a duty to speak or act, as well as any affirmative action by such manager. However, a foundation manager will not be considered to have participated in an act of self-dealing where he has opposed such act in a manner consistent with the fulfillment of his responsibilities to the private foundation.

(3) *Knowing.* For purposes of section 4941, a foundation manager shall be considered to have participated in a transaction "knowing" that it is an act of self-dealing if he knows or has reason to know that it is an act of self-dealing.

(4) *Willful.* Participation by a foundation manager shall be deemed willful if

it is voluntary, conscious, and intentional. No motive to avoid the restrictions of the law or the inurrence of any tax is necessary to make the participation willful. However, participation by a foundation manager is not willful if he does not know or have reason to know that the transaction in which he is participating is an act of self-dealing.

(5) *Due to reasonable cause.* A foundation manager's participation is due to reasonable cause if he has exercised ordinary business care and prudence. If a foundation manager relied on the advice of counsel that the proposed transaction would not be an act of self-dealing, the foundation manager's participation in such transaction would generally be considered "not willful" and "due to reasonable cause".

(c) *Cross reference.* For provisions relating to the burden of proof in cases involving the issue whether a foundation manager or a government official has knowingly participated in an act of self-dealing, see section 7454(b).

§ 53.4941(b) Statutory provisions; private foundations; taxes on self-dealing; additional taxes.

Sec. 4941. *Taxes on self-dealing.* * * * (b) *Additional taxes.*—(1) *On self-dealer.* In any case in which an initial tax is imposed by subsection (a) (1) on an act of self-dealing by a disqualified person with a private foundation and the act is not corrected within the correction period, there is hereby imposed a tax equal to 200 percent of the amount involved. The tax imposed by this paragraph shall be paid by any disqualified person (other than a foundation manager acting only as such) who participated in the act of self-dealing.

(2) *On foundation manager.* In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount involved. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the correction.

§ 53.4941(b)-1 Imposition of additional taxes.

(a) *Tax on self-dealer.* Section 4941(b) (1) of the Code imposes an excise tax in any case in which an initial tax is imposed by section 4941(a) (1) on an act of self-dealing by a disqualified person with a private foundation and the act is not corrected within the correction period (as defined in paragraph (d) of § 53.4941(e)-1). The tax imposed by section 4941(b) (1) is at the rate of 200 percent of the amount involved and shall be paid by any disqualified person (other than a foundation manager acting only in the capacity of a foundation manager) who participated in the act of self-dealing.

(b) *Tax on foundation manager.* Section 4941(b) (2) of the Code imposes an excise tax to be paid by a foundation manager in any case in which a tax is imposed by section 4941(a) (1) and the foundation manager refused to agree to part or all of the correction of the self-dealing act. The tax imposed by section 4941(b) (2) is at the rate of 50 percent

of the amount involved and shall be paid by any foundation manager who refused to agree to part or all of the correction of the self-dealing act. For the limitations on liability of a foundation manager, see §§ 53.4941(c)-1(b).

§ 53.4941(c) Statutory provisions; private foundations; taxes on self-dealing; special rules.

Sec. 4941. *Taxes on self-dealing.* * * * (c) *Special rules.* For purposes of subsections (a) and (b)—

(1) *Joint and several liability.* If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one act of self-dealing, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

(2) *\$10,000 limit for management.* With respect to any one act of self-dealing, the maximum amount of the tax imposed by subsection (a) (2) shall not exceed \$10,000, and the maximum amount of the tax imposed by subsection (b) (2) shall not exceed \$10,000.

§ 53.4941(c)-1 Special rules.

(a) *Joint and several liability.* (1) In any case where more than one person is liable for the tax imposed by any paragraph of section 4941 (a) or (b), all such persons shall be jointly and severally liable for the taxes imposed under such paragraph with respect to such act of self-dealing.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. A and B, who are managers of private foundation X, lend one of the foundation's paintings to P, a disqualified person, for display in P's office. The transaction which gives rise to liability for tax under section 4941(a) (2) (relating to tax on foundation managers). An initial tax is imposed on the act of lending the foundation's painting to P. A and B are jointly and severally liable for the tax.

(b) *Limits on liability for management.*

(1) The maximum amount of tax imposed by section 4941(a) (2) with respect to any one act of self-dealing shall be \$10,000, and the maximum amount of tax imposed by section 4941(b) (2) with respect to any one act of self-dealing shall be \$10,000.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. A, a disqualified person with respect to private foundation Y, sells certain real estate having a fair market value of \$500,000 to Y for \$500,000 in cash. R, S, and T, all managers of foundation Y, authorized the purchase on Y's behalf knowing that such purchase was an act of self-dealing. This paragraph limits the total tax which can be imposed by section 4941(a) (2) on the foundation managers to \$10,000. Under section 4941(c) (1), R, S, and T are jointly and severally liable for such \$10,000 with respect to such act.

§ 53.4941(d) Statutory provisions; exempt organizations; private foundations; taxes on self-dealing, self-dealing defined.

Sec. 4941. *Taxes on self-dealing.* * * * (d) *Self-dealing.*—(1) *In general.* For purposes of this section, the term "self-dealing" means any direct or indirect—

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(A) Sale or exchange, or leasing, of property between a private foundation and a disqualified person;

(B) Lending of money or other extension of credit between a private foundation and a disqualified person;

(C) Furnishing of goods, services, or facilities between a private foundation and a disqualified person;

(D) Payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person;

(E) Transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation; and

(F) Agreement by a private foundation to make any payment of money or other property to a government official (as defined in section 4946(c)), other than an agreement to employ such individual for any period after the termination of his government service if such individual is terminating his government service within a 90-day period.

(2) *Special rules.* For purposes of paragraph (1)—

(A) The transfer of real or personal property by a disqualified person to a private foundation shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the foundation assumes or if it is subject to a mortgage or similar lien which a disqualified person placed on the property within the 10-year period ending on the date of the transfer;

(B) The lending of money by a disqualified person to a private foundation shall not be an act of self-dealing if the loan is without interest or other charge and if the proceeds of the loan are used exclusively for purposes specified in section 501(c)(3);

(C) The furnishing of goods, services, or facilities by a disqualified person to a private foundation shall not be an act of self-dealing if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for purposes specified in section 501(c)(3);

(D) The furnishing of goods, services, or facilities by a private foundation to a disqualified person shall not be an act of self-dealing if such furnishing is made on a basis no more favorable than that on which such goods, services, or facilities are made available to the general public;

(E) Except in the case of a government official (as defined in section 4946(c)), the payment of compensation (and the payment or reimbursement of expenses) by a private foundation to a disqualified person for personal services which are reasonable and necessary to carrying out the exempt purpose of the private foundation shall not be an act of self-dealing if the compensation (or payment or reimbursement) is not excessive;

(F) Any transaction between a private foundation and a corporation which is a disqualified person (as defined in section 4946(a)), pursuant to any liquidation, merger, redemption, recapitalization, or other corporate adjustment, organization, or reorganization, shall not be an act of self-dealing if all of the securities of the same class as that held by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value; and

(G) In the case of a government official (as defined in section 4946(c)), paragraph (1) shall in addition not apply to—

(i) Prizes and awards which are subject to the provisions of section 74(b), if the recipient of such prizes and awards are selected from the general public;

(ii) Scholarships and fellowship grants which are subject to the provisions of section 117(a) and are to be used for study at an educational institution described in section 151(e)(4).

(iii) Any annuity or other payment (forming part of a stock-bonus, pension, or profit-sharing plan) by a trust which is a qualified trust under section 401;

(iv) Any annuity or other payment under a plan which meets the requirements of section 404(a)(2);

(v) Any contribution or gift (other than a contribution or gift of money) to, or services or facilities made available to, any such individual, if the aggregate value of such contributions, gifts, services, and facilities to, or made available to, such individual during any calendar year does not exceed \$25;

(vi) Any payment made under chapter 41 of title 5, United States Code, or

(vii) Any payment or reimbursement of traveling expenses for travel solely from one point in the United States to another point in the United States, but only if such payment or reimbursement does not exceed the actual cost of the transportation involved plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under section 5702 (a) of title 5, United States Code, for like travel by employees of the United States.

§ 53.4941(d)-1 Definition of self-dealing.

(a) *In general.* For purposes of section 4941, the term "self-dealing" means any direct or indirect transaction described in § 53.4941(d)-2. For purposes of this section it is immaterial whether the transaction results in a benefit or a detriment to the private foundation. An act of self-dealing may include a transaction between a private foundation and a disqualified person even though the status of the disqualified person arises only as a result of such transaction. For example, the bargain sale of property to a private foundation is an act of self-dealing even if the seller becomes a disqualified person by reason of his becoming a substantial contributor only as a result of the bargain sale of the property. For the effect of sections 4942, 4943, 4944, and 4945 upon an act of self-dealing which also results in the imposition of tax under one or more of such sections, see the regulations under those sections.

(b) *Indirect self-dealing.*—(1) *Certain business transactions.* The term "indirect self-dealing" shall not include any transaction described in § 53.4941(d)-2 between a disqualified person and an organization controlled by a private foundation (within the meaning of subparagraph (5) of this paragraph) if—

(i) The transaction results from a business relationship which was established before such transaction constituted an act of self-dealing (without regard to this paragraph);

(ii) The transaction was at least as favorable to the organization controlled by the foundation as an arm's length transaction with an unrelated person, and

(iii) Either—

(a) The organization controlled by the foundation could have engaged in the transaction with someone other than a disqualified person only at a severe economic hardship to such organization, or

(b) Because of the unique nature of the product or services provided by the organization controlled by the founda-

tion, the disqualified person could not have engaged in the transaction with anyone else, or could have done so only by incurring severe economic hardship. See example (2) of subparagraph (6) of this paragraph.

(2) *Grants to intermediaries.* The term "indirect self-dealing" shall not include a transaction engaged in with a government official by an intermediary organization which is a recipient of a grant from a private foundation and which is not controlled by such foundation (within the meaning of subparagraph (5) of this paragraph) if the private foundation does not earmark the use of the grant for any named government official and does not retain power to cause the selection of the government official by the intermediary organization. A grant by a private foundation is earmarked if such grant is made pursuant to an agreement, either oral or written, that the grant will be used by any named individual. Thus, a grant by a private foundation shall not constitute an indirect act of self-dealing even though such foundation had reason to believe that certain government officials would derive benefits from such grant so long as the intermediary organization exercises control, in fact, over the selection process and actually makes the selection completely independently of the private foundation. See example (3) of subparagraph (6) of this paragraph.

(3) *Transactions during the administration of an estate.* The term "indirect self-dealing" shall not include a transaction with respect to property (whether or not appreciated or encumbered) held by an estate of which a private foundation is a beneficiary, regardless of when title to the property vests under local law, if—

(i) The administrator or executor possesses a power of sale with respect to the property or has the power to reallocate the property to another beneficiary;

(ii) Such transaction is approved by the probate court having jurisdiction over the estate;

(iii) Such transaction occurs before the estate is considered terminated for Federal income tax purposes pursuant to paragraph (a) of § 1.641(b)-3 of this chapter; and

(iv) The foundation receives an amount which equals or exceeds the fair market value of its interest in such property at the time the probate court approves such transaction, and such transaction was at least as favorable to the foundation as an arm's length transaction with an unrelated person. See example (4) of subparagraph (6) of this paragraph.

(4) *Transactions with certain organizations.* A transaction between a private foundation and an organization which is not controlled by the foundation (within the meaning of subparagraph (5) of this paragraph), and which is not described in section 4946(a)(1) (E), (F), or (G) because persons described in section 4946(a)(1) (A), (B), (C), or (D) own

no more than 35 percent of the total combined voting power or profits or beneficial interest of such organization, shall not be treated as an indirect act of self-dealing between the foundation and such disqualified persons solely because of the ownership interest of such persons in such organization.

(5) *Control.* For purposes of this paragraph, an organization is controlled by a private foundation if—

(i) The foundation or one or more of its foundation managers acting only in such capacity may, by aggregating their votes or positions of authority, or

(ii) One or more disqualified persons who are engaging in a transaction which is referred to in subparagraph (1), (2), or (4) of this paragraph, or one or more persons standing in a relationship to such disqualified persons within the meaning of section 4946(a)(1) (C) through (G), may, only by aggregating their votes or positions of authority with that of the foundation,

require the organization to act or refrain from acting in a manner which would constitute self-dealing under section 4941. The "controlled" organization need not be a private foundation; for example, it may be any type of exempt or nonexempt organization including a school, hospital, operating foundation, or social welfare organization. See example (5) of subparagraph (6) of this paragraph.

(6) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Private foundation P owns the controlling interest of the voting stock of corporation X, and as a result of such interest, elects a majority of the board of directors of X. Two of the foundation managers, A and B, who are also directors of corporation X, form corporation Y for the purpose of building and managing a country club. A and B receive a total of 40 percent of Y's stock, making Y a disqualified person with respect to P under section 4946(a)(1) (E). In order to finance the construction and operation of the country club, Y requested and received a loan in the amount of \$4 million from X. The making of the loan by X to Y shall constitute an indirect act of self-dealing between P and Y.

Example (2). Private foundation W owns the controlling interest of the voting stock of corporation X, a manufacturer of certain electronic computers. Corporation Y, a disqualified person with respect to W, owns the patent for, and manufactures, one of the essential component parts used in the computers. X has been making regular purchases of the patented component from Y since 1965, subject to the same terms as all other purchasers of such component parts. X could not buy similar components from another source. Consequently, X would suffer severe economic hardship if it could not continue to purchase these components from Y, since it would then be forced to develop a computer which could be constructed with other components. Under these circumstances, the continued purchase by X from Y of these components shall not be an indirect act of self-dealing between W and Y.

Example (3). Private foundation Y made a grant to M University, an organization described in section 170(b)(1) (A) (ii), for the purpose of conducting a seminar to study

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methods for improving the administration of the judicial system. M is not controlled by Y within the meaning of subparagraph (5) of this paragraph. In conducting the seminar, M made payments to certain government officials. By the nature of the grant, Y had reason to believe that government officials would be compensated for participation in the seminar. M, however, had completely independent control over the selection of such participants. Thus, such grant by Y shall not constitute an indirect act of self-dealing with respect to the government officials.

Example (4). X bequeathed \$100,000 to his wife and a piece of unimproved real estate of equivalent value to private foundation Z, of which X was the creator and a foundation manager. Under the laws of State Y, to which the estate is subject, title to the real estate vests in the foundation upon X's death. However, the executor has the power under State law to reallocate the property to another beneficiary. During a reasonable period for administration of the estate, the executor exercises this power and distributes the \$100,000 cash to the foundation and the real estate to X's wife. The probate court having jurisdiction over the estate approves the executor's action at a time when the real estate is worth \$100,000. Under these circumstances, the executor's action does not constitute an indirect act of self-dealing between the foundation and X's wife.

Example (5). Private foundation F owns 20 percent of the voting stock of corporation W. A, a substantial contributor with respect to F, owns 16 percent of the voting stock of corporation W. B, A's son, owns 15 percent of the voting stock of corporation W. The terms of the voting stock are such that F, A, and B could vote their stock in a block to elect a majority of the board of directors of W. W is treated as controlled by F (within the meaning of subparagraph (5) (ii) of this paragraph) for the purposes of this paragraph. A and B also own 50 percent of the stock of corporation Y, making Y a disqualified person with respect to F under section 4946(a)(1) (E). W makes a loan to Y of \$1,000,000. The making of this loan by W to Y shall constitute an indirect act of self-dealing between F and Y.

§ 53.4941(d)-2 Specific acts of self-dealing.

Except as provided in § 53.4941(d)-3 or § 53.4941(d)-4—

(a) *Sale or exchange of property.*—(1) *In general.* The sale or exchange of property between a private foundation and a disqualified person shall constitute an act of self-dealing. For example, the sale of incidental supplies by a disqualified person to a private foundation shall be an act of self-dealing regardless of the amount paid to the disqualified person for the incidental supplies. Similarly, the sale of stock or other securities by a disqualified person to a private foundation in a "bargain sale" shall be an act of self-dealing regardless of the amount paid for such stock or other securities. An installment sale may be subject to the provisions of both section 4941(d)(1) (A) and section 4941(d)(1) (B).

(2) *Mortgaged property.* For purposes of subparagraph (1) of this paragraph, the transfer of real or personal property by a disqualified person to a private foundation shall be treated as a sale or exchange if the foundation assumes a mortgage or similar lien which was

placed on the property prior to the transfer, or takes subject to a mortgage or similar lien which a disqualified person placed on the property within the 10-year period ending on the date of transfer. For purposes of this subparagraph, the term "similar lien" shall include, but is not limited to, deeds of trust and vendors' liens, but shall not include any other lien if such lien is insignificant in relation to the fair market value of the property transferred.

(b) *Leases.*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, the leasing of property between a disqualified person and a private foundation shall constitute an act of self-dealing.

(2) *Certain leases without charge.* The leasing of property by a disqualified person to a private foundation shall not be an act of self-dealing if the lease is without charge.

For purposes of this subparagraph, a lease shall be considered to be without charge even though the private foundation pays for janitorial services, utilities, or other maintenance costs it incurs for the use of the property, as long as the payment is not made directly or indirectly to a disqualified person.

(c) *Loans.*—(1) *In general.* Except as provided in subparagraphs (2), (3), and (4) of this paragraph, the lending of money or other extension of credit between a private foundation and a disqualified person shall constitute an act of self-dealing. Thus, for example, an act of self-dealing occurs where a third party purchases property and assumes a mortgage, the mortgagee of which is a private foundation, and subsequently the third party transfers the property to a disqualified person who either assumes liability under the mortgage or takes the property subject to the mortgage. Similarly, except in the case of the receipt and holding of a note pursuant to a transaction described in § 53.4941(d)-1 (b)(3), an act of self-dealing occurs where a note, the obligor of which is a disqualified person, is transferred by a third party to a private foundation which becomes the creditor under the note.

(2) *Loans without interest.* Subparagraph (1) of this paragraph shall not apply to the lending of money or other extension of credit by a disqualified person to a private foundation if the loan or other extension of credit is without interest or other charge.

(3) *Certain pledges.* The making of a pledge to a private foundation by a disqualified person shall not constitute a loan or other extension of credit within the meaning of this subparagraph.

(4) *General banking functions.* Under section 4941(d)(2) (E) the performance by a bank or trust company which is a disqualified person of general banking services (such as the maintenance of checking and savings accounts) for a private foundation is not an act of self-dealing, where the banking services are reasonable and necessary to carrying out the exempt purposes of the private foundation, if the compensation paid to the

bank or trust company, taking into account the fair interest rate for the use of the funds by the bank or trust company, for such services is not excessive. See example (3) of § 53.4941(d)-3(c)(2).

(d) *Furnishing goods, services, or facilities*—(1) *In general.* Except as provided in subparagraph (2) or (3) of this paragraph (or § 53.4941(d)-3(b)), the furnishing of goods, services, or facilities between a private foundation and a disqualified person shall constitute an act of self-dealing. This subparagraph shall apply, for example, to the furnishing of goods, services, or facilities such as office space, automobiles, auditoriums, secretarial help, meals, libraries, publications, laboratories, or parking lots. Thus, for example, if a foundation furnishes personal living quarters to a disqualified person (other than a foundation manager) without charge, such furnishing shall be an act of self-dealing.

(2) *Furnishing of goods, services, or facilities to foundation managers.* The furnishing of goods, services, or facilities such as those described in subparagraph (1) of this paragraph to a foundation manager in recognition of his services as a foundation manager is not an act of self-dealing if the value of such furnishing (whether or not includible as compensation in his gross income) is reasonable and necessary to the performance of his tasks in carrying out the exempt purposes of the foundation and (taken in conjunction with any other payment of compensation or payment or reimbursement of expenses to him by the foundation) is not excessive. For example, if a foundation furnishes meals and lodging which are reasonable and necessary (but not excessive) to a foundation manager by reason of his being a foundation manager, then, even if such meals and lodging are excludable from gross income under section 119 as furnished for the convenience of the employer, such furnishing is not an act of self-dealing. For the effect of section 4945(d)(5) upon an expenditure for unreasonable administrative expenses, see § 53.4945-6(b)(2).

(3) *Furnishing of goods, services, or facilities by a disqualified person without charge.* The furnishing of goods, services, or facilities by a disqualified person to a private foundation shall not be an act of self-dealing if they are furnished without charge. Thus, for example, the furnishing of goods such as pencils, stationery, or other incidental supplies or the furnishing of facilities such as a building by a disqualified person to a foundation shall be allowed if such supplies or facilities are furnished without charge. Similarly, the furnishing of services (even though such services are not personal in nature) shall be permitted if such furnishing is without charge.

(e) *Payment of compensation.* The payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person shall constitute an act of self-dealing. See, however, paragraph (c) of § 53.4941

(d)-3 for the exception for the payment of compensation by a foundation to a disqualified person for personal services which are reasonable and necessary to carry out the exempt purposes of the foundation.

(f) *Transfer or use of the income or assets of a private foundation*—(1) *In general.* The transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation shall constitute an act of self-dealing. For purposes of the preceding sentence, the payment by a private foundation of any tax imposed on a disqualified person by chapter 42 shall be treated as a transfer of the income or assets of a private foundation for the benefit of a disqualified person. Similarly, the payment by a private foundation of the premiums for an insurance policy providing liability insurance to a foundation manager for chapter 42 taxes shall be an act of self-dealing under this paragraph unless such premiums are treated as part of the compensation paid to such manager. In addition, the purchase or sale of stock or other securities by a private foundation shall be an act of self-dealing if such purchase or sale is made in an attempt to manipulate the price of the stock or other securities to the advantage of a disqualified person. If a private foundation makes a grant which satisfies the legal obligation of a disqualified person with respect to the foundation, such as a pledge which is enforceable against the disqualified person under local law, such grant shall constitute an act of self-dealing to which this subparagraph applies. Similarly, the indemnification or guarantee by a private foundation of a bank loan to a disqualified person shall be treated as a use for the benefit of a disqualified person of the income or assets of the foundation (within the meaning of this subparagraph).

(2) *Certain incidental benefits.* The fact that a disqualified person receives an incidental or tenuous benefit from the use by a foundation of its income or assets will not, by itself, make such use an act of self-dealing. Thus, the public recognition of a person may receive, arising from the charitable activities of a private foundation to which such person is a substantial contributor, does not in itself result in an act of self-dealing since generally the benefit is incidental and tenuous. For example, a grant by a private foundation to a section 509(a)(1), (2), or (3) organization will not be an act of self-dealing merely because such organization is located in the same area as a corporation which is a substantial contributor to the foundation, or merely because one of the section 509(a)(1), (2), or (3) organization's officers, directors, or trustees is also a manager of or a substantial contributor to the foundation. Similarly, a scholarship or a fellowship grant to a person other than a disqualified person, which is paid or incurred by a private foundation in accordance with a program which is consistent with the requirements of the foundation's exempt status under section 501(c)(3) and the

requirements for the allowance of deductions under section 170 for contributions made to the foundation, will not be an act of self-dealing under section 4941(d)(1) merely because a disqualified person indirectly receives a benefit from such grant. Thus, a scholarship or a fellowship grant made by a private foundation in accordance with a program to award scholarships or fellowship grants to the children of employees of a substantial contributor shall not constitute an act of self-dealing if the requirements of the preceding sentence are satisfied.

(3) *Indemnification of foundation managers against liability for contesting chapter 42 taxes.* Section 4941(d)(1) shall not apply, except as provided in § 53.4941(d)-3(c), to the indemnification by a private foundation of a foundation manager, with respect to the defense of a judicial proceeding under chapter 42, against all expenses (other than taxes, penalties, or expenses of correction) including attorneys' fees, if—

(i) Such expenses are reasonably incurred by him in connection with such proceeding; and

(ii) He is successful in such defense, or such proceeding is terminated by settlement and he has not acted willfully and without reasonable cause with respect to the act or failure to act which led to liability for tax under chapter 42.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, a private foundation, makes a grant of \$50,000 to the governing body of N City for the purpose of alleviating the slum conditions which exist in a particular neighborhood of N. Corporation P, a substantial contributor to M, is located in same area in which the grant is to be used. Although the general improvement of the area may constitute an incidental and tenuous benefit to P, such benefit by itself will not constitute an act of self-dealing.

Example (2). Private foundation X established a program to award scholarship grants to the children of employees of corporation D, a substantial contributor to X. After disclosure of the method of carrying out such program, X received a determination letter from the Internal Revenue Service stating that X is exempt from taxation under section 501(c)(3) and that contributions to X are deductible under section 170. A scholarship grant paid or incurred by X in accordance with such program shall not be an indirect act of self-dealing between X and D, since the grant is awarded in accordance with a program which is consistent with the requirements of X's exempt status under section 501(c)(3) and the requirements for the allowance of a deduction under section 170 for contributions made to X.

Example (3). Private foundation Y owns voting stock in corporation Z, the management of which includes certain disqualified persons with respect to Y. Prior to Z's annual stockholder meeting, the management solicits and receives the foundation's proxies. The transfer of such proxies in and of itself shall not be an act of self-dealing.

Example (4). A, a disqualified person with respect to private foundation S, contributes certain real estate to S for the purpose of building a neighborhood recreation center in a particular underprivileged area. As a condition of the gift, S agrees to name the

recreation center after A. Since the benefit to A is only incidental and tenuous, the naming of the recreation center, by itself, will not be an act of self-dealing.

(g) *Payment to a government official.* The agreement by a private foundation to make any payment of money or other property to a government official, as defined in section 4946(c), shall constitute an act of self-dealing. For purposes of this paragraph, an individual who is otherwise described in section 4946(c) shall be treated as a government official while on leave of absence from the government without pay.

§ 53.4941(d)-3 Exceptions to self-dealing.

(a) *General rule.* In general, a transaction described in section 4941(d)(2)(B), (C), (D), (E), (F), or (G) is not an act of self-dealing. Section 4941(d)(2)(B) and (C) provides limited exceptions to certain specific transactions, as described in paragraphs (b)(2), (c)(2), and (d)(3) of § 53.4941(d)-2. Section 4941(d)(2)(D), (E), (F), and (G) is described in paragraphs (b) through (e) of this section.

(b) *Furnishing of goods, services, or facilities to a disqualified person*—(1) *In general.* Under section 4941(d)(2)(D), the furnishing of goods, services, or facilities by a private foundation to a disqualified person shall not be an act of self-dealing if such goods, services, or facilities are made available to the general public on at least as favorable a basis as they are made available to the disqualified person. This subparagraph shall not apply, however, in the case of goods, services or facilities furnished later than 30 days after (insert date on which final regulations under section 4941 are filed by the Office of the Federal Register), unless such goods, services or facilities are functionally related, within the meaning of section 4942(j)(5), to the exercise or performance by a private foundation of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(c)(3).

(2) *General public.* For purposes of this paragraph, the term "general public" shall include those persons who, because of the particular nature of the activities of the private foundation, would be reasonably expected to utilize such goods, services, or facilities. This paragraph shall not apply, however, unless there are a substantial number of persons other than disqualified persons who are actually utilizing such goods, services or facilities. Thus, a private foundation which furnishes recreational or park facilities to the general public may furnish such facilities to a disqualified person provided they are furnished to him on a basis which is not more favorable than that on which they are furnished to the general public. Similarly, the sale of a book or magazine by a private foundation to disqualified persons shall not be an act of self-dealing if the publication

of such book or magazine is functionally related to a charitable or educational activity of the foundation and the book or magazine is made available to the disqualified persons and the general public at the same price. In addition, if, for example, the terms of the sale require payment within 60 days from the date of delivery of the book or magazine, the transaction shall not be treated as a loan or other extension of credit under § 53.4941(d)-2(c)(1) if such terms are consistent with normal commercial practices.

(c) *Payment of compensation for certain personal services*—(1) *In general.* Under section 4941(d)(2)(E), except in the case of a government official (as defined in section 4946(c)), the payment of compensation (and the payment or reimbursement of expenses) by a private foundation to a disqualified person for the performance of personal services which are reasonable and necessary to carry out the exempt purpose of the private foundation shall not be an act of self-dealing if such compensation (or payment or reimbursement) is not excessive. For the determination whether compensation is excessive, see § 1.162-7 of this chapter (Income Tax Regulations). This paragraph may apply even if the person who receives the compensation (or payment or reimbursement) is not an individual. The portion of any payment which represents payment for property shall not be treated as payment of compensation (or payment or reimbursement of expenses) for the performance of personal services for purposes of this paragraph. For rules with respect to the performance of general banking services, see § 53.4941(d)-2(c)(4).

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). E, a partnership, is a firm of ten lawyers engaged in the practice of law. A and B, partners in E, serve as trustees to private foundation W and, therefore, are disqualified persons. In addition, A and B own more than 35 percent of the profits interest in E, thereby making E a disqualified person. E performs various legal services for W from time to time as such services are requested. The payment of compensation by W to E shall not constitute an act of self-dealing if the services performed are reasonable and necessary for the carrying out of W's exempt purposes and the amount paid by W for such services is not excessive.

Example (2). C, a manager of private foundation X, owns an investment counseling business. Acting in his capacity as an investment counselor, C manages X's investment portfolio for which he receives an amount which is determined to be not excessive. The payment of such compensation to C shall not constitute an act of self-dealing.

Example (3). F, a commercial bank, serves as a trustee for private foundation Y. In addition to F's duties as trustee, F performs certain general banking services such as maintaining Y's checking and savings accounts. The use of the funds by F or the payment of compensation by Y to F for such services shall be treated as the payment of compensation for the performance of personal services which are reasonable and

necessary to carry out the exempt purposes of Y.

Example (4). D, a substantial contributor to private foundation Z, owns a factory which manufactures microscopes. D contracts with Z to manufacture 100 microscopes for Z. Any payment to D under the contract shall constitute an act of self-dealing, since such payment does not constitute the payment of compensation for the performance of personal services.

(d) *Certain transactions between a foundation and a corporation*—(1) *In general.* Under section 4941(d)(2)(F), any transaction between a private foundation and a corporation which is a disqualified person will not be an act of self-dealing if such transaction is engaged in pursuant to a liquidation, merger, redemption, recapitalization, or other corporate adjustment, organization, or reorganization, so long as all the securities of the same class as that held (prior to such transaction) by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value. For purposes of this paragraph, all of the securities are not "subject to the same terms" unless, pursuant to such transaction, the corporation makes a bona fide offer on a uniform basis to the foundation and every other person who holds such securities. The fact that a private foundation receives property, such as debentures, while all other persons holding securities of the same class receive cash for their interests, will be evidence that such offer was not made on a uniform basis. This paragraph may apply regardless of whether other persons hold any securities of the class held by the foundation. In such event, however, the consideration received by holders of other classes of securities, or the interests retained by holders of such other classes, when considered in relation to the consideration received by the foundation, must indicate that the foundation received at least as favorable treatment in relation to its interests as the holders of any other class of securities. In addition, the foundation must receive no less than the fair market value of its interests.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Private foundation X owns 50 percent of the Class A preferred stock of corporation M, which is a disqualified person with respect to X. The terms of such securities provide that the stock may be called for redemption at any time by M at 105 percent of the face amount of the stock. M exercises this right and calls all the Class A preferred stock by paying 105 percent of the face amount in cash. At the time of the redemption of the Class A preferred stock, it is determined that the fair market value of the preferred stock is equal to its face amount. In such case, the redemption by M of the preferred stock of X is not an act of self-dealing.

Example (2). Private foundation Y, which is on a calendar year basis, acquires 60 percent of the Class A preferred stock of corporation N by will on January 10, 1970. N, which is also on a calendar year basis, is a

disqualified person with respect to Y. In 1971, N offers to redeem all of the Class A preferred stock for a consideration equal to 100 percent of the face amount of such stock by the issuance of debentures. The offer expires January 2, 1972. Both Y and all other holders of the Class A preferred stock accept the offer and enter into the transaction on January 2, 1972, at which time it is determined that the fair market value of the debentures is no less than the fair market value of the preferred stock. The transaction on January 2, 1972, shall not be treated as an act of self-dealing for 1972. However, if such debentures are held by Y after December 31, 1972, except as provided in § 53.4941(d)-4(c)(4), such extension of credit shall not be excepted from the definition of an act of self-dealing by reason of the January 2, 1972, transaction.

(e) *Certain payments to government officials.* Under section 4941(d)(2)(G), in the case of a government official, in addition to the exceptions provided in section 4941(d)(2)(B), (C), and (D), section 4941(d)(1) shall not apply to—

(1) A prize or award which is not includible in gross income under section 74(b), if the government official receiving such prize or award is selected from the general public;

(2) A scholarship or a fellowship grant which is excludable from gross income under section 117(a) and which is to be utilized for study at an educational institution described in section 151(e)(4);

(3) Any annuity or other payment (forming part of a stock-bonus, pension, or profit sharing plan) by a trust which constitutes a qualified trust under section 401;

(4) Any annuity or other payment under a plan which meets the requirements of section 404(a)(2);

(5) Any contribution or gift (other than a contribution or gift of money) to, or services or facilities made available to, any government official, if the aggregate value of such contributions, gifts, services, and facilities does not exceed \$25 during any calendar year;

(6) Any payment made under 5 U.S.C. chapter 41 (relating to government employees' training programs);

(7) Any payment or reimbursement of traveling expenses (including amounts expended for meals and lodging, regardless of whether the government official is "away from home" within the meaning of section 162(a)(2)) for travel solely from one point in the United States to another in connection with one or more purposes described in section 170(c)(1) or (2)(B), but only if such payment or reimbursement does not exceed the actual cost of the transportation involved plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under 5 U.S.C. 5702(a) for like travel by employees of the United States;

(8) Any agreement to employ or make a grant to a government official for any period after the termination of his government service if such agreement is entered into within 90 days prior to such termination; or

(9) In the case of any government official who was on leave of absence

without pay on December 31, 1969, pursuant to a commitment entered into on or before such date for the purpose of engaging in certain activities for which such individual was to be paid by one or more private foundations, any payment of compensation (or payment or reimbursement of expenses) by such private foundations to such individual for any continuous period after December 31, 1969, and prior to January 1, 1971, during which such individual remains on leave of absence to engage in such activities.

For purposes of subparagraph (9) of this paragraph, a commitment is considered entered into on or before December 31, 1969, if on or before such date, the amount and nature of the payments to be made and the name of the individual receiving such payments were entered on the records of the payor, or were otherwise adequately evidenced, or the notice of the payment to be received was communicated to the payee orally or in writing. If a government official attends or participates in a conference sponsored by a private foundation, the allocable portion of the cost of such conference and other non-monetary benefits (for example, benefits of a professional, intellectual, or psychological nature, or benefits resulting from the publication or the distribution to participants of a record of the conference) received by such government official as a result of such attendance or participation shall not be subject to section 4941(d)(1).

§ 53.4941(d)-4 Transitional rules.

(a) *Certain transactions involving securities acquired by a foundation before May 27, 1969.*—(1) *In general.* Under section 101(l)(2)(A) of the Tax Reform Act of 1969 (83 Stat. 533), any transaction between a private foundation and a corporation which is a disqualified person shall not be an act of self-dealing if such transaction is pursuant to the terms of securities of such corporation, if such terms were in existence at the time such securities were acquired by the foundation, and if such securities were acquired by the foundation before May 27, 1969.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Private foundation X purchased preferred stock of corporation D, which is a disqualified person with respect to X, on March 15, 1969. The terms of such securities on such date provided that the stock could be called by D at any time if D paid the outstanding shareholders cash equal to 105 percent of the face amount of the stock. If D exercises this right and calls the stock owned by X on February 15, 1970, such call shall not constitute an act of self-dealing even if such price is not equivalent to fair market value on such date and even if not all of the securities of that class are called.

(b) *Disposition of certain business holdings.*—(1) *In general.* Under section 101(b)(2)(B) of the Tax Reform Act of 1969 (83 Stat. 533), the sale, exchange, or other disposition of property which is owned by a private foundation on May 26, 1969, to a disqualified person shall

not be an act of self-dealing if the foundation is required to dispose of such property in order not to be liable for tax under section 4943 (determined without regard to section 4943(c)(2)(C) and as if every disposition by the foundation were made to disqualified persons) and if such disposition satisfies the requirements of subparagraph (2) of this paragraph. In determining the amount of excess business holdings for purposes of applying this paragraph in the case of a disposition completed before January 1, 1975, section 4943 shall be applied without taking section 4943(c)(4) into account.

(2) *Terms of the disposition.* Subparagraph (1) of this paragraph shall not apply unless—

(i) The private foundation receives an amount which equals or exceeds the fair market value of the business holdings at the time of disposition or at the time a contract for such disposition was previously executed; and

(ii) At the time with respect to which subdivision (i) of this subparagraph is applied, the transaction would not have constituted a prohibited transaction within the meaning of section 503(b) or the corresponding provisions of prior law if such provisions had been applied at such time.

(3) *Property received under a trust or will.* For purposes of this paragraph, property shall be considered as owned by a private foundation on May 26, 1969, if such property is acquired by such foundation either under the terms of a trust which was irrevocable on May 26, 1969, or under the terms of a will executed on or before such date, which terms are in effect on such date and at all times thereafter.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On May 26, 1969, private foundation X owns 10 percent of corporation Y's voting stock, which is traded on the New York Stock Exchange. Disqualified persons with respect to X own an additional 40 percent of such voting stock. Prior to January 1, 1975, X privately sold its entire 10 percent for cash to B, a disqualified person, at the price quoted on the stock exchange at the close of the day less commissions. Since the 10 percent owned by X would constitute excess business holdings without the application of section 4943(c)(2)(C) or (4), the disposition will not constitute an act of self-dealing.

Example (2). Assume the facts as stated in Example (1), except that the only stock of Y corporation which X owns is 1.5 percent of Y's voting stock. Since the 1.5 percent owned by X would constitute excess business holdings without the application of section 4943(c)(2)(C) or (4), the disposition of the stock to B for cash will not constitute an act of self-dealing.

Example (3). Assume the facts as stated in Example (1), except that B, instead of paying cash as consideration for the stock, issued a 10-year promissory note as consideration for the stock. The issuance of such promissory note is not excepted from the definition of an act of self-dealing by operation of this paragraph, since this paragraph applies only to the sale, exchange, or other disposition of

the stock, and not to the extension of credit. See, however, paragraph (c)(4) of this section.

(c) *Existing leases and loans.*—(1) *In general.* Under section 101(l)(2)(C) of the Tax Reform Act of 1969 (83 Stat. 533), the leasing of property or the lending of money (or other extension of credit) between a disqualified person and a private foundation pursuant to a binding contract which was in effect on October 9, 1969 (or pursuant to a renewal or modification of such a contract, as described in subparagraph (2) of this paragraph), shall not be an act of self-dealing until taxable years beginning after December 31, 1979, if—

(i) At the time the contract was executed, such contract was not a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law); and

(ii) The leasing or lending of money (or other extension of credit) remains at least as favorable as an arm's length transaction with an unrelated person.

(2) *Renewal or modification of existing contracts.* A renewal or a modification of an existing contract is referred to in subparagraph (1) of this paragraph only if any modifications of the terms of such contract are not substantial and the relative advantages of the modified contract compared with contracts entered into at arm's length with an unrelated person at the time of the renewal or modification are at least as favorable to the private foundation as the relative advantages of the original contract compared with contracts entered into at arm's length with an unrelated person at the time of execution of the original contract. Such renewal or modification need not be provided for in the original contract; it may take place before or after the expiration of the original contract and at any time before the first day of the first taxable year of the private foundation beginning after December 31, 1979.

(3) *Example.* The provisions of subparagraphs (1) and (2) of this paragraph may be illustrated by the following example:

Example. Under a binding contract entered into on January 1, 1964, X, a private foundation, leases a building for 10 years from Z, a disqualified person. At the time the contract was executed, the lease was not a "prohibited transaction" within the meaning of section 503(b), since the rent charged X was only 50 percent of the rent which would have been charged in an arm's length transaction with an unrelated person. On January 1, 1974, X renewed the lease for 5 additional years. The terms of the renewal agreement provided for a 20 percent increase in the amount of rent charged X. However, at the time of such renewal, the rent which would have been charged in an arm's length transaction had also increased by 20 percent from that of 1964. The renewal agreement shall not be treated as an act of self-dealing.

(4) *Certain corporate adjustments, organizations, and reorganizations.* (i) In the case of a transaction described in section 4941(d)(2)(F) and paragraph (d) of § 53.4941(d)-3, where a bond, debenture, or other indebtedness of a corporation which is a disqualified per-

son is acquired by a private foundation in exchange for securities which it held on October 9, 1969, and at all times thereafter, such indebtedness shall be treated as an extension of credit pursuant to a binding contract in effect on October 9, 1969, to which this paragraph applies. Thus, so long as the extension of credit remains at least as favorable as an arm's length transaction with an unrelated person and the acquisition of the securities which were exchanged for the indebtedness was not a prohibited transaction within the meaning of section 503(b) (or the corresponding provisions of prior law) at the time of such acquisition, such extension of credit shall not be an act of self-dealing until taxable years beginning after December 31, 1979.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. Assume the facts as stated in Example (2) of § 53.4941(d)-3(d)(2), except that the preferred stock was held by Y on October 9, 1969, and at all times thereafter until the redemption occurred on January 2, 1972. In addition, assume that the acquisition of the preferred stock was not a prohibited transaction within the meaning of section 503(b) at the time of such acquisition. For 1973 through 1979, the extension of credit arising from the holding of the debentures is not an act of self-dealing so long as the extension of credit remains at least as favorable as an arm's length transaction with an unrelated person. See, however, Example (3) of § 53.4941(e)-1(c)(1)(ii).

(d) *Sharing of goods, services, or facilities before December 31, 1979.* (1) Under section 101(l)(2)(D) of the Tax Reform Act of 1969 (83 Stat. 533), the use (other than leasing) of goods, services, or facilities which are shared by a private foundation and a disqualified person shall not be an act of self-dealing until taxable years beginning after December 31, 1979, if—

(i) The use is pursuant to an arrangement in effect before October 9, 1969, and at all times thereafter;

(ii) The arrangement was not a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law) at the time it was made; and

(iii) The arrangement would not be a prohibited transaction if section 503(b) continued to apply.

For purposes of this paragraph, such arrangement need not be a binding contract.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. In 1964 X, a private foundation, and B, a disqualified person, arranged for the sharing of computer time in B's son's company for a 10-year period commencing January 1, 1965. B's son has the unilateral right to terminate the arrangement at any time. X uses the computer facilities in connection with an analysis of its grant-making activities, while B's use is related to his business affairs. Both X and B make reasonable fixed payments to the computer company based on the number of hours of computer use and comparable to fees charged in arm's length transactions with unrelated parties.

The company imposes a maximum limit per month on the sum of the number of hours for which X and B use the computer facilities. Under these circumstances, the sharing of computer time is not an act of self-dealing.

(e) *Use of certain property acquired before October 9, 1969.* (1) Under section 101(l)(2)(E) of the Tax Reform Act of 1969 (83 Stat. 533), the use of property in which a private foundation and a disqualified person have a joint or common interest will not be an act of self-dealing if the interests of both in such property were acquired before October 9, 1969.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. Prior to October 9, 1969, C, a disqualified person, gave beachfront property to private foundation X for use as a recreational facility for underprivileged, innercity children during the summer months. However, C retained the right to use such property for his life. The use of such property by C or X is not an act of self-dealing.

§ 53.4941(e) Statutory provisions: exempt organizations; private foundations; taxes on self-dealing; self-dealing defined.

(e) *Other definitions.*—For purposes of this section—

(1) *Taxable period.* The term "taxable period" means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on whichever of the following is the earlier: (A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or (B) the date on which correction of the act of self-dealing is completed.

(2) *Amount involved.* The term "amount involved" means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that, in the case of services described in subsection (d)(2)(E), the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

(A) In the case of the taxes imposed by subsection (a), shall be determined as of the date on which the act of self-dealing occurs; and

(B) In the case of the taxes imposed by subsection (b), shall be the highest fair market value during the correction period.

(3) *Correction.* The terms "correction" and "correct" mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any case placing the private foundation in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

(4) *Correction period.* The term "correction period" means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to bring about correction of the act of self-dealing.

§ 53.4941(e)-1 Definitions.

(a) *Taxable period.*—(1) *In general.* For purposes of any act of self-dealing,

the term "taxable period" means the period beginning with the date on which the act of self-dealing occurs and ending on the earlier of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4941 (a) (1), or

(ii) The date on which correction of the act of self-dealing is completed.

(2) *Date of occurrence.* An act of self-dealing occurs on the date on which all the terms and conditions of the transaction and the liabilities of the parties have been fixed. Thus, for example, if a private foundation gives a disqualified person a binding option on June 15, 1971, to purchase property owned by the foundation at any time before June 15, 1972, the act of self-dealing has occurred on June 15, 1971. Similarly, in the case of a conditional sales contract, the act of self-dealing shall be considered as occurring on the date the property is transferred subject only to the condition that the buyer make payment for receipt of such property.

(3) *Special rule.* Where a notice of deficiency referred to in subparagraph (1)(i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On July 16, 1970, F, a manager of private foundation X acting on behalf of the foundation, willfully and without reasonable cause engaged in an act of self-dealing by selling certain real estate to A, a disqualified person. On March 25, 1973, the Internal Revenue Service mailed a notice of deficiency to A with respect to the tax imposed on the sale under section 4941(a)(1). The taxable period with respect to the act of self-dealing for both A and F is July 16, 1970, through March 25, 1973.

Example (2). Assume the facts as stated in Example (1), except that the act of self-dealing is corrected by A on March 17, 1971. The taxable period with respect to the act of self-dealing for both A and F is July 16, 1970, through March 17, 1971.

Example (3). Assume the facts as stated in Example (1), except that on August 20, 1972, A files a waiver of the restrictions on assessment and collection of the tax imposed on the sale under section 4941(a)(1). The taxable period with respect to the act of self-dealing for both A and F is July 16, 1970, through August 20, 1972.

(b) *Amount involved.*—(1) *In general.* For purposes of any act of self-dealing, the term "amount involved" means the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received. In the case of the payment of compensation for personal services, the amount involved shall be only the excess compensation paid by the private foundation. Where the use of money or other property is involved, the amount involved shall be the greater of the amount paid

for such use or the fair market value of such use for the period for which the money or other property is used. Thus, for example, in the case of a lease of a building by a private foundation to a disqualified person, the amount involved is the greater of the amount of rent received by the foundation from the disqualified person or the fair rental value of the building for the period such building is used by the disqualified person. The fair market value of the property or the use thereof, as the case may be, shall be determined as of the date on which the act of self-dealing occurred in the case of the initial taxes imposed by section 4941(a) and shall be the highest fair market value during the correction period in the case of the additional taxes imposed by section 4941(b).

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, a disqualified person with respect to private foundation M, uses an airplane owned by M on June 15 and June 16, 1970, for a 2-day trip to New York City on personal business and pays M \$500 for the use of such airplane. The fair rental value for the use of the airplane for those 2 days is \$3,000. For purposes of section 4941(a), the amount involved with respect to the act of self-dealing is \$3,000.

Example (2). On April 10, 1970, B, a manager of private foundation P, borrows \$100,000 from P at 6 percent interest per annum. Both principal and interest are to be paid 1 year from the date of the loan. The fair market value of the use of the money on April 10, 1970, is 10 percent per annum. Six months later, B and P terminate the loan, and B repays the \$100,000 principal plus \$3,000 (\$100,000 × 6 percent for one-half year) interest. For purposes of section 4941(a), the amount involved with respect to the act of self-dealing is \$5,000 (\$100,000 × 10 percent for one-half year) for each year or partial year in the taxable period.

Example (3). C, a substantial contributor to private foundation S, leases office space in a building owned by S for \$3,600 for 1 year beginning on January 1, 1971. The fair rental value of the building for a 1-year lease on January 1, 1971, is \$5,600. On December 31, 1971, the lease is terminated. For purposes of section 4941(a), the amount involved with respect to the act of self-dealing is \$5,600 for each year or partial year in the taxable period.

Example (4). D, a disqualified person with respect to private foundation T, purchases 100 shares of stock from T for \$5,000 on June 15, 1972. The fair market value of the 100 shares of stock on such date is \$4,800. D sells the 100 shares of stock on December 20, 1973, for \$6,000. Subsequently, D receives a notice of deficiency with respect to the taxes imposed under subsections (a) and (b) of section 4941. D fails to correct during the correction period. Between June 15, 1972, and the end of the correction period, the stock was quoted on the New York Stock Exchange at a high of \$67 per share. The amount involved with respect to the tax imposed under subsection (a) is \$5,000, and the amount involved with respect to the tax imposed under subsection (b) for failure to correct is \$6,700 (100 shares at \$67 per share), the highest fair market value during the correction period.

(c) *Correction.*—(1) *In general.* Correction shall be accomplished by undoing the transaction which constituted

the act of self-dealing to the extent possible, but in no case shall the resulting financial position of the private foundation be worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards. For example, where a disqualified person sells property to a private foundation for cash, correction may be accomplished by recasting the transaction in the form of a gift by returning the cash to the foundation. Subparagraphs (2) through (6) of this paragraph illustrate the minimum standards of correction in the case of certain specific acts of self-dealing. Principles similar to the principles contained in such subparagraphs shall be applied with respect to other acts of self-dealing. Any correction pursuant to this paragraph and section 4941 shall not be an act of self-dealing.

(2) *Sales by foundation.* (i) In the case of a sale of property by a private foundation to a disqualified person for cash, undoing the transaction includes, but is not limited to, requiring rescission of the sale where possible. However, in order to avoid placing the foundation in a position worse than that in which it would be if rescission were not required, the amount returned to the disqualified person pursuant to the rescission shall not exceed the lesser of the cash received by the private foundation or the fair market value of the property received by the disqualified person. For purposes of the preceding sentence, fair market value shall be the lesser of the fair market value at the time of the act of self-dealing or the fair market value at the time of rescission. In addition to rescission, the disqualified person is required to pay over to the private foundation any net profits he realized after the original sale with respect to the property he received from the sale. Thus, for example, the disqualified person must pay over to the foundation any income derived by him from the property he received from the original sale to the extent such income during the correction period exceeds the income derived by the foundation during the correction period from the cash which the disqualified person originally paid to the foundation.

(ii) If, prior to the end of the correction period, the disqualified person resells the property in an arm's length transaction to a bona fide purchaser who is not the foundation or another disqualified person, no rescission is required. In such case, the disqualified person must pay over to the foundation the excess (if any) of the greater of the fair market value of such property on the date on which correction of the act of self-dealing occurs or the amount realized by the disqualified person from such arm's length resale over the amount which would have been returned to the disqualified person pursuant to subdivision (1) of this subparagraph if rescission had been required. In addition, the disqualified person is required to pay over to the foundation any net profits he

realized, as described in subdivision (i) of this subparagraph.

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On July 1, 1970, private foundation M sold a painting to A, a disqualified person, for \$5,000. The fair market value of the painting on such date was \$6,000. On March 25, 1971, the painting is still owned by A and has a fair market value of \$7,200. A did not derive any income as a result of purchasing the painting. In order to correct the act of self-dealing under this subparagraph on March 25, 1971, the sale must be rescinded by the return of the painting to M. However, pursuant to such rescission, M must not pay A more than \$5,000, the original consideration received by M.

Example (2). Assume the facts as stated in Example (1), except that A sold the painting on December 15, 1970, in an arm's length transaction to C, a bona fide purchaser who is not a disqualified person, for \$6,100. In addition, assume that the fair market value of the painting on March 25, 1971, is \$7,600. In order to correct the act of self-dealing under this subparagraph on March 25, 1971, A must pay M \$2,600 (\$7,600, the fair market value at the time of correction, less \$5,000, the amount which would have been returned to A if rescission had been required). Since the painting was sold to C in an arm's length transaction prior to correction, no rescission is required.

(3) *Sales to foundation.* (i) In the case of a sale of property to a private foundation by a disqualified person for cash, undoing the transaction includes, but is not limited to, requiring rescission of the sale where possible. However, in order to avoid placing the foundation in a position worse than that in which it would be if rescission were not required, the amount received from the disqualified person pursuant to the rescission shall be the greatest of the cash paid to the disqualified person, the fair market value of the property at the time of the original sale, or the fair market value of the property at the time of rescission. In addition to rescission, the disqualified person is required to pay over to the private foundation any net profits he realized after the original sale with respect to the consideration he received from the sale. Thus, for example, the disqualified person must pay over to the foundation any income derived by him from the cash he received from the original sale to the extent such income during the correction period exceeds the income derived by the foundation during the correction period from the property which the disqualified person originally transferred to the foundation.

(ii) If, prior to the end of the correction period, the foundation resells the property in an arm's length transaction to a bona fide purchaser who is not a disqualified person, no rescission is required. In such case, the disqualified person must pay over to the foundation the excess (if any) of the amount which would have been received from the disqualified person pursuant to subdivision (i) of this subparagraph if rescission had been required over the amount realized by the foundation upon resale of the property. In addition, the disqualified

person is required to pay over to the foundation any net profits he realized, as described in subdivision (i) of this subparagraph.

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On February 10, 1972, D, a disqualified person with respect to private foundation P, sells 100 shares of X stock to P for \$2,500 in a transaction which does not fall within any of the exceptions to self-dealing. The fair market value of the 100 shares of X stock on February 10, 1972, is \$3,200. On June 1, 1973, the 100 shares of X stock have a fair market value of \$2,900. From February 10, 1972, through June 1, 1973, P has received dividends of \$90 from the stock, and D has received interest of \$300 from the \$2,500 which D received as consideration for the stock. In order to correct the act of self-dealing under this subparagraph on June 1, 1973, the sale must be rescinded by the return of the stock to D. However, pursuant to such rescission, D must pay P \$3,200, the fair market value of the stock on the date of sale. In addition, D must pay P \$210, the amount of income derived by D during the correction period from the \$2,500 received from P (\$300 minus the income derived by P during the correction period from the stock sold to P (\$90)).

Example (2). Assume the facts as stated in Example (1), except that on September 1, 1972, P sells the 100 shares of X stock to E, a bona fide purchaser who is not a disqualified person, in an arm's length transaction for \$2,750. Assume further that P has not received any dividends from the stock prior to the sale to E, but that P receives interest of \$260 from the \$2,750 received as consideration for the stock for the period from September 1, 1972, to June 1, 1973. In order to correct the act of self-dealing under this subparagraph on June 1, 1973, D must pay P \$450 (\$3,200, the amount which would have been received from D if rescission had been required, less \$2,750, the amount realized by P from the sale to E). In addition, D must pay P \$40, the amount of income derived by D during the correction period from the \$2,500 received from P (\$300 minus the income derived by P during the correction period from the stock sold to P (\$260 from the \$2,750 received as consideration for the stock)). Since the stock was sold to E in an arm's length transaction prior to correction, no rescission is required.

(4) *Use of property by a disqualified person.* (i) In the case of the use by a disqualified person of property owned by a private foundation, undoing the transaction includes, but is not limited to, terminating the use of such property. In addition to termination, the disqualified person must pay the foundation—

(a) The excess (if any) of the fair market value of the use of the property over the amount paid by the disqualified person for such use until such termination, and

(b) The excess (if any) of the amount which would have been paid by the disqualified person for the use of the property on or after the date of such termination, for the period such disqualified person would have used the property (without regard to any further extensions or renewals of such period) if such termination had not occurred, over the fair market value of such use for such period.

In applying (a) of this subdivision the fair rental value per period in the case shall be the higher of the rate (that is, fair market value of the use of property of use of property other than money or fair interest rate in the case of use of money) at the time of the act of self-dealing (within the meaning of paragraph (e) (1) of this section) or such rate at the time of correction of such act of self-dealing. In applying (b) of this subdivision the fair market value of the use of property shall be the rate at the time of correction.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On January 1, 1972, private foundation S rented the third story of its office building to A, a disqualified person, for one year at an annual rent of \$10,000. Both S and A are on the calendar year basis. The fair rental value of such office space for a 1-year period on January 1, 1972, is \$12,000. On June 30, 1972, the fair rental value of such office space for a 1-year period is \$13,000. In order to correct the act of self-dealing under this subparagraph on June 30, 1972, A must terminate his use of the property. In addition, A must pay S \$1,500, the excess of \$6,500 (the fair rental value for 6 months as of June 30, 1972) over \$5,000 (the amount paid to S from January 1, 1972, to June 30, 1972).

Example (2). On January 1, 1972, private foundation H rented the fourth story of its office building to B, a disqualified person, for 1 year at an annual rent of \$10,000. Both H and B are on the calendar year basis. On January 1, 1973, B continues to rent the office space as a periodic tenant paying his rent monthly at an annual rate of \$10,000. The fair rental value of such office space for a 1-year period on January 1, 1972, is \$12,000, and as of January 1, 1973, is \$12,500 per month. As of December 31, 1973, the fair rental value of such office space is \$14,000 for a 1-year period and \$1,200 on a monthly basis. In order to correct his acts of self-dealing (within the meaning of paragraph (e) (1) of this section) under this subparagraph on December 31, 1973, B must terminate his use of the property. In addition, B must pay H \$9,000, \$4,000 for his use of the property for 1972 (the excess of \$14,000, the fair rental value for 1 year as of December 31, 1973, over \$10,000, the amount B paid H for his use of the property for 1972) and \$5,000 for his use of the property for 1973 (the excess of \$15,000, the fair rental value for 12 months as of January 1, 1973, over \$10,000, the amount B paid H for his use of the property for 1973).

Example (3). B, a substantial contributor to private foundation T, leases office space in a building owned by T for \$5,000 for 1 year beginning on November 10, 1972. The fair rental value of the building for a 1-year period on November 10, 1972, is \$4,000. On May 10, 1973, the fair rental value of the building for the remaining period of the lease is \$2,200. In order to correct the acts of self-dealing under this subparagraph on May 10, 1973, B and T must terminate the lease. In addition, B must pay T \$300 (the excess of \$2,500, the amount which would have been paid by B for the remaining period of the lease if it had not been terminated, over \$2,200, the fair rental value at the time of correction for the remaining period of the lease).

(5) *Use of property by a private foundation.* (i) In the case of the use by a private foundation of property

owned by a disqualified person, undoing the transaction includes, but is not limited to, terminating the use of such property. In addition to termination, the disqualified person must pay the foundation—

(a) The excess (if any) of the amount paid to the disqualified person for such use until such termination over the fair market value of the use of the property, and

(b) The excess (if any) of the fair market value of the use of the property, for the period the foundation would have used the property (without regard to any further extensions or renewals of such period) if such termination had not occurred, over the amount which would have been paid to the disqualified person on or after the date of such termination for such use for such period.

In applying (a) of this subdivision the fair market value of the use of property shall be the lesser of the rate (that is, fair rental value per period in the case of use of property other than money or fair interest rate in the case of use of money) at the time of the act of self-dealing (within the meaning of paragraph (e)(1) of this section) or such rate at the time of correction of such act of self-dealing. In applying (b) of this subdivision the fair market value of the use of property shall be the rate at the time of correction.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On July 1, 1972, private foundation X leases office space in a building owned by C, a disqualified person, for 1 year at an annual rent of \$6,000. Both X and C are on the calendar year basis. The fair rental value of such office space for a 1-year period as of July 1, 1972, is \$4,200. As of January 1, 1973, the fair rental value of such office space for a 1-year period is \$5,400, and as of June 30, 1973, the fair rental value of such office space for a 1-year period is \$4,800. In order to correct his acts of self-dealing (within the meaning of paragraph (e)(1) of this section) under this subparagraph on June 30, 1973, C must terminate X's use of the property. In addition, C must pay X \$1,500, \$900 for X's use of the office space for 1972 (the excess of \$3,000, the amount paid to C from July 1, 1972, through December 31, 1972, over \$2,100, the fair rental value for 6 months as of July 1, 1972) and \$600 for his use of the office space for 1973 (the excess of \$3,000, the amount paid to C from January 1, 1973, through June 30, 1973, over \$2,400, the fair rental value for 6 months as of June 30, 1973).

Example (2). On April 1, 1973, D, a disqualified person with respect to private foundation Y, loans \$100,000 to Y at 6 percent interest per annum. Both principal and interest are to be paid on April 1, 1978. The fair market value of the use of the money on April 1, 1973, is 9 percent per annum. On April 1, 1974, D and Y terminate the loan. On such date, the fair market value of the use of \$100,000 is 10 percent per annum. In order to correct the act of self-dealing on April 1, 1974, in addition to the termination of the loan from D to Y, D must pay Y \$16,000, the excess of \$40,000 (\$100,000 × 10 percent, the fair market value of the use determined at the time of correction, from April 1, 1974,

to April 1, 1978) over \$24,000 (the amount of interest Y would have paid to D from April 1, 1974, to April 1, 1978, if the loan from D to Y had not been terminated).

(6) *Payment of compensation to a disqualified person.* In the case of the payment of compensation by a private foundation to a disqualified person from the performance of personal services which are reasonable and necessary to carry out the exempt purpose of such foundation, undoing the transaction requires that the disqualified person pay to the foundation any amount which is excessive. However, termination of the employment or independent contractor relationship is not required.

(d) *Correction period—(1) In general.* For purposes of section 4941, the correction period shall begin with the date on which the act of self-dealing occurs and end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4941(b)(1). This period shall be extended by (i) any period in which a deficiency cannot be assessed under section 6213(a), and (ii) any other period which the Commissioner determines is reasonable and necessary to bring about correction of the act of self-dealing.

(2) *Extensions of correction period.* (i) Except as provided in subdivision (ii) of this subparagraph, the Commissioner ordinarily will not extend the correction period for an act of self-dealing unless the following factors are present:

(a) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is actively seeking in good faith to correct the act of self-dealing;

(b) Adequate corrective action cannot reasonably be expected to result during the unextended correction period; and

(c) The act of self-dealing appears to have been an isolated occurrence and it appears unlikely that similar acts of self-dealing will occur in the future.

(ii) If a claim for refund is filed with respect to a tax imposed under section 4941(a)(1) or (2) within the unextended correction period, the Commissioner shall extend the correction period during the pendency of the claim. If such claim is denied, the correction period will be extended by an additional 90 days to permit the disqualified person or foundation manager who filed such claim to file a suit or proceeding referred to in section 7422(b) with respect to such claim or to make the required correction. If such suit or proceeding is filed, the correction period will be extended during the pendency of such suit or proceeding.

(e) *Act of self-dealing—(1) Number of acts; use of money or property—(i) In general.* If a transaction between a private foundation and a disqualified person is determined to be self-dealing (as defined in section 4941(d)), for purposes of section 4941 there is generally one act of self-dealing. For the date on which such act is treated as occurring, see paragraph (a)(2) of this section. If, however, such transaction relates to the leasing of property, the lending of money

or other extension of credit, other use of money or property, or payment of compensation, the transaction will generally be treated (for purposes of section 4941 but not section 507 or 6684) as giving rise to an act of self-dealing on the day the transaction occurs plus an act of self-dealing on the first day of each taxable year or portion of a taxable year which is within the taxable period and which begins after the taxable year in which the transaction occurs.

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On August 31, 1970, X private foundation sells a building to A, a disqualified person with respect to X. A is on the calendar year basis. Under these circumstances, the transaction between A and X is one act of self-dealing which is treated for purposes of section 4941 as occurring on August 31, 1970.

Example (2). Assume the facts as stated in Example (1), except that, instead of selling the building to A, X leases the building to A for a term of 4 years beginning July 31, 1970, at an annual rental of \$12,000. The fair rental value of the building is also \$12,000 per annum as of July 31, 1970, and throughout the next 4 years. This transaction is corrected on September 30, 1973, in accordance with paragraph (c)(4) of this section. Under these circumstances, the transaction between A and X constitutes four separate acts of self-dealing, which are treated for purposes of section 4941 as occurring on July 31, 1970, January 1, 1971, January 1, 1972, and January 1, 1973. Consequently, there are four taxable periods. The first taxable period is from July 31, 1970, to September 30, 1973; the second is from January 1, 1971, to September 30, 1973; the third is from January 1, 1972, to September 30, 1973; and the fourth is from January 1, 1973, to September 30, 1973. For purposes of the initial taxes in section 4941(a), the amount involved is \$5,000 for the first taxable period, \$12,000 for the second, \$12,000 for the third, and \$9,000 for the fourth. The initial taxes to be paid by A are thus \$1,000 (\$5,000 × 5% × 4 taxable years or partial taxable years in the taxable period) for the first act; \$1,800 (\$12,000 × 5% × 3) for the second act; \$1,200 (\$12,000 × 5% × 2) for the third act; and \$450 (\$9,000 × 5% × 1) for the fourth act.

Example (3). Assume the facts as stated in the example in § 53.4941(d)-4(c)(4)(ii). If the debentures are held by Y after December 31, 1979, the extension of credit will not be excepted from the definition of an act of self-dealing, because a new act of self-dealing will be treated (for purposes of section 4941) as occurring on January 1, 1980.

(2) *Number of acts; joint participation by disqualified persons—(i) In general.* If joint participation in a transaction by two or more disqualified persons constitutes self-dealing (such as a joint sale of property to a private foundation or joint use of its money or property), such transaction shall generally be treated as a separate act of self-dealing with respect to each disqualified person for purposes of section 4941. For purposes of section 507 and, in the case of a foundation manager, section 6684, however, such transaction shall be treated as only one act of self-dealing. For purposes of this subparagraph, an individual

and one or more members of his family (within the meaning of section 4946(d)) shall be treated as one person, regardless of whether a member of the family is a disqualified person not only by reason of section 4946(a)(1)(D) but also by reason of another subparagraph of section 4946(a)(1). However, the liability imposed on a disqualified person and one or more members of his family for joint participation in an act of self-dealing shall be joint and several in accordance with section 4941(c)(1) and § 53.4941(c)-1(a).

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). X private foundation permits A, a substantial contributor to X, and his spouse, W, to use an automobile owned by X and normally used in its foundation activities to travel from State Z to State Y for a vacation on December 1, 1971. The automobile is then returned to X until December 21, 1971, when X again permits them to use the automobile to return to their home in State Z. Under these circumstances, there is one act of self-dealing on December 1, 1971, and a second act of self-dealing on December 21, 1971.

Example (2). Assume the facts as stated in Example (1), except that B joined A and W on their vacation and traveled with them both to and from State Y. B is a disqualified person with respect to X, but he is not related by blood or marriage to A or W. Assume also that X is not paid for the use of its automobile, but that the fair rental value during the correction period is \$300 (or \$100 per person) for a one-way trip between State Y and State Z. Under these circumstances, there are four acts of self-dealing, two with respect to A and W and two with respect to B. The amount involved with respect to A and W is \$200 for each act, and the amount involved with respect to B is \$100 for each act.

(f) *Fair market value.* For purposes of §§ 53.4941(a)-1 through 53.4941(f)-1, fair market value shall be determined pursuant to the provisions of § 53.4942(a)-2(c)(2).

§ 53.4941(f)-1 Effective dates.

(a) *In general.* Except as provided in paragraph (b) of this section, § 53.4941(a)-1 through 53.4941(e)-1 shall apply to all acts of self-dealing engaged in after December 31, 1969.

(b) *Transitional rules—(1) Commitments made prior to January 1, 1970, between private foundations and government officials.* Section 4941 shall not apply to a payment for one or more purposes described in section 170(c)(1) or (2)(B) made on or after January 1, 1970, by a private foundation to a government official, if such payment is made pursuant to a commitment entered into prior to such date, but only if such commitment was made in accordance with the foundation's usual practices and is reasonable in amount in light of the purposes of the payment. For purposes of this subparagraph, a commitment will be considered entered into prior to January 1, 1970, if prior to such date, the amount and nature of the payments to be made and the name of the payee were entered on the records of the payor, or were otherwise adequately

evidenced, or the notice of the payment to be received was communicated to the payee in writing.

(2) *Special transitional rule.* In the case of an act of self-dealing engaged in prior to the 30th day after [insert date on which notice of proposed rule making under section 4941 is published in the FEDERAL REGISTER], section 4941(a)(1) shall not apply if—

(i) The participation (as defined in § 53.4941(a)-1(a)(3)) by the disqualified person in such act is not willful and is due to reasonable cause (as defined in § 53.4941(a)-1(b)(4) and (5)),

(ii) The transaction would not be a prohibited transaction if section 503(b) applied, and

(iii) The act is corrected (within the meaning of § 53.4941(e)-1(c)) within a period ending 90 days after [insert date on which final regulations under section 4941 are filed by the Office of the Federal Register], extended (prior to the expiration of the original period) by any period which the Commissioner determines is reasonable and necessary (within the meaning of § 53.4941(e)-1(d)) to bring about correction of the act of self-dealing.

[FR Doc. 71-7735 Filed 6-4-71; 8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Handling

Consideration is being given to the following proposal submitted by the Peach Commodity Committee, established pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917; 35 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal is to further amend § 917.421 (Peach Reg. 1; 36 F.R. 8671; 36 F.R. 9765) to specify minimum sizes, by name, for additional varieties of peaches and raise the minimum size requirements for varieties, not specifically named in the regulation, shipped on and after July 1, 1971. Such amendment would recognize that the later maturing varieties are larger in size at maturity than the earlier varieties and limitations should be set accordingly.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, not later than the seventh day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will

be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

As proposed to be amended the said § 917.421 reads as follows:

§ 917.421 Peach Regulation 1.

(a) Order: During the period June 21, 1971, through October 31, 1971, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade;

(2) Any package or container of Arm Gold, Pat's Pride, Springtime, or Royal Gold variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the lug box; or

(ii) Such peaches when packed in any container, other than a No. 22D standard lug box, measure not less than 2 3/16 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

(3) Any package or container of Robin, Babcock, Blazing Gold, Cardinal, Dixie, Gold Dust, Merrill Gemfree, Royal May, or Early Coronet variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 75 peaches in the box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box, or a No. 12B standard peach box measure not less than 2 1/4 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(4) Any package or container of Coronet, Redhaven, Regina, Red Top, Merrill Gem, or Gaiety variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2 3/16 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

owned by a disqualified person, undoing the transaction includes, but is not limited to, terminating the use of such property. In addition to termination, the disqualified person must pay the foundation—

(a) The excess (if any) of the amount paid to the disqualified person for such use until such termination over the fair market value of the use of the property, and

(b) The excess (if any) of the fair market value of the use of the property, for the period the foundation would have used the property (without regard to any further extensions or renewals of such period) if such termination had not occurred, over the amount which would have been paid to the disqualified person on or after the date of such termination for such use for such period.

In applying (a) of this subdivision the fair market value of the use of property shall be the lesser of the rate (that is, fair rental value per period in the case of use of property other than money or fair interest rate in the case of use of money) at the time of the act of self-dealing (within the meaning of paragraph (e)(1) of this section) or such rate at the time of correction of such act of self-dealing. In applying (b) of this subdivision the fair market value of the use of property shall be the rate at the time of correction.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On July 1, 1972, private foundation X leases office space in a building owned by C, a disqualified person, for 1 year at an annual rent of \$6,000. Both X and C are on the calendar year basis. The fair rental value of such office space for a 1-year period as of July 1, 1972, is \$4,200. As of January 1, 1973, the fair rental value of such office space for a 1-year period is \$5,400, and as of June 30, 1973, the fair rental value of such office space for a 1-year period is \$4,800. In order to correct his acts of self-dealing (within the meaning of paragraph (e)(1) of this section) under this subparagraph on June 30, 1973, C must terminate X's use of the property. In addition, C must pay X \$1,500, \$900 for X's use of the office space for 1972 (the excess of \$3,000, the amount paid to C from July 1, 1972, through December 31, 1972, over \$2,100, the fair rental value for 6 months as of July 1, 1972) and \$600 for his use of the office space for 1973 (the excess of \$3,000, the amount paid to C from January 1, 1973, through June 30, 1973, over \$2,400, the fair rental value for 6 months as of June 30, 1973).

Example (2). On April 1, 1973, D, a disqualified person with respect to private foundation Y, loans \$100,000 to Y at 6 percent interest per annum. Both principal and interest are to be paid on April 1, 1978. The fair market value of the use of the money on April 1, 1973, is 9 percent per annum. On April 1, 1974, D and Y terminate the loan. On such date, the fair market value of the use of \$100,000 is 10 percent per annum. In order to correct the act of self-dealing on April 1, 1974, in addition to the termination of the loan from D to Y, D must pay Y \$16,000, the excess of \$40,000 (\$100,000 × 10 percent, the fair market value of the use determined at the time of correction, from April 1, 1974,

to April 1, 1978) over \$24,000 (the amount of interest Y would have paid to D from April 1, 1974, to April 1, 1978, if the loan from D to Y had not been terminated).

(6) **Payment of compensation to a disqualified person.** In the case of the payment of compensation by a private foundation to a disqualified person from the performance of personal services which are reasonable and necessary to carry out the exempt purpose of such foundation, undoing the transaction requires that the disqualified person pay to the foundation any amount which is excessive. However, termination of the employment or independent contractor relationship is not required.

(d) **Correction period—(1) In general.** For purposes of section 4941, the correction period shall begin with the date on which the act of self-dealing occurs and end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4941(b)(1). This period shall be extended by (i) any period in which a deficiency cannot be assessed under section 6213(a), and (ii) any other period which the Commissioner determines is reasonable and necessary to bring about correction of the act of self-dealing.

(2) **Extensions of correction period.** (i) Except as provided in subdivision (ii) of this subparagraph, the Commissioner ordinarily will not extend the correction period for an act of self-dealing unless the following factors are present:

(a) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is actively seeking in good faith to correct the act of self-dealing;

(b) Adequate corrective action cannot reasonably be expected to result during the unextended correction period; and

(c) The act of self-dealing appears to have been an isolated occurrence and it appears unlikely that similar acts of self-dealing will occur in the future.

(ii) If a claim for refund is filed with respect to a tax imposed under section 4941(a)(1) or (2) within the unextended correction period, the Commissioner shall extend the correction period during the pendency of the claim. If such claim is denied, the correction period will be extended by an additional 90 days to permit the disqualified person or foundation manager who filed such claim to file a suit or proceeding referred to in section 7422(b) with respect to such claim or to make the required correction. If such suit or proceeding is filed, the correction period will be extended during the pendency of such suit or proceeding.

(e) **Act of self-dealing—(1) Number of acts; use of money or property—(i) In general.** If a transaction between a private foundation and a disqualified person is determined to be self-dealing (as defined in section 4941(d)), for purposes of section 4941 there is generally one act of self-dealing. For the date on which such act is treated as occurring, see paragraph (a)(2) of this section. If, however, such transaction relates to the leasing of property, the lending of money

or other extension of credit, other use of money or property, or payment of compensation, the transaction will generally be treated (for purposes of section 4941 but not section 507 or 6684) as giving rise to an act of self-dealing on the day the transaction occurs plus an act of self-dealing on the first day of each taxable year or portion of a taxable year which is within the taxable period and which begins after the taxable year in which the transaction occurs.

(ii) **Examples.** The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On August 31, 1970, X private foundation sells a building to A, a disqualified person with respect to X. A is on the calendar year basis. Under these circumstances, the transaction between A and X is one act of self-dealing which is treated for purposes of section 4941 as occurring on August 31, 1970.

Example (2). Assume the facts as stated in Example (1), except that, instead of selling the building to A, X leases the building to A for a term of 4 years beginning July 31, 1970, at an annual rental of \$12,000. The fair rental value of the building is also \$12,000 per annum as of July 31, 1970, and throughout the next 4 years. This transaction is corrected on September 30, 1973, in accordance with paragraph (c)(4) of this section. Under these circumstances, the transaction between A and X constitutes four separate acts of self-dealing, which are treated for purposes of section 4941 as occurring on July 31, 1970, January 1, 1971, January 1, 1972, and January 1, 1973. Consequently, there are four taxable periods. The first taxable period is from July 31, 1970, to September 30, 1973; the second is from January 1, 1971, to September 30, 1973; the third is from January 1, 1972, to September 30, 1973; and the fourth is from January 1, 1973, to September 30, 1973. For purposes of the initial taxes in section 4941(a), the amount involved is \$5,000 for the first taxable period, \$12,000 for the second, \$12,000 for the third, and \$9,000 for the fourth. The initial taxes to be paid by A are thus \$1,000 (\$5,000 × 5% × 4 taxable years or partial taxable years in the taxable period) for the first act; \$1,800 (\$12,000 × 5% × 3) for the second act; \$1,200 (\$12,000 × 5% × 2) for the third act; and \$450 (\$9,000 × 5% × 1) for the fourth act.

Example (3). Assume the facts as stated in the example in § 53.4941(d)-4(c)(4)(ii). If the debentures are held by Y after December 31, 1979, the extension of credit will not be excepted from the definition of an act of self-dealing, because a new act of self-dealing will be treated (for purposes of section 4941) as occurring on January 1, 1980.

(2) **Number of acts; joint participation by disqualified persons—(i) In general.** If joint participation in a transaction by two or more disqualified persons constitutes self-dealing (such as a joint sale of property to a private foundation or joint use of its money or property), such transaction shall generally be treated as a separate act of self-dealing with respect to each disqualified person for purposes of section 4941. For purposes of section 507 and, in the case of a foundation manager, section 6684, however, such transaction shall be treated as only one act of self-dealing. For purposes of this subparagraph, an individual

and one or more members of his family (within the meaning of section 4946(d)) shall be treated as one person, regardless of whether a member of the family is a disqualified person not only by reason of section 4946(a)(1)(D) but also by reason of another subparagraph of section 4946(a)(1). However, the liability imposed on a disqualified person and one or more members of his family for joint participation in an act of self-dealing shall be joint and several in accordance with section 4941(c)(1) and § 53.4941(c)-1(a).

(ii) **Examples.** The provisions of this subparagraph may be illustrated by the following examples:

Example (1). X private foundation permits A, a substantial contributor to X, and his spouse, W, to use an automobile owned by X and normally used in its foundation activities to travel from State Z to State Y for a vacation on December 1, 1971. The automobile is then returned to X until December 21, 1971, when X again permits them to use the automobile to return to their home in State Z. Under these circumstances, there is one act of self-dealing on December 1, 1971, and a second act of self-dealing on December 21, 1971.

Example (2). Assume the facts as stated in Example (1), except that B joined A and W on their vacation and traveled with them both to and from State Y. B is a disqualified person with respect to X, but he is not related by blood or marriage to A or W. Assume also that X is not paid for the use of its automobile, but that the fair rental value during the correction period is \$300 (or \$100 per person) for a one-way trip between State Y and State Z. Under these circumstances, there are four acts of self-dealing, two with respect to A and W and two with respect to B. The amount involved with respect to A and W is \$200 for each act, and the amount involved with respect to B is \$100 for each act.

(f) **Fair market value.** For purposes of §§ 53.4941(a)-1 through 53.4941(f)-1, fair market value shall be determined pursuant to the provisions of § 53.4942(a)-2(c)(2).

§ 53.4941(f)-1 Effective dates.

(a) **In general.** Except as provided in paragraph (b) of this section, §§ 53.4941(a)-1 through 53.4941(e)-1 shall apply to all acts of self-dealing engaged in after December 31, 1969.

(b) **Transitional rules—(1) Commitments made prior to January 1, 1970, between private foundations and government officials.** Section 4941 shall not apply to a payment for one or more purposes described in section 170(c)(1) or (2)(B) made on or after January 1, 1970, by a private foundation to a government official, if such payment is made pursuant to a commitment entered into prior to such date, but only if such commitment was made in accordance with the foundation's usual practices and is reasonable in amount in light of the purposes of the payment. For purposes of this subparagraph, a commitment will be considered entered into prior to January 1, 1970, if prior to such date, the amount and nature of the payments to be made and the name of the payee were entered on the records of the payor, or were otherwise adequately

evidenced, or the notice of the payment to be received was communicated to the payee in writing.

(2) **Special transitional rule.** In the case of an act of self-dealing engaged in prior to the 30th day after insert date on which notice of proposed rule making under section 4941 is published in the FEDERAL REGISTER, section 4941(a)(1) shall not apply if—

(i) The participation (as defined in § 53.4941(a)-1(a)(3)) by the disqualified person in such act is not willful and is due to reasonable cause (as defined in § 53.4941(a)-1(b)(4) and (5)),

(ii) The transaction would not be a prohibited transaction if section 503(b) applied, and

(iii) The act is corrected (within the meaning of § 53.4941(e)-1(c)) within a period ending 90 days after insert date on which final regulations under section 4941 are filed by the Office of the Federal Register, extended (prior to the expiration of the original period) by any period which the Commissioner determines is reasonable and necessary (within the meaning of § 53.4941(e)-1(d)) to bring about correction of the act of self-dealing.

[FR Doc. 71-7735 Filed 6-4-71; 8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Handling

Consideration is being given to the following proposal submitted by the Peach Commodity Committee, established pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917; 35 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal is to further amend § 917.421 (Peach Reg. 1; 36 F.R. 8671; 36 F.R. 9765) to specify minimum sizes, by name, for additional varieties of peaches and raise the minimum size requirements for varieties, not specifically named in the regulation, shipped on and after July 1, 1971. Such amendment would recognize that the later maturing varieties are larger in size at maturity than the earlier varieties and limitations should be set accordingly.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, not later than the seventh day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will

be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

As proposed to be amended the said § 917.421 reads as follows:

§ 917.421 Peach Regulation 1.

(a) Order: During the period June 21, 1971, through October 31, 1971, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade;

(2) Any package or container of Arm Gold, Pat's Pride, Springtime, or Royal Gold variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the lug box; or

(ii) Such peaches when packed in any container, other than a No. 22d standard lug box, measure not less than 2 3/16 inches in diameter as measured by a rigid ring; *Provided*, That not more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

(3) Any package or container of Robin, Babcock, Blazing Gold, Cardinal, Dixie, Gold Dust, Merrill Gemfree, Royal May, or Early Coronet variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 75 peaches in the box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box, or a No. 12B standard peach box measure not less than 2 1/4 inches in diameter as measured by a rigid ring; *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(4) Any package or container of Coronet, Redhaven, Regina, Red Top, Merrill Gem, or Gaiety variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2 3/8 inches in diameter as measured by a rigid ring; *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(5) Any package or container of Alamar, Carnival, July Elberta (Early Elberta, Kim Elberta, and Socala), Fay Elberta, Regular Elberta, Fayette, Fiesta, Fortyniner, John Gee, J. H. Hale, Halloween, Pacifica, Pageant, Summerset, Suncrest, Red Globe, or Rio Oso Gem variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the peach box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than $2\frac{3}{16}$ inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(b) During the period June 21, 1971, through June 30, 1971, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraph (2), (3), (4), or (5) of paragraph (a) of this section unless:

(1) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the lug box; or

(2) Such peaches when packed in any container, other than a No. 22D standard lug box, measure not less than $2\frac{3}{16}$ inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

(c) During the period July 1, 1971, through October 31, 1971, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraph (2), (3), (4), or (5) of paragraph (a) of this section unless:

(1) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the lug box;

(2) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the peach box; or

(3) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than $2\frac{3}{16}$ inches in diameter as measured by a rigid ring: *Provided*, That more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

(d) Terms used in the amended marketing agreement and order shall, when

used herein have the same meaning as given to the respective term in said amended marketing agreement and order: "U.S. No. 1", and "standard pack," and shall have the same meaning as when used in the U.S. Standards for Peaches (§§ 51.1210-51.1223 of this title); "No. 22D standard lug box" and "No. 12B standard peach box" shall have the same meaning as set forth in section 43601 of the Agricultural Code of California; and "diameter" shall mean the distance through the widest portion of the cross section of a peach at right angles to a line running from the stem to the blossom end.

Dated: June 2, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-7906 Filed 6-4-71; 8:51 am]

[7 CFR Part 1094]

MILK IN NEW ORLEANS, LA., MARKETING AREA

Notice of Proposed Termination of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) the termination of certain provisions of the order regulating the handling of milk in the New Orleans, La., marketing area effective September 1 is being considered.

All persons who desire to submit written data, views, or arguments in connection with the proposed termination should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be terminated are as follows:

1. Section 1094.19 in its entirety.

2. In § 1094.22(k)(2), the words "through 1094.74."

3. In § 1094.30(a)(1), the words "and for each month of the base operating period, the total quantities of base milk and excess milk."

4. In § 1094.30(b), the words "and base and excess milk" appearing at the end of the first sentence of said subparagraph.

5. In § 1094.31(a)(2), the words "and for the base operating period the total pounds of base and excess milk."

6. In § 1094.31(b)(2)(i), the words "with separate totals for base and excess milk for the base operating period."

7. In § 1094.72(b), the words "in the months of August through January."

8. Sections 1094.73 and 1094.74 in their entirety.

9. In § 1094.75, the words "base price and excess price" immediately following the words "uniform price."

10. In § 1094.76(a), the words "and the uniform price for base milk."

11. In § 1094.77, paragraph (b) in its entirety.

12. In § 1094.77(c), the words "through 1094.74."

13. In § 1094.80(a)(2), the words "or to §§ 1094.73 and 1094.74 as the case may be."

14. In § 1094.80(b)(2), subdivision (ii) in its entirety.

15. In § 1094.80(c)(2), subdivision (ii) in its entirety.

16. Sections 1094.90, 1094.91, 1094.92, 1094.93, and 1094.94 in their entirety.

The proposed termination of the provisions specified would eliminate from the order the base-excess plan currently used during the months of February to July as a means of distributing to producers returns for their milk.

Statement of considerations. A cooperative association which represents a majority of the producers supplying the New Orleans market has requested the termination of the base-excess plan of the order. The association contends that the plan no longer tends to effectuate the declared policy of the Act. It is their contention that producers have overresponded to the plan in that production, particularly in the base-forming months, greatly exceeds the market's requirements for Class I milk. They state that elimination of the base-excess plan and the attendant "race for base" in the fall months will bring supplies more nearly into line with the market's requirements.

They request that the proposed termination order be issued at the earliest possible date so that producers will have ample time to arrange their production schedule prior to September 1, the date on which the base-forming period otherwise would commence.

Signed at Washington, D.C., on June 2, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-7905 Filed 6-4-71; 8:51 am]

DEPARTMENT OF COMMERCE

U.S. Travel Service

[15 CFR Part 1200]

ISSUANCE OF GRANTS TO PROMOTE TRAVEL TO STATES OR THEIR POLITICAL SUBDIVISIONS BY FOREIGN RESIDENTS

Notice of Proposed Rule Making

On February 2, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 1541), stating

that the U.S. Travel Service, Department of Commerce, was considering proposed regulations prescribing the procedures for the administration of the Federal Matching Grant program authorized by the amendments made by Public Law 91-477 to the International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.). That notice also invited public comment on the proposed regulations.

The purpose of this notice is to withdraw the proposed regulations set forth in that notice and substitute the proposed regulations set forth below.

All persons who desire to submit written views or comments for consideration in connection with the issuance of these regulations, should file them in duplicate with the Assistant Secretary of Commerce for Tourism, U.S. Travel Service, U.S. Department of Commerce, Washington, D.C. 20230, within 20 days of the date of publication of this notice in the FEDERAL REGISTER.

Sec.	
1200.1	Background and purpose.
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AUTHORITY: The provisions of this Part 1200 issued pursuant to Public Law 87-63, as amended by Public Law 88-426 and Public Law 91-477; Department of Commerce Organization Order 10-7 of November 12, 1970.

§ 1200.1 Background and purpose.

The regulations in this part are issued under the authority of the International Travel Act of 1961, as amended. The purpose of the Act is to strengthen the domestic and foreign commerce of the United States; promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the States, as defined in § 1200.2; and facilitate international travel in general. On October 21, 1970, the Act was amended by Public Law 91-477. One of the amendments made to the Act by Public Law 91-477 authorized the U.S. Travel Service to make matching Federal grants to States or their political subdivisions, or private or public nonprofit organizations, in an effort to encourage foreign residents to visit the United States and to upgrade and improve the tourist host and reception facilities in this country thereby furthering the stated purposes of the Act.

§ 1200.2 Definitions.

(a) "Act" means the International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.).

(b) "Assistant Secretary" means the Assistant Secretary of Commerce for Tourism or such official as may be designated to act in his behalf.

(c) "State" means one of the several States of the United States, the District of Columbia, the Commonwealth of

Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(d) "Political subdivision" means a unit of local government, including specifically, a county, municipality, city, town, township, or other special district created by or pursuant to law.

(e) "Private or public non-profit organizations" means an institution, organization, or association, either private or public, which has tax exempt status as defined in section 501(a) of the Internal Revenue Code.

(f) "Applicant" means a State or political subdivision or combination thereof, or private or public nonprofit organization seeking a Federal grant for a travel promotional project.

(g) "Travel promotional project" means an activity or program designed to enhance a State or political subdivision as a desired travel destination of residents of foreign countries or to inform such residents and to encourage them to visit a State or political subdivision through such means as:

(1) Preparing and disseminating materials, including brochures, leaflets, booklets, posters, and displays featuring domestic regional and local attractions in appropriate foreign languages in foreign cities and countries that constitute a potential travel market to the States;

(2) Carrying out either singly or in conjunction with other States and/or other political subdivisions and/or with U.S. Travel Service, special promotions of facilities, attractions, events and services of an area by means of exhibits, shows, films, etc.;

(3) Planning, developing and sponsoring advertising campaigns in foreign countries to inform and encourage foreign residents to visit;

(4) Undertaking projects to upgrade and improve tourist facilities and services to better serve the foreign resident;

(5) Carrying out other projects that indicate a high probability of increasing foreign tourism;

(h) "Matching funds" means funds that are provided by the State or political subdivision or by a combination thereof, or from other non-Federal sources and may include fees, contributions, donations, gifts of money, and special user charges from persons and private profit or nonprofit firms, organizations, or institutions.

§ 1200.3 Applications for Federal grant for travel promotional projects.

(a) Each applicant seeking a Federal grant for a travel promotional project shall file an application, as further specified below, with the Assistant Secretary.

(b) Every application, exhibit, or enclosure, except where specifically waived by the Assistant Secretary, shall be in quadruplicate, duly authenticated and referenced, and addressed to the Assistant Secretary of Commerce for Tourism, U.S. Travel Service, U.S. Department of Commerce, Washington, D.C. 20230.

(c) Every application shall be on USTS Form, "Request for Travel Promo-

tion Project Grant," which is available from the U.S. Travel Service. This application form incorporates assurances of compliance with the nondiscrimination requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1 et seq.) and implementing regulations (§ 8.1 et seq. of this title). Also, the form shall contain the date, address, and official title of the applicant and shall be signed by an authorized representative.

(d) Every application, except where specifically waived by the Assistant Secretary, shall be accompanied by the following exhibits:

(1) *Exhibit No. 1.* A statement setting forth in detail the current level of tourism in area in terms of (i) numbers of tourists in area, both foreign and domestic; (ii) impact of tourism on area economy (i.e., employment and income); and (iii) current efforts to develop and promote tourism in area.

(2) *Exhibit No. 2.* A project statement setting forth in detail the existing need for Federal assistance, the goals and objective thereof, in terms of tourism receipts and their effects on area jobs and income, the specific methods proposed for accomplishing these objectives in terms of personnel and funds and the procedures that will be used to evaluate the project.

(3) *Exhibit No. 3.* A statement setting forth in detail the budget proposed for the project, together with procedures for fiscal control, funding, accounting and auditing to assure proper disbursement of funds paid to the applicant.

(4) *Exhibit No. 4.* Documentation establishing that the applicant has coordinated the travel promotion project with other States (when regional cooperation is desirable) and with other publicly supported activities within the States or political subdivision, as appropriate, and the extent and manner in which such coordination has been carried out by identifying such projects and activities and indicating how any duplication of other travel promotion project in the area has been avoided.

(5) *Exhibit No. 5.* Certification by the Governor of the State or the chief political officer of the political subdivision or the president of the private or public nonprofit organization, as the case may be, that the applicant has—

(i) Established adequate standards and rules to insure that no officer or employee of the State or political subdivision or their designated agencies, or private or public organization, shall receive compensation from sources other than his employer for tourism development or promotional services for which funds are provided under the Act and that no such officer or employee shall otherwise maintain any private interest in conflict with his public responsibility. Each applicant will furnish a copy of the standards and rules which are established to avoid any conflict of interest in connection with the administration of a grant which may be made under the Act. Such rules shall clearly set forth the standards and procedures which officers, employees, and consultants can follow to

avoid any conflict of interest.

(ii) Determined that matching funds will be available from States or other non-Federal sources. In addition, each applicant shall indicate the basis for the determination by identifying such sources.

(iii) Determined that such travel promotional project supported by a grant under the Act does not provide or arrange transportation for, or accommodations to, persons traveling between foreign countries and the States in competition with any private business engaged in providing or arranging for such transportation and accommodations.

(iv) Planned no services specially related to a particular firm or company, public work or other capital project except insofar as the services are of general concern to the industry and commerce of the State or political subdivision. If the applicant has planned services which are specially related to a particular firm or company, public work or other capital project, a statement shall be furnished by the applicant to the Assistant Secretary describing such services and the basis for the determination that such services are of general concern to the industry and commerce of the State or political subdivision.

§ 1200.4 Action on application.

(a) Upon receipt of an application, the Assistant Secretary shall designate an employee of the U.S. Travel Service who will investigate the application and accompanying exhibits for compliance with the provisions of § 1200.3 and report his findings with respect thereto to the Assistant Secretary.

(b) The Assistant Secretary, within a reasonable time after receipt of the report referred to in paragraph (a) of this section, may authorize a grant to the applicant provided he finds that (1) the travel promotional project is designed to carry out the purposes of the Act; (2) the project will facilitate and encourage travel to the State or political subdivision or combination thereof by foreign residents; and (3) matching funds will be available from State or other non-Federal sources.

(c) In no event shall the amount of any grant made under the regulations of this part for any travel promotion project exceed 50 percent of the total cost of the project.

§ 1200.5 Grant accounting and records.

(a) Accounting for grant funds shall consist of any generally accepted accounting system and internal control procedures, including provisions for audit, provided that they meet the following requirements:

(1) Separate ledger accounts are established for each grant or grant project which conforms to or permits ready identification with grant budget categories. Such accounts should provide separate and specific accountability of receipts, expenditures, and balances. Separate accounts may be maintained for each annual period, but are not required.

(2) Supporting records of project expenditures are maintained in sufficient detail and itemization to show the exact nature of each expenditure. Such records should clearly indicate to which major budget category and subitems within the category an expenditure is charged.

(3) Reimbursements of travel expenses are supported by vouchers containing the signature of the individual performing the travel and the person authorized by the applicant to approve such travel. Vouchers should show the starting point and destination of travel, dates of travel, itemization of amounts expended for transportation and a statement of the amounts expended for transportation and a statement of the amount of per diem due (not to exceed the per diem authorized by the State or political subdivision or the rate of \$25 per day (whichever is less)).

(4) Each expenditure is referenced to a supporting purchase order, contract, voucher, invoice, or bill, properly approved. Special voucher forms are not necessary since ordinarily the documents used by a designated agency to support expenditures from its own funds will be sufficient. Whenever possible, separate orders should be issued for purchases charged to grant funds in order that bills or invoices will not contain items charged to other funds.

(5) Grant number, account number, date, and expense classification are identified on invoices or vouchers charged to other funds.

(6) Payroll authorizations are maintained to effect control on salaries and wages charged against grant funds. These authorizations shall be approved by the appropriate authority in the State or political subdivision.

(7) Some objective evidence of time devoted to the grant project is maintained. As a minimum, a statement should be prepared at the end of each pay period showing the names of employees, the percentage of time each devoted to grant projects, the gross amounts of salaries and approval by appropriate authority in the designated agency.

(8) Adequate records are maintained supporting charges for fringe benefits, such as pensions, retirement, social security tax (FICA), etc., when included in the project budgets.

(9) All canceled checks are filed and are readily accessible for examination. When cash disbursements are made, they must be supported by receipts approved by appropriate authority.

(10) The accounting system is adequate to permit immediate identification of project balances and funds in general accounts, or separate bank accounts may be established for project funds.

(11) Inventory records are maintained for all equipment purchased with grant funds.

(12) The applicant receiving Federal funds under the Act shall require all subcontractors to provide documentation covering receipt and expenditure of grant and matching funds for which the designated agency is held responsible.

(13) The grant accounting system provides for adequate internal audits and the use of written policies and instructions defining accounting policies, procedures and controls.

(14) All income from project activity (sale of publications, entrance fees, user charges, etc.) is accounted for and clearly identified in financial reports.

§ 1200.6 Reports.

Financial reports and descriptive reports will be required as the Assistant Secretary may specify. Each applicant is also required to submit to the Assistant Secretary within 90 days after the official termination date of the grant (a) a final financial report, and (b) a descriptive report describing and evaluating the project accomplishments.

§ 1200.7 Inspection and audit.

(a) The Assistant Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, any books, documents, papers, and records of the designated agency that are pertinent to Federal assistance received under the Act.

(b) Financial records must be kept on file for a minimum of 3 years following the termination of the grant. The required retention period may be extended by written notification by the Assistant Secretary.

§ 1200.8 Publications.

(a) If the applicant desires to publish information resulting from the grant, the general provisions accompanying the grant will contain regulations regarding acknowledgment and disclaimer requirements.

(b) A determination as to responsibilities will be made on a case-by-case basis; however, the Government reserves a non-exclusive license to use and reproduce for Government purposes, without payment, any publishable matter or information collected, including copyrighted material, arising out of the applicant's activities.

§ 1200.9 Collection of information.

If the applicant collects information from the public on its own initiative in connection with a research or other general purpose project, it will not, without prior written approval of the Assistant Secretary, in any way represent that the information is being collected by or for a Federal agency.

§ 1200.10 Termination.

(a) Grants may be terminated, in whole or in part, by the Assistant Secretary if he finds that any of the following conditions exist:

(1) The applicant, or those with whom such agency has contracted or subcontracted, is not complying with the provisions of the Act, with the regulations in this part, or with any of the provisions of the grant; or

(2) Any funds paid to the applicant under the provisions of the Act or the

regulations in this part have been lost, misapplied, or otherwise diverted from or improperly used or expended for other than the purposes for which they were paid.

(b) The Assistant Secretary may, in his sole discretion, terminate the grant, in whole or in part, if he finds that any of the conditions described in paragraph (a) of this section exist. Such termination shall be effective 30 days after the mailing of a written notice of termination to the applicant.

§ 1200.11 Repayment.

In the event that the grant is terminated, any funds that have been paid to the applicant by the U.S. Travel Service which have not been expended or contracted for upon receipt of the notice of termination shall be repaid to the Assistant Secretary within 30 days of such notice.

§ 1200.12 Federal coordination.

The Assistant Secretary may, prior to approving any travel promotional project, take such steps as he deems appropriate, to coordinate such project with other Federal agencies or seek the advice of such committees as may be established for the purpose of reviewing tourist development or promotion plans and programs.

Done in Washington, D.C., this 26th day of May 1971.

C. LANGHORNE WASHBURN,
Assistant Secretary of Commerce
for Tourism, U.S.
Travel Service, Department of
Commerce.

[FR Doc.71-7884 Filed 6-4-71; 8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Resinous and Polymeric Coatings

Notice was given in the FEDERAL REGISTER of May 29, 1968 (33 F.R. 7850), that a petition (FAP 8B2295) was filed by E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898, proposing that paragraph (b)(3)(xxv) of § 121.2514 *Resinous and polymeric coatings* be amended to lower from 300 to 100 the minimum centistokes viscosity of silicone release agents. The petitioner subsequently revised the petition to limit the lower viscosity silicone release agents for use only on metal substrates.

Having considered the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that in addition to the proposed amendments, § 121.2514 should be

[21 CFR Part 130]

CERTAIN INTRAUTERINE DEVICES FOR HUMAN USE

Proposed Policy Statement Regarding New-Drug Status

The Commissioner of Food and Drugs proposes to establish the following policy regarding new-drug status of certain intrauterine devices for contraceptive use in humans. Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (g), (p), 505, 701(a), 52 Stat. 1041-42, as amended, 1052-53, as amended, 1055; 21 U.S.C. 321 (g), (p), 355, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new section be added to Part 130, Subpart A, as follows:

§ 130.____ Certain intrauterine devices for human use for the purpose of contraception.

(a) The Food and Drug Administration has become aware of the increased clinical use for the purpose of contraception of intrauterine devices that incorporate heavy metals or other substances (usually drugs). The amount of local irritation has been reported as being correlated, in animal studies, to the efficacy of such implants in achieving their contraceptive effect. Also, several investigators have reported different pregnancy rates which appear to be dependent on the type of metal used and/or the amount of exposed surface of the metal. Drugs have been incorporated with otherwise inert intrauterine devices to increase the contraceptive effect, decrease adverse reactions, or provide increased medical acceptability.

(b) After considering these and other factors, the Commissioner concludes that intrauterine implants used for the purpose of contraception and incorporating heavy metals, drugs or other added substances are not generally recognized as safe and effective for contraception and are new drugs within the meaning of section 201(p) of the Federal Food, Drug and Cosmetic Act. A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD 1571 set forth in § 130.3(a)(2)) must therefore be submitted to cover clinical investigations to obtain evidence that such preparations are safe and effective for this use. An approved new-drug application is required for the marketing of such articles.

(c) This section does not apply to intrauterine devices that contain a component, such as barium, added exclusively for the purpose of visualization by X-ray.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane,

amended to reflect the identity of the silicone release agents that have been shown to be toxicologically safe and to clarify the identity of the related item "Silicones, as the basic polymers, and their curing catalysts."

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that § 121.2514(b)(3) be amended:

1. By revising the item "Silicones (not less than 300 * * * in subdivision (xxv))."

2. By adding to subdivision (xxv) a new item "Silicones (not less than 100 * * *".

3. By revising subdivision (xxviii). The affected portions would read as follows:

§ 121.2514 *Resinous and polymeric coatings.*

(b) * * *

(3) * * *

(xxv) * * *

Silicones (not less than 300 centistokes viscosity): Dimethylpolysiloxanes and/or methylphenylpolysiloxanes. The methylphenylpolysiloxanes contain not more than 2.0 percent by weight of cyclosiloxanes having up to and including 4 siloxy units.

Silicones (not less than 100 centistokes viscosity): Dimethylpolysiloxanes and/or methylphenylpolysiloxanes limited to use only on metal substrates. The methylphenylpolysiloxanes contain not more than 2.0 percent by weight of cyclosiloxanes having up to and including 4 siloxy units.

(xxviii) Silicones and their curing catalysts:

(a) Silicones as the basic polymers: Siloxane resins originating from methyl hydrogen polysiloxane, dimethyl polysiloxane, and methylphenyl polysiloxane.

(b) Curing (cross-linking) catalysts for silicones (the maximum amount of tin catalyst used shall be that required to effect optimum cure but shall not exceed one part of tin per 100 parts of siloxane resins solids):

Dibutyltin dilaurate.
Stannous oleate.
Tetrabutyl titanate.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 26, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-7840 Filed 6-4-71; 8:46 am]

Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 26, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-7841 Filed 6-4-71; 8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 71-EA-34]

HARTZELL PROPELLERS

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Hartzell type airplane propellers.

There have been reports of propellers overspeeding because of the loss of the air charge in the cylinder. Since this condition is likely to exist or develop in propellers of similar type design, it is proposed to issue an airworthiness directive which will require modification of the propeller.

Interested persons are invited to participate in the making of the proposed rule by submitting written data and views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 by adding the following new airworthiness directive:

HARTZELL PROPELLERS. Applies to Models HC-E2YK-2RB, HC-E2YR-2RB, and HC-E2YL-2() Propellers equipped with 8465-7R, 7663-4, or J7663-4 noncounter-weighted type blades.

Compliance required as indicated, unless already accomplished.

To prevent overspeeds in flight due to inadvertent loss of the propeller's air charge, accomplish the following:

(a) Propellers with 900 hours or more time in service since new or last overhaul as of the effective date of this AD, must be modified in accordance with paragraph (c) within the next 100 hours' time in service.

PROPOSED RULE MAKING

(b) Propellers with less than 900 hours in service since new or last overhaul as of the effective date of this AD must be modified in accordance with paragraph (c) prior to the accumulation of 1,000 hours in service since new, or last overhaul.

(c) Install appropriate Spring Backup Kit in accordance with Hartzell Service Letter No. 62 dated June 23, 1970, revised August 6, 1970, or subsequent FAA-approved revision. An equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 21, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.
[FR Doc.71-7856 Filed 6-4-71; 8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-98]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the De Land, Fla., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The De Land transition area, would be designated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of De Land Municipal/Sidney H. Taylor (lat. 29°04'03" N., long. 81°17'00" W.); excluding the portion within Daytona Beach transition area.

The proposed designation is required to provide controlled airspace protection for IFR operations at De Land Municipal/Sidney H. Taylor Field. A prescribed instrument approach procedure to this airport, utilizing the Daytona Beach VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on May 25, 1971.

JAMES G. ROGERS,
Director, Southern Region.
[FR Doc.71-7857 Filed 6-4-71; 8:47 am]

[14 CFR Part 75]

[Airspace Docket No. 71-WA-20]

AREA HIGH ROUTES

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would designate six area high routes in the United States.

Amendments to Parts 71 and 75 of the Federal Aviation Regulations were published in the FEDERAL REGISTER (35 F.R. 10653) which established regulatory bases for the designation of specific area high and low routes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, DC 20590. All communications received within 60 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590.

The FAA proposes to amend Part 75 of the Federal Aviation Regulations by designating area high routes as follows:

J-980R LOS ANGELES, CALIF., TO ST. LOUIS, MO.

Needles, Calif., 179.6° M/41.1 NM, lat. 34°06'07" N., long. 114°40'53" W.;
Phoenix, Ariz., 325° M/81.6 NM, lat. 34°42'09" N., long. 112°28'46" W.;
St. Johns, Ariz., 5.3° M/51.4 NM, lat. 35°13'59" N., long. 108°47'53" W.;
Albuquerque, N. Mex., 329.7° M/40.8 NM, lat. 35°41'34" N., long. 107°03'49" W.

Las Vegas, N. Mex., 12.7° M/39.6 NM, lat. 36°15'07" N., long. 104°46'52" W.;
Garden City, Kans., 155.2° M/45.6 NM, lat. 37°10'46" N., long. 100°29'50" W.;
Ponca City, Okla., 337.7° M/60.5 NM, lat. 37°43'40" N., long. 97°27'11" W.;
Springfield, Mo., 342.7° M/61.3 NM, lat. 38°21'43" N., long. 93°33'60" W.;
Farmington, Mo., 327.2° M/70.4 NM, lat. 38°42'35" N., long. 90°55'59" W.

J-981R LOS ANGELES, CALIF., TO WASHINGTON, D.C.

Oceanside, Calif., 300.7° M/45.6 NM, lat. 33°46'00" N., long. 118°03'14" W.;
Needles, Calif., 179.6° M/41.1 NM, lat. 34°06'07" N., long. 114°40'53" W.;
Phoenix, Ariz., 325° M/81.6 NM, lat. 34°42'09" N., long. 112°28'46" W.;
St. Johns, Ariz., 5.3° M/51.4 NM, lat. 35°13'59" N., long. 108°47'53" W.;
Albuquerque, N. Mex., 329.7° M/40.8 NM, lat. 35°41'34" N., long. 107°03'49" W.;
Las Vegas, N. Mex., 12.7° M/39.6 NM, lat. 36°15'07" N., long. 104°46'52" W.;
Garden City, Kans., 155.2° M/45.6 NM, lat. 37°10'46" N., long. 100°29'50" W.;
Ponca City, Okla., 337.7° M/60.5 NM, lat. 37°43'40" N., long. 97°27'11" W.;
Springfield, Mo., 342.7° M/61.3 NM, lat. 38°21'43" N., long. 93°33'60" W.;
Farmington, Mo., 327.2° M/70.4 NM, lat. 38°42'35" N., long. 90°55'59" W.;
Farmington, Mo., 10.3° M/65.7 NM, lat. 38°43'46" N., long. 89°51'54" W.;
Indianapolis, Ind., 179.3° M/62.8 NM, lat. 38°46'02" N., long. 86°22'34" W.;
Charleston, W. Va., 295° M/57 NM, lat. 38°42'02" N., long. 82°53'43" W.;
Gordonsville, Va., 4° M/64.6 NM, lat. 39°05'26" N., long. 78°12'02" W.

J-982R LOS ANGELES, CALIF., TO KANSAS CITY, MO.

Needles, Calif., 179.6° M/41.1 NM, lat. 34°06'07" N., long. 114°40'53" W.;
Phoenix, Ariz., 325° M/81.6 NM, lat. 34°42'09" N., long. 112°28'46" W.;
St. Johns, Ariz., 5.3° M/51.4 NM, lat. 35°13'59" N., long. 108°47'53" W.;
Albuquerque, N. Mex., 329.7° M/40.8 NM, lat. 35°41'34" N., long. 107°03'49" W.;
Las Vegas, N. Mex., 12.7° M/39.6 NM, lat. 36°15'07" N., long. 104°46'52" W.;
Garden City, Kans., 155.2° M/45.6 NM, lat. 37°10'46" N., long. 100°29'50" W.;
Salina, Kans., 164.2° M/69.7 NM, lat. 37°43'40" N., long. 97°27'11" W.;
Salina, Kans., 77.9° M/119 NM, lat. 38°57'48" N., long. 95°05'22" W.

J-983R MIAMI, FLA., TO NEW ORLEANS, LA.

St. Petersburg, Fla., 166.2° M/31.3 NM, lat. 27°23'51" N., long. 82°33'16" W.;
Crestview, Fla., 196.3° M/140.5 NM, lat. 28°36'26" N., long. 87°38'33" W.;
Grand Isle, La., 350° M/51.3 NM, lat. 30°01'47" N., long. 90°10'20" W.

J-984R HOUSTON, TEX., TO MIAMI, FLA.

Lake Charles, La., 258.2° M/117.2 NM, lat. 29°57'24" N., long. 95°20'44" W.;
Grand Isle, La., VORTAC, lat. 29°10'30" N., long. 90°06'14" W.;
Crestview, Fla., 191.8° M/138.9 NM, lat. 28°34'52" N., long. 87°20'58" W.;
St. Petersburg, Fla., 166.2° M/31.3 NM, lat. 27°23'51" N., long. 82°33'16" W.;
West Palm Beach, Fla., 200.8° M/46.3 NM, lat. 25°57'47" N., long. 80°27'39" W.

J-985R SAN ANTONIO, TEX., TO LOS ANGELES, CALIF.

Junction, Tex., 119.6° M/90.8 NM, lat. 29°38'38" N., long. 98°27'40" W.;
Wink, Tex., 154.9° M/56.9 NM, lat. 30°57'07" N., long. 102°58'31" W.

PROPOSED RULE MAKING

Wink, Tex., 232.2° M/46.4 NM, lat. 31°31'23" N., long. 104°03'00" W.;
Truth or Consequences, N. Mex., 149.5° M/65.4 NM, lat. 32°14'48" N., long. 106°52'20" W.;
San Simon, Ariz., 002.7° M/32.9 NM, lat. 32°47'55" N., long. 109°05'10" W.;
Phoenix, Ariz., VORTAC, lat. 33°25'53" N., long. 111°53'17" W.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 27, 1971.

T. McCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.
[FR Doc.71-7858 Filed 6-4-71; 8:47 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 512]

[Docket No. 71-63]

VESSEL OPERATING COMMON CARRIERS IN DOMESTIC OFFSHORE TRADES

Reports of Rate Base and Income Account

On June 17, 1964, the Federal Maritime Commission published in the FEDERAL REGISTER (29 F.R. 7721, at 7723) regulations for the purpose of requiring the filing of additional information by common carriers by water subject to the Commission's General Order 5 (46 CFR Part 511) so that the Commission would be able to expedite the discharge of its duties under the Intercoastal Shipping Act, 1933.

Experience indicates that the usefulness of this order to the Commission can be enhanced by amending it to dispense with the filing of statements and data required for the first 6 months of each year beginning with 1971; and in lieu thereof, require the filing of financial and operating data in support of initial, new, or changed tariff rates at the same time that such initial, new, or changed tariff rates themselves are filed with the Federal Maritime Commission. This amendment to General Order 11 will free carriers from the requirement of submitting 6-month statements, but instead will require that financial and operating data in support of initial, new, or changed tariff rates be filed simultaneously with the filing of such initial, new, or changed tariff rates, rather than to continue the present practice of informally requesting such data after the tariff rates under reference have been accepted for filing.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 18, 21, and 43 of the Shipping Act, 1916, (46 U.S.C. 817, 820, and 841(a)), and sections 2, 4, and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844, 845(a), and

847), notice is hereby given that the Federal Maritime Commission is considering amending Part 512 of its regulations.

It is proposed that Title 46 CFR, Chapter IV, Part 512, be amended in the following respects:

Section 512.3(d) would be revised to read as follows:

§ 512.3 General requirements.

(d) Whenever a carrier files with the Federal Maritime Commission a tariff or tariffs containing initial rates, new rates, or changed rates which will increase or decrease 50 percent of its domestic offshore tariff items by 3 percent or more, or increase or decrease its domestic offshore gross revenue by 3 percent or more, per trade, it shall file simultaneously therewith financial and operating data as follows:

(1) Exhibit A's (of the nature required by section 512.7(b) of this part), in duplicate, as at the end of the month preceding the month in which the initial, new, or changed rates are filed with the Commission; and at the end of a 12-month period beginning with the month following the month in which the initial, new, or changed rates are proposed to become effective (the latter mentioned Exhibit A will have to be constructed, and should be predicated on the very best estimates that is possible for the carrier to make).

(2) Exhibit B's (of the nature required by § 512.7(c)), in duplicate, supported by schedules similar to those normally required by the annual filings for a 12-month period ending on the last day of the month in which the initial, new, or changed rates were filed with the Commission (this requirement applies only with respect to changed rates—it does not apply to initial or new rates); and for a constructed 12-month period (taking into account effect of proposed rate changes) commencing with the month following the month in which the changed rates are proposed to become effective.

The foregoing itemization of data is general in nature, because it is intended to apply to all domestic offshore carriers. Due to this it should be understood that no implication is intended that will either limit the requirements for data to that which has been specified, or preclude verification of such data to the carrier's accounts and records. Other data or additional information may be required if the circumstances with respect to any particular carrier's case would indicate a need or use therefor. On the other hand it is not intended that there be any limitation on the carrier. In addition to the information specifically requested, the carrier should also furnish any other evidence, advice, or information which, in its opinion, would tend to strengthen the justness of proposed initial, new, or changed rates. Failure to furnish the financial and operating data under reference in this

paragraph certified as is requested by § 512.4, simultaneously with initial, new, or changed tariff rates, may leave the Commission with no alternative other than to suspend such rates for a part or all of the 4 months' period authorized by section 3 of the Intercoastal Shipping Act, 1933.

Interested persons may participate in this rulemaking proceeding by filing with

the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 21, 1971, an original and 15 copies of their views or arguments pertaining to the proposed rules.

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-7891 Filed 6-4-71;8:50 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-144]

CRUDE PETROLEUM

Entry of Net Quantities After Release Under Immediate Delivery Permit; Optional Procedure on Basis of Landed Quantity

A notice of a proposal to permit crude petroleum released under an immediate delivery permit in accordance with § 8.59 of the Customs Regulations (19 CFR 8.59) to be entered on the basis of the net landed quantity computed by deducting from the landed quantity any water and sediment in excess of 0.3 percent as ascertained by a commercial laboratory test was published in the FEDERAL REGISTER for March 4, 1971 (36 F.R. 4301). Interested persons were given an opportunity to submit relevant data, views, or arguments in writing regarding the proposed change.

No objection to the proposal has been received. Therefore, the optional procedure for entry of crude petroleum on the basis of the net landed quantity is hereby adopted as follows:

As an alternative to entering the total quantity of crude petroleum released under an immediate delivery permit in accordance with § 8.59 of the Customs Regulations (19 CFR 8.59), importers may file entry for the net quantity of crude petroleum landed. The net quantity is to be determined by deducting the quantity of sediment and water present in excess of 0.3 percent, as reported in a commercial laboratory test made by a laboratory which has been approved by the Commissioner of Customs and filed with the entry. Applications of commercial laboratories for approval of the use of their tests in determining the net landed quantity of crude petroleum shall be directed to the Commissioner of Customs, Washington, D.C. 20226. For purposes of this ruling, the approval of a public gauger by the Commissioner of Customs in accordance with the provisions of § 13.10(a)(5) of the Customs Regulations (19 CFR 13.10(a)(5)) shall constitute approval of the commercial laboratories operated by the public gauger as a part of the services rendered by him for his customers.

Samples of the imported merchandise will continue to be tested by the Customs laboratory in the usual manner. The results of the Customs laboratory tests will be used in the liquidation of the entry and in determining the quantity chargeable against the importer's oil import license. However, where there is a variance between the quantity reported by the Customs approved commercial laboratory and the quantity

found by the Customs laboratory, no adjustment will be made in the quantity subject to liquidation to conform to the quantity found by the Customs laboratory, when the differences do not exceed the differences set forth in the following table (adapted from ASTM Designation D 1796, Fig. 3):

Percentage of water and sediment found by Customs laboratory	Maximum percentage difference allowable
0.05 to 0.50.....	0.1
0.51 to 1.50.....	0.2
more than 1.50.....	0.3

Effective date. Because use of the procedure herein authorized is optional with the importer and because this ruling relieves restrictions on the use of oil import licenses, good cause is found for dispensing with the 30-day delayed effective date provision of 5 U.S.C. 553. This ruling shall be effective upon the publication of this notice in the FEDERAL REGISTER (6-5-71).

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[FR Doc.71-7882 Filed 6-4-71;8:49 am]

[T.D. 71-145]

SWISS FRANC

Rates of Exchange

MAY 24, 1971.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Swiss franc between May 18 and May 21, 1971.

Treasury Decision 71-101 published as the rate of exchange for the Swiss franc for use during the calendar quarter beginning April 1 through June 30, 1971, \$0.232800, as certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)).

For the dates listed below, the Federal Reserve Bank of New York certified rates for the Swiss franc which vary by 5 per centum or more from the rate \$0.232800. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert Swiss currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published:

Swiss franc:	
May 18, 1971.....	\$0.244668
May 19, 1971.....	.244700
May 20, 1971.....	.244687
May 21, 1971.....	.245500

Rates of exchange certified for the Swiss franc which vary by 5 per centum or more from the rate of \$0.232800 during

the balance of the calendar quarter ending June 30, 1971, will be published in a Treasury Decision for dates subsequent to May 21, 1971, and before July 1, 1971.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-7883 Filed 6-4-71;8:49 am]

Fiscal Service

[Dept. Circ. 570, 1970 Rev., Supp. No. 13]

COLONIAL SURETY COMPANY

Surety Company Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of \$254,000.00 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

Colonial Surety Company
Philadelphia, Pennsylvania

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: April 9, 1971.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.71-7967 Filed 6-4-71;11:05 am]

Internal Revenue Service

FRANK BAYES

Notice of Granting of Relief

Notice is hereby given that Frank Bayes, 2742 Kalihi Street, Honolulu, HI 96819, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 24, 1948, in the Circuit Court, First Judicial Circuit, Territory of Hawaii, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Frank Bayes because of such conviction,

Notices

to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Frank Bayes to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Frank Bayes' application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Frank Bayes be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
[FR Doc.71-7893 Filed 6-4-71; 8:50 am]

GEORGE WASHINGTON COOK

Notice of Granting of Relief

Notice is hereby given that George Washington Cook, 18010 Griggs Street, Detroit, MI 48221, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 19, 1958, in the Recorder's Court of the city of Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for George W. Cook because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for George W. Cook to receive, possess, or

transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered George W. Cook's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That George W. Cook be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
[FR Doc.71-7894 Filed 6-4-71; 8:50 am]

RONALD LEE DREW

Notice of Granting of Relief

Notice is hereby given that Ronald Lee Drew, 422½ Carrington Street, Waupun, WI 53963, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 11, 1965, in the Columbia County Court, Portage, Wis., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Ronald Lee Drew because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Ronald Lee Drew to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Ronald Lee Drew's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National

Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Ronald Lee Drew be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
[FR Doc.71-7895 Filed 6-4-71; 8:50 am]

CHARLES H. HESSELRODE, JR.

Notice of Granting of Relief

Notice is hereby given that Charles H. Hesselrode, Jr., 2103 Orr Road, Poplar Bluff, MO 63901, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on July 6, 1964 in the Butler County, Mo., Circuit Court, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Charles Hesselrode, Jr. because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Charles Hesselrode, Jr. to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Charles Hesselrode, Jr.'s application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Charles Hesselrode, Jr. be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
[FR Doc.71-7896 Filed 6-4-71; 8:50 am]

BENJAMIN FRANKLIN HULL

Notice of Granting of Relief

Notice is hereby given that Benjamin Franklin Hull, Route 2, Vale, N.C. 28168, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 16, 1943, in the U.S. District Court for the Western District of North Carolina, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Benjamin F. Hull because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Benjamin F. Hull to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Benjamin F. Hull's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Benjamin F. Hull be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or pos-

session of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
[FR Doc.71-7897 Filed 6-4-71; 8:50 am]

MICHAEL EDWARD LANE

Notice of Granting of Relief

Notice is hereby given that Michael Edward Lane, 5013 Lea Meadow, Garland, TX, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on December 10, 1962, in the Dallas County District Court, Dallas County, Tex., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Michael E. Lane because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), because of such conviction, it would be unlawful for Michael E. Lane to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Michael E. Lane's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Michael E. Lane be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
[FR Doc.71-7899 Filed 6-4-71; 8:51 am]

KENNETH JUAN MARTINEZ

Notice of Granting of Relief

Notice is hereby given that Kenneth Juan Martinez, also known as Candelario Juan Martinez, also known as Candelario Juan Martinez, 4110 Debarr Avenue, Anchorage, Alaska, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on October 7, 1955, in the District Court, Otero County, Colo.; June 19, 1956, in the District Court, Otero County, Colo., on or about November 14, 1969, in the Superior Court for the State of Alaska, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Kenneth Juan Martinez because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Kenneth Juan Martinez to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Kenneth Juan Martinez application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Kenneth Juan Martinez be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 27th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
[FR Doc.71-7898 Filed 6-4-71; 8:51 am]

AARON M. McMILLAN **Notice of Granting of Relief**

Notice is hereby given that Aaron M. McMillan, 2854 Wirt Street, Omaha, NE 68111, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 24, 1969, in the U.S. District Court, Omaha, Nebr., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Aaron McMillan because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Aaron McMillan to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Aaron McMillan's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Aaron McMillan be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
 [FR Doc.71-7900 Filed 6-4-71;8:51 am]

DONALD JOSEPH SULLIVAN **Notice of Granting of Relief**

Notice is hereby given that Donald Joseph Sullivan, 3202 Rue Voltaire No. 1117, South Bend, IN, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his

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conviction on or about August 22, 1950, and on May 5, 1952, in the Marion County, Ind., Criminal Court, and on April 7, 1952, in the Monroe County, Ind., Circuit Court, of crimes punishable by imprisonment for a term exceeding year. Unless relief is granted, it will be unlawful for Donald Joseph Sullivan because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Donald Joseph Sullivan to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Donald Joseph Sullivan's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Donald Joseph Sullivan be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 27th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
 [FR Doc.71-7901 Filed 6-4-71;8:51 am]

CLARENCE O'BRIEN WILEY, JR. **Notice of Granting of Relief**

Notice is hereby given that Clarence O'Brien Wiley, Jr., 1606 Landover Drive, Mechanicsville, VA 23111, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on December 8, 1955, in the U.S. District Court, Richmond, Va., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Clarence O. Wiley because of such conviction, to ship, transport or receive in interstate or foreign

commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Clarence O. Wiley to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Clarence O. Wiley's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Clarence O. Wiley be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.
 [FR Doc.71-7902 Filed 6-4-71;8:51 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation [Amdt. 15]

SALES OF CERTAIN COMMODITIES **Monthly Sales List (Fiscal Year Ending June 30, 1971)**

The CCC Monthly Sales List for the fiscal year ending June 30, 1971, published in 35 F.R. 10922, is amended as follows:

1. Section 33 entitled "Linseed Oil (Raw) Unrestricted Use Sales", is amended by the insertion of the following sentence after the first sentence: "For June the price will be \$0.1120 per pound."

2. Section 43 entitled "Peanuts, Shelled or Farmers Stock—Unrestricted Use Sales", is amended by the revision of the second sales item to read as follows:

2. Shelled graded peanuts equal to or exceeding requirements of U.S. grades

may be purchased for export without limitation on their use.

Signed at Washington, D.C., on May 28, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.
 [FR Doc.71-7903 Filed 6-4-71;8:51 am]

Consumer and Marketing Service **EGG PRICES AND MARKET CONDITIONS** **Modification of Market News**

Correction

In F.R. Doc. 71-7560 appearing at page 9888 in the issue of Saturday, May 29, 1971, the penultimate sentence of the last paragraph in the center column should read as follows: "In addition a mostly price will be reported when possible."

Rural Electrification Administration **ARIZONA ELECTRIC POWER COOPERATIVE, INC.**

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a loan application from the Arizona Electric Power Cooperative, Inc., of Benson, Ariz. This loan application, together with funds from other sources, includes financing for 16 miles of 230-kV. transmission line between Apache and Benson, Ariz.

Additional information may be secured on request submitted to Mr. James N. Myers, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines of April 23, 1971. The Draft Environmental Statement may be examined during regular business hours at the offices of REA, in the South Agriculture Building, 12th and Independence Avenue SW., Washington, DC, Room 4322, or at the offices of the Arizona Electric Power Cooperative, Inc., at Benson, Ariz., and at the Trico Electric Cooperative, Inc., 1144 West Miracle Mile, Tucson, AZ.

Comments concerning the environmental effects of the construction proposed should be addressed to Mr. Myers, at the address given above. Comments must be received within sixty (60) days of the date of publication of this notice

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(thirty (30) days in the case of agencies receiving a specific request for comment) to be considered in connection with the proposed use of loan funds.

Any loan which may be made pursuant to this application will be subject to, and release of funds thereunder contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and after compliance with Environmental Statement procedures required by the National Environmental Policy Act.

Dated at Washington, D.C., this 2d day of June 1971.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.
 [FR Doc.71-7907 Filed 6-4-71;8:51 am]

DEPARTMENT OF COMMERCE **National Oceanic and Atmospheric Administration**

[Docket No. G-501]

LONNIE ROY ANDERSON

Notice of Loan Application

JUNE 1, 1970.

Lonnie Roy Anderson, Route 1, Box 531, Gulf Breeze, FL 32561, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 41 feet in length, to engage in the fishery for shrimp and oysters.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.
 [FR Doc.71-7862 Filed 6-4-71;8:47 am]

[Docket No. G-500]

LLOYD R. HENRY

Notice of Loan Application

MAY 26, 1971.

Lloyd R. Henry, Pointe A La Hache, La. 70082, has applied for a loan from

the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 41-foot in length, to engage in the fishery for shrimp and oysters.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.
 [FR Doc.71-7863 Filed 6-4-71;8:45 am]

[Docket No. G-503]

NATHANIEL C. WILSON ET AL.

Notice of Loan Application

JUNE 1, 1971.

Nathaniel C. Wilson, Harvey Jordan, and Robert Lee Jordan, 206 East Hall Street, St. Marys, GA 31558, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 72-foot in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.
 [FR Doc.71-7863 Filed 6-4-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration
[DESI 1650]

DISODIUM HYDROGEN CITRATE Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Citralka Liquid, containing disodium hydrogen citrate; Parke, Davis & Co., Box 118, G.P.O., Detroit, Michigan 48232 (NDA 1-650).

The drug is regarded as a new drug (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drug. A new drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is effective for the indications described in the labeling "Indications" section below.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. **Form of drug.** Disodium hydrogen citrate preparations are in liquid form suitable for oral administration.

2. **Labeling conditions.** a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For the relief of mild acidosis, for increasing serum pH or serum bicarbonate (alkaline reserve), and for use during sulfonamide therapy and other situations when increased alkalinity of the urine is desired.

3. **Marketing status.** Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," pub-

lished in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 1650, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland, 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7842 Filed 6-4-71; 8:46 am]

[DESI 8218]

POLYMYXIN B SULFATE OINTMENT Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Polymyxin B Sulfate Ointment; Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, New York 10017 (8-218).

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Preparations containing polymyxin B sulfate are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. Requests for certification of the drug in the dosage form described above should provide for labeling information in accord with the reevaluation of the drug as published in this announcement.

The Food and Drug Administration concludes that polymyxin B sulfate ointment is probably effective for the topical treatment of localized cutaneous infections due to polymyxin B susceptible organisms, particularly *Pseudomonas aeruginosa*.

The drug should be labeled to comply with all requirements of the Act and regulations. Its labeling should bear adequate information for safe and effective use of the drug and be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The sections in the labeling for Indications and Warnings are as follows:

INDICATIONS

For topical treatment of localized cutaneous infections due to polymyxin B susceptible organisms, particularly *Pseudomonas aeruginosa*.

WARNINGS

No more than 200 mgms per day should be applied to raw or denuded skin because of the danger of systemic absorption with possible nephro- and neurotoxicity.

The Food and Drug Administration further concludes that polymyxin B sulfate ointment is possibly effective for prophylactic use for the above indications.

Batches of the drug which bear labeling with these indications and are otherwise in accord with the labeling conditions herein will be accepted for release or certification by the Food and Drug Administration for a period of 12 months and 6 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drug for use in those conditions for which it has been evaluated as probably effective and possibly effective, respectively.

To be acceptable for consideration in support of the effectiveness of the drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 12-month and 6-month periods any such data will be evaluated to determine whether there is

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DEPARTMENT OF TRANSPORTATION

Coast Guard
[CGFR 71-51]

POLLOCK RIP AND GREAT ROUND SHOAL CHANNELS IN NANTUCKET SOUND

Notice of Public Hearing on Aids to Navigation

Notice is hereby given that a public hearing will be held by the Commander, First Coast Guard District, to determine whether certain changes should be made to aids to navigation at the eastern entrance to Nantucket Sound. These changes would improve the aids to navigation system at the Great Round Shoal Channel and reduce the number of aids to navigation in the Pollock Rip Channel. The hearings will be held at the main public library, corner of Pleasant and Williams Streets, New Bedford, Mass., on Tuesday, June 22, 1971, at 7 p.m. and at Coast Guard Station Chatham, Chatham, Mass., on Wednesday, June 23, 1971, at 7 p.m.

The specific changes proposed have been published in the Local Notices to Mariners Nos. 4 through 9. The Coast Guard has received written objections to the proposed changes. The main issue that has been raised is whether the Coast Guard should reduce the aids to navigation in the Pollock Rip Channel. The Channel is presently marked as a main channel for deep draft vessels. These vessels are using the Great Round Shoal Channel instead of the Pollock Rip Channel, and it appears that most of the present aids to navigation in the Pollock Rip Channel are unnecessary.

The hearing will be informal. It will be conducted by a representative of the Commander, First Coast Guard District who will make an opening statement presenting a brief summary of the proposed changes. Interested persons will then have an opportunity to present their oral statements. Additional procedures for conducting the hearing will be announced at the hearing. A summary of the hearing will be made available to the public.

Interested persons may submit written data, views, or arguments to the Commander (0001), First Coast Guard District, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203. Each person submitting comments should include his name and address, identify the subject, state his views on the effect discontinuance of the aids to navigation will have on safety to navigation, commerce and the public interest, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander.

and conditions of allocation orders approved by the Assistant Secretary or Deputy Assistant Secretary for Research and Technology.

2. To approve requisition for funds, third-party contracts, and budget amendments.

Revocation. The redelegation of authority by the Assistant Secretary for Research and Technology to the Acting Director, Urban Planning Research and Demonstration Program, published at 35 F.R. 4309, March 10, 1970, is hereby revoked.

(Secretary's delegation to Assistant Secretary for Research and Technology effective Mar. 1, 1971 (36 F.R. 5007, Mar. 1, 1971))

Effective date. This redelegation of authority shall be effective as of March 1, 1971.

HAROLD B. FINGER,
Assistant Secretary for
Research and Technology.

[FR Doc. 71-7878 Filed 6-4-71; 8:49 am]

[Docket No. D-71-101]

DIRECTOR, ENVIRONMENTAL FACTORS AND PUBLIC UTILITIES DIVISION, OFFICE OF ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY

Redelegation and Revocation of Authority With Respect to Administration of Contracts for Grants for Urban Mass Transportation Projects

SECTION A. Redelegation of authority. The Director, Environmental Factors and Public Utilities Division, Office of the Assistant Secretary for Research and Technology, is authorized to exercise the following authority of the Secretary of Housing and Urban Development with respect to the administration of contracts for grants for urban mass transportation research, development, and demonstration projects under section 6(a), and research and training projects under section 11, of the Urban Mass Transportation Act of 1964 (78 Stat. 302, 49 U.S.C. 1601), and as modified by Reorganization Plan No. 2 of 1968 (49 U.S.C. 1608 note):

To approve requisitions for funds, third-party contracts, and budget amendments.

Sec. B. Revocation. The redelegation of authority by the Assistant Secretary for Research and Technology to the Director, Utilities Technology, published at 35 F.R. 4770, March 19, 1970, is hereby revoked.

(Secretary's delegation to Assistant Secretary for Research and Technology effective Mar. 1, 1971 (36 F.R. 5007, Mar. 16, 1971))

Effective date. This redelegation of authority shall be effective as of March 1, 1971.

HAROLD B. FINGER,
Assistant Secretary for
Research and Technology.

[FR Doc. 71-7879 Filed 6-4-71; 8:49 am]

substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken, or if the studies do not provide substantial evidence of effectiveness, such drug will not be eligible for release or certification.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8218, directed to the attention of the appropriate office listed below, and addressed (unless other specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland, 20852:

Amendment (Identify with NDA number): Division of Anti-Infective Drug Products (BD-140), Office of Scientific Evaluation, Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Request for NAS-NRC report: Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7843 Filed 6-4-71; 8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-100]

DIRECTOR, COMPREHENSIVE PLANNING RESEARCH AND DEMONSTRATION, OFFICE OF ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY

Redelegation of Authority With Respect to Urban Planning Research and Demonstration Program

SECTION A. Redelegation of Authority. The Director, Comprehensive Planning Research and Demonstration, Office of the Assistant Secretary for Research and Technology, is authorized to exercise the following authority of the Secretary of Housing and Urban Development with respect to the Urban Planning Research and Demonstration Program under section 701(b) of the Housing Act of 1954 (68 Stat. 640, 40 U.S.C. 461):

1. To execute grant contracts and amendments thereto within the amounts

First Coast Guard District. Written comments may also be submitted at the public hearings.

(Sec. 1, 63 Stat 500, 80 Stat. 937; 14 U.S.C. 81, 49 U.S.C. 1655(b) (1); 33 CFR 62.01-1, 62.05-1, 49 CFR 1.46(b))

Dated: May 28, 1971.

T. R. SARGENT,
Vice Admiral, U. S. Coast Guard,
Acting Commandant.

[FR Doc. 71-7881 Filed 6-4-71; 8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Notice of Receipt of Application for Facility Operating License

Please take notice that Arkansas Power & Light Co., Ninth and Louisiana Streets, Post Office Box 551, Little Rock, AR 72203, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended (the Act), has filed an application, together with a final safety analysis report, by letter dated April 23, 1971, for a license to operate a nuclear power reactor at its site in Pope County, Ark.

The nuclear power reactor is a pressurized water reactor, designated by the applicant as Arkansas Nuclear One, Unit 1, designed for operation at 2,568 thermal megawatts with a gross electrical output of 880 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Arkansas River Valley Regional Library, Dardanelle, Ark. 72834, Mrs. Robert Keathly, Librarian.

Dated at Bethesda, Md., this 28th day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc. 71-7832 Filed 6-4-71; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23455; Order No. 71-6-6]

AIRBORNE FREIGHT CORP.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1971.

By tariff revisions filed May 3, marked to become effective June 3, 1971, Airborne Freight Corp. (Airborne) proposes to reduce substantially all of its airport-to-airport specific commodity rates from Chicago to New York and Newark. For several commodities, reductions are proposed at all weight breaks from 100 to 3,000 pounds. For most commodities no change is proposed for shipments of 100-199 pounds, but a 200-pound weight break would be introduced for shipments involving decreases for shipments of 200-999 pounds, as well as decreases at higher weights.

Complaints requesting investigation and suspension have been filed by American Airlines, Inc. (American), The Flying Tiger Line Inc. (Flying Tiger), and Trans World Airlines, Inc. (TWA). The complaints variously assert, inter alia, that the proposed rates would result in a significant diversion from scheduled air transportation and would seriously jeopardize the existence of such transportation, now operating unprofitably. In its justification and answer to the complaints, Airborne asserts that its proposals are based upon the use of chartered aircraft which will permit significant economies, both in terminal and line-haul costs and through higher load factors, and that the lower rates are needed to expand the use of air freight.

Upon consideration of all relevant factors, the Board finds that Airborne's proposed reductions may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful and should be investigated. The Board further concludes that the rates should be suspended pending investigation.

The proposed rates would effect reductions ranging from \$2.35 to \$5.35 per hundred pounds or between 25 and 47 percent below its currently effective group rates for each of its 28 specific commodity groups (containing many more individual commodities) from Chicago to New York. The reductions would undercut the direct carriers' bulk rates by as much as 49 percent.¹

Airborne, however, does not indicate the source of the traffic that it hopes to obtain by its proposal, nor does it present factual data indicating that its proposed rates would be economic. In view of these circumstances, the Board will not permit such sharp reductions in a prime market to become effective without investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the rate from Chicago, Ill. to Newark, N.J./New York, N.Y. subject to minimum weight of 100 pounds applicable to Commodity Group No. 100 and the rates from Chicago, Ill. to Newark, N.J./New York, N.Y. subject to minimum weights of 200, 1,000, 2,000, and 3,000 pounds, on 51st and 52nd Revised Pages 32-D of Airborne Freight Corp's. CAB No. 9 (Pacific Air Freight, Inc. Series), and rules, regulations, or practices affecting such rates, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, and rules, regulations, or practices affecting such rates;

¹ There is some variation among the rates in effect for the several direct carriers, Airline International, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc. With a few exceptions, Airborne's reduced rates would be below all of the direct carriers' rates at all weight breaks. For a number of commodities at selected weight breaks, however, the forwarder's rates would be above those in effect for one or more carriers.

2. Pending hearing and decision by the Board, the rate from Chicago, Ill. to Newark, N.J./New York, N.Y. subject to minimum weight of 100 pounds applicable to Commodity Group No. 100 and the rates from Chicago, Ill. to Newark, N.J./New York, N.Y. subject to minimum weights of 200, 1,000, 2,000, and 3,000 pounds, on 51st and 52nd Revised Pages 32-D of Airborne Freight Corp's. CAB No. 9 (Pacific Air Freight, Inc. Series), are suspended and their use deferred to and including August 31, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. The proceeding herein designated Docket 23455 be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated;

4. The complaints of American Airlines, Inc., in Docket 23321; The Flying Tiger Line Inc., in Docket 23318; and Trans World Airlines, Inc., in Docket 23313 are dismissed, except to the extent granted herein; and

5. Copies of this order shall be filed with the tariff and served upon Airborne Freight Corp., American Airlines, Inc., The Flying Tiger Line Inc., and Trans World Airlines, Inc., which are hereby made parties to Docket 23455.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.²

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-7892 Filed 6-4-71; 8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 546]

COMMON CARRIER SERVICES INFORMATION¹

Domestic Public Radio Services Applications Accepted for Filing²

JUNE 1, 1971.

Pursuant to §§ 1.227(b) (3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list set forth below, must be substantially complete and tendered for filing by which-ever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted

² Partial dissenting statement of member Minetti filed as part of the original document.

¹ All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

² The above alternative cut-off rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

6587-C2-AL-71—Kost Communications, Inc. Consent to assignment of license from Kost Communications, Inc., Assignor, to Mankato Answering Service, Inc., Assignee. Station: KFL923, North Mankato, MN.

6603-C2-P-71—Mount Beacon Mobilephone Service (KFL560), C.P. to change the antenna operating on 454.25 MHz located at North Beacon Mountain, Fishkill, N.Y.

6604-C2-P-71—Mobile Radio Message Service, Inc. (KFA260), C.P. for additional facilities to operate on 162.09 MHz at a new site described as location No. 2: 5 Horizon Road, Fort Lee, N.J.

6609-C2-P-71—Mobilephone (KQZ772), C.P. to change the antenna system and relocate facilities operating on 152.24 MHz to 600 Building, located at 600 Leopard Street, Corpus Christi, TX.

6604-C2-P-71—Anserfone of St. Lucie County, Inc. (KIG838), C.P. to add a second channel to operate on frequency 152.12 MHz at station located at 464 North Ninth Street, Fort Pierce, FL.

CORRECTION—MAJOR AMENDMENT

6112-C2-P-71—Mobilphone Corp. (New). Correct to read as follows: Business Communication, Inc. Amend to change base frequency to 454.323 MHz. All other particulars to remain same as reported on Public Notice dated May 10, 1971, Report No. 543.

RURAL RADIO SERVICE

6584-C1-P-71—Continental Telephone Co. of California (New), C.P. for a new rural subscriber station to be located at 13 miles northeast of Victorville, Calif., to operate on frequency 157.80 MHz communicating with Station KMM664, Boron, Calif.

6585-C1-P-71—Continental Telephone Co. of California (New), C.P. for a new rural subscriber station to be located at Galileo Hill, 16 miles northwest of Boron, Calif., to operate on frequency 157.80 MHz communicating with Station KMM664, Boron, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

6545-C1-P-71—The Pacific Telephone & Telegraph Co. (KMO80), C.P. to add frequency 3910 MHz toward Cloverdale, Calif., and 3930 MHz toward Red Mountain, Calif. Station location: 516 Third Street, Santa Rosa, CA.

6546-C1-P-71—The Pacific Telephone & Telegraph Co. (KMO80), C.P. to add frequencies 3730 and 3810 MHz toward Walker Ridge, Calif., and 3870 MHz toward Santa Rosa, Calif. Station location: 6 miles north of Cloverdale, Calif.

6547-C1-P-71—The Pacific Telephone & Telegraph Co. (KMQ41), C.P. to add frequencies 3770 and 3850 MHz toward Pennington, Calif. Station location: Wolf Creek, 6 miles southwest of Grass Valley, Calif.

6548-C1-P-71—The Pacific Telephone & Telegraph Co. (KMQ63), C.P. to add frequencies 3730 and 3810 MHz toward Wolf Creek, Calif., and 3730 and 3810 MHz toward Walker Ridge, Calif. Station location: 1 mile southwest of Pennington, Calif.

6549-C1-P-71—The Pacific Telephone & Telegraph Co. (KMQ64), C.P. to add frequencies 3770 and 3850 MHz toward Pennington, Calif., and 3770 and 3850 MHz toward Cloverdale, Calif. Station location: Walker Ridge, 4 miles west of Wilbur Springs, Calif.

6550-C1-P-71—The Pacific Telephone & Telegraph Co. (KNE53), C.P. to add frequency 3800 MHz toward San Rafael Hill, Calif. Station location: 99 Moultrie Street, San Francisco, CA.

6551-C1-P-71—The Pacific Telephone & Telegraph Co. (WBO59), C.P. to add frequency 3890 MHz toward Santa Rosa and San Rafael Hill, Calif. Station location: Red Mountain, 3.3 miles northeast of Kenwood, Calif.

6552-C1-P-71—The Pacific Telephone & Telegraph Co. (WBO61), C.P. to add frequency 3890 MHz toward San Francisco and Red Mountain, Calif. Station location: San Rafael Hill, 1.5 miles northeast of San Rafael, Calif.

6559-C1-P-71—Olympic Telephone Co. (New), C.P. for a new station to be located at 3,000 feet, north of Kingston, Wash. Frequencies: 4407.5 MHz toward Fort Lawton, Wash., and 4822.5 MHz toward Vashon, Wash.

6570-C1-P-71—Vashon Telephone Co. (New), C.P. for a new station to be located at 11,000 feet south of Vashon, Wash. Frequencies: 4422.5 MHz toward Rattle Snake, Wash., via passive reflector and 4522.5 MHz toward Kingston, Wash.

upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action filed with respect to any one of the earlier filed conflicting applications. The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign and nature of application

6539-C2-TC-71—Radiofone Corp. of New Jersey, Consent to transfer of control from Robert Edward, Transferor, to Radiofone Corp., Transferee.

6572-C2-P-71—Southwestern Bell Telephone Co. (KKA282), C.P. to add frequencies 454.475, 454.500, 454.500, and 454.650 MHz and change the antenna system operating on 454.375, 454.400, and 454.425 MHz at station located at 1.7 miles east of Interstate Highway No. 35 on Southeast 89th Street, Oklahoma City, OK.

6573-C2-P-71—New York Telephone Co. (KEC932), C.P. for additional air-ground facilities to operate on frequency 454.775 MHz base and frequencies 459.700 and 459.775 MHz test at station located at 125-10 Queens Boulevard, Kew Gardens, NY.

6579-C2-P-71—Frank A. Del Vecchio (New), C.P. for a new 2-way station to be located at 4605 Valley Forge Drive, Rockville, MD, to operate on 152.120 MHz.

6580-C2-P-71—General Telephone Co. of Illinois (KSK620), C.P. to replace the transmitter operating on 152.21 MHz and add a second channel on 152.72 MHz at station located at 112 East Washington Street, Bloomington, IL.

6581-C2-P-71—Airsignal International, Inc. (KIF651), C.P. for additional facilities to operate on 35.58 MHz at a new site described as location No. 2: 3471 North Federal Highway, Fort Lauderdale, FL.

6582-C2-P-71—Capital Telephone Co., Inc. (KEC937), C.P. to replace transmitters; change the antenna system and relocate the base facilities operating on 152.030 and 152.180 MHz to Helderberg 2, 2.2 miles west-northwest of New Salem, New Scotland, N.Y., also add repeater facilities on 75.50 and 75.62 MHz at same location and add control facilities on 72.58 and 72.66 MHz at 611 Union Street, Schenectady, NY.

6583-C2-P-71—Industrial Communications (KOP321), C.P. to add a second base channel to operate on 152.08 MHz, replace the transmitter and change the antenna system operating on 152.21 MHz and add a second repeater channel to operate on 459.350 MHz, replace the transmitter and change the antenna system operating on 459.050 MHz at location No. 1: Blue Mountain, Utah; at location No. 2: 625 West Fifth North, Vernal, UT, add control facilities to operate on 454.350 and 454.175 MHz and replace the transmitter operating on 454.050 MHz and at a new site described as location No. 3: Tabby Mountain, 4.5 miles west of Tablona, Utah, additional facilities to operate on 152.12 MHz base and 459.175 MHz repeater.

6586-C2-P-71—Airsignal International, Inc. (KOA796), C.P. for additional facilities to operate on 35.580 MHz at a new site described as location No. 3: Rocky Butte Circle Road, Portland, OR.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—Continued

6571-C1-P-71—American Telephone & Telegraph Co. (KAF65), C.P. for additional facilities to add frequency 3710 MHz toward Cedar Rapids, Iowa. Station location: 2 miles east-northeast of Homestead, Iowa.

6574-C1-P-71—Cincinnati Bell, Inc. (KQN89), C.P. to add frequencies 5967.4 and 10,995 MHz toward Owensville, Ohio. Station location: 209 West Seventh Street, Cincinnati, OH.

6575-C1-P-71—Cincinnati Bell, Inc. (KQN90), C.P. to add frequencies 6219.5 and 11,445 MHz toward Cincinnati, Ohio, and 6234.3 and 11,645 MHz toward Rochester, Ohio. Station location: 2.7 miles north of Owensville, Ohio.

6576-C1-P-71—Wisconsin Telephone Co. (KSO85), C.P. to add frequencies 6100.9 and 11,155 MHz toward Osborn, Wis. Station location: 128 North Superior Street, Appleton, WI.

6577-C1-P-71—Wisconsin Telephone Co. (KSO86), C.P. to add frequencies 6293.6 and 11,605 MHz toward Appleton, Wis. and 6249.1 and 11,325 MHz toward Green Bay, Wis. Station location: 3.7 miles southwest of Seymour, Wis. (Osborn).

6578-C1-P-71—Wisconsin Telephone Co. (KSO87), C.P. for additional facilities to add frequencies 6146.3 and 10,875 MHz toward Osborn, Wis. Station location: 205 South Jefferson Street, Green Bay, WI.

6600-C1-P-71—Michigan Bell Telephone Co. (KQH77), C.P. to add frequency 3930 MHz toward Flint, Mich. Station location: 10389 Hadley Road, Atlas, MI.

6601-C1-P-71—Michigan Bell Telephone Co. (KQG59), C.P. to add frequency 3890 MHz toward Atlas, Mich. Station location: 502 Beach Street, Flint, MI.

6606-C1-P-71—The Chesapeake and Potomac Telephone Co. of Virginia, (KJO52) C.P. to add frequencies 6412.2 and 11,305 MHz toward Norfolk, Va. Station location: 3305 Huntington Avenue, Newport News, VA.

6695-C1-P-71—Southern Bell Telephone & Telegraph Co. (KLP48), C.P. to add frequency 6390.0 MHz toward Greenough, Ga. Station location: 304 Pine Avenue, Albany, GA.

6698-C1-P-71—Southern Bell Telephone & Telegraph Co. (KJL38), C.P. to add frequency 6049.0 MHz toward Meigs, Ga., and 4030 MHz toward Albany, Ga. Station location: 4.5 miles southeast of Baconton, Ga. (Greenough).

6697-C1-P-71—Southern Bell Telephone & Telegraph Co. (KJL39), C.P. to add frequency 4070 MHz toward Greenough and Thomasville, Ga. Station location: 2.2 miles west of Meigs, Ga.

6698-C1-P-71—Southern Bell Telephone & Telegraph Co. (KIU49), C.P. to add frequency 4030 MHz toward Meigs, Ga. Station location: 122 Remington Avenue, Thomasville, GA.

6699-C1-MP-71—Southwestern Bell Telephone Co. (WDE92), Modification of C.P. to add frequencies 3730, 3810, 3890, 3970, 6226.9, and 6345.5 MHz toward Odessa, Tex., a new point of communication. Station location: Interstate Highway 20 and State Highway 349, Midland, Tex.

6700-C1-P-71—Southwestern Bell Telephone Co. (KLT69), C.P. to add frequencies 3930, 4010, 4090, 4170, 5974.8, and 6093.5 MHz toward Midland R.S., Tex., which replaces point of communication at Midland, Tex. Corrected coordinates to read: latitude 32°02'11" N., longitude 102°22'42" W. Station location: 10 miles north of Odessa, Tex.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTTELEPHONE)

6541-C1-P/ML-71—Eastern Microwave, Inc. (KEM34), C.P. and modification of license to add frequency band 5960.0 MHz-6390.0 MHz and to add six 6 GHz transmitters to present temporary-fixed authorization (2355-C1-R-66).

6553-C1-P-71—United Video, Inc. (New), C.P. for a new station 0.5 mile west of McNell, Miss., at latitude 30°40'00" N., longitude 89°38'54" W. Frequencies: 6241.7 and 6360.3 MHz on azimuth 80°59'.

6554-C1-P-71—United Video, Inc. (New), C.P. for a new station 2 miles northeast of Perry, Miss., at latitude 30°44'22" N., longitude 89°08'35" W. Frequencies: 6137.9 and 6167.6 MHz on azimuth 69°16'.

6555-C1-P-71—United Video, Inc. (New), C.P. for a new station 1.5 miles south-southwest of Lucedale, Miss., at latitude 30°54'19" N., longitude 88°35'55" W. Frequencies: 6301 and 6360.3 MHz on azimuth 114°49'.

6556-C1-P-71—United Video, Inc. (New), C.P. for a new station 1 mile west of Semmes, Ala., at latitude 30°46'38" N., longitude 88°16'44" W. Frequencies: 6019.3 and 6187.6 MHz on azimuth 112°24' and frequency 6019.3 MHz on azimuth 62°08'.

6557-C1-P-71—United Video, Inc. (New), C.P. for a new station 4 miles southwest of Rabun, Ala., at latitude 31°00'30" N., longitude 87°46'09" W. Frequency: 6182.4 MHz on azimuth 855°45'.

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POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTTELEPHONE)—Continued

6558-C1-P-71—United Video, Inc. (New), C.P. for a new station 5 miles southeast of Jackson, Ala., at latitude 31°27'40" N., longitude 87°48'30" W. Frequency: 6390.0 MHz on azimuth 83°05'.

6559-C1-P-71—United Video, Inc. (New), C.P. for a new station 2.3 miles west of Mexia, Ala., at latitude 31°30'00" N., longitude 87°25'42" W. Frequency: 6078.6 MHz on azimuth 51°53'.

6560-C1-P-71—United Video, Inc. (New), C.P. for a new station 2 miles northwest of Midway, Ala., at latitude 31°43'58" N., longitude 87°04'50" W. Frequency: 6390.0 MHz on azimuth 49°09'.

6561-C1-P-71—United Video, Inc. (New), C.P. for a new station 3 miles south-southeast of Macedonia, Ala., latitude 31°57'00" N., longitude 86°47'08" W. Frequency: 5960.0 MHz on azimuth 90°40', and frequency 6078.6 MHz on azimuth 328°11'.

6562-C1-P-71—United Video, Inc. (New), C.P. for a new station 5 miles west of Highland Home, Ala., at latitude 31°56'44" N., longitude 86°23'56" W. Frequency: 6390.0 MHz on azimuth 62°13'.

6563-C1-P-71—United Video, Inc. (New), C.P. for a new station 2.5 miles west-northwest of Shopton, Ala., at latitude 32°07'48" N., longitude 85°59'10" W. Frequency: 6960.0 MHz on azimuth 114°26'.

6564-C1-P-71—United Video, Inc. (New), C.P. for a new station 1 mile southwest of Mount Andrew, Ala., at latitude 31°57'17" N., longitude 85°32'09" W. Frequency: 6390.0 MHz on azimuth 97°33'.

6565-C1-P-71—United Video, Inc. (New), C.P. for a new station 2 miles east-southeast of Kings, Ala., at latitude 32°11'38" N., longitude 86°57'49" W. Frequency: 6345.5 MHz on azimuth 317°53'.

6566-C1-P-71—United Video, Inc. (New), C.P. for a new station 3 miles southeast of Harrell, Ala., at latitude 32°23'58" N., longitude 87°11'12" W. Frequency: 6108.3 MHz on azimuth 333°59'.

6567-C1-P-71—United Video, Inc. (New), C.P. for a new station 0.75 mile east of Levert, Ala., at latitude 32°45'46" N., longitude 87°13'51" W. Frequency: 6390.3 MHz on azimuth 352°14'.

6568-C1-P-71—United Video, Inc. (New), C.P. for a new station 4.5 miles northeast of Hagler, Ala., at latitude 33°04'18" N., longitude 87°16'51" W. Frequency: 6108.3 MHz on azimuth 306°23'.

(INFORMATIVE: Applicant proposes to provide the television signal of Station WVOM-TV of New Orleans, La., to Teleprompter Corp. in Tuscaloosa and Mobile, Ala., and to Lake Shore Master Antenna Corp. in Eufaula, Ala. Applicant also proposes to provide the signal of WYES-TV to Teleprompter Corp. in Mobile, Ala. Waiver requested for section 21.701(1) of the rules.)

6568-C1-P-71—United Video, Inc. (VAN82), C.P. to add frequencies 11,425 and 11,585 MHz on azimuth 229°12'. Location: 1.28 miles west-northwest of Phelps, Mo., at latitude 37°11'43" N., longitude 93°55'39" W. (Applicant is proposing to reroute a previously authorized service to Neosho, Mo.)

6589-C1-P-71—First Television Corp. (KGN77), C.P. to power split frequencies 5960.0, 6019.3, 6078.6, and 6137.9 MHz on azimuth 102°00'. Location: 5 miles northwest of Salisbury, Md., at latitude 38°24'13" N., longitude 75°37'28" W.

(INFORMATIVE: Applicant proposes to provide the television signals of Stations WMAR-TV, WBAL-TV, WJZ-TV, and WTIG-TV to Princess Anne CATV, Inc., in Princess Anne, Md.)

6602-C1-TC-(3)-71—First Television Corp. Consent to transfer of control from: Bernard Briskin et al. to: Transferor to: Ed. Phillips & Sons Co., Transferee, Stations: KGN65, Georgetown, Del.; KGN76, Salisbury, Md.; KGN77, Cambridge, Md.

(INFORMATIVE: Applicant proposes a regional microwave network for the purpose of providing two-way terminal-to-terminal common carrier video transmission services for commercial and public television broadcast stations in New England.)

6701-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 2.2 miles southwest of Woburn, Mass., at latitude 42°27'20" N., longitude 71°10'50" W. Frequencies 11,665V on azimuth 144°19' toward Boston, Station WHDH; 11,465V on azimuth 137°10' to passive repeater and on azimuth 333°30' from passive repeater toward Station WNAC, Boston; 11,585V on azimuth 145°12' toward Boston, Station WKBG; 11,385V on azimuth 159°20' toward Boston, Station WBZ; 11,625V on azimuth 159°20' to passive repeater at WBZ to

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6716-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at Alfred E. Smith Building, Albany, N.Y., at latitude 42°39'14" N., longitude 73°45'37" W. Frequency 10,985V on azimuth 83°32' toward Berlin Mountain, N.Y.

6717-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 2.9 miles south of Avon, Talcott Mountain, Conn., at latitude 41°46'27" N., longitude 72°48'23" W. Frequencies 6177.5H, 6226.9V, 6286.2V, 6315.9H, 6345.5V, 6375.2H, and 6404.8V on azimuth 346°51' toward Blandford, Mass.; 6226.9V, 6286.2V, 6345.5V on azimuth 202°27' toward Prospect, Conn.; 11,425V on azimuth 94°07' toward Hartford, Station WHCT; 11,585V on azimuth 142°30' toward Hartford, Station WHNB; 11,665V on azimuth 110°05' toward Hartford, Station WHDH; 11,345V on azimuth 95°22' to passive repeater in Hartford and 62°02' toward Station WHIC.

6718-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at 24 Summit Street, Hartford, Conn., at latitude 41°44'35" N., longitude 72°41'34" W. Frequency 10,975V on azimuth 290°05' toward Talcott Mountain, Conn.

6719-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 1.9 miles south of Prospect, Conn., at latitude 41°28'18" N., longitude 72°58'21" W. Frequencies 5974.8V, 6004.5H, 6034.2V, 6093.5V, 6123.1H, 6152.8V on azimuth 22°20' toward Talcott Mountain; 6034.2V, 6093.5V, 6152.8V on azimuth 219°48' toward Booth Hill, Conn.

6720-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 2.3 miles northeast of Long Hill, Booth Hill, Conn., at latitude 41°16'43" N., longitude 73°11'08" W. Frequencies 6226.9V, 6286.2V, 6345.5V, 6404.8V, 6256.5H, 6315.9H on azimuth 39°40' toward Prospect, 11,425V on azimuth 28°00' toward Waterbury, Station WATR, 11,665V on azimuth 81°50' to passive repeater, New Haven and on azimuth 221°42' toward Station WHNC; 6256.5H, 6315.9H, 6375.2H on azimuth 229°06' toward Empire State Building, New York, N.Y.

6721-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at Fifth Avenue at 34th Street, New York, N.Y., at latitude 40°44'54" N., longitude 73°59'10" W. Frequencies 6004.5H, 6063.8H, 6123.1H, 6034.2V, 6093.5V, 6152.8V on azimuth 48°34' toward Booth Hill, Conn.; 11,425V on azimuth 28°13' toward Station NBC; 11,665V on azimuth 350°24' toward Station CBS; 11,265V on azimuth 11°30' to passive repeater and on azimuth 349°16' to Station ABC.

6722-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at 57 West 56th Street, New York, N.Y., at latitude 40°46'23" N., longitude 73°58'48" W. Frequency 11,085V on azimuth 163°16' to passive repeater and on azimuth 191°31' toward Empire State Building, New York, N.Y.

6723-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at 30 Rockefeller Plaza, New York, N.Y., at latitude 40°45'31" N., longitude 73°58'49" W. Frequency 10,735V MHz on azimuth 203°13' toward Empire State Building, New York, N.Y.

6724-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at 524 West 57th Street, New York, N.Y., at latitude 40°46'11" N., longitude 73°59'27" W. Frequency 10,975V on azimuth 170°24' toward Empire State Building, New York, N.Y.

[FR Doc 71-7817 Filed 6-4-71; 8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-42; Special Permission 5343]

SEA-LAND SERVICE, INC.

General Increases in Rates in U.S. Atlantic and Gulf/Puerto Rico Trade; First Supplemental Order

By the original order in this proceeding served April 22, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and supplemental matter continued in effect by re-augmented to and including August 24, 1971, supplements No. 9 to Tariffs FMC-F No.

18 and FMC-F No. 21. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 300 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon not less than 1 day's notice, of certain revised pages which will change tariff matter continued in effect by re-augmented to and including August 24, 1971, supplements No. 9 to Tariffs FMC-F No.

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POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTTELEPHONE)—Continued

Station WGBH on azimuth 100°57' from passive repeater; 11,425V on azimuth 168°19' toward Brighton, Station WSBK; 6004.5V and 6063.8V on azimuth 351°28' toward Warner Hill; 11,505V on azimuth 253°04' toward Boylston, Station WSMW; 6004.5H, 6034.2V, 6123.1H, and 6152.9V on azimuth 244°12' toward Charlton, Mass.; 5945.2H, 6004.5H, 6034.2V, 6123.1H, 6152.8V on azimuth 203°24' toward Beacon Pole Hill, R.I.

6702-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at 50 Morrissey Boulevard, Boston at latitude 42°19'06" N., longitude 71°02'52" W. Frequency 10,975V on azimuth 324°24' toward Woburn, Mass.

6703-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at RKO Building, Government Center, Boston at latitude 42°21'43" N., longitude 71°03'42" W. Frequency 10,735V on azimuth 153°30' to passive repeater and on azimuth 317°15' toward Woburn, Mass.

6704-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at 75 Morrissey Boulevard, Boston, at latitude 42°19'00" N., longitude 71°03'02" W. Frequency 11,175V on azimuth 325°17' toward Woburn, Mass.

6705-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at 1170 Soldiers Field Road, Boston, at latitude 42°21'54" N., longitude 71°08'04" W. Frequency 10,775V on azimuth 339°22' toward Woburn, Mass.

6706-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at 125 Western Avenue, Boston, at latitude 42°21'49" N., longitude 71°07'29" W. Frequency 11,015V on azimuth 280°58' to passive repeater and on azimuth 339°22' toward Woburn, Mass.

6707-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at Brighton, Mass., at latitude 42°21'33" N., longitude 71°08'56" W. Frequency 10,695V on azimuth 346°20' toward Woburn, Mass.

6708-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 2.6 miles north of Shrewsbury, Boylston, Mass., at latitude 42°20'01" N., longitude 71°42'53" W. Frequency 10,815V on azimuth 72°42' toward Woburn, Mass.

6709-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station at Warner Hill Road, Derry, N.H., latitude 42°53'10" N., longitude 71°16'06" W. Frequencies 6256.5V and 6315.9V on azimuth 51°10' toward Mount Agamenticus, Maine.

6710-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 5.3 miles north of York Corner, Maine, at latitude 43°13'25" N., longitude 70°41'34" W. Frequencies 5945.2V and 6004.5V on azimuth 35°52' toward Portland, Maine.

6711-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 3.8 miles east of Woonsocket, Beacon Pole Hill, R.I., at latitude 41°59'39" N., longitude 71°26'53" W. Frequencies 11,225V on azimuth 184°00' to passive repeater at Providence and on azimuth 195°05' toward Station WSBK; 11,465V and 11,305V on azimuth 171°23' to passive repeater at Providence and on azimuth 146°31' toward Station WJAR, Providence and 278°25' toward Station WPRI, Providence; 6404.8H on azimuth 154°00' toward Tiverton, R.I.

6712-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 2.2 miles southeast of Tiverton, R.I., at latitude 41°35'48" N., longitude 71°11'24" W. Frequency 11,665V on azimuth 79°15' toward New Bedford, Mass.

6713-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 2.3 miles north of Charlton, Mass., at latitude 42°10'05" N., longitude 71°58'20" W. Frequencies 6226.9H, 6256.5V, 6286.2H, 6345.5H, 6375.2V, and 6404.8H on azimuth 63°40' toward Woburn, Mass.; 6226.9V, 6286.2V, 6404.8V, and 6345.5V on azimuth 274°23' toward Blandford, Mass.

6714-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 3 miles north of Blandford, Mass., at latitude 42°13'10" N., longitude 72°56'47" W. Frequencies 6004.5H, 6034.2V, 6093.5V, and 6123.1H on azimuth 166°45' toward Talcott Mountain, Conn.; 5945.2H, 5974.8V, 6004.5H, 6034.2V, 6063.8H, 6093.5V, and 6123.1H on azimuth 93°44' toward Charlton, Mass.; 5945.2H, 6063.8H, and 6004.5H on azimuth 332°05' toward Berlin Mountain, N.Y.; 11,665V on azimuth 106°29' toward Springfield, Mass., Station WHYN; and 11,585V on azimuth 126°57' toward Springfield, Mass., Station WWLF.

6715-C1-P-71—Video Microwave, Inc. (New), C.P. for a new station 4.48 miles east of Berlin, Berlin Mountain, N.Y., at latitude 42°41'33" N., longitude 73°17'11" W. Frequencies 11,585V on azimuth 263°51' toward Albany, Station FEN; 6197.2H on azimuth 151°52' toward Blandford, Mass.; 11,665V and 11,345V on azimuth 266°47' toward Albany, Station WTEN.

tinuing special permission to make changes in rates and provisions held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates and charges.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-42 to make the changes in rates and provisions as set forth in the Appendix to Special Permission Application No. 300, said changes to become effective on full statutory notice, is hereby granted. The short notice authority requested by Special Permission Application No. 300 is hereby denied.

2. Authority is further granted to Seal-Land Service, Inc., to depart from the terms of Rule 20(c) of the Commission's Domestic Tariff Circular No. 3 and the terms of the original order in Docket No. 71-42 to make changes in rates and provisions in its Tariffs FMC-F No. 18 and FMC-F No. 21 or held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates or charges, unless otherwise authorized by the Commission. This authority extends to and including August 24, 1971.

3. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Interstate Commerce Act, 1933.

4. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of First Supplemental Order in Docket No. 71-42 and Federal Maritime Commission Special Permission No. 5343."

5. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes and permits the statutory filing of reduced rates, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.
[FR Doc. 71-7889 Filed 6-4-71; 8:50 am]

[Docket No. 71-30; Special Permission 5346]

TRANSAMERICAN TRAILER TRANSPORT, INC.

Increases in Rates in U.S. Atlantic/ Puerto Rico Trade; Second Supplemental Order

By the original order in this proceeding served March 31, 1971, the Commission

placed under investigation a general rate increase of the subject carrier, and suspended to and including August 24, 1971, Supplement No. 8 to Tariff FMC-F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 50 authority is sought to depart from the terms of Rules 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon full statutory notice of 30 days, certain revised pages which will change tariff matter continued in effect by reason of suspension in this proceeding. In view of this request consideration was given to granting a continuing special permission to make changes in rates and provisions held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates and charges.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-30 to make the changes in rates and provisions as set forth in exhibits in Special Permission Application No. 50, said changes to become effective on full statutory notice, is hereby granted.

2. Authority is further granted to Transamerican Trailer Transport, Inc., to depart from the terms of Rule 20(c) of the Commission's Domestic Tariff Circular No. 3 and the terms of the original order in Docket No. 71-30 to make changes in rates and provisions held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates or charges, unless otherwise authorized by the Commission. This authority extends to and including August 24, 1971.

3. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Interstate Commerce Act, 1933.

4. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of Second Supplemental Order in Docket No. 71-30 and Federal Maritime Commission Special Permission No. 5346."

5. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes and permits the statutory filing of reduced rates, nor waive, except as herein au-

thorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.
[FR Doc. 71-7890; Filed 6-4-71; 8:50 am]

FEDERAL POWER COMMISSION NATIONAL GAS SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating Additional Member

MAY 28, 1971.

The Federal Power Commission by orders issued April 6, 1971, established an Executive Advisory Committee of the National Gas Survey.

1. *Membership.* An additional member to the Executive Advisory Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

George P. Mitchell, President, George Mitchell & Associates, Inc.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.
[FR Doc. 71-7875 Filed 6-4-71; 8:48 am]

[Docket No. R171-1061]

AMERADA HESS CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

MAY 28, 1971.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until"

column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure re-

quired by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until dis-

position of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf* Rate in effect	Proposed increased rate	Rate in effect subject to refund in docket Nos.
R171-1061.	Amerada Hess Corp. et al.	95	8	Montana-Dakota Utilities Co. (Nesson Anticline Area, Williams County, N. Dak.).	\$391,186	4-28-71	.....	10-29-71	19.0442	122.4167	R171-507.

*The pressure base is 14.73 p.s.i.a.

†Increase based on rise of Bureau of Labor Statistics' index of wholesale prices on all commodities.

The proposed increase of Amerada Hess Corp. is for a sale in North Dakota where no ceiling rates have been established. However, the proposed rate exceeds the highest certificated rate in North Dakota which is 16 cents per Mcf. It also exceeds the corresponding rate filing limitation imposed in Southern Louisiana in Order No. 413, as amended.² The proposed increase is therefore suspended for five months from the expiration of the 30-day statutory notice period.

Additionally, Amerada requests an effective date for which adequate notice was not given. Good cause has not been shown for granting this request and it is denied.

[FR Doc. 71-7865 Filed 6-4-71; 8:48 am]

[Docket No. E-7548, etc.]

GEORGIA POWER CO. ET AL.

Order Directing Conference on Data Requests and Dismissing Renewal of Complaints in Terminated Proceedings

MAY 28, 1971.

Georgia Power Co., Docket No. E-7548; Southern Electric Generating Co., Docket No. E-7569; and Southern Services, Inc., Georgia Power Co., Alabama Power Co., Gulf Power Co., and Mississippi Power Co., Docket No. E-7570.

By a pleading entitled "Renewals of Complaints, Motion for Order of Compliance and Motion to Consolidate", filed March 18, 1971, the customer-intervenors* (Intervenors) in Docket No. E-7548, Georgia Power Co.'s wholesale rate increase case, seek to renew their complaints in Dockets Nos. E-7569 and E-7570, requesting initiation of an investigation therein, and consolidation of those dockets with E-7548, as well as an order requiring the several parties named in the caption above to comply with intervenors' data requests.¹ The

² See the Commission's order issued Mar. 22, 1971, granting in part and denying in part applications for rehearing of the Commission's order issued Feb. 18, 1971, which is entitled "Outstanding Suspension Proceedings and Temporary Certificates Involving Independent Producers."

¹ Answers were filed by all the parties named in the caption above, and intervenors filed a reply thereto.

complaints in Dockets Nos. E-7569 and E-7570 were originally filed on October 14, 1970, and were dismissed by our order issued January 15, 1971. The above-mentioned pleading, insofar as it seeks renewal of the complaints and consolidation, is no more than a petition for rehearing of our January 15 order, and under the provisions of section 313(a) of the Federal Power Act must be dismissed as untimely filed.

The above-mentioned pleading also seeks an order directing compliance with intervenors' data request² addressed to the several members of the Southern Co. system. The member companies (other than Georgia) have declined to comply with the request.

Upon review of the documents filed herein we find that intervenors have set forth no facts upon which we can reach a determination whether or not the data they request are relevant and material to the issues in Docket No. E-7548. Accordingly, we neither grant nor deny at this time intervenors' request for an order directing compliance with their data request. Moreover, the Presiding Examiner is in a better position in the first instance to assess the materiality and relevance of the various items contained in the data request. Accordingly, we are directing that a conference be held, on the record, before the Presiding Examiner in Docket No. E-7548. At such conference the parties shall set forth their positions and arguments with regard to the materiality and relevance of the data requests with sufficient particularity to enable the Presiding Examiner to rule on the materiality and relevance of each item, and to direct the production of all items he determines to be relevant and material.

The Commission orders:

(A) A conference before the Presiding Examiner in Docket No. E-7548 shall be held in a hearing room of the Federal Power Commission, Washington, D.C. 20426, commencing at 10 a.m., e.d.s.t., on June 15, 1971, for the purposes herein described.

³ Originally submitted on March 1, 1971; subsequently, a less extensive request was substituted. The latter is the one presently in issue.

(B) The renewals of complaints in Dockets Nos. E-77569 and E-7570 are dismissed.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.
[FR Doc. 71-7868 Filed 6-4-71; 8:48 am]

[Docket No. RP70-6, etc.]

LAWRENCEBURG GAS TRANSMISSION CORP.

Order Accepting Tracking Increase for Filing, Allowing Proposed Revised Tariff Sheets To Become Effective Subject to Further Orders and Consolidating Proceedings

MAY 28, 1971.

Lawrenceburg Gas Transmission Corp. (Lawrenceburg), on April 28, 1971, tendered for filing in Docket No. RP71-113 proposed changes in its FPC Gas Tariff, Original Volume No. 1,¹ designed solely to track the rate increase filed by its supplier, Texas Gas Transmission Corp. (Texas Gas), to become effective June 1, 1971. Lawrenceburg proposes that its increase become effective on June 1, 1971, but requests that if its filing is suspended, such suspension not extend beyond the date on which Texas Gas' rate filing becomes effective. Lawrenceburg's proposed rate changes would increase charges under its two jurisdictional rate schedules, CDS-1 and EX-1, by approximately \$34,357 annually based on volumes for the 12 months ended June 30, 1969.

In support of its filing, Lawrenceburg submitted cost of service and other data substantially identical to that which it submitted in support of its rate increase filings in Dockets Nos. RP70-6, RP70-26, RP70-44, and RP71-95.

In view of the fact that the purpose of Lawrenceburg's filing is to track its supplier's rate increase, we will accept Lawrenceburg's revised tariff sheets for filing and allow them to become effective June 1, 1971, subject to further orders

¹ The proposed revised tariff sheets are Seventh Revised Sheets Nos. 4 and 12.

of the Commission in Docket No. RP70-6, et al., as consolidated herein.

The fact that the cost and related data relied upon by Lawrenceburg in support of its filings in Docket No. RP71-113 and in each of the other above-captioned dockets are substantially the same, raises issues of law and fact common to each proceeding. Under these circumstances, it is appropriate that Docket No. RP71-113 be consolidated with the latter proceedings for purposes of hearing and decision.

The Commission finds: It is reasonable and appropriate that the proposed revised tariff sheets contained in Footnote 1, above, be accepted for filing and allowed to become effective June 1, 1971, as hereinafter ordered and conditioned. The Commission orders:

(A) Seventh Revised Sheets Nos. 4 and 12 of Lawrenceburg's FPC Gas Tariff, Original Volume No. 1, are accepted for filing, to become effective June 1, 1971, subject to further orders of the Commission as may be issued in the proceedings in Docket No. RP70-6 et al., as consolidated herein.

(B) The proceedings in Dockets Nos. RP71-113 and RP70-6, et al. are hereby consolidated.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-7871 Filed 6-4-71; 8:48 am]

[Docket No. RP71-112]

**MICHIGAN WISCONSIN PIPE LINE CO.
Order Providing for Hearing, Establishing Hearing Procedures, Rejecting Proposed Revised Tariff Sheets, and Accepting and Suspending Proposed Alternate Revised Tariff Sheets**

MAY 28, 1971.

On April 29, 1971, Michigan Wisconsin Pipe Co. tendered for filing certain proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, and First Revised Volume No. 2, to become effective on June 1, 1971. The proposed rate changes would increase Michigan Wisconsin's charges for jurisdictional sales and services by \$40,061,069 annually based on sales for the 12 months ended January 31, 1971.

Michigan Wisconsin submitted two sets of proposed tariff sheets to its Second Revised Volume No. 1: (1) Revised tariff sheets, which contain a purchased gas adjustment clause, and (2) alternate revised tariff sheets, which do not contain a purchased gas adjustment clause. Michigan Wisconsin requests a waiver of § 154.38(d)(3) of the Commission's regulations to permit the revised tariff sheets containing the purchased gas adjustment clause to become effective as proposed. If the waiver of § 154.38(d)(3) is not granted, Michigan Wisconsin proposes that its alternate revised tariff sheets without the purchased gas adjustment clause be considered in lieu of and

in substitution for the proposed revised tariff sheets which contain such clause. The tariff sheets in First Revised Volume No. 2 relate to transportation services and exchange agreements and therefore a purchased gas adjustment clause is not applicable.

Michigan Wisconsin states that its proposed rate increase is necessary as a result of (1) the increased cost of capital resulting in a claimed overall rate of return of 8 3/4 percent, (2) the increased cost of acquiring additional gas supplies, (3) a return to normalized accounting for liberalized depreciation in the determination of income taxes, (4) increased depreciation and taxes, (5) costs related to compliance with the safety standards promulgated by the Department of Transportation, and (6) the increased cost of labor, supplies, and other expenses of operation.

The reasonableness of including a purchased gas adjustment provision in Michigan Wisconsin's tariff has not been tested in any evidentiary proceeding. If accepted at this time, this provision would become operative when made effective after suspension. The purchased gas adjustment provision raises a number of substantive issues which should be fully explored and resolved before rates and charges to Michigan Wisconsin's customers are subjected to changes by application of this proposed adjustment provision. Accordingly, we deem it inappropriate at this time to waive the provisions of § 154.38(d)(3) of the Commission's regulations to permit the filing of Michigan Wisconsin's proposed revised tariff sheets containing a purchased gas adjustment provision. However, during the pendency of this proceeding and prior to the determination of this issue Michigan Wisconsin will not be precluded from requesting permission to track supplier rate increases which increase the purchased gas costs filed for by Michigan Wisconsin in this proceeding.

A review of Michigan Wisconsin's rate increase filing indicates that it raises issues which require development in an evidentiary proceeding. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Michigan Wisconsin's FPC gas tariff, as proposed to be amended herein, and that the revised tariff sheets set forth in Appendix A be suspended, and the use thereof be deferred as herein provided.

(2) Michigan Wisconsin's proposed revised tariff sheets containing a purchased gas adjustment clause should be rejected.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4

and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing commencing with a prehearing conference shall be held on July 20, 1971, concerning the lawfulness of the rates, charges, classifications, and services contained in Michigan Wisconsin's FPC gas tariff, as proposed to be amended herein.

(B) On or before September 5, 1971, the Commission's staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before September 15, 1971. Any rebuttal evidence by Michigan Wisconsin shall be served on or before October 5, 1971. Cross-examination of the evidence filed shall commence at 10 a.m. on October 19, 1971, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

(C) At the hearing on July 20, 1971, Michigan Wisconsin's prepared testimony (Statement P), together with its entire rate filing submitted on April 29, 1971, shall be admitted into the record as its complete case-in-chief as provided by § 154.63(e)(1) of the Commission's regulations under the Natural Gas Act, subject to appropriate motions, if any, by the parties to the proceeding. Following admission of Michigan Wisconsin's complete case-in-chief, the parties shall proceed to effectuate the intent and purpose of § 2.59, and particularly § 2.59(f) of the Commission's rules of practice and procedure and of this order as set forth above.

(D) Michigan Wisconsin's proposed revisions to its FPC gas tariff, Second Revised Volume No. 1, consisting of alternate revised tariff sheets not containing a gas purchase adjustment clause, and its proposed revised tariff sheets to its FPC gas tariff, First Revised Volume No. 2, all as set forth in Appendix A, are hereby suspended and their use deferred until November 1, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(E) Michigan Wisconsin's proposed revised tariff sheets incorporating a purchased gas adjustment clause are hereby rejected. These proposed tariff sheets may be considered, along with any modifications or alternative provisions submitted by the parties or the Commission's staff, as a proposed purchased gas adjustment provision to be included in Michigan Wisconsin's tariff.

(F) A presiding examiner to be designated by the chief examiner for that purpose (18 CFR 3.5(d)), shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the terms of this order and the provisions of § 2.59 of the Commission's rules of practice and procedure. Upon a showing of good cause, the presiding examiner may grant such ex-

tensions of time as he may deem necessary or appropriate.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

MICHIGAN WISCONSIN PIPE LINE COMPANY
PROPOSED TARIFF SHEETS FILED APRIL 29, 1971

Second Revised Volume No. 1 (tariff sheets without purchased gas adjustment clause).
Sixteenth Revised Sheet No. 6.
Fourteenth Revised Sheet No. 7.
Eight Revised Sheet No. 9B.
Eight Revised Sheet No. 9C.
Seventh Revised Sheet No. 9E.
Seventh Revised Sheet No. 9F.
Third Revised Sheet No. 9H.
Third Revised Sheet No. 9J.
Fourteenth Revised Sheet No. 10.
Fourteenth Revised Sheet No. 11.
Ninth Revised Sheet No. 12.
Twelfth Revised Sheet No. 13.
Eight Revised Sheet No. 14A.
Eight Revised Sheet No. 14D.
First Revised Volume No. 2.
Second Revised Sheet No. 92.
Second Revised Sheet No. 110.
Second Revised Sheet No. 129.
Second Revised Sheet No. 130.
First Revised Sheet No. 141.
First Revised Sheet No. 142.
First Revised Sheet No. 171.

[FR Doc. 71-7869 Filed 6-4-71; 8:48 am]

[Docket No. CP71-267]

**NUECES INDUSTRIAL GAS CO.
Order Setting Matter for Formal Hearing, Permitting Interventions, Prescribing Procedures, and Fixing Date of Hearing**

MAY 27, 1971.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 Stat. 83, 85, 15 U.S.C. secs. 717c, 717d, 717f, 717g, 717i, and 717j), issued Order No. 431 promulgating a statement of general policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

Nueces Industrial Gas Co. has filed, in the above-entitled Docket No. CP71-267, an application, pursuant to section 7(c) of the Natural Gas Act and pursuant to Order No. 431 in Docket No. 418, for a limited-term certificate of public convenience and necessity, with pregranted abandonment, authorizing the operation of certain facilities for the sale of emergency gas to Transcontinental Gas Pipe Line Corp. (Transco). The limited-term certificate provides that Nueces sell up to a maximum daily volume of 250,000 Mcf of natural gas to Transco for a 1-year period commencing May 11, 1971, or as soon thereafter as the requisite certificate authorization is issued herein. The contractually agreed rate for the gas is 33.50 cents per Mcf.

In Order 431, the Commission

amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads:

(3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-72 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the notice issued by the Commission on July 17, 1970, in Docket No. R-389A should be utilized (35 F.R. 11638). The Commission will consider limited-term certificates with pregranted abandonment, if the pipeline demonstrates emergency need . . .

Paragraph 12 of R-389A provided, in part, that applicants requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market at a rate in excess of existing in-line or guideline rates. In view of data which indicates to the Commission the inability of interstate pipelines to procure contracts for emergency supplies of gas at existing guideline rates, we believe it advisable to act expeditiously by setting this application for public hearing. The hearing will be held to allow the presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

Pursuant to the notice of the instant application issued May 10, 1971, the following parties filed petitions to intervene.

New York Public Service Commission filed a notice of intervention.
Philadelphia Electric Co.
Atlanta Gas Light Co.
Long Island Lighting Co.
Commonwealth Natural Gas Corp.
Brooklyn Union Gas Co.
North Penn Gas Co.
Commissioner of Public Works of Greenwood, S.C.
Washington Gas Light Co.
Consolidated Edison Company of New York.
Public Service Electric and Gas Co.
Transcontinental Gas Pipeline Co.
Piedmont Natural Gas Co., Inc.
South Jersey Gas Co.
Union Gas Co. et al.
Eastern Shore Natural Gas Co.
U.G.I. Corp.
Consolidated Gas Supply Corp.
Delmarva Power and Light Co.
Owens-Corning Fiberglass Corp.
Pennsylvania Gas and Water Co.
Carolina Pipeline Co.
Cities of Buford, Bowman, Georgia, Sugar Hill, Tri-County Natural Gas, Georgia.

The Commission finds:

(1) The application for a limited-term certificate herein shall be set for formal hearing.

(2) It is desirable to permit all of the aforementioned parties, who filed timely

petitions, to intervene in this proceeding.

The Commission orders:

(A) The application for limited-term certificate for the sale of natural gas filed in Docket No. CP71-267 is hereby set for hearing.

(B) Pursuant to the authority contained in, and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly sections 7, 15, and 16, and the Commission's rules and regulations under that Act, a public hearing shall be held commencing June 10th, 1971, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning whether the present or future public convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way. The Chief Examiner or an examiner designated by him shall preside at the hearing and shall prescribe such other procedures, consistent with those herein, as would expedite the early disposition of the instant proposal.

(C) All of the aforementioned parties who filed timely petitions to intervene herein are hereby permitted to become intervenors, subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene: *And provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any orders or order of the Commission entered in this proceeding.

(D) The applicant seeking a limited term certificate and the proposed purchaser, Transcontinental, as well as all other supporting intervenors shall, on or before June 4th, 1971, file with the Commission and serve on all parties to this proceeding, including the Commission staff, all testimony of all witnesses to be sponsored in support of the instant application.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-7870 Filed 6-4-71; 8:48 am]

[Docket No. E-7618]

SOUTHERN CALIFORNIA EDISON CO.

Order Denying Motion to Reject Filing, Suspending Proposed Rate Schedule Changes, Providing for Hearing, and Granting Intervention

MAY 27, 1971.

Southern California Edison Co. (Edison), a public utility subject to the juris-

diction of this Commission, has filed proposed changes to its R-1 (Resale Service) and R-2 (Resale Service—Large) rates, affecting 11 wholesale customers and 12 rate schedules. The filing was originally made on March 23, 1971, and was supplemented with additional required information on April 26, 1971. Based on forecasts for the period May 1971–June 1972, the proposed increased rates would result in an increase to the R-1 customers of \$84,475 (17.6 percent) and to the R-2 customers of \$3,755,651 (12.5 percent). The changed rates are proposed to become effective May 27, 1971. Edison states in support of the filing that it is necessary to compensate for increases in money, labor, and material costs since its present resale rate level was established in 1965, and to maintain the financial integrity of and attract capital for the company. An overall rate of return of 8 percent is claimed.

Petitions to intervene have been filed by the Cities of Anaheim, Riverside, and Banning (Anaheim et al.) and the Secretary of the Navy. Anaheim et al., also moved to reject the filing for failure to comply with the requirements of the Commission's regulations, for lack of contractual authorization under F.P.C. v. Sierra Pacific Power Co., 350 U.S. 348 (1956), and for alleged violation of the antitrust laws. Anaheim et al., and the Secretary of the Navy also request that the proposed changed rates be suspended for the full 5-month period permitted by section 205(e) of the Federal Power Act.

The arguments made by Anaheim, et al., in favor of rejection of the filing are not meritorious. The filing, as supplemented by the additional information furnished by Edison, is in substantial compliance with the requirements of § 35.13 of our regulations. The argument that the proposed changed rates lack contractual authorization is unsound in that section 2 of the applicable contracts specifically provides:

All electric service provided hereunder shall be paid for by the Customer under Rate Schedule No. R-2 or any effective superseding rate schedule and in accordance with the applicable Rules. . . .

This contractual language is parallel to that which the Supreme Court held in *United Gas Pipeline Co. v. Memphis Light, Gas & Water Division*, 358 U.S. 103 (1958) permitted the filing of increased rates. The present contract is thus clearly distinguishable from those found not to authorize such filings in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *F.P.C. v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), on which Anaheim et al., rely. The language of section 7 of the contract,¹ re-

¹ Section 7 reads:

This contract shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may from time to time direct in the exercise of its jurisdiction.

citing that it is subject to such changes as the Public Utilities Commission of California may order, is no more than a recognition of the parties' belief at the time of drafting the contract that the State Commission had jurisdiction over the sales in question. The fact that these sales were under the jurisdiction of this Commission was subsequently confirmed in *F.P.C. v. Southern California Edison Co.*, 376 U.S. 205 (1964). Clearly, the parties could not by contract oust this Commission of jurisdiction over these sales. We note also that Anaheim and Edison subsequently executed a "Contract for Reduction in Electric Rates and for Settlement of Claims" in which the jurisdiction of this Commission over the sale involved was plainly recognized.

The antitrust arguments raised by Anaheim et al., raise factual questions which can be resolved only after an evidentiary hearing such as we are ordering herein. The filing does not disclose on its face such inconsistency with the antitrust laws as would require rejection. It would be premature to reject the filing on those grounds in the absence of an evidentiary hearing. The motion to reject should therefore be denied.

A preliminary review of the filing indicates that the proposed rates may be excessive, unduly discriminatory, or otherwise unjust and unreasonable. The allegations made in support of the changed rates and the arguments against them raise questions best resolved through a public hearing. Accordingly, we are ordering a hearing to determine the lawfulness of the proposed changed rates and we shall suspend them in accordance with section 205(e) of the Federal Power Act.

The Commission further finds:

(1) Edison's proposed changed rates, as identified in Appendix A hereto, may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful under the Federal Power Act.

(2) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 10, 205, 206, 301, 307, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of Edison's proposed changed rates, as identified in appendix A, and that they be suspended and the use thereof deferred, as hereinafter provided.

(3) Participation by Anaheim et al., and the Secretary of the Navy may be in the public interest.

(4) The motion of Anaheim et al., to reject the filing herein should be denied.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened, to commence with a prehearing conference to be held on August 2, 1971, at 10 a.m., e.d.s.t., at the offices of the Federal Power Commission, Washington, D.C., concerning the lawfulness of the proposed changed rates of Southern California Edison Co., as identified in appendix A hereto. Edison shall serve its direct testimony and exhibits on or before June 28, 1971. The Commission staff and intervenors shall serve their testimony and exhibits on or before September 10, 1971. Edison shall serve its rebuttal testimony and exhibits on or before October 1, 1971. Cross-examination of all witnesses shall commence on October 18, 1971. Modification of the dates herein prescribed will be granted only upon good cause shown to the Presiding Examiner.

(B) Pending such hearing and decision thereon, Edison's proposed changed rates as identified in appendix A hereto are hereby suspended and the use thereof deferred until October 29, 1971. On that date they shall take effect in the manner prescribed by the Federal Power Act, and Edison, subject to further orders of the Commission, shall charge and collect the increased rates and charges set forth in the aforesaid changes for all power sold thereunder.

(C) Edison shall refund, at such times and in such manner as may be required by final order of the Commission, the portion of the increased rates and charges found by the Commission in this proceeding not justified, together with interest either at the prime rate charged by the Bank of America on October 29, 1971, or in accordance with such order as shall have been issued by the Commission, on or before that date, in Docket No. R-419, from the date of payment to Edison until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates and charges effective as of October 29, 1971, for each billing period; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, the billing determinants of electric energy sold and delivered under the above-described increased rates, and the revenues resulting therefrom as computed under the rates in effect immediately prior to October 29, 1971, and under the rates and charges made effective by this order, together with the differences in revenues so computed.

(D) Unless otherwise ordered by the Commission, Edison shall not change the terms or provisions of the increased rates identified in Appendix A hereto until this proceeding has been terminated or until the period of suspension has expired.

(E) Petitioners Anaheim et al., and the Secretary of the Navy are hereby permitted to intervene in the proceeding subject to the rules and regulations of the Commission: *Provided, however*, That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in their petitions to intervene:

And provided further, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered in this proceeding.

(F) The motion of Anaheim et al., to reject the filing herein is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

[Docket No. E-7618]

SOUTHERN CALIFORNIA EDISON CO.

Designations	Instrument	Other party
Supplement No. 3 to Rate Schedule FPC No. 6 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 6).	Resale Service Schedule No. R-1.	Arizona Public Service Co. (Cibola).
Supplement No. 3 to Rate Schedule FPC No. 11 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 11).	do.	U.S. Naval Ammunition Depot.
Supplement No. 4 to Rate Schedule FPC No. 13 (Supersedes Supplement No. 3 to Rate Schedule FPC No. 13).	Resale Service—Large Schedule No. R-2.	City of Vernon, Calif.
Supplement No. 3 to Rate Schedule FPC No. 15 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 15).	do.	City of Anaheim, Calif.
Supplement No. 3 to Rate Schedule FPC No. 16 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 16).	do.	City of Azusa, Calif.
Supplement No. 3 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 17).	do.	City of Riverside, Calif.
Supplement No. 2 to Rate Schedule FPC No. 19 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 19).	Resale Service Schedule No. R-1.	Anza Electric Cooperative, Inc.
Supplement No. 2 to Rate Schedule FPC No. 21 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 21).	Resale Service—Large Schedule No. R-2.	City of Banning, Calif.
Supplement No. 2 to Rate Schedule FPC No. 22 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 22).	Resale Service Schedule No. R-1.	Sierra Pacific Power Co. (Mineral County Power System).
Supplement No. 1 to Rate Schedule FPC No. 29 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 29).	do.	Arizona Public Service Co. (Ehrenberg).
Supplement No. 3 to Rate Schedule FPC No. 31 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 31).	Resale Service—Large Schedule No. R-2.	City of Colton, Calif.
Supplement No. 1 to Rate Schedule FPC No. 33.	do.	Southern California Water Co.

[FR Doc. 71-7872 Filed 6-4-71; 8:48 am]

[Docket No. CP71-276]

SOUTHERN NATURAL GAS CO.

Notice of Application; Correction

JUNE 2, 1971.

In the Notice of Application, issued May 26, 1971, and published in the *FEDERAL REGISTER* June 2, 1971 (36 F.R. 10755), in paragraph 6, line 8, change "June 21, 1971" to "June 7, 1971".

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-7908 Filed 6-4-71; 8:51 am]

[Dockets Nos. RP69-41, RP70-14]

TEXAS GAS TRANSMISSION CORP.

Notice of Petition to Amend

Stipulation and Agreement

JUNE 2, 1971.

Take notice that Texas Gas Transmission Corp. (Texas Gas), on May 26, 1971, filed a petition to amend the stipulation and agreement approved in these proceedings by the Commission's order issued on July 17, 1970.

The proposed amendment would: (1) Extend the expiration date of Texas Gas' authority to increase its rates to reflect rate increases of its suppliers and the requirement to reduce its rates to reflect supplier rate reductions, as contained in the provisions of Article III of the Agreement, from November 1, 1971 to March 1, 1972 and (2) as a corollary, likewise extend the expiration date of the moratorium period on rate increases of Texas Gas, as provided in Article VIII of the Agreement, from November 1, 1971 to March 1, 1972. Texas Gas states that in-

creased rates of several of its suppliers will become effective January 1, 1972, which will result in substantial increases in its purchased gas costs and that unless the tracking provision of its settlement agreement are extended, as proposed in its amendment thereto, Texas Gas will be required to file a general rate increase to become effective on January 1, 1972.

Copies of the petition were served on all parties to these proceedings, all of Texas Gas' jurisdictional customers and interested state commissions.

Answers or comments relating to the petition may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before June 11, 1971.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-7909 Filed 6-4-71; 8:51 am]

[Docket No. RP71-118]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Filing and Order Providing for Hearing and Suspending Proposed Revised Tariff Sheets

MAY 27, 1971.

Take notice that on May 17, 1971, Transcontinental Gas Pipe Line Corp. (Transco) filed a written report, pursuant to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, and tendered for filing proposed changes in its FPC Gas Tariff, Original Volume Nos. 1 and 2, to become effective May 28, 1971, in order to

¹ The tariff sheets submitted by Transco are listed in Appendix A to this order.

effectuate a gas curtailment policy in the event a gas shortage on its system should develop.

Transco avers that among the steps it has taken to avoid substantial curtailments of its customers' firm requirements is the purchase of emergency supplies, such as those it proposes to acquire from Nueces Industrial Gas Co. pursuant to Nueces' application filed May 6, 1971, in Docket No. CP71-267. Transco alleges that if it is unable to acquire the gas which Nueces proposes to sell, it " . . . will be forced into implementation of its curtailment program immediately after such date."

Transco's curtailment plan is set forth in original sheet Nos. 44-A, 44-B, and 44-C which are designed to replace section 13 of the General Terms and Conditions of Transco's presently-effective tariff. Section 13.1 of the new curtailment proposal consists merely of a recitation that the new gas apportionment plan is filed pursuant to Order No. 431. The curtailment procedures which Transco will utilize in the event of a gas deficiency are set forth in section 13.2 which provides that Transco will first curtail, to the extent necessary, all sales made under its resale interruptible rate schedules and direct interruptible industrial contracts. Interruptible transportation services will also be curtailed if rendering such services would affect Transco's gas supply. After complete curtailment of all interruptible services affecting its gas supply, Transco will ratably curtail sales made under its resale CD (Contract Demand), LTF (Limited Term Firm), and ACQ (Annual Contract Quantity) rate schedules and direct firm industrial contracts by establishing a curtailment percentage to govern each period of curtailment. That percentage will be applied uniformly to the contract demands under Transco's CD and LTF rate schedules as well as the contract demands under direct firm industrial contracts. The curtailment percentage will be used to reduce deliveries under the ACQ rate schedule by multiplying 1/365th of the ACQ by the number of days in the curtailment period by the curtailment percentage.

Sales to small volume customers under the G (General Service) and OG (Optional General Service) rate schedules are omitted from the curtailment provisions of section 13.2 because, although there are 35 customers of that nature on Transco's system, Transco states that they represent only 1.5 percent of the total sales volumes.

When force majeure or repair or maintenance of facilities results in inability to meet total requirements, the provisions set forth in section 13.3, instead of section 13.2, of the General Terms and Conditions will apply. Under section 13.3 Transco will first curtail, to the extent necessary, all sales under its resale interruptible and ACQ rate schedules and direct interruptible industrial sales contracts and interruptible, transportation rate schedules. After complete curtailment of all interruptible sales and services, Transco will ratably reduce

from the firm contract transportation demand all firm transportation services. Thereafter curtailments will be made ratably in sales under its CD, LTF, G, and OG resale rate schedules and direct firm industrial contracts. Firm services under Transco's GSS (General Storage Service), S-2 (Storage Service), LG-A (Liquefied Natural Gas Storage Service) and PS (Peaking Service) rate schedules have the highest priority when curtailments occur under section 13.3.

No adjustment in demand charges will be made for curtailments occurring under section 13.2 as a result of a gas supply deficiency, but demand charge adjustments will be made for curtailments arising under section 13.3 as a result of force majeure or maintenance and repair of facilities.

Transco's filing also submitted changes in its CD, G, OG, E, LTF, and ACQ rate schedules to make them conform with the above-described provisions in sections 13.2 and 13.3 of the General Terms and Conditions.

Although Transco's CD and LTF rate schedules provide for equitable curtailment of gas to be used or resold for boiler fuel when gas is needed to refill Transco's underground storage reservoirs, Transco states that it does not intend to attempt any control over the end use of gas because (1) such curtailments require a policing operation which Transco is not equipped to do, (2) any attempt to reduce boiler-fuel deliveries presupposes that such usage is always "inferior" even where air pollution problems exist, and (3) relegation of boiler-fuel usage to the lowest priority would have an adverse economic impact on those customers who sell large volumes of boiler fuel without having a corresponding economic effect on those customers who sell little boiler fuel. Therefore, Transco concludes that an across-the-board percentage reduction is the most equitable curtailment plan to use in light of the circumstances prevailing on its system.

Transco avers that any curtailments it might make under section 13.2 will not affect its ability to refill storage reservoirs because sufficient gas will be available under the customers' various firm rate schedules to meet their nominations of the gas required for storage injection.

Transco requests that the Commission waive the 30-day notice requirement in § 154.22 of the Commission's regulations under the Natural Gas Act in order to permit the submission of the tariff sheets listed in Appendix A. The proposed tariff changes, which constitute Transco's proposed curtailment policy, present complicated issues which may require development in evidentiary proceedings. The tariff changes have not been shown to be justified and their operation may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. Therefore, it appears appropriate to suspend the effectiveness of the proposed tariff sheets for 1 day from May 28, 1971.

Transco states that it has served copies of its report and tariff changes upon its customers and interested State Commissions. Transco's report and tariff changes, submitted pursuant to Order No. 431, are on file with the Commission and available for public inspection.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed tariff sheets listed in Appendix A and that such tariff sheets be suspended and the use thereof be deferred as herein provided.

(2) It is appropriate to grant the requested waiver of the requirements of § 154.22 of the Commission's regulations.

The Commission orders:

(A) Pending hearing and decision on the issues raised by Transco's filing in Docket No. RP71-118, the proposed tariff sheets listed in Appendix A of this order are hereby suspended and the use thereof is deferred until May 29, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) The requirements of § 154.22 of the Commission's regulations under the Natural Gas Act are waived with respect to Transco's tender for filing of the tariff sheets listed in Appendix A.

(C) Any person desiring to be heard or make any protest with respect to said filing should on or before June 14, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

TRANSCONTINENTAL GAS PIPE LINE CORPORATION

List of Tariff Sheets Being Filed

Original Volume No. 1 of FPC Gas Tariff Rate Schedule:	Sheet Number
CD-1	Third Revised Sheet No. 4.
	Thirty-Second Revised Sheet No. 5.
	Second Revised Sheet No. 6.
	Fourth Revised Sheet No. 7.
	Fourth Revised Sheet No. 8.
	First Revised Sheet No. 8-A.

List of Tariff Sheets Being Filed

Original Volume No. 1 of FPC Gas Tariff Rate Schedule:	Sheet Number
	First Revised Sheet No. 8-B.
	Thirtieth Revised Sheet No. 9.
CD-2	Fourth Revised Sheet No. 11.
	Thirty-Second Revised Sheet No. 12.
	Second Revised Sheet No. 13.
	Sixth Revised Sheet No. 14.
	Fourth Revised Sheet No. 15.
	First Revised Sheet No. 15-A.
	First Revised Sheet No. 15-B.
	Thirtieth Revised Sheet No. 16.
CD-3	Second Revised Sheet No. 17-A.
	Twenty-Ninth Revised Sheet No. 17-B.
	First Revised Sheet No. 17-C.
	Fifth Revised Sheet No. 17-D.
	Third Revised Sheet No. 17-E.
	First Revised Sheet No. 17-E.1.
	First Revised Sheet No. 17-E.2.
	Twenty-Eighth Revised Sheet No. 17-F.
G-1	Fourth Revised Sheet No. 20.
G-2	Fourth Revised Sheet No. 25.
G-3	Third Revised Sheet No. 26-C.
OG-1	Third Revised Sheet No. 28-H.
OG-2	Third Revised Sheet No. 28-M.
OG-3	Third Revised Sheet No. 28-R.
E-1	Fifth Revised Sheet No. 28-A.
E-2	Second Revised Sheet No. 28-A.3.
E-3	Second Revised Sheet No. 28-A.6.
LTF-2	Third Revised Sheet No. 28-H.
	Thirtieth Revised Sheet No. 28-I.
	Third Revised Sheet No. 28-J.
	Fourth Revised Sheet No. 28-K.
LTF-3	First Revised Sheet No. 28-K.1.
	Twenty-Second Revised Sheet No. 28-K.2.
	First Revised Sheet No. 28-K.3.
	First Revised Sheet No. 28-K.4.
ACQ-2	First Revised Sheet No. 28-X.1.
	First Revised Sheet No. 28-X.4.
	First Revised Sheet No. 28-X.5.
ACQ-3	First Revised Sheet No. 28-Y.
	Third Revised Sheet No. 28-BB.
	First Revised Sheet No. 28-CC.

List of Tariff Sheets Being Filed

Original Volume No. 1 of FPC Gas Tariff Rate Schedule:	Sheet Number
General Terms and Conditions.	Original Sheet No. 44-A.
	Original Sheet No. 44-B.
	Original Sheet No. 44-C.
	Second Revised Sheet No. 45.
	Fourth Revised Sheet No. 46-B.
	Second Revised Sheet No. 46-B.1.
	Second Revised Sheet No. 46-C.

Original Volume No. 2 of FPC Gas Tariff:

Original Sheet No. 1-A.

[FR Doc.71-7873 Filed 6-4-71; 8:48 am]

UNITED GAS PIPE LINE CO.

Notice of Filing and Order Suspending Proposed Revised Tariff Sheets, Consolidating Issues in Pending Proceeding and Scheduling Distribution of Evidence

May 28, 1971.

On May 17, 1971, United Gas Pipe Line Co. (United), pursuant to Commission Order No. 431 issued in Docket No. R-418 on April 15, 1971, submitted for filing proposed tariff sheets to become part of its tariff, First Revised Volume No. 1, consisting of (a) First Revised Sheet No. 71, superseding Original Sheet No. 71; (b) Third Revised Sheet No. 72, superseding Second Revised Sheet No. 72, and (c) Original Sheet No. 72-A now designated as Docket No. RP71-120. United proposed that the said tariff sheets be permitted to become effective November 1, 1971. United also requested that the requirements of § 154.22 of the Commission's regulations be waived to permit the said filing to be made more than 60 days in advance of the proposed effective date.

The proposed tariff sheets revise the existing Impairment of Deliveries provision contained in section 12 of the General Terms and Conditions of United's tariff, dealing with Proration of Impaired Deliveries setting out the categories and order of curtailment in the event of a shortage of gas which impairs United's ability to fulfill customers' requirements. The revision also provides that no payments or credits for substitute fuels will be made or given in the event of curtailment. Provision is also made prohibiting resale customers from offsetting the effects of United's industrial gas curtailments by selling their resale valley gas to such industries.

There is presently pending before a Presiding Examiner in Docket No. RP71-29, a proceeding covering an application for a declaratory order filed by United on October 26, 1970, subsequently amended on November 20, 1970, and supplemented on February 22, 1971. The said petition involves interpretation of the

present section 12 of the General Terms and Conditions in United's tariff and whether the curtailment program placed into effect on November 1, 1970, for the period up to March 31, 1971, is in accordance therewith, as well as related issues. The proceeding also deals with United's summer curtailment program covering the period April 1 to October 31, 1971. Since United proposes that the tariff revision filed on May 17, 1971, take effect on November 1, 1971, and indicates that "curtailments will prove necessary in the 1971-72 heating season and for an indeterminate period thereafter", it appears appropriate to consolidate Docket No. RP71-120 covering the said filing with the pending proceeding in Docket No. RP71-29 for hearing and decision. Moreover, it becomes increasingly evident that it is essential that the ultimate submission of the consolidated proceedings for Commission decision be expedited. Accordingly, we are directing the Presiding Examiner to take all the necessary steps to expedite hearings and we urge all parties to cooperate full in this effort.

As United did not accompany its May 17, 1971, filing with a program showing how it plans to implement its projected curtailment program post November 1, 1971, we are requiring United to serve evidence on all parties which will contain the details of such program and the support for the same, as well as for the proposed tariff revision on or before June 14, 1971. The further scheduling covering answering and rebuttal evidence and cross-examination will be for the Presiding Examiner's determination subject to the overriding consideration of the need for the speedy disposition of the issues in these proceedings.

While we are hopeful that the expedited procedures will permit of a submission and determination of the issues in these consolidated proceedings before November 1, 1971, we consider it appropriate under the circumstances to suspend the effectiveness of the proposed revised tariff sheets for 1 day from November 1, 1971. We also consider it appropriate to grant the requested waiver of the requirements of § 154.22 of the Commission's regulations under the Natural Gas Act.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission consolidate the issues relating to the filing in Docket No. RP71-120 with the pending Docket No. RP71-29 proceedings for hearing and decision and that the proposed tariff sheets filed pursuant to Commission Order No. 431 by United be suspended and use thereof deferred as herein provided.

(2) It is appropriate to grant the requested waiver of the requirements of § 154.22 of the Commission's regulations under the Natural Gas Act.

(3) The proposed tariff sheets submitted by United on May 17, 1971, have not been shown to be justified and may be unjust, unreasonable, unduly discrimina-

tory or preferential, or otherwise unlawful.

The Commission orders:

(A) The issues relating to United's proposed revision of its tariff filed pursuant to the Commission's Order No. 431 in Docket No. RP71-120 are consolidated for hearing and decision with the pending Docket No. RP71-29 proceeding.

(B) Pending such hearing and decision on the issues in the consolidated proceedings, United's proposed First Revised Sheet No. 71, Third Revised Sheet No. 72 and Original Sheet No. 72-A are hereby suspended and the use thereof deferred until November 2, 1971, and such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) The requirements of § 154.22 of the Commission's regulations under the Natural Gas Act are waived with respect to the said filing.

(D) United is directed to serve evidence on all parties containing the details of the curtailment program it intends to institute on or after November 1, 1971, together with evidence supporting such program and the proposed tariff provisions on or before June 14, 1971.

(E) Any person desiring to be heard or make any protest with respect to said filing should on or before June 10, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. United's filing with the Commission is available for public inspection. Persons who are parties to the proceeding in Docket No. RP71-29 will be deemed to be parties to the instant consolidation and need not file to intervene in Docket No. RP71-120.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7874 Filed 6-4-71; 8:48 am]

FEDERAL RESERVE SYSTEM

CENTRAL BANCORPORATION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of The Central Bancorporation, Inc., Cincinnati, Ohio, for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First Trust and Savings Bank, Zanesville, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3)

of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by The Central Bancorporation, Inc., Cincinnati, Ohio (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First Trust and Savings Bank, Zanesville, Ohio (Bank). The new bank has significance only as a means of acquiring all of the shares of the bank to be merged into it; the proposal is therefore treated herein as one to acquire shares of The First Trust and Savings Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks of the State of Ohio and requested his views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 15, 1971 (36 F.R. 7160), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration the Board finds that:

Applicant, the ninth largest banking organization in Ohio, controls two banks with deposits of approximately \$501 million, representing less than 3 percent of total commercial bank deposits in the State. (All banking data are as of June 30, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through April 30, 1971.) The acquisition of Bank, with deposits of \$24 million, would increase Applicant's control of deposits in the State by only 0.1 percent, and its present ranking among banking organizations in the State would not change.

Bank has five offices and is the smallest of three banks located in Muskingum County, all of which are headquartered in Zanesville. The two larger banks control approximately 43 and 30 percent of county deposits, respectively, and Bank controls 27 percent of such deposits. Applicant's subsidiary nearest to Bank is located in Marietta, 60 miles southeast of Zanesville, and the nearest office of the two banks are separated by one county and five banking offices. It appears that there is no significant present competition between Applicant's subsidiaries and Bank; that consumma-

tion of the proposal could serve to stimulate additional competition in the Zanesville area by severing a present relationship between Bank and the largest bank in Zanesville. It further appears that the proposed acquisition would not foreclose significant potential competition because of Ohio's restrictive branching laws and of the distances involved; nor does it appear that any competing banks would be adversely affected by the proposed acquisition. Based upon the record, the Board concludes that consummation of the proposed acquisition would have no significant adverse effect on competition in any relevant area.

The banking factors and convenience and needs considerations involved in this proposal are consistent with and lend some weight in favor of approval of the application. Affiliation with Applicant would enhance Bank's prospects, and permit Bank to improve and enlarge present services in its trust department, and in its installment and mortgage lending. In addition, Applicant would assist Bank in researching the feasibility of establishing other branches in northern Muskingum County which is apparently in need of additional banking facilities. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors, June 1, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7836 Filed 6-4-71; 8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 830
(Class B)]

KANSAS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1971, because of the effects of certain disasters damage resulted to residences and business property located in the State of Kansas;

Whereas, the Small Business Administration has investigated and has received

* Voting for this action: Vice Chairman Robertson and Governors Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governor Daane.

other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Dickinson County, Kans., and adjacent areas, suffered damage or destruction resulting from floods occurring on May 22, 1971.

OFFICE

Small Business Administration District Office, 120 South Market Street, Wichita, KS 67202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to November 30, 1971.

Dated: May 26, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-7847 Filed 6-4-71; 8:46 am]

[Declaration of Disaster Loan Area 831
(Class B)]

KENTUCKY

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1971, because of the effects of certain disasters damage resulted to residences and business property located in the State of Kentucky;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Simpson County, Ky., and adjacent areas, suffered damage or destruction resulting from a tornado occurring on May 24, 1971.

OFFICE

Small Business Administration District Office, Federal Office Building, 600 Federal Place, Louisville, KY 40202.

2. A temporary office will be established in Franklin Ky., address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will

not be accepted subsequent to November 30, 1971.

Dated: May 28, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-7848 Filed 6-4-71; 8:46 am]

[Declaration of Disaster Loan Area 829
(Class B)]

TEXAS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1971, because of the effects of a certain disaster, damage resulted to residences and business property located in the State of Texas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Hill County, Tex., and adjacent areas, suffered damage or destruction resulting from a tornado occurring on May 23, 1971.

OFFICE

Small Business Administration Regional Office, 1100 Commerce Street, Dallas, TX 75202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to November 30, 1971.

Dated: May 26, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-7849 Filed 6-4-71; 8:46 am]

DEPARTMENT OF LABOR

Office of the Secretary

NATIONAL BALLET MAKERS, INC. AND STAGE DOOR, INC.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of February 8, 1971, the U.S. Tariff Commission made a report of the results of investigations (TEA-W-44 and TEA-W-47) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to petitions for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the

National Ballet Makers, Inc., Medford, Mass. and Stage Door, Inc., Raymond, N.H. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the women's and misses' footwear produced by National Ballet Makers, Inc., and Stage Door, Inc., are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plants concerned. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted investigations. Following this, the Director made recommendations to me relating to the matter of certifications (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In those recommendations he noted that significant lay-offs caused by imports began to occur on January 2, 1970, at the National Ballet Makers, Inc., and on January 4, 1969, at the Stage Door, Inc. After due consideration, I make the following certifications:

All workers (hourly, piecework, and salaried), of the National Ballet Makers, Inc., plant located at Medford, Mass., who became unemployed or underemployed after January 2, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All workers (hourly, salaried, and piecework) of the Stage Door, Inc., plant located at Raymond, N.H., who became unemployed or underemployed after January 4, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 25th day of May 1971.

HERBERT N. BLACKMAN,
Deputy Assistant Secretary for
Trade and Adjustment Policy.

[FR Doc.71-7846 Filed 6-4-71; 8:46 am]

PPG INDUSTRIES

Worker Request for Certification of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

A petition requesting certification of eligibility to apply for adjustment assistance has been filed, on May 24, 1970, with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by Local 2 of the United Glass and Ceramic Workers of North America, AFL-CIO, on behalf of workers of the Works No. 12, Glass Division plant of

PPG Industries located at Clarksburg, W. Va. The request for certification is made under Proclamation 3967 ("Adjustment of duties on certain Sheet Glass") of February 27, 1970. In that proclamation, the President, among other things, acted to provide under sec. 302(a)(3) with respect to the sheet glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under Chapter 3, Title III of the Trade Expansion Act of 1962.

The Trade Expansion Act, sec. 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under chapter 3 any group of workers in an industry with respect to which the President has acted under sec. 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

In view of the petition and the responsibilities of the Secretary of Labor, the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.11. The investigation relates, as above indicated, to the determination of whether any of the group of workers covered by the request should be certified as eligible to apply for adjustment assistance, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart C of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. on or before June 14, 1971.

Signed at Washington, D.C., this 26th day of May 1971.

EDGAR I. EATON,
Director, Office of
Foreign Economic Policy.

[FR Doc.71-7845 Filed 6-4-71; 8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 307]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 2, 1971.

The following are notices of filing of applications for temporary authority

under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the *FEDERAL REGISTER*, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the *FEDERAL REGISTER* publication, within 15 calendar days after the date of notice of the filing of the application is published in the *FEDERAL REGISTER*. One copy of such protests must be served on the applicant, or its authorized representative if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 11685 (Sub-No. 1 TA), filed May 25, 1971. Applicant: CREST HAULAGE, INC., 116 Hassari Street, New York, NY 10011. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Handbags*, from New York, N.Y., to the plant of Felsway Corp., Totowa, N.J., for 150 days. Note: Applicant proposes to haul handbags independently and in conjunction with shoes it is now transporting for its supporting shipper. Applicant hauls shoes under authority contained in its certificate MC 11685. Shipper is the Felsway Corporation. Supporting shipper: The Felsway Corp., 994 Riverview Drive, Totowa, NJ 07512. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 83217 (Sub-No. 53 TA) (Clarification), filed May 12, 1971, published *FEDERAL REGISTER* issue of May 27, 1971 and republished in part, as corrected, this issue. Applicant: DAKOTA EXPRESS, INC., 1217 West Cherokee, 57104, Post Office Box 1252, Sioux Falls, SD 57101. Applicant's representative: Henry J. Schuette (same address as above). Note: The purpose of this partial republication is to reflect that the origin point is the plantsite or storage facilities of Illini Beef Packers, Inc., at or near Joplin, Ill. The rest of the application remains as previously published.

No. MC 88161 (Sub-No. 80 TA), filed May 21, 1971. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, WA 98108. Applicant's representative: Stephen A. Cole (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, from points in Spokane County, Wash., to points in

Walla, Union, Baker, Umatilla, Morrow, Grant, Gilliam, Wheeler, Sherman, Wasco, Hood River, Jefferson, Deschutes, and Crook Counties, Oreg., in that part of Idaho on and north of the southern boundary of Idaho County; in that part of Montana west of the eastern boundary of Phillips, Petroleum, Musselshell, Stillwater, and Carbon Counties, from points in Kootenai County, Idaho, to points in Washington, for 150 days. Supporting shippers: Cominco American Inc., 818 West Riverside Avenue, Spokane, WA 99201; Plant Food Center, Route 2, Box 288, Post Falls, ID 83854. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, WA 98101.

No. MC 111401 (Sub-No. 337 TA), filed May 26, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to points in Alabama, Arkansas, Florida, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Texas. Restricted to shipment originating at the plantsite of Georgia-Pacific Corp., for 180 days. Supporting shipper: Roger M. Feig, Traffic Supervisor, Georgia-Pacific Corp., Box 629, Plaquemine, LA 70764. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 114533 (Sub-No. 228 TA), filed May 26, 1971. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency and negotiable securities) as are used in the conduct and operations of banks and banking institutions, between Joplin, Mo., on the one hand, and, on the other, (1) points in Benton, Wash., and Carroll Counties, Ark., (2) points in Labeite, Crawford, Montgomery, Cherokee, Neosho, and Bourbon Counties, Kans., and (3) points in Ottawa, Delaware, and Tulsa Counties, Okla., for 180 days. Supporting shipper: First National Bank & Trust Co. of Joplin, Joplin, Mo. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn St., Room 1086, Chicago, IL 60604.

No. MC 118073 (Sub-No. 169 TA), filed May 28, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post

Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and (2) *buildings*, complete or in sections, from points in Maricopa County, Ariz., to points in California, Nevada, Utah, Wyoming, Colorado, New Mexico, and Texas, for 180 days. Supporting shippers: Western Heritage Mobile Homes of Arizona, Post Office Box 459, Chandler, AZ 85224; United Mobile Homes, Inc., Post Office Box 279, Chandler, AZ 85224; Kaufman and Broad Home Systems, Inc., 5530 West Bethany Home Road, Glendale, AZ 85301; American Mobilehome Corp., 2650 West Union Hills Drive, Phoenix, AZ 85027; Elkhart Manufactures, Inc., Post Office Box 13116, Phoenix, AZ 85002; Century Manufactures, Inc., 5925 West Monroe, Phoenix, AZ 85009. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 118570 (Sub-No. 3 TA), filed May 26, 1971. Applicant: DE FAZIO EXPRESS, INC., 1028 Springbrook Avenue, Moosic, PA 18507. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Coconut oil, coconut oil products, lard substitutes or compounds, cooking oils, glycerine, steaming, toilet preparations, soap, soap powder, premiums and advertising matter*, pertaining to these products, *groceries*, from East Brunswick, N.J., to points in Susquehanna, Pike, Monroe, Northumberland, Northampton, Wayne, Lackawanna, Columbia, Schuylkill, Lehigh, Wyoming, Luzerne, Montour, Carbon, Union, Snyder, and Berks Counties, Pa., and those in Sussex, Warren and Hunterdon Counties, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized under the commodity description immediately above are limited to a transportation service to be performed under a continuing contract or contracts with the Procter & Gamble Distributing Co., for 180 days. Supporting shipper: The Procter & Gamble Co., Post Office Box 599, Cincinnati, OH 45201. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, PA 18503.

No. MC 133265 (Sub-No. 2 TA), filed May 25, 1971. Applicant: CONSOLIDATED CARRIERS CORP., 141 West 35th Street, New York, NY 10001. Applicant's representative: Arthur Libenstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wearing apparel*

and materials, supplies and machinery used in the manufacture thereof, and accessories between New York, N.Y., on the one hand, and, on the other, points in Nassau, and Suffolk Counties, N.Y., for 150 days. Supporting shippers: There are approximately 14 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 135509 (Sub-No. 1 TA), filed May 13, 1971. Applicant: WILLIAM R. WADE, doing business as WADE'S MOBILE HOME MOVERS, 8015 East 58th Street, Kansas City, MO 64129. Applicant's representative: William R. Wade (same address as above). Authority sought to operate as a common carrier, by motor vehicle, transporting *House trailers, mobile homes and modular homes*, from, to and between points in Missouri to points in Illinois and Kansas, on the one hand, and from, to, and between points in Kansas and Illinois to points in Missouri, on the other, for 150 days. Supporting shipper: Elwood Long and Co., Fayette, Mo. Send protests to: Vernon V. Coble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

By the Commission.
[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc. 71-7887 Filed 6-4-71; 8:49 am]

[Notice 696]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 2, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72774. By order of May 28, 1971, the Motor Carrier Board approved the transfer to ARK, Inc., doing business as Ark Van Service, Phoenix, Ariz., of the operating rights in Certificates No. MC-125243 (Sub-No. 2) and MC-125243 (Sub-No. 4) issued January 15, 1965 and July 1, 1968 respectively, to Jinx Graham,

doing business as J & L Van Lines, Hollywood, N. Mex., authorizing the transportation of race horses to and from New Mexico, and points in Arizona, Arkansas, California, Colorado, Louisiana, Nebraska, Oklahoma, and Texas. Jerry R. Murphy, 708 La Veta Drive NE., Albuquerque, NM 87108, attorney for applicants.

No. MC-FC-72793. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Brooks Terminal & Drayage Co., a corporation, Hayward, Calif., of certificate of public convenience and necessity No. MC-127434, issued April 15, 1970, and certificate of registration No. MC-127434 (Sub-No. 1), issued April 15, 1970 to Brooks Terminal Co., Oakland, Calif., authorizing the transportation of: General commodities, and general merchandise, and certain specified commodities, between designated points and areas in California. Raymond A. Greene, Jr., attorney, 405 Montgomery Street, San Francisco, CA 94104.

No. MC-FC-72865. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Strothman Express, Inc., Cincinnati, Ohio, of certificate of registration No. MC-120736 (Sub-No. 1), issued June 28, 1965, to Henke's Express, Inc., St. Bernard, Ohio, evidencing a right of the holder thereof to engage in interstate or foreign commerce within the State of Ohio. Keith F. Henley, 88 East Broad Street, Columbus, OH 43215, attorney.

No. MC-FC-72876. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Sterling-Goetz, Inc., Brooklyn, N.Y., of the operating rights in certificate No. MC-13833, issued March 4, 1969, to Thomas L. Powell, East Elmhurst, N.Y., authorizing the transportation of household goods, over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, New Jersey, and New York. John R. Remis, Jr., attorney for applicant, 611 Newbridge Road, East Meadow, NY 11554.

No. MC-FC-72880. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Jack-Leonard Transportation Co., Inc., Middle Village, N.Y., of the operating rights in certificates Nos. MC-133746 and MC-133746 (Sub-No. 1) issued December 8, 1969, and January 21, 1970, respectively, to Speed Freight Lines, Inc., Newark, N.J., authorizing the transportation of general commodities, with exceptions, between Newark, N.J., on the one hand, and, on the other, North Bergen, West New York, and Union City, N.J., subject to restrictions; and between New York, N.Y., on the one hand, and, on the other, points in Bergen County, N.J. Robert B. Pepper, registered practitioner, 174 Brower Avenue, Edison, NJ 08817, representative for applicants.

No. MC-FC-72883. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Akens Moving and Stor-

age, Inc., a corporation, Moosic, Pa., of the operating rights in certificate No. MC-101954, issued November 15, 1966, to Morrill Akens, an individual, doing business as Akens Moving and Storage, Inc., Moosic, Pa., authorizing the transportation over irregular routes of (1) household goods as defined by the Commission, between Moosic, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, and Pennsylvania; (2) meats, dressed poultry, and eggs, from Moosic, Pa., to Camden and Newark, N.J., and New York, N.Y.; and (3) rejected shipments and empty returned containers, from Camden, and Newark, N.J., and New York, N.Y., to Moosic, Pa. Walter W. Kohler, and James K. Peck, and James K. Peck, Jr., 912 Northeastern National Bank Building, Scranton, Pa. 18503, attorneys for applicant.

No. MC-FC-72890. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Maxam Tour and Travel, Inc., a corporation, Milwaukee, Wis., of license No. 130086, issued May 7, 1970, to Wallace D. Maxam, Gerald B. Hauser, Mrs. Aileen Sweida, and Mrs. Sylvia Koralewski, a partnership, doing business as Maxam Tour and Travel, Milwaukee, Wis., authorizing operations as a broker in connection with the transportation of passengers and their baggage, in special and charter operations in round-trip tours, beginning, and ending at points in Milwaukee County, Wis., and extending to points in the United States, including Alaska but excluding Hawaii. Joseph C. Niebler, 2100 Marine Plaza, Milwaukee, Wis. 53202, attorney for applicants.

No. MC-FC-72893. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Polar Transport, Inc., 929 Wilco Boulevard, Wilson, NC 27893, of certificate of registration No. MC-120530 (Sub-No. 2) issued July 24, 1968, to N. C. Food Express, Inc., Post Office Box 8730, Charlotte, NC 28208, evidencing a right to engage in transportation in interstate commerce as described in certificate No. C-784 dated May 26, 1959, transferred and reissued September 14, 1967, by the North Carolina Utilities Commission. William R. Rand, First Union National Bank Building, Wilson, N.C. 27893, attorney for applicants.

No. MC-FC-72896. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Transportation Services, Inc., Phoenix, Ariz., of the certificate of registration in No. MC-57329 (Sub-No. 2), issued May 12, 1970, to Action Enterprises, Inc., Phoenix, Ariz., evidencing a right to engage in interstate commerce corresponding to authority granted in specified motor carrier's permanent certificate No. 2566, Docket 4205-S-2226, dated November 10, 1970, and certificate No. 2589, Docket No. 1404-A-513, of the same date, issued by the Arizona Corporation Commission, and transferred and reissued December 1, 1969, by the same

NOTICES

Commission. Richard Minne, 609 Luhrs Building, Phoenix, Ariz. 85003, attorney.

No. MC-FC-72901. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Bishop Mail Service, Inc., Chicago, Ill., of certificate of registra-

tion No. MC-120925 (Sub-No. 1), issued March 17, 1964, to Earl J. Bishop, doing business as Earl J. Bishop & Co., Chicago, Ill., evidencing the right of the holder thereof to engage in interstate or foreign commerce solely within the State

of Illinois. Ronald E. Blair, 30 West Washington Street, Chicago, IL 60602, attorney.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-7886 Filed 6-4-71; 8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

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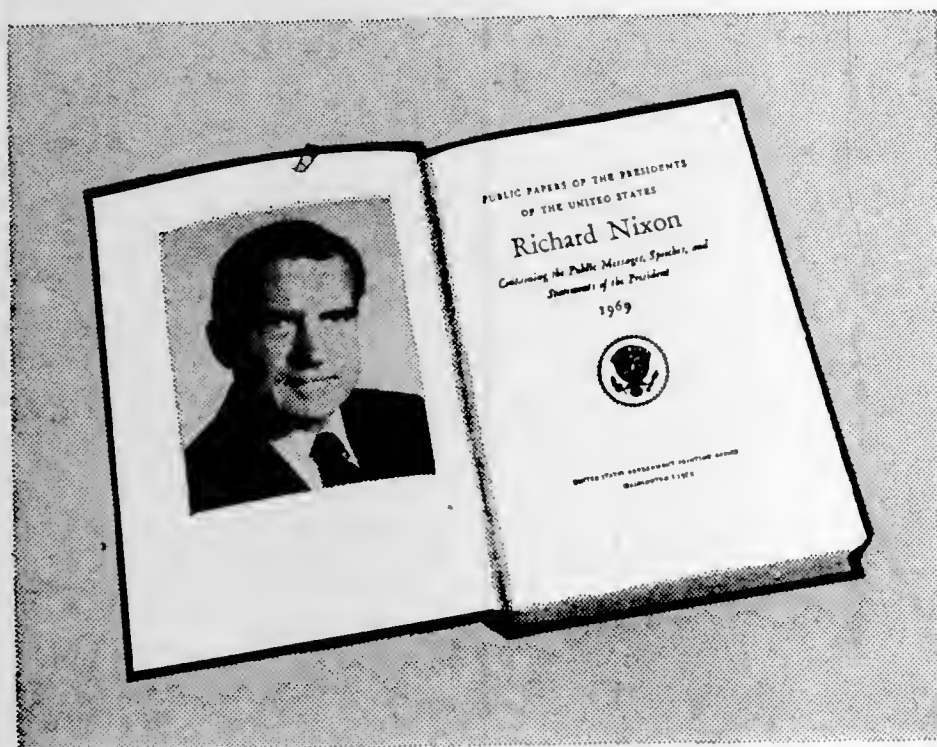
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[Amdt. 8]

PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Refund Rate

On page 8155 of the FEDERAL REGISTER of April 30, 1971, there was published a notice of proposed rule making to issue Amendment 8 to the Republication of the Processor Wheat Marketing Certificate Regulations, as amended (33 F.R. 14676, 34 F.R. 5817, 6907, 11412, 13522, 19063, 35 F.R. 11689, 36 F.R. 7657). This amendment provides a rate for refunds of the certificate cost for wheat used in processing flour second clears not used for human consumption to cover the period July 1, 1971, through June 30, 1974.

The refund rate is determined on the basis of the most recent available industry average extraction rate which was obtained through a departmental survey made in connection with wheat processed during the 1969-70 marketing year. In the absence of more recent data, it has been determined that continuation of the existing rate is warranted. Accordingly, the amendment as proposed in 36 F.R. 8155 is issued to extend the current refund rate applicable to flour second clears not used for human consumption through the marketing year beginning July 1, 1973.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendment. No objections or comments have been received, and the proposed amendment is hereby adopted without change effective as set forth below.

Effective date. The extension of the refund rate shall be effective with respect to flour second clears processed on and after July 1, 1971.

Signed at Washington, D.C., on June 1, 1971.

CARL C. FARRINGTON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

Section 777.19(e) is amended by changing the penultimate sentence to read as follows:

§ 777.19 Industrial users of flour second clears.

(e) **Refund rate.** . . . The refund rate for the marketing years covered by

the period beginning July 1, 1970, through June 30, 1974, shall be \$1.67 per hundredweight, which was determined on the basis of a conversion factor of 2.230 multiplied by the applicable certificate cost rounded to the nearest cent. . . .

[FR Doc.71-7965 Filed 6-7-71; 8:48 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 350, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) **Findings.** (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) **Order, as amended.** The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 908.650 (Valencia Reg. 350; 36 F.R. 9633) during the period May 28, 1971, through June 3, 1971, are hereby amended to read as follows:

§ 908.650 Valencia Orange Regulation 350.

(b) : : :
(1) : : :
(i) District 1: 323,000 cartons;

(ii) District 2: 491,000 cartons;
(iii) District 3: 110,713 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 2, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-7935 Filed 6-7-71; 8:46 am]

[Lemon Reg. 482, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) **Findings.** (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) **Order, as amended.** The provisions in paragraph (b) (1) (ii) of § 910.782 (Lemon Reg. 482; 36 F.R. 9843) during the period May 30 through June 5, 1971, are hereby amended to read as follows:

§ 910.782 Lemon Regulation 482.

(b) : : :
(1) : : :
(ii) District 2: 275,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 2, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-7934 Filed 6-7-71; 8:46 am]

[Cherry Reg. 10]

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

On May 22, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9314) that consideration was being given to the following proposal, as hereinafter set forth, which would limit the handling of sweet cherries grown in designated counties in Washington by establishing regulations, pursuant to the order which was recommended by the Washington Cherry Marketing Committee, established pursuant to the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Washington Cherry Marketing Committee (established pursuant to the marketing agreement and order), and other available information, it is hereby found and determined that § 923.314 *Cherry Regulation 10*, as hereinafter set forth, is in accordance with the provisions of the said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date of June 7, 1971, was published in the FEDERAL REGISTER on May 22, 1971 (36 F.R. 9314), and no objection to this regulation or such effective date was received; (2) the recommendation and supporting information for regulation during the period specified herein were submitted to the Department after an open meeting of the Washington Cherry Marketing Committee on May 13, 1971, which was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (3) the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee; (4) information concerning such provisions and effective time has

been disseminated among handlers of such cherries; (5) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; (6) shipments of the current crop of such cherries are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to all shipments of such cherries in order to effectuate the declared policy of the act.

The recommendations by the Washington Cherry Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of sweet cherries from the production area are expected to begin on or about June 7, 1971. The grade and size requirements provided herein are necessary to prevent the handling, on and after June 7, 1971, of any cherries grading lower than the grade herein specified, and smaller in size than as herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to the producers pursuant to the declared policy of the act. The requirements herein that pertain to containers and the packaging of cherries in faced packs and any packs of 20 pounds, net weight, or larger, are designed to prevent deceptive packaging practices, promote buyer confidence, and maintain the integrity of the Washington sweet cherry industry. Individual shipments, not exceeding 100 pounds, of cherries sold for home use and not for resale, subject to necessary safeguards, are expected from these requirements in that the quantity of cherries so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impractical to regulate the handling of such shipments due to the nearness to the source of supply.

§ 923.310 Cherry Regulation 10.

(a) *Order.* (1) During the period June 7, 1971, through May 31, 1972, no handler shall, except as provided in subparagraph (2) of this paragraph, handle any lot of cherries unless such cherries meet each of the following applicable requirements:

(i) *Minimum grade.* U.S. No. 1: *Provided*, That the following tolerances, by count of the cherries in the lot, shall apply in lieu of the tolerances for defects provided in the U.S. Standards for Grades of Sweet Cherries: A total of 10 percent for defects, including in this amount not more than 5 percent by count of the cherries in the lot, for serious damage, and including in this latter amount not more than 1 percent by count of the cherries in the lot, for cherries affected by decay: *Provided further*, That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(ii) *Minimum size.* At least 95 percent, by count of the cherries in the lot, shall measure not less than forty-eight sixths in diameter.

(iii) *Faced packs and any packs of 20 pounds, net weight, or larger.* At least 90 percent, by count of the cherries in the lot, shall measure not less than fifty-four sixths in diameter.

(iv) *Containers.* The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15½ by 10½ by 4 inches shall be not less than 20 pounds; and no container of cherries shall contain less than 12 pounds, net weight, of cherries.

(2) *Exceptions.* Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 923.41 (Assessments), and of § 923.55 (Inspection and Certification):

(i) The shipment consists of cherries sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(iii) Each container is stamped or marked with the words "not for resale" in letter at least one-half inch in height.

(b) *Definitions.* (1) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order;

(2) "U.S. No. 1" and "diameter" shall have the same meaning as when used in the U.S. Standards for Grades of Sweet Cherries (secs. 51.2646-51.2660; 36 F.R. 8502); and

(3) "Faced pack" means that the cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 3, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8006 Filed 6-4-71; 12:35 pm]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-569]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2,

1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e) (4) relating to the State of North Carolina, subdivision (iv) relating to Sampson County is deleted.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes a portion of Sampson County, N.C., from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2 (e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded area. No areas in Sampson County, N.C., remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.21 is amended by establishing, revising, or canceling the following L/MF SIAPs, effective July 1, 1971.

Delta Junction, Alaska—Allen AAF; LFR-A, Amdt. 11; Revised.

Done at Washington, D.C., this 3d day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc.71-7966 Filed 6-7-71; 8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11114; Amdt. No. 759]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates

by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.21 is amended by establishing, revising, or canceling the following L/MF SIAPs, effective July 1, 1971.

Delta Junction, Alaska—Allen AAF; LFR-A, Amdt. 11; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective July 1, 1971.

Alamosa, Colo.—Alamosa Municipal Airport; VOR-1, Amdt. 3; Canceled.

Alamosa, Colo.—Alamosa Municipal Airport; VOR-A, Original; Established.

Bethel, Alaska—Bethel Municipal Airport; VOR Runway 18, Amdt. 6; Revised.

Bethel, Alaska—Bethel Municipal Airport; VOR Runway 36, Amdt. 6; Revised.

Columbus, Miss.—Golden Triangle Regional Airport; VOR-A, Original; Established.

Culpeper, Va.—Culpeper Municipal Airport; VOR-A, Original; Established.

Elko, Nev.—Elko Municipal Airport; VOR-A, Amdt. 1; Revised.

Galena, Alaska—Galena Airport; VOR Runway 25, Amdt. 6; Revised.

Hot Springs, Ark.—Memorial Field; VOR Runway 5, Amdt. 8; Revised.

Huron, S. Dak.—W. W. Howes Municipal Airport; VOR Runway 12, Amdt. 12; Revised.

Minneapolis, Minn.—Flying Cloud Airport; VOR Runway 9L, Amdt. 5; Revised.

Minneapolis, Minn.—Flying Cloud Airport; VOR Runway 36, Amdt. 1; Revised.

Oakland, Md.—Carrett County Airport; VOR Runway 26, Original; Established.

Phillip, S. Dak.—Phillip Airport; VOR-A, Amdt. 6; Revised.

Racine, Wis.—Horlick-Racine Airport; VOR Runway 22, Amdt. 1; Revised.

West Point, Miss.—McCharen Field; VOR-A, Original; Established.

Alamosa, Colo.—Alamosa Municipal Airport; VOR/DME-1, Original; Canceled.

Alamosa, Colo.—Alamosa Municipal Airport; VOR/DME-A, Original; Established.

Cloquet, Minn.—Cloquet Carlton County Airport; VOR/DME-A, Amdt. 2; Revised.

Columbus, Miss.—Golden Triangle Regional Airport; VOR/DME-A, Original; Established.

Elko, Nev.—Elko Municipal Airport; VOR/DME-A, Original; Established.

Galena, Alaska—Galena Airport; VORTAC Runway 7, Amdt. 3; Revised.

Marlin, Tex.—Marlin Airport; VOR DME-A, Amdt. 1; Revised.

Ruston, La.—Ruston Municipal Airport; VOR DME-A, Amdt. 3; Revised.

Sioux City, Iowa—Sioux City Municipal Airport; VORTAC Runway 31, Amdt. 15; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective July 1, 1971.

Fort Worth, Tex.—Greater Southwest International/Dallas-Fort Worth Field; LOC (BC) Runway 31, Amdt. 16; Revised.

Huron, S. Dak.—W. W. Howes Municipal Airport; LOC (BC)/DME Runway 30, Original; Established.

Sioux City, Iowa—Sioux City Municipal Airport; LOC (BC) Runway 13, Amdt. 10; Revised.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective July 1, 1971.

Cloquet, Minn.—Cloquet Carlton County Airport; NDB Runway 17, Original; Established.

Cloquet, Minn.—Cloquet Carlton County Airport; NDB Runway 35, Original; Established.

Galena, Alaska—Galena Airport; NDB-A, Amdt. 13; Revised.

Grand Junction, Colo.—Walker Field; NDB Runway 11, Amdt. 6; Revised.

Hot Springs, Ark.—Memorial Field; NDB Runway 5, Amdt. 1; Revised.

Huron, S. Dak.—W. W. Howes Municipal Airport; NDB Runway 12, Amdt. 12; Revised.

Juneau, Wis.—Dodge County Airport; NDB Runway 2, Amdt. 2; Revised.

Juneau, Wis.—Dodge County Airport; NDB Runway 20, Original; Established.

Miami, Fla.—Dade-Collier Training and Transition Airport; NDB Runway 9, Amdt. 2; Revised.

Platteville, Wis.—Platteville Municipal Airport; NDB Runway 25; Original; Established.

Racine, Wis.—Horlick-Racine Airport; NDB Runway 22, Amdt. 7; Revised.

Sioux City, Iowa—Sioux City Municipal Airport; NDB Runway 31, Amdt. 15; Revised.

5. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective July 1, 1971.

Hot Springs, Ark.—Memorial Field; ILS Runway 5, Amdt. 1; Revised.

Huron, S. Dak.—W. W. Howes Municipal Airport; ILS Runway 12, Amdt. 14; Revised.

Miami, Fla.—Dade-Collier Training and Transition Airport; ILS Runway 9, Amdt. 2; Revised.

Stout City, Iowa—Stout City Municipal Airport; ILS Runway 31, Amdt. 16; Revised.

6. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective July 1, 1971.

Atlanta, Ga.—Fulton County Airport; Radar-1, Amdt. 8; Revised.
Galena, Alaska—Galena Airport; Radar-1, Amdt. 3; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on May 25, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 71-7855 Filed 6-7-71; 8:50 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

Disclosure of NAS-NRC Drug Efficacy Study Group Evaluations in Drug Labeling and Advertising

In the FEDERAL REGISTER of October 7, 1970 (35 F.R. 15761), a notice was published proposing amendments to Parts 3, 130, and 146 to require disclosure in drug labeling and advertising of drug evaluations made for the Food and Drug Administration by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group. The notice provided for the filing of comments within 30 days and this was extended to December 6, 1970, by a notice published November 7, 1970 (35 F.R. 17191).

The response was divided. The Pharmaceutical Manufacturers Association, the Proprietary Association, 11 pharmaceutical manufacturers, a pharmaceutical advertising representative, and an individual objected to the proposal. The American Pharmaceutical Association, the American Public Health Association, the National Council of Senior Citizens, and a consumer advocate supported it.

The objections are summarized as follows:

1. *Legal objections:* Nothing in the Federal Food, Drug, and Cosmetic Act authorizes such regulations; requirements of the sort proposed cannot be imposed upon prescription drug advertising without formal procedures in which the pharmaceutical manufacturers could demand a hearing; the proposed policy statement is inconsistent with the implementation plan for the NAS-NRC review previously announced; and this is an unwarranted effort by the Food and Drug Administration to cast the burden of proof on the drug companies.

2. *Policy objections:* Requiring disclosure of NAS-NRC panel findings before their full and final implementation would be a disservice to the medical profession and to pharmaceutical manufacturers because:

a. It would not help the prescribing physician and might even increase his vulnerability to liability for medical malpractice.

b. The panel findings are not authoritative but only advisory and may have been arrived at by a split vote or compromise.

c. Inconsistent judgmental criteria were applied among the panels.

d. When the panels evaluated a drug as "possibly" or "probably" effective, "effective but," or even "ineffective," this was actually a finding that the drug was effective but that the quality of the data to so prove it was inadequate.

The Commissioner of Food and Drugs concludes as follows:

1. There is no legal infirmity in the proposal. It is based upon the requirement both in the act and in the prescription drug advertising regulations that misleading promotional practices must be avoided. The failure to reveal the NAS-NRC findings in any advertising and labeling that claims effectiveness for drugs that have been evaluated as less than effective by these expert panels is the failure to reveal a highly material fact. The NAS-NRC Drug Efficacy Study has been an audit of the state of the art of drug effectiveness concerned with about 80 percent of the drugs currently available. It is material to inform the medical profession of the results of the study in terms of specific drug evaluations at the earliest practicable time, which is the time of the announcement of the panel report, and to require the incorporation of the new information into promotional material as soon thereafter as possible.

2. There is no basis for contending that the panels did not speak for the NAS-NRC. While the policy boards of NAS-NRC did not review each and every panel report and concur in it, the panel members were selected by the policy boards and their reports were officially transmitted to FDA as a NAS-NRC product. The final report of the Academy on the Study explains what has been done and how.

3. No shift of burden of proof is involved. The burden of supporting claims of effectiveness by appropriate medical

proof is at all times upon sponsors of drugs. There is no real hardship in bringing the prescribers in on the fact that the medical data base upon which a claim of effectiveness is being made does not satisfy the requirements of adequate and well-controlled clinical investigations. Nor is there a conflict with the previously announced implementation plan for the NAS-NRC Drug Efficacy Study. FDA has made the judgment to allow additional time for the development of substantial medical data that will classify a drug evaluated as "probably effective" or "possibly effective" as either effective or ineffective. No prejudgment of the final outcome of ongoing or planned clinical trials is involved in a decision to require a disclosure of the deficiencies in the existing medical data while the definitive clinical trials are underway. It is indefensible to claim effectiveness for a drug while that issue is up for resolution by a planned or ongoing clinical trial. The very least that should be required in such cases is full disclosure of the facts to the prescriber of prescription items.

4. The NAS-NRC panel reports are expressions of medical judgment based upon the best data the companies could submit in support of their promotional claim, together with any other data the panelists could draw together from the FDA, the literature, or from expert consultants. They represent the most authoritative opinions currently available as to the validity of claims of drug effectiveness.

5. At the outset of this efficacy study, the FDA required a special report from each drug manufacturer of the best available data, reported or unreported, to support the claims of effectiveness being made for products under review. These reports served as the starting point for the NAS-NRC reviews. In the final report, NAS-NRC noted that the quality of the data submitted was poor (often being testimonial type reports), but despite the lack of definitive medical evidence judgments were reached. Contrary to the assertions in the objections, a finding of "probably effective" and "possibly effective" was not a finding that the drug would be effective. It was in the case of "possibly effective" a finding that there is little scientific evidence to support the claims, but that further study is justified to validate the claims. In the case of a "probably effective" finding, this was a conclusion that some evidence of effectiveness exists but that further study is required before it can be said with assurance that the drug will work as claimed.

6. There is no reason why these judgments should not be shared with the medical profession in drug promotional material. The only effect this might have on product liability and malpractice would be to publicly recognize the data deficiencies and raise questions about why the drug is being promoted on such data. But full disclosure of this fact should lead to better patient care, rather than worse, and to better understanding

by the physician of the drugs he prescribes.

7. FDA does not agree with the contention that release of the NAS-NRC findings will not assist the prescribing physician. Those responsible for drug purchasing at the Federal level have informed their drug users of the NAS-NRC findings of ineffectiveness and plans are underway to issue "possibly" and "probably" effective lists. This information should be available to anyone who is making a drug choice for his patient.

8. It is contended that some manufacturers will be discriminated against if forced to make a negative disclosure for their drugs before announcements are made about competitive drugs with the same deficiencies, and that firms seeking to validate claims evaluated as less than effective would be disadvantaged by competition from firms that simply dropped the questionable claim to obviate the disclosure. FDA is expediting the publication of all NAS-NRC reports to minimize the competitive disadvantages.

9. While there was objection by two firms to the box arrangement of this disclosure, this is regarded as essential for this particular communication problem.

10. The elimination of claims evaluated as other than effective will not require an affirmative disclosure.

Having evaluated all the comments, the Commissioner further concludes (a) that the requirement to include in the labeling and advertising of a prescription drug an authoritative conclusion regarding its usefulness is clearly within the authority and intent of the law to assure that the prescriber has adequate information on the drug for its safe and effective use, (b) that the requirement of disclosure of the Drug Efficacy Study evaluations in labeling and advertising should be limited to prescription drugs at this time (FDA is reconsidering the NAS-NRC implementation procedures for over-the-counter drugs and the requirements will be covered by a separate publication), (c) that reminder advertisements should not be used for drugs without a claim evaluated as higher than possibly effective, and (d) that the proposal, with changes, should be adopted as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 701(a); 52 Stat. 1050-53, as amended; 1055, 59 Stat. 463, as amended; 21 U.S.C. 352, 355, 357, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 1, 3, 130, and 146 are amended as follows:

1. Section 1.105(e)(2)(i) is revised to read as follows:

§ 1.105 Prescription drug advertisements.

(e) . . .

(2) . . .

(i) *Reminder advertisements.* Reminder advertisements if they contain only the proprietary or trade name of a drug (which necessitates declaring the

established name, if any, and furnishing the formula showing quantitatively each ingredient of the drug to the extent required for labels) and, optionally, information relating to dosage form, quantity of package contents, price, the name and address of the manufacturer, packer, or distributor or other written, printed, or graphic matter containing no representation or suggestion relating to the advertised drug: *Provided, however,* That if the Commissioner finds that there is evidence of significant incidence of fatalities or serious damage associated with the use of a particular prescription drug, he may notify the manufacturer, packer, or distributor of the drug by mail that this exemption does not apply to such drug by reason of such finding: *And provided, however,* That reminder advertisements are not permitted for a drug for which an announcement has been published pursuant to a review of the labeling claims for the drug by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, and for which no claim has been evaluated as higher than possibly effective. If the Commissioner finds the circumstances are such that a reminder advertisement may be misleading to prescribers of drugs subject to such NAS-NRC evaluation, such advertisements will not be allowed and the manufacturer, packer, or distributor will be notified either in the publication of the conclusions on the effectiveness of the drug or by letter.

2. The following new section is added:

§ 3.81 Disclosure of drug efficacy study evaluations in labeling and advertising.

(a) (1) The National Academy of Sciences-National Research Council, Drug Efficacy Study Group, has completed an exhaustive review of labeling claims made for drugs marketed under new-drug and antibiotic drug procedures between 1938 and 1962. The results are compiled in "Drug Efficacy Study, A Report to the Commissioner of Food and Drugs from the National Academy of Sciences (1969)." As the report notes, this review has made "an audit of the state of the art of drug usage that has been uniquely extensive in scope and uniquely intensive in time" and is applicable to more than 80 percent of the currently marketed drugs. The report further notes that the quality of the evidence of efficacy, as well as the quality of the labeling claims, is poor. Labeling and other promotional claims have been evaluated as "effective," "probably effective," "possibly effective," "ineffective," "ineffective as a fixed combination," and "effective but," and a report for each drug in the study has been submitted to the Commissioner.

(2) The Food and Drug Administration is processing the reports, seeking voluntary action on the part of the drug manufacturers and distributors in the elimination or modification of unsupported promotional claims, and initiating

administrative actions as necessary to require product and labeling changes.

(3) Delays have been encountered in bringing to the attention of the prescribers of prescription items the conclusions of the expert panels that reviewed the promotional claims.

(b) The Commissioner of Food and Drugs concludes that:

(1) The failure to disclose in the labeling of a drug and in other promotional material the conclusions of the Academy experts that a claim is "ineffective," "possibly effective," "probably effective," or "ineffective as a fixed combination," while labeling and promotional material bearing any such claim are being used, is a failure to disclose facts that are material in light of the representations made and causes the drug to be misbranded (21 U.S.C. 201(n), 502 (a), (n)).

(2) The Academy classification of a drug as other than "effective" for a claim for which such drug is recommended establishes that there is a material weight of opinion among qualified experts contrary to the representation made or suggested in the labeling, and failure to reveal this fact causes such labeling to be misleading.

(c) Therefore, after publication in the FEDERAL REGISTER of a Drug Efficacy Study Implementation notice on a prescription drug, unless exempted or otherwise provided for in the notice, all package labeling, promotional labeling, and advertisements shall include, as part of the information for practitioners under which the drug can be safely and effectively used, an appropriate qualification of all claims evaluated as other than "effective" by a panel of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, if such claims continue to be included in either the labeling or advertisements whether or not such claims are used in both. When, however, the Food and Drug Administration classification of such claim is "effective" (for example, on the basis of revision of the language of the claim or submission or existence of adequate data), such qualification is not necessary. When the Food and Drug Administration classification of the claim, as stated in the implementation notice, differs from that of the Academy but is other than "effective," the qualifying statement shall refer to this classification in lieu of the Academy's classification.

(d) For new drugs and antibiotics, supplements to provide for revised labeling in accord with paragraph (c) of this section shall be submitted under the provisions of § 130.9 (d) and (e) and § 146.2 of this chapter within 90 days after publication of the implementation notice in the FEDERAL REGISTER, or within 90 days of the addition of this section to Part 3 for those drugs for which notices have already been published, and such labeling shall be put into use as soon as possible but not more than 90 days after publication of such notice.

(c) Information in drug labeling and prescription drug advertisements to advise prescribers of a drug of the findings of a panel of the Academy in evaluating a claim as other than "effective" shall be presented in a prominently placed box distinctly set apart from the promotional language.

3. Section 130.9(d) is amended by adding a new subparagraph, as follows:

§ 130.9 Supplemental applications.

(d)
(4) The addition to the package labeling, promotional labeling, or prescription drug advertisements of information adequate to inform the prescriber of a drug of the findings of a panel of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, with respect to any claim in the labeling evaluated other than "effective," in accordance with § 3.81 of this chapter.

4. Section 146.2(b)(3) is revised to read as follows:

§ 146.2 Requests for certification, check tests and assays, and working standards: information and samples required.

(b)
(3) Before such person makes such change in the facilities and controls used in the manufacture, packaging, or labeling of the drug, he shall submit to the Commissioner for advance approval a full statement describing the proposed change. In the case of a proposal to use revised labeling on or within the drug package or promotional labeling containing information for use of the drug that is not the same in language and emphasis as the approved labeling, the applicant shall submit specimens for advance approval. Advance approval is not required when pursuant to a published FEDERAL REGISTER notice implementing a NAS-NRC drug efficacy study, the package labeling, other promotional labeling, or an advertisement is revised (i) to delete a claim for which there is a lack of substantial evidence of effectiveness, (ii) to modify labeling to be consistent with such notice, or (iii) to add in accord with § 3.81 of this chapter an informative statement of the findings of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, with respect to any claim in the labeling evaluated as other than "effective."

Effective date. This order shall become effective 30 days after its date of FEDERAL REGISTER publication.

(Secs. 502, 505, 507, 701(a); 52 Stat. 1050-53, as amended; 1055, 59 Stat. 463, as amended; 21 U.S.C. 352, 355, 357, 371(a))

Dated: May 30, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.
[FR Doc.71-7914 Filed 6-7-71; 8:45 am]

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

Revocation of Section

In the FEDERAL REGISTER of October 9, 1969 (34 F.R. 15670), the Commissioner of Food and Drugs announced (DESI 12-14 NV) the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Polyotic (tetracycline hydrochloride crystalline ointment (ophthalmic)), marketed by American Cyanamid Co., Post Office Box 400, Princeton, N.J., 08540.

The Academy concluded that the product is effective for treating ocular infections caused by organisms sensitive to the drug, but invited supplemental new drug applications to revise the labeling for this drug to limit the claims and to present the conditions of use substantially as set forth in said announcement. The Food and Drug Administration concurred with the conclusions of the Academy.

The announcement allowed American Cyanamid Co. 6 months to submit revised labeling or adequate documentation in support of the labeling used for Polyotic Ophthalmic Ointment, and made provisions for a written comment or request for an informal conference from interested persons.

American Cyanamid Co. did not furnish any data to support the labeling used for Polyotic Ophthalmic Ointment. They reported that this product is no longer marketed. No other comments or requests for conference were received.

Accordingly, the Commissioner concludes that the antibiotic regulation should be amended to revoke provisions for the certification of this drug in that the labeling fails to include required precautionary statement. The Commissioner further concludes that the certificates of safety and effectiveness heretofore issued for such drug should be withdrawn on the basis of a non-warranted hazard.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-51; 21 U.S.C. 357, 360b) and under authority delegated to the Commissioner (21 CFR 2.120), Part 146c is amended by deleting paragraph (c)(3) from § 146c.202 *Chlortetracycline hydrochloride ointment; chlortetracycline calcium ointment; chlortetracycline calcium cream; tetracycline hydrochloride ointment (tetracycline hydrochloride in oil suspension); tetracycline ointment (tetracycline cream)*. Certificates of safety and effectiveness issued under these regulations are also revoked.

Any person who would be adversely affected by the removal of any such drug on the market may file within 30 days

after publication hereof in the FEDERAL REGISTER objections to this order stating reasonable grounds and requesting a hearing on such objections. A statement of reasonable grounds for a hearing shall identify the claimed errors in the NAS/NRC evaluation and identify any adequate and well-controlled investigations on the basis of which it could reasonably be concluded that the drug would have the effectiveness claimed and would be safe for its intended use.

Objections and requests for a hearing should be filed (preferably in quadruplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed the effective date will be extended for a ruling thereon.

(Secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-51; 21 U.S.C. 357, 360b)

Date: May 27, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-7915 Filed 6-7-71; 8:45 am]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

[Docket No. R-71-115]

PART 17—ADMINISTRATIVE CLAIMS
Subpart A—Claims Against Government Under Federal Tort Claims Act

MISCELLANEOUS AMENDMENTS

Part 17 of Subtitle A of Title 24 of the Code of Federal Regulations is amended in the following respects:

§ 17.6 [Amended]

(1) Section 17.6, paragraph (a)(5), in the last sentence is revised to read: " . . . The head of the organizational unit will transmit the entire file to the General Counsel."

(2) Section 17.7 is revised to read as follows:

§ 17.7 Authority to adjust, determine, compromise, and settle claims.

The General Counsel, the Deputy General Counsel, and such employees of the Office of the General Counsel as may be designated by the General Counsel, are authorized to consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, and the regulations contained in 28 CFR Part 14 and in this subpart.

§ 17.10 [Deleted]

(3) Section 17.10 is deleted.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This amendment shall be effective as of June 9, 1971.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-7945 Filed 6-7-71; 8:47 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 72—INTERSTATE QUARANTINE
Subpart A—Definitions and General Provisions

Subpart G—Land and Air Conveyances: Equipment and Operation

REVISIONS REGARDING DISCHARGE OF WASTES FROM RAILROAD CONVEYANCES AND OTHER MATTERS

In the FEDERAL REGISTER of October 15, 1970 (35 F.R. 16179), the Commissioner of Food and Drugs proposed that the Public Health Service interstate quarantine regulations (42 CFR Part 72) be amended by redefining "communicable disease" in § 72.1(b), by adding two inadvertently omitted diseases, leprosy and relapsing fever, to the list of diseases in § 72.2, and by revising § 72.154 to prohibit discharge of human wastes, garbage, etc., from railroad conveyances except at servicing areas approved by the Commissioner of Food and Drugs. The proposed revision of § 72.154 was in terms of "new railroad conveyances" which were defined as railroad conveyances placed into service after December 31, 1971.

The proposal provided for the filing of comments within 30 days after FEDERAL REGISTER publication and this time was extended to December 14, 1970, by a notice published November 28, 1970 (35 F.R. 18203).

In response, comments were received regarding the proposed revision of § 72.154 suggesting clarifying technical changes, suggesting extension of the scope of the revision to include existing railroad conveyances, and objecting to the cost of equipping all railroad conveyances with retention type equipment. Having considered the comments, the Commissioner concludes that:

1. The need for regulating such waste discharging has been clearly established.

2. Although the total cost to the railroad industry (and ultimately to passengers and taxpayers) is recognized to be significant, the impact on individual passengers and taxpayers will be minimal.

3. In consideration of the impact on the industry, provision should be made

to allow for an extension of time for full compliance in cases of demonstrated need.

4. The revision of § 72.154 should be expanded to cover existing as well as new railroad conveyances and "new" should pertain to conveyances introduced into service after July 1, 1972.

5. The proposal, with changes, should be adopted as set forth below.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 361, 58 Stat. 703; 42 U.S.C. 264) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), §§ 72.1(b), 72.2, and 72.154 are revised to read as follows:

§ 72.1 General definitions.

(b) *Communicable diseases.* Illnesses due to infectious agents or their toxic products, which may be transmitted from a reservoir to a susceptible host either directly as from an infected person or animal or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.

§ 72.2 Apprehension and detention of persons with specific diseases.

Regulations prescribed in this part are not applicable to the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of the following diseases: Anthrax, chancroid, cholera, dengue, diphtheria, granuloma inguinale, infectious encephalitis, favus, gonorrhea, leprosy, lymphogranuloma venereum, meningococcus meningitis, plague, poliomyelitis, psittacosis, relapsing fever, ringworm of the scalp, scarlet fever, streptococcal sore throat, smallpox, syphilis, trachoma, tuberculosis, typhoid fever, typhus, and yellow fever.

§ 72.154 Railroad conveyances: discharge of wastes.

(a) *New railroad conveyances.* Human wastes, garbage, waste water, or other polluting materials shall not be discharged from any new railroad conveyance except at servicing areas approved by the Commissioner of Food and Drugs. In lieu of retention pending discharge at approved servicing areas, human wastes, garbage, waste water, or other polluting materials that have been suitably treated to prevent the spread of communicable diseases may be discharged from such conveyances, except at stations. For the purposes of this section, "new railroad conveyance" means any such conveyance placed into service for the first time after July 1, 1972, and the terms "waste water or other polluting materials" do not include drainage of drinking water taps or lavatory facilities.

(b) *Nonnew railroad conveyances.* Human waste, garbage, waste water, or other polluting materials shall not be discharged from any railroad conveyance

after December 31, 1974, except at servicing areas approved by the Commissioner of Food and Drugs. If justified, an extension may be granted by the Commissioner of Food and Drugs, but in no case beyond December 31, 1977. In lieu of retention pending discharge at approved servicing areas, human wastes, garbage, waste water, or other polluting materials that have been suitably treated to prevent the spread of communicable diseases may be discharged from such conveyances, except at stations. The terms "waste water or other polluting materials" do not include drainage of drinking water taps or lavatory facilities.

(c) *Toilets.* When railroad conveyances, occupied or open to occupancy by travelers, are at a station or servicing area, toilets shall be kept locked unless means are provided to prevent contamination of the area or station.

(d) *Requests for approvals or extensions.* Requests for approval of servicing areas or extensions of compliance time under the provisions of this section should be addressed to the Commissioner, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

Effective date. This order shall become effective 30 days after the date of its FEDERAL REGISTER publication.

(Sec. 361, 58 Stat. 703; 42 U.S.C. 264).

Dated: June 1, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-7920 Filed 6-7-71; 8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7122]

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—PROCEDURE AND ADMINISTRATION

Returns and Annual Reports of Exempt Organizations

In order to conform the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6033, 6056, and 6104 of the Internal Revenue Code of 1954 to sections 101(d)(1), (2), and (3), 101(e)(1), (2), and (3), and 101(j)(30) and (36) of the Tax Reform Act of 1969 (83 Stat. 519), such regulations are amended as follows:

PARAGRAPH 1. Paragraph (c) of § 1.6001-1 is amended to read as follows:

§ 1.6001-1 Records.

(c) *Exempt organizations.* In addition to such permanent books and records as

are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and § 1.6033-1.

PAR. 2. Section 1.6033 is amended to read as follows:

Sec. 6033. *Returns by exempt organizations*—(a) Organizations required to file—(1) In general. Except as provided in paragraph (2), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary or his delegate may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe; except that, in the discretion of the Secretary or his delegate, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) *Exceptions from filing*—(A) Mandatory exceptions. Paragraph (1) shall not apply to—

(i) Churches, their integrated auxiliaries, and conventions or associations of churches, (ii) Any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or (iii) The exclusively religious activities of any religious order.

(B) *Discretionary exceptions*. The Secretary or his delegate may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) *Certain organizations*. The organizations referred to in subparagraph (A)(ii) are—

(i) A religious organization described in section 501(c)(3);

(ii) An educational organization described in section 170(b)(1)(A)(ii);

(iii) A charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) An organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) An organization described in section 501(c)(8); and

(vi) An organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly owned subsidiary of such a corporation.

(b) *Certain organizations described in section 501(c)(3)*. Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary or his delegate may by forms or regulations prescribe, setting forth—

(1) Its gross income for the year, (2) Its expenses attributable to such income and incurred within the year, (3) Its disbursements within the year for the purposes for which it is exempt, (4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors, (6) The names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees, and

(7) The compensation and other payments made during the year to each individual described in paragraph (6).

(c) *Cross reference*. For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(d).

[Sec. 6033 as amended by sec. 75(b), Technical Amendments Act 1958 (72 Stat. 1661); sec. 101(d), Tax Reform Act 1969 (83 Stat. 519)]

PAR. 3. Section 1.6033-1 is amended by amending the title and by adding a new paragraph (j) at the end thereof. Such amended and added provisions read as follows:

§ 1.6033-1 *Returns by exempt organizations; taxable years beginning before January 1, 1970.*

(j) *Effective date*. The provisions of this section shall apply with respect to returns filed for taxable years beginning before January 1, 1970.

PAR. 4. There is inserted immediately after section 1.6033-1 the following new section:

§ 1.6033-2 *Returns by exempt organizations; taxable years beginning after December 31, 1969.*

(a) *In general*. (1) Except as provided in section 6033(a)(2) and paragraph (g) of this section, every organization exempt from taxation under section 501(a) shall file an annual information return specifically setting forth its items of gross income, gross receipts and disbursements, and such other information as may be prescribed in the instructions issued with respect to the return. Except as provided in paragraph (d) of this section, such return shall be filed annually regardless of whether such organization is chartered by, or affiliated or associated with, any central, parent, or other organization.

(2) (i) Except as otherwise provided in this paragraph and paragraph (g) of this section, every organization exempt from taxation under section 501(a), and required to file a return under section 6033 and this section, other than an or-

ganization described in section 401(a) or 501(d), shall file its annual return on Form 990. Form 990 consists of several parts, not all of which are required to be completed by all organizations required to file such form. In general, (a) organizations (other than private foundations) which have gross receipts for the year of \$10,000 or less are required to provide less detailed information about their activities on the Form 990, and (b) organizations with gross receipts for the year of more than \$10,000, and private foundations, are required to document their activities more thoroughly.

(ii) The information generally required to be furnished by an organization exempt under section 501(a) is:

(a) Its gross income for the year. For this purpose, gross income includes tax-exempt income, but does not include contributions, gifts, grants, and similar amounts received. Whether an item constitutes a contribution, gift, grant, or similar amount depends upon all the surrounding facts and circumstances. The computation of gross income shall be made by subtracting the cost of goods sold from all receipts other than gross contributions, gifts, grants, and similar amounts received and nonincludible dues and assessments from members and affiliates.

(b) To the extent not included in gross income, its dues and assessments from members and affiliates for the year.

(c) Its expenses incurred within the year attributable to gross income.

(d) Its disbursements (including prior years' accumulations) made within the year for the purposes for which it is exempt.

(e) A balance sheet showing its assets, liabilities, and net worth as of the beginning and end of such year. Detailed information relating to the assets, liabilities, and net worth shall be furnished on the schedule provided for this purpose on the Form 990. Such schedule shall be supplemented by attachments where appropriate.

(f) The total of the contributions, gifts, grants and similar amounts received by it during the taxable year, and the names and addresses of all persons who contributed, bequeathed, or devised \$5,000 or more (in money or other property) during the taxable year. In the case of a private foundation (as defined in section 509(a)), the names and addresses of all persons who became substantial contributors (as defined in section 507(d)(2)) during the taxable year shall be furnished. In addition, for its first taxable year beginning after December 31, 1969, each private foundation shall furnish the names and addresses of all persons who became substantial contributors before such taxable year. For special rules with respect to contributors and donors, see subdivision (iii) of this subparagraph.

(g) The names and addresses of all officers, directors, or trustees (or any person having responsibilities or powers similar to those of officers, directors, or trustees) of the organization, and, in

the case of a private foundation, all persons who are foundation managers, within the meaning of section 4946(b).

(1). Organizations described in section 501(c)(3) must also attach a schedule showing the names and addresses of the five employees (if any) who received the greatest amount of annual compensation in excess of \$30,000; the total number of other employees who received annual compensation in excess of \$30,000; the names and addresses of the five independent contractors (if any) who performed personal services of a professional nature for the organization (such as attorneys, accountants, and doctors, whether such services are performed by such persons in their individual capacity or as employees of a professional service corporation) and who received in excess of \$30,000 from the organization for the year for the performance of such services; and the total number of other such independent contractors who received in excess of \$30,000 for the year for the performance of such services.

(h) A schedule showing the compensation and other payments made during the organization's annual accounting period (or during the calendar year ending within such period) which are includible in the gross income of each individual whose name is required to be listed in (g) of this subdivision.

(iii) *Special rules*. In providing the names and addresses of contributors and donors under subdivision (ii)(f) of this subparagraph—

(a) An organization described in section 501(c)(3) which meets the 33 1/3 percent-of-support test of the regulations under section 170(b)(1)(A)(vi) (without regard to whether such organization otherwise qualifies as an organization described in section 170(b)(1)(A)) is required to provide the name and address of a person who contributed, bequeathed, or devised \$5,000 or more during the year only if his amount is in excess of 2 percent of the total contributions, bequests and devises received by the organization during the year.

(b) An organization other than a private foundation is required to report only the names and addresses of contributors of whom it has actual knowledge. For instance, an organization need not require an employer who withholds contributions from the compensation of employees and pays over to the organization periodically the total amounts withheld, to specify the amounts paid over with respect to a particular employee. In such case, unless the organization has actual knowledge that a particular employee gave more than \$5,000 (and in excess of 2 percent if (a) of this subdivision is applicable), the organization need report only the name and address of the employer, and the total amount paid over by him.

(c) Separate and independent gifts made by one person in a particular year need be aggregated to determine if his contributions and bequests exceed \$5,000 (and in excess of 2 percent if (a) of this

subdivision is applicable), only if such gifts are of \$1,000 or more.

(d) (1) Organizations described in section 501(c)(8) or (10) (and, for taxable years beginning after December 31, 1970, organizations described in section 501(c)(7)) that receive contributions or bequests to be used exclusively for purposes described in section 170(c)(4), 2055(a)(3), or 2522(a)(3), must attach a schedule with respect to all gifts which aggregate more than \$1,000 from any one person showing the name of the donor, the amount of the contribution or bequest, the specific purpose for which such amount was received, and the specific use to which such amount was put. In the case of an amount set aside for such purposes, the organization shall indicate the manner in which such amount is held (for instance, whether such amount is commingled with amounts held for other purposes). If the contribution or bequest was transferred to another organization, the schedule must include the name of the transferee organization, a description of the nature of such organization, and a description of the relationship between the transferee and transferor organizations.

(2) For taxable years beginning after December 31, 1970, such organizations must also attach a statement showing the total dollar amount of contributions and bequests received for such purposes which are \$1,000 or less.

(iv) *Listing of States*. A private foundation is required to attach to its Form 990 a list of all States—

(a) To which the organization reports in any fashion concerning its organization, assets, or activities, or

(b) With which the organization has registered (or which it has otherwise notified in any manner) that it intends to be, or is, a charitable organization or a holder of property devoted to a charitable purpose.

(3) Every employee's trust described in section 401(a) which is exempt from taxation under section 501(a) shall file an annual return on Form 990-P. The return shall include the information required by paragraph (b)(5)(ii) of § 1.401-1. In addition, the trust must file the information required to be filed by the employer pursuant to the provisions of § 1.404(a)-2, unless the employer has notified the trustee in writing that he has filed or will timely file such information. If the trustee has received such notification from the employer, then such notification, or a copy thereof, shall be retained by the trust as a part of its records.

(b) *Accounting period for filing return*. A return on Form 990 shall be on the basis of the established annual accounting period of the organization. If the organization has no such established accounting period, such return shall be on the basis of the calendar year.

(c) *Returns when exempt status not established*. An organization claiming an exempt status under section 501(a) prior to the establishment of such exempt status under section 501 and § 1.501(a)-1, shall file a Form 990 in accordance

with the instructions applicable thereto. In such case the organization must indicate on such Form 990 that the return is being filed in the belief that the organization is exempt under section 501(a), but that the Internal Revenue Service has not yet recognized such exemption.

(d) *Group returns*. (1) A central, parent, or like organization (referred to in this paragraph as "central organization"), exempt under section 501(a) and described in section 501(c) (other than a private foundation), although required to file a separate annual return for itself under section 6033 and paragraph (a) of this section, may file annually, in addition to such separate annual return, a group return on Form 990. Such group return may be filed for two or more of the local organizations, chapters, or the like (referred to in this paragraph as "local organizations") which are (i) affiliated with such central organization at the close of its annual accounting period, (ii) subject to the general supervision or control of the central organization, and (iii) exempt from taxation under the same paragraph of section 501(c) of the Code, although the local organizations are not necessarily exempt under the paragraph under which the central organization is exempt. Such group return may not be filed for a local organization which is a private foundation.

(2) (i) The filing of the group return shall be in lieu of the filing of a separate return by each of the local organizations included in the group return. The group return shall include only those local organizations which in writing have authorized the central organization to include them in the group return, and which have made and filed, with the central organization, their statements, specifically stating their items of gross income, receipts, and disbursements, and such other information relating to them as is required to be stated in the group return. Such an authorization and statement by a local organization shall be made under the penalties of perjury, shall be signed by a duly authorized officer of the local organization in his official capacity, and shall contain the following statement, or a statement of like import: "I hereby declare under the penalties of perjury that this authorization (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete and made in good faith." Such authorization and statement with respect to a local organization shall be retained by the central organization until the expiration of 6 years after the last taxable year for which a group return filed by such central organization includes such local organization.

(ii) There shall be attached to the group return and made a part thereof a schedule showing the name, address, and employer identification number of each of the local organizations and the total

number thereof included in such return, and a schedule showing the name, address, and employer identification number of each of the local organizations and the total number thereof not included in the group return.

(3) The group return shall be on the basis of the established annual accounting period of the central organization. Where such central organization has no established annual accounting period, such return shall be on the basis of the calendar year. The same income, receipts, and disbursements of a local organization shall not be included in more than one group return.

(4) The group return shall be filed in accordance with these regulations and the instructions issued with respect to Form 990, and shall be considered the return of each local organization included therein. The tax exempt status of a local organization must be established under a group exemption letter issued to the central organization before a group return including the local organization will be considered as the return of the local organization. See § 1.501(a)-1 for requirements for establishing a tax-exempt status.

(5) In providing the information required by paragraph (a) (2) (i) (f), (g), and (h) of this section, such information may be provided—

(i) with respect to the central or parent organization on its Form 990, and with respect to the local organizations on separate schedules attached to the group return for the year, or

(ii) on a consolidated basis for all the local organizations and the central or parent organization on the group return.

Such information need be provided only with respect to those local organizations which are not excepted from filing under the provisions of paragraph (g) of this section. A central or parent organization shall indicate whether it has provided such information in the manner described in subdivision (i) or in subdivision (ii) of this subparagraph, and may not change the manner in which it provides such information without the consent of the Commissioner.

(e) *Time and place for filing.* The annual return on Form 990 shall be filed on or before the 15th calendar month following the close of the period for which the return is required to be filed. The annual return on Form 1065 required to be filed by a religious or apostolic association or corporation shall be filed on or before the 15th day of the fourth month following the close of the taxable year for which the return is required to be filed. Each such return shall be filed in accordance with the instructions applicable thereto.

(f) *Penalties and additions to tax.* For penalties and additions to tax for failure to file a return and filing a false or fraudulent return, see sections 6652, 7203, 7206, and 7207.

(g) *Organizations not required to file annual returns.* (1) Annual returns required by this section are not required

to be filed by an organization exempt from taxation under section 501(a) which is—

(i) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church such as a men's or women's organization, religious school, mission society, or youth group;

(ii) An exclusively religious activity of any religious order;

(iii) An organization (other than a private foundation) the gross receipts of which in each taxable year are normally not more than \$5,000 (as described in subparagraph (3) of this paragraph);

(iv) A mission society sponsored by or affiliated with one or more churches or church denominations, more than one-half of the activities of which society are conducted in, or directed at persons in foreign countries;

(v) A State institution, the income of which is excluded from gross income under section 115(a); or

(vi) An organization described in section 501(c)(1).

(2) The provisions of section 6033(a) relieving certain specified types of organizations exempt from taxation under section 501(a) from filing annual returns do not abridge or impair in any way the powers and authority of district directors or directors of service centers provided for in other provisions of the Code and in regulations thereunder to require the filing of returns or notices by such organizations. See section 6001 and § 1.6001-1.

(3) For purposes of subparagraph (1) (iii) of this paragraph, the gross receipts (as defined in subparagraph (4) of this paragraph) of an organization are normally not more than \$5,000 if—

(i) In the case of an organization which has been in existence for 1 year or less, the organization has received, or donors have pledged to give, gross receipts of \$7,500 or less during the first taxable year of the organization,

(ii) In the case of an organization which has been in existence for more than one but less than 3 years, the average of the gross receipts received by the organization in its first 2 taxable years is \$6,000 or less, and

(iii) In the case of an organization which has been in existence for 3 years or more, the average of the gross receipts received by the organization in the immediately preceding 3 taxable years, including the year for which the return would be required to be filed, is \$5,000 or less.

(4) For purposes of this paragraph and paragraph (a) (2) of this section, "gross receipts" means the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses including, for example, cost of goods or assets sold, cost of operations, or expenses of earning, raising, or collecting such amounts. Thus "gross receipts" includes, but is not limited to,

(i) the gross amount received as contributions, gifts, grants, and similar amounts without reduction for the expenses of raising and collecting such amounts, (ii) the gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts, (iii) gross sales or receipts from business activities (including business activities unrelated to the purpose for which the organization qualifies for exemption, the net income or loss from which may be required to be reported on Form 990-T), (iv) the gross amount received from the sale of assets without reduction for cost or other basis and expenses of sale, and (v) the gross amount received as investment income, such as interest, dividends, rents, and royalties.

(5) The Commissioner may relieve any organization or class of organizations from filing, in whole or in part, the annual return required by this section where he determines that such returns are not necessary for the efficient administration of the internal revenue laws.

(h) *Records, statements, and other returns of tax-exempt organizations.* (1) An organization which is exempt from taxation under section 501(a) and is not required to file annually an information return on Form 990 shall immediately notify in writing the district director for the internal revenue district in which its principal office is located of any changes in its character, operations, or purpose for which it was originally created.

(2) Every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code. See section 6001 and § 1.6001-1 with respect to the authority of the district directors or directors of service centers to require such additional information and with respect to the books of account or records to be kept by such organizations.

(3) An organization which has established its exemption from taxation under section 501(a), including an organization which is relieved under section 6033 and this section from filing annual returns of information, is not relieved of the duty of filing other returns of information. See, for example, sections 6041, 6043, and 6051 and the regulations thereunder.

(i) *Unrelated business tax returns.* In addition to the foregoing requirements of this section, certain organizations otherwise exempt from tax under section 501(a) which are subject to tax on unrelated business taxable income are also required to file returns on Form 990-T. See paragraph (e) of § 1.6012-2 and paragraph (a) (5) of § 1.6012-3 for requirements with respect to such returns.

(j) *Special rule for private foundations.* A private foundation shall attach to each copy of the annual report required by section 6056 which its foundation managers send to a State Attorney General a copy of the Form 990, and a copy of the Form 4720, if any, filed by the foundation with the Internal Revenue Service for the year. For provisions relating to annual reports, see section 6056 and the regulations thereunder.

(k) *Effective date.* The provisions of this section shall apply with respect to returns filed for taxable years beginning after December 31, 1969.

PAR. 5. There are inserted immediately after § 1.6052-2 the following new sections:

§ 1.6056-1 *Statutory provisions; annual reports by private foundations.*

Sec. 6056. *Annual reports by private foundations—(a) General.* The foundation managers (within the meaning of section 4946(b)) of every organization which is a private foundation (within the meaning of section 509(a)) having at least \$5,000 of assets at any time during a taxable year shall file an annual report as of the close of the taxable year at such time and in such manner as the Secretary or his delegate may by regulations prescribe.

(b) *Contents.* The foundation managers of the private foundation shall set forth in the annual report required under subsection (a) the following information:

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements (including administrative expenses) within the year,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of the year,

(5) An itemized statement of its securities and all other assets at the close of the year, showing both book and market value,

(6) The total of the contributions and gifts received by it during the year,

(7) An itemized list of all grants and contributions made or approved for future payment during the year, showing the amount of each such grant or contribution, the name and address of the recipient, any relationship between any individual recipient and the foundation's managers or substantial contributors, and a concise statement of the purpose of each such grant or contribution,

(8) The address of the principal office of the foundation and (if different) of the place where its books and records are maintained,

(9) The names and addresses of its foundation managers (within the meaning of section 4946(b)), and

(10) A list of all persons described in paragraph (9) that are substantial contributors (within the meaning of section 507(d)) or that own 10 percent or more of the stock of any corporation of which the foundation owns 10 percent or more of the stock, or corresponding interests in partnerships or other entities, in which the foundation has a 10 percent or greater interest.

(c) *Form.* The annual report may be prepared in printed, typewritten, or any other legible form the foundation chooses. The Secretary or his delegate shall provide forms which may be used by a private foundation for purposes of the annual report.

(d) *Special rules.* (1) The annual report required to be filed under this section is in addition to and not in lieu of the information required to be filed under section 6033 (relating to returns by exempt organizations)

and shall be filed at the same time as such information.

(2) A copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual reports), together with proof of publication thereof, shall be filed by the foundation managers together with the annual report.

(3) The foundation managers shall furnish copies of the annual report required by this section to such State officials and other persons, at such times and under such conditions, as the Secretary or his delegate may by regulations prescribe.

§ 1.6056-1 *Annual reports by private foundations.*

(a) *Annual reports—(1) In general.* The foundation managers (as defined in section 4946(b)) of every organization (including a trust described in section 4947(a)(1)) which is (or is treated as) a private foundation (as defined in section 509(a)) the assets of which are at least \$5,000 at any time during a taxable year shall file an annual report setting forth the information described in subparagraphs (2) and (3) of this paragraph.

(2) *Form an annual report, time and place of filing.* The annual report required by this paragraph may be in printed, typewritten, or other form, provided that it readily and legibly discloses the information required by section 6056 and this section. Form 990-AR, Annual Report of Private Foundation, may be used for this purpose. The annual report shall be filed at the place specified in the instructions applicable to Form 990 at the same time as such form.

(3) *Foundation managers not using Form 990-AR.* Foundation managers not choosing to use Form 990-AR as the annual report required by this paragraph shall file a report in accordance with subparagraphs (1) and (2) of this paragraph, setting forth the information required by section 6056(b) and in accordance with the instructions applicable to Form 990-AR. For purposes of section 6056(b)(1), gross income shall be as defined in the regulations under section 6033(b)(1), and for purposes of section 6056(b)(2), expenses attributable to such income shall be as defined in the regulations under section 6033(b)(2). For purposes of section 6056(b)(7), the term "relationship" shall include, but is not limited to, any case in which an individual recipient of a grant or contribution by a private foundation is (i) a member of the family (as defined in section 4946(d)) of a substantial contributor or foundation manager of such foundation, (ii) a partner of such substantial contributor or foundation manager, or (iii) an employee of such substantial contributor or foundation manager or of an organization which is effectively controlled (directly or indirectly) by one or more such substantial contributors or foundation managers (within the meaning of section 4946(a)(1)(H)(i) and the regulations thereunder). For purposes of section 6056(b)(7) and (9), the business address of an individual grant recipient or foundation manager may be used by the foundation in its annual report in

lieu of the home address of such recipient or manager. For purposes of section 6056(b)(9), the term "foundation managers" shall have the same meaning as such term has in section 6033(b)(6).

(4) *Notice to public of availability of annual report.* A copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual reports), and proof of publication thereof, shall be filed with the annual report required by this paragraph. A copy of such notice as published, and a statement signed by a foundation manager stating that such notice was published, setting forth the date of publication and the publication in which it appeared, shall be sufficient proof of publication for purposes of this subparagraph.

(b) *Special rules—(1) Manner of making annual report available for public inspection.* The foundation managers of a private foundation may satisfy the requirement that the annual report be made available for public inspection at the foundation's principal office by furnishing a copy free of charge to persons who request inspection in the manner and at the time prescribed therefor in section 6104(d) and the regulations thereunder.

(2) *Furnishing copies to libraries and depositories.* The Commissioner may designate one or more appropriate libraries or depositories to which the foundation managers will be required to send copies of their annual reports, in addition to, and not in lieu of, filing such annual reports with the Internal Revenue Service and making such annual reports available for public inspection at the principal office of the foundation.

(3) *Furnishing of copies to State officers.* The foundation managers of a private foundation shall furnish a copy of the annual report required by section 6056 and this section to the Attorney General of (i) each State which the foundation is required to list as an attachment to the Form 990 pursuant to § 1.6033-2(a)(2)(iv), (ii) the State in which is located the principal office of the foundation, and (iii) the State in which the foundation was incorporated or created. The annual report shall be sent to each Attorney General described in subdivision (i), (ii), or (iii) of this subparagraph at the same time as it is sent to the Internal Revenue Service. Upon request the foundation managers shall also furnish a copy of the annual report to the Attorney General or other appropriate State officer (within the meaning of section 6104(c)(2)) of any State. The foundation managers shall attach to each copy of the annual report sent to State officers under this subparagraph a copy of the Forms 990 and 4720, if any, filed by the foundation for the year.

(c) *Special rules for certain foreign organizations.* The provisions of paragraphs (a)(4), (b)(1) and (3) of this section shall not apply with respect to an organization described in section 4948(b). The foundation managers of such organizations are not required to publish

notice of availability of the annual report for inspection, to make the annual report available at the principal office of the foundation for public inspection under section 6104(d), or to send copies of the annual report to State officers. Such foundation managers may be required to furnish copies of their annual reports to libraries and depositories in accordance with the provisions of paragraph (b) (2) of this section.

PAR. 6. Section 301.6033 is amended to read as follows:

§ 301.6033 Statutory provisions: returns by exempt organizations.

Sec. 6033. *Returns by exempt organizations.*—(a) *Organizations required to file.*—

(1) *In general.* Except as provided in paragraph (2), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary or his delegate may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe; except that, in the discretion of the Secretary or his delegate, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) *Exceptions from filing.*—(A) *Mandatory exceptions.* Paragraph (1) shall not apply to—

(i) Churches, their integrated auxiliaries, and conventions or associations of churches.

(ii) Any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or

(iii) The exclusively religious activities of any religious order.

(B) *Discretionary exceptions.* The Secretary or his delegate may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) *Certain organizations.* The organizations referred to in subparagraph (A) (ii) are—

(i) A religious organization described in section 501(c) (3);

(ii) An educational organization described in section 170(b) (1) (A) (ii);

(iii) A charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c) (3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) An organization described in section 501(c) (3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) An organization described in section 501(c) (8); and

(vi) An organization described in section 501(c) (1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly owned subsidiary or such a corporation.

(b) *Certain organizations described in section 501(c) (3).* Every organization described in section 501(c) (3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary or his delegate may by forms or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements within the year for the purposes for which it is exempt,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) The names and addresses of its foundation managers (within the meaning of section 4946(b) (1)) and highly compensated employees, and

(7) The compensation and other payments made during the year to each individual described in paragraph (6).

(c) *Cross reference.* For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(d).

[Sec. 6033 as amended by sec. 75(b), Technical Amendments Act 1958 (72 Stat. 1661); sec. 101(d), Tax Reform Act 1969 (83 Stat. 519).]

PAR. 7. Section 301.6104 is amended by revising section 6104(b), by adding new sections 6104 (c) and (d), and by revising the historical note. These revised and added provisions read as follows:

§ 301.6104 Statutory provisions: publicity of information required from certain exempt organizations and certain trusts.

Sec. 6104. *Publicity of information required from certain exempt organizations and certain trusts.*—

(a) *Inspection of annual information returns.* The information required to be furnished by sections 6033, 6034, and 6056, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary or his delegate may prescribe. Nothing in this subsection shall authorize the Secretary or his delegate to disclose the name or address of any contributor to any organization or trust (other than a private foundation, as defined in section 509(a)) which is required to furnish such information.

(b) *Publication to State officials.*—(1) *General rule.* In the case of any organization which is described in section 501(c) (3) and exempt from taxation under section 501(a), or has applied under section 508(a) for recognition as an organization described in section 501(c) (3), the Secretary or his delegate at such times and in such manner as he may by regulations prescribe shall—

(A) Notify the appropriate State officer of a refusal to recognize such organization as an organization described in section 501(c) (3), or of the operation of such organization in a manner which does not meet, or no longer meets, the requirements of its exemption,

(B) Notify the appropriate State officer of the mailing of a notice of deficiency of tax imposed under section 507 or chapter 42, and

(C) At the request of such appropriate State officer, make available for inspection and copying such returns, filed statements, records, reports, and other information, relating to a determination under subparagraph (A) or (B) as are relevant to any determination under State law.

(2) *Appropriate State officer.* For purposes of this subsection, the term "appropriate State officer" means the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c) (3).

(d) *Public inspection of private foundations' annual reports.* The annual report required to be filed under section 6056 (relating to annual reports by private foundations) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the publication of notice of its availability. Such notice shall be published, not later than the day prescribed for filing such annual report (determined with regard to any extension of time for filing), in a newspaper having general circulation in the county in which the principal office of the private foundation is located. The notice shall state that the annual report of the private foundation is available at its principal office for inspection during regular business hours by any citizen who requests it within 180 days after the date of such publication, and shall state the address of the private foundation's principal office and the name of its principal manager.

[Sec. 6104 as amended by sec. 75(a), Technical Amendments Act 1958 (72 Stat. 1660), secs. 101(e) and 101(j) (36), Tax Reform Act 1969 (83 Stat. 523).]

PAR. 8. Section 301.6104-2 is amended to read as follows:

§ 301.6104-2 Publicity of information on certain information returns and annual reports.

(a) *In general.* The following information, together with the name and address of the organization or trust furnishing such information, shall be a matter of public record:

(1) Except as otherwise provided in section 6104 and the regulations thereunder, the information furnished on Forms 990, 990-P, and 4720.

(2) The information furnished pursuant to section 6034 (relating to returns by certain trusts) on Form 1041-A.

(3) The information furnished on the annual report required by section 6056 (relating to annual reports of private foundations). The names, addresses, and amounts of contributions or bequests of contributors to an organization other than a private foundation shall not be made available for public inspection under section 6104(b). The names, addresses, and amounts of contributions or bequests of persons who are not citizens of the United States to a foreign organization described in section 4948(b) shall not be made available for public inspection under section 6104(b).

(b) *Place of inspection.* Information furnished on the public portion of returns and annual reports (as described in paragraph (a) of this section) shall be available to any person in the National Office, Office of the Director, Public Information Division, Internal Revenue Service, Washington, D.C. 20224, in the Office of the Director, Mid-Atlantic Regional Service Center, Philadelphia, Pa., and in the office of the district director of the district serving the principal place of business of the organization.

(c) *Procedure for public inspection.*—(1) *Requests for inspection.* The information furnished on Form 990, Form 990-P, Form 4720, Form 1041-A and the annual report required by section 6056 shall be available for public inspection under section 6104(b) only upon request. If inspection at the National Office is desired, the request shall be made in writing to the Commissioner of Internal Revenue, Attention: Director, Public Information Division, Washington, D.C. 20224. Requests for inspection in the office of a district director or Director of the Mid-Atlantic Regional Service Center shall be made in writing to the district director or Director of the Regional Service Center. All requests for inspection must include the name and address of the organization which filed the return or report, the type of return or report, and the taxable year for which filed.

(2) *Time and extent of inspection.* A person requesting public inspection in the manner specified in subparagraph (1) of this paragraph shall be notified by the Internal Revenue Service when the material he desires to inspect will be made available for his inspection. Information on Form 990, Form 990-P, Form 4720, Form 1041-A, and the annual report required by section 6056 will be made available for public inspection at such reasonable and proper times, and under such conditions, that will not interfere with their use by the Internal Revenue Service and will not exclude other persons from inspecting them. In addition, the Commissioner, director of the regional service center, or district director may limit the number of returns to be made available to any person for inspection on a given date. Inspection will be allowed only in the presence of an internal revenue officer or employee and only during the regular hours of business of the Internal Revenue Service office.

(3) *Returns available.* Returns filed before January 1, 1970, shall be available for public inspection only pursuant to the provisions of section 6104 in effect for such years. The information furnished on all returns and reports filed after December 31, 1969, pursuant to the requirements of section 6033, 6034, or 6056, shall be available for public inspection in accordance with the provisions of section 6104.

(4) *Copies.* Notes may be taken of the material opened for inspection under this section. Copies may be made manually or photographically in the National Office subject to reasonable supervision by the Public Information Division with regard to the facilities and equipment to be employed; and copies may be

made manually but not photographically in the offices of the district directors or directors of regional service centers (except that copies may be made photographically at the Mid-Atlantic Regional Service Center). Copies of the material opened for inspection will be furnished by the Internal Revenue Service to any person making request therefor. Request for such copies shall be made in the same manner as requests for inspection (see subparagraph (1) of this paragraph) to the office of the Internal Revenue Service in which such material is available for inspection as provided in paragraph (b) of this section. If made at the time of inspection, the request for copies need not be in writing. Any copies furnished will be certified upon request. The Commission may prescribe a reasonable fee for furnishing copies of information pursuant to this section.

PAR. 9. There is inserted immediately after § 301.6104-2, as amended, the following new sections:

§ 301.6104-3 Disclosure of certain information to State officers.

(a) *Notification of determinations.*—(1) *Automatic notification.* Upon making a determination described in paragraph (c) of this section, the Internal Revenue Service will notify the Attorney General and the principal tax officer of each of the following States of such determination without application or request by such State officer—

(i) In the case of any organization described in section 501(c) (3), the State in which the principal office of the organization is located (as shown on the last-filed Form 990, or on the application for exemption if no Form 990 has been filed), and the State in which the organization was incorporated, or if a trust, in which it was created, and

(ii) In the case of a private foundation, each State which the organization was required to list as an attachment to its last-filed Form 990 pursuant to § 1.6033-2(a) (2) (iv).

(2) *Applications for notification by other State officers.* Other officers of States described in subparagraph (1) of this paragraph, and officers of States not described in such subparagraph, may request that they be notified (either generally or with respect to a particular organization or type of organization) of determinations described in paragraph (c) of this section. In such cases, these State officers must show that they are appropriate State officers within the meaning of section 6104(c) (2). The required showing may be made by presenting a letter from the Attorney General of the State setting forth (i) the functions and authority of the State officer under State law, and (ii) sufficient facts for the Internal Revenue Service to determine that such officer is an appropriate State officer within the meaning of section 6104(c) (2).

(3) *Manner of notification.* A State officer who is entitled to be notified of a determination under this paragraph will be notified by sending him a copy of the

communication from the Internal Revenue Service to the organization which informs such organization of the determination.

(b) *Inspection by State officers.*—(1) *In general.* After a determination described in paragraph (c) of this section has been made, appropriate State officers within the meaning of section 6104(c) (2) may inspect the material described in subparagraph (3) of this paragraph. Such material may be inspected at an office of the Internal Revenue Service which will be designated upon receipt of a request for inspection; the location of such office will be determined with due consideration of the needs of the Internal Revenue Service and the needs of the State officer entitled to inspect.

(2) *State officers who may inspect material.* Any State officer entitled to be notified of a determination without application (under paragraph (a) (1) of this section) may inspect the material described in subparagraph (3) of this paragraph upon demonstrating that he is so entitled. Any State officer who has in fact been notified by the Internal Revenue Service of a determination may inspect such material without further demonstration, unless it shall be determined by the Internal Revenue Service that such officer was not entitled to be so notified. Other State officers must demonstrate to the satisfaction of the Internal Revenue Service that they are entitled to be notified under paragraph (a) (2) of this section before they may inspect such material.

(3) *Material which may be inspected.* (i) Except as provided in subdivision (ii) of this subparagraph, a State officer who is so entitled under subparagraphs (1) and (2) of this paragraph will be permitted to inspect and copy all returns, filed statements, records, reports, and other information relating to a determination described in paragraph (c) of this section which is relevant to a determination under State law, and which is in the hands of the Internal Revenue Service.

(ii) The following material will not be made available for inspection by State officers under section 6104(c) and this section—

(a) Interpretations by the Internal Revenue Service or other federal agency of federal laws (including the Internal Revenue Code of 1954 and its predecessors) which would not otherwise be made available to State officers under section 6103(b),

(b) Reports of informers, or any other material which would disclose the identity, or threaten the safety or anonymity, of an informer,

(c) Returns of persons (other than those exempt from taxation) which would not be available under section 6103 (b) to the State officer requesting inspection, or

(d) Other material the disclosure of which the Commissioner has determined would prejudice the proper administration of the internal revenue laws.

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(4) *Statement by State officer.* Before any State officer will be permitted to inspect material described in this paragraph, he must submit a statement to the Internal Revenue Service that he intends to use such material solely in fulfilling his functions under State law relating to organizations of the type described in section 501(c)(3); material is made available to State officers under this section in reliance on such statements. For provisions relating to penalties for misuse of information which is made available under section 6104(c) and this section, see 18 U.S.C. 1001.

(c) *Determinations defined.* For purposes of this section, a determination means a final determination by the Internal Revenue Service that—

(1) An organization is refused recognition as an organization described in section 501(c)(3), or has been operated in such a manner that it will not, or will no longer, be recognized as meeting the requirements for exemption under that section, or

(2) A deficiency of tax exists under section 507 or chapter 42.

For purposes of this paragraph, a determination by the Internal Revenue Service is not final until all administrative review with respect to such determination has been completed. For purposes of this section, a waiver of restrictions on assessment and collection of deficiency in tax is treated as a final determination that a deficiency of tax exists when such waiver has been finally accepted by the Internal Revenue Service. For example, a final determination that a deficiency of tax exists under section 507 or chapter 42 is made when the organization is sent a notice of deficiency with respect to such tax.

(d) *Effective date.* The provisions of this section apply with respect to all determinations made after December 31, 1969.

§ 301.6104-4 Public inspection of private foundations' annual reports.

(a) *In general.* The annual report which a private foundation must file under section 6056 shall be made available by its foundation managers for inspection at its principal office during regular business hours by any citizen on request made within 180 days after the publication of notice of the availability of such report. Such notice shall be published not later than the day prescribed for filing such report (determined with regard to any extension of time for filing) in a newspaper having general circulation in the county in which the foundation's principal office is located. The notice shall state that the annual report is available at the foundation's principal office for inspection during regular business hours by any citizen who requests inspection within 180 days after the date of such publication, and shall state the address of the foundation's principal office and the name of its principal manager.

(b) *Definitions and special rules.*—(1) *Principal office.* For purposes of the notice described in section 6104(d), a private foundation may designate in addition to its principal office, or (if the foundation has no principal office or none other than the residence of a substantial contributor or foundation manager) in lieu of such office, any other location at which its annual report shall be made available in the manner and at the time prescribed therefor in section 6104(d).

(2) *Newspaper having general circulation.* The term "newspaper having general circulation" in section 6104(d) shall include any newspaper or journal which is permitted to publish statements in satisfaction of State statutory requirements relating to transfers of title to real estate or other similar legal notices.

(3) *Principal manager.* A private foundation may furnish the name of its "principal manager" in the notice required by section 6104(d) by furnishing the name of the individual foundation manager who is responsible for publishing such notice or for making the annual report available for inspection under section 6104(d).

(c) *Cross-reference.* For additional rules with respect to private foundations' annual reports and their public inspection, see section 6056 and the regulations thereunder.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

HAROLD T. SWARTZ,
Acting Commissioner of
Internal Revenue.

Approved: May 24, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary
of the Treasury.

[FR Doc.71-7911 Filed 6-7-71; 8:45 am]

[T.D. 7125]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Extension of Transitional Period for Pooled Income Funds

In order to extend the transitional period in which certain funds may conform to the requirements of section 6422(c)(5) of the Internal Revenue Code of 1954, and to modify the rule on severance of the value of a remainder interest from a pooled income fund, the Income Tax Regulations (26 CFR Part 1) are hereby amended as follows:

PARAGRAPH 1. Section 1.642(c)-5 is amended by revising paragraph (b) (8) to read as follows:

§ 1.642(c)-5 Definition of pooled income fund.

(b) *Requirements for qualification as a pooled income fund.* . . .

(8) *Termination of life income interest.* Upon the termination of the income

interest retained or created by any donor, the trustee shall sever from the fund an amount equal to the value of the remainder interest in the property upon which the income interest is based. The value of the remainder interest for such purpose may be either (i) its value as of the determination date next succeeding the termination of the income interest or (ii) its value as of the date on which the last regular payment was made before the death of the beneficiary if the income interest is terminated on such payment date. The amount so severed from the fund must either be paid to, or retained for the use of, the designated public charity, as provided in the governing instrument. However, see subparagraph (3) of this paragraph for rules relating to commingling of property.

PAR. 2. Section 1.642(c)-7 is amended by revising paragraphs (a) (2) and (c) (1) to read as follows:

§ 1.642(c)-7 Transitional rules with respect to pooled income funds.

(a) *In general.* . . .

(2) *Severance of a portion of a fund.* Any portion of a fund created before May 7, 1971, which consists of property transferred to such fund after July 31, 1969, may be severed from such fund consistently with the principles of paragraph (c) (2) of this section and established before January 1, 1972, as a separate pooled income fund, provided that on and after the date of severance the severed fund meets all the requirements of section 642(c)(5) and § 1.642(c)-5. A separate fund which is established pursuant to this subparagraph shall be treated as provided in paragraph (d) of this section for the period beginning on the day of the first transfer of property which becomes part of the separate fund and ending the day before the day on which the separate fund meets the requirements of section 642(c)(5) and § 1.642(c)-5.

(c) *Amendment requirements.* (1) A fund described in paragraph (a) (1) of this section and possessing the initial characteristics described in paragraph (b) of this section on the date prescribed therein shall be treated as a pooled income fund if it is amended to meet all the requirements of section 642(c)(5) and § 1.642(c)-5 before January 1, 1972, or, if later, on or before the 30th day after the date on which any judicial proceedings commenced before January 1, 1972, which are required to amend its governing instrument or any other instrument which does not permit it to meet such requirements, become final. However, see paragraph (d) of this section for limitation on the period in which a claim for credit or refund may be filed.

Because publication of this Treasury decision at an early date is necessary to

facilitate compliance with the requirements for qualifying as a pooled income fund, it is hereby found impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C., section 553(b), or subject to the effective date limitation of 5 U.S.C. section 553(d).

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: June 4, 1971.

EDWIN S. COHEN,
Assistant Secretary
of the Treasury.

[FR Doc.71-8064 Filed 6-7-71; 10:28 am]

RULES AND REGULATIONS

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS [General Order 13, Rev.]

PART 251—APPLICATIONS FOR SUBSIDIES AND OTHER DIRECT FINANCIAL AID

Applications for Operating- Differential Subsidy

Effective upon the date of publication hereof in the FEDERAL REGISTER (6-9-71) the heading of this part is changed to read as set forth above, and § 251.11 is revised to read as follows:

§ 251.11 Applications under Title VI, Merchant Marine Act, 1936, as amended.

(a) Applications under title VI of the Act for subsidy to aid in the operation of vessels in the foreign commerce of the United States shall be filed on Form MA-632 in accordance with the instructions annexed thereto.

(b) Copies of Form MA-632 may be obtained on request from the Secretary, Maritime Subsidy Board, Washington, D.C., 20235.

Dated: June 1, 1971.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-8046 Filed 6-7-71; 9:27 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 53]

FAILURE TO DISTRIBUTE INCOME

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, attention: CC:LR:T, Washington, D.C. 20224, by July 8, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 8, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

The following regulations are prescribed in order to conform the Excise Tax Regulations (26 CFR Part 53) to section 4942 of the Internal Revenue Code of 1954, relating to taxes on failure to distribute income, as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 502). Except where otherwise specifically provided, these regulations are applicable for taxable years beginning after December 31, 1969.

PARAGRAPH 1. The following new sections are added immediately after § 53.4941--:

DISTRIBUTION OF FOUNDATION INCOME

Sec. 53.4942 Statutory provision; taxes on failure to distribute income.
53.4942(a)-1 Taxes for failure to distribute income.
53.4942(a)-2 Computation of undistributed income.
53.4942(a)-3 Qualifying distributions defined.

§ 53.4942 Statutory provisions; taxes on failure to distribute income.

Sec. 4942. Taxes on failure to distribute income--(a) Initial tax. There is hereby im-

posed on the undistributed income of a private foundation for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 15 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year. The tax imposed by this subsection shall not apply to the undistributed income of a private foundation--

(1) For any taxable year for which it is an operating foundation (as defined in subsection (j) (3)), or

(2) To the extent that the foundation failed to distribute any amount solely because of an incorrect valuation of assets under subsection (e), if--

(A) The failure to value the assets properly was not willful and was due to reasonable cause,

(B) Such amount is distributed as qualifying distributions (within the meaning of subsection (g)) by the foundation during the allowable distribution period (as defined in subsection (j) (4)).

(C) The foundation notifies the Secretary or his delegate that such amount has been distributed (within the meaning of subparagraph (B)) to correct such failure, and

(D) Such distribution is treated under subsection (h) (2) as made out of the undistributed income for the taxable year for which a tax would (except for this paragraph) have been imposed under this subsection.

(b) Additional tax. In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a private foundation for any taxable year, if any portion of such income remains undistributed at the close of the correction period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

(c) Undistributed income. For purposes of this section, the term "undistributed income" means, with respect to any private foundation for any taxable year as of any time, the amount by which--

(1) The distributable amount for such taxable year, exceeds

(2) The qualifying distributions made before such time out of such distributable amount.

(d) Distributable amount. For purposes of this section, the term "distributable amount" means, with respect to any foundation for any taxable year, an amount equal to--

(1) The minimum investment return (or the adjusted net income (whichever is higher), reduced by

(2) The sum of the taxes imposed on such private foundation for the taxable year under subtitle A and section 4940.

(e) Minimum investment return.

(1) In general. For purposes of subsection (d), the minimum investment return for any private foundation for any taxable year is the amount determined by multiplying--

(A) The excess of (i) the aggregate fair market value of all assets of the foundation other than those being used (or held for use) directly in carrying out the foundation's exempt purpose over (ii) the acquisition indebtedness with respect to such assets (determined under section 514(c) (1)), but without regard to the taxable year in which the indebtedness was incurred), by

(B) The applicable percentage for such year, determined under paragraph (3).

(2) Valuation. For purposes of paragraph (1) (A), the fair market value of securities for which market quotations are readily available shall be determined on a monthly basis. For all other assets, the fair market value shall be determined at such times and in such manner as the Secretary or his delegate shall by regulations prescribe.

(3) Applicable percentage. For purposes of paragraph (1) (B), the applicable percentage for taxable years beginning in 1970 is 6 percent. The applicable percentage for any taxable year beginning after 1970 shall be determined and published by the Secretary or his delegate and shall bear a relationship to 6 percent which the Secretary or his delegate determines to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1969.

(4) Transitional rules--
For special rules applicable to organizations created before May 27, 1969, see section 101 (1) (3) of the Tax Reform Act of 1969.

(f) Adjusted net income--
(1) Defined. For purposes of subsection (d), the term "adjusted net income" means the excess (if any) of--

(A) The gross income for the taxable year (determined with the income modifications provided by paragraph (2)), over

(B) The sum of the deductions (determined with the deduction modifications provided by paragraph (3)) which would be allowed to a corporation subject to the tax imposed by section 11 for the taxable year.

(2) Income modifications. The income modifications referred to in paragraph (1) (A) are as follows:

(A) Section 103 (relating to interest on certain governmental obligations) shall not apply.

(B) Capital gains and losses from the sale or other disposition of property shall be taken into account only in an amount equal to any net short-term capital gain for the taxable year; and

(C) There shall be taken into account--
(i) Amounts received or accrued as repayments of amounts which were taken into account as a qualifying distribution within the meaning of subsection (g) (1) (A) for any taxable year;

(ii) Notwithstanding subparagraph (B), amounts received or accrued from the sale or other disposition of property to the extent that the acquisition of such property was taken into account as a qualifying distribution (within the meaning of subsection (g) (1) (B)) for any taxable year; and
(iii) Any amount set aside under subsection (g) (2) to the extent it is determined that such amount is not necessary for the purposes for which it was set aside.

(3) Deduction modifications. The deduction modifications referred to in paragraph (1) (B) are as follows:

(A) No deduction shall be allowed other than the ordinary and necessary expenses paid or incurred for the production or collection of gross income or for the management, conservation, or maintenance of property held for the production of such income and the allowances for depreciation and depletion determined under section 4940 (c) (3) (B), and

(B) Section 265 (relating to expenses and interest relating to tax-exempt interest) shall not apply.

(4) Transitional rule. For purposes of paragraph (2) (B), the basis (for purposes of determining gain) of property held by a private foundation on December 31, 1969, and continuously thereafter to the date of its disposition, shall be deemed to be not less than the fair market value of such property on December 31, 1969.

(g) Qualifying distributions defined.
(1) In general. For purposes of this section, the term "qualifying distribution" means--

(A) Any amount (including administrative expenses) paid to accomplish one or more purposes described in section 170(c) (2) (B), other than any contribution to (i) an organization controlled (directly or indirectly) by the foundation or one or more disqualified persons (as defined in section 4946) with respect to the foundation, except as provided in paragraph (3), or (ii) a private foundation which is not an operating foundation (as defined in subsection (j) (3)), except as provided in paragraph (3), or

(B) Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes described in section 170(c) (2) (B).

(2) Certain set-asides. Subject to such terms and conditions as may be prescribed by the Secretary or his delegate, an amount set aside for a specific project which comes within one or more purposes described in section 170(c) (2) (B) may be treated as a qualifying distribution, but only if, at the time of the set-aside, the private foundation establishes to the satisfaction of the Secretary or his delegate that--

(A) The amount will be paid for the specific project within 5 years, and

(B) The project is one which can be better accomplished by such set-aside than by immediate payment of funds.

For good cause shown, the period for paying the amount set aside may be extended by the Secretary or his delegate.

(3) Certain contributions to section 501(c) (3) organizations. For purposes of this section, the term "qualifying distribution" includes a contribution to a section 501(c) (3) organization described in paragraph (1) (A) (i) or (ii) if--

(A) Not later than the close of the first taxable year after its taxable year in which such contribution is received, such organization makes a distribution equal to the amount of such contribution and such distribution is a qualifying distribution (within the meaning of paragraph (1) or (2), without regard to this paragraph) which is treated under subsection (h) as a distribution out of corpus (or would be so treated if such section 501(c) (3) organization were a private foundation which is not an operating foundation), and

(B) The private foundation making the contribution obtains adequate records or other sufficient evidence from such organization showing that the qualifying distribution described in subparagraph (A) has been made by such organization.

(h) Treatment of qualifying distributions.
(1) In general. Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made--

(A) First out of the undistributed income of the immediately preceding taxable year (if the private foundation was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof,

(B) Second out of the undistributed in-

come for the taxable year to the extent thereof, and

(C) Then out of corpus.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

(2) Correction of deficient distributions for prior taxable years, etc. In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the foundation may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year or out of corpus. The election shall be made by the foundation at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

(i) Adjustment of distributable amount where distributions during prior years have exceeded income.

(1) In general. If, for the taxable years in the adjustment period for which an organization is a private foundation--

(A) The aggregate qualifying distributions treated (under subsection (h)) as made out of the undistributed income for such taxable year or as made out of corpus (except to the extent subsection (g) (3) with respect to the recipient private foundation or section 170(b) (1) (E) (ii) applies) during such taxable years, exceed

(B) The distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (h)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

(2) Taxable years in adjustment period. For purposes of paragraph (1), with respect to any taxable year of a private foundation the taxable years in the adjustment period are the taxable years (not exceeding five) beginning after December 31, 1969, and immediately preceding the taxable year.

(j) Other definitions. For purposes of this section--

(1) Taxable period. The term "taxable period" means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212.

(2) Correction period. The term "correction period" means, with respect to any private foundation for any taxable year, the period beginning with the first day of the taxable year and ending 90 days after the date of mailing of a notice of deficiency (with respect to the tax imposed by subsection (b)) under section 6212, extended by--

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under this section.

(4) Allowable distribution period. The term "allowable distribution period" means, with respect to any private foundation, the period beginning with the first day of the first taxable year following the taxable year in which the incorrect valuation (described in subsection (a) (2)) occurred and ending 90 days after the date of mailing of a notice of deficiency (with respect to the tax imposed by subsection (a)) under section 6212 extended by--

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under this section.

(5) Functionally related business. The term "functionally related business" means--

(A) A trade or business which is not an unrelated trade or business (as defined in section 513), or

(B) An activity which is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which is related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization.

[Sec. 4942 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 502)]

§ 53.4942(a)-1 Taxes for failure to distribute income.

(a) Imposition of tax--(1) Initial tax. Except as provided in paragraph (b) of this section, section 4942(a) imposes an excise tax of 15 percent on the undistributed income (as defined in section 4942 (c) and paragraph (a) of § 53.4942(a)-2) of a private foundation for any taxable year which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period as defined in paragraph (c) (1) of this section). For purposes of section 4942 and this section, the term "distributed" means distributed as qualifying distributions under section 4942(g). See section 4942(h) (2) and paragraph (d) (3) of § 53.4942(a)-3 with respect to correction of deficient distributions for prior taxable years.

(2) Additional tax. In any case in which an initial excise tax is imposed by section 4942(a) and subparagraph (1) of this paragraph on the undistributed income of a private foundation for any taxable year, section 4942(b) imposes an additional excise tax on any portion of such income remaining undistributed at the close of the correction period (as defined in section 4942(j) (2) and paragraph (c) (3) of this section). The tax imposed by section 4942(b) and this subparagraph is equal to 100 percent of the amount remaining undistributed at the close of the correction period. Payment of such tax with respect to the undistributed income of the foundation for any taxable year is in addition to, and not in lieu of, making the distribution of such undistributed income as required by section 4942. See section 507(a) (2) and the regulations thereunder.

(3) Examples. The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, as private foundation, uses the calendar year as its taxable year. At the end of 1971, M has undistributed income (as defined in section 4942(c) and paragraph (a) of § 53.4942(a)-2) for 1971 of \$50,000. As of January 1, 1973, \$40,000 of such sum is still undistributed and on August 15, 1973, a notice of deficiency with respect to the excise tax imposed under subparagraph (1) of

this paragraph is mailed under section 6212 (a) to M. Thus, under the given facts, an initial excise tax of \$8,000 (15 percent of \$40,000) is imposed upon M.

Example (2). Assume the facts as stated in Example (1), except that as of November 13, 1973 (the close of the correction period), there remains undistributed income of \$20,000 from 1971. Hence, an additional excise tax of \$20,000 (100 percent of \$20,000) is imposed under subparagraph (2) of this paragraph.

Example (3). Assume the facts as stated in Example (1), except that the notice of deficiency is not mailed to M until September 1, 1974, and as of January 1, 1974, only \$10,000 of the \$50,000 of undistributed income with respect to 1971 is undistributed. Therefore, initial excise taxes of \$8,000 (15 percent of \$40,000, M's undistributed income from 1971, as of January 1, 1973) and \$1,500 (15 percent of \$10,000, M's undistributed income from 1971, as of January 1, 1974) are imposed under subparagraph (1) of this paragraph.

Example (4). Assume the facts as stated in Example (3) and that at the end of the correction period, November 30, 1974, the \$10,000 of undistributed income from 1971 remains undistributed. Thus, an additional tax of \$10,000 (100 percent of \$10,000, M's undistributed income from 1971, as of November 30, 1974, the last day of the correction period) is imposed under subparagraph (2) of this paragraph.

(b) **Exceptions.** The initial excise tax imposed by section 4942(a) and paragraph (a) (1) of this section shall not apply to the undistributed income of a private foundation—

(1) For any taxable year for which it is an operating foundation (as defined in section 4942(j) (3) and the regulations thereunder), or

(2) To the extent that the foundation failed to distribute any amount solely because of incorrect valuation of assets under section 4942(e) (2) and paragraph (c) (2) of § 53.4942(a)–2, if—

(i) The failure to value the assets properly was not willful and was due to reasonable cause,

(ii) Such amount is distributed as qualifying distributions (within the meaning of section 4942(g) and paragraph (a) of § 53.4942(a)–3) by the foundation during the allowable distribution period (as defined in section 4942(j) (4) and paragraph (c) (2) of this section),

(iii) The foundation notifies the Commissioner or his delegate that such amount has been distributed (within the meaning of subdivision (ii) of this subparagraph) to correct such failure, and

(iv) Such distribution is treated under section 4942(h) (2) and paragraph (d) (3) of § 53.4942(a)–3 as made out of the undistributed income for the taxable year for which a tax would (except for this subparagraph) have been imposed under paragraph (a) of this section.

For purposes of subparagraph (2) (i) of this paragraph, the terms "willful" and "due to reasonable cause" shall have the same meaning as in section 4945(a) (2) and the regulations thereunder. Failure to value an asset properly shall be regarded as "not willful" and "due to reasonable cause" whenever, under all the facts and circumstances, the foundation

can show that it has made all reasonable efforts in good faith to value such asset in accordance with the provisions of paragraph (c) (2) of § 53.4942(a)–2. The provisions of this paragraph may be illustrated by the following example:

Example. In 1976 M, a private foundation which was established in 1975 and is a calendar year taxpayer, incorrectly values its assets under section 4942(e) in a manner which is not willful and is due to reasonable cause. As a result of the incorrect valuation of assets, \$20,000 which should be distributed with respect to 1976 is not distributed, and as of January 1, 1978, such amount is still undistributed. On March 29, 1978, a notice of deficiency with respect to the excise tax imposed under paragraph (a) (1) of this section is mailed under section 6212(a) to M. On May 5, 1978 (within the allowable distribution period), M makes a qualifying distribution of \$20,000 which is treated under section 4942(h) (2) and paragraph (d) (3) of § 53.4942(a)–3 as made out of M's undistributed income for 1976. M notifies the Commissioner or his delegate of its action. Under the stated facts, an initial excise tax of \$3,000 (15 percent of \$20,000) would (except for this subparagraph) have been imposed by paragraph (a) (1) of this section, but since all of the requirements of this subparagraph are satisfied no tax is imposed under paragraph (a) (1) of this section.

(c) **Certain periods.**—(1) **Taxable period.** (i) Section 4942(j) (1) provides that the term "taxable period" means, with respect to the undistributed income of a private foundation for any taxable year, the period beginning with the first day of the taxable year and ending on the date of mailing of a notice of deficiency under section 6212(a) with respect to the initial excise tax imposed under section 4942(a) and paragraph (a) (1) of this section. For example, M, a private foundation which uses the calendar year as its taxable year, has \$15,000 of undistributed income for 1971. A notice of deficiency is mailed under section 6212(a) to M on March 1, 1973. With respect to the undistributed income of M for 1971, the taxable period began on January 1, 1971, and ended on March 1, 1973.

(ii) Where a notice of deficiency referred to in subdivision (i) of this subparagraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(2) **Allowable distribution period.** (i) Section 4942(j) (4) provides that the term "allowable distribution period" means, with respect to any private foundation, the period beginning with the first day of the first taxable year following the taxable year in which the incorrect valuation of foundation assets (described in paragraph (b) (2) of this section) occurred and ending 90 days after the date of mailing of a notice of deficiency under section 6212(a) with respect to the initial excise tax imposed by paragraph (a) (1) of this section. This period shall be extended by any period in which a deficiency cannot be assessed under section 6213(a), and any other

period which the Commissioner or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under section 4942.

(ii) Where a notice of deficiency referred to in subdivision (i) of this subparagraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the allowable distribution period.

(3) **Correction period.**—(i) **In general.** (a) For purposes of section 4942 the term "correction period" means, with respect to any private foundation for any taxable year, the period beginning with the first day of the taxable year and ending 90 days after the date of mailing of a notice of deficiency under section 6212(a) with respect to the additional excise tax imposed under section 4942(b) and paragraph (a) (2) of this section. This period shall be extended by any period in which a deficiency cannot be assessed under section 6213(a) and by any other period which the Commissioner or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under section 4942.

(b) Where a notice of deficiency referred to in (a) of this subdivision is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the correction period.

(ii) **Extension of correction period.** Except as provided in subdivision (iii) of this subparagraph, the Commissioner or his delegate ordinarily will not extend the correction period under this subparagraph unless the following factors are present:

(a) The foundation or an appropriate State officer (as defined in section 6104 (c) (2)) is in good faith actively seeking to take adequate corrective action;

(b) Adequate corrective action cannot reasonably be expected to result during the unextended correction period; and

(c) The failure to distribute appears to have been an isolated occurrence which is unlikely to recur in the future.

(iii) **Claim for refund.** If a foundation files a claim for refund with respect to a tax imposed under section 4942(a) (1) within the unextended correction period, the Commissioner shall extend the correction period during the pendency of the claim. If such claim is denied, the correction period will be extended by an additional 90 days to permit the foundation to file a suit or proceeding referred to in section 7422(b) with respect to such claim or to make the required correction. If such suit or proceeding is filed, the correction period will be extended during the pendency of such suit or proceeding.

(4) **Examples.** The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1975 private foundation M made an error in valuing its assets which was not willful and was due to reasonable cause. The error caused M not to distribute \$25,000 that should have been distributed with respect to 1975. M uses the calendar year as its taxable year. On March 1, 1978, a notice of deficiency with respect to the excise taxes imposed under paragraphs (a) (1) and (2) of this section was mailed under section 6212(a) to M. With respect to the undistributed income for 1975, the "taxable period" is the period from January 1, 1975, through March 1, 1978, and the "allowable distribution period" is the period from January 1, 1976, through May 30, 1978 (90 days after the mailing of the notice of deficiency).

Example (2). Assume the facts as stated in Example (1), except that the Commissioner or his delegate determines that it is reasonable and necessary to extend the period for distribution through June 15, 1978. Thus, the "allowable distribution period" is from January 1, 1976, through June 15, 1978.

Example (3). Assume the facts as stated in Example (1). The "correction period" is from January 1, 1975, through May 30, 1978, unless M has filed a petition in the Tax Court contesting such deficiency or a claim for refund before May 30, 1978.

§ 53.4942(a)–2 **Computation of undistributed income.**

(a) **Undistributed income.** For purposes of section 4942, the term "undistributed income" means, with respect to any private foundation for any taxable year as of any time, the amount by which—

(1) The distributable amount (as defined in section 4942(d) and paragraph (b) of this section) for such taxable year exceeds

(2) The qualifying distributions (as defined in section 4942(g) and § 53.4942(a)–3) made before such time out of such distributable amount.

(b) **Distributable amount.** For purposes of section 4942, the term "distributable amount" means, with respect to any private foundation for any taxable year, an amount equal to the higher of the minimum investment return (as defined in section 4942(e) and paragraph (c) of this section) or the adjusted net income (as defined in section 4942(f) and paragraph (d) of this section), reduced by the sum of the taxes imposed on such private foundation for such taxable year under subtitle A of the Code and section 4940.

(c) **Minimum investment return.**—(1) **In general.**—(i) **Assets held for production of income.** For purposes of section 4942(d) and paragraph (b) of this section, the "minimum investment return" for any private foundation for any taxable year is the amount determined by multiplying—

(a) The excess of the aggregate fair market value of all assets of the foundation, other than those used (or held for use) directly in carrying out the foundation's exempt purpose, over the amount of the acquisition indebtedness with respect to such assets (determined under section 514(c) (1), but without regard to the taxable year in which the indebtedness was incurred), by

(b) The applicable percentage (as defined in section 4942(e) (3) and sub-

paragraph (3) of this paragraph) for such year.

For purposes of (a) of this subdivision, the aggregate fair market value of all assets of the foundation shall include the average of the fair market values on a monthly basis of securities for which market quotations are readily available (within the meaning of subparagraph (2) (i) of this paragraph), the average of the foundation's cash balances on a monthly basis, and the fair market value of all other assets (within the meaning of subparagraphs (2) (ii) and (iii) of this paragraph) for the period of time during the year for which they are held by the foundation. For purposes of section 4942 and this subdivision, an asset is used (or held for use) directly in carrying out the foundation's exempt purpose only if the asset is actually used by the foundation in the carrying on of the charitable, educational or other similar function which gives rise to the exempt status of the foundation, or the foundation owns the asset and establishes to the satisfaction of the Commissioner or his delegate that its immediate use in such exempt functions is not practical (based on the facts and circumstances of the particular case) and that definite plans exist to commerce such use within a reasonable period of time. Consequently, assets which are held for the production of income or for investment (for example, stocks, bonds, interest-bearing notes, endowment funds, or real estate leased to other organizations) are not being used (or held for use) directly in carrying out such exempt functions, even though the income from such assets is used to carry out such exempt functions. Whether an asset is held for the production of income or for investment rather than being used (or held for use) directly by the foundation to carry out such exempt functions is a question of fact. For example, an office building used for the purpose of providing offices for employees engaged in the management of endowment funds of the foundation is not being used (or held for use) directly by the foundation to carry out its charitable, educational, or other similar exempt function. Real estate purchased by the foundation for use in carrying out its charitable, educational, or other similar exempt function may be considered as used (or held for use) directly to carry out such exempt function even though the property, in whole or in part, is leased for a limited period of time during which arrangements are made for its conversion to the use for which it was acquired, provided such income-producing use of the property does not last longer than 1 year.

(ii) **Certain assets excluded.** For purposes of this paragraph, the assets taken into account under section 4942(e) (1) (A) (i) shall not include the following:

(a) Administrative assets, such as office equipment and supplies which are used by employees or consultants of the foundation, to the extent such assets are devoted to and used directly in the administration of the foundation's

charitable, educational or other similar activities.

(b) Real estate or the portion of a building used by the foundation directly in its charitable, educational or other similar activities.

(c) Physical facilities used in such activities, such as paintings owned by the foundation and hung in a museum, fixtures in classrooms, research facilities and related equipment.

(d) Any interest of the foundation in a trust described in section 4947(a) (1), except for income of corpus which, although not actually reduced to the foundation's possession, has been constructively received by the foundation, as where it has been credited to the foundation's account, set apart for the foundation, or otherwise made available so that the foundation may draw upon it at any time or could have drawn upon it if notice of intention to withdraw had been given.

(e) Any future interest (such as a vested or contingent remainder) of a foundation in the income or corpus of a trust described in section 4947(a) (2) until all intervening interests in, and rights to the actual possession or enjoyment of, such income or corpus have expired (however, if a foundation has a current interest in the income of a trust described in section 4947(a) (2), the assets to which such income is attributable shall be taken into account under section 4942(e) (1) (A) (i)).

(f) Any pledge to the foundation of money or property (whether or not the pledge may be legally enforced), and

(g) Any interest in a functionally related business (as defined in subdivision (iii) of this subparagraph) or in a program-related investment (as defined in section 4944(c)).

(iii) **Functionally related business.** The term "functionally related business" means—

(a) A trade or business which is not an unrelated trade or business (as defined in section 513), or

(b) An activity which is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which is related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization.

The provisions of this subdivision may be illustrated by the following examples:

Example (1). X, a private foundation, maintains a community of historic value which is open to the general public. For the convenience of the public, X, through a wholly owned, separately incorporated, taxable entity, maintains a restaurant and hotel in such community. Such facilities are within the larger aggregate of activities which makes available for public enjoyment the various buildings of historic interest and which is related to X's exempt purpose. Thus, the operation of the restaurant and hotel under such circumstances constitutes a functionally related business.

Example (2). Y, a private foundation, as part of its medical research program under section 501(c) (3), publishes a medical

journal in furtherance of its exempt purposes. Space in the journal is sold for commercial advertising. Notwithstanding the fact that the advertising activity may be subject to the tax imposed by section 511, such activity is within a larger complex of endeavors which makes available to the scientific community and the general public developments with respect to medical research and is therefore a functionally related business.

(2) *Valuation of assets*—(i) *Certain securities*. For purposes of subparagraph (1)(i) of this paragraph, a private foundation may use any reasonable method to determine the fair market value on a monthly basis of securities for which market quotations are readily available, as long as such method is consistently used. For purposes of this subparagraph, market quotations are readily available if a security is:

(a) Listed on the New York Stock Exchange, the American Stock Exchange, or any city or regional exchange in which quotations appear on a daily basis, including foreign securities listed on a recognized foreign national or regional exchange;

(b) Regularly traded in the national or regional over-the-counter market, for which published quotations are available; or

(c) Locally traded, for which quotations can readily be obtained from established brokerage firms.

The term "securities" includes, but is not limited to, common and preferred stocks, bonds, and mutual fund shares.

(ii) *Other assets*. For purposes of this paragraph, with respect to all assets other than cash or assets described in subdivision (i) or (iii) of this subparagraph, a private foundation shall obtain an accurate independent appraisal of fair market value by a person who is not a disqualified person with respect to the foundation. The foundation shall retain a copy of the independent appraisal in its records. Such valuation shall be made at least once after December 31, 1969, and before the first day of the first taxable year of the foundation beginning after December 31, 1971. For purposes of this paragraph, the most recent valuation must be used, and such valuation may be used only for the taxable year in which it is made and the four immediately succeeding taxable years. Thus, a subsequent valuation must be made before the close of the fifth taxable year following the taxable year in which the most recent valuation was made. For purposes of section 4942, assets shall be valued in accordance with §§ 20.2031-1 through 20.2031-9, except where inconsistent with the provisions of this paragraph or the regulations under section 4942(j)(3).

(iii) *Certain unique assets*. For the valuation of assets which are unique and for which neither a ready market value nor standard valuation methods exist, see § 53.4942(b)-3(5).

(iv) *Income for taxable year*. For purposes of this paragraph, an amount equal to gross income for the taxable year (determined with the income modifica-

tions provided by section 4942(f)(2)) shall not be included in the aggregate fair market value of all assets of the foundation at any time during such year. However, to avoid a double exclusion, to the extent that:

(a) Deductions have been taken into account under section 4942(f)(1)(B) before such time which are properly allocable to such gross income, or

(b) Qualifying distributions have been made before such time out of the undistributed income of the foundation for such year under section 4942(h), an amount equal to such deductions and such qualifying distributions shall be included in such aggregate fair market value of all assets of the foundation.

(3) *Applicable percentage*—(i) *In general*. For purposes of section 4942(e)(1)(B) and subparagraph (1)(i)(b) of this paragraph, except as provided in subdivision (ii) of this subparagraph, the applicable percentage is 6 percent for any taxable year—

(a) Beginning in calendar year 1970, or

(b) Beginning in a calendar year following 1970, unless another percentage has been determined and published by the Secretary or his delegate.

The determination that a new applicable percentage is to be used for taxable years beginning in a specific calendar year will be published by March 1 of such calendar year. The latest published percentage shall apply for any taxable year beginning in the calendar year with respect to which publication is made and for any subsequent taxable year. The applicable percentage shall bear a relationship to 6 percent which the Secretary or his delegate determines to be comparable to the relationship which the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of the taxable year bears to the average yield on 5-year Treasury securities for the calendar year 1969. Any adjustment in the applicable percentage shall be made only to the nearest one-half of one percent.

(ii) *Transitional rule*. In the case of organizations organized before May 27, 1969, section 4942 shall, for all purposes other than the determination of the minimum investment return under section 4942(j)(3)(B)(ii) (relating to operating foundations), for taxable years—

(a) Beginning before January 1, 1972, apply without regard to section 4942(e).

(b) Beginning in 1972, apply with an applicable percentage which is the lesser of 4½ percent or three-fourths of the applicable percentage prescribed in subdivision (i) of this subparagraph for 1972.

(c) Beginning in 1973, apply with an applicable percentage which is the lesser of 5 percent or five-sixths of the applicable percentage prescribed in subdivision (i) of this subparagraph for 1973, and

(d) Beginning in 1974, apply with an applicable percentage which is the lesser of 5½ percent or eleven-twelfths of the applicable percentage prescribed in sub-

division (i) of this subparagraph for 1974.

(d) *Adjusted net income*—(1) *Definition*. For purposes of section 4942(d) and paragraph (b) of this section, the term "adjusted net income" means the excess (if any) of—

(i) The gross income for the taxable year (including gross income from any unrelated trade or business) determined with the income modifications provided by section 4942(f)(2) and subparagraphs (2) and (5) of this paragraph, over

(ii) The sum of the deductions (including deductions directly connected with the carrying on of any unrelated trade or business), determined with the deduction modifications provided by section 4942(f)(3) and subparagraph (3) of this paragraph, which would be allowed to a corporation subject to the tax imposed by section 11 for the taxable year.

In computing the income includible under this paragraph as gross income and the deductions allowable under this paragraph from such income, the principles of subtitle A shall be utilized to the extent they are applicable to the definitions contained herein. Except as otherwise provided in this paragraph, no exclusions or deductions from gross income or credits against tax are allowable under this paragraph. For purposes of subdivision (1) of this subparagraph, the term "gross income" does not include gifts, grants, or contributions received by the private foundation but does include income from a functionally related business (as defined in paragraph (c)(1)(iii) of this section).

(2) *Income modifications*. The income modifications referred to in section 4942(f)(1)(A) and subparagraph (1)(i) of this paragraph are as follows:

(i) Section 103 (relating to interest on certain governmental obligations) shall not apply. Hence, interest which would have been excluded from gross income by section 103 shall be included in gross income.

(ii) Capital gains and losses from the sale or other disposition of property shall be taken into account only in an amount equal to any net short-term capital gain (as defined in section 1222(5)) for the taxable year. Long-term capital gain or loss is not included in the computation of adjusted net income. Any net short-term capital loss for a given taxable year shall not be taken into account in computing adjusted net income for such year or in computing net short-term capital gain for purposes of determining adjusted net income for prior or future taxable years regardless of whether the foundation is a corporation or a trust.

(iii) There shall be included in gross income for the taxable year—

(a) Amounts received or accrued as repayments of amounts which were taken into account as a qualifying distribution within the meaning of section 4942(g)(1)(A) and paragraph (a)(1)(i) of § 53.4942(a)-3 for any taxable year,

(b) Notwithstanding section 4942(f)(2)(B) and subdivision (ii) of this subparagraph, amounts received or accrued from the sale or other disposition of property to the extent that the acquisition of such property was taken into account as a qualifying distribution (within the meaning of section 4942(g)(1)(B) and paragraph (a)(1)(i) of § 53.4942(a)-3 for any taxable year), and

(c) Any amount set aside under section 4942(g)(2) and paragraph (b) of § 53.4942(a)-3 to the extent it is determined that such amount is not necessary for the purposes for which it was set aside.

For purposes of this subparagraph, a distribution of property for purposes described in section 170(c)(1) or (2)(B) shall not be treated as a sale or other disposition of property. For purposes of this subdivision, any amounts described in (a), (b), or (c) of this subdivision shall be included in full in gross income for the taxable year without regard to any basis in such amounts.

(3) *Deduction modifications*—(i) *In general*. For purposes of computing adjusted net income under subparagraph (1) of this paragraph, no deduction shall be allowed other than all the ordinary and necessary expenses paid or incurred for the production or collection of gross income or for the management, conservation, or maintenance of property held for the production of such income, except as provided in subdivision (ii) of this subparagraph. Such expenses include that portion of a private foundation's operating expenses which is paid or incurred for the production or collection of gross income. Operating expenses include compensation of officers, other salaries and wages of employees, interest, and rent and taxes. Where only a portion of the property produces (or is held for the production of) income subject to the provisions of section 4942, and the remainder of the property is used for exempt purposes, the deductions allowed by this subparagraph shall be apportioned between the exempt and nonexempt uses. However, this subdivision does not allow deductions which are not paid or incurred for the purposes herein prescribed. Thus, for example, the deductions prescribed by the following sections are not allowable: (a) The charitable contributions deduction prescribed under sections 170 and 642(c); (b) the net operating loss deduction prescribed under section 172; and (c) the special deductions prescribed under Part VIII, subchapter B, chapter 1.

(ii) *Special rules*. For purposes of computing adjusted net income under subparagraph (1) of this paragraph: (a) The allowances for depreciation and depletion as determined under section 4940(c)(3)(B) and the regulations thereunder shall be taken into account, and (b) section 265 (relating to expenses and interest relating to tax-exempt interest) shall not apply.

(4) *Basis*. (i) For purposes of subparagraph (2)(ii) of this paragraph, the basis

for purposes of determining gain from the sale or other disposition of property shall be the greater of:

(a) Fair market value on December 31, 1969, plus or minus all adjustments after December 31, 1969, and before the date of disposition under the rules of Part II of subchapter O of chapter 1, provided that the property was held by the private foundation on December 31, 1969, and continuously thereafter to the date of disposition, or

(b) Basis as determined under the rules of Part II of subchapter O of chapter 1, subject to the provisions of section 4940(c)(3)(B) (and without regard to section 362(c)).

(ii) For purposes of determining loss from the sale or other disposition of property, basis as determined in subdivision (i)(b) of this subparagraph shall apply.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A cash basis private foundation purchased certain depreciable real property on December 1, 1969. On December 31, 1969, the fair market value of such property was \$100,000 and its basis was \$102,000. The property was sold on January 2, 1970, for \$105,000. Because fair market value on December 31, 1969, \$100,000, is less than basis as determined by Part II of subchapter O of chapter 1, \$102,000, a short-term gain of \$3,000 is recognized (i.e., sale price of \$105,000 less the greater of the two possible bases) for purposes of section 4942(f)(2)(B).

Example (2). Assume the facts as stated in Example (1) except that the sale price was \$95,000. Because the sale price was \$7,000 less than the basis for loss (\$102,000 as determined by the application of subdivision (ii) of this subparagraph), there is a capital loss of \$7,000 which may be deducted against short-term capital gains for 1970 (if any) in determining net short-term capital gain.

Example (3). A cash basis private foundation purchased unimproved land on December 1, 1969. On December 31, 1969, the fair market value of such property was \$110,000 and its basis was \$102,000. The property was sold on January 2, 1970, for \$105,000. Fair market value on December 31, 1969, \$110,000, exceeds basis as determined by Part II of subchapter O of chapter 1, \$102,000, and will be used for purposes of determining gain. Because the basis for purposes of determining gain exceeds the sale price, there is no gain. Because the basis for purposes of determining loss (\$102,000) is less than sale price, there is no loss.

(5) *Treatment of certain distributions in redemption of stock*. For purposes of applying section 4942(f) and this paragraph, any distribution made to a private foundation by a disqualified person (as defined in section 4946(a)) in redemption of stock held by such private foundation in a business enterprise shall be treated as not essentially equivalent to a dividend under section 302(b)(1) if all of the following conditions are satisfied:

(i) Such redemption is of stock which was owned by a private foundation on May 26, 1969 (or which is acquired by a private foundation under the terms of a trust which was irrevocable on May 26,

1969, or under the terms of a will executed on or before such date, which are in effect on such date and at all times thereafter);

(ii) Such foundation is required to dispose of such property in order not to be liable for tax under section 4943 (relating to taxes on excess business holdings); and

(iii) Such foundation receives in return an amount which equals or exceeds the fair market value of such property at the time of such disposition or at the time a contract for such disposition was previously executed in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law). In the case of a disposition before January 1, 1975, section 4943 shall be applied without taking section 4943(c)(4) into account.

(e) *Certain transitional rules*. In the case of organizations organized before May 27, 1969, section 4942 shall—

(1) Not apply to an organization to the extent its income is required to be accumulated pursuant to the mandatory terms (as in effect on May 26, 1969, and at all times thereafter) of an instrument executed before May 27, 1969, with respect to the transfer of income producing property to such organization, except that section 4942 shall apply to such organization if the organization would have been denied exemption if section 504(a) had not been repealed, or would have had its deductions under section 642(c) limited if section 681(c) had not been repealed. In applying the preceding sentence, in addition to the limitations contained in section 504(a) or 681(c) before its repeal, section 504(a)(1) or 681(c)(1) shall be treated as not applying to an organization to the extent its income is required to be accumulated pursuant to the mandatory terms (as in effect on January 1, 1951, and at all times thereafter) of an instrument executed before January 1, 1951, with respect to the transfer of income producing property to such organization before such date, if such transfer was irrevocable on such date, and

(2) Not apply to an organization which is prohibited by its governing instrument or other instrument from distributing capital or corpus to the extent the requirements of section 4942 are inconsistent with such prohibition.

With respect to taxable years beginning after December 31, 1971, subparagraphs (1) and (2) of this paragraph shall apply only during the pendency of any judicial proceeding by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument (as in effect on May 26, 1969) in order to comply with the provisions of section 4942, and in the case of subparagraph (1) of this paragraph for all periods after the termination of such judicial proceeding during which the governing instrument or any other

instrument does not permit compliance with such provisions. For purposes of the preceding sentence, a judicial proceeding will be treated as pending only if the foundation is diligently pursuing its judicial remedies and there is no unreasonable delay in such proceeding for which the private foundation is responsible.

§ 53.4942(a)-3 Qualifying distributions defined.

(a) *In general.* (1) For purposes of section 4942 and §§ 53.4942(a)-1 through 53.4942(a)-3, the term "qualifying distribution" means—

(i) Any amount (including program-related investments, as defined in section 4944(c) and the regulations thereunder, and reasonable and necessary administrative expenses) paid to accomplish one or more purposes described in section 170(c)(2)(B), other than any contribution to an organization described in (a) or (b) of this subdivision;

(a) An organization controlled (directly or indirectly) by the contributing private foundation or one or more disqualified persons (as defined in section 4946) with respect to such foundation, except as provided in section 4942(g)(3) and paragraph (c) of this section. An organization is "controlled" by a foundation or one or more disqualified persons with respect to the foundation if any of such persons may, by aggregating their votes or positions of authority, require the donee organization to make an expenditure, or prevent the donee organization from making an expenditure. The "controlled" organization need not be a private foundation; it may be any type of exempt or nonexempt organization including a school, hospital, operating foundation, or social welfare organization.

(b) A private foundation which is not an operating foundation (as defined in section 4942(j)(3) and the regulations thereunder), except as provided in section 4942(g)(3) and paragraph (c) of this section.

For purposes of this subdivision, the payment of any tax imposed under chapter 42 shall not be treated as a qualifying distribution.

(ii) Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes described in section 170(c)(2)(B). See paragraph (c)(1)(i) of § 53.4942(a)-2 for the definition of "used (or held for use)".

(iii) Any amount set aside within the meaning of section 4942(g)(2) and paragraph (b) of this section.

For purposes of section 4942, the amount of a qualifying distribution of property is the fair market value of such property on the date such qualifying distribution is made. For purposes of this section, purposes described in section 170(c)(2)(B) shall be treated as including purposes described in section 170(c)(1), and the amount of an organization's qualifying distributions will be determined

solely on the cash receipts and disbursements method of accounting described in section 446(c)(1). For purposes of this subparagraph, if a private foundation borrows money in a particular taxable year to make expenditures for a charitable or other similar purpose and the loan is not repaid until a subsequent taxable year, then a qualifying distribution (if any) is treated as "paid" when each expenditure of the borrowed funds for such purpose is made, rather than when the loan is repaid, except as provided in subparagraph (2) of this paragraph.

(2) For purposes of subparagraph (1) of this paragraph, if a private foundation has borrowed money in a taxable year commencing before January 1, 1970, to make expenditures for a specific charitable, or other similar, purpose and the loan is not fully repaid until a subsequent taxable year, then any repayments of the loan principal after December 31, 1969, may be treated as qualifying distributions but in an amount not in excess of the portion of the total original loan principal which the foundation demonstrates was expended for charitable or other similar purposes before January 1, 1970.

For purposes of subparagraphs (1) and (2) of this paragraph, any payment of interest on such loan shall be treated as a deduction under section 4942(f)(1)(B) and (3) in the year in which it is paid.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, a private foundation which uses the calendar year as its taxable year, makes the following payments in 1970: (i) A payment of \$44,000 to five employees for conducting a foundation program of educational grants for research and study; (ii) \$20,000 for various items of overhead, 10 percent of which is attributable to the activities of the employees mentioned in payment (i) of this example and the other 90 percent of which is attributable to administrative expenses which were not paid to accomplish any section 170(c)(2)(B) purpose; and (iii) a \$100,000 general purpose grant paid to an educational institution described in section 170(b)(1)(A)(ii) which is not controlled by M or any disqualified persons with respect to M. Payments (i) and (ii) are qualifying distributions to the extent of \$46,000 (\$44,000 of salaries and 10 percent of the overhead, both of which are reasonable administrative expenses paid to accomplish section 170(c)(2)(B) purposes). Payment (iii) is also a qualifying distribution, since it is a contribution for section 170(c)(2)(B) purposes to an organization which is not described in subdivision (a) or (b) of subparagraph (1) of this paragraph. The other 90 percent of payment (ii) may constitute deductions under section 4942(f)(1)(B) and (3) if they otherwise qualify under such section.

Example (2). On February 21, 1972, N, a private foundation which uses the calendar year as its taxable year, pays \$500,000 for real property on which it plans to build hospital facilities to be used for medical care and education. The real property produces no income and the hospital facilities will not be constructed until 1974 according to the set-aside plan submitted to and approved by the

Commissioner pursuant to paragraph (b) of this section. The purchase of the land is a qualifying distribution under either subdivision (ii) or subdivision (iii) of subparagraph (1) of this paragraph. If, however, the property were to produce rental income for more than 12 months before construction is begun, then such purchase would not constitute a qualifying distribution under subdivision (ii) of subparagraph (1) of this paragraph, but would be a qualifying distribution under subdivision (iii) of subparagraph (1) of this paragraph if the requirements of paragraph (b) of this section were satisfied.

Example (3). In 1971, X, a private foundation engaged in holding paintings and exhibiting them to the public, purchases an additional building to be used to exhibit the paintings. Such expenditure is a qualifying distribution under subparagraph (1)(ii) of this paragraph. In 1975, X sells the building. Under paragraph (d)(2)(iii) of § 53.4942(a)-2, all of the proceeds of the sale (less direct costs of the sale) are included in the foundation's adjusted net income for 1975.

Example (4). In January 1969, M, a private foundation, borrowed \$10 million to give to N, a private college, for the construction of a science center. M borrowed the money from X, a commercial bank. M is to repay X at the rate of \$1.1 million per year (\$1 million principal and \$0.1 million interest) for 10 years, beginning in January 1970. M distributed \$5 million of the borrowed funds to N in February 1969 and the other \$5 million in March 1970. For purposes of this section, the first \$5 million of principal repayments (i.e., the principal repayments due in January of 1970, 1971, 1972, 1973, and 1974) constitute qualifying distributions. In addition, the payment of \$5 million to N in March 1970 constitutes a qualifying distribution. Each payment of interest (\$0.1 million annually) is treated as a deduction under section 4942(f)(1)(B) and (3) in the year in which it is made.

(b) *Certain set-asides.* (1) An amount set-aside for a specific project which is for one or more of the purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution, but only if, at the time of the set-aside, the private foundation establishes to the satisfaction of the Commissioner or his delegate that—

(i) The amount will actually be paid for the specific project within 60 months from the date of the first set-aside, and

(ii) The project is one which can be better accomplished by such set-aside than by the immediate payment of funds.

A "specific project" (within the meaning of this subparagraph) includes, but is not limited to, situations where relatively long-term grants or expenditures must be made in order to assure the continuity of particular charitable projects or program-related investments as defined in section 4944(c), or where grants are made as part of a matching-grant program. Such term may include, for example, a plan to erect a building to house the direct charitable activity of the foundation (for example, a museum building in which paintings are to be hung), even though the exact location and architectural plans have not been finalized; a plan to purchase an additional group of paintings offered for sale only as a unit which requires an expenditure of more than 1 year's income; or a plan to fund a

specific research program which is of sufficient magnitude as to require an accumulation prior to commencement of the research, even though not all of the details of the program have been finalized. For good cause shown, the period for paying the amount set aside may be extended by the Commissioner or his delegate. For purposes of this subparagraph, the Commissioner or his delegate shall in all events either approve or disapprove a set-aside in writing.

(2) The approval by the Commissioner or his delegate must be applied for not later than the end of the taxable year in which the amount is actually set aside. An otherwise proper set-aside will not be a qualifying distribution under subparagraph (1) of this paragraph with respect to a specific taxable year if approval by the Commissioner of his delegate is not sought prior to the end of the taxable year in which the amount is actually set aside.

(3) To obtain approval by the Commissioner or his delegate for a set-aside, the foundation must write to Commissioner of Internal Revenue, T:MS:EO, 1111 Constitution Avenue NW., Washington, DC 20224, stating specifically—

(i) The nature and purposes of the specific project and the amount of the set-aside for which such approval is requested;

(ii) The amounts and approximate dates of any planned additions to the set-aside after its initial establishment;

(iii) The reasons why the project can be better accomplished by such set-aside than by the immediate payment of funds;

(iv) A detailed description of the project, including estimated costs, sources of any future funds expected to be used for completion of the project, and the location or locations (general or specific) of any physical facilities to be acquired or constructed as part of the project; and

(v) A statement by an appropriate foundation manager (as defined in section 4946(b)) that the amounts to be set aside will actually be paid for the specific project within a specified period of time which ends not more than 60 months after the date of the first set-aside; or a statement showing good cause why the period for paying the amount set aside should be extended (including a showing that the proposed project could not be divided into two or more projects covering periods of no more than 60 months each) and setting forth the extension of time requested.

(4) A set-aside approved by the Commissioner or his delegate shall be evidenced by the entry of a dollar amount on the books and records of a private foundation as a pledge or obligation to be paid at a future date or dates. Any amount which is set aside shall be taken into account for purposes of determining the foundation's minimum investment return under section 4942(e)(1)(A)(i) and paragraph (c)(1) of § 53.4942(a)-2, and any income attributable to such set-aside shall be taken into account in computing adjusted net income under sec-

tion 4942(f) and paragraph (d) of § 53.4942(a)-2.

(5) For purposes of section 4943, any interest in a business enterprise will be treated as disposed of by a private foundation at the time of the actual disposition of such interest, rather than at the time of a set-aside of such interest which is properly made pursuant to this paragraph.

(c) *Certain contributions to section 501(c)(3) organizations.* (1) For purposes of section 4942 and §§ 53.4942(a)-1 through 53.4942(a)-3, the term "qualifying distribution" includes (in the year in which it is paid) a contribution to a section 501(c)(3) organization described in section 4942(g)(1)(A)(i) or (ii) and paragraph (a)(1)(i) (a) or (b) of this section if—

(i) Not later than the close of the first taxable year after its taxable year in which such contribution is received, such donee organization makes a distribution equal to the full amount of such contribution and such distribution is a qualifying distribution (within the meaning of paragraph (a) of this section, without regard to this paragraph) which is treated under section 4942(h) and paragraph (d) of this section as a distribution out of corpus (or would be so treated if such section 501(c)(3) organization were a private foundation which is not an operating foundation), and

(ii) The private foundation making the contribution obtains adequate records or other sufficient evidence from such donee organization (such as a statement by an appropriate officer, director, or trustee of such donee organization) showing (a) that the qualifying distribution described in section 4942(g)(3)(A) and subdivision (i) of this subparagraph has been made by such organization, (b) the names and addresses of the recipients of such distribution and the amount received by each, and (c) that the distribution is treated as a distribution out of corpus under section 4942(h) and paragraph (d) of this section (or would be so treated if the donee organization were a private foundation which is not an operating foundation).

For purposes of this paragraph, all amounts contributed to a specific section 501(c)(3) organization described in section 4942(g)(1)(A)(i) or (ii) within any one taxable year of such organization shall be treated (with respect to the contributing private foundation) as one "contribution". If subdivision (i) or (ii) of this subparagraph is not satisfied with respect to any contribution within the meaning of this subparagraph, no portion of such contribution shall be treated as a qualifying distribution. In order for a donee organization to meet the distribution requirements of subdivision (i) of this subparagraph, it must, not later than the close of the first taxable year after its taxable year in which any contributions are received, distribute (within the meaning of this subparagraph) an amount equal in value to 100 percent of all contributions received in such year

and have no remaining undistributed income for such year. For purposes of this subparagraph, the term "contributions" means all contributions, whether of cash or property, and the fair market value of contributed property determined on the date of the contribution must be used in determining whether an amount equal in value to 100 percent of all contributions received has been distributed.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). M, a private foundation, makes a contribution out of 1971 income to X, another private foundation which is not an operating foundation. The contribution is the only one received by X in its 1972 taxable year. In its 1973 taxable year, X makes a qualifying distribution to an art museum maintained by an operating foundation in an amount equal to the amount of the contribution received from M. X also distributes all of its undistributed income for 1972 and 1973 for other charitable purposes. Under the provisions of section 4942(h) and paragraph (d) of this section, such distribution to the museum is treated as a distribution out of corpus. Thus, M's contribution to X is a qualifying distribution out of M's 1971 income provided M obtains adequate records or other sufficient evidence from X showing the nature and amount of the distribution made by X, the identity of the recipient, and the fact that the distribution is treated as made out of corpus. If X's qualifying distributions during 1973 had been equal only to M's contribution to X and X's undistributed income for 1972, X could have made an election under section 4942(h)(2) and paragraph (d)(3) of this section to treat the amount distributed in excess of its 1972 undistributed income as a distribution out of corpus and in that manner satisfied the requirements of section 4942(g)(3) and this paragraph.

Example (2). Assume the facts stated in Example (1), except that X is a private college controlled by disqualified persons with respect to M and that the records which X furnishes to M show that the distribution would have been treated as made out of corpus if X were a private nonoperating foundation. The result is the same as in Example (1).

Example (3). Assume the facts stated in Example (1), except that the records obtained by M from X are not sufficient to show the amounts distributed or the identities of the recipients of the distributions. The contribution by M to X will be a qualifying distribution only if M can obtain other sufficient evidence (such as statements from officers or employees of X or from the recipients) showing the facts required by subparagraph (1)(ii) of this paragraph.

(3) A contribution by a private foundation to a recipient organization which the recipient uses to make payments to another organization (the secondary recipient) shall not be regarded as a contribution by the private foundation to the secondary recipient if the foundation does not earmark the use of the contribution for any named secondary recipient and does not retain power to cause the selection of the secondary recipient by the organization to which such foundation has made the contribution. For purposes of this subparagraph, a contribution described herein shall not be regarded as a contribution by the

foundation to the secondary recipient even though such foundation has reason to believe that certain organizations would derive benefits from such contribution so long as the original recipient organization exercises control, in fact, over the selection process and actually makes the selection completely independently of such foundation.

(4) For purposes of section 4942, a distribution to a private foundation which is not an operating foundation and which is not controlled (directly or indirectly) by the distributing foundation or one or more disqualified persons (as defined in section 4946 and the regulations thereunder) with respect to the distributing foundation will be treated as a distribution to an operating foundation if—

(i) Such distribution is pursuant to a written commitment which was binding on May 26, 1969, and at all times thereafter,

(ii) Such distribution is made for one or more of the purposes described in section 170(c)(2)(B), and

(iii) Such distribution is to be paid out to the recipient private foundation on or before December 31, 1974.

For purposes of this subparagraph, a written commitment will be considered to have been binding prior to May 27, 1969, only if the amount and nature of the distribution and the name of the recipient foundation were entered in the records of the distributing foundation, or were otherwise adequately evidenced, prior to May 27, 1969, or notice of the distribution was communicated in writing to such recipient prior to May 27, 1969.

(d) *Treatment of qualifying distributions.* (1) Except as provided in subparagraph (3) of this paragraph, any qualifying distribution made during a taxable year shall be treated as made—

(i) First out of the undistributed income (as defined in section 4942(c) and paragraph (a) of § 53.4942(a)-2) of the immediately preceding taxable year (if the private foundation was subject to the initial excise tax imposed by paragraph (a)(1) of § 53.4942(a)-1 for such preceding taxable year) to the extent thereof;

(ii) Second out of the undistributed income for the taxable year to the extent thereof; and

(iii) Then out of corpus.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following example:

Example. M, a private foundation which was created in 1968 and which uses the calendar year as its taxable year, has distributable amounts and qualifying distributions for 1970 through 1977 as follows:

	1970	1971	1972	1973
Distributable amount.....	\$100	\$100	\$100	\$100
Qualifying distribution.....	0	100	250	100
	1974	1975	1976	1977
Distributable amount.....	\$100	\$100	\$100	\$100
Qualifying distribution.....	100	100	100	

In 1971 the qualifying distribution of \$100 is treated under subparagraph (1)(i) of this paragraph as made out of the \$100 of undistributed income for 1970. The qualifying distribution of \$250 in 1972 is treated as made: (i) \$100 out of the undistributed income for 1971 under subparagraph (1)(i) of this paragraph; (ii) \$100 out of the undistributed income for 1972 under subparagraph (1)(ii) of this paragraph; and (iii) \$50 out of corpus in 1972 under subparagraph (1)(iii) of this paragraph. The qualifying distribution of \$100 in each of the years 1973 through 1976 is treated as made out of the undistributed income for each of those respective years under subparagraph (1)(ii) of this paragraph. See paragraph (e) of this section for adjustment of M's distributable amount for 1977 for purposes of § 53.4942(a)-1 through 53.4942(a)-3 (other than this paragraph).

(3) In the case of any qualifying distribution which (under subparagraph (1) of this paragraph) is not treated as made out of the undistributed income of the immediately preceding taxable year, the foundation may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year or out of corpus. Such election must be made (by filing a statement with the Commissioner or his delegate) on or before the date prescribed for filing the foundation's return under section 6033 (determined with regard to any extension of time for filing) with respect to the taxable year in which such qualifying distribution is made, and the election is effective as of the date such statement is filed. The statement must contain a declaration by an appropriate foundation manager (within the meaning of section 4946(b)(1)) that the foundation is making an election under section 4942(h)(2) of the Code, and it must specify whether the distribution is made out of the undistributed income of a designated prior taxable year (or years) or is made out of corpus. Any election described in this subparagraph may be revoked in whole or in part (by filing a statement with the Commissioner or his delegate) on or before the date prescribed for filing the foundation's return under section 6033 (determined with regard to any extension of time for filing) with respect to the taxable year in question. Such statement must contain a declaration by an appropriate foundation manager (within the meaning of section 4946(b)(1)) that the foundation is revoking an election under section 4942(h)(2) in whole or in part, and it must specify the election or part thereof being revoked. For purposes of elections made under this subparagraph, see § 1.9100-1 relating to extensions of time for making certain elections.

(4) The provisions of subparagraph (3) of this paragraph may be illustrated by the following example:

Example. M, a private foundation which uses the calendar year as its taxable year, has undistributed income of \$300 for 1971, \$100 for 1972, and \$400 for 1973. On January 14, 1973, M makes its first qualifying distribution in 1973 when it sets aside (within the meaning of paragraph (b) of this section) \$700 for construction of a hospital. M notifies the Commissioner or his delegate in writing on March 20, 1973, that it is making

an election under section 4942(h)(2), and that its distribution of January 14 (to the extent it exceeds undistributed income for 1972) is to be applied first against undistributed income for 1971. On February 24, 1973, a notice of deficiency with respect to the tax imposed under paragraph (a)(1) of § 53.4942(a)-1 in regard to M's undistributed income for 1971 was mailed to M under section 6212 (a). Thus, under the given facts, an initial excise tax of \$45 (15 percent of \$300) is imposed under paragraph (a)(1) of § 53.4942(a)-1. Since M made the election described above, the \$300 of undistributed income for 1971 is treated as distributed during the correction period (as defined in paragraph (c) (3) of § 53.4942(a)-1), and therefore no additional tax will be imposed. In addition, \$300 (\$700 minus \$400) of the \$700 qualifying distribution is treated as made out of undistributed income for 1973.

(e) *Adjustment of distributable amount where distributions during prior years have exceeded income.* (1) If for the taxable years in the adjustment period (as defined in subparagraph (2) of this paragraph) for which an organization is a private foundation—

(i) The aggregate qualifying distributions treated (under section 4942(h) and paragraph (d) of this section) as made out of the undistributed income for such taxable years or as made out of corpus during such taxable years, exceed

(ii) The distributable amounts for such taxable years (determined without regard to this paragraph),

then, for purposes of § 53.4942(a)-1 through 53.4942(a)-3 (other than paragraph (d) of this section), the distributable amount for the taxable year shall be reduced by an amount equal to such excess. Amounts distributed by an organization in satisfaction of section 170(b)(1)(E)(ii) or 4942(g)(3)(A) are not to be taken into account under subdivision (i) of this subparagraph.

(2) For purposes of subparagraph (1) of this paragraph, the taxable years in the adjustment period are—

(i) With respect to any taxable year of a private foundation beginning before January 1, 1975, the taxable years beginning after December 31, 1969, and immediately preceding the taxable year in question, and

(ii) With respect to any taxable year of a private foundation beginning after December 31, 1974, the 5 taxable years immediately preceding the taxable year in question.

Thus, an excess (within the meaning of subparagraph (1) of this paragraph) for any 1 taxable year cannot be carried forward for more than 5 taxable years.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example (1). Assume the facts as stated in the example in paragraph (d)(2) of this section. Thus, for the taxable year 1977, for purposes of subparagraph (1)(i) of this paragraph, the aggregate qualifying distributions with respect to the taxable years in the adjustment period (1972 through 1976) which are treated under section 4942(h) and paragraph (d) of this section as made out of undistributed income or corpus for such years are \$550, computed as follows:

Year	Distributable amount	Out of undistributed income	Out of corpus
1972.....	\$100	\$100	\$0
1973.....	100	100	
1974.....	100	100	
1975.....	100	100	
1976.....	100	100	
Total.....	500	500	50

Since for the taxable years 1972 through 1976, the excess of the aggregate qualifying distributions over the aggregate distributable amounts is \$50, under the provisions of subparagraph (1) of this paragraph M's distributable amount (\$100) for 1977 is reduced to \$50, except for purposes of paragraph (d) of this section. If, however, M became a private foundation for the first time on January 1, 1974, then under the stated facts there would be no reduction in M's distributable amount for 1977 because, for M's taxable years 1974 through 1976, the aggregate of M's qualifying distributions treated as made out of undistributed income or corpus for such years would not exceed the distributable amounts for such years.

Example (2). Assume the facts as stated in Example (1), except that in 1975 M receives a contribution of \$200 from X, a private foundation which controls M (within the meaning of section 4942(g)(1)(A)(i)), and M distributes such contribution out of corpus in 1976 in satisfaction of section 4942(g)(3)(A). In this case, the result is the same as in Example (1), since such additional \$200 distribution out of corpus is excluded from the computation by section 4942(i)(1)(A) and subparagraph (1) of this paragraph.

Example (3). Assume the facts as stated in Example (1), except that in 1977 M has a qualifying distribution of \$75 and in 1978 M has a distributable amount of \$100. For purposes of section 4942(h) and paragraph (d) of this section, the \$100 distributable amount for 1977 is not reduced under section 4942(i). Thus, the \$75 qualifying distribution in 1977 is treated as made out of the \$100 of undistributed income for 1977, and no part of such qualifying distribution is treated as made out of corpus in 1977. For the taxable year 1978, the adjustment period is 1973 through 1977. The aggregate qualifying distributions in the adjustment period which are described in subparagraph (1)(i) of this paragraph are \$475, the sum of \$100 in each of the years 1973 through 1976 and \$75 in 1977. The distributable amounts in the adjustment period which are described in subparagraph (1)(ii) of this paragraph are \$500 (\$100 in each of the years 1973 through 1977), because the distributable amount of \$100 for 1977 is determined without regard to any reduction under section 4942(i). Thus, there is no excess (within the meaning of subparagraph (1) of this paragraph) with respect to the taxable year 1978.

[FR Doc.71-7831 Filed 6-7-71;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 131]

PROTECTION OF ENVIRONMENT, CONSERVATION AND LAND USE REQUIREMENTS

Leasing and Permitting

MAY 28, 1971.

This notice is published in exercise of authority delegated by the Secretary of

the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

Notice is hereby given that it is proposed to revise section 131.11 of Part 131, Subchapter L, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9).

The purpose of this revision is to extend the conservation and land use requirements of 25 CFR 131.11 to include provisions for the protection of the environment as mandatory requirements to be included in leases or permits granted or approved under Part 131.

Since this revision will impose environmental protection restrictions on the use of lands leased or permitted under Part 131, public comment and expression are deemed advisable. Accordingly, all persons who desire to submit comments, views, or arguments in connection with the proposed revision shall file the same with the Bureau of Indian Affairs, Washington, D.C. 20242, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

Section 131.11 of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

§ 131.11 Protection of environment, conservation and land use requirements.

Leases granted or approved under this part shall contain provisions to assure compliance with applicable air and water quality standards; to conserve and protect the environment; and to avoid, minimize or correct hazards to the public health and safety. The lessee will be required to provide adequate measures to avoid, control, minimize or correct erosion, contamination, or other abuses and damages to the environment within or without the leased premises that may result from or have been caused by operations conducted on the leased premises.

(a) Farming and grazing operations shall be conducted in accordance with recognized principles of good practice, conservation, and prudent management. Land use stipulations or conservation plans to define such use and the measures necessary for the conservation, protection and control of the environment shall be incorporated in and made a part of the lease.

(b) Commercial and industrial developments shall be constructed and operations conducted on the leased premises to control and minimize environmental pollution and abuses. Leases shall contain provisions for the lessee to submit, for advance approval, general and comprehensive plans of any proposed construction or developments for the use and conduct of operations as authorized for the leased premises prior to the lessee commencing any actual construction or development activities. Such plans, including architects' designs, construction specifications, machinery or equipment

installation and operation or specifications for other operations or developments, shall provide measures necessary to protect, control or abate environmental pollution or abuses and avoid, minimize, or correct hazards to the public health and safety. The duly authorized representative of the Secretary shall cause a technical examination of the plans to be made, and he may either approve or formulate requirements which the lessee must meet prior to approval.

(c) Other uses as authorized by leases issued under this part shall conform to the requirements and provisions formulated by the authorized representative of the Secretary for each such use as adapted to local conditions and the environmental factors which are in need of protection and control measures.

ERNEST STEVENS,
Acting Commissioner.

[FR Doc.71-7924 Filed 6-7-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 915]

AVOCADOS GROWN IN SOUTH FLORIDA

Notice of Correction and Extension of Time for Filing Written Data, Views, or Arguments

Pursuant to the provisions of the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), a notice of proposed rule making was published in the May 29, 1971 issue of the FEDERAL REGISTER (36 F.R. 9871) regarding proposed size, quality, and maturity requirements for avocados grown in South Florida. Interested persons were afforded the opportunity to submit written data, views, or arguments not later than June 5, 1971.

The proposed handling requirements, designated as § 915.313 Avocado Regulation 13, as published, contains errors in Table 1 of paragraph (a)(2) with respect to the permissible shipment dates for certain weights or diameters of the Wagner, Schmidt, and Itzamma (incorrectly listed as Itsamma) varieties. Paragraph (a)(6) also contains errors as to shipment dates with respect to the Booth 8 variety. The applicable shipment dates and minimum weights or diameters for the aforesaid named varieties in Table 1 of paragraph (a)(2) and in paragraph (a)(6) are corrected to read as follows:

§ 915.313 Avocado Regulation 13.

- (a) Order. . . .
(2)

PROPOSED RULE MAKING

TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Wagner	12-6-71	12 oz. 3 1/8 in.	12-20-71	10 oz. 3 1/8 in.	1-3-72		
Schmidt	1-17-72						
Itzamna	2-14-72						

(6) From October 25, 1971, through November 7, 1971, no handler shall handle any avocados of the Booth 8 variety unless the individual fruit in each lot of such avocados weighs at least 10 ounces or is at least 3 1/8 inches in diameter, and from November 8, 1971, through November 14, 1971, no handler shall handle any avocados of the Booth 8 variety unless the individual fruit in each lot of such avocados weighs at least 8 ounces or is at least 2 1/8 inches in diameter;

In view of the corrections specified herein, notice is hereby given that the time for submitting written data, views, or arguments on the proposal, as corrected, is extended through June 8, 1971.

Dated: June 4, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-8007 Filed 6-4-71; 12:35 pm]

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

[29 CFR Part 202]

PETITION FOR NATIONAL CONSULTATION RIGHTS

Notice of Proposed Rule Making

Notice is hereby given that the Assistant Secretary for Labor-Management Relations, pursuant to section 6 of Executive Order 11491, 34 F.R. 17605, is considering the adoption of rules governing petitions to the Assistant Secretary for national consultation rights. The proposed rules will implement the substantive criteria established by Part 2412 of Chapter XIV of Title 5 of the Code of Federal Regulations, 36 F.R. 2909, February 12, 1971, concerning national consultation rights.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rule making to Mr. W. J. Usery, Jr., Assistant Secretary for Labor-Management Relations, Department of Labor, Washington, D.C. 20210, within 30 days after publication of this notice in the FEDERAL REGISTER. All written materials or suggestions submitted in response to this notice of proposed rule making will be available for public inspection at the U.S. Department of Labor, 14th Street

and Constitution Avenue, Washington, DC, during regular business hours.

Part 202 of Chapter II of Title 29 of the Code of Federal Regulations is hereby amended by adding the following § 202.2(d), reading as follows:

§ 202.2 Contents of petition; challenges to petition.

(d) *Petition for national consultation rights.* (1) A petition for national consultation rights shall contain the information required in subparagraph (4), (5), (7), and (8) of paragraph (a) of this section, and shall set forth:

(i) The name, address, and telephone number of the agency or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(ii) A showing that petitioner holds adequate exclusive recognition as required in 5 CFR § 2412.2;

(iii) A statement that such showing has been made to and rejected by the agency or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that agency or primary national subdivision.

(2) Notwithstanding any other regulations in this part, the following regulations govern petitions filed under this subsection:

(i) An original and four copies of a petition shall be filed, with the Area Administrator for the area wherein the agency headquarters or the headquarters of the agency's primary national subdivision are located, within 30 days following refusal by the agency or primary national subdivision to accord or continue to accord national consultational rights pursuant to a request under 5 CFR § 2412.2.

(ii) Within 15 days following the receipt of a copy of the petition, the agency or primary national subdivision shall file a response thereto with the Area Administrator raising any matter which is relevant to the petition.

(iii) The Area Administrator shall make such investigation as he deems necessary and report the essential facts and positions of the parties to the Regional Administrator. If the Regional Administrator determines after an investigation, that a labor organization does not qualify for national consultation rights or the petition is not otherwise actionable, he may request the party filing such a petition to withdraw the petition or in the absence of such withdrawal within a reasonable time, he may dismiss the petition subject to review by the Assistant Secretary pursuant to § 202.6(d). The

Regional Administrator, if appropriate, may cause a notice of hearing to issue to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted by Hearing Examiners in accordance with §§ 203.10 through 203.24, with the exception of § 203.14 of this title. After considering the Hearing Examiner's report and recommendations, the record, and any exceptions filed thereto, the Assistant Secretary shall issue his decision.

(iv) An agency or primary national subdivision, shall provide notice of its intention to terminate national consultational rights not less than 15 days prior to the intended termination date. A labor organization after receiving such notice, but prior to the intended termination date, may duly file a petition under this section and thereby cause to be stayed further action by the agency or primary national subdivision pending ultimate review and decision by the Assistant Secretary. An agency or primary national subdivision may terminate national consultation rights if no petition has been filed during the notice period prescribed herein.

Signed at Washington, D.C., this 1st day of June 1971.

W. J. USERY, JR.,
Assistant Secretary of Labor
for Labor-Management Relations.
[FR Doc. 71-7925 Filed 6-7-71; 8:46 am]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 191]

HAZARDOUS SUBSTANCES BENZENE,
TOLUENE, XYLENE, PETROLEUM
DISTILLATES

Proposed Changes in First Aid Labeling Instructions for Certain Mixtures

Changes in hazardous substances labeling regulations may be necessary regarding first aid treatment after ingestion of mixtures of petroleum distillates and such acutely toxic substances as methyl alcohol, halogenated hydrocarbons, phenols, etc.

Section 191.7(b)(3), the regulation applicable to benzene, toluene, xylene, and petroleum distillates (such as kerosene, mineral seal oil, naphtha, gasoline, and mineral spirits), requires that these substances and mixtures containing specified amounts of them bear the first aid instructions "If swallowed do not induce vomiting. Call physician immediately." The first aid recommended, however, for the ingestion of methyl alcohol and other substances having a very high degree of systemic toxicity frequently includes instructions to induce vomiting.

Accordingly, the Commissioner of Food and Drugs proposes that § 191.7(b)(3) be amended as follows to eliminate such conflict by requiring that the first aid instructions on mixtures containing

petroleum distillates with very toxic substances recommend that vomiting be induced. In such circumstances, the hazard of an acute poisoning is greater than the hazard of chemical pneumonitis from vomiting the petroleum distillate.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 3(b), 10, 74 Stat. 374-75, as amended, 378; 15 U.S.C. 1262, 1269) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 191.7(b)(3) (i) and (ii) be revised to read as follows:

§ 191.7 Products requiring special labeling under section 3(b) of the act.

(b)

(3) *Benzene, toluene, xylene, and petroleum distillates.* (i) Because inhalation of the vapors of products containing 5 percent or more, by weight, of benzene may cause blood dyscrasias, such product shall be labeled with the signal word "danger," the statement of hazard "Vapor harmful," and the word "poison" and the skull and crossbones symbol. If the product contains 10 percent or more, by weight, of benzene, it shall bear the additional statement of hazard "Harmful or fatal if swallowed" and the first aid instructions "If swallowed, do not induce vomiting. Call physician immediately," except that for mixtures of benzene with certain acutely toxic ingredients in such concentrations that the greater likelihood of injury results from the presence of the mixture in the digestive tract (as might be the case for certain mixtures with methyl alcohol, phenols, etc.), the first aid instructions shall recommend that vomiting be induced to reduce the hazard of an acute poisoning.

(ii) Because products containing 10 percent or more, by weight, of toluene, xylene, or any of the other substances listed in paragraph (a)(4) of this section may be aspirated into the lungs, with resulting chemical pneumonitis, pneumonia, and pulmonary edema, such products shall be labeled with the signal word "danger," the statement of hazard "Harmful or fatal if swallowed," and the statements "If swallowed, do not induce vomiting. Call physician immediately," except that when the product contains other acutely toxic substances in such concentrations that the greater likelihood of injury results from the presence of the mixture in the digestive tract (as might be the case for certain mixtures with methyl alcohol, phenols, etc.), the first aid instructions shall recommend that vomiting be induced to reduce the hazard of an acute poisoning.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accom-

PROPOSED RULE MAKING

panied by a memorandum or brief in support thereof.

Dated: May 27, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7916 Filed 6-7-71; 8:45 am]

DEPARTMENT OF
TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 71-45]

MYAKKA RIVER, FLA.

Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Seaboard Coast Line Railroad bridge across the Myakka River, near Charlotte Beach, to require that the draw open on signal from 7 a.m. to 7 p.m. and that the draw open on signal from 7 p.m. to 7 a.m. if at least 6 hours notice has been given. Present regulations require at least 36 hours notice at all times. This change is being considered because of the increased use of this waterway by navigation.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Seventh Coast Guard District, Room 1018, Federal Building, 51 Southwest First Avenue, Miami, FL 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before July 2, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 be amended by revising § 117.245(i)(3) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(i)

(3) *Myakka River, Seaboard Coast Line railroad bridge near Charlotte*

Beach. From 7 a.m. to 7 p.m. the draw shall open on signal. From 7 p.m. to 7 a.m. the draw shall open on signal if at least 6 hours notice has been given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655 (g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: May 24, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc. 71-7928 Filed 6-7-71; 8:46 am]

[33 CFR Part 117]

[CGFR 71-44]

PASSAIC RIVER, N.J.

Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Erie Lackawanna railroad bridge across the Passaic River at Lyndhurst, N.J., to require at least 6 hours notice for the draw to open for the passage of vessels from 12 midnight to 8 a.m. The draw is presently required to open on signal at all times and would continue to open on signal from 8 a.m. to 12 midnight. This change is being considered because of the relatively few requests for openings during this period. There were 15 openings from 12 midnight to 8 a.m. from June 1, 1970 through January 31, 1971 or an average of approximately 2 per month.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before July 2, 1971, and his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of 33 CFR be amended by adding § 117.225(f)(2-c) to read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders not required.

(f)

(2-c) *Passaic River, Erie Lackawanna railroad bridge at Lyndhurst. From 8*

a.m. to 12 midnight the draw shall open on signal. From 12 midnight to 8 a.m. the draw shall open on signal if at least 6 hours notice has been given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (4) (35 F.R. 15922)

Dated: May 25, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc. 71-7929 Filed 6-7-71; 8:46 am]

Federal Highway Administration [49 CFR Part 393]

[Docket No. MC-28; Notice No. 71-10]

HAND AXES IN BUSES

Notice of Proposed Rulemaking

The National Association of Motor Bus Owners has filed a petition for rulemaking, asking the Director to revoke § 393.96(b) of the Motor Carrier Safety Regulations. Section 393.96(b) requires every bus, except a bus engaged in drive-away-towaway operations or a bus having a seating capacity of less than nine

persons, to be equipped with a hand axe.

In support of its request, the petitioner asserts that there is no known instance in which availability of a hand axe has facilitated emergency escape from a bus and that push out windows and windshields are adequate means of permitting occupants to escape in the event of a fire or similar casualty. The petitioner also claims that the axe has created a hazard by becoming lodged under the brake pedal or because drivers have misused it to achieve a "fast idle" and to block the controls. Finally, the petitioner contends that the cost of purchasing and installing axes is an unnecessary expense because they are never used and frequently stolen.

Although the Bureau of Motor Carrier Safety has no data indicating that a hand axe has become lodged under a brake pedal or has been misused by a driver in a dangerous manner, it appears that the balance of the petition has sufficient validity to justify rulemaking proceedings. Therefore, the Director invites interested persons to submit written data, views, or arguments pertaining to the proposed revocation of the requirement that hand axes must be carried on certain buses. It is specifically requested that actual, documented cases be submitted to support any views relating to the safety need for hand axes or the hazards resulting from their avail-

ability. Persons commenting on the cost burden of the present rule are also invited to submit data to support their positions (for example, recent vendors' invoices for hand axes).

Comments should refer to the docket number and notice number set forth above. Three copies of each comment should be sent to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591. All comments received before the close of business on August 2, 1971, will be considered before further action is taken on the proposal. All comments received will be available for examination in the docket in the office of the Chief, Regulations Division, Bureau of Motor Carrier Safety, 400 Seventh Street SW., Washington, DC.

This notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1555, the delegation of authority by the Secretary of the Interstate Commerce Act, 49 U.S.C. delegation of authority by the Federal Highway Administrator in 49 CFR 389.4

Issued on May 31, 1971.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc. 71-7932 Filed 6-7-71; 8:46 am]

DEPARTMENT OF STATE Agency for International Development CONTROLLER, A.I.D., ET AL. Redelegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 36, as amended, from the Administrator, Agency for International Development, I hereby further amend the Redelegation of Authority, dated April 8, 1964 (29 F.R. 5354), as follows:

1. Paragraph 1(b) is amended to read as follows:

(b) Authority with respect to any individual implementing document, as described in sec. 201.01(m) of A.I.D. Regulation 1, to waive, withdraw or amend under § 201.85, application of any of the provisions of Subparts F, G, and H of A.I.D. Regulation 1.

2. Paragraph 1(c) is amended to read as follows:

(c) Authority to sign and issue approvals and determinations, or to take such other actions on behalf of the Administrator, as authorized or required by any of the provisions of A.I.D. Regulation 1 for which waiver authority is provided by paragraph 1(b) above;

3. Actions within the scope of this amendment to the Redelegation of Authority of April 8, 1964, as amended, heretofore taken by the Controller, or his designees, are hereby ratified and confirmed.

4. This amendment to the Redelegation of Authority of April 8, 1964 shall be effective immediately.

Dated: May 27, 1971.

LANE DWINELL,
Assistant Administrator
for Administration.

[FR Doc. 71-7951 Filed 6-7-71; 8:47 am]

[Delegation of Authority No. 36; Amdt. 3]

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 of November 3, 1961, as amended, from the Secretary of State (26 F.R. 10608) I hereby further amend Delegation of Authority No. 36, as follows:

1. Paragraph 2(b) is amended to read as follows:

(b) Authority, with respect to any individual implementing document, as described in sec. 201.01(m) of A.I.D. Regulation 1, to waive, withdraw or amend under § 201.85, application of any of the provisions of Subparts F, G, and H of A.I.D. Regulation 1.

Notices

2. Paragraph 2(c) is amended to read as follows:

(c) Authority to sign and issue approvals and determinations, or to take such other actions on behalf of the Administrator, as authorized or required by any of the provisions of A.I.D. Regulation 1 for which waiver authority is provided by paragraph 2(b) above;

3. Actions within the scope of this amendment to Delegation of Authority No. 36 heretofore taken by the Assistant Administrator for Administration, or his designees, are hereby ratified and confirmed.

4. This amendment to Delegation of Authority No. 36 shall be effective immediately.

Date: May 27, 1971.

MAURICE J. WILLIAMS,
Acting Administrator.
[FR Doc. 71-7952 Filed 6-7-71; 8:47 am]

DEPARTMENT OF THE INTERIOR Bonneville Power Administration CIVIL DEFENSE EMERGENCIES AND LAND ACTIVITIES

Redelegations of Authority

Redelegations of Authority published in the FEDERAL REGISTER on July 6, 1968 (33 F.R. 9784), and amended on September 13, 1968 (33 F.R. 12974), February 21, 1969 (34 F.R. 36), August 9, 1969 (34 F.R. 152), September 18, 1969 (34 F.R. 179), and May 1, 1971 (36 F.R. 85) are further amended by:

1. Section 10.2 is amended as follows:

10.2 Civil defense emergencies.

(f) [Revoked.]

2. Section 10.15 is revised to read as follows:

10.15 Land activities.

a. The Chief, Branch of Land, may:

(7) Make determinations in accordance with titles II and III of the Act of January 2, 1971 (84 Stat. 1894), relating to the provision of relocation assistance and payment of moving and related expenses to persons displaced as the result of the acquisition of real property for programs undertaken by the Administration

Dated: May 26, 1971.

DONALD PAUL HODEL,
Acting Administrator.
[FR Doc. 71-7921 Filed 6-7-71; 8:46 am]

Bureau of Land Management NEVADA

Notice of Filing of Plats of Survey and Order Providing for Opening of Lands

JUNE 1, 1971.

1. The Plats of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nev., effective 10 a.m. on July 6, 1971:

MOUNT DIABLO MERIDIAN, NEVADA

a. T. 16 N., R. 27 E. (Group 447).
b. T. 16 N., R. 31 E. (Group 447).

2. a. The surveyed area in T. 16 N., R. 27 E., aggregates 23,671.38 acres. The plat was accepted May 3, 1971. T. 16 N., R. 27 E., M.D.M., is situated on the northern slope of the Desert Mountain Range and includes portions of the Dead Camel Mountains. The center of the township is about 18 miles southwest of Fallon, Nev. Access is provided by numerous trail roads. The elevation varies from about 4,050 to 5,850 feet above sea level. Terrain is rolling to mountainous. Soil consists principally of sandy clay with basalt stone. There is no timber in the township, however, grass is abundant. No significant mineral deposits were noted. Drainage is largely through Sam Spring Wash, exiting the area near the center of the east boundary. Stock water wells are located in secs. 1, 17, and 24. There are several drift fences in the north and western portions of the area.

Currently principal users of the township are stockmen. There are no residents in the area.

b. The surveyed area in T. 16 N., R. 31 E., aggregates 17,717.25 acres; the resurveyed area aggregates 1,602.02 acres. The plat was accepted May 3, 1971. T. 16 N., R. 31 E., M.D.M. is situated on the Cocoon Mountains and Fourmile Flat, about 22 miles southeast of Fallon, Nev. Access is provided by U.S. Highway No. 50, passing near the north boundary of the township, and other numerous track and trail roads.

The elevation varies from 3,900 to 6,100 feet above sea level. Terrain ranges from level mud flat to mountains. Soil consists of sandy clay alluvium with gravel and basalt rock at the higher elevations and sand deposits at intervals around the base of the hills. The mud flat has sandy clay ranging to salt near the center.

There is no timber in the township. Vegetation is comprised of desert brush such as shadscale, greasewood and sagebrush with a variety of grasses.

No mineral deposits of significance were noted with the exception of the salt deposit in secs. 1, 2, 11, 12, 13, and 14.

A commercial salt mining operation is situated in sec. 12. There is a water well with windmill, a line cabin, and a stock holding corral located in sec. 36. There are no permanent residents in the township.

3. Subject to any existing valid rights and the requirements of applicable laws, the above-described lands are hereby opened to filing applications, selections, and location, except for applications under the Small Tract, Desert Land and Homestead Laws, in accordance with the following:

Applications and selections under the nonmineral public land laws may be presented to the office mentioned below, beginning on the date of the order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs: Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of such claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph. All valid applications and selections under the nonmineral public land laws presented prior to 10 a.m., July 6, 1971, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

4. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications, which may be filed pursuant to this notice can be found in title 43 of the Code of Federal Regulations. Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, Nev. 89502.

ROLLA E. CHANDLER,
Chief,
Division of Technical Services.
[FR Doc.71-7931 Filed 6-7-71;8:46 am]

IDAHO

Redelegation of Authority by Idaho State Director to Chief, Branch of Records and Data Management

JUNE 4, 1971.

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 (29 F.R. No. 147, July 29, 1964) as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action in all matters listed in sections 2.2(c), 2.3(c), and 2.4(a)(4) of the above-cited order. The authority delegated may not be redelegated.

The authority for the above action is deleted from the responsibilities of the Chief, Division and Technical Services as provided for in Amendment No. 12 of the above-cited order dated April 9, 1971.

The above delegation shall become effective June 9, 1971.

WM. L. MATHEWS,
State Director.

Approved:

JOHN O. CROW,
Associate Director.

[FR Doc.71-7971 Filed 6-7-71;8:47 am]

Office of Hearings and Appeals

[Docket No. M 71-20]

IMPERIAL COAL CO.

Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. section 861(c) (Supp. V, 1970)), notice is given that the Imperial Coal Co. has filed a petition to modify the application of section 303(b) of the Act to its Imperial Mine.

Section 303(b) provides in pertinent part as follows:

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. . . . The minimum quantity of air in any coal mine reaching each working face shall be three thousand cubic feet a minute. Within three months after the operative date of this title, the Secretary shall prescribe the minimum velocity and quantity of air reaching each working face of each coal mine in order to render harmless and carry away methane and other explosive gases and to reduce the level of respirable dust to the lowest attainable level. The authorized representative of the Secretary may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the health or safety of miners. . . .

The regulations of the Department provide that a minimum quantity of 3,000 cubic feet a minute of air shall reach each working face. 30 CFR 75.301-1, 35 F.R. 17899.

Petitioner proposes to modify section 303(b) by reducing the minimum quantity of air in its mine which reaches each working face at which coal is currently being extracted. It states that an alternative measure which would provide greater safety to the miners would be secured by moving blower fans at intervals of not greater than 160 feet instead of the presently allowable interval of 300 feet and that a norm of ventilation in the face areas of 1,800 cubic feet of air per minute (which may be increased proportionately in the event a greater face area is exposed) would secure the

optimum ventilation needed to insure the safety of the miners working in the face areas. Petitioner states that 3,000 cubic feet of air per minute in the restricted areas involved increases the potential hazard of respirable dust and combustible dust.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

MAY 26, 1971.

[FR Doc.71-7922 Filed 6-7-71;8:46 am]

[Docket No. M 71-23]

IMPERIAL COAL CO.

Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. section 861(c) (Supp. V, 1970)), notice is given that the Imperial Coal Co. has filed a petition to modify the application of section 303(b) of the Act to its Eagle Mine.

Section 303(b) provides in pertinent part as follows:

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. . . . The minimum quantity of air in any coal mine reaching each working face shall be three thousand cubic feet a minute. Within three months after the operative date of this title, the Secretary shall prescribe the minimum velocity and quantity of air reaching each working face of each coal mine in order to render harmless and carry away methane and other explosive gases and to reduce the level of respirable dust to the lowest attainable level. The authorized representative of the Secretary may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the health or safety of miners. . . .

The regulations of the Department provide that a minimum quantity of 3,000 cubic feet a minute of air shall reach each working face. 30 CFR 75.301-1, 35 F.R. 17899.

Petitioner proposes to modify section 303(b) by reducing the minimum quantity of air in its mine which reaches each working face at which coal is currently being extracted. It states that an alternative measure which would provide greater safety to the miners would be secured by moving blower fans at intervals of not greater than 160 feet instead

of the presently allowable interval of 300 feet and that a norm of ventilation in the face areas of 1,800 cubic feet of air per minute (which may be increased proportionately in the event a greater face area is exposed) would secure the optimum ventilation needed to insure the safety of the miners working in the face areas. Petitioner states that 3,000 cubic feet of air per minute in the restricted areas involved increases the potential hazard of respirable dust and combustible dust.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.
[FR Doc.71-7923 Filed 6-7-71;8:46 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 420-(CP-16)]

MILES METAL CORP.

Order Imposing Civil Penalties and Placing Respondent on Probation for Export Control Violations

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, issued a charging letter on January 29, 1971, charging the above respondent with violations of the Export Control Act of 1949¹ and regulations thereunder. It was alleged, in substance, that respondent had violated the regulations that had been promulgated under the short supply provision of the Act (Section 2(1)(A) of the Export Control Act of 1949²) in that under 37 export licenses it exported quantities of copper in excess of those that were authorized. The charging letter informed the respondent that administrative proceedings were instituted against it for the purpose of obtaining an order imposing sanctions as provided in section 388.1 of the Export Control Regulations. The respondent was duly served with the charging letter and appeared in the proceedings through an attorney.

¹ This Act has been succeeded by the Export Administration Act of 1969, Public Law 91-184, approved Dec. 30, 1969, 50 U.S.C. App. sec. 2401-2413. Section 13(b) of the new Act provides, "All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 . . . shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act."

² Section 3(2)(A) of the Export Administration Act of 1969, contains a similar provision.

Pursuant to section 388.10 of the Export Control Regulations, with agreement of the Director, Investigations Division, there was submitted to the Compliance Commissioner a consent proposal for the issuance of an order imposing a civil penalty and placing respondent on probation for 3 months. In said consent proposal the respondent admitted for the purpose of this compliance proceeding only the charges set forth in the charging letter of January 29, 1971. The respondent waived: (1) All rights to oral hearing before the Compliance Commissioner; (2) all rights of administrative appeal from and judicial review of said order; (3) all rights to request refund of any civil penalty imposed pursuant to the consent proposal. It consented to an order imposing the civil penalties hereinafter set forth and probation for 3 months.

The Compliance Commissioner has considered the facts in the case and the respondent's proposal. He has approved the proposal and recommended that it be accepted. The undersigned, having considered the Compliance Commissioner's report and the consent proposal, hereby makes the following:

FINDINGS OF FACT

1. The respondent Miles Metal Corp., with a place of business in New York City, is one of the leading primary and scrap metal dealers in the United States. It is engaged both in domestic and export trade. Among other things it is engaged in the procurement and exportation of copper-bearing scrap materials.

2. The Export Control Act of 1949 authorized the issuance of regulations to curtail the exportation of materials when necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand. Pursuant to said authorization the Department of Commerce in November 1965 curtailed the exportation from the United States of copper, including copper scrap. The Office of Export Control issued regulations whereby validated export licenses were required for the exportation of copper or copper-bearing materials. On September 3, 1970 the Department of Commerce announced that unrestricted export licensing would be resumed immediately on all copper commodities previously restricted for short supply reasons. The regulations were thereafter revised accordingly.

3. Under the short supply regulations semiannual quantitative quotas were established on a national basis limiting the amount of copper or copper-bearing material that may be exported. The bulk of the export quota was allocated to firms that participated in such exports during a representative base period. The respondent was a firm that had a history of participation and it was allocated a share of the quota.

4. While the copper short supply regulations above referred to were in effect, the respondent applied for and received numerous validated export licenses to export copper. Among such licenses were

37 that were issued between January 21, 1969, and August 3, 1970. Each license permitted the exportation of a specific quantity of copper in copper-bearing material. Under each of said licenses the respondent was limited as to the quantity of copper that could be exported thereunder. The aggregate amount of copper that respondent was permitted to export under the 37 licenses was 999,697 pounds.

5. Notwithstanding the limitation on the quantity of copper that could be exported under said licenses, the respondent, with respect to each license, exported a greater quantity of copper (in copper-bearing material) than that which was authorized. The aggregate amount of copper exported in excess of that which was authorized was approximately 1,333,710 pounds. The exportations were made by respondent without notifying the Office of Export Control that copper in excess of the quantities authorized were being exported.

6. In effecting exportations under the above-mentioned licenses the respondent filed Shipper's Export Declarations in which it falsely declared the copper content of the copper-bearing material that was being exported. In each instance the copper content declared was less than the actual amount being exported.

7. By such false declarations on Shipper's Export Declarations the respondent caused false statements to be placed on the 37 export licenses, in that the quantities of copper shown to be shipped were less than the quantities actually shipped. The respondent failed to notify the Office of Export Control of these shipments in excess of the amounts authorized.

Based on the foregoing, I have concluded that the respondent violated the following sections of the Export Control Regulations: (a) 387.6, in that on 37 occasions it knowingly exported quantities of copper in copper-bearing material in excess of quantities authorized in each of said 37 licenses; (b) 387.5(c), in that with respect to each of said 37 licenses it failed to notify the Office of Export Control of a change of material fact previously represented in applications for said export licenses; (c) 387.5(a), in that it caused false representations to be made, and material facts concealed from the U.S. Department of Commerce in connection with the preparation of Shipper's Export Declarations in effecting exportations from the United States under the above mentioned export licenses.

On consideration of the record in the case, I hereby accept the consent proposal: *And it is hereby ordered:*

I. Pursuant to § 388.1(a)(4) of the Export Control Regulations, civil penalties totalling thirty-seven thousand dollars (\$37,000) are hereby imposed on respondent, being the maximum penalty of \$1,000 on each of 37 violations relating to a particular validated export license.

II. In addition to the foregoing civil penalties the respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in the exportation of any commodity or

technical data from the United States to any foreign destination, including Canada, for a period of 3 months. The effectiveness of this denial action is withheld and the respondent is placed on probation for this 3-month period during which time it is permitted all U.S. export privileges as though this order had not been issued, unless action is taken pursuant to paragraph III herein. At the expiration of said period this order without further action shall terminate. The condition of probation is that respondent shall not violate the Export Administration Act of 1969 or regulations thereunder.

III. Upon a finding by the Director, Office of Export Control or such other official as may be exercising the duties now exercised by him, that the respondent has knowingly failed to comply with the requirements and conditions of this order or with any of the conditions of probation, said official without notice, when national security or foreign policy considerations are involved, or with notice if such considerations are not involved, by supplemental order may revoke the probation of said respondent, revoke all outstanding validated export licenses to which said respondent may be a party and deny to said respondent all export privileges for the remaining period of the order. Such supplemental order shall contain the provisions of §§ 387.10 and 388.1(b) of the Export Control Regulations. Such supplemental order shall not preclude the Bureau of International Commerce from taking such further action for any violation as it shall deem warranted. On the entry of a supplemental order revoking respondent's probation without notice it may file objections and request that such order be set aside and may request an oral hearing as provided in section 388.16 of the Export Control Regulations; but pending such further proceedings the order of revocation shall remain in effect.

Dated: June 2, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.
[FR Doc.71-8010 Filed 6-7-71;8:49 am]

**Maritime Administration
STATE STREET BANK AND TRUST
COMPANY**

**Notice of Approval of Applicant as
Trustee**

Notice is hereby given that State Street Bank and Trust Company, a Massachusetts corporation, with offices at 225 Franklin Street, Boston, Massachusetts, has been approved as a trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: May 28, 1971.

BURT KYLE,
Chief, Office of Ship Operations.
[FR Doc.71-7913 Filed 6-7-71;8:45 am]

**National Oceanic and Atmospheric
Administration**

[Docket No. G-504]

IRVIN JOHN PIERRE

Notice of Loan Application

JUNE 2, 1971.

Irvin John Pierre, 2006 32d Street, Gulfport, MS 39501, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 59-feet in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.
[FR Doc.71-7937 Filed 6-7-71;8:46 am]

[Docket No. G-505]

NATHAN J. ROGERS

Notice of Loan Application

JUNE 2, 1971.

Nathan J. Rogers, Post Office Box 143, Lafitte, LA 70067, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 55-foot in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evi-

dence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.
[FR Doc.71-7938 Filed 6-7-71;8:46 am]

[Docket No. G-499]

LARRY JOSEPH DUPRE

Notice of Loan Application

JUNE 2, 1971.

Larry Joseph Dupre, Box 223-B, Fan-guy Street, Chauvin, LA 70344, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 52 feet in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.
[FR Doc.71-7954 Filed 6-7-71;8:47 am]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

**Food and Drug Administration
GAF CORP.**

**Notice of Filing of Petition for Food
Additives**

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 1B2681) has been filed by GAF Corp., 140 West 51st Street, New York, N.Y. 10020, proposing that § 121.2520 *Adhesives* and § 121.2571 *Components of paper and paperboard in contact with dry food* (21 CFR 121.2520, 121.2571) be

amended to provide for the safe use, as components of food packaging adhesives and paper and paperboard for dry food contact, of α -(p-nonylphenyl)- ω -methyl- ω -hydroxypoly(oxyethylene) sulfate, ammonium salt; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 9 or 30 moles.

Dated: June 1, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.
[FR Doc.71-7917 Filed 6-7-71;8:45 am]

[DESI 9363]

**COMBINATION STEROID-
SYMPATHOMIMETIC NASAL SPRAY
Drugs for Human Use; Drug Efficacy
Study Implementation**

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Vasocort Spraypak containing hydrocortisone, hydroxyamphetamine hydrobromide, and phenylephrine hydrochloride; Smith, Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pennsylvania 19101 (NDA 9-363).

The drug is regarded as a new drug (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this combination drug is possibly effective for its recommended use in the local treatment of acute, chronic, and allergic rhinitis.

B. *Marketing status.* Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 9363, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100),
Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.
[FR Doc.71-7918 Filed 6-7-71;8:45 am]

[DESI 6700]

**CERTAIN OPHTHALMIC PREPARA-
TIONS CONTAINING ANTIBIOTICS
Drugs for Human Use; Drug Efficacy
Study Implementation**

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Terramycin Ophthalmic Solution, containing oxytetracycline hydrochloride; Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, New York 10017 (NDA 61-014).

2. Myciguent Ophthalmic Ointment, containing neomycin sulfate; The Upjohn Co., 7171 Portage Road, Kalamazoo, Michigan 49002 (NDA 60-478).

3. Neomycin Sulfate Ophthalmic Ointment; Eli Lilly & Co., Post Office Box 618, Indianapolis, Indiana 46206 (NDA 61-079).

4. Neomycin Ophthalmic Ointment, containing neomycin sulfate; Day-Baldwin, Inc., 1460 Chestnut Avenue, Hillside, New Jersey 07205 (NDA 60-074).

5. Polymyxin B Sulfate Ophthalmic Ointment; Chas. Pfizer & Co., Inc. (NDA 8-219).

6. Bacitracin Ophthalmic Ointment; Eli Lilly & Co. (NDA 60-687).

7. Bacitracin Ophthalmic Ointment; Day-Baldwin, Inc. (NDA 61-076).

8. Bacitracin Ophthalmic Ointment; Chas. Pfizer & Co., Inc. (NDA 60-726).

9. Bacitracin Ophthalmic Ointment; Kasco Laboratories, Inc., Cantiague Road, Post Office Box 73, Hicksville, New York 11802 (NDA 61-212).

10. Bacitracin Ophthalmic Ointment; Biocrast Laboratories, Inc., 92 Route 46, East Paterson, New Jersey (NDA 60-303).

11. Bacitracin Ophthalmic Ointment; Bryant Pharmaceutical Corp., 70 Mac-Quisten Parkway South, Mount Vernon, New York (NDA 60-330).

12. Ilotycin Ophthalmic Ointment, containing erythromycin; Eli Lilly and Co. (NDA 50-368).

13. Chloromycetin Ophthalmic Ointment, containing chloramphenicol; Parke, Davis & Co., Joseph Campau at the River, Detroit, Michigan 48232 (NDA 50-156).

14. Chloromycetin Ophthalmic, containing chloramphenicol; Parke, Davis & Co. (NDA 61-220).

The Food and Drug Administration concludes that when administered topically to the eye, the above listed drugs are effective for the indications described in the labeling conditions in this announcement.

Preparations containing these drugs are subject to the antibiotic procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. Within 60 days following publication of this announcement in the FEDERAL REGISTER, drugs in the dosage forms described above, for which certification is requested or drugs subject to exemption and shipped within the jurisdiction of the Act, should contain labeling information in accord with this reevaluation of the drugs published in this announcement.

The above-named firms and any other holders of applications approved for a drug of the kinds described above are requested to submit within 60 days following publication of this announcement in the FEDERAL REGISTER, amendments to their antibiotic applications to provide for revised labeling. Such labeling should comply with all requirements of the Act and regulations, bear adequate information for safe and effective use of the drug, and be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling should be as follows:

INDICATIONS

Oxytetracycline Hydrochloride; Neomycin Sulfate; Polymyxin B Sulfate; Bacitracin; Erythromycin; and Chloramphenicol Ophthalmic Preparations.

For the treatment of superficial ocular infections involving the conjunctiva and/or cornea caused by (insert drug name) susceptible organisms.

Except for the indications described in the "Indications" sections above, these drugs are regarded as possibly effective for their other labeled indications. Batches of the drugs which bear labeling with these indications and are otherwise in accord with the labeling conditions herein will continue to be exempt from or accepted for certification by the Food and Drug Administration for a period of 6 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drugs for use in these conditions for which they have been evaluated as possibly effective.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies

obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the *FEDERAL REGISTER*. If no studies have been undertaken, or if the studies do not provide substantial evidence of effectiveness, such drug will not be eligible for release, certification, or exemption with labeling bearing such indications.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6700, directed to the attention of the following appropriate office, and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland, 20852:

Amendments (Identify with NDA number— if known): Division of Anti-Infective Drug Products (BD-140), Office of Scientific Evaluation, Bureau of Drugs.

Requests for NAS-NRC report: Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-7919 Filed 6-7-71;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-102]

GENERAL COUNSEL AND DEPUTY GENERAL COUNSEL

Delegation of Authority

SECTION A. *Authority delegated.* The General Counsel and the Deputy General Counsel each is authorized to exercise the following power and authority of the Secretary of Housing and Urban Development (Secretary):

1. To interpret the authority of the Secretary and to determine whether the

issuance of any rule, regulation, statement of policy, or standard promulgated by the Department is consistent with that power and authority. However, nothing contained in this subsection shall affect the validity of any rule, regulation, statement of policy or standard once it has been promulgated by the Department.

2. To direct all litigation affecting the Department and to sign, acknowledge and verify on behalf of and in the name of the Secretary all declarations, bills, petitions, pleas, complaints, answers, and other pleadings in any court proceeding brought in the name of or against the Secretary or in which he is named as a party.

3. To direct the referral of cases and other matters to the Attorney General for appropriate legal action and to transmit information and material pertaining to the violation of law or Department rules and regulations. There are exceptions from this authority, however, those referrals and transmittals which the Assistant Secretary for Administration is authorized to make under the delegation of authority to him published concurrently herewith.

4. To accept on behalf of the Secretary service of all summons, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary or to an employee of the Department in an official capacity.

5. To approve the legality of the issuance of subpoenas or interrogatories, the compelling of attendance by witnesses, and the granting of petitions to revoke or modify subpoenas or interrogatories, pertaining to investigations or other proceedings for which responsibility is vested in the Secretary.

6. To consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, and the regulations contained in 28 CFR Part 14 and 24 CFR Part 17.

SEC. B. *Authority to redelegate.* The General Counsel is authorized to redelegate to employees of the Department any of the power and authority delegated under section A of this document.

SEC. C. *Additional authority delegated.* In addition to the authority delegated in section A:

1. The General Counsel, the Deputy General Counsel, and the Deputy General Counsel for Legal Affairs each is authorized to exercise the power and authority of the Secretary of Housing and Urban Development to approve the production or disclosure of HUD materials or information by HUD employees, or former employees in response to subpoenas or demands of courts or other authorities, pursuant to regulations of the Department set forth in 24 CFR Part 15, Subpart H.

2. Within the respective territorial jurisdiction of the region to which he is assigned, each regional counsel is also authorized to exercise the power and authority described in paragraph 1 of this section.

3. This section supersedes the Delegation of Authority effective August 27, 1970 (35 F.R. 14756, Aug. 28, 1970).

SEC. D. *Authority to designate.* The General Counsel is authorized to:

1. Designate one or more employees to serve as Acting General Counsel during the absence of the General Counsel.

2. Designate one or more employees to serve in an acting capacity during the absence of an appointee to a position in the Office of General Counsel or during a vacancy in such a position. (Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Effective date. This delegation of authority shall be effective as of June 8, 1971.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-7943 Filed 6-7-71;8:47 am]

[Docket No. D-71-103]

ASSISTANT AND DEPUTY ASSISTANT SECRETARIES FOR ADMINISTRATION

Delegation of Authority

SECTION A. *Authority delegated.* The Assistant Secretary for Administration and the Deputy Assistant Secretary for Administration each is authorized to exercise the following power and authority of the Secretary of Housing and Urban Development:

1. To direct referral to the Department of Justice of cases or matters that involve:

a. Criminal fraud, or possible criminal fraud, under the National Housing Act (12 U.S.C. 1701).

b. A violation or possible violation of: i. The Contract Work Hours Standards Act (40 U.S.C. 327).

ii. The Davis-Bacon Act (40 U.S.C. 276a).

c. Evidence of the crimes, or any attempt to commit the crimes, of:

i. Bribery.

ii. Embezzlement.

iii. Impersonation of a Government officer.

iv. Solicitation by a Federal employee.

v. Theft.

d. Any of the following:

i. Conflict of interest.

ii. Discriminatory employment acts or practices.

iii. False advertising.

iv. Kickbacks.

v. Misconduct of HUD personnel.

vi. Violation of construction standards or practices.

vii. Violation of contract or corporate charter provisions.

viii. Any other criminal or civil fraud matters not set forth in section B or otherwise specified herein.

2. To direct referral to the Civil Service Commission of cases or matters that involve a violation or possible violation of the Hatch Act (5 U.S.C. 1181).

3. To transmit to the Department of Justice (including the Federal Bureau

of Investigation) and to the Civil Service Commission information and material pertaining to violations or alleged violations described in preceding paragraphs 1 and 2, respectively.

4. To direct referral to the Secret Service Division, Department of the Treasury, of cases or matters that involve the alleged forgery of U.S. Treasury checks or alleged irregularities with regard to imprest funds; and to transmit to the Secret Service Division information and material pertaining to the alleged forgeries or irregularities.

5. To receive directly from:

a. The Department of Justice, any reports concerning action taken on matters referred by HUD in accordance with preceding paragraph 1.

b. The Civil Service Commission, any reports concerning action on matters referred by HUD in accordance with preceding paragraph 2.

c. The Secret Service Division, Department of the Treasury, any reports concerning action taken on matters referred by HUD in accordance with preceding paragraph 4.

6. To receive directly from the Federal Bureau of Investigation:

a. Information requested by HUD with respect to a person who is presently, or is prospectively to be, employed or retained in an advisory capacity.

b. Information with respect to the arrest of an employee.

c. Information with respect to subversive organizations.

d. Reports of investigation.

e. Information and materials relating to any other investigative or audit matters not specified in this paragraph, in following paragraph 7, or in section 8.

7. To maintain direct exchange of information and materials with the Organized Crime and Racketeering Section, Criminal Division, Department of Justice.

SEC. B. *Authority excepted.* Notwithstanding any delegation of authority in section A, neither the Assistant Secretary for Administration nor the Deputy Assistant Secretary for Administration is authorized to refer directly any case or matter or to transmit information or material to the Department of Justice, with respect to violations or possible violations of:

1. The Civil Rights Act of 1968 (42 U.S.C. 3601).

2. The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701).

SEC. C. *Authority to redelegate.* The Assistant Secretary for Administration is authorized to redelegate to employees of the Department any of the power and authority delegated under section A of this document. (Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Effective date. This delegation of authority shall be effective as of June 8, 1971.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-7944 Filed 6-7-71;8:47 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-317, 50-318]

BALTIMORE GAS AND ELECTRIC CO.

Notice of Receipt of Application for Facility Operating License

Please take notice that Baltimore Gas and Electric Co., Gas and Electric Building, Charles Center, Baltimore, Md. 21203, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an amendment, dated January 4, 1971, to its application for licenses to construct and operate two nuclear power reactors at its site in Calvert County, Md., transmitting a final safety analysis report in support of the application.

The proposed nuclear powerplant will consist of two identical pressurized water nuclear reactors, designated by the applicant as the Calvert Cliffs Nuclear Plant, Units 1 and 2, each of which is designed for initial operation at approximately 2,570 thermal megawatts with a gross electrical output of approximately 880 megawatts.

A copy of the amendment along with the final safety analysis report is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Calvert County Library, Prince Frederick, Md. 20678, Mrs. Marie Barrett, Librarian.

Dated at Bethesda, Md., this 21st day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-7938 Filed 6-7-71;8:46 am]

PROPOSED RADIOACTIVE WASTE REPOSITORY, LYONS, KANSAS

Notice of Availability of the General Manager's Final Environmental Statement

Notice is hereby given that a document entitled "Final Environmental Statement—Proposed Radioactive Waste Repository, Lyons, Kans.," issued pursuant to the Atomic Energy Commission's implementation of section 102(2) (C) of the National Environmental Policy Act of 1969 is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and in the Commission's Oak Ridge Operations Office, Post Office Box E, Oak Ridge, TN 37830; the San Francisco Operations Office, 2111 Bancroft Way, Berkeley, CA 94704; the Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439; and the New York Operations Office, 376 Hudson Street, New York, NY 10014. This statement covers the waste repository which the Commission proposes to establish at Lyons, Kans. Also on file are the comments received from Federal and State agencies on the draft statement of which notice of availability was published in the

FEDERAL REGISTER, Volume 35, No. 248, dated December 23, 1970, and the AEC's response to those comments. The Environmental Statement, the comments on the draft statement and AEC's response to those comments will be furnished upon request addressed to the Assistant General Manager for Operations, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Washington, D.C., this 4th day of June 1971.

For the Atomic Energy Commission.

W. B. McCool,

Secretary of the Commission.

[FR Doc.71-8048 Filed 6-7-71;9:27 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22162]

COUNTY OF SULLIVAN, STATE OF NEW YORK AND SULLIVAN COUNTY AIRPORT COMMISSION

Notice of Postponement of Prehearing Conference

Prehearing Conference in this matter is now scheduled to be held on June 4, 1971. The county of Sullivan, N.Y., and the Sullivan County Airport Commission (Sullivan County Parties) have requested that the prehearing conference be postponed until it has exhausted its administrative remedies to obtain a decision on whether or not Allegheny Airlines, Inc. (Allegheny), should be made a party to this proceeding. In connection with their request, the Sullivan County Parties allege that they will shortly file a request that the examiner allow an appeal to the Board of his denial of the Sullivan County Parties' motion to make Allegheny a party to this proceeding. The Sullivan County Parties argue that such an appeal is necessary to prevent substantial detriment to the public interest and undue prejudice to them.

They also assert that they are authorized to state that all the other parties to the proceeding have no objection to the postponement as requested.

Upon consideration of the motion, the prehearing conference is postponed until further notice. The parties are directed to file any request for consent to appeal on or before June 10, 1971.

Dated at Washington, D.C., June 2, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.71-7969 Filed 6-7-71;8:48 am]

FEDERAL HOME LOAN BANK BOARD

AFFILIATED CAPITAL CORP.

Notice of Receipt of Application for Approval of Acquisition of Control of Southwest Savings Association

JUNE 3, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application

NOTICES

from Affiliated Capital Corp., Houston, Tex., a multiple savings and loan holding company, for approval of acquisition of control of the Southwest Savings Association, Dallas, Tex., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and section 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected by the purchase for cash by the applicant of the shares of said Southwest Savings Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date of this notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER,
Secretary,
Federal Home Loan Bank Board.
[FR Doc.71-7939 Filed 6-7-71; 8:46 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice is hereby given that the following vessel owners and/or operators have requested voluntary revocation of their Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
04232---	B & B Marine Construction Corp.: Bollinger No. 4.
05298---	Erich Drescher: Ede Wilstorf.
01210---	A/S Brovigtank: Dea Brovig.
01287---	Knorr & Burchard Nfl.: Rancher.
01305---	Royal Mail Lines: Picardy.
01421---	Bibby Line Ltd.: Gloucestershire.
01422---	The Booth Steamship Co., Ltd.: Veras.
01305---	Royal Mail Lines: Togokust.
01498---	Vessel Operators, Inc.: Kominklyke Nedlloyd N.V.
01548---	Hain-Nourse Ltd.: Trecarrell.
01640---	Corredores Delmar Armadora S.A.: Elin Nafitkos.
01730---	Rosador Compania Naviera S.A.: Panama.
01995---	Rederi AB Disa.
01996---	Rederi AB Poseldon: Ingrid Brodin.
01998---	Rederiaktiebolaget Gylfe, Helsingborg, Sweden: Ivan Gorthon.
01996---	Rederi AB Poseldon: Margareta Brodin.
02139---	Picklands Mather & Co.: Willis B. Boyer.
02197---	Matson Navigation Co.: Hawaiian Refiner.
02219---	Bartran, Inc.: Bartran No. 20.
02286---	China Union Lines, Ltd.: Union Trader.
02358---	A/S Ganger Rolf-A/S Bonheur-A/S Borgaden Norske Middelhavslinje A/S-A/S Jellolinen: Bollsta.
02439---	Bereederungs-Alliance Flensburg G.m.b.H.: Gisela Vennmann.
02448---	Rederiaktiebolaget Nordstjernan: Hood River Valley.
02476---	Independent Towing Co.: Oak.
02498---	Chevron Oil Co.: No. 18.
02504---	Pomente Shipping Co., Ltd.: San Gus.
02715---	Allied Towing Corp.: Michael.
02870---	Isthmian Lines, Inc.: Steel Worker.
01863---	Trident Tankers Ltd.: Megna.
05029---	Inland Oil & Transport Co.: IOT-3.
02877---	Nippon Yusen Kabushiki Kaisha: New York Maru.
02899---	Showa Kaifu K.K.: Enyo Maru.
02929---	Softumar-Societe D'Armenemem: Fluvial & Maritime.
03067---	Vickers Towing Co., Inc.: J. E. Vickers.
03137---	The Cunard Steam-Ship Co., Ltd.: Mawana.
03219---	Whitwell, Cole & Co., Ltd.: Baltic Ore.
03441---	Japan Line, K.K.: Yowa Maru.
03473---	Nippon Shoun K.K.: Tohnanmaruno 8.
03478---	Mitta Kisen K.K.: Chiyokawa Maru.
03501---	Osaka Shosen Mitsui Senpaku K.K.: La Plata Maru.
03506---	Taiheyo Kaifu K.K.: Howa Maru.
03530---	Yashima Kaifu K.K.: Oshima Maru.
03611---	Villain & Fassio e Compagnia Internazionale di Genova Societa Riunite di Navigazione S.p.A.: Novia.
03634---	James R. Hines Corp.: Hines 6.
03729---	Halliburton Co.: Wellex-603.
03878---	Ingram Barge Co., a division of Ingram Corp.: Eau Claire.

Certificate No.	Owner/operator and vessels
04007---	Egon Oldendorf: Gebe Oldendorf.
01330---	Poling Transportation Corp.: Velutina.
04357---	Koninklijke Nedlloyd N.V.: Kloosterkerk.
04367---	Theresa Limitada S.A.: Eliza.
04289---	Dixie Carriers Inc.: Chemical-101.
04437---	LeBeauf Bros. Towing Co., Inc.: ZMS-B-20-1.
04485---	Fujuramaru Gyogyo Kabushiki Kaisha: Fujura Maru No. 27.
04595---	Antillean Carriers N.V.: Antillian Brewer.
05594---	The Valley Line Co.: MV 225.
04767---	Texaco, Inc.: Stone.
04770---	Texaco Panama Inc.: Texaco Caribbean.
05019---	Happy Union Maritime Ltd.: Kretan Unity.
05103---	Imperial Oil Ltd.: Imperial Cornwall.
05158---	Kyrising Corp.: Kyrka.
05513---	Ulrich Harms G.m.b.H. & Co.: Magnus V.
05679---	South Texas Shipping & Towing Inc.: LRL-111.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-7953 Filed 6-7-71; 8:47 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-501 etc.]

A. E. COLLINSWORTH ET AL.

Notice of Applications for "Small Producer" Certificates¹

MAY 28, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer"

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

Docket No.	Date filed	Name of applicant
CS71-501...	4-23-71	A. E. Collinsworth, Post Office Box 507, Minden, LA. 71065.
CS71-502...	4-23-71	Dora C. Atkinson, Post Office Box 507, Minden, LA. 71065.
CS71-503...	4-26-71	Stewart Oil & Gas, Inc., Post Office Box 778, Minden, LA. 71065.
CS71-504...	4-26-71	Edmond L. Stewart Trust, Post Office Box 778, Minden, LA. 71065.
CS71-506...	4-29-71	E. A. Courtney, Agent, Post Office Box 1519, Hammond, LA. 70401.
CS71-506...	4-29-71	Gas Gathering Corp., Post Office Box 519, Hammond, LA. 70401.
CS71-507...	4-29-71	Mrs. Doris Gamble DeJean, 113 Barataria Dr., Chikassaw, AL. 36611.
CS71-508...	4-29-71	Wetzel Lumber Co., Post Office Box 1547, Shreveport, LA. 71102.
CS71-509...	4-29-71	L. E. Jones Production Co., et al., 201-203 Security National Bank Bldg., Duncan, Okla. 73333.
CS71-510...	4-29-71	Newmont Oil Co., 1135 Capital National Bank Bldg., Houston, Tex. 77002.
CS71-511...	4-29-71	Equipment, Inc., 2399 Pinhook Rd., Lafayette, LA. 70501.
CS71-512...	4-29-71	Success Oil & Gas Co., Inc., Post Office Box 4528, Monroe, LA. 71201.

NOTICES

Docket No.	Date filed	Name of applicant
CS71-513...	4-29-71	Trident Oil & Gas Corp., Post Office Box 4043, Monroe, LA. 71201.
CS71-514...	4-29-71	Mitchell & Lewis, 1800 Milam Bldg., San Antonio, Tex. 78205.
CS71-515...	4-29-71	Petro-Search, Inc., et al., 825 Petroleum Club Bldg., Denver, Colo. 80202.
CS71-516...	4-29-71	Bel Oil Corp., Post Office Box 1447, Lake Charles, LA. 70601.
CS71-517...	4-29-71	W. Carlton Weaver, 1101 Driscoll Bldg., Corpus Christi, Tex. 78401.
CS71-518...	4-29-71	341 Trusts (Borns), Suite 620, Guaranty National Tower, Corpus Christi, Tex. 78401.
CS71-519...	4-29-71	Burns Trust No. 2, Suite 620, Guaranty National Tower, Corpus Christi, Tex. 78401.
CS71-520...	4-29-71	Jack J. Grynberg and Celeste C. Grynberg, 750 Petroleum Club Bldg., Denver, Colo. 80202.
CS71-521...	4-29-71	Trident Corp., Drawer G, Woodshore, Tex. 78383.
CS71-522...	4-29-71	Reading and Bates, Inc. (Operator), et al., c/o Robert Earl McCormack, Attorney, Suite 102, 543 East 31st St., Tulsa, OK 74135.
CS71-523...	4-30-71	C. H. Lyons, Sr., 1500 Beck Bldg., Shreveport, LA. 71101.
CS71-524...	4-29-71	Emmett J. Rahm, 714 Alamo National Bldg., San Antonio, Tex. 78205.
CS71-525...	4-29-71	D. J. Harrison, 665 San Jacinto Bldg., Houston, Tex. 77002.
CS71-526...	4-29-71	George O. Shettle, Post Office Box 560, Midland, TX. 79701.
CS71-527...	4-29-71	A. W. Pogue, Post Office Box 988, Midland, TX. 79701.
CS71-528...	4-29-71	Sam Wolsion, 3206 Republic National Bank Tower, Dallas, Tex. 75201.
CS71-529...	4-29-71	R. I. Wolfson, 3206 Republic National Bank Tower, Dallas, Tex. 75201.
CS71-530...	4-29-71	Crystal Oil Co., Post Office Box 5-4-71, Shreveport, LA. 71102.
CS71-531...	4-29-71	Louis H. Weltman et al., 1011 Wilson Bldg., Corpus Christi, TX. 78401.
CS71-532...	4-29-71	Richard H. Horner, 440 North St., Francis, Wichita, KS 67202.
CS71-533...	4-29-71	Donnell Drilling Co., 1925 Mercantile Dallas Bldg., Dallas, Tex. 75201.
CS71-534...	4-26-71	State Exploration Co. and States Petroleum, 649 South Olive St., Los Angeles, CA 90014.
CS71-535...	4-30-71	Midstates Gas Transportation Co., Rural Delivery No. 4, West Union, W. Va. 26456.
CS71-536...	4-30-71	Jack E. Webber et al., Rural Delivery No. 4, West Union, W. Va. 26456.
CS71-537...	4-30-71	Dan R. Wager & Diane Oil Co., Post Office Box 7368, Southside Station, Tulsa, OK 74105.
CS71-538...	4-30-71	Consolidated Production Corp., Hightower Bldg., Oklahoma City, Okla. 73102.
CS71-539...	4-30-71	Dyna Ray Oil & Gas Co., Inc., 4101 East Louisiana Ave., Denver, CO 80222.
CS71-540...	4-30-71	W. C. Blanks, 302 Building of the Southwest, Midland, Tex. 79701.
CS71-541...	4-30-71	Wichita Resources 701, Ltd., 723 Western United Life Bldg., Midland, TX. 79701.
CS71-542...	4-30-71	W. C. McBride, Inc., 25 North Brentwood Blvd., St. Louis, MO. 63105.
CS71-543...	4-30-71	Aquitaine Oil Corp., Houston National Gas Bldg., Suite 1919, 1200 Travis, Houston, TX. 77002.
CS71-544...	4-30-71	C. Henry Roath, 2301 First National Bank Bldg., Denver, CO. 80202.
CS71-545...	4-30-71	Dan J. Harrison, Jr., Harrison Oil Co., 665 San Jacinto Bldg., Houston, TX. 77002.
CS71-546...	4-30-71	Nicholas J. Schaefer, 4322 South Fairway Dr., Shreveport, LA. 71109.
CS71-547...	4-30-71	S. G. Myers, Jr. et al., 1009 Lane Bldg., Shreveport, LA. 71101.
CS71-548...	4-30-71	J. Gregory Merrill, Box 507, Farmington, NM 87401.

Docket No.	Date filed	Name of applicant
CS71-549...	4-30-71	Cree Oil, Inc., Post Office Box 1821, Pampa, TX. 79065.
CS71-550...	4-30-71	Circo Exploration, Inc., Ninth Floor, Pioneer Bldg., Lake Charles, LA. 70601.
CS71-551...	4-30-71	Mrs. Marie Watkins Smith, Post Office Box 752, Minden, LA. 71055.
CS71-552...	4-30-71	Vaughn Petroleum, Inc., Agent (Operator) et al., 1407 Main St., Fourth Floor, Dallas, TX. 75202.
CS71-553...	4-30-71	J. A. Dykes, 1500 Beck Bldg., Shreveport, LA. 71101.
CS71-554...	4-30-71	J. T. Palmer, 1500 Beck Bldg., Shreveport, LA. 71101.
CS71-555...	4-29-71	Texas International Petroleum Corp. et al., Post Office Box 4520, Centenary Station, Shreveport, LA. 71104.
CS71-556...	4-29-71	Robert W. Ellington, Jr., Operator, Post Office Box 1153, Monroe, LA. 71201.
CS71-557...	4-8-71	Alma Oringier, Box 906, Perryton, TX. 79070.
CS71-558...	4-30-71	Little Nick Oil Co., 515 Petroleum Bldg., Chickasha, Okla. 73018.
CS71-559...	4-30-71	E. L. Hillard, 1500 Beck Bldg., Shreveport, LA. 71101.
CS71-560...	4-30-71	Martha Dolan Hillard, 1500 Beck Bldg., Shreveport, LA. 71101.
CS71-561...	4-30-71	J. F. Harrell, 1500 Beck Bldg., Shreveport, LA. 71101.
CS71-562...	4-30-71	O. F. Abendroth, 1500 Beck Bldg., Shreveport, LA. 71101.
CS71-563...	4-30-71	Cree Production Co. (successor to Cree Drilling Co., Inc.), Box 1821, Pampa, TX. 79065.
CS71-564...	4-30-71	Lario Oil & Gas Co., 301 South Market St., Wichita, KS 67202.
CS71-565...	4-30-71	San Salvador Development Co., Inc., 2021 Chamber of Commerce Bldg., Houston, TX. 77002.
CS71-566...	4-30-71	D. J. Stone, Operator et al., 217 Town & County Village, Palo Alto, CA 94301.
CS71-567...	4-30-71	Arthur N. Rupp, 8309 Santa Monica Blvd., Los Angeles, CA 90069.
CS71-568...	4-30-71	Marion Corp., 114 East Fifth St., Tulsa, OK 74103.
CS71-569...	1-30-71	Edwin L. Minges, Post Office Box 2168, Tuscaloosa, AL. 35401.
CS71-570...	4-30-71	Forrest S. Harris, Jr., 86 High Forest, Tuscaloosa, AL. 35401.
CS71-571...	4-30-71	Southeastern Public Service Co., 1417 Chamber of Commerce Bldg., Houston, Tex. 77002.
CS71-572...	4-30-71	Argyle Royalty Co., 1407 Main St., Fourth Floor, Dallas, TX. 75202.
CS71-573...	4-30-71	Petroleum Exploration & Development Funds, Inc., 744 Hickory St., Abilene, TX. 79604.
CS71-574...	4-30-71	Petroleum Exploration & Operating Corp., 744 Hickory St., Abilene, TX. 79604.
CS71-575...	4-30-71	Grady H. Vaughn, Jr., Trust, No. 1 & No. 2, Jack C. Vaughn Trust, No. 1 & No. 2, 1407 Main St., Fourth Floor, Dallas, TX. 75202.
CS71-576...	4-30-71	Alfred D. McKelvy, 1022 Union Center Bldg., Wichita, Kans. 67202.
CS71-577...	4-30-71	G. B. Cree Estate, Box 1821, Pampa, TX. 79065.
CS71-578...	4-30-71	Frank Spooner, 411 Ouachita National Bank Bldg., Monroe, LA. 71201.
CS71-579...	4-30-71	Harry Spooner, Jr., 411 Ouachita National Bank Bldg., Monroe, LA. 71201.
CS71-580...	4-30-71	Charles N. Prothro, d.b.a. Perkins-Prothro Co. (Operator) et al., Post Office Box 2099, Wichita Falls, TX. 76307.
CS71-581...	4-30-71	Adelaide Isaac, 832 Elmwood, Shreveport, LA. 71104.
CS71-582...	4-30-71	Cedric Schaefer, 832 Elmwood, Shreveport, LA. 71104.
CS71-583...	4-30-71	Mrs. Leonie Isaac Borne, 171 Atlantic Ave., Shreveport, LA. 71105.
CS71-584...	4-30-71	Harold L. Woods et al., Post Office Box 4705, Monroe, LA. 71201.
CS71-585...	4-30-71	Harold L. Woods et al., Post Office Box 4705, Monroe, LA. 71201.

NOTICES

Docket No.	Date filed	Name of applicant	Docket No.	Date filed	Name of applicant
CS71-586...	4-30-71	Crescent Drilling Co., Inc., Post Office Box 4708, Monroe, LA 71201.	CS71-598...	4-30-71	Clark Canadian Exploration Co., Post Office Drawer 8008, Wichita Falls, TX 76307.
CS71-587...	4-30-71	MPS Production Co., 700 First City National Bank Bldg., Houston, Tex. 77002.	CS71-599...	4-30-71	Cedar Log Co., 1100 Hamilton Bldg., Wichita Falls, TX 76301.
CS71-588...	4-30-71	Genevra Harris Bradley, Individually and as Independent Executrix of Estate of Palmer Bradley, 2500 Humble Bldg., Houston, Tex. 77002.	[FR Doc. 71-7867 Filed 6-7-71; 8:45 am]		
CS71-589...	4-30-71	Ruby Green Seay, Individually and as Independent Executrix of Estate of Bryant P. Seay, 2500 Humble Bldg., Houston, Tex. 77002.	[Docket No. R171-983, etc.]		
CS71-590...	4-30-71	Reading & Bates Production Co. (Operator) et al., c/o Robert Earl McCormack, Attorney, Suite 102, 5963 East 31st St., Tulsa, OK 74135.	GULF OIL CORP. ET AL.		
CS71-591...	4-30-71	Ken Blackford (Operator) et al., 2102 30th St., Lubbock, TX 79411.	Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹		
CS71-592...	4-30-71	William Graham Oil Co., 302 G-M Bldg., 211 North Broadway, Wichita, KS 67202.	MAY 28, 1971.		
CS71-593...	4-30-71	O. Henry Vaughn, III Trust and G. William Vaughn Trust, 1407 Main St., Fourth Floor, Dallas, TX 75202.	Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.		
CS71-594...	4-30-71	Straw, Inc., C-111 Petroleum Center, San Antonio, Tex. 78209.	The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.		
CS71-595...	4-30-71	Nor-Mac-Burns Co., Post Office Box 298, Torrance, CA 90507.	The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission		
CS71-596...	4-30-71	T. L. James & Co., Inc., Post Office Box 1305, Ruston, LA 71270.	¹ Does not consolidate for hearing or dispose of the several matters herein.		
CS71-597...	4-30-71	N. H. Wheelers Oil Co., Post Office Box 1746, Shreveport, LA 71102.			

APPENDIX A

Docket No.	Respondent	Rate scheduled No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf ^a	Rate in effect subject to refund in docket Nos.
R171-983...	Gulf Oil Corp.	1418	1 to 8	Transwestern Pipeline Co. (Kermit and South Kermit Fields, Winkler County, Tex., Permian Basin).	\$2,920	4-30-71	5-30-71		18.06	21.0 R170-1692
R171-1064...	do.	1418	9	do.	6,320	4-30-71	11-1-71		21.0	22.22 R171-983 ^a
R171-1065...	Atlantic Richfield Co.	442	6	Transwestern Pipeline Co. (Kermit Field, Winkler County, Tex., Permian Basin).	8,910	5-6-71	7-7-71		18.0788	21.0 R169-787.
R169-457...	do.	606	5	Natural Gas Pipeline Co. of America (Lochridge Area, Ward County, Tex., Permian Basin).	16,560	5-6-71	7-7-71		16.3828	17.5656
R171-1066...	Perry R. Bass	21	1	Northern Natural Gas Co. (Gomez Field, Pecos County, Tex., Permian Basin).	245,400	4-29-71	5-30-71		22.0	26.50
do.	do.	22	1	do.	162,000	4-29-71	6-30-71		22.0	26.50
do.	do.	23	1	Northern Natural Gas Co. (Block 16 Field, Ward County, Tex., Permian Basin).	162,000	4-30-71	7-1-71		22.0	26.50
R169-379...	Artec Oil & Gas Co.	5	6	El Paso Natural Gas Co. (Pictured Cliffs Formation, San Juan County, N. Mex.) (San Juan Basin).	78	5-5-71	6-5-71	Accepted	13.0681	13.2501 R169-379.
R169-378...	do.	10	18	El Paso Natural Gas Co. (Dakota Formation, San Juan County, N. Mex., San Juan Basin).	1,060	5-3-71	6-3-71	Accepted	14.0678	14.2678 R169-378.
R171-392...	do.	14	6	do.	462	5-5-71	6-5-71	Accepted	14.0678	14.2678 R169-379.
R171-360...	Artec Oil & Gas Co. et al.	33	4	El Paso Natural Gas Co. (Dakota Formation, San Juan County, N. Mex., San Juan Basin).	1,060	5-3-71	6-3-71	Accepted	14.0678	14.2678 R171-360.
R171-771...	do.	24	7	do.	315	5-3-71	6-3-71	Accepted	14.0678	14.2678 R171-771.
R171-1067...	Jerome P. McHugh	2	4	El Paso Natural Gas Co. (Basin Dakota Field San Juan County, N. Mex.) (San Juan Basin).	2,400	5-3-71	7-4-71		13.0	14.0
R171-1068...	Tenneco Oil Co.	46	7	El Paso Natural Gas Co. (Roberts & Sonora Field, Sutton County, Tex.) (Permian Basin).	244	4-29-71	6-30-71		13.9019	17.500 R170-560.
do.	do.	138	12	El Paso Natural Gas Co. (Monahans Field, Ward & Winkler Counties, Tex.) (Permian Basin).	268	4-29-71	6-30-71		14.173	16.5 R170-561.
do.	do.	219	2	El Paso Natural Gas Co. (East Labarge Field, Sublette County, Wyo.).	1,899	4-29-71	6-30-71		18.0	16.0
do.	do.	118	3	Cimarron Transmission Co., East Marietta Field, Love County, Oklahoma (Other Area).	1,006	4-29-71	7-2-71		17.0	18.0 R168-564.
do.	do.	234	8	Arkansas Louisiana Gas Co. (Kinta Field, Le Flore County, Oklahoma (Other Area)).	6,622	4-29-71	6-30-71		18.0	16.0

See footnotes at end of table.

FEDERAL REGISTER, VOL. 36, NO. 110—TUESDAY, JUNE 8, 1971

enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

[SEAL] KENNETH F. PLUMS,
Acting Secretary.

NOTICES

APPENDIX A

Docket No.	Respondent	Rate scheduled No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf ^a	Rate in effect subject to refund in docket Nos.
R171-1089...	Atlantic Richfield Co.	392	10	Arkansas Louisiana Gas Co. (Sentell Field, Boeater Parish, Northern Louisiana).		5-6-71	6-6-71	Accepted		
do.	do.		11	do.	175	5-6-71		7-7-71	14.854	19.000
R171-1090...	Murphy Oil Corp. et al.	4	11	Arkansas Louisiana Gas Co. (Simsboro Field, Lincoln Parish, Northern Louisiana).		4-30-71	5-31-71	Accepted		21.000
do.	do.		12	do.	41,665	4-30-71		7-1-71	14.603	20.0

^a Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
¹ Rate of 27.32 cents suspended in Docket No. R191-983 until Sept. 29, 1971.
² Contract provides for a rate of 27.20 cents plus tax reimbursement.
³ Contract dated prior to Oct. 1, 1968.
⁴ Rate to be ESR in Docket No. R171-983 on May 30, 1971.
⁵ Increase from fractured rate to contract rate.
⁶ For acreage added by Supplement No. 4 only.
⁷ Reflects partial reimbursement for full 2.55 percent New Mexico Emergency School Tax.
⁸ Excludes 1 cent per Mcf minimum guarantee for liquids.
⁹ Previously reported as 15.0578 cents inclusive of the 1-cent minimum guarantee for liquids which has never been collected.
¹⁰ Proposed rate is for sales under Supplement No. 3. Increase to contract rate.
¹¹ Base rate subject to upward and downward adjustment.

[Docket No. C171-118 etc.]

AMOCO PRODUCTION CO. ET AL. Order Granting Waiver of the Intermediate Decision; Severing and Deferring Proceedings; and Confirming Briefing Dates

MAY 28, 1971.

These proceedings were set for hearing pursuant to paragraph 12 of our notice of proposed rule making in Docket No. R-389-A. On May 10, 1971, the presiding examiner certified to the Commission two motions made during the course of the above-entitled proceedings on May 7, 1971. Staff moved to waive the intermediate decision procedure in the above-entitled proceedings pursuant to § 1.30 (c) of the Commission's rules of practice and procedure. Additionally, Humble Oil & Refining Co. moved orally upon the record, to (a) omit the intermediate decision procedure as well as oral argument, subject to the parties' rights under subdivisions (ii), (iii), and (iv) of § 1.30 (c); and, (b) sever and defer from further consideration the Southern Louisiana applications, the Texas Gulf Coast applications, and the Hugoton-Anadarko application from these proceedings, leaving only the Permian Basin applications for decision herein.

The motion for severance of the Southern Louisiana proceedings was made in view of the fact that both the initial and reply briefs in AR69-1 are presently before the Commission; and further, with one exception, all sales involved in these proceedings are presently being made under temporary certificates. In regard to Texas Gulf Coast dockets, the Commission, in Opinion No. 595, established just and reasonable rates for new gas. The sole application involving a sale in the Hugoton-Anadarko Area has been conditionally withdrawn from these pro-

ceedings subject to receipt of a small producer certificate under the provisions of the Commission's Order No. 428 in Docket No. R-393.

Any party in opposition to the aforementioned motions was to file comments on or before May 17, 1971, which was the date set by the presiding examiner. Cities Service Oil Co. was the only party to file an answer in opposition to Humble's motion, and that only in regard to the portion of Humble's motion which would sever and defer the Southern Louisiana portion of these proceedings.

As a basis for its opposition, Cities argues that the Commission was fully aware of the pendency of the Southern Louisiana proceeding at the time of issuance of its order instituting this consolidated proceeding (February 22, 1971) and, that if the Commission had intended that the Southern Louisiana certificate applications consolidated herein should be disposed of in the Southern Louisiana proceeding it could have made provision for this in said order. Cities further stated that both direct and rebuttal evidence has been incorporated by reference, or presented directly by witnesses; hearings have been held and concluded, and cross-examination completed. Additionally, Cities averred that it has fully supported the price provided for in its contract covered by its Southern Louisiana certificate application in Docket No. C171-237.

Reference is made, in both the Staff and Humble motions, to procedural and substantive considerations involved herein. Most of the testimony and related exhibits in these proceedings have been incorporated by reference from the consolidated Southern Louisiana Area Rate Proceeding, Dockets Nos. AR69-1 and AR61-2 et al. In addition, both the initial and reply briefs in the Southern Louisiana proceedings are presently

[Docket No. CP71-68, etc.]

COLUMBIA LNG CORP. ET AL.**Order Consolidating Applications and Setting Date for Prehearing Conference**

MAY 28, 1971.

pending before the Commission for decision. It would be both duplicative and nonproductive to require the parties in these proceedings, including Cities Service, who are almost identical to the parties in the AR69-1 and AR61-2 et al. proceedings, to rebrief the same issues. Identical issues need only be considered once by the Commission. Therefore, granting the motions to waive the intermediate decision and defer the Southern Louisiana portion of these proceedings will obviate the necessity of the Commission having to reconsider arguments made in briefs which are presently before it.

The Commission finds:

(1) Upon the basis of the entire record, due and timely execution of its functions imperatively requires that the Commission omit the intermediate decision procedure as well as oral argument and render decision in these proceedings.

(2) In addition, good cause has been shown for (1) deferring the Southern Louisiana applications in these proceedings, and consolidating said applications for decision in the Southern Louisiana Area Rate Proceedings, Dockets Nos. AR69-1 and AR61-2 et al., which is presently pending before the Commission in accordance with the order issued therein on January 26, 1971; (2) severing the Texas Gulf Coast applications from these proceedings and issue them permanent certificates based upon the rates established in the Commission's recent Opinion No. 595, determining just and reasonable rates for natural gas produced in the Texas Gulf Coast Area; and (3) deferring the Hugoton-Anadarko application which has been conditionally withdrawn from these proceedings, subject to receipt of a small producer certificate under the provisions of the Commission's Order No. 428 in Docket No. R-393.

The Commission orders:

(A) The intermediate decision procedure and oral argument in these proceedings is hereby omitted in accordance with the provisions of section 1.30(c) of the Commission's rules of practice and procedure.

(B) Briefs shall be filed by the parties as provided for by the examiner herein; *Provided, however*, That any matter or issue which was briefed by any party hereto, including staff, in Dockets Nos. AR69-1 and AR61-2 et al., should not be briefed again.

(C) Applications involving the Southern Louisiana, Texas Gulf Coast, and Hugoton-Anadarko Areas are hereby deferred from these proceedings for the purposes stated above, leaving only the Permian Basin applications for Commission decision in these proceedings.

By the Commission,

[SEAL] **KENNETH F. PLUMB,**
Acting Secretary.

[FR Doc.71-7940 Filed 6-7-71; 8:46 am]

Columbia LNG Corp., Docket No. CP71-68; Consolidated Gas Supply Corp., Docket No. CP71-153; Southern Energy Co., Dockets Nos. CP71-151, CP71-264; Southern Natural Gas Co., Docket No. CP71-276.

Southern Energy Co. (Southern Energy), filed on November 25, 1970, an application in Docket No. CP71-151 pursuant to section 3 of the Natural Gas Act for an order authorizing the importation of 500,000 MM B.t.u. per day of liquefied natural gas (LNG) from Algeria at Savannah, Ga. The Commission, by order dated March 11, 1971, consolidated Southern Energy's section 3 application with similar application of Columbia LNG Corp. (Columbia) in Docket No. CP71-68 and Consolidated Gas Supply Corp. (Consolidated) in Docket No. CP71-153 for hearing and decision. The Commission's order indicated that applications pursuant to section 7 of the Act would be forthcoming from the import applicants, and that such applications would be further consolidated with these proceedings when filed.

Southern Energy's section 7 application was filed in Docket No. CP71-264 on May 4, 1971, and Southern Natural Gas Co. filed a related section 7 application in Docket No. CP71-276 on May 19, 1971. The due date for protests or petitions to intervene in both dockets is June 7, 1971. Section 7 applications by the two other import applicants have not as yet been filed.

The Commission's March 11, 1971, order stated that hearings on the Algerian LNG supply and marine transportation aspects, denominated as Phase I of the proceedings, of the related import proposals could go forward for the purposes of expedition prior to the filing of the related section 7 applications and their subsequent consolidation with the section 3 applications for hearing and decision. The hearings on Phase I matters have concluded.

Phase II hearings, on the domestic aspects of these related import proposals, commenced on May 11, 1971, and are still in progress. In Phase II, the respective import applicants presented testimony and exhibits relating to their respective domestic facilities, markets, alternatives, rate impact, financing, environmental considerations, and other matters relevant to the requirements under section 7 of the Natural Gas Act and the regulations thereunder.

As required by our prior order, the proceedings in Docket No. CP71-68 et al., will be further consolidated to include the applications in Dockets Nos. CP71-264 and CP71-276 and all parties per-

mitted to intervene in Docket No. CP71-68 et al., will be deemed intervenors in the two applications consolidated herein. However, it is necessary and appropriate that a procedure be established to avoid undue delay and eliminate unnecessarily duplicative hearings on section 7 issues.

A prehearing conference will be convened on June 8, 1971, to determine (1) what new matters, if any, are raised by the filing of the applications in Dockets Nos. CP71-264 and CP71-276 which require further hearings, and (2) to what extent new petitioners to intervene should be afforded an opportunity to explore matters previously covered in Phase II of the proceedings. Any new petitioner who requests the reexploration of Phase II matters must demonstrate by reference to the record that its request would not be unnecessarily duplicative.

We note that similar procedures will be necessary when the anticipated section 7 applications are filed by Columbia LNG Corp. and Consolidated Gas Supply Corp. Inasmuch as further hearings may be required on these applications, it is incumbent upon Columbia and Consolidated to file their section 7 applications without further delay in order not to hinder the timely disposition of these consolidated proceedings. The Commission granted applicants' request for expedition by its March 11, 1971, order.

The Commission finds:

(1) It is necessary and appropriate that the proceedings in the two above-named section 7 applications be consolidated with the proceedings in Columbia LNG Corporation, et al., Docket No. CP71-68 et al., for hearing and decision.

The Commission orders:

(A) The applications of Southern Energy Co. in Docket No. CP71-264 and Southern Natural Gas Co. in Docket No. CP71-276 are consolidated with the proceedings in Columbia LNG Corporation, et al., Docket No. CP71-68 et al., for hearing and disposition.

(B) All intervenors in the consolidated proceeding in Docket No. CP71-68 et al., will be deemed intervenors in the applications filed in Dockets Nos. CP71-264 and CP71-276 which are consolidated herein pursuant to ordering paragraph (A) above.

(C) A prehearing conference to determine the matters on which further Phase II hearings may be required in Dockets Nos. CP71-264 and CP71-276 be convened in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, on June 8, 1971, at 10 a.m., e.d.s.t. The Chief Examiner will designate an Examiner to preside at the prehearing conference on these matters, pursuant to the Commission's rules of practice and procedure.

By the Commission,

[SEAL] **KENNETH F. PLUMB,**
Acting Secretary.

[FR Doc.71-7941 Filed 6-7-71; 8:46 am]

[Docket No. RI71-1061 etc.]

SKELLY OIL CO., ET AL.**Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹**

MAY 27, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

¹ Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I) and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supple-

ments shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] **KENNETH F. PLUMB,**
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf ²	Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-1061, Skelly Oil Co.		11	15	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (East Bay City Field, Matagorda County, Tex., R.R. District No. 3).	\$168,272	4-28-71		10-29-71	21.0	1 24.25	RI71-865.
RI71-1052, Mobil Oil Corp.		286	25	United Gas Pipe Line Co. (White Point, Saret et al. Fields, San Patricio and Nueces Counties, Tex., R.R. District No. 4).	25,418	4-27-71		10-28-71	21.0	1 25.0	RI71-555.
RI71-1053, Mobil Oil Corp. et al.		318	34	Transcontinental Gas Pipe Line Corp. (La Gloria Field, Brooks and Jim Wells Counties, Tex., R.R. District No. 4).	373,918	4-27-71		10-28-71	19.0	1 21.0	RI71-879.

² The pressure base is 14.65 p.s.i.a.

¹ From fractured rate as result of Mar. 22, 1971 order (to qualify for shortened suspension period) to contract rate.

² As supplemented by Apr. 27, 1971, letter submitted on Apr. 29, 1971.

³ Unilateral increase. Basic contract expired Apr. 1, 1971.

The proposed increased rates involved here relate to sales in the Texas gulf coast area. They were filed prior to the issuance of Opinion No. 595 on May 6, 1971 where the Commission determined the just and reasonable rates for sales in the Texas gulf coast area. The proposed rates exceed the applicable area base rates determined in that opinion. In these circumstances we shall suspend the proposed rates for 5 months. Such action, in effect, will result ultimately in the rejection of these filings unless Opinion No. 595 is stayed, inasmuch as the section 5(a) determinations in that opinion are effective as of August 1, 1971.

[FR Doc.71-7942 Filed 6-7-71; 8:47 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

JUNE 3, 1971.

On January 6, 1971, there was published in the FEDERAL REGISTER (36 F.R.

189), a letter dated December 29, 1970, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in the Republic of China and exported to the United States during the 6-month period beginning January 1, 1971. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraphs 5 and 15 of the bilateral cotton textile agreement of October 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China, which provide that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; and for the limited carryover of shortfalls in certain categories to the next agreement year. The aforementioned letter also provided that any such adjustment in the levels of restraint would be made to the Commissioner of Customs by letter from the Chairman of the Interagency Textile Administrative Committee.

Accordingly, at the request of the Government of the Republic of China and

pursuant to the provisions of the bilateral agreement referred to above, there is published below a letter of May 29, 1971, from the Chairman of the Interagency Textile Administrative Committee to the Commissioner of Customs amending the level of restraint applicable to cotton textile products in Category 53 for the 6-month period which began on January 1, 1971.

STANLEY NEHMER,
Chairman, Interagency Textile
Administrative Committee
and Deputy Assistant Secretary for Resources.

ASSISTANT SECRETARY OF COMMERCE
INTERAGENCY TEXTILE ADMINISTRATIVE
COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

MAY 29, 1971.

DEAR MR. COMMISSIONER: On December 29, 1970, the Chairman of the President's Cabinet Textile Advisory Committee, directed you to prohibit entry of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Republic of China, and exported to the United States on or after January 1, 1971, in excess of the designated levels of restraint. The Chairman further advised you that in

the event that there were any adjustments¹ in the levels of restraint you would be so informed by letter from the Chairman of the Interagency Textile Administrative Committee.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraphs five (5) and fifteen (15) of the bilateral cotton textile agreement of October 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China, in accordance with Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, and under the terms of the aforementioned directive of December 29, 1970, the level of restraint provided in that directive for cotton textile products in Category 53, produced or manufactured in the Republic of China and exported from the Republic of China to the United States, for the period beginning January 1, 1971, and extending through June 30, 1971, is hereby amended as follows, to be effective as soon as possible:

Category	Amended 6-month level of restraint ²
53 -----	dozen-- 8.157

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton textiles and cotton textile products from the Republic of China have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965-69). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Interagency Textile
Administrative Committee, and
Deputy Assistant Secretary for
Resources.

[FR Doc.71-7962 Filed 6-7-71; 8:45 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRO- DUCED OR MANUFACTURED IN MEXICO

On June 2, 1967, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Mexico concerning exports of cotton textiles and cotton textile products from Mexico to the United States over a 4-year period beginning on May 1, 1967. The agreement

¹ The term "adjustments" refers to those provisions of the bilateral cotton textile agreement of Oct. 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

² This level has not been adjusted to reflect entries made on or after—January 1, 1971.

NOTICES

was initially extended through May 31, 1971, and further extended through June 30, 1971. Among the provisions of the agreement, as extended, are those establishing an aggregate limit, group limits, and specific limits for Categories 9, 10, 22, 23, 26, 27, 63 and 64, with sublimits on duck fabric (parts of Categories 25 and 27), and on zipper tapes (part of Category 64).

There is published below a letter of May 28, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Mexico, which may be entered or withdrawn from warehouse for consumption in the United States for the period beginning May 1, 1971, and extending through June 30, 1971, be limited to designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as extended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile
Administrative Committee,
and Deputy Assistant Secretary
for Resources.

THE SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY
COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

MAY 28, 1971.

DEAR MR. COMMISSIONER: Under the terms of the Long-term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of June 2, 1967, as extended, between the Governments of the United States and Mexico, and in accordance with Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective June 1, 1971, and for the period beginning May 1, 1971, and extending through June 30, 1971, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Mexico in excess of the designated levels of restraint set forth below.

The combined level of restraint for Categories 1, 2, 3, and 4, shall be 2,281,276 pounds. Of this amount not more than 572,522 pounds shall be in Categories 3 and 4.

The overall level of restraint for Categories 5 through 27 shall be 4,254,272 square yards.

Within the overall level of restraint for Categories 5 through 27, the following specific levels of restraint shall apply:

Category	2-month level of restraint
9 -----	square yards-- 810,338
10 -----	do----- 405,168
22 -----	do----- 810,338
23 -----	do----- 607,754
26 -----	do ¹ ----- 1,215,506
27 -----	do ¹ ----- 405,168

¹ Of the total amount for Categories 26 and 27, not more than 911,630 square yards shall be in duck fabric, T.S.U.S.A. Nos:

Within the overall level of restraint for Categories 5 through 27, each category without a specific level of restraint is subject to a consultation level of 101,292 square yards, pursuant to paragraph 7 of the bilateral agreement. If appropriate, future directions concerning these categories will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

The overall level of restraint for Categories 28 through 64, shall be 445,686 square yards equivalent. There was attached to the directive of April 28, 1969, from the Chairman of the President's Cabinet Textile Advisory Committee, concerning cotton textiles and cotton textile products from Mexico a table of the rates of conversion into square yard equivalents of the aforesaid categories which may be used in implementing this part of this directive.

Within this overall level of restraint for Categories 28 through 64, the following specific levels of restraint shall apply:

Category	2-month level of restraint
63 -----	22,284 pounds.
64 -----	66,042 pounds (of which not more than 18,232 pounds shall be in zipper tapes, T.S.U.S.A. No. 347.3340).

Within the overall level of restraint for Categories 28 through 64, each category without a specific level of restraint is subject to a consultation level of 70,904 square yards equivalent, pursuant to paragraph 7 of the bilateral agreement. If appropriate, future directions concerning these categories will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

In carrying out this directive, cotton textiles and cotton textile products in Categories 1 through 64 produced or manufactured in Mexico and which have been exported to the United States from Mexico prior to May 1, 1971, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period May 1, 1970, through April 30, 1971. In the event that any level of restraint for the period ending April 30, 1971, has been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of June 2, 1967, as extended, between the Governments of the United States and Mexico which provide in part that within the aggregate limit, the group limits for Group I and Group II may be exceeded by not more than 10 percent in the Group limit on Group III may be exceeded by not more than 5 percent; within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968

320....01 through 04, 06, 08
321....01 through 04, 06, 08
322....01 through 04, 06, 08
326....01 through 04, 06, 08
327....01 through 04, 06, 08
328....01 through 04, 06, 08

NOTICES

(33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton textiles and cotton textile products from Mexico have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965-69). This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce, Chairman,
President's Cabinet Textile
Advisory Committee.

[FR Doc.71-7963 Filed 6-7-71; 8:00 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

AMERICAN RACEWAYS INC.

Order Suspending Trading

JUNE 2, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of American Raceways Inc., a Delaware corporation, and all other securities of American Raceways Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 2, 1971, through June 11, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7946 Filed 6-7-71; 8:47 am]

[File No. 24A-2017]

GROVE STUDIO, INC.

Order Temporarily Suspending Ex- emption, Statement of Reasons Therefor, and Notice of Opportu- nity for Hearing

JUNE 1, 1971.

I, Grove Studio, Inc. (Issuer), a Florida corporation, 355 Northeast 59th Terrace, Miami, FL 33137, filed with the Commission on September 18, 1970, a notification and Rule 257 Statement, relating to a proposed offering of 48,000 shares of \$0.01 par value common stock

at \$1 per share for an aggregate of \$48,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to section 3(b) thereof and Regulation A promulgated thereunder. By amendment filed December 9, 1970, the proposed offering was reduced to 47,000 shares at \$1 per share for an aggregate of \$47,000. An amendment to Item 11 of Form 1-A was filed December 31, 1970. No additional amendments have been filed and a commencing date for the offering has not been established.

II. The Commission has reasonable cause to believe, on the basis of information reported to it by its staff, that:

A. As provided in Rule 252(d) of Regulation A, no exemption is available for the securities of Grove Studio, Inc., in that:

Joseph Garofalo, a principal security holder of the issuer and an unnamed affiliate, is subject to an order of permanent injunction enjoining Joseph Garofalo, doing business as Josephson Co., from violating the antifraud and net capital provisions of the Securities Exchange Act of 1934.

B. No exemption is available to the issuer under the provisions of Rule 257 of Regulation A for the shares covered by the notification, in that:

Prior to the clearance of the Regulation A filing and the establishment of a commencing date for the offering, Joseph Garofalo, doing business as Josephson Co., 99 Wall Street, New York, NY, sold 21,600 shares of the issuer's unregistered common stock for an aggregate of \$21,600 in violation of the registration requirements of the Securities Act of 1933 which caused the \$50,000 ceiling imposed by Rule 257 to be exceeded.

C. The terms and conditions of Regulation A have not been met in that all information required by Form 1-A and Schedule I has not been disclosed, particularly with reference to Items 2 and 9 of Form 1-A and paragraph 9 of Schedule I.

D. The issuer's notification and Rule 257 Statement contain untrue statements of material facts and omit to state material facts necessary to make the statements made in the light of the circumstances under which they were made, not misleading, particularly in that:

1. The notification and Rule 257 Statement state that the issuer's securities will be offered and sold only by personal solicitation of its officers and directors without the services of a broker-dealer whereas 21,600 shares were offered and sold by Joseph Garofalo, doing business as Josephson Co., a broker-dealer registered with this Commission.

2. The Rule 257 Statement fails to disclose any information concerning the issuer's development of franchise operations although a part of the proceeds is designated for that purpose.

3. The Rule 257 Statement fails to disclose adequately the estimated amount of

proceeds to be used to pay salaries of the issuer's officers.

4. The Rule 257 Statement fails to disclose adequately and accurately full information concerning the issuer's business operations.

E. The issuer has failed to cooperate with the Commission in that it has failed to furnish requested information.

F. The offering, as made, was made in violation of sections 5 and 17 of the Securities Act of 1933, as amended, and if the offering should continue to be made, such further offering would operate as a fraud and deceit upon the purchasers in violation of section 17(a) of the Securities Act of 1933, as amended, for the reasons described above.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulations A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7947 Filed 6-1-71; 8:47 am]

[31-714]

HILO COAST PROCESSING CO.

Notice of Filing of Application

JUNE 1, 1971.

Notice is hereby given that Hilo Coast Processing Co. (Hilo Coast), 827 Fort Street, Honolulu, HI 96813, has filed an application, pursuant to section 2(a) (3) of the Public Utility Holding Company Act of 1935 (Act), for an order declaring it not to be an electric utility company

for the purposes of the Act. All interested persons are referred to the application, which is summarized below, for a complete statement of the facts.

Hilo Coast is a cooperative association organized under the Agricultural Code of the State of California on April 19, 1971. Pepeekeo Sugar Co. (Pepeekeo) and Mauna Kea Sugar Co., Inc. (Mauna Kea), both are Hawaii corporations engaged in the operation of sugar plantations and processing facilities on the Island of Hawaii. Prior to December 31, 1971, they propose to transfer to Hilo Coast their sugar processing assets, valued at approximately \$10,500,000, in exchange for capital stock of Hilo Coast. Both companies grow sugar cane on their plantations and process the cane into raw sugar and molasses at sugar factories located on the coast of the Island of Hawaii.

Brewer and Co., Ltd. (Brewer), owns 95.53 percent of the capital stock of Pepeekeo and 99.09 percent of the capital stock of Mauna Kea. Brewer, through its subsidiary companies, is engaged in: Sugar production, the purchase and sale of molasses, sugar trading, fertilizer, and herbicide distribution, international agriculture and agricultural services, operation of a shipyard, a building materials business and the operation of an insurance underwriting company. It is stated that neither Brewer nor any of its subsidiary companies operate any gas or electric utility or own any securities of a gas or electric utility operating or holding company. Approximately 53.8 percent of the outstanding common stock of Brewer is owned by two subsidiary companies of International Utilities Corp. (IU), a Maryland corporation. IU is an exempt public utility holding company under section 3(a)(5) of the Act. (International Utilities Corporation, 21 SEC 283.) IU has no interests in Hawaii other than its 53.8 percent ownership of Brewer.

There are presently about 400 individual farmers (independent growers) who grow sugar cane and have it processed at the Pepeekeo and Mauna Kea factories. About 17 percent of the land farmed by the independent growers is owned by them and about 83 percent of the land is leased from Pepeekeo, Mauna Kea, and other landowners. The independent growers plan to organize a growers cooperative under the Agricultural Cooperative Law of the State of Hawaii, which cooperative will purchase stock of Hilo Coast for \$4,500,000 (\$3,920,000 in cash and \$580,000 in road improvements). As a result of these transactions, about 70 percent of the stock—and voting power—of Hilo Coast will be owned by Pepeekeo and Mauna Kea and about 30 percent by the growers cooperative, assuming all present growers join this cooperative. The ratio is in the same proportion as the existing raw sugar production at Pepeekeo and Mauna Kea, i.e., 70 percent from company-owned cane and 30 percent from independent growers' cane. The ratio will be adjusted annually to conform to changes in production by the plantations and the growers.

In recent years Pepeekeo and Mauna Kea have been only marginally profitable. The two companies operate four sugar factories at the villages of Hakalau, Pepeekeo, Papaikou, and Wainaku. The existing factories are obsolete and must be modernized or consolidated into one or two larger factories, if viable operations are to continue. Brewer's studies indicate that the most economical way to do this is to modernize and enlarge the Pepeekeo factory by doubling its capacity, to modernize the Papaikou factory and to abandon the other two.

Sugar cane in Hawaii, which is a large, stiff grass, grows to lengths as high as 30 feet before it is harvested. It is then transported to the sugar factory where it is washed, shredded and put through rollers to squeeze out the juice. The juice is then clarified into crystallized raw sugar by boiling under vacuum. The cleaning plant trash (principally cane leaves) and the surplus fiber from the sugar cane stalk (bagasse) are currently dumped into the ocean to dispose of them. The production of raw sugar from sugar cane results in a tremendous amount of bagasse and cleaning plant trash.

The dumping of bagasse and cleaning plant trash into the ocean creates an ecological problem, as the material takes a long time to disintegrate and sink. Federal and State Water Pollution laws and regulations require that the plantations end this dumping practice. Disposing of the trash and bagasse by hauling would cost an estimated \$1 million annually.

It is proposed that the bagasse and cleaning plant trash be used as fuel in the boiler of the modernized Pepeekeo sugar factory to create steam which can be used to power a turbine generator (22 megawatt capacity) to, in turn, create electrical energy. Electrical energy will be utilized in the operation of the sugar factory itself, but there will be an excess of electrical energy because the amount of the bagasse and trash which must be consumed to solve the pollution problem will produce more steam than necessary for the electric power requirements of the sugar factory. The excess electrical energy is proposed to be sold at wholesale to Hilo Electric Light Co., Ltd. (Helco), the public utility company operating on the Island of Hawaii. Helco is a wholly owned subsidiary of Hawaiian Electric Co., Inc. (Heco), an exempt holding company.

It is stated that in order to make the project economically feasible and to secure financing, it is necessary for Hilo Coast to obtain the revenues from the sale of the excess electrical energy to Helco. Of the total energy (B.t.u.s produced by the sugar factory boiler, 33 percent will not be recovered, 45 percent will be consumed in processing sugar cane, 5 percent will be utilized as electrical energy in the sugar factory, and 17 percent will be sold as electrical energy of Helco. Of the electrical energy generated by the turbine generator, about one-fourth will be utilized in the sugar factory and about three-fourths

will be sold to Helco, at least during the initial period. Brewer has undertaken discussions with Mitsui & Co. of Japan looking towards the installation of another jointly-owned facility at the Pepeekeo factory to manufacture pulp from bagasse, which pulp will be exported to Japan to make paper. Negotiations on this project are still in progress, but if the pulp facility is built, additional electrical generating capacity will be required and as a result only about one-half of the total energy produced at the Pepeekeo factory will be sold to Helco and the balance will be used in the sugar factory and the pulp mill.

It is estimated that for the calendar year 1974, the first full year of operation, electrical energy sales to Helco will amount to about 113 million kilowatt hours, producing operating revenues of \$1,038,000 or 4.9 percent of Hilo Coast's total operating revenues and operating expenditures of the electric power facility will be \$444,000 or 5.2 percent of Hilo Coast's total operating expenditures. Net operating proceeds from electrical energy sales will be \$594,000 or 4.6 percent of Hilo Coast's total net operating proceeds.

In the absence of an exemption, Hilo Coast would become an "electric utility company" within the definition contained in section 2(a)(3) of the Act when it begins the sale of its excess electrical energy to Helco (on or before September 1, 1973) because it would then be a company which owns or operates facilities used for the generation of electrical energy for sale. This would make "holding companies" of the entities which control Hilo Coast—Pepeekeo, Mauna Kea, Brewer, and IU (and possibly the cooperative to be organized by the independent growers). It is asserted that Hilo Coast is and will be primarily engaged in the sugar business and will be selling only a small amount of excess electrical energy. Accordingly, Hilo Coast believes that it is not necessary in the public interest or for the protection of investors or consumers that it be considered an electric utility company for the purposes of the Act.

Notice is further given that any interested person may, not later than June 24, 1971, request in writing that a hearing be held in respect of the request for exemption, stating the nature of his interest and the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date the Commission may grant the exemption requested, or take such other action as it deems appropriate.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7948 Filed 6-7-71; 8:47 am]

[811-1946]

NORTHWESTERN INVESTMENT FUND OF NORTHWESTERN NATIONAL BANK

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JUNE 1, 1971.

Notice is hereby given that Northwestern Investment Fund of Northwestern National Bank (Applicant), Seventh and Marquette, Minneapolis, MN 55480, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, summarized below.

Applicant was established pursuant to a resolution of the Board of Directors, adopted on August 21, 1969, of Northwestern National Bank of Minnesota (Bank) and registered under the Act on September 24, 1969. Applicant proposed to operate as a collective investment fund, pursuant to regulations of the Comptroller of the Currency which would have allowed Bank to accept custody and investment responsibility of accounts of at least \$5,000 pursuant to agency agreements authorizing the Bank to invest such funds, in a collective investment fund in which each investor would share in proportion to the amount of his funds included in the Fund.

Because of the existence of litigation challenging the legality of accounts of the type contemplated by the Fund, no such accounts have been accepted by the Bank and the Bank has never made a public offering of units of participation in the Fund and the Fund has no assets or liabilities. On April 5, 1971, the Supreme Court of the United States announced its decision in the litigation referred to above, finding that the operation by a national bank of an investment fund of the type contemplated by the Bank would be illegal under certain provisions of the Federal banking laws. In view of the foregoing decision of the Supreme Court Applicant will not be activated.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 18, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a

statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7949 Filed 6-7-71; 8:47 am]

[811-1556]

ROMAN INTERNATIONAL, INC.

Notice of Proposal To Terminate Registration

JUNE 1, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Roman International, Inc. (Roman), 4 Reihl Street, East Paterson, NJ 07407, a corporation organized under the laws of New Jersey and registered under the Act as a closed-end, nondiversified management investment company, has ceased to be an investment company.

Fund was organized in New Jersey on June 6, 1967, and registered as an investment company on October 30, 1967. Roman currently has 33,500 shares outstanding held by 25 shareholders, all of whom are natural persons. Roman does not propose to make a public offering of its shares.

Section 3(c)(1) of the Act, in pertinent part, excepts from the definition of an investment company within the meaning of the Act any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not propose to make a public offering of its securities.

Section 8(f) of the Act provides in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 18, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the company at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations under the Act, an order disposing of the matter may be issued by the Commission upon the basis of the information stated in this notice, unless an order for hearing upon this matter shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7950 Filed 6-7-71; 8:47 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 7-A-1]

DIRECTOR, OFFICE OF ADMINISTRATIVE SERVICES

Delegation of Administrative Activities

I. Pursuant to the authority delegated by the Assistant Administrator for Administration to the Deputy Assistant Administrator for Administration (Management) in Delegation of Authority No. 7-A (36 F.R. 9585), there is hereby re-delegated to the Director, Office of Administrative Services, the following authority:

A. *Administrative services.* 1. To contract for supplies, materials, and equipment, printing, transportation, communications, space, and special services for the Agency.

2. To enter into contracts for supplies and services pursuant to Delegation of Authority No. 410 dated March 26, 1962 (27 F.R. 3017), from the Administrator of the General Services Administration to the Heads of Executive Agencies.

3. To rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of meetings of SBA advisory councils.

II. The specific authorities delegated herein may be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Director, Office of Administrative Services.

Effective date. February 23, 1971

ARTHUR D. HORNER,
Acting Deputy Assistant Administrator for Administration (Management).

[FR Doc.71-7926 Filed 6-7-71;8:45 am]

[Delegation of Authority No. 7-B-1]

DIRECTOR, OFFICE OF BUDGET AND FINANCE ET AL.

Delegation of Financial Activities

I. Pursuant to the authority delegated by the Assistant Administrator for Administration to the Deputy Assistant Administrator for Administration (Comptroller) in Delegation of Authority No. 7-B (36 F.R. 9585), the following authority is hereby redelegated to the specific positions as indicated herein:

A. *Director, Office of Budget and Finance.* To assign, endorse, transfer, deliver, or release (but in all cases without representation, recourse, or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

B. *Chief, Accounting Operations Division, and Chief, Fiscal Branch.* Item I.A. above.

C. *Chief, Financial Operations Division, and Chief, Fiscal Examination Branch.* Item I.A. above.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

Effective date. February 23, 1971.

PAUL S. HOWELL,
Acting Deputy Assistant Administrator for Administration (Comptroller).

[FR Doc.71-7927 Filed 6-7-71;8:46 am]

NOTICES

TARIFF COMMISSION

[337-L-44]

COLD-FORMED MOUNTS FOR SEMICONDUCTORS

Extension of Time for Filing Written Views

On April 26, 1971, the U.S. Tariff Commission published notice of the receipt of a complaint under section 337 of the Tariff Act of 1930, filed by the Nippert Co., of Delaware, Ohio, alleging unfair methods of competition and unfair acts in the importation and sale of certain cold-formed mounts for semiconductors (36 F.R. 8076). Interested parties were given until June 11, 1971, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. The Commission has extended the time for filing written views until the close of business June 25, 1971.

Issued: June 3, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-7961 Filed 6-7-71;8:47 am]

DEPARTMENT OF LABOR

Office of the Secretary

BELLA MIA MANUFACTURING CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of March 8, 1971, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-59) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the Bella Mia Manufacturing Corp., Brooklyn, N.Y. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the footwear produced by Bella Mia Manufacturing Corp. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Acting Director of the Office of

Foreign Economic Policy, Bureau of International Labor Affairs, instituted investigations. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In that recommendation he noted that significant layoffs caused by imports began to occur the week beginning November 2, 1969, at the Bella Mia Manufacturing Corp. which closed on February 17, 1970. After due consideration, I make the following certification:

All workers (hourly, piecework, and salaried), of the Bella Mia Manufacturing Corp. plant located at Brooklyn, N.Y., who became unemployed or underemployed after November 2, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 28th day of May 1971.

HERBERT N. BLACKMAN,
Deputy Assistant Secretary for Trade and Adjustment Policy.

[FR Doc.71-7958 Filed 6-7-71;8:47 am]

BROWN SHOE CO. AND JOHNSON, STEPHENS, AND SHINKLE SHOE CO.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under dates of February 8, 1971, and March 8, 1971, respectively, the U.S. Tariff Commission made two reports of the results of its investigations (TEA-W-40 and TEA-W-65), under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to petitions for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the Brown Shoe Co., Mattoon, Ill., and Johnson, Stephens, and Shinkle Co., Vandalia, Ill. In these reports, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the women's and misses' footwear produced by Brown Shoe Co.; and the footwear produced by Johnson, Stephens, and Shinkle Shoe Co. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plants concerned. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's decision, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted investigations. Following this, the Director made recommendations to me relating to the matter of certifications (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In the recommendation, he noted that significant layoffs caused by imports began to occur on July 11, 1970, at the Brown Shoe Co. and that layoffs continued until the plant closed September 1, 1970. The Director further reported that significant layoffs caused by imports began to occur on October 8, 1969, at Johnson, Stephens, and Shinkle Shoe Co., and continued until the plant closed by April 25, 1970. After due consideration, I make the following certifications:

All workers (hourly, piecework, and salaried) of the Brown Shoe Co. plant located at Mattoon, Ill., who became unemployed or underemployed after July 11, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All workers (hourly, salaried, and piecework) of the Johnson, Stephens, and Shinkle Shoe Co. plant located at Vandalia, Ill., who became unemployed or underemployed after October 8, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 28th day of May 1971.

HERBERT N. BLACKMAN,
Deputy Assistant Secretary for Trade and Adjustment Policy.

[FR Doc.71-7959 Filed 6-7-71;8:47 am]

ESTEY PIANO CO.

Notice of Revised Certification of Eligibility of Workers To Apply for Adjustment Assistance

Pursuant to the provisions of section 302 of the Trade Expansion Act of 1962, the President's Proclamation 3964 of February 21, 1970 (35 F.R. 3645), and a petition filed and investigation conducted pursuant to the provisions of such section as authorized under 29 CFR Part 90 and notices in 34 F.R. 18342 and 35 F.R. 12440, a certification under section 302(b)(2) of such Act was made on September 24, 1970, certifying that workers of the Estey Piano Corp. plant in Bluffton, Ind., described in the Notice of Certification (36 F.R. 15186), are eligible to apply for adjustment assistance under chapter 3, title III, of such Act. On the basis of a further showing pursuant to section 302(b)(2) of such Act and further investigation by the Director of the Office of Foreign Economic Policy, and pursuant to the provisions of section 302(d) of such Act, the certification set forth in the Notice of Certification published in 36 F.R. 15186 is hereby revised to include additional unemployment and underemployment of workers at the company headquarters in Union, N.J., for whom the increased imports which the

NOTICES

Tariff Commission had determined to result from concessions granted under trade agreements are hereby determined to have caused or threatened to cause unemployment. Such additional unemployment or underemployment resulted from the total cessation in early May 1971 of piano production by Estey which affected not only employees from the plant at Bluffton, Ind., but also those employed at the company headquarters in Union, N.J.

Such revised certification is hereby made as follows:

All workers of the Estey Piano Corp. plant at Bluffton, Ind., who became or will become unemployed or underemployed after July 16, 1970, and all workers of the Estey Piano Corp. company headquarters at Union, N.J., who became or will become unemployed or underemployed after May 6, 1971, are eligible to apply for adjustment assistance under chapter 3, and title III of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 28th day of May 1971.

HERBERT N. BLACKMAN,
Deputy Assistant Secretary for Trade and Adjustment Policy.

[FR Doc.71-7960 Filed 6-7-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 3, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42216—*Phthalic anhydride to Baton Rouge, La.* Filed by Illinois Freight Association, agent (No. 368), for interested rail carriers. Rates on phthalic anhydride, in tank carloads, as described in the application, from Milledale, Illinois, to Baton Rouge, La.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 177 to Illinois Freight Association, agent, tariff ICC 1044. Rates are published to become effective on July 5, 1971.

FSA No. 42217—*Beet or cane sugar to Austin and Minneapolis, Minn.* Filed by Western Trunk Line Committee, agent (No. A-2642), for interested rail carriers. Rates on sugar, beet or cane, dry, in bulk, in carloads, as described in the application, from points in Montana, transcontinental and western trunkline territories, to Austin and Minneapolis, Minn.

Grounds for relief—Market competition and return movement of commodities.

Tariffs—Supplement 112 to Western Trunk Line Committee, agent, tariff ICC A-4481, and three other schedules named in the application. Rates are published to become effective on July 2, 1971.

FSA No. 42218—*Cotton to Rosman, N.C.* Filed by Southwestern Freight Bureau, agent (No. B-240), for interested rail carriers. Rates on cotton, cotton linters, and cottonseed hull fiber or shavings, in carloads, as described in the application, from points in southwestern territory and Kansas, to Rosman, N.C.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 169 to Southwestern Freight Bureau, agent, tariff ICC 4576. Rates are published to become effective on July 8, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7956 Filed 6-7-71;8:47 am]

[Notice 306]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 1, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field office named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 21455 (Sub-No. 21 TA), filed May 21, 1971. Applicant: GENE MITCHELL CO. (Iowa-Corp), 1106 Division Street, West Liberty, IA 52776. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Materials, equipment, supplies, and furnishings*, used in the manufacture, processing, sale, and distribution of Mobile Homes and Modular Houses, from points in Illinois, Indiana, Michigan, Ohio, and Wisconsin to Kalona, Iowa,

for 180 days. Supporting shipper: Kalonial Industries, Inc., Post Office Drawer V, Kalona, IA 55247. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 322 Federal Building, Davenport, Iowa 52801.

No. MC 85465 (Sub-No. 37 TA), filed May 19, 1971. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Drawer 952, Fifth Avenue and Fifth Street, Scottsbluff, NE 69361. Applicant's representative: W. A. Bottom (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* (except commodities in bulk, in tank vehicles), from Scottsbluff, Nebr., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, and the plantsite and warehouse facility of Geo. A. Hormel & Co., at New Orleans, La., for 150 days. Supporting shipper: Christopher Thissen, Geo. A. Hormel & Co., Post Office Box 800, Austin, MN 55912. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and U.S. Courthouse, Lincoln, Nebr. 68508.

No. MC 102616 (Sub-No. 859 TA), filed May 23, 1971. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Post Office Box 7211, Akron, OH 44319. Applicant's representative: James Annand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, gasoline, and fuel oils*, in bulk, and tank vehicles, from the plantsite of Sun Oil Co., Henderson County, Ky., to points in Indiana, for 180 days. Supporting shipper: Sun Oil Co., 1819 Woodville Road, Post Office Box 920, Toledo, OH 43601. Send protests to: District Supervisor Baccel, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 108393 (Sub-No. 47 TA), filed May 21, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Room 214, Hinsdale, IL 60521. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Suite 2255, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances, and equipment, materials, and supplies* used in the manufacture distribution and repair of electrical and gas appliances, for the account of Whirlpool Corp., between Carol Stream, Ill., Columbus, Ind., Charlotte, Mayville, and South Haven, Mich., on the one hand, and, on the other, Clyde, Ohio, for 180 days. Supporting shipper: Carl R. Anderson, Director of Corporate Traffic, Whirlpool Corp., Benton Harbor, Mich. 49022. Send protests to: William J. Gray, Jr., District Supervisor, Bureau of Operations, Inter-

state Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 113024 (Sub-No. 111 TA), filed May 20, 1971. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Dupont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bags, from Jefferson, Ga., Bath, and Aiken, S.C., to Wilmington, Del., the above to be performed, under a continuing contract, or contract with Electric Hose & Rubber Co., Wilmington, Del., for 180 days. Supporting shipper: F. H. Evick, Traffic Manager, Post Office Box 910, Wilmington, DE 19899. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 227 Old Post Office Building, Salisbury, Md. 21801.

No. MC 113678 (Sub-No. 427 TA), filed May 24, 1971. Applicant: CURTIS, INC. (office address: 4810 Pontiac Street, Commerce City, CO 80022), Post Office Box 16004, Stockyard Station, Denver, CO 80216. Applicant's representative: David L. Metzler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile, textile products, floor coverings, and bath mats*, from points in North Carolina, and Georgia to points in Nevada, Idaho, Utah, Montana, Texas, Tennessee, Washington, Arizona, Wyoming, Colorado, New Mexico, and Kansas, for 180 days. Supporting shippers: There are approximately 23 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 114632 (Sub-No. 43 TA), filed May 20, 1971. Applicant: APPLE LINES, INC., Post Office Box 507, 225 South Van Eps Avenue, Madison, SD 57042. Applicant's representative: Robert A. Appelwick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and packinghouse products*, as set forth in sections A and C *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Tama Corp. at Tama, Iowa, to points in Illinois, Indiana, Nebraska, Minnesota, Missouri, and Wisconsin, for 180 days. Supporting shipper: Tama Corp., Tama, Iowa 52339, Fred Shover, President. Send protests to: J. L. Hammon, District Supervisor, Bureau of Operations, Interstate Com-

merce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 114632 (Sub-No. 45 TA), filed May 26, 1971. Applicant: APPLE LINES, INC., Post Office Box 507, 225 South Van Eps Avenue, Madison, SD 57042. Applicant's representative: Robert A. Appelwick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago Heights, Ill., and Peoria, Ill., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota, for 180 days. Supporting shipper: Keystone Steel & Wire Division, Keystone Consolidated Industries, Inc., Peoria, Ill. Carl N. M. Brown, Manager, Traffic and Distribution Planning. Send protests to: J. L. Hammon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 117565 (Sub-No. 39 TA), filed May 26, 1971. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Post Office Box 417, Coshocton, OH 43812. Applicant's representative: Hala Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in truck away service, from Portsmouth, R.I., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Gruman Allied Industries, Inc., 600 Old Country Road, Garden City, NY 11530. Send protests to: A. M. Culver, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 118318 (Sub-No. 22 TA), filed May 24, 1971. Applicant: IDA-CAL FREIGHT LINES, INC., 1798 Floral Avenue, Post Office Box 422, Twin Falls, ID 83301. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products* as described in section A, appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wallula, Wash., to points in California, for 150 days. Note: Applicant does not intend to tack or interline authority herein applied for. Supporting shipper: Cudahy Co., Wallula, Wash. 99363. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, ID 83702.

No. MC 119789 (Sub-No. 67 TA), filed May 20, 1971. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, Dallas, TX 75222. Applicant's representative: James T. Moore (same address as above). Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from Plainview, Tex., to points in New York, New Jersey, Rhode Island, Massachusetts, Maryland, Pennsylvania, Virginia, Delaware, West Virginia, District of Columbia, Maine, Vermont, and New Hampshire, for 180 days. Note: Carrier does not intend to tack authority. Supporting shipper: Missouri Beef Packers, Inc., Amarillo, Tex. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13012, Dallas, TX 75202.

No. MC 119944 (Sub-No. 12 TA), filed May 26, 1971. Applicant: BROCKWAY FAST MOTOR FREIGHT, INC., 568 Central Avenue, Somerville, NJ 08876. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, dry in bulk, from Somerville, N.J., to Chestertown, Md., for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 123420 (Sub-No. 3 TA), filed May 24, 1971. Applicant: ALBERT L. DERBY, Post Office Box 56, Whitewood, SD 57793. Applicant's representative: Keith R. Smit, Post Office Box 29, Sturgis, SD 57785. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiber products, consisting of wood chips, sawdust, ground wood products and byproducts of the lumbering industry comprised of the above, referred to and other residue from logging and lumbering*, from a point near Whitewood, S. Dak., to points in Colorado, Montana, North Dakota, Nebraska, South Dakota, and Wyoming, for 180 days. Supporting shipper: Franz & Werlinger Fiber Products, Whitewood, S. Dak. 57793, Edwin Franz, partner. Send protests to: J. L. Hammon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 127812 (Sub-No. 13 TA), filed May 20, 1971. Applicant: TYSON TRUCK LINES, INC., 185 Fifth Avenue SW., New Brighton, MN 55112. Applicant's representative: Richard L. Tyson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses* (except hides and commodities in bulk),

from Eau Claire, Wis., to Minneapolis, Minn., for 180 days. Supporting shipper: Schweigert, Food Service Division, Minneapolis, Minn. Send protest to: District Supervisor E. C. Sjogren, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 129336 (Sub-No. 1 TA), filed May 26, 1971. Applicant: CEMENT CARTAGE CO., LTD., Butternut Ridge, Havelock, New Brunswick, Canada. Applicant's representative: Eric B. Appleby, Box 302, 259 Brunswick Street, Fredericton, NB, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Quicklime*, in bulk in tank-type vehicles, from the international boundary between the United States and Canada at Calais, Maine, to Woodland, Maine, a distance of 10 miles, and return, for 180 days. Supporting shipper: Havelock Processing Ltd., Havelock, New Brunswick, Canada. Send protests to: District Supervisor Donald G. Weiler, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, ME 04112.

No. MC 129537 (Sub-No. 9 TA), filed May 24, 1971. Applicant: REEVES TRANSPORTATION COMPANY, Route 5, Pond Road (Route 5, Dews Pond Road), Calhoun, GA 30701. Applicant's representative: John C. Vogt, Jr., 707 Florida Avenue, Post Office Box 21, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, from points in Floyd, Bartow, Chattooga, Gordon, Whitfield, Murray, Catoosa, Walker, Troup, and Muscogee Counties, Ga., to points in Duval County, Fla., for 180 days. Note: Applicant does not intend to tack the authority. Applicant will interline the authority at Jacksonville, Fla. Supporting Shippers: There are approximately 16 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30300.

No. MC 133240 (Sub-No. 20 TA), filed May 23, 1971. Applicant: WEST END TRUCKING CO., INC., 530 Duncan Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by discount or department stores, between the facilities of Holly Stores, Inc., located in New York, N.Y., Secaucus and North Bergen, N.J., on the one hand, and on the other, Atlanta, Ga., and Wilson, N.C., for 150 days.* Supporting shipper: Holly Stores,

Inc., 550 West 59th Street, New York, NY 10019. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 133779 (Sub-No. 4 TA), filed May 24, 1971. Applicant: FUNDIS COMPANY, Broadway at Cornell Street, Lovelock, NV 89419. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth* (diatomite), *mixture of diatomaceous earth and alkyl naphthalene and sodium sulfonate, and wood pulp*, except in bulk, from Clark Station, Nev., and Colado, Nev., to points in Arizona, Idaho, Oregon, Utah, and Washington, for 180 days. Note: Applicant does not intend to tack or interline. Supporting shipper: Eagle-Picher Industries, Inc., Post Office Box 1869, Reno, NV 89505. Send protests to: Daniel Augustine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 134367 (Sub-No. 3 TA), filed May 26, 1971. Applicant: VAN WINKLE TRUCKING, INC., 1040 Troy-Schenectady Road, Latham, NY 12110. Applicant's representative: Donald C. Carmien, Suite 500 O'Neil Building, Binghamton, N.Y. 13901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except household goods, commodities in bulk classes A and B explosives, as defined by the Commission, between Bradley Field, Windsor Locks, Conn., on the one hand, and, on the other, points in Albany, Schenectady, Saratoga, Warren, Fulton, Montgomery, Rensselaer, and Washington Counties, N.Y., restricted to prior or subsequent movement by air, for 150 days. Supporting shippers: Mohawk Brush Co., Post Office Box 1839, Albany, NY; Tek-hughes, 2320 Sixth Street, Watervliet, NY; Ross Value Manufacturing Co., Inc., 6 Oakwood Avenue, Troy, NY; Marshall Ray Corp., Troy, NY 12181; Wits Air Cargo Service, Box 3805, Seattle, WA 98134; General Electric Co., Waterford, NY 12188; Cohoes Carrybag Co., Cohoes, NY 12047; Tele-dyne Gurley, 514 Fulton Street, Troy, NY 12181. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany N.Y. 12207.

No. MC 134599 (Sub-No. 19 TA), filed May 23, 1971. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 12060 Sable Boulevard, Brighton, CO 80601, Post Office Box 16407, Stockyard Station, Denver, CO 80216. Applicant's representative: Oscar Mandel (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Muskegon, Mich., and its commercial zone, to points in Washington, Ore-

gon, Idaho, California, Nevada, Arizona, Utah, Colorado, New Mexico, Kansas, and Missouri (except St. Louis, Mo.) for 180 days. Supporting shipper: S. D. Warren Co., a division of Scott Paper Co., 2400 Lake Shore Drive, Muskegon, MI 49443. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 134758 (Sub-No. 1 TA), filed May 23, 1971. Applicant: DONALD MASON PHIFER, 326 Clairmont Circle, Greenville, NC 27834. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Sand, from Como, N.C., to Suffolk, Va., and (2) Plant-mix asphalt, from Suffolk, Va., to points in Gates and Pasquotank Counties, N.C., for 180 days. Supporting shipper: Birsch Construction Corp., Post Office Box 12479, Norfolk, VA 23502. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 26896, Raleigh, NC 27611.

No. MC 135183 (Sub-No. 3 TA), filed May 24, 1971. Applicant: KERR CONTRACT CARRIAGE, INC., Route 3, Salem, Mo. 65560. Applicant's representative: B. W. LaTourette, Jr., 611 Olive Street, Room 1850, St. Louis, MO 63101. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Charcoal, charcoal briquettes, and associated barbecue items, from the plantsite of Floyd Charcoal Co., near Salem, Mo., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Ohio, Oklahoma, Wisconsin, Pennsylvania, Texas, Virginia, and Tennessee; and (2) cornstarch, from Paris, Ill.; and (3) Paper bags, from Savannah, Ga., and West Monroe, La., to the plantsite of Floyd Charcoal Co. near Salem, Mo., for 180 days. Supporting shipper: Floyd Charcoal Co., Salem, Mo. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 135394 (Sub-No. 1 TA) (Correction), filed April 26, 1971, published FEDERAL REGISTER issue May 1, 1971, corrected, and republished in part as corrected this issue. Applicant: RETAIL DELIVERY SERVICE, INC., 382 McLean Boulevard, Paterson, NJ 07513. Applicant's representative: Anthony C. Vance, 1111 E Street NW., Washington, DC 20004. Note: The purpose of this partial republication is to include 2 additional supporting shippers: Lederle Laboratories, Pearl River, N.Y.; Lennox Wallpaper Corp., 402 West 25th Street, New York, NY, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 135611 (Sub-No. 1 TA), filed May 23, 1971. Applicant: ROBERT A. WALKER AND DONALD M. WHITTED, a co-partnership, doing business as

WALKER & WHITTED TRANSPORTATION, 320 North Eighth Street, Brawley, CA 92227. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Animal and poultry feed supplements, liquid, in bulk, from Imperial, Calif., to points in Arizona, for 180 days. Supporting shipper: International Minerals & Chemicals Corp., Animal Health and Nutrition Division, Western Operations, Post Office Box 788, Bellflower, CA 90706. Send protests to: Philip Yellowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 135613 TA, filed May 19, 1971. Applicant: ALAN D. BIRKS, doing business as AL BIRK'S BOAT HAULING, 3322 Northeast 162d Avenue, Portland, OR 97230. Applicant's representative: Alan D. Birks (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Boats, not exceeding 36 feet in length, between Portland, Oreg., and Olympia, Wash., for 180 days. Supporting shippers: Ray F. Anderson, 4879 Southeast 52d, Portland OR 97206; Paul E. Kamby, 1755 East 19th, Eugene, OR 97403; J. E. Richards, 1901 Southeast Minter Bridge Road, Hillsboro, OR 97123; Vernon S. Sprague, University of Oregon, School of Health, Physical Education, and Recreation, Eugene, Oreg. 97403; George de Lange, 3750 Southeast 162d Avenue, Portland, OR 97236; A. V. De Burh, 5008 Northeast 39th Avenue, Vancouver, WA 98661; Roy A. Zorn, 3333 Northeast Marine Drive, Portland, OR 97211; D. Fancher, 16 East Powell, Gresham, OR 97030; Zeldon E. Carpenter, 18304 Northeast Everett, Portland, OR 97230; Cliff Andruss, 3333 Northeast Marine Drive, Portland, OR 97211, and Louis H. Riedel, 1820 Northeast Hogan Drive, Gresham, OR 97030. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 135618 TA, filed May 20, 1971. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, Highway 14 East, Huron, S. Dak. 57350. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Beer, in bottles, cans, and barrels, (1) from Milwaukee, Wis., Omaha, Nebr., St. Louis, Mo., and St. Paul, Minn., to Huron, S. Dak., and (2) from Milwaukee, Wis., and St. Paul, Minn., to Redfield, S. Dak., and (3) from Omaha, Nebr., and Milwaukee, Wis., to Mitchell, S. Dak., for 180 days. Supporting shippers: Dale Porter, doing business as Porter Distributing Co., 215 Market Road SW., Huron, SD; H. E. Rohrabach, doing business as, Royal Distributing Co., 760 Third Street NW., Huron, SD 57350; Charles (Buzz) See-

man, doing business as, Standard Distributing Co., 542 Nevada SW., Huron, SD 57350; Chet Schoenfeld, doing business as, Redfield, S. Dak. 57469. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 135625 TA, filed May 23, 1971. Applicant: LOUIS OFSHINSKY, 894 Boulevard, Bayonne, NJ 07002. Applicant's representative: George A. Olsen, 69 Tonnet Avenue, Jersey City, NJ 07306. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Ships stores, equipment, and supplies (except commodities in bulk), for the account of L. F. Gaubert & Co., Inc., from Avenel, Bayonne, Hamburg, N.J., Albany, Chester, New York City, Rome, N.Y., and Mechanicsburg, Pa., to Mobile and Montgomery, Ala., New Orleans, La., and Houston, Tex., for 150 days. Supporting shipper: L. F. Gaubert & Co., Inc., 700 South Broad Street, New Orleans, LA 70150. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7957 Filed 6-7-71;8:47 am]

CONTRACT TRANSPORTATION, INC., ET AL.

Assignment of Hearings

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 134022 Sub 2, Contract Transportation, Inc., assigned June 14, 1971, at Milwaukee, Wis., postponed indefinitely.

MC-F-10574, Atlas Transit, Inc.—Purchase (Portion)—Arkansas Traveler, Inc., and MC-99695, Sub 4, Atlas Transit, Inc., now assigned June 16, 1971, at Memphis, canceled and reassigned to June 16, 1971, at Judge Harris Courtroom, 436 U.S. Post Office and Courthouse Building, Fifth and Gaines Streets, Little Rock, AR.

MC-F-11189, All-American Transport, Inc., assigned June 14, 1971, at the Hilton Hotel, 1616 Dodge Street, Omaha, NE.

MC-99695 Sub 6, Atlas Transit, Inc., now assigned June 14, 1971, at Memphis, canceled and reassigned to June 14, 1971, at Judge Harris Courtroom, 436 U.S. Post Office and Courthouse Building, Fifth and Gaines Streets, Little Rock, AR.

I & S No. 8611, Transit Charges on Grain & Products, at Chicago, Ill., now assigned June 23, 1971, is canceled. The rates are being canceled.

MC-118288 Sub 38, Stephen F. Frost, assigned June 17, 1971, at Billings, Mont., hearing canceled and application dismissed.

MC-107107 Sub 403, Alterman Transport Lines, Inc., assigned for continued hearing at the Office of the Interstate Commerce Commission, Washington, D.C. on July 9, 1971.

MC-119689, Brown Brothers Express, Inc. (Peerless Transport Corp.), assigned for continued hearing at the Office of Interstate Commerce Commission, Washington, D.C. on July 7, 1971.

MC-119689 Sub 11, Peerless Transport Corp., assigned for continued hearing at the Office of Interstate Commerce Commission, Washington, D.C. on July 7, 1971.

MC-51146 Sub 179, Schneider Transport & Storage, Inc., hearing canceled and appli-

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MC-107295 Sub 375, Pre-Fab Transit Co., assigned June 21, 1971, Dallas, Tex., postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7955 Filed 6-7-71;8:47 am]

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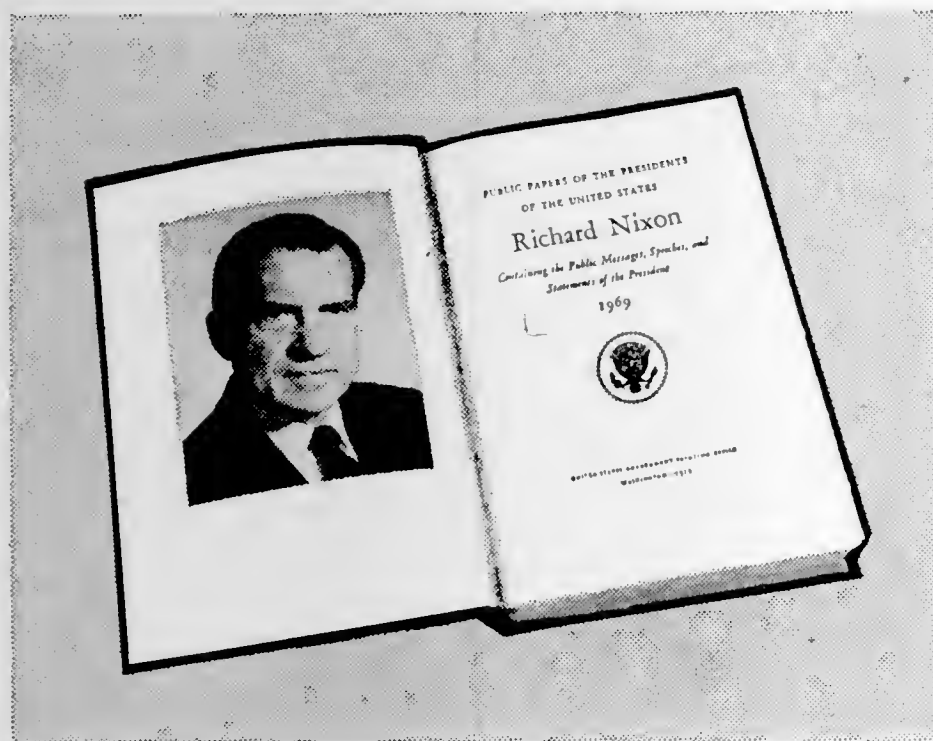
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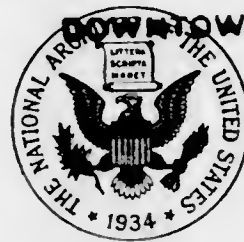
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JUN 16 1971

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PROCLAMATION 4059

Fire Prevention Week, 1971

By the President of the United States of America

A Proclamation

Despite unparalleled technological advances in many areas of our society, uncontrolled fires continue to bring a great deal of tragedy and widespread loss to our Nation. Fires now kill more than 12,000 persons each year and cause annual property losses exceeding \$2 billion.

The most shameful aspect of this terrible waste is that it is so unnecessary. Most fires are caused by carelessness, by lack of knowledge, or by hazardous conditions—all of which can be eliminated. But while we all give occasional lip-service to the importance of fire prevention, our deeds too often fail to match our words—and so the loss continues.

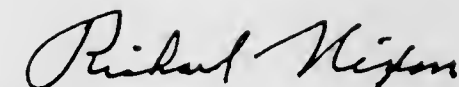
But this pattern need not continue. If each of us will only focus his attention on the practical implications of fire prevention in his daily life, a great deal can be done to reduce the destruction caused by fires.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning October 3, 1971, as Fire Prevention Week.

I call upon all citizens to participate in the fire prevention activities of their various governments, of community fire departments, and of the National Fire Protection Association. Every person should be alert to the ways in which he can eliminate fire hazards. Every citizen should learn how to report fires, how to use basic extinguishing agents and firefighting techniques, and how to react when major fires strike his place of work or his residence. The need to rethink all of these matters is especially important as new technologies change our living environments and the nature of the fire risks we encounter.

I also encourage all Federal agencies, in cooperation with the Federal Fire Council, to conduct effective fire prevention programs, including fire exit drills and other means of training employees, in order to help reduce this waste of life and resources which now plagues our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of June in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.



[FR Doc. 71-8113 Filed 6-7-71; 2:27 pm]

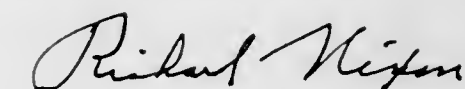
FEDERAL REGISTER, VOL. 36, NO. 111—WEDNESDAY, JUNE 9, 1971

EXECUTIVE ORDER 11596

Designating the Customs Cooperation Council as a Public International Organization Entitled To Enjoy Certain Privileges, Exemptions, and Immunities

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288), and having found that the United States participates in the Customs Cooperation Council pursuant to the Convention Establishing a Customs Cooperation Council of December 15, 1950, TIAS 7063, I hereby designate the Customs Cooperation Council as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act.

The designation of the Customs Cooperation Council as a public international organization within the meaning of the International Organizations Immunities Act shall not be deemed to abridge in any respect privileges, exemptions, and immunities which the organization may have acquired or may acquire by treaty or Congressional action.



THE WHITE HOUSE,
June 5, 1971.

[FR Doc. 71-8112 Filed 6-7-71; 2:27 pm]

Rules and Regulations

Title 7—AGRICULTURE

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1971 Crop Oat Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1971 Crop Oat Loan and Purchase Program

Correction

In F.R. Doc. 71-7016 appearing at page 9236 in the issue of Friday, May 21, 1971, in § 1421.274(a), the support rate per bushel for "All counties" in the State of Oklahoma reading "\$0.63" should read "\$0.64".

SUBCHAPTER C—EXPORT PROGRAMS

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM-4, Revision II)

DAIRY BREEDING CATTLE; CORRECTION

F.R. Doc. 71-7163, published at pages 9439-9442 in the issue dated Tuesday, May 25, 1971, is corrected by changing "DHIR" to read "DHI" in paragraphs D.2.(a), D.3., and E. of Exhibit I to Supplement II.

Signed at Washington, D.C., on June 2, 1971.

CLIFFORD G. PULVERMACHER,
Vice President, Commodity
Credit Corporation, and Gen-
eral Sales Manager, Export
Marketing Service.

[FR Doc.71-8009 Filed 6-8-71;8:48 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one additional position of Assistant to the Secretary (Congressional Liaison) is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-9-71), subparagraph (26) of paragraph (a) of § 213.3312 is amended as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* . . .
(26) Three Assistants to the Secretary (Congressional Liaison).

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-7976 Filed 6-8-71;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Special Assistant to the Under Secretary is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-9-71), subparagraph (27) is added to paragraph (a) of § 213.3312 as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* . . .
(27) One Special Assistant to the Under Secretary.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-7975 Filed 6-8-71;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-WA-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Positive Control Area

On March 18, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 5249) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would expand the positive control area (PCA) from flight level 240 to

18,000 feet MSL in the western portion of the United States.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. A great number of comments were received in response to the notice. A great majority of the commentators objected to the proposal on the grounds that it would place an unnecessary restriction on aircraft operating under visual flight rules (see and void), and that it would place an undue burden on the air traffic control system. A large number of commentators believed it would seriously curtail soaring operations in an area where a great number of gliders and sail planes are operating.

The Federal Aviation Administration has consistently maintained that the risk of mid-air collision is less likely in a positive control environment than anywhere else in the system. Many aircraft now operate at closure speeds in excess of 1,000 knots. The "see and avoid" type of separation is increasingly less effective as closure speeds increase, since aircraft now can be upon each other before the pilots are able to detect other aircraft and maneuver to avoid collision. Designation of this strata as positive control area would augment "see and avoid" with provision of air traffic control services including radar. The FAA believes that safety considerations require the action being taken.

As was stated in the notice, the Federal Aviation Administration has determined that it now has sufficient equipment and personnel to provide the expanded positive control services in the area proposed in the notice.

The Federal Aviation Administration believes that the fear of glider enthusiasts that soaring would be seriously curtailed are unfounded. Currently, several areas have been allocated for soaring activities. Air traffic control facilities have executed letters of procedures with soaring organizations to enable them to operate with minimum interference. In addition, waivers have been granted for special soaring operations in other positive control airspace. The requirement to coordinate special flight into positive control airspace remains the same. It is the opinion of the FAA that the possible inconvenience to soaring activities caused by lowering the ceiling of the APC is offset by the safety considerations involved.

The area defined in the notice was designed to encompass entire air route traffic control center areas. Since issuance of the notice several alterations to center boundaries have been effected. As the changes are not of great significance to the user and relate primarily to the

internal operation of the air traffic control system, the changes are reflected herein.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., July 22, 1971 as hereinafter set forth.

Section 71.193 (36 F.R. 5675) is amended by deleting all after "Continental Control Area" and substituting therefor:

That airspace within the continental control area from flight level 240 to and including flight level 600 bounded by a line beginning at lat. 38°00'00" N., long. 75°11'00" W., thence via a line 3 nautical miles from the coastline to the United States/Mexican border, thence along the United States/Mexican border to lat. 32°15'00" N., long. 114°00'00" W., thence to lat. 34°02'00" N., long. 114°00'00" W., thence to lat. 34°11'00" N., long. 113°30'00" W., thence to lat. 34°58'00" N., long. 113°30'00" W., thence to lat. 35°23'00" N., long. 112°40'00" W., thence to lat. 35°28'00" N., long. 112°00'00" W., thence to lat. 35°26'00" N., long. 110°00'00" W., thence to lat. 36°43'00" N., long. 105°00'00" W., thence to lat. 37°30'00" N., long. 102°33'00" W., thence to lat. 38°28'00" N., long. 101°50'00" W., thence to lat. 38°38'00" N., long. 101°28'00" W., thence to lat. 38°49'00" N., long. 100°50'00" W., thence to lat. 38°56'00" N., long. 99°42'00" W., thence to lat. 39°23'00" N., long. 99°04'00" W., thence to lat. 38°47'00" N., long. 98°24'00" W., thence to lat. 38°22'00" N., long. 96°22'00" W., thence to lat. 38°04'00" N., long. 96°00'00" W., thence to lat. 36°42'00" N., long. 95°53'00" W., thence to lat. 36°55'00" N., long. 95°05'00" W., thence to lat. 36°26'00" N., long. 94°41'00" W., thence to lat. 37°09'00" N., long. 90°34'00" W., thence to lat. 37°32'00" N., long. 88°50'00" W., thence to lat. 37°43'30" N., long. 88°19'00" W., thence to lat. 37°16'30" N., long. 87°23'50" W., thence to lat. 37°18'00" N., long. 88°09'00" W., thence to lat. 36°54'00" N., long. 85°35'00" W., thence to lat. 36°11'00" N., long. 85°24'00" W., thence to lat. 36°12'30" N., long. 85°10'30" W., thence to lat. 36°30'00" N., long. 84°45'00" W., thence to lat. 36°34'00" N., long. 84°01'00" W., thence to lat. 37°11'30" N., long. 81°09'00" W., thence to lat. 37°16'00" N., long. 80°53'00" W., thence to lat. 37°18'15" N., long. 80°44'45" W., thence to lat. 37°00'00" N., long. 80°25'10" W., thence to lat. 36°19'00" N., long. 79°16'00" W., thence to lat. 37°01'00" N., long. 77°55'00" W., thence to lat. 38°26'20" N., long. 77°03'15" W., thence to lat. 38°53'40" N., long. 75°51'20" W., thence to lat. 38°20'30" N., long. 75°36'40" W., thence to lat. 38°13'30" N., long. 75°41'00" W., thence to point of beginning, excluding the portion south of lat. 25°04'00" N.

That airspace within the continental control area from 18,000 feet MSL to and including flight level 600 bounded by a line beginning at: lat. 38°00'00" N., long. 75°11'00" W., thence to lat. 38°13'30" N., long.

75°41'00" W., thence to lat. 38°20'30" N., long. 75°36'40" W., thence to lat. 38°53'40" N., long. 75°51'20" W., thence to lat. 38°26'20" N., long. 77°03'15" W., thence to lat. 37°01'00" N., long. 77°55'00" W., thence to lat. 36°19'00" N., long. 79°16'00" W., thence to lat. 37°00'00" N., long. 80°25'10" W., thence to lat. 37°12'15" N., long. 80°25'45" W., thence to lat. 37°18'15" N., long. 80°44'45" W., thence to lat. 37°16'00" N., long. 80°53'00" W., thence to lat. 37°11'30" N., long. 81°09'00" W., thence to lat. 36°34'00" N., long. 84°01'00" W., thence to lat. 36°30'00" N., long. 84°45'00" W., thence to lat. 36°12'30" N., long. 85°10'30" W., thence to lat. 36°11'00" N., long. 85°24'00" W., thence to lat. 36°54'00" N., long. 85°35'00" W., thence to lat. 37°18'00" N., long. 86°09'00" W., thence to lat. 37°16'30" N., long. 87°23'50" W., thence to lat. 37°43'30" N., long. 88°19'00" W., thence to lat. 37°32'00" N., long. 88°50'00" W., thence to lat. 37°09'00" N., long. 90°34'00" W., thence to lat. 36°26'00" N., long. 94°41'00" W., thence to lat. 36°55'00" N., long. 95°05'00" W., thence to lat. 36°42'00" N., long. 95°53'00" W., thence to lat. 38°04'00" N., long. 96°00'00" W., thence to lat. 38°22'00" N., long. 96°22'00" W., thence to lat. 38°47'00" N., long. 98°24'00" W., thence to lat. 38°22'00" N., long. 98°24'00" W., thence to lat. 38°47'00" N., long. 99°04'00" W., thence to lat. 38°49'00" N., long. 99°04'00" W., thence to lat. 38°49'00" N., long. 100°50'00" W., thence to lat. 38°36'00" N., long. 101°28'00" W., thence to lat. 38°28'00" N., long. 101°50'00" W., thence to lat. 37°30'00" N., long. 102°33'00" W., thence to lat. 36°43'00" N., long. 105°00'00" W., thence to lat. 35°28'00" N., long. 110°00'00" W., thence to lat. 35°26'00" N., long. 112°00'00" W., thence to lat. 35°23'00" N., long. 112°40'00" W., thence to lat. 34°58'00" N., long. 113°30'00" W., thence to lat. 34°11'00" N., long. 113°30'00" W., thence to lat. 34°02'00" N., long. 114°00'00" W., thence to lat. 32°15'00" N., long. 114°00'00" W., thence along United States/Mexico boundary to lat. 32°31'00" N., long. 117°11'00" W., thence via a line 3 nautical miles from the coastline to lat. 48°30'00" N., long. 124°45'00" W., thence along the United States/Canadian border to lat. 45°01'00" N., long. 71°29'00" W., thence to lat. 45°17'00" N., long. 71°20'00" W., thence to lat. 45°17'20" N., long. 71°16'00" W., thence along United States/Canadian border to lat. 45°18'10" N., long. 71°05'40" W., thence to lat. 45°19'00" N., long. 70°56'00" W., thence along the United States/Canadian border to lat. 45°19'55" N., long. 70°49'00" W., thence to lat. 45°20'40" N., long. 70°39'30" W., thence to lat. 45°40'40" N., long. 70°30'30" W., thence along the United States/Canadian border to lat. 45°40'20" N., long. 67°48'30" W., thence to lat. 45°37'30" N., long. 67°29'00" W., thence along the United States/Canadian border to lat. 44°48'00" N., long. 66°53'00" W., thence via a line 3 nautical miles from the coastline to lat. 44°01'00" N., long. 69°01'00" W., thence to lat. 43°47'48" N., long. 69°23'20" W., thence via a line 3 nautical miles from the coastline to lat. 43°09'31" N., long. 70°31'24" W., thence to lat. 43°07'40" N., long. 70°32'45" W., thence to lat. 43°03'16" N., long. 70°36'17" W., thence to lat. 42°57'43" N., long. 70°41'49" W., thence to via a line 3 nautical miles from the coastline to lat. 41°59'10" N., long. 70°32'10" W., thence to lat. 42°05'45" N., long. 70°17'50" W., thence to via a line 3 nautical miles from the coastline to lat. 41°29'54" N., long. 70°30'26" W., thence to lat. 41°26'24" N., long. 71°05'38" W., thence to via a line 3 nautical miles from the coastline to lat. 41°16'30" N., long. 71°47'35" W., thence to lat. 41°04'50" N., long. 71°47'25" W., thence to lat. 41°01'20" N., long. 71°50'45" W., thence via a line 3 nautical miles from the coastline to point of beginning, excluding the Santa Barbara Islands, Farallon Island.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 4, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8050 Filed 6-8-71; 8:49 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 1—GENERAL PROCEDURES

Subpart H—Administration of the Fair Credit Reporting Act

Correction

In F.R. Doc. 71-7165 appearing at page 9293 in the issue of Saturday, May 22, 1971, the citation "83 Stat. 1128" in the authority following the table of contents should read "84 Stat. 1128".

SUBCHAPTER E—RULES, REGULATIONS, STATEMENTS OF GENERAL POLICY OR INTERPRETATION AND EXEMPTIONS UNDER THE FAIR PACKAGING AND LABELING ACT

PART 501—EXEMPTIONS FROM REQUIREMENTS AND PROHIBITIONS UNDER PART 500

Candles

Correction

In F.R. Doc. 71-7823 appearing at page 10846 in the issue of Friday, June 4, 1971, the date of filing of the document now reading "5-3-71" should read "6-3-71".

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Florida	Pinellas	Clearwater	112 103 0570 05 through 112 103 0570 08	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, FL 32301.	City Hall Lobby, Clearwater City Hall, Clearwater, Fla. 33518.	June 4, 1971.
Do.	Broward	Hollywood		State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.		Do.
Georgia	Chatham	Port Wentworth	115 001 1900 05 through 115 001 1900 08	Department of Land and Natural Resources, Box 621, Honolulu, HI 96809.	County of Hawaii Planning Department, 25 Aupuni St., Hilo, HI 96720.	Do.
Hawaii	Hawaii	Hilo and vicinity		Hawaii Insurance Department, Box 3614, Honolulu, HI 96811.		Do.
Kansas	Ford	Dodge City				Do.
Texas	Grayson	Sherman	148 181 6350 03 through 148 181 6350 14	Texas Water Development Board, 301 West 2d St., Austin, TX 78711.	Office of Urban Affairs, 3d Floor, Municipal Bldg., Sherman, TX 75090.	Do.
				Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: June 9, 1971.

[FR Doc.71-8011 Filed 6-8-71; 8:48 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Florida	Pinellas	Clearwater	112 103 0570 05 through 112 103 0570 08	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, Fla. 32301.	City Hall Lobby, Clearwater City Hall, Clearwater, Fla. 33518.	June 27, 1970.
Do.	Broward	Hollywood		State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.		June 9, 1971.
Georgia	Chatham	Port Wentworth	115 001 1900 05 through 115 001 1900 08	Department of Land and Natural Resources, Box 621, Honolulu, HI 96809.	County of Hawaii Planning Department, 25 Aupuni St., Hilo, HI 96720.	Do.
Hawaii	Hawaii	Hilo and vicinity		Hawaii Insurance Department, Box 3614, Honolulu, HI 96811.		June 5, 1970.
Kansas	Ford	Dodge City				June 9, 1971.
Texas	Grayson	Sherman	148 181 6350 03 through 148 181 6350 14	Texas Water Development Board, 301 West 2d St., Austin, TX 78711.	Office of Urban Affairs, 3d Floor, Municipal Bldg., Sherman, TX 75090.	May 21, 1970 and June 9, 1971.
				Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: June 9, 1971.

[FR Doc.71-8012 Filed 6-8-71; 8:48 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service,
Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7123]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Low Income Allowance and Standard Deduction

On January 1, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 4, 141, 143, and 144 of the Internal Revenue Code of 1954 to conform to section 802 of the Tax Reform Act of 1969 (83 Stat. 676) was published in the FEDERAL REGISTER (36 F.R. 17). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of regulations as proposed is hereby adopted.

(Sec. 7805, Internal Revenue Code of 1954, (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of
Internal Revenue.

Approved: June 2, 1971.

EDWIN S. COHEN,
Assistant Secretary
of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 4, 141, 143, and 144 of the Internal Revenue Code of 1954 to section 802 of the Tax Reform Act of 1969 (83 Stat. 676), such regulations are amended as follows:

PARAGRAPH 1. Section 1.4 is amended by revising subsections (a), (c), and (f) (4) of section 4 and by revising the historical note to read as follows:

§ 1.4 Statutory provisions; rules for optional tax.

SEC. 4. Rules for optional tax—(a) Number of exemptions. For purposes of the tables prescribed by the Secretary or his delegate pursuant to section 3, the term "number of exemptions" means the number of exemptions allowed under section 151 as deductions in computing taxable income.

(c) Husband or wife filing separate return. (1) A husband or wife may not elect to pay the optional tax imposed by section 3 if the tax of the other spouse is determined under section 1 on the basis of taxable income computed without regard to the standard deduction.

(2) Except as otherwise provided in this subsection, in the case of a husband or wife filing a separate return the tax imposed by section 3 shall be the lesser of the tax shown in—

(A) The table prescribed under section 3 applicable in the case of married persons filing separate returns which applies the percentage standard deduction, or

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(B) The table prescribed under section 3 applicable in the case of married persons filing separate returns which applies the low income allowance.

(3) The table referred to in paragraph (2) (B) shall not apply in the case of a husband or wife filing a separate return if the tax of the other spouse is determined with regard to the percentage standard deduction; except that an individual described in section 141(d) (2) may elect (under regulations prescribed by the Secretary or his delegate) to pay the tax shown in the table referred to in paragraph (2) (B) in lieu of the tax shown in the table referred to in paragraph (2) (A). For purposes of this title, an election under the preceding sentence shall be treated as an election made under section 141(d) (2).

(4) For purposes of this subsection, determination of marital status shall be made under section 143.

(f) Cross references. . . .

(4) For computation of tax by Secretary or his delegate, see section 6014.

[Sec. 4 as amended by secs. 232(f) (1) and 301(b) (1) and (3), Rev. Act 1964 (78 Stat. 111, 140); secs. 802(c) (1), (2), and (3), Tax Reform Act 1969 (83 Stat. 677, 678)]

PAR. 2. Section 1.4-3 is amended by revising paragraph (b) (1), by redesignating paragraph (c) as paragraph (d), by revising such redesignated paragraph, and by adding a new paragraph (c), to read as follows:

§ 1.4-3 Husband and wife filing separate returns.

(b) Taxable years beginning after December 31, 1963, and before January 1, 1970. (1) In the case of a husband and wife filing a separate return for a taxable year beginning after December 31, 1963, and before January 1, 1970, the optional tax imposed by section 3 shall be—

(i) For taxable years beginning in 1964, the lesser of the tax shown in Table IV (relating to the 10-percent standard deduction for married persons filing separate returns) or Table V (relating to the minimum standard deduction for married persons filing separate returns) of section 3(a), and

(ii) For a taxable year beginning after December 31, 1964, and before January 1, 1970, the lesser of the tax shown in Table IV (relating to the 10-percent standard deduction for married persons filing separate returns) or Table V (relating to minimum standard deduction for married persons filing separate returns) of section 3(b).

(c) Taxable years beginning after December 31, 1969. (1) In the case of a husband and wife filing a separate return for a taxable year beginning after December 31, 1969, the optional tax imposed by section 3 shall be the lesser of the tax shown in—

(i) The table prescribed under section 3 applicable to such taxable year in the case of married persons filing separate returns which applies the percentage standard deduction, or

(ii) The table prescribed under section 3 applicable to such taxable year in

the case of married persons filing separate returns which applies the low income allowance.

(2) If the tax of one spouse is determined by the table described in subparagraph (1) (i) of this paragraph or if such spouse in computing taxable income uses the percentage standard deduction provided for in section 141(b), then the table described in subparagraph (1) (ii) of this paragraph shall not apply in the case of the other spouse, if such other spouse elects to pay the optional tax imposed under section 3. Thus, if a husband and wife compute the tax with reference to the standard deduction, one cannot elect to use the percentage standard deduction and the other elect to use the low income allowance. A married individual described in section 141(d) (2) may elect pursuant to such section and the regulations thereunder to pay the tax shown in the table described by subparagraph (1) (ii) of this paragraph in lieu of the tax shown in the table described by subparagraph (1) (i) of this paragraph. See section 141(d) and the regulations thereunder for rules relating to the standard deduction in the case of married individuals filing separate returns.

(d) Determination of marital status. For the purpose of applying the restrictions upon the right of a married person to elect to pay the tax under section 3, (1) the determination of marital status is made as of the close of the taxpayer's taxable year or, if his spouse died during such year, as of the date of death; (2) a person legally separated from his spouse under a decree of divorce or separate maintenance on the last day of his taxable year (or the date of death of his spouse, whichever is applicable) is not considered as married; and (3) with respect to taxable years beginning after December 31, 1969, a person, although considered as married within the meaning of section 143(a), is considered as not married if he lives apart from his spouse and satisfies the requirements set forth in section 143(b). See section 143 and the regulations thereunder.

PAR. 3. Section 1.141 is revised to read as follows:

§ 1.141 Statutory provisions; standard deduction.

SEC. 141. Standard deduction—(a) Standard deduction. Except as otherwise provided in this section, the standard deduction referred to in this title is the larger of the percentage standard deduction or the low income allowance.

(b) Percentage standard deduction. The percentage standard deduction is an amount equal to the applicable percentage of adjusted gross income shown in the following table, but not to exceed the maximum amount shown in such table (or one-half of such maximum amount in the case of a separate return by a married individual):

Taxable years beginning in—	Applicable percentage	Maximum amount
1970.....	10	\$1,000
1971.....	13	1,500
1972.....	14	2,000
1973 and thereafter.....	15	2,000

[For Code sec. 141(c) as amended effective for taxable years beginning after December 31, 1971, see sec. 141(c) immediately following this sec. 141(c)]

(c) Low income allowance—(1) In general. The low income allowance is an amount equal to the sum of—

(A) The basic allowance, and

(B) The additional allowance.

(2) Basic allowance. For purposes of this subsection, the basic allowance is an amount equal to the sum of—

(A) \$200, plus

(B) \$100, multiplied by the number of exemptions.

The basic allowance shall not exceed \$1,000.

(3) Additional allowance—(A) In general. For purposes of this subsection, the additional allowance is an amount equal to the excess (if any) of \$900 over the sum of—

(i) \$100, multiplied by the number of exemptions, plus

(ii) The income phase-out.

(B) Income phase-out. For purposes of subparagraph (A) (ii), the income phase-out is an amount equal to one-half of the amount by which the adjusted gross income for the taxable year exceeds the sum of—

(i) \$1,100, plus

(ii) \$625, multiplied by the number of exemptions.

(4) Married individuals filing separate returns. In the case of a married taxpayer filing a separate return—

(A) The low income allowance is an amount equal to the basic allowance, and

(B) The basic allowance is an amount (not in excess of \$500) equal to the sum of—

(i) \$100, plus

(ii) \$100, multiplied by the number of exemptions.

(5) Number of exemptions. For purposes of this subsection, the number of exemptions is the number of exemptions allowed as a deduction for the taxable year under section 151.

(6) Special rule for 1971. For a taxable year beginning after December 31, 1970, and before January 1, 1972,—

(A) Paragraph (3) (A) shall be applied by substituting "\$850" for "\$900",

(B) Paragraph (3) (B) shall be applied by substituting "one-fifteenth" for "one-half",

(C) Paragraph (3) (B) (i) shall be applied by substituting "\$1,050" for "\$1,100", and

(D) Paragraph (3) (B) (ii) shall be applied by substituting "\$650" for "\$625".

[Sec. 141(c) as amended effective for taxable years beginning after Dec. 31, 1971]

(c) Low income allowance. The low income allowance is \$1,000 (\$500, in the case of a married individual filing a separate return).

(d) Married individuals filing separate returns. Notwithstanding subsection (a)—

(1) The low income allowance shall not apply in the case of a separate return by a married individual if the tax of the other spouse is determined with regard to the percentage standard deduction.

(2) A married individual filing a separate return may, if the low income allowance is less than the percentage standard deduction, and if the low income allowance of his spouse is greater than the percentage standard deduction of such spouse, elect (under regulations prescribed by the Secretary or his delegate) to have his tax determined with regard to the low income allowance in lieu of being determined with regard to the percentage standard deduction.

[Sec. 141 as amended by sec. 112(a), Rev. Act 1964 (78 Stat. 23); sec. 802 (a), (c) (4), and (e), Tax Reform Act 1969 (83 Stat. 676, 678)]

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PAR. 4. Section 1.141-1 is amended by revising paragraph (a), redesignating paragraphs (d) and (e) as paragraphs (f) and (g), respectively, revising redesignated paragraph (f), and adding new paragraphs (d), (e), and (h), to read as follows:

§ 1.141-1 Standard deduction.

(a) In general. The standard deduction referred to in this section is:

(1) For taxable years beginning before January 1, 1964, the 10-percent standard deduction,

(2) For taxable years beginning after December 31, 1963, and before January 1, 1970, the larger of the 10-percent standard deduction or the minimum standard deduction, and

(3) For taxable years beginning after December 31, 1969, the larger of the percentage standard deduction or the low income allowance.

The taxpayer may elect to take, in addition to the deductions from gross income allowable in computing adjusted gross income and the deduction described in section 151 relating to personal exemptions, a standard deduction in lieu of all deductions other than those described in section 62 and in lieu of certain credits allowable to the taxpayer, had he not so elected. See section 36. Such credits include: The credit provided by section 33 for taxes imposed by foreign countries and possessions of the United States; the credit provided by section 32 for tax withheld at source under section 1451 by the obligor on tax-free covenant bonds with respect to interest on such bonds; and the credit provided by section 35 with respect to interest on United States obligations and interest on obligations of instrumentalities of the United States. In the case of a taxable year beginning before January 1, 1970, such standard deduction, however, may in no event exceed \$1,000, or \$500 in the case of a separate return by a married individual. For determination of marital status see § 1.143-1. See section 4 and the regulations thereunder for rules relating to standard deduction in respect of optional tax. The optional tax tables provided for in section 3 reflect the standard deduction provided for in section 141.

(d) Percentage standard deduction. The percentage standard deduction is an amount equal to the applicable percentage of adjusted gross income shown in the following table, but not to exceed the maximum amount shown in such table (or one-half of such maximum amount in the case of a separate return by a married individual):

Taxable years beginning in—	Applicable percentage	Maximum amount
1970.....	10	\$1,000
1971.....	13	1,500
1972.....	14	2,000
1973 and thereafter.....	15	2,000

(e) Low income allowance—(1) In general—(i) For taxable years beginning in 1970 and 1971. For taxable years beginning after December 31, 1969, and before January 1, 1972, the low income allowance is an amount equal to the sum of the basic allowance and the additional allowance. The low income allowance is never less than the basic allowance. In the case of a married taxpayer (as determined by applying section 143(a), but not including an individual who is not considered as married, as determined by applying section 143(b)), filing a separate return, however, the low income allowance is equal to the basic allowance, and the basic allowance is an amount (not in excess of \$500) equal to the sum of (a) \$100, plus (b) \$100, multiplied by the number of exemptions allowed as a deduction for the taxable year under section 151.

(ii) For taxable years beginning after December 31, 1971. For taxable years beginning after December 31, 1971, the low income allowance is \$1,000 in the case of a return of an individual who is not married (including an individual who is not considered as married by virtue of section 143(b)) or in the case of a joint return of a married couple. The low income allowance is \$500 in the case of a married individual filing a separate return.

(2) Basic allowance. The basic allowance is an amount, not in excess of \$1,000, equal to the sum of—

(i) \$200, plus

(ii) \$100, multiplied by the number of exemptions allowed as a deduction for the taxable year under section 151.

(3) Additional allowance—(i) In general. The additional allowance is an amount equal to the excess (if any) of \$900 (\$850, in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972) over the sum of—

(a) \$100, multiplied by the number of such exemptions, plus

(b) The income phase-out, if any.

(ii) Income phase-out. The income phase-out is an amount equal to one-half (one-fifteenth in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972) of the amount (if any) by which the adjusted gross income for the taxable year exceeds the sum of—

(a) \$1,100 (\$1,050, in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972), plus

(b) \$625 (\$650, in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972) multiplied by the number of such exemptions.

(4) Examples. The application of this section may be illustrated by the following examples:

Example (1). H, a married individual, files a joint return with W, his wife, for calendar year 1970. Their combined adjusted gross income for that year is \$5,000. They are entitled to six exemptions under section 151 for the year. Their standard deduction is the low income allowance (\$1,025.00) since it is larger than the percentage standard deduction (\$500) and is computed as follows:

Percentage standard deduction (10% of \$5,000).....	\$500
Low income allowance:	
(i) Basic allowance (\$200, plus \$100 multiplied by the number of exemptions [6], but not in excess of \$1,000).....	\$800
Plus	
(ii) Additional allowance (Excess of \$900 over the sum of \$100 multiplied by the number of exemptions and the income phase-out):	
(a) \$100×number of exemptions (6).....	\$600
Plus	
(b) Income phase-out:	
(1) Adjusted gross income.....	\$5,000
(2) Less (\$1,100 + [625×6]).....	4,850
	150
(3) Income phase-out (1/2×150).....	75
(c) Additional allowance (\$900—[600+75]).....	225
(iii) Low income allowance (basic allowance [\$800] plus additional allowance [225]).....	1,025

Example (2). H, a married individual, files a joint return with W, his wife, for calendar year 1971. Their combined adjusted gross income for that year is \$5,000. They are entitled to six exemptions under section 151 for the year. Their standard deduction is the low income allowance (\$1,046.67) since it is larger than the percentage standard deduction (\$650) and is computed as follows:

Percentage standard deduction (13% of \$5,000).....	\$650.00
Low income allowance:	
(i) Basic allowance (\$200, plus \$100 multiplied by the number of exemptions [6], but not in excess of \$1,000).....	\$800.00
Plus	
(ii) Additional allowance (Excess of \$850 over the sum of \$100 multiplied by the number of exemptions and the income phase-out):	
(a) \$100×number of exemptions (6).....	\$600.00
Plus	
(b) Income phase-out:	
(1) Adjusted gross income.....	\$5,000.00
(2) Less (\$1,050 + [650×6]).....	4,950.00
	50.00
(3) Income phase-out (1/2×50).....	3.33
(c) Additional allowance (\$850—[600+3.33]).....	246.67
(iii) Low income allowance (Basic allowance [\$800] plus additional allowance [246.67]).....	1,046.67

Example (3). H, a married taxpayer living with his spouse, files a separate return for 1971 and has adjusted gross income of \$3,000 for that year. He is entitled to six exemptions under section 151 for the year. His standard deduction is the low income allowance which is equal to the basic allowance (not in excess of \$500), and is computed as follows:

Percentage standard deduction (\$3,000 × 13%).....	\$390
Low income allowance:	
Basic allowance (\$100, plus \$100 multiplied by number of exemptions [6] but not in excess of \$500).....	\$500
Low income allowance.....	500

Example (4). H, a married individual entitled to six exemptions, files a separate return for 1971, is living apart from his spouse, and qualifies under section 143(b) and paragraph (b) of § 1.143-1 to be considered as not married. H has adjusted gross income of \$5,000. His standard deduction is the low income allowance (\$1,046.67) and is computed in the manner shown in example (2).

(f) *Married individuals filing separate returns.* (1) In the case of a married individual filing a separate return for a taxable year beginning after December 31, 1969, the low income allowance shall not apply if the tax of the other spouse is determined with regard to the percentage standard deduction or is com-

puted by the Internal Revenue Service pursuant to section 6014.

(2) A married individual filing a separate return for a taxable year beginning after December 31, 1969, may elect to determine his tax with regard to the low income allowance in lieu of determining it under the percentage standard deduction although his low income allowance is less than the percentage standard deduction if the low income allowance of his spouse is greater than the percentage standard deduction of such spouse. A taxpayer shall signify on his return his election to determine his tax with regard to the low income allowance by claiming thereon the deduction in the amount provided for in section 141(c) instead of the amount provided for in section 141(b).

(3) In the case of a taxable year beginning after December 31, 1963, and before January 1, 1970, subparagraphs (1) and (2) of this paragraph shall be applied by substituting "minimum standard deduction", "the 10-percent standard deduction", and "December 31, 1963, and before January 1, 1970" for "low income allowance", "percentage standard deduction", and "December 31, 1969", respectively.

(4) For rules relating to the election to pay the optional tax imposed by section 3 when married individuals file separate returns, see section 4(c) and the regulations thereunder.

(g) *Short taxable year due to death of taxpayer.* An election to take the standard deduction may be made for a taxable year which is less than 12 months on account of the death of the taxpayer.

(h) *Cross reference.* For the computation of the standard deduction for a fiscal year beginning in 1969, 1970, 1971, or 1972, see section 21(d) and the regulations thereunder.

PAR. 5. Section 1.143 is amended by revising section 143 and by adding a historical note to read as follows:

§ 1.143 Statutory provisions; determination of marital status.

Sec. 143. *Determination of marital status—(a) General rule.* For purposes of this part—

(1) The determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

(2) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(b) *Certain married individuals living apart.* For purposes of this part, if—

(1) An individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a dependent (A) who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the individual, and (B) with respect to whom such individual is entitled to a deduction for the taxable year under section 151,

(2) Such individual furnishes over half of the cost of maintaining such household during the taxable year, and

(3) During the entire taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married.

[Sec. 143 as amended by sec. 802(b), Tax Reform Act 1969 (83 Stat. 677)]

PAR. 6. Section 1.143-1 is amended to read as follows:

§ 1.143-1 *Determination of marital status.*

(a) *General rule.* The determination of whether an individual is married shall be made as of the close of his taxable year unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and, except as provided in paragraph (b) of this section, an individual shall be considered as married even though living apart from his spouse unless legally separated under a decree of divorce or separate maintenance. The provisions of this paragraph may be illustrated by the following examples:

Example (1). Taxpayer A and his wife B both make their returns on a calendar year basis. In July 1954, they enter into a separation agreement and thereafter live apart, but no decree of divorce or separate maintenance is issued until March 1955. If A

itemizes and claims his actual deductions on his return for the calendar year 1954, B may not elect the standard deduction on her return since B is considered as married to A (although permanently separated by agreement) on the last day of 1954.

Example (2). Taxpayer A makes his returns on the basis of a fiscal year ending June 30. His wife B makes her returns on the calendar year basis. A died in October 1954. In such case, since A and B were married as of the date of death, B may not elect the standard deduction for the calendar year 1954 if the income of A for the short taxable year ending with the date of his death is determined without regard to the standard deduction.

(b) *Certain married individuals living apart.* (1) For purposes of part IV of subchapter B of chapter 1 of the Code, an individual is not considered as married for taxable years beginning after December 31, 1969, if (i) such individual is married (within the meaning of paragraph (a) of this section) but files a separate return; (ii) such individual maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a dependent (A) who (within the meaning of section 152) and the regulations thereunder) is a son, stepson, daughter, or stepdaughter of the individual, and (b) with respect to whom such individual is entitled to a deduction for the taxable year under section 151; (iii) such individual furnishes over half of the cost of maintaining such household during the taxable year; and (iv) during the entire taxable year such individual's spouse is not a member of such household.

(2) For purposes of subparagraph (1) (ii) (a) of this paragraph, a legally adopted son or daughter of an individual, a child (described in paragraph (c) (2) of § 1.152-2) who is a member of an individual's household if placed with such individual by an authorized placement agency (as defined in paragraph (c) (2) of § 1.152-2) for legal adoption by such individual, or a foster child (described in paragraph (c) (4) of § 1.152-2) of an individual if such child satisfies the requirements of section 152(a) (9) of the Code and paragraph (b) of § 1.152-1 with respect to such individual, shall be treated as a son or daughter of such individual by blood.

(3) For purposes of subparagraph (1) (ii) of this paragraph, the household must actually constitute the home of the individual for his taxable year. However, a physical change in the location of such home will not prevent an individual from qualifying for the treatment provided in subparagraph (1) of this paragraph. It is not sufficient that the individual maintain the household without being its occupant. The individual and the dependent described in subparagraph (1) (ii) (a) of this paragraph must occupy the household for more than one-half of the taxable year of the individual. However, the fact that such dependent is born or dies within the taxable year will not prevent an individual from qualifying for such treatment if the household constitutes the principal place of abode of

such dependent for the remaining or preceding part of such taxable year. The individual and such dependent will be considered as occupying the household during temporary absences from the household due to special circumstances. A nonpermanent failure to occupy the common abode by reason of illness, education, business, vacation, military service, or a custody agreement under which a child or stepchild is absent for less than 6 months in the taxable year of the taxpayer, shall be considered a temporary absence due to special circumstances. Such absence will not prevent an individual from qualifying for the treatment provided in subparagraph (1) of this paragraph if (i) it is reasonable to assume that such individual or the dependent will return to the household and (ii) such individual continues to maintain such household or a substantially equivalent household in anticipation of such return.

(4) An individual shall be considered as maintaining a household only if he pays more than one-half of the cost thereof for his taxable year. The cost of maintaining a household shall be the expenses incurred for the mutual benefit of the occupants thereof by reason of its operation as the principal place of abode of such occupants for such taxable year. The cost of maintaining a household shall not include expenses otherwise incurred. The expenses of maintaining a household include property taxes, mortgage interest, rent, utility charges, upkeep and repairs, property insurance, and food consumed on the premises. Such expenses do not include the cost of clothing, education, medical treatment, vacations, life insurance, and transportation. In addition, the cost of maintaining a household shall not include any amount which represents the value of services rendered in the household by the taxpayer or by a dependent described in subparagraph (1) (ii) (a) of this paragraph.

(5) For purposes of subparagraph (1) (iv) of this paragraph, an individual's spouse is not a member of the household during a taxable year if such household does not constitute such spouse's place of abode at any time during such year. An individual's spouse will be considered to be a member of the household during temporary absences from the household due to special circumstances. A nonpermanent failure to occupy such household as his abode by reason of illness, education, business, vacation, or military service shall be considered a mere temporary absence due to special circumstances.

(6) The provisions of this paragraph may be illustrated by the following example:

Example. Taxpayer A, married to B at the close of the calendar year 1971, his taxable year, is living apart from B, but A is not legally separated from B under a decree of divorce or separate maintenance. A maintains a household as his home which is for 7 months of 1971 the principal place of abode of C, his son, with respect to whom A is entitled to a deduction under section 151. A pays for more than one-half the cost of maintaining that household. At no time dur-

ing 1971 was B a member of the household occupied by A and C. A files a separate return for 1971. Under these circumstances, A is considered as not married under section 143(b) for purposes of the standard deduction. Even though A is married and files a separate return A may claim for 1971 as his standard deduction the larger of the low income allowance up to a maximum of \$1,050 consisting of both the basic allowance and additional allowance (rather than the basic allowance only subject to the \$500 limitation applicable to a separate return of a married individual) or the percentage standard deduction subject to the \$1,500 limitation (rather than the \$750 limitation applicable to a separate return of a married individual). See § 1.141-1. For purposes of the provisions of part IV of subchapter B of chapter 1 of the Code and the regulations thereunder, A is treated as unmarried.

PAR. 7. Section 1.144-1 is amended by adding a new paragraph (d) to read as follows:

§ 1.144-1 *Manner and effect of election to take the standard deduction.*

(d) For determination of marital status, see § 1.143-1.

PAR. 8. Section 1.144-2 is amended by adding a new paragraph (e) to read as follows:

§ 1.144-2 *Change of election with respect to the standard deduction.*

(e) For determination of marital status, see § 1.143-1.

[FR Doc. 71-8047 Filed 6-8-71; 8:51 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70-43]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Bogue Sound, N.C.

This amendment revises the regulations for the North Carolina State Highway Commission drawbridge across Bogue Sound to extend the times during which the draw may remain closed and to change the times from eastern standard time to local time. This time change should eliminate the confusion that presently exists in converting eastern standard time to eastern daylight saving time. The present regulations allow the draw to remain closed from 12 m. to 6 p.m., e.s.t., from June 15 through Labor Day, on Saturdays, Sundays, and July 4, but require that the draw open at 2 p.m. and 4 p.m. for any vessels waiting to pass. This revision adds a period from May 1 through June 14, on Saturdays, Sundays, and national holidays from 1 p.m. to 7 p.m. during which the draw may remain closed and requires that the draw open on the hour for any vessel during this period. The draw is required to open at

any time for public vessels of the United States, towboats with tows, commercial vessels, and vessel in an emergency involving danger to life or property. This change is made to minimize vehicular traffic congestion during these periods.

This amendment was circulated as a public notice dated August 5, 1969, by the Commander, Fifth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 70-43) on April 15, 1970 (35 F.R. 6109).

In view of comments received, it appears that openings from May 1 through June 14 on the hour rather than half hour and hour would provide a smoother vehicular traffic flow and this change from the notice is made in the regulations. The Coast Guard believes that these less frequent openings do not unduly restrict navigation. This regulation may be revised in the future if a review of additional data indicates that further revision is desirable.

Accordingly, Part 117 is amended by revising § 117.355 to read as follows:

§ 117.355 Bogue Sound (Atlantic Intracoastal), N.C., North Carolina State Highway Commission Bridge at Atlantic Beach.

(a) The draw shall open on signal except—

(1) From May 1 through June 14, on Saturdays, Sundays, and national holidays, from 1 p.m. to 7 p.m., the draw need not open for the passage of vessel except that the draw shall open on the hour for any vessel; and

(2) From June 15 through Labor Day, on Saturdays, Sundays, and the Fourth of July from 1 p.m. to 7 p.m., the draw need not open for the passage of vessels except that the draw shall open at 3 p.m. and 5 p.m. for any vessels.

(b) The draw shall open on signal at any time, notwithstanding the provisions of paragraph (a) of this section for the passage of vessels of the United States, towboats with tows, commercial vessels, and any vessel in an emergency involving danger to life or property. An emergency shall be indicated by four blasts of a whistle, horn, or similar device.

(c) The owner of or agency controlling the bridge shall erect and maintain on the upstream and downstream sides of the bridge, on the bridge or elsewhere, signs acceptable to the District Commander setting forth the regulations in this section.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.48(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (5) (35 F.R. 15922))

Effective date. This revision shall become effective on July 9, 1971.

Dated: June 2, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations,
[FR Doc. 71-8040 Filed 6-8-71; 8:51 am]

RULES AND REGULATIONS

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

Miscellaneous Amendments

The table of contents of Part 5A-72 is amended by adding and revising the following entries:

Sec.	
5A-72.105-16	Monthly Supply Potential (MSP) and Method of Award clauses.
5A-72.106-7	Procurement of paints, dopes, varnishes, and related products (FSC Group 80).

Subpart 5A-72.6—Standby-Stock Procurement Policies and Procedures

5A-72.601	General.
5A-72.602	Application of Standby-Stock clause.
5A-72.603	Estimated requirements in solicitations.
5A-72.604	Initial standby-stock quantities.
5A-72.605	Standby-stock and other items in the same solicitation.
5A-72.606	Contract clauses.
5A-72.607	Contracting period.
5A-72.608	Placing delivery orders under standby-stock contracts.
5A-72.609	Action by quality control representative.
5A-72.610	Guarantee to purchase replacement quantities—notice of discontinuance.
5A-72.611	Standby-Stock clause.

AUTHORITY: The provisions of this Subpart 5A-72.6 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 428(c); 41 CFR 5-1.101(c).

Subpart 5A-72.1—Procurement of Stores Stock Items

1. Section 5A-72.105-6 is amended by adding paragraph (e) as follows:

§ 5A-72.105-6 Delivery conditions and shipping point.

(e) When required as part of the solicitation, the following Production Point clause shall be inserted (see FPR 1-2.201(b) (4)):

PRODUCTION POINT

Offeror shall insert, in the spaces below, the names of the manufacturers of the items offered and the address of the production facility (ies).

Item No.	Name of manufacturer	Production point (address, including county)

2. Section 5A-72.105-14 is amended as follows:

§ 5A-72.105-14 F.o.b. destination deliveries of less-than-carload quantities to GSA Supply Depots.

(b) Deductions from contractor's invoices pursuant to the clause in (a), above, will be made by the Finance Division in the appropriate Accounting Center making payment for the supplies and will be based on a statement furnished by the receiving supply depot indicating the amount to be deducted and the basis therefor.

3. Section 5A-72.105-15 is revised as follows:

§ 5A-72.105-15 Progressive awards.

(a) When it is expected that total requirements may exceed the quantity which any one supplier is willing or capable to allocate monthly toward such total requirements, the solicitation may provide for progressive awards, subject to the following limitations:

(1) Progressive awards should be avoided if the total requirements can be broken into smaller quantities by zoning them for separate delivery destinations within the continental United States or by providing for separate awards on an item-by-item basis even though like items are involved which would otherwise lend themselves to award in the aggregate.

(2) The progressive awards method should also be used only after the contracting officer has explored and found that the more preferable monthly supply potential (MSP) method is not feasible (see § 5A-72.105-16). The progressive awards clause (see (b) (8), below) shall not be used when the MSP method is used.

(b) When progressive awards are found to be the acceptable procurement method in accordance with (a), above, the contracting officer shall:

(1) Provide in the solicitation that offerors are permitted to indicate monthly quantity limitations for the items for which they can accept orders;

(2) Determine whether certain groups of items would involve the use of the same production facilities and, if so, request offerors to provide one monthly allocation for the whole group which may be applied to any line or combination of line items. Where knowledge of production techniques is insufficient to permit grouping by the contracting officer, offerors should be requested to group items on their own and to offer monthly allocations for each group;

(3) If monthly quantity limitations are indicated by offerors in accordance with (b) (1) above, they must be advised that, if progressive awards are made, orders in excess of those allocations may not be accepted;

(4) Reject offers which are considered unreasonably high (see § 1-2.404-2(c)) ;

(5) Make a sufficient number of awards to insure supply availability;

(6) Establish controls to insure that order in excess of the maximum monthly quantity allocation for the contractor who had offered the lowest price are issued to the next successively higher contractor (see § 5A-72.105-24) ;

(7) When applicable, successful offerors shall be advised in the award that progressive awards have been made;

(8) Because of the great diversity of the items which may be involved in a procurement by the progressive awards method, it is not possible to prescribe a uniform contract clause which would apply to all situations. Therefore the following clause is set forth only as a sample and a guide, subject to any necessary modifications to fit the particular situation.

PROGRESSIVE AWARDS AND MONTHLY QUANTITY ALLOCATIONS

(a) Monthly quantity allocation. (1) Set forth below are the Government's estimated annual and monthly requirements for each stock item covered by this invitation. In order to preclude the placement of orders with any Contractor in excess of his production capacity, bidders are requested to indicate, in the spaces provided, the total quantity per month which they are willing to furnish of any item, or group of items, involving the use of the same production facilities. Since the number of items on which any bidder may be eligible for award cannot be determined in advance of bid opening, bidders are urged, in making monthly allocations, to group, for allocation purposes, as many items as possible. Such grouping will make it possible for the Government to make fullest use of the production capabilities of each bidder. (2) Bidders need not limit their monthly quantity allocations to the Government's estimated monthly requirements, since additional unanticipated needs may occur during the period of the contract. If a bidder does not insert monthly allocation quantities, he will be deemed to offer to furnish all of the Government's requirements, even though they may exceed the stated estimated requirements.

Federal stock number	Estimated annual requirements	Estimated monthly requirements

(b) Progressive awards. If the low responsive bidder offers a monthly quantity allocation of less than the Government's estimated requirements, the Government may make progressive awards to the extent necessary to meet the estimated requirements. In such cases, awards will be made to the low responsive bidder, covering Government requirements up to that bidder's stated monthly quantity allocations, and then progressively to other bidders to the extent necessary.

(c) Ordering procedure. If progressive awards are made, orders will be placed first with the contractor offering the lowest price on each item normally up to that contractor's maximum quantity allocation and then,

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in the same manner, successively to other contractors. However, to avoid the placement of unduly small orders or the splitting of a single requirement between two contractors, the Government reserves the right to place orders with back-up contractors whenever the orders placed with lower priced contractors equal or exceed 95 percent of their monthly quantity allocation for the item or group of items being ordered. In no case will orders be placed with any contractor in excess of his monthly quantity allocation.

4. Section 5A-72.105-16 is revised as follows:

§ 5A-72.105-16 Monthly Supply Potential (MSP) and Method of Award clauses.

(a) **General.** The Monthly Supply Potential (MSP) clause and Method of Award clause (see (d) and (e), below) shall be included in all solicitations for requirements-type term contracts (see § 5A-72.105-3) under national and area contracting assignments for stock items, except where (1) another authorized clause is used to limit the contractor's obligation to deliver (e.g., Standby-Stock clause), or (2) the Director, Procurement Operations Division; the Director, Special Programs Division; or the Chief of a Regional Procurement Division authorizes an exception (in which case the file shall be documented accordingly). Use of these clauses is not mandatory in requirements-type term contracts issued by regional offices for their own regional requirements. However, the clauses should be used where the estimated requirements are substantial and it is anticipated that difficulties may otherwise be encountered because of inadequate production capacities of some offerors.

(b) **Purpose.** The purpose of the MSP clause is to provide for a maximum limit on the quantity the contractor is obligated to deliver under requirements contracts in those cases where the estimated requirements are expected to exceed the production capability of some prospective bidders (see § 1-3.409(b)). The use of the MSP clause also gives the Government an opportunity to make the fullest use of the low bidder's production capacity.

(c) **Guidelines for use of the MSP and Method of Award clauses.** (1) The MSP and Method of Award clauses provide that items or groups of items will not be subdivided for award purposes, which is different from progressive awards which are awards for partial quantities of an item to two or more offerors where the low acceptable offeror does not or cannot offer the full quantity (see § 5A-72.105-15).

(2) The MSP clause provides space for bidders to insert their MSP's for individual items or to furnish a combined MSP for all items or groups of items. This space shall not be rearranged or relocated in the item listing as it is designed to encourage bidders to furnish a combined MSP for as many items or groups of items as possible.

(3) Estimated requirements for the entire contract period shall be shown for

each item (or for a group of items, if award is to be made for a group of items in the aggregate).

(4) The estimated peak monthly requirements (EPMR), if any, shall be calculated for each item separately and shall be no higher than to cover anticipated normal upward requirements fluctuations. The EPMR stated in solicitations shall not exceed 150 percent of the monthly average of the estimated requirements unless authorized by the Director, Procurement Operations Division; the Director, Special Programs Division; or the Chief of a Regional Procurement Division.

(d) **The Monthly Supply Potential clause.**

MONTHLY SUPPLY POTENTIAL

Set forth in the Schedule of Items are the Government's estimated requirements for the period of this contract and estimated peak monthly requirements for each item or group of items covered by this solicitation. In order to preclude the placement of orders with any contractor in excess of his production capacity, offerors are requested to indicate, in the spaces provided, the total quantity per month which they are willing to furnish of any item or group of items involving the use of the same production facilities. Since the number of items or groups of items on which any offeror may be eligible for award cannot be determined in advance of opening of offers, offerors are urged, in setting their monthly supply potentials, to group as many items or groups of items as possible. Such grouping will make it possible for the Government to make fullest use of the production facilities of each offeror. For example, if an offeror's production facilities can be used to produce any of the items or groups of items covered by the solicitation, the offeror may insert a single overall limitation on the quantity he can supply applicable to all items or groups of items. Bidders are cautioned that in order to qualify for an award, the offeror's monthly supply potential must cover the Government's estimated peak monthly requirement for each group or individual item to be awarded to the offeror. Groups or individual items will not be subdivided for award purposes.

OFFEROR'S MONTHLY SUPPLY POTENTIAL	
Items or groups of items	Offeror's monthly supply potential

The Government is obligated to place pursuant to this contract all orders for the supplies covered herein, except (1) orders for less than that which may be specified in a Minimum Order Limitation clause, (2) orders in excess of that which may be specified in a Maximum Order Limitation clause, and (3) in the case of exigencies as specified in the Scope of Contract clause.

The Government's estimated peak monthly and estimated requirements for the period of this contract are furnished for the information of offerors, but shall not be construed to represent any amount which the Government shall be obligated to purchase under the contract (except as may be provided in a Guaranteed Minimum clause).

If an offeror does not provide a monthly supply potential, he will be deemed to offer to furnish one hundred and twenty-five percent (125%) of the Government's esti-

mated peak monthly requirement for the item or group of items, which quantity shall then be considered as his stated monthly supply potential.

For each item or groups of items awarded him pursuant to this solicitation, the successful offeror (Contractor) shall be obligated to fill all orders received by him during any one calendar month, calculated from the date of award, the total of which does not exceed either his stated monthly supply potential or one hundred and twenty-five percent (125%) of the estimated peak monthly requirement for the item or group of items, whichever is less.

The Contractor may, with respect to any item(s) or group of items, refuse to accept orders, or portions thereof, received during any one calendar month which exceed the monthly quantities he is required to accept. Provided, That such refusal to accept is communicated in writing to the office issuing such order(s) within 5 days of receipt of the order by the Contractor. Further, the Contractor is requested to notify the Contracting Officer when he has reached the required monthly quantity and will not accept additional orders for that month. Failure to communicate the refusal to accept to the office issuing the order within the time required shall be deemed to be acceptance of the order by the Contractor. Delivery (or "shipment", as the case may be) of all orders, or portions thereof, in excess of the required monthly quantity which have been accepted, or deemed to have been accepted, by the Contractor shall be made within the same number of days as is required for those orders not in excess of the required monthly quantity. The Contractor shall not accept any of these orders against the required monthly quantity for the succeeding month. Orders, or portions thereof, which have been properly refused by the Contractor may be procured outside of this contract without prejudice to either party.

(e) *The Method of Award clause for use with MSP clause.* (See § 5A-72.106-7 for paint contracts.) Both paragraphs (a) and (b) of the clause must be appropriately modified where the solicitation covers only items to be awarded individually or only groups of items to be awarded in the aggregate. Also, paragraph b(1) must be modified where other than the weighted factor formula method (e.g., preestablished price listed method) is to be used.

METHOD OF AWARD

(a) Award will be made in accordance with (b), below, on the basis of the Government's estimated peak monthly requirements, to the low responsive offeror(s) up to their stated monthly supply potentials. Within the limits prescribed by the offeror, the Government will apply offeror's monthly supply potential to any items or groups of items offered, as the Government's interests require. In order to qualify for an award, the offeror's monthly supply potential must cover the Government's estimated peak monthly requirement for each group or individual item to be awarded to the offeror. Groups or individual items will not be subdivided for award purposes.

(b) Award will be made as follows:
(1) Groups -----: In the aggregate by group. The low aggregate offeror will be determined by multiplying the unit price submitted on each item by the estimated quantity specified, and adding the resultant extensions. In order to qualify for an award on a group, prices must be submitted on each item within the group.

(2) Items -----: Item-by-Item

5. Section 5A-72.105-21 is revised by adding the Minimum Order Limitation clause.

§ 5A-72.105-21 Minimum orders.

(a) Where it is known that bidders are reluctant to accept small orders and will increase prices to cover additional costs for handling such orders, a minimum order provision shall be included in invitations for bids. Where the contract will cover the requirements of more than one region, the ordering pattern at the regions involved shall be considered in setting the minimum so as to limit the extent of open-market purchases of small requirements.

(b) The following clause shall be included in solicitations for offers when applicable in accordance with (a), above:

MINIMUM ORDER LIMITATION

No ordering office will be obligated to order and no contractor will be obligated to make any delivery amounting to less than -----, but such deliveries may be ordered by the Government subject to acceptance by the Contractor. Failure on the part of the Contractor to return the order by mailing or otherwise furnishing it to the ordering office within 5 working days after receipt shall constitute acceptance whereupon all other provisions of the contract shall apply to such order.

Notwithstanding the foregoing, where either Government Standard Unit Packing or Commercial Standard Unit Packing is specified in the contract, orders shall be placed only in the specified standard pack quantity or multiples thereof.

6. Section 5A-72.106-7 is added to provide guidelines for the procurement of paints, dopes, varnishes, and related products (FSC Group 80), as follows:

§ 5A-72.106-7 Procurement of paints, dopes, varnishes, and related products (FSC Group 80).

This section prescribes special clauses and guidelines applicable to the procurement of paints, dopes, varnishes, and related products (FSC Group 80 items).

(a) *The Minimum Order Limitation clause.* (See § 5A-72.105-21.)

(b) *The Method of Award clause.* This clause shall be used only in conjunction with the MSP clause (see § 5A-72.105-16(d)). Solicitations for paints, varnishes and related products shall provide for a 6-month contract period unless the buying office desires and determines it advantageous to provide for a 12-month period. In the latter case, offers shall be solicited for both a 6-month and a 12-month period and award shall be made for all items either for the 6- or the 12-month period. To provide for the foregoing the following clause shall be used. If it is contemplated to make awards in the aggregate, the clause shall be modified accordingly.

Enter the minimum economical quantity in terms of dollar amount, pounds, gallons, drums, packages, dozens, etc.; coinciding with unit(s) of issue specified in the schedule. Contracting officers shall consider the compatibility between the minimum order limitation and the normal standard pack.

METHOD OF AWARD

Award for all items will be made either for a 12-month contract period or a 6-month contract period, whichever results in the lowest total cost to the Government. For the purpose of determining whether award will be made for all items for the 12-month contract period or for all items for the 6-month contract period, offers will be evaluated as follows:

(a) The low responsive offers for each contract period for all items will be multiplied by the estimated quantity for each item and the resultant extensions will be added to determine the total cost for each contract period.

(b) The total cost for the 12-month contract period will be divided by two (2) and the result will be compared with the total cost for the 6-month contract period. Award will then be made for all items either for the 12-month contract period or for the 6-month contract period, whichever results in the lowest total cost to the Government.

(c) In the event offerors choose to limit their offers to either the 6-month contract period or the 12-month contract period, and, as a result of such limitation, offers for an item are received for only one of the two contract periods, such item will be excluded from the evaluation outlined in (a) and (b), above. However, if the contract period selected under (a) and (b) conforms to the contract period for any item on which offers were received for one contract period only, the Government reserves the right to make award on such item. If the contract period selected under (a) and (b) does not conform to the contract period for any item on which offers were received for one contract period only, such offers will not be considered for award.

Subject to the above, award will be made item-by-item on the basis of the Government's estimated peak monthly requirements to the low responsive offerors up to their stated monthly supply potentials. Within the limits prescribed by the offeror, the Government will apply offeror's monthly supply potential to any items offered, as the Government's interests require. In order to qualify for an award, the offeror's monthly supply potential must cover the Government's estimated peak monthly requirement for each individual item to be awarded to the offeror. Individual item quantities will not be subdivided for award purposes.

(c) *The Color Chips clause.* The following clause shall be used subject to a review prior to issuance of the solicitation to insure that all standards, specifications, and other data are complete, current, and correct.

COLOR CHIPS

Colors of material to be furnished under this contract must conform to those included under Federal Standard 595 (indicate complete identification, such as number, date, etc.) and/or other standards such as Munsell Colors, ANA, etc. Color chips shall be furnished to the successful offeror by the GSA Regional Quality Control Division responsible for performing the source inspection.

(d) *The Availability for Inspection and Testing and Delivery clause.*

AVAILABILITY FOR INSPECTION AND TESTING AND DELIVERY

The Government requires that the supplies listed herein be made available for inspection

and testing within ----- days after receipt of order and delivered to destination within ----- days after notice of approval and release by the Government representative.

If the Contractor fails to make the supplies available for inspection and testing within the number of days after receipt of order or fails to make delivery to destination within ----- days after notice of approval and release by the Government representative specified above, the Contractor shall be deemed to have failed to make delivery within the purview of Article 11(a) (1) of the General Provisions, Standard Form 32. If the Contractor makes the supplies available for testing and inspection within the number of days specified above and the Government rejects the supplies for non-conformance within specification requirements, the contract shall be subject to termination for default pursuant to Article 11(a) (1) of the General Provisions, Standard Form 32.

(e) Contractor Responsibility clause.

CONTRACTOR RESPONSIBILITY

The contractor inspection responsibility, set forth in Clause 5, Inspection, of GSA Form 1424, GSA Supplemental Provisions, is supplemented as follows:

(a) *Contractor quality control provisions:* The Contractor shall maintain an effective quality control system acceptable to the Government including the laboratory testing facilities necessary to conduct all the tests required by the specification. In the event the contractor is utilizing a commercial laboratory, the laboratory must have the capability of performing all the specification tests and be acceptable to the Government. The Contractor shall furnish the name and address of the laboratory.

(b) *Paint chip requirement:* For each lot of coating, the Contractor shall furnish the Government representative a paint chip delineating the color, gloss, and general appearance of the material covered by the lot. The paint chip shall be approximately 3 x 5 inches.

(c) *Testing procedures and reports:* All tests shall be performed on each batch of paint. The tests shall be in accordance with the application specifications. The Contractor is cautioned to refer to, and to comply with, all modifications of the specifications cited in the contractual documents. If testing is not done by the Contractor, it shall be his responsibility to furnish the testing facility with all pertinent contract information and modifications to make certain that the testing establishment is adequately informed to accomplish all tests on each batch and make accurate reports. Quantitative test results shall be reported on each batch to the same number of digits as are used in stating the requirements of that property in the commodity specification. Qualitative values on each batch shall be definitely stated. Results should not be reported simply as "complies" or "satisfactory", but shall be stated in the same manner as in the specification requirements. The test results shall be reported by reference to the property for which tested and the requirements in the product specification.

(d) *Ingredients-certificate of compliance:* When the specification has mandatory in-

¹Normally this period is 60 days, but for some shipbottom paints procured by the Procurement Operations Division a minimum time requirement of 75 days should be inserted.

²Normally the delivery time is 30 days, except for exigency definite quantity or small urgent requirements where shorter delivery times may be stated.

redient requirements, the Contractor shall make available to the Government representative a certificate of compliance from the ingredient supplier for each batch or lot of such ingredient used. The certificate of compliance shall include all the test data. For replenished ingredients normally mixed, blended, or combined in storage tanks or bins, the Contractor shall make available to the Government representative the supplier's certificate of compliance for each replenishment lot or batch. Irrespective of the preceding, for products of critical end use, such as shipbottom paints, each batch or lot of ingredients shall be sampled, tested, and approved by the Government when required by the specification, prior to the batch or lot being used in the manufacture of the end product.

(e) *Samples:* The Contractor shall make available to the Government representative the material, by batch, for sampling by the Government representative for the purpose of Government testing.

(f) *Batch numbers:* Batch numbers shall be assigned so that each batch number represents a distinct production quantity produced under identical containers at one time. This batch number will be marked on all containers and will be annotated on contractor's inspection and test reports.

(f) *Method of Determining Fill clause.* The following clause shall be used subject to a review prior to issuance of the solicitation to insure that all standards,

Average volume per container (gallon) = $\frac{\text{Gross weight of sample minus tare weight of sample}}{\text{Weight per gallon multiplied by number of containers in the sample}}$

(g) *Amendment of Specifications clause.* The following clause shall be used subject to a review prior to issuance of the solicitation to insure that all standards, specifications, and other data are complete, current, and correct.

AMENDMENT OF SPECIFICATIONS

This clause is applicable to FSC 8010 items, except aerosols, solid materials, such as stick materials, and thinners and supersedes, to the extent specified, all other provisions of the specification regarding shelf life:

The contents of original unopened containers when stored at temperatures of not less than 0° F., nor more than 115° F., for 1 year from the date of acceptance (for purposes of this clause, date of acceptance for standby stock contracts is the date the material was authorized for placement in standby stock) shall show no skinning, livering, curdling, hard dry caking, tough gummy sediment, putrefaction and reaction with the container. After such period, the contents shall be capable of being readily mixed in a 1-gallon or 5-gallon container to a smooth homogeneous state within 10 minutes and 20 minutes respectively. The contents shall meet all requirements of the specification except that in the case of the solvent systems the viscosity shall not exceed the specified maximum by more than 10 Krebs Units, unless otherwise provided for in the specification.

After visual examination for skinning, livering, curdling, hardcaking, tough gummy sediment, putrefaction, and reaction with the container, the following mixing technique shall be used in determining compliance with specification requirements:

Shake a 1-gallon container for 5 minutes, or 10 minutes for a 5-gallon container, with

specifications, and other data are complete, current, and correct.

METHOD OF DETERMINING FILL

Fill of paint in nonpressurized containers for compliance with the gallon (volume) requirement of the solicitation for offers shall be determined as described below. In cases of conflict between the specification requirement and the method described below, or in the absence of a method for determining fill in the specification, the method below shall govern.

Sample unit—The sample unit shall be one filled container.

Sample. The size of sample shall be in accordance with MIL-STD-105, Special Inspection Level S-3, except that the sample size derived from MIL-STD-105 shall be rounded off to the next highest increment of 5. At no time shall the sample size be less than five containers, unless the inspection lot consists of less than five containers, in which case all containers shall be included in the determination of fill. Random sampling shall be used.

Tare—The average weight of an empty container (tare) shall be obtained by weighing five empty containers and determining the average of the five.

Weight per Gallon—The weight per gallon shall be determined by Method 4184.1, Fed. Std. 141.

Fill of containers—Fill of containers shall be computed by the following formula:

a mechanical shaker ("Red Devil" or equivalent). Then remove the lid and pour off the supernatant liquid into a clean container. Stir any remaining paste with a clean, broad, flat paddle until uniform consistency is obtained, thoroughly incorporating any pigment which remained on the sides and bottom of the container. Return the liquid, which was originally poured off, in small increments with continuous manual stirring. The manual mixing and stirring shall be completed within 5 minutes for a 1-gallon container and within 10 minutes for a 5-gallon container.

(h) *Warranty of Supplies clause.* This clause is applicable to FSC Class 8010 items, except aerosols.

WARRANTY OF SUPPLIES

(a) Notwithstanding inspection and acceptance by the Government for products furnished under this contract or any provisions of this contract concerning the conclusiveness thereof, the Contractor warrants that for a period of 1 year from the date of acceptance of the item, the material will comply with the specifications; except in the case of solvent systems, the viscosity may exceed the specified maximum to the extent of 10 Krebs Units, unless otherwise specified.

(b) The Regional Quality Control Representative, as the Contracting Officer's Representative, shall request the Contractor to replace any deficient material covered by this warranty immediately (but not later than 3 weeks from receipt of the request). The request shall contain information concerning the deficiencies found, the location of the material, and the quantity which is involved.

(c) If Contractor fails to replace or to make a firm commitment for the replacement of the deficient material within the time specified in (b) above, the Contracting

Officer, having been advised by the Quality Control Division of the Contractor's refusal or inability to make timely replacement of any deficient materials, shall give written notice of breach of warranty to the Contractor. The Contracting Officer's notice shall require that Contractor either:

(1) Correct or replace any product or part thereof that does not conform with the requirements of this contract within the meaning of paragraph (a) of this warranty, or

(2) Furnish prompt refund to the Government in an amount equal to the contract price, plus transportation charges to the destination(s) in the contract if paid by the Government.

(d) If the Contractor fails or refuses to correct or replace the nonconforming supplies or refund the purchase price within a period of _____ days after receipt of notice from the Contracting Officer, the Contracting Officer may, by contract or otherwise, correct or replace them with similar supplies and charge to the Contractor the cost occasioned to the Government thereby. In addition, if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of the nonconforming supplies for the Contractor's account in a reasonable manner, in which case the Government is entitled to reimbursement from the Contractor or from the proceeds for the reasonable expense of the care and disposition of the nonconforming supplies.

(e) Any supplies or parts thereof corrected or furnished in replacement, pursuant to this clause, shall also be subject to all the provisions of this clause to the same extent as supplies initially delivered.

(f) Failure to agree upon any determination made under this clause shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(g) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of the contract.

(i) **Warranty of Supplies (Aerosols) clause.** When this clause is used for Class 8030 and 8040 items, delete "(Aerosols)" and add "mixing and stirring" after shaking.

WARRANTY OF SUPPLIES (AEROSOLS)

Material furnished shall have a 1-year unqualified guaranteed shelf life beginning with date of acceptance and must be guaranteed usable after normal shaking.

When material is determined unusable, contractor must either (1) replace all defective quantities at no charge, or (2) reimburse the Government for full replacement value, whichever is ordered by the Contracting Officer. Replacement or reimbursement will include the transportation factor mentioned in the clause entitled "Delivery-Destination Prices". This is in addition to the rights reserved to the Government under Article 5(d), General Provisions, Standard Form 32.

(j) **The Production Point clause.** (See § 5A-72.105-6(e))

(k) **Variation In Quantity clause.** (See § 5A-7.011-4)

(l) **Monthly Supply Potential clause.** (See § 5A-72.105-16)

(m) **Standby Stock clause.** (See Subpart 5A-72.6)

7. Subpart 5A-72.6 is added as follows:

¹ NOTE TO CONTRACTING OFFICER: Normally this period is 60 days, but the Contracting Officer may enter a longer period.

Subpart 5A-72.6—Standby-Stock Procurement Policies and Procedures § 5A-72.601 General.

(a) This subpart prescribes policies and procedures for the procurement of stock items by the standby-stock method. This method of procurement is designed to insure prompt supply availability of stock items where agencies' needs are expected to fluctuate widely. This method of procurement also tends to reduce warehousing and transportation costs.

(b) A contractor under a contract containing standby-stock provisions is required to produce in advance of the ordering period under a contract, a stipulated quantity of standby stock. For instance, under a regular 12-month term contract, the ordering period is 12 months. For example, if standby-stock provisions are added providing for a 2-month get-ready period, the total contract period becomes 14 months. This distinction must be clearly understood in order to properly adjust contract production plans when converting to standby-stock type contracts. Each standby-stock contract should be awarded sufficiently early so that the get-ready period under the contract and the contract period of the expiring contract will end at the same time.

(c) The Government, under a contract containing standby-stock provisions, guarantees to purchase the initial quantity of standby stock and also, with certain exceptions, any additional quantities which the contractor produces to replenish quantities shipped from standby stock. The contractor is required to replenish quantities shipped from standby stock as necessary to insure that all orders received in any calendar month which are within the estimated monthly requirement are shipped within the prescribed delivery time. Noncompliance with the prescribed delivery requirement shall be considered as a contract delinquency and may be subject to the provisions of paragraph (a) (i) of Article 11, Default, Standard Form 32, General Provisions.

(d) When a procuring activity purposes to use standby-stock provisions for the first time with respect to any commodity, the draft solicitation, prepared in accordance with this Subpart 5A-72.6, shall be submitted with a covering letter to the Director, Procurement Operations Division; the Director, Special Programs Division; or the Chief of a Regional Procurement Division. If the use of standby stock provisions is approved, the approval will advise regarding the need, if any, for prebid conferences with prospective suppliers to explain the standby-stock principle.

(e) This Subpart 5A-72.6 applies to FSS supply control, contracting, and quality control activities.

§ 5A-72.602 Application of Standby-Stock clause.

The clause in § 5A-72.611 is prescribed for requirements-type contracts for stock items when it is determined that its use is practicable and will result in significant advantages to the Government.

Factors to be considered in making this determination may include the type of the commodity, volume of the requirements, storage costs, fluctuations in demand, industry practices, market conditions, and other pertinent factors. Procuring activities may not make substantive changes in the clause or use a different standby-stock clause without prior approval of the Assistant Commissioner for Procurement. Each request for such approval shall be accompanied by a draft of the solicitation containing the proposed clause and shall state the reasons for using a modified clause rather than the clause in § 5A-72.611.

§ 5A-72.603 Estimated requirements in solicitations.

For each stock item, the estimated requirements for the ordering period and the estimated monthly requirement shall be shown in the schedule of the solicitation. Where the solicitation calls for f.o.b. destination prices, the estimated total requirements for each destination must be shown separately and also the estimated monthly requirements except that where two or more destinations are grouped for award in the aggregate, the estimated monthly requirements for all destinations in the group shall be shown as one figure for the group.

§ 5A-72.604 Initial standby-stock quantities.

The initial standby-stock quantities to be required shall be sufficient to fill the estimated requirements for a period equal to the number of days specified in (a) of the clause plus 30 days. (See § 5A-72.611 for the standby-stock clause.) However, the initial quantity should be not less than twice or more than four times the estimated monthly requirements. The additional 30-day supply is a margin of safety to provide greater assurance of continuity of supply. Accordingly, it is preferable that the initial quantity include the additional 30-day cushion. However, it may be reduced or eliminated if the contracting officer determines such action is appropriate under the circumstances.

§ 5A-72.605 Standby stock and other items in the same solicitation.

(a) Solicitations which contain the standby-stock provisions shall cover only items for which a standby-stock quantity will be required.

(b) Solicitations which contain standby-stock provisions shall not provide for progressive awards.

§ 5A-72.606 Contract clauses.

(a) Each solicitation which provides for standby-stock shall include the following clauses:

GOVERNMENT'S OBLIGATION UNDER PREVIOUS CONTRACTS

This contract shall not be deemed to cover requirements which are filled by supplies which the Government is obligated to order under a previous contract.

OFFEROR'S MONTHLY QUANTITY LIMITATION (FOR AWARD PURPOSES ONLY)

The offeror may, by appropriate entries in the spaces below, limit the quantities he may be obligated to furnish under a resultant contract. Since the items or groups of items on which an offeror may be eligible for award cannot be determined in advance of opening of offers, offerors are urged to state a single overall monthly quantity limitation applicable to as many items or groups of items as possible. In the event the monthly quantity limitation indicated is less than the total of the estimated monthly requirements shown in the schedule for all items or groups of items on which the offer is submitted, the Government may select those items or groups of items for award which will result in the lowest overall cost to the Government, unless otherwise restricted by the offeror. If the offeror does not indicate a monthly quantity limitation, it will be deemed to be the estimated monthly requirement for each item or group of items on which the offer is submitted. In order to qualify for an award, the offeror's monthly quantity limitation must cover the Government's estimated monthly requirement for each individual item or group of items to be awarded to the offeror. Individual items or groups of items will not be subdivided for award purposes.

OFFEROR'S MONTHLY QUANTITY LIMITATION

Items or groups of items	Units
-----	-----
-----	-----
-----	-----

(b) Each solicitation containing standby-stock provisions shall also contain all applicable clauses required by regulations or other instructions, except as amended as follows:

(1) The Scope of Contract clause in § 5A-7.170-12(b) shall be used, but with the first sentence changed to read as follows; and the words "ordering period" shall be substituted for the words "contract period" in the last sentence:

This contract for the period _____ (1) _____, or date of award whichever is later, through _____ (2) _____, provides for the normal supply requirements of the General Services Administration supply distribution facilities identified herein during the ordering period beginning _____ (3) _____ or _____ (4) _____ days after date of award, whichever is later, through _____ (5) _____.

NOTE TO CONTRACTING OFFICER: Insert in blank (3), above, the expected beginning date of the ordering period. Insert in blanks (2) and (5) the ending date of the ordering period. Insert in blank (1) the date which precedes the date inserted in blank (3) by the number of days allowed for production and inspection in determining the required standby-stock quantities under § 5A-72.604. Insert in blank (4) the number of days between the dates inserted in blanks (1) and (3).

(2) The Source of Inspection clause, Clause 5(a), GSA Form 1424, GSA Supplemental Provisions, applies, except for the following phrase in 5(a) (1) (a), "the Contractor is notified in writing by the Contracting Officer or his designated representative."

(3) According to paragraph 5(a) (2), GSA Form 1424, GSA Supplemental Provisions, the solicitation shall contain the following provision and blank spaces for offerors to complete:

SOURCE INSPECTION

Clause 5, GSA Form 1424, GSA Supplemental Provisions (with the exception of 5(a) (1) (a) of GSA Form 1424) applies. Offerors shall complete the following spaces to indicate where supplies will be available for inspection.

Item No.	Name of manufacturing plant or other facility	Address (including county)
-----	-----	-----
-----	-----	-----
-----	-----	-----

(4) Clause 43 (Deliveries Beyond the Contractual Period—Placing of Orders) of GSA Form 1424 does not apply.

(5) Since the time of delivery requirements for standby-stock items will be stated in the Standby-Stock clause, no other time of Delivery clause will be used.

(c) Generally, the clauses identified in (1) through (6) below, shall be located in solicitations in the sequence indicated:

(1) Scope of Contract. (See § 5A-72.606(b) (1).)

(2) Government's Obligations Under Previous Contracts. (See § 5A-72.606(a).)

(3) Minimum Order Limitation. (See § 5A-72.105-21.)

(4) Maximum Order Limitation. (See § 5A-73.112(f).)

(5) Standby-Stock. (See § 5A-72.611.)

(6) Offeror's Monthly Quantity Limitation. (See § 5A-72.606(a).)

§ 5A-72.607 Contracting period.

(a) The contract period of all standby-stock contracts shall consist of a contractor's get-ready period and an ordering period. The length of the contractor's get-ready period is equal to the number of days to be specified in (a) of the Standby-Stock clause (the time in which the contractor is required to produce the initial quantities and have them inspected (see § 5A-72.611)). The ordering period normally will be the same length of time as the contract period under a nonstandby-stock type contract for the commodity involved. If, for example, the contract period of a nonstandby-stock type contract for a commodity was 12 months and the number of days specified in (a) of the Standby-Stock clause is 60 days, the contract period of the standby-stock contract will be 14 months.

(b) The general description to be entered in the schedule portion on page 1 of the solicitation (see § 5A-2.201(b) (1)) shall be as follows:

Requirements contract (with guaranteed purchase quantities) for the period (1) _____, or date of award (whichever is later), through (2) _____, covering stock replenishment requirements during the period (3) _____, through (4) _____.

-----, for (include brief general description of the item covered by the solicitation).

NOTE TO CONTRACTING OFFICER: Insert in blanks (1) through (4), above, the same dates inserted in blanks (1) through (3) and (5), respectively, in the first sentence of the Scope of Contract clause, as provided in § 5A-72.606(b) (1).

(c) Each standby-stock contract should be awarded sufficiently early so that the get-ready period under the new contract and the contract period of the expiring contract will end at the same time.

§ 5A-72.608 Placing delivery orders under standby-stock contracts.

(a) Ordering activities shall not place any orders under a standby-stock contract prior to the first day of the ordering period specified in the contract.

(b) No order shall be placed under a standby-stock contract after the expiration date of the specified ordering period, except as authorized under the provision of paragraph (c) (2) of the Standby-Stock clause (§ 5A-72.611).

(c) Delivery orders placed under standby-stock contracts shall specify "Ship as per contract" in the Delivery Time block on the order form except that computer prepared orders will print delivery time as programmed.

§ 5A-72.609 Action by quality control representative.

(a) The quality control representative will visit the contractor's or supplier's plant to insure a mutual understanding of all terms and conditions of a contract, prior to the start of production, when determined by the Chief, Quality Control Division. At that time, all contract terms will be reviewed with particular emphasis on standby-stock requirements, and the contractor or supplier will be notified of the requirements to maintain detailed records in accordance with the standby-stock clause in the contract.

(b) Any deficiencies noted on the first or any subsequent visits shall be reported promptly to the contracting officer on GSA Form 1679, Contract Administration. Typical examples of deficiencies are:

(1) Production cycle longer than time allowed to have initial standby-stock available;

(2) Failure to ship within the allowed number of days after receipt of purchase order;

(3) Not replenishing standby stock in accordance with contract terms;

(4) Not scheduling material into production on time;

(5) Not having replenishment stock on hand at time of inspection visits;

(6) Not adhering to shelf-life requirements in the contract; specifically, lack of assurance relative to any remaining shelf life of items; and

(7) Not maintaining detailed records as required.

(c) The quality control representative will make necessary arrangements for his return visit for purposes of inspecting material. In the event the material is not ready at the time arranged for inspection, the contractor will be charged for lost time in accordance with terms of the contract.

(d) The quality control representative will insure that preinspected stock will be held in a set-aside area and properly identified as inspected stock. All containers of material offered by the contractor shall be stamped to indicate that it has been inspected. At the time of inspection, the quality control representative will instruct the contractor to prepare GSA Form 308, Notice of Inspection, and, after completion of the form by the quality control representative, to distribute copies to the contracting officer, the regional Quality Control Division, and the quality control representative, retaining the original. In the event material is rejected, the contracting officer will be notified by copy of GSA Form 308. If rejection of the lot will preclude timely delivery on orders received, the quality control representative will notify the contracting officer of the rejection on GSA Form 1679, and include his recommendations as to appropriate action.

(e) When the contract period has expired and the contractor has on hand or in process quantities of standby stock for which the contractor has not received orders, the quality control representative will notify the contracting officer on GSA Form 1679 of such quantities, by item, indicating with respect to each item the extent to which the Government is obligated to purchase (see paragraph (c) of the Standby-Stock clause in § 5A-72.611).

(f) The quality control representative will instruct the contractor to document each shipment from standby stock by use of one of the following forms:

(1) DD Form 250—when shipment is to a military installation, or

(2) GSA Form 308—when shipment is to other than a military installation.

§ 5A-72.610 Guarantee to purchase replacement quantities—notice of discontinuance.

(a) The inventory manager will advise the contracting officer whenever actual requirements indicate a sustained decreased demand pattern so that the contracting officer may notify the contractor, pursuant to (c) of the Standby-Stock clause, that orders received by the contractor in subsequent months shall not fall within the guarantee provided in that paragraph.

(b) Monthly demand forecasts should be carefully checked to determine that they are valid and reflect the buyers' best estimate of anticipated future demand.

§ 5A-72.611 Standby-Stock clause.

STANDBY-STOCK

(a) Initial quantity.
For each item awarded to him, the Contractor shall by the beginning date of the ordering period or within _____ days after date of award, whichever is later, produce

and have inspected by the Government, as being in compliance with contract requirements, _____ times the number of units specified in the schedule as the estimated monthly requirement for that item.

(See Note 1, below.)

(b) Replenishment of standby stock.
With respect to each item, the Contractor shall replenish the standby-stock with items inspected by the Government, as being in compliance with contract requirements, at such times as to insure that all orders received by the Contractor in any one calendar month, which are within the estimated monthly requirements for that item, are shipped within the time period specified in (c), below. No replenishment action shall be initiated by the Contractor during the last _____ months of the contract.

(See Note 2, below.)

(c) Guarantee to purchase.

(1) The Government guarantees to purchase with respect to each item an amount equal to the initial standby-stock quantity for that item plus the total quantity of all delivery orders for that item which (1) do not exceed the estimated monthly requirement for that item, and (2) are received by the Contractor prior to the last _____ months of the contract. However, with respect to each item, the Government reserves the right to notify the Contractor at any time during the contract period that orders received in the calendar months succeeding the month in which such notice is received, shall not fall within the above guarantee. In such event, the Contractor's obligation to ship in accordance with (e), below, shall continue only until such time as the orders received in succeeding months, which are within the estimated monthly requirement, equal the initial standby-stock quantity for that item. All other orders shall be shipped in accordance with (f), below.

(2) The Contractor shall, forty-five (45) to thirty (30) days prior to the expiration date of the contract and again within ten (10) days following the expiration date of the contract, notify the Contracting Officer by letter of any unordered quantity which the Government has guaranteed to purchase. Failure to notify the Contracting Officer within the prescribed times shall relieve the Government of its obligation to order; however, if the Government elects to issue orders for the entire balance or any portion thereof, the Contractor will be obligated to furnish such quantities. The Government reserves the right to defer placing orders for any unordered quantity it has guaranteed to purchase for thirty (30) days following the expiration date of the contract.

(See Note 3, below.)

(d) Deferment of initial orders.

In order not to disrupt the orderly and expeditious production of the initial standby-stock quantities, the Government will not place, and the Contractor will not be permitted to accept, orders under this contract prior to the beginning date of the ordering period or prior to _____ days after date of award, whichever is later.

(See Note 4, below.)

(e) Time for shipment—Orders within the estimated monthly requirement.

The Contractor shall furnish all quantities ordered during any calendar month which do not exceed the estimated monthly requirements set forth in the schedule. Such quantities shall be shipped within _____ days after receipt of orders.

(See Note 5, below.)

(f) Orders in excess of the estimated monthly requirement.

The Government is obligated to place, pursuant to this contract, all orders for the supplies covered herein except (1) orders for

less than the minimum in the Minimum Order Limitation clause; (2) orders in excess of the maximum specified in the Maximum Order Limitations clause; and (3) in the case of exigencies, as specified in the Scope of Contract clause. The Contractor, however, may with respect to any item refuse to accept all orders or portions thereof received in any one month which exceed the estimated monthly requirement for that item. Such refusal to accept must be communicated to the office issuing such orders within _____ days of receipt of the orders by the Contractor. Failure to communicate the refusal to accept to the office issuing the delivery order within the time required shall be deemed to be acceptance of the order by the Contractor. With respect to all orders in excess of the estimated monthly requirement accepted or deemed to have been accepted by the Contractor, shipment shall be within _____ days from date of receipt of the order. Acceptance of orders in excess of the estimated monthly requirement shall not relieve the Contractor from complying with the delivery schedule in (e), above, with regard to orders falling within the estimated monthly requirement.

(See Note 6, below.)

(g) Inspection.
Supplies shall not be shipped until they have been inspected at origin in accordance with the terms of this contract and found to conform with contract requirements, unless specifically permitted otherwise under an existing Quality Approved Manufacturer Agreement.

(h) Filling orders.

(1) Orders shall be filed in the same order they are received by the Contractor, unless otherwise authorized by the Contracting Officer.

(2) Supplies which are subject to any shelf-life requirements specified in this contract shall be shipped from standby-stock on a "first-in, first-out" basis provided the remaining shelf-life upon delivery is sufficient to comply with the terms of the contract.

(i) Maintenance of records by Contractor.
The Contractor shall maintain detailed records showing the following information for each item:

(1) Quantity of standby-stock on hand (not specifically allocated to orders received);

(2) Cumulative total of quantities shipped from standby-stock;

(3) Quantities in production for standby-stock replenishment pursuant to (b), above, and the dates for each quantity scheduled;

(4) For each delivery order received, the:

(i) Order number;

(ii) Date of order;

(iii) Date order received;

(iv) Quantity ordered; and

(v) Date shipped.

(See Note 7, below.)

Notes to Contracting Officers:

NOTE 1: The number of days to be inserted in the first blank shall be representative of the time required by the majority of firms in the industry to produce and have inspected the initial quantity. If the initial quantity is equal to the estimated monthly requirement, the second blank and the word "times" shall be omitted; otherwise, the blank shall be filled in with the initial quantity expressed as ½, 1½, 2, 3 times, etc., as appropriate.

NOTE 2: The number of months to be inserted in the blank shall be equal to figure obtained by dividing the initial standby-stock quantity by the estimated monthly requirement.

NOTE 3: The number of months to be inserted in the blank shall be the same as in (b), above.

NOTE 4: The number of days to be inserted in the blank shall be the same as the number inserted in the first blank in (a), above.

NOTE 5: A reasonably short time should be inserted in the blank—say 5 to 10 days.

NOTE 6: In the first blank, insert a reasonably short time—say _____ to 5 days. In the second blank, insert the same number of days as in the first blank in (a), above.

NOTE 7: The above clause, as written, is for use in invitations which provide for award on an item-by-item basis. When used in invitations which provide for award by groups of items, the language must be appropriately modified.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. This regulation is effective June 30, 1971, but may be observed earlier.

Dated: June 1, 1971.

L. E. SPANGLER,
Acting Commissioner,
Federal Supply Service.

[FR Doc.71-8039 Filed 6-8-71; 8:51 am]

Chapter 9—Atomic Energy Commission

PART 9-3—PROCUREMENT BY NEGOTIATION

PART 9-16—PROCUREMENT FORMS

Miscellaneous Amendments

The following subpart, 9-16.7, Forms for Negotiated Architect-Engineer Contracts, is added to provide for the use, implementation and supplementation of Standard Form 252—Architect-Engineer Fixed-Price Contract (August 1970 Edition) and Standard Form 253 General Provisions—(Architect-Engineer Contract, August 1970 Edition). Changes in AECPR 9-3 related to this addition are also included.

1. In Subpart 9-3.4, Types of Contracts, § 9-3.404-50 Lump-sum contract for architect-engineer services with reimbursement for certain costs is revised to read as follows:

Subpart 9-3.4—Types of Contracts

§ 9-3.404-50 Lump-sum contract for architect-engineer services with reimbursement for certain costs.

(a) Description: This type of contract normally provides for a fixed amount or lump sum for the A-E services (see § 9-18.306-50(b)(1) of this chapter for definition of these services) plus reimbursement of, or payment of an additional lump sum for certain costs listed in § 9-16.703-50 of this chapter, Clause 15, paragraph (b) to the extent they are incurred in connection with the work and approved by the contracting officer. These costs generally are not susceptible of reasonable estimation in advance due to a wide variation in the extent the related services are required for various projects, or they are for services not normally a part of titles I, II, and III.

(b) Compensation is included in the lump sum derived from the fee schedule for all drawings, plans, and documents

prepared and reproduced under title I, except those which are reimbursable in conjunction with field surveys and subsurface investigations; for all drawings, specifications, invitations for bid, and other related documents prepared and reproduced under title II, prior to approval of title II design by the Commission, and for preparation of reproducible copies and furnishing 20 copies of such drawings and documents after approval by the Commission; and for reproducible "as-built" record drawings and marked-up "as-built" specifications prepared under title III (including updated master linen tracings, or reproducible linen tracings from the master set, if so specified in the contract). The provisions of the applicable Government Printing and Binding Regulations must also be observed.

(c) Where the contractor's responsible supervising representative, or an officer, proprietor, executive, or administrative head of the contractor participates directly in the performance of any of the services listed in paragraph (b) (1) through (3) of § 9-16.703-50 of this chapter, Clause 15, he may be compensated for the time actually so engaged. The rate of compensation, including the allocation of home office expenses, if any, shall be subject to approval by the contracting officer and commensurate with the cost of employing another qualified person to do such work, but the salary portion should not exceed the actual salary rate of the individual concerned.

(d) The costs listed in paragraphs (a) and (c) of this section cover services that are normal to complete titles I, II, and III services. No profit should be included in the additional compensation for those services because the architect-engineer's profit for the service is included in the lump-sum amount determined from the fee schedule. In order to ensure adequate technical services, they may be paid for on an actual cost basis. However, if it is considered to be more advantageous to the Government, an additional lump sum should be negotiated to cover the costs. In the case of personal services such as inspectors, a daily rate may be negotiated. The calculation of the additional lump sum, or daily rate, should show clearly the amount allowed for each of the services or elements of cost.

(e) The services covered in paragraph (b) (4), (8), and (10) of § 9-16.703-50 of this chapter, Clause 15, may be furnished by the Commission instead of reimbursing the contractor for the expenses. The type of services that will be furnished should be stated in the contract.

(f) If services are furnished that are beyond titles I, II, and III, such as developmental work, special engineering studies, and the preparation of special documents such as operating and maintenance manuals, additional compensation, including profit, should be paid for such services. Note that preliminary proposals and construction completion reports normally are considered a part of titles I and III.

(g) Use of lump-sum contract:

(1) A lump-sum contract for architect-engineer services should be used wherever it is practicable to compile, in advance of the preparation of plans and specifications, adequate information specifically describing the character and extent of services required.

(2) When there is insufficient scope information available to permit contracting for complete services (titles I, II, and III) on a lump-sum basis, and when it may be to the advantage of the Government to do so, consideration should be given to contracting only for a study contract or for the preliminary engineering (title I), on either a reimbursable or lump-sum basis, in order to permit entering into a lump-sum contract for the remaining portion of architect-engineer services (titles II and III), based upon information developed in the first phase.

2. The following new subpart is added:

Subpart 9-16.7—Forms for Negotiated Architect-Engineer Contracts

Sec.
9-16.700 Scope of subpart.
9-16.701-50 Forms prescribed.
9-16.703-50 Terms, conditions, and provisions.

AUTHORITY: The provisions of this Subpart 9-16.7 issued under sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486.

Subpart 9-16.7—Forms for Negotiated Architect-Engineer Contracts

§ 9-16.700 Scope of subpart.

This subpart prescribes the AEC additions to the standard forms prescribed by FPR Subpart 1-16.7 for use in procuring architect-engineer services under negotiated fixed-price contracts.

§ 9-16.701-50 Forms prescribed.

The following provisions shall be included in Standard Form 252 (FPR 1-16.901-252): Architect-Engineer Fixed-Price Contract, Item 6:

(a) Description of project.

NOTE: As full a description as is feasible should be inserted. If the architect-engineer services are to be furnished for a construction project, describe the facilities involved, including any auxiliary facilities that may be required.

(b) Statement of architect-engineer services. The Contractor shall, within the shortest reasonable time, furnish for the construction project the architect-engineer services described below, subject to such further detailed requirements as may be appended to this Contract by agreement of the parties.

NOTE A: This form of contract provides for completion of the architect-engineer services "within the shortest reasonable time." The form may be modified to provide for completion of separable parts of the work at different times.

NOTE B: When title I, II, or III services are to be furnished, the following language may be used to describe such services. Modifications in the text of this language may be made to omit inappropriate items or, where necessary, to meet particular circumstances.

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TITLE I—PRELIMINARY SERVICES

(1) Conduct or arrange for, by subcontract or otherwise as approved by the Contracting Officer, and supervise all necessary topographical and other field surveys, the preparation of maps, and necessary test borings and other subsurface investigations.

(2) Consult and collaborate with the Commission or its designee to determine the requirements which will govern the design of the project and to establish architectural and engineering criteria for such design.

(3) Conduct preliminary studies, and prepare preliminary sketches, drawings, layout plans, outline specifications and reports, showings features and characteristics of the design proposed to meet the Commission's requirements. If more than three studies, including sketches, drawings, plans, outline specifications, or documents are required because of changes initiated by the Commission, an equitable adjustment in the lump-sum compensation will be made in accordance with provisions of the changes article.

(4) The drawings, plans, and outline specifications and documents shall be prepared in such form and furnished in such quantity as directed by the Commission.

Specific quantities of the drawings, plans, outline specifications, and documents should be indicated here or elsewhere in the contract.

(5) Prepare preliminary estimates of cost and time schedules for (i) completion of the design and working drawings and specifications, and (ii) construction.

(6) Prepare preliminary estimates of material quantities required for construction.

TITLE II—DESIGN SERVICES

(1) Upon approval by the Commission of preliminary plans and estimates, undertake the design of the construction project.

(2) Undertake restudy and redesign work due to minor deviations from the approved preliminary work as may be required by the Commission.

(3) Prepare and revise, for the approval of the Commission, and furnish complete sets of contract bidding documents, including working drawings, details, and specifications for construction. In such form and quantity and including such provisions as may be required by law or the directions of the Commission.

Specific quantities of drawings and specifications should be indicated here, or elsewhere in the contract.

(4) Prepare, or when directed by the Commission participate with others in the preparation of, a detailed estimate of the cost of a construction based on the approved design and working drawings and specifications.

(5) Assist the Commission and its designees in securing, analyzing, and evaluating construction bids or proposals.

(6) When requested, consult with and advise the Commission on any questions which may arise in connection with the architect-engineer services described in this contract.

TITLE III—SUPERVISION OF CONSTRUCTION

(1) Furnish and maintain governing lines and bench marks to provide horizontal and vertical controls to which construction may be referred.

(2) Check and approve, or require revision of, all vendors' shop drawings to assure conformity with the approved design and working drawings and specifications.

(3) Inspect the execution of construction so as to assure adherence to approved working drawings and specifications.

(4) Inspect construction workmanship and materials, and equipment, and report

to the Commission as to their conformity or nonconformity to the approved working drawings and specifications.

(5) Make or procure such field or laboratory tests of construction workmanship and materials, and equipment, as the Commission may require or approve.

(6) Prepare estimates of reasonable amounts of increase or decrease in Contract price and/or contract completion time for contract modifications, evaluate proposals submitted by the contractor for such contract adjustments and make recommendations to the Contracting Officer for use in negotiating.

(7) Prepare reports and make recommendations on status of deliveries of materials and equipment as the Commission may require or approve.

(8) Prepare monthly and other reports of the progress of construction, as may be required, and partial, interim and final estimates and reports of quantities and values of construction work performed, for payment or other purposes.

(9) Furnish ----- set(s) of reproducible "as-built" record drawings of the type specified by the Commission and ----- set(s) of mark-up specifications, showing construction as actually accomplished.

§ 9-16.703-30 Terms, conditions, and provisions.

The additional clauses and provisions listed below shall be added to Standard Form 253: (FPR 1-16.901-253) General Provisions (Architect-Engineer Contract), August 1970 edition, as required. Clauses may be omitted or added with the approval of Counsel.

14. Alterations and additions.

The following alterations in or additions to the provisions of Standard Form 253, General Provisions, of this contract were made prior to execution of the contract by the parties:

1. Definitions. The following paragraph (c) is added to this clause:

"(c) The term 'Commission' means the U.S. Atomic Energy Commission or any duly authorized representative thereof, including the Contracting Officer except for the purpose of deciding an appeal under the clause entitled 'Dispute'."

15. Payment.

(a) Lump-sum compensation. The Contractor shall be paid the lump-sum of \$----- which shall constitute full compensation for all services and materials furnished under this Contract except for the costs hereinafter specified in the paragraph entitled "Reimbursement for Certain Costs."

(b) Reimbursement for certain costs. The Contractor shall be entitled, in addition to payment of the lump sum hereinbefore provided for, to reimbursement for the following costs to the extent approved by the Contracting Officer, but not to exceed a total of \$-----

(1) The actual costs of labor, materials, and equipment use, and traveling expenses, and approved subcontracts and transportation of things, required for topographical and other field surveys, the preparation of maps, and test borings and other subsurface investigations under this Contract.

(2) The actual costs of labor, materials and equipment use, and traveling expenses for the resident engineer in charge, field engineers, and inspectors, part-time inspectors from the home or branch office, and the supporting field office force as required at the site of the construction project for inspection of construction.

(3) The actual costs of labor and materials and traveling expenses for expediting

or inspecting material and equipment, and checking or expediting shop drawings at vendors' plants.

(4) The actual cost of on-site transportation for services listed in (1) through (3) above.

NOTE: This may also be the cost based on a rate or rates approved in advance by the Contracting Officer.

(5) Compensation paid for such outside expert technical assistance, including the services of materials testing laboratories, as is approved in writing by the Contracting Officer in connection with the performance of any of the work under this contract.

(6) The actual costs of labor, materials, and equipment use, or an allowance in lieu of such actual cost at a rate or rates approved in advance by the Contracting Officer, for copies in excess of 20 prints of drawings, specifications, invitations for bid, or other related documents, and revisions thereto, which are reproduced after title II design is approved by the Commission and which are for use by the Commission and its construction contractors. (This does not include "as-built" record drawings and specifications as required under title III services.)

(7) The actual costs of labor, materials, and equipment use for copies of special documents, such as completion reports, that have been prepared in accordance with instructions of the Commission.

(8) The cost of telegraph and long-distance telephone services required at the construction site for performance of the field engineering services.

(9) Expenses of such travel of the Contractor's responsible supervising representative that might be required in addition to the normal supervision furnished under the fee or specified in the contract.

(10) The actual costs of furniture and equipment (rental or purchase as approved in advance by the Contracting Officer), field office space, utilities, janitorial service, and similar items for use in performing titles I and III field work.

NOTE A: Include only the costs from those listed in this clause that are applicable to the services required under the contract.

NOTE B: This clause provides for lump-sum compensation for certain services and cost reimbursement for other services. If it is desired that the cost reimbursement portion be made on a lump-sum basis or on the basis of negotiated rates (e.g., a fixed amount per day) appropriate revisions in the clause will be required.

NOTE C: If some payments are to be made either on the basis of actual costs or negotiated rates, a limit to the total amount that may be so paid without a modification to the contract should be provided in the payment article for control purposes.

NOTE D: Include the following definitions:

(1) "Labor costs" include:

(i) Wages and salaries.

(ii) Directly related payroll costs (social security and unemployment insurance taxes, workmen's compensation insurance premiums, vacation, sick leave, benefit and welfare plans, etc., required by law, employer-employee agreement, or an established policy of the contractor).

(iii) Home or branch office overhead expenses which are applicable and properly chargeable to the work. The full overhead rate should not be applied to salaries of personnel assigned to continuous field duty. For such personnel, reimbursement should be made at a rate to cover only the cost of specific essential services and supplies furnished by the home or branch office to the field staff and which otherwise would have to be procured in the field. Where it is feasible or practical with respect to particular

services or supplies, reimbursement may be made on the basis of actual costs.

(2) Labor costs do not include any of the above costs and expenses applicable to the Contractor's responsible supervising representative, or to an officer, proprietor, executive, or administrative head of the Contractor, except where he participates directly in the performance of any of the services listed in paragraphs (b) (1) through (3) of this clause.

(3) Traveling expenses include the actual cost of travel of persons (employees and, if authorized, their dependents) and subsistence incident to such travel, and transportation of personal household goods and effects, in amounts not exceeding such limits as may be prescribed by the Contracting Officer, or allowances in lieu of such actual cost at rates approved by the Contracting Officer. The cost of transportation between living quarters and the site of the construction project of persons employed at such site is not included unless specifically approved by the Contracting Officer.

(c) Partial payments on account of lump-sum compensation. Ninety (90) percent of the lump-sum compensation shall become due and payable in monthly installments in amounts based on the proportion of the work then completed, as determined by the Contracting Officer, and the balance upon completion and acceptance of all work under this contract.

(d) Reimbursement payments. (1) Payments for costs which are reimbursable under the provisions of the paragraph entitled "Reimbursement for certain costs" shall be made to the Contractor at intervals stipulated by the Contractor and the Contracting Officer and upon completion and acceptance of the work under this contract.

(2) Notwithstanding any other provision of this contract, when the amount for which the Contractor shall be entitled to reimbursement equals the maximum amount the Government has agreed to reimburse the Contractor under this contract and any modification thereto, the Contractor shall not be expected or required to incur further expenses or obligations under paragraph (b) of this Clause unless and until the Government first increases the maximum amount stipulated in paragraph (b) by appropriate modification thereof, nor shall the Government be obligated to reimburse the Contractor for expenses beyond that amount.

(e) Final payment. Upon completion of the work and its acceptance by the Government, and upon the furnishing by the Contractor of a release, in such form and with such exceptions as may be approved by the Contracting Officer, of all claims against the Government under or arising out of this contract, the Government shall promptly pay to the Contractor the unpaid balance of the lump-sum compensation and reimbursable costs less (i) deductions due under the terms of this contract, and (ii) any sum required to settle any unsettled claim which the Government may have against the Contractor in connection with this contract.

(f) Supporting documents. Claims for payment shall be accompanied by such supporting documents and justifications as the Contracting Officer shall prescribe.

(g) Records and accounts relating to reimbursable costs—Inspection and audit. The Contractor agrees to keep books of account, records, documents, and other evidence bearing on costs which are reimbursable under the provisions of the paragraph entitled "Reimbursement for certain costs." The method of accounting employed by the Contractor with reference to such costs shall be subject to the approval of the Commission, but no material change shall be required

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therein if it conforms to generally accepted accounting practice. All such books of account, records, documents, and other evidence relating to such reimbursable costs shall be subject to inspection and audit by the Commission at all reasonable times, and the Contractor shall afford the Commission proper facilities for such inspection and audit. Subject to such other disposition as may be agreed upon by the Contractor and the Commission, the Contractor shall, for a period of three (3) years after final payment under this contract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, preserve such of the books of account, records, documents, and other evidence relating to reimbursable costs as are not furnished by the Contractor to the Government in support of payments under the contract.

16. State and local taxes (FPR 1-11.401-1).

17. Subcontracts.

The Contractor shall not enter into any contractual commitment to a third party which involves the performance in whole or in part of a specific part of the work described in Standard Form 252 under "Statement of Architect-Engineer Services" without the written approval of the Contracting Officer. However, this article is not applicable to a contract of employment.

NOTE: Paragraph (c) of § 9-7.5006-29 should be included in the contract if deemed necessary.

18. Contractor's organization (§ 9-7.5006-6).

NOTE: For off-site architect-engineer contracts, substitute the following for paragraph (b):

"A competent supervising representative of the Contractor satisfactory to the Contracting Officer shall be in charge of the work at all times."

19. Key personnel (§ 9-7.5007-2).

20. Patents (§ 9-7.5003).

NOTE: The patent clause should not be departed from except on the advice of the Field Patent Group, or in the absence of such group, on the advice of the Office of the Assistant General Counsel for Patents. In each case it will be necessary to determine whether or not it would be appropriate to add the indemnity clause, with or without modifications.

NOTE: The patent indemnity clause is Clause 15 of Standard Form 23A. For modifications to this indemnity clause, see Note "A" under Article XIX, Patent indemnity, § 9-16.5002-4.

21. Security (§ 9-7.5004-11).

NOTE: The security clause includes a paragraph to the effect that the Contractor agrees to conform to all security regulations and requirements of the AEC. To the maximum extent feasible, specific security regulations and requirements, which are not expressly set forth in the security clause but to which the Contractor may become subject under the paragraph referred to above, shall either be set forth or incorporated by reference in an appendix to the contract.

22. Safety, health, and fire protection (§ 9-7.5006-47).

23. Permits (§ 9-7.5006-48).

24. Renegotiation (§ 9-7.5004-20).

25. Classification (§ 9-7.5004-21).

26. Utilization of small business concerns (FPR 1-1.710-3(a)).

27. Utilization of concerns in labor surplus areas (FPR 1-1.805-3(a)).

28. Property (§ 9-7.5006-27).

29. Reports.

(The nature and quantity of any reports, such as reports of the progress of the architect-engineer work, which will be required of the Contractor shall be set forth in this

clause or incorporated by reference in this clause and in an appendix to be attached to the contract. Contracting Officers will be expected to require in most cases that reports be furnished at intervals disclosing the progress of the architect-engineer work.)

3. In Subpart 9-16.50, Contract Outlines, § 9-16.5002-6 Outline of a lump-sum architect-engineer contract (with cost reimbursement features) is deleted.

Subpart 9-16.50—Contract Outlines

§ 9-16.5002 Contract Outlines.

§ 9-16.5002-6 [Deleted]

Effective date. These amendments shall become effective May 29, 1971.

Dated at Germantown, Md., this 2d day of June 1971.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director,
Division of Contracts.

[FR Doc. 71-7972 Filed 6-8-71; 8:45 am]

Title 43—PUBLIC LANDS:
INTERIORChapter II—Bureau of Land Management,
Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5062]

[Montana 17093]

MONTANA

Withdrawal for Public Recreation Site

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Subject to valid existing rights, the following described public domain lands, under the jurisdiction of the Secretary of the Interior, and national forest lands, under the jurisdiction of the Department of Agriculture, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), and from leasing under the mineral leasing laws, and reserved for the protection of public recreation values:

PRINCIPAL MERIDIAN

T. 3 S., R. 1 E.,

Sec. 10, lots 3, 5, 7, and 9;

Sec. 11, NW 1/4 NW 1/4;

Sec. 15, lots 1 to 10, inclusive, E 1/2 NW 1/4,

SW 1/4 SW 1/4, NW 1/4 SE 1/4;

Sec. 21, lots 3 and 6, E 1/2 NW 1/4;

Sec. 22, lots 1 to 9, inclusive, SW 1/4 NE 1/4,

E 1/2 SW 1/4;

Sec. 27, lots 1 to 8, inclusive, SW 1/4 SW 1/4,

W 1/2 SE 1/4;

Sec. 32, SE 1/4 SE 1/4;

Sec. 33, lots 1 to 4, inclusive, E 1/2 SW 1/4,

SW 1/4 SW 1/4, SE 1/4 NE 1/4, NW 1/4 SE 1/4;

Sec. 34, lots 1 to 6, inclusive, NW 1/4 NE 1/4,

NW 1/4 NW 1/4, E 1/2 SW 1/4, SW 1/4 SW 1/4.

RULES AND REGULATIONS

T. 4 S., R. 1 E.,
Sec. 4, lots 3 to 6, inclusive;
Sec. 5, lots 1, 2, 5, 6, and 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, lots 1 to 8, inclusive SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, lots 1 and 2, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas of public domain lands described aggregate approximately 3,137.69 acres.

GALLATIN NATIONAL FOREST

T. 4 S., R. 1 E.,
Sec. 4, lots 1, 2, 7, 8, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$.

The areas of national forest lands described aggregate approximately 501.55 acres.

The total of the areas described above aggregates 3,639.24 acres in Madison County.

HARRISON LOESCH,
Assistant Secretary of the Interior.
JUNE 1, 1971.

[FR Doc.71-7988 Filed 6-8-71; 8:46 am]

[Public Land Order 5063]

[Idaho 2554]

IDAHO

Partial Revocation of Public Land Order No. 1703

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 1703 of August 4, 1958, withdrawing national forest lands and reserving them for use by the Department of the Army, Corps of Engineers, for flood control purposes in connection with the Albeni Falls Project is hereby revoked so far as it affects the following described lands:

KANIKSU NATIONAL FOREST

BOISE MERIDIAN

T. 55 N., R. 1 W.,
Sec. 18, that portion of the original lot 1 lying easterly of Crescent Lode Mining Claim M.S. 2039, now described as lot 5 on the official plat of survey accepted 6-20-69.

The area described aggregates 2.22 acres in Bonner County.

2. The described land shall immediately become available for the consummation of a pending Forest Service exchange.

HARRISON LOESCH,
Assistant Secretary of the Interior.
JUNE 1, 1971.

[FR Doc.71-7989 Filed 6-8-71; 8:46 am]

[Public Land Order 5064]

[Utah 12081]

UTAH

Powersite Restoration No. 708; Partial Revocation of Powersite Reserve No. 363

By virtue of the authority contained in section 24 of the Act of June 10, 1920,

41 Stat. 1075, as amended, 16 U.S.C. sec. 818 (1964), and pursuant to the determination of the Federal Power Commission in DA-193-Utah, it is ordered as follows:

1. The Executive order of May 27, 1913, creating Powersite Reserve No. 363, is hereby revoked so far as it affects the following described land:

SALT LAKE MERIDIAN

T. 17 S., R. 8 E.,
Sec. 6, lot 5.

The area described aggregates 36.48 acres in Emery County.

2. This revocation is made in furtherance of the right of the State of Utah to file a school land indemnity selection application for the land pursuant to sections 2275 and 2276, U.S. Revised Statutes, as amended, 43 U.S.C. secs. 851-853 (1964). Accordingly, the land described in this order is hereby classified, pursuant to section 7 of the Act of June 28, 1934, 48 Stat. 1272, as amended, 43 U.S.C. sec. 315f (1964), as suitable for such selection. The land, therefore, will not be subject to other use or disposition under the public land laws in the absence of a modification or revocation of such classification (43 CFR 2440.4).

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 1, 1971.

[FR Doc.71-7990 Filed 6-8-71; 8:46 am]

[Public Land Order 5065]

[Oregon 7292]

OREGON

Reservation for Constructed Forest Road

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights and to the provisions of existing withdrawals, the following described public land is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, nor the disposal of materials under the Act of July 31, 1947, 61 Stat. 681, as amended, 30 U.S.C. secs. 601, 604 (1964), and reserved for use of the Department of Agriculture for the granting of easements or road rights-of-way as authorized by section 2 of the Act of October 13, 1964, 78 Stat. 1089, 16 U.S.C. secs. 532, 533 (1964):

WILLAMETTE MERIDIAN

COON JOHNSON ROAD NO. 1987

T. 20 S., R. 9 W.,
Sec. 8, SW $\frac{1}{4}$ NW $\frac{1}{4}$.

A strip of land 100 feet in width, being 50 feet in width on both sides of the centerline of the Coon Johnson Road No. 1987, as shown on a plat filed in the Oregon State Office, Bureau of Land Management, Portland, Ore.

The area described contains about 2 acres in Douglas County.

2. The withdrawal made by this order shall not preclude agricultural entries,

sales, exchanges, or leases under applicable public land laws, of any legal subdivision traversed by any cooperated road constructed on any land withdrawn by this order: *Provided*, That any such entry, sale, exchange, or lease shall be subject to this order and to any road right-of-way easement over the land issued by the Department of Agriculture.

HARRISON LOESCH,
Assistant Secretary of the Interior.
JUNE 1, 1971.

[FR Doc.71-7991 Filed 6-8-71; 8:46 am]

[Public Land Order 5066]

[Arizona 5946]

ARIZONA

Partial Revocation of Public Land Order No. 1556

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Public Land Order No. 1556 of November 19, 1957, withdrawing national forest lands for use as administrative sites, recreation areas, and roadside zones, is hereby revoked so far as it affects the following described lands:

PRESCOTT NATIONAL FOREST

GILA AND SALT RIVER MERIDIAN

New Black Canyon Highway—Cordes Junction to Flagstaff, Roadside Zone

A strip of land 200 feet on each side of the centerline of the Cordes Junction to Flagstaff section of the New Black Canyon Highway, through the following legal subdivisions:

T. 13 N., R. 3 E.,
Sec. 14, lots 3 and 13 (parts of the former NW $\frac{1}{4}$).

The areas described aggregate 30.62 acres in Yavapai County.

The lands have been patented pursuant to the National Forest Exchange Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. sec. 485 (1964).

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 1, 1971.

[FR Doc.71-7992 Filed 6-8-71; 8:47 am]

[Public Land Order 5067]

[Arizona 032893]

ARIZONA

Revocation of Public Land Order No. 64

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 64 of November 19, 1942, withdrawing the following lands for use by the War Department (now the Department of the Army), as auxiliary landing fields is hereby revoked:

GILA AND SALT RIVER MERIDIAN

T. 11 S., R. 9 E.,
Sec. 35, E $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
T. 12 S., R. 9 E.,
Sec. 1, lot 4,
T. 8 S., R. 10 E.,
Sec. 34, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
T. 12 S., R. 10 E.,
Sec. 23, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate 359.30 acres in Pima and Pinal Counties.

The topography is level to undulating and the soils are sandy with typical desert grass, greasewood, and scrub mesquite.

2. At 10 a.m. on July 7, 1971, the lands shall be open to the operation of the public land laws, including the United States mining laws, and to the filing of applications and offers under the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 7, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries should be addressed to the Manager, Land Office, Bureau of Land Management, Phoenix, Ariz.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 1, 1971.

[FR Doc.71-7993 Filed 6-8-71; 8:47 am]

[Public Land Order 5068]

[Colorado 3123]

COLORADO

Partial Revocation of National Forest Administrative Site Withdrawals

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Secretary's Order of October 26, 1906, withdrawing public domain lands for use by the U.S. Forest Service as an administrative site is hereby revoked insofar as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

KANNAH CREEK RANGER STATION

Administrative Site

T. 12 S., R. 97 W.,
Sec. 19, lots 7, 8, 10, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described aggregates 133.76 acres in Mesa County.

2. At 10 a.m. on July 7, 1971, the lands shall be open to operation of the public land laws, including the U.S. mining laws, and to the filing of applications and offers under the mineral leasing laws, subject to valid existing rights, and the requirements of applicable law. All valid applications filed at or prior to 10 a.m. on July 7, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

RULES AND REGULATIONS

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Room 15019, Federal Building, 1961 Stout Street, Denver, CO 80202.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 1, 1971.

[FR Doc.71-7994 Filed 6-8-71; 8:47 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 13, Rev.]

PART 251—APPLICATIONS FOR SUBSIDIES AND OTHER DIRECT FINANCIAL AID

Applications for Operating-Differential Subsidy

Correction

In F.R. Doc. 71-8046 appearing on page 11033 in the issue for Tuesday, June 8, 1971, the publication date in the second line, reading "(6-9-71)", should read "(6-8-71)".

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Sand Lake National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (6-9-71).

§ 32.12 Special regulations: big game; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Sand Lake National Wildlife Refuge, South Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,000 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Archery season—September 4 through September 12, 1971, both dates inclusive and December 6 through December 31, 1971, both dates inclusive.

(2) Firearms season—November 27 through December 5, 1971, both dates inclusive.

(3) All hunters must exhibit their hunting license, deer tag, and vehicle contents to Federal and State officers upon request.

(4) Hunters will not be allowed to drive on refuge maintained trails, but may park their vehicles outside the refuge and hunt on foot.

(5) All deer taken on the refuge not checked by State or Federal Officers in the field must be checked at refuge headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1971.

LYLE J. SCHOONOVER,
Refuge Manager, Sand Lake
National Wildlife Refuge.

MAY 26, 1971.

[FR Doc.71-7997 Filed 6-8-71; 8:47 am]

PART 32—HUNTING

Sand Lake National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (6-9-71).

§ 32.22 Special regulations: upland game; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of pheasants on the Sand Lake National Wildlife Refuge, S. Dak., is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,000 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of pheasants subject to the following conditions:

(1) The open season for hunting pheasants on the refuge is from December 6 through December 12, 1971, both dates inclusive.

(2) Hunters will not be allowed to drive on refuge maintained trails, but may park their vehicles outside of the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1971.

LYLE J. SCHOONOVER,
Refuge Manager, Sand Lake
National Wildlife Refuge.

MAY 26, 1971.

[FR Doc.71-7998 Filed 6-8-71; 8:47 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Taxation of Exempt Organizations on Rents From Real Property and Interest, Rents, etc., From Controlled Organizations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 9, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 9, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 512(b) of the Internal Revenue Code of 1954 to section 121(b)(2)(A) and (C) of the Tax Reform Act of 1969 (83 Stat. 538), such regulations are amended as follows:

PARAGRAPH 1. Section 1.512(b) is amended by revising paragraph (3) of section 512(b) and by adding at the end thereof a new paragraph (15) and by revising the historical note. These amended and added provisions read as follows:

§ 1.512(b) Statutory provisions: unrelated business taxable income; modifications.

Sec. 512. Unrelated business taxable income.

(b) Modifications. . . .
(3) In the case of rents—
(A) Except as provided in subparagraph (B), there shall be excluded—

(i) All rents from real property (including property described in section 1245(a)(3)(C)), and

(ii) All rents from personal property (including for purposes of this paragraph any property described in section 1245(a)(3)(B)) leased with such real property, if the rent attributable to such personal property is an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.

(B) Subparagraph (A) shall not apply—
(i) If more than 50 percent of the total rent received or accrued under the lease is attributable to personal property described in subparagraph (A)(ii), or

(ii) If the determination of the amount of such rent depends in whole or in part on the income or profits derived by any person from the property leased (other than an amount based on a fixed percentage or percentages of receipts or sales).

(C) There shall be excluded all deductions directly connected with rents excluded under subparagraph (A).

(15) Notwithstanding paragraphs (1), (2), or (3), amounts of interest, annuities, royalties, and rents derived from any organization (in this paragraph called the "controlled organization") of which the organization deriving such amounts (in this paragraph called "controlling organization") has control (as defined in section 368(c)) shall be included as an item of gross income (whether or not the activity from which such amounts are derived represents a trade or business or is regularly carried on) in an amount which bears the same ratio as—

(A) (i) In the case of a controlled organization which is not exempt from taxation under section 501(a), the excess of the amount of taxable income of the controlled organization over the amount of such organization's taxable income which if derived directly by the controlling organization would not be unrelated business taxable income, or

(ii) In the case of a controlled organization which is exempt from taxation under section 501(a), the amount of unrelated business taxable income of the controlled organization, bears to,

(B) The taxable income of the controlled organization (determined in the case of a controlled organization to which subparagraph (a)(ii) applies as if it were not an organization except from taxation under section 501(a)), but not less than the amount determined in clause (i) or (ii), as the case may be, of subparagraph (A).

both amounts computed without regard to amounts paid directly or indirectly to the controlling organization. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

[Sec. 512(b) as amended by Act of Apr. 7, 1958 (Public Law 85-367, 72 Stat. 80); Act of July 17, 1964 (Public Law 88-380, 78 Stat. 333); sec. 121(b)(2)(A) and (C) of the Tax Reform Act 1969 (73 Stat. 538)]

PAR. 2. Section 1.512(b)-1 is amended by revising paragraph (c) and adding at the end thereof a new paragraph (1). These amended and added provisions read as follows:

§ 1.512(b)-1 Modifications.

(c) Rents.—(1) Taxable years beginning before January 1, 1970. For taxable years beginning before January 1, 1970, rents from real property (including personal property leased with the real property) and the deductions directly connected therewith shall be excluded in computing unrelated business taxable income, except that certain rents from, and certain deductions in connection with, a business lease (as defined in section 514(f)) shall be included in computing unrelated business taxable income. See subparagraph (5) of this paragraph for rules governing amounts received for the rendering of services.

(2) Taxable years beginning after December 31, 1969.—(i) In general. For taxable years beginning after December 31, 1969, except as provided in subdivision (iii) of this subparagraph, rents from property described in subdivision (ii) of this subparagraph, and the deductions directly connected therewith, shall be excluded in computing unrelated business taxable income. However, notwithstanding subdivision (ii) of this subparagraph, certain rents from and certain deductions in connection with either debt-financed property (as defined in section 514(b)) or property rented to controlled organizations (as defined in paragraph (1) of this section) shall be included in computing unrelated business taxable income.

(ii) Excluded rents. The rents which are excluded from unrelated business income under section 512(b)(3)(A) and this paragraph are—

(a) Real property. All rents from real property; and

(b) Personal property. All rents from personal property leased with real property if the rents attributable to such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is first placed in service by the lessee.

Rents attributable to personal property generally are not an incidental amount of the total rents if the rents attributable to the personal property exceed 10 percent of the total rents from all the property leased. For example, if the rents attributable to the personal property leased are determined to be \$3,000 per year, and the total rents from all property leased are \$10,000 per year, then such \$3,000 amount is not to be excluded from the computation of unrelated business taxable income by operation of section 512(b)(3)(A)(ii) and this paragraph, since such amount is not an incidental portion of the total rents.

(iii) Exception. Subdivision (ii) of this subparagraph shall not apply, if either—

(a) Excess personal property rentals. More than 50 percent of the total rents are attributable to personal property, determined at the time such personal property is first placed in service by the lessee; or

(b) Net profits. The determination of the amount of such rents depends in whole or in part on the income or profits derived by any person from the property leased, other than an amount based on a fixed percentage or percentages of the gross receipts or sales. For purposes of the preceding sentence, the rules contained in paragraph (b)(1) of § 1.856-4 shall apply.

(iv) Illustration. This subparagraph may be illustrated by the following example:

Example. A, an exempt organization, owns a printing factory which consists of a building housing two printing presses and other equipment necessary for printing. On January 1, 1971, A rents the building and the printing equipment to B for \$10,000 a year. The lease states that \$9,000 of such rent is for the building and \$1,000 for the printing equipment. However, it is determined that notwithstanding the terms of the lease \$4,000, or 40 percent (\$4,000/\$10,000), of the rent is actually attributable to the printing equipment. During 1971, A has \$3,000 of deductions, all of which are properly allocable to the land and building. Under these circumstances, A shall not take into account in computing its unrelated business taxable income the \$6,000 of rent attributable to the building and the \$3,000 of deductions directly connected with such rent. However, the \$4,000 of rent attributable to the printing equipment is not excluded from the computation of A's unrelated business taxable income by operation of section 512(b)(3)(A)(ii) or this paragraph since such rent represents more than an incidental portion of the total rents.

(3) Definitions and special rules. For purposes of subparagraph (2) of this paragraph—

(i) Real property defined. The term "real property" means all real property, including any property described in sections 1245(a)(3)(C) and 1250(c) and the regulations thereunder.

(ii) Personal property defined. The term "personal property" means all personal property, including any property described in section 1245(a)(3)(B) and the regulations thereunder.

(iii) Multiple leases. If separate leases are entered into with respect to real and personal property, and such properties have an integrated use (e.g., one or more leases for real property and another lease or leases for personal property) to be used upon such real property, all such leases shall be considered as one lease.

(iv) Placed in service. Property is "placed in service" by the lessee when it is first subject to his use in accordance with the terms of the lease. For example, property subject to a lease entered into on November 1, 1971, for a term commencing on January 1, 1972, shall be considered as placed in service on January 1, 1972, regardless of when the property is first actually used by the lessee.

(v) Changes in rent charged or personal property rented. If—

PROPOSED RULE MAKING

(a) By reason of the placing of additional or substitute personal property in service, there is an increase of 100 percent or more in the rent attributable to all the personal property leased, or

(b) There is a modification of the lease by which there is a change in the rent charged (whether or not there is a change in the amount of personal property rented),

the rent attributable to personal property shall be recomputed to determine whether the exclusion under subparagraph (2)(ii)(b) of this paragraph or the exception under subparagraph (2)(iii)(a) of this paragraph applies. Any change in the treatment of rents, attributable to a recomputation under this subdivision, shall be effective only with respect to rents for the period beginning with the event which occasioned the recomputation.

(4) Examples. Subparagraphs (2) and (3) of this paragraph may be illustrated by the following examples:

Example (1). On January 1, 1971, A, an organization described in section 501(c)(3), executes two leases with B. One is for the rental of a computer, with a stated annual rental of \$750. The other is for the rental of office space in which to use the computer, at a stated annual rental of \$7,250. The total annual rent under both leases for 1971 is \$8,000. At the time the computer is first placed in service, however, taking both leases into consideration, it is determined that notwithstanding the terms of the lease \$3,000, or 37.5 percent (\$3,000/\$8,000), of the rent is actually attributable to the computer. Therefore, for 1971, only the \$5,000 (\$8,000—\$3,000) attributable to the rental of the office space is excluded from the computation of A's unrelated business taxable income by operation of section 512(b)(3).

Example (2). Assume the facts as stated in example (1). Assume further that the leases to which the computer and office space are subject in example (1) provide that the rent may be increased or decreased, depending upon the prevailing rental value for similar computers and office space. On January 1, 1972, the total annual rent is increased in the computer lease to \$2,000, and in the office space lease to \$9,000. For 1972, it is determined that notwithstanding the terms of the leases \$6,000, or 54.5 percent (\$6,000/\$11,000), of the total rent is actually attributable to the computer as of that time. Even though the personal property rentals now exceed 50 percent of the total rents, the rents attributable to real property continue to be excluded, since there was no modification of the lease terms and since the increase in rentals was not attributable to placing new property in service. See subparagraph (3)(v) of this paragraph. Thus, for 1972 the \$5,000 attributable to the office space continues to be excluded from the computation of A's unrelated business taxable income by operation of section 512(b)(3).

Example (3). Assume the facts as stated in example (1), except that on January 1, 1973, B rents a second computer from A, which is placed in service under the lease. The total rent is increased to \$2,000 for the computer lease and to \$10,000 for the office space lease. It is determined at the time the second computer is first placed in service that notwithstanding the terms of the leases \$7,000 of the rent is actually attributable to the computers. Since the rent attributable to personal property has increased by more than 100 percent (\$4,000/\$3,000=133%), a redetermination must be made under subpara-

graph (3)(v)(a) of this paragraph. As a result, 58.3 percent (\$7,000/\$12,000) of the total rent is attributable to personal property. Since this exceeds 50 percent of the total rent received by A, none of the rents are excluded from the computation of A's unrelated business taxable income by operation of section 512(b)(3).

Example (4). Assume the facts as stated in example (3), except that on June 30, 1975, the lease between B and A is modified. The total rent for the computer lease is reduced to \$1,500 and the total rent for the office space lease is reduced to \$7,500. Pursuant to subdivision (3)(v)(b) of this paragraph, a redetermination is made as of June 30, 1975. As of the modification date, it is determined that notwithstanding the terms of the leases, the rent actually attributable to the computers is \$4,000, or 44.4 percent (\$4,000/\$9,000), of the total rent. Since less than 50 percent of the total rental is now attributable to personal property, the rents attributable to real property (\$5,000), for periods after June 30, 1975, are excluded from the computation of A's unrelated business taxable income by operation of section 512(b)(3). However, the rents attributable to personal property (\$4,000) are not excluded from unrelated business taxable income for such periods by operation of section 512(b)(3), since they represent more than an incidental portion of the total rents.

(5) Rendering of services. For purposes of this paragraph, payments for the use or occupancy of rooms and other space where services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist camps or tourist homes, motor courts, or motels, or for the use or occupancy of space in parking lots, warehouses, or storage garages, do not constitute rentals from real property. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such service; whereas the furnishing of heat and light, the cleaning of public entrances, exists, stairways, and lobbies, the collection of trash, etc., are not considered as services rendered to the occupant. Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple housing units, of offices in any office building, etc., are generally rentals from real property.

(1) Interest, annuities, royalties, and rents from controlled organizations.—(1) In general. For taxable years beginning after December 31, 1969, if an exempt organization (hereinafter referred to as the "controlling organization") has control (as defined in subparagraph (4) of this paragraph) of another organization (hereinafter referred to as the "controlled organization"), the controlling organization shall include as an item of gross income in computing its unrelated business taxable income, the amount of interest, annuities, royalties, and rents derived from the controlled organization

PROPOSED RULE MAKING

determined under subparagraph (2) or (3) of this paragraph. The preceding sentence shall apply whether or not the activity conducted by the controlling organization to derive such amounts represents a trade or business or is regularly carried on. Thus, for example, amounts received by a controlling organization from the rental of its real property to a controlled organization on an irregular basis may be included in the unrelated business taxable income of the controlling organization.

(2) *Exempt controlled organization*—(i) *In general.* If the controlled organization is exempt from taxation under section 501(a), the amount referred to in subparagraph (1) of this paragraph is an amount which bears the same ratio to the interest, annuities, royalties, and rents received by the controlling organization from the controlled organization as the unrelated business taxable income of the controlled organization bears to whichever of the following amounts is the greater—

(a) The taxable income of the controlled organization, computed as though the controlled organization were not exempt from taxation under section 501(a), or

(b) The unrelated business taxable income of the controlled organization, both determined without regard to any amounts paid directly or indirectly to the controlling organization. The controlling organization shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

(ii) *Examples.* This subparagraph may be illustrated by the following examples:

Example (1). A, a scientific organization exempt under section 501(c)(3), owns all the stock of B, another scientific organization exempt under section 501(c)(3). During 1971, A rents a laboratory to B for \$15,000 a year. A's total deductions for 1971 with respect to the leased property are \$3,000; \$1,000 for maintenance and \$2,000 for depreciation. If B were not an exempt organization, its total taxable income would be \$300,000, disregarding rent paid to A. B's unrelated business taxable income, disregarding rent paid to A, is \$100,000. Under these circumstances, \$4,000 of the rent paid by B will be included by A as net rental income in determining its unrelated business taxable income, computed as follows:

B's unrelated business taxable income (disregarding rent paid to A)	\$100,000
B's taxable income (computed as though B were not exempt and disregarding rent paid to A)	\$300,000
Ratio (\$100,000/\$300,000)	$\frac{1}{3}$
Total rent	\$15,000
Total deductions	\$3,000
Rental income treated as gross income from an unrelated trade or business ($\frac{1}{3}$ of \$15,000)	\$5,000
Less deductions directly connected with such income ($\frac{1}{3}$ of \$3,000)	\$1,000
Net rental income included by A in computing its unrelated business taxable income	\$4,000

Example (2). Assume the facts as stated in example (1), except that B's taxable income is \$90,000 (computed as though B were not an exempt organization, and dis-

regarding rents paid to A). B's unrelated business taxable income (\$100,000) is therefore greater than its taxable income (\$90,000). Thus, the ratio used to determine what portion of the rent A receives is taxable is one since both the numerator and denominator of such ratio is B's unrelated business taxable income. Consequently, all the rent received by A from B (\$15,000), and the deductions directly connected therewith (\$3,000), are included by A in computing its unrelated business taxable income.

(3) *Nonexempt controlled organization*—(i) *In general.* If the controlled organization is not exempt from taxation under section 501(a), the amount referred to in subparagraph (1) of this paragraph is an amount which bears the same ratio to the interest, annuities, royalties, and rents received by the controlling organization from the controlled organization as the "excess taxable income" (as defined in subdivision (ii) of this subparagraph) of the controlled organization bears to whichever of the following amounts is the greater—

(a) The taxable income of the controlled organization, or

(b) The excess taxable income of the controlled organization,

both determined without regard to any amount paid directly or indirectly to the controlling organization. The controlling organization shall be allowed all deductions which are directly connected with amounts included in gross income under the preceding sentence.

(ii) *Excess taxable income.* For purposes of this paragraph, the term "excess taxable income" means the excess of the controlled organization's taxable income over the amount of such taxable income which, if derived directly by the controlling organization, would not be unrelated business taxable income.

(iii) *Examples.* This subparagraph may be illustrated by the following examples:

Example (1). A, a university exempt from taxation under section 501(c)(3), owns all the stock of M, a nonexempt organization. During 1971, M leases a factory and a dormitory from A for a total annual rental of \$100,000. During the taxable year, M has \$500,000 of taxable income, disregarding the rent paid to A: \$150,000 from a dormitory for students of A university, and \$350,000 from the operation of a factory which is a business unrelated to A's exempt function. A's deductions for 1971 with respect to the leased property are \$4,000 for the dormitory and \$16,000 for the factory. Under these circumstances, \$56,000 of the rent paid by M will be included by A as net rental income in determining its unrelated business taxable income, computed as follows:

M's taxable income (disregarding rent paid to A)	\$500,000
Less taxable income from dormitory	150,000
Excess taxable income	\$350,000
Ratio (\$350,000/\$500,000)	$\frac{7}{10}$
Total rent paid to A	\$100,000
Total deductions (\$4,000 + \$16,000)	20,000
Rental income treated as gross income from an unrelated trade or business ($\frac{7}{10}$ of \$100,000)	\$70,000
Less deductions directly connected with such income ($\frac{7}{10}$ of \$20,000)	\$14,000

Net rental income included by A in computing its unrelated business taxable income

Example (2). Assume the facts as stated in example (1), except that M's taxable income (disregarding rent paid to A) is \$300,000, consisting of \$350,000 from the operation of the factory and a \$50,000 loss from the operation of the dormitory. Thus, M's "excess taxable income" is also \$300,000, since none of M's taxable income would be excluded from the computation of A's unrelated business taxable income if received directly by A. The ratio of M's "excess taxable income" to its taxable income is therefore one (\$300,000/\$300,000). Thus, all the rent received by A from M (\$100,000), and the deductions directly connected therewith (\$20,000), are included in the computation of A's unrelated business taxable income.

(4) *Control.* For purposes of this paragraph—

(i) *Stock corporation.* In the case of an organization which is a stock corporation, the term "control" means ownership by an exempt organization of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of such corporation.

(ii) *Nonstock organization.* In the case of a nonstock organization, the term "control" means that at least 80 percent of the directors or trustees of such organization are either representative of or directly or indirectly controlled by an exempt organization. A trustee or director is representative of an exempt organization if he is a trustee, director, or employee of such exempt organization. A trustee or director is controlled by an exempt organization if such organization has the power to remove such trustee or director and designate a new trustee or director.

(5) *Amounts taxable under other provisions of the Code*—(i) *In general.* Section 512(b)(15) and this paragraph do not apply to amounts which are included in the computation of unrelated business taxable income by operation of any other section of the Code. However, amounts which are not included in unrelated business taxable income by operation of section 512(a)(1), or rents which are excluded by operation of section 512(b)(3)(A), may be included in unrelated business taxable income by operation of section 512(b)(15) and this paragraph.

(ii) *Debt-financed property.* Rents derived from the lease of debt-financed property by a controlling organization to a controlled organization are subject to the rules contained in section 512(b)(15) and this paragraph. Thus, if a controlling organization leases debt-financed property to a controlled organization, the amount of rents includible in the controlling organization's unrelated business taxable income shall first be determined under section 512(b)(15) and this paragraph, and only the portion of such rents not taken into account by operation of section 512(b)(15) are taken into account in computing unrelated business taxable income under section 514. See example (3) of § 1.514(b)-1(b)(2)(iii).

[FR Doc.71-7910 Filed 6-8-71; 8:45 am]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 909]

GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Increase in Assessment Rate and Decrease in Expenses for 1970-71 Fiscal Year

Consideration is being given to the proposal set forth herein submitted by the Grapefruit Administrative Committee, established under Order No. 909, as amended (7 CFR Part 909; 35 F.R. 16637), regulating the handling of Grapefruit grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof. The committee now estimates that due to freeze damage in the production area the crop will not reach the previously estimated total, thus rendering necessary the proposed increase in assessment rate and decrease in expenses.

The proposal is that the provisions of paragraphs (a) *Expenses* and (b) *Rate of assessment* of § 909.209 (35 F.R. 17653) be amended to read as follows:

§ 909.209 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Administrative Committee during the period September 1, 1970 through August 31, 1971 will amount to \$88,200.

(b) *Rate of assessment.* The rate of assessment to reach period, payable by each handler in accordance with § 909.41, is hereby fixed at \$0.035 per carton, or equivalent quantity of grapefruit.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: June 4, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc.71-8045 Filed 6-8-71; 8:51 am]

[7 CFR Part 917]
FRESH PEARS, PLUMS, AND PEACHES
GROWN IN CALIFORNIA

Proposed Handling Limitation

Consideration is being given to the following proposal submitted by the Peach Commodity Committee, established pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917; 36 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal is to establish container and pack specifications hereinafter set forth applicable to fresh peaches so as to provide standardized packages of uniformly sized peaches to promote orderly marketing of this fruit consistent with the declared policy of the act and the interests of producers and consumers.

All persons who desire to submit written data, views, or arguments, for consideration in connection with the proposed regulation shall file the same in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 7th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

§ 917.424 Peach Regulation 2.

(a) On and after June 20, 1971, no handler shall handle any package or container of any variety of peaches except in accordance with the following terms and conditions:

(1) Such peaches, when place-packed in packages or containers in rows, shall conform to the requirements of standard pack.

(2) Each package or container of peaches shall bear in plain sight and in plain letters, on one outside end, the name of the variety, if known, or when the variety is not known, the words "unknown variety."

(3) Each package or container of peaches shall bear on one outside end, in plain sight and in plain letters, the size description of the peaches which description shall conform to the following, as applicable:

(i) When packed or filled in any package or container the size shall be indicated in accordance with the number of peaches in the package or container, or by the equivalent size designation for such peaches when packed in a No. 22D standard lug box in accordance with the requirements of standard pack as set forth in the U.S. Standards for Peaches (§§ 51.1210-51.1223 of this title), e.g., "88 size," and "96 size," etc.

(4) The difference in diameter between the smallest and largest peach in

any individual container shall not be greater than three-eighths inch: *Provided*, That a total of not more than 5 percent, by count, of the peaches in a package or container may fail to meet this requirement.

(b) When used herein "standard pack" shall have the same meaning as set forth in the U.S. Standards for Peaches (§§ 51.1210-51.1223 of this title); the term "No. 22D standard lug box" shall have the same meaning as set forth in section 43601 of the Agricultural Code of California; and all other terms shall have the same meaning as when used in the marketing agreement and order.

Dated: June 4, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc.71-8043 Filed 6-8-71; 8:51 am]

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES
GROWN IN CALIFORNIA

Proposed Approval of Expenses and Fixing of Rates of Assessment for 1971-72 Fiscal Period

Consideration is being given to the following proposals submitted by the Control Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 36 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the provisions thereof:

(a) That expenses that are reasonable and likely to be incurred during the fiscal period from March 1, 1971, through February 29, 1972, will amount to \$427,990.

(b) That the rates of assessment for such fiscal period payable for each handler in accordance with § 917.37 be fixed at:

(1) Nine-tenths of a cent (\$0.009) per standard western pear box of pears, or its equivalent in other containers or in bulk;

(2) Four and four-tenths of a cent (\$0.044) per standard four-basket crate of plums, or its equivalent in other containers or in bulk; and

(3) Three and five-tenths of a cent (\$0.035) per Los Angeles lug, or its equivalent in other containers or in bulk.

Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and this part.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

PROPOSED RULE MAKING

culture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the *FEDERAL REGISTER*. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: June 4, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8044 Filed 6-8-71; 8:51 am]

[7 CFR Part 921]

FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Proposed Handling Limitation

Consideration is being given to the following proposal, as hereinafter set forth, which would limit the handling of fresh peaches grown in designated counties in Washington by establishing regulations, pursuant to the order, which was recommended by the Washington Fresh Peach Marketing Committee, established pursuant to the marketing agreement, and Order No. 921 (7 CFR Part 921) regulating the handling of fresh peaches grown in designated counties in Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 7th day after the publication of this notice in the *FEDERAL REGISTER*. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations of the Washington Fresh Peach Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of peaches from the production area are expected to begin on or about June 28, 1971. The proposed grade (including uniform firmness), size, maturity, and pack requirements provided herein are necessary to prevent the handling, on and after June 28, 1971, of any peaches which do not comply with such requirements, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to producers pursuant to the declared policy of the act. Individual shipments, not exceeding 500 pounds, of peaches sold for home use and not for resale, subject to necessary safeguards, are excepted from these proposed requirements in that the quantity of peaches so handled has been relatively inconsequential when

compared with the total quantity handled.

Such proposal reads as follows:

§ 921.308 Peach Regulation 8.

(a) Order: Peach Regulation 7 (35 F.R. 10891) is hereby terminated on June 28, 1971.

(b) During the period June 28, 1971, through June 30, 1972, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with subparagraph (6) of this paragraph:

(1) Minimum grade: Such peaches shall grade at least Washington Extra Fancy Grade: *Provided*, That peaches which grade Washington Fancy Grade, or better, may be handled if they are packed in the Western lug box or the standard peach box.

(2) Minimum size: (i) Such peaches of any variety, except peaches of the Elberta varieties, packed in any container except the standard peach box, shall measure not less than 2 3/4 inches in diameter;

(ii) Such peaches of any variety when packed in a standard peach box shall measure not less than 2 1/4 inches in diameter; and

(iii) Such peaches of the Elberta varieties, packed in any container shall measure not less than 2 1/4 inches in diameter.

(3) Minimum maturity: Such peaches shall be well matured, except that any lot of peaches shall be deemed to have met such minimum maturity requirement if not more than 25 percent, by count, of the peaches in such lot are mature.

(4) Uniform firmness: Such peaches in individual containers shall have a reasonably uniform degree of firmness.

(5) Pack:

(i) Such peaches in loose or jumble packs shall be in containers of a capacity equal to or greater than that of a Western lug box and shall contain not less than 26 pounds net weight of peaches: *Provided*, That such containers of peaches having less than 26 pounds net weight may be handled if such containers are well filled; and

(ii) Such peaches other than peaches in loose or jumble packs in any container shall meet the standard pack requirements as set forth in the Washington Standards for Peaches (Order No. 1203), or the U.S. Standards for Peaches (§ 51.1210 et seq. of this title).

(6) Notwithstanding any other provision of this section, any individual shipment of peaches sold by the producer or at an established packinghouse which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 921.41 (Assessments), and of § 921.55 (Inspection and certification) if:

(i) The shipment consists of peaches sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of peaches; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(c) The terms "Washington Extra Fancy Grade", "Washington Fancy Grade", and "mature" shall have the same meaning as when used in the Washington Standards for Peaches (effective June 14, 1971), issued by the State of Washington Department of Agriculture; the term "well matured" shall mean peaches which will yield very slightly to moderate pressure at the suture or blossom end, have shoulders and suture that are well filled out, and have skin and flesh colored sufficiently that it will show characteristic varietal color when ripe; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in rows, cups, compartments, or otherwise are not placed in the container in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4 1/4 to 6 by 11 1/2 by 16 inches; the term "Western lug box" shall mean any container with inside dimensions of 7 by 11 1/2 by 18 inches; the term "diameter" shall mean the greatest distance, measured through the center of the peach at right angles to a line running from the stem to the blossom end; and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

Dated: June 4, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8042 Filed 6-8-71; 8:51 am]

[7 CFR Part 1136]

[Docket No. AO 309-A17]

MILK IN GREAT BASIN MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Great Basin marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Salt Lake City, Utah, pursuant to notices thereof issued on December 2, 1970 (35 F.R. 18621), and December 9, 1970 (35 F.R. 18975).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on April 14, 1971 (36 F.R. 7462), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing

notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. In the discussion under the heading "4. Pool plant qualifications," the first and seventh paragraphs are changed and three additional paragraphs are added immediately following the fourth paragraph thereof.

2. The discussion under the heading "5. Diversion of producer milk," is changed in its entirety.

The material issues on the record relate to:

1. The Class I price.
2. The Class III price.
3. Location differentials.
4. Pool plant qualifications.
5. Diversion of producer milk.
6. Computation of allowable shrinkage.

There was no testimony on proposals 7 and 8 as published in the notice of hearing and no other basis exists in the record for considering the changes proposed. Accordingly, no action on such proposals is taken in this decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Class I Price.* The Class I price differential, the amount added to the basic formula price (Minnesota-Wisconsin price series) for the preceding month to determine the Class I price, should be reduced 32 cents, from \$2.22 to \$1.90.

The hearing notice proposal, to reduce the Class I price 50 cents, was submitted by a major handler in the market. He contended that the present Class I price (\$7.04 in December 1970) is tending to develop excessive production for the market, is improperly aligned with the Class I prices in other Federal order markets, and is high relative to the cost of obtaining milk from alternative sources of supply.

A second handler who supported the 50-cent reduction in the Class I price stated that the present price is causing the loss of Class I sales from the pool to substitutes for fluid milk products, that the present margin between the Class I price and uniform price encourages producers to drop out of the pool and become producer-handlers, and that the cost an ungraded shipper would incur to qualify his farm as a Grade A operation (and thereby be eligible to become a producer under the order) does not justify as wide a difference as now exists between the Class I and Class III prices.

A cooperative representing a majority of the producers on the market, although not supporting the full 50-cent decrease, favored some reduction in the Class I price. The cooperative spokesman was not specific, however, regarding the price reduction appropriate in the light of current supply conditions.

PROPOSED RULE MAKING

Opposition testimony to reducing the Class I price was presented by the operator of a nonpool (cheese manufacturing) plant at which milk is received from 325 to 350 ungraded dairy farms. This plant also receives substantial quantities of surplus pool milk that is classified in Class III under the order. These latter receipts are obtained by transfer and diversion from regulated plants.

This manufacturing plant operator also operates a farm from which milk is shipped to a pool plant. He opposed a reduction in the Class I price on the basis that it would result in a lower price being paid to him for his milk as a producer under the order. Several Grade A and ungraded milk shippers, some or all of whose production is received at the manufacturing plant, also expressed opposition to reducing the Class I price.

A person who claims producer-handler status (although determined by the market administrator to be a pool handler) opposed reducing the Class I price because it would reduce the cost of milk to his competitors.

A cooperative representing about 25 percent of the producers on the market opposed any reduction in the Class I price on the basis that it would be reflected in reduced returns to producers.

The Class I price must be maintained at a level which, in conjunction with the Class II and Class III prices, will result in returns to producers high enough to maintain an adequate, but not excessive, supply of quality milk to meet the requirements of consumers, including necessary market reserves. The present Class I price is tending to attract increasingly larger quantities of milk for the market in excess of the market's fluid needs. In 1969, both producer deliveries and Class I sales of pool handlers increased by 4 percent over 1968. The 489 million pounds produced for the market in 1970 was 41 million pounds greater than production in 1969, an increase of 9 percent. Class I sales of pool milk were essentially unchanged, 275 million pounds in 1969 and 274 million pounds in 1970.

The accelerating rate of production for the market is further indicated by the 14 percent increase in the quantity of producer milk pooled in the last 3 months of 1970 over a year earlier. The deterioration in the ratio of Class I sales to producer deliveries is reflected in the 56 percent Class I utilization of producer deliveries in 1970 compared to utilizations of 61 percent, 62 percent and 61 percent, respectively in 1969, 1968 and 1967.

The rapidly expanding production relative to Class I sales is reflected in an increasingly larger spread between the Great Basin Class I and uniform prices. For the year 1970, the Class I price and the uniform price averaged \$6.89 and \$5.77, respectively, a difference of \$1.12 which was 10 cents greater than in 1969.

Since producer-handlers operate essentially only a Class I business, the widening disparity between the Class I price and the uniform price provides a substantial incentive for individuals to

operate as producer-handlers and this is reflected in the increased share of the total Class I sales which producer-handlers in this market have acquired.

Class I sales by producer-handlers are a substantial portion, about 10 percent, of the total Class I sales in the market. In 1970, when Class I sales of producer milk were 274 million pounds, producer-handler Class I distribution in the marketing area totaled 32 million pounds.

Milk from a number of farms in the Boise, Idaho, area is pooled under both the Great Basin and Oregon-Washington orders. Boise is 432 miles from Portland and 362 miles from Salt Lake City, the principal cities in the Oregon-Washington and Great Basin marketing areas, respectively. For December 1970, the Class I price, f.o.b. Boise, under the Oregon-Washington order was \$6.125 (Class I price of \$6.77 less 64.5 cents location adjustment) and under the Great Basin order \$6.565 (Class I price of \$7.04 less 47.5 cents location adjustment).

In addition to the milk from the Boise area actually moving from producers' farms to pool plants in the Great Basin and Oregon-Washington marketing areas, substantial additional quantities of milk are available in that area and at other locations in southern Idaho. Such other locations of potential supply in southern Idaho for the Great Basin market, and significantly closer to the market than Boise, are near Pocatello, Idaho Falls, and Twin Falls which cities are 164, 210, and 233 miles, respectively, from Salt Lake City.

It is concluded, therefore, that the present Class I price differential is not necessary to induce an adequate supply and is reduced 32 cents per hundred-weight.

Based on the current utilization in the pool, the proposed 32-cent reduction in the Class I price in conjunction with the increase in the Class III price provided elsewhere in this decision will return to producers a uniform price approximating that realized from the present pricing in the order. It is expected, however, that the proposed price changes will encourage greater use of producer milk in Class I and thus, over the longer term, result in an improved marketing situation.

Some witnesses opposed lowering the Class I price on the basis that it would reduce returns to producers. In their testimony they held that if the Class I price were reduced, producers would increase their production but that the quantities of Class I milk sold would not be affected by such change in price. Such testimony advances the theory that the Class I price under an order should be reduced to encourage increased production for the market and be increased when an incentive to producers to reduce their production is needed. There is no economic foundation for this line of reasoning.

2. *Class III price.* The Class III price should be the basic formula price for the month.

The basic formula price (Minnesota-Wisconsin manufacturing milk price series) reflects the value of manufactur-

ing milk to processors in the major production areas of the United States. The Minnesota-Wisconsin price series is used as a basis for determining surplus class prices in a great majority of the Federal milk orders. Because manufactured milk products compete on a national market, it is important that the price for milk in such uses in this market be as close as possible to prices in other markets.

The order now uses a butter-nonfat dry milk formula to derive the Class III price. In 1970, when the order Class III price averaged \$4.37, the Minnesota-Wisconsin average price was 29 cents more, \$4.66.

The handler who proposed a 50-cent reduction in the Class I price also proposed increasing the Class III price to the level of the Minnesota-Wisconsin price. He cited particularly as a basis for his proposal that the Class III price is unreasonably low relative to prices being paid for manufacturing grade milk in this area, and is encouraging operators of manufacturing milk plants to lower their purchase cost of milk by attaching additional milk to the pool solely for manufacturing purposes and to obtain the uniform price (which exceeds local pay prices for manufacturing milk) for their dairy farmers.

Operators of plants, both regulated and unregulated, opposed using the Minnesota-Wisconsin price as the Class III price. These plants, the major outlets for surplus milk in the market, depend on receipts from both ungraded dairy farms and producers (Grade A milk) for their supplies.

The Class III price must be at such a level that handlers will accept and market those quantities of producer milk in excess of Class I needs. Otherwise some producer milk might be left without a market. The price, however, should not be so low that handlers under the regulation will be encouraged to seek milk supplies solely for the purpose of converting them into Class III products at the expense of producers generally.

Producers are not receiving the full market value through the pool for their Class III milk. Markets are available locally for milk for manufacturing purposes at prices substantially above the present Class III price. Regulated handlers can realize the higher market value of milk disposed of by them in such uses. Such higher value is not adequately reflected, however, in the payments made to producers under the order.

In December 1970, when the order Class III price was \$4.49 and the Minnesota-Wisconsin price was \$4.83 for milk of 3.5 percent butterfat content, manufacturing plants in the area generally paid prices even higher than the Minnesota-Wisconsin average. Substantial quantities of milk produced in the area are utilized in the manufacture of hard cheeses (American, Cheddar, Monterey, etc.). One cheese manufacturing plant receives milk from between 325 to 350 ungraded shippers. Prices paid for ungraded milk varies according to the volume, whether it is received in cans or via a bulk tank truck, and whether or not

it is cooled at the farm. Although some shippers are paid as much as \$5.10 for milk of 3.5 percent butterfat, the average price paid at this plant for milk from ungraded farms was about \$4.90 in December.

The above plant also receives milk from pool plants, both as diverted milk and as shipments from such plants. The price paid for Class III milk this plant receives from a plant operated by a major cooperative in the market is about \$5. The milk received as diverted milk from another pool handler is purchased at 25 cents above the Class III price, or essentially at the Minnesota-Wisconsin price.

A second cheese manufacturing plant in the area pays his shippers from \$4.70 to \$5 for milk containing 3.5 percent butterfat, depending on the volume of delivery.

The handler proposing a higher Class III price under the order receives milk from ungraded farms at a plant operated by him in Boise, Idaho. His pay price is \$4.94 for milk of 3.5 percent butterfat. The milk is used to produce butter and nonfat dry milk.

In addition to their fluid milk operations, some cooperatives in the market operate manufacturing plants receiving milk from ungraded farms. The price paid at one such manufacturing plant in Utah is about \$5 for milk containing 3.5 percent butterfat.

A cooperative in the Boise area, a handler under the order on the basis of member milk shipped regularly from the farms to a pool distributing plant in Salt Lake City, also disposes of substantial quantities of its member milk for manufacturing purposes to a condensing plant in Idaho. The price received by the cooperative f.o.b. its plant in Idaho is \$5.06 for milk containing 3.5 percent butterfat. The cost of transporting the milk to the manufacturing plant, more than 100 miles away, is borne by the buyer.

The price for Class II milk (used to produce cottage cheese) is determined by adding 15 cents to the Class III price. There was no proposal before the hearing to change the relationship between the Class II and Class III prices, which heretofore has been found appropriate. This relationship is continued.

3. *Location differentials.* The location adjustment provisions of the order should not be changed.

The proposal in the hearing notice would replace Ogden and Provo with Salt Lake City as the basing point from which distances are measured in determining location adjustments. Proponent of the proposal offered no testimony at the hearing. Others who testified regarding location adjustments were concerned with aspects other than changing the basing point.

Two cooperatives proposed extending the area where no location adjustments are applicable. At present no location adjustments apply at plants within 150 miles of either Ogden or Provo. At any plant 150 miles or more from the nearer of these cities the Class I and uniform

prices are reduced 22 cents, plus 1.5 cents for each additional 10 miles beyond 160 miles.

One of these cooperatives proposed replacing the 150-mile limit with any distance more than 164 miles, the mileage from Provo to the location of a non-pool manufacturing plant operated by the cooperative. This plant receives a supply from about 15 ungraded shippers, and from several producers under the order whose production is received as diverted milk on a number of days during most months. The uniform price under the order on milk diverted to the plant, which is pooled as Class III milk, is subject to a minus 23.5-cent location adjustment.

The cooperative's proposal, which would result in no location differential at its plant, would reduce its overall obligation in making settlement to the producer-settlement fund by an amount equal to 23.5 cents times the hundred-weight of producer milk diverted to its plant. The cooperative stated that unless the change they request is made, it will not be economically feasible to operate this relatively small manufacturing plant.

A cooperative in the Boise area proposed that Ogden and Provo be retained as basing points, but that the base zone in which no location adjustment is applicable be extended from 150 to 200 miles. Such a change is designed to increase returns for producer milk diverted to manufacturing plants to the extent that the location adjustment is reduced or eliminated at the various nonpool manufacturing plants in southern Utah to which milk sometimes is diverted by the cooperative. The spokesman for the cooperative urged that the proposed change should be adopted because it would give more producers an opportunity to receive higher prices for their milk. Again, the milk diverted is utilized and pooled in Class III under the order.

The principal purpose of location pricing is to facilitate the economic movement of milk for Class I purposes from distant plants to the central market. It is not the purpose of location pricing to encourage the production of milk to supply the needs of manufacturing plants at distant locations from the market.

The proposals, if adopted, would not implement the movement of milk to the central market but instead would tend to attract additional unneeded supplies of milk for manufacturing purposes into the pool at the expense of producers regularly supplying the fluid market. The proposals are therefore denied.

4. *Pool plant qualifications.* (a) The monthly route disposition requirement for pooling a distributing plant should be not less than 50 percent of its total receipts in September through February, not less than 45 percent in March and April, and not less than 40 percent in May through August. These latter months are those of seasonally high production relative to demand.

A plant must now distribute at least 50 percent of its total receipts on routes in each month to qualify as a pool plant. The requirements that route disposition

in the marketing area during the month be at least 15 percent of the plant's total route disposition should not be changed.

In the notice of hearing, a cooperative proposed minimum monthly route disposition requirements for pooling of 40 percent of a plant's receipts of fluid milk products in May through August, 55 percent in October through January, and 45 percent in the remaining months of the year.

At the hearing, the cooperative modified its proposal to specify a minimum route disposition percentage of receipts for each month, ranging from 40 percent in June to 52 percent in October and January. The average Class I utilization percentage of producer milk each month in 1968, 1969 and 1970 was used as a guide for determining the proposed monthly percentages.

A cooperative excepted to the recommended decision's 40 percent minimum route disposition requirement for pooling in March, April, and August. It argued that a 45 percent minimum route disposition requirement would be more appropriate under conditions in the Great Basin market.

Production for the Great Basin market is heaviest in the months of May, June, July, and August. Production in August in recent years has been substantially the same as in the other 3 months. In 1970, when producer milk pooled in August was 43.3 million pounds, it was 42.6 million pounds in May, 42.8 million pounds in June and 43.2 million pounds in July. In view of this, it would be inappropriate to adopt a route disposition requirement for pooling in August different from the 40 percent rate deemed suitable for the other 3 months of seasonally high production.

Producer milk pooled in March and April 1970 was 40.9 million pounds and 39.8 million pounds, respectively. The production of Great Basin producers in these months has over the years been significantly below that in the flush production months of May-August. Adopting a 45 percent minimum route disposition requirement for March and April, as originally proposed in the hearing notice proposal, gives consideration to this.

The proponent cooperative represents a majority of Great Basin order producers. It operates pool plants and is primarily responsible for handling much of the reserve supplies of milk for the market. Unless the route disposition requirements for pooling are changed, the cooperative's distributing plant could fail to qualify as a pool plant in some months. This could result especially during the months of seasonally high production if the reserve supplies of milk for the market necessarily handled at such plant were to increase significantly from present levels.

There has been a substantial increase in production for the market relative to its Class I needs in recent years. This has resulted in the cooperative handling increasingly larger quantities of the expanded production at its pool distributing plant during the flush production

months. In June 1970 and in some months in prior years, the 50 percent route disposition requirement was suspended from the order to enable the cooperative to handle surplus milk without losing pool plant status for its distributing plant.

The proposal to provide a different minimum route disposition percentage for each month (varying from 40 percent to 52 percent) to qualify a plant for pooling should not be adopted. Such a provision, which is an unnecessary refinement of the order, is impracticable and would accomplish no worthwhile purpose. The monthly route disposition percentage requirements for pooling herein adopted (50 percent in September-February, 45 percent in March and April, and 40 percent in May-August) provide a reasonable standard for establishing association of distributing plants with the market under current conditions. The requirements for pooling adopted should enable the cooperative which is responsible for handling a major portion of the reserve milk of the market to continue to perform this important service, particularly during the months of seasonally high production, with out endangering the pool plant status of its distributing plant.

Another cooperative suggested that no action be taken on the proposal to revise the pooling provisions, but that the relief sought be achieved by suspension action for each month as needed.

A suspension is not an appropriate alternative to amendment action. It would be inappropriate to continue as part of the order but to set aside for temporary periods by suspension action, a provision known to be unsuitable, in lieu of adopting the most appropriate provision through the hearing process.

The qualifying percentages adopted in this decision will contribute to stability and orderly marketing in the area by providing a basis for pooling distributing plants that are suited to present conditions in the Great Basin market.

(b) In determining its pool plant status, the total receipts on which the percentage of a plant's route disposition is computed should exclude receipts from other order plants used for manufacturing purposes. Such receipts are now included in the total receipts of a distributing plant in determining its qualification for pooling.

Milk so received is not available as a part of the regular supply for the market to serve fluid needs, and should not be allowed to affect the uniform price paid to Great Basin producers for their deliveries. The Great Basin order plant should have opportunity, however, to receive such milk for manufacturing use without adding to its difficulty in meeting pooling requirements. It is appropriate, therefore, for purposes of determining pool plant status, that milk received at a Great Basin order plant from another Federal order market not be counted as a receipt at the Great Basin order plant when such milk is classified as Class III at the receiving plant and is priced and pooled under the other order.

5. *Diversion of producer milk.* The milk of its producer members diverted from any pool distributing plant by a cooperative association operating a distributing plant should be considered as a receipt at the cooperative's plant in determining its performance for pool plant status.

Under the Great Basin order, both the milk of its members which a cooperative causes to be delivered to pool distributing plants of other handlers, and the quantity of all such milk assigned to Class I at such plants, are combined with the receipts and disposition of the cooperative's plant as a basis for qualifying its own pool distributing plant as a pool plant under the performance standards. This method of determining cooperative plant performance has been used in the market for a number of years. The only proposal at this hearing concerned the manner in which diverted milk would be counted under this general basis for pooling a cooperative's distributing plant.

The recommended decision proposed that milk diverted by a cooperative from its own, or any other, pool plant not be considered as a receipt at a pool plant in determining the pool plant status of the plant from which diverted. The basis for this action was that the provision whereby a cooperative may divert monthly to nonpool plants up to 25 percent of its producer members' deliveries to all pool plants in March-August, and up to 20 percent in September-February, would be fully adequate for maintaining a reasonable limit to the quantities of milk that may be diverted.

In their exceptions to the recommended decision, the major cooperatives urged that the diversion provisions be further tightened by providing that the total quantity of cooperative members' milk diverted from pool distributing plants (including a cooperative's own plant) be considered as a receipt at the cooperative's plant in determining whether it meets the percentage performance requirements for pool plant status.

Since the milk of its members physically received at and disposed of by all pool distributing plants at which member milk is received is used in determining the qualification of a cooperative's distributing plant as a pool plant, the member milk diverted by the cooperative from all such plants should be counted as part of the receipts at, and disposition from, the cooperative's plant.

Instituting such a provision in the order will provide a safeguard against adding to the pool unneeded supplies (via diversions) and will encourage inclusion in the pool of only that milk regularly associated with the market in meeting its Class I requirements.

6. *Computation of allowable shrinkage.* A cooperative proposed that the shrinkage provisions of the order apply to milk moved to a nonpool plant from a pool plant, by transfer or diversion, in the same manner that is now applicable on milk received at a pool plant from producers and other pool plants.

The order now provides for a maximum shrinkage allowance in Class III

PROPOSED RULE MAKING

at each pool plant of 2 percent of producer milk (except diverted milk) and of milk received from a cooperative in its capacity as a handler for bulk tank milk picked up at the farm, plus 1.5 percent of milk received in bulk from other pool plants and of bulk fluid milk products received from other order plants and unregulated supply plants (exclusive of the quantity of such receipts for which a Class III utilization is expressly requested by a handler), and less 1.5 percent of milk disposed of in bulk tank lots to other pool plants.

No provision is now made in the order for shrinkage on milk transferred or diverted from a pool plant to a nonpool plant. The incidence of shrinkage is no different on transfers of milk from a pool plant to a nonpool plant than it is on milk moved from one pool plant to another. Neither is it different if the milk is moved directly from the farm either to a pool plant or as diverted milk to a nonpool plant. It is appropriate, therefore, that the shrinkage provisions of the order be amended to apply to milk transferred and diverted from a pool plant to a nonpool plant the same as they do to milk moved between pool plants and moved directly from producers' farms to pool plants. Accordingly, an allowable 2 percent shrinkage at a pool plant on milk transferred or diverted to a nonpool plant would be reduced by 1.5 percent, and the pool plant would retain the remaining shrinkage allowance of not more than 0.5 percent on such milk.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Evidence on proposals to make certain changes in the Class I and Class III pricing provisions of the order were excluded from the record by the presiding officer on the basis that they were not within the scope of the hearing. Offers of proof made by the parties submitting the proposals have been reviewed. The action taken by the presiding officer on them is hereby reaffirmed for the reasons stated by him on the record of the hearing.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such find-

ings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Great Basin marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

March 1971 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Great Basin marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were

engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on June 3, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order Amending the Order, Regulating the Handling of Milk in the Great Basin Marketing Area

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings. A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Great Basin marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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decision issued by the Deputy Administrator, Regulatory Programs, on April 14, 1971, and published in the FEDERAL REGISTER on April 20, 1971 (36 F.R. 7462), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modifications in § 1136.11:

1. Section 1136.11 is revised as follows:

§ 1136.11 Pool plant.

"Pool plant" means:

(a) A fluid milk plant, except a producer-handler plant, from which not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 is disposed of on routes, and not less than 15 percent of such route disposition is on routes in the marketing area.

(1) For the purpose of determining the qualification pursuant to this paragraph of a fluid milk plant pursuant to § 1136.10 (a) operated by a cooperative association, producer milk which such cooperative association causes to be delivered to the pool plant of another handler or diverted therefrom shall be included with receipts of producer milk at such cooperative's plant and the quantity of such milk assigned to Class I pursuant to § 1136.22(h) shall be included as a Class I route disposition from such cooperative's plant;

(i) If such a cooperative association operates more than one fluid milk plant as defined in § 1136.10(a), such producer milk and class I milk shall be included in the computation for whichever plant the cooperative association requests in writing to the market administrator; and

(ii) If no such written request is made, such producer milk and class I milk shall be prorated among the plants; and

(2) If a handler operates more than one fluid milk plant, the combined receipts and fluid milk products disposition, except filled milk, of any such plants may be used as the basis for qualifying the respective plants pursuant to the preceding computations specified in this paragraph if a handler in writing so requests the market administrator.

2. Section 1136.13(c) is revised as follows:

§ 1136.13 Producer milk.

(c) Diverted from a pool plant to a nonpool plant that is not another order plant, a producer-handler plant or an exempt distributing plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) A cooperative association may divert for its account only the milk of member producers: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(4) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (3) and (4) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk;

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a request in writing with the market administrator on or before the 1st day of the month the agreement is effective. This request shall specify the basis for assigning overdiverted milk to the producer members of each cooperative association according to a method approved by the market administrator; or

3. Section 1136.41(c)(5) is revised as follows:

§ 1136.41 Classes of utilization.

(c) . . .

(5) In shrinkage of skim milk and buttermilk, respectively, at each pool plant, or a handler pursuant to § 1136.9(c), assigned pursuant to § 1136.45(b)(1), but not to exceed the following:

(i) Two percent of producer milk; plus

(ii) One and one-half percent of milk plus received in bulk from other pool plants;

(iii) One and one-half percent of milk received from a handler pursuant to § 1136.9(c) (except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent); plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from

an other order plant, exclusive of the quantity for which class III utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which class III utilizations was requested by the handler; less

(vi) One and one-half percent of milk transferred or diverted in bulk to other plants (except when the exception specified in subdivision (iii) of this subparagraph applies, the applicable percentage shall be 2 percent);

4. Section 1136.50 is revised as follows:

§ 1136.50 Class prices.

Subject to the provisions of §§ 1136.52 and 1136.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The class I milk price shall be the basic formula price for the preceding month plus \$1.70 and plus 20 cents.

(b) *Class II milk price.* The class II milk price shall be the class III price for the month plus 15 cents.

(c) *Class III milk price.* The class III milk price shall be the basic formula price for the month.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration.

[24 CFR Parts 1909, 1910]

[Docket No. R-71-116]

CRITERIA FOR LAND MANAGEMENT AND USE IN FLOOD-PRONE AREAS

Notice of Proposed Rule Making

Pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001, 82 Stat. 572, as amended by sections 408-410 of Public Law 91-152, 83 Stat. 396-397) and delegation of authority by the Secretary of Housing and Urban Development (34 F.R. 2680), the Federal Insurance Administrator proposes to amend Parts 1909 and 1910 of Subchapter B of Chapter VII of Title 24 of the Code of Federal Regulations.

Flood and mudslide insurance is available only in States or areas that have evidenced a positive interest in securing such insurance and have agreed to adopt by December 31, 1971, adequate land use and control measures (with effective enforcement provisions) consistent with criteria prescribed by the Federal Insurance Administrator. After December 31, 1971, no new flood or mudslide insurance may be provided and existing policies may not be renewed in any area that has not adopted such measures.

The purpose of these proposed amendments is to set out the minimum standards for adequate land use and control measures for each category of community, depending upon the amount of technical information available. Several

changes are proposed in the existing regulations. In Part 1909, definitions of floodproofing, coastal high-hazard area, 100-year flood, and water surface elevation data are added. The definition of substantial improvement is amended to include any repair, reconstruction, or improvement of a property, the cost of which equals or exceeds 50 percent of the value of the property either (a) before the improvement is started or (b) if the property has been damaged and is being restored, before the damage occurred. The effect of this amendment is reflected in § 1911.52 of the regulations, which states that any property located in an identified area having special flood hazards and which has been substantially improved can be insured only at actuarial rates. The definition of floodway is amended to exclude coastal areas, which are now designated as coastal high-hazard areas.

In § 1910.4, water pollution control on flood plains is added as a suggested State function. Sections 1910.6 and 1910.7 now specifically require first floor elevations of new structures to be at or above the level of the 100-year flood. Sections 1910.7, 1910.8, and 1910.9 contain specific performance standards that communities must meet by their subdivision planning requirements, health codes, and building codes. Section 1910.14 has been deleted and replaced by a new § 1910.45, which sets forth the minimum land use and control measures a community must adopt, based upon the amount of flood data available to it.

Interested persons are invited to participate in the making of the proposed rule by submitting data, comments, or suggestions on the proposed regulations, in triplicate, to the Federal Insurance Administrator, Department of Housing and Urban Development, Washington, D.C. 20410. Communications should identify the proposed rule by the above docket number and title. Prior to adoption of these regulations, the Administrator will consider all relevant comments or suggestions received within 30 days from the publication date of this notice. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

The proposed changes are as follows:

1. The table of contents is amended by redesignating § 1910.9 as § 1910.10; by deleting § 1910.8 *Building and health code requirements* and replacing it with two new sections, § 1910.8 *Health code requirements* and § 1910.9 *Building code requirements*; and by redesignating § 1910.14 as § 1910.45 *Conditions for flood insurance eligibility*.

§ 1909.1 [Amended]

2. Section 1909.1 is amended by adding the following definitions in proper alphabetical sequence:

"Coastal high hazard area" means a special district subject to high velocity waters, including hurricane wave wash (identified as Av zones on appropriate

Federal Insurance Administration Official Flood Hazard Maps). Areas with existing sand dune barriers or major erosion problems may be included in the special district in order to restrict their development.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures, primarily for the reduction or elimination of flood damage to lands, water, and sanitary facilities, structures, and contents of buildings.

"100-year flood" means a flood of such magnitude as may reasonably be expected to be equaled or exceeded on an average of once every 100 years; the term also means that level of flooding having a 1 percent probability of occurrence in any year.

"Water surface elevation data" means the elevations in relation to mean sea level expected to be reached by floods of various magnitudes and frequencies at pertinent points along a stream or in the flood plains of coastal areas.

3. Section 1909.1 is further amended by revising the definitions of "floodway" and "substantial improvement" to read as follows:

"Floodway" means the minimum areas of a riverine flood plain reasonably required for passage of flood waters. The limits of the floodway will vary according to conditions within the flood plain.

"Substantial improvement" means any repair, reconstruction, or improvement of a property, the cost of which equals or exceeds 50 percent of the fair market value of the property either (a) before the improvement is started or (b) if the property has been damaged and is being restored, before the damage occurred. Substantial improvement is started when the first alteration of any wall, ceiling, floor, or other structural part of the building commences.

4. Section 1910.4(a) is amended by adding a new subparagraph (12) as follows:

§ 1910.4 State coordination.

(a)
(12) Requiring that any proposed use of the flood plain which may cause pollution of waters be reviewed and approved by the State water pollution control agency to assure that proper safeguards are being provided to prevent such pollution.

5. Sections 1910.6 through 1910.9 are revised to read as follows:

§ 1910.6 Land use and control measures.

(a) After December 31, 1971, enforceable statutes, ordinances, regulations, or any similar measure or combination of measures, whether applicable on a statewide, regional, or local basis, shall provide adequate land use restrictions within each community eligible for the sale of Federal flood insurance on the basis of the relevant data with respect to flood exposure available to it. To be adequate, such measures must be applicable at a

minimum to areas identified as flood plain areas having special flood hazards.

(b) There should be included in such measures a clear and comprehensive statement that their purpose is to encourage only that development of flood-prone areas which (1) is appropriate in the light of the probability of flood damage and the need to reduce flood losses, (2) represents an acceptable social and economic use of the land in relation to the hazards involved, and (3) does not increase the danger to human life; and to discourage all other development.

(c) To be acceptable, land use and control measures must be consistent with any flood plain management programs already in force in the areas adjacent to the jurisdiction involved, and shall meet any applicable State standards. They must generally prohibit all new construction or substantial improvement of properties within any floodway.

(d) Such measures must require structures to be elevated so as to assure protection from all reasonably expected flooding, and specifically prohibit the construction of first floor elevations below the level of the 100-year flood in any area where that level has been identified.

(e) In coastal areas, formal consideration must be given to the need for bulkheads, seawalls, and pilings before each new building permit is issued, and all new construction or substantial improvement of properties in identified coastal high hazard areas must be prohibited.

§ 1910.7 Subdivision planning requirements.

(a) Each community eligible for the sale of flood insurance shall adopt subdivision regulations which:

(1) Prohibit the development of flood-prone lands except as permitted by such regulations.

(2) Prohibit subdivision of lands within a flood plain area where the cost of providing utilities and governmental services in the area would pose an unreasonable economic burden.

(3) Require the location, elevation, and construction of all public utilities and facilities, such as sewer, gas, electrical, and water systems and streets in such a manner as to minimize or eliminate damage by flooding.

(4) Provide for adequate drainage so as to reduce the community's exposure to flood hazards and to prevent the aggravation of flood hazards with respect to adjacent and downstream communities.

(5) Specify the minimum elevations applicable to new developments, and

(6) Generally provide that no platted lot shall be approved that does not contain a suitable building site of sufficient elevation to permit construction utilizing a first floor elevation above the level of the 100-year flood.

(b) Riverine communities shall specifically require that any proposed use of land located within the areas of special flood hazards must meet the standards set forth in § 1910.45(f)(3) (i) through (iii) and may be platted for residential

use only if all parts of platted lots located within the floodway are expressly limited to open space uses. The local government may require subdividers to furnish delineations of the limits of all floodways as a prerequisite for subdivision approval. Fill shall not be permitted within the floodway except where the effect of such fill on flood heights is fully offset by stream improvements.

§ 1910.8 Health code requirements.

After December 31, 1971, enforceable State or local health codes or regulations within each community eligible for the sale of flood insurance shall require as a minimum that proposed land and construction improvements and developments in flood-prone areas:

(a) Utilize water supply systems and sanitary sewage systems designed to preclude infiltration of flood waters into the systems and discharges from the system into flood waters;

(b) Locate septic tanks to avoid impairment of them or contamination from them during flooding;

(c) Comply with applicable State and local water pollution control requirements; and

(d) Avoid unhealthful areas of pondage or accumulation of debris and obstacles in flooding situations.

§ 1910.9 Building code requirements.

(a) After December 31, 1971, enforceable State or local building codes or regulations within each community eligible for the sale of flood insurance shall require as a minimum that proposed improvements and developments in flood-prone areas provide the following flood damage abatement measures:

(1) Structures shall be designed to prevent flotation and collapse and to prevent damage to nonstructural elements. All mobile homes not on wheels and all frame structures, including prefabricated houses, shall be securely anchored to foundations in order to prevent flotation or lateral movement.

(2) Thermal insulation used below the first floor level shall be of a type that does not absorb water.

(3) Adhesives shall have a bonding strength that is unaffected by inundation.

(4) Doors and all wood trim shall be sealed with a water-proof paint or similar product.

(5) Water heaters, furnaces, electrical distribution panels, and other critical mechanical or electrical installations shall be prohibited in basements. Separate electrical circuits shall serve lower levels and shall be dropped from above.

(b) In addition to the building code requirements set forth in paragraph (a) of this section for all flood-prone areas, the following restrictions shall be applied to any proposed construction within identified flood plain areas having special flood hazards:

(1) No basement shall be permitted in any residential structure.

(2) Basements shall be permitted in nonresidential structures only if they

are designed to preclude inundation by the 100-year flood, either by (i) the elimination of exterior openings below the 100-year flood level or (ii) the required use of water-tight closures, such as bulkheads and flood shields. However, no basements shall be permitted in soils whose permeability meets or exceeds the minimum local standards of permeability established for installation of individual sewage disposal systems.

(3) The following minimum building standards shall also apply:

(i) Plywood used at or below the first floor level shall be of an "exterior" or "marine" grade and of a water-resistant or waterproof variety.

(ii) Wood flooring used at or below the first floor level shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without incurring structural damage to the building.

(iii) Basement ceilings shall have sufficient wet strength and be so installed as to survive inundation.

(iv) Paints or other finishes used at or below the first floor level shall be capable of surviving inundation.

(v) All air ducts, large pipes, and storage tanks located at or below the first floor level shall be firmly anchored to prevent flotation. Tanks shall be vented at a location above the 100-year flood level.

§ 1910.10 Revisions.

From time to time the criteria for land management and use for flood-prone areas of this part may be revised after notice and opportunity for public comment. Such revisions will be based on studies and investigations in accordance with section 1361 of the Act.

6. Section 1910.14 is redesignated § 1910.45 and is revised to read as follows:

§ 1910.45 Conditions for flood insurance eligibility.

(a) Flood insurance coverage shall not be sold or renewed under the program within an eligible area after December 31, 1971, unless the appropriate public body having jurisdiction over the area has adopted land use and control measures (to be applied uniformly throughout the area to all privately and publicly owned lands) which the Administrator finds adequate and consistent with the criteria set forth in Subparts A and B of this Part 1910. The adequacy of such measures for each eligible area shall be determined on the basis of the applicable performance standards set forth in paragraph (f) of this § 1910.45, depending upon the amount of technical information available to each respective area.

However, nothing in this § 1910.45 shall be construed as modifying or replacing the general requirement that all eligible areas must take into account flood and mudslide hazards, to the extent that they are known, in all official actions relating to land use or development.

(b) Areas identified in Part 1915 of this chapter as containing both flood

plain areas having special flood hazards and mudslide areas having special mudslide hazards must adopt land use and control measures with respect to each type of hazard, or flood insurance will not be made available after December 31, 1971, within such areas.

(c) The land use and control measures required by this Part 1910 shall apply to all riverine and coastal flood plain areas, but shall have special application to those areas identified pursuant to Part 1915 of this chapter as having special flood hazards, as delineated on Official Flood Hazard Maps. Where special circumstances exist, the appropriate public body representing an eligible area may propose the adoption of a lower flood frequency standard than the 100-year flood for consideration by the Administrator, but it must submit comprehensive planning data in support of any such request and receive the Administrator's written approval of the standard proposed, if it is to avoid the loss of flood insurance.

(d) The land use and control measures adopted by each eligible area shall specify that:

(1) The boundaries of flood plains, flood plain areas having special flood hazards, and floodways shall be subject to amendment to conform with any amended boundaries identified by the Administrator, and

(2) Within the flood plain area having special flood hazards, the laws and ordinances concerning flood plains, flood proofing, floodway preservation, and other measures designed to reduce flood losses shall take precedence over any conflicting laws, ordinances, and codes.

(e) The Federal Insurance Administration will generally provide the data upon which local land use and control measures should be based. However, if the Federal Insurance Administration has not provided sufficient data to furnish a basis for these measures, the local government may use hydrological data obtained from other Federal or State agencies or from consulting services on an interim basis or, if the Administrator approves the use of such data, on a more permanent basis.

(f) The standards governing the adequacy of the local land use and control measures that must be in force by December 31, 1971, shall depend on the amount of technical data previously made available to the particular area by the Administrator, and shall be as follows:

(1) In eligible areas where the Administrator has declared the entire area a flood plain area having special flood hazards pursuant to § 1914.2(a) of this chapter and has not defined the special flood hazard area more precisely, has not provided water surface elevation data, and has not provided on the basis of available information data sufficient to identify the floodway or coastal high hazard area, the local government shall adopt the following measures with respect to the entire community:

(i) Applications for building permits shall be reviewed on a case-by-case basis by appropriate local officials to assure (a) that building sites will be reasonably safe from flooding, and (b) that where the building site is in a location that may have a flood hazard, all new construction and substantial repairs, improvements, or alterations will be flood-proofed in accordance with the minimum floodproofing criteria specified in § 1910.9(a).

(ii) To the extent existing data permit, all proposed developments and improvements within the eligible area shall be designed and constructed in accordance with all of the other requirements of this Part 1910.

(2) Where the Administrator has identified a flood plain area within an eligible area as having special flood hazards, but has produced neither water surface elevation data nor data sufficient to identify the floodway or coastal high hazard area, the local government shall adopt the flood plain management measures required by subparagraph (1) of this paragraph, except that the case-by-case review of building permit applications need apply only to sites located within the area having special flood hazards.

(3) Where the Administrator has identified the flood plain area having special flood hazards, and has provided water surface elevations for the 100-year flood, but has not provided data sufficient to identify the floodway or coastal high hazard area, the minimum land use and control measures adopted by the local government for the flood plain shall include the following:

(i) Proposed permanent structures within the flood plain area having special flood hazards shall be required to have first floor elevations at or above the level of the 100-year flood. Exceptions may be granted by the local government only for nonresidential structures which, together with attendant utility and sanitary facilities, are adequately flood-proofed up to the level of the 100-year flood.

(ii) No use, including land fill, shall be permitted within the eligible area if the proposed use, in conjunction with all other uses permitted since enactment of the ordinance, would increase water surface elevations of the 100-year flood more than 1 foot. An applicant for such land use may be required to furnish specific information as to the effect of his proposed action on future flood heights.

(iii) To the extent existing data permit, all proposed developments and improvements within the eligible area shall be designed and constructed in accordance with all of the other requirements of this Part 1910.

(iv) Any relocation or realignment of river and stream channels shall be prohibited if it would reduce the natural valley storage capacity of the area with respect to the 100-year flood.

(4) Where the Administrator has identified the riverine flood plain area

having special flood hazards, has provided water surface location data for the 100-year flood, and has provided floodway data, the land use and control measures adopted by the local government for the flood plain shall include a zoning ordinance meeting the requirements of subparagraph (3) of this paragraph, plus the following additional requirements:

(i) Existing nonconforming uses in the floodway may be modified, altered, or repaired to incorporate floodproofing measures, but such nonconforming uses shall not be expanded.

(ii) The designated floodway shall remain free of encroachments that would impair its ability to carry and discharge the waters resulting from the 100-year flood without raising its natural profile more than 1 foot at any point.

(iii) Within the floodway, residential structures shall not be permitted. Open space uses shall be encouraged. Building permits shall be issued for nonresidential uses only if the applicant has demonstrated that the proposed use, in conjunction with all other uses permitted since enactment of the flood plain management ordinance, will not increase any water surface elevation of the 100-year flood by more than 1 foot. Fill shall not be permitted within the floodway except where the effect of such fill on flood heights is fully offset by stream improvements.

(5) Where the Administrator has identified the coastal flood plain area having special flood hazards, has provided water surface elevation data for the 100-year flood, and has provided data sufficient to identify a coastal high hazard area, the land use and control measures adopted by the local government for the flood plain shall include a zoning ordinance meeting the requirements of subparagraph (3) of this paragraph, plus the following additional requirements:

(i) Existing nonconforming uses in the coastal high hazard area may be modified, altered, or repaired to incorporate floodproofing measures, but such nonconforming uses shall not be expanded.

(ii) No area subject to high velocity waters shall be developed for residential use unless (a) structures are required to be elevated on poles or piles to a first floor level above the 100-year flood, located behind the normal high tide level, and securely anchored to piles or piers, and (b) spaces are left below first floors to minimize the impact of the wave of flood waters.

(g) No area eligible for the sale of flood insurance shall be required to meet the respective requirements of subparagraph (1), (2), or (3) of paragraph (f) of this section until 6 months from the date it receives the technical data required for compliance with the applicable subparagraph. However, at the end of the 6-month period or on December 31, 1971, whichever is later, each eligible area shall be required to comply with

the requirements of the then applicable subparagraph, as determined on the basis of the data that have been available to it for such period.

(h) Areas applying after December 31, 1971, for eligibility for the sale of flood insurance shall be required to meet the standards of subparagraph (1) or (2) of paragraph (f) of this section, whichever is appropriate to the manner in which the area of the flood plain having special flood hazards has been determined. Thereafter, each eligible area shall be permitted a period of 6 months from the date of its receipt of the applicable data set forth in subparagraphs (3), (4), and (5) of paragraph (f) of this section, in which to meet the respective requirements of such subparagraphs.

(i) By December 31, 1971, communities that have been identified as containing mudslide areas having special mudslide hazards shall also be required to have enacted land use and control measures consistent with the criteria set forth in Subpart B of this part in order to retain eligibility for flood insurance. Communities that are identified after December 31, 1971, as containing special mudslide hazard areas must have enacted land use and control measures consistent with the criteria of Subpart B of this part in order to become eligible for flood insurance.

(j) The local government must certify that all proposed flood and mudslide land use and control measures were provided to the designated State coordinating agency prior to their adoption. The submission to the State must describe proposed enforcement procedures.

(k) After flood insurance is made available under the program, the locally designated responsible official in each eligible area shall submit an annual report to the Administrator on the progress that has been made during the past year within the area in the development and implementation of flood plain and mudslide area land management measures. The report shall be submitted on the anniversary date of the area's initial eligibility.

(l) Copies of each annual report shall also be submitted by the responsible official to the coordinating agency designated by the Governor and to other appropriate State and local bodies. The Administrator shall be informed of the agencies to which the annual reports are sent.

(m) Local governments having jurisdiction over flood-prone areas may submit requests for waivers of one or more of the specific requirements set forth in this Part 1910, whether or not the area is eligible for flood insurance at the time of the request, but no waiver request from an eligible area will be considered by the Administrator with respect to the requirements of paragraph (f) of this § 1910.45 unless it is submitted at least 90 days prior to December 31, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.
[FR Doc.71-8020 Filed 6-8-71; 8:49 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Light-Water-Cooled Nuclear Power Reactors

The Atomic Energy Commission has under consideration amendments to its regulation, 10 CFR Part 50, "Licensing of Production and Utilization Facilities," which would supplement the regulation with a new Appendix I to that part to provide numerical guides for design objectives and technical specification requirements for limiting conditions for operation for light-water-cooled nuclear power reactors to keep radioactivity in effluents as low as practicable.

On December 3, 1970, the Atomic Energy Commission published in the FEDERAL REGISTER (35 F.R. 18385) amendments to 10 CFR Part 50 that specified design and operating requirements for nuclear power reactors to keep levels of radioactivity in effluents to unrestricted areas as low as practicable. The amendments provided qualitative guidance, but not numerical criteria, for determining when design objectives and operations meet the requirements for keeping levels of radioactivity in effluents as low as practicable.

The Commission noted in the Statement of Considerations published with the amendments the desirability of developing more definitive guidance in connection with the amendments and that it was initiating discussions with the nuclear power industry and other competent groups to achieve that goal.

The Commission considers that the proposed numerical guides for design objectives and technical specification requirements for limiting conditions for operation for light-water-cooled nuclear power reactors set out below would meet the criterion "as low as practicable" for radioactive material in effluents released to unrestricted areas. The guidance would be specifically applicable only to light-water-cooled nuclear power reactors and would not necessarily be appropriate for other types of nuclear power reactors and other kinds of nuclear facilities.

As noted in the Statement of Considerations accompanying the amendments to Part 50 published in the FEDERAL REGISTER on December 3, 1970, the Commission has always subscribed to the general principle that, within established radiation protection guides, radiation exposures to the public should be kept as low as practicable. This general principle has been a central one in the field of radiation protection for many years. Operating licenses include provisions to limit and control radioactive effluents from the plants. Experience has shown that licensees have generally kept exposures to radiation and releases of radioactivity in effluents to levels well below the limits specified in 10 CFR Part

20. Specifically, experience with licensed light-water-cooled nuclear power reactors to date shows that radioactivity in water and air effluents has been kept at low levels—for the most part small percentages of the Part 20 limits. Resultant exposures to the public living in the immediate vicinity of operating power reactors have been small percentages of Federal radiation protection guides.

The Commission also noted that, in general, the release of radioactivity in effluents from nuclear power reactors now in operation have been within ranges that may be considered "as low as practicable," and that, as a result of advances in reactor technology, further reduction of those releases can be achieved. The amendments to Part 50 published on December 3, 1970, were intended to give appropriate regulatory effect, with respect to radioactivity in effluents from nuclear power reactors, to the qualitative guidance of the Federal Radiation Council that radiation doses should be kept "as low as practicable". The proposed guides set out below are intended to provide quantitative guidance to that end for light-water-cooled nuclear power reactors.

The proposed numerical guides are based on present light-water-cooled nuclear power reactor operating experience and state of technology (including recent improvements). In developing the guides the Commission has taken into account comments and suggestions by representatives of power reactor suppliers, electrical utilities, architect-engineering firms, environmental and conservation groups and States in which nuclear power reactors are located on the general subject of definitive guidance for nuclear power reactors. Meetings were held by the Commission with these groups in January and February 1971. The participants in these meetings were provided an opportunity to express their views on the need for more definitive guidance for design objectives for light-water-cooled nuclear power reactors to keep radioactivity in effluents as low as practicable; whether the guidance should be expressed in terms of waste treatment equipment requirements and performance specifications or numerical criteria on quantities and concentrations released to the environment; and to suggest what equipment or numerical criteria would be appropriate at this time.

Generally, the participants favored numerical criteria. Views were expressed that the criteria should be derived from potential doses to people or in the form of quantities and concentrations of radioactive material emitted to the environment. Some opinions were expressed that present technology (including recent improvements) is such that light-water-cooled nuclear power reactors can be designed to keep exposures to the public in the offsite environment within a few percent of exposures from natural background radiation.

The participants also stressed the importance of operating flexibility to take into account unusual conditions of opera-

tion which may, on a temporary basis, result in exposures higher than the few percent of natural background radiation, but well within radiation protection guides. Recognition of the need for this operating flexibility is currently stated in § 50.36a(b).

The Commission believes that the proposed guides for design objectives and limiting conditions for operation for light-water-cooled nuclear power reactors set out below provide a reasonable basis at the present time for implementing the principle that radioactive material in effluents released to unrestricted areas should be kept "as low as practicable." As noted in the amendments to Part 50 published on December 3, 1970, "The term 'as low as practicable' as used in this part means as low as is practically achievable taking into account the state of technology, and the economics of improvements in relation to benefits to the public health and safety and in relation to the utilization of atomic energy in the public interest." The Commission will continue to evaluate the appropriateness of these guides for light-water-cooled nuclear power reactors in light of further operating experience.

Under the President's Reorganization Plan No. 3 of 1970, the Environmental Protection Agency (EPA) is responsible for establishing generally applicable environmental radiation standards for the protection of the general environment from radioactive materials. The AEC is responsible for the implementation and enforcement of EPA's generally applicable environmental standards.

EPA has under consideration generally applicable environmental standards for these types of power reactors. AEC has consulted EPA in the development of the guides on design objectives and limiting conditions for operation set forth below to control radioactivity in effluent releases. If the design objectives and operating limits established herein should prove to be incompatible with any generally applicable environmental standard hereafter established by EPA, the AEC will modify these objectives and limits as necessary.

The proposed guides for design objectives and limiting conditions for operation for light-water-cooled nuclear power reactors are consistent with the basic radiation protection standards and guides recommended by the International Commission on Radiological Protection (ICRP), the National Council on Radiation Protection and Measurements (NCRP), and the Federal Radiation Council (FRC). (The functions of the FRC were transferred to the Environmental Protection Agency pursuant to Reorganization Plan No. 3 of 1970.) These standards form the basis for the Commission's regulation, 10 CFR Part 20, "Standards for Protection Against Radiation". In this regard, the NCRP announced on January 26, 1971, the release of NCRP Report No. 39, "Basic Radiation Protection Criteria". The NCRP noted that a 10-year study by the

Council has confirmed the validity of most of the basic radiation protection criteria presently used by governmental agencies to regulate the exposure of the population and of radiation workers. The dose limits for individual members of the public remain at 0.5 rem per year and the yearly dose limit of 0.17 rem per person averaged over the population is unchanged. These limits are compatible with the limits and guides recommended by the ICRP and the FRG and apply to exposures from all sources other than medical procedures and natural background.

The NCRP-ICRP-FRC recommended limits and guides give appropriate consideration to the overall requirements of health protection and the beneficial use of radiation and atomic energy. Any biological effects that may occur at the low levels of the limits and guides occur so infrequently that they cannot be detected with existing techniques. The standards setting groups have added to the numerical guidance the general admonition that all radiation exposure should be held to lowest practicable level. This admonition takes into account that generally applicable standards or rules established to cover many situations must necessarily be set at a higher level than may be justified in any given individual situation.

The acceptability of a given level of exposure for a particular activity can be determined only by giving due regard to the reasons for permitting the exposure. This means that, within the basic standards of FRC, NCRP, and ICRP, different limitations on exposure levels are appropriate for various types of activities depending upon the circumstances. A level that is practicable for one type of activity may not be practicable for a different type of activity.

The proposed guides for design objectives and limitations on operations set forth below would be specifically applicable to light-water-cooled nuclear power reactors. Light-water-cooled nuclear power reactors are the only type of power reactors that are being installed in relatively large numbers and on which there is substantial operating experience in the United States. The guides would not necessarily be appropriate for controlling levels of radioactivity in effluents from other types of nuclear power reactors. On the basis of present information on the technology of these other types of reactors, it is expected that releases of radioactivity in effluents can generally be kept within the proposed guides for light-water-cooled nuclear power reactors. The Commission plans to develop numerical guides on levels of radioactivity in effluents that may be considered as low as practicable for other types of nuclear power reactors such as gas cooled and fast breeder reactors as adequate design and operating experience is acquired. In the meantime, design objectives and technical specifications for limiting conditions for operation to carry out the purposes of keeping levels of radioactivity in effluents to unrestricted

areas as low as practicable will be specified for other types of nuclear power reactors on a case-by-case basis.

Neither would the guides necessarily be appropriate for controlling levels of radioactivity in effluents from other kinds of nuclear facilities such as fuel reprocessing plants, fuel fabrication plants, or radioisotope processing plants where the design characteristics of the plant and nature of operations involve different considerations. The Commission is giving further consideration to appropriate amendments to its regulations to specify design objectives and limiting conditions for operation to minimize levels of radioactivity released in the operation of other types of licensed facilities such as reactor fuel reprocessing plants.

Expected consequences of guides for design objectives. The proposed guides for design objectives for light-water-cooled nuclear power reactors have been selected primarily on the basis that existing technology makes it feasible to design and operate light-water-cooled nuclear power reactors within the guides. The design objectives are expressed in terms of guides for limiting the number of quantities and for limiting concentrations of radioactive materials in effluents. It is expected that conformance with the guides on design objectives would achieve the following results:

1. Provide reasonable assurance that annual exposures to individuals living near the boundary of a site where one or more light-water-cooled nuclear power reactors are located, from radioactivity released in either liquid or gaseous effluents from all such reactors, will generally be less than about 5 percent of average exposures from natural background radiation.¹ This level of exposure is about 1 percent of Federal radiation protection guides for individual members of the public.

2. Provide reasonable assurance that annual exposures to sizeable population groups from radioactivity released in either liquid or gaseous effluents from all light-water-cooled nuclear power reactors on all sites in the United States for the foreseeable future will generally be less than about 1 percent of exposures from natural background radiation. This level of exposure is also less than 1 percent of Federal radiation protection guides for the average population dose.

These levels of exposure would be indistinguishable from exposures due to variation in natural background radiation, would not be measurable with existing techniques, and would be estimated from effluent data from nuclear power plants by calculational techniques. These levels of exposure are obviously very low in comparison with the much higher exposures incurred by the public from natural background due to cosmic radiation, natural radioactivity in the body and in all materials with which people

¹ Average exposures due to natural background radiation in the United States are in the range of 100-125 millirems per year.

come into contact, air travel, and from many activities commonly engaged in by the public.

Specific provisions of guides for design objectives. The proposed guides for radioactive materials in liquid effluents would specify limitations on annual total quantities of radioactive material, except tritium, and annual average concentrations of radioactive material in effluent, prior to dilution in a natural body of water, released by each light-water-cooled nuclear power reactor at a site. The release of the concentrations and total quantity of radioactive material from a site at these levels is not likely to result in exposures to the whole body or any organ of an individual in the offsite environment in excess of 5 millirems. In deriving the guides on design objective quantities and concentrations, conservative assumptions have been made on dilution factors, physical, and biological concentration factors in the food chain, dietary intakes and other pertinent factors to relate quantities released to exposures offsite.

The proposed guides for design objectives for radioactive materials in gaseous effluents would limit the total quantity of radioactive material released from a site to the offsite environment so that annual average exposure rates due to noble gases at any location on the boundary of the site or in the offsite environment would not be likely to exceed 10 millirems. Annual average concentrations at any location on the boundary of a site or in the offsite environment from radioactive iodines or radioactive material in particulate form would be limited to specified values.

The proposed guides for design objective concentrations specified for radioactive iodines or radioactive material in particulate form would include a reduction factor of 100,000 for Part 20 concentration values in air that would allow for possible exposures from certain radioactive materials that may be concentrated in the food chain. Resultant exposures to individuals offsite would not be expected to exceed 5 millirems per year. The reduction factor would include a 1,000 factor by which the maximum permissible concentration of radioactive iodine in air should be reduced to allow for the milk exposure pathway. This factor of 1,000 has been derived for radioactive iodine, taking into account the milk pathway. However, it has been arbitrarily applied to radionuclides of iodine and to all radionuclides in particulate form with a half-life greater than 8 days. The factor is not appropriate for iodine where milk is not a pathway of exposure or for other radionuclides under any actual conditions of exposure. The factor is highly conservative for radionuclides other than iodine and is applied only because it appears feasible to meet these very low levels. The specified annual average exposure rates of 10 millirems from noble gases and specified concentrations of radioiodines and particulates at any location on the boundary

of the site or in the offsite environment provide reasonable assurance that actual annual exposures to the whole body or any organ of an individual member of the public will not exceed 5 millirems.

The proposed guides for design objectives would provide that an applicant for a permit to construct a light-water-cooled nuclear power reactor at a particular site could propose design objective quantities and concentrations in effluents higher than those specified in the guides. The Commission would approve the design objectives if the applicant provided reasonable assurance that, taking into account the environmental characteristics of the site, the concentrations and total quantity of radioactive material released by all light-water-cooled nuclear power reactors at the site in either liquid or gaseous effluents would not result in actual exposures to the whole body or any organ of an individual in the offsite environment in excess of 5 millirems per year.

The proposed guides for design objectives (expressed as quantities and concentrations in effluents) for light-water-cooled nuclear power reactors are sufficiently conservative to provide reasonable assurance that, for most locations having environmental characteristics likely to be considered acceptable by the Commission for a nuclear power reactor site, increases in radiation exposures to individual members of the public living at the site boundary, due to radioactive material in either liquid or gaseous effluents from operation of light-water-cooled nuclear power reactors at the site, will generally be less than 5 millirems per year and average exposures to sizeable population groups will generally be less than 1 millirem per year. Nevertheless, the guides provide that the Commission may specify, as design objectives, quantities and concentrations of radioactive material above background in either liquid or gaseous effluents to be released to unrestricted areas that are lower than the specified quantities and concentrations if it appears that for a particular site the specified quantities and concentrations are likely to result in annual exposures to an individual that would exceed 5 millirems.

Conformance with the proposed guides for design objective quantities and concentrations in effluents would provide reasonable assurance that the resultant whole body dose to the total population exposed would be less than about 400 man-rems² per year per 1,000 megawatts electrical installed nuclear generating capacity at a site from radioactive material in liquid and gaseous effluents. A-

² A useful measure of the total exposure of a large number of persons is the man-rem. The exposure of any group of persons measured in man-rems is the product of the number of persons in the group times the average exposure in rems of the members of the group. Thus, if each member of a population group of 1 million people were exposed to 0.001 rem (1 millirem), the total man-rem exposure would be 1,000 man-rem.

verage exposures to large population groups would be less than 1 millirem per year.

Guides on technical specifications limiting conditions for operation. The proposed guidance would include provisions for developing technical specifications with respect to limiting conditions for operation to control radioactivity in effluents from light-water-cooled nuclear power reactors during normal operations. The technical specifications would be included as conditions in operating licenses. These provisions are designed to assure that reasonable efforts are made to keep actual releases of radioactivity in effluents during operation to levels that are within the guides on design objective quantities and concentrations. It is expected that actual levels of radioactivity in effluents will normally be within the design objective levels. It is necessary, however, that nuclear power reactors designed for generating electricity have a high degree of reliability. Operating flexibility is needed to take into account some variation in the small quantities of radioactivity that leak from fuel elements which may, on a transient basis, result in levels of radioactivity in effluents in excess of the design objective quantities and concentrations.

The proposed guidance would provide operating flexibility and at the same time assure a positive system of control, by a graded scale of action by the licensee, to reduce releases of radioactivity if rates of release actually experienced, averaged over any calendar quarter, are such that the quantities or concentrations in effluents would be likely to exceed twice the design objective quantities and concentrations. The proposed Appendix I would provide that the Commission may take appropriate action to assure that release rates are reduced if rates of release of quantities and concentrations in effluents actually experienced, averaged over any calendar quarter, indicate that annual rates of release are likely to exceed a range of 4-8 times the design objective quantities and concentrations. Release rates within this range would be expected to keep the annual exposure rate to individuals offsite within a range of 20-40 mrem per year during the quarterly period. In the proposed guidance on technical specifications, provision would be made for an appropriate period of time for all licensees of light-water-cooled nuclear power reactors to implement the guidance with respect to facility operation.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated. All interested persons who wish to submit comments or suggestions in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C., 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication

of this notice in the FEDERAL REGISTER. Comments and suggestions received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. Section 50.34a of 10 CFR Part 50 is amended by adding the following sentence at the end of paragraph (a):

§ 50.34a Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors.

(a) . . . The guides set out in Appendix I provide numerical guidance on design objectives for light-water-cooled nuclear power reactors to meet the requirement that radioactive material in effluents released to unrestricted areas be kept "as low as practicable."

2. Section 50.36a of 10 CFR Part 50 is amended by adding the following sentence at the end of paragraph (b):

§ 50.36a Technical specifications on effluents from nuclear power reactors.

(b) . . . The guides set out in Appendix I provide numerical guidance on limiting conditions for operation for light-water-cooled nuclear power reactors to meet the requirement that radioactive materials in effluents released to unrestricted areas be kept "as low as practicable."

3. A new Appendix I is added to read as follows:

APPENDIX I—NUMERICAL GUIDES FOR DESIGN OBJECTIVES AND LIMITING CONDITIONS FOR OPERATION TO MEET THE CRITERION "AS LOW AS PRACTICABLE" FOR RADIOACTIVE MATERIAL IN LIGHT-WATER-COOLED NUCLEAR POWER REACTOR EFFLUENTS

SECTION I. Introduction. Section 50.34a(a) provides that an application for a permit to construct a nuclear power reactor shall include a description of the preliminary design of equipment to be installed to maintain control over radioactive materials in gaseous and liquid effluents produced during normal reactor operations, including expected operational occurrences. In the case of an application filed on or after January 2, 1971, the application must also identify the design objectives, and the means to be employed, for keeping levels of radioactive material in effluents to unrestricted areas "as low as practicable."

Section 50.36a contains provisions designed to assure that releases of radioactivity from nuclear power reactors to unrestricted areas during normal reactor operations, including expected operational occurrences, are kept "as low as practicable."

This appendix provides numerical guidance on design objectives and limiting conditions for operation to assist applicants for, and holders of, licenses for light-water-cooled nuclear power reactors in meeting the requirement that radioactive material in effluents released from those facilities to unrestricted areas be kept "as low as practicable". This guidance is appropriate only for light-water-cooled nuclear power reactors and not for other types of nuclear facilities.

Sec. II. *Guides on design objectives for light-water-cooled nuclear power reactors licensed under 10 CFR Part 50.* The guides for design objectives (expressed as quantities and concentrations of radioactive material in effluents) for light-water-cooled nuclear power reactors specified in paragraphs A and B of this section are sufficiently conservative to provide reasonable assurance that, for most locations having environmental characteristics likely to be considered acceptable by the Commission for a nuclear power reactor site, resultant increases in radiation exposures to individual members of the public living at the site boundary, due to operation of light-water-cooled nuclear power reactors at the site, will generally be less than 5 percent of exposures due to natural background radiation and average exposures to sizeable population groups will generally be less than 1 percent of exposures due to natural background radiation. The guides on design objectives for light-water-cooled nuclear power reactors set forth in paragraphs A and B of this section may be used by an applicant for a permit to construct a light-water-cooled nuclear power reactor as guidance in meeting the requirements of § 50.34a(a) that applications filed after January 2, 1971, identify the design objectives, and the means to be employed, for keeping levels of radioactive material in effluents to unrestricted areas as low as practicable.

A. For radioactive material above background in liquid effluents to be released to unrestricted areas by each light-water-cooled nuclear power reactor at a site:

1. The estimated annual total quantity of radioactive material, except tritium, should not exceed 5 curies; and

2. The estimated annual average concentration of radioactive material prior to dilution in a natural body of water, except tritium, should not exceed 0.00002 microcurie (20 picocuries) per liter; and

3. The estimated annual average concentration of tritium prior to dilution in a natural body of water should not exceed 0.005 microcurie (5,000 picocuries) per liter.

B. For radioactive material above background in gaseous effluents, the estimated total quantities of radioactive material to be released to unrestricted areas by all light-water-cooled nuclear power reactors at a site should not result in:

1. An annual average exposure rate due to noble gases at any location on the boundary of the site or in the offsite environment in excess of 10 millirems;³ and

2. Annual average concentrations at any location on the boundary of the site or in the offsite environment of radioactive iodines, or radioactive material in particulate form with a half-life greater than 8 days, in excess of the concentrations in air specified in Appendix B, Table II, Column I, of 10 CFR Part 20, divided by 100,000.

C. Notwithstanding the guidance in paragraphs A and B above, design objectives, based on quantities and concentrations of radioactive material above background in effluents to be released to unrestricted areas,

³ An exposure rate such that a hypothetical individual continuously present in the open at any location on the boundary of the site or in the offsite environment would not incur an annual exposure in excess of 5 millirems. This neglects the reduction in the exposures to a real individual that would be afforded by the distance from the site boundary at which the individual is located, shielding provided by living indoors and periods of time the individual is not present in the area.

higher than those specified in those paragraphs may be deemed to meet the requirement for keeping levels of radioactive material in effluents to unrestricted areas as low as practicable if the applicant provides reasonable assurance that:

1. For radioactive material above background in liquid effluents to be released to unrestricted areas by all light-water-cooled nuclear power reactors at a site, the proposed higher quantities or concentrations will not result in annual exposures to the whole body or any organ of an individual in excess of 5 millirems;⁴ and

2. For radioactive noble gases and iodines and radioactive material in particulate form above background in gaseous effluents to be released to unrestricted areas by all light-water-cooled nuclear power reactors at a site, the proposed higher quantities and concentrations will not result in annual exposures to the whole body or any organ of an individual in excess of 5 millirems.

D. Notwithstanding the guidance in paragraphs A, B, and C above, for a particular site the Commission may specify, as guidance on design objectives, lower quantities and concentrations of radioactive material above background in effluents to be released to unrestricted areas if it appears that the use of the design objectives described in those paragraphs is likely to result in releases of total quantities of radioactive material from all light-water-cooled nuclear power reactors at the site that are estimated to cause an annual exposure in excess of 5 millirems to the whole body or any organ of an individual in the offsite environment from radioactive material above background in either liquid or gaseous effluents.

Sec. III. *Guides on technical specifications for limiting conditions for operation for light-water-cooled nuclear power reactors licensed under 10 CFR Part 50.* The guides on limiting conditions for operation for light-water-cooled nuclear power reactors set forth below may be used by an applicant for a license to operate a light-water-cooled nuclear power reactor as guidance in developing technical specifications under § 50.36a(a) to keep levels of radioactive materials in

⁴ For purposes of the guides in Appendix I, exposure of members of the public should be estimated from distributions in the environment of radioactive material released in effluents. For estimates of external exposure the rem may be considered equivalent to the rad; and account should be taken of the appropriate physical parameters (energy of radiation, absorption coefficients, etc.). Estimates of internal dose commitment, in terms of the common unit of dose equivalence (rem), should be generally consistent with the conventions or assumptions for calculational purposes most recently published by the International Commission on Radiological Protection which apply directly to intakes of radioactive material from air and water, and those applicable to water may be applied to intakes from food. These conventions or assumptions should be used for calculations of dose equivalence except for exposures due to strontium-89, strontium-90, or radionuclides of iodine. For these radionuclides the biological and physical assumptions of FRC Report No. 2 should be used. It is assumed that annual average concentrations of radioactive iodine in the environment, as listed in Part 20, Appendix B, Table II, would result in annual doses of 1.5 rems to the thyroid and the concentration of strontium-89 or strontium-90 would result in annual doses of 0.5 rem to the bone. Exposure to the whole body should be assessed as exposure to the gonads or red bone marrow.

effluents to unrestricted areas as low as practicable.

Section 50.36a(b) provides that licensees shall be guided by certain considerations in establishing and implementing operating procedures that take into account the need for operating flexibility while at the same time assure that the licensee will exert his best effort to keep levels of radioactive material in effluents as low as practicable. The guidance set forth below provides more specific guidance to licensees in this respect.

In using the guides set forth in section IV it is expected that it should generally be feasible to keep average annual releases of radioactive material in effluents from light-water-cooled nuclear power reactors within the levels set forth as numerical guides for design objectives in section II above. At the same time, the licensee is permitted the flexibility of operation, compatible with considerations of health and safety, to assure that the public is provided a dependable source of power even under unusual operating conditions which may temporarily result in releases higher than such numerical guides for design objectives, but still within levels that assure that actual exposures to the public are small fractions of natural background radiation. It is expected that in using this operational flexibility under unusual operating conditions, the licensee will exert his best efforts to keep levels of radioactive material in effluents within the numerical guides for design objectives.

Sec. IV. *Guides for limiting conditions for operation for light-water-cooled nuclear power reactors.* A. If rates of release of radioactive materials in effluents from light-water-cooled nuclear power reactors actually experienced, averaged over any calendar quarter, are such that the estimated annual quantities or concentrations of radioactive material in effluents are likely to exceed twice the design objective quantities and concentrations set forth in section II above, the licensee should:

1. make an investigation to identify the causes for such release rates; and

2. define and initiate a program of action to reduce such release rates to the design levels; and

3. report these actions to the Commission on a timely basis.

B. If rates of release of radioactive material in liquid or gaseous effluents actually experienced, averaged over any calendar quarter, are such that estimated annual quantities or concentrations of radioactive material in effluents are likely to exceed a range of 4-8 times the design objective quantities and concentrations set forth in section II above,⁵ the Commission will take appropriate action to assure that such release rates are reduced. (Section 50.36a(a) (2) requires the licensee to submit certain reports to the Commission with regard to the quantities of the principal radionuclides released to unrestricted areas. It also provides that, on the basis of such reports and any additional information the Commission may obtain from the licensee and others, the Commission may from time to time require the licensee to take such action as the Commission deems appropriate.)

C. The guides for limiting conditions for operation described in paragraphs A and B of this section are applicable to technical

⁵ Release rates within this range would be expected to keep the annual exposure rate to individuals offsite within a range of 20-40 mrem per year during this quarterly period.

specifications included in any license authorizing operation of a light-water-cooled nuclear power reactor constructed pursuant to a construction permit for which application was filed on or after January 2, 1971. For light-water-cooled nuclear power reactors constructed pursuant to a construction permit for which application was filed prior to January 2, 1971, appropriate technical speci-

fications should be developed to carry out the purposes of keeping levels of radioactive material in effluents to unrestricted areas as low as practicable. In any event, all holders of licenses authorizing operation of a light-water-cooled nuclear power reactor should, after (36 months from effective date of this guide), develop technical specifications in conformity with the guides of this Section.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 4th day of June 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc. 71-8049 Filed 6-8-71; 8:51 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEFS, LANDS AND MINING SECTION AND OIL AND GAS SECTION, BRANCH OF LANDS AND MINERALS OPERATIONS, WYOMING STATE OFFICE

Redelegation of Authority

JUNE 2, 1971.

1. Pursuant to the authority contained in the Redelegation of Authority published in the FEDERAL REGISTER on May 15, 1971, as F.R. Doc. 71-6794, I hereby redelegate to the Chief, Lands and Mining Section and the Chief, Oil and Gas Section in the Branch of Lands and Minerals Operations, authority to take action on the following matters listed in Part I of Bureau Order No. 701 of July 23, 1964, as amended:

A. Chief, Lands and Mining Section.

Sec.	Sec.	Sec.
2.2(b)	2.6(k)	2.9(i)
2.3(a)	2.6(l)	2.9(j)
2.3(c)	2.9(a)	2.9(k)
2.6(b)	2.9(b)	2.9(l)
2.6(c)	2.9(c)	2.9(m)
2.6(d)	2.9(d)	2.9(n)
2.6(e)	2.9(e)	2.9(p)
2.6(f)	2.9(f)	2.9(q)
2.6(j)	2.9(h)	2.9(r)

B. Chief, Oil and Gas Section.

Sec.	Sec.
2.2(b)	2.3(c)
2.3(a)	2.6(a)

2. The Chief, Branch of Lands and Minerals Operations may, in his discretion, personally exercise any authority hereby delegated to the Chief, Lands and Mining Section and the Chief, Oil and Gas Section.

3. The Chief, Lands and Mining Section or the Chief, Oil and Gas Section may, by written order, designate any qualified employee of his section to perform the functions of his position, in an acting capacity, in his absence. Such order will be approved by the Chief, Branch of Lands and Minerals Operations.

4. *Effective date.* This redelegation will become effective June 21, 1971.

PHILIP C. HAMILTON,
Acting Chief, Branch of
Lands and Minerals Operations.

Approved: June 2, 1971.

DANIEL P. BAKER,
State Director.

[F.R. Doc. 71-7987 Filed 6-8-71; 8:46 am]

Fish and Wildlife Service BRIGANTINE NATIONAL WILDLIFE REFUGE

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (Public Law 88-577; 78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 2 p.m. on August 11, 1971, at the Holy Spirit High School, California Avenue and New Road (Route 9), Absecon, N.J., on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior, regarding the desirability of including the Brigantine Wilderness proposal within the National Wilderness Preservation System. The wilderness proposal consists of approximately 4,250 acres within Brigantine National Wildlife Refuge, and is located in Atlantic and Ocean Counties, State of New Jersey.

A brochure containing a map and information about the Brigantine Wilderness proposal may be obtained from the Refuge Manager, Brigantine National Wildlife Refuge, Great Creek Road, Post Office Box 72, Oceanville, NJ 08231, or the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by September 13, 1971.

J. P. LINDUSKA,
Associate Director, Bureau of
Sport Fisheries and Wildlife.

JUNE 4, 1971.

[F.R. Doc. 71-7996 Filed 6-8-71; 8:47 am]

CABEZA PRIETA GAME RANGE Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (Public Law 88-577; 78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 9 a.m. (m.s.t.), on August 11, 1971, at the City Council Chambers, Tucson, Ariz., and continued at 9 a.m. (m.s.t.), on August 12 at the Del Webb's TowneHouse, Phoenix, Ariz., at 10 a.m. (m.s.t.), on August 13 at the Ajo High

School Auditorium, Ajo, Ariz., and further continued at 9 a.m. (m.s.t.), on August 14 at the Yuma City-County Library, Yuma, Ariz., on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior regarding the desirability of including the proposed Cabeza Prieta Wilderness within the National Wilderness Preservation System. The wilderness proposal consists of approximately 744,000 acres within the Cabeza Prieta Game Range, and is located in Yuma and Pima Counties, State of Arizona.

A brochure containing a map and information about the Cabeza Prieta Wilderness proposal may be obtained from the Refuge Manager, Cabeza Prieta Game Range, Post Office Box 1032, Yuma, Ariz. 85364, or the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, 500 Gold Avenue SW., Albuquerque, NM 87103.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by September 14, 1971.

J. P. LINDUSKA,
Associate Director, Bureau of
Sport Fisheries and Wildlife.

JUNE 4, 1971.

[F.R. Doc. 71-7995 Filed 6-8-71; 8:47 am]

Geological Survey COLORADO AND CERTAIN OTHER STATES

Definitions of Known Geologic Structures of Producing Oil and Gas Fields

Pursuant to 43 CFR 3120.2-2(b) notice is hereby given that the known geologic structures of producing oil and gas fields have been defined as follows:

NAMES OF FIELD, EFFECTIVE DATE, ACREAGE

(6) COLORADO
Trail Canyon, April 20, 1971, 5,480.

(24) MISSISSIPPI
West Tar Creek, March 8, 1971, 251.

(26) MONTANA
Cedar Creek, February 17, 1971, 192,682.
Ragged Point, February 16, 1971, 3,360.
Stensvad, February 16, 1971, 2,367.

(50) WYOMING
Basin Northwest, June 1, 1969, 996.
Bishop Ranch, March 29, 1971, 320.
Bishop Ranch South, March 19, 1971, 680.

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Cowley-Homestead, January 25, 1971, 1,202.
Marshall, March 4, 1971, 1,474.
No Water, March 8, 1971, 3,853.
Patrick Draw-Desert Springs, April 13, 1971, 85,265.
Rattlesnake, January 19, 1971, 3,962.
Reel, January 27, 1971, 1,320.
South Oregon Basin, March 1, 1970, 7,971.

Maps and diagrams showing the boundaries of the defined structures have been filed with the appropriate land office of the Bureau of Land Management and are also of record in the Geological Survey, Washington, D.C.

W. A. RADLINSKI,
Acting Director.

JUNE 1, 1971.

[F.R. Doc. 71-7999 Filed 6-8-71; 8:47 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-265]

TRINIDAD CORP.

Notice of Application

In F.R. Doc. 71-7543 appearing in the FEDERAL REGISTER issue of May 29, 1971 (36 F.R. 9889), the first sentence of the last paragraph should read, "In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., on June 17, 1971, in conference room A, first floor, main lobby, Department of Commerce Building, 14th and E Streets NW., Washington, D.C."

Dated: June 7, 1971.

JAMES S. DAWSON, JR.,
Secretary.

[F.R. Doc. 71-8111 Filed 6-7-71; 1:40 pm]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 8107]

CALCIUM LEUCOVORIN INJECTION Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Calcium Leucovorin Injection; Lederle Laboratories, Division of American Cyanamid Co., Post Office Box 500, Pearl River, New York 10965 (NDA 8-107).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required

from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that calcium leucovorin is effective when administered promptly to diminish the toxicity and counteract the effect of inadvertently administered overdoses of folic acid antagonists and in the treatment of megaloblastic anemias due to sprue, nutritional deficiency, pregnancy, and infancy.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Calcium leucovorin preparations are in sterile aqueous solution form suitable for intramuscular administration and contain per dosage unit an amount appropriate for administration in the dosage range described in the labeling conditions in this announcement.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations promulgated thereunder and those parts of its labeling indicated below are substantially as follows: (Optional additional information, applicable to the drug, may be proposed under other appropriate paragraph headings and should follow the information set forth below.)

DESCRIPTION

(Descriptive information to be included by the manufacturer or distributor should be confined to an appropriate description of the physical and chemical properties of the drug and the formulation.)

ACTION

Leucovorin (folic acid) is the formyl derivative and active form of folic acid.

Calcium leucovorin is useful clinically in circumventing the action of folate reductase.

INDICATIONS

Indicated (a) to diminish the toxicity and counteract the effect of inadvertently administered overdoses of folic acid antagonists. (See warnings). (b) In the treatment of the megaloblastic anemias due to sprue, nutritional deficiency, pregnancy, and infancy when oral therapy is not feasible.

WARNINGS

Leucovorin is improper therapy for pernicious anemia and other megaloblastic anemias secondary to lack of vitamin B₁₂. A hematologic remission may occur while neurologic manifestations remain progressive.

In the treatment of overdoses of folic acid antagonists leucovorin must be administered within 1 hour, if possible, and is usually ineffective if administered after a delay of 4 hours.

ADVERSE REACTIONS

Allergic sensitization has been reported following both oral and parenteral administration of folic acid.

DOSAGE

Megaloblastic anemia: There is no evidence that intramuscular doses greater than 1 mg. daily have greater efficacy than those of 1 mg.; additionally, loss of folate in the urine becomes roughly logarithmic as the amount administered exceeds 1 mg.

For the treatment of overdoses of folic acid antagonists: To be given in amounts equal to the weight of the antagonist given.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For the holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3) (i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

Representatives of the Administration are willing to meet with any interested person who desires a conference concerning proposed changes in the labeling set forth herein. Requests for such meetings should be made to the Office of Scientific Evaluation (BD-100), at the address given below, within 30 days after the publication of this notice in the FEDERAL REGISTER.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8107, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100),
Bureau of Drugs.

Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5),
Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355).

and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-7986 Filed 6-8-71; 8:46 am]

**Social and Rehabilitation Service
REHABILITATION SERVICES
ADMINISTRATION**

**Statement of Organization, Functions,
and Delegations of Authority**

Part 5 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (34 F.R. 1279, Jan. 25, 1969, as amended) is hereby further amended to reflect the reorganization of the Rehabilitation Services Administration. For such purposes, section 5-B is amended as follows:

1. Strike out all that appears under the heading "Division of Special Populations" and insert under the same heading the following:

Provides for the full development of projects, programs and services for individuals and groups who suffer from specific disabilities, except for blindness and visual handicaps, for deafness and communicative disorders, and for developmental disabilities, or who share common conditions or characteristics, medical or otherwise, which permit categorical identification. Reviews project grant applications as assigned to the Division of Special Populations, in accordance with agency guidelines, appropriate evaluative criteria, and central-regional office responsibilities. Assumes leadership for the achievement of agency missions as assigned by the Commissioner on the basis of the division's particular expertise. Provides leadership and consultation to regional offices, State agencies, and other grantees in the development and expansion of rehabilitation programs and services for all disability groups, except for the blind and visually handicapped, for those suffering from deafness and communicative disorders, and those with developmental disabilities. Develops and implements program strategies and approaches to reach public assistance recipients and the disabled residents of target poverty communities (e.g., migratory agricultural workers). Within assigned area of responsibility, collaborates with the Office of Planning and Policy Development and other appropriate agency staff in the development of guidelines, manual issuances and other directives for existing programs serving various disability groups and for those programs mandated by legislative amendment such as vocational education and juvenile delinquency. Develops appropriate techniques to facilitate client participation in the formulation of program objectives within the agency and at the State agency and other grantee level.

2. Add directly after the paragraph headed "Division of Special Populations" under the heading "Office for the Blind and Visually Handicapped" the following:

Provides for the full development of projects, programs, and services for individuals who suffer from blindness and visual handicaps. Reviews project grant applications as assigned to the Office for the Blind and Visually Handicapped, in accordance with agency guidelines, appropriate evaluative criteria, and central-regional office responsibilities. Assumes leadership for achievement of agency missions as assigned by the Commissioner on the basis of the office's special expertise. Provides leadership and consultation to regional offices, State agencies, and other grantees in the development and expansion of rehabilitation programs and services for the blind and visually handicapped. Maintains liaison and consultation with national organizations of and for the blind and with the deaf community nationwide to provide increased leadership and advocacy for the Nation's deaf and those suffering from communicative disorders. In collaboration with the Division of Special Populations and other appropriate agency staff, develops and implements program strategies and approaches to reach blind public assistance recipients and the blind and visually handicapped residents of target poverty communities (e.g., migratory agricultural workers). Within assigned area of responsibility, collaborates with the Office of Planning and Policy Development and other appropriate agency staff in the development of guidelines, manual issuances, and other directives for existing programs serving the blind and visually handicapped and for those programs mandated by legislative amendment, such as vocational education and juvenile delinquency. Develops appropriate methods to facilitate client participation in the formulation of program objectives within the agency and at the State agency and other grantee level.

3. Add directly after the paragraph headed "Office for the Blind and Visually Handicapped" under the heading "Office for Deafness and Communicative Disorders" the following:

Provides for the full development of projects, programs, and services for individuals who suffer from deafness and communicative disorders. Reviews project grant applications as assigned to the Office for Deafness and Communicative Disorders, in accordance with agency guidelines, appropriate evaluative criteria, and central-regional office responsibilities. Assumes leadership for achievement of agency missions as assigned by the Commissioner on the basis of the office's special expertise. Provides leadership and consultation to regional offices, State agencies, and other grantees in the development and expansion of rehabilitation programs and services for those persons suffering from deafness and communicative disorders. Maintains liaison and consultation with na-

tional organizations of and for the deaf and with the deaf community nationwide to provide increased leadership and advocacy for the Nation's deaf and those suffering from communicative disorders. In collaboration with the Division of Special Populations and other appropriate agency staff, develops and implements program strategies and approaches to reach those persons suffering from deafness and communicative disorders who are on public assistance as well as those persons who are resident in target poverty communities (e.g., migratory agricultural workers). Within assigned area of responsibility, collaborates with the Office of Planning and Policy Development and other appropriate agency staff in the development of guidelines, manual issuances, and other directives for existing programs serving those suffering from deafness and communicative disorders and for those programs mandated by legislative amendment, such as vocational education and juvenile delinquency. Develops appropriate methods to facilitate client participation in the formulation of program objectives within the agency and at the State agency and other grantee level.

4. Strike out all that appears under the heading "Division of Planning and Management Assistance" and insert under the same heading the following:

Provides nonfinancial technical support and assistance to regional offices, State agencies and other grantees across agency programs. Develops planning and management procedures and methods of common application and implements such systems leading to improvement in overall program performance and goal achievement. Provides leadership in development of planning, operations, and management tools and methods to serve State agency and other grantee programs. With the assistance of the divisions concerned with program development, designs and provides consultative assistance in implementation of new program techniques through manual chapter instructions, guide materials, and on-site visits. Provides staff support and assistance to facilitate decentralization of agency functions in cooperation with field operations staff. Evaluates and assists State agencies in the development of comprehensive State plans.

5. Strike the heading "Division of Grant Administration" and all that follows under that heading and substitute the heading "Division of State Program Financial Operations" and the following:

Provides for the financial management of RSA formula grant programs. Provides support services in financial management within RSA and to regional offices, State agencies and across all agency programs. Develops and provides to the Division of Grants Administration, SRS, a financial plan for the administration of RSA project grants. Develops procedures, provides leadership, and evaluates the development and implementation of program and financial planning activities

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of the PPBS type by State agencies. Assists State agencies in developing capabilities to provide program financial inputs to overall RSA short and long-term program planning. Consolidates the administration of agency grant programs. Assists the Budget Division in the formulation, justification and execution of the legislation budget, including the budgetary call for estimates from State agencies. In cooperation with the Division of Planning and Management Assistance, provides financial consultative support to regional offices and State agencies, including preparation of pertinent manual chapters, forms, and other assistance. Applies statutory formulae for allotment of funds across all agency appropriations. Makes analyses of and coordinates all audit reports and negotiates audit exceptions for the agency. Monitors the accuracy and timeliness of State agency fiscal reports and financial data. Designs and develops systems for processing program financial data and reports with the assistance of the Division of Monitoring and Program Analysis. Develops and interprets administrative and fiscal policies and procedures governing the use of formula grants funds including the cost principles to be applied in the preparation of grant applications and budgets. Makes special studies of problem areas in the application of fiscal management policies, procedures and standards. Prepares uniform terminology standards of policies and procedures for grants administration and fiscal management. In support of the Office of Planning and Policy Development, reviews new legislation and legislative proposals relating to grants to determine their conformance with established grant policies and recommends policy revisions when necessary. Under the coordination of the Office of Planning and Policy Development, establishes and maintains working relationships with other Federal agencies, grantee institutions and State agencies in order to develop and coordinate grant policies and procedures. Establishes and maintains proper fiscal management, including the accountability of funds, for grant programs administered by RSA which are delegated to Regional Offices.

6. Strike out all that appears under the heading "Budget Division" and insert under the same heading the following:

Provides budgetary services and assistance to the agency and maintains associated liaison services with the department and SRS. In conjunction with the Division of State Program Financial Operations and in cooperation with the Office of Planning and Policy Development and other program units, formulates, justifies, and executes the legislative budget. Provides technical assistance in ensuring implementation of departmental budgetary directives. Assists the Division of State Program Financial Operations in preparation of financial reports and summaries, and adoption of improved internal financial analysis procedures and methods. Cooperates with the Office of Planning and Policy De-

velopment and with other program units in the formulation of short- and long-term program financial planning methods.

Approved: June 2, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc. 71-8013 Filed 6-8-71; 8:48 am]

**DEPARTMENT OF
TRANSPORTATION**

Coast Guard

[CGFR 71-52]

**ELLIOT BAY-WEST WATERWAY,
SEATTLE, WASH.
Security Zone**

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b) (1), 80 Stat. 937, 49 U.S.C. 1655(b) (1), 49 CFR 1.46(b) and the redelegation of authority to Chief, Office of Operations, U.S. Coast Guard, as contained in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8279), I hereby affirm for publication in the FEDERAL REGISTER the order of J. J. McClelland, Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

ELLIOT BAY—WEST WATERWAY, SEATTLE, WASH.
SECURITY ZONE

Under the authority of section I of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173, as amended, I declare that from 1815 Pacific daylight time on Wednesday June 23, 1971 until 1900 Pacific daylight time on Wednesday June 23, 1971 the following area is a security zone and I order it to be closed to any person or vessel due to the launching of the Destroyer Escort (DE-1073).

The waters of the West Waterway, Seattle, Wash., within the coordinates of latitude 47° 35' N., longitude 122° 21' 25" W., at the shoreline of Harbor Island, Seattle, Wash., south to latitude 47° 34' 22" N., longitude 122° 21' 25" W., west to latitude 47° 34' 22" N., longitude 122° 21' 37" W., at the shoreline of West Seattle, Seattle, Wash., north to latitude 47° 35' N., longitude 122° 21' 37" W.

No person or vessel shall remain in or enter this security zone without the permission of the Captain of the Port.

The Captain of the Port, Seattle, Wash., shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or of any State or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of June 15, 1917 (40 Stat. 200 as amended, 50 U.S.C. 192), provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of such vessel fails to comply with any regulation or rule issued or given under the provisions of this chapter, or obstructs or interferes with the exercise of any power con-

ferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws, and the person guilty of such failure, obstruction, or interference, shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than \$10,000.

"(a) If any person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than \$10,000."

Dated: June 3, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc. 71-8041 Filed 6-8-71; 8:51 am]

**National Transportation Safety Board
[Docket No. Sa-425]**

**AIRCRAFT ACCIDENT AT COOLIDGE,
ARIZ.**

**Notice of Accident Investigation
Hearing**

In the matter of investigation of accident involving Apache Airlines, Inc., De Havilland CJ-60, of U.S. Registry N4922, Coolidge, Ariz., May 6, 1971; Docket No. Sa-425.

Notice is hereby given that an accident investigation hearing on the above matter will be held commencing at 9:30 a.m. (local time), on July 21, 1971, at the Mountain Shadows Hotel, 5641 East Lincoln Drive, Scottsdale, AZ.

Dated this 1st day of June 1971.

[SEAL] WILLIAM R. HENDRICKS,
Senior Hearing Officer.

[FR Doc. 71-8005 Filed 6-8-71; 8:48 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-172]

LOCKHEED AIRCRAFT CORP.

**Order Authorizing Partial Dismantling
of Facility**

By application dated April 12, 1971, Lockheed Aircraft Corp. requested authorization to partially dismantle the Radiation Effects Reactor (RER) in accordance with the Decommissioning Plan attached to the application. Operation of the RER facility, located in Dawson County, Ga., was discontinued September 30, 1970.

We have reviewed the application in accordance with the provisions of the Atomic Energy Commission's regulations and have found that the partial dismantlement and disposal of certain component parts and byproduct and special nuclear materials in accordance with the

regulations in 10 CFR Chapter I and the application will not be inimical to the common defense and security or to the health and safety of the public.

Accordingly, it is hereby ordered, That the Lockheed Aircraft Corp. may partially dismantle the RER covered by Facility License No. R-86 dated July 20, 1962, in accordance with the application and the Commission's regulations.

After completion of the partial dismantlement of the RER, disposal of certain parts and byproduct and special nuclear materials, an inspection by the Commission's representatives and the issuance of a byproduct materials license by the State of Georgia to cover any remaining byproduct materials, consideration will be given to the issuance of a further order terminating Facility License No. R-86.

Date of issuance: May 27, 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,
Division of Reactor Licensing.

[FR Doc.71-7973 Filed 6-8-71; 8:45 am]

[Dockets Nos. 50-390, 50-391]

TENNESSEE VALLEY AUTHORITY Notice of Receipt of Application for Construction Permits and Facility Licenses

Tennessee Valley Authority, Knoxville, Tenn. 37902, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application dated May 14, 1971, for two construction permits and facility licenses to authorize construction and operation of two pressurized water reactors on the applicant's approximately 1,770-acre Watts Bar site on the west bank of the Tennessee River, in Rhea County, approximately 50 miles northeast of Chattanooga, Tenn.

The proposed reactors are designated by the applicant as the Watts Bar Nuclear Plant Units 1 and 2. Each unit is designed for a maximum expected output of 3,425 megawatts (thermal) with a gross output of about 1,180 megawatts (electrical).

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Dayton Public Library, First Avenue, Dayton, Tenn.

Dated at Bethesda, Md., this 2d day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,
Division of Reactor Licensing.
[FR Doc.71-7974 Filed 6-8-71; 8:45 am]

NOTICES

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Notice of Availability of Detailed Statement on Environmental Con- siderations

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Detailed Statement on the Environmental Considerations by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Related to the Proposed Issuance of an Operating License to the Vermont Yankee Nuclear Power Corporation for the Vermont Yankee Nuclear Power Station" is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room, 1717 H Street NW., Washington, DC; and at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301. Single copies of the statement may be obtained by writing the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 7th day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,
Division of Reactor Licensing.
[FR Doc.71-8134 Filed 6-8-71; 8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23472; Order 71-6-24]

AIRBORNE FREIGHT CORP.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of June 1971.

By tariff revisions¹ filed May 6, marked to become effective June 6, 1971, Airborne Freight Corp. (Airborne), an air freight forwarder, proposes to reduce all of its import specific commodity rates from Los Angeles and San Francisco to Chicago, New York, and Newark.²

¹ Revisions to Airborne Freight Corp.'s Tariff CAB No. 32.

² The rates apply to shipments originating at points other than in the continental United States or Canada from which transportation was performed by an ocean carrier. In addition to airport-to-airport transportation, the rates cover the following services or expenses at no additional charge:

(a) Pickup service within corporate limits of the origin airport city from steamship docks, warehouses or appraiser's stores, which are located within corporate limits of origin airport city, and
(b) Wharfage fees, and
(c) Cost of handling to and loading into forwarder's vehicle from steamship docks, warehouses or appraiser's stores.

Airborne asserts that its proposals are based upon the "economies" of chartered aircraft in order to generate traffic now moving via surface transportation and to reduce the impact on shippers of recent rate increases.

Complaints have been filed by American Airlines, Inc. (American), The Flying Tiger Line Inc. (Tiger), and United Air Lines, Inc. (United).³ The complaints variously assert, inter alia, that the proposed rates would result in significant diversion from scheduled air transportation and would seriously jeopardize the existence of such transportation, now operating unprofitably; that the forwarder has presented no justification for the tariff filing; that the proposed rates would undercut the direct carrier rates; and that the proposed rates would result in out-of-pocket loss to the forwarder.

Upon consideration of all relevant factors, the Board finds that Airborne's proposed reductions may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the rates should be suspended pending investigation.

The proposed rates would effect reductions of approximately 25 percent below its currently effective import rates for numerous commodities from Los Angeles and San Francisco to Chicago, New York, and Newark. The reductions would undercut similar import specific commodity rates of the direct carriers as much as 25 percent. The proposals may have a serious impact on these carriers through traffic diversion to chartered aircraft or from the necessity of reducing their rates significantly.

Airborne, however, does not present factual data indicating the volume of traffic that it hopes to obtain by its proposal, nor does it make any factual showing that its proposed rates would be economic.

In view of the above circumstances, the Board will not permit the sharp reductions proposed in prime markets to become effective without investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the rates from Los Angeles/San Francisco, Calif. to Chicago, Ill., and Newark, N.J./New York, N.Y. on First Revised Page 10-A of Airborne Freight Corp.'s CAB No. 32, and rules, regulations, or practices affecting

³ Tiger's complaint asks suspension pending investigation but was untimely as a request for suspension. The carrier also requests rejection of the proposal as an alternative to suspension on the ground that the requirements of § 221.165 of our economic regulations have been disregarded. Forwarders, however, are exempt from certain of the above requirements and we find no basis for rejection.

such rates are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, and rules, regulations, or practices affecting such rates;

2. Pending hearing and decision by the Board, the rates from Los Angeles/San Francisco, Calif., to Chicago, Ill., and Newark, N.J./New York, N.Y. on First Revised Page 10-A of Airborne Freight Corp.'s CAB No. 32, are suspended and their use deferred to and including September 3, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 23472, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated;

4. The complaints of American Airlines, Inc., in Docket 23413; The Flying Tiger Line Inc., in Docket 23421; and United Air Lines, Inc., in Docket 23414, are dismissed, except to the extent granted herein; and

5. Copies of this order shall be filed with the tariff and served upon Airborne Freight Corp., American Airlines, Inc., The Flying Tiger Line Inc., and United Air Lines, Inc., which are hereby made parties to Docket 23472.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[FR Doc.71-8036 Filed 6-8-71; 8:50 am]

[SEAL] HARRY J. ZINK,
Secretary.

[Dockets Nos. 21604, 21695]

ALOHA AIRLINES, INC., AND HAWAIIAN AIRLINES, INC.

Notice of Postponement of Hearing

Aloha Airlines, Inc. v. Hawaiian Airlines, Inc., Docket 21604; Hawaiian Airlines, Inc. v. Aloha Airlines, Inc., Docket 21695; enforcement proceeding.

Upon consideration of the request of the Bureau of Enforcement, dated June 2, 1971, notice is hereby given that the hearing in the above-entitled matters is postponed to be held on June 29, 1971, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Examiner.

Dated at Washington, D.C., June 3, 1971.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[FR Doc.71 8037 Filed 6-8-71; 8:50 am]

⁴ Partial dissent of Member Minetti filed as part of the original document.

NOTICES

[Docket No. 20993; Order 71-6-19]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority June 2, 1971.

By Order 71-5-31, dated May 7, 1971, action was deferred with a view toward eventual approval, on an agreement embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA) and adopted by the 28th Meeting of the TC1 Specific Commodity Rates Board. The agreement would amend the specific commodity rate structure currently applicable within the Western Hemisphere. These revisions include (1) reduced rates under new commodity descriptions, (2) the cancellation, amendment, or naming of new rates under existing commodity descriptions, and (3) changes in commodity descriptions.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 71-5-31 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22390 be and it hereby is approved: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8033 Filed 6-8-71; 8:50 am]

[Docket No. 22628; Order 71-6-20]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 2, 1971.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, which was adopted pursuant to the provisions of Resolution 072 dealing with the establishment of special creative fares within the Western Hemisphere, has been assigned the above-designated CAB agreement number.

The agreement would establish 7/30-day round-trip excursion fares from Ciudad Juarez/Monterrey (Mexico) to Los Angeles.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 22444 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8034 Filed 6-8-71; 8:50 am]

[Docket No. 23112; Order 71-6-27]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding International Route Charges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of June 1971.

By Order 71-4-151 dated April 23, 1971, the Board deferred action with a view toward disapproval of a resolution adopted by the International Air Transport Association (IATA) which would provide for the establishment of fare and rate surcharges to cover international route charges. In deferring action a period of 30 days was established for the receipt of comments from any interested parties.

Comments have been received from a number of interested parties; most of which are directed to the merits of establishing surcharges to cover international route charges. Seaboard however petitions the Board for an extension until July 30, 1971, of the time for submission of comments. Seaboard states that international route charges have become a critical problem for international carriers and that further means of dealing with this problem is currently being discussed at the IATA Cargo Traffic Conference now being held in Singapore.

¹ Charges imposed by or on behalf of a government for facilities and/or services provided for air navigation and safety other than those associated with airports or approach and airport control.

² Eastern Air Lines, National Airlines, Northwest Airlines, Seaboard World Airlines, South African Airways and Trans World Airlines.

Seaboard indicates that it is likely that this matter will also be discussed at the IATA Passenger Traffic Conference scheduled to commence in Montreal on June 28, 1971. Inasmuch as the results of the above conferences will not be known until late July, Seaboard suggests that it is in the best interest of all concerned to defer submission of comments until July 30, 1971. The Board believes that there is substantial merit to the request of Seaboard and we will grant the extension sought.

The Board, acting pursuant to section 102, 204(a), and 412 of the Act, finds that it is in the public interest to further defer action until after July 30, 1971, on Agreement CAB 22245, R-1 and R-3 (Resolution 295d, International Route Charge-Passenger and Resolution 295e, International Route Charge-Cargo) so as to receive comments in support of or in opposition to the Board's proposed disapproval.

Accordingly, it is ordered, That the time provided for submitting comments as set forth in Order 71-4-151 shall be extended until July 30, 1971.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8035 Filed 6-8-71;8:50 am]

[Docket No. 23473; Order 71-6-25]

JOYCE EXPEDITING SERVICE, INC. Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of June 1971.

By tariff revision¹ filed May 3 and marked to become effective June 7, 1971, Joyce Expediting Service, Inc. (Joyce), an air freight forwarder, proposes to increase its excess valuation charge from 15 to 30 cents for each \$100, or fraction thereof, by which the declared value of a shipment exceeds 50 cents per pound or \$50 per shipment, whichever is higher. No complaints have been received.

Most major forwarders currently have in effect an excess value charge of 15 cents per \$100 on their domestic traffic. The Board has suspended, pending investigation, a number of previous proposals to increase excess valuation charges above this level where no showing has been made that existing excess value revenues do not cover the amount of claim expense stemming from declarations of excess value.² Joyce has not submitted any data on the relationship between its excess value revenues and losses attributable to declarations of excess valuation or any other statement supporting its proposal.

¹ Tariff CAB No. 1 issued by Joyce Expediting Service, Inc.

² E.g., Order 71-4-53 dated Apr. 9, 1971, and prior orders cited therein.

Upon consideration of all relevant factors, the Board finds that the proposed excess valuation charges may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and should be investigated. We further conclude that the proposed change should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the charge and provisions in Rule No. 110, paragraph 2 on Third Revised Page 9 of Joyce Expediting Service, Inc.'s CAB No. 1, and rules, regulations, or practices affecting such charge and provisions, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charge and provisions, and rules, regulations, or practices affecting such charge and provisions;

2. Pending hearing and decision by the Board, Rule No. 110, paragraph 2 on Third Revised Page 9 of Joyce Expediting Service, Inc.'s CAB No. 1 is suspended and its use deferred to and including September 4, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated as Docket 23473, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Joyce Expediting Service, Inc., who is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8038 Filed 6-8-71;8:51 am]

CIVIL SERVICE COMMISSION DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Director, Congressional Affairs, National Oceanic and Atmospheric Administration, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7977 Filed 6-8-71;8:45 am]

DEPARTMENT OF DEFENSE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Special Assistant for Economic Impacts, Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7978 Filed 6-8-71;8:45 am]

DEPARTMENT OF THE INTERIOR

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Assistant to the Secretary (Congressional Liaison)" to "Assistant to the Secretary and Director of Congressional Liaison."

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7979 Filed 6-8-71;8:45 am]

EXECUTIVE OFFICER, DISTRICT OF COLUMBIA COURTS

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. sec. 5723, the Civil Service Commission has found, effective May 27, 1971, that there is a manpower shortage for the single position of Executive Officer of the District of Columbia Courts.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to his first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7980 Filed 6-8-71;8:45 am]

HIGHWAY SAFETY MANAGEMENT SPECIALIST, DEPARTMENT OF TRANSPORTATION

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. sec. 5723, the Civil Service Commission found

a manpower shortage on April 26, 1971, for the single position of Highway Safety Management Specialist, GS-2125-13, Highway Safety Programs Office, Region IV, Atlanta Regional Office, National Highway Traffic Safety Administration, Department of Transportation, Atlanta, Ga. The finding is self-canceling when the position is filled.

Assuming all other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-7981 Filed 6-8-71;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-279]

CITY OF ANDERSONVILLE, GA., AND SOUTH GEORGIA NATURAL GAS CO.

Notice of Application

JUNE 2, 1971.

Take notice that on May 20, 1971, the City of Andersonville, Ga. (applicant), Andersonville, Ga. 31711, filed in Docket No. CP71-279 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing South Georgia Natural Gas Co. (respondent) to construct facilities and establish connection of its natural gas transportation facilities with facilities proposed to be constructed by applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it obtains its sole supply of natural gas from respondent. Applicant specifically requests that respondent be directed to construct 1.5 miles of 3½-inch pipeline and provide a new delivery point to applicant at the end of this pipeline to enable it to sell natural gas to Mullite of America (Mullite), located in Sumter County, Ga., on an interruptible basis.

The estimated cost of the facilities requested herein is \$46,920. Applicant states that it will reimburse respondent for the cost of this construction and that Mullite will then reimburse applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must

file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8019 Filed 6-8-71;8:49 am]

[Docket No. C162-550, etc.]

BURMAH OIL DEVELOPMENT, INC. Notice of Redesignation

JUNE 3, 1971.

By letters of March 31, 1971, Burmah Oil Development, Inc., advised the Commission that its name had been changed from Southdown Burmah Oil Co. by amendment to its certificate of incorporation dated February 12, 1970, and filed with the Secretary of State of the State of Delaware on February 16, 1970.

Accordingly, the following certificates of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act, proceedings instituted under section 4(e) of the Natural Gas Act, and FPC gas rate schedules are redesignated as Burmah Oil Development, Inc.:

FPC gas rate schedule	Certificate docket No.	Rate proceeding docket No.
1.....	C162-551.....	R106-106, R171-738.
2.....	C162-550.....	R106-159, R171-738.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8017 Filed 6-8-71;8:49 am]

[Dockets Nos. CP71-274, C171-819]

LONE STAR GATHERING CO. ET AL.

Notice of Applications

JUNE 3, 1971.

Take notice that on May 18, 1971, Lone Star Gathering Co. (Gathering), Lone Star Gas Co. (Lone Star), and Lone Star Producing Co. (Producing), each of 301 South Harwood Street, Dallas, TX 75201, filed in Dockets Nos. CP71-274 and C171-819 a joint application pursuant to sections 7 (c) and (b) of the Natural Gas Act for:

(1) Certificates of public convenience and necessity authorizing the construction, acquisition and operation of facilities and the transportation and sale of natural gas;

(2) Permission and approval to abandon certain described facilities;

(3) An order amending the order issued January 29, 1962, to Lone Star in Docket No. G-8763 (27 FPC 179);

all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicants state that the application has its genesis in a dispute between Lone Star and Natural Gas Pipeline Company of America (Natural) regarding their respective rights and obligations under a service agreement made effective by the Commission on December 1, 1961, a dis-

pute engendered by the seriously diminishing gas supply in the Fox area of Oklahoma from which gas has heretofore been produced and sold to Natural under the service agreement. Because of this situation, Lone Star and Natural have worked toward a solution of their problems, and as a result, on May 6, 1971, applicants and Natural have entered into a precedent agreement obligating them to enter into certain concurrent agreements contemplating the:

(1) Assignment by Lone Star to Natural of certain gas purchase contracts;

(2) Transportation by Gathering of natural gas for the account of Natural;

(3) Sale by Producing to Natural of natural gas produced from the Fashing Field, Atascosa County, Tex.;

(4) Amendment of the December 1, 1961, service agreement and the termination of service rendered thereunder by December 31, 1971, or sooner; and

(5) Termination of the existing exchange of gas between Lone Star and Natural.

To effectuate such precedent and concurrent agreements, Gathering and Producing seek certificates of public convenience and necessity authorizing:

(1) The construction by Gathering of three (3) new pipeline segments, aggregating approximately 39.55 miles in length, together with appurtenant facilities, in Oklahoma and Texas, and the acquisition of three (3) existing pipelines approximately 38 miles in length and appurtenances by purchase from Lone Star in Texas; and the operation of the aforesaid facilities for the transportation of 34,332,995 Mcf of natural gas annually for the account of Natural on a cost of service basis pursuant to an agreed form of transportation agreement, and

(2) The sale by Producing in interstate commerce of natural gas produced from the Fashing Field to Natural for resale, effective January 1, 1972, at an initial price of 16½ cents per Mcf.

Lone Star seeks an order of the Commission amending the order issued January 29, 1962, in Docket No. G-8763, so as to authorize Lone Star to sell and deliver to Natural 20,000,000 Mcf of natural gas in 1971.

Further, Lone Star seeks permission and approval to abandon:

(1) The sale to Natural on December 31, 1971, or upon delivery of 20,000,000 Mcf by it, whichever is earlier, and certain pipeline, metering and regulating facilities by means of which the sale is made;

(2) The exchange, authorized on September 24, 1970, in Docket No. CP71-24, of its two-thirds (2/3) interest in gas reserves underlying the Puryear Gas Unit in Hemphill County, Tex., with Natural pursuant to the terms and conditions of an exchange agreement dated July 1, 1970, inasmuch as Lone Star will no longer have any natural gas available to continue the exchange by virtue of the assignment of these gas reserves to Natural; and

(3) By sale, the facilities which Gathering proposes to acquire from it in Texas as hereinbefore described. Lone Star avers that the proposed abandonment of facilities will not result in the abandonment or diminution of natural gas service to any customer or lessen the public service rendered by it.

The actual cost of the facilities to be constructed by Gathering is \$2,415,865, and the cost of those to be acquired is \$868,445, for a total of \$3,284,310. Gathering proposes to finance the cost of such facilities by selling additional stock to its parent, Lone Star.

The application states that the proposals contained therein for construction and transfer of facilities will accomplish a rearrangement and realignment which will provide Natural with substantial new sources of gas supply and permit Lone Star to better utilize the remaining reserves in the Fox area. Moreover, Producing's comprehensive program for the exploration and development of gas reserves will undoubtedly benefit Natural, as well as Lone Star's existing and potential customers in Texas and Oklahoma, as contemplated by the terms and provisions of the precedent agreement. Further, the approval of this joint application will enable Lone Star and Natural to compose their differences and thus allow each to plan present and future operations on a sound and orderly basis to the advantage of their respective customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided

for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8018 Filed 6-8-71;8:49 am]

[Docket No. CP71-287]

DELHI GAS PIPELINE CORP.

Notice of Application

JUNE 8, 1971.

Take notice that on June 2, 1971, Delhi Gas Pipeline Corp. (applicant), Fidelity Union Tower Building, Dallas TX 75201, filed in Docket No. CP71-287 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of existing facilities for the transportation and sale of natural gas, for a limited term, to Texas Eastern Transmission Corp. (Texas Eastern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been advised by Texas Eastern of a need for additional volumes of natural gas to meet existing contractual requirements. Specifically, applicant seeks a limited authorization with pregranted abandonment, to sell up to 16,000 Mcf of natural gas per day to Texas Eastern for a period of 1 year beginning on the date of Commission authorization. Applicant states that the selling price for the sales proposed herein will be 35 cents per Mcf.

Applicant also states that it is exempt from regulation by the Federal Power Commission under the provisions of section 1(c) of the Natural Gas Act and proposes this sale for resale of natural gas in interstate commerce subject to the following conditions:

(1) The certificate issued herein be limited to authorization of the proposed sale to Texas Eastern and facilities necessary to make such sale;

(2) The Commission waive its accounting and other reporting requirements with respect to applicant for the term of the limited-term certificate sought herein. Applicant will be willing to report the volumes sold to Texas Eastern pursuant to the requested authorization.

(3) The jurisdictional status of the facilities and operations of independent producers and other suppliers from whom applicant purchases gas and the sales by such independent producers and other suppliers be not affected during the term of the limited-term certificate;

(4) With the exception of the sale to be certificated herein, all of applicant's existing facilities, its operation of such facilities, and its sales from its system are and will continue to be exempt from Commission regulation, and the non-jurisdictional status of all of applicant's existing and proposed purchases of natural gas, and the nonjurisdictional status of applicant's existing sales from its system will not be rendered jurisdictional or otherwise affected by Commission

regulation by the certificate issued for the sale contemplated herein.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8143 Filed 6-8-71;9:49 am]

FEDERAL RESERVE SYSTEM ATLANTIC BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) (3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Atlantic Bancorporation, which is a bank holding company located in Jacksonville, Fla., for prior approval by the Board of Governors of the acquisition by applicant of not less than 52 percent of the voting shares of Gainesville Atlantic Bank, Gainesville, Fla., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be

in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, June 3, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7982 Filed 6-8-71;8:46 am]

FIRST AMERICAN NATIONAL CORP. Order Approving Action To Become Bank Holding Company

In the matter of the application of First American National Corp., Nashville, Tenn., for approval of action to become a bank holding company.

There has come before the Board of Governors, pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First American National Corp., Nashville, Tenn. (Applicant), for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First American National Bank of Nashville, Nashville, Tenn. (Bank), and a nonoperating bank. The nonoperating bank has significance only as a means of acquiring all of the shares of the bank to be merged into it; the proposal is therefore treated herein as one to acquire shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his

views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 20, 1971 (36 F.R. 7487), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the bank concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a nonoperating corporation formed for the purpose of acquiring Bank (\$665.9 million deposits). (All banking data are as of June 30, 1970, and reflect holding company approvals and acquisitions to date.) Upon consummation of the proposal Applicant will assume Bank's present position as the State's third largest banking organization with 8.5 percent of total deposits in the State. As Applicant has no present operations or subsidiaries, consummation of the proposal would eliminate neither existing nor potential competition. Neither does it appear that there would be adverse effects on any bank in the area involved.

The financial and managerial resources and prospects of Bank are generally satisfactory, as would be those of Applicant upon approval. Consummation of the proposal would have no immediate effect on the convenience and needs of the community involved. Considerations under these factors are consistent with approval. It is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

It is hereby ordered, For the reasons summarized above, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors, June 3, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7984 Filed 6-8-71;8:46 am]

* Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, and Sherrill. Absent and not voting: Governor Brimmer.

FIRST VIRGINIA BANKSHARES CORP. Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Virginia Bankshares Corp., which is a bank holding company located in Arlington, Va., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of the successor by merger to Bank of Bland County, Bland, Va.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Richmond.

By order of the Board of Governors, June 3, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7983 Filed 6-8-71;8:46 am]

HAMILTON BANCSHARES, INC. Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Hamilton Bancshares, Inc., which is a

bank holding company located in Chattanooga, Tennessee, for prior approval by the Board of Governors of the acquisition by applicant of 90.5 percent or more of the voting shares of The First National Bank of Polk County, Copperhill, Tenn.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, June 3, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7985 Filed 6-8-71; 8:46 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

MARGARET PEERLESS COAL CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

(1) ICP Docket No. 3059 000, Margaret Peerless Coal Co., Mine No. 2, USBM ID No. 46 01735 0, Summersville, Nicholas County, W. Va.:

NOTICES

ICP Permit No. 3059 001 (Wilcox Continuous Miner & Bridge, Ser. No. 298).

ICP Permit No. 3059 002 (Wilcox Universal Advance Conveyor, Ser. No. 143).

ICP Permit No. 3059 003 (Jeffrey Room Conveyor, Ser. No. 1).

ICP Permit No. 3059 004 (Wilcox Continuous Miner & Bridge, Ser. No. 285).

ICP Permit No. 3059 005 (Wilcox Room Belt Conveyor, Ser. No. 1).

ICP Permit No. 3059 008 (Wilcox Universal Advance Conveyor, Ser. No. 130).

ICP Permit No. 3059 008 (Wilcox Roof Bolter, Ser. No. 2016).

ICP Permit No. 3059 009 (Wilcox Roof Bolter, Ser. No. 2019).

ICP Permit No. 3059 010 (Wilcox Roof Bolter, Ser. No. 2037).

ICP Permit No. 3059 012 (Wilcox Roof Bolter, Ser. No. 2040).

ICP Permit No. 3059 013 (Kersey Mine Tractor, Ser. No. 6424).

ICP Permit No. 3059 014 (Pemco Mine Tractor, Ser. No. TAC-1001).

ICP Permit No. 3059 015 (S & S Mine Tractor, Ser. No. 160-13).

ICP Permit No. 3059 016 (S & S Conveyor Tractor, Ser. No. CT-328).

ICP Permit No. 3059 022 (Shopmade Goat-Boss Car, Ser. No. 1).

ICP Permit No. 3059 029 (Shopmade Goat-Boss Car, Ser. No. 2).

In accordance with the provisions of section 305(a) (7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JUNE 3, 1971.

[FR Doc.71-8000 Filed 6-8-71; 8:47 am]

PEERLESS EAGLE COAL CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

(1) ICP Docket No. 3063 000, Peerless Eagle Coal Co., Mine No. 1, USBM ID No. 46 01476 0, Summersville, Nicholas County, W. Va.:

ICP Permit No. 3063 001 (Joy Coal Cutter, Ser. No. 15865).

ICP Permit No. 3063 002 (Joy Coal Cutter, Ser. No. 15917).

ICP Permit No. 3063 003 (Joy Coal Cutter, Ser. No. 15307).

ICP Permit No. 3063 004 (Galls Roof Drill, Ser. No. 3004701587).

ICP Permit No. 3063 005 (Galls Roof Drill, Ser. No. 3083391).

ICP Permit No. 3063 006 (Galls Roof Drill, Ser. No. 3035707).

ICP Permit No. 3063 008 (Joy Loader, Ser. No. 8663).

ICP Permit No. 3063 009 (Joy Shuttle Car, Ser. No. ET9032).

ICP Permit No. 3063 010 (Joy Loader, Ser. No. 8664).

ICP Permit No. 3063 011 (Joy Loader, Ser. No. 8872).

ICP Permit No. 3063 013 (Joy Shuttle Car, Ser. No. ET9033).

ICP Permit No. 3063 015 (Joy Shuttle Car, Ser. No. ET8446).

ICP Permit No. 3063 016 (Joy Shuttle Car, Ser. No. ET7702).

ICP Permit No. 3063 017 (Kersey Mine Tractor, Ser. No. 6013).

ICP Permit No. 3063 018 (Kersey Mine Tractor, Ser. No. 6761).

ICP Permit No. 3063 019 (Joy Shuttle Car, Ser. No. ET7734).

ICP Permit No. 3063 020 (Joy Coal Cutter, Ser. No. 15452).

ICP Permit No. 3063 021 (Shop Built Coal Drill, Ser. No. Co. No. 3 Coal Drill).

ICP Permit No. 3063 022 (Shop Built Coal Drill, Ser. No. Co. No. 2 Coal Drill).

ICP Permit No. 3063 023 (Shop Built Coal Drill, Ser. No. Co. No. 1 Coal Drill).

ICP Permit No. 3063 024 (Shop Built Coal Drill, Ser. No. Co. No. 4 Coal Drill).

In accordance with the provisions of section 305(a) (7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JUNE 3, 1971.

[FR Doc.71-8003 Filed 6-8-71; 8:48 am]

PEERLESS EAGLE COAL CO. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

(1) ICP Docket No. 3062 000, Peerless Eagle Coal Co., Mine No. 2A, USBM ID No. 46 01616 0, Summersville, Nicholas County, W. Va.:

ICP Permit No. 3062 001 (S & S Machinery Mine Tractor, Ser. No. 4-4-66-2654).

ICP Permit No. 3062 003 (Joy Coal Cutter, Ser. No. 15360).

ICP Permit No. 3062 004 (Galls Roof Drill, Ser. No. 3026868).

ICP Permit No. 3062 005 (Joy Loader, Ser. No. 8871).

ICP Permit No. 3062 006 (Shop Built Coal Drill, Ser. No. Co. No. 5).

(2) ICP Docket No. 3080 000, Imperial Smokeless Coal Co., Quinwood No. 7 Mine, USBM ID No. 46 01474 0, Lehigh, Nicholas County, W. Va.:

ICP Permit No. 3080 001 (Joy Loader Ser. No. 9245).

ICP Permit No. 3080 007 (Joy Cutting Machine, Ser. No. 17541).

ICP Permit No. 3080 013 (Galls Roof Drill, Ser. No. 3026863).

ICP Permit No. 3080 020 (Joy Shuttle Car, Ser. No. ET8690).

ICP Permit No. 3080 025 (Joy Shuttle Car, Ser. No. ET8691).

(3) ICP Docket No. 3082 000, Imperial Coal Co., Imperial Mine, USBM ID No. 05 00306 0, Erie, Weld County, Colo.:

ICP Permit No. 3082 001 (Joy Manufacturing Co. Continuous Miner, Ser. No. JM256).

ICP Permit No. 3082 002 (Joy Manufacturing Co. Continuous Miner, Ser. No. JM 254).

ICP Permit No. 3082 003 (Joy Manufacturing Co. Loading Machine, Ser. No. 2832).

ICP Permit No. 3082 004 (Joy Manufacturing Co. Loading Machine, Ser. No. 2471).

ICP Permit No. 3082 005 (Joy Manufacturing Co. Shuttle Car, Ser. No. ET2731).

ICP Permit No. 3082 006 (Joy Manufacturing Co. Shuttle Car, Ser. No. ET2722).

In accordance with the provisions of section 305(a) (7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JUNE 3, 1971.

[FR Doc.71-8002 Filed 6-8-71; 8:48 am]

PREMIUM COAL CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

ICP Docket No. 3096 000, Premium Coal Co., Mine No. 12, USBM ID No. 44 01752 0, Big Rock, Buchanan County, Va.:

ICP Docket No. 3096 001 (Joy Loader, Ser. No. 6887).

ICP Docket No. 3096 002 (Joy Loader, Ser. No. 8540).

NOTICES

ICP Docket No. 3096 003 (Joy Loader, Ser. No. 8503).

ICP Docket No. 3096 004 (Joy Cutter, Ser. No. 15996).

ICP Docket No. 3096 005 (Royal Cutter, Ser. No. 5).

ICP Docket No. 3096 006 (Royal Roof Bolter, Ser. No. 6).

ICP Docket No. 3096 007 (Galls Roof Bolter, Ser. No. 2-C12194).

ICP Docket No. 3096 008 (Mine Safety Rock Duster, Ser. No. 1-33487T10).

ICP Docket No. 3096 009 (Shopmade Hydraulic Drill, Ser. No. 9).

ICP Docket No. 3096 012 (Mescher 3-wheel Tractor, Ser. No. 12).

ICP Docket No. 3096 013 (Mescher 3-wheel Tractor, Ser. No. 13).

ICP Docket No. 3096 014 (Mescher 3-wheel Tractor, Ser. No. 14).

ICP Docket No. 3096 015 (Mescher 3-wheel Tractor, Ser. No. 15).

ICP Docket No. 3096 016 (Bailey 3-wheel Tractor, Ser. No. 16).

ICP Docket No. 3096 017 (Bailey 3-wheel Tractor, Ser. No. 17).

ICP Docket No. 3096 018 (Bailey 3-wheel Tractor, Ser. No. 18).

ICP Docket No. 3096 019 (S&S Machinery 3-wheel Tractor, Ser. No. 19).

ICP Docket No. 3096 020 (S&S Machinery 3-wheel Tractor, Ser. No. 81463).

ICP Docket No. 3096 021 (Mescher 4-wheel Tractor, Ser. No. 21).

In accordance with the provisions of section 305(a) (7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JUNE 3, 1971.

[FR Doc.71-8001 Filed 6-8-71; 8:47 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30, Rev. 13; Amdt. 2]

BRANCH MANAGERS ET AL.

Delegation of Authority To Conduct Program Activities in Field Offices

Delegation of Authority No. 30 (Revision 13) (36 F.R. 5881), as amended (36 F.R. 7625), is hereby further amended by revising Part I, section A, paragraphs 1.k, 1.l, and 3, section B, 1.a, 3, and 5; Part II, section B, 1, and 3; and Part IV, section B, 1.b, 2.b, and 3.b; and by adding Part III, section A,

paragraphs 1.b, and 2.h, section D, 1.c(2) and 2.i; Part V, section A, 1.b(2) (d) and 3.1, section B, 1.1, 3.k, 3.1, and 4.m; and Part VII, section A, 1.b(2), and section B, 1.c(7), and 1.d(2), to read as follows:

PART I—FINANCING PROGRAM

SECTION A. *Loan Approval Authority*—1. *Small Business Act section 7(a) loans.* To approve or decline business loans not exceeding the following amounts (SBA share):

• k. Branch Manager, Marquette, Mich., Branch Office, \$100,000.
• l. Branch Manager, Milwaukee, Wis., Branch Office, \$100,000.

3. *Displaced business and other economic injury loans.* a. To decline displaced business loans, coal mine health and safety loans, consumer protection loans (meat, egg, poultry), and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters in any amount and to approve such loans up to the following amounts (SBA share):

• b. To approve or decline displaced business loans, coal mine health and safety loans, consumer protection loans (meat, egg, poultry), and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to the following amounts (SBA share):

• (9) Branch Manager, Marquette, Mich., Branch Office, \$100,000.
• (10) Branch Manager, Milwaukee, Wis., Branch Office, \$100,000.

SEC. B. *Other financing authority.* 1.a. To enter into business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), and coal mine health and safety loan participation agreements with banks:

3. To cancel, reinstate, modify, and amend authorizations:
• a. For business, economic, opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), and coal mine health and safety loans:

• (8) Branch Manager, Milwaukee, Wis., Branch Office.

• b. For fully undisbursed business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), and coal mine health and safety loans:

(1) Chief and Assistant Chief, Regional Financing Division.

(2) Regional Supervisory Loan Officer.

(3) Chief, District Financing Division.

(4) District Supervisory Loan Officer, if assigned.

(5) Branch Supervisory Loan Officer, if assigned, Fairbanks, Alaska, Branch Office.

c. For business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), and coal mine health and safety loans personally approved under delegated authority:

5.a. To extend the disbursement period on all loan authorizations:

(9) Branch Manager, Milwaukee, Wis., Branch Office.

b. To extend the disbursement period on all loan authorizations on loans fully undisbursed:

(1) Chiefs and Assistant Chief, Regional Financing Division.

(2) Regional Supervisory Loan Officer.

(3) Loan Officer, Regional Financing Division.

(4) Chief, District Financing Division.

(5) District Supervisory Loan Officer, if assigned.

(6) Loan Officer, District Financing Division.

(7) Branch Supervisory Loan Officer, if assigned, Fairbanks, Alaska, Branch Office.

(8) Branch Supervisory Loan Officer, if assigned, Gulfport, Miss., Branch Office.

PART II—COMMUNITY ECONOMIC DEVELOPMENT (CED) PROGRAM

SEC. B. *Other 501 and 502 authority.*
1.a. To extend the disbursement period on sections 501 and 502 loan authorizations:

(5) Branch Manager, Milwaukee, Wis., Branch Office.

b. To extend the disbursement period on fully undisbursed sections 501 and 502 loans:

(1) Chief, Regional CED Division.

(2) Economic Development Specialists, Regional CED Division.

(3) Chief, District CED Division.

(4) Economic Development Specialists, District CED Division.

3.a. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans:

(5) Branch Manager, Milwaukee, Wis., Branch Office.

b. To cancel, reinstate, modify, and amend authorizations for fully undisbursed sections 501 and 502 loans:

(1) Chief, Regional CED Division.

(2) Economic Development Specialists, Regional CED Division.

(3) Chief, District CED Division.

(4) Economic Development Specialists, District CED Division.

PART III—LOAN ADMINISTRATION (LA) PROGRAM

SECTION A. *Loan administration, servicing, collection, and liquidation authority.* 1.

b.

(4) Supervisory Loan Officer, Branch LA Division, Gulfport, Miss., Branch Office.

2.

h. Supervisory Loan Officer, Branch LA Division, Gulfport, Miss., Branch Office.

2.

SEC. D. *Lease guarantee administration and servicing authority.* 1.

c.

(2) Supervisory Loan Officer, Branch LA Division, Gulfport, Miss., Branch Office.

2.

i. Supervisory Loan Officer, Branch LA Division, Gulfport, Miss., Branch Office.

2.

PART IV—PROCUREMENT AND MANAGEMENT ASSISTANCE

SEC. B. *Section 8(a) contracting authority.* 1.

b. Chief, Regional PMA Division, \$100,000.

2.

b. Chief, Regional PMA Division.

3.

b. Chief, Regional PMA Division, \$100,000.

2.

b. Chief, Regional PMA Division, \$100,000.

3.

1. Branch Counsel, Gulfport, Miss., Branch Office.

3.

1. Branch Counsel, Gulfport, Miss., Branch Office.

3.

k. Branch Manager, Gulfport, Miss., Branch Office.

1. Branch Counsel, Gulfport, Miss., Branch Office.

4.

m. Branch Counsel, Gulfport, Miss., Branch Office.

4.

PART VII—ELIGIBILITY AND SIZE DETERMINATIONS

SECTION A. *Eligibility determinations.* 1.

b. In accordance with Small Business Administration standards and policies, to determine eligibility of applicants for assistance under the sections 501 and 502 loan programs of the Agency:

2.

(2) Chief, District CED Division.

2.

SEC. B. *Size determinations.* 1.

c. To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501

and 502 loans, and further to make product classification decisions for financing purposes only:

(7) Regional Supervisory Loan Officer.

d. To make initial size determinations in all sections 501 and 502 loans within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for sections 501 and 502 loans only.

2.

(2) Chief, District CED Division.

2.

Effective Dates:

Part I, section A, paragraphs 1.k. and 1.l. 3-1-71

Paragraph 3 3-26-71

except 3.b (9) and (10) 3-1-71

Section B, paragraphs 1.a. and 3 3-26-71

except 3.a(8) and 3.b (f) 3-1-71

(5) 3-1-71

5.a(9) and 5.b (1)-(7) 3-1-71

5.b(8) 3-12-71

Part II, section B, paragraphs 1 and 3 3-1-71

Part III, section A, paragraphs 1.b and 2.h, and section D, 1.c (2) and 2.i 3-12-71

Part IV, section B, paragraphs 1.b, 2.b, and 3.b 4-14-71

Part V, section A, paragraphs 1.b (2) (d) and 3.1, section B, 1.1, 3.k, 3.l, and 4.m 3-12-71

Part VII, section A, paragraph 1.b (2), and section B, 1.c(7) and 1.d(2) 4-28-71

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-8004 Filed 6-8-71; 8:43 am]

ELECTRONIC SYSTEMS INVESTMENT CORP.

Notice of Approval of Application for Transfer of Control of Licensed Small Business Investment Company

Pursuant to the provisions of § 107.701 of the Small Business Administration (SBA) rules and regulations (13 CFR Part 107, 33 F.R. 326), a notice of filing of an application for transfer of control of Electronic Systems Investment Corp., License No. 03/04-0048, 4321 Hartwick Road, College Park, MD 20740, was published in the FEDERAL REGISTER on April 29, 1971 (36 F.R. 8176).

Interested persons were given until May 10, 1971, to send their comments to SBA on the proposed transfer of control. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby approves the transfer of control of Electronic Systems Investment Corp.

Dated: May 21, 1971.

A. H. SINGER,
Associate Administrator
for Investment.

[FR Doc.71-8015 Filed 6-8-71; 8:49 am]

U.A.G. INVESTMENT CORP.

Notice of License Surrender

Notice is hereby given that U.A.G. Investment Corp. (U.A.G.), Post Office Box 67, Robesonia, PA 19551, has surrendered its license to operate as a small business investment company pursuant to § 107.105 of the regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107).

U.A.G. was licensed as a small business investment company on August 13, 1962, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C., 661 et seq.), and the regulations promulgated thereunder.

Under the authority vested by the Act, and pursuant to the cited regulation, the surrender of the license is hereby accepted and all rights, privileges, and franchises derived therefrom are canceled.

Dated: June 1, 1971.

A. H. SINGER,
Associate Administrator
for Investment.

[FR Doc.71-8014 Filed 6-8-71; 8:48 am]

INTERSTATE COMMERCE COMMISSION

[No. MC-C-7353]

A & A TRANSFER & STORAGE, INC. ET AL.

Petition Regarding Transportation of Unaccompanied Baggage

JUNE 4, 1971.

Petitioners: A & A Transfer & Storage, Inc et al. Petitioner's attorney: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006.

By joint petition filed May 27, 1971, petitioners seek a determination as to whether the transportation of unaccompanied baggage is lawful under a certificate of public convenience and necessity that, subject to certain restrictions, authorizes the transportation of used household goods. The names and addresses of all 67 motor common carriers that have joined in the petition and the docket numbers under which each has been issued a certificate of public convenience and necessity are on record in the public docket in this proceeding and a complete list of them may be obtained upon written request made to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Generally petitioners contend that the propriety of their prior transportation of shipments of unaccompanied baggage either under color of right or pursuant to a license to transport used household goods was seldom questioned. They assert, however, that now there is widespread confusion and controversy among them and hundreds of other similarly licensed motor common carriers. Specifically they seek determination of the question:

May a motor common carrier transport a shipment of unaccompanied baggage under a certificate of public convenience and necessity which authorizes it to transport used household goods restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments?

Assertedly for the sake of fair and equitable treatment of them and numerous other motor common carriers similarly situated, petitioners pray that the Commission issue an order declaring that motor carrier operating authority authorizing the transportation of used household goods also includes authority to transport unaccompanied baggage. They contend that such result would not only be consistent with good administrative practice, orderly procedure and sound regulation, but that it would also avoid the tremendous burdens that would be imposed upon the involved carriers and the Commission should the hundreds of motor carriers of used household goods be required to obtain additional authority to transport unaccompanied baggage.

Any interested person (including petitioners) desiring to participate in this proceeding shall file an original and seven copies of his written representations, views and arguments in support of, or against the relief requested within 30 days from the date of this publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8032 Filed 6-8-71; 8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 4, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42219—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 649), for interested rail carriers. Rates on coke and related articles, newsprint paper, railway tracks, portable, trailers, coconut oil and related articles, in carloads, and tank carloads, as described in the application, from, to, and between points in Texas, over interstate routes through adjoining States.

Grounds for relief—Intrastate rates and maintenance of rates from and to points in other states not subject to the same competition.

Tariff—Supplement 119 to Texas-Louisiana Freight Bureau, agent, tariff ICC

998. Rates are published to become effective on July 7, 1971.

FSA No. 42221—*Chlorine from Gramercy, La.* Filed by O. W. South, Jr., agent (No. A6260), for interested rail carriers. Rates on chlorine, in tank car loads, as described in the application, from Gramercy, La., to Hamilton, Miss. Grounds for relief—Market competition.

Tariff—Supplement 190 to Southern Freight Association, agent, tariff ICC S-699. Rates are published to become effective on July 8, 1971.

AGGREGATE-OF-INTERMEDIATES

FSA No. 42220—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 650), for interested rail carriers. Rates on liquefied chlorine gas, sulphur, zinc spelter and anodes, coke and related articles, newsprint paper, railway tracks, portable, trailers, coconut oil, and related articles, in carloads, and tank carloads, as described in the application, from, to and between points in Texas, over interstate routes through adjoining States.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 119 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998. Rates are published to become effective on July 7, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8023 Filed 6-8-71; 8:49 am]

HOME TRANSPORTATION, INC., ET AL.

Assignment of Hearings

JUNE 4, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 111545 Sub 116, Home Transportation, Inc., application dismissed.

MC 113459 Sub 51, H. J. Jefferies Truck Line, Inc., application dismissed.

MC 128273 Sub 83, Midwestern Express, Inc., application dismissed.

FD 26661, J. V. McNicholas Transfer Co.—Note, and Assumption of Obligation and Liability, assigned June 7, 1971, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 134788 Sub 1, North Penn Bus Line, Inc., now assigned July 19, 1971, at Philadelphia, Pa., transferred from Joint Board No. 42, to a hearing examiner.

MC 119787 Sub 250, Beaver Transport Co., assigned July 22, 1971, at Chicago, Ill., in Tax Court Room 1743, Everett McKinley Dirksen Building, 219 S. Dearborn Street.

FD 26426, St. Louis Southwestern Railway Co.—Purchase—Alton & Southern Railway Co., assigned July 12, 1971, in U.S. District Courtroom, Federal Building, 1114 Market Street, St. Louis, MO.

FD 26427, St. Louis Southwestern Railway Co. & Missouri Pacific Railroad Co.—Operation in Part Alton & Southern Railway Co., assigned July 12, 1971, in U.S. District Courtroom, Federal Building, 1114 Market Street, St. Louis, MO.

MC 692 Sub 11, Burnham Van Service, Inc., assigned July 26, 1971, in Room B-13025, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

MC 868 Sub 8, Signal Trucking Service Ltd., assigned July 12, 1971, at Los Angeles, Calif., in Room 1534, U.S. Courthouse, 312 North Spring Street, and July 19, 1971, at San Francisco, Calif., in Room B-13025, Federal Building, 450 Golden Gate Avenue.

MC-F-11051, Denver Midwest Motor Freight, Inc.—Control and Merger—Premier Trucking Service Co., assigned July 12, 1971, in the Second Floor Jury Room, Federal Building, Sixth and Douglas Streets, Sioux City, IA.

MC 108449 Sub 302, Indianhead Truck Line, Inc., assigned for continued hearing July 19, 1971, in Room 203, Jury Room No. 2, Second Floor Federal Building, Sixth and Douglas Streets, Sioux City, IA.

MC 120800 Sub 24, Capitol Truck Line, Inc., assigned for continued hearing on July 19, 1971, in Room 203, Jury Room No. 2, Second Floor, Federal Building, Sixth and Douglas Streets, Sioux City, IA.

MC 47126 Sub 5, Suburban Transit, Inc., assigned July 26, 1971, in Room 2069, New Federal Building, 1240 East Ninth Street, Cleveland, OH.

MC 116763 Sub 176, Carl Subler Trucking, Inc., assigned July 22, 1971, in Room 4, State Office Building, 65 South Front Street, Columbus, OH.

MC-F-10945 et al., Western Gillette, Inc.—Purchase (Portion)—Deaton, Inc., assigned for continued hearing June 7, 1971, at the Office of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71-8024 Filed 6 8 71;8:49 am]

[Notice 14]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 4, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described

may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 582), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed May 21, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From Fairmont, W. Va., over West Virginia Highway 73 to interchange Interstate Highway 79, thence over Interstate Highway 79 to junction West Virginia Highway 73, thence over West Virginia Highway 73 to junction U.S. Highway 50, thence over U.S. Highway 50 to Clarksburg, W. Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Washington, Pa., over U.S. Highway 19 to Clarksburg, W. Va.; and (2) from Milford, Ohio, over U.S. Highway 50 via Vera Cruz, Ohio, to Winchester, Va., and return over the same routes.

No. MC-61616 (Deviation No. 39) (Cancels Deviation No. 4), MIDWEST BUSLINES, INC., 433 West Washington Avenue, North Little Rock, AR 72114, filed May 28, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From junction relocated U.S. Highway 67 and old U.S. Highway 67, 3 miles south of Searcy, Ark., over relocated U.S. Highway 67 to North Little Rock, Ark., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: from St. Louis, Mo., over U.S. Highway 67 to Judsonia, Ark., thence over U.S. Highway 67 to junction U.S. Highway 67C, thence over U.S. Highway 67C to junction U.S. Highway 67, thence over U.S. Highway 67 to Maud, Tex., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8026 Filed 6-8-71;8:49 am]

[Notice 19]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 4, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-3379 (Deviation No. 14), SNYDER BROS. MOTOR FREIGHT, INC., 363 Stanton Avenue, Akron, OH 44301, filed May 28, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Columbus, Ohio, over Interstate Highway 71 to junction Ohio Highway 13, thence over Ohio Highway 13 to junction U.S. Highway 30, thence over U.S. Highway 30 to Wooster, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Columbus, Ohio, over Ohio Highway 3 to Mt. Vernon, Ohio, thence over U.S. Highway 36 to Millwood, Ohio, thence over U.S. Highway 62 to Millersburg, Ohio, thence over Ohio Highway 76 to Holmesville, Ohio, thence over unnumbered highway Fredericksburg, Ohio, thence over Ohio Highway 94 to junction U.S. Highway 250, near Wooster, Ohio, thence over U.S. Highway 250 to Wooster, Ohio, and return over the same route.

No. MC-52953 (Deviation No. 17), ET & WNC TRANSPORTATION COMPANY, 132 Legion Street, Johnson City, TN, filed May 24, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From junction U.S. Highways 61 and 49 north of Clarksdale, Miss., over U.S. Highway 49 to junction Arkansas Highway 17, near Brinkley, Ark., thence

over Arkansas Highway 17 to junction Interstate Highway 40, near Brinkley, Ark., thence over Interstate Highway 40 to Little Rock, Ark., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Memphis, Tenn., over U.S. Highway 70 to Little Rock, Ark.; (2) from Memphis, Tenn., over U.S. Highway 61 to Clarksdale, Miss., thence over U.S. Highway 49 to Tutwiler, Miss., thence over U.S. Highway 49-E to Greenwood, Miss.; (3) from Memphis, Tenn., over U.S. Highway 61 to Leland, Miss., thence over U.S. Highway 82 via Indianola, Miss., to Greenville, Miss.; and (4) from Ruleville, Miss., over Mississippi Highway 8 to Cleveland, Miss., and return over the same routes.

No. MC-75320 (Deviation No. 32), CAMPBELL SIXTY-SIX EXPRESS, INC., Post Office Box 807, Springfield, MO 65801, filed May 28, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Milwaukee, Wis., over Interstate Highway 94 to junction Interstate Highway 294, near Chicago, Ill., thence over Interstate Highway 294 to junction Interstate Highway 57, thence over Interstate Highway 57 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 180, east of Princeton, Ill., thence over Interstate Highway 180 to junction Illinois Highway 29, thence over Illinois Highway 29 to junction U.S. Highway 24, near Peoria, Ill., thence over U.S. Highway 24 to Kansas City, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Springfield, Mo., over Missouri Highway 13 via Clinton, Mo., to Warrensburg, Mo., thence over U.S. Highway 50 to Kansas City, Kans., (also from Springfield to Clinton as specified above, thence over Missouri Highway 35 to junction U.S. Highway 71, thence over U.S. Highway 71 to Harrisonville, Mo., thence over bypass U.S. Highway 71 to Lee's Summit, Mo., thence over U.S. Highway 50 to Kansas City); (2) from Springfield, Mo., over U.S. Highway 66 via St. Louis, Mo., to Gardner, Ill., thence over Illinois Highway 53 (formerly Alternate U.S. Highway 66) to junction U.S. Highway 66, thence over U.S. Highway 66 to Chicago, Ill. (also from Springfield over U.S. Highway 66 to junction Illinois Highway 48, thence over Illinois Highway 48 to junction U.S. Highway 45, thence over U.S. Highway 45 to Kankakee, Ill., thence over Illinois Highway 49 to Chicago; also from Springfield over Missouri Highway 13 to junction U.S. Highway 40, thence over U.S. Highway 40 to St. Louis, Mo., thence over Chicago as specified); and (3) from Milwaukee, Wis., over U.S. Highway 41 to junction

Wisconsin Highway 36, thence over Wisconsin Highway 36 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Illinois Highway 21, thence over U.S. Highway 21 to Chicago, Ill., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71-8027 Filed 6-8-71;8:49 am]

[Notice 46]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 4, 1971.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phrasing set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 118859 (Sub-No. 5) (Republication), filed May 13, 1970, published in the FEDERAL REGISTER issue of July 30, 1970, and republished this issue. Applicant: BULLOCK TRUCKING COMPANY, INC., No. 6 Produce Market, Thomasville, Ga. 31792. Applicant's representative: Virgil H. Smith, 431 Title Building, Atlanta, Ga. 30303. The modified procedure has been followed in this proceeding and a report and order of the Commission, Review Board No. 4, decided May 6, 1971, and served May 28, 1971, finds: That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of wooden pallets from Valdosta, Ga., to points in Florida; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen

or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128527 (Sub-No. 10) (Republication), filed January 17, 1969, published in the FEDERAL REGISTER issue of February 13, 1969, and republished this issue. Applicant: MAY TRUCK COMPANY, a corporation, Post Office Box 398, Payette, ID 83661. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83701. A report and order of the Commission, Division I, decided February 22, 1971, and served March 3, 1971, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes: (1) of meat, meat products, and meat byproducts, not frozen, from Caldwell, Idaho, to Multnomah and Clackamas Counties, Oreg.; (2) of sugar from Nampa, Idaho, to points in Oregon on and west of U.S. Highways 97 and 197; (3) of rubber from Portland, Oreg., to Boise, Idaho; (4) of orchard materials and supplies from Portland, Oreg., to Fruitland, Idaho; and (5) of steel pipe and tanks from Portland, Oreg., to points in Ada, Canyon, Elmore, Gem, Owyhee, Payette, and Washington Counties, Idaho; restricted in each instance (a) against the transportation of commodities in bulk; (b) against the transportation of commodities which because of size or weight require the use of special equipment; and (c) to the transportation of traffic originating at the named origins and destined to the indicated destinations; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and our rules and regulations thereunder, subject to the term limitation indicated below; that a certificate authorizing such operation should be granted subject to the condition that the certificate shall be limited, in point of time, to a period expiring 3 years from its date of issue. Because it is possible that other persons who may have relied upon the notice of the application as published in the FEDERAL REGISTER may have an interest in and would be prejudiced by the lack of proper notice, a notice of the authority actually granted applicant will be published in the FEDERAL REGISTER and issuance of the permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 2876 (Notice of Filing of Petition To Reopen "Grandfather" Application), filed May 20, 1971. Petitioner: W. J. BEITLER COMPANY, a corporation, Pittsburgh, Pa. Petitioner's representative: Arthur J. Diskin, 806 Frick

Building, Pittsburgh, Pa. 15219. Petitioner holds motor common carrier authority in No. MC 2876, authorizing the transportation of: *General commodities*, except those of unusual value, and except livestock, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes, from Pittsburgh, Pa., to Youngstown and Warren, Ohio, and points and places in Pennsylvania within 75 miles of Pittsburgh, with no transportation for compensation on return. By the instant petition, petitioner requests the Commission issue a revised certificate authorizing the transportation of general commodities, with the usual exceptions, from Pittsburgh, Pa., to points in Ohio on and east of U.S. Highway 21, to points in West Virginia on and north of U.S. Highway 50, and points in Pennsylvania on and west of U.S. Highway 15. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 102081 (Notice of Filing of Petition for Removal of Weight Restrictions), filed May 13, 1971. Petitioner: IGNATZIO AIADRO, New Haven, Conn. Petitioner's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. Petitioner holds authority in No. MC 102081, authorizing the transportation of: Used machinery and parts thereof, not boxed, crated, or skidded, minimum 1,000 pounds, maximum 10,000 pounds, over irregular routes, between New Haven and Meriden, Conn., on the one hand, and, on the other, Albany and Schenectady, N.Y., Boston, Worcester, and Springfield, Mass., and those in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665. By the instant petition, petitioner requests that the weight limitation of "minimum 1,000 pounds, maximum 10,000 pounds" be eliminated. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 107615 (Notice of Filing of Petition for Waiver of Rule 101(e) and for Clarification and Modification of Operating Authority), filed May 17, 1971. Petitioner: UNITED NEWS TRANSPORTATION COMPANY, a corporation, Philadelphia, Pa. Petitioner's representatives: V. Baker Smith and James W. Patterson, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Petitioner holds authority in No. MC 107615 to operate as a motor common carrier, transporting: *News-papers, magazines, books, catalogs, pamphlets, periodicals, publications and*

NOTICES

parts thereof, display stands, advertising materials, and printing plates, over irregular routes, between Harrisburg, Pa., Baltimore, Md., and points and places in the Philadelphia, Pa., commercial zone as defined in *Philadelphia, Pa., Commercial Zone*, 17 M.C.C. 533, Washington, D.C., commercial zone as defined in *Washington, D.C., Commercial Zone*, 3 M.C.C. 243 and New York, N.Y., commercial zone as defined in *New York, N.Y., Commercial Zone*, 1 M.C.C. 665, on the one hand, and, on the other, points and places in Maryland, Delaware, New Jersey, Pennsylvania, Washington, D.C., commercial zone, supra, Rockland, Nassau, Westchester, and Suffolk Counties, N.Y., except that no transportation for compensation shall be performed from North Bergen, Newark, Paterson, Hackensack, Passaic, New Brunswick, Elizabeth, and Dunnellen, N.J., to points and places in New York, nor from New York City to points and places in the four New York counties named above. By the instant petition, petitioner seeks waiver of Rule 101(e) of the Commission's general rules of practice and clarification and modification of its operating authority to provide as follows: "News-papers, magazines, books, catalogs, pamphlets, periodicals, publications and parts and articles used or useful in the printing, binding, manufacture, distribution, and sale thereof." Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 126305 (Sub-No. 13) (Correction) (Notice of Filing of Petition To Add Additional Shipper to Present Operating Authority), filed March 29, 1971, published FEDERAL REGISTER, issue of April 21, 1971, and republished as corrected this issue. Petitioner: BOYD BROTHERS TRANSPORTATION COMPANY, INC., Clayton, Ala. Petitioner's representative: George A. Olsen, Jersey City, N.J. 07306. Note: The purpose of this republication is to show the correct docket number assigned thereto, No. MC 126305 (Sub-No. 13), in lieu of No. MC 123605 (Sub-No. 13) which was published in error.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 106451 (Sub-No. 8), filed May 11, 1971. Applicant: COOK MOTOR LINES, INC., Post Office Box 1391, Akron, OH 44309. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* as defined by the Commission, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, be-

tween points within 75 miles of Gatewood, Fayette County, W. Va. (except those points in Cabell, Putnam, Kanawha, Mason, Jackson, Roane, Calhoun, Gilmer, Wirt, Wood, Lewis, Upshur, Randolph, and Ritchie Counties, W. Va., which are within 75 miles of Gatewood, W. Va., and which are located on and north of U.S. Highway 60). Note: In connection with tacking or joinder, applicant states that the physical operations would connect at authorized points south of U.S. Highway 60 and within 75 miles of Gatewood, W. Va., serving between such points and applicant's other authorized points in Ohio and West Virginia. The instant application is a matter directly related to the application in No. MC-F-11171, published in the FEDERAL REGISTER issue of May 26, 1971. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections (5) (a) and 210(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11188. Authority sought for merger into WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, CA 90058, of the operating rights and property of DESERT EXPRESS, also of Los Angeles, Calif. 90058, and for acquisition by DONALD E. CANTLAY, as voting trustee, of Los Angeles, Calif. 90058, of control of such rights and property through the transaction. Applicants' attorney: Theodore W. Russell, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods, commodities in bulk, and livestock, as a *common carrier*, over regular routes, between Los Angeles, and San Francisco, Calif., between junction California Highway 198 and California Highway 99 (formerly U.S. Highway 99), and Fresno, Calif., between Bakersfield, and Yermo, Calif., between junction California Highway 58 (formerly U.S. Highway 466) and California Highway 14 (formerly U.S. Highway 6) and junction California Highway 14 (formerly U.S. Highway 6) and unnumbered highway approximately 4 miles west of Inyokern, Calif., between junction California Highway 14 (formerly U.S. Highway 6) and unnumbered highway near Newhall, Solamint and Saugus, Calif., between Beechers Corners and Inyokern, Calif., between Daggett and Victorville, Calif., between junction Interstate Highway 15 (formerly U.S. Highway 91) and California Highway 58 (formerly U.S. Highway 466) and junction Interstate Highway 15 (formerly U.S. Highway 91) and U.S. Highway 66,

between Victorville and Palmdale, Calif., between Valermo, Calif., and junction unnumbered county highway and California Highway 138, near Palmdale, Calif., between Lancaster and Lake Hughes, Calif., between Lancaster, Calif., and junction unnumbered highway and California Highway 58 (formerly U.S. Highway 466), between Daggett and Yermo, Calif., between junction California Highway 14 (formerly U.S. Highway 6) and unnumbered county highway near Cantil and Johannesburg, Calif.,

Between Johannesburg and Trona, Calif., between junction California Highway 14 (formerly U.S. Highway 6) and unnumbered county highway approximately 4 miles west of Inyokern, Calif., and junction unnumbered county highways east of Ridgecrest, Calif., located on the Johannesburg-Trona route, between junction U.S. Highway 395 and unnumbered county highway near Radermacher, Calif., and Ridgecrest, Calif., between Tehachapi, Calif., and Cummings Valley, Calif., between Magunden, Calif., and junction unnumbered county highway and California Highway 58 (formerly U.S. Highway 466), between Lamont, Calif., and junction unnumbered county highways, near Arvin, Calif., between Los Angeles and Atolia, Calif., serving the intermediate points of Rosamond and Mojave, Calif., and those between Mojave and Atolia, Calif., over irregular routes, between points in a described area surrounding Los Angeles, Calif. (Greater Los Angeles Territory), on the one hand, and, on the other, a described area surrounding Bakersfield, Calif. (Bakersfield Territory), between points in the Greater Los Angeles Territory on the one hand, and, on the other, points on the described regular routes, between points in the described Bakersfield Territory, between points within 10 miles of California Highway 14; *mining machinery and parts thereof and materials and supplies used in mining operation*, over regular and irregular routes, from Los Angeles Harbor and Long Beach Harbor, Calif., to Atolia, Calif., serving all intermediate points between Mojave and Atolia, Calif., not including Mojave, for delivery only; and the off-route points within 10 miles of California Highway 14 (formerly U.S. Highway 6) between Rosamond and Mojave, for delivery only; *feed*, from Lancaster, Calif., to Los Angeles Harbor and Long Beach Harbor, Calif., serving no intermediate points, with restriction. WESTERN GILLETTE, INC., is authorized to operate as a *common carrier* in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Montana, New Mexico, New York, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and Wyoming. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11190. Authority sought for merger into TRANSPORT MOTOR EX-

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PRESS, INC., Post Office Box 958, Fort Wayne, IN 46801, of the operating rights and property of A & B TRANSFER, INC., 2120 Marshall Avenue, Mattoon, IL 61938, and for acquisition by ESSEX INTERNATIONAL, INC., 1601 Wall Street, Fort Wayne, IN 46804, of control of such rights and property through the transaction. Applicants' attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be merged: Under a certificate of registration, in Docket No. MC-48474 Sub-4, covering the transportation of general commodities, as a *common carrier*, in interstate commerce, within the State of Illinois. TRANSPORT MOTOR EXPRESS, INC., is authorized to operate as a *common carrier* in Indiana, Kentucky, Pennsylvania, Illinois, Ohio, West Virginia, New York, New Jersey, Maryland, District of Columbia, Virginia, Massachusetts, Connecticut, Rhode Island, Wisconsin, and Missouri. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11191. Authority sought for purchase by WEST TRANSPORTATION, INC., 961 South 14th Street, Richmond, CA 94802, of the operating rights of BIG PINE TRUCKING COMPANY, INC., Post Office Box 386, Big Pine, CA 93513, and for acquisition by JOSEPH L. PARDINI, also of Richmond, Calif. 94802, of control of such rights through the purchase. Applicants' attorney: Martin J. Rosen, 140 Montgomery Street, San Francisco, CA 94104. Operating rights sought to be transferred: *Talc*, as a *common carrier*, over regular and irregular routes, from mines in Nevada within 10 miles of Palmetto, Nev., to Lone Pine, Calif., serving the intermediate points of Zurich and Big Pine, Calif., for delivery only; *mining machinery and supplies*, maximum 10,000 pounds, from Lone Pine, Calif., to mines in Nevada within 10 miles of Palmetto, Nev., serving the intermediate points of Zurich and Big Pine, Calif., for pickup only; *talc and clay*, in bulk, over irregular routes, between points in Inyo County, Calif. Vendee is authorized to operate as a *common carrier* in California. Application has not been filed for temporary authority under section 210a(b). Note: MC-112999 Sub-4, is a matter directly related.

No. MC-F-11192. Authority sought for merger into BYERS TRANSPORTATION COMPANY, INC., 4200 Gardner Avenue, Kansas City, MO 64120, of the operating rights and property of COMMERCIAL FREIGHT LINES, INC., of Kansas City, Mo. 64120, and for acquisition by PAUL H. BYERS, ROBERT L. BYERS, AND CONSTANCE BYERS REITZES, all of 4200 Gardner Avenue, Kansas City, MO 64120, of control of such rights and property through the transaction. Applicants' attorneys: Richard R. Sigmon and Roland Rice, 618 Perpetual Building, 1111 E Street NW., Washington, DC 20004 and Lowell L. Knipmeyer, 2804 Power and Light Building, Kansas City, MO 64106. Operating rights sought to be merged: *General commodities*, with certain specified ex-

ceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Nebraska, Illinois, Missouri, Iowa, Kansas, Oklahoma, Indiana, Wisconsin, Arkansas, Minnesota, and Michigan, with certain restrictions, serving various intermediate and off-route points, one alternate route for operating convenience only, as more specifically described in Docket No. MC-84511 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. BYERS TRANSPORTATION COMPANY, INC., is authorized to operate as a *common carrier* in Missouri, Kansas, Illinois, Nebraska, and Iowa. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11193. Authority sought for control by MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629, of the operating rights and property of LASKAS MOTOR LINES, INC., 237 Huntington Avenue, Post Office Box 1072, Waterbury CT 06708, and for acquisition by RETNAR INDUSTRIES, INC., and in turn by MILTON D. RENTAR, both of Chicago, Ill. 60629, of control of LASKAS MOTOR LINES, INC., through the acquisition by MIDWEST EMERY FREIGHT SYSTEM, INC. Applicants' attorney: Jack Goodman, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be controlled: *General commodities*, with exceptions, as a *common carrier*, over regular routes, between Hartford, Conn., and Perth Amboy, N.J., between: Hartford, Conn., and Waterbury, Conn., between Derby, Conn., and New Haven, Conn., between Naugatuck, Conn., and Stratford, Conn., between Hartford, Conn., and Boston, Mass., between Manchester, Conn., and Boston, Mass., with restriction, between Springfield, Mass., and Meriden, Conn., between Northampton, Mass., and East Hartford, Conn., serving all intermediate points; and the off-route points of Chicopee, Easthampton, Greenfield, Indian Orchard, Ludlow, North Adams, Palmer, Pittsfield, Three Rivers, and Turners Falls, Mass.; *general commodities*, with exceptions, over irregular routes, between points and places on the above-designated regular routes, including intermediate and off-route points, on the one hand, and, on the other, Bethel Danbury, Danielson, Fitchville, Hanover, Jewett City Mystic, Manchester, Norwich, New London, Sandy Hook, Southbury, Torrington, Taftville, Wauregan, Willimantic, Wilton and Winsted, Conn., Mineola, N.Y., and Bound Brook, Clifton, Carlstadt, Dunellen, Englewood, Guttenberg, Garfield, Hawthorne, Lodi, Maplewood, Montclair, Morristown, New Brunswick, Nutley, Passaic, Paterson, Plainfield, Ridgewood,

Union City and West New York, N.J., from Hartford, Conn., to points in Massachusetts not authorized as intermediate or off-route points in connection with regular-route operations over the first three routes above. MIDWEST EMERY FREIGHT SYSTEM, INC., is authorized to operate as a common carrier in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-11194. Authority sought for purchase by IML FREIGHT, INC., 2175 South 3270 West, Post Office Box 2277, Salt Lake City, UT 84110, of the operating rights of FRANK STANKIEWICZ, doing business as F. S. TRUCKING, Oakland Shores, Spencer, Mass. 01562, and for acquisition by GATES CORPORATION, 999 South Broadway, Denver, CO, of control of such rights through the purchase. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-98442 Sub-1, covering the transportation of property, as a common carrier, in interstate commerce, within the State of Massachusetts. Vendee is authorized to operate as a common carrier in Colorado, Utah, Wyoming, Nevada, Nebraska, California, Illinois, Arizona, Idaho, Kansas, Missouri, Oregon, Washington, Kentucky, Indiana, Iowa, Ohio, Massachusetts, New York, District of Columbia, Pennsylvania, New Jersey, Connecticut, and Wisconsin. Application has been filed for temporary authority under Section 210a(b). Note: MC-33641 Sub 97, is a matter directly related.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8028 Filed 6-8-71;8:50 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JUNE 4, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

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State Docket No. C-2327 (Case No. 3), filed March 24, 1971. Applicant: MILLER TRANSPORTATION CORP., 4035 Jimbo Drive, Post Office Box 7047, Flint, MI 48507. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of general commodities, between Flint, Mich., and Detroit, Mich., via U.S. 23 to junction with I-96 and thence via I-96 and I-696 to Detroit; also via U.S. 23 to junction with I-94, and thence via I-94 to Detroit. Service over the described route shall be for operating convenience only and serving only those points otherwise authorized to be served. Both intrastate and interstate authority sought.

Hearing: June 10, 1971, 9:30 a.m., Michigan Public Service Commission, 525 West Ottawa Street, Seven Story State Office Building, Lansing, MI 48913. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Department of Commerce, Michigan Public Service Commission, Seven Story State Office Building, Lansing, Mich., 48913 and should not be directed to the Interstate Commerce Commission.

State Docket No. 52636, filed May 25, 1971. Applicant: EDWARD A. DAUGHN, doing business as: MORNING-AFTER-NOON DELIVERY, 548 Seventh Street, San Francisco, CA 94103. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1401, San Francisco, CA 94104. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of general commodities, between points and places in the San Francisco Territory described as follows: San Francisco Territory includes all of the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Al-

maden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; north-easterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road);

Northerly along State Highway 17 to Warm Springs; northerly along the un-numbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Except that applicant shall not transport any shipment of:

(1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A; (2) automobiles, trucks, and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine; (4) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles; (5) commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) cement; (8) logs; and (9) commodities of unusual or extraordinary value. Both intrastate and interstate authority sought.

NOTICES

HEARING: Time and place not known. Requests for procedural information including the time for filing protests concerning this application should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102 and should not be directed to the Interstate Commerce Commission.

State Docket No. 52647, filed May 26, 1971. Applicant: STATES WAREHOUSES, INC., 16000 Heron Avenue, La Mirada, CA 90638. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of general commodities, with the usual exceptions: To, from, and between: LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately 2 miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive, northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the city of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60;

Southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the city of Hemet; southerly, westerly, and northerly along said corporate boundary to the right-of-way of the Atchison, Topeka & Santa Fe Rail-

way Co.; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning. Both intrastate and interstate authority sought.

HEARING: Time and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102 and should not be directed to the Interstate Commerce Commission.

State Docket No. 71248-CCT, filed May 20, 1971. Applicant: SMALLEY INVESTMENTS, INC., doing business as SMALLEY TRANSPORTATION CO., 2202 38th Street, Tampa, FL 33605. Applicant's representative: W. J. Smalley (same address as applicant). Certificate of public convenience and necessity to operate a freight service as follows: Transportation of general commodities, by motor carrier, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, garments on hangers, commodities requiring refrigeration, building and construction materials and supplies in truckload lots on flatbed, equipment and commodities, the transportation of which, because of size and weight, require the use of special equipment (except flatbed trailers) over regular routes and on regular schedules between all points in Hernando, Citrus, and Sumter Counties, and all points on U.S. Highway 301 from the Sumter County line to Ocala, Fla., and from Citrus County on U.S. Highway 19, U.S. Highway 41 and State Road 200 to State Roads 40 and 484, and all points on State Roads 40, 484, and 200 to Ocala and all points within a 5-mile radius of Ocala, Fla., and using Interstate Highway 75 as an alternate closed door route from Tampa to Ocala. The applicant desires to tack the authority sought with the authority already held by the applicant under FPSC Certificate No. 1013 and ICC Certificate No. MC 121667. Both intrastate and interstate authority sought.

HEARING: Date, time and place application to be assigned for hearing unknown at this time. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Florida Public Service Commission, 700 South Adams Street, Tallahassee, FL

32304 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8025 Filed 6-8-71;8:49 am]

[Notice 308]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 3, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and s.x copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 531 (Sub-No. 271 TA), filed May 27, 1971. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Post Office Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid chemicals, in bulk, in tank vehicles, from the plant-site and/or storage facilities of Georgia Pacific Corp., at or near Plaquemine, La., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and Texas, restricted to the transportation of shipments originating at the above origins to the above destinations, for 180 days. Note: Applicant does not intend to tack with existing authority. Supporting shipper: Georgia-Pacific Corp. (Roger M. Feig, Traffic Supervisor), Post Office Box 629, Plaquemine, LA 70764. Send protests to: District Supervisor John C. Redus, Interstate Commerce Commission, Bureau of Operations, Post Office Box 61212, Houston, TX 77061.

No. MC 2226 (Sub-No. 101 TA), filed May 28, 1971. Applicant: RED ARROW FREIGHT LINES, INC., 3901 Sequin Road, Post Office Box 1897, San Antonio, TX 78206. Applicant's representative:

James M. Doherty, 401 First National Life Building, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Dallas and Longview, Tex., over Interstate Highway 20 and from the intersection of Interstate Highway 20 and U.S. Highway 69 to Tyler, Tex., thence over U.S. Highway 271 to intersection of Interstate Highway 20 and return over the same routes, serving the off-route point of Kilgore, Tex., over State Highways 135, 42 and U.S. Highway 259, from and to the intersection with Interstate 20, serving all intermediate points, except between Dallas and Terrell, Tex., between Tyler, and Corsicana, Tex., over State Highway 31 via Athens, but prohibited from serving Athens or any other intermediate points. Between Tyler, and Palestine, Tex., over State Highway 31 and 19 via Athens, but prohibited from serving Athens or any other intermediate points, with an alternate route between Tyler and Palestine, Tex., over State Highway 155 via Frankston, serving no intermediate points, for 150 days. Note: Applicant proposes tacking and coordinating the said authority with all authority now contained in MC-2226 and subs. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway, Room 206, San Antonio, TX 78205.

No. MC 65224 (Sub-No. 9 TA), filed May 27, 1971. Applicant: HENNIS FREIGHT LINES OF CANADA LIMITED, doing business as FLORIDA REFRIGERATED SERVICE, U.S. Highway 301 North, Post Office Box 1297, Dade City, FL 33525. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen citrus products*, from Corpus Christi and Monte Alto, Tex., to ports of entry between the United States and Canada, located in the States of Michigan and New York, for furtherance to points in Canada in through single-line service, for 180 days. Supporting shipper: Sun Pac Foods, Ltd., 3689 Weston Road, Weston, ON. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 66121 (Sub-No. 20 TA), filed May 28, 1971. Applicant: INDIAN BOW TRUCK LINES, LTD., 103 Harvard Avenue, Smithtown, NY 11787. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl and nylon impregnated form, shapes and panels, and electrostatic coating equipment*, from Amity-

ville, N.Y., to points in Louisiana, Alabama, Mississippi, Florida, Georgia, South Carolina, North Carolina, Kentucky, West Virginia, Tennessee, Maryland, Delaware, Virginia, Pennsylvania, New Jersey, New York, Ohio, Illinois, Indiana, Connecticut, Massachusetts, Rhode Island, and District of Columbia, for 180 days. Supporting shipper: Fiberstatics Corp., 7 Dixon Avenue, Amityville, NY 11701. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 95876 (Sub-No. 112 TA), filed May 27, 1971. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, Post Office Box 844, St. Cloud, MN 56301. Applicant's representative: Thomas J. Van Osdal, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Snowmobiles*, (2) *snowmobile trailers*, (3) *parts, attachments, and accessories* for the commodities described in (1) and (2) and (4) *snowmobile clothing and accessories*, from Crosby, Minn., to points in Washington, Oregon, California, Idaho, Nevada, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Michigan, Wisconsin, Illinois, Indiana, Ohio, New York, Pennsylvania, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, and New Jersey, for 180 days. Supporting shipper: Scorpion, Inc., Crosby, Minn. 56441. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 107496 (Sub-No. 812 TA), filed May 26, 1971. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid foundry core compound*, in bulk, from Muscatine, Iowa, to Cleveland, Ohio, for 150 days. Supporting shipper: Carver Foundry Products, 1056 Hershey Avenue, Muscatine, IA 52761. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 108207 (Sub-No. 318 TA), filed May 27, 1971. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, from Memphis, Tenn., to points in Arkansas, Louisiana, Missouri, Texas, and California, for 180 days. Supporting shipper: Standard

Candy Co., 443 Second Avenue North, Post Office Box 1364, Nashville, TN 37202. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 115703 (Sub-No. 5 TA), filed May 27, 1971. Applicant: KREITZ MOTOR EXPRESS, INC., 717 Tulpehocken Street, Reading, PA 19601. Applicant's representative: James A. Vitez (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as contractors' equipment, heavy and bulky articles, machinery and machine parts, and articles requiring special handling or rigging*, between points in Luzerne and York Counties, Pa., on the one hand, and, on the other, points in New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Delaware, Maryland, Ohio, Virginia, West Virginia, and District of Columbia; and (2) *Machinery*, between points in Luzerne and York Counties, Pa., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, Ohio, and District of Columbia, for 180 days. Note: Applicant intends to tack the above paragraphs in order to provide a through movement and/or interchange at points in York and Luzerne Counties, Pa. Restrictions: (1) The service authorized is restricted against the transportation of traffic originating at or destined to Luzerne and York Counties, Pa.; and (2) the service authorized is restricted to apply on traffic requiring Pennsylvania State Hauling permits. Purpose of application: applicant presently holds authority to conduct operations being applied for through Berks County, Pa., Gateway. This application is necessitated by the Pennsylvania Department of Transportation, Regulation 800 regarding the granting of permitted traffic over circuitous routes. Supporting shippers: George Young Co., 20th Street and Oregon Avenue, Philadelphia, PA 19145; Barber-Greene Co., Aurora, Ill.; Anderson IBEU, 19699 Progress Drive, Strongsville, OH 44136; Overseas Packing, Inc., 17625 St. Clair Avenue NE., Cleveland, OH 44110; Alten Foundry & Machine Works, Inc., 226 West Wheeling Street, Lancaster, OH 43130; C M P Corp., Post Office Box 258, Mansfield, OH 44901; Marietta Metal Products Co., 209 Putnam Avenue, Marietta, OH 45750; George R. Hall, Inc., 20234 Detroit Road, Cleveland, OH 44116; TRW, Inc., 23555 Euclid Avenue, Cleveland, OH 44117; C. A. Litzler Co., Inc., 4800 West 160th Street, Cleveland, OH 44135; Jarva, Inc., 29125 Hall Street, Solon, OH 44139; FECO A Bangor Punta Co., 5855 Grant Avenue, Cleveland, OH 44105; The Firestone Tire & Rubber Co., Akron, OH 44317 and the General Tire & Rubber Co., 1 General Street, Akron, OH 44309. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce

Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 116073 (Sub-No. 171 TA), filed May 27, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Maine Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tassar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements; and (2) *buildings*, in sections, from Pine Grove, Pa., to points in New York, Vermont, New Hampshire, Massachusetts, Connecticut, Maine, Ohio, West Virginia, Washington, D.C., Delaware, New Jersey, and Maryland, for 180 days. Supporting shipper: Newport Homes, Inc., Pine Grove, Pa. 17963. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58102.

No. MC 116073 (Sub-No. 172 TA), filed May 27, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Maine Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tassar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from St. Clair, Pa., to points in New York, Maryland, Delaware, Virginia, New Jersey, Maine, Massachusetts, Vermont, New Hampshire, West Virginia, and Connecticut, for 180 days. Supporting shipper: Burlington Homes, Inc., State Highway 621, St. Clair, PA 17970. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58102.

No. MC 126548 (Sub-No. 8 TA), filed May 27, 1971. Applicant: ELMER A. FEHRLE, doing business as FEHRLE TRUCKING, 2329 18th Street SW., Cedar Rapids, IA 52504. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Junk car bodies, junk and scrap metals, and salvage materials*, from Cedar Rapids, Iowa, to Chicago, Peoria, and Rockford, Ill.; St. Louis, Mo.; Cleveland, Ohio; Beloit and Milwaukee, Wis., for 180 days. Supporting shipper: Sun Line, Inc., 4000 Sixth Street SW., Cedar Rapids, IA 52404. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Fourth and Perry Streets, Davenport, IA 52801.

No. MC 129557 (Sub-No. 5 TA), filed May 26, 1971. Applicant: PAONE TRUCKING, INC., 88 Briggs Street, Cranston, RI 02920. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, RI

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02905. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pumice building blocks*, on pallets, on vehicles equipped with mechanical loading and unloading devices, from Cranston, R.I., to Haverhill, Mass., for 150 days. Supporting shipper: Park Avenue Cement Block Co., Inc., 30 Budlong Road (office 1350 Park Avenue), Post Office Box 3530, Cranston, RI 02910. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, RI 02903.

No. MC 134163 (Sub-No. 5 TA), filed May 27, 1971. Applicant: JOSEPH RICHARDSON, Office: 908 De Kalb Street, Post Office Box 146, Bridgeport, PA 19405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pretzels*, from King of Prussia, Pa., to points in Massachusetts, Connecticut, New Hampshire, Vermont, Maine, Rhode Island, New York, New Jersey, Delaware, Maryland, and the District of Columbia, for 180 days. Supporting shipper: K & N Soft Pretzel Co., 155 Boro Line Road, King of Prussia, PA 19406. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 135570 (Sub-No. 2 TA), filed May 27, 1971. Applicant: STANLEY V. MAJKUT, doing business as MOBILE AIR TRANSPORT, 776C Watervliet Shaker Road, Latham, NY 12110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (usual exceptions) having a prior or subsequent movement by air, between points in Albany, Rensselaer, and Schenectady Counties, N.Y., on the one hand, and, on the other, Newark Airport, Newark, N.J., John F. Kennedy and La Guardia Airports, New York, N.Y., for 150 days. Supporting shippers: Albany Felt Co., Albany, N.Y. 12201; Van Winkle Trucking, Inc., Latham, N.Y. 12110; Wits Air Cargo Service, Seattle, Wash. 98134; General Electric Co. Advertising & Sales Department, Schenectady, N.Y. 12305; General Electric Co. Gas Turbine Department, Schenectady, N.Y. 12305; Velano Bros., Inc., 7 Hemlock Street, Latham, N.Y. 12110. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 135631 (Sub-No. 1 TA), filed May 27, 1971. Applicant: WEISS TRUCKING, INC., Post Office Box 0, Vernal, UT 84078. Applicant's representative: William S. Richards, 900 Walker Bank Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products* for the account of Bloch Lumber Co., Inc., of Albuquerque, N. Mex., between points in New Mexico, Texas, Arizona, Oklahoma, Colorado, Utah, Wyoming, Nebraska, Kansas, and

Idaho, restricted against the transportation of lumber from points in Uintah County, Utah, to points in Arizona, California, Colorado, Illinois, Indiana, Iowa, Missouri, New Mexico, Nevada, Oklahoma, Texas, Wyoming, and Wisconsin, for 180 days. Supporting shipper: Bloch Lumber Co., Inc., 1517-A Girard NE., Albuquerque, N. Mex. 87106 (Frank Stanek, Manager, Southwest Division). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, Utah 84111.

No. MC 135632 TA, filed May 27, 1971. Applicant: FRANCIS D. BROWN & SON, INC., 600 Spring Street, Klamath Falls, OR 97601. Applicant's representative: Jack L. Dempsey (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood waste products*, from points in Siskiyou County, Calif., to points in Klamath County, Oregon, for 180 days. Supporting shipper: Weyerhaeuser Co., Post Office Box 9, Klamath Falls, OR 97601. Send protests to: A. E. Odams, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Ore. 97204.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71-8029 Filed 6-8-71; 8:50 am]

[Notice 699]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 4, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72899. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Queensway, Inc., Old Forge, Pa., of that portion of the operating rights in certificate No. MC-46518 issued November 5, 1957, to R.F.C. Transport, Inc., East Syracuse, N.Y., authorizing the transportation of general commodities, with usual exceptions, between Rochester, N.Y., and New York, N.Y., serving all intermediate points and off-route points as follows: Geneva, N.Y., and points in the New York, N.Y., commercial zone, as defined by the Commission, unrestricted; Scranton and Wilkes-Barre, Pa., and Elmira and Syracuse,

N.Y., restricted to fresh fruits and vegetables only. Norman M. Pinsky and Herbert M. Canter, 345 South Warren Street, Syracuse, NY 13202, attorneys for transferor; and Kenneth R. Davis, 999 Union Street, Taylor, PA 18517, registered practitioner for transferee.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8031 Filed 6-8-71;8:50 am]

[Notice 699-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 4, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition.

The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72783. By order of May 26, 1971, Division 3, acting as an Appellate Division, approved the transfer to K & C, Inc., Cherry Hill, N.J., of that portion of the operating rights in certificate No. MC-52865 issued June 18, 1943, to Sheridan & Duncan, Inc., New York, N.Y., authorizing the transportation of general commodities, with named exceptions, between New York, N.Y., on the one hand, and, on the other, points and places in Burlington, Hunterdon, Mercer, and Warren Counties, N.J. Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817, registered practitioner for applicants.

No. MC-FC-72784. By order of May 26, 1971, Division 3, acting as an Appellate Division, approved the transfer to Wallack Freight Lines, Inc., Copiague, N.Y., of that portion of the operating rights in certificate No. MC-52865 issued June 18, 1943, to Sheridan & Duncan, Inc., New York, N.Y., authorizing the transportation of general commodities, with stated exceptions, between New York, N.Y., on the one hand, and, on the other, points and places in Bergen, Essex, Hudson,

Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, and Union Counties, N.J. Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817, registered practitioner for applicants.

No. MC-FC-72785. By order of May 26, 1971, Division 3, acting as an Appellate Division, approved the transfer to Metrix Transport Express, Inc., Paterson, N.J., of a portion of the operating rights in certificate No. MC-106222 and all of the operating rights in certificates Nos. MC-106222 (Sub-No. 3) and MC-106222 (Sub-No. 4) issued September 9, 1957, November 26, 1958, and October 15, 1968, respectively, to Wallack Freight Lines, Inc., Copiague, N.Y., authorizing the transportation of general commodities, with usual exceptions, between points in New York, N.Y.; between points in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665; between New York, N.Y., on the one hand, and, on the other, points in Elizabeth, Irvington, Newark, and Harrison, N.J., and between Bogota, N.J., and East Paterson, N.J. Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817, registered practitioner for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8030 Filed 6-8-71;8:50 am]

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No. 111—Pt. II—1

WEDNESDAY, JUNE 9, 1971

WASHINGTON, D.C.

Volume 36 ■ Number 111



PART II

FEDERAL COMMUNICATIONS COMMISSION

■

Domestic Public Point-to-Point
Microwave Radio Service

■

Specialized Common Carrier Services

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Title 47—TELECOMMUNICATIONS

Chapter I—Federal Communications Commission

[Docket No. 18920; FCC 71-547]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Specialized Common Carrier Services in Domestic Public Point-to-Point Microwave Radio Service

First report and order. In the matter of establishment of policies and procedures for consideration of applications to provide specialized common carrier services in the domestic public point-to-point microwave radio service and proposed amendments to Parts 21, 43, and 61 of the Commission's rules.

I. BACKGROUND

1. The Notice of Inquiry to Formulate Policy, Notice of Proposed Rule Making, and Order in this proceeding (24 FCC 2d 318, released July 17, 1970) was occasioned by a large number of applications by Data Transmission Corp. (Datran), companies associated with Microwave Communications of America, Inc. (MCI carriers or MCI), and others for authorizations to construct microwave facilities to provide specialized common carrier services in various parts of the country.¹ Datran has proposed a switched, all digital network dedicated exclusively to data transmission. The MCI carriers and others all propose point-to-point facilities for private line services including, but not limited, to data transmission. The applications are opposed by established carriers and other related interests, principally by American Telephone and Telegraph Co. (A.T. & T.) and The Western Union Telegraph Co. (Western Union).²

A. PURPOSE OF THIS PROCEEDING

2. The Notice undertook to resolve in an overall policy and rule making proceeding certain basic policy and procedural questions (see paragraph 17 below) which appeared common to all of the applications and oppositions, prior to consideration of each proposal on its individual merits (Notice, paragraphs 3, 23-24). The Commission stated that such action would be conducive to prompt, orderly, and efficient disposition of these matters and, in our opinion,

¹At the time of the Notice, there were 1,713 pending applications for microwave stations. As of Mar. 15, 1971, there are now 33 applicants (of whom 17 are MCI affiliated), making 46 separate proposals and seeking a total of 1,877 microwave stations (see Appendix A hereto).

²The Notice provided for a moratorium of the filing of petitions to deny and other pleadings involving specialized carrier applications pending a further Commission order following consideration of the issues in this proceeding (Notice, paragraphs 72, 75).

would be far preferable to decisions on them arrived at in the context of individual proceedings, and/or evidentiary hearings on each set of applications, or even a single, consolidated evidentiary hearing (Notice, paragraph 3). We noted that the situation calls for expedition in the public interest, since it is claimed that the proposed services are urgently needed by the public now (Notice, paragraph 23). Moreover, these applications are tying up frequencies and may block or affect action on applications of others. We further emphasized that after the broad policy and procedural questions in this proceeding have been decided, there may remain other specific, factual questions to be resolved by appropriate procedures when the applications are processed (Notice, paragraphs 3, 24). We stated (paragraph 24):

Once these issues have been determined, we will consider each proposal on its individual merits and follow such procedures as may be necessary to resolve any remaining questions pertinent to the particular set of applications. Each applicant will, of course, be required to make a satisfactory showing that it is qualified and that the service it seeks to offer is technically and economically sound and would otherwise serve the public interest.

B. DESCRIPTION OF REPRESENTATIVE APPLICATIONS AND OPPOSITION PLEADINGS

1. Datran

3. As set forth in the Notice (paragraphs 6-9), Datran has proposed a switched, occasional use, all digital communications network specifically engineered for data transmission. The initial system would have 244 microwave stations to serve 35 cities on a backbone route between San Francisco, Los Angeles, Dallas, Minneapolis-St. Paul, Atlanta, and Boston. Spur routes from the backbone trunk would provide service to additional cities to accommodate growth in demand for service. The system would utilize time division multiplexing (TDM), and be modular in design to facilitate easy and economical extension of terminal capacity. Datran is proposing to provide the local distribution facilities, using a combination of 11 GHz frequencies and multipair cable. Space diversity and hot standby transmitters are proposed for increased system reliability.

4. According to Datran, its market studies show that major economic sectors, individual consumers, and providers of information systems and services in the aggregate have a rapidly expanding need for rapid, accurate, low-cost data transmission services which is largely unmet by present common carrier offerings. Specifically, Datran claims that the costs of existing communications services have not declined in proportion to data processing costs; that existing analog transmission systems require costly modulator-demodulator equipment to convert digital signals to analog and back again; that current switched services often take significant

time to establish connections, which detracts from the productivity of the data terminal and operator; that transmission systems originally engineered for voice and record transmission do not meet the more demanding reliability standards of digital data transmission; that existing switched services generally cannot handle full-duplex transmission, which leads to reduced throughput and wasteful line reversal time; that the basic switched services, originally intended only for voice and record, provide only two major speed selections whereas many new data applications require faster and more varied choices; that attempts to establish a switched connection for data transmission can be impeded by the high incidence of busy signals currently being experienced in points and times of heavy user concentration; that communication between terminal devices utilizing different line speeds is not possible in most existing major networks; that many data transmissions can be completed in far less than the minimum charge periods now in force; and that while common carriers have recently begun to drop barriers against sharing and interconnection, much confusion and difficulty continues to exist in user attempts to apply this flexibility.

5. Datran attributes many of the asserted unmet needs of data transmission users to the circumstance that the existing switched facilities of common carriers were originally engineered only for voice and record analog transmission services, a constraint which does not exist in its proposed digital system. The three basic integrated components of Datran's proposed end-to-end system (trunking system, switching system, and local distribution system) are engineered specifically for, and dedicated to, digital data transmission. Thus, a subscriber need not convert his digital signals to a different (analog) transmission mode, since the system transmits the subscriber's signal in its original form. Moreover, as the signal is transmitted through the system, it is continuously regenerated into a new, clean, and conditioned signal without the amplified system noise present in analog systems. Datran states that the following features of its proposed systems will meet current and projected data transmission needs which are largely unmet by the existing carrier offerings:

Low cost—as indicated by samples of proposed charges in Exhibit No. 8 to Datran's application.

End-to-end compatibility—no analog digital conversion required.

Rapid connection—connection to be made within 3 seconds after receipt of last destination address indicator.

High reliability—no more than one bit error in 10 million transmitted bits.

Simultaneous two-way transmission (full duplex)—the proposed system would operate entirely in full duplex mode.

Wide selection of switched speed offerings—the initial system would provide 150, 4,800, 9,600 and 14,400 bits per second switched service.

Low incidence of network busy conditions—a service goal of P.01 providing on an average no more than one busy signal in 100 attempts.

Flexibility to interconnect with and share facilities—Datran proposes to permit ample flexibility for potential users to interconnect user-provided facilities and to share the proposed system among more than one user.

Asymmetry—the system will provide capability for communication between all terminals on the network, regardless of their varying transmission needs.

6. Datran further asserts that there is "a need for competition in communications to motivate technological innovations, cost reductions and efficient allocation of facilities as well as to encourage efforts by common carriers beyond the simple expansion of current networks to meet growing demand." It supports its position with the following contentions: Full realization of the public interest in computer technology requires achievement of appropriate specialized communications services. The users of computer technology are not obtaining adequate service from communications facilities constructed for, and dedicated to, meeting voice and record transmission needs. Effective utilization of existing data processing technology is constrained by present common carrier communications services and facilities, and the design and development of new computer applications requiring data transmission is constrained by high cost as well as unreliable and inflexible service. The public will not realize the full benefits of existing and potential data processing technology until this situation is remedied. The best remedy would be to authorize a versatile, low-cost communications network uniquely structured for digital data communications. Moreover, authorization of its proposed system is likely to stimulate innovations and to encourage economies by all carriers. A major price paid for monopoly is reduced incentive for innovation. The introduction of competition into the provision of data transmission services to all users will spark further technical developments and spur all common carriers to measure and control costs more effectively in the public interest. If innovation can lower the cost of a service, or provide a better service at the same cost, that service will attract a larger market or create new markets. In addition, the benefits of the regulatory process are most readily obtained when the regulated system's structure, customers, services, and costs are easily identified and quantified. Authorization of its proposed system would allegedly encourage economies by all carriers through simplified application of new standards and measures for costs of services.

2. MCI Carriers

7. There are also pending applications by 17 MCI associated companies for portions of a proposed nationwide network to provide specialized private line communications services. The various MCI

carriers propose to provide "customized" communications channels, tailored to the exact requirements of subscribers needing interoffice and intracompany communications, to meet newly developing data and specialized communications needs of the public at significantly low cost. The channels would accommodate transmission of data, facsimile, control, remote metering, voice, and other forms of communication. The MCI carrier applicants have each submitted market studies for the particular route. Originally MCI did not propose to provide end-to-end service. It was contemplated that local loop interconnection would be accomplished by the subscriber's private facilities or, for subscribers requiring only voice grade channels, by use of local landlines of existing telephone companies. MCI has since filed a petition for rulemaking (RM 1700) to allocate the frequencies 38.6-40 GHz for a local Carrier Distribution Service.

8. MCI-New York West's applications will serve as a typical example, since it is stated that this "is one of a series of independent MCI-type carriers made up of local ownership interests which will interconnect and cooperate with one another in order to provide a unified, nationwide, customized communications network through arrangements with Microwave Communications of America, Inc." MCI-New York West claims that its proposal offers the following features which are not now available to communications users on existing common carrier facilities:

Communications channels designed especially for data transmission;

Specified data error rate (1 error in 10⁶);

Analog or digital input;

Data channels starting as low as 0.05 cents per mile per month;

Data channels priced on data speed rather than bandwidth;

One-way transmission;

Two-way transmission of different bandwidths;

138 communications channels ranging in bandwidth from 200 hertz to 960,000 hertz;

Termination of channels in 93 different types, with bandwidth ranging from 200 hertz to 960,000 hertz;

Channels can be terminated into the full single bandwidth of the channel or into a number of subchannels;

Thousands of channel and termination combinations are possible and feasible;

Communication channels start as low as 0.05 cents per mile per month;

Half-time use;

Sharing of channels;

Use of carrier's facilities for installation of subscriber's private equipment.

9. According to MCI, the "real distinction which delineates MCI service from anything provided today by existing common carriers is not the facility itself but the manner in which a customer may utilize it in order to provide a customized intracompany point-to-point communications system of his own design and capability." For example, the customer may purchase the exact bandwidth required on a point-to-point basis (including one-way channels), utilize it in whatever transmission mode he chooses

(voice or data, alternately or singly), mix different bandwidths on the same channel, use his own terminal equipment and install his own equipment on MCI towers and shelters, provide either analog or digital input signals, and avail himself of MCI's offering of channels designed especially for data use with rates based on transmission speed rather than bandwidth.

10. MCI asserts that a grant of its applications would serve the public interest primarily by affording a flexibility in service needed by, but not now available to, an important communications submarket, and also by causing existing carriers to revise their service offerings and tariff provisions to the benefit of other communications users. Specifically, it claims that a strong need exists now for the type of services proposed by MCI-New York West. It reasons along the following lines: The computer industry "desperately" needs a communications network designed especially for data transmission. MCI would provide this network (accepting both analog and digital data signals) and meet many of the communications needs of the computer industry forecast over the next 5 years in a study by Arthur D. Little, Inc. Moreover, the economic feasibility of, and market for, the proposed operation are demonstrated in a study conducted by Spindletop Research. Industry, business, government and educational entities also require additional communications channels other than those adapted to a communication network designed primarily for voice telephone service. It is essential that these entities have available flexible, low cost communications channels which they can customize to their own particular needs and requirements. The existing carriers serving the proposed routes allegedly do not and cannot readily provide the same type of offering. MCI claims its proposal would provide the benefits of competition in the specialized communications field, stimulate the development of new lines of equipment, introduce new ownership interests in the communications industry, and pioneer new types of communications. It would do so without having an adverse economic impact on the existing carriers or affecting their telephone or private line rate-making principles. There is, MCI says, "a distinct difference between a public telephone service which is a natural monopoly and a customized communications service offered on a private point-to-point basis."

3. Other Applications

11. There are also a number of applicants proposing to provide specialized common carrier services along or near some of the same routes proposed by Datran and/or MCI carriers, and along other routes or with different intermediate points (see Appendix A).³ While

³ Appendices A, B, C, and D filed as part of the original document.

varying in detail, in general all of these applicants—like the MCI carriers—propose to provide specialized private line services tailored to the requirements of the subscriber.³ Some are already engaged in common carrier or private microwave operations, and propose to make use of such facilities, personnel and experience to the extent practicable. Some propose to provide "end-to-end" service, either by constructing their own local loop facilities or by negotiating on behalf of subscribers for interconnection with existing local carriers or by some combination of both. Interconnection with facilities of the subscribers and other microwave systems would be permitted. All claim, either on the basis of market studies or their own inquiries, that there is a substantial public need and demand for the proposed services, which are not now provided in the same manner by existing carriers.

4. Opposition Pleadings

12. A.T. & T. states that applications of the type filed by the MCI carriers and others cannot be regarded as an isolated experiment, but rather necessitate a Commission determination of "basic and important policy questions regarding future development of common carrier communications services throughout the United States." In connection with MCI-New York West's applications, A.T. & T. summarizes its position as follows:

MCI-NY West's proposal and others like it confront the Commission with basic policy questions regarding the future development of common carrier communications services. They would offer to serve only limited segments of business users in certain selected cities, without concern for the deleterious impact this might have on the other business and residential users who are subscribers of the existing common carriers. Such proposals, if granted, would seriously undermine the policy of uniform interstate rates and dilute or delay the benefits that economies of scale would otherwise make available to the general telephone-using public. Moreover, the authorization of such proposals would result in harmful electrical interference to existing common carrier routes, inefficient and underutilization of scarce common carrier facilities, to the detriment of the general public. As shown above, there is no demonstrated unfilled public need for MCI-NY West's incomplete and inadequate proposal or for the network of which it would be a part. Existing common carrier facilities are more than adequate to meet the public need and the existing carriers stand ready to serve any additional need which may be found to exist in the future.

13. With respect to Datran's proposed nationwide switched digital network for data transmission, A.T. & T. raises a number of questions which it asserts require hearing. These concern alleged uneconomic duplication of common carrier facilities, impact on nationwide uniform rates, social costs (such as a less efficient total communications network, a requirement for additional Bell System standby capacity, intensified congestion of the

radio spectrum), the basis for regulating or controlling competition between Datran and established carriers, the extent of public demand for services which is not, or will not be, met by existing carriers, comparative costs and frequency usages, and the technical and economic feasibility of Datran's proposal. A.T. & T. also asserts that Datran's proposal would cause harmful interference to some stations of the Bell System companies, as well as additional cases of potential interference to full development of already established Bell System routes. A.T. & T. takes the position that construction of Datran's proposed system would be more costly than expansion of existing Bell System routes by an equivalent number of circuits, that a grant might lead to the adoption of route pricing by the established carriers and cause an increase in rates to the general public, and that the need alleged by Datran would be better met within its time frame by the Bell System's "evolutionary approach." It is further asserted that Datran's proposal will depend on intrastate, as well as interstate, service and require appropriate local or state authorization. In addition, A.T. & T. claims that a proliferation of 11 GHz local distribution systems in and around major cities would cause serious frequency congestion problems. Finally, it states that Datran's applications appear to be mutually exclusive with those filed by other specialized common carriers for technical or economic reasons, or both.

14. Western Union urges that consideration of the MCI carrier applications is premature before MCI's already authorized Chicago-St. Louis system has been demonstrated. It requests the Commission to postpone any kind of action on the applications of Datran and other applicants pending a determination of the underlying policy questions, since the proposals "threaten the common carrier communications industry with significant change, if not upheaval." Western Union claims that a grant of these proposals will divert revenues from its prime industrial areas, jeopardize the cost averaging approach, and threaten its efforts to gain a broader economic base and more financial stability. It also claims that the applicants have failed to demonstrate a public need for their proposed services, or to establish their technical and financial qualifications, and that their proposed systems will cause harmful interference to some of its existing stations and prejudice its ability to expand to full band usage on present routes.

15. The applications are also opposed by the General System Telephone Com-

³ See Microwave Communications, Inc., 18 FCC 2d 953 (1969); reconsideration denied, 21 FCC 2d 190 (1970); modifications granted, 27 FCC 2d 380 (1971); pending on review in the U.S. Court of Appeals for the District of Columbia Circuit in *American Telephone & Telegraph Co. et al. v. Federal Communications Commission* (Cases Nos. 23959 and 23962).

³ Three applicants have applied for systems serving cities solely within the State of Texas.

panies (General), other independent telephone companies, and various existing miscellaneous common carriers. In general, they claim that grants would result in wasteful duplication of facilities within their operating territories and/or electrical interference to existing systems. In addition, some of the applicants seek denial of the applications of others on grounds of mutual exclusivity. The National Association of Regulatory Utility Commissioners (NARUC) has petitioned for a public hearing on the Datran applications. Moreover, the Washington Utilities and Transportation Commission opposes the MCI Pacific Coast applications on the ground that any diversion of interstate usage from established carriers to other communications media would have the effect of placing a heavier relative burden on intrastate users of jointly provided facilities.

16. The foregoing is not a complete listing of the applications and opposition pleadings on file, or a comprehensive summary of the individual contentions. However, it will serve to indicate the kind of proposals and objections that led us to institute this proceeding.

C. ISSUES POSED BY THE NOTICE

17. As already stated (paragraph 2 above), the purpose of this proceeding is to resolve certain threshold policy and procedural issues before we process the applications and opposition pleadings on their individual merits and determine whether any further proceedings are necessary on such questions as may remain. The issues to be considered in this proceeding were stated in the Notice as follows (paragraph 22):

A. Whether as a general policy the public interest would be served by permitting the entry of new carriers in the specialized communications field; and if so;

B. Whether comparative hearings on the various claims of economic mutual exclusivity among the applicants are necessary or desirable in the circumstances;

C. What standards, procedures and/or rules should be adopted with respect to such technical matters as the avoidance of interference to domestic communications satellites in the 6 GHz band, the avoidance or resolution of terrestrial frequency conflicts and route blockages both vis-a-vis the facilities of established carriers and among the applicants, and the use of frequency diversity;

D. Whether some measure of protection to the applicants' subscribers is called for in the area of quality and reliability of service; and

E. What is the appropriate means for local distribution of the proposed services?

18. The discussion of Issue A in the Notice was posed as a "staff analysis" on which the Commission took no position pending consideration of comments by interested persons (Notice, paragraphs 22 and 45 b). The staff analysis (Notice, paragraphs 25-45a) concluded that a general policy in favor of new entry would serve the public interest because competition in the specialized field appears to be reasonably feasible and can be expected to have some beneficial effects without adverse impact on service by established carriers. Issues B-E were

the Commission's proposals, contingent upon adoption of the staff position on Issue A and subject to modification in light of the Commission's resolution of that issue (Notice, paragraphs 22 and 45b). On Issue B it was proposed not to hold comparative hearings on issues of economic exclusivity among the applicants unless there is a much stronger showing of exclusivity than those now before us, and the Commission is persuaded that the public interest requires such action in the particular situation (Notice, paragraphs 46-50b). On Issue C, the Notice proposed to adopt rules governing frequency coordination, the use of frequency diversity, the orientation of antennas, and technical standards for antennas, as well as procedures for processing pending applications involving frequency conflicts with existing stations or those proposed in previously filed applications (Notice, paragraphs 51-61). On Issue D we proposed to require all carriers providing specialized services to state to their customers and in their tariffs the reliability of the service offered, to make refunds where the promised reliability is not met, and to file periodic reports with the Commission concerning the reliability actually achieved, service complaints and refunds (Notice, paragraphs 62-65). Finally, on Issue E the Notice proposed that new carriers and their customers should have the option of achieving local distribution through interconnection with local telephone carriers or through construction of independent local facilities and, in the latter connection, requested comments on the use of wire, cable, and/or radio—particularly frequencies in the vicinity of 11 GHz or in some portion of the spectrum above 11 GHz, such as 18 or 50 GHz (Notice, paragraphs 66-70).

D. PROCEEDINGS BEFORE THE COMMISSION

19. The Commission has received comments from almost 200 interested persons, and reply comments from those most directly concerned (see Appendix B hereto).⁴ Oral argument before the Commission en banc was heard on January 21-22, 1971,⁵ and rebuttal comments to oral argument have been received. A summary of the comments and reply comments on Issues A, B, and E by those participating in the oral argument is attached as Appendix C.⁶ The rebuttal comments are summarized in Appendix D.⁷

20. The issue engendering the most voluminous and widespread comment is Issue A. All but a very few of the parties commented in support of the staff analysis and in favor of new entry in the specialized field. Those opposed consist principally of the established carriers (A.T. & T., Western Union, GT&E Service Corp. (GT&E), and United Telephone System (United), United States Independent Telephone Association (USITA), and the National Association

⁴ The motions of various parties to correct the transcript of the oral argument are hereby granted.

of Regulatory Utility Commissioners (NARUC)).⁸ The bulk of those commenting in favor of new entry, apart from the applicants, are individual potential users and equipment manufacturers and/or their associations. The Department of Justice and the Small Business Administration also filed supporting comments. The positions of those parties who commented on Issues B-E are indicated in the discussion below.

21. Upon consideration of the entire record, we have decided to spin-off Issues A-C for determination herein and to conduct further proceedings to assist in a resolution of Issues D and E. We shall discuss each of the five issues in order, setting forth: (1) The proposals in the Notice, (2) the positions of the major parties, and (3) the basis for our findings and conclusions on the merits or, in the case of Issues D and E, our decision as to the necessity for further proceedings.

II. DISCUSSION AND CONCLUSIONS

A. ISSUE A: WHETHER AS A GENERAL POLICY THE PUBLIC INTEREST WOULD BE SERVED BY PERMITTING NEW ENTRY IN THE SPECIALIZED COMMUNICATIONS FIELD

(1) Staff Analysis in the Notice

22. We set forth our staff's analysis and recommended disposition of this issue in the Notice at some length in order to facilitate effective and informed participation by the public (Notice, paragraph 22). Moreover, the comments of the parties on this issue are largely directed toward that analysis. Accordingly, in order to place their comments and our discussion in context, we think it worthwhile to repeat verbatim below the reasons given by the staff for its position that new entry would serve the public interest (Notice, paragraphs 25-45a):

25. In considering whether the public interest would be served by permitting new carriers to provide specialized communications services, the basic touchstone for decision is, of course, the Commission's mandate to regulate "interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service with adequate facilities at reasonable charges . . ." (Section 1 of the Communications Act). Although this is the first time that the Commission has been presented with a large number of applications for authority to provide competitive common carrier services via microwave in the field of domestic communications, the issue of competition is not new. The Commission has had numerous occasions to consider and establish policy with respect to the provision of communications services in the common carrier field on a competitive basis.

26. As long ago as 1948 applications were filed in Docket No. 8777 by Mackay Radio and Telegraph Co., a predecessor company to ITT World Communications, Inc. (ITT), for authority to operate circuits to Finland, the

⁸ The position of the established carriers is also supported by Eastern Oregon Telephone Co. and Consulting Communications Engineers, Inc.

Netherlands, Portugal, and Surinam in competition with preexisting circuits to those points operated by RCA Communications, the predecessor to RCA Global Communications, Inc. (RCAC). Upon review of the Commission's decision⁹ to grant the applications for Portugal and the Netherlands and deny the Surinam application (Finland was withdrawn), the Supreme Court held:¹⁰

(a) The Commission may not grant applications to provide a competitive service merely because it assumes "that competition is bound to be of advantage in an industry so regulated and so largely closed as this one . . ."

(b) The Commission may grant applications for competitive circuits after an analysis of the trends and needs of the industry and in the exercise of "the discretion given it by the Congress."

(c) "In reaching a conclusion that duplicating authorizations are in the public interest wherever competition is reasonably feasible the Commission is not required to make specific findings of tangible benefit."

(d) In order to grant a competing application, "the Commission must at least warrant, as it were, that competition will serve some beneficial purpose such as maintaining good service or improving it." An applicant is not required to demonstrate tangible benefits. There must, however, "be ground for reasonable expectation that competition may have some beneficial effect."

26a. Since the Supreme Court's decision in the *RCA* case, the Commission has granted authority for numerous competing direct radio telegraph circuits.¹¹ In certain instances without holding hearings. The Commission has also followed a similar policy with respect to the grant of competing applications to miscellaneous common carriers in the domestic communications field. In each instance the test was whether the competition was reasonably feasible and could be expected to have some beneficial effect.¹² In addition, the Commission has authorized the use of private microwave systems,¹³ by enti-

⁹ FCC 51-197; see also FCC 55-698.

¹⁰ *FCC v. RCA Communications, Inc.* 346 U.S. 86 (1953).

¹¹ *Id.* page 97.

¹² *Id.* page 95.

¹³ *Id.* page 96.

¹⁴ *Id.* page 97.

¹⁵ See, e.g., 26th Annual Report of the FCC, page 107. The Commission has also authorized competing international carriers to lease, or obtain indefeasible rights of use of, channels in international cables of A.T. & T. See, e.g., 28th Annual Report of the FCC, pages 124-125.

¹⁶ The Commission in *Mackay Radio and Telegraph, Inc.*, 15 FCC 690 at page 737, defined "reasonably feasible" as encompassing the concept that the applicant seeking to compete must demonstrate: That a grant of its application would enhance or induce competition; and that a grant of its application would not endanger the ability of the existing carrier to continue to provide competitive service to the points at issue or to other points of its services. Specifically, the Commission was concerned as to whether there was a sufficient volume of traffic available to support both services. The presence of such a volume of traffic was taken as an indication that competition was reasonably feasible.

¹⁷ In the *Matter of Allocation of Frequencies in the Bands Above 890 Mc.*, 27 FCC 359 (1959), 29 FCC 825 (1960).

ties to satisfy their own needs. This also introduces an element of competition in the sense that a potential user now has the alternative of leasing facilities from a common carrier or providing his own facilities.

27. We note that there are not numerous precedents in the general domestic common carrier service field for the authorization of competing circuits. This is due primarily to the fact that until the filing of the applications considered in Microwave Communications, Inc., 18 FCC 2d 953 (1969),¹⁴ reconsideration denied 21 FCC 2d 190 (1970), the Commission had no occasion to consider applications for competitive service in this area. In its MCI decision, the Commission granted applications of MCI to provide specialized interstate common carrier services between Chicago and St. Louis upon a finding that competition was reasonably feasible and could be expected to provide some public benefits. While not determinative of issues posed by the instant applications, the MCI decision indicated a disposition to foster in the specialized communications field a competitive environment within which users may have a wider range of choices as to the means of satisfying their special communications needs.

28. The public interest would be best served by allowing the entry of new communications common carriers to serve the markets for special communications services, to the extent that such entry can be accommodated within the limitations of radiofrequency availability. For the reasons set forth below, competition in this area meets the long-established test, i.e., that it is reasonably feasible and can be expected to have some beneficial effect. Indeed, the advantages of such a policy appear to be manifold and to outweigh any risk that the public interest would be adversely affected.

29. The demand for all types of communications service is growing very rapidly. The use of standard voice communications services is expanding at very high rates and it is expected that this rapid growth will continue, if not increase.¹⁵ In addition, data communication, which has been in an embryonic stage of development, will probably exhibit very substantial growth over the next decade.¹⁶ In proposing a policy favoring the entry of new specialized common carriers, we look toward a degree of competition oriented toward the development of new communications services and markets and the application of improvements in technology to changing and diverse demands. Thus, we are not faced with the question of whether we should increase the number of carriers which are to serve a fixed market with the same services, as is implied by many of the arguments raised by the established carriers. Rather we anticipate that the new carriers would be developing new services and would thereby expand the size of the total com-

munications market. There may well be realignments of customers for specific services in accord with the types and degrees of specialization provided by different carriers. But any loss to the established carriers can be expected to occur only in terms of their relative share of the total communications market which would be served and not in terms of the volume of communications provided. Since the total communications market being served is likely to be increased, the existing carriers' volumes of traffic may increase at the same time that there is entry by the new carriers.¹⁷ Moreover, the filings before us indicate that the special service markets are quite different from the standard toll telephone service. The existing communications network was established to meet the requirements of voice transmission in a market where consumer demands were generally similar. However, data users require not only a different application of communications technology, but also have requirements for services that are heterogeneous in character. For example, Datran proposes to construct digital technology transmission systems especially to meet data requirements. Other applicants, while proposing to use analog transmission techniques, propose to offer services with systems more closely designed to the requirements of transmitting digital and other nonvoice traffic. The applicants would be able to use systems that have not been engineered around the specialized requirements of voice traffic (such as sensitivity to steady line noise but relative insensitivity to impulse noise and phase distortion). Some may even offer systems totally optimized to the requirements of data transmission or other specialized traffic. In summary, the diversity that characterizes both the demand and the technology supports our conclusion that new entry in this field is reasonably feasible.

30. There appears to be an increasing public need and demand for the availability of diverse and flexible means for meeting heterogeneous communications requirements. Furthermore, the means for satisfying such needs are becoming available through rapid developments in communication, computer and related technologies. The information before us affords grounds for a reasonable belief that there is a substantial public need for the proposed services which is not now being adequately met by the established carriers. The computer inquiry showed that there was dissatisfaction on the part of the computer industry and by many data users who had been attempting to adapt their requirements to existing services.¹⁸ Datran has persuasively stated the public need for rapid, accurate and low-cost data transmission, the drawbacks in using existing facilities engi-

¹⁴ We note that despite the claims of potential adverse effects upon the established carriers that were made in the Carterfone case (13 FCC 2d 420), A.T. & T. Chairman Romnes stated in the 1968 Annual Report (page 4):

"Since customers now have more options in using the network, this should further increase usage and enhance the growth of our business. Competition in providing communications equipment that may be connected to the network will no doubt accelerate, but we are confident of our ability to meet the tests of the market. In the expanding structure of communications there is opportunity for all."

¹⁵ For a summary of the responses of the computer industry and data users, see Report No. 2 of the Stanford Research Institute study in the computer inquiry (Docket No. 16979).

neered for voice and record transmission, and the advantages of a switched, all-digital network with end-to-end compatibility (see paragraphs 7-9 . . . [of the Notice]). Moreover, the showings in the MCI applications (e.g., the Arthur D. Little and Spindletop studies) support the view that there is widespread interest in the types of specialized, private line services proposed by it and other applicants. The circumstance that so many applicants apparently believe that there are markets to be developed is also of some significance. By permitting the entry of specialized carriers, we would provide users with flexibility and a wider range of choices as to how they may best satisfy their expanding and changing requirements for specialized communication service.

31. We note in this connection that the applicants are in a disadvantageous competitive position vis-a-vis A.T. & T. Insofar as prompt inauguration of the proposed services is concerned, action on their applications may be delayed for some time by the necessity of resolving claims in petitions to deny, inter alia, that the showing of need is inadequate. Since A.T. & T. has numerous long line facilities, both cable and radio, and many diverse routes, it generally has enough flexibility and spare capacity to institute new services (at least on a limited scale) without having the immediate necessity of obtaining authorization for new or modified facilities. Therefore, A.T. & T. need only file a tariff in order to commence providing service on its authorized facilities. A.T. & T. is thus in a position to offer at any time services with many of the features proposed by the applicants, while challenging the showings of need made by would-be new entrants and claiming that hearings are required on their proposals.

32. There is also a question as to whether the existing carriers can meet the requirements in the specialized markets promptly, efficiently and effectively without prejudice to full and timely satisfaction of the increasing requirements of the public monopoly services. The responsibility for meeting the nation's growing and changing communications requirements is now largely concentrated in the Bell System. This responsibility is becoming more and more difficult to discharge in a manner which enables the Bell System to satisfy timely and effectively all existing and anticipated communications requirements. This is partly because of the diversity of such requirements, the obvious problems of designing and engineering facilities capable of meeting all such requirements with equal efficiency, economy and expedition, and the huge and increasing amounts of new capital that the Bell System must raise for construction purposes. The entry of new carriers would have the effect of dispersing somewhat the burdens, risks, and initiatives involved in supplying the rapidly growing markets for new and specialized services among a multiplicity of entrepreneurs who appear ready, willing and able to assume these undertakings. It would also expand the capability of the communications industry to respond to the challenge of meeting the rapidly growing and varied demands of communications users.

33. A.T. & T. claims that the entry of specialized carriers will result in the sacrifice of economies of scale and the incurrence of social costs. However, the achievement of any economies of large scale supply in particular facilities may be at the expense of potential economies in other directions. In order to realize large scale economies, a single supplier must conglomerate diverse functions and provide general standardized services, thereby foregoing potential economies of

specialization that could be derived from serving a specialized portion of the market. During an era of relative stability in technology, characterized by markets with homogeneous demands, the efficiency of large scale, single supply is necessarily considerably greater than it is during an era of rapidly changing applications of improved technology and growing potential markets made up of diverse consumer demands. Any attempt to adapt facilities designed primarily to meet voice requirements to the quite different requirements of data communications may entail such compromises in service as to leave both types of users dissatisfied,¹⁹ and may vitiate the economies of scale the carriers postulate.

34. Further, while economies of scale may result when large general purpose transmission facilities can be used to meet relatively homogeneous communications requirements, there may be other drawbacks. The sheer size of the A.T. & T. organizational structure, its enormous financing requirements, its vertical integration, and near monopoly position in the provision of communications services may make it slower to perceive and respond to individual, specialized requirements and to initiate market and technical innovations.²⁰ Competition in the specialized communications field would enlarge the equipment market for manufacturers other than Western Electric, and may stimulate technical innovation and the introduction of new techniques. Moreover, new carriers with smaller scale operations could devote their undivided attention to the particular needs to be served and, lacking a captive market, would be under pressure to innovate to produce those types of services which would attract and retain customers.

¹⁹ A.T. & T., in effect, recognizes some shortcomings in the use of voice oriented facilities for data transmission in that it is gradually working toward digital transmission with the "evolutionary approach" necessitated by its existing plant. As Datran points out, it apparently recognized this need some time ago. An article entitled "Transmission Aspects of Data Transmission Service by Using Private Line Voice Telephone Channels" in the Bell System Technical Journal, Nov. 1957, states that:

"The telephone network was developed for speech transmission, and its characteristics were designed to fit that objective. Hence, it is recognized that the use of it for a distinctly different purpose, such as data transmission, may impose compromises both in the medium and in the special service contemplated."

See also, "Transmission Across Town or Across the Country," Bell Laboratories Record (May/June 1969), pages 162, 167, to the effect that the use of digital transmission for voice may be more costly than analog transmission.

²⁰ In its report and order relating to the establishment of domestic communication-satellite facilities by non-governmental entities, Docket No. 16495, Mar. 24, 1970 (22 FCC 2d 86), the Commission took note that "A.T. & T. has stated that it views satellite transmission as another form of transmission similar in function to terrestrial microwave systems and coaxial cables, and that there are no communications services which could be offered by satellites which cannot now be offered by terrestrial facilities." (paragraph 26, footnote 7) However, the Commission observed that:

"The most important value of domestic satellites at the present time appears to lie in their potential for opening new communications markets, for expanding the beneficial role of competition in the existing markets for specialized communication services, and for developing new and differentiated services that reflect the special characteristics of the satellite technology." (paragraph 25)

35. In an industry of the size and growing complexity of the communications common carrier industry, the entry of new carriers could provide a useful regulatory tool which would assist in achieving the statutory objective of adequate and efficient services at reasonable charges. Competition could afford some standard for comparing the performance of one carrier with another. Moreover, competitive pressure may encourage beneficial changes in A.T. & T.'s services and charges in the specialized field, and stimulate counter innovation or the more rapid introduction of new technology. The Commission noted in its MCI decision the apparent response of A.T. & T. to MCI's proposal in modifying certain of its sharing provisions of its private line tariff offerings (18 FCC 2d 953, 961-2).

36. We are not persuaded that the allegation of "creamskimming" is well-founded or would justify a bar against new entry of the type proposed here. The concept of creamskimming assumes that the total potential market that could be served is actually being served by the established carriers and that they are responding to all changes in demand and technology at an optimum rate. It postulates that there is no room for a potential entrant without giving him part of the existing market and the only attraction to the potential entrant is the existence of the cream on the low cost routes. But it appears that the principal attraction for the new applicants here is not the cream of the existing markets, but rather special service markets that have not been developed. As earlier mentioned, the entrants seek to expand the size of the total communications market in a manner that may benefit all communications users.

37. Further, the development of new markets must always take place gradually and begin in those particular submarket areas where maximum demand can be stimulated at minimum cost. This is the manner in which all new products and services are introduced, and it is practiced by the established carriers. When A.T. & T. developed its audio and video services during the 1948-58 period, it chose to serve only the larger population centers and not outlying areas. As a result the Commission authorized intercity relay facilities to broadcasters and to miscellaneous common carriers. More recently, A.T. & T. claims that the costs of high capacity microwave and cable facilities used between major cities justify its experimental Series 11,000 tariff which is applicable only between large cities. Further, A.T. & T. originally proposed plans to introduce interstate Picturephone service initially only between Pittsburgh's Golden Triangle area and lower Manhattan.²¹

38. Though claiming that the geographical scope of the applicants' proposals is too small,²² the established carriers have not elected to specify any additional locations needing the proposed services at this time. The proposals now before us cover large sectors of the country, much larger than one might expect in initial proposals. Datran's proposed initial network is limited to 35 markets where the level of maturity of digital technology has created the greatest initial requirement for data transmission. However, it states that it plans ultimately to expand the system to serve all significant interstate as well as intrastate data transmission markets, "including residential subscribers as digital technology is extended to the home." As Datran points out, business and other institutions, rather than individuals, presently constitute the overwhelming majority of potential data transmission users and they

²¹ A.T. & T. has since requested dismissal of its applications for authority to provide such service. However, it is offering Picturephone service in Pittsburgh.

are heavily concentrated in major metropolitan areas. We would not expect a system such as that proposed by Datran to be constructed on a total nationwide basis at one time, though we would anticipate orderly expansion and development of communications plant to meet evolving market demands.²³ Moreover, the combined routes of the applicants proposing specialized, private line services appear to cover the bulk of the major cities where customers for such services are apt to be concentrated, and they are proposing interconnection. We can reasonably expect applicants to propose extensions of their systems as their markets develop, and there is no indication of a cessation in the filing of new applications for special services in additional areas. Competition in the response to these new demands may result in much faster geographical extension of the services than would be the case if all markets were preserved for the established carriers. Finally, other customers could be reached by spur routes from these networks as demand develops, pursuant to Commission action under sections 201(a) and 214(d) if necessary in the public interest.

39. Assuming that the questions of interference and frequency blockage are satisfactorily resolved (see paragraphs 54-58 . . . [of the Notice]), we see no real basis for the asserted fears that the authorization of specialized systems would affect rates for existing common carrier services or delay the planned construction of high-capacity systems in this decade. Preliminarily, we note that there appears to be a basic inconsistency between the claim of adverse impact and the contention that there is no public need for the proposed services. Clearly, if the applicants are unable to attract subscribers because their needs are being fully and satisfactorily met by established carriers, there can be no adverse impact. On the more reasonable premise that unmet public need exists, some diversion of existing and potential traffic may occur. On the other hand, the stimulative effect of the specialized services may actually increase the amount of traffic being carried by the established carriers (see paragraph 29). Moreover, to the extent that they provide local distribution service as proposed by some of the applicants, established carriers would also realize an increase in business. Established carriers would, of course, be free to compete on equal terms with the new entrants and might obtain a very substantial portion of the specialized communications market.²⁴ Indeed, their established position and the fact that they already provide various communications services to potential customers for the specialized services could very well afford them a competitive advantage over newcomers to the field (see also paragraph 31 above).

40. It is important to recognize that we are concerned with only a relatively small percentage of established common carrier

²² We note that the carriers cannot consistently claim both that there is no need for these specialized services and that the geographical scope of applicants' proposals is too small.

²³ Indeed, the Bell System and Western Union began on a modest basis and gradually evolved to their existing positions. Moreover, while the Bell System serves the bulk of the Nation's population, it does not serve most small towns and rural areas.

²⁴ A representative of Datran has stated that it expects to obtain only about 10 percent of the data market by 1980 (see Telecommunications Reports, Vol. 36, No. 20 (May 18, 1970), page 5).

service to the public.²² For example, A.T. & T.'s present interstate business constitutes only about 30 percent of the Bell System's total business; about 87 percent of the interstate revenue is from message toll telephone and wide area telephone service (WATS), and these latter services have an annual growth rate of about 15 percent.²³ None of the applicants proposes to provide this type of service and we see no reason to expect any undesirable effects upon these services. An examination of A.T. & T.'s private line, program transmission and other more specialized services indicates that an estimate of the proportion of A.T. & T. services that is vulnerable to competitive inroads would be on the order of 2-4 percent of its existing total business. Moreover, it has been estimated that the existing plant of the Bell System will quadruple by 1980.²⁴ Thus, it is difficult to see how a diversion (if, indeed, there is any diversion) of some portion of that comparatively small percentage of total business represented by interstate specialized services would have any substantial effect on telephone rates and service or delay or preclude whatever expansion of facilities is needed to accommodate the rapid growth in telephone traffic. In light of this and the estimate of A.T. & T. that by 1980 data will amount to only 5-10 percent of its peak network load, we cannot find merit in the argument that the high-capacity facilities which A.T. & T. plans for the next decade are in any substantial or relative measure dependent upon a very substantial growth in data and specialized private line services of A.T. & T., far exceeding existing percentages, and would be made possible only by a denial of the applications before us.²⁵ Similarly, nothing before us warrants a conclusion that the uniform tariff policies of the established carriers would be endangered. It has not been shown that the rates of the new entrants would in fact be lower than Bell could justify with its uniform charging approach or that there is any real threat to the rates of the established carriers. In the event that adverse consequences to the public should develop, the Commission can take such action on the relevant tariff filings as may be necessary to protect the public. We think that in the context of the matters now before the Commission involving proposed new and different services, a question of this nature is more appropriately considered in connection with the tariffs rather than upon authorization of the facilities.

²² All of the applicants propose interstate facilities and services except three applicants in Texas, which, we understand, does not require state certification for intrastate service. Applicants proposing to operate where state or local authorization is required for intrastate service must, of course, obtain the necessary authorization prior to engaging in such service, and where proposed facilities are justified on the basis of intrastate service, local or state authorization must be obtained prior to the filing of microwave applications (see § 21.15(c) (4) of the rules).

²³ However, the telephone facilities may be used for the transmission of data (e.g., Dataphone). It has been estimated that about 200,000 of the present approximately 96 million telephones are Dataphones. The use of Dataphones is expected to increase.

²⁴ See Statement of R. R. Hough, Vice-president, A.T. & T., before the FCC during continuing surveillance meetings, week of Sept. 8, 1969.

²⁵ As earlier indicated (footnote 16 above), A.T. & T. has estimated that by 1980 data will amount to only 5-10 percent of its peak network load.

41. In addressing the question of pricing practices we must not overlook the possibility that the converse situation may arise. We refer to the possibility that the established carriers may file unduly low or discriminatory tariff schedules and thereby subject the new entrants who increase the competitive character of the market to unfair competition. In this connection we note that A.T. & T. could file tariffs which price its potentially competitive services below cost to prevent or limit entry and seek to recover the losses through cross-subsidy from its monopoly message toll telephone and WATS market. The Commission has already addressed itself to this problem by undertaking an examination of ratemaking principles in Dockets Nos. 16258 and 18128. See also the Commission's report and order in the domestic satellite proceeding (Docket No. 16495), 22 FCC 2d 86, 96. The notice of proposed rulemaking in Docket No. 18703 (FCC 69-1140) looks toward an expansion of the scope of information available to the Commission at the time of proposed rate changes or new services by any major carrier. In addition, the Commission is expected to address itself further in the near future to this problem and to explore the feasibility of establishing ratemaking standards which would identify cross-subsidization as well as policies directed to their prevention or elimination.

42. We turn now to a consideration of the other established carriers. First, there are the independent telephone companies. These are not engaged to any substantial degree in providing either interstate data or specialized private line services. Instead, for the most part, they are engaged in the provision of local exchange and other local services. They participate in interstate service primarily for the provision of the local distribution facilities. Under these circumstances it is difficult to visualize how they would be affected adversely by a grant of the pending applications. In fact, to the extent that these applicants rely upon or use existing local distribution facilities, their entry would increase the business of the independents.

43. The situation in the case of Western Union is different. Its revenues from leased systems and Telex account for about 30 and 15 percent, respectively of its total revenues, with the remaining 55 percent coming from message telegraph service and other services. The potential impact upon Western Union is therefore greater than upon either the Bell System or the independents. Such potential impact must, however, be evaluated in the context of the overall public interest. First of all, as already set forth in detail, we are here concerned with the sharing of a new, relatively untouched market in a field where even the present demand is growing at a very rapid rate. Secondly, the proposed services are designed to meet demands not being satisfied by the current services of the established carriers. Moreover, we believe that this market will best be served by a competitive service of supply. Thirdly, we are primarily concerned with the provision of interstate facilities. In this connection, we note that Western Union for the most part does not use its own facilities, but instead acquires them largely by lease or rental from A.T. & T. In fact, there is no established pattern for the installation of new facilities by Western Union other than its recently filed applications for facilities over a route from Cincinnati to Atlanta. Finally, the Commission has just announced that it has instructed its staff to prepare a decision approving Western Union's application to purchase the Bell System TWX system with estimated annual revenues of \$86 million for 1971. This in itself should, if the transaction is given final Commission approval, increase

Western Union's annual revenues materially. In view of all of these factors, it is our conclusion that additional competition is reasonably feasible and that the foreseeable public benefits from the new services set forth above (see paragraphs 30-35) far outweigh the potential dangers to Western Union. In any event, there is no substantial showing that a grant of the applications would deprive the public of any services provided by Western Union which it is now enjoying and there are very substantial grounds for finding that numerous benefits in the way of new, different and less expensive services would result from a grant of the pending applications.

44. The most important safeguard, however, is the fact that the Commission has ample power under the Communications Act to take such regulatory action as may be necessary in the public interest to avoid adverse impact on the achievement of statutory goals and, particularly, the basic purpose stated in section 1 of the Act. The Commission would, of course, not permit any degradation in overall services to the public or any impediment to the realization of their development. The results of any authorizations would be the object of close and continuous scrutiny by the Commission. Should adverse consequences develop or appear imminent, the Commission can take such remedial action or precautionary measures as may be necessary to protect the public. As indicated, appropriate action can be taken in connection with the tariffs. In addition, any renewal of license for the proposed facilities would require a public interest finding, and could be subject to any needed conditions. Moreover, the Commission's broad rule making powers are always available. Finally, we do not contemplate any protective umbrella to shield the competitors, except from predatory pricing and other unfair anticompetitive practices, or any artificial bolstering of operations that cannot succeed on their own merits.

45. In short, we have an opportunity now to see if the benefits that may reasonably be anticipated from entry of new carriers in this narrow field will in fact materialize. We can do so at what appears to be minimal risk. If we fail to explore this opportunity, the present situation in which one carrier dominates the entire domestic communications scene will continue indefinitely, and we are unlikely to know what the public may be missing. On balance, we think that the better course is the public interest is to apply long standing precedent to the area of domestic microwave services and to open the door to realization of the possible advantages while keeping a watchful eye to avoid any adverse effect.

45a. Accordingly, inasmuch as it appears that additional competition is reasonably feasible in this burgeoning market and that the entry of new carriers may be expected to benefit the public by providing new and differentiated services, there is no need to designate the pending and anticipated applications for hearing on the broad issue of whether the public interest would be served by competition to the established carriers in the provision of specialized services or on the related contentions with respect to alleged duplication of facilities, the general question of the need for the new services and impact on uniform tariff policies and existing services. Interested persons may make as full a showing as they desire on this aspect in their comments in this proceeding, and the Commission will, of course, carefully consider all material submitted in arriving at policy determinations. However, we do recommend

that the policy decisions made in the proceeding should be dispositive of such questions for purposes of these applications, in the absence of unusual and distinguishing circumstances.

(2) Positions of the Parties: Established Carriers

23. The established carriers (principally A.T. & T. and Western Union) do not purport to be opposed to competition per se but urge that rule making is an inappropriate procedure for resolving the policy issues involved in new entry, both as a matter of law and of sound regulation. They assert that the staff analysis rests on untested and unsupported assumptions, and that evidentiary hearing is required to compile a full record and to afford an opportunity for cross-examination—particularly as to the applicants' market studies and showings of need. A.T. & T. would settle for a single, nationwide evidentiary hearing whereas Western Union seeks multiple hearings on regions or individual routes.

24. For a more detailed description of A.T. & T.'s contentions, see Appendix C, pages 18-24, and Appendix D, pages 8-9. Very briefly, A.T. & T. asserts that the staff analysis has an inadequate basis and rests upon untested and unsupported assumptions that: The new entrants would provide new services (which the established carriers do not, or could not in the future, provide) and expand the size of the total communications market, that there is a burgeoning market sufficient to support indiscriminate entry of new specialized carriers, that there would be no effect on the ability of existing carriers to continue to realize declining unit costs, that there would be no impact on nationwide average rates, and that competition would spur innovation and the introduction of new technology.

25. A.T. & T. claims that there is no evidence as to the need for additional carriers, that it is not sufficient to rely on the Computer Inquiry and the market studies of the applicants, that it is erroneous to compare the proposed services with existing offerings since as public need develops, the existing carriers will meet it. It further asserts that the gist of the applicants' proposals is lower rates, whereas the real consideration should be lower costs. There are no facts before the Commission to establish that the Bell System has been unresponsive to data needs, or that the applicants would provide services as efficiently and economically as the Bell System. The existing structure of the communications industry has served the country well, and the Bell System is re-

² The position of A.T. & T. and Western Union is also supported by GT&E Service Corp. (T&E), United Telephone System (United), the United States Independent Telephone Association (USITA), the National Association of Regulatory Utility Commissioners (NARUC), Eastern Oregon Telephone Co. and Consulting Communications Engineers, Inc. We note, however, that International Telephone and Telegraph Co. (ITT) commented in support of new entry.

sponsive to new and emerging service needs including data (as shown by Appendix C to its comments, Appendix A to its reply comments, and its plans to complete construction of a digital data network for 60 cities by 1975).

26. In addition, A.T. & T. claims that the staff analysis does not adequately consider the effect of new entry on telephone users. It states:

The impact of such departure from well-established policy on quality and adequacy of the national telecommunications network, the services it provides, the declining unit costs realized and to be realized by the existing carriers, uniform nationwide rates, the pace of technical and service innovation, national security and efficient spectrum utilization—all matters of vital importance to users in general—would, we believe be substantial and cannot be ignored.

A.T. & T. asserts that the new entrants are proposing to engage in "cream-skimming"—selective competition whereby revenues from profitable routes are diverted by a new carrier which chooses not to serve less profitable routes. While the greatest demand has been and still is for voice communication, the growth rate of data sets was over 50 percent in 1969 and, absent new entry, private line revenues are projected to grow to \$1.5 billion by 1975 and \$2.7 billion by 1980. The diversion of revenues from new entry would not be insubstantial, and new entry might prejudice economies of scale benefits, delay the installation of large capacity facilities on high density routes—thereby jeopardizing the realization of declining unit costs, and cause a departure from Bell's practice of nationwide average rates. While the major impact would be interstate, the effect on separations cannot be ignored. And, finally, the staff analysis does not comport with sound administrative practice. The carriers have raised substantial public interest questions which require evidentiary hearing.

27. In the event that the Commission should authorize new entry, A.T. & T. urges that every carrier (including A.T. & T. and Western Union) should be able to compete fully under explicit ground rules set forth by the Commission. It agrees that there should be no cross-subsidization or temporary price cuts. However, A.T. & T. should be permitted to depart from its nationwide rate structure where that practice inhibits its ability to compete effectively. Long-run incremental costs should be the cost criterion for pricing competitive services, and there must be no protection of inefficient specialized carriers who have no economic basis for survival.

28. For a more detailed summary of Western Union's position, see Appendix C, pages 25-29. In brief, Western Union urges that the Commission is required, as a matter of law and sound regulation, to appraise the consequences of increased competition by new carriers in evidentiary hearings involving particular geographic areas and the specific services for which licenses are sought. There is

an expanding market for communications services, including data communication, but this market is not unlimited, is not growing at the same pace in various markets throughout the country, and its contours cannot be determined at this point in time. Evidentiary hearings are required by applicable law, for the Commission cannot by rule decide such adjudicatory issues as the nature and extent of the public need for particular services in a particular geographic area, the extent to which existing carriers will be injured in a given area by a particular type of new specialized service, or the relative benefits and burdens to the public on a particular route with respect to the particular communications service. Moreover, the staff analysis is based on multiple assumptions, none of which is supported by evidence or could be supported as a generality covering the entire nation and all possible forms of specialized communications services in all markets.

29. In addition, Western Union claims that the new entrants would be competing primarily among themselves and with Western Union, rather than with A.T. & T. Western Union states that its message telegraph service is a "profitless monopoly" and that 44 percent of its revenues and the bulk of its profits are derived from leased systems and Telex service. New entrants can be expected to divert substantial revenues from Western Union without compensating public benefits and such diversions would be particularly heavy initially, as a new entrant would almost certainly offer low rates in an attempt to obtain traffic. The result of a price war would be to weaken Western Union and reduce its ability to compete effectively with A.T. & T. Western Union claims that it is the only carrier with resources to provide effective competition to A.T. & T., and that new services cannot compensate for the loss or severe weakening of its service. If new entry is authorized, Western Union must be permitted to compete effectively and to offer its services at rates competitive with those of the new entrants. The Commission should declare that such rates are lawful, being based on competitive necessity, provided only that they do not burden a carrier's other customers.

Applicants

30. The applicants argue, with Department of Justice support (Appendix C, pages 32-36), that the rule making approach is entirely appropriate, in the public interest, and in accord with applicable legal and statutory authorities, Commission precedent in comparable situations, and the practice of other administrative agencies. They urge that the staff analysis comports with the RCA test, and is well-founded. They further claim that there is abundant warrant in the record and other material officially before the Commission for a finding that new entry in the special service market is reasonably feasible and can be ex-

pected to have some beneficial effects without adverse impact on established carriers. Their comments, which are summarized in Appendix C, pages 1-17, 42, and Appendix D, pages 1-8,²¹ are briefly highlighted below.

a. *Potential market and public need and demand for the proposed services.* 31. The MCI carriers state that the need and potential demand for the proposed services is evidenced by the record in the MCI case, the record in the Computer Inquiry (Docket No. 16070), and independent studies for the MCI carriers made by Spindletop Research Center, Arthur D. Little & Co., and Technical Communications Corp. in connection with the pending applications. They further point to Executive Branch reports favoring new entry, and comments by potential users and other members of the public in this proceeding.²² Appended days. N°95: Applicant does not intend to MCI's reply comments are representative views of 93 respondents expressing interest in the proposed services and/or some dissatisfaction with existing services of the Bell System (MCI Reply Comments, Appendix A) and excerpts from current technical publications dealing with the crisis in business and data communications (MCI Reply Comments, Appendix B).

32. The Datran filing contains an extensive discussion of its market study of the data transmission needs of seven major representative segments of the economy (securities, insurance, manufacturing, retailing, banking and finance, information systems and services, and health care). Datran urges that the projections and other information presented in its comments (see Appendix C, pages 8-10) represent a meaningful analysis of the current and expected data communications market, and establish conclusively that the market for such services can be expected to swell very significantly over the next decade. Applicant Southern Pacific Communications Co. relies on its own market studies and on additional market research studies made on its behalf by Computer Sciences Corp. which indicate substantial immediate demand and potential growth on its proposed routes (see Appendix C, page 14). It also relies on the comments and oral argument of its would-be customer, Greyhound Corp. (see Appendix C, pages 40-41). Nebraska Consolidated Communications Corp., an applicant formed and one-third owned by independent telephone companies, relies on an independent study by Arthur D. Little, Inc., and its showing of 50 or more potential customers in its applications. Nebraska Consolidated states that two of these are "firm, letter-of-intent customers" who by themselves would provide annual revenues of \$894,196 with a potential for significant increase (see Appendix D, pages 6-7).

²¹ At oral argument MCI stated that it relies especially on the comments of the Federal Home Loan Bank of Des Moines (Transcript of Oral Argument, pages 13-14).

33. The applicants further claim that the potential market is largely undeveloped at present and would be stimulated by new entry and various features in their proposals not presently offered by established carriers. MCI urges that its proposed "customized" or "individually tailored" private line services would offer customers the flexibility and benefits of private microwave at lower cost to the user, e.g., the exact bandwidth required for any particular service, any bandwidth that is required, and flexibility in the use of channels and customer terminal equipment. Datran claims that for data communications to reach their full potential, additional data transmission facilities with the features proposed by it are essential. Datran asserts that the most prevalent problems with present carriers are: Excessive costs, lack of carrier responsiveness, inadequate field services, and poor facilities performance (see also, paragraph 7 of the Notice). The improvements offered by its proposed all-digital switched network exclusively for data are: Lower cost, rapid connect, high availability, full-duplex switched service; end-to-end compatibility; wider selection of speeds; improved accuracy and reliability; better planning guides and counselling; faster and more reliable installation; more responsive and capable maintenance and repair; and greater flexibility in modifying or configuring services to meet specific needs. Datran further asserts that A.T. & T. is estopped from claiming there is no need for an all-digital switched network for data transmission, in view of its own plans to institute such a network in the mid-1970's.

b. *Impact on established carriers.* 34. MCI states that the lack of any substantial potential impact on A.T. & T. is established by statistics taken from A.T. & T.'s annual reports to the Commission. In 1969, total revenues for the Bell System were \$16.1 billion. Projected total revenues for all MCI carriers are approximately \$55 million per year.²³ The compounding effect of A.T. & T.'s 1969 rate of circuit growth (12-13 percent) would give it slightly over 1 million interstate circuits in 1980—almost a fourfold increase over the 294,032 interstate circuits in 1969. The bulk of Bell's revenues is derived from its switched voice telephone service—a rapidly growing field the applicants do not propose to enter. In 1969, A.T. & T.'s reported revenues from toll private line services (excluding video) accounted for only \$561,261,383 or 3.5 percent of its total operating revenues of \$16.1 billion. MCI's total projected yearly revenues would amount to only a small percentage of that small percentage of total Bell revenues. In 1969, it appears that data transmission accounted for only approximately \$267.5 million or 1.7 percent of Bell's total revenues. Even assuming the unlikely event of a total diversion of such revenues, the effect would be minimal and would not

²³ Since MCI's comments were filed, it has applied for three additional routes.

adversely affect the construction of new facilities needed for A.T. & T.'s rapidly growing basic telephone service, declining unit costs, or nationwide rate averaging for telephone users. Moreover, the applicants are seeking primarily to serve a potential specialized market which is largely yet to be developed, and A.T. & T. may obtain a substantial share of that untapped market. Datran similarly points out that it is difficult to conceive how its proposed system with an initial investment of some \$350 million could make any significant inroads on the revenues and economies of a nationwide telephone system which has over \$40 billion in plant, a \$7.7 billion investment program for 1971, and an \$8.2 billion program for 1972.

35. While Western Union's revenues and facilities are also dwarfed by those of A.T. & T., its total net income has risen by about 45 percent since 1965, and its 1969 revenues totaled nearly \$394 million. MCI asserts that Western Union's recent acquisition of TWX will further strengthen its position, adding an estimated \$86 million in revenues. In that proceeding, Western Union stated that it did not fear new entry in the specialized field and that the prompt transfer of TWX would give it sufficient lead time to stand up to such "indirect" competition. In the Matter of Western Union Telegraph Co. (Docket No. 18519), 24 FCC 2d 664, 673. MCI further notes that Western Union expects \$132 million from TWX-Telex, as compared with the \$39 million and \$47 million it received from Telex alone in 1968 and 1969. While Western Union's leased systems and other leased plant bring in about 32.6 percent of its yearly revenues (WU 1969 Annual Report, FCC Form R&O, pages 75-76), its largest systems are switched systems (the Automatic Digital Network for the Department of Defense and the Advanced Record System), as is Telex, with which MCI type carriers would not compete. Although Western Union has finally recognized the need for improved data communications by proposing to inaugurate a competitive system of its own, the proposed services of the applicants include many features which Western Union does not offer and has no plans to develop.

36. On "cream-skimming," MCI states that its carrier network will serve 75 percent of the population and 85 percent of the business community.²⁴ While Datran's proposed initial network is limited to the 35 markets that it believes have the greatest initial requirement for data transmission, it has represented to the Commission that it plans ultimately to expand its system to serve all significant markets. The applicants further note that A.T. & T.'s proposed digital data system would serve only 60 markets initially, and that its telephone network, while serving most of the Nation's population, serves slightly less than 50 percent of the served area of the

²⁴ See, e.g., Transcript of Oral Argument, page 14.

United States (as confirmed by the comments of USITA).

c. *Cost basis for the pricing of competitive services by established carriers.* 37. MCI, Datran, and the Department of Justice oppose A.T. & T.'s position that long-run incremental costs should be used as the relevant cost-criterion for pricing its competitive services. They state that incremental costs are difficult to determine, particularly where the same facilities are used to provide both competitive and noncompetitive services, and may be based on unwarranted assumptions and result in cross-subsidy. MCI claims that the only practical means of assuring that A.T. & T.'s rates for specialized services will be equitable and nondiscriminatory is to require that they be based on fully allocated costs. However, MCI states that the Commission need not resolve that question in this proceeding (MCI rebuttal comments, page 17).

Other Parties

38. Apart from the applicants, a large number (over 150) of potential users and equipment suppliers, their associations, and other interested entities commented in support of new entry and many urged the Commission to act expeditiously (see Appendix B, and Appendix C, pages 37-44). Two of these parties are Government agencies.

39. The comments of the Department of Justice strongly endorse a policy of new entry in the specialized field (see Appendix C, pages 33-36, and Appendix D, pages 10-13). The Department states that it appears to be the consistent conclusion of expert studies in this field that service offerings of established carriers have not been responsive to modern needs for communications services, particularly data transmission. This, the Department notes, may have resulted in part from the firm commitment of these carriers to traditional commercial and pricing policies and to facilities designed to provide traditional services. The various surveys also reveal that customers themselves recognize a need for new, highly specialized, variously packaged and economical communications services. The Department urges that the ultimate benefit of new entry is likely to be the offering of more varied, more responsive, more innovative, and more economically priced and packaged specialized communications services for today's users. New entry would further encourage product and service innovation and create stronger incentives for cost control and economical rates. The Department states that new entry would also be consistent with the policy embodied in the antitrust laws, and with the recent recommendations of various expert governmental bodies which have urged greater reliance on

competition in specialized services as well as in regulated industries generally.²⁵

40. The Small Business Administration (SBA) states that information available to it shows that small business concerns are interested in flexibility and customized service, more economical service, and greater ability to use terminal equipment of their own choosing—benefits which the existing carriers do not satisfactorily provide (see Appendix C, pages 37-38). As an example, SBA points to time sharing arrangements for centrally located converter facilities which depend upon adequate transmission services at economical rates and on the flexibility and fidelity of the transmission service. According to SBA:

Manufacturers and lessors of converter equipment have advised SBA that expansion of such systems, even to the outlying areas of large cities, is impeded and even prohibited by the high cost of transmission services and because of the inefficiencies inherent in transmission of information over voice grade transmission facilities. The fact that such present use of such systems is limited to very small geographic areas, for example, the Loop area in Chicago, attests to the accuracy of these contentions.

SBA asserts that the pending proposals of the applicants would provide direct and immediate benefits to small business in the area of improved transmission and reduced rates (e.g., by the elimination of switching costs for the MCI type of proposal), and through increased opportunities for small business concerns to sell equipment, supplies, and services.

41. Various computer and data processing interests asserted their dissatisfaction with present services and need for the proposed services. The Computer Timesharing Services Section of the Association of Data Processing Service Organizations (ADAPSO) states that present carriers have not shown the administrative ingenuity necessary to permit technological advances in time-sharing computer services (see Appendix C, page 39). ADAPSO claims that there is an important and immediate need for common carrier services such as those proposed by the applicants, who would be motivated to provide contemporary, state-of-the-art facilities. The Information Network Division of Computer Sciences Corp. gives examples in its comments of difficulties experienced with existing carriers in the area of quality

²⁵ President's Task Force on Communications Policy, Final Report, Chapter 6, page 10 (1968); President Nixon's Special Task Force on Productivity and Competition under Professor George J. Stigler of the University of Chicago (Cong. Rec., June 12, 1969, pages 6530-6532); President's Council of Economic Advisers (Economic Report of the President, 1970, pages 108-109; Economic Report of the President, 1971, pages 128-129).

and reliability of service. The American Society for Information Sciences expressed the interest of libraries and other information centers in new entry to facilitate the sharing of data banks, and their need for low cost data transmission facilities with rapid communication-response time (see Appendix C, page 39). Many other entities involved in various software and hardware aspects of the computer and data processing industries submitted comments in a similar vein (e.g., Computer Sciences Corp.; National Information Systems Corp.; Bunker-Ramo Corp.; Common; Communicon; Noxwell Corp.; DIDO, Inc.; Data Communications Association; Dacom, Inc.; Industrial Data Engineers Associates, Inc.; Communications Unlimited, Inc.; Computer Communications Engineering Technology; Memorex Corp.; Paradyme Corp.; Industry Data Systems, Inc.; Tel Tech Corp.; Sanders Associates, Inc.; Computer Terminals of Minnesota, Inc.; and the Business Equipment Manufacturers Association (Data Processing Group)).

42. A number of potential users or their associations have expressed a need for and an interest in the proposed new services and facilities. The National Retail Merchants Association (NRMA) states that there is a real need, not adequately met by existing carriers, for new private line and data transmission services (see Appendix C, page 40). NRMA has conducted a survey among its members with particular emphasis on those retailers with growing private line requirements, and has attached to its filing questionnaires answered by 11 of the Nation's principal retailers (which have approximately 6,000 individual retail stores in the United States and do an annual aggregate of \$20 billion in retail sales). Those responding favor new entry and anticipate benefits in the form of service innovation and customer responsiveness, even assuming that rates do not turn out to be lower. The American Bankers Association has also conducted a survey among its members and, on the basis of replies from 3,251 banks, states that the industry favors new entry and has a need for higher data transmission speeds, as well as for exceptionally high quality transmission facilities (Appendix C, page 43).²⁶ Greyhound Corp. states that it is vitally interested in the opportunities for new and additional bulk communications services which may be made available by new entry, and gives

²⁶ A number of individual banks also filed comments in support of new entry (e.g., Federal Home Loan Bank of Des Moines; National Bank of Joliet; Federal Home Loan Bank of Boston; Security Pacific National Bank; Valley National Bank; and United California Bank).

examples of the features in Southern Pacific's proposed system that are of particular interest to Greyhound (see Appendix C, pages 40-41). Comments in support of new entry were filed by such entities as: The Central Committee on Communications Facilities of the American Petroleum Institute; the Utilities Telecommunications Council; the National Consumer Marketing Corp.; the Federation of Independent Business; the Joint Council on Educational Telecommunications; Hallmark Cards; Pillsbury Co.; Kaiser Aluminum and Chemical Corp.; National Gypsum Co.; Martin Marietta Co.; REA Express; Mobile Oil Co.; Schlage Lock Co.; and, filing jointly: Bethlehem Steel Corp.; E. I. du Pont de Nemours and Co., Inc.; Olin Corp.; Union Carbide Corp.; United States Steel Corp.; American Express Co.; and Weyerhaeuser Co. For other potential users favoring new entry, see Appendix B.

43. Several equipment manufacturers have filed comments supporting new entry, partly because of public need for the proposed services, but primarily on the ground that new entry would stimulate developments in microwave and electronics technology and expand the market for such equipment. Such parties include: the Electronics Industries Association; International Telephone and Telegraph Corp.; Miteq, Inc.; General Electric Co.; Conic Corp.; and Alpha Industries, Inc.

44. Finally, comments in support of new entry have been received from various communications interests not directly concerned with the particular services proposed by the applicants. The three national television networks state that the adoption of policies which would encourage the entry of new entities into the common carrier field to meet special communications requirements, including, among others, those providing alternatives to users in meeting their special needs in the program transmission area, would be "highly desirable." The National Cable Television Association agrees that the availability of additional choices as to the means of satisfying communications needs would be of "inestimable value." The National Association of Radiotelephone Systems (NARS) states that unquestioned benefits have resulted from the existing competition between landline and nonlandline carriers in the domestic radio common carrier field, though improved, more efficient, and less expensive communication service. NARS is of the firm belief that competition between huge, diversified carriers and small, specialized or single purpose carriers will continue to benefit the public and must be encouraged by the Commission.

3. Discussion and Conclusions on Issue A

45. In short, practically all of the parties, including a wide range of interested public participants, support the analysis of our staff and urge expeditious adoption of a policy in favor of new entry on the basis of the record in this proceeding.

We shall therefore address our attention to the arguments of those who are opposed, namely, the established carriers and related interests. The carriers claim, in essence, that rule making is an inappropriate procedure for resolving the policy issues involved in new entry, both as a matter of law and of sound regulation; that the staff analysis does not comport with the applicable legal standard for new entry and rests on untested and unsupported assumptions; and that evidentiary hearing is required to determine the nature and extent of the potential market, the need for new entry, and the effect on existing carriers and their services.

a. *The Commission's authority to proceed by rule making.* 46. Upon consideration of the entire record, including the arguments made and authorities cited by the carriers, we remain of the view that rule making is an appropriate and proper procedure for resolving the broad policy issues confronting us here. As stressed at the outset (paragraph 2 above), this proceeding does not undertake to decide all of the issues pertinent to the pending applications, and does not go to the qualifications of the applicants or the sufficiency of particular proposals. Such questions will be resolved by appropriate procedures when the applications are processed. Rather, our purpose here is to consider what A.T. & T. has described as "basic and important policy questions regarding the future development of the common carrier communications services throughout the United States" (paragraph 12 above). These questions necessitate an analysis of the trends and needs of the industry, are common to all of the myriad proposals and opposition pleadings, and concern a large number of other interested persons. Moreover, for the reasons discussed in paragraphs 62-102 below, we are of the opinion that the record and other material officially before the Commission affords ample basis for a decision on the policy questions and that there is no material issue of fact requiring evidentiary hearing. In our judgment, a prior resolution of the policy aspect through rule making procedures would best conduce to a prompt, orderly and efficient disposition of these applications, and would serve the end of justice to all concerned (see section 4(j) of the Communications Act).

47. The Commission's legal authority to resolve the basic policy issues posed by new carrier entry in the specialized communications field through rule making rather than adjudicatory procedures seems clear. It has been generally established since *SEC v. Chenery Corp.*, 323 U.S. 194, 202, 203, that:

The function of filling in the interstices of the Act should be performed as much as possible, through this quasi-legislative promulgation of rules to be applied in the future. . . . [T]he choice made between proceeding by general rule or by individual, ad hoc litigation is one that lies primarily in the informed discretion of the administrative agency.

Section 214 of the Communications Act contains no explicit hearing requirement

except as a prerequisite to an order directing the establishment of facilities (section 214(d)). The hearing requirement of section 309 of the Communications Act does not withdraw "from the power of the Commission the rule making authority necessary for the orderly conduct of its business" (*United States v. Storer Broadcasting Co.*, 351 U.S. 192, 202 (1956)), and "does not preclude the Commission from particularizing statutory standards through the rule making process" (*FPC v. Texaco*, 377 U.S. 33, 39 (1964)). Moreover, the general rule making power of the Commission is not limited to specific statutory authorizations, but extends to matters "not inconsistent with the act or law." *United States v. Storer Broadcasting Co.*, supra, 351 U.S. at 202.

48. The adoption of policy, like that of a basic change in policy, "is better and more fairly examined and considered in rule making proceedings, where the inquiry can be thorough and where all interested parties can participate" (*Hale v. FCC*, 425 F.2d 556, 560 (C.A.D.C., 1970)). In *WBEN, Inc. v. United States*, 396 F.2d 601, 617, 618 (C.A. 2, 1968), cert. den. 393 U.S. 914, the Court stated:

The Commission was on solid ground as a matter of good sense, in concluding that "a more particularized approach . . . would [not] throw significantly more light on the appropriate course of action in a given situation, anything like enough to warrant the burden involved. . . ." Adjudicatory hearings serve an important function when the agency bases its decision on the particular situation of individual parties who know more about this than anyone else. But when, as here, a new policy is based upon the general characteristics of an industry, rational decision is not furthered by requiring the agency to lose itself in an excursion into detail that too often obscures fundamental issues rather than clarifies them.

See also, *American Airlines, Inc. v. CAB*, 359 F. 2d 624 (C.A.D.C.), cert. den. 385 U.S. 843 (1966), to effect that the *Storer* doctrine:

. . . rests on a fundamental awareness that rule making is a vital part of the administrative process, particularly adapted to and needful for sound evaluation of policy in guiding the future development of industries subject to administrative regulation in the public interest, and that such rule making is not to be shackled, in the absence of clear and specific Congressional requirement, by importation of formalities developed for the adjudicatory process and basically unsuited for policy rule making.

Accord: *Regular Common Carrier Conf. v. United States*, 307 F. Supp. 941 (D.D.C., 1969).¹³

¹³ See also, *American Pilots' Association v. Quesada*, 276 F. 2d 892, 896 (C.A.D.C., 1960); *American Commercial Lines v. CAB*, 392 U.S. 571, 592; *Grain Elevator, Flour & Feed Mill W., ILA, Local 418 v. NLRB*, 376 F. 2d 774, 781 (C.A.D.C., 1967); *Cornell University v. United States*, 427 F. 2d 680, 685 (C.A. 2, 1970); *Superior Oil Company v. Federal Power Commission*, 322 F. 2d 601, 612, 619 (C.A. 9, 1963), cert. den. 377 U.S. 922, rehear. den. 377 U.S. 960; *United Air Lines, v. CAB*, 228 F. 2d 13, 16 (C.A.D.C., 1955).

49. This Commission has generally utilized its rule making powers in considering the policy questions involved in the establishment of new communications services on a nationwide basis, including those with potential competitive impact on existing licensees, and other matters of overall industry consequence. See, for example, *Allocations of Frequencies in the Bands Above 890 Mc*, 27 FCC 359 (1959), reconsideration denied 29 FCC 825 (1960)—authorizing private microwave systems as an alternative to the use of common carrier facilities; *General Mobile Radio Service et al.*, 13 FCC 1190 (1949)—authorizing the development of competing common carrier systems in the two-way mobile radio field by allocating separate frequencies for landline and nonlandline companies; *Establishment of Domestic Communication Satellite Facilities by non-Government Entities*, 22 FCC 2d 86 and 810 (1970)—consideration of the policy questions involved in applications for domestic communications satellite systems; *Television Inter-City Relay Stations*, 17 Pike & Fischer, R.R. 1621 (1958)—authorizing television stations to establish their own specialized inter-city microwave facilities; *Bamberger Broadcasting Services, Inc.*, 11 FCC 211 (1946)—establishment of the FM service; *Peoples Broadcasting Co. v. United States*, 209 F. 2d 286 (C.A.D.C., 1953) and *Logansport Broadcasting Corp. v. United States*, 210 F. 2d 24 (C.A.D.C., 1954)—sustaining the Commission's use of rule making to promulgate a nationwide Table of Assignments in the television broadcasting field; *First and Second Report and Order on CATV*, 38 FCC 683 (1965) and 2 FCC 2d 725 (1966)—rules governing the carriage and nonduplication of broadcast stations by CATV systems; *First Report and Order in Docket No. 18397*, 20 FCC 2d 201 (1969)—CATV program origination.¹⁴

50. It is important to bear in mind that we are "concerned here only with the type of hearing required, not with the right to a hearing" (*Transcontinent Television Corp. v. FCC*, 308 F. 2d 339, 343 (C.A.D.C., 1962)). The parties have been fully heard on the issues specified in the Notice in accordance with the rule making procedures prescribed in the Administrative Procedure Act (5 U.S.C. 553). In addition, they have been accorded oral argument before the Com-

¹⁴ In the Second CATV Report the Commission attempted the evidentiary hearing approach to the carriage of distant signals in major markets. But after completing one major market hearing, the Commission "recognized the inadequacy of such individual hearings and the need 'for the formulation of overall policy' to govern CATV operations" in major markets and accordingly instituted rule making "designed to achieve the 'far-ranging, overall view [that] is necessary if the Commission is to come to grips with this dynamic field'" (*Bucks County Cable TV, Inc. v. United States*, 427 F. 2d 438, 445-446 (C.A. 3, 1970)). See *Midwest Television, Inc.*, 13 FCC 2d 478, 488-489; *Notice of Proposed Rule Making in Docket No. 18397*, 15 FCC 2d 417, 433-434.

mission en banc and an opportunity to submit written rebuttal. A party is not "entitled to insist upon a different sort of hearing than it was accorded" unless there is a specific and significant factual issue in dispute that needs to be resolved by confrontation and cross-examination of witnesses. *Transcontinent Television Corp. v. FCC*, supra; *Goodwill Stations v. FCC*, 325 F. 2d 637, 641-642 (C.A.D.C., 1963). The mere circumstances that an issue may be subject to controversy does not necessitate a resolution of the matter through adjudicatory procedures. We are not persuaded that there is any such issue here (see paragraphs 62-102, below). Evidentiary hearing is not required where the "applications, exhibits, affidavits, intervention petition and other pleadings, developed the salient facts of dispute to a sufficient depth and detail that the Commission was enabled to perceive, define and resolve the various strands of public interest" (*Citizens for Allegany County, Inc. v. FPC*, 414 F. 2d 1125, 1129 (C.A.D.C., 1969)).¹⁵ Further, the "subordinate questions of procedure in ascertaining the public interest, when the Commission's licensing authority is invoked—the scope of the inquiry, whether applications should be heard contemporaneously or successively, whether parties should be allowed to intervene in one another's proceeding, and similar questions—were explicitly and by implication left to the Commission's own devising" (*FCC v. WJR, The Goodwill Station, Inc.*, 337 U.S. 265, 283 (1949)).

51. That the carriers claim adverse impact may flow from a policy in favor of new entry, does not invalidate the use of the rule making procedure to weigh that factor. The use of rule making may be "valid even if its effect is to drive some operators out of business" (*American Trucking Association v. United States*, 344 U.S. 298, 322), or the results are "of immediate and grave economic import to petitioner" (*Williamson Oysters, Inc. v. Ewing*, 174 F. 2d 676, 694 (C.A. 9, 1949), cert. den. 339 U.S. 860, rehear. den. 339 U.S. 945), or some "will be easily able to survive under these rules; some will not" (*Capitol Airways, Inc. v. Civil Aeronautics Board*, 292 F. 2d 755, 758 (C.A.D.C., 1961)).¹⁶

¹⁵ See also, *NBC v. Federal Communications Commission*, 362 F. 2d 946 (C.A.D.C., 1966); *Alaska Steamship Co. v. FMC*, 356 U.S. 59 (1966); *FPC v. Texaco Co. Inc.*, 377 U.S. 33 (1964); *Pikes Peak Broadcasting Co. v. FCC*, 422 F. 2d 671 (C.A.D.C., 1969); *Railway Express Agency v. CAB*, 345 F. 2d 445 (C.A.D.C., 1965); *California Citizens Band Association v. FCC*, 362 F. 2d 946 (C.A.D.C., 1966).

¹⁶ See also, "The Choice of Rule Making or Adjudication in the Development of Administrative Policy," 78 Harv. L. Rev. 921 (March 1965); Robinson, "The Making of Administrative Policy: Another Look at Rulemaking and Adjudication in Administrative Procedural Reform," 118 U. of Pa. Law Review 485 (1970) Davis, *Administrative Law Treatise*, Vol. 1, Sec. 6.13, 1965, Pocket Supp., pages 150-151; "The Use of Agency Rule-making to Deny Adjudication Apparently Required by Statute," 54 Iowa Law Review 1086 (1969).

52. We are not persuaded by Western Union's contention that the broad policy issues involved in new entry should be examined in individual proceedings on a route by route basis. As A.T. & T. points out, we are concerned here with the future development of communications services throughout the United States. Both A.T. & T. and Western Union operate on a nationwide basis. Datran has proposed a nationwide, switched network, the MCI carriers also propose nationwide operations through interconnection, and various other applicants (such as Southern Pacific, Western Telecommunications, Inc., and United Video) have proposed routes crossing very large geographic areas of the United States. Moreover, many of the potential customers expressing a need for and interest in the proposed service have business operations or other activities which are nationwide in scope. While there obviously may be some differences among routes, no circumstances have been called to our attention that might lead us to believe that new entry to serve expanding and new markets for specialized communications service would be contrary to the public interest in any particular area. Our review of the applications and opposition pleadings filed prior to the Notice clearly indicates that in each case both sides rely essentially on the same arguments. We see no interest of the public to be served by holding a multiplicity of proceedings to consider the same contentions over and over again, or by a piecemeal, regional evaluation of policy factors which are essentially nationwide in scope. If the record before us enables us to conclude—as we believe it does—that new entry on a nationwide basis is in the public interest, it follows that route-by-route analysis as sought by Western Union is neither necessary nor desirable. Moreover, the delay entailed in such a cumbersome procedure would be contrary to the public interest in an early resolution of the need for the systems proposed to be established.

53. Contrary to the further contention of Western Union, we have not abdicated our regulatory functions or engaged in a wholesale de-regulation of a class of carriers by invoking our rule making powers to consider the policy issues posed by new entry in the specialized field. Where, as here, the rule making procedure permits a sound evaluation and determination of policy to guide the future development of the industry and is also conducive to a prompt, orderly and efficient disposition of the matters at issue, we are effectuating our statutory responsibilities, rather than abrogating them, by choosing the procedure deemed most suitable to a resolution of the kind if issue before us.¹⁷ SEC

¹⁷ As in the case of any policy or rule of general applicability, a waiver, exception or evidentiary hearing may be granted upon an adequate showing of exceptional circumstances making it inappropriate to apply the policy or rule in a particular situation. *United States v. Storer Broadcasting Co.*, 351 U.S. 192, 205 (1955).

v. Chenery Corp., supra; Hale v. FCC, supra. Our disposition of the policy aspect is consistent with applicable legal standards (see sections (b) and (c) below), and does not constitute a determination that all or any of the pending applications will be granted. Each application must still meet applicable statutory standards and comport with the policies established herein. Thus, each applicant will be "required to make a satisfactory showing that it is qualified and that the service it seeks to offer is technically and economically sound and would otherwise serve the public interest" (paragraph 2 above).

54. In sum, assuming the validity of our conclusion below (section (c)) as to the absence of any significant factual issue requiring resolution through confrontation and cross-examination of witnesses, we must reject the contention that we have exceeded our legal authority or abused our discretion by utilizing the rule making procedure to determine Issue A.

b. Applicable legal standard for authorizing new entry. 55. The carriers further contend that the staff analysis does not comport with the applicable legal standard for authorizing new carrier entry. They assert that under section 309 of the Act, where an applicant is a carrier the Commission must apply the standards of section 214. It is further claimed that this section was enacted to avoid wasteful competition and uneconomic duplication of facilities, and requires a finding that there is a need for the proposed services which existing carriers are not now adequately meeting and could not in the future adequately meet. We are of the opinion that this is too narrow a construction of sections 309 and 214 and the Commission's responsibilities thereunder.

56. The statutory standard governing the Commission's consideration of applications for microwave radio facilities to provide common carrier services is broadly stated in sections 309 and 214 of the Communications Act: whether a grant would serve the present or future public interest, convenience and necessity—a "criterion not too indefinite for fair enforcement." FCC v. RCA Communications, Inc., 346 U.S. 86, 90 (1953). In determining the threshold question here as to whether a licensing policy in favor of new entry would meet that test, the basic touchstone for decision is the Commission's mandate to regulate "interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service with adequate facilities at reasonable charges . . ." (section 1 of the Act). Section 303(g) of the Act further directs that the Commission shall "generally encourage the larger and more effective use of radio in the public interest."

57. In order to accomplish this "comprehensive mandate," the Commission was given "not niggardly but expansive powers" and wide discretion to adopt

flexible procedures, rules and orders to meet everchanging communications needs. Sections 4 (i) and (j) and 303(r) of the Communications Act; National Broadcasting Co. v. United States, 319 U.S. 190; FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 137-138; United States v. Southwestern Cable Co., 392 U.S. 157, 172-173; United States v. Storer Broadcasting Co., 351 U.S. 192, 202-203. This flexibility to take administrative action imperative for the achievement of an agency's ultimate purpose applies not only to broadcasting but also to the field of common carrier regulation. Perlmutter Basin Area Rate Cases, 390 U.S. 747, 776-777; American Trucking Association v. Atchison, Topeka and S. F. Ry. Co., 387 U.S. 397, 416.¹⁴ As the Supreme Court stated in American Trucking (id.):

[We] agree that the Commission, faced with new developments or in light of reconsideration of the relevant facts and its mandate, may alter its past interpretation and overturn past administrative rulings and practice. . . . In fact, although we make no judgment as to the policy aspects of the Commission's action, this kind of flexibility and adaptability to changing needs and patterns of transportation is an essential part of the office of a regulatory agency. Regulatory agencies do not establish rules of conduct to last forever; they are supposed within the limits of the law and of fair and prudent administration, to adopt their rules and practices to the Nation's needs in a volatile and changing economy. They are neither required nor supposed to regulate the present and the future within the inflexible limits of yesterday.

58. It is settled, moreover, in the communications common carrier field that "competition is a relevant factor in weighing the public interest" and that the exercise of the Commission's statutory responsibility "leaves wide discretion and calls for imaginative interpretation." FCC v. RCA Communications, Inc., 346 U.S. 86, 90, 93-97 (1953). To be sure, the Commission may not grant applications to provide a competitive service merely because it assumes that "competition is bound to be of advantage, in an industry so regulated and so largely closed as this one" (id., at 97). However, it may authorize competitive entry after an analysis of the trends and needs of the industry and in the exercise of "the discretion given it by the Congress" (id., at 95, 97). "In reaching a conclusion that duplicating authorizations are in the public interest wherever competition is reasonably feasible, the Commission is not required to make specific findings of tangible benefit" (id., at 96). "In the nature of things, the possible benefits of competition do not lend themselves to detailed forecast (id., at 96). The 'Commission must at least warrant, as it were, that competition will serve some beneficial purpose such as maintaining good service or improving it' (id., at 97). While an applicant is not required to demonstrate tangible benefits, there must be 'ground for reasonable expectation

¹⁴ See also, Fuchs, "The New Administrative State: Judicial Sanction for Agency Self-Determination in the Regulation of Industry," 69 Columbia Law Review 216 (1969).

that competition may have some beneficial effect" (id., at 97).¹⁵

59. Upon review of the staff analysis, we think that it follows the standard of the RCA case and treats the considerations pertinent to the exercise of our discretion. We do not agree with the carriers' position that a policy in favor of new entry can legally and appropriately be adopted only if we conclude that the established carriers could not, in the future, adequately provide the proposed services. (See also, paragraphs 72 through 76 below). There is no uniform requirement that new entry may be authorized only if existing carriers are unable or unwilling to provide the proposed services.¹⁶ Adequacy of existing

¹⁵ On remand in that case the Commission concluded on the basis of its experience that competition resulting from a grant of the applications was reasonably feasible and would serve the public interest. It stated: "What we require is, that, in order to be successful an applicant must demonstrate that, as has been done here, through the operation of such a circuit, some public need would be served or some advantage would accrue to the public, or at least that there is a reasonable expectation that such competition may have some beneficial effect." Mackey Radio and Telegraph Company, Inc., 19 FCC 1321, 1350 (1955), aff'd, RCA Communications, Inc. v. FCC, 238 F.2d 24, 27-28 (1956), cert. den. 352 U.S. 1004 (1957).

¹⁶ It has often been stated in cases involving the enjoinder of uncertificated construction (e.g., Texas & Pacific Ry. v. Gulf C. & S. F. Ry., 270 U.S. 268, 277 (1926); Texas N.O.R.R. v. The Northside Belt Ry., 276 U.S. 475, 479 (1928); Long Island R.R. v. New York Central R.R., 281 F.2d 379, 384 (C.A.2, 1930)) that the purpose of requiring a certificate for new construction under the Interstate Commerce Act was to prevent waste of carrier resources of two sorts—waste of the resources of the constructing carrier by unwise expenditures and waste of the resources of other carriers by extension of a new carrier into an area adequately served by existing lines. However, this does not mean that the ICC in deciding whether to issue a certificate under the public interest, convenience and necessity criterion of that Act may not take into account "the transportation needs of the public," the "necessity of enlarging transportation facilities," and "measures which would best promote the service in the interest of the public and the commerce of the people." New York Central Securities Corp. v. United States, 287 U.S. 12, 24-25. Moreover, whatever the analogy between the railroad cases and competitive entry in the monopoly telephone and telegraph fields, "questions of competitive injury in the transportation field are very different from questions of public injury in the field of communications" in others areas and this Commission need not adopt the rationale of ICC decisions where they are of little relevance to the situation before it. Carter Mountain Transmission Corp. v. FCC, 321 F.2d 359, 362-363 (C.A.D.C.), cert. den. 375 U.S. 951 (1963). What is involved here is a quite different situation: the sharing of relatively new markets which are expanding at a rapid rate and have a very large future growth potential. Further, while wasteful duplication is generally to be avoided, duplication is not wasteful where a certificating agency appropriately concludes that competition is reasonably feasible and may be expected to have some beneficial effect (FCC v. RCA Communications, Inc., supra).

common carrier service is "only one element to be considered in arriving at the broader determination of public convenience and necessity Other elements of importance appear to be the desirability of competition, the desirability of different kinds of service and the desirability of improved services." Nashua Motor Express, Inc. v. United States, 230 F. Supp. 646, 652 (D. N.H., 1964), and cases there cited.¹⁷ Where, as here, growing future traffic is involved, the "adequacy of existing carriers to render the new service is not determinative" (ICC v. J-T Transport Co., 368 U.S. 81, 88 (1961)).¹⁸ A certificating agency "should consider the public interest in maintaining the health and stability of existing carriers, see United States v. Drum, 368 U.S. 370, 374 (1962); but it is also true that, upon the basis of appropriate findings, 'the Commission may authorize the certificate even though the existing carriers might arrange to furnish successfully the projected service.'" United States v. Dixie Highway Express, Inc., 389 U.S. 409, 411-412 (1967). See also, ICC v. Parker, 326 U.S. 60, 70 (1945).

60. "[N]o carrier is entitled to protection from competition in the continuance of a service that fails to meet a public need, nor, by the same token, should the public be deprived of a new and improved service because it may divert some traffic from other carriers." Schaffer Transportation Co. v. United States, 355 U.S. 83, 91 (1957). A certificating agency "may properly look to the existence of some competition, even if entry is limited by legal barriers or regulatory necessity, as an important and effective tool in increasing efficiency and quality of service." Atlantic Seaboard Corp. v. FCC, 404 F.2d 1268, 1272 (C.A.D.C., 1968). When an industry is "a highly regulated industry critical to the Nation's welfare," this "makes the play of competition not less important but more so." United

¹⁷ As the Department of Justice points out, the older ICC decisions in motor carrier cases, such as Hudson Transit Lines, Inc. v. United States, 82 F. Supp. 153 (S.D. N.Y., 1948), aff'd, 338 U.S. 802 (1949), no longer represent the modern approach in the motor carrier field. See also, Fulda, Competition in the Regulated Industries (Transportation) 88 (1961): "The central fact of intercity motor carriage of passengers is the existence of the Greyhound Corporation Hence certification attempts by independent bus lines usually represent attempts to compete with the giant who overshadows the industry. It is not surprising that, on the whole, the Commission reacted favorably to these efforts."

¹⁸ In the J-Transport Co. case, the Supreme Court stated that:

"By indulging in a presumption 'that the services of existing carriers will be adversely affected by a loss of potential traffic, even if they have not handled it before,' and by assigning to the applicants the burden of proving the inadequacy of existing services, the Commission favored the protestants' interests at the expense of the shippers' in a manner not countenanced by anything discoverable in Congress' delegation to it of responsibility." (368 U.S., at 90).

States v. Philadelphia National Bank, 347 U.S. 321, 372 (1963). In Strickland Transportation Co., Inc., Extension—Louisiana Routes, 77 M.C.C. 655 (1958), additional competition was certificated because the existing carriers "cannot be depended upon to provide the type of service of which they are capable, except when faced with imminent threat of additional competition." And when there is doubt as to whether the facilities of existing carriers will be expanded fast enough to meet growing and significant future needs, a certificating "Commission has discretion to decide" that "the public interest requires that future . . . needs be assured rather than left uncertain," i.e., that the best regulatory action is to certificate additional carriers prepared to meet those needs. United States v. Detroit and Cleveland Navigation Co., 326 U.S. 236, 241 (1945).

61. It is in this broader and more flexible context that we believe we should apply the statutory standards of sections 309 and 214 to resolution of the issue of entry which is before us.

c. The sufficiency of the record to enable a decision on the merits. 62. We turn now to the carriers' argument that the staff analysis rests on untested and unsupported assumptions, and that evidentiary hearing is necessary to determine the nature and extent of the potential market, the need for new entry, and the effect on existing carriers and their services.

63. Upon review of the entire record and other material officially before the Commission, we find ample support for the staff's conclusions as to the trend of the communications industry generally, the nature of the potential market, and the public need and demand for the proposed services. (Notice, paragraphs 29-30.) There is no room for dispute that the demand for communications services is growing very rapidly and can be expected to continue to expand at very high rates. This is shown by the statistics contained in the carriers' annual reports to the Commission and other filings over the last several years.¹⁹ Projecting present growth rates, A.T. & T. has estimated that the existing plant of the Bell System would quadruple by 1980 (see statement of A.T. & T. Vice President R. R. Hough before the FCC during continuance surveillance meetings, week of September 8, 1969). It is clear, moreover, that this projection is based primarily upon the rapidly expanding growth in local and interstate use of the standard voice communications services of the Bell System—services which the applicants do not seek to provide. Inter-

¹⁹ The carriers do not, of course, repudiate the figures contained in their own reports to the Commission. MCI in its comments has accurately referred to some of these statistics. We occasionally select others as more relevant for our purposes. While the choice as to the relevant statistics may be subject to argument, the statistics themselves are unchallenged and do not require evidentiary hearing.

state revenues constitute only about 30 percent of A.T. & T.'s total revenues, and about 87 percent of the interstate revenue is derived from message toll telephone and wide area telephone services which have an annual growth rate of about 12 percent. Indeed, A.T. & T. notes in its comments that the "greatest service demand has been and still is for voice communication" (A.T. & T. comments, page 50).

64. It may be helpful at this point to clarify one matter. Contrary to the contention of some of the parties, the staff analysis did not err by placing too much emphasis on A.T. & T. and too little on Western Union and the independent telephone companies. In analyzing the trends of the industry, the needs of the public, and the effect of new entry in the interstate specialized field on services of established carriers, it is necessary and appropriate to focus primarily on A.T. & T. There is no question but that A.T. & T. is now the dominant entity on the domestic communications scene. In 1970, the Bell System had gross operating revenues of approximately \$16.9 billion, as compared to approximately \$402.4 million for Western Union, and their gross investments in communications plant were approximately \$54.8 billion for the Bell System and \$939.6 million for Western Union (1970 A.T. & T. Annual Report (Form M), Schedule 12A; 1970 Western Union Annual Report (Form O Advance Copy), Schedule 100). A.T. & T.'s investment program is on the order of \$7.7 billion for 1971 and \$8.2 billion for 1972. While Western Union's revenues and facilities are growing,²⁰ its operations are on a modest scale alongside those of A.T. & T. For purposes of this proceeding, we accept the estimate of USITA (Appendix C, page 31) that the independent telephone companies have invested over \$11 billion in some 11,000 local exchanges. However, they participate in interstate service primarily by providing local distribution facilities which interconnect with the facilities of the Bell System. They do not, with minor exceptions, furnish intercity facilities. Thus, while the potential impact on Western Union and the independents is a relevant factor to be weighed in our determination (see paragraphs 84 through 87 below), we must pay particular attention to the entity upon which the public is now primarily dependent for the provision of interstate services.

65. There is abundant support for the staff's conclusions that the specialized communications market, particularly for data communications, is growing at a rapid rate, and that there is a very large

²⁰ Western Union's revenue growth is shown by its annual reports. Moreover, in applying for microwave facilities on its Cincinnati-Atlanta route (File Nos. 5623/5633-C1-P-70, granted by Commission action released on April 16, 1971, FCC 71-391), Western Union stated that its growth rate nationwide has been 14.8 percent (despite the falling volume of message traffic).

potential market yet to be developed. The market studies of the applicants all points in that direction (e.g., the studies submitted with the MCI applications by Spindletop Research Center and Arthur D. Little & Co.;⁶⁷ Datran's market studies some of which were conducted by Booz, Allen, and Hamilton, Inc. (see Appendix C, pages 9-10); Southern Pacific's field survey and the market study made on its behalf by Computer Sciences Corp. (see Appendix C, page 14); and a market study made by Arthur D. Little, Inc. for Nebraska Consolidated Communications Corp. (NCCC), a survey conducted by the NCC staff, and letters of interest from various firms (see Appendix D pages 6-7)).

66. The market studies of the applicants are generally consistent with the forecasts made in independent reports to the Commission by Stanford Research Institute (SRI) and Dittberner Associates (Dittberner), other published forecasts,⁶⁸ the record in the Computer Inquiry (Docket No. 16979), and our own findings in that proceeding. In its report to the Commission in the Computer Inquiry,⁶⁹ SRI forecast that data usage (measured in terminal hours) would increase from less than 1 percent of total usage of the Bell System plant to between 10-50 percent of total usage by 1980 (1 SRI Report 7379B, page 51). A.T. & T.'s estimate in the Computer Inquiry was that data usage would amount to 5-10 percent of peak network load by 1980. For the Dittberner forecasts as to anticipated dynamic growth in data communications, see pages 20, 22 of its report on extended interconnection privileges of customer-owned equipment, submitted to the Commission on September 1, 1970.

⁶⁷ In addition to the Spindletop and A. D. Little studies, the MCI applications contain:

- (1) A regional study summarizing the types of firms in that region and growth rates of the firms by various economic indicators;
- (2) Letters of intent and interest from firms contacted by the MCI carriers;
- (3) A mail questionnaire and tabulation of results; and
- (4) Study prepared by Technical Communications Corp., entitled: "The Adverse Effect of Data Transmission on the Voice Network."

⁶⁸ See, e.g., "Terminal Makers Brisk Outlet for Modern, Coupler Procedures," *Electronic News*, June 1, 1970, p. 4; Auerback, "Terminal Shakeout on the Way," *Datamation*, May, 1970, p. 81; R. L. Arouson, "What's Happening to Data Communication," *Control Engineer*, November 1969, pp. 107-111; "Whole New Market," *Forbes*, July 1, 1969, p. 43; Manley R. Irwin, "Computers and Communications: The Economics of Interdependence," *Law and Contemporary Problems*, Duke University Spring 1969, Vol. XXXIV, p. 361; President's Task Force on Communications Policy, Staff Paper 1, Part I (Clearinghouse for Federal Scientific and Technical Information, Springfield, Virginia, June 1969), Appendix A, pp. 22, 24.

⁶⁹ See, Stanford Research Institute Reports 7379B, Policy Issues Presented by the Interdependence of Computer and Communications Services, et al. (2 Vols.), prepared for the FCC, Contract RC-10056, February 1969.

67. As we found in our final report and order in the Computer Inquiry (FCC 71-255, paragraph 7), there is "virtually unanimous agreement by all who have commented in response to our inquiry, as well as by all those who have contributed to the rapidly expanding professional literature in the field, that the data processing industry has become a major force in the American economy, and that its relative importance to the economy will increase in both absolute and relative terms in the years ahead."⁶⁸ We further found that "data processing cannot survive, much less develop further, except through reliance upon and use of communications facilities and services" (ibid.).

68. Finally, the carriers themselves do not dispute the present and potential future growth of the specialized communications market, particularly for data communication. In its comments in this proceeding, A.T. & T. projected that private line revenues would grow to \$1.5 billion by 1975 and \$2.7 billion by 1980.⁶⁹ A.T. & T. further notes that the growth rate for data sets was over 50 percent in 1969 (Transcript of Oral Argument, p. 162), and concedes that there is "no real dispute" that the "market for data communications is large and is growing" (Appendix C, p. 23). Western Union also "believes that there is an expanding market for communications services, including data communications as well as other forms" (Western Union comments, page 2).

69. While there may be some overlap between the services proposed by the applicants and the present offerings of the established carriers, we find sufficient warrant for the staff's conclusion that the applicants are seeking primarily to develop new services and markets, as well as to tap latent, but undeveloped submarkets for existing services, so that the effect of new entry may well be to expand the size of the total communications markets. To be sure, the established carriers now provide data transmission and private line services. However, the services proposed by the applicants have technical and service features significantly different from those of the established carriers. As the staff notes (Notice, paragraph 29), the existing communications network of the Bell System was established to meet the requirements of the voice transmission market where consumer demands are generally similar and economies of scale may be achieved.

⁶⁸ The responses in the Computer Inquiry are summarized in Vol. 2 of the SRI Report, supra.

⁶⁹ As MCI points out, in 1969 A.T. & T.'s reported revenues from five categories of toll private line services (telephone, teletype-writer, other telegraph, Telpak, and other services) amounted to approximately \$561 million (or \$638 million if revenues from program transmission are included). Bell System Annual Reports for 1969 (FCC Form M), Sched. 34, p. 50. The average annual growth rate in private line revenues between 1965 and 1969 was 14.9 percent (MCI comments, p. 114).

The facilities were engineered for voice and record analog transmission (though digital transmission facilities are being gradually incorporated), and with design objectives optimized for voice (e.g., the avoidance of steady line noise more than impulse noise and phase distortion (see Notice, footnote 19)). This is entirely understandable since the "greatest demand has been and still is for voice communication" and the general public must depend primarily upon the switched voice network of the Bell System for the provision of this basic service. The maintenance and improvement of such service is therefore a matter of first priority for the Bell System.

70. However, data and other specialized users may require not only a different application of communications technology, but also have service requirements that are heterogeneous in character (see 2 SRI Report No. 7379B, page 49, and 1 SRI Report No. 7379B, pages 46-47). The proposals of the applicants are oriented toward meeting these special and diverse technical and service requirements, and toward achieving the economies and other benefits that may flow from specialization. Datran proposes to construct an all digital technology data transmission system which would avoid the necessity of converting digital signals to analog and back again (see paragraphs 4 and 5 above). It is offering service features designed to meet the special requirements of data transmission users, e.g., lower costs, end-to-end compatibility, rapid connection, high reliability, simultaneous two-way transmission, a wide selection of switched speed offering, a low incidence of network busy conditions, interconnection flexibility for user-provided facilities, asymmetry, etc. (see paragraphs 5 and 33 above). Other applicants, while proposing to use analog or analog/digital transmission techniques, proposed to offer both voice and nonvoice services with facilities more closely designed to the requirements of transmitting data and other nonvoice traffic. MCI's proposal "customized" or "individually tailored" private line services purport to offer customers the flexibility and benefits of private microwave at lower cost to the user, e.g., the exact bandwidth required for any particular service, any bandwidth that is required, and flexibility in the use of channels and customer terminal equipment (see paragraphs 7-9 and 33 above; Transcript of Oral Argument, pages 7-12). To the extent that customers may be attracted by any or all of these or other features of the applicants' proposals—customers who would not otherwise use or make such extensive use of the specialized service offerings of established carriers, it is a reasonable conclusion that the effect of new entry would be expansion of the total communications market. Moreover, competition within the market for specialized services, should motivate innovations or modifications in the service offerings and/or facilities by all carriers

serving that market and thus produce even greater growth rates in total specialized traffic than the growth rates projected in the context of the existing industry structure.

71. Further, there is no doubt as to the validity of the staff's conclusion that there is an increasing and widespread public demand for the availability of diverse and flexible means for meeting specialized communications requirements, and a substantial public need for the proposed service offerings—a need which has not been adequately met by the established carriers. These conclusions are overwhelmingly supported by the market studies, surveys, and the letters of customer intent and interest submitted by the applicants; by the responses in the Computer Inquiry;⁷⁰ and by the surveys conducted by and comments of the public parties to this proceeding (see paragraphs 38-44 above, and Appendix B). We are particularly impressed by the unanimity of viewpoint among such a wide cross-section of varied interests, and accord substantial weight to the views and desires expressed by the public participants.

72. As Datran points out, A.T. & T. now recognizes the need for a separate digital data system as evidenced by its own plans to institute such a system to serve 60 cities by 1975. Indeed, the basic thrust of the carriers' position is not so much a claim that the proposed services are not needed, but rather an argument that there is no need for a new entry because the established carriers are capable of meeting the present demands and future requirements of the public. A.T. & T. relies on various statements in the SRI Report to the effect that: "most present data transmission requirements . . . can be met by the wide variety of services available under the common carriers' public or special tariffs" (2 SRI Report No. 7379B, page 49), and "the major carriers are capable of meeting much of the

⁷⁰ In its report to the Commission in the Computer Inquiry (Vol. 1, pp. 46-47), SRI listed 10 areas in which the data processing industry considers "present performance characteristics of the telephone network are in need of improvement for data uses" (see also SRI Report No. 7379B-2, pp. 52-62, and SRI Report No. 7379B-3, pp. 15-18, 38-41):

- "1. A need for rapid connect and disconnect (a few tenths of a second).
- "2. A need for a greater variety of transmission speeds and bandwidths.
- "3. A need for switched duplex connections, e.g., independent, separate paths for the two directions of transmission, in voice grade circuits.
- "4. A need for a choice of different data speeds in the two directions of transmission.
- "5. A need to reduce error rates.
- "6. A need for data on error performance and circuit characteristics with respect to amplitude and delay.
- "7. A need for standards with respect to circuit reliability and transmission quality.
- "8. A need for reduction in the variability of transmission performance in the public switched network.
- "9. A need for improvement in circuit test procedure and techniques.
- "10. A need for an all digital data transmission network."

projected demand for data communications in the next decade through low marginal cost modifications of their existing plant" (1 SRI Report No. 7379B, page 46).

73. We note, first, that these quotations are partial and taken out of context of SRI's qualifying statements. For example, the full text of the paragraph containing the first quotation is as follows (2 SRI Report No. 7379B, page 49):

The overriding factor concerning adequacy of communications common carrier services for computer users' data transmission needs, as evident in the responses, is that the carriers' existing facilities and practices have been developed over more than a half century primarily to meet the large and steadily growing need for widespread availability of voice transmission. As a result of this evolutionary development, approximately 100 million telephones are in use throughout the Nation. Computer users' needs for data transmission have begun to emerge recently and rapidly and have had to be met largely by adaptations of the existing voice transmission system. Compared with voice communications, data transmission needs are currently much smaller, are growing more rapidly, and have different operating characteristics. Most present data transmission requirements, as the responses indicate, can be met by the wide variety of services available under the common carriers' public or special tariffs. But major questions are raised in the responses about whether and when the national switching network facilities and tariffs will need to be modified significantly or succeeded by a separate national switching network that is designed specifically for efficient data transmission. [Footnotes omitted.]

Further, while stating that much of the projected demand could be met through low marginal cost modifications of existing plant, SRI also points out that (Vol. 1, page 48): "If a capital investment is required in order to obtain future benefits for data users, the carriers must convince themselves that such an investment is likely to pay for itself in increased network usage by data users." Following such statements, SRI concludes (Vol. 1, page 53):

Generally speaking, we believe that there is good evidence that the major carriers are interested in responding to data customers and their needs. Are they as responsive as companies operating in a competitive environment? Should we expect them to be? These and related questions go beyond our ability to provide answers.

74. More important, we do not think that the adequacy or capability of the established carriers to meet future requirements should be the determinative factor here, where growing future traffic is involved and new services are proposed. See cases cited in paragraphs 59-60 above. Even assuming that "the existing carriers might arrange to furnish successfully the projected service" (United States v. Dixie Highway Express, Inc., 389 U.S. 409, 411-412 (1967)), there are other benefits reasonably to be anticipated from new entry in the specialized communications field.

75. These benefits, in the words of the staff, are:

- (1) By permitting the entry of specialized carriers, we would provide users with flexi-

bility and a wider range of choices as to how they may best satisfy their expanding and changing requirements for specialized communication service (Notice, paragraph 30).

(2) There is also a question as to whether the existing carriers can meet the requirements in the specialized markets promptly, efficiently and effectively without prejudice to full and timely satisfaction of the increasing requirements of the public monopoly services. The responsibility for meeting the Nation's growing and changing communications requirements is now largely concentrated in the Bell System. This responsibility is becoming more and more difficult to discharge in a manner which enables the Bell System to satisfy timely and effectively all existing and anticipated communications requirements. This is partly because of the diversity of such requirements, the obvious problems of designing and engineering facilities capable of meeting all such requirements with equal efficiency, economy and expedition, and the huge and increasing amounts of new capital the Bell System must raise for construction purposes. The entry of new carriers would have the effect of dispersing somewhat the burdens, risks and initiatives involved in supplying the rapidly growing markets for new and specialized services among a multiplicity of entrepreneurs who appear ready, willing, and able to assume these undertakings. It would also expand the capability of the communications industry to respond to the challenge of meeting the rapidly growing and varied demands of communications users (Notice, paragraph 32).

(3) Further, while economies of scale may result when large general purpose transmission facilities can be used to meet relatively homogeneous communications requirements, there may be other drawbacks. The sheer size of the A.T. & T. organizational structure, its enormous financing requirements, its vertical integration, and near monopoly position in the provision of communications services may make it slower to perceive and respond to individual, specialized requirements and to initiate market and technical innovations. [Footnote omitted.] Competition in the specialized communications field would enlarge the equipment market for manufacturers other than Western Electric, and may stimulate technical innovation and the introduction of new techniques. Moreover, new carriers with smaller scale operations could devote their undivided attention to the particular needs to be served and, lacking a captive market, would be under pressure to innovate to produce those types of services which would attract and retain customers (Notice, paragraph 34).

(4) In an industry of the size and growing complexity of the communications common carrier industry, the entry of new carriers could provide a useful regulatory tool which would assist in achieving the statutory objective of adequate and efficient services at reasonable charges. Competition could afford some standard for comparing the performance of one carrier with another. Moreover, competitive pressure may encourage beneficial changes in A.T. & T.'s services and charges in the specialized field, and stimulate counter innovation or the more rapid introduction of new technology (Notice, paragraph 35).

76. It appears to us that the grounds stated by the staff for anticipating benefits from new entry are reasonable and in accord with the views of most parties to this proceeding. They are not controverted by the carriers, except as they generally urge that the staff's conclusions are unsupported and require evidentiary hearing. However, we are "not required to make specific findings of

tangible benefit," for in "the nature of things, the possible benefits of competition do not lend themselves to detailed forecast" (FCC v. RCA Communications, Inc., 346 U.S. 86; 96). That being the case, we see no necessity for, or useful purpose to be served by, evidentiary hearing on a question of this nature. It is our judgment, based on our cumulative knowledge of the industry and the entire record in this proceeding—including our staff's analysis, that there is sufficient ground for a reasonable expectation that new entry here will have some beneficial effects.³¹ We so warrant.

77. We consider next the contention that the staff analysis does not adequately treat the effect of new entry on the existing carriers and their services to the public.

78. A.T. & T. claims that the diversion of revenues from new entry would not be insubstantial and might prejudice telephone users by delaying the installation of large capacity facilities (e.g., L5 coaxial cable carrier systems) on high density routes—thereby jeopardizing the realization of declining unit costs which would benefit all classes of A.T. & T.'s customers. A.T. & T. claims that competing carriers would simply be engaged in "cream-skimming" and thus cause A.T. & T. to depart from nationwide cost-averaging and the maintenance of nationwide uniform interstate rates. Like the staff, we do not see how there could be any diversion of revenues of a magnitude to have the impact claimed by A.T. & T., in view of the very small percentage of A.T. & T.'s existing total market that is vulnerable to competition of the kind proposed here, the growth rate of Bell's basic services, and the likelihood that A.T. & T. would obtain a very substantial share of the potential market for specialized services.

79. A.T. & T.'s reports to us indicate that the Bell system had gross operating revenues of approximately \$16.9 billion in 1970, as compared to about \$15.7 billion in 1969 (not including income from other sources such as Western Electric). Most of these revenues were derived from intrastate and interstate services which the applicants do not seek to provide.³² Interstate revenues constitute about 30 percent of A.T. & T.'s total revenues, and about 87 percent of the interstate revenue is derived from message toll telephone (MTT) and wide area telephone services (WATS). Interstate private line revenues (including revenue from program transmission—a service not proposed by the applicants) amount to about 4 percent of total Bell System revenues. While there is some data usage of the switched network, it has been esti-

p. 51), and about 1.7 percent in 1969 (paragraph 34 above).

80. Projecting present growth rates, A.T. & T. has estimated that the existing plant of the Bell System would quadruple by 1980. As indicated in paragraph 63 above, this projection is based primarily upon the rapidly expanding growth in the use of standard voice communications services. Revenues from interstate MTT and WATS had an annual growth rate of about 12 percent from 1965 to 1969. During the same period the growth rate for interstate private line services was about 15 percent, and A.T. & T. estimates that revenue from such services would amount to \$2.7 billion by 1980. This figure would still constitute a relatively small percentage of total interstate revenues when compared to the compounded effect of a 12 percent annual growth in interstate MTT and WATS revenues. In this proceeding A.T. & T. stated that the growth rate in the volume of data transmission over the past 5 years has been in the range of 50 percent annually (A.T. & T. reply comments, page 35), and in the Computer Inquiry it estimated that data usage would amount to 5–10 percent of peak network load by 1980. Though A.T. & T. does not indicate what proportion of this data growth and projected usage is interstate, the percentage of data usage by 1980 would be a comparatively small percentage of total usage even assuming that it were all interstate.³³

81. While A.T. & T. does not challenge the revenue figures used by the staff or those used by MCI, it claims that the staff erred in assuming that private line does not represent a significant portion of the use of existing or future systems. It may be, as alleged by A.T. & T., that private line service accounts for about 25 percent of A.T. & T.'s total interstate channel miles. However, the point raised in the staff's analysis is that the portion of A.T. & T.'s total business which might be jeopardized, i.e., the interstate private line business, represented only a very small fraction of Bell's total revenues. In terms of the total investment of the Bell System, the investment in all interstate circuitry is of much less significance than noted by A.T. & T. as being devoted to the 25 percent of interstate channel miles noted by A.T. & T. as being devoted to the private line services. Moreover, the total private line circuit mileage usage includes television program transmission which is a relatively voracious consumer of interstate channel mileage. For example, from 1964 to 1968 such usage (measured in terminal hours) accounted for less than 1 percent of total usage (intrastate and interstate) in 1968 (1 SRI Report 7379B,

³² As noted in the Notice (paragraph 68), a number of Bell System companies are before various State Commissions seeking substantial increases in charges for information system access lines (to provide direct access to the customer information system through local exchange facilities) on the ground that these are high usage lines.

600–1,200 voice circuits can be derived from the bandwidth required for a single video channel (depending on the age and type of equipment utilized). We might also note that with the rapid growth in demand for circuitry for services other than private line, the rapid growth anticipated for the specialized services and the time frame which will be required for implementation of the plans of potential competitors, we cannot visualize A.T. & T. being burdened with unusable quantities of circuitry for any significant period of time.

82. Most significantly, we see no reason whatsoever to assume that the applicants would divert all or even a substantial portion of that comparatively small percentage of existing and projected Bell System business that is vulnerable to competition.³⁴ As previously stated, the competition is for evolving, new, diverse and specialized needs in a dynamic, rapidly growing market. The applicants are seeking in large part to exploit latent demands and may well expand the size of the total communications market. Moreover, they are proposing very small scale operations compared to those of A.T. & T. MCI anticipates only about \$55 million in total annual revenues from all of the MCI systems covered by applications on file at the time of its comments (Appendix C, page 3). Datran's proposed plant investment is only about \$350 million, compared to A.T. & T.'s 1970 plant investment of approximately \$54.8 billion and its investment programs of \$7.7 and \$8.2 billion for 1971 and 1972. Datran has indicated that it hopes to obtain about 10 percent of the data market by 1980. In addition, the introduction of new services and facilities by the specialized carriers would take place gradually over a period of time, with the volume paralleling the market growth in demand for specialized services. And, finally, A.T. & T. is adapting to supply certain specialized services which have not been adequately provided in the past (e.g., its proposed digital data network), and is free to compete with the specialized carriers for the potential market. A.T. & T. has vast competitive resources, and it is likely that it will succeed in obtaining a very substantial portion of the large potential market.

83. Accordingly, we find no reason to anticipate that new entry in the specialized field would result in any substantial diversion of A.T. & T.'s revenues or have any significant adverse impact on telephone users, the installation of large capacity systems to meet the growing communications requirements of all kinds, or the realization of declining unit costs. At best, any impact that new entry may have upon declining unit costs or economies of scale would be more than offset by the other advantages inuring to the public from such new entry. By the same token, there is no reason to believe that

³⁴ Even assuming a 50 percent diversion annually (a figure we consider to be unrealistically high), the growth in regular voice service could absorb virtually all of the lost channels in 1 year.

there would be any prejudice to A.T. & T.'s pace of technical and service innovation and national security role. On the contrary, we believe that new entry would act as a competitive stimulus to A.T. & T.'s innovative efforts.

84. The potential effect of new entry on other established carriers is, of course, a relevant factor to be weighed in our determination as to the overall public interest. As the staff recognized (Notice, paragraph 43), the potential impact on Western Union is greater than for A.T. & T. or the independent telephone companies. About 45 percent of its total revenues (and most of its profits) are derived from leased systems and Telex, with the remainder coming from message telegraph service and other services. While a fairly large percentage of Western Union's service may be vulnerable to competition, there are other countervailing factors to be considered. Western Union's gross operating revenues have increased from \$305 million in 1965 to \$402.4 million in 1970. Despite the falling volume of message telegraph traffic,³⁵ Western Union has stated that its growth rate nationwide has been on the order of 14.8 percent (see footnote 24 above). We have recently approved Western Union's acquisition of TWX from A.T. & T., which will add an estimated \$86 million in annual revenues. In the Matter of Western Union Telegraph Co. (Docket No. 18519), 24 FCC 2d 664 (1970). Moreover, Western Union's largest leased systems are switched systems (the Automatic Digital Network for the Department of Defense and the Advanced Record System), as is Telex (though the latter also serves some point-to-point data customers). In our decision in Docket No. 18519, we noted (24 FCC 2d at 673):

No concern was expressed as to possible competition from a specialized carrier such as MCI because in Western Union's opinion, any effect would be at best, indirect in nature. Western Union did state that the impact from Datran would be more because of the proposed size of its operation. Western Union did not believe that this impact had to be fully considered before the acquisition of TWX, since the prompt implementation of an approval of the proposed acquisition itself would afford the company sufficient lead time in the market.

85. Most significant, however, is the circumstance that has been repeatedly stressed herein, namely that "we are here concerned with the sharing of a new, relatively untouched market in a

³⁵ While Western claims message telegraph service is a "profitless monopoly," it would not be fair to existing or potential specialized users or in the public interest to deny new entry needed in the specialized field merely in order to facilitate a bolstering of the message telegraph service through subsidy from Western Union's other services. The plight of the telegraph message has been a continuing and growing problem even in the absence of any new entry. The arbitrary exclusion of new entry into the developing market for specialized services is certainly neither a practical or a justifiable solution to the problem, assuming that a solution is called for in the public interest.

field where even present demand is growing at a very rapid rate" (Notice, paragraph 34). The proposed services of the applicants are designed to meet needs not adequately met by the established carriers in the past. While Western Union's data/record oriented network may differ from A.T. & T.'s voice/video oriented network, it does not have a nationwide, switched, all digital end-to-end data network such as that proposed by Datran. Moreover, Western Union's existing plant and investment growth rates are not on a scale that appears sufficient to accommodate the very large potential market for specialized services—particularly for data transmission.³⁶ We cannot accept Western Union's contention that it should be the only carrier authorized to compete with A.T. & T. In our judgment, the potential market would be best served by wider sources of competitive supply. Like A.T. & T., Western Union will have an opportunity to compete with new entrants on the merits of its own service offerings and facilities. If the public is attracted by what Western Union has to offer, it may retain most of its present specialized business as well as capture a sizeable share of the potential market.

86. In light of the foregoing, we are not persuaded that Western Union will necessarily suffer any substantial diversion of revenues or other detriment. In any event, we conclude that the need for, and public benefits reasonably anticipated from, new entry outweigh any potential dangers to Western Union.

87. As the staff pointed out (Notice, paragraph 42), it is difficult to visualize how independent telephone companies would be adversely affected. They participate in interstate service primarily by providing local distribution facilities and do not, with minor exceptions, furnish intercity facilities. To the extent that the new entrants rely on existing carriers for the provision of local distribution facilities, the business of the independents may increase. Indeed, GT&E has recognized this potential benefit by offering, with adequate lead time, to provide local distribution service for any authorized carrier, and by opposing the authorization of separate local distribution facilities (Appendix C, page

³⁶ As Western Union noted, the staff analysis erroneously states that Western Union does not for the most part provide services on its own facilities, but instead provides such services by facilities acquired largely by lease or rental from A.T. & T. While this is true for local facilities, Western Union's Annual Report for 1969 (Schedule 400a) shows that it leased 38.9 percent of its intercity voice grade channel miles from others. We find that Western Union provides more than 60 percent of its intercity voice grade channel miles on its own facilities. The error is not of decisional significance. The fact remains that Western Union's gross plant investment and current investment program are very small compared to A.T. & T.'s (see paragraph 64 above). The public is now primarily dependent upon A.T. & T. for the provision of communications services, including specialized services.

30).³⁷ Moreover, one of the applicants, Nebraska Consolidated Communications Corp. (NCCC), was formed, and is one-third owned, by independent telephone companies. NCCC states that the filing of their applications evidences the belief of these independents that the specialized carrier concept has potential for contributing more and better communications without adverse impact on the existing operations of independent telephone companies (Appendix D, page 6; Transcript of Oral Argument, page 124).³⁸ We find no likelihood that the independent telephone companies would be prejudiced by a policy in favor of new entry.

88. Nor do we find grounds for excluding new entry in the miscellaneous arguments advanced by the carriers relating to "cream-skimming." Like the staff, we are not persuaded that the charge of "cream-skimming" is well-founded or would justify a bar against new entry of the type proposed here. The staff's analysis of this allegation (Notice, paragraphs 36–38) is reasonable, has further support in the points made by applicants (paragraph 36 above), and is not refuted in the comments of the carriers. We also agree with the staff's treatment of the "economies of scale" contention (Notice, paragraphs 33–34), and note further that A.T. & T. apparently recognizes some advantage in specialization in view of its own plans for a functionally separate digital data network (A.T. & T. reply comments, Appendix A, page 5).

89. In the event that new entry is authorized, A.T. & T. and Western Union claim that they must be able to compete fully under explicit ground rules set forth by the Commission and to offer their services on competitive routes at rates competitive with those of the new entrants. Thus A.T. & T. alleges that new entry might require it to depart from cost averaging and uniform nationwide interstate rates. This approach to the pricing of A.T. & T.'s services in the past has been generally regarded as consistent with the public interest in the context of the predominantly monopoly structure which heretofore has characterized the common carrier industry. There is no reason to believe that this approach to pricing of the interstate message service offerings of the Bell System and Western Union (such as MTT, WATS, and public telegraph) need be altered by new entry into the developing specialized communications market. Clearly, none of the uniform rate structures of the existing car-

³⁷ While USITA states that separate local distribution facilities would mean a loss of potential revenues to the independents, it expresses concern that the increased business derived from new entry might be offset by reduced settlements with existing carriers. Having found no reason to anticipate any substantial diversion of A.T. & T.'s revenues, we believe this concern to be groundless.

³⁸ There are also independent telephone company ownership interests in two other applicants: Associated Independent Telephone Microwave, Inc., and Telephone Utilities Service Corp. (see Appendix A).

riers for such services would appear to be in jeopardy since those services are not being challenged competitively to any substantial degree by the services proposed to be offered by the aspiring new entrants. Where services may be in direct competition, departure from uniform nationwide pricing practices may be in order, and in such circumstances will not be opposed by the Commission.

90. While asserting that there should be no cross-subsidization or temporary rate reductions, A.T. & T. urges that the cost basis for pricing specialized services on competitive routes should be long-run incremental costs. The applicants claim that the only practical means for assuring that A.T. & T.'s rates for specialized services will be equitable and nondiscriminatory is to require that rates for competitive services be based on fully allocated costs. We do not find it necessary at this time and on this record to speculate concerning the manner in which the existing carriers may seek to respond to competitive conditions that may emerge in the market for new and developing specialized communications services. We do, however, stress our objective to promote and maintain an environment within which existing and any new carriers shall have an opportunity to compete fairly and fully in the sale of specialized services. Our rate-making and regulatory policies and practices will be appropriately adapted to accomplish this objective. There is no reason to deny the public the benefits that may derive from active and vigorous participation by the Bell System and Western Union in this market, so long as their participation is not a burden upon or significantly detrimental to their other services. Thus, it is our intention to permit the existing carriers to price their competitive services in a fashion that will realistically and reasonably reflect economic advantages, if any, that are inherent in the plant and operations of those carriers. Moreover, we subscribe fully to the views of our staff, endorsed by the Department of Justice, that there should not be any "protective umbrella" for the new entrants or "any artificial bolstering of operations that cannot succeed on their own merits" (Notice, paragraph 44).

91. However, it is neither practical nor appropriate on this record to attempt a formulation of the precise principles that will achieve the above objectives. The applicability of long run incremental and fully allocated costs in pricing monopoly and competitive services of the Bell System, as well as appropriate methodologies for ascertaining such costs, are the principal issues in our pending proceedings in Docket No. 18128. That proceeding involves a determination of the reasonableness of the overall levels of earnings for each of A.T. & T.'s interstate services. The record in that proceeding, which is now well advanced, is focussing upon a Statement of Rate-Making Principles and Factors to which A.T. & T., Western Union, and other parties have stipulated.

The Commission has not yet had occasion to pass upon the principles embodied in that Statement. However, we accepted the recommendation of the parties that effective testing of the complex economic theories of costing and pricing reflected by such principles "and the reconciliation of opposing, or at least partially conflicting, views of expert witnesses, can best be accomplished by relating the principles advocated to specific rate proposals" (Memorandum Opinion and Order released in Dockets Nos. 16258, 15011, and 18128 on August 7, 1969, 18 FCC 2d 761, 763). The Commission also recognized that the Statement "properly recognizes the relevance of both fully distributed and incremental costs in considering appropriate rate levels of specific classes of service" and, at the same time, noted that each party to the agreement reserved the right to assert the relevance of fully allocated costs, long run incremental costs or any other method of cost determination (18 FCC 2d at 763). Also, the Commission observed that: "The practical difficulties of accurately measuring incremental costs in a system as complex as the telephone industry have been recognized even by the advocates of incremental costs as a floor for pricing. Criticisms, likewise, have been directed to the use of fully distributed costs for pricing purposes. Moreover, some witnesses have advocated that public interest considerations could justify rate levels lower than might be supported by cost considerations alone, and one of the principles set forth in the stipulation (paragraph 12) provides for such a contingency." (18 FCC 2d at 763.)

92. A complete reading of the Commission's memorandum opinion and order and the Statement of Rate-Making Principles to which it is addressed, will demonstrate the impracticability of attempting any definitive resolution in this proceeding of the complex and controversial issues involved in the pricing and costing of monopoly and competitive services. It would be therefore premature and improper for the Commission to express any opinion on that question in this proceeding, except to reaffirm our intention to follow ratemaking principles and practices which will be compatible with the maintenance of a competitive environment. Moreover, the record in this proceeding has to do with the microwave applications of the would-be new entrants and the objections raised thereto. We do not yet have before us any tariff filings by the applicants or any revised tariff offerings by A.T. & T. and Western Union in response to such tariff filings. However, we do contemplate full and fair competition in the specialized field among all carriers, both established and new, and will address any problems as they arise with due regard, when appropriate, for the pricing and costing principles and factors established by our proceedings in the aforementioned Docket No. 18128. We will not delay the institution of new specialized services by exist-

ing or new carriers pending the outcome of that docket.

93. Finally, we have not overlooked the matter of efficient spectrum utilization. It appears likely that most of the proposed stations can be accommodated in the pertinent frequency bands, and that most, if not all, of the frequency conflicts can be removed through frequency coordination or some relocation of the proposed routes. In accordance with our usual practice, no application will be granted that would cause harmful electrical interference to existing common carrier facilities. We are requiring applicants to avoid blocking future expansion of existing carrier routes.³⁹ We are also adopting rules designed to achieve more efficient spectrum utilization by all new stations in these microwave bands (see discussion under Issue C, paragraphs 127-144 below). Moreover, efficient spectrum utilization is only one factor to be considered in evaluating the public interest. There are other important public benefits to be derived from affording new specialized carriers access to microwave frequencies (paragraphs 75-76 above), and we regard these considerations to be of controlling significance here.

94. To recapitulate, we find ample basis in the record and other material officially before us for the staff's conclusions as to the nature of the potential market, the public need and demand for the proposed services, the public benefits that may reasonably be anticipated from new entry, and the effect on existing carrier service to the public. Beyond bare, general assertions that the staff analysis rests on untested and unsupported assumptions, the carriers have not offered anything to indicate that the staff's conclusions are erroneous. We have twice sought to ascertain whether the carriers possessed any information, not contained in their filings, which might cast doubt on the validity of the staff's conclusions or warrant exploration in evidentiary hearing. No such information has been forthcoming.

95. In our order designating this matter for oral argument (FCC 70-1339, released December 18, 1970), we requested parties "to address the question of what, if any, specific information would be adduced in any evidentiary hearing which is of material importance and has not been, or could not have been, filed in the record of this proceeding." In response, A.T. & T. stated that there is a need for cross-examination:

³⁹ We note in this connection that A.T. & T. is planning construction of high capacity L5 coaxial cable facilities on high density routes where frequency congestion is most likely to be encountered. Further, new applicants, who are not constrained by existing facilities, have greater flexibility to modify proposed routes to avoid frequency conflicts or blockage of expansion of routes of others. During the pendency of this proceeding, a number of applicants have filed modifications designed to remove initial conflicts.

To pinpoint what proposed services are not now provided by established carriers, to examine the applicants' market studies more critically to see if they support the need for the proposed services, to determine the exact size and nature of the asserted market, and to ascertain whether the applicants' proposed systems are technically adequate for their intended uses and reasonably calculated to meet the need." A.T. & T. further stated that it would offer evidence as to the nature and extent of the existing and future services and facilities of the Bell System, its studies as to the market for the proposed services and the effect of new entry on its service and rate structures, as well as on national security and balanced economic development. Western Union stated that the primary objective of an evidentiary hearing would be to examine the public need and demand for the proposed services. While not specifically proposing to offer any information, Western Union asserts that evidentiary hearings would enable it to prepare more comprehensive studies as to the dimensions of the market and give it an opportunity to show whether the applicants' forecasts are wrong or right.

96. In addition, by letters dated October 28, 1970, and December 11, 1970, the Chief of the Common Carrier Bureau requested A.T. & T. and Western Union to supply full information concerning any data market studies they might have made. The letter to A.T. & T. noted that Mr. William H. Ellinghaus, then Executive Vice-President, had announced in an address on August 31, 1970, that the "most extensive, most detailed study of the data market ever made" by A. T. & T. was nearing completion. In its reply on November 23, 1970, A.T. & T. said it had only begun the accumulation of raw data and that no meaningful conclusions could be drawn at that time. A.T. & T. further indicated that considerable time and manpower would be required to conduct the study and to assimilate the data into meaningful and usable form. Moreover, since the data study is structured to aid the Bell System in planning services for the data market, much of the information collected would be proprietary and could not appropriately be made public—though it might be supplied to the Commission on a privileged basis. Western Union's reply on January 13, 1971, indicated that it had studies in progress, relating in part to the future requirements of the public for communications facilities and services, and expected such studies to be completed in mid-1971. Western Union further stated that after the data from these studies have been analyzed, it would be willing to meet with the Commission to discuss what results might be made available.

⁴⁰ The technical adequacy of the applicants' proposals is a matter to be considered when the applications are processed, and is not involved in this proceeding.

97. We are compelled to several conclusions. First, at the time of their comments, reply comments and oral argument in this proceeding, A.T. & T. and Western Union had not progressed in their own market studies far enough to draw any meaningful conclusions and had no basis in such studies for challenging the forecasts made in the numerous studies completed by others. Second, even after their studies have been completed and the data analyzed, much of the information collected would be proprietary and could not appropriately be made public. We think it apparent that the same would hold true for the market studies of the applicants. It is not necessary for us to conduct evidentiary hearings in order to receive proprietary information on a privileged basis. Nor do we see any public purpose to be served by according the established carriers an opportunity to elicit through cross-examination any proprietary marketing information of their would-be competitors.

98. Third, and most important, we find that there is no need to explore the various market studies more critically through evidentiary hearing and cross-examination or to obtain any proprietary information on either a privileged or a public basis. In our opinion, such a procedure would lose the Commission in a counterproductive excursion into detail that would obscure rather than clarify the fundamental issue (WBEN, Inc. v. United States, 396 F. 2d 601, 617, 618 (C.A. 2, 1968), cert. den. 393 U.S. 914). There is no dispute, even from the established carriers, that the potential market is sizeable and apt to expand substantially over the next decade. All of the market studies, surveys, public comments and other material before us point in that direction, and there is no indication to the contrary (see paragraphs 65 through 68 above). The market studies on behalf of the applicants were conducted by reputable research organizations and our economists have found no apparent reason for questioning their methodology. We think that the general thrust of all of the market studies, taken together and in light of the record as a whole, is entitled to substantial weight as indicating that there is a potential heterogeneous market of sufficient size to make competition in the specialized field reasonably feasible, and that there is substantial public need and demand for the proposed services.

99. We see no need to go further. We do not rely on any particular market study as reflecting the probable extent or precise nature of the potential market. It is not essential to our policy determination here to make findings as to the exact size of the potential market or the precise breakdown of the various latent submarkets that might be stimulated and developed by new entry. Factors of this kind do not lend themselves to precise prediction, and we would not undertake to make definitive findings as to such future developments even if we were to hold an evidentiary hearing. That the

applicants perceive and are concentrating upon different forms of potential growth is a proper exercise of entrepreneurial discretion in a competitive arena where the potential market is characterized by diverse user demands and requirements. Indeed, the basic point here is that the potential market is not standardized, but heterogeneous (see Notice, paragraphs 29, 33).

100. We cannot conclude that the convenience or interest of the public would be served by subjecting all of the public parties to this proceeding (as well as those potential users submitting letters with the applications) to cross-examination on their expressed views and desires, as suggested by A.T. & T. The record compiled here and in the Computer proceeding is adequate for our purposes, and we deem the rule making procedure to be a more appropriate vehicle for public participation on that scale. Moreover, we see no need for cross-examination to pinpoint precisely what proposed services are not now provided by established carriers. It is clear that the proposed facilities and services of the applicants have several technical and service offering features which are different from those now provided by the established carriers (see paragraphs 69-71 above). The circumstance that there are undoubtedly some areas of overlap or similarity is not of decisional consequence here (paragraphs 72-74 above). Further, we have found that other potential benefits may reasonably be anticipated from new entry in the specialized field (paragraphs 75-76 above).

101. Finally, we find no need for evidentiary hearing to receive evidence as to the past, present, and future operations of the Bell System. A.T. & T. has already placed voluminous material on that aspect in the record of this proceeding (A.T. & T. comments, pages 47-80 and Appendices A-E; A.T. & T. reply comments, Appendix A). Moreover, we are familiar with A.T. & T.'s operations from its tariffs, reports, etc. in our files and from our longstanding regulatory relationship. We concede that A.T. & T. has served the nation well and are confident that it will continue to make every effort to do so. It is nevertheless our judgment that the public interest, convenience, and necessity would be served by new entry in the specialized field in the circumstances here.

102. Accordingly, we conclude that the record before us affords sufficient basis for a policy decision on the merits of Issue A (with the exception noted above), and that there is no need for evidentiary hearing on the broad issue of whether the public interest would be served by a general policy in favor of new entry in the specialized communications field.

d. Findings and conclusions. 103. In light of all of the foregoing and the record as a whole, we adopt our staff's analysis of Issue A, as amplified and modified herein. We find that: There is

a public need and demand for the proposed facilities and services and for new and diverse sources of supply, competition in the specialized communications field is reasonably feasible, there are grounds for a reasonable expectation that new entry will have some beneficial effects, and there is no reason to anticipate that new entry would have any adverse impact on service to the public by existing carriers such as to outweigh the considerations supporting new entry. We further find and conclude that a general policy in favor of the entry of new carriers in the specialized communications field would serve the public interest, convenience, and necessity.

104. Our policy determination is based upon the circumstances shown by the record before us, and any future proposals for new entry will be considered in light of the circumstances then pertaining. However, we do make clear that we will examine very critically any future opposition by the pending applicants to proposed new entry by others.¹⁰ We further stress that our policy determination as to new specialized carrier entry terrestrially, does not afford any measure of protection against domestic communications satellite entry or otherwise pre-judge our determination in Docket No. 16495 as to what course would best serve the public interest in the domestic satellite field.

B. ISSUE B: WHETHER COMPARATIVE HEARINGS ON THE VARIOUS CLAIMS OF ECONOMIC EXCLUSIVITY AMONG THE APPLICANTS ARE NECESSARY OR DESIRABLE IN THE CIRCUMSTANCES

1. Proposals in the Notice

105. In the Notice, it was proposed not to hold comparative hearings on claims of economic exclusivity among the applicants unless there is a much stronger showing of exclusivity than those presently before us and we are persuaded that the public interest requires such action in the particular situation (Notice, paragraphs 46-50b). In any event, we proposed to consider Datran's proposed system separately, since it alone has proposed a switched, all digital, end-to-end, occasional use, nationwide network exclusively for data transmission (Notice, paragraph 47).

¹⁰ We cannot help but note several curious coincidences. There was once a time, almost a century ago, when Western Union was the dominant domestic carrier, and Bell was assaying new entry. It has been asserted that Western Union initially sought to make things difficult for Bell by every means at its disposal. Long after Bell outpaced Western Union to become the predominant carrier, they joined forces to oppose the authorization of private microwave systems, raising essentially the same arguments here asserted against new specialized carrier entry. Allocation of Frequencies in the Bands Above 890 Mc. 27 FCC 350, 411-412 (1959); 29 FCC 825, 848-855 (1960). Among the pending specialized applicants, it is only those who are existing miscellaneous carriers or affiliated with such carriers that claim economic exclusivity and seek comparative hearings to exclude other applicants.

2. Positions of the Parties

106. Of the 33 applicants now pending before the Commission, only four have claimed economic exclusivity and requested comparative hearing. These four are: Western Tele-Communications, Inc. (Western); United Video, Inc. (United Video); West Texas Microwave, Inc. (West Texas); and CPI Microwave, Inc. (CPI). All but CPI (which is affiliated with West Texas) are miscellaneous common carriers presently providing video service primarily to CATV systems. West Texas and CPI propose routes solely within the State of Texas. United Video's proposed routes run from Minneapolis-Chicago-Texas and from New Orleans to Chicago, serving different intermediate points. Western's proposed routes are in several Western States (Utah, Nevada, Colorado, Nebraska, South Dakota, Iowa, Minnesota), on the west coast (partly through interconnection with another west coast applicant, Microwave Transmission Corp.), and from Los Angeles and other western cities (Denver, Dodge City, Wichita, Topeka, Tulsa, Oklahoma City, and Kansas City) to Texas.

107. West Texas and CPI claim that there is room for only one new entrant in Texas and that a comparative hearing is necessary because there are two other competing applicants for West Texas routes and seven for CPI routes, in whole or in part. They also urge that Datran should not be treated separately. United Video states that there are four or five other applicants on portions of its routes and claims that some form of expedited hearing or arbitration is essential to select among applicants where the projected volume of traffic does not justify several new entrants. Western urges the Commission to determine the economics of exclusivity along routes or in areas where there is more than one applicant. As an alternative, Western proposes that existing video carriers be authorized to construct and provide the proposed services along their existing routes for a test period, in order to provide information to assist a Commission determination as to how many new entrants should be permitted on the route.

108. The position of the foregoing applicants is supported by Western Union, GT&E, and United Telephone System. They claim that under section 214 of the Act, the Commission is required to determine the need for each applicant and the amount of competition that is reasonably feasible on individual routes. They further assert that if too many new entrants are authorized and some go bankrupt, the public will be injured through loss of investment, the inconvenience to users of switching to another carrier, and the possibility of users being left with incompatible terminal equipment.

109. The other 29 applicants have either affirmatively stated that they do not desire comparative hearings on economic exclusivity, or have not opposed the Commission's proposal or sought comparative hearing. Those commenting

claim that their market studies show a sizeable potential market and, in any event, the marketplace is the most appropriate test of who will best serve the public. They further urge that the four applicants requesting comparative hearing have not made any adequate showing as to the need for comparative hearing on their proposed routes or other routes. Although the four applicants speak vaguely of studies and conclusions that various markets will support no more than one or two new entrants, they have not come forth with such studies. An applicant claiming that there is need for only one new entrant should have the burden of showing that the market is so limited before other applicants, who think the market will support them, are all forced into a hearing. Moreover, even if some encounter difficulty, the result will not necessarily be bankruptcy but is more likely to be merger with a stronger competitor with little adverse impact on anyone. Users can always shift their business to the remaining carriers (including A.T. & T. and Western Union) and any inconvenience is a reasonable price to pay for competitive options. Finally, they assert that it is unlikely that comparative hearings would enable the Commission to make definitive findings as to the precise character and size of the potential specialized market on the affected routes or that they would otherwise be worth the delay and burden.

110. The Department of Justice takes the same position. It states that according to present law, hearings on economic exclusivity issues need be held only if the party who petitions for such a hearing meets the heavy burden of showing that there is so little revenue in the market that the contemplated amount of new entry would make it impossible for either new entrants or established carriers to remain financially strong enough to render adequate service to the public. *Carroll Broadcasting Co. v. FCC*, 258 F. 2d 440, 443 (C.A.D.C., 1958); *Delta Airlines v. CAB*, 275 F. 2d 632, 638 (C.A.D.C., 1959). The objecting party must make a prima facie case that the new competitive certifications "would as a matter of economic fact destroy or substantially reduce the rendition of the service required by the public interest * * *." (*Delta Airlines, supra.*) The burden of proof is on the party asserting economic exclusivity (*Eastern Airlines, Inc. v. CAB*, 271 F. 2d 752, 756-757 (C.A. 2, 1959)), and the Commission has discretion to deny comparative hearings if the statistics concerning supply and demand do not dictate the inference of economic exclusivity (*Frontier Airlines, Inc. v. CAB*, 349 F. 2d 587, 590 (C.A. 10, 1965)). Given the rapidly growing character of the computer data field and the large number of specialized submarkets within the field (based on a variety of considerations including bandwidth, circuit quality, and transmission method), a protesting carrier in this field would have a very heavy burden in making out a case for mutual economic exclusivity requiring evidentiary hearings.

111. The Department further states that the antitrust laws do not impede a "merger between two small companies to enable the combination to compete more effectively with larger corporations dominating the market, nor a merger between a corporation that is financially healthy and a failing one that can no longer be a vital competitive factor in the market." *Brown Shoe Co. v. United States*, 370 U.S. 294, 319 (1962); *United States v. Diebold, Inc.*, 369 U.S. 654 (1962); *Citizen Publishing Co. v. United States*, 394 U.S. 131 (1969). The department urges that merger or sale of facilities to another competitor is a more likely fate for an unsuccessful entrant than bankruptcy or removal of facilities in this field. It states that this alternative would minimize customer inconvenience, and under *Carleton* (13 FCC 2d 420) the successor would be required to permit continued use of customer terminal equipment unless there is a risk of network harm.

112. A.T. & T., which also supports the position of the bulk of the applicants on Issue B, states that if the Commission were to adopt a policy of new entry based on the staff analysis of Issue A, it "would be inconsistent with the essential rationale of that decision for the Commission then to attempt to select between and among would-be competitors, either new carriers or existing carriers." A.T. & T. further asserts that if (contrary to its belief) the staff's position on Issue A is correct, it can only be so because the alleged benefits of injecting competition in the specialized markets outweigh the probable disadvantages. These benefits cannot be realized if the ensuing competition is hampered by regulatory restrictions, or if the Commission "acts as a handicapper imposing artificial barriers to entry into this competitive area or shackling one would-be competitor in favor of another." In its rebuttal comments A.T. & T. notes how illogical it would be to hold that two carriers (A.T. & T. and Western Union) are not enough, three would be all right without question, but four or more would be a crowd.

3. Discussion and Conclusions

113. Upon review of the record, we are inclined to adhere to our initial view that it would be contrary to the public interest and inconsistent with our policy determination on Issue A to attempt generally to limit entry among the pending applicants by holding comparative hearings on issues of economic exclusivity. We have concluded that the public interest would be served by affording users flexibility and a wide range of choices as to how they may best satisfy their expanding and diverse specialized requirements. Moreover, the applicants are seeking to develop a relatively new and potentially very large market, with heterogeneous submarkets, and there are technical and service differences among their proposals. In the circumstances presented here, we would be reluctant to take any action that might restrict en-

try unduly, and would not undertake to select "chosen instruments" unless we are persuaded that such a course is necessary to protect the public from significant adverse consequences.¹¹

114. We are not presently confronted with the situation posited in some of the arguments—20 or so applicants seeking to serve the same route with precisely the same services and facilities. In the eastern portion of the country, the number of applicants is relatively few—only one or two (aside from Datran) for any particular route or area, and there are no claims of economic exclusivity. There are also only a few applicants for routes in the Western Mountain and Plain States. While there are a multiplicity of applicants in the Central States, proposing service to some points in common, most propose different intermediate points and extension to points not included in the proposals of others. The two areas with the largest number of proposed new routes (exclusive of Datran) are the Pacific coast, where there are four, some of whom propose different intermediate points,¹² and Texas, where they are eight. Three of the Texas applicants propose service solely within that State, whereas the others propose to serve other States as well. Moreover, the routes within Texas vary to some extent.

115. The service and facilities proposed by Datran are markedly different from those proposed by any other applicant. It alone has proposed a switched, all digital end-to-end network (including digital local distribution facilities) exclusively for data transmission. Its proposal would permit occasional use by those with small requirements. The other applicants have all proposed point-to-point, rather than switched, service to meet the private line requirements of the bulk user. They would offer a variety of specialized services, including but not limited to data transmission, primarily aimed at offering subscribers flexible, low-cost communications channels adaptable to the particular needs of each. Their proposed transmission mode is analog or analog/digital rather than all digital. Moreover, they are proposing to achieve local loop service by a variety of means, including interconnection with local telephone exchange facilities and customer-provided facilities, as well as—in some instances—new construction by the applicant. In light of these and other differences between the two types of proposals, we conclude that the public would

¹¹ From the standpoint of potential economic impact on established carriers, we fail to see how it makes much difference whether such specialized traffic as they do not obtain is spread among a larger or a smaller number of new carriers. Moreover, we have already rejected (paragraph 52 above) the contention that impact on established carriers should be considered on a piecemeal, route by route, basis.

¹² One of the original Pacific coast applicants, Astron Corporation, has dismissed its applications since the issuance of the Notice. Another of the Pacific coast applicants is affiliated with Datran.

benefit by the availability of both kinds of service from new entrants. While there may be mutual impact between the two types of proposals insofar as data transmission is concerned, it does not appear that a grant of Datran's application would preclude an opportunity for entry by one or more private line carriers in view of what the record as a whole shows as to the size and heterogeneous nature of the potential market and submarkets. Accordingly, we have decided to treat Datran's proposal separately from those of the other applicants.

116. The proposals of the private line applicants do not vary among themselves to the degree that they differ from Datran. However, there are differences in geographical scope. The MCI carriers propose a nationwide, interconnected network, which they estimate would be accessible to 75 percent of the population and 85 percent of the business community in the United States. Others, like Southern Pacific, Western, and United Video, propose routes crossing very large regions. Some, like several of the Texas applicants, propose service in only one or two States. The circumstance that their proposals are basically similar in that each is offering to provide "customized" services tailored to the requirements of individual subscribers, does not mean that each would evolve with identical facilities and services in the areas of overlap. As we recognized in the Notice (paragraph 49):

Various systems may develop along different lines, each offering something of value to the public which would attract sufficient customers for viable operations. The number of successful operations may well depend on the ingenuity, enterprise and initiative of applicants and equipment manufacturers over a period of years in taking advantage of changing circumstances and in coming up with the types of services and equipment that will attract sufficient business to support the particular system.

117. The four applicants claiming economic exclusivity have not made any substantial prima facie showing that the potential specialized market along any particular route is so limited as to support only private line entrant. They make general assertions to that effect, purportedly reflecting business judgments based on their own market studies and surveys. However, they have not shown that such efforts were as comprehensive or aggressive as those of other applicants or that they have approached all of the potential users in the particular area. Nor have they demonstrated any prima facie reason for suspecting that the differing business judgments of other applicants are in error. We have found a general public need and demand for the proposed services in all areas. Where a majority of the applicants for any particular area or region are willing to proceed now in the face of competition by others, it would appear contrary to the public interest to delay the institution of needed new service in that area merely in order to afford one or two applicants an opportunity to show that new entry should be limited to one.

118. The record as a whole, including all of the various market forecasts, indicates that entry by more than one private line carrier should generally be reasonably feasible, in view of the large potential market and its heterogeneous character. In this connection, it is pertinent to note that the proposed plant investments and revenue requirements of the private line applicants are not of a magnitude anywhere near those of an A.T. & T. or even a Western Union. The total proposed initial investment of all of the pending private line applicants is on the order of \$175 million, including multiplexing equipment but excluding local distribution facilities.¹¹ MCI anticipates that total gross operating revenues for the MCI carriers would come to about \$55 million in the first year. Nebraska Consolidated Communications Corporation expects to derive annual operating revenues of approximately \$900,000 from only two out of the 50 or so potential customers it hopes to serve. When we authorized MCI to modify its Chicago-St. Louis route, our staff noted that with a loading of approximately 375 out of the potential 1,800 channels, that route would produce over a 25 percent return on invested capital in the first year.¹² Thus, a comparatively small share of the potential market may result in financially successful operations for any one applicant, and a number of small but viable carriers may be able to coexist in any particular region.

119. Further, and more important, we do not perceive any significant adverse consequences to the public in the event that one or more of the entrants should fail. In the first place, as the Department of Justice and other parties point out, if a weaker entrant should encounter difficulty, a merger with, or sale of facilities to, a stronger competitor is a more likely fate than bankruptcy or a removal of facilities from the field.¹³ Even assuming bankruptcy, the loss of a carrier who is unable to attract sufficient customers for viable operations in a competitive market of substantial potential size is not a matter of great moment to the public at large. The demand for this type of communications service would undoubtedly

¹¹ Datran's proposed investment of about \$350 million includes local distribution facilities (amounting to about half) and other costs such as switching equipment. If Datran succeeds in its goal of serving about 10 percent of the data market by 1980, and this is sufficient for successful operations by it, there should be ample room for more than one private line entrant providing other services as well (even assuming that A.T. & T. and Western Union garner a substantial share of the remaining 90 percent of the data transmission market).

¹² The staff's comment was based on MCI's projected revenues and costs, MCI Communications, Inc. (Files Nos. 5422-5423-C1-MP-70). Comments and Recommendations of the Common Carrier Bureau, pp. 4-5, 13, footnote 12.

¹³ The Department states that the anti-trust laws would not impede such a merger or sale of facilities.

be met by another entrant or an established carrier, and the frequencies would revert to the Commission for assignment to others.¹⁴ Any remaining customers could transfer to another carrier at what appears to be minimal inconvenience, and such carrier would be required to permit continued use of customer terminal equipment unless there is a risk of network harm. Carterfone, 13 FCC 2d 420 (1968). Loss of investment to any failing entrant is a normal business risk in a competitive situation. While this factor may be important where we are concerned with basic communications services upon which the general public depends, it does not outweigh the public interest and convenience in having a wide range of choices for private line users in satisfying their specialized communications requirements. As stated in paragraph 90 above, we do not contemplate any "protective umbrella to the competitors" or "any artificial bolstering of operations that cannot succeed on their own merits." (Notice, paragraph 44.)

120. In light of the foregoing, we conclude that it is not necessary or desirable in the public interest to hold comparative hearings for the purpose of restricting new entry in any particular area to only one private line applicant. A question remains as to whether we should nevertheless undertake to place a ceiling on the number of new entrants in any given area, and to hold further proceedings to determine how many and who should be selected.

121. For many of the same reasons just discussed, we do not think that the public interest calls for this course in the present circumstances. There may be too many applicants for viable operations by all in some areas (e.g., in Texas or the Pacific coast). We do not yet know whether all of the pending applicants will be found qualified and, if so, will elect to proceed.¹⁵ However, if an applicant is found qualified, obtains the nec-

¹⁴ As indicated in the Notice (paragraph 50a), if it should turn out that the market is spread so thin among the new entrants as to adversely affect their service to the public in that area, we can take remedial action by rule making or comparative hearings at license renewal time. We do not find it necessary to reach A.T. & T.'s contention that a section 214 authorization, once issued, cannot be revoked. These carriers cannot operate without microwave radio licenses, and the Communications Act requires a public interest, convenience, and necessity finding for any renewal of license under the circumstances then pertaining. In the very unlikely situation that all of the new applicants fail, the public would be no worse off than it is today. Its sole sources for the provision of specialized communications services would be the established carriers.

¹⁵ In order to avoid the possibility that an applicant may obtain a grant and tie up frequencies while deciding whether or not to proceed, we will strictly adhere to § 21.33(b) of the rules and will grant no extension of construction permits except for good cause shown, including a showing that construction is substantially underway.

essary financial backing, and makes a business judgment to risk that investment in competition with such of the pending applicants as may be authorized, we are not inclined to place further obstacles in its path. Moreover, since new entry by more than one private line applicant appears reasonably feasible in a potential market of this nature, we deem the marketplace to be a more reliable and effective instrument than the comparative hearing process for determining how many and which new entrants may succeed. Considering the desirability of avoiding delay in the institution of services needed by the public now, the benefit to the public in the availability of diverse options, and the lack of public detriment in the event some fail, we will decline to hold such hearings on the pending applications.

122. Our policy determination under Issue A rests essentially on our judgment, based on circumstances shown by this record, that competition is reasonably feasible and offers benefits to the public such as to outweigh any risk that some new entrants may fail. We would be very reluctant at this time to foreclose future applicants from an opportunity to compete with the present applicants, perhaps with a different or better service or by developing a new submarket. As in the case of any policy or rule, the policy adopted here is, of course, subject to review in the light of changed circumstances and may be altered if it no longer comports with the public interest, convenience, and necessity. See American Trucking, supra (paragraph 57 above). We will examine future applications in light of the circumstances then shown, including any experience to date with operations of the pending applicants, and will take such action as is necessary in the public interest.¹⁶

C. ISSUE C: FREQUENCY AND ROUTE COORDINATION; SPECTRUM CONSERVATION

1. Terrestrial Versus Satellite Systems

123. Except for some stations, the applicants are generally proposing to use frequencies in the 6 GHz common carrier band (5925-6425 MHz), which is shared with the communications satellite service (as an up-link). We expressed some concern in the Notice as to whether applicants for domestic communications satellite systems would experience difficulty in coordinating earth stations

¹⁶ Under the Commission's rules (§ 21.30 (b)), the time for filing new applications for consideration with the pending applications has long since expired, and any new applicant would not be entitled to comparative consideration except at license renewal time. Modifications in the pending applications to achieve compliance with the technical standards and rules adopted herein, will not subject these applications to a new cutoff period for the filing of competing applications. See also paragraph 135 below. Moreover, under normal processing procedures, no new application would be processed until processing of the pending applications has been completed (except for any hearings that may be required).

with terrestrial systems in the band, and recognized that the specialized carrier applications might complicate any problem. However, we did not propose to deny the new entrants access to this band on that ground, in view of the magnitude of the existing terrestrial usage, the possibility of additional frequency bands for satellite usage, and our belief that established and new carriers competing in the provision of terrestrial services should not be placed in unequal positions with respect to access to frequency bands. (Notice, paragraphs 51-52.)

124. The Communications Satellite Corp. has requested us to defer a resolution of this proceeding pending a decision in Docket No. 16495 on the domestic communications satellite applications. However, we do not think that such a course is necessary or in the public interest. The domestic satellite applications on file have already been coordinated with all of the stations proposed in previously filed terrestrial microwave applications, as well as with existing stations (Report and Order in Docket No. 16495, Appendix D, 22 FCC 2d 86, at 135).¹⁷ Moreover, the satellite applicants have found what are purported to be interference-free locations for earth stations to operate in the 4 and 6 GHz bands reasonably close to the cities to be served (including the Nation's largest cities where congestion is most severe). Thus, the problem of satellite-terrestrial sharing in the 6 GHz band does not appear to be as serious as was feared at the time of the Notice. Although some of the applicants have proposed the use of the additional frequencies and additional frequency allocations are being considered at the World Administrative Radio Conference for Space Telecommunications (Geneva, June-July, 1971), there is no proposal to preclude the use of the 4 and 6 GHz bands for domestic satellite systems. Our action here is not prejudicial to a resolution of the issues in Docket No. 16495 (see paragraph 104

¹⁷ Most of the satellite applications were filed after most of the terrestrial applications. The coordination did not include the comparatively few later-filed specialized carrier applications, and some of the satellite applicants have not yet applied for all of the earth stations contemplated (a good many of which would be receive-only stations in the 4 GHz band). However, we would anticipate no serious problem in view of the experience to date.

above), and we decline to grant the requested delay.¹⁸

125. In order to avoid possible interference to any domestic or other satellite system that would share the 6 GHz common carrier band (5925-6425 MHz) with terrestrial carriers, we proposed to prohibit the transmitting antennas of terrestrial facilities operating in that band from being aimed within 2° of the synchronous (geostationary) satellite orbit.¹⁹ There was general support for and no opposition to this proposal. Accordingly, it will be adopted with the provision, as proposed, that exceptions can be made under unusual circumstances. In such instances, we would expect the applicant to submit a thorough engineering evaluation of possible impact on any authorized or proposed satellite operation, as well as to propose operation on

¹⁸ While the specialized carrier applicants and the domestic satellite applicants may be seeking, in part, to attract some of the same markets, the emphasis appears to differ. The specialized carrier applicants are concentrating on data transmission and private line services, whereas, Comsat, for example, has proposed: (1) To lease satellites to A.T. & T., and (2) to establish a multipurpose system in which television program transmission would play a major role. Most of the other satellite applicants are also proposing, inter alia, television program transmission service to broadcast stations and/or CATV systems. MCI Lockheed Satellite Corp. has proposed a multipurpose system which would complement rather than duplicate the proposed terrestrial services of the MCI carriers. In any event, the terrestrial and the satellite technologies each offer special advantages, and we have already concluded in Docket No. 16495 (22 FCC 2d at 88-90) that both should be available to the public—though the nature of the domestic satellite systems and the identity of the licensees to be authorized are questions still to be determined in that proceeding.

¹⁹ Methods of calculating azimuths to be avoided may be found in: CCIR Report 393 (Green Books), New Delhi, 1970, and in Radio-Relay Antenna Point for Controlled Interference with Geostationary Satellites, by C. W. Lundgren and A. S. May, Bell System Technical Journal, Volume 48, Number 10, December 1969. The first reference is an approximate, graphical method of calculation while the second is suitable for computer calculation.

a reduced power basis.²⁰ We are not aware of any existing facilities which will be in violation of this new requirement. However, if they do exist, we will not require them to be modified unless and until it is shown that they are likely to cause interference to authorized satellite facilities.

126. Possible interference to terrestrial facilities from satellite transmission is generally not considered very likely. However, since the satellite down-link and terrestrial facilities share the band 3700-4200 MHz, we discourage the pointing of receiving antennas in that band within 2° of the stationary orbit (taking into account atmospheric refraction) to preclude possible future problems which may occur because of increased satellite transmission power or other reasons.

2. Terrestrial Frequency Conflicts and Route Blockage

127. Aside from the question of terrestrial versus satellite system coordination, the applications and opposition pleadings raise issues as to conflicts in terrestrial frequency usage and spectrum conservation. The established carriers claim that some of the proposed stations of the applicants would cause interference to their existing systems and block or impede economical expansion on existing microwave routes. There are also instances of frequency conflicts and potential interference among the applicants themselves. Based on past experience, we believe that most, if not all, of the claimed conflicts can be resolved through coordination and that new entry can be technically accommodated despite the growing frequency congestion. In order to facilitate such accommodation and future growth by all carriers, as well as to promote better coordinated and efficient use of spectrum, we proposed several measures in the Notice.

128. First, we proposed to amend our rules to require applicants, prior to filing, to coordinate the technical aspects of

²⁰ The maximum value of equivalent isotropically radiated power should not exceed: (a) 47 dBW for any antenna beam directed within 0.5° of the stationary satellite orbit, or (b) 47 to 44 dBW, on a linear decibel scale (8 dB per degree), for any antenna beam directed between 0.5° and 1.5° of the stationary orbit. These values are subject to possible revision as satellite operations develop further.

their proposals with other authorized carriers and applicants with previously filed applications in the same general area, to avoid frequency conflicts and blockage of planned future route expansion to the extent possible (Notice, paragraphs 56-58). In this connection we also raised a question as to whether standards for protecting the expansion potential of major routes should be prescribed and, if so, what standards.

129. In the comments, the concept of prior coordination received general approval. An exception is GT&E. It urges the continuation of the present procedure (with minor modification) whereby other users are advised of new proposals by our public notice of applications filed, but the reasons for its opposition to mandatory prior coordination are unclear. A number of existing carriers state that they now coordinate frequency usage with other carriers in their areas of operation and have found the procedure mutually beneficial. Datran supports the procedure but expresses some concern that in cases involving disagreement (e.g., a competitive situation) there may be less inclination to resolve technical conflicts promptly. The Department of Justice also agrees to prior coordination, but states that the Commission should make it clear that such meetings are to be limited to technical matters and that no attempt should be made to use coordination as an attempt to divide up markets or customers. It suggests that the Commission may want to consider the possibility of requiring coordination meetings to be held publicly in the presence of Commission staff and other affected parties, with final agreement in writing.

130. On the question of route blockage there is agreement that some attempt should be made to protect existing growth routes to provide for future expansion. However, no one recommends any particular standard to apply in such cases. A.T. & T. suggests that heavy routes be protected by utilizing block frequency allocation, but it offers no details or advice on resolving the substantial number of problems that would be entailed in such a far reaching plan.

131. In view of these comments we conclude that mandatory prior coordination would be beneficial. We believe that such procedure will not only reduce the frequency conflicts that lead to the filing of petitions to deny applications, but will also enable the various carriers to use the limited frequencies more effectively in their particular areas of operation. The planning of new routes is especially important, and we urge such carrier applicants to make preliminary coordination to avoid extensive engineering expenditures where an alternative route may be required to prevent blockage of an existing route or to resolve other technical problems. However, we want to emphasize that such coordination meetings are to be used only to discuss technical matters and that any attempt to utilize such encounters, either directly or indirectly, for anti-competi-

tive or market dividing purposes will not be tolerated. Moreover, the coordination representatives for each carrier or applicant should be technical personnel without overall policy making or marketing authority.⁶⁴

132. In order to facilitate coordination, the names of the coordination representatives should be made available to all other carriers or known applicants in the same general area of operation. We will expect each carrier or applicant to use its best efforts to review proposals submitted for coordination within a reasonable time (determined primarily by the size and complexity of the proposal) and to attempt to resolve technical conflicts in good faith without regard to competitive circumstances. If coordination is not completed within a reasonable time, we will make provision for an applicant to file its proposal with an explanation of the circumstances. One other point we wish to make clear is that we do not intend, by the device of coordination, to give one carrier a veto power over another's technical proposal. If the problem cannot be resolved, the application(s) may be filed with a brief explanation of the dispute. If the objecting carrier deems the matter to be of sufficient importance, it may, of course, file a petition to deny or an informal objection. In accordance with long-established practice, the Commission does not grant any application where it is aware of likely interference to any authorized station.

133. To facilitate coordination several parties suggest that the Commission adopt technical standards involving interference calculation and specified frequency plans, among others. Western Union points out that while standards are presently determined unilaterally, there is no significant disagreement among established carriers, except with regard to digital and analog/digital systems for which standards have not yet been fully developed. Several other carriers, including A.T. & T., similarly oppose the development of these standards. We can appreciate the desirability of uniform standards, but we also recognize that each system must be designed to meet various performance requirements and to utilize various transmission techniques (some of which are relatively new). The design, of course, must also take into account a wide variety of existing facilities. We believe that the establishment of such technical standards would involve the Commission too deeply

⁶⁴ We do not believe that it is necessary to go so far as having a Commission representative present at each meeting or having the results of any agreement reduced to writing, as suggested by the Department of Justice. Voluntary coordination has been employed for a number of years, and we have no evidence that illegal collusion has ever occurred. Also, we believe that the limited availability of Commission staff and the formality of written agreements would tend to hinder swift and effective coordination efforts.

in system design to the detriment of design flexibility. Therefore, we will decline to develop standards of this type at this time. However, if it later appears that standards may be necessary, we will reconsider the matter.

134. On the problem of route blockage, there appears to be no easy solution. No one party has proposed a standard that we believe would be workable or equitable. Therefore, we can only state that our policy is to protect the future expansion of existing growth routes to the extent practicable. By this we mean that when a new route is designed, consideration should be given to adjacent routes that may have significant expansion requirements. If the new route can be reasonably adjusted to avoid or minimize impact on an established growth route, we will expect the adjustment to be made.

135. On the matter of frequency conflicts between pending applications, we proposed to require the later filing applicant to amend his application(s) to remove the conflict. Under the proposal, applications involving such conflicts would not be designated for hearing unless: (1) The later filed application is filed within the cutoff period prescribed by § 21.30(b), and (2) the Commission is satisfied that the frequency conflict cannot be resolved by reasonable measures by the later filing applicant.⁶⁵ Since there is no objection to this proposal, it will be adopted. To facilitate the processing of applications, the rule will contain provisions for dealing with applicants who do not make efforts to resolve conflicts within a reasonable time (see § 21.100(a)). As proposed in the Notice (paragraph 56), we will accord pending applicants an opportunity to modify their applications to achieve compliance with these rules. The original filing and cutoff dates will still be determinative of priority under these rules.

3. Frequency Diversity and Miscellaneous Technical Requirements

136. We also proposed in the Notice (paragraphs 59-61) several measures to achieve more efficient spectrum utilization by all carriers. The most important of these relates to the use of frequency diversity.⁶⁶ We noted several possible approaches: the complete elimination of frequency diversity, reduction of the number of allowed protection channels, restriction of use to high density routes, or to allow its use only where there is no

⁶⁵ In the event the applications were filed on the same day, the burden of resolving the conflict would lie equally on the applicants.

⁶⁶ Frequency diversity may be regarded as two separate transmitters operating on different frequencies but carrying the same modulation and using a single antenna system. For purposes here, it also includes the use of a spare or protection channel which may be switched into the path of a faded channel.

reasonable alternative method of achieving the necessary reliability. Approximately 15 parties commented on this part of the proposal. Virtually all agree that frequency congestion is a problem which will grow and that space diversity is an effective means of providing reliability (at least from propagation outages). As to what should be done about frequency diversity, there are a variety of recommendations.

137. At one extreme GT&E urges virtually no change in the use of frequency diversity, contending that the presently accepted ratios (i.e. one protection channel for five working channels in the 4 GHz band, one for three in the 6 GHz band and one for one in the 11 GHz band) should be retained because they are needed for protection against equipment failures.⁶⁷ At the other extreme, Datran and Microwave Transmission Co. urge the complete elimination of frequency diversity, including the conversion of existing facilities using frequency diversity to space diversity. The other commenting parties take an intermediate approach, opposing the complete elimination of frequency diversity but suggesting various ways of restricting its use. A.T. & T. points, as may do, to the cost advantage of frequency diversity over space diversity on multiple channel systems. It also states that protection channels in its own facilities have an important function in addition to reliability by providing channels for occasional television service and for emergency restoration of failed channels on other connecting routes. With respect to reducing the ratio of protection channels as was suggested, A.T. & T. states that if cross band diversity is permitted (e.g. allowing both protection channels for the 4 and 6 GHz to be in the 6 GHz band), such an arrangement would provide adequate reliability for systems with good fading margins but would not provide adequate protection or restoration in many situations. However, A.T. & T. believes that space diversity can be used to augment frequency diversity on paths experiencing greater fade problems, and it is making plans to so utilize space diversity.

138. Southern Pacific, United Video, and Electronic Industries Association generally support restricted use of frequency diversity but take the position that the matter should be considered on a case by case basis and permitted where it is adequately justified and/or where frequency congestion is not a problem. Others, such as Nebraska Consolidated Communications, Microwave Service Co., and New York-Penn Microwave generally support a reduction in the number

⁶⁷ Presumably Western Union can be considered of similar persuasion. It opposed consideration of frequency diversity in this proceeding, contending that the matter should be considered in connection with Docket No. 15130. In that proceeding Western Union in 1967 opposed then proposed restrictions on the use of frequency diversity.

of protection channels. MITEQ, Inc., suggests that frequency diversity be banned on short paths of 15 or 20 miles in length. MCI emphasizes that all carriers should be treated equally and that the newer carriers should be permitted to employ the same ratio of protection channels as used at A.T. & T. Western Telecommunications and New York-Penn Microwave suggest a compromise between frequency diversity and space diversity in which space diversity would be utilized on the first two channels on a given route, with a protection channel being permitted upon the addition of a third working channel.

139. Upon evaluating this matter in light of the comments, we conclude that the status quo on the use of frequency diversity should not be maintained in view of the growing frequency congestion and the increasing demand for microwave frequencies to meet rapidly expanding communications requirements. It is generally agreed that space diversity is a satisfactory method of protecting against propagation failures. When used in conjunction with standby transmitters to protect against equipment failures, it offers a reasonable alternative to frequency diversity in achieving a relatively high degree of reliability. Its principal disadvantage when standby transmitters are utilized is cost, since each channel requires two transmitters and receivers per hop. However, on a one or two channel system, the cost differential is not substantial.⁶⁸ Also, space diversity does not offer the advantage of a spare channel which can be utilized for occasional video or to meet emergency requirements. Because of these reasons we conclude that the use of frequency diversity should be restricted rather than completely eliminated. While consideration of frequency diversity on a case-by-case basis, as suggested by several parties, may in theory be an equitable and flexible approach, we reject it because this would provide no standard for system design and because of the excessive administrative burden that it would impose on the Commission. A sensible compromise would appear to be one similar to that suggested by Western Telecommunications and New York-Penn Microwave, i.e., that frequency diversity not be permitted in the 4 and 6 GHz bands for the first two working channels on a particular route. Given the greater frequency impact caused by one for one and one for two protection on "thin routes" and the availability of

⁶⁸ On a one channel system both frequency diversity and space diversity (with standby transmitters) employ two transmitters and receivers per hop. On a two channel system frequency diversity (utilizing one protection channel) requires three transmitters and receivers compared with four for space diversity. The space diversity system will require some initial additional cost for an extra receiving antenna (and associated waveguide) and perhaps a somewhat higher and more rugged tower.

space diversity as a reasonable alternative, we believe such approach would yield substantial savings in spectrum usage⁶⁹ without imposing undue economic hardship on the carrier. Under this procedure, once a route is expanded to a third working channel, a protection channel would be allowed. Because of its greater propagation problems and lesser congestion, we will not apply this standard to the 11 GHz band at this time.

140. Aside from the prohibition of frequency diversity on the first two channels on a 4 or 6 GHz route, it appears that a limitation on the total number of frequency diversity channels would be in order. Although several parties contend that the presently accepted ratios (as noted in paragraph 137) are necessary for adequate reliability, no one submits any technical data in support of this proposition. There is no doubt that additional protection channels may be desirable to the carrier as an added measure of safety or for more flexibility of operation, but we are not convinced that they are necessary as a general practice. In the past 10 years, there have been many advances in the state of art, new equipment is usually solid state and more reliable, and system design is more refined. Yet the same number of protection channels is generally used today as in the early days of microwave. Moreover, landline carriers have developed a multiplicity of routes between most of the larger communities in the country, thus creating route redundancy which gives them an extra degree of flexibility to handle peak loads or provide for restoration of failed channels. Finally, we note that frequency diversity may be supplemented by space diversity in areas where unusual propagation problems exist or where exceptional reliability is required. For these reasons, we conclude that the number of protection channels can be reduced without significant consequence on the overall public interest to only one in the 4 GHz band, one in the 6 GHz band, and a 1-to-3 ratio in the 11 GHz band. However, for the sake of flexibility we will not require that the protection channels be in the same band as the working channels as long as the specified protection ratios are observed.⁷⁰ We rec-

⁶⁹ Routes employing only one or two working channels represent a very substantial portion of the total common carrier microwave facilities. For example, in Indiana, which is believed to be fairly typical, there are approximately 142 authorized common carrier microwave stations (exclusive of those restricted to video use) operating on some 278 transmission paths. Of these paths, about 148 consist of only one or two working channels. In view of our decision in this proceeding to permit competitive entry, it seems obvious that the number of such "thin routes" will proliferate.

⁷⁰ Current use of cross band diversity is primarily limited to the 6-11 GHz bands (e.g. Western Electric's TM/TL). For purposes of this rule making such systems will be classified as 6 GHz with protection channels in the 11 GHz band.

ognize that there may be occasions where unusual circumstance would dictate some deviation from this policy. Therefore, we will consider requests for waivers, but we will emphasize that waivers will not be granted unless there is a substantial showing of good cause directed to the facts of a given proposal.¹⁴¹

141. The rules will apply to all new facilities proposed in the future. Because of the extensive use of frequency diversity in existing facilities and the large number of pending applications proposing such use, we will apply the new requirements to these categories as well as new facilities to be proposed in the future. Therefore, where applications (both pending and new) involve the construction of new stations or new routes, we will require that the applications be amended, as necessary, to comply with the new rules (unless it can be shown that such requirement is unreasonable under the circumstances). However, in recognition of the problem inherent in the modification of existing facilities, we intend to be more flexible in application of the new rules. In general, the following procedure will be applied unless it can be shown to be unreasonable or disruptive in particular areas. Because of the probable need to construct higher towers in many instances, we will not require existing routes of one or two working channels to be converted from frequency diversity to space diversity unless another carrier can show that the diversity frequencies are necessary for working channels. However, we will expect each carrier to make plans to reduce the number of protection channels on existing facilities to meet new requirements. In general, it would appear that before additional channels are added on an existing route, any protection channels above the specified maximum should be converted to working channels. We will require that excess protection channels be relinquished prior to the next renewal period and that statements to this effect be submitted with the applications for renewal.¹⁴² During this conversion period we will consider applications for modification of existing facilities in a manner consistent with these objectives, taking into account the reasonableness of each carrier's conversion plans.

142. Two other technical changes that were proposed involve the use of "periscope" antennas and antennas of less than 6 feet in diameter. In order to pro-

¹⁴¹ The request for waiver should (among other things) include the following information:

(1) The reasons why space diversity and/or normal allocation of protection channels are not satisfactory;

(2) The degree of frequency congestion in the area concerned;

(3) The alternatives to the use of frequency diversity and their comparative cost in reasonable detail; and

(4) Any other public interest considerations that may support the request.

¹⁴² The next renewal period is Jan. 1, 1975, for A.T. & T. Long Lines; Aug. 1, 1975, for the Bell System Companies; and Feb. 1, 1976, for all other carriers.

mote more efficient use of the spectrum, and perhaps improve the quality of service, it was proposed to ban the use of both. Our stated purpose was to tighten transmission paths and reduce the chances for interference in areas where frequency assignments are congested. Virtually all parties commenting on these questions support our objectives. In regard to the minimum size antenna, most suggest performance standards in lieu of the minimum 6-foot diameter. We think the suggestion is worthwhile. MCI proposes specific standards in tabular form which should be rather easy to apply. A.T. & T. suggests that standards be applied with some flexibility; it contends that the standards suggested by MCI may be too lenient in some areas, such as near major metropolitan areas, and too stringent in open areas with little prospect for interference. There appears to be some merit in the argument that a requirement for use of high performance antennas at all locations would impose an unnecessary cost burden on systems located in areas not likely to be subject to congestion problems. Therefore, we have decided to adopt dual standards. One such standard, which is very similar to the MCI proposal, represents a relatively high performance antenna that would be used in areas subject to congestion. The other standard represents an adequate antenna but one which would have somewhat less stringent requirements for side and back lobe suppression. Antennas meeting the lower standard should be used only in areas where frequency congestion is not reasonably expected. The type of antenna to use in each given circumstance is a decision which will be left to the carrier.¹⁴³ However, if a carrier selects the lower performance antenna and that antenna later causes a problem to another carrier's existing or proposed facilities, which problem would not occur if the higher performance antenna had been originally installed, we will require the replacement of the lower performance antenna at the licensee's own expense.

143. On the question of periscope antennas there is less unanimity, although the majority support an outright ban. A number of parties suggest some flexibility on the matter where there is no frequency congestion. United Video and West Texas Microwave are opposed to a total ban. They take the position that high towers (on the order of 400 feet and up) are required in flat country to get paths of acceptable length and that standard waveguide and parabolic radiators are practically limited to heights of about 250 feet. Moreover, they note that there is new periscope antenna equipment now on the market which promises good front to back isolation and reduced sidelobe radiation. We believe that these arguments for flexibility under special circumstances have some merit.

¹⁴³ This is not to say that we will not challenge the use of a lower performance antenna in an obviously congested area or one in which future congestion is likely.

Accordingly, we will ban the use of periscope antennas on new transmission paths but consider waivers where it can be shown that the periscope antenna system would involve substantially less cost and that the impact of its use is likely to be minimal.¹⁴⁴

144. As to existing facilities employing periscope antennas or antennas not meeting the new performance standards, we will not require their replacement, except where it can be shown that such facilities inhibit the efficient use of the spectrum. In such cases, replacement will be required at the licensee's expense. These new requirements will, of course, be applied to all pending applications proposing new frequency paths.

D. ISSUE D: WHETHER SOME MEASURE OF PROTECTION TO APPLICANTS' SUBSCRIBERS IS CALLED FOR IN THE AREA OF QUALITY AND RELIABILITY OF SERVICE

1. Proposals in the Notice

145. In the Notice (paragraphs 62-65), the Commission tentatively decided against prescribing minimum standards of technical performance, but proposed to require for all carriers providing private line or other specialized services (paragraph 63):

(1) That the applicant specify in standard terminology in his microwave application the proposed reliability of service to the customer, to the extent that the nature of the proposed service is known;

(2) That the carrier be required to specify in his tariff, and notify the customer of, the precise reliability factors applicable to the particular service;

(3) That the carrier make refunds on a reasonable proportionate basis where the service rendered fails to meet the specified reliability standards; and

(4) That the carrier make periodic reports to the Commission concerning the reliability actually achieved, service complaints and refunds.

The Commission also requested comments on the development of standard statements of reliability quality factors for the various types of service, and on the contents of the proposed quarterly reports (paragraph 65).

2. Position of the Parties

146. All parties who addressed this issue (carriers, applicants, and others) were in favor of the goal of the proposals as a matter of general principle, though some questions were raised as to details. For example, Western Union asserted that it might be hard for those new carriers not providing end-to-end service to comply, since it might be difficult to determine who was responsible for any failure. Southern Pacific and Western

¹⁴⁴ Requests for waivers should specify cost comparisons in reasonable detail and identify all existing and proposed terrestrial and satellite facilities on which the proposal could conceivably have some impact. Where sophistication of design is a factor in minimizing possible impact, full technical particulars should be submitted.

TeleCommunications were concerned that quarterly reports might prove burdensome. As an alternative, Southern Pacific suggested periodic filing of statistical reports on reliability to enable the Commission to determine whether more detailed reports would be necessary. Western TeleCommunications suggested semiannual reports, but would prefer an insystem quality control program with monitoring. GT&E suggested utilization of a sampling procedure for reporting trouble reports; and questioned whether the same measurement factors should be applied to all private line services of all carriers on an individual line basis.

147. However, very few parties addressed this issue in any depth, and there appears to be no consensus among those who did, except for a suggestion that the matter needs further study. A.T. & T.'s comments (pages 112-115) describe its methods for defining performance or quality objectives for its services and the problems it sees, make suggestions as to how to state service quality in terms more appropriate to meet FCC objectives, and incorporate by reference its comments in Docket No. 15130 (filed December 21, 1967). While agreeing that customers should be provided with understandable statements, A.T. & T. urges that specifications in tariffs should be limited to basic definitions of the concept and scope of quality and reliability and customer refund provisions. A.T. & T. states that it is prepared to work with the Commission in defining standard statements of reliability and quality of service, and suggests that its current monthly reports to the Commission would provide a useful frame of reference for the contents of quarterly reports.

148. Raytheon Co. urges that equipment manufacturers have a vital interest in this question and should be included in any studies to define standard statements. It asserts that parameter of circuit availability best defines circuit reliability in terms understandable by average users, and that this is customarily stated as a percentage of a time period, usually a month or year, that the system will be in service and operating with a quality equal to or greater than a stipulated value. New York-Penn Microwave Corp. proposes that there should be proportionate refund for any outage lasting more than one-half hour. Southern Pacific suggests that a "practical" reliability measure for data transmission might be one it has found useful for its private microwave system: outages of more than one-half minute in duration are considered major and appropriate steps are taken to rectify them; outages of less than one-half minute are monitored for frequency of occurrence and steps are taken accordingly.

149. The Computer Time-Sharing Services Section of the Association of Data Processing Service Organizations concurs in the goals of the proposals, but suggests amplification of carrier responsibilities and Commission involvement in

the administration of procedures. It states that carriers should be required to publish meaningful specifications of their service, to be upgraded from time to time, which will enable users at reasonable cost and time to ascertain whether service in fact meets specifications (rather than relying on the carrier's judgment). It further urges that if the specifications are not met, the carrier should bear all costs of testing and refund charges for the period when performance did not meet the level of specifications. In addition, the tariffs should include time requirements for the installation of new service or modification of existing service. Bunker-Ramo Corp. also requests additional statements, e.g., as to the availability of maintenance facilities and restoration of outages. It urges the Commission to defer standard statements of reliability quality factors for evolution through a "working conference of engineers and other interested persons under FCC supervision.

3. Conclusions

150. We think that this issue may have been overshadowed by other issues in this proceeding, and that it has not received the attention it deserves. In any event, this record does not afford an adequate basis for a Commission decision as to standard statements of reliability for various types of services, or the contents of periodic reports. Since the matter pertains more to services and tariff offerings than to the construction of facilities, we have time to conduct further studies with the assistance of interested entities and/or further proceedings before any decision on this issue is actually needed. We have concluded that further rule making on Issue E is necessary. The further notice of proposed rule making will include this issue as well, and will discuss the question of what, if any, additional steps to obtain the assistance of interested persons appear appropriate at this time. Accordingly, a resolution of Issue D will be deferred pending further procedures.

E. ISSUE E: WHAT IS THE APPROPRIATE MEANS FOR LOCAL DISTRIBUTION OF THE PROPOSED SERVICES?

1. Proposals in the Notice

151. In the Notice, it was proposed that new entrants and their customers would have the following options with respect to local loop service (Notice, paragraphs 67, 69):

(1) Interconnection or leased channel arrangements with local telephone carriers under reasonable terms and conditions to be negotiated with the new carriers (or in the case of customers, under reasonable terms set forth in the tariff schedule of the local carrier).

(2) Construction of independent local facilities by the applicants, their customers or some other entity. Comments were requested on the use of wire, cable and/or radio, particularly frequencies in the vicinity of 11 GHz, and 18 and 50 GHz or some other portion of the spectrum above 11 GHz.

Parties were requested to address this aspect fully, with particular attention to the technical feasibility and comparative costs of the various alternatives and the effect on charges to subscribers for end-to-end service (Notice, paragraph 70).

2. Positions of the Parties

(a) *Interconnection.* 152. While Datran insists that end-to-end facilities are essential to its proposal, most of the applicants claim that a flexibility of choice as to interconnection or construction of new independent facilities is needed, and some propose to rely solely on interconnection. A.T. & T. says that: "When the Commission determines that it is in the public interest to license additional intercity common carriers, we would be willing to discuss with them the technical arrangements required and appropriate charges for any connections required of the telephone companies." GT&E states that, with adequate lead time, it will provide local distribution services to any authorized carrier. MCI claims to be encouraged by the statements of A.T. & T. and GT&E on this score. Western Union urges the Commission not to prejudice the technical and economic feasibility of interconnection in this proceeding, and to hold individual evidentiary hearings on interconnection for each new system. USITA asserts that separate local facilities would cause a loss of revenues to the independent telephone companies, but sees legal and technical problems in requiring interconnection and seeks individual evidentiary hearings. Southern Pacific urges the Commission not to postpone this question for future uncertainty and perhaps dispute, but rather to set forth guidelines now.

(b) *Construction of independent local facilities.* 153. Datran states that end-to-end facilities are essential to its switched digital data network and that interconnection with the local telephone exchange systems is not suitable to it. For local loops, it proposes to use a combination of cable and 11 GHz frequencies (with low-power transmitters and all carrier frequencies closely spaced within a single 20 MHz bandwidth which could distribute up to 4,000 4.8 Kb/s two-way data channels). Datran claims, with supporting technical studies for Dallas and Los Angeles, that such intracity use of 11 GHz would be fully compatible with intercity use, at least initially, and that 18 and 30 GHz and optical systems may be feasible alternatives for future expansion (particularly for short links). While preferring 11 GHz, Datran suggests a mix of 11 and 18 GHz as an alternative or, as a third choice, the use of 18 GHz.

154. MCI has filed a petition for rule making (RM 1700) to allocate the frequencies 38.6-40 GHz for a local Carrier Distribution Service. This petition is described in the summary of its comments (Appendix C, page 7). It urges that the local distribution issue be deferred, and that its petition be considered in a

separate proceeding. MCI's petition is opposed by GT&E (which is against any independent local facilities), and supported by Martin Marietta Corp., Resalab, Inc., MITEQ, Inc., A.T. & T. and Western Union. Datran expresses doubts as to the technical feasibility of 38.6-40 GHz for this purpose under the present state-of-the-art.

155. While A.T. & T. supports the end-to-end concept, it prefers 38.6-40 GHz over the use of either 11 GHz or 18 GHz (which it claims should be reserved primarily for intercity use and access to metropolitan areas) and suggests consideration of the possible use of 30 and 50 GHz frequencies as well. A.T. & T. supports further proceedings because the applicants have not given sufficient attention to this aspect and it foresees some technical and economic problems in such proposals as they have made. While adhering to the view that evidentiary hearings are required on all aspects of this proceeding, Western Union concurs in A.T. & T.'s position that 11 GHz should be reserved for intercity use and believes that the possible use of frequencies above 17 GHz should be considered in a separate proceeding.

156. EIA asserts that the use of 11 GHz for local loops would eventually create problems for intercity systems entering congested areas, but until such time as the 18-50 GHz region and equipment are available, sees no reason why 11 GHz should not be utilized to initiate metropolitan distribution systems so long as they are coordinated with access systems. NCTA requests the Commission not to decide upon any local distribution means which would exclude eventual use of CATV cable. Southern Pacific, like most of the applicants, states that the new carriers should have flexibility of choice of means, including interconnection, and that with such flexibility local distribution will be accomplished somehow. It sees problems in the promiscuous use of 11 GHz and suggests that the use of 18-50 GHz may be premature. However, Southern Pacific urges the Commission not to postpone the local distribution question, including interconnection terms, for future uncertainty and perhaps dispute. It requests the Commission to set forth guidelines and preliminary outlines of local distribution characteristics at this time for further study and comment.

3. Conclusions

157. We reaffirm the view expressed in the Notice (paragraph 67) that established carriers with exchange facilities should, upon request, permit interconnection or leased channel arrangements on reasonable terms and conditions to be negotiated with the new carriers, and also afford their customers the option of obtaining local distribution service under reasonable terms set forth in the tariff schedules of the local carrier. Moreover, as there stated, "where a carrier has monopoly control over essential facilities we will not condone any policy or practice whereby such carrier would discriminate in favor of an affiliated carrier or show favoritism among competitors." In view of the representations of A.T. & T. and GT&E in this proceeding, upon which we rely, and the self-interest of other independent telephone companies in not losing potential new business, there appears to be no need to say more on this question at this time. Should any future problem arise, we will act expeditiously to take such measures as are necessary and appropriate in the public interest to implement and enforce the policies and objectives of this decision.

158. We also conclude that new carriers should have the option of constructing their own independent local facilities to provide end-to-end service. However, this record does not afford an adequate basis for any determination as to what radiofrequencies should be made available for use in this conjunction. An allocation of frequencies above 11 GHz might be inappropriate prior to the World Administrative Radio Conference for Space Telecommunications (Geneva, June-July, 1971). Moreover, the parties to this proceeding are those primarily interested in Issues A and B, and other entities who may have an interest in frequency allocations above 11 GHz have not participated. We recognize that Datran has discussed and supported its 11 GHz proposal at some length, and other parties have addressed this question, though not in any depth. Since Datran has not yet applied for any 11 GHz intracity facilities, there would appear to be time to conduct further proceedings before any decision on the use of such frequencies is necessary.

159. Accordingly, we have decided to issue a further notice of proposed rule making on MCI's proposal to allocate the frequencies 38.6-40 GHz for a local carrier distribution service, and to include comparative consideration of frequencies in the other regions of the spectrum that have been suggested (11 GHz, 18 GHz, 30 GHz, and 50 GHz). We do not foreclose the contention, made by some parties here, that more than one frequency allocation might be appropriate, at least temporarily, or counterproposals as to possible alternative allocations. We will issue the further notice as soon as possible, and expedite the further proceedings on this question. For, we realize that this aspect should be resolved at an early date so that those authorized entrants contemplating local construction can plan and build such facilities without delay to the inauguration of the system.

160. In light of the foregoing, we conclude that the public interest, convenience and necessity would be served by adoption of the policies set forth above and the rules contained in Appendix E hereto, effective July 15, 1971. Authority for the policies and rules adopted herein is contained in sections 1, 2(a), 4 (i) and (j), 201, 202, 214, 218, 301, 303, 307-309, and 403 of the Communications Act. We also conclude that further proceedings are necessary for a resolution of Issues D and E herein, and will retain full jurisdiction over those aspects of this proceeding.

161. Our order released on July 17, 1970, herein (24 FCC 2d 318, 350) extended the time for filing petitions to deny and other pleadings with respect to then pending and new applications by specialized carriers, which pleadings were not due as of July 17, 1970, to a date to be specified by further order. We will provide that such pleadings are due about 30 days after publication of this First Report and Order in the FEDERAL REGISTER, i.e., on July 15, 1971. Thereafter, the normal filing times specified in the Commission's rules will apply to any responsive or new pleadings. Such pleadings should address questions not disposed of in this proceeding.

162. Accordingly, it is ordered, That: a. The policies set forth herein and the rules contained in Appendix E hereto are adopted, effective July 15, 1971. b. Petitions to deny and other pleadings with respect to the applications listed in Appendix A hereto, which were not due as of July 17, 1970, shall be filed on or before July 15, 1971. c. This proceeding is terminated only with respect to Issues A, B, and C, and the Commission retains full jurisdiction over Issues D and E.

III. MISCELLANEOUS

160. In light of the foregoing, we conclude that the public interest, convenience and necessity would be served by adoption of the policies set forth above and the rules contained in Appendix E hereto, effective July 15, 1971. Authority for the policies and rules adopted herein is contained in sections 1, 2(a), 4 (i) and (j), 201, 202, 214, 218, 301, 303, 307-309, and 403 of the Communications Act. We also conclude that further proceedings are necessary for a resolution of Issues D and E herein, and will retain full jurisdiction over those aspects of this proceeding.

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IV. ORDER

162. Accordingly, it is ordered, That: a. The policies set forth herein and the rules contained in Appendix E hereto are adopted, effective July 15, 1971.

b. Petitions to deny and other pleadings with respect to the applications listed in Appendix A hereto, which were not due as of July 17, 1970, shall be filed on or before July 15, 1971.

c. This proceeding is terminated only with respect to Issues A, B, and C, and the Commission retains full jurisdiction over Issues D and E.

(Secs. 1, 2, 4, 201, 202, 214, 218, 301, 303, 307-309, 403, 48 Stat., as amended, 1084, 1066, 1070, 1075, 1077, 1081, 1082, 1083, 1084, 1085, 1094; 47 U.S.C. 151, 152, 154, 201, 202, 214, 218, 301, 303, 307-309, 403)

Adopted: May 25, 1971.

Released: June 3, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX E

Part 21 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 21.1, the following definition is added in appropriate alphabetical order:

§ 21.1 Definitions.

Periscope antenna system. An antenna system which involves the use of a passive reflector to deflect the radiation of a

* Concurring statement of Commissioner Robert E. Lee filed as part of the original document.

directional antenna from a vertical or near-vertical beam to a horizontal or near-horizontal beam.

§ 21.100 [Amended]

2. In § 21.100, paragraph (a) is amended by deleting the last sentence beginning with the words "Frequency diversity transmission * * *". New paragraphs (c), (d), and (e) are added to read as follows:

(c) Frequency diversity transmission will not be authorized in these services in the absence of a factual showing that the required communications cannot practically be achieved by other means. Where frequency diversity is deemed to be justified on a protection channel basis, it shall be limited to one protection channel for the band 3,700-4,200 MHz, one protection channel for the band 5,925-6,425 MHz, and a ratio of one protection channel for three working channels for the band 10,700-11,700 MHz. In the bands 3,700-4,200 MHz and 5,925-6,425 MHz no frequency diversity protection channel will be authorized unless there is a minimum of three working channels.

(d) All applicants for regular authorization in the Point-to-Point Microwave Radio and Local Television Transmission Services shall, before filing an application, coordinate proposed frequency usage (including relevant technical details) with existing users in the area and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference or restricted ultimate system capacity. All applicants, permittees and licensees shall cooperate fully and make reasonable efforts to resolve technical problems and conflicts that inhibit the most effective and efficient use of the radio spectrum. Applicants should make every reasonable effort to avoid blocking the growth of systems that are likely to need additional capacity in the foreseeable future. The applicant shall identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved or if the existing licensee, permittee or applicant does not respond to coordination efforts within a reasonable time, an explanation shall be submitted with the application.

(e) Where frequency conflicts arise between co-pending applications in the Point-to-Point Microwave Radio and Local Television Transmission Services, it shall be the obligation of the later filing applicant to amend his application to remove the conflict, unless he can make a showing that the conflict cannot be reasonably eliminated. Where a frequency conflict is not resolved and no showing is submitted as to why the conflict cannot be resolved, the Commission may grant the first filed application and dismiss the later filed application(s) after

giving the later filing applicant(s) 30 days to respond to the proposed action.

3. Section 21.108 is revised to read as follows:

§ 21.108 Directional antennas.

(a) Unless otherwise authorized upon specific request by the applicant, each station authorized under the rules of this part, other than base, mobile and auxiliary test stations operating in the Domestic Public Land Mobile Radio Service, shall employ a directional antenna adjusted with the center of the major lobe of radiation in the horizontal plane directed toward the receiving station with which it communicates: *Provided, however,* Where a station communicates with more than one point, a multi- or omnidirectional antenna may be authorized if necessary. New periscope antenna systems will not, under ordinary circumstances, be authorized.

(b) Stations operating below 2,500 MHz (other than base, mobile and auxiliary test stations in the Domestic Public Land Mobile Radio Service) which are required to use directional antennas shall employ antennas meeting the standards indicated below. (Maximum beam width is for the major lobe of radiation measured at the half power points. Suppression is the minimum attenuation required for any secondary lobe signal and is referenced to the maximum signal in the main lobe.)

Frequency range	Maximum beam width	Suppression
Below 500 MHz	80°	10 dB
500 to 1,500 MHz	20°	13 dB
1,500 to 2,500 MHz	12°	13 dB

(c) Fixed stations (other than temporary fixed) operating at 2,500 MHz or higher shall employ transmitting antennas meeting performance standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance standard B may be used subject to the liability set forth in § 21.109(c). Additionally, the main lobe of each antenna shall have minimum power gain of 36 dB over a reference half wave dipole antenna. The values indicated represent the suppression required in the horizontal plane, without regard for the polarization plane of intended operation.

Angle from center line of main lobe	Minimum radiation suppression	
	Standard A	Standard B
6° up to, not including 10°	25 dB	20 dB
10° up to, not including 15°	29 dB	24 dB
15° up to, not including 20°	33 dB	28 dB
20° up to, not including 30°	36 dB	32 dB
30° up to, not including 100°	42 dB	35 dB
100° up to, including 180°	55 dB	36 dB

(d) In cases where passive reflectors are employed in conjunction with trans-

mitting antenna systems, the foregoing paragraphs of this section also shall be applicable thereto. However, in such instances, the center of the major lobe of radiation from the antenna normally shall be directed at the passive reflector, and the center of the major lobe of radiation from the passive reflector directed toward the receiving station with which it communicates.

(e) No directional transmitting antenna utilized by a station operating in the band 5925-6425 MHz shall be aimed within 2° of the geostationary satellite orbit, taking into account atmospheric refraction. However, exception may be made in unusual circumstances upon a showing that interference to satellite communications is not likely to occur. (Methods of calculating azimuths to be avoided may be found in: CCIR Report 393 (Green Books), New Delhi, 1970, and in "Radio-Relay Antenna Pointing for Controlled Interference with Geostationary Satellites" by C. W. Lundgren and A. S. May, Bell System Technical Journal, Volume 48, Number 10, December 1969. The first reference is an approximate, graphical method of calculation while the second is suitable for computer calculation.)

4. Section 21.109 is amended by adding new paragraph (c) to read as follows:

§ 21.109 Antenna, tower, and transmitting systems changes.

(c) The Commission may require the replacement, at the licensee's expense, of any antenna or periscope antenna system of a permanent fixed station operating at 2500 MHz or higher which does not meet performance Standard A specified in § 21.108(c), upon a showing that said antenna causes or is likely to cause interference to (or receive interference from) any other authorized or proposed station whereas an antenna meeting performance Standard A is not likely to involve such interference.

5. Section 21.709 is amended by adding new paragraph (c) to read as follows:

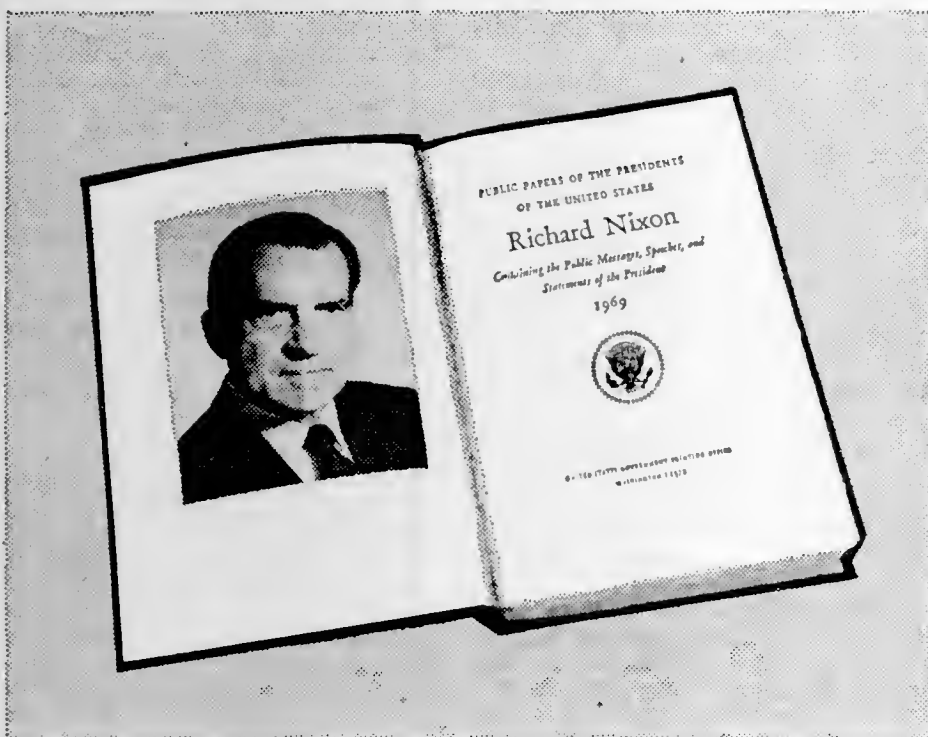
§ 21.709 Renewal of station license.

(c) Any application for renewal of license, for a term commencing January 1, 1975, or after, involving facilities utilizing frequency diversity must contain a statement showing compliance with § 21.100(c) or the exceptions recognized in paragraph 141 of the "First Report and Order" in Docket No. 18920 (FCC 71-547). If not in compliance, a complete statement with the reasons therefore shall be submitted.

[FR Doc. 71-7861 Filed 6-8-71; 8:45 am]

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REORGANIZATION PLAN NO. 1 OF 1971

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 24, 1971, pursuant to the provisions of chapter 9 of title 5 of the United States Code.¹

Reorganization of Certain Volunteer Programs

SECTION 1. *Establishment of agency.* (a) There is hereby established in the executive branch of the Government an agency to be known as "Action".

(b) There shall be at the head of Action the Director of Action. He shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(c) There shall be in Action a Deputy Director of Action who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Director shall perform such functions as the Director of Action shall from time to time assign or delegate, and shall act as Director of Action during the absence or disability of the latter or in the event of a vacancy in the office of Director of Action.

(d) There shall be in Action not to exceed four Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). Each Associate Director shall perform such functions as the Director of Action shall from time to time assign or delegate.

SEC. 2. *Transfer of functions.* (a) The following described functions are hereby transferred to the Director of Action:

(1) The functions of the Director of the Office of Economic Opportunity under Title VIII of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2991-2994d (relating to Volunteers in Service to America and Auxiliary and Special Volunteer Programs, including the National Student Volunteer Program).

(2) The functions of the Secretary of Health, Education, and Welfare under Title VI of the Older Americans Act of 1965, as amended, 42 U.S.C. 3044-3044e (relating to the Retired Senior Volunteer Program and the Foster Grandparent Program).

¹ Effective July 1, 1971, under the provisions of section 6 of the plan.

(3) The functions of the Small Business Administration under section 8(b) of the Small Business Act, as amended (15 U.S.C. 637(b)), insofar as they relate to individuals or groups of persons cooperating with it in the furtherance of the purposes of that section: *Provided*, That such individuals or groups of persons, in providing technical and managerial aids to small business concerns, shall remain subject to the direction of the Administration.

(4) So much of other functions or parts of functions of the transferor officers and agencies affected by the foregoing provisions of this section as is incidental to or necessary for the performance by Action or by the Director of Action of the functions transferred by those provisions, respectively, including, to the same extent, the functions conferred upon the Director of the Office of Economic Opportunity by section 602 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2942).

(b) The function conferred upon the Director of the Peace Corps by section 4(c)(4) of the Peace Corps Act, as amended (22 U.S.C. 2503(c)(4)), is hereby transferred to the President of the United States.

SEC. 3. *Performance of transferred functions.* The Director of Action may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of Action.

SEC. 4. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of Action or to Action by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to Action at such time or times as the latter Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. *Interim officers.* (a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Director of Action until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Director, authorize any such person to act as Associate Director, and authorize any such person to act as the head of any principal constituent organizational entity of Action.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such

compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. *Effective date.* The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1971, whichever is later.

[FR Doc.71-8142 Filed 6-9-71;8:45 am]

LEGISLATIVE HISTORY OF REORGANIZATION PLAN NO. 1 OF 1971

Weekly Compilation of Presidential Documents, Vol. 7, No. 13:

Mar. 24, Presidential message transmitting Plan to Congress.

House Report No. 92-222 (accompanying H. Res. 411), Comm. on Government Operations.

Senate Report No. 92-136 (accompanying S. Res. 108), Comm. on Government Operations.

Congressional Record, Vol. 117 (1971):

May 25, considered and approved by House.

June 2, 3, considered and approved by Senate.

Rules and Regulations

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER A—GENERAL

[71-527]

PART 505—AVAILABILITY AND CHARACTER OF RECORDS

Appeals by Persons Denied Information or Records of the Board

JUNE 3, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 505.8 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.8) for the purpose of revising the procedure relating to appeals by persons denied information or records of the Board. Accordingly, on the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said § 505.8 by revising it to read as follows, effective July 12, 1971:

§ 505.8 Appeals.

Any person who believes himself aggrieved by the denial to him of any information or record of the Board pursuant to this part may make written application, stating the grounds thereof, to the General Counsel of the Board for redress. The General Counsel shall promptly advise the applicant of his determination as to the disposition of the application. The applicant may appeal the determination of the General Counsel to the Board for review, by written application addressed to the Office of the Secretary at the address set forth in § 505.4(d). The Board shall act upon such application within a reasonable time and shall promptly notify the applicant of its determination.

(Sec. 1, 81 Stat. 54; 5 U.S.C. 552; sec. 17, 47 Stat. 736, as amended; sec. 5, 48 Stat. 132, as amended; sec. 402, 48 Stat. 1256, as amended; 12 U.S.C. 1437, 1464, 1725. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the above amendment is deemed by the Board to apply to rules of Board procedure, notice and public procedure thereon are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby provides that the amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM,
Assistant Secretary.

[FR Doc.71-8124 Filed 6-9-71;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-17-AD; Amdt. 39-1227]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 33, 35, 55, 56, 58, and 95 Series Airplanes

AD 70-15-14 (Amendment 39-1047) required the testing and inspection, and/or replacement of Beech P/N 96-524029-1 control wheel adapters installed on Beech Model 56TC Airplanes. Subsequently, it has been found that the testing and inspection procedures are inadequate. The Agency has continued to receive reports of cracked or broken Beech P/N 96-524029-1 control wheel adapters installed on Beech 58 and 95-55 airplanes as well as Beech Model 56TC airplanes. These instances result in sudden and unexpected interruptions of aileron and elevator control. To correct this condition the manufacturer has issued Beechcraft Service Instruction No. 0254-156, Revision II, which recommends replacement of these and P/N 96-524029-3 adapters. Since the condition described herein exists or may develop in other airplanes of the same and similar type designs, AD 70-15-14 is being superseded by an Airworthiness Directive requiring within 50 hours' time in service after the effective date of this AD, that the aforementioned control wheel adapters installed on Beech 33, 35, 55, 56, 58, and 95 series airplanes be replaced in accordance with the service instruction. Beech Model airplanes affected by this AD were either equipped at the factory with Beech P/N 96-524029-1 or P/N 96-524029-3 adapters or retrofitted in the field with Beech P/N 60-524080-3 or 60-524080-4 control wheels which incorporated the suspect adapters.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to the following model airplanes:

- (1) 35-C33, E33, F33 (Serial Nos. CD-1062 thru CD 1264); 35-C33A, E33A, F33A (Serial Nos. CE-118 thru CE-315); E33C, F33C (Serial Nos. CJ-1 thru CJ-30); V35, V35A, V35B (Serial Nos. D-8336 thru D-9140); 36, A36 (Serial Nos. E-1 thru E-27); 95-B55, 95-B55A (Serial Nos. TC-1021 thru TC-1335); 95-C55, 95-C55A, D55A, E55, E55A (Serial Nos. TE-258 thru TE-808); 56TC, A56TC (Serial Nos. TG-1 thru TG-94); 58 (Serial Nos. TH-1 thru TH-27); D95A, E95 (Serial Nos. TD-678 thru TD-721) airplanes equipped at the factory with Beech P/N 96-524029-1 and/or 96-524029-3 control wheel adapters.
- (2) 35-C33 (Serial Nos. CD-814 thru CD-1061); 35-C33A (Serial Nos. CE-1 thru CE-117); V35 (Serial Nos. D-7977 thru D-8335); 95-B55, 95-B55A (Serial Nos. TC-371 and TC-502 thru TC-1020); 95-C55, 95-C55 (Serial Nos. TC-350 and TE-1 thru TE-255); D95A (Serial Nos. TD-534 thru TD-677) airplanes retrofitted in service with Beech P/N 60-524080-3 and/or P/N 60-524080-4 control wheel incorporating Beech P/N 96-524029-1 and/or P/N 96-524029-3 control wheel adapters.

Compliance: Required as indicated unless already accomplished.

To assure security of the control wheel, within 50 hours' time in service after the effective date of this AD, replace Beech P/N 96-524029-1 and P/N 524029-3 control wheel adapters with Beech P/N 96-524029-15 (left side) control wheel adapter or Beech P/N 96-524029-19 (right side) control wheel adapter in accordance with Beechcraft Service Instruction No. 0254-156, Revision II, or an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes AD 70-15-14 (Amendment 39-1047).

This amendment becomes effective June 12, 1971.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on June 2, 1971.

JOHN A. HARGRAVE,

Acting Director, Central Region.

[FR Doc.71-8100 Filed 6-9-71;8:49 am]

[Docket No. 71-EA-65; Amdt. 39-1224]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Grumman G21A type airplanes.

There have been reports of defective elevator trim shafts as a result of cracked

end fittings. The cause of the cracked end fittings is believed to be the use of a defective crimping tool. The defective trim shaft could lead to a failure of the elevator tab control flexible drive shaft and present a hazard to air safety. Since this condition can exist or develop in airplanes of the same type design, an airworthiness directive is being issued which will require a visual inspection and repair or replacement of the subject part.

Since a situation exists which requires expeditious adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

GRUMMAN AIRCRAFT. Applies to Model G21A aircraft certificated in all categories.

Within the next 25 flight hours after the effective date of this AD, unless already accomplished, visually inspect, replace or repair P/N 7190Y-OA-1408 (flexible drive shaft, elevator tab control) in accordance with the procedure of Grumman Customer Bulletin G21A No. 71-1 dated 3 March 1971 or with equivalent method.

Equivalent methods or parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective June 10, 1971.

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423, sec. 6(c), DOT Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 27, 1971.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.
[FR Doc. 71-8075 Filed 6-9-71; 8:47 am]

[Docket No. 71-EA-89; Amdt. 39-1226]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is publishing an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-23, 24, 30, 31, and 39 type aircraft.

There have been reports of malfunctioning of electric trim switches installed on the subject aircraft. Since this deficiency can exist or develop on aircraft of similar type design, an airworthiness directive is being issued so as to require a modification of the trim switches.

Since a situation exists requiring expeditious adoption of this amendment, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the

Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PIPER AIRCRAFT. Applies to Models PA-23-250 (Six Place) and PA-E23-250 (Six Place) Serial Numbers: 27-3837, 27-3944 through 27-4467, 27-4469 through 27-4527, 27-4529 through 27-4559, 27-4561 through 27-4567, 27-4569 through 27-4575, 27-4577 through 27-4579, 27-4581, 27-4582, 27-4584 through 27-4592, 27-4594, 27-4596 through 27-4604 and 27-4606. Model PA-24-260, Serial Nos. 24-4783, 24-4804 through 24-4953, 24-4955 through 24-4959, 24-4962 and 24-4964. Model PA-30, Serial Nos. 30-1717, 30-1745 through 30-2000. Model PA-31 and 31-300, Serial Nos. 31-2 through 31-694, 31-696 and 31-697. Model PA-31P; Serial Nos. 31P-1 through 31P-24, 31P-26 through 31P-29, 31P-31 and 31P-33. Model PA-39; Serial Nos. 39-1 through 39-83 and any other of the above model A/C equipped with Scott Electric Trim Switch P/N 800452-01.

Compliance required within the next 100 hours' time in service after the effective date of this AD, unless already accomplished.

(a) Modify the Electric Trim Switch P/N 800452-01 in accordance with Piper Kit No. 760505 as referenced in Piper Service Bulletin No. 331, dated 5 February 1971, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(b) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective June 16, 1971.

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958 49 U.S.C. 1354(a), 1421 and 1423, sec. 6(c), DOT Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y. on June 2, 1971.

GEORGE M. GARY,
Director, Eastern Region.
[FR Doc. 71-8076 Filed 6-9-71; 8:47 am]

[Docket No. 10299; Amdt. 39-1229]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH-104 "Dove" Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of emergency landing gear extension system compressed air bottle assemblies having air bottles that were manufactured before January 1, 1959, with serviceable assemblies of the same part number incorporating air bottles manufactured on or after that date on Hawker Siddeley Model DH-104 "Dove" airplanes was published in the FEDERAL REGISTER, 35 F.R. 7435.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The only comment which was received questioned whether air bottle P/N AC.11038 could be used in place of P/N AH.7360 which was specified in the proposal. The manu-

facturer has advised that P/N AC.11038 may be used in place of P/N AH.7360, and that it is revising its Technical News Sheet, Series CT(104) No. 214, accordingly. The AD is therefore being revised to include air bottle P/N AC.11038 as an alternative to P/N AH.7360. In addition, due to unavoidable delay in the making of this amendment, the former compliance date of December 31, 1970, has been revised to July 31, 1971.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION. Applies to Model DH-104 "Dove" airplanes.

Compliance is required on or before July 31, 1971, unless already accomplished.

To prevent possible failure of the Dunlop compressed air bottles used in the emergency landing gear extension systems, inspect the compressed air bottle (P/N AH.7360 or AC.11038) installed in the air bottle assembly (P/N AH.8512) located under the pilot's seat. If the air bottle was manufactured before January 1, 1959, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AH.7360 or AC.11038) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the bottle.

(Hawker Siddeley Technical News Sheet, Series CT(104), No. 214, Issue 2, covers this subject.)

This amendment becomes effective July 30, 1971.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423 sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 3, 1971.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.
[FR Doc. 71-8077 Filed 6-9-71; 8:47 am]

[Docket No. 10300; Amdt. 39-1230]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH-114 "Heron" Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of emergency landing gear system and emergency braking system compressed air bottle assemblies having air bottles that were manufactured before January 1, 1959, with serviceable assemblies of the same part number incorporating air bottles manufactured on or after that date on Hawker Siddeley Model DH-114 "Heron" airplanes was published in the FEDERAL REGISTER, 35 F.R. 7435.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The only comment which was received questioned whether air bottle P/N AC.11038 could

be used in place of P/N AH.7360, which was specified in the proposal. The manufacturer has advised that P/N AC.11038 may be used in place of P/N AH.7360, and that it is revising its Technical News Sheet, Series: Heron (114, No. S.6, accordingly. The AD is therefore being revised to include air bottle P/N AC.11038 as an alternative to P/N AH.7360. In addition, due to unavoidable delay in the making of this amendment, the former compliance date of December 31, 1970, has been revised to July 31, 1971.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION. Applies to Model DH-114 "Heron" airplanes.

Compliance is required as indicated.

To prevent possible failure of the Dunlop compressed air bottles used in the emergency landing gear extension system and emergency braking system, accomplish the following on or before July 31, 1971:

(a) For all airplanes, inspect the air bottle (P/N AH.7360 or AC.11038) used in either of the emergency landing gear extension system air bottle assemblies (P/N AC.11768) located under the pilot's seat. If the air bottle was manufactured before January 1, 1959, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AH.7360 or AC.11038) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the bottle.

(b) For airplanes which have incorporated Modification 281 (Emergency Braking System), inspect the air bottle (P/N AC.10685 or AC.11038) used in the emergency braking system air bottle assembly (P/N ACM.16784) located on the left forward face of the crew cabin sloping bulkhead. If the air bottle was manufactured before January 1, 1959, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AC.10685 or A/C.11038) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the air bottle.

(Hawker Siddeley Technical News Sheet, Series: Heron (114), No. S.6, Issue 2, covers this subject.)

This amendment becomes effective July 30, 1971.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C. on June 3, 1971.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.
[FR Doc. 71-8078 Filed 6-9-71; 8:47 am]

[Airspace Docket No. 71-EA-25]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone

On Page 6015 of the FEDERAL REGISTER for April 1, 1971, the Federal Aviation

[Airspace Docket No. 71-EA-78]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Plattsburgh, N.Y., control zone (36 F.R. 2117) and transition area (36 F.R. 2254).

The VOR instrument approach procedure for Clinton County Airport, Plattsburgh, N.Y., has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures. The revised procedure requires alteration of the control zone and 700-foot floor transition area. The revision makes it possible to delete the presently designated control zone extension and 700-foot floor transition area extension northeast of the airport.

Since the amendment is relaxatory and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Plattsburgh, N.Y., the amendment is herewith made effective 0901 G.m.t., July 22, 1971 as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting in the description of the Plattsburgh, N.Y. control zone, all after: "12 miles N of the TACAN".

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting in the description of the Plattsburgh, N.Y. 700-foot floor transition area, all after: "12 miles north of the OM".

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348, sec. 6(c), DOT Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 20, 1971.

GEORGE M. GARY,
Director, Eastern Region.
[FR Doc. 71-8080 Filed 6-9-71; 8:47 am]

[Airspace Docket No. 71-CE-50]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area; Correction

In F.R. Doc. 71-5777 on page 7844 in the issue of Tuesday, April 27, 1971, the following corrections are necessary:

1. Line 6 of the control zone description recited as "of the Kona OM; and within 5 miles each" should be corrected to read "of the Kona CL; and within 5 miles each".

2. Lines 18 and 19 of the transition area description recited as "bearing from the Kona OM extending from the OM to 18½ miles northwest of the OM." should be corrected to read "bearing from the Kona CL extending from the CL to 18½ miles northwest of the CL."

Issued in Kansas City, Mo., on May 11, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-8081 Filed 6-9-71;8:48 am]

[Airspace Docket No. 71-SO-60]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Areas

On April 23, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 7687), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Cochran and Dublin, Ga., transition areas.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

COCHRAN, GA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cochran Airport (lat. 32°23'45" N., long. 83°16'45" W.); within 2.5 miles each side of Vienna VORTAC 046° radial, extending from the 5-mile radius area to 12.5 miles northeast of the VORTAC.

DUBLIN, GA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Dublin Municipal Airport (lat. 32°33'55" N., long. 82°59'10" W.); within 2.5 miles each side of Dublin VORTAC 069° radial, extending from the 6-mile radius area to 1.5 miles east of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a) sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 26, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8082 Filed 6-9-71;8:48 am]

[Airspace Docket No. 71-SO-61]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Areas

On April 23, 1971, a Notice of Proposed Rule Making was published in the Fed-

ERAL REGISTER (36 F.R. 7687), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Hazlehurst and Waycross, Ga., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

HAZLEHURST, GA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hazlehurst Airport (lat. 31°53'00" N., long. 82°38'45" W.); within 2.5 miles each side of Alma VORTAC 342° radial, extending from the 6-mile radius area to 18 miles north of the VORTAC.

WAYCROSS, GA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Waycross-Ware County Airport (lat. 31°14'55" N., long. 82°23'48" W.); within 1.5 miles each side of Waycross VORTAC 099° radial, extending from the 8.5-mile radius area to the VORTAC; excluding the portion within a 1.5-mile radius of Bivins Airport (lat. 31°11'06" N., long. 82°16'25" W.).

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 26, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8083 Filed 6-9-71;8:48 am]

[Airspace Docket No. 71-SO-63]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On April 23, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 7688), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Moultrie, Ga., control zone and transition area and the Tifton, Ga., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the Moultrie, Ga., control zone is amended to read:

MOULTRIE, GA.

Within a 5-mile radius of Moultrie-Thom- asville Airport (lat. 31°04'58" N., long. 83°-

48'15" W.); within 3 miles each side of Moultrie VOR 031° radial, extending from the 5-mile-radius zone to 8.5 miles northeast of the VOR; within 2 miles each side of Moultrie VOR 199° radial, extending from the 5-mile-radius zone to 11.5 miles south of the VOR; within 3 miles each side of Moultrie VOR 230° radial, extending from the 5-mile-radius zone to 8.5 miles southwest of the VOR; within a 5-mile radius of Spence AF Auxiliary Field (lat. 31°08'15" N., long. 83°-42'15" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

MOULTRIE, GA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Moultrie-Thomastown Airport (lat. 31°04'58" N., long. 83°48'15" W.); within an 8.5-mile radius of Thomastown Municipal Airport (lat. 30°54'05" N., long. 83°53'00" W.); within an 8.5-mile radius of Spence AF Auxiliary Field (lat. 31°08'15" N., long. 83°42'15" W.).

TIFTON, GA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Henry Tift Myers Airport (lat. 31°-25'36" N., long. 83°29'06" W.).

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 28, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-8084 Filed 6-9-71;8:48 am]

[Airspace Docket No. 71-SO-90]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On May 19, 1971, F.R. Doc. No. 71-6933 was published in the FEDERAL REGISTER (36 F.R. 9066), amending Part 71 of the Federal Aviation Regulations by altering the Tampa, Fla. (International Airport) and other control zones.

In the amendment, an extension predicated on St. Petersburg VORTAC 064° radial was omitted based on the assumption that the basic 5-mile radius zones predicated on Tampa International and St. Petersburg Clearwater International Airports overlapped. Refined plotting by National Ocean Survey disclosed that the two zones did not overlap, and an extension 3 miles in width would be required to provide adequate control zone protection. It is necessary to amend the FEDERAL REGISTER document to include this extension. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.D. Doc. No. 71-6933 is amended as follows:

The Tampa, Fla. (International Airport) control zone is amended to read:

TAMPA, FLA. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Tampa International Airport (lat. 27°58'59" N., long. 82°31'38" W.); within 1.5 miles each side of St. Petersburg VORTAC 064° radial, extending from the 5-mile radius zone to 1 mile north-east of the VORTAC; excluding the portion within St. Petersburg control zone and the portion southeast of a line 2 miles north of and parallel to MacDill AFB ILS localizer northeast course.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 1, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-8085 Filed 6-9-71;8:48 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-49]

PART 374—IMPLEMENTATION OF THE CONSUMER CREDIT PROTECTION ACT (OTHERWISE KNOWN AS THE TRUTH IN LENDING ACT AND THE FAIR CREDIT REPORTING ACT) WITH RESPECT TO AIR CARRIERS AND FOREIGN AIR CARRIERS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of June 1971.

Title I of the Consumer Credit Protection Act (82 Stat. 146 et seq.; 15 U.S.C. 1601-1665), which is known as the Truth in Lending Act, contains a delegation to the Board of the duty of enforcing its provisions as to "any air carrier or foreign air carrier subject to" the Federal Aviation Act of 1958, as amended.¹ The purpose of the Truth in Lending Act is to require disclosure of credit terms covering virtually the entire breadth of consumer credit. In 1970 Congress amended the Consumer Credit Protection Act by (1) adding provisions with respect to the issuance of unsolicited credit cards and (2) enacting a new title (title VI) to be called "Consumer Credit Reporting" and to be known as the Fair Credit Reporting Act.² The Fair Credit Reporting Act is designed to enable consumers to protect themselves against arbitrary, erroneous and malicious credit information. The Board is vested with responsibility for enforcement of the provisions of the 1970 amendments to the Consumer Credit Protection Act with respect to air carriers and foreign air carriers.

¹ The title of Part 374 has been modified to incorporate the formal name of the statute which is "Consumer Credit Protection Act." Title I of the Act is the Truth in Lending Act and title VI thereof is the Fair Credit Reporting Act.

² Section 108(a)(5) of the Truth in Lending Act.

³ Title VI of the Consumer Credit Protection Act, 84 Stat. 1127 (title VI of Public Law 91-508, Oct. 26, 1970). The Fair Credit Reporting Act is separate and apart from the Truth in Lending Act.

The purpose of these amendments is to call attention to the recent amendments to the Consumer Credit Protection Act and the regulations of the Federal Reserve Board relating thereto insofar as they relate to air carriers and foreign air carriers.

Since the amendments herein are purely informational and procedural, notice and public procedure hereon are not necessary and the rules may be made effective on less than 30 days' notice.

Further, the amendments are so pervasive that we are reissuing the part.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends and reissues Part 374 of its Special Regulations (14 CFR Part 374), effective June 10, 1971, to read as follows:

§ 12 CFR Part 226. The Board of Governors of the Federal Reserve System (Federal Reserve Board) has the statutory responsibility for prescribing regulations to carry out the purposes of the Truth in Lending Act.

Sec.
374.1 Purpose.
374.2 Applicability.
374.3 Compliance with Act and regulations.
374.4 Procedure.

Authority: The provisions of this Part 374 are issued under section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324; titles I and V of the Consumer Credit Protection Act (Truth in Lending Act) and title VI of the Consumer Credit Protection Act (Fair Credit Reporting Act), 82 Stat. 146 et seq., 84 Stat. 1126 et seq., 15 U.S.C. 1601-1665, 1681-1681; Regulation Z of the Board of Governors of the Federal Reserve System, 12 CFR Part 226.

§ 374.1 Purpose.

(a) Section 108(a)(5) of the Truth in Lending Act (title I of the Consumer Credit Protection Act, Public Law 90-321; 82 Stat. 146 et seq., 15 U.S.C. 1601-1665) effective July 1, 1969, provides that the Civil Aeronautics Board shall have the duty of ensuring compliance with the requirements of title I "with respect to any air carrier or foreign air carrier subject to" the Federal Aviation Act of 1958. In addition, section 108(b) of the Truth in Lending Act provides that "(f) or the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act."

(b) The Consumer Credit Protection Act was amended in 1970 in the following two respects: (1) By the addition of provisions to the Truth in Lending Act with respect to the issuance of unsolicited credit cards (84 Stat. 1126, Public Law 91-508); and (2) by the enactment of a new title VI to the Consumer Credit Protection Act to be known as the Fair Credit Reporting Act (84 Stat. 1127, Public Law 91-508). The Fair Credit Reporting Act was designed to enable consumers to protect themselves against arbitrary, erroneous and malicious credit information. The Board is presently vested with responsibility for enforcement of the provisions of the Truth in Lending Act with respect to air carriers and foreign air

carriers, including enforcement of the provisions requiring greater standards of care in the issuance of unsolicited credit cards. It is also vested with responsibility for enforcement of the Fair Credit Reporting Act's provisions with respect to air carriers and foreign air carriers by section 621(b) of such act. In addition, section 621(c) thereof provides that "(f) or the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act."

(c) The Board of Governors of the Federal Reserve System has the statutory responsibility for prescribing regulations to carry out the purposes of the Truth in Lending Act. It has promulgated Regulation Z (14 CFR Part 226) to implement the provisions of this Act. Regulation Z has been amended to prescribe rules to implement the credit card provisions of the Truth in Lending Act (36 F.R. 1040, January 22, 1971).

(d) The purpose of this part is to implement the Truth in Lending Act, Regulation Z of the Board of Governors of the Federal Reserve System, and the Fair Credit Reporting Act insofar as applicable to the Civil Aeronautics Board's responsibility thereunder.

§ 374.2 Applicability.

This regulation is applicable to all air carriers and foreign air carriers as defined in section 101 of the Federal Aviation Act of 1958, as amended, including, without limitation, direct carriers, air taxi operators authorized under Part 298, indirect air carriers authorized under Parts 296 and 297, tour operators authorized under Part 378, study group charterers authorized under Part 373 and foreign air carriers holding permits pursuant to section 402 of the Act to engage in indirect foreign air transportation.

§ 374.3 Compliance with Act and regulations.

All air carriers and foreign air carriers shall comply with the applicable provisions of titles I, V, and VI of the Consumer Credit Protection Act and Regulation Z of the Board of Governors of the Federal Reserve System.

§ 374.4 Procedure.

The procedure set forth in Subpart B of Part 302 of the Board's rules of practice in Economic Proceedings (Part 302 of this chapter) shall be applicable to proceedings for enforcement of the provisions of titles I and VI of the Consumer Credit Protection Act and Regulation Z of the Board of Governors of the Federal Reserve System.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8129 Filed 6-9-71;8:52 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Buquinolate and Lincumycin

The Commissioner of Food and Drugs has evaluated a new animal drug application (45-738V), filed by The Upjohn Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of buquinolate and lincumycin in chicken feed. The application is approved.

To facilitate referencing, §§ 135e.34 and 135e.49 are being editorially amended by identifying the firms mentioned therein

with the code number which has been assigned to each in § 135.501.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135e is amended, as follows:

1. Section 135e.34 is amended by revising paragraph (b) and by adding a new item 11 to the table in paragraph (f), as follows:

§ 135e.34 Buquinolate.

(b) *Approvals.* Premix level of 16.5 percent has been granted; for sponsor see code No. 027 in § 135.501(c) of this chapter.

(f)

BUQUINOLATE IN ANIMAL FEED

Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
.
(a) 0.0825%	Lincomycin	2.4	To be fed as the sole ration for floor raised broiler chickens.	For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by <i>E. tenella</i> , <i>E. maxima</i> , <i>E. necatrix</i> , <i>E. brunetti</i> , <i>E. acerrulina</i> .

2. Section 135e.49 is amended by revising paragraph (b) and by adding a new subdivision (iv) to paragraph (e) (2), as follows:

§ 135e.49 Lincumycin.

(b) *Approvals.* Premix level of 4 grams per pound has been granted; for sponsor see code No. 037 in § 135.501(c) of this chapter.

(e)
(2)

(iv) Buquinolate in accordance with § 135e.34 of this chapter.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-10-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: May 21, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.
[FR Doc.71-8054 Filed 6-9-71; 8:45 am]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Classification of Certain Liquid Drain Cleaners as Banned Hazardous Substances

In the matter of classifying liquid drain cleaners containing 10 percent or more of sodium and/or potassium hydroxide as banned hazardous substances

(§ 191.9(a)(4)) within the meaning of section 2(q)(1)(B) of the Federal Hazardous Substances Act:

Eleven comments were received in response to the notice of proposed rule-making in the above-identified matter published in the FEDERAL REGISTER of November 18, 1970 (35 F.R. 17746).

Several consumers and consumer agencies supported the proposal.

One response noted that the proposal would exempt such substances when packaged in containers so designed as to prevent children "5 years of age or younger" from gaining access to the contents whereas the Poison Prevention Packaging Act of 1970 (Public Law 91-601) pertains to children "under 5 years of age," and that injuries have occurred primarily to children under 5. For consistency with said act, § 191.9(a)(4) as promulgated below has been changed so that exemptions will be subject to standards promulgated under said act.

Two manufacturers suggested that acid-type liquid drain cleaners should also be covered by proposed § 191.9(a)(4). The Commissioner of Food and Drugs recognizes the potential hazard and will consider these separately.

Having considered the comments received and other relevant material, the Commissioner concludes that the proposal, with changes, should be adopted as set forth below. Therefore, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(q)(1)(B), (2), 74 Stat. 374, as amended 80 Stat. 1304-5; 15 U.S.C. 1261) and of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under authority delegated to the Commissioner (21 CFR 2.120): It is

ordered, That § 191.9(a) be amended by adding thereto a new subparagraph, as follows:

§ 191.9 Banned hazardous substances.

(a)

(4) Liquid drain cleaners containing 10 percent or more by weight of sodium and/or potassium hydroxide; except that this subparagraph shall not apply to such liquid drain cleaners if packaged in accordance with a standard for special packaging of such articles promulgated under the Poison Prevention Packaging Act of 1970 (Public Law 91-601).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Sec. 2(q)(1)(B), (2), 74 Stat. 374, as amended 80 Stat. 1304-5, 15 U.S.C. 1261; sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e))

Dated: May 13, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.
[FR Doc.71-8055 Filed 6-9-71; 8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7126]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Termination of Investment Credit

On November 26, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to section 703 of the Tax Reform Act of 1969 (83 Stat. 660), relating to termination of the investment credit, was published in the FEDERAL REGISTER (35 F.R. 18, 120). After consideration of all such relevant matter as was presented by interested persons regarding the rules

proposed, the amendment as proposed is hereby adopted, subject to the following change:

Paragraph (h)(1) of § 1.47-3, as set forth in paragraph 4 of proposed rule making, is revised.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: June 7, 1971.

EDWIN S. COHEN,
Assistant Secretary of
the Treasury.

In order to reflect section 703 of the Tax Reform Act of 1969 (83 Stat. 660), relating to termination of the investment credit, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Section 1.46 is amended by adding new paragraphs (5) and (6) to section 46(b) and by revising the historical note. These revised and added provisions read as follows:

§ 1.46 Statutory provisions; amount of credit.

Sec. 46. Amount of credit.
(b) Carryback and carryover of unused credits.

(5) *Taxable years beginning after December 31, 1968, and ending after April 18, 1969.* The amount which may be added under this subsection for any taxable year beginning after December 31, 1968, and ending after April 18, 1969, shall not exceed 20 percent of the higher of—

(A) The aggregate of the investment credit carrybacks and investment credit carryovers to the taxable year, or

(B) The highest amount computed under subparagraph (A) for any preceding taxable year which began after December 31, 1968, and ended after April 18, 1969.

(6) *Additional 3-year carryover period in certain cases.* Any portion of an investment credit carryback or carryover to any taxable year beginning after December 31, 1968, and ending after April 18, 1969, which—

(A) May be added under this subsection under the limitation provided by paragraph (2), and

(B) May not be added under the limitation provided by paragraph (5),

shall be an investment credit carryover to each of the 3 taxable years following the last taxable year for which such portion may be added under paragraph (1), and shall (subject to the provisions of paragraphs (1), (2), and (5)) be added to the amount allowable as a credit by section 38 for such years.

[Sec. 46 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 201(d)(4), Rev. Act 1964 (78 Stat. 32); sec. 3, Act of Nov. 8, 1966 (Public Law 89-800, 80 Stat. 1514); sec. 2(a), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 703(b), Tax Reform Act 1969 (83 Stat. 666)]

PAR. 2. Section 1.46-2 is amended by revising subparagraphs (1) and (2) of, and adding a new subparagraph (5) to, paragraph (a), by revising paragraph (b), and by adding new examples (3) and (4) to paragraph (g). These revised and added provisions read as follows:

§ 1.46-2 Carryback and carryover of unused credit.

(a) *Allowance of unused credit as carryback or carryover—(1) In general.* Section 46(b)(1) provides for carrybacks and carryovers of any unused credit. An unused credit is the excess of the credit earned for the taxable year (as defined in paragraph (a) of § 1.46-1) over the limitation based on amount of tax for such taxable year (as determined under paragraph (b) of § 1.46-1). Subject to the limitations contained in paragraph (b) of this section, an unused credit shall be added to the amount allowable as a credit under section 38 for the years to which the unused credit can be carried. The year with respect to which an unused credit arises shall be referred to in this section as the "unused credit year".

(2) *Taxable years to which unused credit may be carried.* Except as provided in subparagraphs (3), (4), and (5) of this paragraph, an unused credit shall be an investment credit carryback to each of the 3 taxable years preceding the unused credit year and an investment credit carryover to each of the 7 taxable years (or 10 taxable years in cases to which subparagraph (5) of this paragraph applies) succeeding the unused credit year, except that an unused credit shall be a carryback only to taxable years ending after December 31, 1961. An unused credit must be carried first to the earliest of the 10 (or 13) taxable years to which it may be carried, and then to each of the other 9 (or 12) taxable years (in order of time) to the extent that the unused credit may not be added (because of the limitations contained in paragraph (b) of this section) to the amount allowable as a credit under section 38 for a prior taxable year.

(5) *Additional 3-year carryover period in certain cases.* Any portion of an investment credit carryback or carryover to any taxable year beginning after December 31, 1968, and ending after April 18, 1969, which may be added to the amount allowable as a credit for such taxable year under the limitation provided in subparagraph (1) of paragraph (b) of this section but may not be added solely because of the limitation provided in subparagraph (2) of such paragraph shall be an investment credit carryover to each of the 10 taxable years succeeding the unused credit year.

(b) *Limitations on allowance of unused credit—(1) In general.* The amount of the unused credit from any particular unused credit year which may be added to the amount allowable as a credit under section 38 for any of the preceding or succeeding taxable years to which such credit may be carried shall not exceed the amount by which the limitation based on amount of tax for such preceding or succeeding taxable year exceeds the sum of (i) the credit earned for such preceding or succeeding year, and (ii) other unused credits carried to such pre-

ceding or succeeding year which are attributable to unused credit years prior to the particular unused credit year. Thus, in determining the amount, if any, of an unused credit from a particular unused credit year which shall be added to the amount allowable as a credit for any preceding or succeeding taxable year, the credit earned for such preceding or succeeding taxable year, plus any unused credits originating in taxable years prior to a particular unused credit year, shall first be applied against the limitation based on amount of tax for such preceding or succeeding taxable year. To the extent the limitation based on amount of tax for the preceding or succeeding year exceeds the sum of the credit earned for such year and other unused credits attributable to years prior to the particular unused credit year, the unused credit from the particular unused credit year shall be added to the amount allowable as a credit under section 38 for such preceding or succeeding year. To the extent that an unused credit cannot be added for a particular preceding or succeeding taxable year because of the limitation contained in this subparagraph or in subparagraph (2) of this paragraph, such unused credit shall be available as a carryback or carryover to the next succeeding taxable year to which it may be carried.

(2) *Taxable years beginning after December 31, 1968, and ending after April 18, 1969.* The total amount of investment credit carryovers and carrybacks which may be added to the amount allowable as a credit under section 38 for any taxable year beginning after December 31, 1968, and ending after April 18, 1969, shall not exceed 20 percent of the higher of (i) the aggregate of the investment credit carryovers and carrybacks to the taxable year, or (ii) the aggregate of the investment credit carryovers and carrybacks to any preceding taxable year that began after December 31, 1968, and ended after April 18, 1969.

(g) *Examples.*

Example (3). A, a calendar year taxpayer, has a total of \$500 in investment credit carryovers to 1969, composed of a \$150 unused credit from 1962 and a \$350 unused credit from 1968. A's limitation based on amount of tax for 1969 is \$135. Under paragraph (b) (2) of this section, A is limited to the use of only \$100 (20 percent of \$500) of his unused credits in 1969 and in each subsequent year. Since, in the absence of the 20-percent limitation, A could have used \$135 of the carryover from 1962, \$35 of such carryover (i.e., the portion that cannot be used in 1969 solely because of the 20-percent limitation) qualifies for the additional 3-year carryover period provided in paragraph (a)(5) of this section.

Example (4). The facts are the same as in example (3) except that A places in service in 1972 property eligible for the investment credit under one of the rules provided in section 49(b), producing an unused credit of \$300 for 1972 that is a carryback to 1969. Under paragraph (b) (2) of this section, the

limitation on the use of carryovers and carrybacks to 1969 and each subsequent year is retroactively increased to \$160, i.e., 20 percent of \$800 (the sum of \$500 in carryovers and \$300 in carrybacks to 1969). Therefore, an additional \$35 of the carryover from 1962 becomes usable in 1969. Since the remaining \$15 of the carryover from 1962 is not usable because of the limitation provided in paragraph (b)(1) of this section, such \$15 amount does not qualify for the additional 3-year carryover period provided in paragraph (a)(5) of this section.

PAR. 3. Section 1.47 is amended by revising paragraph (4) of, and adding a new paragraph (5) to, section 47(a), and by revising the historical note, to read as follows:

§ 1.47 Statutory provisions: certain dispositions, etc., of section 38 property.

SEC. 47. *Certain dispositions, etc., of section 38 property—(a) General rule.*

(4) *Property destroyed by casualty, etc.* No increase shall be made under paragraph (1) and no adjustment shall be made under paragraph (3) in any case in which—

(A) Any property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, on account of its destruction or damage by fire, storm, shipwreck, or other casualty, or by reason of its theft.

(B) Section 38 property is placed in service by the taxpayer to replace the property described in subparagraph (A), and

(C) The reduction in basis or cost of such section 38 property described in the first sentence of section 46(c)(4) is equal to or greater than the reduction in qualified investment which (but for this paragraph) would be made by reason of the substitution required by paragraph (1) with respect to the property described in subparagraph (A).

Subparagraphs (B) and (C) shall not apply with respect to any casualty or theft occurring after April 18, 1969.

(5) *Certain property replaced after April 18, 1969.* In any case in which—

(A) Section 38 property is disposed of, and

(B) Property which would be section 38 property but for section 49 is placed in service by the taxpayer to replace the property disposed of,

the increase under paragraph (1) and the adjustment under paragraph (3) shall not be greater than the increase or adjustment which would result if the qualified investment of the property described in subparagraph (B) (determined as if such property were section 38 property) were substituted for the qualified investment of the property disposed of (as determined under paragraph (1)). Except in the case of a disposition by reason of a casualty or theft occurring before April 19, 1969, the preceding sentence shall apply only if the section 38 property disposed of is replaced within 6 months after the date of such disposition.

[Sec. 47 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 703(c), Tax Reform Act 1969 (83 Stat. 666)]

PAR. 4. Section 1.47-3 is amended by revising paragraphs (a) and (c), and by adding a new paragraph (h), to read as follows:

§ 1.47-3 Exceptions to the application of § 1.47-1.

(a) *In general.* Notwithstanding the provisions of § 1.47-2, relating to "dis-

position" and "cessation," paragraph (a) of § 1.47-1 shall not apply if paragraph (b) of this section (relating to transfers by reason of death), paragraph (c) of this section (relating to property destroyed by casualty), paragraph (d) of this section (relating to reselection of used section 38 property), paragraph (e) of this section (relating to transactions to which section 381 (a) applies), paragraph (f) of this section (relating to mere change in form of conducting a trade or business), paragraph (g) of this section (relating to sale-and-leaseback transactions), or paragraph (h) of this section (relating to certain property replaced after Apr. 18, 1969) applies with respect to such disposition or cessation.

(c) *Property destroyed by casualty—*

(1) *Dispositions after April 18, 1969.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation," paragraph (a) of § 1.47-1 shall not apply to property which, after April 18, 1969, is disposed of or otherwise ceases to be section 38 property with respect to the taxpayer on account of its destruction or damage by fire, storm, shipwreck or other casualty, or by reason of its theft, paragraph (a) of § 1.47-1 shall apply except to the extent provided in subdivisions (ii) and (iii) of this subparagraph.

(2) *Dispositions before April 19, 1969.*

(i) In the case of property which, before April 19, 1969, is disposed of or otherwise ceases to be section 38 property with respect to the taxpayer on account of its destruction or damage by fire, storm, shipwreck or other casualty, or by reason of its theft, paragraph (a) of § 1.47-1 shall apply except to the extent provided in subdivisions (ii) and (iii) of this subparagraph.

(ii) Paragraph (a) of § 1.47-1 shall not apply if—

(A) Section 38 property is placed in service by the taxpayer to replace (within the meaning of paragraph (h) of § 1.46-3) the destroyed, damaged, or stolen property, and

(B) The basis (or cost) of the section 38 property which is placed in service by the taxpayer to replace the destroyed, damaged, or stolen property is reduced under paragraph (h) of § 1.46-3.

(iii) If property which would be section 38 property but for section 49 is placed in service by the taxpayer to replace the destroyed, damaged, or stolen property, then the provisions of paragraph (h) of this section (other than the requirement that the replacement take place within 6 months after the disposition) shall apply.

(3) *Examples.* The provisions of subparagraph (2) (ii) of this paragraph may be illustrated by the following examples:

Example (1). (i) A acquired and placed in service on January 1, 1962, machine No. 1 which qualified as section 38 property with a basis of \$30,000 and an estimated useful life of 6 years. The amount of qualified investment with respect to such machine was \$20,000. For the taxable year 1962 A's credit earned of \$1,400 was allowed under section 38 as a credit against its liability for tax. On January 1, 1963, machine No. 1 is completely destroyed by fire. On January 1, 1963, the adjusted basis of machine No. 1

in A's hands is \$24,500. A receives \$23,000 in insurance proceeds as compensation for the destroyed machine, and on February 15, 1964, A acquires and places in service machine No. 2, which qualifies as section 38 property, with a basis of \$41,000 and an estimated useful life of 6 years to replace machine No. 1.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply with respect to machine No. 1 since machine No. 2 is placed in service to replace machine No. 1 and the \$41,000 basis of machine No. 2 is reduced, under paragraph (h) of § 1.46-3, by \$23,000. (See example (1) of paragraph (h)(3) of § 1.46-3.)

Example (2). (i) The facts are the same as in example (1) except that A receives only \$19,000 in insurance proceeds as compensation for the destroyed machine.

(ii) Although machine No. 2 is placed in service to replace machine No. 1, subparagraph (1) of this paragraph does not apply with respect to machine No. 1 since the basis of machine No. 2 is not reduced under paragraph (h) of § 1.46-3. Paragraph (a) of § 1.47-1 applies with respect to the January 1, 1963, destruction of machine No. 1. The actual useful life of machine No. 1 is 1 year. The recomputed qualified investment with respect to such machine is zero (\$30,000 basis multiplied by zero applicable percentage) and A's recomputed credit earned for the taxable year 1962 is zero. The income tax imposed by chapter 1 of the Code on A for the taxable year 1963 is increased by \$1,400.

(h) *Certain property replaced after April 18, 1969—(1) In general.* (i) If section 38 property is disposed of and property which is, for purposes of section 1033 and the regulations thereunder, similar or related in service or use to the property disposed of and which would be section 38 property but for the application of section 49 is placed in service to replace the property disposed of, the increase in income tax and adjustment of investment credit carryovers and carrybacks resulting from the recomputation under paragraph (a) of § 1.47-1 shall be reduced (but not below zero) by the credit that would be allowed for the qualified investment of the replacement property (determined as if such property were section 38 property). The preceding sentence shall not apply unless the replacement takes place within 6 months after the disposition. If property otherwise qualifies as replacement property, it is immaterial that it is placed in service (for example, to undergo testing) before the replaced property is disposed of. The assignment by the taxpayer in his return of an estimated useful life to the replacement property in computing its qualified investment will be considered a representation by the taxpayer that he expects to retain the replacement property for its entire estimated useful life. If such property is disposed of before the end of such life, then the circumstances surrounding the replacement will be examined to determine whether the taxpayer's representation was in good faith and, if appropriate, the qualified investment of the replacement property will be recomputed for the year of replacement using the actual useful life of such property.

(ii) The provisions of subdivision (i) of this subparagraph may be illustrated by the following example:

Example. On January 1, 1967, A, a calendar year taxpayer, acquired and placed in service a new machine with a basis of \$100 and an estimated useful life of 8 years. A's qualified investment was \$100 and his credit earned was \$7, which was allowed as a credit against tax for 1967. On January 15, 1972, A disposed of the machine and replaced it with a similar new machine costing \$75 and having an estimated useful life of 8 years. The new machine would be section 38 property but for section 49. Since the actual useful life of the original machine was at least 4 but less than 6 years, the recomputed qualified investment of the machine is \$33.33 (33 1/3 percent of \$100) and under paragraph (a) of § 1.47-1 the amount of recapture tax would be \$4.67 (\$7, the original credit earned, minus \$2.33, the recomputed credit earned). However, under the provisions of this paragraph, the recapture tax is reduced (but not below zero) by the credit that would be allowed for the replacement property (determined as if such property were section 38 property). Under these facts the recapture tax is zero (\$4.67, the recapture tax with respect to the original machine, minus \$5.25, the credit that would be allowed on the new machine).

(2) *Leased property.* Property disposed of may be replaced with property leased from another, provided (i) an election with respect to the newly leased property could be made under section 48(d) but for section 49, and (ii) the lessee obtains the lessor's written statement that he will not claim such property as replacement property under this paragraph. The statement of the lessor shall contain the information specified in subdivisions (i) through (vii) of § 1.48-4(f)(1) and the statement (or a copy thereof) shall be retained in the records of the lessor and the lessee for a period of at least 3 years after the property is transferred to the lessee.

PAR. 5. Section 1.48 is amended by redesignating subsection (h) of section 48 as subsection (k) thereof, by adding new subsections (h), (i), and (j) to section 48, and by revising the historical note. The revised and added provisions read as follows:

§ 1.48 Statutory provisions: definitions; special rules.

SEC. 48. *Definitions; special rules.*

(h) *Suspension of investment credit.*—For purposes of this subpart—

(1) *General rule.* Section 38 property which is suspension period property shall not be treated as new or used section 38 property.

(2) *Suspension period property defined.* Except as otherwise provided in this subsection and subsection (i), the term "suspension period property" means section 38 property—

(A) The physical construction, reconstruction, or erection of which (i) is begun during the suspension period, or (ii) is begun, pursuant to an order placed during such period, before May 24, 1967, or

(B) Which (i) is acquired by the taxpayer during the suspension period, or (ii) is acquired by the taxpayer, pursuant to an order placed during such period, before May 24, 1967.

In applying subparagraph (A) to any section 38 property, there shall be taken into account only that portion of the basis which is prop-

erly attributable to construction, reconstruction, or erection before May 24, 1967.

(3) *Binding contracts.* To the extent that any property is constructed, reconstructed, erected, or acquired pursuant to a contract which was, on October 9, 1966, and at all times thereafter, binding on the taxpayer, such property shall not be deemed to be suspension period property.

(4) *Equipped building rule.* If—

(A) Pursuant to a plan of the taxpayer in existence on October 9, 1966 (which plan was not substantially modified at any time after such date and before the taxpayer placed the equipped building in service), the taxpayer has constructed, reconstructed, erected, or acquired a building and the machinery and equipment necessary to the planned use of the building by the taxpayer, and

(B) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such building as so equipped is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before October 10, 1966, or property the acquisition of which by the taxpayer occurred before such date,

then all section 38 property comprising such building as so equipped (and any incidental section 38 property adjacent to such building which is necessary to the planned use of the building) shall be treated as section 38 property which is not suspension period property. For purposes of subparagraph (B) of the preceding sentence, the rules of paragraphs (3) and (6) shall be applied. For purposes of this paragraph, a special purpose structure shall be treated as a building.

(5) *Plant facility rule—(A) General rule.* If—

(i) Pursuant to a plan of the taxpayer in existence on October 9, 1966 (which plan was not substantially modified at any time after such date and before the taxpayer placed the plant facility in service), the taxpayer has constructed, reconstructed, or erected a plant facility, and either

(ii) The construction, reconstruction, or erection of such plant facility was commenced by the taxpayer before October 10, 1966, or

(iii) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facility is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before October 10, 1966, or property the acquisition of which by the taxpayer occurred before such date,

then all section 38 property comprising such plant facility shall be treated as section 38 property which is not suspension period property. For purposes of clause (iii) of the preceding sentence, the rules of paragraphs (3) and (6) shall be applied.

(B) *Plant facility defined.* For purposes of this paragraph, the term "plant facility" means a facility which does not include any building (or of which buildings constitute an insignificant portion) and which is—

(i) A self-contained, single operating unit or processing operation,

(ii) Located on a single site, and

(iii) Identified, on October 9, 1966, in the purchasing and internal financial plans of the taxpayer as a single unitary project.

(C) *Special rule.* For purposes of this subsection, if—

(i) A certificate of convenience and necessity has been issued before October 10, 1966, by a Federal regulatory agency with respect to two or more plant facilities which are in-

cluded under a single plan of the taxpayer to construct, reconstruct, or erect such plant facilities, and

(ii) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facilities is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before October 10, 1966, or property the acquisition of which by the taxpayer occurred before such date,

such plant facilities shall be treated as a single plant facility.

(D) *Commencement of construction.* For purposes of subparagraph (A)(ii), the construction, reconstruction, or erection of a plant facility shall not be considered to have commenced until construction, reconstruction, or erection has commenced at the site of such plant facility. The preceding sentence shall not apply if the site of such plant facility is not located on land.

(6) *Machinery or equipment rule.* Any piece of machinery or equipment—

(A) More than 50 percent of the parts and components of which (determined on the basis of cost) were held by the taxpayer on October 9, 1966, or are acquired by the taxpayer pursuant to a binding contract which was in effect on such date, for inclusion or use in such piece of machinery or equipment, and

(B) The cost of the parts and components of which is not an insignificant portion of the total cost,

shall be treated as property which is not suspension period property.

(7) *Certain lease-back transactions, etc.*

Where a person who is a party to a binding contract described in paragraph (3) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (3), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under subsection (d), only if a party to such contract retains a right to use the property under a long-term lease.

(8) *Certain lease and contract obligations.*

Where, pursuant to a binding lease or contract to lease in effect on October 9, 1966, a lessor or lessee is obligated to construct, reconstruct, erect, or acquire property specified in such lease or contract, any property so constructed, reconstructed, erected, or acquired by the lessor or lessee which is section 38 property shall be treated as property which is not suspension period property. In the case of any project which includes property other than the property to be leased to such lessee, the preceding sentence shall be applied, in the case of the lessor, to such other property only if the binding leases and contracts with all lessees in effect on October 9, 1966, cover real property constituting 25 percent or more of the project (determined on the basis of rental value). For purposes of the preceding sentences of this paragraph, in the case of any project where one or more vendor-vendee relationships exist, such vendors and vendees shall be treated as lessors and lessees. Where, pursuant to a binding contract in effect on October 9, 1966, (i) the taxpayer is required to construct, reconstruct, erect, or acquire property specified in the contract, to be used to produce one or more products, and (ii) the other party is required to take substantially all of the products to be produced over a substantial portion of the expected useful life

of the property, then such property shall be treated as property which is not suspension period property. Clause (ii) of the preceding sentence shall not apply if a political subdivision of a State is the other party to the contract and is required by the contract to make substantial expenditures which benefit the taxpayer.

(9) *Certain transfers to be disregarded.* (A) If property or rights under a contract are transferred in—

(i) A transfer by reason of death, or
(ii) A transaction as a result of which the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731,

and such property (or the property acquired under such contract) would not be treated as suspension period property in the hands of the decedent or the transferor, such property shall not be treated as suspension period property in the hands of the transferee.

(B) If—

(i) Property or rights under a contract are acquired in a transaction to which section 334(b)(2) applies,

(ii) The stock of the distributing corporation was acquired before October 10, 1966, or pursuant to a binding contract in effect October 9, 1966, and

(iii) Such property (or the property acquired under such contract) would not be treated as suspension period property in the hands of the distributing corporation,

such property shall not be treated as suspension period property in the hands of the distributee.

(10) *Property acquired from affiliated corporation.* For purposes of this subsection, in the case of property acquired by a corporation which is a member of an affiliated group from another member of the same group—

(A) Such corporation shall be treated as having acquired such property on the date on which it was acquired by such other member.

(B) Such corporation shall be treated as having entered into a binding contract for the construction, reconstruction, erection, or acquisition of such property on the date on which such other member entered into a contract for the construction, reconstruction, erection, or acquisition of such property, and

(C) Such corporation shall be treated as having commenced the construction, reconstruction, or erection of such property on the date on which such other member commenced such construction, reconstruction, or erection.

For purposes of the preceding sentence, the term "affiliated group" has the meaning assigned to it by section 1504(a), except that all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

(11) *Certain tangible property constructed during suspension period and leased new thereafter.* Tangible personal property constructed or reconstructed by a person shall not be suspension period property if—

(A) Such person leases such property after the close of the suspension period and the original use of such property commences after the close of such period,

(B) Such construction or reconstruction, and such lease transaction, was not pursuant to an order placed during the suspension period, and

(C) An election is made under subsection (d) with respect to such property which satisfies the requirements of such subsection.

(12) *Water and air pollution control facilities.*—(A) *In general.* Any water pollution control facility or air pollution control facility shall be treated as property which is not suspension period property.

(B) *Water pollution control facility.* For purposes of subparagraph (A), the term "water pollution control facility" means any section 38 property which—

(i) Is used primarily to control water pollution by removing, altering, or disposing of wastes, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances; and

(ii) Is certified by the State water pollution control agency (as defined in section 13(a) of the Federal Water Pollution Control Act) as being in conformity with the State program or requirements for control of water pollution and is certified by the Secretary of Interior as being in compliance with the applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act.

(C) *Air pollution control facility.* For purposes of subparagraph (A), the term "air pollution control facility" means any section 38 property which—

(i) Is used primarily to control atmospheric pollution or contamination by removing, altering, or disposing of atmospheric pollutants or contaminants; and

(ii) Is certified by the State air pollution control agency (as defined in section 302(b) of the Clean Air Act) as being in conformity with the State program or requirements for control of air pollution and is certified by the Secretary of Health, Education, and Welfare as being in compliance with the applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of air pollution under the Clean Air Act.

(D) *Standards for facility.* Subparagraph (A) shall apply in the case of any facility only if the taxpayer constructs, reconstructs, erects, or acquires such facility in furtherance of Federal, State, or local standards for the control of water pollution or atmospheric pollution or contaminants.

(13) *Certain replacement property.* Section 38 property constructed, reconstructed, erected, or acquired by the taxpayer shall be treated as property which is not suspension period property to the extent such property is placed in service to replace property which was—

(A) Destroyed or damaged by fire, storm, shipwreck, or other casualty, or

(B) Stolen,

but only to the extent the basis (in the case of new section 38 property) or cost (in the case of used section 38 property) of such section 38 property does not exceed the adjusted basis of the property destroyed, damaged, or stolen.

(1) *Exemption from suspension of \$20,000 of investment.*—(i) *In general.* In the case of property acquired by the taxpayer by purchase for use in his trade or business which would (but for this subsection) be suspension period property, the taxpayer may select items to which this subsection applies, to the extent of an aggregate cost, for the suspension period, of \$20,000. Any item so selected shall be treated as property which is not suspension period property for purposes of this subpart (other than for purposes of paragraphs (4), (5), (8), (7), (8), (9), and (10) of subsection (h)).

(2) *Applicable rules.* Under regulations prescribed by the Secretary or his delegate, rules similar to the rules provided by paragraphs (2) and (3) of subsection (c) shall be applied for purposes of this subsection. Subsection (d) shall not apply with respect to any item to which this subsection applies.

(j) *Suspension period.* For purposes of this subpart, the term "suspension period" means the period beginning on October 10, 1966, and ending on March 9, 1967.

(k) *Cross reference.* For application of this subpart to certain acquiring corporations, see section 381(c)(23).

[Sec. 48 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 203(a) (1) and (3) (A), (b), and (c), Rev. Act 1964 (78 Stat. 33, 34); sec. 1(a), Act of Nov. 8, 1966 (Public Law 89-800, 80 Stat. 1508); sec. 201(a), Act of Nov. 13, 1966 (Public Law 89-809, 80 Stat. 1575, 1576); sec. 1, 2(a), and (3), Act of June 13, 1967 (Public Law 90-26, 81 Stat. 57, 58)]

PAR. 6. The following new section is added after § 1.48-7:

§ 1.49 Statutory provisions; termination of credit.

SEC. 49. *Termination of credit.*—(a) *General rule.* For purposes of this subpart, the term "section 38 property" does not include property—

(i) The physical construction, reconstruction, or erection of which is begun after April 18, 1969, or

(ii) Which is acquired by the taxpayer after April 18, 1969, other than pre-termination property.

(b) *Pretermination property.* For purposes of this section—

(i) *Binding contracts.* Any property shall be treated as pretermination property to the extent that such property is constructed, reconstructed, erected, or acquired pursuant to a contract which was, on April 18, 1969, and at all times thereafter, binding on the taxpayer.

(2) *Equipped building rule.* If—

(A) pursuant to a plan of the taxpayer in existence on April 18, 1969 (which plan was not substantially modified at any time after such date and before the taxpayer placed the equipped building in service), the taxpayer has constructed, reconstructed, erected, or acquired a building and the machinery and equipment necessary to the planned use of the building by the taxpayer, and

(B) more than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such building as so equipped is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date,

then all property comprising such building as so equipped (and any incidental property adjacent to such building which is necessary to the planned use of the building) shall be pre-termination property. For purposes of subparagraph (B) of the preceding sentence, the rules of paragraphs (1) and (4) shall be applied. For purposes of this paragraph, a special purpose structure shall be treated as a building.

(3) *Plant facility rule.*—(A) *General Rule.* If—

(i) Pursuant to a plan of the taxpayer in existence on April 18, 1969 (which plan was not substantially modified at any time after such date and before the taxpayer

placed the plant facility in service), the taxpayer has constructed, reconstructed, or erected a plant facility, and either

(ii) The construction, reconstruction, or erection of such plant facility was commenced by the taxpayer before April 19, 1969, or

(iii) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facility is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date,

then all property comprising such plant facility shall be pretermination property. For purposes of clause (iii) of the preceding sentence, the rules of paragraphs (1) and (4) shall be applied.

(B) *Plant facility defined.* For purposes of this paragraph, the term "plant facility" means a facility which does not include any building (or of which buildings constitute an insignificant portion) and which is—

(i) A self-contained, single operating unit or processing operation,

(ii) Located on a single site, and

(iii) Identified, on April 18, 1969, in the purchasing and internal financial plans of the taxpayer as a single unitary project.

(C) *Special rule.* For purposes of this subsection, if—

(i) A certificate of convenience and necessity has been issued before April 19, 1969, by a Federal regulatory agency with respect to two or more plant facilities which are included under a single plan of the taxpayer to construct, reconstruct, or erect such plant facilities, and

(ii) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facilities is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date, such plant facilities shall be treated as a single plant facility.

(D) *Commencement of construction.* For purposes of subparagraph (A)(ii), the construction, reconstruction, or erection of a plant facility shall not be considered to have commenced until construction, reconstruction, or erection has commenced at the site of such plant facility. The preceding sentence shall not apply if the site of such plant facility is not located on land.

(4) *Machinery or equipment rule.* Any piece of machinery or equipment—

(A) More than 50 percent of the parts and components of which (determined on the basis of cost) were held by the taxpayer on April 18, 1969, or are acquired by the taxpayer pursuant to a binding contract which was in effect on such date, for inclusion or use in such piece of machinery or equipment, and

(B) The cost of the parts and components of which is not an insignificant portion of the total cost,

shall be treated as property which is pre-termination property.

(5) *Certain lease-back transactions, etc.* (A) Where a person who is a party to a binding contract described in paragraph (1) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (1),

succeed to the position of the transferor with respect to such binding contract and such property. In any case in which the lessor does not make an election under section 48(d)—

(i) The preceding sentence shall apply only if a party to the contract retains the right to use the property under a lease for a term of at least 1 year; and

(ii) If such use is retained (other than under a long-term lease), the lessor shall be deemed for the purposes of section 47 as having made a disposition of the property at such time as the lessee loses the right to use the property.

For purposes of clause (ii), if the lessee transfers the lease in a transfer described in paragraph (7), the lessee shall be considered as having the right to use of the property so long as the transferee has such use.

(B) For purposes of subparagraph (A)—

(i) A person who holds property (or rights in property) which is pretermination property by reason of the application of paragraph (4) shall, with respect to such property, be treated as a party to a binding contract described in paragraph (1), and

(ii) A corporation which is a member of the same affiliated group (as defined in paragraph (8)) as the transferor described in subparagraph (A) and which simultaneously with the transfer of property to another person acquires a right to use such property under a lease with such other person shall be treated as the transferor and as a party to the contract.

(6) *Certain lease and contract obligations.*

(A) Where, pursuant to a binding lease or contract to lease in effect on April 18, 1969, a lessor or lessee is obligated to construct, reconstruct, erect, or acquire property specified in such lease or contract or in a related document filed before April 19, 1969, with a Federal regulatory agency, or property the specifications of which are readily ascertainable from the terms of such lease or contract or from such related document, any property so constructed, reconstructed, erected, or acquired by the lessor or lessee shall be pre-termination property. In the case of any project which includes property other than the property to be leased to such lessee, the preceding sentence shall be applied, in the case of the lessor, to such other property only if the binding leases and contracts with all lessees in effect on April 18, 1969, cover real property constituting 25 percent or more of the project (determined on the basis of rental value). For purposes of the preceding sentences of this paragraph, in the case of any project where one or more vendor-vendee relationships exist, such vendors and vendees shall be treated as lessors and lessees.

(B) Where, in order to perform a binding contract or contracts in effect on April 18, 1969, (i) the taxpayer is required to construct, reconstruct, erect, or acquire property specified in any order of a Federal regulatory agency for which application was filed before April 19, 1969, (ii) the property is to be used to transport one or more products under such contract or contracts, and (iii) one or more parties to the contract or contracts are required to take or to provide more than 50 percent of the products to be transported over a substantial portion of the expected useful life of the property, then such property shall be pretermination property.

(C) Where, in order to perform a binding contract in effect on April 18, 1969, the taxpayer is required to construct, reconstruct, erect, or acquire property specified in the contract to be used to produce one or more products and (unless the other party to the contract is a State or a political subdivision of a State which is required by the contract

to make substantial expenditures which benefit the taxpayer) the other party to the contract is required to take substantially all of the products to be produced over a substantial portion of the expected useful life of the property, then such property shall be pretermination property. For purposes of applying the preceding sentence in the case of a contract for the extraction of minerals, property shall be treated as specified in the contract if (i) the specifications for such property are readily ascertainable from the location and characteristics of the mineral properties specified in such contract from which the minerals are to be extracted; (ii) such property is necessary for and is to be used solely in the extraction of minerals under such contract; (iii) the physical construction, reconstruction, or erection of such property is begun by the taxpayer before April 19, 1970, such property is acquired by the taxpayer before April 19, 1970, or such property is constructed, reconstructed, erected, or acquired pursuant to a contract which was, on April 18, 1970, and at all times thereafter, binding on the taxpayer; (iv) such property is placed in service on or before December 31, 1972; (v) such contract is a fixed price contract (except for provisions for price changes under which the loss of the credit allowed by section 38 would not result in a price change); and (vi) such property is not placed in service to replace other property used in extracting minerals under such contract.

(7) *Certain transfers to be disregarded.* (A) If property or rights under a contract are transferred in—

(i) A transfer by reason of death,

(ii) A transaction as a result of which the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731, or

(iii) A sale of substantially all of the assets of the transferor pursuant to the terms of a contract, which was on April 18, 1969, and at all times thereafter, binding on the transferee,

and such property (or the property acquired under such contract) would be treated as pretermination property in the hands of the decedent or the transferor, such property shall be treated as pretermination property in the hands of the transferee.

(B) If—

(i) Property or rights under a contract are acquired in a transaction to which section 334(b)(2) applies,

(ii) The stock of the distributing corporation was acquired before April 19, 1969, or pursuant to a binding contract in effect April 18, 1969, and

(iii) Such property (or the property acquired under such contract) would be treated as pretermination property in the hands of the distributing corporation,

such property shall be treated as pretermination property in the hands of the distributee.

(8) *Property acquired from affiliated corporation.* In the case of property acquired by a corporation which is a member of an affiliated group from another member of the same group—

(A) Such corporation shall be treated as having acquired such property on the date on which it was acquired by such other member,

(B) Such corporation shall be treated as having entered into a binding contract for the construction, reconstruction, erection, or acquisition of such property on the date on which such other member entered into a contract for the construction, reconstruction, erection, or acquisition of such property, and

(C) Such corporation shall be treated as having commenced the construction, reconstruction, or erection of such property on the date on which such other member commenced such construction, reconstruction, or erection.

For purposes of this subsection and subsection (c), a contract between two corporations which are members of the same affiliated group shall not be treated as a binding contract as between such corporations, unless, at all times after June 30, 1969, and prior to the completion of performance of such contract, such corporations are not members of the same affiliated group. For purposes of the preceding sentences, the term "affiliated group" has the meaning assigned to it by section 1504(a), except that all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

(9) *Barges for ocean-going vessels.* Barges specifically designed and constructed, reconstructed, erected, or acquired for use with ocean-going vessels which are designed to carry barges and which are pretermination property, but not in excess of—

(A) The number to be used with such vessels specified in applications for mortgage or construction loan insurance filed with the Secretary of Commerce on or before April 18, 1969, under title XI of the Merchant Marine Act, 1936, or

(B) If subparagraph (A) does not apply and if more than 50 percent of the barges which the taxpayer establishes as necessary to the initial planned use of such vessels are pretermination property (determined without regard to this paragraph), the number which the taxpayer establishes as so necessary.

together with the machinery and equipment to be installed on such barges and necessary for their planned use, shall be treated as pretermination property.

(10) *Certain new-design products.* Where—

(A) On April 18, 1969, the taxpayer had undertaken a project to produce a product of a new design pursuant to binding contracts in effect on such date which—

(i) Were fixed-price contracts (except for provisions requiring or permitting price changes resulting from changes in rates of pay or costs of materials), and

(ii) Covered more than 50 percent of the entire production of such design to be delivered by the taxpayer before January 1, 1973, and

(B) On or before April 18, 1969, more than 50 percent of the aggregate adjusted basis of all property of a character subject to the allowance for depreciation required to carry out such binding contracts was property the construction, reconstruction, or erection of which had been begun by the taxpayer, or had been acquired by the taxpayer (or was under a binding contract for such construction, reconstruction, erection, or acquisition),

then all tangible personal property placed in service by the taxpayer before January 1, 1973, which is required to carry out such binding contracts shall be deemed to be pretermination property. For purposes of subparagraph (B) of the preceding sentence, jigs, dies, templates, and similar items which can be used only for the manufacture or assembly of the production under the project and which were described in written engineering and internal financial plans of the taxpayer in existence on April 18, 1969, shall be treated as property which on such date was under a binding contract for construction.

(c) *Leased property.* In the case of prop-

erty which is leased after April 18, 1969 (other than pursuant to a binding contract to lease entered into before April 18, 1969), which is section 38 property with respect to the lessor but is property which would not be section 38 property because of the application of subsection (a) if acquired by the lessee, and which his property of the same kind which the lessor ordinarily sold to customers before April 18, 1969, or ordinarily leased before such date and made an election under section 48(d), such property shall not be section 38 property with respect to either the lessor or the lessee.

(d) *Property placed in service after 1975.* For purposes of this subpart, the term "section 38 property" does not include any property placed in service after December 31, 1975.

[Sec. 49 as added by sec. 703(a), Tax Reform Act 1969 (83 Stat. 660)]

[FR Doc. 71-8141 Filed 6-9-71; 8:52 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER A—ADMINISTRATION

PART 809d—PROCEDURES FOR REPORTING ON DEFENSE RELATED EMPLOYMENT

A new Part 809d is added to read as follows:

Sec.
809d.1 Purpose.
809d.2 Responsibilities.
809d.3 Reporting procedures.
809d.4 Supply of forms.

AUTHORITY: The provisions of this Part 809d are issued under 10 U.S.C. 8012 and Part 166 of this title.

SOURCE: AFR 30-4, April 5, 1971.

§ 809d.1 Purpose.

This part provides instructions and assigns responsibility for compliance with Public Law 91-121, sec. 410, 83 Stat. 204 and Part 166 of this title. It applies to all present, retired, and former military officers and civilian employees of the Department of the Air Force including employees of nonappropriated fund activities, subject only to the exceptions in Part 166 of this title.

§ 809d.2 Responsibilities.

(a) Part 166 of this title (sec. 166.4) identifies persons who are required to submit annually DD Form 1787, "Report of DOD and Defense-Related Employment", beginning with fiscal year 1971. This is an individual responsibility for all within categories described in § 166.4 of this title. Failure to comply with these reporting requirements is a criminal offense punishable by imprisonment and fine or both by Public Law 91-121. Questions concerning the requirement of this law or the implementing instructions should be referred to the staff judge advocate of any Air Force facility or to Hq USAF/JACM, Wash D.C. 20314.

(b) Commanders will establish procedures to assure that: (1) Separating/retiring officers in the grade of major or

above with 10 or more years active duty are: (i) Informed of the requirements of Public Law 91-121 and (ii) Furnished a copy of this part during separation/retirement counseling by the CBPO-O section. (2) Separating/retiring civilian personnel paid at a rate equal to or greater than the minimum rate for a grade GS-13 are: (i) Informed of the requirements of Public Law 91-121 and (ii) Furnished a copy of this part during separation/retirement counseling by the servicing CCPO. (3) Civilian personnel who become subject to the reporting requirements set forth in paragraph (a) of this section, will be: (i) Informed during their entrance orientation of the requirements of Public Law 91-121. (ii) Furnished a copy of this part by the servicing CCPO. (4) Civilian personnel who through promotion or step increases after initial employment, become subject to the reporting requirements set forth in paragraph (a) of this section, will be: (i) Informed of the requirements of Public Law 91-121 at the time of such promotion or step increase and (ii) Furnished a copy of this part by the servicing CCPO. (5) Sufficient stock levels of this part (AFR 30-4, April 5, 1971) are maintained at bases to satisfy specific requests from former or retired officers and civilian employees for individual copies.

§ 809d.3 Reporting procedures.

Three copies of DD Form 1787, RCS DD-M&RA(A) 1051, will be submitted by October 30, 1971, and by October 30 each year thereafter, to Hq USAF/JACM, Wash, D.C. 20314. (Before beginning to complete DD Form 1787, read carefully § 166.4 of this title.

§ 809d.4 Supply of forms.

DD Form 1787 will be locally reproduced on 8 x 10 1/2" paper.

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, JR.,
Colonel, U.S. Air Force, Chief,
Special Activities Group, Office
of The Judge Advocate General.

[FR Doc. 71-8115 Filed 6-9-71; 8:50 am]

SUBCHAPTER B—SALES AND SERVICES

PART 819a—AVIATION FUEL AND OIL SALES TO CONTRACT, CHARTER, AND CIVIL AIRCRAFT

Part 819a of Chapter VII—Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
819a.1 Purpose.
819a.2 Definitions.
819a.3 Air Force sales policy.
819a.4 Identification of contract and charter aircraft.
819a.5 Authority to sell aviation fuel and oil.
819a.6 Prices.

AUTHORITY: The provisions of this Part 819a are issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted.

§ 819a.1 Purpose.

This part states Air Force policy on the sale of aviation fuel and oil to aircraft operating under contract or charter to any U.S. Government agency, and to operators of civil aircraft.

§ 819a.2 Definitions.

(a) *Contract aircraft.* Aircraft operating under airlift contract with any department or agency of the U.S. Government at rates based, in part, on sale of fuel and oil to the contractor at the Air Force standard price. These rates are lower than published rates available to the general public on file with the Civil Aeronautics Board. The aircraft are under the operational control of the department or agency concerned.

(b) *Charter aircraft.* Aircraft under agreement with any department or agency of the U.S. Government at rates which are not based on sale of fuel and oil at the Air Force standard price or at rates which are equal to published rates available to the general public on file with the Civil Aeronautics Board. Charter aircraft may or may not be under operational control of the department or agency executing the agreement.

(c) *Civil aircraft.* Domestic or foreign aircraft operated by private individuals or corporations of any national registry, and foreign government-owned aircraft operating for commercial purposes. USAF aircraft leased to and operated by commercial operators will be considered civil aircraft in respect to sale of aviation fuels and oils. USAF aircraft bailed to and operated by commercial operator will be considered civil aircraft in respect to sale unless other instructions are available.

(d) *Aviation fuels and oils.* Aviation fuel and oil items financed under the Fuels Division, Air Force Stock Fund Operation. (See Attachment D-1, AFM 67-1 (USAF Supply Manual), Part Three, Volume I, for the itemized list.)

(e) *Standard prices.* Worldwide average computed cost of aviation fuels and oils to Fuels Division—Air Force Stock Fund. Current Air Force standard prices are available from Detachment 29, Hq SAAMA/SFMR, Cameron Station, Alexandria, VA 22314.

(f) *Surcharge.* A 20 percent charge to cover administrative and handling costs not included in the published standard price.

(g) *Local prevailing fair market price.* Price per unit charged similar types of transient aircraft at the nearest commercial airport for an equivalent product serviced into the aircraft less all taxes, duties, and fees (such as airport landing fees). The base commander will determine and maintain current local prevailing fair market prices. Assistance, if necessary, in determining local prevailing fair market prices may be solicited from either the AF Aerospace Fuels Petroleum Supply Office (AF-AFPSO) Det 29, SAAMA/SFMR, Cameron Station, Alexandria, VA 22314 or the over-sea theater commander.

(h) *Authorized Buyer Letter.* A letter of agreement which operators of contract, charter, and civil aircraft must file with the Air Force if they wish to purchase Air Force-owned aviation fuel and oil on a credit basis. This letter acknowledges an understanding of the stipulations under which credit sales may be made and the actions the Air Force may take in the event of non-compliance with these stipulations. If credit purchases of aviation fuel and oil are desired, the operator must submit three copies of an authorized buyer letter signed by an official of the organization authorized to make such commitments to Hq USAF/AFPRPOA, Wash D.C. 20330. When applicable, the fact that an authorized buyer letter has been filed will be inserted in item 20 on the approved AF Form 181, "Civil Aircraft Landing Permit". If payments required under the terms of the authorized buyer letter are delinquent for more than 15 days, the cognizant Accounting and Finance Office will promptly notify the Assistant for Contract Financing (AFAAC-C) at Hq USAF.

(i) *Federal excise taxes.* 26 U.S.C. 4081 imposes an excise tax of 4 cents per gallon on all grades of aviation gasoline. 26 U.S.C. 4041 imposes an additional excise tax of 3 cents per gallon on all grades of aviation gasoline when sold for use in noncommercial aviation. 26 U.S.C. 4041 also imposes an excise tax of 7 cents per gallon on all other fuels sold for use in noncommercial aviation. There is no Federal excise tax on fuel sold for use in commercial aviation other than the 4 cents tax imposed on all grades of aviation gasoline. 26 U.S.C. 4091 imposes an excise tax of 6 cents per gallon (or 1 1/2 cents per quart) on all grades of aviation lubricating oil. These taxes apply only on sales made in the continental United States, Alaska, and Hawaii except as exempted in the note in § 819a.6.

(j) *Noncommercial aviation.* Any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Non-commercial aviation includes aircraft used by educational organizations, Federal Government agencies (other than Army, Navy, Air Force, and Coast Guard), State and local governments, aircraft, and company aircraft being used for administrative trips.

(k) *Certificate of tax exemption.* A certificate which operators of commercial aircraft must file with the Air Force to be exempt from Federal excise taxes of 3 cents per gallon on aviation gasoline and 7 cents per gallon on jet fuel. Operators of commercial aircraft making frequent purchases of aviation fuel and oil from Air Force bases may file an annual certificate of exemption with Detachment 29, Hq SAAMA/ACFOP, Cameron Station, Alexandria, VA 22314. In such case, Hq SAAMA will in turn advise all appropriate Air Force bases that a proper certificate of tax exemption is on file for the aircraft operator concerned. If a certificate is not filed, aircraft operators, in order to obtain tax exemptions, must

present a properly executed certificate each time that aviation fuels and oils are purchased. The following noncommercial categories of aircraft are also excused from taxes specified above if they present a tax exempt certificate:

- (1) Those engaged in farming.
- (2) Those belonging to nonprofit educational organizations.
- (3) Those belonging to State and local governments.

Base fuels management officers receiving certificates of tax exemption must retain them in an active file for a 3-year period for possible review by the Internal Revenue Service.

§ 819a.3 Air Force sales policy.

(a) Air Force aviation fuel and oil are not sold to civil and charter aircraft in competition with private enterprise. The Air Force does not furnish aviation fuel and oil to such aircraft if commercial refueling of commercial products is available. However, in some instances commercial refueling is available at the same airport as Air Force facilities, but airport safety regulations do not permit the commercial refueling operator to move his equipment to the Air Force refueling ramp nor do they permit the aircraft to be taxied across the runways to the commercial refueling ramp. Under such circumstances, a charter or civil aircraft making an authorized stop at the Air Force installation is authorized to refuel by Air Force aviation fuel and oil.

(b) If commercial refueling is not available, the sale of Air Force aviation fuel and oil to aircraft under charter agreement with the U.S. Government is permitted at, and limited to, points where cargo is loaded into or discharged from the aircraft. Upon completion of charter flights and when commercial refueling is not available, sales are permitted at the point of flight completion only as required for positioning of the aircraft concerned. Quantities provided will not exceed an amount sufficient to reach the desired destination or the aircraft's nearest home base, whichever distance is the smaller.

(c) *Contract aircraft:* The sale of Air Force aviation fuel and oil to aircraft operating under airlift contract to any department of the U.S. Government is authorized at USAF and Air National Guard bases without regard to availability of commercial fuel. Upon completion of contract flights, sales are permitted at the point of flight completion only as required for positioning of aircraft concerned. Quantities provided will be restricted to an amount needed to reach one of the following desired destinations:

- (1) The aircraft's nearest home base.
- (2) The point from which, or any point short of the point from which, the terminated flight commenced.
- (3) The point from which another immediate contract flight is scheduled to originate.

NOTE: Aviation fuel and oil is not available to airlift contract aircraft from U.S. Defense

Department into-plane refueling contracts let throughout the world with commercial organizations for use by U.S. military aircraft. Fuel and oil will also not be provided airlift contract aircraft as Government furnished (free of cost) items.

(d) The above policies pertain to sales of Air Force aviation fuel and oil to charter and contract aircraft when the operators present for positive identification the appropriate credentials prescribed in § 819a.4. In the absence of the specified credentials, aircraft are considered civil aircraft as far as sales of aviation fuel and oil are concerned.

(e) Civil aircraft: If commercial fuel is not available, sales of Air Force aviation fuel and oil are authorized under conditions outlined in § 819a.5.

§ 819a.4 Identification of contract and charter aircraft.

(a) Contract aircraft operating for:
(1) U.S. Department of Defense performing:

(i) *Domestic flights*. These are identified by a Certificate of Logair Operations, a Certificate of Navy Quicktrans Operations, or a Certificate of Courier Service Operations.

(ii) *International flights*. These are identified by MAC Form 8—Civil Aircraft Certificates—Contract.

(iii) *Exclusive flights within an over-sea area*. These are issued identification by the administrative contracting officer or the over-sea area transportation officer. The issuing office will advise all concerned of such identification credentials and enact necessary measures to preclude violations of sales policies established herein.

(2) Other departments of the U.S. Government:

(i) *NASA*. Performing domestic or international flights for the National Aeronautics and Space Administration are identified by NASA Form 956—Identification Record of NASA Controlled Aircraft—when data has been inserted in all spaces of Part III and the signature of issuing officer appears in Part V.

(ii) *U.S. departments other than NASA*. When other departments or agencies of the U.S. Government desire that aircraft under contract to them obtain fuel and oil from Air Force activities, the department or agency will advise Det. 29, Hq SAAMA/SFMR, Cameron Station, Alexandria, VA 22314, and provide information as to the identification documents that will be used and available in the aircraft. Also, whether the rates specified in the airlift contract are based in part on sale of fuel and oil to the contract carrier at the Air Force standard price. If SFMR determines that prices to be charged to the contract carrier are within authorizations, necessary information will be furnished directly to the Air Force activities concerned.

(b) Charter aircraft operating for:
(1) U.S. Department of Defense performing:

(i) *Domestic flights and cargo services*. These are identified by an SF 1103, "U.S. Government Bill of Lading" bearing

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ing a Civil Air Freight Movement (CAFM) number.

(ii) *Domestic flights and passenger services*. These are identified by an SF 1169, "Transportation Request" bearing a Commercial Air Movement (CAM) number.

NOTE: The SF 1169 is normally not available until passengers enter the aircraft. To meet time schedules it is frequently desirable for aircraft to be refueled before passengers arrive. If the aircraft commander provides a CAM number, prior refueling may be performed provided verification of the CAM number is obtained from either the base operations or transportation office prior to aircraft departure clearance.

(iii) *Army/Air Force Exchange Service Government charter flights*. These are identified by AAFES Form 4150-34.

NOTE: The AF Form 1239, "USAF Avfuels Identiplate," or AF Form 1245, "USAF Avgas Identiplate," assigned to Airlift Contract Aircraft will at no time be recognized as an identification credential since use is limited only to mechanized reporting of issue data.

(iv) *Exclusive flights within an over-sea area*. These are issued identification by the administrative contracting officer or over-sea area transportation officer. The issuing office will advise all concerned of such identification credentials and enact necessary measures to preclude violations of sales policies established herein.

(2) Other departments of the U.S. Government:

(i) *NASA*. Performing domestic or international flights for the National Aeronautics and Space Administration for cargo or passenger services are identified by NASA Form 956 when data has been inserted in all spaces of Part IV and signature of issuing officer appears in Part V.

(ii) *U.S. departments other than NASA*. When other departments or agencies of the U.S. Government desire that aircraft under charter to them obtain fuel and oil from Air Force activities, the department or agency will advise Det. 29, Hq SAAMA/SFMR, Cameron Station, Alexandria, VA 22314, and provide information as to the identification documents that will be used and available in the aircraft. Det. 29, Hq SAAMA/SFMR will advise directly the Air Force activities concerned.

(c) Civil aircraft: All commercial aircraft and private aircraft not identified according to the above instructions will be considered civil aircraft.

NOTE: USAF aircraft which are leased or bailed to commercial operators are identified by APTO Form 781F, "Aircraft Flight Report and Maintenance Record." All leased aircraft are considered to be civil aircraft as regards sales of aviation fuels and oils. Bailed aircraft which are not carrying an AF Form 1239 in addition to the APTO Form 781F will also be considered civil aircraft as regards sales of aviation fuels and oils.

§ 819a.5 Authority to sell aviation fuel and oil.

Commanders may authorize the sale of aviation fuels and oils for use in contract, charter, and civil aircraft only

under the conditions stated in this section. Any sale not complying with these conditions may subject Air Force personnel involved to possible action in accordance with AFR 67-10 (Responsibility for Public Property in Possession of the Air Force).

(a) For contract aircraft identified according to § 819a.4(a): (1) Cash sales are authorized; (2) Credit sales are authorized if the operator presents an AF Form 181 indicating that an authorized buyer letter has been filed with the Air Force.

(b) For charter aircraft identified in accordance with § 819a.3(b) and which are authorized sales of Air Force aviation fuel and oil according to § 819a.3(b): (1) Cash sales are authorized; (2) Credit sales are authorized if the operator presents an AF Form 181 indicating that an authorized buyer letter has been filed with the Air Force.

(c) For civil aircraft not under contract or charter, Air Force installations are authorized to make cash sales under the conditions stated in this section. Credit sales are also authorized under these conditions if the operator presents an AF Form 181 indicating that an authorized buyer letter has been filed with the Air Force.

(1) If civil operators have been granted permission to use the installation as a regular airport for scheduled flights and the agreement covering this use expressly authorizes the sale of aviation fuel and oils for such flights. (2) If civil operators have been granted permission to use an installation as a weather alternate airport in conjunction with scheduled flights and commercial aviation fuels and oils are not available. In such cases, based upon prevailing conditions, the installation commander determines whether fuel should be furnished in the quantity to reach the next destination or the nearest commercial airport where the grade required is available. (3) If private or company-operated aircraft carry private individuals or company executives to conduct official business related to Government activities. (4) If an emergency exists. The installation commander determines based upon prevailing conditions, whether fuel should be furnished in the quantity to reach the next destination or the nearest commercial airport where the grade required is available.

NOTE: Credit sales are not made under any circumstances other than stated in paragraphs (a)(2), (b)(2), and (c) of this section.

§ 819a.6 Prices.

(a) Contract aircraft identified in § 819a.4(a) are charged the Air Force standard price. Federal excise taxes as applicable are added in the 50 United States and the District of Columbia except as exempted in the note of this section.

(b) Charter aircraft identified in § 819a.4(b) are charged the Air Force standard price plus the surcharge of 20 percent. Federal excise taxes as applicable are added in the 50 United States

and the District of Columbia except as exempted in the note of this section.

(c) Civil aircraft identified in § 819a.4(c) are charged the local prevailing fair market price or the Air Force standard price plus the surcharge, whichever is higher. Federal excise taxes as applicable are added in the 50 United States and the District of Columbia except as exempted in the note below.

NOTE: Under 26 U.S.C. 4221, international flights and flights to U.S. possessions originating in the 50 United States and the District of Columbia are exempt from Federal excise taxes on fuel and oil. This exemption does not apply to flights which are restricted to the continental United States and the off-shore States of Alaska and Hawaii (either direction) even though such flights involve flying over international waters. International flights being performed for any of the military services or other U.S. Government agencies are considered to originate at the point prescribed in the contract or charter agreement. Any movements of the aircraft prior to reaching this point are considered to be domestic flights and taxes are applicable. Upon leaving the point of origin, the flight is considered to be an international one until the prescribed foreign destination is reached. Therefore, Federal excise taxes will not be applicable to fuel and oil obtained an authorized enroute stops in either the continental United States or the States of Hawaii and Alaska. Correspondingly, Federal excise taxes will not be applicable on fuel and oil obtained on the return portion of the flight. International flights are considered terminated upon arrival at the completion point specified in the contract or charter agreement. If the completion point is within the continental United States or the States of Hawaii or Alaska any movement of the aircraft following arrival at that point is considered a domestic flight and Federal excise will be applicable on any fuel and oil which may be obtained. Where Federal excise taxes are to be collected, it is important that local prevailing fair market prices be determined exclusive of these taxes in order to avoid double assessment.

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief,
Special Activities Group,
Office of The Judge Advocate
General.

[FR Doc.71-8114 Filed 6-9-71; 8:50 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Automatic Data Processing Equipment and Services

The amendment prescribes a new § 1-4.000 in Part 1-4 which deals with special types and methods of procurement. It also establishes a new Subpart 1-4.1 for future use in connection with the publication of policies and procedures concerning automatic data processing equipment and services, including appropriate cross-references to be Federal Property Management Regulations.

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The table of contents for Part 1-4 is amended by adding the following entries:

Sec. 1-4.000 Scope and applicability of part.

Subpart 1-4.1—Automatic Data Processing Equipment and Services

1-4.100 Scope of subpart.

Section 1-4.000 is added to read as follows:

§ 1-4.000 Scope and applicability of part.

This part sets forth policies and procedures regarding special types and methods of procurement which include public utility services, livestock products, and automatic data processing equipment and services.

Subpart 1-4.1—Automatic Data Processing Equipment and Services

§ 1-4.100 Scope of subpart.

This subpart prescribes policies and procedures pertaining to automatic data processing equipment and services (see Part 101-32 of the Federal Property Management Regulations for related policies and procedures).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective July 30, 1971, but may be observed earlier.

Dated: June 4, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc.71-8119 Filed 6-9-71; 8:51 am]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101-19—MANAGEMENT OF BUILDINGS AND GROUNDS

Subpart 101-19.1—Operation and Maintenance

FIRE SAFETY

Section 101-19.109-1 is amended to correct a typographical error in the definition of the term "noncombustible" to include the fire hazard ratings for both flame spread and smoke development. Section 101-19.109-7 is revised to provide noncombustible requirements for newly installed, relocated, and existing partitions.

Section 101-19.109-1 is amended to read as follows:

§ 101-19.109-1 Definitions.

(b) * * *

(2) Rigid materials, all surfaces of which have fire hazard ratings not exceeding 25 for flame spread and 100 for smoke development when tested in accordance with American Society for

Testing and Materials, Test E 84, Surface Burning Characteristics of Building Materials. For materials to be in the building permanently or for extended periods of time, the fire hazard rating requirements also apply to any core materials. Materials bearing the label of Underwriters' Laboratories, Inc., as having flame spread ratings of not over 25 and smoke development ratings of not over 100 meet these requirements.

Section 101-19.109-7 is revised to read as follows:

§ 101-19.109-7 Movable partitions.

(a) All newly installed or relocated movable partitions, including partial-height (bank-type), shall be noncombustible.

(b) Installed movable partitions which contain combustible components do not require immediate replacement except where serious hazard to life exists from smoke or fire.

(c) Replacement of movable partitions or combustible components, including translucent plastic panels in bank-type partitions, is the responsibility of the user. A long-range program for minimizing fire hazards shall be instituted in locations where such partitions or components exist, in the following order of priority:

(1) Along egress paths in nonsprinkler protected occupancies.

(2) Along egress paths in sprinkler protected occupancies.

(3) In offices having floor areas of more than 1,000 square feet located on or below the middle story of buildings 10 stories or more in height where the occupancies are not sprinkler protected.

(4) In other offices having floor areas of more than 1,000 square feet which are not sprinkler protected.

(5) In offices having floor areas of 1,000 square feet or less located on or below the middle story of buildings 10 stories or more in height where the occupancies are not sprinkler protected.

(6) In other offices having floor areas of 1,000 square feet or less which are not sprinkler protected.

(7) In offices having floor areas of more than 1,000 square feet which are sprinkler protected.

(8) In offices having floor areas of 1,000 square feet or less which are sprinkler protected.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective July 1, 1971.

Dated: June 4, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc.71-8120 Filed 6-9-71; 8:51 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 117—FINANCIAL ASSISTANCE FOR SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

Part 117 of Title 45 of the Code of Federal Regulations, dealing with regulations for the administration of title II of the Elementary and Secondary Education Act of 1965 (Public Law 89-10) is revised for purposes of simplification and to reflect the provisions of Public Law 91-230 to read as set forth below.

Grants made pursuant to the regulations set forth below are subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 (42 U.S.C. 2000d) of the Civil Rights Act of 1964 (Public Law 88-352).

Part 117 reads as follows:

Subpart A—Definitions

Sec. 117.1 Definitions.

Subpart B—State or Department Plan—General Provisions

117.2 State plan or Department conditions.

Subpart C—Availability of Materials

117.8 Approval of instructional materials.

117.9 Title and control of instructional materials.

117.10 Accessibility of instructional materials.

117.11 Charge for use.

117.12 Inventory.

117.13 Religious worship or instruction.

Subpart D—Availability of Funds

117.19 Allotment of funds.

117.20 Acquisition of instructional materials.

117.21 Administration of the State plan.

117.22 Relation to public library system.

117.23 Administration by Departments.

Subpart E—Fiscal Procedures

117.26 State fiscal procedures.

117.27 Federal fiscal audits.

117.28 Transfer of funds to other State or local agencies.

117.29 Adjustments.

117.30 Proration of costs.

Subpart F—State Administration

117.35 Advisory committees.

117.36 Officials not to benefit.

117.37 Continuing review by Commissioner of State administration.

117.38 Administrative review and evaluation.

117.39 Retention of records.

Subpart G—Payment Procedures

117.43 Financial reports.

117.44 Payment of funds under title II of the Act.

117.45 Withholding of funds.

117.46 Reallocation.

AUTHORITY: The provisions of this Part 117 issued under 20 U.S.C. 821-827. Interpret or

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apply 20 U.S.C. 821-827, 881, 883-885, 1232, 1232a, 1232c, 1232d.

Subpart A—Definitions

§ 117.1 Definitions.

As used in this part:

(a) "Act" means the Elementary and Secondary Education Act of 1965 (Public Law 89-10).

(b) "Children" means those persons who are in attendance in schools of the State which provide elementary and secondary education and which comply with State compulsory attendance laws or are otherwise recognized by some procedure customarily used in the State. The age limits are the permissible ages for attendance at the public elementary and secondary schools of the State, but children does not include persons enrolled in adult education courses or in courses beyond grade 12.

(c) "Commissioners" means the U.S. Commissioner of Education.

(d) "Elementary school" means a day or residential school which provides elementary education as determined under State law or as determined by the Department of the Interior or the Department of Defense.

(e) "Fiscal year" means the period beginning on July 1 and ending on the following June 30. A fiscal year is designated in accordance with the calendar year of the ending date.

(f) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. It also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(g) "Public agency" means a legally constituted organization of government under public administrative control and direction.

(h) "Private elementary and secondary schools" means nonprofit or profit schools which provide elementary and secondary education as determined under State law, but not to the extent that they provide education beyond grade 12, and which are controlled by other than a public authority or public officials but which either comply with the State compulsory attendance laws or are otherwise recognized by some procedure customarily used in the State.

(i) "School library resources, textbooks, and other printed and published instructional materials" means: (1) "School library resources" are books, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, including but not limited to those on discs and

tapes; processed slides, transparencies, films, filmstrips, kinescopes, and video tapes, or any other printed and published materials of a similar nature made by any method now developed or hereafter to be developed, and which are processed and organized for use by elementary or secondary school children and teachers; (2) "textbooks" are books, reusable workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students, a copy of which is expected to be available for the individual use of each student in such class or group; (3) "other printed and published instructional materials" are books, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, including but not limited to those on discs tapes; processed slides, transparencies, films, filmstrips, kinescopes, and video tapes, or any other printed and published materials of a similar nature made by any method now developed or hereafter to be developed, and which are not processed and organized for use by elementary or secondary school children and teachers. These terms include those printed and published instructional materials which are suitable for and are to be used by children and teachers in elementary or secondary schools and which with reasonable care and use may be expected to last more than 1 year. The terms do not include furniture or equipment.

(j) "Secondary school" means a day or residential school which provides secondary education, as determined under State law or as determined by the Department of the Interior or the Department of Defense, except to the extent that education is provided beyond grade 12.

(k) "Standards" means those measures (established by the State agency or the Department of the Interior or the Department of Defense for administration of title II of the Act or established by other authoritative groups or individuals and accepted for such administration) which are used for making determinations of the adequacy, quality, and quantity of school library resources, textbooks, and other printed and published instructional materials to be made available for the use of children and teachers in elementary and secondary schools.

(l) "State" means, in addition to the several States in the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(m) "State educational agency" or "State agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(n) "Teacher" means a person who is engaged in carrying out the instructional program of an elementary or secondary school, including a principal, guidance counselor, school librarian, or other member of the instructional or supervisory staff.

(20 U.S.C. 823, 881)

Subpart B—State or Department Plan—General Provisions

§ 117.2 State plan or Department conditions.

(a) *Purpose.* A basic condition for the grant of Federal funds to a State or the payment of funds under title II of the Act to the Department of the Interior or the Department of Defense is a plan or memorandum of understanding which meets the requirements of title II of the Act in providing a program under which funds so granted or paid will be expended solely for the acquisition of school library resources, textbooks, and other printed and published instructional materials and the administration of the plan.

(b) *Effect of a State plan.* The State plan, when approved by the Commissioner, shall constitute the basis on which Federal grants will be made and the basis for determining the propriety of the expenditures of those funds.

(c) *Effect of a Department plan or memorandum of understanding.* A plan or memorandum of understanding submitted by the Department of the Interior or by the Department of Defense, when approved by the Commissioner, shall constitute the basis on which payments will be made to that Department under title II of the Act and the basis for determining the propriety of the expenditures of these funds by such Department.

(d) *Program and operational procedures.* The administration of the program shall be kept in conformity with the approved plan or memorandum of understanding, regulations in this part and title II of the Act. A description of the program and operational procedures shall be recorded and made available to the public upon request. Whenever there is any material change in the content or administration of the program, or when there has been any material change in pertinent State law or in the organization, policies, or operations of the State agency affecting the program under the plan, the procedures shall be appropriately amended.

(e) *Submission.* A plan shall be submitted to the Commissioner by a duly authorized officer of the State agency, or a plan or memorandum of understanding submitted by the Department of the Interior or the Department of Defense. The State plan shall give the official name of the agency which will administer the plan and shall indicate the official or officials authorized to submit plan material. The State plan shall designate the officer or officers who will receive and provide for the custody of all funds to be expended, and authorize expenditures of such funds.

(f) *Certificate of the State Attorney General or other appropriate State legal officer.* The State plan shall also include as an attachment a certificate by the appropriate State legal officer to the effect that the State agency named in the plan is the agency having authority, either directly or through arrangements with other State or local public agencies, to administer the State plan; and that the State has authority under State law to carry out the State plan.

(g) *Approval by the Commissioner.* The Commissioner will approve each plan which he determines meets the applicable requirements of title II of the Act and regulations in this part, and will notify the applicant of the granting, conditioning, or withholding of approval in each such case. However, no final action with respect thereto, other than one of approval, will be taken by the Commissioner unless he first notifies the applicant of his proposed action and in connection therewith affords the applicant a reasonable opportunity for a hearing on whether the affected plan meets such requirements.

(h) *Ineligibility to participate.* Whenever the Commissioner, after reasonable notice and opportunity for a hearing, finds: (1) That the plan fails to comply with the requirements of title II of the Act and the regulations in this part; or (2) that in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner will notify the applicant that said applicant will not be regarded as eligible to participate in the program under title II of the Act until the Commissioner is satisfied that there is no longer any such failure to comply.

(i) *Effective date of the plan.* Funds under title II of the Act may not be applied to any expenditure (as defined in § 117.26(a)), prior to the date on which a State plan was received in substantially approvable form by the Commissioner, including for this purpose a State plan submitted prior to a revision of State plan requirements.

(20 U.S.C. 823)

§ 117.3 State plan assurances.

Each State plan shall contain assurances:

(a) *Sole agency for administration.* That the State agency shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan.

(b) *Description of program.* That the State agency has developed in writing a program under which funds paid to the State from its allotment under title II of the Act will be expended solely (1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children in public and private elementary and secondary schools in the State and (2) not in excess of 5 percent

of the amount paid to the State under title II of the Act or \$50,000, whichever is greater, for administration of the State plan, including (1) the development and revision of standards relating to school library resources, textbooks, and other printed and published instructional materials furnished for the use of children and teachers in the public elementary and secondary schools of the State, and (ii) the distribution and control by a local educational agency of such school library resources, textbooks, and other printed and published instructional materials in carrying out the State plan for the use of children and teachers in public and private elementary and secondary schools in the State. Such a program must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner.

(c) *Criteria for allocation of school library resources, textbooks, and other printed and published instructional materials.* That the State agency has developed the criteria used in determining the need and the proportions of the allocation to be used for school library resources, textbooks, and other printed and published instructional materials provided under title II of the Act among the children and teachers in the elementary and secondary schools, which criteria shall incorporate the provisions of paragraphs (d) and (e) of this section. Such criteria must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner.

(d) *Relative need.* The criteria shall, on the basis of a comparative analysis and the application of standards, as defined in paragraph (k) of § 117.1, establish the relative need as determined from time to time of children and teachers and school library resources, textbooks, and other printed and published instructional materials to be provided under the plan. Such criteria shall include priorities for the provision of such materials on the basis of several factors such as the requirements of elementary and secondary instructions, quality and quantity of such materials now available, requirements of children and teachers in special or exemplary instructional programs, the cultural or linguistic needs of children or teachers, the degree of economic need, and degree of previous and current financial efforts for providing such materials in relation to financial ability. The distribution of such resources, textbooks, and materials for children and teachers solely on a per capita basis does not satisfy this provision.

(e) *Equitable basis.* The criteria established under a State plan shall provide for the allocation of school library resources, textbooks, and other printed and published instructional materials in such a way as to provide assurance that, to the extent consistent with State law,

such resources, textbooks, and materials are provided on an equitable basis for the use of children and teachers in private elementary and secondary schools in the State. However, said equitable provision shall not be effectuated by means of transfer of funds to private schools or purchase by them of such resources, textbooks, and materials.

(f) *Methods and terms of availability of materials.* That the State agency has developed the methods and terms by which the school library resources, textbooks, and other printed and published instructional materials acquired under title II of the Act will be made available for the use of children and teachers in the elementary and secondary schools. With respect to children and teachers in private schools, the State agency shall provide that (1) such resources, textbooks, and materials are to be made available to children and teachers and not to institutions; (2) such resources, textbooks, and materials are to be made available on a loan basis only; (3) a public agency will retain title to, and control and administration of the use of, such resources, textbooks, and materials; and (4) books and materials must not supplant those being provided children but must supplement library resources, textbooks, and other instructional materials to assure that the legislation will furnish increased opportunities for learning. (See also §§ 117.8 and 117.9.)

(g) *Coordination with public library programs.* That the State agency has developed criteria to insure that there will be appropriate coordination at both State and local levels between the program carried out under title II of the Act with respect to school library resources and any program carried out under the Library Services and Construction Act (20 U.S.C. ch. 16) in order to secure the effective and efficient use of Federal funds and to avoid duplication of effort.

(h) *Criteria for selection of school library resources, textbooks, and other instructional materials.* That the State agency has developed the specific educational and other criteria to be used (1) in selecting the school library resources, textbooks, and other printed and published instructional materials to be made available to children and teachers under Title II of the Act and (2) as the basis for determining the proportions of the allotment for each fiscal year which will be spent for the acquisition of (i) school library resources, (ii) textbooks, and (iii) other printed and published instructional materials. Such criteria must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner. (20 U.S.C. 823; 42 U.S.C. 4231, 4233)

Subpart C—Availability of Materials

§ 117.8 Approval of instructional materials.

School library resources, textbooks, and other printed and published instructional materials acquired under the provisions of title II of the Act must be limited to

those which have been approved by an appropriate State agency or local educational agency. If proportions for the three categories of materials are changed significantly, the program and operational procedures should be so amended in accordance with the provisions of § 117.2(d). (See also § 117.8.)

(i) *Maintenance of level of support.* That the State agency has developed adequate policies and procedures designed to assure that funds made available under title II of the Act for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of State, local, and private school funds that would in the absence of such Federal funds be made available for school library resources, textbooks, and other printed and published instructional materials, and in no case supplant such State, local, and private school funds budgeted for expenditure in the current fiscal year for the acquisition of such resources, textbooks, and materials; as compared with the total amount of State, local, and private school funds actually expended in each of the two most recent fiscal years for which the information is available for the acquisition of such resources, textbooks, and materials. Such policies and procedures must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner.

(j) *State fiscal procedures.* That the State agency has provided for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds under title II of the Act and which shall be adequate to permit an accurate and expeditious audit of the program. Such procedures must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner.

(k) *Consultations and reports.* That the State agency will participate in such periodic consultations and will make such reports to the Commissioner at such time, in such form, and containing such information as the Commissioner may consider necessary to enable him to perform his duties under the Act and will keep such other records and afford such access thereto, and will comply with such other requirements as the Commissioner may find necessary to assure the correctness and verification of such reports.

(l) *Referral to Governor.* That the State plan has been submitted to the Governor for his review and that amendments, projections, or periodic reports will be submitted for his review.

(20 U.S.C. 823; 42 U.S.C. 4231, 4233)

those which have been approved by an appropriate State agency or local educational agency or other public agency for use, or are used, in a public elementary or secondary school of that State. (20 U.S.C. 825)

§ 117.9 Title and control of instructional materials.

Title to, and control and administration of the use of, school library resources, textbooks, and other printed and published instructional materials acquired under title II of the Act shall vest only in a public agency or in the United States. School library resources, textbooks, and other printed and published instructional materials acquired under title II of the Act shall be available to children and teachers in elementary and secondary schools on a loan basis only and there will be a proper accounting of such resources, textbooks, and materials. The public agency shall provide for the control, recall, and replacement of such resources, textbooks, and materials. The public agency having control shall impose responsibility upon the children and teachers who borrow such resources, textbooks, and materials for loss, damage, failure to return when required, or other violations of the terms and conditions of the loan which is comparable to that imposed upon borrowers of similar items purchased with funds derived from other sources.

(20 U.S.C. 823)

§ 117.10 Accessibility of instructional materials.

Unless such action is prohibited by State law, school library resources, textbooks, and other printed and published instructional materials acquired with funds under title II of the Act shall be made available for the use of children and teachers in private elementary and secondary schools on an equitable basis. Catalogs or lists of instructional materials acquired under the State plan or such other system or systems as may be approved by the Commissioner shall be maintained which will assure the reasonable accessibility and availability of instructional materials to children and teachers in both public and private schools. Such catalogs or lists may be limited in content, for example, to instructional materials designed for children with special needs or to instructional materials supporting particular areas of curriculum and which are not otherwise generally available to the affected children and teachers. Such catalogs or lists or other systems may be maintained on the basis of such limited and defined geographical areas as may be appropriate to assure distribution of materials on a feasible basis. Another method may be the use of a central depository system. The circulation of such instructional materials shall be subject to such restrictions as may be required to maintain an equitable distribution thereof among the children and teachers.

(20 U.S.C. 823)

Loan terms should be based on educational principles of service to instructional programs so that the children and teachers for whom the school library resources, textbooks, and other printed and published instructional materials are selected will not be deprived of their use when needed.

(20 U.S.C. 823)

§ 117.11 Charge for use.

No charge may be levied against children and teachers for the use of any school library resources, textbooks, and other printed and published instructional materials acquired under title II of the Act.

(20 U.S.C. 823)

§ 117.12 Inventory.

The public agency in which title to school library resources, textbooks, and other printed and published instructional materials is vested, and the Department of the Interior and the Department of Defense, shall indicate ownership by appropriate marking of each item in a permanent manner and shall maintain an inventory record of such items, revised annually. The inventory records shall be maintained for the useful life of such items. The methods for inventorying and maintaining records of such materials employed by the public agency retaining title shall be subject to the approval of the State agency administering the plan. Inventory records of such materials shall be compiled and maintained by the public agency retaining title and actual administrative control through the use of publicly employed personnel. The methods of inventorying shall include appropriate provisions for substantiating the inventories by onsite inspection. The State agency shall establish a policy for removing items from inventory by procedures consistent with established State or local public agency policies relative to loss, obsolescence, or rate of deterioration of such resources, textbooks, and materials.

(20 U.S.C. 823)

§ 117.13 Religious worship or instruction.

The State agency shall establish procedures which will assure that funds under title II of the Act will not be used for religious worship or instruction or for school library resources, textbooks, or other printed and published instructional materials to be utilized in such worship or instruction.

(20 U.S.C. 885)

Subpart D—Availability of Funds

§ 117.19 Allotment of funds.

(a) *State allotment.* The Federal Government will pay from each State's allotment amounts equal to the sums expended by the State under an approved State plan for (1) the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private

elementary and secondary schools in the State; and (2) administration of the State plan. In no case will the amount paid for administration of the State plan for any fiscal year exceed 5 percent of the amount paid to the State under title II of the Act, or \$50,000, whichever is greater.

(b) *Reduction in State allotment.* In any State which has an approved State plan and in which no State agency is authorized by law to provide school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in any one or more elementary or secondary schools in that State, the Commissioner will arrange for the provision on an equitable basis of such resources, textbooks, and other materials for the use of such children and teachers. In such an event, the Commissioner will pay the cost thereof for any fiscal year out of the State's allotment.

(c) *Allotment to the Departments of the Interior and Defense.* Such amount shall be allotted to the Secretary of the Interior as is necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior and to the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense.

(20 U.S.C. 822, 823, 824)

§ 117.20 Acquisition of instructional materials.

Acquisition of school library resources, textbooks, and other printed and published instructional materials in which there may be financial participation under title II of the Act means the purchase, lease-purchase, or straight lease of such resources, textbooks, and materials and includes the necessary and essential cost of ordering, processing, and cataloging such resources, textbooks, and materials and delivery of them to the initial place at which they are made available for use. Funds under title II of the Act are not available for the rebinding or repair of such resources, textbooks, or materials.

(20 U.S.C. 823)

§ 117.21 Administration of the State plan.

(a) *Functions.* Funds allotted to States under title II of the Act are available, up to the limits specified in § 117.19, for the administration of the State plan. Of the funds so made available for administration of the State plan, appropriate amounts shall be made available to local educational agencies for responsibilities assigned by the State agency to such local educational agencies for the making of loaned materials accessible in accordance with § 117.10. The administration of the State plan involves functions such as:

(1) The development of short- and long-term policy for making school li-

brary resources, textbooks, and other printed and published instructional materials available for the use of children and teachers in the elementary and secondary schools of the State;

(2) The development, revision, dissemination, and evaluation of standards relating to the selection, acquisition, and use of school library resources, textbooks, and other printed and published instructional materials;

(3) State supervisory services and evaluation of programs for the acquisition and use of school library resources, textbooks, and other printed and published instructional materials;

(4) Inventorying of acquisitions made under title II of the Act and the maintaining of other requisite records;

(5) The control of loaned materials in accordance with § 117.10; and

(6) The rendering of such reports as the Commissioner may require.

(b) *Eligible expenditures for administration of the State plan.* Funds under title II of the Act may be used for the direct costs of the administration of the State plan and include such categories as:

(1) Salaries, wages, and other personal services costs of permanent and temporary staff;

(2) Communications;

(3) Utilities;

(4) Consumable office supplies, including stationery;

(5) Printing and the acquisition of printed and published materials for use of administrative and supervisory staff;

(6) Travel and transportation expenses;

(7) Acquisition (including rental), maintenance, or repair of office equipment, or that equipment needed for supervisory and demonstration functions, for use of the administrative and supervisory staff;

(8) Minor alterations in previously completed buildings space used or to be used for administration of the program under title II of the Act which are needed to permit effective use of equipment acquired for administration. Excluded are building construction, structural alteration to buildings, building maintenance, repair, or renovation; and

(9) Fair rental of office space in privately or publicly owned buildings, subject to the following provisions:

(i) The expenditures for the space are necessary and properly related to the efficient administration of the program;

(ii) The State, during the period of occupancy, will receive benefits commensurate with such expenditures;

(iii) The amounts paid are not in excess of comparable rental in the particular locality;

(iv) Expenditures represent a current cost; and

(v) Rental costs are consistently treated as direct costs. Funds under title II of the Act may also be used to pay that share of the indirect costs incurred for the administration of the State plan that

is commensurate with the benefits accruing to such administration in accordance with a predetermined method of allocating costs that is accepted by the Commissioner.

(20 U.S.C. 823, 1231c(b))

§ 117.22 Relation to public library system.

Federal funds made available under title II of the Act shall not be used to supplant or duplicate, unnecessarily, functions of the public library system of the State.

(20 U.S.C. 823)

§ 117.23 Administration by Departments.

An amount not to exceed 5 percent of the funds made available respectively to the Department of the Interior and the Department of Defense shall be available to each Department for administration by such Department in a manner consistent with § 117.21.

(20 U.S.C. 822)

Subpart E—Fiscal Procedures

§ 117.26 State fiscal procedures.

(a) *Expenditures.* Federal funds made available under title II of the Act shall be available only for expenditures which are made during the fiscal year for which such funds are made available, except as otherwise provided by law. The expenditure of funds under title II of the Act will be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or for the performance of work (including a binding commitment by a State agency to pay a local educational agency a fixed charge for the ordering and processing of instructional materials), except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities shall be considered to have been expended as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectively. Obligations entered into which are payable out of funds under title II of the Act shall be liquidated prior to the end of the fiscal year following the fiscal year for which such funds are made available for use unless the Commissioner extends the time for so liquidating obligations on the basis of a request from the State agency. Such request must be made prior to the end of the initial period for liquidating obligations.

(b) *Audit of other participating agencies.* All expenditures of funds under title II of the Act shall be audited either by the State or by other appropriate auditors. The State agency shall establish procedures indicating how the accounts of those other State and local public agencies participating under the State plan will be audited and, when such an audit is to be carried out, how the State agency will secure information necessary to assure proper use of any funds under title II of the Act turned over to such

other agency or agencies for expenditure, and where the reports of such audits will be maintained.

(20 U.S.C. 823, 1225)

§ 117.27 Federal fiscal audits.

The Secretary of Health, Education, and Welfare and the Comptroller General of the United States shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee that are pertinent to the grant received under title II of the Act.

(20 U.S.C. 1232c)

§ 117.28 Transfer of funds to other State or local agencies.

The State agency shall establish the policies and procedures to be used in the payment of funds to other State or local public agencies by the State agency administering the State plan, either as reimbursement for actual expenditures, or as an advance prior to expenditures, for the acquisition of school library resources, textbooks, and other printed and published instructional materials and for administration of the State plan.

(20 U.S.C. 823, 1232c)

§ 117.29 Adjustments.

The State agency, in its maintenance of program expenditures, accounts, records, and reports, shall make promptly any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from Federal or State administrative reviews and audits. Such adjustments shall be set forth in the State agency's financial reports filed with the Commissioner.

(20 U.S.C. 1232c)

§ 117.30 Proration of costs.

Funds under title II of the Act are available to pay that share of the costs incurred under the State plan for the acquisition of school library resources, textbooks, and other printed and published instructional materials that is commensurate with the benefits accruing to projects under title II of the Act in accordance with a predetermined method of allocating costs that is accepted by the Commissioner.

(20 U.S.C. 1231c(b))

Subpart F—State Administration

§ 117.35 Advisory committees.

If State advisory committees are used with respect to one or more aspects of the State plan, the State agency shall establish policies for the establishment thereof, for the qualification and selection of members, for the establishment of the duties of members and of the committee, and for the payment of committee expenses, if any.

(20 U.S.C. 823)

§ 117.36 Officials not to benefit.

No member of the staff of a State or local educational agency may participate

in the administration of a program under title II of the Act, and no person may serve on an advisory committee established to assist either with planning for such program or with its administration, if such person will receive any benefit or remuneration in the form of a commission, percentage, contingent fee, brokerage fee, or otherwise, as a result of any contract for the acquisition of school library resources, textbooks, or other printed and published instructional materials under such a program or as a result of the granting or withholding of approval of the acquisition or use of any such resources, textbooks, or materials under title II of the Act. The State agency administering the State plan shall take such action as is necessary to assure itself that preferential treatment on the basis of authorship or other personal interests will be avoided in relation to the sale or distribution of such resources, textbooks, and materials under title II of the Act.

(364 U.S.C. 520)

§ 117.37 Continuing review by Commissioner of State administration.

In order to assist the State agency in adhering to statutory requirements and to the provisions of its approved State plan, the Commissioner will conduct periodic reviews of the administration of programs under title II of the Act. The Commissioner will be responsible for conducting periodic onsite reviews in State agencies to carry out his responsibilities. Such reviews will involve an analysis of activities and procedures used by State agencies to conduct the program, including the development and monitoring of management activities.

(20 U.S.C. 1231c)

§ 117.38 Administrative review and evaluation.

Provision shall be made by the State agency and the Departments of the Interior and Defense for administrative review and evaluation by the State agency or Department of the program and operations under title II of the Act at least annually for the purpose of appraising their scope, statute, and administration. Such evaluation shall be made in relation to the criteria used for equitable distribution and the identifying and serving of needs and will include the review, redefinition, and refinement of meaningful standards as to adequacy, quality, and quantity of school library resources, textbooks, and other printed and published instructional materials which are selected and distributed, and the effectiveness in making such resources, textbooks, and materials available for the use of children and teachers in elementary and secondary schools. The State agency shall include a report of such administrative review and evaluation in the annual report of the State agency.

(20 U.S.C. 823)

§ 117.39 Retention of records.

(a) *General rule.* The State agency shall provide for keeping intact and accessible to the Secretary of Health, Education, and Welfare and the Comptroller General of the United States all records supporting claims for funds under title II of the Act or relating to the accountability of the grantee or funded agency for expenditure of such funds for 3 years after the end of the period for which such funds were made available for expenditure. If, by the end of that 3 years, an audit by or on behalf of the Department of Health, Education, and Welfare has not occurred, the records must be retained until audit or until 5 years following the end of the period for which such funds were made available, whichever is earlier.

(b) *Questioned expenditure.* The records involved in any claim or expenditure which has been questioned shall be further maintained until necessary adjustments have been made and such adjustments have been reviewed and approved by the Department of Health, Education, and Welfare.

(c) *Inventories of equipment for administration of the State plan.* Where equipment which costs \$300 or more per unit is purchased by the State agency with Federal funds for use in administration of the State plan, continuing inventories and other records supporting accountability for such equipment shall be maintained until it is determined that such equipment is no longer useful, until it is determined to have a residual value of less than \$100, or until accountability to the United States has been waived. Records supporting accountability of school library resources, textbooks, and other printed and published instructional materials shall be maintained in accordance with § 117.12.

(20 U.S.C. 1232c, 1232e)

Subpart G—Payment Procedures

§ 117.43 Financial reports.

Each State agency shall submit, in accordance with procedures established by the Commissioner:

(a) Following the end of the fiscal year, a report of the total expenditures made under the plan during the fiscal year; and

(b) Such other reports as are periodically needed to account properly for funds.

(20 U.S.C. 823)

§ 117.44 Payment of funds under title II of the Act.

Funds under title II of the Act to pay for amounts expended by a State in carrying out its State plan will be limited to the amount necessary to meet current needs.

(20 U.S.C. 1232d)

§ 117.45 Withholding of funds.

Neither the approval of a State plan nor any payment to a State pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure of the State to observe, before or after

such administrative action, any Federal requirements.

(20 U.S.C. 826)

§ 117.46 Reallotment.

(a) *In general.* The amount of any State allotment under title II of the Act for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment, from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under title II of the Act for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced.

(b) *Statements of anticipated need.* In order to provide a basis for reallotment by the Commissioner under title II of the Act, each State agency administering a program under title II of the Act shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement or statements showing the anticipated need during the current fiscal year for the amount previously allotted, or any amount needed to be added thereto. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements.

(c) *Lack of carryover.* No allotment or reallotment of the funds may be carried over for use during the subsequent fiscal year, except as otherwise provided by law.

(20 U.S.C. 822)

In accordance with section 421 of the General Education Provisions Act (20 U.S.C. 1232), the foregoing amendments will become effective 30 days following the date of their publication in the FEDERAL REGISTER.

Dated: February 24, 1971.

S. P. MARLAND, Jr.,
Commissioner of Education.

Approved: June 3, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health,
Education, and Welfare.

[FR Doc. 71-8117 Filed 6-9-71; 8:50 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-7; Notice No. 71-11]

PART 391—QUALIFICATIONS OF DRIVERS

Drivers of Light-Weight Farm Vehicles

The Director of the Bureau of Motor Carrier Safety is extending the expira-

tion date of the exemption from certain driver qualification rules for drivers of certain light-weight farm vehicles. By virtue of this action, the special exemption, now set to expire on July 1, 1971, will expire on January 1, 1972.

As the Director noted when he issued the exemption (36 F.R. 222), it was designed to be temporary in nature and to provide a breathing space so that work towards a permanent solution to the problem of applying the regulations to farm vehicles could go forward with deliberate speed. Meetings with farm group representatives and other interested persons have been held. Comments on the problem have been received from many sources. The Director plans to issue a proposal for permanent resolution of the issues in the near future. Meanwhile, it appears to be in the public interest to continue the status quo pending the outcome of proceedings on that proposal.

In consideration of the foregoing, § 391.67(a) of the Motor Carrier Safety Regulations (Subchapter B of Chapter III in Title 49, CFR) is amended by deleting "July 1, 1971" and by inserting "January 1, 1972" in lieu thereof. As so amended, § 391.67(a) reads as follows:

§ 391.67 Farm vehicle drivers.

(a) Before January 1, 1972, the following rules do not apply to a farm vehicle driver as defined in paragraph (b) of this section.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure upon it are unnecessary.

(Sec. 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority at 49 CFR 1.48 and 49 CFR 389.4)

Issued on June 8, 1971.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.
[FR Doc. 71-8168 Filed 6-9-71; 8:53 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 352]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.652 Valencia Orange Regulation 352.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions

of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the Act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 8, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 11, 1971, through June 17, 1971, are hereby fixed as follows:

- (i) District 1: 192,000 cartons;
- (ii) District 2: 366,000 cartons;
- (iii) District 3: 42,000 cartons.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

RULES AND REGULATIONS

Dated: June 9, 1971.

PAUL A. NICHOLSON,
Director, Fruit and Vegetable
Division, Consumer and Mar-
keting Service.

[FR Doc. 71-8269 Filed 6-9-71; 11:32 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Market- ing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 916—NECTARINES GROWN IN CALIFORNIA

Expenses and Rate of Assessment

On May 26, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9564) regarding proposed expenses and the proposed rate of assessment for the period March 1, 1971, through February 29, 1972, pursuant to the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916; 36 F.R. 9289), regulating the handling of nectarines grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Nectarine Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 916.210 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Nectarine Administrative Committee during the period March 1, 1971, through February 29, 1972, will amount to \$326,234.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 916.41, is fixed at \$0.05 per No. 22D standard lug box of nectarines, or equivalent quantity of nectarines in other containers or in bulk.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of nectarines grown in California are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all accessible nectarines handled during the aforesaid period; and (3) such period began on March 1, 1971, and said rate of assessment will automatically apply to all such nectarines beginning with such date.

Terms used in the amended marketing agreement and order shall, when

used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order, and "No. 22D standard lug box" shall have the same meaning as set forth in section 43601 of the Agricultural Code of California.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 7, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Veg-
etable Division, Consumer and
Marketing Service.

[FR Doc. 71-8126 Filed 6-9-71; 8:51 am]

PART 919—PEACHES GROWN IN MESA COUNTY, COLO.

Modification of Procedure for Nomi- nating and Selecting Cooperative Members of Administrative Com- mittee

On May 21, 1971, notice was published in the FEDERAL REGISTER (36 F.R. 9252) that the Department was considering an addition, as hereinafter set forth, to the rules and regulations (subpart, rules and regulations), pursuant to section 919.23 and other applicable provisions of the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919; 35 F.R. 16788), regulating the handling of peaches grown in county of Mesa in the State of Colorado, effective under applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment provides for the reapportionment of the cooperative handler membership of the committee. Under the amended marketing agreement and order, the cooperative associations are entitled to 3 of the 4 handler members and alternates on the committee. Currently, the cooperative handler representation on the committee is divided between the two cooperative associations which qualified as handlers during the fiscal period which began November 1, 1969. Recently, one of these cooperative associations was dissolved and its assets were absorbed by the remaining cooperative association. Therefore, to provide for continued equitable cooperative handler representation on the committee, the rules and regulations of the amended marketing agreement and order should be amended to provide for the nomination of 3 handler members and their alternates by the remaining cooperative association which handles peaches.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, which was submitted by the Administrative Committee (established pursuant to said amended marketing agreement and order as the agency to administer the provisions thereof) it is hereby found

that the amendment, as hereinafter set forth, of said rules and regulations, is in accordance with the provisions of said amended marketing agreement and order and will tend to effectuate the declared policy of the act. Such amendment is hereby approved, and said rules and regulations are amended by adding a new § 919.110 *Modification of the procedure for nominating and selecting cooperative members pursuant to § 919.23(c)* reading as follows:

§ 919.110 Modification of the procedure for nominating and selecting cooperative members pursuant to § 919.23(c).

If only one cooperative association qualifies as a handler during a fiscal year, the cooperative association shall be entitled to nominate three members and three alternate members of the committee for the ensuing fiscal year, and nominations shall be made in such manner as its members may designate.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, June 4, 1971, to become effective 30 days after publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Veg-
etable Division, Consumer and
Marketing Service.

[FR Doc. 71-8127 Filed 6-9-71; 8:51 am]

RULES AND REGULATIONS

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Monetary Offices

[31 CFR Parts 102, 103]

FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

Notice of Proposed Rule Making

Notice is hereby given that in order to implement the provisions of titles I and II of Public Law 91-508 (84 Stat. 1114 et seq.), the regulations set forth in tentative form below are proposed to be prescribed by the Secretary of the Treasury. Anyone desiring to comment on these regulations may do so in writing no later than July 16, 1971. Comments submitted will be open to public inspection unless otherwise requested. Comments should be submitted in triplicate and should be addressed to the Honorable Samuel R. Pierce, Jr., General Counsel, Treasury Department, Washington, D.C. 20220.

SAMUEL R. PIERCE, JR.,
General Counsel.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary.

PART 102—INSTRUCTIONS RELATING TO REPORTS OF CURRENCY TRANSACTIONS

Part 102 is repealed.

PART 103—FINANCIAL RECORDKEEPING AND REPORTING

Sec.

Subpart A—Definitions

103.11 Meaning of terms.

Subpart B—Reports Required To Be Made

- 103.21 Determination by the Secretary.
- 103.22 Reports of currency transactions.
- 103.23 Reports of transportation of currency or monetary instruments.
- 103.24 Reports of foreign financial accounts.
- 103.25 Filing of reports.
- 103.26 Identification required.

Subpart C—Records Required To Be Maintained

- 103.31 Determination by the Secretary.
- 103.32 Records to be made and retained by persons having financial interests in foreign financial accounts.
- 103.33 Records to be made and retained by financial institutions.
- 103.34 Records to be made and retained by banks.
- 103.35 Records to be made and retained by brokers and dealers in securities.
- 103.36 Records to be made and retained by brokers and dealers in commodities.
- 103.37 Nature of records and retention period.
- 103.38 Person outside the United States.

Subpart D—General Provisions

- 103.41 Dollars as including foreign currency.
- 103.42 Availability of information.
- 103.43 Disclosure.
- 103.44 Exceptions, exemptions, modifications, and reports.
- 103.45 Enforcement.
- 103.46 Civil penalty.
- 103.47 Forfeiture of currency or monetary instruments.
- 103.48 Criminal penalty.
- 103.49 Effective date.

AUTHORITY: The provisions of this Part 103 issued under Public Law 91-508, 84 Stat. 1114 et seq.

Subpart A—Definitions

§ 103.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section.

Bank. (a) Each agency, branch or office within the United States of any person doing business in one or more of the capacities listed below.

- (1) A commercial bank or trust company organized under the laws of any State or of the United States;
- (2) A private bank;
- (3) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;
- (4) An insured institution as defined in section 401 of the National Housing Act;
- (5) A savings bank, industrial bank, or other thrift institution;
- (6) A credit union organized under the laws of any State or of the United States.

(b) Each agent, agency, branch, or office within the United States of a foreign bank;

Domestic. When used herein, refers to the doing of business within the United States, and limits the applicability of the provision wherein it appears to the performance by such institutions or agencies of functions within the United States.

Financial institution. Each agency, branch or office within the United States of any person doing business in one or more of the capacities listed below:

- (1) A bank;
- (2) A broker or dealer in securities, whether or not registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934;
- (3) A broker or dealer in commodities;
- (4) An investment banker or investment company;
- (5) A currency exchange;

(6) An issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(7) An operator of a credit card system which issues, or authorizes the issuance of, credit cards that may be used for the acquisition of monetary instruments, goods, or services at one or more locations in each of four or more States.

(8) An insurance company;

(9) A dealer in precious metals, stones, or jewels;

(10) A pawnbroker;

(11) A loan or finance company;

(12) A travel agency;

(13) A licensed transmitter of funds, or other person engaging in the business of transmitting funds for others; or

(14) A telegraph company.

Identify. Where it is required that a record or report shall identify a person, this means that the name and permanent residence or business address of that person shall be stated.

Investment security. Any note, bond, debenture, or other similar debt obligation of a type normally acquired for investment purposes; and any stock or similar security, certificate of deposit for any equity security, or certificate of interest in a business trust; or any security convertible, with or without consideration into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

Monetary instruments. Coin and currency of the United States or of any other country, travelers' checks, money orders, cashiers' checks, and investment securities or negotiable instruments in bearer form, or otherwise in such form that title thereto passes upon delivery.

Person. An individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, and all entities cognizable as legal personalities.

Secretary. The Secretary of the Treasury or any person duly authorized by the Secretary to perform the function mentioned.

United States. The various States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Subpart B—Reports Required To Be Made

§ 103.21 Determination by the Secretary.

The Secretary hereby determines that the reports required by this subpart have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 103.22 Reports of currency transactions.

(a) Each financial institution shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution, which involves transactions in currency of more than \$5,000.

(b) Except as otherwise directed in writing by the Secretary, this section shall not (1) require reports of transactions with Federal reserve banks; (2) require financial institutions to report transactions solely with, or originated by, domestic banks; or (3) require a bank to report transactions with an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry, or profession of the customer concerned. Each bank shall keep a list identifying customers who engage in transactions which are not reported because of the exemption contained in this paragraph. A report consisting of such list shall be made to the Secretary upon demand therefor made by him.

§ 103.23 Reports of transportation of currency or monetary instruments.

(a) Each person, other than a domestic bank, who transports, mails or ships, or causes to be transported, mailed or shipped, currency or other monetary instruments in amounts exceeding \$5,000 on any one occasion from the United States to or through any place outside the United States, or into the United States from or through any place outside the United States, shall make a report thereof.

(b) Each person, other than a domestic bank, who receives in the U.S. currency or other monetary instruments in amounts exceeding \$5,000 on any one occasion which have been transported, mailed or shipped from or through any place outside the United States with respect to which a report has not been filed under subsection (a) of this section, shall make a report thereof, stating the amount, the date of receipt, the form of monetary instrument, and the person from whom received.

(c) This section shall not require reports by a common carrier of passengers in respect to currency or other monetary instruments in the possession of its passengers, nor by a common carrier of goods in respect to shipments of currency or monetary instruments not declared to be such by the shipper, nor by a travelers check issuer or its agent in respect to the delivery of travelers checks to selling agents for eventual sale to the public.

§ 103.24 Reports of foreign financial accounts.

Each citizen or resident of the United States, and each partnership, corporation, estate, or trust organized or created or coming into being under the law of the United States, or of any State or territory, having a financial interest

PROPOSED RULE MAKING

in or signature or other authority over a bank, securities or other financial account in a foreign country shall report such relationship on his Federal income tax return for each year in which such relationship exists, and shall provide such information concerning each such account as shall be specified in a special tax form to be filed by such persons.

§ 103.25 Filing of reports.

(a) Reports required to be filed by § 103.22 shall be filed on or before the 15th day of the month following that in which the reported transactions occur. They shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by him, with the approval of the Secretary. All information called for in such forms shall be furnished.

(b) Reports required to be filed by § 103.23(a) shall be filed at the time of entry into the United States or at the time of departure, mailing or shipping from the United States, unless otherwise directed or permitted by the Commissioner of Customs. They shall be filed with the Customs officer in charge at any Customs port of entry or departure, or as otherwise permitted or directed by the Commissioner of Customs. If the currency or other monetary instruments with respect to which a report is required do not accompany a person arriving in or departing from the United States, such reports may be filed by certified mail on or before the date of mailing, shipping, or other transportation, with the Commissioner of Customs, Attention: Currency Transaction Reports, Washington, D.C. 20226. They shall be on forms to be prescribed by the Secretary and all information called for in such forms shall be furnished.

(c) Reports required to be filed by § 103.23(b) shall be filed with the Commissioner of Customs within 30 days after receipt of the currency or other monetary instruments. They may be filed by mail addressed to the Commissioner of Customs, Attention: Currency Transaction Reports, Washington, D.C. 20226.

§ 103.26 Identification required.

Before effecting any transaction with respect to which a report is required under § 103.22, a financial institution shall verify and record the identity and the social security or taxpayer identification number, if any, of the person or legal entity with whom or for whose account such transaction is to be effected. Verification of identity may be by examination, for example, of a driver's license, passport, alien identification card, or other appropriate document normally acceptable as a means of identification.

Subpart C—Records Required To Be Maintained

§ 103.31 Determination by the Secretary.

The Secretary hereby determines that the records required to be kept by this

subpart have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 103.32 Records to be made and retained by persons having financial interests in foreign financial accounts.

Records of accounts required by § 103.24 to be reported on a Federal income tax return shall be retained by each person having a financial interest in any such account. Such records shall contain the name in which each such account is maintained, the number or other designation of such account, the name and address of the bank or other person with whom such account is maintained, the type of such account, and the maximum value of each such account during the reporting period. Such records shall be retained for a period of 6 years and shall be kept at all times available for inspection as authorized by law. In the computation of the period of 6 years, there shall be disregarded any period beginning with a date on which the taxpayer is indicted or information instituted on account of the filing of a false or fraudulent Federal income tax return or failing to file a Federal income tax return, and ending with the date on which final disposition is made of the criminal proceeding.

§ 103.33 Records to be made and retained by financial institutions.

Each domestic financial institution shall retain either the original or a microfilm or other copy or reproduction of each of the following:

- (a) Records of each extension of credit of more than \$1,000 made or participated in by the financial institution;
- (b) Records of any advice, request, or instructions received regarding transfers of currency, checks, investment securities, monetary instruments, or credit, of more than \$1,000 to persons, accounts or places outside the United States;
- (c) Records of any advice, request, or instructions given at the request of another person, to a financial institution or other person located within or without the United States, regarding transfers of currency, checks, investment securities, monetary instruments, or credit, of more than \$1,000 from a person, account or place within the United States to a person, account or place outside the United States;

(d) Applications for money orders or travelers' checks of more than \$1,000;

(e) Statements issued to credit cardholders except residents of a foreign country, which statements contain total charges of more than \$1,000;

(f) Records of any single charge of more than \$1,000 to the account of a credit cardholder, except a resident of a foreign country.

§ 103.34 Records to be made and retained by banks.

(a) With respect to each deposit or share account opened with a domestic bank after October 31, 1971, by a person

residing or doing business in the United States or a citizen of the United States, such bank shall secure and maintain a record of the social security number of each individual (excluding minor children whose parent or guardian has signature authority with respect to the account) having signature authority over that account, or of the taxpayer identification number, of the person maintaining the account.

(b) Each domestic bank shall, in addition, with respect to each deposit or share account, regardless of when opened, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Documents granting signature authority over each such account;

(2) Statements or ledger cards on each such account, showing each transaction in, or with respect to, that account;

(3) All paid or canceled checks, clean drafts, or money orders drawn on the bank or issued and payable by it;

(4) Each item other than bank charges or periodic charges made pursuant to agreement with the customer, comprising a debit to a customer's deposit account not required to be kept under subparagraph (3) of this paragraph;

(5) Each item, including checks, monetary instruments, or transfers of credit, of more than \$1,000, remitted or transferred to persons, accounts, or places outside the United States;

(6) Records of each remittance or transfer of currency, checks, investment securities, monetary instruments or credit, of more than \$1,000 to persons, accounts or places outside the United States;

(7) Each check, draft, or other monetary instrument in an amount in excess of \$1,000 drawn on or issued by a foreign financial institution, purchased, received for credit or collection, or otherwise acquired by the bank;

(8) Each item, including checks, monetary instruments, or transfers of credit of more than \$1,000 received directly and not through a domestic financial institution, by letter, cable or any other means, from a person, account or place outside the United States;

(9) Records of receipts of currency, checks, investment securities, monetary instruments, or transfers of credit, of more than \$1,000 received directly and not through a domestic financial institution, from any person, account or place outside the United States.

§ 103.35 Records to be made and retained by brokers and dealers in securities.

Every domestic broker or dealer in securities shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) Documents granting signature or trading authority over each customer's account;

(b) The records described in § 240.17a-3(a) (1), (2), (3), (5), (6), (7), (8), and

(9) of Title 17, Code of Federal Regulations;

(c) Records of each remittance or transfer of currency checks, investment securities, monetary instruments or credit, of more than \$1,000 to persons, accounts or places outside the United States;

(d) Records of receipts of currency, checks, investment securities, monetary instruments, or transfers of credit, of more than \$1,000 received directly and not through a domestic financial institution, from any person, account, or place outside the United States.

§ 103.36 Records to be made and retained by brokers and dealers in commodities.

Every domestic broker or dealer in commodities shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) Documents granting signature authority over each customer's account;

(b) Ledger accounts (or other records) itemizing separately for each customer all charges against and credits to such customer's account, including funds or securities deposited, withdrawn, or transferred, and charges or credits resulting from losses or gains on closed transactions;

(c) A memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of commodities, whether executed or unexecuted. Orders entered pursuant to the exercise of discretionary power by such broker or dealer, or any employee thereof, shall be so designated;

(d) Records of each remittance or transfer of currency, checks, investment securities, monetary instruments, or credit, of more than \$1,000 to persons, accounts, or places outside the United States;

(e) Records of receipts of currency, checks, investment securities, monetary instruments, or transfers of credit, of more than \$1,000 received directly and not through a domestic financial institution, from any person, account, or place outside the United States.

§ 103.37 Nature of records and retention period.

(a) Wherever it is required that there be retained either the original or a microfilm or other copy or reproduction of a check, draft, monetary instrument, investment security, or other similar instrument, there shall be retained a copy of both front and back of each such instrument, except that no copy need be retained of the back of an instrument which is entirely blank or which contains only standardized printed information, a copy of which is on file.

(b) Records required by this subpart to be retained by domestic financial institutions, shall identify all parties to the transaction with whom the financial institution dealt directly. Such records may be those made in the ordinary course of business by a financial institution. If no record is made in the ordinary

course of business of any transaction with respect to which records are required to be retained by this subpart, then such a record shall be prepared in writing by the financial institution.

(c) Records required by this subpart to be retained by domestic financial institutions, and records prepared or received by a bank in the ordinary course of business which would be needed to reconstruct a customer's account, and to trace a check through its check processing system or to supply a description of a deposited check, shall be retained for a period of 6 years, shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made.

§ 103.38 Person outside the United States.

For the purposes of this subpart, a remittance or transfer of currency, checks, investment securities, monetary instruments, or credit to the domestic account of a person whose address is outside the United States, shall be deemed to be a remittance or transfer to a person outside the United States.

Subpart D—General Provisions

§ 103.41 Dollars as including foreign currency.

Wherever in this part an amount is stated in dollars, it shall be deemed to mean also the equivalent amount in any foreign currency.

§ 103.42 Availability of information.

The Secretary may make any information set forth in any reports received pursuant to this part available to any other department or agency of the United States upon the request of the head of such department or agency, made in writing and stating the particular information desired, the criminal, tax, or regulatory investigation or proceeding in connection with which the information is sought, and the official need therefor.

§ 103.43 Disclosure.

All reports required under this part and all records of such reports are specifically exempted from disclosure under section 552 of title 5, United States Code.

§ 103.44 Exceptions, exemptions, modifications, and reports.

The Secretary, in his sole discretion, may by written order or authorization make exceptions to, grant exemptions from, or otherwise modify, the requirements of this part. Such exceptions, exemptions, or modifications may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to particular transactions or classes of transactions. They shall, however, be applicable only as expressly stated in the order or authorization, and they shall be revocable in the sole discretion of the Secretary.

§ 103.45 Enforcement.

(a) Responsibility for assuring compliance with the requirements of this part is delegated as follows:

(1) To the Comptroller of the Currency, with respect to national banks and banks in the District of Columbia;

(2) To the Board of Governors of the Federal Reserve System, with respect to state bank members of the Federal Reserve System;

(3) To the Federal Home Loan Bank Board, with respect to insured and uninsured building and loan associations, insured and uninsured savings and loan associations, and insured institutions as defined in section 401 of the National Housing Act;

(4) To the Administrator of the National Credit Union Administration, with respect to all credit unions;

(5) To the Federal Deposit Insurance Corporation, with respect to all other banks;

(6) To the Securities and Exchange Commission, with respect to brokers and dealers registered with it under the Securities Exchange Act of 1934;

(7) To the Commissioner of Customs with respect to § 103.23 and § 103.47;

(8) To the Commissioner of Internal Revenue except as otherwise specified in this section.

(b) Overall responsibility for coordinating the procedures and efforts of the agencies listed herein and assuring compliance with this part, is delegated to the Assistant Secretary (Enforcement and Operations). Periodic reports shall be made by each such agency to the Assistant Secretary, with copies to the General Counsel of the Treasury Department and to the Commissioner of Internal Revenue.

§ 103.46 Civil penalty.

(a) For any willful violation of any requirement of this part, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer or employee thereof who willfully participates in the violation, a civil penalty not exceeding \$1,000.

(b) For any failure to file a report required under § 103.23 or for filing such a report containing any material omission or misstatement, the Secretary may assess a civil penalty up to the amount of the currency or monetary instruments transported, mailed or shipped.

§ 103.47 Forfeiture of currency or monetary instruments.

Any currency or other monetary instruments with respect to which a report is required under § 103.23 are subject to seizure and forfeiture to the United States if such report has not been filed as required in § 103.25, or contain material omissions or misstatements. The Secretary may, in his sole discretion, remit or mitigate any such forfeiture upon such terms and conditions as he deems reasonable.

§ 103.48 Criminal penalty.

(a) Any person who willfully violates any provision of this part may, upon conviction thereof, be fined not more

than \$1,000 or be imprisoned not more than 1 year, or both. Such person may in addition, if the violation is of any provision authorized by title I of Public Law 91-508 and if the violation is committed in furtherance of the commission of any violation of Federal law punishable by imprisonment for more than 1 year, be fined not more than \$10,000 or be imprisoned not more than 5 years, or both.

(b) Any person who willfully violates any provision of this part where the violation is either

(1) Committed in furtherance of the commission of any other violation of Federal law, or

(2) Committed as part of a pattern of illegal activity involving transactions exceeding \$100,000 in any 12-month period, may, upon conviction thereof, be fined not more than \$500,000 or be imprisoned not more than 5 years, or both.

(c) Any person who knowingly makes any false statement or representation in any report required by this part may, upon conviction thereof, be fined not more than \$10,000 or be imprisoned not more than 5 years, or both.

§ 103.49 Effective date.

This part shall become effective on August 1, 1971, except for Subpart C which shall become effective on November 1, 1971.

[FR Doc.71-8133 Filed 6-9-71;8:52 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1063, 1070, 1078, 1079]

[Dockets Nos. AO-105-A34, AO-229-A25, AO-272-A19, AO-295-A23]

MILK IN QUAD CITIES-DUBUQUE AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Quad Cities-Dubuque, Cedar Rapids-Iowa City, North Central Iowa, and Des Moines, Iowa, marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the seventh day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Moline, Ill., on April 13, 1971, pursuant to notice thereof which was issued on April 5, 1971 (36 F.R. 6593), and supplemental notice issued April 7, 1971 (36 F.R. 6833).

The material issues on the record of the hearing relate to:

1. Class I price differentials.
2. Location adjustments to the Class I and uniform prices.
3. The determination of which order should regulate a plant from which milk is distributed in more than one regulated market.

4. Whether an emergency exists to warrant the omission of a recommended decision and whether amendments should be made for a temporary period.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Class I price differentials.* The Class I price differential under the Des Moines order should be reduced 5 cents. The Class I price differentials under the Quad Cities-Dubuque and Cedar Rapids-Iowa City orders should be increased 3 cents. No change should be made in the Class I price differential under the North Central Iowa order.

The Class I price differential under each of the orders is an amount added to the basic formula price to determine the Class I price. The basic formula price is the same under each order and consists of the average of the prices reported paid for manufacturing grade milk in the States of Minnesota and Wisconsin. The amounts of the Class I differentials (base zone), however, vary among the orders as follows: Des Moines, \$1.45; Quad Cities-Dubuque, \$1.30; Cedar Rapids-Iowa City, \$1.30; and North Central Iowa, \$1.25.

Three regulated handlers proposed various changes in the amounts of the Class I differentials under the orders. A Des Moines order handler proposed that the Des Moines order Class I differential be reduced 10 cents, to \$1.35; and that the Quad Cities-Dubuque and Cedar Rapids-Iowa City differentials be increased 5 cents, to \$1.35. Another handler, with a plant located in Des Moines and regulated under the Quad Cities-Dubuque order, proposed that the Des Moines, Quad Cities-Dubuque, and Cedar Rapids-Iowa City order differentials be

changed to \$1.39, and that the North Central Iowa order Class I differential be changed to \$1.35. A Waterloo handler regulated under the North Central Iowa order proposed that the differential under that order be reduced 10 cents, to \$1.15.

Proponent handlers contended that because of the extensive overlapping of milk procurement and sales areas of the handlers regulated under the various orders, the proposed change in the differentials is necessary to provide pricing equity among handlers under these orders.

The above proposals, and certain location adjustment proposals discussed hereinafter, were prompted primarily because of the pricing situation for handlers located in Des Moines. One handler there became regulated under the Quad Cities-Dubuque order beginning September 1970, because of a greater volume of distribution from the plant in that order marketing area than in the Des Moines marketing area. Prior to September 1970, the handler's sales accounts in the Quad Cities-Dubuque marketing area were served from another plant operated by the handler in Rock Island, Ill., at which bottling operations were discontinued. This handler distributes milk on routes throughout the marketing areas of all four of the above-mentioned orders plus the Kansas City market (which also has a Federal order). Des Moines handlers who are regulated under the Des Moines order also have milk distribution areas that encompass the Des Moines, Cedar Rapids-Iowa City, and North Central Iowa markets.

Handlers not located in Des Moines but regulated under the other Iowa orders have distribution patterns overlapping those of the Des Moines handlers. A handler in Waterloo, Iowa, and regulated under the North Central Iowa order has route sales in all four Iowa order markets. A handler in Cedar Rapids, Iowa, regulated under the Quad Cities-Dubuque order, has sales routes that overlap those of handlers regulated under each of the four orders. A handler located in Ottumwa, Iowa, regulated under the Des Moines order, has sales routes in the Des Moines, Cedar Rapids-Iowa City, and Quad Cities-Dubuque marketing areas.

The handlers indicated above compete not only with each other and with a number of handlers regulated under each of the four Iowa orders, but also with handlers regulated under the Southeastern Minnesota-Northern Iowa (Dairyland) and Chicago Regional Federal milk orders which have Class I price differentials lower than those under the Iowa orders. A Rochester, Minn., handler regulated under the Dairyland order, which has a Class I differential of \$1.06, has milk distribution routes which extend into the North Central Iowa and Des Moines marketing areas. Another Dairyland regulated handler, in Austin, Minn., also distributes milk in the North Central Iowa marketing area. Three handlers regulated under the Chicago

Regional order distribute milk in the Quad Cities-Dubuque marketing area. The plants of the Chicago Regional handlers are located in Huntley, Ill.; Beloit, Wis.; and Whitewater, Wis. The location adjustment provisions of the Chicago Regional order effect Class I differentials at these plants of \$1.24, \$1.18, and \$1.18, respectively.

The milk supply area for the four Iowa markets consists of territory in 112 counties throughout most of Iowa (82 counties), southern Minnesota (14 counties), southwestern Wisconsin (10 counties), and northwestern Illinois (6 counties). There is widespread overlapping of the procurement areas of handlers regulated under each of the four Iowa orders. It is most intensive in the seven northeast Iowa counties of Tama, Benton, Black Hawk, Buchanan, Bremer, Fayette, and Winneshiek wherein milk from each county is supplied to handlers under all four orders. Milk produced in these seven counties plus the nine Iowa counties of Allamakee, Chickasaw, Clayton, Delaware, Dubuque, Howard, Linn, Jones, and Jackson accounted for 50.7 percent of the total supply on the four Iowa markets in December 1970. These 16 counties, all in northeast Iowa, constitute a large proportion of the present source of production for each of the Iowa markets and handlers under all four orders complete in this area for their supplies of milk.

The plants of the competing handlers, however, are situated at varying distances from this major portion of the supply. Waterloo, Iowa, is situated in the southwestern segment of this heavy production area of northeast Iowa. Four of the seven handlers regulated under the North Central Iowa order have plants in Waterloo. These plants are situated about 100 miles closer to this supply of milk than are plants in Des Moines, which is situated in southcentral Iowa. The distance between Des Moines and Waterloo is 108 miles. The Des Moines order plant in Ottumwa, Iowa, is 125 miles south of Waterloo.

Cedar Rapids, Iowa City, and Quad Cities (Davenport, Iowa; and Rock Island, Moline, and East Moline, Ill.) are south of the northeast Iowa heavy production areas.

Milk production on the Iowa markets in counties south of Waterloo during December 1970 amounted to 36.6 million pounds while Class I use of handlers under the Des Moines, Cedar Rapids-Iowa City and Quad Cities-Dubuque orders amounted to 55.2 million pounds. Since virtually all of the Class I use under these three orders is at plants located south of Waterloo and generally south of the aforementioned 16 northeast Iowa counties which account for 50 percent of the milk on the markets, such plants must rely on milk produced in these counties or in lower priced areas farther to the north for an adequate supply of milk.

Alternative supplies of milk could not be attracted from the higher priced markets to the south and west such as St.

Louis, Kansas City, and Nebraska-Western Iowa.

Milk production on the Iowa markets in counties lying south and west of Waterloo, toward Des Moines, was 18.3 million pounds in December 1970, while Class I use under the Des Moines order was 22.5 million pounds. Consequently, Des Moines handlers must compete for a portion of the supply in northeast Iowa or beyond such area for an adequate supply. Since the aforementioned surplus production area in northeast Iowa and beyond is situated about 100 miles farther from Des Moines plants than plants in the vicinity of Waterloo, additional transportation costs are incurred in moving any of such supplies to Des Moines vs. delivery of such milk to Waterloo. At the rate of location adjustment in the Des Moines order 16 cents is allowed to transport milk the 108 miles from Waterloo to Des Moines. In this circumstance, a Class I price at Des Moines as much as 20 cents above the Class I price at Waterloo exceeds that necessary to attract an adequate supply for the Des Moines market in competition with handlers under the north central Iowa order.

Milk production on the Iowa markets in counties south and east of Waterloo during December 1970 amounted to 19 million pounds while Class I use of handlers under the Cedar Rapids-Iowa City and Quad Cities-Dubuque orders amounted to 32.7 million pounds. Consequently, handlers under these orders must compete for a supply of milk in the northeast Iowa surplus production area.

Handlers in the Cedar Rapids-Iowa City and Quad Cities-Dubuque markets are located closer to the northeast Iowa supply than handlers in the Des Moines market, however. The greatest concentration of production in northeast Iowa is in Delaware and Dubuque counties wherein 18.2 million pounds of milk was produced for the Iowa markets in December 1970. Dyersville, Iowa, which is located in the center of this two-county area, is 174 miles from Des Moines and 98 miles from Davenport, or a difference of 76 miles. Independence, Iowa, in Buchanan County which is directly west of Delaware County, is 58 miles farther from Des Moines than Iowa City. Further north in this section of Iowa the difference in the distance to Des Moines versus Davenport becomes less. For example, Decorah, Iowa, in Winneshiek County is only 7 miles farther from Des Moines than Davenport.

In the above circumstance a somewhat higher price needs to be maintained at Des Moines than in the Cedar Rapids-Iowa City and Quad Cities areas to enable Des Moines handlers to compete for milk supplies in northeast Iowa. About one-half of the milk supplies in the northeast Iowa counties is situated up to 50 miles farther from Des Moines handlers' plants than from most handlers' plants in the Cedar Rapids-Iowa City and Quad Cities areas. A difference in price of 7 cents should enable Des

Moines handlers to compete effectively for milk supplies so situated in the northeast Iowa production area. As indicated hereinbefore, an adequate supply of milk for the Des Moines market relative to the North Central Iowa market is reasonably assured from present sources of production if the Class I price is maintained 15 cents above the North Central Iowa Class I price, rather than the present 20 cents.

The availability of milk supplies for the Des Moines market from southern Minnesota also supports the reduction in the Des Moines Class I price differential. The northern Iowa and southern Minnesota portion of the supply area for the Iowa markets overlaps most of the supply area and marketing area of the Dairyland order. A large and an increasing volume of Grade A milk is available in such territory.

The Class I price differential under the Des Moines order is 39 cents above the Class I differential under the Dairyland order. The Dairyland market covers territory in northern Iowa and southern Minnesota. The distances from Des Moines, Iowa, to Austin and Rochester, Minn., the locations of the two plants regulated under the Dairyland order which distribute milk south into Iowa, are about 155 miles and 210 miles, respectively. The location adjustment under the Des Moines order would amount to 24 cents at Austin and 31½ cents at Rochester, which amounts are significantly less than the 39-cent difference in the Class I differentials between the markets. One Des Moines handler testified that he has been offered milk from a Dairyland source at a transportation cost of 30 cents.

The North Central Iowa market lies between the Des Moines market and the Dairyland market. The present Class I differential of \$1.25 appropriately reflects the value of Class I milk delivered to plants in this market relative to the lower value of milk delivered to plants in the Dairyland market and relative to the higher value determined above for milk delivered to plants in Des Moines. The 19-cent higher Class I differential under the North Central Iowa order at Waterloo compared to the Class I differential at Rochester, Minn., under the Dairyland order closely reflects the cost of transporting available supplies of milk the 113 miles from Rochester to Waterloo.

In this circumstance proposals to change the North Central Iowa Class I price differential should be denied.

The Class I price differentials under the Quad Cities-Dubuque and Cedar Rapids-Iowa City orders should be set at the level needed to attract adequate milk supplies to handlers in these markets in competition with handlers in neighboring Iowa markets. It was concluded hereinbefore that the Class I price level in these two markets should be maintained at least 7 cents below the Class I price level for the Des Moines market and that the Des Moines price be maintained 15 cents above the North

Central Iowa Class I price, to enable handlers in all four markets to effectively compete for present supplies of milk in northeast Iowa. Moreover, since such supplies in northeast Iowa are the most economical source of milk for the several markets, any adjustments to prices under these orders at this time should maintain present aggregate returns to producers serving the four markets.

In these circumstances, it is concluded that the Des Moines Class I differential should be reduced 5 cents and the Class I differential under the Quad Cities-Dubuque and Cedar Rapids-Iowa City orders increased 3 cents. This will establish Class I prices for these markets that will reflect the relative costs of getting milk transported to the respective markets from the common production area of northeast Iowa. Because of the difference in cost of obtaining adequate supplies for the respective markets, the proposals to provide identical prices under the Des Moines, Cedar Rapids-Iowa City, and Quad Cities-Dubuque orders by reducing the Des Moines price and increasing the other two are denied.

2. Location adjustments to the Class I and uniform prices. The location adjustment provisions of the Quad Cities-Dubuque order should be modified. At Quad Cities-Dubuque order plants located within the Des Moines marketing area the Class I and uniform prices should be adjusted by the amount (7 cents per hundredweight) that the Des Moines order Class I price will exceed the Quad Cities order Class I price. The same adjustment should apply to the Class I and uniform prices at plants located in the territory in Iowa south of U.S. Highway No. 80 and beyond 70 miles from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa.

Presently, the Quad Cities-Dubuque order establishes a minus location adjustment to the Class I and uniform prices at plants located outside both the marketing area and the Des Moines marketing area and beyond 70 miles from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa. Such adjustment is at the rate of 10 cents per hundredweight, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles. A minus 10-cent location adjustment applies in Dubuque and Jackson Counties, Iowa, and in East Dubuque, Ill. Also a plus adjustment applies at a plant located in the Des Moines marketing area, in the amount that the Des Moines Class I price exceeds the Quad Cities Class I price.

Cooperative associations proposed that the Quad Cities-Dubuque order location adjustments at plants located outside the marketing area and beyond 60 miles from the nearer of the Rock Island and West Liberty basing points be plus amounts at plants located south of U.S. Highway No. 80, and minus amounts at plants located north of U.S. Highway No. 80, at the rate of 10.5 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 70 miles. Also, at

any plant located south of U.S. Highway No. 80 the amount of the plus adjustment would be limited to any amount that the Des Moines Class I price exceeds the Quad Cities Class I price.

A handler located in Des Moines but currently regulated under the Quad Cities-Dubuque order, proposed that the Quad Cities-Dubuque order Class I and uniform prices at all plants outside the marketing area and beyond 70 miles from the nearer of the basing points be reduced by 10 cents, and by an additional 1.5 cents for each 10 miles or fraction thereof that such plant distance exceeds 80 miles.

The above-proposed modifications of the Quad Cities-Dubuque location adjustment provisions were directed mainly to effectuation of appropriate adjustments of Class I and uniform prices at plants located in the Des Moines marketing area and in the territory between the Des Moines and Quad Cities-Dubuque marketing areas. The proposal by the cooperatives would provide, at plants so located, a plus location adjustment, while the handler's proposal would provide a minus location adjustment.

Location adjustments reflect the difference in value of milk delivered by producers to another plant location as compared to its value delivered to the location (f.o.b. market) for which the basic price is announced under the order. In the case of the Quad Cities-Dubuque and Des Moines orders prices are announced for the largest population centers in the marketing area. The Quad Cities (Rock Island, Davenport, Moline, and East Moline) and Des Moines are the largest population centers in the respective markets and no adjustments to prices under the respective orders apply at such locations.

Because whole milk is bulky, the cost of transporting it from one location to another is significant relative to its price. The production of milk frequently takes place at a substantial distance from the population center where it is processed and consumed. In some instances, the milk is received at a country receiving plant and then moved to the city bottling plant, and frequently it is moved from surplus production areas to areas of deficit production where needed for Class I use. The cost of moving milk in these circumstances gives rise to different values of milk at different plant locations where the milk is received from producers' farms.

In northeast Iowa there are plants serving the Des Moines and Quad Cities markets. Location adjustments are provided under the orders which reduce the Class I price to the handler at such plant locations to compensate for the cost he incurs in moving milk to the centers of population. Accordingly, in this situation the location adjustments recognize the cost associated with distance for transporting milk for bottling purposes from a plant in this main supply area to plants in the population centers. If milk is moved to one of these centers from any other distance supply area, the

location value relative to the market likewise is recognized through the location adjustment provisions.

The location adjustment on the uniform, or blend, price to the producer, at the same rate as to the handler, is applicable when the producer delivers to the plant location in the supply area rather than to the city bottling plant at a greater distance from his farm. If he actually delivers his milk to the city plant at his own hauling cost, he is compensated by receiving the uniform price announced at the city location. If he does not, the location value of his milk is less by the amount allowed the handler for transporting milk from the country plant location to the city bottling plant and this is reflected in his uniform, or blend, price.

In competing markets with market-wide pooling there is strong tendency for available supplies to gravitate to the respective market pools in a way that tends to equalize the net return to producers under both orders at overlapping supply locations. Since the supply area for the Des Moines market overlaps the supply area for the Quad Cities market in northeast Iowa, the net return to producers under the two orders tend to equate in such supply area. If the distance from such common supply area to the respective population centers is different, it follows that the cost to the producer for transporting milk to the respective centers also will be different.

This difference is reflected in the higher Class I differential fixed for the more distant center of population. It also is reflected in the total amount of location adjustment under the two orders applicable at a given point in the supply area, since the rate of adjustment associated with distance is the same under both orders (1.5 cents per 10 miles). In this circumstance the Class I and uniform prices f.o.b. Des Moines will exceed the Class I and uniform prices f.o.b. Rock Island (the basing points for pricing under the respective orders) by the amount of the extra transportation cost in moving milk from the common supply area to Des Moines versus Rock Island.

Therefore, to assure that milk is delivered to a plant located in the Des Moines marketing area but regulated under the Quad Cities-Dubuque order, the Quad Cities-Dubuque order should provide a location adjustment at a plant in the Des Moines marketing area to reflect the higher value of milk delivered there versus delivery to the Quad Cities marketing area resulting from the difference in transportation cost in moving milk to the Des Moines marketing area location from the common supply area on which both markets depend as the nearest and most economical source of milk.

The determination of the value of milk delivered to the Des Moines market relative to the Quad Cities area, made hereinbefore, indicated a 7-cent higher value for milk delivered to Des Moines than to the Quad Cities Area. This 7-

cent higher price in Des Moines should be reflected in the location adjustment provisions of the Quad Cities-Dubuque order in order that a plant located in the Des Moines marketing area but regulated under the Quad Cities order, and competing for a supply of milk to be delivered to the Des Moines location under the circumstances previously described, will be on the same price terms as a Des Moines order handler in competing for milk. By delivering his milk to the Des Moines location, whether the plant at Des Moines is regulated under the Des Moines order or under the Quad Cities order, the producer performs the same economic service to the handler, i.e., the delivery of his milk at the cost necessary to get it to that location.

A Quad Cities order handler located in Des Moines contend in its brief that a minus location adjustment under the Quad Cities order should apply at Des Moines to reflect the cost of moving milk from there to the Quad Cities marketing area. The handler pointed out that a minus 19-cent location adjustment applied to its Des Moines plant in September 1970 when it first shifted regulation from the Des Moines order to the Quad Cities-Dubuque order. The minus location adjustment provision was suspended immediately for the month of October 1970, however, and the order was amended effective November 1970 to provide a plus location adjustment in the amount that the Des Moines Class I price exceeded the Quad Cities-Dubuque Class I price.

A minus location adjustment normally is appropriate at a plant that is located closer to the source of supply for a market as compared to plants in the marketing area. In the instance of the Des Moines plant regulated by the Quad Cities order, this is not the situation. As previously described, Des Moines is farther from the main production center and plants in Des Moines, whether regulated under one order or the other, will not be fully supplied unless the full cost of delivery from a country supply plant, or directly by the producer in the principal production area for these markets is compensated for in the producer's price.

Des Moines is in a relatively deficit area of production and the producer should be compensated for whatever extra expense is involved for him to deliver to such location as compared to an alternative market outlet such as the Quad Cities or North Central Iowa market. While the supply service performed by the producer for the handler is essentially the same kind of service in each case, the cost to him of supplying plants located at Des Moines is somewhat higher than for the other markets.

The provision, not unusual in milk orders, for the regulation of a distributing plant on the basis of the market where it distributes the greatest proportion of its total milk receipts resulted in the regulation under the Quad Cities-Dubuque order of the above-referred-to plant located in the Des Moines market-

ing area. This occurred after a period of time when the plant was regulated under the Des Moines order on the basis of its having the greater amount of sales in that market. The operator of this plant contends that the plant should have the benefit of a lower price because it is under the Quad Cities order. While this plant has sales of milk in the lower priced Quad Cities area, such sales are a relatively small proportion of the total Class I sales from such plant. The plant also continues to have sales (as it had when it was a plant regulated by the Des Moines order) in the lower priced North Central Iowa market. It also sells in the higher priced Greater Kansas City market and in other areas, including the city of Des Moines. The producers at this plant must fulfill the need of milk for all such sales, not only for the relatively small proportion represented by his Quad Cities business.

The fact that a handler may sell some Class I milk in a lower priced market has no bearing on the cost to producers of serving him with a supply of milk to his plant. It is not unusual for handlers to sell in lower priced markets, as well as in higher priced markets. That is the handler's business decision but the fact that he does so, does not entitle him to pay producers less than their milk is worth considering the cost they incur in delivering to him at the plant location of his choice.

Accordingly, the price level at a Quad Cities order plant located in Des Moines should be adjusted to reflect the higher value of milk determined above to be reasonable, under the discussion of the Des Moines order price, for that location.

In view of the foregoing considerations, the handler's proposal for a minus location adjustment under the Quad Cities-Dubuque order at Des Moines is denied.

Actually, however, the plus adjustment is of more benefit to the handler than a minus adjustment, since the handler's net obligation to the producer-settlement fund for milk is less than it would be without the location adjustment. This is due to the application of the adjustment to the uniform price as well as the Class I price. The handler is charged the amount of the plus adjustment on his Class I volume but receives a credit at the plus adjustment rate on the total volume of his receipts of milk from producers plus any other source fluid milk products assigned to Class I use. Invariably total receipts exceed total Class I use, consequently the amount of the credit exceeds the amount of the Class I obligation attributable to the location adjustment.

With a minus location adjustment the total obligation to the producer-settlement fund would be greater than it would be with no adjustment since the reduction in the credit on the volume of receipts would amount to more than the reduction in the obligation on the Class I volume. Moreover, it is reasonable to expect that the handler would have to

pay the higher Des Moines order competitive price to attract a milk supply to his plant location.

The present location adjustment provisions of the Quad Cities order provide minus amounts in all territory outside the marketing area and outside the Des Moines marketing area and beyond 70 miles from the nearer of the Rock Island and West Liberty basing points. A portion of such territory is the unregulated territory in Iowa near the eastern edge of the Des Moines marketing area, specifically Davis County and portions of Van Buren, Lee, and Poweshiek counties. Although there are no presently regulated plants so situated, it is inconsistent to have a minus location adjustment in such territory when a plus adjustment of 7 cents would apply just to the west within the Des Moines marketing area.

The cooperatives' proposal would apply a plus adjustment in such territory south of U.S. Highway No. 80, in the amount that the Des Moines Class I price exceeded the Quad Cities Class I price. U.S. Highway No. 80 crosses Iowa in an east-west direction through Davenport, Iowa City, and Des Moines.

The territory south of U.S. Highway No. 80 and beyond 70 miles from the West Liberty basing point is about the same distance from the northeast Iowa heavy production area as is Des Moines and Ottumwa (the two basing points for pricing under the Des Moines order). In this circumstance if a plant were located in such unregulated territory, but regulated under the Quad Cities-Dubuque order, the conditions of attracting a supply of milk to such a plant would be the same as for a plant within the Des Moines marketing area. It may be noted further that the price applicable in such area under the Des Moines order is the same as applies at Des Moines and Ottumwa.

Accordingly, a plus location adjustment under the Quad Cities order in the amount that the Des Moines Class I price exceeds the Quad Cities Class I price should apply in this territory as well as within the Des Moines marketing area.

Any minus location adjustment under the Quad Cities-Dubuque order should be limited to territory north of U.S. Highway No. 80, as proposed by the cooperatives. As found hereinbefore handlers whose plants are located in the vicinity of the Quad Cities, Iowa City, Des Moines, and Ottumwa logically compete for supplies of milk produced in the lower priced areas to the north in Iowa, Minnesota, Wisconsin, and northwestern Illinois. The territory south of U.S. Highway No. 80 is essentially deficit production territory relative to the area north of such highway. All markets to the south of the Iowa markets such as Central Illinois, Southern Illinois, St. Louis-Ozarks, and Kansas City have Class I and uniform prices that exceed the Quad Cities-Dubuque order Class I and uniform prices. Consequently, any supplies of milk situated in Iowa to the south of U.S. Highway No. 80 in the vicinity of the Quad Cities, Iowa City, Des Moines, and Ottumwa have at least as

high a value as the prices f.o.b. these respective cities. Milk supplies south of U.S. Highway No. 80 in Illinois, Missouri, and Nebraska are attracted to the higher priced markets in those States and thereby are not available at a price less than is fixed f.o.b. the Quad Cities area. Accordingly, the Quad Cities-Dubuque order location adjustment should be reduced in only that territory north of U.S. Highway No. 80.

The location adjustment under the North Central Iowa order for Zone 2 should be increased 3 cents. Zone 2 consists of the Iowa counties of Marshall, Tama, Linn, and Johnson. Cedar Rapids is located in Linn County and Iowa City is located in Johnson County. To assist in getting an adequate supply of milk to any North Central Iowa order plants at such locations, the 3-cent increase in the Cedar Rapids-Iowa City order Class I differential hereinbefore concluded to be appropriate should also be reflected at such locations under the North Central Iowa order. A plant in Marshalltown, Iowa, regulated under the North Central Iowa order is in Marshall County. Marshalltown is 48 miles northeast of Des Moines and 60 miles southwest of Waterloo. An 8-cent plus differential in this area under the North Central Iowa order will appropriately reflect the higher value of milk delivered to Marshalltown vs. Waterloo, and the lower value of milk delivered there relative to Des Moines.

There were additional proposals published in the notice dealing with matters related to location adjustments, such as; the addition of the Iowa counties of Clayton and Delaware to the minus 10-cent location adjustment zone under the Quad Cities-Dubuque order, and location adjustment credits on transfers of milk between pool plants. Proponents indicated they intend to offer testimony on such proposals later in conjunction with their recent request for a hearing on proposed expansion of the marketing area. Accordingly, no action is taken on this record with respect to such proposals.

3. *The determination of which order should regulate a plant.* The provisions of the Quad Cities-Dubuque order that relate to a distributing plant that simultaneously meets the pooling requirements of the order and also those of another order should be revised. Specifically, the plant should remain regulated under the Quad Cities-Dubuque order until after the third consecutive month in which it remained qualified but had a greater proportion of its sales of fluid milk products in another regulated marketing area and also qualified as a pool plant under the other order.

The corresponding provisions of the Des Moines order should be revised in the same manner as those of the Quad Cities-Dubuque order. No proposals were under consideration at the hearing with respect to such type of provision for the Cedar Rapids-Iowa City or North Central Iowa orders.

The Quad Cities-Dubuque and Des Moines orders presently provide that a plant that is fully subject to the pricing

and payment provisions of another order and distributes a greater proportion of its Class I milk in such other market shall be exempt for the month from all but the reporting provisions of the respective orders.

A fully regulated handler under the Quad Cities-Dubuque order and a cooperative association representing the majority of producers associated with such order proposed that the "lock-in" provision be added to both the Des Moines and Quad Cities-Dubuque orders.

Proponents stated that currently neither producer organizations nor handlers can determine until the following month under which order a plant is qualified for pooling. They contended that in the past this has created uncertainty and abrupt changes in prices for producers and handlers alike.

The handler proponent said that the loss or acquisition of a chain store or school milk contract by a handler, usually representing a sizable volume of milk, makes the inclusion of a lock-in provision in both the Des Moines and Quad Cities-Dubuque orders necessary if disruptive marketing conditions are to be avoided. Such an occurrence could change a plant's pattern of distribution and ultimately result in its being regulated under another order.

Proponent handler stated that its plant faces the likelihood of becoming regulated under the Kansas City order in the near future. This, it was concluded, would come about primarily because of the plant's loss of Class I sales on school milk contracts in the Quad Cities-Dubuque market.

If the loss of these school milk sales during the summer months causes this particular plant to become regulated under the Kansas City order, it likely will disrupt milk procurement operations for the handler, because the producers presently supplying this plant will be unable to obtain full "bases" under the Kansas City order base-excess plan since their milk would have been delivered to other plants during part of the September-December base-forming period.

The cooperative association witness stated that a lock-in provision would provide needed supply and price stability to the Quad Cities-Dubuque market. As evidence of the need for more market stability, this witness cited several instances during 1970 when shifts in regulation of plants had had a sharp impact on the Quad Cities-Dubuque market.

For example, a sizable plant at Des Moines, previously regulated under the Des Moines order, became regulated under the Quad Cities-Dubuque order in September 1970, after bottling operations at the Rock Island, Ill., plant of the same handler were transferred to the Des Moines plant.

A distributing plant located in Cedar Rapids, Iowa, shifted regulation from the Quad Cities-Dubuque order to the North Central Iowa order for the months of May, June, and July 1970 because it

failed to meet the minimum pool distributing plant qualification requirements of the Quad Cities-Dubuque order.

A distributing plant located at Ottumwa, Iowa, and a supply plant at Cresco, Iowa, also experienced a change of regulation when during May 1970 they became regulated under the Quad Cities-Dubuque order after being regulated previously under the Des Moines order.

Since the Des Moines and Quad Cities-Dubuque markets are moderate in size, the introduction or loss of sizable supplies or Class I sales can have significant impact on producer returns.

The aforementioned instances of plants shifting in and out of the Quad Cities-Dubuque and Des Moines orders sufficiently demonstrate the need for a provision that will minimize such occurrences in the future. A provision of this type also would provide adequate forewarning that a shift in a plant's regulation was imminent. However, these provisions should not provide continued regulation to a plant that does not meet the pool plant qualification provisions of the Quad Cities-Dubuque order during any month that such plant would otherwise be locked-in. Not requiring a plant to qualify creates the potential for abuse of the order by associating unlimited supplies of milk with a plant which could result in distortions to the detriment of producers regularly supplying the market.

The lock-in provision would require that the Quad Cities-Dubuque order continue to regulate a plant until after the third consecutive month in which it remained qualified but had a greater proportion of its sales in the marketing area of another order. For the 3-month lock-in period, the other order, however, must permit the plant to be pooled by the Quad Cities-Dubuque order in which market it has the lesser portion of its sales. If the other order does not have such a complementary pooling provision, but requires that the plant be pooled under that order, the plant should be exempt from all but the reporting provisions of the Quad Cities-Dubuque order.

For the Quad Cities-Dubuque order to be complementary to orders with similar provisions, it should exempt from full regulation any plant with more fluid milk sales in the marketing area than in another marketing area but which is subject to full regulation under the other order. This should apply also to any plant which continues to be regulated under another order under a similar provision while having a greater proportion of its fluid milk product disposition in the Quad Cities marketing area.

A similar proposal was made for the Des Moines order and should be adopted. If such were not provided, a plant which normally would be locked-in under the Quad Cities-Dubuque order could, on the basis of its Class I distribution in the Des Moines marketing area for 1 month, become regulated under the Des Moines order. Further, a distributing plant normally regulated under the Des Moines order shifted regulation to the Quad

Cities-Dubuque order for the month of May 1970.

4. Emergency action and amendment for a temporary period. Request for emergency action. The issuance of a recommended decision and opportunity to file exceptions thereto should be provided on the issues of this hearing.

On the basis of emergency conditions alleged by petitioners for the hearing, the hearing notice specified that evidence would be received on whether the recommended decision should be omitted.

Several witnesses requested prompt action on their proposals and specifically requested that the recommended decision be omitted. However, a substantial number of the briefs filed opposed the omission of a recommended decision.

The amendments concluded to be appropriate in this decision would reduce the Des Moines order Class I price differential 5 cents; increase the Quad Cities-Dubuque and Cedar Rapids-Iowa City Class I price differentials 3 cents; modify the location adjustment provisions of the Quad Cities-Dubuque order and North Central Iowa order; and provide a pool plant "lock-in" provision for the Des Moines and Quad Cities-Dubuque orders that would allow a distributing plant to continue to be regulated under the particular order until after the third consecutive month in which it remained so qualified but had greater sales in another regulated marketing area.

Alternatives to these amendments were proposed and interested persons, therefore, should be given an opportunity to file exceptions thereto.

Amendment for a temporary period. The amendments concluded to be appropriate in this decision should not specify a temporary period of application.

Certain proposals dealing with the merger of the Des Moines and Cedar Rapids-Iowa City orders and the marketing area expansion of the Quad Cities-Dubuque order were submitted for consideration at the hearing but were omitted from the hearing notice because of the claimed emergency nature of the hearing. The hearing notice stated that evidence would be received on whether the amendments should be made for a temporary period.

Witnesses testified that a hearing should be held in the near future to consider merger and marketing area expansion proposals. Furthermore, the same sentiment was expressed in the briefs filed.

In these circumstances, no purpose would be served by setting an expiration date on the amendments contained herein.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the sug-

gested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach new conclusions are denied for the reasons previously stated in this decision.

Two offers of proof were made, one with respect to a petition for suspension action and one with respect to a research report. These offers have been reviewed and the action taken on them by the presiding officer is hereby affirmed for the reasons stated by such officer on the record of the hearing.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENTS AND ORDER AMENDING THE ORDERS

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Quad Cities-Dubuque, Cedar Rapids-Iowa City, North Central Iowa, and Des Moines, Iowa, marketing areas is recommended as the detailed and appropriate means by which

the foregoing conclusions may be carried out:

PART 1063—MILK IN THE QUAD CITIES-DUBUQUE MARKETING AREA

1. In § 1063.52, subparagraphs (2) and (3) of paragraph (a) are revised to read as follows:

§ 1063.52 Location adjustments to handlers.

(a) . . .

(2) At a plant located outside the marketing area, north of U.S. Highway No. 80, and, except as provided in subparagraph (3) of this paragraph, 70 miles or more, by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa, subtract 10 cents and subtract an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles; and

(3) At a plant located in that Iowa territory beyond 70 miles from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa, and south of U.S. Highway No. 80, or within the Des Moines, Iowa, marketing area as specified in Part 1079, add any amount by which the price specified in § 1063.50(b) is exceeded by the applicable Class I price at the same location pursuant to Part 1079 regulating the handling of milk in the Des Moines, Iowa, marketing area.

2. In § 1063.61 paragraph (a) is revised to read as follows:

§ 1063.61 Plants subject to other Federal orders.

. . .

(a) A distributing plant, a supply plant or a plant otherwise qualified as a pool plant pursuant to § 1063.10(c) during any month in which such plant would be subject to the classification and pricing provision of another order issued pursuant to the Act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified under § 1063.10 and to retail and wholesale outlets in the Quad Cities-Dubuque marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order except that if a pool distributing plant qualified under § 1063.10(a) was subject to all of the provisions of this part during each of the three immediately preceding months it shall continue to be subject to all of the provisions of this part until after the third consecutive month in which it remained so qualified and had a greater proportion of its fluid milk product disposition, except filled milk, made in the manner described above in this paragraph, in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

3. Revise § 1063.50(b) to read as follows:

§ 1063.50 Basic formula and class prices.

. . .

(b) The Class I milk price shall be the basic formula price for the preceding month plus \$1.13, and plus 20 cents.

. . .

§ 1078.52 Location differentials to handlers.

(a) . . .

(1) Zone 2 amount, plus 8 cents. Zone 2 means all the territory in the Iowa counties of Marshall, Tama, Linn, and Johnson.

. . .

PART 1070—MILK IN THE CEDAR RAPIDS-IOWA CITY MARKETING AREA

Revise § 1070.50(b) to read as follows:

§ 1070.50 Basic formula and class prices.

. . .

(b) The Class I milk price shall be the basic formula price for the preceding month plus \$1.20 and plus 20 cents.

. . .

3. Revise § 1079.52(a) to read as follows:

§ 1079.52 Location differentials to handlers.

(a) For producer milk received at a plant located outside the marketing area, and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1079.50(b) shall be reduced 10 cents, and shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

. . .

4. In § 1079.61, paragraph (a) is revised to read as follows:

§ 1079.61 Plants subject to other Federal orders.

. . .

(a) A distributing plant or a supply plant during any month in which such

§ 1063.50 Basic formula and class prices.

. . .

(b) The Class I milk price shall be the basic formula price for the preceding month plus \$1.13, and plus 20 cents.

. . .

PART 1078—MILK IN THE NORTH CENTRAL IOWA MARKETING AREA

Revise § 1078.52(a)(1) to read as follows:

§ 1078.52 Location differentials to handlers.

(a) . . .

(1) Zone 2 amount, plus 8 cents. Zone 2 means all the territory in the Iowa counties of Marshall, Tama, Linn, and Johnson.

. . .

PART 1070—MILK IN THE CEDAR RAPIDS-IOWA CITY MARKETING AREA

Revise § 1070.50(b) to read as follows:

§ 1070.50 Basic formula and class prices.

. . .

(b) The Class I milk price shall be the basic formula price for the preceding month plus \$1.13, and plus 20 cents.

. . .

PART 1079—MILK IN THE DES MOINES, IOWA, MARKETING AREA

1. Revoke § 1079.17 Base zone.

2. Revise § 1079.50(b) to read as follows:

§ 1079.50 Basic formula and class prices.

. . .

(b) The Class I milk price shall be the basic formula price for the preceding month plus \$1.20 and plus 20 cents.

. . .

3. Revise § 1079.52(a) to read as follows:

§ 1079.52 Location differentials to handlers.

(a) For producer milk received at a plant located outside the marketing area, and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1079.50(b) shall be reduced 10 cents, and shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

. . .

4. In § 1079.61, paragraph (a) is revised to read as follows:

§ 1079.61 Plants subject to other Federal orders.

. . .

(a) A distributing plant or a supply plant during any month in which such

plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified under § 1079.10 and to retail and wholesale outlets in the Des Moines, Iowa, marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order except that if a pool distributing plant qualified under § 1079.10(a) was subject to all of the provisions of this part during each of the 3 immediately preceding months it shall continue to be subject to all of the provisions of this part until after the third consecutive month in which it remained so qualified and had a greater proportion of its fluid milk product disposition, except filled milk, made in the manner described above in this paragraph, in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

Signed at Washington, D.C., on June 4, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.
[FR Doc.71-8109 Filed 6-9-71; 8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

CERTAIN SMALL COSMETICS

Proposed Exemption From Required Quantity of Contents Statement

Notice is given that Estee Lauder, Inc., and affiliates Aramis, Inc., and Clinique Laboratories, Inc., 767 Fifth Avenue, New York, N.Y. 10022, and Jerome L. Issacs, 320 East 42d Street, New York, N.Y. 10017, have independently submitted petitions proposing that the regulations for the enforcement of the Fair Packaging and Labeling Act and the Federal Food, Drug, and Cosmetic Act (21 CFR Part 1) be amended to exempt certain packages of cosmetics from the requirement of both acts that the labels bear a quantity of contents statement.

The petition submitted by Estee Lauder, Inc., et al., proposes that the immediate container of a cosmetic containing less than one-fourth ounce avoirdupois or one-eighth fluid ounce, and enclosed in an outer retail package labeled in conformance with the requirements of both acts, be exempt from the quantity of contents declaration requirement.

The petition submitted by Jerome L. Issacs proposes that individual containers of cosmetics containing less than one-fourth ounce avoirdupois or one-eighth fluid ounce, and affixed to and marketed on a display card labeled in compliance with requirements of both

acts, be exempt from the quantity of contents declaration requirement.

Grounds given in support of the proposals are:

1. Since the immediate container is not intended to be displayed or sold separately, a quantity of contents declaration on the label of the immediate container is unnecessary.

2. Many containers are too small to accommodate a label big enough for all mandatory information.

3. The exemption, if granted, would not impinge on the consumer's right to be informed and protected.

Having considered the petitions, and other relevant information, the Commissioner of Food and Drugs concludes that the exemption should be proposed as set forth below.

Therefore, pursuant to provisions of the Fair Packaging and Labeling Act (secs. 5(b), 6(a), 80 Stat. 1298, 1299; 15 U.S.C. 1453, 1455) and the Federal Food, Drug, and Cosmetic Act (secs. 602(b) (2), 701, 52 Stat. 1054-56, as amended; 21 U.S.C. 362(b) (2), 371), and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that a new paragraph be added to § 1.1c, as follows:

§ 1.1c Exemptions for required label statements.

(c) *Cosmetics.* (1) Cosmetics in packages containing less than one-fourth ounce avoirdupois or one-eighth fluid ounce shall be exempt from compliance with the requirements of section 602(b) (2) of the Federal Food, Drug, and Cosmetic Act and section 4(a) (2) of the Fair Packaging and Labeling Act.

(i) When such cosmetics are affixed to a display card labeled in conformance with all labeling requirements of this part; or

(ii) When such cosmetics are sold at retail as part of a cosmetic package consisting of an inner and outer container and the inner container is not for separate retail sale and the outer container is labeled in conformance with all labeling requirements of this part.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 28, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8056 Filed 6-9-71; 8:45 am]

PROPOSED RULE MAKING

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 43, 91]

[Docket No. 9485; Reference Notice 69-10]

MAINTENANCE REQUIREMENTS

Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw the remaining portion of Notice 69-10 (34 F.R. 5440, published on March 20, 1969) which proposed to define the term "rebuild" and to establish performance standards for such work. In Notice 69-10 the FAA solicited comments from interested persons on proposed amendments to Parts 1, 43, and 91 of the FAR's to define the term "rebuild" for aircraft, propellers, appliances, and parts as the term is now defined for aircraft engines; to establish performance standards specifically for this work, using the criteria now applied to rebuilt engines; and to permit persons operating aircraft under Part 91 to use a new maintenance record without previous operating history for aircraft, aircraft engines, propellers, appliances, or parts rebuilt by the manufacturer. In addition, Notice 69-10 proposed to provide for a maintenance manual for airplanes type certificated under Parts 23 and 25 of the Federal Aviation Regulations.

The proposals in Notice 69-10 dealing with maintenance manual requirements were adopted as Amendments 23-8 and 25-21 and published in the FEDERAL REGISTER on January 8, 1970 (35 F.R. 303). At that time the FAA indicated that the proposed amendments to Parts 1, 43, and 91 required further study prior to final rule-making action. However, based on further study and evaluation of these proposals, together with comments received in response to Notice 69-10, the FAA has determined that final regulatory action based on the proposed amendments to Parts 1, 43, and 91 of the Federal Aviation Regulations is not appropriate at this time.

Withdrawal of those proposed regulations in Notice 69-10 that were not adopted in Amendments 23-8 and 25-21 constitutes only such action and does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action in the future.

In consideration of the foregoing, the remainder of Notice 69-10 containing proposed amendments to Parts 1, 43, and 91 is hereby withdrawn.

This withdrawal is issued under the authority of section 313(a) of the Fed-

eral Aviation Act of 1958 (49 U.S.C. 1354(a)), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 3, 1971.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc. 71-8087 Filed 6-9-71; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-39]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Kendallville, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for the Kendallville Municipal Airport, Kendallville, Ind. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot transition area at Kendallville, Ind. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration pro-

poses to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

KENDALLVILLE, IND.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Kendallville Municipal Airport (latitude 41°28'30" N., longitude 85°15'30" W.); within 2 miles each side of the 037° radial of the Wolf Lake VOR, extending from the 5½-mile radius area to 6 miles southwest of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on March 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.
[FR Doc. 71-8088 Filed 6-9-71; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-48]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at South Haven, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

Since designation of controlled airspace at South Haven, Mich., the instrument approach procedure for the South Haven Municipal Airport has been changed. Accordingly, it is necessary to alter the

PROPOSED RULE MAKING

South Haven transition area to adequately protect aircraft executing the revised approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

SOUTH HAVEN, MICH.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of South Haven Municipal Airport (42°21'15" N., 86°15'45" W.); and within 1.5 miles each side of the Pullman VORTAC 224° radial, extending from the 7-mile radius area to the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 14, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.
[FR Doc. 71-8089 Filed 6-9-71; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-57]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Willard, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for Will-

ard, Ohio, Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new procedure by designating a 700-foot transition area at Willard, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

WILLARD, OHIO

That airspace extending upward from 700 feet above the surface within 7.5-mile radius of the Willard Airport (latitude 41°02'15" N., longitude 82°43'45" W.); excluding that portion which overlaps the Mansfield, Ohio, 700-foot transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 4, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.
[FR Doc. 71-8090 Filed 6-9-71; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-62]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Columbia, Mo., and to revoke the transition area at Ashland, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

[14 CFR Part 71]

[Airspace Docket No. 71-EA-42]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Morrisville, Vt., Transition Area (36 F.R. 2237).

The NDB instrument approach procedure for Morrisville-Stowe State Airport, Morrisville, Vt., has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures. The revised procedure will require alteration of the 700-foot floor transition area to provide controlled airspace protection for aircraft executing the procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Morrisville, Vt., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Morrisville, Vt., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°32'10" N., 72°36'55" W. of Morrisville-Stowe State Airport, Morrisville, Vt., and within 3.5 miles each side of the 034° bearing and the 214° bearing from the Morrisville RBN 44°35'13" N., 72°35'10" W., extending from the 5-mile radius area to 11.5 miles northeast of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 18, 1971.

DANIEL E. BARROW,

Acting Director, Central Region.

[FR Doc. 71-8091 Filed 6-9-71; 8:48 am]

and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 25, 1971.

WAYNE HENDERSHOT,

Acting Director, Eastern Region.

[FR Doc. 71-8092 Filed 6-9-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-40]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Pittsfield, Mass., Transition Area (36 F.R. 2254).

A revision of the NDB instrument approach procedure for Pittsfield Municipal Airport, Pittsfield, Mass., requires alteration of the 700-foot floor transition area to provide controlled airspace protection for aircraft executing the revised procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Pittsfield, Mass., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Pittsfield, Mass., 700-foot floor transition area, all after: "73°17'30" W.", and insert the following in lieu thereof: "of Pittsfield Municipal Airport, Pittsfield, Mass., and within 4.5 miles northwest and 6.5 miles southeast of the 061° bearing and the 241° bearing from the Pittsfield RBN

42°28'05" N., 73°11'38" W., extending from 5.5 miles southwest of the RBN to 11.5 miles northeast of the RBN".

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 25, 1971.

WAYNE HENDERSHOT,

Acting Director, Eastern Region.

[FR Doc. 71-8093 Filed 6-9-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-50]

CONTROL ZONES AND TRANSITION AREA

Proposed Alteration, Designation and Revocation

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Columbus, Ohio (36 F.R. 2071), and Columbus, Ohio (Ohio State University Airport) (36 F.R. 2071), control zones and Columbus, Ohio, Transition Area (36 F.R. 2170); revoke the Mount Vernon, Ohio, Transition Area (36 F.R. 2239) and designate a control zone for Lockbourne Air Force Base.

A review of the airspace requirements for the Columbus, Ohio, terminal area for compliance with the U.S. Standard for Terminal Instrument Procedures indicates alteration of the control zones will be required. Further, Lockbourne Air Force Base meets current criteria for designation of a control zone. Also required is alteration of the Columbus, Ohio, 700-foot floor transition area and the revocation of the Mount Vernon, Ohio, 700-foot floor transition area, since it will be included in the Columbus, Ohio, transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at

the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Columbus, Ohio, Mount Vernon, Ohio, and Lockbourne Air Force Base proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the caption and the description of the Columbus, Ohio, control zone and insert the following in lieu thereof:

COLUMBUS, OHIO (PORT COLUMBUS INTERNATIONAL AIRPORT)

Within a 6-mile radius of the center, 39°59'41" N., 82°53'08" W. of Port Columbus International Airport, Columbus, Ohio; within 2 miles each side of the 094° bearing from the Grandview LOM, extending from the 6-mile radius zone to 2 miles east of the Grandview LOM and within a 1-mile radius of the center, 39°55'00" N., 82°54'00" W. of Price Field, Columbus, Ohio, excluding the portion that coincides with the Columbus, Ohio (Lockbourne AFB), control zone.

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate a Columbus, Ohio (Lockbourne AFB), control zone as follows:

COLUMBUS, OHIO (LOCKBOURNE AFB)

Within a 5.5-mile radius of the center, 39°49'00" N., 82°56'00" W. of Lockbourne AFB, Columbus, Ohio; within 1.5 miles each side of the Lockbourne TACAN 042° radial, extending from the 5.5-mile radius zone to 7 miles northeast of the TACAN; within 1.5 miles each side of the Lockbourne TACAN 229° radial, extending from the 5.5-mile radius zone to 6 miles southwest of the TACAN; within a 1.5-mile radius of center, 39°53'11" N., 82°57'53" W. of South Columbus Airport, Columbus, Ohio, and within a 1-mile radius of the center, 39°54'21" N., 82°51'17" W. of Esselburne Field, Columbus, Ohio.

3. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Columbus, Ohio (Ohio State University Airport), control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 40°04'40" N., 83°04'30" W. of Ohio State University Airport, Columbus, Ohio, and within 3 miles each side of the 273° bearing from the Ohio State University RBN, 40°04'47" N., 83°04'54" W., extending from the 5-mile radius zone to 8.5 miles west of the RBN. This control zone shall be effective from 0700 to 2300 hours, local time, daily.

4. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Columbus, Ohio, 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, 39°59'41" N., 82°53'08" W. of Port Columbus International Airport, Columbus, Ohio; within a 14-mile radius of the center, 39°49'00" N., 82°56'00" W. of Lockbourne AFB, Columbus, Ohio; within an 8-mile radius of the center, 40°19'43" N., 82°31'32" W. of Mount Vernon Airport, Mount Vernon, Ohio; within an 8-mile radius of the center, 40°01'29" N., 82°27'44" W. of

Licking County Airport, Newark, Ohio; within a 7-mile radius of the center, 40°04'40" N., 83°04'30" W. of Ohio State University Airport, Columbus, Ohio; within the arc of a 25-mile radius circle centered on a point located at 39°59'59" N., 82°53'44" W., extending clockwise from the 048° bearing from this point to the 170° bearing from this point and within 3.5 miles each side of the 273° bearing from the Ohio State University RBN, 40°04'47" N., 83°04'54" W., extending from the RBN to 11.5 miles west of the RBN.

5. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Mount Vernon, Ohio, 700-foot floor transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 20, 1971.

WAYNE HENDERSHOT,

Acting Director, Eastern Region.

[FR Doc. 71-8094 Filed 6-9-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-NE-2]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Fryeburg, Maine, transition area.

A new NDB-A instrument approach procedure for Eastern Slopes Airport, Fryeburg, Maine, will require the designation of a 700-foot-floor transition area to provide controlled airspace protection for aircraft executing this procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA 01803. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area

of Fryeburg, Maine, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Fryeburg, Maine, 700-foot-floor transition area described as follows:

FRYEBURG, MAINE

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 43°59'28" N., 70°56'53" W., of Eastern Slopes Airport, Fryeburg, Maine, and within 4.5 miles north and 6.5 miles south of the 118° bearing and the 298° bearing from the Fryeburg NDB, 43°59'21" N., 70°56'58" W., extending from 5.5 miles west of the NDB to 11.5 miles east of the NDB, excluding the portions within the North Conway, N.H., area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Mass., on 25 May 1971.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.71-8095 Filed 6-9-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-NW-4]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Lewiston, Idaho, transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

A new instrument approach procedure (VOR Rwy 8) is proposed for Lewiston-Nez Perce County Airport, Lewiston, Idaho. The approach will utilize the

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Lewiston VOR 265° T (245° M) radial for final approach course and procedure turn. A review of the airspace requirements has revealed that the 1,200-foot portion of the transition area must be amended to provide controlled airspace protection for aircraft executing the prescribed instrument procedure. The additional proposed 1,200-foot transition area will provide controlled airspace for a designated off-airway route between Lewiston VOR and Dayton INT and also enable Seattle Center to provide additional radar service in the Walla Walla, Lewiston and Pullman area.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (36 F.R. 2140) the description of the Lewiston, Idaho transition area is amended as follows:

Delete all after " * * * 19 miles northeast of the VOR, * * * " and substitute therefor " * * * that airspace west of Lewiston bounded on the northwest by V-536, on the northeast by V-253, and on the south by V-520; and that airspace extending upward from 6,500 feet MSL within 12 miles northwest and 8 miles southeast of the Lewiston VOR 065° and 245° radials, extending from 11 miles southwest to 23 miles northeast of the VOR."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on June 1, 1971.

ARVIN O. BASNIGHT,
Director, Western Region.

[FR Doc.71-8096 Filed 6-9-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-99]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fayetteville, N.C., control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of

the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Fayetteville control zone described in § 71.171 (36 F.R. 2055) would be amended as follows:

" * * * southwest of the VOR * * * " would be deleted and " * * * southwest of the VOR; within 3 miles each side of Fayetteville VOR 015° radial, extending from the 5-mile radius zone to 8.5 miles north of the VOR; excluding the portion within Simmons AAF control zone * * * " would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for the proposed VOR RWY-21 Instrument Approach Procedure.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 1, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[FR Doc.71-8097 Filed 6-9-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-102]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Winchester, Ky., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Winchester transition area described in § 71.181 (36 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Codell Airport (lat. 38°01'21" N., long. 84°13'00" W.); within 2 miles each side of Lexington VORTAC 074° radial, extending from the 5-mile-radius area to 8 miles east of the VORTAC.

This proposed alteration is required to provide controlled airspace protection for IFR operations in the Winchester terminal area in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 1, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[FR Doc.71-8098 Filed 6-9-71; 8:49 am]

Federal Highway Administration

[49 CFR Part 391]

[Docket No. MC-7; Notice No. 71-12]

EXEMPTIONS FROM DRIVER QUALIFICATION RULES; DRIVERS OF FARM AND LIGHTWEIGHT VEHICLES

Notice of Proposed Rule Making

The Director of the Bureau of Motor Carrier Safety is considering the issuance of a rule introducing several new exemptions from the application of the driver qualification regulations in Part 391 of the Motor Carrier Safety Regulations.

The exemptions under consideration fall into three general categories. First, the driver of a motor vehicle having a gross weight, including its load, of 10,000 pounds or less would be given a general exemption from the qualification rules so long as he does not transport hazardous materials or passengers for hire. The second exempt category would include drivers of heavier motor vehicles that are controlled and operated by farmers or persons engaged in farm operations and are used in transporting supplies and agricultural produce within 150 miles of a farm and a third exempt category would be a total exemption of drivers used to transport harvesting machinery.

The Director proposes to permit the farm vehicle drivers to qualify for either a general or a limited exemption, depending on the type of vehicle he is operating. If a farm vehicle driver drives a nonarticulated vehicle, he would be treated in the same manner as the driver of a lightweight vehicle and is exempt from all of the qualification rules. A farm vehicle driver who operates an articulated vehicle to or from farms would receive an exemption from certain of the rules: The minimum driving age is reduced from 21 to 18; investigation into his background, character and driving

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record need not be made; he does not have to take a written test or pass a road test; and, although he must be physically qualified, he has until January 1, 1973, to be medically examined.

This proposal is part of a series of rule-making actions designed to resolve many of the issues that have arisen under the driver qualification regulations. Following the publication of revised rules relating to driver qualifications in April of 1970 (35 F.R. 6458), the Director received a large number of requests for special relief from the new rules, or particular provisions of them. The petitioners, who included public utilities, construction firms, and agricultural groups, argued that compliance with a regulatory scheme designed primarily for professional drivers of heavier vehicles posed special and unnecessary hardships. Some organizations representing farmers asked the Director to grant farmers an exemption analogous to the commercial zone exemption now enjoyed by carriers operating in urban and suburban areas (see 49 CFR 390.33). On December 31, 1970, the Director granted a limited, temporary exemption for drivers of certain farm vehicles (36 F.R. 222). He has recently extended the expiration date for that limited exemption (36 F.R. 11205).

The present proposal represents an effort to arrive at a permanent solution to the issues raised by farmers and others affected by the new rules. The Bureau of Motor Carrier Safety intends shortly to publish an invitation for public comment on further rule making dealing with the minimum age for drivers of heavier commercial motor vehicles generally. In consideration of the foregoing, the Director, Bureau of Motor Carrier Safety, proposes to amend Part 391 of Subchapter B in Chapter III of title 49, CFR as set forth below.

Interested persons are invited to submit data, views, or arguments pertaining to the proposed amendments. Comments must identify the docket number and notice number set forth above and must be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591. All comments received before the close of business on November 1, 1971, will be considered before further action is taken. All comments will be available for examination in the public docket room of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street SW., Washington, DC, before and after the closing date for comments.

Proposed effective date. It is proposed that the amendments under consideration would be effective on January 1, 1972. This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C., 1655, and delegations of authority of 49 CFR 1.48 and 389.4.

Issued on June 8, 1971.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

I. A new § 391.2 would be added to Part 391 of the Motor Carrier Safety Regulations, reading as follows:

§ 391.2 General exemptions.

(a) *Drivers of lightweight vehicles.* The rules in this part do not apply to a driver who drives only a vehicle that—

(1) Has a gross weight, including its load, of 10,000 pounds or less;

(2) Is not transporting passengers for hire; and

(3) Is not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this title.

(b) *Farm vehicle drivers of nonarticulated vehicles.* The rules in this part do not apply to a farm vehicle driver who drives a nonarticulated vehicle.

II. Section 391.3 in Part 391 of the Motor Carrier Safety Regulations would be amended by adding a new paragraph (d), reading as follows:

(d) The term "farm vehicle driver" means a person who drives only a vehicle that is—

(1) Controlled and operated by a farmer;

(2) Being used to transport agricultural products or farm machinery and supplies to or from farms;

(3) Being used within 150 miles of his farm;

(4) Not being used in the operations of a for-hire carrier;

(5) Not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this title;

III. The heading of Subpart G of Part 391 of the Motor Carrier Safety Regulations would be amended to read as follows:

Subpart G—Limited Exemptions

IV. Section 391.67 in Part 391 of the Motor Carrier Safety Regulations would be amended and § 391.58 is added to read as follows:

§ 391.67 Certain drivers of articulated vehicles.

(a) The following rules in this part do not apply to a farm vehicle driver who is at least 18 years old and who drives an articulated vehicle used to transport farm products to market and supplies to or from the farm.

(1) Section 391.11(b) (1), (8), (10), (11), (12) (relating to driver qualifications);

(2) Subpart C (relating to disclosure of investigation into, and inquiries about, the background, character, and driving record of drivers);

(3) Subpart D (relating to road tests and written examinations);

(4) So much of sections 391.41 and 391.45 as require a driver to be medically examined and to have a medical examiner's certificate on his person before January 1, 1973.

(5) Subpart F (relating to maintenance of file and records);

§ 391.68 Drivers of vehicles used to transport farm harvesting machinery.

The rules of this part do not apply to drivers of vehicles used to transport farm harvesting machinery for use on farms.

V. The table of contents of Part 391 of the Motor Carrier Safety Regulations is amended (1) by adding after § 391.1 a new § 391.2 *General exemptions*, and (2) by amending the description of § 391.67 to read "Certain drivers of articulated vehicles" and by adding after § 391.67, a new § 391.68, to read "Drivers of vehicles used to transport farm harvesting machinery."

[FR Doc.71-8169 Filed 6-9-71;8:53 am]

Hazardous Materials Regulations Board

[49 CFR Parts 173, 178]

[Docket No. HM-74; Notice No. 71-16]

TRANSPORTATION OF HAZARDOUS MATERIALS

Cylinders Manufactured Outside United States

The Hazardous Materials Regulations Board is considering amendment of Parts 173 and 178 of the Department's Hazardous Materials Regulations to authorize the performance, outside the limits of the United States, of chemical analyses and tests prescribed for DOT specification compressed gas cylinders, under conditions approved by the Department. In addition, the Board is proposing to require Departmental approval of disinterested inspectors and inspection procedures prescribed for all DOT specification cylinders, whether they are made inside or outside the United States.

This proposal is based on petitions from foreign compressed gas cylinder manufacturers, received over a period of several years, requesting relief from the provisions of the regulations requiring specified chemical analyses and tests to be performed within the United States (see, for example, 49 CFR 178.36-3). In response to these petitions and in an endeavor to gather information on the necessity for continuing to require the prescribed analyses and tests to be performed within the United States, the Board sought public participation in its publication of a notice of public hearing (Docket No. HM-74, 36 F.R. 838, 35 F.R. 3836), which was held on February 23 and March 16, 1971. An additional item prompting resolution of this question was the publication by the National Highway Safety Bureau (now the National Highway Traffic Safety Administration) of motor vehicle Standard No. 208 (35 F.R. 16927), specifying occupant crash protection requirements for certain motor vehicles manufactured after July 1, 1973, including those of foreign manufacture sold in the United States. One major type of passive restraint system contemplated employs a high pressure gas cylinder, which would be subject to the requirement that chemical analyses and tests be performed within the United States.

The record of the hearing, available for inspection in the public file of the Secretary of the Board, confirms the need for greater flexibility in the regulations for those foreign manufacturers who can assure the Department of their competence and ability to produce compressed gas cylinders meeting U.S. safety standards. Questions raised in the hearing regarding the need for more effective approval and inspection procedures for domestic production of cylinders have been carefully noted, and will be treated in later rule making action. The Board is proposing, however, to withdraw the authority presently vested in the Bureau of Explosives to approve inspectors in the United States and would place within the Department the authority for approval of both domestic and foreign inspectors.

It is the Board's conclusion, on the basis of its investigations and the public record, that approval to perform specified chemical analyses and tests outside the United States may be granted to foreign manufacturers upon favorable consideration of several matters, including the acceptance of quality of production materials, manufacturing procedures, testing methods, inspection methods, and the inspectors. In addition, each foreign manufacturer requesting approval would be required to specify an agent, domiciled within the United States, upon whom service of process effectively could be made.

In consideration of the foregoing, the Board proposes to amend 49 CFR Parts 173 and 178 as follows:

1. Part 173.

In § 173.301, paragraph (i) and the introductory text of paragraph (j) would be amended to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

(i) *Foreign containers in domestic use.* Except as authorized by § 173.9, a charged container of foreign manufacture must not be offered for transportation in the United States unless it has been manufactured and tested in accordance with an applicable DOT Specification as set forth in Part 178 of this chapter. A request for written Departmental approval for inspection and testing of cylinders outside of the United States must be made to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. The request for approval must be made in writing and should include at least the following information:

- (1) A chemical analysis of the material and a description of its physical properties;
 - (2) A detailed description of manufacturing processes;
 - (3) A description of each method and procedure used in testing, and
 - (4) The identification, qualifications, number, and assignment of inspectors.
- (j) *Charging of foreign containers for export.* Containers of foreign manu-

facture, received from foreign countries for charging with compressed gas, which were not made in accordance with a DOT specification and approved by the Department, may be charged and shipped for export only:

II. In Part 178.

(A) In the following sections, paragraph (a) would be amended:

178.36-3	178.44-3	178.54-3
178.37-3	178.47-3	178.58-3
178.41-3	178.48-3	
178.43-3	178.49-3	

(a) Inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved in writing by the Department. See § 173.301(i) of this chapter.

(B) In the following sections, paragraph (a) would be amended; paragraph (b) would be added to read as follows:

178.38-3	178.51-3	178.57-3
178.39-3	178.52-3	178.61-3
178.40-3	178.53-3	178.63-3
178.42-3	178.55-3	178.68-3
178.50-3	178.56-3	

(a) For cylinders manufactured in the United States, inspection must be by competent and interested or disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States.

(b) For cylinders manufactured outside the United States, inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved in writing by the Department. See § 173.301(i) of this chapter.

(C) In the following sections, paragraph (a) would be amended; paragraphs (b) and (c) would be redesignated paragraphs (c) and (d) respectively; a new paragraph (b) would be added to read as follows:

178.59-3
178.60-3

(a) For cylinders manufactured in the United States, inspection must be by competent and interested or disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States.

(b) For cylinders manufactured outside the United States, inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved in writing by the Department. See § 173.301(i) of this chapter.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the

Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before September 9, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, section 9 Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)).

Issued in Washington, D.C., on June 7, 1971.

W. J. BURNS,
Chairman, Hazardous
Materials Regulations Board.

[FR Doc.71-8101 Filed 6-9-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 13]

[Docket No. 19182]

RADIO TELEPHONE LICENSES FOR BLIND PERSONS

Order Regarding Issuance

1. A notice of inquiry and notice of proposed rule making was released in the above-captioned proceeding on March 30, 1971 (FCC 71-295).

2. The Governor's Committee to Promote Employment of the Handicapped for the State of Maryland has requested that the time for filing written comments be extended to June 21, 1971, in order that the Committee may be afforded the opportunity to fully explore the implications of the Commission's proposed rule making. On the basis of the information contained in the request, the extension appears warranted.

3. Accordingly, it is ordered, That the time to file written comments is extended to June 21, 1971, and the time to file reply comments is extended to July 12, 1971.

Adopted: June 3, 1971.

Released: June 3, 1971.

[SEAL] RICHARD E. WILEY,
General Counsel.

[FR Doc.71-8136 Filed 6-9-71;8:52 am]

[47 CFR Part 73]

[Docket No. 18877; RM-1589]

INCLUSION OF CODED INFORMATION IN AURAL TRANSMISSIONS OF RADIO AND TV STATIONS

Order Extending Time for the Filing of Test Reports and Comments and Reply Comments

1. This proceeding was begun by a further notice of proposed rule making (FCC 71-152) adopted February 10, 1971, released February 16, 1971, and published in the FEDERAL REGISTER February 20, 1971, 36 F.R. 3269. The date presently designated for the filing of test reports is June 1, 1971. The dates for the submis-

sion of comments and reply comments are presently July 1, 1971 and August 2, 1971.

2. On May 25, 1971, International Digisones Corp. (IDC) filed a request to extend the time for the filing of the above reports and the comments and reply comments. IDC states that in order to avoid any possibility of delay in the subject docket, and in the hope that a greater manpower allocation to aural system testing might enable needed data to be more rapidly obtained, it has contracted with the engineering consulting firm of Bolt, Beranek, and Newman to assist in tests of the IDC aural system. It further states that this firm has now estimated that an additional 60 days will be required to complete a meaningful test program and prepare written reports.

3. It appears that the additional time is warranted and would serve the public interest. Accordingly, it is ordered, That the request of International Digisones Corp. is granted to and including August 1, 1971 for the filing of test reports and to and including September 1, 1971 for the filing of comments and October 1, 1971 for the filing of reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 303 (r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: May 28, 1971.

Released: June 1, 1971.

[SEAL] FRANCIS R. WALSH,
Chief, Broadcast Bureau.

[FR Doc.71-8137 Filed 6-9-71;8:52 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 18434]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 2, 1971.

The Forest Service, U.S. Department of Agriculture, has filed application M 18434 for the withdrawal of national forest land described below from mineral location and entry under the mining laws but not from leasing under the mineral leasing laws, subject to existing valid claims.

The applicant desires the land to protect an existing fire lookout from mineral location and entry.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, MT 59101.

The Department's regulation (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA
KOOTENAI NATIONAL FOREST
Roberts Lookout Site

T. 34 N., R. 26 W.,
Sec. 3, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described aggregates 10 acres in Lincoln County, Mont.

EUGENE H. NEWELL,

Chief,

Division of Technical Services.

[FR Doc.71-8061 Filed 6-9-71;8:46 am]

[Montana 18446]

MONTANA

Order Providing for the Opening of Public Lands

JUNE 2, 1971.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 3 S., R. 55 E.,
Sec. 13, SE $\frac{1}{4}$;
Sec. 24, N $\frac{1}{2}$ and SW $\frac{1}{4}$.
T. 3 S., R. 56 E.,
Sec. 17, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, Lots 1, 2, 3, and 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 19, E $\frac{1}{2}$;
Sec. 29, N $\frac{1}{2}$ N $\frac{1}{2}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 30, Lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate 1,938.70 acres.

2. The lands are located approximately 20 miles south-southeast of Powderville, Mont., in Carter County. The lands have been acquired to further Federal programs. They are grazing lands and have values for watershed protection, wildlife habitat, and outdoor recreation. Public lands in this area have been classified for multiple use management.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection. All valid applications received at or prior to 10 a.m., July 12, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged and their status is not affected by this order.

5. Inquiries concerning the lands should be addressed to the Bureau of Land Management, 316 North 26th Street, Billings, MT 59101.

EUGENE H. NEWELL,

Chief,

Division of Technical Services.

[FR Doc.71-8062 Filed 6-9-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards

Administration

BAKERSFIELD LIVESTOCK AUCTION CO. ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard, and date of posting

Bakersfield Livestock Auction Co., Bakersfield, Calif., Nov. 6, 1959.

Gridley Auction & Sales Yard, Gridley, Calif., Nov. 18, 1959.

Lassen Auction Yard, Susanville, Calif., Oct. 29, 1959.

Stockton Livestock Commission Co., Stockton, Kans., Oct. 22, 1957.

Oak Grove Livestock Auction, Oak Grove, La., Apr. 1, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER (6-10-71). (42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 3d day of June 1971.

G. H. HOPPER,

Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71-8128 Filed 6-9-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition (FAP 1A2654) has been filed by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235, proposing that § 121.1202 *Whole fish protein concentrate* (21 CFR 121.1202) be amended to provide for the safe use of anchovies of the genus *Engraulis* as a kind of fish from which whole fish protein concentrate may be made.

Dated: June 2, 1971.

VIRGIL O. WODICKA,

Director, Bureau of Foods.

[FR Doc.71-8058 Filed 6-9-71;8:45 am]

SYRACUSE UNIVERSITY RESEARCH CORP.

Notice of Withdrawal of Food Additive Petition

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348 (b)), the following notice is issued:

In accordance with § 121.52 *withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Syracuse University Research Corp., 600 East Genesee Street, Syracuse, N.Y. 13202, has withdrawn its petition (FAP OH2522), notice of which was published in the FEDERAL REGISTER of April 15, 1970 (35 F.R. 6158), proposing that § 121.2505 *Slimicides* (21 CFR 121.2505) be amended to provide for the safe use of the ethyl ester of 4-bromoacetoacetic acid as a slimicide in the manufacture of paper and paperboard that contact food.

Dated: June 1, 1971.

VIRGIL O. WODICKA,

Director, Bureau of Foods.

[FR Doc.71-8059 Filed 6-9-71;8:45 am]

[DESI 762]

[Docket No. FDC-D-314; NDA 762 et al.]

CERTAIN SINGLE-ENTITY INJECTABLE VITAMIN PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National

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Research Council, Drug Efficacy Study Group, on the following vitamin preparations for parenteral use:

1. Pyridoxine Hydrochloride Injection; Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 3-088).

2. Hexavibex Steri-Vials containing pyridoxine hydrochloride; Parke, Davis and Co., Joseph Campau at the River, Detroit, Mich. 48232 (NDA 3-727).

3. Ribozyme Injection containing riboflavin sodium phosphate; Philadelphia Ampoule Laboratories, 400 Green Street, Philadelphia, Pa. 19123 (NDA 10-415).

4. Hyrye Injection containing riboflavin sodium phosphate; S. F. Durst & Co., 5317 North Third Street, Philadelphia, Pa. 19120 (NDA 9-515).

5. Thiamine Hydrochloride Injection; High Chemical Co., 1760 North Howard Street, Philadelphia, Pa. 19122 (NDA 762).

6. Aquasol A Parenteral containing vitamin A; U.S.V. Pharmaceutical Corp., 800 Second Avenue, New York, New York 10017 (NDA 6-823).

7. Berubigen Crystalline Sterile Solution containing cyanocobalamin; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002 (NDA 6-798).

8. Dodecavite Injection containing cyanocobalamin; U.S.V. Pharmaceutical Corp. (NDA 7-152).

9. Redisol Injectable containing cyanocobalamin; Merck, Sharpe and Dohme, Division of Merck and Co., Inc., Westpoint, Pa. 19486 (NDA 6-668).

10. Ducobee Depot Injection containing cyanocobalamin; Breen Laboratories, Inc., Subsidiary of Sterling Drug, Inc., 90 Park Avenue, New York, New York 10016 (NDA 11-809).

11. Rubramin PC Injection containing cyanocobalamin; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 6-799).

12. Sytobex Injection containing cyanocobalamin; Parke, Davis and Co. (NDA 7-085).

13. Vitamin B $_2$ Concentrate Injection containing cobalamin concentrate; Taylor Pharmacol Co., Inc., 1222 West Grand Avenue, Decatur, Ill. 62525 (NDA 10-707).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

A. Effectiveness classifications.

The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. *Pyridoxine hydrochloride injection*. a. Pyridoxine hydrochloride injection is effective for the treatment of pyridoxine deficiency.

b. Pyridoxine hydrochloride lacks substantial evidence of effectiveness for use in treating certain cases of pellagra, beriberi, polyneuritis, and cheilosis.

2. *Riboflavin sodium phosphate injection*. a. Riboflavin sodium phosphate injection is effective for use in the treatment of riboflavin deficiency.

b. Riboflavin sodium phosphate injection lacks substantial evidence of effectiveness for use in the treatment of psoriasis.

3. *Thiamine hydrochloride injection*. a. Thiamine hydrochloride injection is effective for use in the treatment of thiamine deficiency when oral administration is not feasible or gastrointestinal absorption is impaired.

b. Thiamine hydrochloride injection lacks substantial evidence of effectiveness in the treatment of pernicious vomiting of pregnancy, during acute episodes of hyperpyrexia, and in the hypermetabolism of hyperthyroidism.

4. *Vitamin A injection*. a. Vitamin A injection is effective for use in: (i) resistant vitamin A deficiency states; (ii) hyperkeratosis associated with vitamin A deficiency; and (iii) in conditions of vitamin A deficiency where gastrointestinal absorption is impaired or when the use of an oral preparation is not feasible.

b. Vitamin A injection lacks substantial evidence of effectiveness for use in acne vulgaris.

5. *Cyanocobalamin or cobalamin concentrate injection*. a. Cyanocobalamin or cobalamin concentrate injection is effective for use in: (i) pernicious anemia with or without neurologic manifestations; (ii) megaloblastic anemia following gastrectomy or associated with gastric carcinoma; (iii) megaloblastic anemia due to "blind loop" syndrome; (iv) megaloblastic anemia due to *Diphyllobothrium latum* (fish tapeworm) infestation; (v) nutritional megaloblastic anemia involving vitamin B $_12$ deficiency; (vi) Schilling test.

b. Cyanocobalamin or cobalamin injection lacks substantial evidence of effectiveness for use in folic acid deficiency states or megaloblastic anemias associated with folic acid deficiency, sprue, liver disease, pregnancy, or the puerperium.

B. *Conditions for approval and marketing*. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug*. These vitamin preparations are in sterile aqueous solution or sterile oleaginous suspension form suitable for parenteral administration.

2. *Labeling conditions*. a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drugs and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" sections are as follows:

INDICATIONS

1. *Pyridoxine Hydrochloride Injection*. Indicated in the treatment of pyridoxine deficiency.
2. *Riboflavin sodium phosphate injection*. Indicated in the treatment of riboflavin deficiency.
3. *Thiamine hydrochloride injection*. Indicated in the treatment of thiamine deficiency when oral administration is not feasible or gastrointestinal absorption is impaired.
4. *Vitamin A injection*. Indicated (a) in the treatment of resistant vitamin A deficiency states; (b) for hyperkeratosis associated with vitamin A deficiency; and (c) in conditions of vitamin A deficiency where gastrointestinal absorption is impaired or when the use of an oral preparation is not feasible.
5. *Cyanocobalamin or cobalamin concentrate injection*. Indicated for use in (a) pernicious anemia with or without neurologic manifestations; (b) megaloblastic anemia following gastrectomy or associated with gastric carcinoma; (c) megaloblastic anemia due to "blind loop" syndrome; (d) megaloblastic anemia due to *Diphyllobothrium latum* (fish tapeworm) infestation; (e) nutritional megaloblastic anemia involving vitamin B₁₂ deficiency; (f) Schilling test.

3. *Marketing status*. Marketing of such drugs may be continued under the conditions described in the notice entitled *Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study*, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a) (1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, as described in paragraph (a) (3) (i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of the notice.

C. *Opportunity for a hearing*. 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order may cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a) (5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 762, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.
Request for Hearing (Identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-62, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat.

1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8060 Filed 6-9-71;8:45 am]

[Docket No. FDC-D-344; NDA 12-064]

UPJOHN CO.

Combination Drug Containing Medroxyprogesterone Acetate, Ethoxzylamide and Ectylurea

NOTICE OF OPPORTUNITY FOR HEARING ON PROPOSAL TO WITHDRAW APPROVAL OF NEW DRUG APPLICATION

In a notice (DESI 12064) published in the FEDERAL REGISTER of October 15, 1970 (35 F.R. 16201), the Food and Drug Administration announced its conclusions pursuant to evaluation by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group of the following combination drug for oral use: Cytran Tablets containing medroxyprogesterone acetate, ethoxzylamide, and ectylurea; The Upjohn Co., 7171 Portage Road, Kalamazoo, Michigan 49002 (NDA 12-064).

The announcement stated that the Food and Drug Administration has considered the Academy report, as well as other available information, and concludes that there is a lack of substantial evidence within the meaning of the Federal Food, Drug, and Cosmetic Act, that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, i.e., for relief of premenstrual tension. The Commissioner announced his intention to initiate proceedings to withdraw approval of the new-drug application.

The holder of the new-drug application and any interested person who might be adversely affected by removal of the drug from the market were invited to submit pertinent data bearing on the proposal within 30 days after publication of the notice. There was no response to the notice.

Therefore, notice is given to the Upjohn Co. and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the above-named new-drug application, and all amendments and supplements applying thereto, on the grounds that new information before the Commissioner with respect to said drug, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the fixed-combination drug will have the

effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new-drug application should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or
2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing the Commissioner without further notice will enter a final order withdrawing approval of the new-drug application. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing they must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence (35 F.R. 7250, May 8, 1970; 35 F.R. 16631, October 27, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 25, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8057 Filed 6-9-71;8:45 am]

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

[Docket No. N-71-100]

GOVERNMENT NATIONAL
MORTGAGE ASSOCIATION

Bylaws

The bylaws of the Government National Mortgage Association, duly adopted by the Secretary of Housing and Urban Development on September 1, 1968, pursuant to section 308 of the National Housing Act (12 U.S.C. 1723), are hereby amended, pursuant to such section 308, to revise the second sentence of Section 3.05, *The President*, to read as follows: "The President may prescribe, amend, and rescind regulations (for publication in the FEDERAL REGISTER or otherwise), requirements, and procedures governing the manner in which the general business of the Association will be conducted and, in the exercise of discretion, shall have power to provide for individual exceptions thereto."

(Government National Mortgage Association Bylaws (35 F.R. 2606, 2607); Section 308, National Housing Act; 12 U.S.C. 1723)

Effective date. This amendment is effective June 9, 1971.

GEORGE ROMNEY,
Secretary of Housing
and Urban Development.

[FR Doc.71-8107 Filed 6-9-71;8:50 am]

[Docket No. D-71-104]

REGIONAL ADMINISTRATOR AND
DEPUTY REGIONAL ADMINISTRATOR,
REGION IX (SAN FRANCISCO)Redelegation of Authority With
Respect to Surplus Real Property

The Regional Administrator and the Deputy Regional Administrator, Region IX (San Francisco), each is authorized to exercise the authority of the Secretary of Housing and Urban Development to dispose of the hereinafter described property, together with any improvements and related personal property located thereon, transferred to the Secretary by the Administrator of General Services on March 12, 1971, pursuant to section 414(a) of the Housing and Urban

Development Act of 1969 (40 U.S.C. 484(b)).

Preble-Sachem Housing Project, San Diego, Calif., identified more particularly in the Report of Excess Real Property received by GSA on May 21, 1963, from the Department of the Navy. (GSA Control No. N-CAL-789.) (Secretary's delegation, 36 F.R. 5004, Mar. 16, 1971, effective Mar. 8, 1971)

Effective date. This redelegation of authority is effective as of March 31, 1971.

SAMUEL C. JACKSON,
Assistant Secretary for Community
Planning and Management.

[FR Doc.71-8108 Filed 6-9-71;8:50 am]

DEPARTMENT OF
TRANSPORTATION

Federal Aviation Administration

RADAR APPROACH CONTROL FACILITY
AT PERRIN AFB, SHERMAN, TEX.

Notice of Closing

Notice is hereby given that on or about July 1, 1971, the Radar Approach Control Facility (RAPCON) at Perrin AFB, Sherman, Tex., will be closed. Services to the general aviation public of Sherman, Tex., formerly provided by this facility will be provided by the Fort Worth Air Route Traffic Control Center, Fort Worth, Tex. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Fort Worth, Texas on June 1, 1971.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.71-8099 Filed 6-9-71;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21866-4]

DOMESTIC PASSENGER FARE INVESTIGATION; PHASE 4—JOINT FARES

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held on July 21, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington DC, before the Board.

Dated at Washington, D.C., June 4, 1971.

[SEAL] RALPH L. WISER,
Acting Chief Examiner.

[FR Doc.71-8130 Filed 6-9-71;8:52 am]

[Docket No. 21866-5]

DOMESTIC PASSENGER FARE INVESTIGATION; PHASE 5—DISCOUNT FARES**Notice of Oral Argument**

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held on July 14, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington DC, before the Board.

Dated at Washington, D.C., June 4, 1971.

[SEAL] RALPH L. WISER,
Acting Chief Examiner.
[FR Doc.71-8131 Filed 6-9-71;8:52 am]

[Docket No. 22690]

CARIBBEAN-ATLANTIC AIRLINES, INC.-EASTERN AIR LINES, INC., ACQUISITION CASE**Notice of Oral Argument**

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held on June 30, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the Board.

Dated at Washington, D.C., June 4, 1971.

[SEAL] RALPH L. WISER,
Acting Chief Examiner.
[FR Doc.71-8132 Filed 6-9-71;8:52 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18912, 18913; FCC 71R-179]

FOLKWAYS BROADCASTING CO., INC., AND HARRIMAN BROADCASTING CO.**Memorandum Opinion and Order Enlarging Issues**

In regard applications of Folkways Broadcasting Co., Inc., Harriman, Tenn., Docket No. 18912, File No. BPH-5495; F. L. Crowder, trading as Harriman Broadcasting Co., Harriman, Tenn., Docket No. 18913, File No. BPH-5537; for construction permits.

1. This proceeding involves the mutually exclusive applications of Folkways Broadcasting Company, Inc. (Folkways) and F. L. Crowder, trading/as Harriman Broadcasting Co. (Crowder), for a construction permit to establish a new FM broadcast station on Channel 224A at Harriman, Tenn. By Order, FCC 70-736, released July 14, 1970 (35 FR 11597, published July 18, 1970), the Commission

designated the applications for consolidated hearing on several issues, including financial and Suburban issues against both applicants; an issue to determine whether Harriman is qualified to be a Commission permittee in light of the Commission's determination in Harriman Broadcasting Co., 9 FCC 2d 731, 10 RR 2d 981 (1967),¹ that F. L. Crowder had engaged in the trafficking of broadcast stations; and a standard comparative issue. In response to various petitions filed by the applicants herein, the Review Board specified a Rule 1.65 issue² and a false logging issue³ against Folkways and a § 1.65 issue against Crowder.⁴ Presently before the Review Board is a petition for enlargement of issues, filed August 3, 1970, by Folkways,⁵ requesting the addition of ex parte, lottery and misrepresentation issues against Crowder.

2. Since many of Folkways' allegations in the instant petition are related to an earlier proceeding involving the same parties as here, a synopsis of the earlier proceeding would be helpful in evaluating the requests now made by Folkways. In 1961, Crowder filed an application for a construction permit for a new AM station in Harriman, Tenn. On December 10, 1962, Folkways, licensee of standard broadcast station WHBT in Harriman,⁶ filed a petition to deny the Crowder application and requested, in the alternative, that the application be designated for hearing on Carroll, financial, trafficking, Suburban and misrepresentation issues. The latter request was based on alleged misrepresentations to the Commission concerning Crowder's Suburban survey. The Commission denied Folkways' petition and granted Crowder's application without hearing on January 12, 1966 (2 FCC 2d 320, 6

RR 2d 709). In regard to Folkways' requests for Suburban and misrepresentation issues, the Commission concluded that, in view of Crowder's survey and his experience in, and familiarity with, the area, to be served by the proposed Harriman AM station, neither issue was warranted.⁷ Folkways appealed the Commission's action to the U.S. Court of Appeals for the District of Columbia Circuit, which, on January 5, 1967, reversed and remanded the case, with directions that a hearing be held on the trafficking and Carroll issues. See Folkways Broadcasting Company, Inc. v. FCC, 126 U.S. App. D.C. 123, 375, F. 2d 299, 8 RR 2d 2089. With respect to the Commission's disposition of the Suburban and related misrepresentation issues, the Court could find no reason to set aside that action although the Court did note that its decision to require a hearing on the trafficking issue was influenced by the record on the misrepresentation question. 126 U.S. App. D.C. at 125, 375 F. 2d at 301, 8 RR 2d at 2092. In the meantime, Crowder had built Station WXXL pursuant to his construction permit and had been granted program test authority on August 11, 1966.

3. After the Court's January 5, 1967, decision, Folkways requested the Commission to order WXXL off the air pending the required hearing; in its Memorandum Opinion and Order (7 FCC 2d 161, 9 RR 2d 819, released Mar. 3, 1967) designating the Crowder application for expedited hearing on trafficking and Carroll issues, the Commission granted a temporary authorization to Crowder to permit the continued operation of WXXL, subject to cancellation upon further order.⁸ By order (FCC 67-550), released May 16, 1967, the Commission directed that the hearing record be certified to it for final decision; however,

¹ Folkways had contended before the Commission that Crowder had concealed matters concerning letters submitted by the applicant in support of an asserted familiarity with community needs and interests. In regard to 15 letters submitted in an amendment to the Crowder application, Folkways disputed the relevance of eight, claiming that they were from sources outside of Harriman and that the letters only discussed the availability of program material. Folkways asserted that the other letters were misleading since they had been obtained by Walter H. Scarborough, former commercial manager of WHBT, who had offered interviewees prepared statements indicating their support of a new Harriman station. Folkways also noted that three interviewees subsequently rescinded or modified their letters. The Commission concluded that, notwithstanding subsequent rescissions or modifications, the letters indicated that a survey had been made and that the manner in which the survey was made did not suggest misrepresentation on the part of the applicant. 2 FCC 2d at 322-323, 6 RR 2d at 713.

² Folkways appealed the grant of this temporary authority to the Court of Appeals, which found that the grant was improper and ordered the cessation of the WXXL operation. The effectiveness of the court order was subsequently stayed pending the Commission's final decision.

³ Crowder was formerly licensee of WHBT, which he assigned in June of 1956 to Folkways for \$80,000.

upon consideration of the record, the Commission concluded that disposition of the trafficking issue would be facilitated by the preparation of an initial decision on that issue by the Hearing Examiner. Subsequently, the Commission disagreed with the Hearing Examiner's conclusion that Crowder had not trafficked in broadcast authorizations and, in its Decision (9 FCC 2d 731, 10 RR 2d 981 released Aug. 9, 1967), denied Crowder's application for an AM station in Harriman. In concluding that Crowder had trafficked in broadcast authorizations, the Commission found specific instances of misrepresentation by Crowder in regard to the trafficking inquiry.⁹ In view of its conclusion that Crowder should be disqualified under the trafficking issue, the Commission did not reach the Carroll issue or a petition for an order in the nature of enlargement of issues, filed by Folkways on June 12, 1967, wherein Folkways had requested that a separate misrepresentation issue be specified in the proceeding to permit the consideration of Crowder's disqualification on the basis of record evidence relating to alleged misrepresentations and concealments by Crowder. Exceptions to the Hearing Examiner's initial decision dealing with the matter of Crowder's misrepresentations to the Commission, filed by Folkways, were also denied by the Commission as not of decisional significance or as unnecessary. Upon appeal, the Commission's Decision was upheld. See Crowder v. FCC, 130 U.S. App. D.C. 198, 399 F. 2d 569, 13 RR 2d 2073, cert. denied 393 U.S. 962 (1968). Now, in the instant proceeding, Folkways and Harriman are competing applicants for an FM station in Harriman, and the Commission has specified an issue which would assess the impact of its 1967 Decision on Crowder's qualifications to be an FM permittee.

EX PARTE ISSUES

4. In its petition to enlarge issues, Folkways initially requests that an issue be specified to determine whether Crowder has solicited ex parte presentations concerning the merits of the prior proceeding and the pending FM proceeding in violation of § 1.1201, et seq., of the Commission's rules.¹⁰ In support of this request, petitioner refers to material allegedly circulated in Harriman during August and September of 1967, which suggested that letters be directed to President Johnson and to the Commission in an effort to restore the WXXL operation. Folkways contends that Crowder's campaign to protest the termination of Station WXXL consisted of the distribution of such material in the Harriman area, of the appearance of a new automobile in the Harriman area with a sign urging the continuation of

⁹ In its decision, the Commission terminated the operation of Station WXXL as of Aug. 15, 1967.

¹⁰ Folkways contends that since the FM applications were pending before the Commission during the period of these alleged ex parte presentations, these attempts are also violative of the restrictions imposed by the Commission's ex parte rules on the FM proceeding.

the WXXL operation and of the use of third parties to obtain reversal of the Commission's action. In regard to the last-mentioned technique, Folkways points to copies of letters sent to then President Johnson in September of 1967 by Mrs. Ann Weidemann and Dr. Martin Rywell and to a copy of a letter, dated January 14, 1969, from Patrick O'Shea, a former employee of Station WXXL, to President Nixon, all of which were forwarded to the Commission. In these letters, the writers protest the "injustice" perpetrated by the Commission on Crowder in terminating the WXXL operation. These ex parte attempts, Folkways urges, are violative of the Commission's rules, reflect on the character qualifications of Crowder and should be pursued in the context of this FM proceeding.

5. In opposition, Crowder initially maintains that petitioner has failed to show that an ex parte presentation was made to "decision-making Commission personnel"; respondent notes that the President of the United States is not included in that category of persons defined in § 1.1205. In addition, Crowder contends that Folkways has not demonstrated that Crowder was personally involved in any attempt to solicit a prohibited presentation; in an attached affidavit, Crowder denies such involvement.¹¹ Moreover, Crowder suggests that the communications referred to by Folkways did not amount to prohibited presentations within the meaning of the Commission's ex parte rules since they represented voluntary acts by members of the public and were not, in any event, directed to decision-making Commission personnel. Finally, Crowder challenges the timeliness of Folkways' request by arguing that the petitioner should have brought the matter of claimed ex parte presentations to the Commission's attention in 1967. In a supplement to his opposition pleading, Crowder supplies an affidavit of O'Shea, which allegedly was not previously available and which will be considered by the Board, wherein O'Shea avers that Crowder had no knowledge of the letters written to the President and to the Commission's Executive Director by him (O'Shea) and that Crowder had not requested the preparation of such letters. According to O'Shea, his letters were merely intended to seek information concerning the Commission's decision to terminate the WXXL operation.¹²

¹¹ In regard to the material allegedly circulated in the Harriman area during 1967, Crowder either denies any knowledge thereof or states that he did not request such material to be directed to the President. In regard to the Weidemann and Rywell letters, Crowder asserts that they were sent without his knowledge; however, he states that he did not know of O'Shea's letter until after it was written.

¹² The Bureau opposes the addition of an ex parte issue on the ground that Folkways has failed to show that Crowder or anyone acting on his behalf with his knowledge thereof was responsible for the distribution of the materials in the Harriman area or for the transmittal of the alleged ex parte communications.

6. In reply to Crowder and the Broadcast Bureau, Folkways first notes that Crowder, in his affidavit, admits his knowledge of the fact that communications were sent. On this basis, petitioner argues that Crowder had an affirmative duty to inform the Commission, through its Executive Director, of the full circumstances surrounding the submission of the letters and that such failure on Crowder's part constituted a violation of § 1.1245.¹³ Second, Folkways points to the "void of explanation" in Crowder's opposition pleading concerning his alleged lack of knowledge of these letters by "close, continuing associates." In this regard, petitioner attempts to show that Weidemann and Rywell are political associates of Crowder. In addition, Folkways contends that the near concurrency of the dates of the Rywell and Weidemann letters (September 2 and 3, 1967, respectively) and the association between these letter-writers and Crowder "completely erode any inferential suggestion that Crowder did not have concurrent knowledge of their activities." In any event, Folkways claims that Crowder's apparent failure to notify the Commission of such activities pursuant to § 1.1245 emasculates the premise of the Bureau's defense of Crowder, i.e., his lack of knowledge. Folkways next points to the absence of any explanation by Crowder as to the pattern which allegedly emerges here when the following are considered: The pamphlets circulated in Harriman; the printed card form for transmittal to the President; the letters from Weidemann, Rywell, and O'Shea; and the letters to the Commission from two Congressmen concerning the instant FM proceeding. These latter letters, copies of which are attached to Folkways' reply pleading, allegedly demonstrate that Crowder solicited their presentation to the Commission and that the Congressmen involved had not been informed by Crowder of the restricted nature of the FM proceeding.¹⁴ Folkways also claims that Crowder's denial of involvement is insufficient as a defense since he does not

¹³ Rule 1.1245 requires that a party to a restricted proceeding who has substantial reason to believe that an unauthorized ex parte presentation has been solicited, attempted or made, or who has information regarding such a presentation shall advise the Executive Director of all the facts and circumstances thereof which are known to him.

¹⁴ The Dec. 16, 1969, letter of Congressman Joe L. Evins notes that Crowder's FM application has been pending for more than 3 years and urges that a hearing be held and appropriate consideration be given Crowder's application. Congressman Evins, in his letter to the Chairman of the Commission, states that consideration of his request and a "report of action hereon will be most appreciated by Mr. Crowder." In his letter of May 13, 1970, to the Commission's Chairman, Senator Albert Gore also notes the pendency of the Crowder FM application since 1966 and requests information on the status of the application and expected Commission action. Neither letter indicates the writer's knowledge of the pending Folkways' FM application.

deny his alleged solicitation of prohibited presentations in regard to the FM case. In this regard, Folkways points to Crowder's contacts with the legislators noted above and to the fact that Crowder has been represented at all times by counsel which would negate the need for congressional inquiries concerning the status of the FM proceeding. The petitioner dismisses Crowder's argument that prohibited presentations were not made since they were not directed to decision-making personnel of the Commission; Folkways contends that indirect attempts to influence the Commission are prohibited by the ex parte rules. In conclusion, Folkways asserts that Crowder's statement represents a "masterpiece of understatement," which fails to answer satisfactorily the serious questions raised by the petitioner and which, by its careful wording, seeks to avoid any admission concerning Crowder's knowledge of the activities of his close associates. In such circumstances, Folkways contends that issues are required to inquire into Crowder's alleged attempts to influence Commission proceedings and his alleged failure to inform the Commission of ex parte activities on his behalf.¹⁵

¹⁵ Crowder has filed a petition for leave to submit a response to Folkways' reply pleading, arguing that he should be permitted to comment on the new material contained in the reply. Even though Folkways has opposed the request, we have decided to grant Crowder's petition in order to enable our consideration of all relevant materials and arguments. In ordinary circumstances, however, we would frown upon an additional round of pleadings. In his response, Crowder maintains that: (1) The congressional letters are not prohibited presentations, but are status inquiries directed to administrative delay, and there is no evidence of an attempt to influence a Commission proceeding by him or the Congressmen; (2) he had no duty to advise the Commission of these communications (Rywell, Weidemann, and O'Shea letters) since they did not constitute prohibited presentations and since he had no knowledge of the facts and circumstances surrounding their preparation; (3) in any event, Folkways, as a party, had a duty to advise the Commission of the presentations; (4) Crowder did not solicit the Rywell and Weidemann letters, as attested to by their attached statements; (5) his earlier statement refutes any charge that he did not deny participation in prohibited activities in regard to the FM case; and (6) an affidavit attached to Folkways' reply from John Mayton, who states that he heard a Reverend Human indicate that Crowder knew of the distribution of leaflets concerning WXXL, is double hearsay and should be rejected. Folkways, in opposition to Crowder's response, makes the following points: (1) Crowder has now joined issue as to the claim of improper activities concerning both the AM and FM case; (2) Crowder has not denied his solicitation of congressional inquiries and has not explained the need for same; (3) Crowder has failed to supply affidavits from Rywell and Weidemann and their unsworn statements do not resolve the questions about Crowder's knowledge of their letters and his duty to inform the Commission about the letters; and (4) Crowder has not responded to the essence of Mayton's affidavit and has not supplied a sworn statement from Reverend Human.

7. As an initial point of departure, the Board is constrained to comment briefly on the nature of the showings before us in regard to Folkways' request for ex parte issues against Crowder. In its pleadings, the petitioner essentially relies on circumstantial evidence for its assertion that Crowder solicited prohibited presentations in regard to the WXXL operation and failed in his duty to inform the Commission of activities designed to influence the ultimate outcome of the AM proceeding. For example, Folkways points to what it considers to be a "pattern," which is allegedly apparent from the distribution of certain materials in the Harriman area and from letters written by close associates of Crowder at about the time of the Commission's termination of the WXXL operation. With respect to the instant FM proceeding, Folkways primarily relies on the two Congressional inquiries apparently requested by Crowder. This showing, in and of itself, leaves something to be desired in terms of the clear requirements of § 1.229, since it assumes Crowder's knowledge of, and participation in, prohibited ex parte activities. On the other hand, Crowder's response consists of a carefully worded denial of knowledge of, and participation in, such activities. For example, in his affidavit, Crowder maintains that he did not know of the Weidemann letter "until after it was sent"; that the Rywell letter was sent without his knowledge; and that he did not know about the O'Shea letters "until after the letters were written." Moreover, Crowder makes no mention of his apparently close associations with the letter writers. He also relies on an affidavit by O'Shea and on the unsworn statements of Rywell and Weidemann, which clearly could have been produced much earlier and in proper form. Even though the matter of the Congressional inquiries was raised in Folkways' reply and was used, in part, as the basis for Crowder's response thereto (see note 15, supra), no further affidavit was submitted by him to explain the circumstances surrounding his requests for these inquiries.

8. On this basis, then, the Board can only conclude that serious questions have been raised concerning Crowder's compliance with the Commission's ex parte regulations which have not been satisfactorily answered and which, as a result, require exploration in a hearing context. We do perceive a possible pattern in certain activities related to the Commission's decision to terminate the WXXL operation: leaflets were distributed in the Harriman area, urging members of the public to write the President and the Commission about the latter's action; a prepared form for direction to the President was also circulated, protesting the Commission's action and the "injustice" done to Crowder; a new car with a sign on it promoting the continuation of WXXL was seen in the Harriman area; and letters from associates of Crowder, dated within a day of each other, were sent to the President, protesting the WXXL termination. In response, Crowder has seen fit to rely on a

somewhat guarded denial of knowledge and involvement, on an affidavit of O'Shea which seems to be inconsistent with Crowder's statement in regard to the latter's knowledge of the O'Shea letters,¹⁶ and on unsworn statements of Rywell and Weidemann. Given the relatively small size of the Harriman community, the concurrent distribution of certain materials in the Harriman area and written protests from Crowder associates, and the nature of Crowder's statement in response to Folkways' charges, a serious question is raised as to whether Crowder, either directly or indirectly, solicited prohibited ex parte presentations relating to the Commission's decision to terminate the WXXL operation.¹⁷ See Pacifica Foundation, 25 FCC 2d 787, 20 RR 2d 249 (1970); Voice of Reason, Inc., 22 FCC 2d 931, 18 RR 2d 1049 (1970). The fact that the Weidemann, Rywell and O'Shea letters were directed to the President who does not fit within the definition of "decision-making Commission personnel" under § 1.1205 is not controlling here since it could reasonably be expected that such letters would be forwarded to the Commission and since these letters, in fact, were forwarded to the Commission. Moreover, we have held that the failure to designate specific decision-making personnel, of the Commission as the desired recipients of prohibited presentations does not excuse an applicant's solicitation of such presentations. Pacifica Foundation, supra. In any event, we note that the leaflets distributed in the Harriman area urged the public to write to both the President and the Commission about the WXXL matter. In similar vein, the solicitation of members of the public is not a controlling consideration, as Crowder urges, since the solicitation by interested persons or their agents of written ex parte presentations from the general public is prohibited by § 1.1225(a). See Report and Order in Docket No. 15381, 1 FCC 2d 49, at 59, 5 RR 2d 1681, at 1694 (1965).

9. A serious question is also raised as to Crowder's activities in regard to the congressional inquiries which were directed to the Commission's Chairman, apparently at Crowder's request, seeking information about the status of his FM application. Senator Gore's letter is clearly a request for a status report while Congressman Evins' letter has the elements of both a status inquiry and a complaint directed to the factor of administrative delay. Neither letter exhibits the writer's knowledge of the

¹⁶ As pointed out in note 11 and paragraph 7, supra, Crowder stated that he did not know about O'Shea's letters until after they were written. O'Shea, in his affidavit, states flatly that Crowder had no knowledge of his letters.

¹⁷ It should be noted that the Commission's restrictions regarding ex parte presentations in adjudicative proceedings continue to apply during the pendency of judicial review pursuant to the provisions of § 1.1203(a). As indicated to paragraph 3, supra, the Commission's decision to deny Crowder's AM application was released on Aug. 9, 1967, and judicial review was not completed until 1968.

pending Folkways' application, and Crowder has made no attempt to explain the circumstances surrounding his requests for congressional assistance. As a result, we cannot know the reasons that prompted the letters. While it is clear that the ex parte rules do not prohibit congressional complaints directed to administrative delay¹⁸ and do permit parties to restricted proceedings to make their own status inquiries (§ 1.1227(e)), parties are prevented from soliciting status inquiries from others on their behalf. Report and order in Docket No. 15381, 1 FCC 2d at 60, 5 RR 2d at 1695-6; Fine Music, Inc., supra. Such solicitation is prohibited since the enlistment of such assistance by a party raises doubts about the purpose of the inquiry which could effectively undermine public confidence in the integrity of the Commission's proceedings. Therefore, the question of whether Crowder solicited prohibited presentations in regard to the FM proceeding must also be explored at the hearing.¹⁹ See *Al G. Stanley*, FCC 70-849, — FCC 2d —, 19 RR 2d 1179. Finally, we agree with Folkways that an inquiry into Crowder's compliance with § 1.1245 (see note 13, supra) is warranted. Crowder's statement discloses that he had knowledge of the Weidemann letter after it was sent and of the O'Shea letters after they were written; moreover, he has apparently conceded that the congressional inquiries were made at his request. Since the candor of parties to restricted proceedings is required in order to protect the integrity of the Commission's processes and since we have concluded that serious questions exist about Crowder's solicitation of ex parte presentations, his failure to report his knowledge thereof to the Commission's Executive Director pursuant to § 1.1245 assumes added significance.²⁰ While it is true that the reporting requirement extends to all parties with information about prohibited presentations or the solicitation thereof, we decline to attach responsibility to Folkways in this regard, as Crowder urges, since the activities under consideration relate to the latter's interests and since, in any event, Folkways has brought these matters to the Commission's attention through its petition to enlarge issues.²¹

¹⁸ *Azalea Corp.*, 10 FCC 2d 364, 11 2d 541 (1967); *Fine Music, Inc.*, 8 FCC 2d 529, 10 RR 2d 400 (1967).

¹⁹ Our conclusion in regard to Crowder's activities on behalf of his FM application lends added support to our earlier determination to accord substantial weight to the pattern established as a result of certain activities related to the WXXL termination in spite of Crowder's denial of involvement.

²⁰ Compare *American Broadcasting Companies, Inc.*, 23 FCC 2d 136, 19 RR 2d 36 (1970).

²¹ Our decision to inject ex parte issues against Crowder is based, in part, upon our inability to place complete reliance on Crowder's statement in response to Folkways' charges. If the record developed under the issues specified herein sheds further light on the question of Crowder's candor, then appropriate findings and conclusions can be drawn in regard thereto. See — FCC 2d at —, 21 RR 2d at 215, n. 8.

LOTTERY ISSUE

10. Folkways alleges that, during July of 1967, a "Fish for Money" promotion was broadcast on WXXL and that, since the promotion involved the elements of a lottery, i.e., prize, chance, and consideration, an appropriate issue should be specified against Crowder. According to the petitioner, the plan required the purchase of an automobile or truck value at \$500 or more from the Harriman Motor Co., which would entitle a customer to "fish" for prizes in varying amounts from \$1 to \$100. Folkways contends that only those members of the public who paid the necessary consideration—the purchase of an automobile or truck worth at least \$500—could obtain a prize. In an attached affidavit, Tom Jackson, who was commercial manager of Folkways' AM station (WHBA) in Harriman during the period in question, explains that WHBT was also approached by the car dealer concerning the purchase of spot announcements for the "Fish for Money" promotion, but that the station, upon advice of counsel, declined to carry the announcements on the ground that the scheme constituted a lottery. Mr. Jackson also states that WXXL, on the other hand, did broadcast such announcements during July 1967, and, on the basis of a tape recording of such an announcement, he quotes the contents thereof.²² In petitioner's view, the fact that the scheme was part of a sales promotion by a local retailer or that the broadcast was a commercial spot announcement cannot be used to justify the claimed violations of section 1304 of title 18, U.S.C., and § 73.122 of the Commission's rules. In similar vein, Folkways contends that the element of chance is not eliminated in such a promotion simply because each purchaser receives a prize. Relying on the Board's action in *United Television Co., Inc.*, 20 FCC 2d 278, 17 RR 2d 738 (1969), petitioner requests that an issue relating to these promotional announcements on WXXL be included in this proceeding.²³

11. Crowder again relies on his attached affidavit to oppose Folkways' re-

²² The announcement reads as follows: "Something fishy is going on at Harriman Motor Co. during their big July sale. We know Tom Rice has blown his stack cause during this sale if you purchase new or used cars or trucks valued at \$500 or more you can fish for cash! Every customer who trades or buys during July will win cash and at Harriman Motor Co. you can see the latest, freshest versions of Mustangs . . ."

²³ The Broadcast Bureau supports Folkways' request, but would reword the issue framed by the petitioner. According to the Bureau, Folkways' issue presupposes that the announcements in question promoted a lottery; the Bureau would prefer to alter the issue to inquire into whether the promotional scheme, in fact, constitute a lottery in violation of the statute and Commission regulation. The Bureau also suggests that Folkways cannot be faulted for the filing of its request in view of the status of the earlier AM proceeding at the time the alleged promotional announcements were broadcast on WXXL. Folkways, in its reply pleading, does not object to the rewording of the issue.

quest for a lottery issue. Initially, he contends that the petitioner has not shown the necessary good cause for the belated request. Noting that Folkways has been in possession of the relevant information since 1967 and that the petitioner made no attempt to advise him that the promotion might constitute a lottery, Crowder argues that Folkways should not now be rewarded for such behavior by the enlargement of issues. In any event, Crowder contends that the "Fish for Money" promotion did not amount to a lottery since it was merely a scheme to give cash discounts to members of the public who purchased goods from the car dealer during a certain period of time and since the element of chance was not present. Finally, Crowder discounts the need for the requested issue by asserting that there is no evidence of an intentional violation of the lottery statute or Commission regulation; in fact, he states that he has no recollection of the promotional announcements in question.

12. As to Crowder's procedural objection, the Board agrees with the Broadcast Bureau's assertion that Folkways should not be faulted for the filing of the instant request. The promotional announcements under consideration herein were apparently broadcast for a 3- or 4-week period during the month of July 1967, and, as indicated in paragraph 3, supra, the Commission's decision in the earlier proceeding, which resulted in Crowder's disqualification, was released on August 9, 1967. Therefore, in light of the status of the AM proceeding at the time of the broadcast of these announcements and the result ultimately reached by the Commission in its 1967 decision, we are reluctant to question Folkways' diligence. In any event, the matters raised by the petitioner in regard to the WXXL announcements are serious enough to warrant our consideration. The Edgefield-Saluda Radio Co., 5 FCC 2d 148, 8 RR 2d 611 (1966). For example, we note that Crowder, in his opposition, does not dispute the allegation that announcements on behalf of a "Fish for Money" promotion were broadcast on Station WXXL during the period in question. Similarly, he does not dispute that the elements of prize and consideration were present in the promotion, although he does question whether the scheme contained the element of chance.²⁴ In spite of Crowder's contention, we believe that the "Fish for Money" promotion, as described in the pleadings before us, contained all of the elements of a lottery, including chance. In essence, prizes (cash awards), which

²⁴ While neither section 1304 of Title 18, U.S.C., nor § 73.122 defines a lottery, it is well established that the necessary elements thereof are, in combination: (1) the awarding of a prize; (2) upon a contingency determined by chance; (3) to a person who has, directly or indirectly, paid or agreed to pay a consideration for the chance to win the prize. See *FCC v. American Broadcasting Company*, 74 S. Ct. 593, 347 U.S. 284, 10 RR 2030 (1954).

varied in amount and which were not within the control of the parties involved, were given to customers of the Harriman Motor Co. The Noble Broadcasting Corp., 1 FCC 2d 154, 157, 5 RR 2d 915, 922 (1965); Northern Virginia Broadcasters, Inc., 4 RR 660 (1949). As a result, the Board is not persuaded by Crowder's cash discount theory or by the fact that each purchaser or customer received something of value.²⁰ Since a serious question has been raised as to whether announcements advertising a lottery promotion were broadcast on Station WXXL in violation of Federal statute and Commission regulation, an appropriate issue is warranted and will be specified by the Board. Glenn West, 26 FCC 2d 1015, 20 RR 2d 697 (1970); United Television Co., Inc., 20 FCC 2d 278, 17 RR 2d 738 (1969); Keith L. Reising, 3 FCC 2d 904, 8 RR 2d 62 (1966). We also believe that a serious question has been raised concerning Crowder's efforts prior to the broadcast of such announcements to insure that they did not, in fact, promote a lottery. Crowder's claimed reliance on others, i.e., the station's program director and the local motor company, his disclaimer of knowledge of the broadcast of such announcements by WXXL and his attempt to fault Folkways for not informing him of the situation cannot be viewed as consistent with his responsibility to supervise and control all material broadcast over his station. See Glenn West, supra; Public Notice of June 3, 1969, concerning "Applicability of Lottery Statute to Contests and Sales Promotions," 18 FCC 2d 52, 16 RR 2d 1559; Keith L. Reising, supra. Accordingly, we will, on our own motion, also specify an issue inquiring into Crowder's apparent failure to control his station's programming in regard to the "Fish for Money" promotion. However, in view of the isolated nature of Crowder's alleged misconduct, we will confine the scope of the issues relating to the promotional announcements and supervisory responsibility to Crowder's comparative qualifications. Glenn West, supra; Keith L. Reising, supra.

MISREPRESENTATION ISSUE

13. Folkways also requests that an issue be specified to determine whether Crowder misrepresented to, or concealed from the Commission material matters in connection with his prior application

²⁰ See Wolf v. Federal Trade Commission, 135 F. 2d 564 (7th Cir. 1943); Keller v. Federal Trade Commission, 132 F. 2d 59 (7th Cir. 1942).

²¹ In its Public Notice, the Commission stated:

Finally, licensees are reminded of their responsibility to exercise reasonable diligence to make sure that promotions advertised over their facilities are not lotteries. . . . In order to assure himself that his facilities are not being used for unlawful purposes, he should take all reasonable steps to learn whether the promotion in its actual operation is being conducted as a lottery. (18 FCC 2d at 53, 16 RR 2d at 1560-61).

See also Folkways Broadcasting Co., Inc., 27 FCC 2d 619, 21 RR 2d 163 (1971).

for an AM station in Harriman (WXXL), including misrepresentations and concealments by Crowder in the hearing record of the AM proceeding. In support of this request, petitioner first points to what it claims are misrepresentations by Crowder in regard to "trade-out practices." Noting that the AM case involved an economic impact or Carroll issue and that evidence was adduced thereunder as to Crowder's commercial practices at Station WXXL, Folkways underscores Crowder's repeated testimony to the effect that he had not engaged in trade-out practices at the station. In contrast, the petitioner introduces an affidavit of James L. Johnson, dated July 31, 1970, wherein the affiant states that he made wooden call sign letters for Crowder for Station WXXL and that he received, in return, four 15-minute programs worth \$48 and \$2 in cash. In petitioner's view, the context of this alleged misrepresentation by Crowder reinforces the seriousness thereof since the AM proceeding had evolved, in part, from inconsistent representations made by Crowder (see paragraph 2, supra). Folkways also argues that Crowder made further misrepresentations in regard to the community survey he submitted with the AM application. According to the petitioner, Crowder's AM application, as originally filed, contained no showing as to the reason for its filing and did not reflect any expression of local need or desire for the new station; however, Crowder then filed an amendment to the application wherein he represented that a survey had been made, as evidenced by certain letters addressed to him by various community leaders, and that his station's proposed programming had been discussed with the letter-writers. Folkways also notes that Crowder, in opposition to a petition to deny the AM application, had averred that the letter-writers had been fully apprised of the facts of his proposal and had directed their letters to him. At the hearing, however, Folkways points out that it was shown that a number of the letter-writers had been given preformed responses to sign, that Crowder had not discussed his programming proposal with them, and that the letters had been obtained for Crowder by a Mr. Scarborough. Moreover, Folkways asserts that, during the hearing, Crowder offered no explanation for these variances in representations. While the petitioner concedes that the Commission did not specifically consider these other claimed misrepresentations in its 1967 Decision, it suggests that such matters could be explored under the issue specified herein which takes account of the Commission's earlier Decision or could be used to supplement the findings and conclusions in the AM proceeding.

14. In opposition, Crowder raises a procedural objection in regard to the matter of trade-out practices; he argues that this aspect of Folkways' petition is untimely since Folkways could have raised the point during the earlier proceeding. In regard to the merits of the

request, Crowder, in his affidavit, explains that the preoperational arrangement with the sign-maker was not a "trade-out" in the ordinary sense since it did not involve a regular advertiser or merchant. According to Crowder, when he was queried about trade-out practices in the AM proceeding, he assumed that such questioning referred only to regular dealings with advertiser-merchants. Addressing himself to Folkways' allegations about the community survey, Crowder notes that Folkways raised essentially the same questions in its exceptions to the Initial Decision in the AM proceeding, which were denied by the Commission, and that the Commission's action is res judicata as to the requested misrepresentation issue. The Bureau also opposes Folkways' instant request. The Bureau would have the Board fault Folkways for not having raised the trade-out matter in the earlier case unless the petitioner makes a persuasive showing that it did not previously know of the arrangement and could not have obtained such information through the exercise of due diligence prior to the conclusion of the AM proceeding. Like Crowder, the Bureau is of the opinion that inquiry into claimed misrepresentations relating to Crowder's community survey is precluded as a result of the Commission's denial of Folkways' exceptions, although the Bureau does recognize that the Commission did not specifically address itself to the matters raised here in its 1967 decision.

15. Folkways replies that the Board cannot accept Crowder's explanation for his prior testimony about trade-out practices since, at the AM hearing, he made no attempt to disclose his claimed distinction between the arrangement with the sign-maker and regular, operational trade-outs even though he was queried on the subject several times. The petitioner also suggests that the Bureau's position might have been different if it could have considered Crowder's eventual admission about the arrangement with the sign-maker and if it had recalled the expedited nature of the AM proceeding, which, according to Folkways, afforded it no real opportunity to pursue the matter. Folkways asserts that it could not have documented its charges about the claimed trade-out prior to the closing of the hearing record on May 22, 1967, and that the relevant material, though still not in affidavit form, was not received until thereafter.²² Regarding the alleged misrepresentations about Crowder's community survey, Folkways claims that these matters were not "decisionally resolved" by the Commission since Crowder's application had been denied on other grounds; therefore, the petitioner renews its request for an appropriate issue in this proceeding.

²² In the text of its reply pleading, Folkways refers to a written and witnessed statement by Johnson, dated July 19, 1969. However, Johnson's statement, attached to the reply pleading, is dated May 19, 1967.

16. The Board does not believe that the requested issue is warranted on the basis of the showings made by Folkways. In regard to the alleged trade-out by Crowder, Folkways has not demonstrated its diligence in pursuing the matter; it has not revealed when it first became aware of the information contained in the Johnson affidavit of July 31, 1970. As indicated in note 27, supra, such information was apparently available as early as May 19, 1967, prior to the close of the record in the AM proceeding. Even if the Review Board were inclined to overlook the procedural deficiency indicated above, however, we would discount the significance of petitioner's showing. For example, we cannot conclude, as Folkways does, that Crowder's testimony relative to trade-out practices was prompted by a desire to deceive the Commission. The practice of trading broadcast time for goods and services is not prohibited by Commission policy, and we can perceive no reason why Crowder would engage in alleged misrepresentations from which he could gain no benefit or advantage. Moreover, Crowder's explanation as to the interpretation of his testimony in the AM proceeding is not inherently improbable and, in any event, has not been effectively challenged by other examples of similar arrangements. Without more, a misrepresentation issue is not warranted merely on the basis of this one arrangement and Crowder's testimony about trade-out practices.

17. Similarly, we cannot conclude that such an issue is required on the basis of Folkways' showing concerning Crowder's community survey and representations about that survey. As indicated in paragraph 2, supra, Folkways had filed a petition to deny Crowder's AM application and, in the alternative, had requested that issues be specified against Crowder, including a Suburban and a related misrepresentation issue. The basis for the latter request involved essentially the same matters which Folkways now brings to our attention. See note 7, supra. However, the Commission concluded that the request for Suburban and misrepresentation issues was not properly supported and that the issues were not necessary. See 2 FCC 2d at 322-23, 6 RR 2d at 713. While the Court, on appeal of this initial Commission action, ultimately remanded the AM proceeding to the Commission for hearing on trafficking and Carroll issues, it nonetheless agreed with the Commission's disposition of the Suburban and misrepresentation questions: In the present case, the Commission states that, "as a matter of judgment, the manner

in which the survey was made leaves something to be desired," with which we agree; but our review of the record leaves us unconvinced that the Commission's clearance of Crowder on this issue should be set aside. We are of a like mind on the related issue of misrepresentation, or failure to disclose any material fact, regarding the survey of community tastes, needs and desires. (126 U.S. App. D.C. at 125, 375 F. 2d at 301, 8 RR 2d at 2092). After hearing was held on the trafficking and Carroll issues, the Commission proceeded to deny exceptions to the Examiner's initial decision as not of decisional significance or as unnecessary, which exceptions had been taken by Folkways and which involved the matter of alleged misrepresentations relating to the Crowder's community survey. Similarly, the Commission did not reach Folkways' request for the specification of a separate misrepresentation issue to permit Crowder's disqualification on that ground on the basis of record evidence. While we do not agree with the Bureau and Crowder that the Commission's action in denying certain exceptions of Folkways automatically disposes of the instant request, we do believe that the matter of the community survey has been effectively considered in the prior AM proceeding at both the pre- and post-designation stages and has been discounted in the ultimate resolution of Crowder's qualifications by both the Commission and the Court. Moreover, the issues already specified in this FM proceeding provide for an adequate consideration of Crowder's past behavior, including his misrepresentations to the Commission in the course of the trafficking inquiry, and we do not see how the matters now raised by Folkways, which could only be introduced at hearing under a separate issue, would significantly aid in the resolution of this case. We would also note that petitioner's suggested course of action would entail the consideration of some very stale material²³ and would, of necessity, unduly prolong this FM proceeding.

18. Accordingly, it is ordered, That the petition for leave to file response to reply of Folkways, filed September 25, 1970, by F. L. Crowder, trading as Harriman Broadcasting Co., is granted, and the responsive pleading is accepted; and the motion ne recipiatur, filed October 9, 1970, by Folkways Broadcasting Co., Inc., is denied; and

²³ For example, Crowder's opposition to Folkways' petition to deny the AM application, upon which Folkways relied to support the instant request, was filed on Jan. 8, 1963.

19. It is further ordered, That the petition for enlargement of issues, filed August 3, 1970, by Folkways Broadcasting Co., Inc., is granted to the extent indicated herein and is denied in all other respects; and

20. It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether F. L. Crowder, trading as Harriman Broadcasting Co., has solicited or encouraged others to make ex parte presentations on his behalf in the instant proceeding and/or in Docket No. 17255 in violation of § 1.1225 of the Commission's rules, and, if so, the effect thereof on the applicant's requisite or comparative qualifications;

(b) To determine whether F. L. Crowder, trading as Harriman Broadcasting Co., failed to disclose information concerning ex parte presentations in the instant proceeding and/or in Docket No. 17255 in violation of § 1.1245 of the Commission's rules, and, if so, the effect thereof on the applicant's requisite or comparative qualifications.

(c) To determine the facts and circumstances surrounding the advertisement by standard broadcast Station WXXL in July of 1967, of a promotion entitled "Fish for Money" and whether such announcements constituted the advertisement of a lottery in contravention of section 1304 of title 18, U.S.C., and § 73.122 of the Commission's rule, and, if so, the effect thereof on the comparative qualifications of F. L. Crowder, trading as Harriman Broadcasting Co.;

(d) To determine whether F. L. Crowder, trading as Harriman Broadcasting Co., failed to exercise reasonable diligence, control, and supervision of Station WXXL's programming to insure that announcements broadcast concerning the "Fish for Money" promotion did not advertise a lottery, and, if so, the effect thereof on the comparative qualifications of F. L. Crowder, trading as Harriman Broadcasting Co.

21. It is further ordered, That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Folkways Broadcasting Co., Inc., and the burden of proof under said issues shall be on F. L. Crowder, trading as Harriman Broadcasting Co.

Adopted: June 2, 1971.

Released: June 4, 1971.

FEDERAL COMMUNICATIONS

COMMISSION,

[SEAL] BEN F. WAPLE,

Secretary.

[FR Doc. 71-8135 Filed 6-9-71; 8:52 am]

FEDERAL POWER COMMISSION

[Docket No. R171-1062, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

JUNE 2, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and

¹ Does not consolidate for hearing or dispose of the several matters herein.

charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until

date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
R171-1062..	Atlantic Richfield Co.	458	6	El Paso Natural Gas Co. (Brown Bassett Field, Terrell County, Tex., Permian Basin).	\$420	5-7-71	7-8-71	17.2848	17.5656		R170-662
R171-1063..	Texaco, Inc.	232	5	Transwestern Pipeline Co. (South Kermit Plant, Winkler County, Tex., Permian Basin).	33,544	5-13-71	7-14-71	18.0394	121.0		R168-459
R171-1064..	Shell Oil Co.	383	1	El Paso Natural Gas Co. (Toro Field, Reeves County, Tex., Permian Basin).	33,469	4-23-71	6-24-71	22.0	26.5		
R171-1065..	Atlantic Richfield Co.	28	39	El Paso Natural Gas Co. (Spraberry Field, Midland, Glasscock, Upton, and Reagan Counties, Tex., Permian Basin).	2,996	5-7-71	8-2-71	19.8364	20.3450		R171-355
.....do.....	.....do.....	240	12	.....do.....	10	5-7-71	8-2-71	19.8364	20.3450		R171-355
.....do.....	.....do.....	29	19	El Paso Natural Gas Co. (Payton-Devonian Field, Ward and Pecos Counties, Tex., Permian Basin).	163	5-7-71	8-2-71	18.3108	18.8191		R171-355
.....do.....	.....do.....	140	16	El Paso Natural Gas Co. (University Block 9 Field, Andrews County, Tex., Permian Basin).	5,285	5-7-71	8-2-71	16.7846	17.2933		R171-355
.....do.....	.....do.....	208	13	El Paso Natural Gas Co. (Headlee Plant, Ector County, Tex., Permian Basin).	(*)	5-7-71	8-2-71	19.6682	20.1725		R171-355
.....do.....	.....do.....	243	20	El Paso Natural Gas Co. (Galmat Field, Lea County, N. Mex., Permian Basin).	(*)	5-7-71	8-2-71	18.4138	18.9253		R171-355
.....do.....	.....do.....	245	12	El Paso Natural Gas Co. (Drinkard Field, Lea County, N. Mex., Permian Basin).	212	5-7-71	8-2-71	18.4138	18.9253		R171-355
.....do.....	.....do.....	11	16	El Paso Natural Gas Co. (Lanzetta-Mattix Field, Lea County, N. Mex., Permian Basin).	134	5-7-71	8-2-71	18.4138	18.9253		R171-355

See footnotes at end of document.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
.....do.....	.....do.....	15	16	.....do.....	197	5-7-71	8-2-71	18.4138	18.9253		R171-353
.....do.....	.....do.....	19	15	.....do.....	174	5-7-71	8-2-71	18.4138	18.9253		R171-353
.....do.....	.....do.....	17	15	El Paso Natural Gas Co. (South Eunice Field, Lea County, N. Mex., Permian Basin).	334	5-7-71	8-2-71	18.4138	18.9253		R171-353
.....do.....	.....do.....	18	17	El Paso Natural Gas Co. (Justis Field, Lea County, N. Mex., Permian Basin).	28	5-7-71	8-2-71	18.4138	18.9253		R171-353
.....do.....	.....do.....	20	30	El Paso Natural Gas Co. (Lanzetta-Mattix and other fields, Lea County, N. Mex., Permian Basin).	19,361	5-7-71	8-2-71	18.4138	18.9253		R171-355
.....do.....	.....do.....	26	17	El Paso Natural Gas Co. (Slaughter Gas Plant, Hockley County, Tex., Permian Basin).	1,853	5-7-71	8-2-71	19.6466	20.1509		R171-355
R171-1066..	Aztec Oil & Gas Co. et al.	35	9	El Paso Natural Gas Co. (Mesa Verde Formation, San Juan County, N. Mex., Permian Basin).	2,470	5-7-71	7-8-71	14.0536	15.2886		R164-566
R171-1067..	Mobil Oil Corp.	315	6	Northern Natural Gas Co. (Baggett Field, Crockett County, Tex., Permian Basin).	1,069	5-6-71	7-7-71	17.0638	18.0675		R168-408
R171-1068..	Tenneco Oil Co.	160	9	El Paso Natural Gas Co. (Jalmit Field, Lea County, N. Mex., Permian Basin).	2,064	5-10-71	7-11-71	13.34	17.50		
R171-1069..	Feimont Oil Corp.	16	14	Transcontinental Gas Pipe Line Corp. (Ship Shoal Bipek 239 Unit, Offshore Louisiana).	892	5-3-71	6-19-71	17.0	21.25		
R171-1070..	Cities Service Oil Co.	178	21, 22	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (West Delta Area, Offshore Louisiana) (Disputed Area).	24,938	5-3-71	6-18-71	21.5	22.375		R171-677
R171-1071..	Belco Petroleum Corp.	16	15	Texas Gas Transmission Corp. (North Maurice Field, Lafayette Parish, Southern Louisiana).	.....	5-7-71	6-7-71	Accepted	.....	.....	R171-686
.....do.....	.....do.....	16	12, 16	.....do.....	138,700	5-7-71	6-22-71	21.25	21.25	21.25	R171-686
R171-1072..	Skelly Oil Co. et al.	123	12	Southern Natural Gas Co. (Dexter Field, Marion and Walthall Counties, Miss.).	358,239	5-12-71	11-12-71	21.6	27.8833		
R171-1073..	Mobil Oil Corp.	69	12, 28	United Gas Pipe Line Co. (Cameron Meadows et al., Fields, Cameron Parish, Southern Louisiana).	65,244	5-10-71	6-25-71	22.375	23.75		R171-492
R171-1074..	Union Oil Co. of California.	130	15, 15	Tennessee Gas Pipeline Co. (Rollover Field, Vermilion Area, Offshore Louisiana).	.....	5-10-71	6-10-71	Accepted	.....	.....	R171-564
.....do.....	.....do.....	120	16	.....do.....	17,787,500	5-10-71	6-25-71	19.75	22.375		R171-564
R171-1075..	Crystal Oil Co. et al.	26	26	United Gas Pipe Line Co. (Bethany Field, Panola County, Tex., Railroad District No. 6).	121,423	5-10-71	6-25-71	Accepted	.....	.....
.....do.....	.....do.....	26	1	.....do.....	670	4-29-71	6-30-71	11.9000	15.0		
R171-1076..	Chevron Oil Co.	30	4	Cimarron Gas Transmission Co. (Southwest Enville Field, Love County, Okla., Other Area).	446	4-29-71	7-2-71	11.9033	15.0		R168-582
.....do.....	.....do.....	31	7	.....do.....	1,403	4-29-71	7-2-71	18.1565	19.5596		R168-170
R171-1077..	Hunt Oil Co. et al.	47	27	Texas Gas Transmission Corp. (Red Rock-North Shongaloo Field, Webster and Claiborne Parishes, Northern Louisiana).	500	5-7-71	7-8-71	18.75	19.75		
R171-1078..	Texaco, Inc.	103	4	Lone Star Gas Co. (Doyle Field, Stephens County, Okla., Other Area).	1,349	5-10-71	11-10-71	17.9	20.9		R170-42
R171-1079..	Southwest Gas Producing Co., Inc.	17	3	Arkansas Louisiana Gas Co. (Vixen Field, Caldwell Parish, Northern Louisiana).	4,000	5-10-71	7-11-71	18.5	20.5		
R171-1080..	Gulf Oil Corp.	423	4	United Gas P/L Co. (Hainesville Dome Field, Wood County, RR, District No. 6).	3,830	4-20-71	7-1-71	15.0	17.66		

FOOTNOTES:

- ¹ Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
² Contractual due rate is 27.2 cents.
³ Initial rate prescribed in temporary certificate issued May 14, 1971, in Docket No. C171-772.
⁴ Or 1 day from date of initial delivery, whichever is later.
⁵ No sales being made under this rate schedule at the present time.
⁶ Old gas well gas only. Does not include casinghead gas under letter agreement dated June 22, 1967 (Supplement No. 12).
⁷ Subject to 0.4467 cents per Mcf compression charge where applicable.
⁸ Includes 1-cent minimum guarantee on liquids.
⁹ Increase resulting from termination of moratorium in Southern Louisiana pursuant to Order No. 413 as amended Oct. 27, 1970.
¹⁰ Pertains to gas produced from the basic contract acreage.
¹¹ Based on Favored Nations provisions of the contract. Applicant states that a rate of 22.7833 cents is applicable.
¹² Includes documents required by Opinion No. 567.
¹³ Applicable only to sales from reservoirs specified therein.
¹⁴ Renegotiated contract rate is 27 cents.
¹⁵ Agreement dated May 4, 1971, provides, among other things, for the renegotiated rates specified therein.
¹⁶ Amendment dated Apr. 29, 1971, provides among other things for extension of contract term and for renegotiated rates specified therein.
¹⁷ As corrected.
¹⁸ Applicable to all gas except gas sold from reservoirs discovered after Oct. 1, 1968.
¹⁹ Includes 1 cent for delivery of offshore gas to onshore.
²⁰ Applicable to gas sold from reservoirs discovered after Oct. 1, 1968.

- ²¹ Contract dated Dec. 4, 1970, which provides for increased rate and supersedes contracts dated May 7, 1966, and June 5, 1962, on file under Crystal Oil Co. (Operator) et al., FPC GRS No. 7 and Bert Fields, Jr. (Operator) et al., FPC GRS No. 4, respectively.
²² Current rate under Crystal's RS No. 7, includes 0.15-cent tax reimbursement.
²³ Current rate under Field's RS No. 4, includes 0.1533-cent tax reimbursement.
²⁴ Pursuant to Order No. 423.
²⁵ Base rate subject to downward B.t.u. adjustment.
²⁶ Base rate subject to upward and downward B.t.u. adjustment.
²⁷ Includes upward B.t.u. adjustment.
²⁸ Includes tax reimbursement.
²⁹ Corrected by filing of May 13, 1971.
³⁰ Applicable only to acreage added by Supplement No. 6.
³¹ Base rate subject to downward B.t.u. adjustment.
³² Applicant filing from initial certificated rate to initial contract rate.
³³ Unilateral rate increase. Primary term of contract has expired.
³⁴ Includes 1.5-cent tax reimbursement.
³⁵ Not used.
³⁶ The pressure base is 15.025 p.s.i.a.
³⁷ Accepted to become effective on the dates shown in the "Effective Date" column.
³⁸ Accepted to become effective on the dates shown in the "Effective Date" column with the express condition that this acceptance of the agreement does not constitute authorization under section 7 of the Natural Gas Act to initiate sales from the additional acreage dedicated to the contract by the agreement.
³⁹ Accepted to become effective on the date shown in the "Effective Date" column. The acceptance of the agreement filed by Union Oil Company of California is subject to the conditions prescribed elsewhere in this order.

The agreement filed by Union under its Rate Schedule No. 120 in addition to providing for the proposed increased rate involved here also provides for future escalations to any higher area ceiling rate prescribed or allowed to be collected by the Commission. These provisions do not conform with § 154.93(b-1) of the Commission's regulations. Consistent with Commission action taken on similar filings not in conformity with § 154.93(b-1), the agreement is accepted for filing upon expiration of statutory notice with the condition that these provisions will only apply upon the approval of a just and reasonable rate, or settlement rate, in an applicable area rate proceeding, for gas of comparable quality and vintage.

All of the southern Louisiana increases are suspended for a period ending 45 days from the date of filing or 1 day from the contractually due date, whichever is later, consistently with prior Commission action on southern Louisiana increases exceeding the area rates set forth in Opinions Nos. 546 and 548-A. The proposed increased rates in areas outside southern Louisiana filed by Texaco and Skelly which exceed the corresponding rate limitation for increased rates in southern Louisiana are suspended for 5 months upon expiration of statutory notice period. All of the other increases are suspended for periods ending 61 days from the dates of filing or for 1 day from the contractually due date, whichever is later.

Certain respondents request either waiver of notice or effective dates for which adequate notice was not given. Good cause has not been shown for granting these requests and they are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR Ch. I, Pt. 2, § 256).

[FR Doc. 71-8016 Filed 6-9-71; 8:45 am]

[Docket No. CP71-275]

TENNESSEE GAS PIPELINE CO. Notice of Application

JUNE 3, 1971.

Take notice that on May 19, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (applicant), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP71-275 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of natural gas to Midwestern Gas Transmission Co. (Midwestern), an existing customer, at an additional delivery point for a term ending November 1, 1971, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is presently authorized to sell a maximum daily volume of 600,780 Mcf of natural gas to Midwestern through two delivery points. Applicant explains that it has commenced the purchase of natural gas on a best-efforts basis from National Chemical Co. (National) and that the volumes of gas so purchased are delivered to Midwestern, for the account of applicant, at an interconnection of the facilities of National and Midwestern near Owensboro, Ky. These volumes are accepted by Midwestern in lieu of equivalent vol-

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umes to be delivered by applicant at one of the two existing delivery points.

Applicant states that this action was undertaken pursuant to § 157.22(d) of the regulations under the Natural Gas Act (18 CFR 157.22(d)) because of an emergency supply situation existing in its Southwest Louisiana supply area, and that there are no additional sales proposed or facilities necessary to implement the aforementioned delivery. Continuation of the emergency deliveries are stated to be in furtherance of the policy set forth in § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8105 Filed 6-9-71; 8:50 am]

[Docket No. CP71-277]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JUNE 3, 1971.

Take notice that on May 20, 1971, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP71-277 an application pursuant to section 7(b) of the Natural Gas Act for an order

of the Commission permitting and approving the abandonment of various facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to abandon the following facilities:

(1) Approximately 0.13 mile of 6-inch transmission purchase pipeline known as the Union Oil-North White Lake purchase facilities, Vermilion Parish, La.

(2) Approximately 0.46 mile of 4-inch transmission purchase pipeline and one metering and regulator station and related facilities known as the J. Ray McDermott-Bancker purchase facilities, Vermilion Parish, La.

(3) Approximately 0.69 mile of 4-inch transmission purchase line and one metering and regulator station and related facilities known as the Tidewater-Gueydan purchase facilities, Vermilion Parish, La.

(4) Approximately 0.42 mile of 8-inch transmission purchase line and one metering and regulating station and related facilities known as the Tennessee Gas No. 2 Block 77 purchase facilities, Vermilion Area, Offshore Louisiana.

(5) Approximately 6.58 miles of 6-inch transmission purchase line known as Shell-Bear purchase line and approximately 2.37 miles of 4-inch gathering line and related gathering M&R station known as the Sun-Cowpen Creek purchase facilities, Beauregard Parish, La.

(6) Approximately 0.86 mile of 4-inch transmission purchase line and one metering and regulator station and related facilities known as the Union Block 35 No. 2 purchase facilities, Vermilion Area, Offshore Louisiana.

(7) Approximately 2.11 miles of 4-inch transmission purchase line and one metering and regulator station and related facilities known as the ODECO Block 129A purchase facilities, Eugene Island Area, Offshore Louisiana.

(8) Approximately 0.33 mile of 4-inch field gathering line and one metering and regulator station and related facilities known as the Trice-Bancker purchase facilities, Vermilion Parish, La.

Applicant states that these facilities were used to take into its pipeline system supplies of natural gas purchased from various producers in the respective fields and that said deliveries have been terminated because of exhaustion of reserves. Applicant further states that the metering and regulating stations and appurtenant facilities, where possible, will be salvaged for use at other company locations and that the pipelines will be abandoned in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with

the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8106 Filed 6-9-71; 8:50 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Authorization for System Foreign Currency Operations

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below paragraph 3 of the Committee's Authorization for System Foreign Currency Operations, as amended by action taken at its meeting on March 9, 1971.

3. Currencies to be used for liquidation of System swap commitments may be purchased from the foreign central bank drawn on, at the same exchange rate as that employed in the drawing to be liquidated. Apart from any such purchases at the rate of the drawing, all transactions in foreign currencies undertaken under paragraph 1(A) above shall, unless otherwise expressly authorized by the Committee, be at prevailing market rates and no attempt shall be made to establish rates that appear to be out of line with underlying market forces.

Note: For paragraph 1 of the authorization, see 34 F.R. 9044; for paragraph 2, see 35 F.R. 9297; and for paragraphs 4 through 10, see 32 F.R. 9583.

By order of the Federal Open Market Committee, June 2, 1971.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc. 71-8051 Filed 6-9-71; 8:45 am]

NOTICES

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive of March 9, 1971

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on March 9, 1971.¹

The information reviewed at this meeting suggests that real output of goods and services, which declined in the fourth quarter of 1970, is rising in the current quarter primarily because of the resumption of higher automobile production. Although the unemployment rate has edged down recently, it remains high. Wage rates in most sectors are continuing to rise at a rapid pace. Movements in major price measures have been diversified; most recently, the rate of advance moderated for consumer prices and wholesale prices of industrial commodities, but wholesale prices of farm products and foods rose sharply. Bank credit increased considerably further in February, as business loans strengthened substantially and banks again made sizable additions to their holdings of securities. The money stock both narrowly and broadly defined expanded sharply in February. Short-term interest rates and mortgage rates have fallen further in recent weeks but yields on new issues of corporate and municipal bonds have risen considerably, in part as a result of the very heavy calendar of offerings. The overall balance of payments deficit in January and February was exceptionally large. Imports increased more rapidly than exports in January, and capital outflows have been stimulated by widened short-term interest rate differentials. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to the resumption of sustainable economic growth, while encouraging an orderly reduction in the rate of inflation and the attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, System open market operations until the next meeting of the Committee shall be conducted with a view to maintaining prevailing money market conditions while accommodating any downward movements in long-term rates; provided that money market conditions shall be modified if it appears that the monetary and credit aggregates are deviating significantly from the growth paths expected.

By order of the Federal Open Market Committee, June 2, 1971.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc. 71-8052 Filed 6-9-71; 8:45 am]

FIRST TEXAS BANCORP, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section

¹ The Record of Policy Actions of the Committee for the meeting of Mar. 9, 1971, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by First Texas Bancorp, Inc., Georgetown, Tex., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of at least 66 percent of the voting shares of American State Bank, Killeen, Tex., of at least 82 percent of the voting shares of Citizens State Bank, Georgetown, Tex., and of at least 46 percent of the voting shares of First National Bank, Lampasas, Tex.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

By order of the Board of Governors, June 4, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-8053 Filed 6-9-71; 8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.;
Temporary Reg. F-106]

SECRETARY OF DEFENSE Delegation of Authority

1. Purpose. This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the North Carolina Utilities Commission in a proceeding (Docket No. E-2, Sub 201) involving electric service rates of the Carolina Power & Light Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: June 4, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc. 71-8118 Filed 6-9-71; 8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5029]

AMERICAN ELECTRIC POWER CO., INC.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealer in Commercial Paper by Holding Com- pany, Exception From Competitive Bidding, and Capital Contributions to Subsidiary Companies

JUNE 4, 1971.

Notice is hereby given that American Electric Power Co., Inc. (AEP), 2 Broadway, New York, NY 10004, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b) and 12 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

AEP requests, pursuant to section 6(b) of the Act, that it be authorized to issue and sell, from time to time prior to June 30, 1973, short-term notes (including commercial paper) in an aggregate face amount of not more than \$150 million to be outstanding at any one time. The amount of bank notes and commercial paper to be outstanding includes any such previously authorized notes which may be outstanding (File No. 70-4779).

The proceeds from the sale of the short-term notes are to be applied by AEP, together with other funds, to make additional investments in certain of its public-utility subsidiary companies to assist them in financing the costs of their respective construction programs and for other corporate purposes. AEP requests authority to make capital contributions from time to time prior to June 30, 1973, to five of its public-utility subsidiary companies, as follows: \$80 million to Ohio Power Co. (Ohio), \$30 million to Appalachian Power Co. (Appalachian), \$50 million to Indiana & Michigan Electric Co. (I&M), \$5 million to Kentucky Power Co. (Kentucky), and \$2 million to Wheeling Electric Co. (Wheeling). The construction programs of the five subsidiary companies for the period June 1, 1971, through December 31, 1972, are estimated as follows: \$340 million for Ohio, \$144 million for Appalachian, \$268 million for I&M, \$13,605,000 for Kentucky, and \$2,550,000 for Wheeling.

The notes to be sold to banks will bear interest not greater than the prime commercial rate then in effect, will mature not more than 270 days from the date of issue or reissue thereof, and will be prepayable at any time without premium or penalty. AEP will file with the Commission by amendment a list of the banks to which it proposes to issue and sell the proposed notes, and no such notes will be issued and sold prior to the issuance of an order by the Commission in connection therewith.

AEP proposes to issue and sell, from time to time prior to June 30, 1973, commercial paper to a dealer in commercial paper (dealer). The commercial paper notes will be of varying maturities with no such notes maturing more than 270 days after the date of issue, and none will be repayable prior to maturity. Such notes, in denominations of not less than \$50,000 and not more than \$5 million, will be issued and sold by AEP directly to the dealer at a discount rate which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such commercial paper notes would have an effective interest cost which exceeds the effective interest cost at which AEP could borrow from banks. The dealer will reoffer the commercial paper notes to not more than 200 of such dealer's customers, identified and designated in a nonpublic list prepared by the dealer in advance, at a discount rate of one-eighth of 1 percent per annum less than the discount rate to AEP. It is expected that such customers of the dealer will hold the commercial paper notes to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on the list.

It is stated that AEP will retire any notes to banks or commercial paper issued and sold pursuant to the authorization of the Commission in this proceeding on or before December 31, 1973, from internal cash resources and with the proceeds of the sale of common stock and such other securities as the Commission may authorize.

AEP requests an exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. AEP states that it is not practical to invite competitive bids for commercial paper and that current rates for commercial paper for such prime borrowers as AEP are published daily in financial publications. AEP also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper hereafter consummated pursuant to this proceeding on a quarterly basis.

The application-declaration states that fees and expenses of approximately \$2,500 are to be incurred by AEP in connection with the proposed transactions. It is further stated that the capital contributions of AEP to Appalachian require authorization by the State Corporation Commission of Virginia and the Public Service Commission of West Virginia, that the capital contributions to Wheeling require authorization of the Public Service Commission of West Virginia, such authorizations to be filed by amendment, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 28, 1971, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc. 71-8065 Filed 6-9-71; 8:46 am]

[24NY-6960]

AT-YOUR-SERVICE LEASING CORP. Order Permanently Suspending Regulation A Exemption

JUNE 1, 1971.

At-Your-Service Leasing Corp. (Issuer), 449 60th Street, West New York, NJ, a New Jersey corporation, filed with the Commission on October 23, 1969, a notification and offering circular, and subsequently filed amendments thereto, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933 pursuant to section 3(b) thereof and Regulation A thereunder, with respect to a public offering of 100,000 shares of its \$0.01 par value common stock at \$3 per share.

On January 28, 1971, the Commission issued an order, pursuant to Rule 261 of Regulation A, temporarily suspending the exemption. The order alleged that the notification and offering circular contained untrue and misleading statements of material facts in that, among other things, disclosure was not made that a certain individual would participate as an underwriter in the offering and that he had been enjoined from violations of section 5 of the Act; the issuer failed to conduct the offering in accordance with the terms set forth in the offering circular which stated that funds received under the offering would be returned to subscribers unless a minimum number of shares were sold within 90 days and that the money received during the 90-day period would be deposited in a special account; the offering circular stated that 100,000 shares would be issued only if the issuer received \$300,000 (less commissions and expenses) when in fact the issuer received only \$127,500 despite the issuance of 100,000 shares to the public; the recital in the offering circular of the use of proceeds omitted any allocation for payment of part of a management consultant fee; and a firm other than the one named in the offering circular acted as transfer agent for the issuer. It was further alleged that the use of the offering circular was in violation of section 17(a) of the Act.

Counsel for the issuer filed a statement that the issuer did not intend to request a hearing, that it consented to the entry of an order permanently suspending the exemption under Regulation A, and that it intended to file a registration statement under the Securities Act for the primary purpose of offering rescission to purchasers in the Regulation A offering.

In view of the foregoing, it is appropriate to enter an order permanently suspending the exemption.

Accordingly, it is ordered, Pursuant to

Rule 261 of Regulation A under the Securities Act of 1933, that the exemption from registration with respect to the offering of securities by At-Your-Service Leasing Corp. be, and it hereby is, permanently suspended.

For the Commission, by the Office of Opinions and Review, pursuant to delegated authority.

THEODORE L. HUMES,
Associate Secretary.
[FR Doc. 71-8066 Filed 6-9-71; 8:46 am]

[24A-1972]

AUTRY ENTERPRISES, INC. Order Permanently Suspending Regulation A Exemption

JUNE 2, 1971.

Autry Enterprises, Inc. (Issuer), Atlanta, Ga., a Georgia corporation, filed with the Commission on November 3, 1969 a notification and offering circular for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933 pursuant to section 3(b) thereof and Regulation A thereunder, with respect to a proposed public offering of 60,000 shares of its \$0.50 par value common stock at \$5 per share.

The Commission on October 7, 1970 issued an order pursuant to Rule 261 of Regulation A temporarily suspending the exemption. The order alleged, among other things, that no Regulation A exemption was available for securities of the issuer under Rule 252(d) in that an officer of the issuer and an unnamed underwriter were subjects of injunctions against violations of the Securities Act; that the terms and condition of Regulation A were not complied with in that the aggregate offering price as computed under Rule 253(c)(2) exceeded the \$300,000 limitation imposed by Rule 254(a); and that the notification and offering circular omitted required information and contained materially misleading statements respecting, among other things, the Issuer's predecessors, affiliates, and underwriters, previous sales of unregistered securities, the purchase prices of and amounts due on various properties acquired by the Issuer, and material transactions between the Issuer and its officers and directors.

The Issuer filed an answer denying various allegations and requesting a hearing to determine whether that order should be vacated or an order entered permanently suspending the exemption. Subsequently, however, the Issuer withdrew its request for a hearing.

In view of the foregoing it is appropriate to enter an order permanently suspending the exemption.

Accordingly, it is ordered, Pursuant to Rule 261 of Regulation A under the Securities Act of 1933, that the exemption from registration with respect to the above public offering of securities by Autry Enterprises, Inc., be, and it hereby is, permanently suspended.

For the Commission, by the Office of Opinions and Review, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc. 71-8067 Filed 6-9-71; 8:46 am]

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP. Order Suspending Trading

JUNE 3, 1971.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange;

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 4, 1971 through June 13, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc. 71-8068 Filed 6-9-71; 8:46 am]

[811-2132]

FIRST OF LOUISVILLE EQUITY FUND Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Com- pany

JUNE 4, 1971.

Notice is hereby given that First Louisville Equity Fund (Applicant), an open-end diversified investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant represents that it registered under the Act on October 19, 1970. Applicant further represents that on April 5, 1971, the U.S. Supreme Court held that the operation of the applicant as a collective investment fund is prohibited by

federal banking laws. Accordingly, its registration statement filed under the Securities Act of 1933 has been withdrawn. Applicant has issued no securities; has not engaged in any business activities and does not intend to engage in any business activities; and it has no assets.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect. Terested person may, not later than June 28, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8069 Filed 6-9-71;8:46 am]

[70-5030]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding

JUNE 3, 1971.

Notice is hereby given that Indiana & Michigan Electric Co. (I&M), 2101 Spy

Run Avenue, Fort Wayne, IN 46801, an electric utility subsidiary company of American Electric Power Co., Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

I&M requests that from the date of the granting of this application to June 30, 1973, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks and to dealers in commercial paper up to the maximum amounts allowable under its Articles of Acceptance. I&M proposes to issue short-term notes to banks and commercial paper dealers in an aggregate amount not to exceed \$63,500,000 outstanding at any one time, including short-term notes presently outstanding, such amount being the maximum allowable under I&M's Articles of Acceptance as of April 30, 1971. Increases in this amount may be authorized by supplemental order of the Commission. The notes are to be issued from time to time prior to June 30, 1973, as funds are required, provided that none of the notes will mature later than December 31, 1973.

The proceeds from the issue and sale of the notes will be used by I&M to reimburse its treasury for past expenditures made in connection with its construction program, to pay part of the cost of its future construction program, and for other corporate purposes. Such construction expenditures for the second half of 1971 and for the year 1972 are estimated to total \$93 million and \$175 million, respectively. The application states that, unless otherwise authorized by the Commission, all of the short-term debt of I&M will be retired prior to December 31, 1973, from internal cash resources, debt or equity financing, or cash capital contributions.

Each note payable to a bank to be issued by I&M will be dated as of the date of the borrowing which it evidences and will mature not more than 270 days after the date of issuance or renewal thereof. Each such note will bear interest no greater than the prime rate of commercial banks at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. I&M will not effect any borrowings from banks pursuant to this application until an amendment thereto has been filed setting forth the name or names of the banks from which such borrowings are to be effected and such amendment shall have been granted by order of the Commission.

The commercial paper will be in denominations of not less than \$50,000 nor more than \$5 million and will be of varying maturities, with no maturity more

than 270 days after the date of issue; none will be prepayable prior to maturity. The commercial paper notes will be sold directly to not more than two dealers at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity more than 90 days at an effective interest cost which exceeds the effective interest cost at which I&M could borrow from banks. The dealers will reoffer the commercial paper notes to not more than 100 of their customers identified and designated in a list (nonpublic) prepared in advance. It is expected that I&M's commercial paper notes will be held by each dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others in its group of 100 customers.

I&M requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as I&M are published daily in financial publications. I&M also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper hereafter consummated pursuant to this proceeding on a quarterly basis.

The application states that expenses related to the proposed transactions are estimated at \$2,500. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 28, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further

developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8070 Filed 6-9-71;8:46 am]

[70-5032]

JERSEY CENTRAL POWER & LIGHT CO. AND NEW JERSEY POWER & LIGHT CO.

Notice of Proposed Intrasystem Sale and Acquisition of Utility Assets

JUNE 4, 1971.

Notice is hereby given that Jersey Central Power & Light Co. (JCP&L) and New Jersey Power & Light Co. (NJ&P&L), Madison Avenue at Punch Bowl Road, Morristown, NJ 07960, both public-utility subsidiary companies of General Public Utilities Corp., a registered holding company, have filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

JCP&L proposes to sell and NJ&P&L proposes to acquire certain utility assets now owned by JCP&L consisting primarily of transformers and related equipment and voltage regulators, a circuit breaker and transmission equipment, at the original cost thereof or in the case of used equipment at the original cost thereof less depreciation to the date of sale or transfer, or, if the assets are already being used by NJ&P&L, to the date when such use commenced. If the sales and acquisitions had been consummated at December 31, 1970, the aggregate consideration would have been approximately \$210,144. The actual consideration will be of a lesser amount to reflect additional depreciation accruing after December 31, 1970. It is stated that the assets have ceased to be useful to JCP&L in the operation of its utility business and that the assets are needed by NJ&P&L in the operation of its utility business. It is further stated that the transaction is not being made pursuant to a written agreement.

The Board of Public Utility Commissioners of the State of New Jersey has approved the proposed sales by JCP&L. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The total fees and expenses, all of which are to be paid by JCP&L, are estimated at \$1,800, including \$1,600 for legal fees.

Notice is further given that any interested person may, not later than June 30, 1971, request in writing that a hearing be held on such matter, stating the na-

ture of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8071 Filed 6-9-71;8:46 am]

[70-5031]

NEW JERSEY POWER & LIGHT CO. AND JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Intrasystem Sale and Acquisition of Utility Assets

JUNE 4, 1971.

Notice is hereby given that New Jersey Power & Light Co. (NJ&P&L) and Jersey Central Power & Light Co. (JCP&L), Madison Avenue at Punch Bowl Road, Morristown, NJ 07960, both public-utility subsidiary companies of General Public Utilities Corp., a registered holding company, have filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

NJ&P&L proposes to sell and JCP&L proposes to acquire certain utility assets now owned by JCP&L consisting primarily of transformers and related equipment and switchgear, circuit breaker, and miscellaneous equipment, at the original cost thereof or in the case of used equipment at the original cost thereof less depreciation to the date of sale or transfer, or, if the assets are already being used by JCP&L, to the date when such use commenced. If the sales and acquisitions had been consummated at December 31, 1970,

the aggregate consideration would have been approximately \$124,084. The actual consideration paid will be of a lesser amount to reflect additional depreciation accruing after December 31, 1970. It is stated that the assets have ceased to be useful to NJ&P&L in the operation of its utility business and that the assets are needed by JCP&L in the operation of its utility business. It is further stated that the transaction is not being made pursuant to a written agreement.

The Board of Public Utility Commissioners of the State of New Jersey has approved the proposed sales by NJ&P&L. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The total fees and expenses, all of which are to be paid by NJ&P&L, are estimated at \$1,800, including \$1,600 for legal fees.

Notice is further given that any interested person may, not later than June 30, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8072 Filed 6-9-71;8:47 am]

[70-5033]

OHIO POWER CO.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding

JUNE 3, 1971.

Notice is hereby given that Ohio Power Co. (Ohio), 301 Cleveland Avenue SW.,

Canton, OH 44701, an electric utility company of American Electric Power Co., Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50(a) (5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Ohio requests that from the date of the granting of this application to June 30, 1973, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks and to dealers in commercial paper up to the maximum amounts allowable under its Articles of Incorporation. Ohio proposes to issue short-term notes to banks and commercial paper dealers in an aggregate amount not to exceed \$95,500,000 outstanding at any one time, including short-term notes presently outstanding, such amount being the maximum allowable under Ohio's Articles of Incorporation as of April 30, 1971. Increases in this amount may be authorized by supplemental order of the Commission. The notes are to be issued from time to time prior to June 30, 1973, as funds are required, provided that none of the notes will mature later than December 31, 1973.

The proceeds from the issue and sale of the notes will be used by Ohio to reimburse its treasury for past expenditures made in connection with its construction program, to pay part of the cost of its future construction program, and for other corporate purposes. Such construction expenditures for the second half of 1971 and for the year 1972 are estimated to total \$95 million and \$245 million, respectively. The application states that, unless otherwise authorized by the Commission, all of the short-term debt of Ohio will be retired prior to December 31, 1973, from internal cash resources, debt or equity financing, or cash capital contributions.

Each note payable to a bank to be issued by Ohio will be dated as of the date of the borrowing which it evidences and will mature not more than 270 days after the date of issuance or renewal thereof. Each such note will bear interest no greater than the prime rate of commercial banks at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. Ohio will not effect any borrowings from banks pursuant to this application until an amendment thereto has been filed setting forth the name or names of the banks from which such borrowings are to be effected and such amendment shall have been granted by order of the Commission.

The commercial paper will be in denominations of not less than \$50,000 nor

more than \$5 million and will be of varying maturities, with no maturity more than 270 days after the date of issue; none will be prepayable prior to maturity. The Commercial paper notes will be sold directly to not more than two dealers at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity more than 90 days at an effective interest cost which exceeds the effective interest cost at which Ohio could borrow from banks. The dealers will reoffer the commercial paper notes to not more than 100 of their customers identified and designated in a list (non-public) prepared in advance. It is expected that Ohio's commercial paper notes will be held by each dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others in its group of 100 customers.

Ohio requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a) (5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as Ohio are published daily in financial publications. Ohio also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper hereafter consummated pursuant to this proceeding on a quarterly basis.

The application states that expenses related to the proposed transactions are estimated at \$2,500. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 28, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request would be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as

provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8073 Filed 6-9-71; 8:47 am]

[File No. 245F-3676]

PHYSICS TECHNOLOGY LABORATORIES, INC.

Order Temporarily Suspending Exemption Statement of Reasons Therefor, and Notice of Opportunity for Hearing

JUNE 3, 1971.

I. Physics Technology Laboratories, Inc. (PTL), 7841 El Cajon Boulevard, La Mesa, CA, was incorporated in California on December 27, 1961. It has been engaged in the development and production of a barbed wire type of metal tape, a device to apply thin coatings of materials to various surfaces and other products. PTL filed a notification under Regulation A with the San Francisco Office on January 29, 1971, and amendments to the notification on March 19 and April 12, 1971. The commencement of the offering has not been authorized and no official effective date for the offering has been established by PTL.

II. The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that the securities included in the filing have been offered to the public before 10 days have elapsed after the filing of an amendment to the notification, and are now being offered, by Financial Services, Inc., the underwriter of PTL.

B. The offering is being made or would be made in violation of section 17 of the Securities Act of 1933, as amended, by Financial Services, Inc., the underwriter of PTL, in that false and misleading information has been given in the offer of the securities (1) to the effect that the Commission has authorized commencement of the offering, that the offer has been oversold and that some purchasers of the stock intend to resell their shares immediately for quick profits and (2) in that unsupported predictions and projections about the future sales of the products of PTL have been made to the public by PTL and Financial Services, Inc.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a), subparagraph 1 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8074 Filed 6-9-71; 8:47 am]

DEPARTMENT OF LABOR

Office of the Secretary EVANGELINE SHOE CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of February 8, 1971, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-54) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the Evangeline Shoe Corp., Manchester, N.H. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the women's and misses' footwear produced by Evangeline Shoe Corp. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plant concerned. The President subsequently decided, under the authority of section 330(d)(1) of the

Tariff Act of 1930 as amended to accept the findings of those Commissioners who found injury as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In that recommendation he noted that layoffs resulting from increased imports started in the latter part of July 1969. After due consideration, I make the following certification:

All workers (hourly, salaried, and piecework) of the Evangeline Shoe Corp., Manchester, N.H. who became or will become unemployed or underemployed after July 24, 1969 are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C. this 3d day of June 1971.

GEORGE H. HILDEBRAND,
Deputy Under Secretary,
International Affairs.

[FR Doc.71-8063 Filed 6-9-71; 8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 47]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FOR- WARDER APPLICATIONS

JUNE 4, 1971.

The following applications are governed by Special Rule 100.247¹ of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 30844 (Sub-No. 359), filed May 14, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representatives: Paul Rhodes (same address as applicant) and Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products, meat byproducts, packinghouse products, and commodities used by packinghouses as described in appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Sterling, Colo., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests

it be held at Washington, D.C., or Denver, Colo.

No. MC 31435 (Sub-No. 8), filed May 20, 1971. Applicant: OVERLAND TRANSPORTATION COMPANY, a corporation, 184 Massillon Road, Akron, OH 44305. Applicant's representatives: Robert R. Redmon and Jack R. Turney, Jr., 2001 Massachusetts Avenues NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from Marietta, Ohio, to points in North Carolina, South Carolina, and Banning, La Grange, and Thomaston, Ga., and Lynchburg, Va. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Marietta or Columbus, Ohio.

No. MC 33641 (Sub-No. 96), filed May 19, 1971. Applicant: IML FREIGHT, INC., 2175 South, 3270 West, Salt Lake City, UT 84110. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo vans and/or containers, and empty cargo vans and containers, between ports of entry located in California, Oregon, and Washington, on the one hand, and, on the other, points in the continental United States, restricted to shipments having a prior or subsequent movement by water or air. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 34227 (Sub-No. 6), filed May 14, 1971. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, INC., 15 Broadway Street, Cortez, CO 81321. Applicant's representative: David R. Parker, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses*, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business; and (2) *commodities*, the transportation of which is partially exempt under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle and at the same time as the commodities described in (1) above; under contract with Associated Grocers of Colorado, Inc. Note: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Albuquerque, N. Mex.

No. MC 41404 (Sub-No. 97) (Correction), filed April 22, 1971, published in

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the FEDERAL REGISTER issue of May 20, 1971, and republished in part as corrected this issue. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Post Office Box 440, Fulton Highway, Martin, TN 38237. Applicant's representative: Tom D. Copeland (same address as above). Note: The purpose of this partial republication is to reflect the correct spelling of applicant's name as ARGO-COLLIER TRUCK LINES CORPORATION, in lieu of ARCO-COLLIER TRUCK LINES CORPORATION, inadvertently shown in previous publication. The rest of the application remains as previously published.

No. MC 51143 (Sub-No. 3), filed May 14, 1971. Applicant: B. & B. TRANSPORTATION, INC., 37 Ryder Avenue, Cranston, RI 02920. Applicant's representative: Russell B. Cornett, 36 Circuit Drive, Edgewood Station, Providence, RI 02905. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and empty malt-beverage containers*, between points in that part of Maine south of U.S. Highway 2 and west of Maine Highway 27, including points on the indicated portions of the highways specified, on the one hand, and, on the other, Waterville, Maine. Note: Applicant states that the requested authority can be tacked with its presently held authority in MC 51143 wherein as here pertinent it holds authority to transport malt beverages, and empty malt-beverage containers, between Cranston, Providence, and Warwick, R.I., on the one hand, and, on the other, points in Massachusetts; and beverages, between points in Essex County, Mass., on the one hand, and, on the other, points in that part of Maine south of U.S. Highway 2 and west of Maine Highway 27, including points on the indicated portions of the highway specified. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I., or Boston, Mass.

No. MC 57941 (Sub-No. 6), filed May 14, 1971. Applicant: CITY TRANSFER COMPANY, a corporation, 1712 South Central Avenue, Phoenix, AZ 85003. Applicant's representative: Donald E. Fernaays, 4114-A North 20th Street, Phoenix, AZ 85016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire extinguishing compounds* in bags, and bulk, *water* in bulk, in tank vehicles, between Phoenix, Ariz., on the one hand, and, on the other, points in New Mexico. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 61592 (Sub-No. 216), filed May 21, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a

common carrier, by motor vehicle over irregular routes, transporting: (A) *Anti-pollution systems, equipment, and parts, liquid cooling and vapor condensing systems, equipment, and parts*; (B) *equipment, materials, and supplies* used in the construction or installation of anti-pollution and environmental control and protective systems, and liquid cooling and vapor condensing systems, between points in the United States (except Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 64932 (Sub-No. 496), filed May 21, 1971. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, IL 60603. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dispersant and refrigeration gases*, in bulk, in tank vehicles, from East Chicago, Ind., to Grand Forks, N. Dak. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 65626 (Sub-No. 26), filed May 17, 1971. Applicant: FREDONIA EXPRESS, INC., Post Office Box 222, Fredonia, NY 14063. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Baltimore, Md., to points in New York and *empty containers*, on return from points in New York to Baltimore, Md. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 67500 (Sub-No. 5), filed May 17, 1971. Applicant: BLUE RIDGE TRUCKING COMPANY, a corporation, Koon Development, Asheville, N.C. 28803. Applicant's representative: James N. Golding, Post Office Box 7316, 4 South Pack Square, Asheville, NC 28807. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment); (1) from Murphy, N.C., over U.S. Highway 19 to Blairsville, Ga., thence over U.S. Highway 76 to Hiawassee, Ga., and return over the same route serving the intermediate points of Ranger, N.C., Young Harris, Ga., the plantsite of Owenby Manufacturing Co. at Iva Log, Ga., Blairsville, Ga., and serving the plantsite of Owenby Manufacturing Co. on Town Creek School Road south of Blairsville, Ga., as an off-route point. Note: Common

control may be involved. The application is accompanied with a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Charlotte or Asheville, N.C.

No. MC 70083 (Sub-No. 19), filed May 13, 1971. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08034. Applicant's representatives: Louis P. Haffer and Andrew P. Goldstein, 1730 Rhode Island Avenue NW., Washington, DC 20036, and Leonard C. Zucker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those in bulk, those which require special equipment, household goods as defined by the Commission, and classes A and B explosives); (1) between points in Dade County, Fla.; and (2) between points in Dade County, Fla., on the one hand, and, on the other, points in Broward County, Fla., restricted to shipments having an immediately prior or subsequent containerized movement by water moving under the bill of lading of a nonvessel operating common carrier by water. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 72442 (Sub-No. 34), filed May 17, 1971. Applicant: AKERS MOTOR LINES, INCORPORATED, Post Office Box 579, Gastonia, NC 28052. Applicant's representatives: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301, and Lennox O. Boyles, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, tobacco, liquor, commodities in bulk, commodities requiring special equipment and household goods as defined by the Commission), serving Farmingdale, Long Island, N.Y., as an off-route point in connection with the carrier's existing regular route operation. Note: Applicant states that it presently holds authority to serve Farmingdale, Long Island, N.Y., and this application is merely for the purpose of clarifying its authority to serve points in its commercial zone. Applicant further states no duplicating authority sought. The application is accompanied with a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 96881 (Sub-No. 11), filed May 13, 1971. Applicant: ORVILLE M. FINE, doing business as FINE TRUCK LINE, 1211 South Ninth Street, Fort Smith, AR 72901. Applicant's representative: Thomas Harper or Don A. Smith, Post Office Box 43, Kelley Building, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting:

NOTICES

General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Paris and Bonham, Tex., over U.S. Highway 82, serving no intermediate points, and serving Bonham, Tex., for interline purposes only. Note: If a hearing is deemed necessary, applicant requests it be held at Fort Smith or Little Rock, Ark.

No. MC 99776 (Sub-No. 6), filed May 19, 1971. Applicant: BUCKNER TRUCKING, INC., 8802 Liberty Road, Houston, TX 77028. Applicant's representative: J. G. Dail, Jr., 1111 E Street, NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products, including plywood, particle board, and composition board*, from points in Walker and Polk Counties, Tex., to points in Oklahoma, Kansas, Missouri, Tennessee, Arkansas, Louisiana, Mississippi, and Alabama. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex., or Shreveport, La.

No. MC 103993 (Sub-No. 636), filed May 20, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borgheani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements and *buildings and sections of buildings*, from points in Saratoga County, N.Y., to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 106398 (Sub-No. 543), filed May 14, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Perry County, Ill., to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 106398 (Sub-No. 544), filed May 17, 1971. Applicant: NATIONAL

TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Faulkner County, Ark., to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 106398 (Sub-No. 545), filed May 17, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in sections, including all component parts, materials, supplies and fixtures, and when shipped with such buildings, accessories used in the erection and construction, and completion thereof, from Parkersburg, W. Va., to points in California, Arizona, Colorado, Delaware, Florida, Idaho, Kansas, Maryland, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, and the District of Columbia; and (2) *under-floor electrical distribution systems, and component parts* when moving as a part of the same shipment with the described commodities, from Parkersburg, W. Va., to points in Arizona, California, Colorado, Florida, Georgia, Idaho, Kansas, the Upper Peninsula of Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, and Wyoming. Note: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control and dual may be involved. If a hearing is deemed necessary, applicant requests it be held at Parkersburg, W. Va.

No. MC 107002 (Sub-No. 407), filed May 19, 1971. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, MS 39205. Applicant's representatives: John J. Borth (same address as applicant) and H. D. Miller, Jr., Post Office Box

22567. Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Jacksonville and Lynn Haven, Fla., to points in Jackson County, Miss. NOTE: Applicant states that although tacking is not contemplated at this time, the authority sought could be combined with other authorities held by it to serve points in Arkansas, Louisiana, Mississippi, and Tennessee. If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala., or New Orleans, La.

No. MC 107103 (Sub-No. 6), filed May 20, 1971. Applicant: ROBINSON CARTAGE CO., a corporation, 2712 Chicago Drive SW., Grand Rapids, MI 49509. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, Suite 1700, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment or specialized handling, and *related machinery parts, and related contractors' materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which because of size or weight require the use of special equipment or specialized handling, between points in Muskegan, Ottawa, and Kent Counties, Mich., on the one hand, and, on the other, points in the United States (except those in Alaska, Connecticut, Hawaii, Illinois, Wisconsin, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, and West Virginia). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 107295 (Sub-No. 512), filed May 10, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mach Stephenson, 100 South Main Street, Farmer City, IL 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sheet metal products, and equipment, materials, and supplies* used in the installation of sheet metal products, from the plantsite and storage facilities of Penn Supply & Metal Corp., at Philadelphia, Pa., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 107295 (Sub-No. 513), filed May 12, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Flakeboard, or particle board plywood lauan, hardboard, and when shipped therewith, molding and accessories*, from Elkhart, Ind., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 515), filed May 20, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Max Stephenson, Post Office Box 146, Farmer City, IL 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from Truman, Ark., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 107403 (Sub-No. 809), filed May 17, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representatives: John E. Nelson (same address as above) and Gerald K. Gimmel, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk, from the facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107403 (Sub-No. 810), filed May 17, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representatives: John E. Nelson (same address as above), and Gerald K. Gimmel, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to

points in the United States (except Alaska and Hawaii). Restriction: Restricted to the transportation of shipments originating at the above-described origins and destined to the above-described destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 107403 (Sub-No. 812), filed May 20, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representatives: John E. Nelson (same address as applicant) and Harry C. Ames, Jr., 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and fertilizer solution*, from points in Sumter County, Ga., to points in Alabama and Florida. NOTE: Applicant states that the authority sought herein can be tacked with existing authority held by applicant, however it has no present intention to tack and therefore does not identify the points or territories which could be served through such tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requested it be held at Washington, D.C.

No. MC 108119 (Sub-No. 30), filed May 14, 1971. Applicant: E. L. MURPHY TRUCKING CO., a corporation, 3303 Sibley Memorial Highway, St. Paul, MN 55111. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of size or weight require special handling or the use of special equipment; (2) *related parts, materials, and supplies* when the transportation of such items is incidental to the transportation by carrier of commodities which by reason of size or weight require special handling or the use of special equipment; and, (3) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery tools, parts, and supplies* moving in connection therewith; restricted against the transportation of farm machinery, between points in Minnesota on the one hand, and, on the other, points in Ada and Jerome Counties, Idaho. NOTE: Common control may be involved. Applicant states that it intends to tack the requested authority with its existing authority in Minnesota. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 109397 (Sub-No. 256), filed April 15, 1971. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, Joplin, MO 64801. Applicant's representatives: A. N. Jacobs (same address as applicant) and

Max G. Morgan, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and table sauces*, from the facilities of Del Monte Corp. in Alameda, Oakland, San Leandro, San Jose, and Sacramento, Calif., to points in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 128814 and Subs thereunder, therefore, dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Dallas, Tex.

No. MC 109540 (Sub-No. 24), filed May 19, 1971. Applicant: YEARY TRANSFER COMPANY, INC., Post Office Box 398, Lexington, KY. Applicant's representative: Harry Ross, 848 Warner Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete, and concrete products*, between points in Kentucky, on the one hand, and, on the other, points in West Virginia, Ohio, Indiana, Illinois, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lexington or Louisville, Ky., or Cincinnati, Ohio.

No. MC 109551 (Sub-No. 5), filed May 21, 1971. Applicant: MILLER TRUCKING, INC., 1001 South Fourth Street, Gas City, IN. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum billet or pigs, and aluminum scrap*, from Booneville, Ind., to Coldwater, Mich., and from Coldwater, Mich., to Booneville, Ind. NOTE: Applicant holds contract carrier authority in MC 74958. Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 110098 (Sub-No. 112), filed May 10, 1971. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, Post Office Box 20380, San Antonio, TX 78220. Applicant's representatives: Donald L. Stern, 530 Univac Building, 7400 West Center Road, Omaha, NE 68106, and T. W. Cothren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in containers; *supplies, materials, ingredients, containers, machinery, and advertising materials* used in the manufacturing, packing, and distribution of foodstuffs, between the plantsite of Anderson, Clayton & Co., located near Fresno (Fresno County), Calif., on the

one hand, and, on the other, the plantsites of Anderson, Clayton & Co., located at Sherman (Grayson County), Tex., and near Jacksonville (Morgan County), Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex., or San Francisco, Calif.

No. MC 110098 (Sub-No. 113), filed May 10, 1971. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, Post Office Box 20380, San Antonio, TX 78220. Applicant's representatives: Donald L. Stern, 530 Univac Building, 7400 West Center Road, Omaha, NE 68106, and T. W. Cothren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, cooked, cured, or preserved, with or without vegetable, milk, egg, or fruit ingredients, other than frozen, from Fort Madison, Iowa, to points in Texas. NOTE: Applicant states that it intends to tack with its authority under subs 13, and 93 at any points in Texas, to provide a through service to New Mexico, Arizona, California, and Nevada. No duplicate authority is sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Fort Worth, Tex.

No. MC 110525 (Sub-No. 1002), filed May 11, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representatives: Thomas J. O'Brien (same address as applicant) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating at the above-described origins and destined to the above-described destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 110525 (Sub-No. 1003), filed May 17, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representatives: Thomas J. O'Brien (same address as applicant) and Leonard A. Jaskiewicz, Suite 501, 1730 M Street, NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk, from facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Car-

olina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110798 (Sub-No. 5), filed May 10, 1971. Applicant: WILLISTON-SCOBEEY TRANSFER, a corporation, Plentywood, Mont. 59254. Applicant's representative: Loren J. O'Toole, 209 North Main, Plentywood, MT 59254. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and those requiring special equipment); (1) between Plentywood, Mont., and Williston, N. Dak., serving the intermediate points of Westby, Mont., East Westby, Fortuna Air Force Base, and Fortuna, N. Dak.; from Plentywood over Montana Highway 5 to the Montana-North Dakota State line, thence over North Dakota Highway 5 to junction U.S. Highway 85, thence over U.S. Highway 85 to Williston, N. Dak., and return over the same route; (2) between Opheim, Mont., and Glasgow, Mont., over Montana Highway 247; and (3) between Plentywood, Mont., and the port of entry on the international boundary line between the United States and Canada located at or near Raymond, Mont., serving the intermediate point of Raymond, Mont.; from Plentywood over Montana Highway 5 to junction Montana Highway 256, thence over Montana Highway 256 to the port of entry on the international boundary line between the United States and Canada located at or near Raymond, Mont., and return over the same route. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 111545 (Sub-No. 158), filed May 17, 1971. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., Marietta, GA 30060. Applicant's representative: Robert E. Born, Post Office Box 6426, Station A, Marietta, GA 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Castings*, from Lufkin, Tex., to points in the United States (excluding Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 111729 (Sub-No. 318), filed May 3, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representatives: John M. Delany

(same address as above) and Russell S. Bernhard, 1625 K Street NW., Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds, and advertising material moving therewith*; (a) between Litchfield, Mich., on the one hand, and, on the other, Edgerton and Edon, Ohio, and Fremont, Ind.; (b) between Litchfield, Mich., on the one hand, and, on the other, the port of entry on the United States-Canada boundary line located at or near Detroit, Mich.; (c) between Minneapolis, Minn., on the one hand, and, on the other, points in Lincoln, Rock and Washington Counties, Wis.; (d) between Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, Hamilton Square and Trenton, N.J., on traffic having an immediately prior or subsequent movement by air; (e) between La Guardia Airport, N.Y., on the one hand, and, on the other, Trumbull, Conn., on traffic having an immediately prior or subsequent movement by air; (f) between Great Neck, N.Y., on the one hand, and, on the other, Beltsville, Md., Carbondale, Pa., and Nashua, N.H.; (2) *small production machine repair parts*, restricted against the transportation of packages or articles weighing in the aggregate more than 95 pounds from one consignee on any one day; (a) between Litchfield, Mich., on the one hand, and, on the other, Edgerton and Edon, Ohio, and Fremont, Ind.;

(b) Between Litchfield, Mich., on the one hand, and, on the other, the port of entry on the United States-Canada boundary line located at or near Detroit, Mich.; (3) *Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising material moving therewith* (excluding motion picture film used primarily for commercial theatre and television exhibition); (a) between Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, Hamilton Square and Trenton, N.J., on traffic having an immediately prior or subsequent movement by air; (b) between La Guardia Airport, N.Y., on the one hand, and, on the other, Trumbull, Conn., on traffic having an immediately prior or subsequent movement by air; (4) *proofs, cuts, copy, advertising poster material, and material related thereto*, restricted to traffic having an immediately prior or subsequent movement by air; (a) between South Bend, Ind., on the one hand, and, on the other, points in Michigan on and south of Michigan Highway 53; (b) between South Bend, Ind., on the one hand, and, on the other, points in Indiana; and (c) between South Bend, Ind., on the one hand, and, on the other, points in Cook, Du Page, Lake, and Will Counties, Ill.; (5) *small parts* used in the manufacture of kitchen cabinets, restricted to the transportation of packages or articles weighing in the aggregate less than 100 pounds from one consignor to one con-

signee on any one day; between Great Neck, N.Y., on the one hand, and, on the other, Beltsville, Md., Carbondale, Pa., and Nashua, N.H.; (6) *computer parts, business machine parts, assemblies, and supplies pertaining thereto*, restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day; between Des Moines, Iowa, on the one hand, and, on the other, points in Iowa and Nebraska, having an immediately prior or subsequent movement by air;

(7) *Small replacement and repair parts for tractors, farm machinery, and industrial and material handling equipment*, restricted to articles or packages weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day; (a) between Troy, Mich., on the one hand, and, on the other, points in Indiana, Ohio, and points in Kentucky on and east of Interstate Highway 65; (b) between Troy, Mich., on the one hand, and, on the other, Bloomington, Caledonia, Danville, Des Plaines, Dundee, Evanston, Manteno, Mattoon, Mendota, Milford, Mokena, Monee, Onarga, Orland Park, Ottawa, Pontiac, Thomasboro, Warrensville, and Waukegan, Ill.; (c) between Troy, Mich., on the one hand, and, on the other, Cameron, Huntington, Parkersburg, St. Albans, and Wheeling, W. Va.; (d) between Troy, Mich., on the one hand, and, on the other, points in Allegheny, Armstrong, Butler, Cambria, Crawford, Erie, Fayette, Greene, Indiana, Mercer, Somerset, and Washington Counties, Pa.; and (8) *ophthalmic goods and business papers and records moving therewith*; (a) between Jacksonville, Tampa, Miami, and Orlando, Fla., on the one hand, and, on the other, Jacksonville, Tampa, St. Petersburg, West Palm Beach, Sarasota, North Miami Beach, and Orlando, Fla., on traffic having a prior or subsequent movement by air; and (b) between Atlanta, Ga., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Mississippi, North Carolina, South Carolina, and Tennessee. NOTE: Applicant now holds contract carrier authority under its No. MC 112750 and subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 112801 (Sub-No. 122), filed May 21, 1971. Applicant: TRANSPORT SERVICE CO., a corporation, Post Office Box 50272, Chicago, IL 60650. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products and blends*, dry, in bulk, from Cedar Rapids, Iowa, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is

deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113267 (Sub-No. 264), filed May 10, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Bags, and bagging*, (1) from Birmingham, Ala., to points in Georgia, Louisiana, Mississippi, and Tennessee; and (2) from New Orleans, La., to Birmingham, Ala. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or New Orleans, La.

No. MC 113267 (Sub-No. 265), filed May 14, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site of Aristo Kansas Meat Packers, Inc., at or near Holton, Kans., to points in Louisiana, Mississippi, Kentucky, Tennessee, Alabama, Georgia, Florida, North Carolina, and South Carolina, restricted to traffic originating at the above-named origins and destined to the named destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 113267 (Sub-No. 266), filed May 14, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Paper and paper articles*, from points in Escambia County, Fla., to points in Indiana, Illinois, Iowa, Kentucky, Michigan, Minnesota, Ohio, Oklahoma, Tennessee, and Wisconsin, and St. Louis, Mo., and its commercial zone and that part of Arkansas within the commercial zone of Memphis, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Memphis, Tenn.

No. MC 113459 (Sub-No. 65), filed May 17, 1971. Applicant: H. J. JEFFRIES TRUCK LINE, INC., Post Office Box 94850, Oklahoma City, OK 73109. Applicant's representative: James W. High-

tower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Axles, wheels, axle parts, hub and drum assemblies, wheel rims, and related parts and accessories*, from Newton, Kans., to points in Wisconsin, Illinois, and Indiana; and (2) *pallets and gondolas*, from Newton, Kans., to Chicago, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 113678 (Sub-No. 426), filed May 14, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards representative: Duane W. Ackie and Richard Peterson, Post Office Box 806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides, dry acids, and chemicals, in bulk, and liquid commodities, in bulk, in tank vehicles), from the plantsite and warehouse facilities of Aristo Kansas Meat Packers, a division of Aristo Foods, Inc., located at or near Holton, Kans., to points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, Massachusetts, New Jersey, Maryland, Delaware, Connecticut, Rhode Island, New Hampshire, Maine, Vermont, West Virginia, Virginia, Kentucky, North Carolina, South Carolina, and the District of Columbia, restricted to traffic originating at the plantsite and warehouse facilities of Aristo Kansas Meat Packers. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Omaha, Nebr.

No. MC 113828 (Sub-No. 190), filed May 11, 1971. Applicant: O'BOYLE TANK LINES, INCORPORATED, Post Office Box 30006, Washington, DC 20014. Applicant's representatives: William P. Sullivan, 1819 H Street NW., Federal Bar Building West, Washington, D.C. 20006, and John F. Grimm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in St. Mary's County, Md., to points in Delaware. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114019 (Sub-No. 215), filed May 10, 1971. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to op-

erate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry corn products*, from North Bergen, N.J., to points in New Jersey, New York, Pennsylvania, Maryland, Delaware, and Connecticut, restricted to traffic having a prior movement by rail. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 114091 (Sub-No. 85), filed May 17, 1971. Applicant: HUFF TRANSPORT CO., INC., 2114 South 41 Street, Louisville, KY 40211. Applicant's representative: George M. Catlett, 703-706 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Murray, Ky., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 114123 (Sub-No. 39), filed May 17, 1971. Applicant: HERMAN R. EWELL, INC., East Earl, Pa. 17519. Applicant's representative: John M. Musselman, 400 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk, from facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: Applicant also holds contract carrier authority under MC 118661 and subs thereunder, therefore dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 114265 (Sub-No. 10), filed May 17, 1971. Applicant: RALPH SHOE-MAKER, doing business as SHOE-MAKER TRUCKING COMPANY, 8624 Franklin Road, Boise, ID 83705. Applicant's representative: Raymond D. Givens, Box 964, Boise, ID 83701. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and equipment*, from points in Ada and Canyon County, Idaho, to points in Idaho, Oregon, California, Washington, Montana, Utah, Wyoming, Colorado, North Dakota, South Dakota, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 114312 (Sub-No. 21), filed May 18, 1971. Applicant: ABBOTT TRUCKING, INC., Route 3, Delta, OH 43515. Applicant's representative: James M. Burteh, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, from Marseilles, Ill., to points in the Lower Peninsula of Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 114632 (Sub-No. 44), filed May 17, 1971. Applicant: APPLE LINES, INC., Post Office Box 507, Madison, SD 57042. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, dairy products, and articles distributed by meat packinghouses* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Holton, Kans., to points in Illinois, Missouri, Iowa, Wisconsin, Minnesota, North Dakota, South Dakota, Indiana, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 115311 (Sub-No. 118), filed May 17, 1971. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and accessories*, from the plantsite of Georgia Pacific Corp. at Brunswick, Ga., to points in Alabama, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115311 (Sub-No. 119), filed May 17, 1971. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, Post

Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and accessories*, from the plantsite of Georgia-Pacific Corp. at Marietta, Ga., to points in Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115495 (Sub-No. 20), filed May 14, 1971. Applicant: UNITED PARCEL SERVICE, INC., 300 North Second Street, St. Charles, IL 60174. Applicant's representative: S. Harrison Kahn, 733 Investment Building, Washington, D.C. 20005, and Irving R. Segal, 1719 Packard Building, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); (1) between points in Montana, Idaho, Nevada, Utah, Arizona, Washington, Oregon, and California; and (2) between points in Montana, Idaho, Nevada, Utah, Arizona, Washington, Oregon, and California, on the one hand, and, on the other, points in Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Illinois, Tennessee, and Mississippi. Restrictions: (a) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment; and (b) no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day. NOTE: Applicant states it intends to tack the requested authority with its existing authority held in MC 115495 subs 3, 4, 14, and 16. Applicant further states it will interline with its affiliated company, United Parcel Service, Inc., New York, N.Y., within the scope of the authority of the New York company. Applicant now holds contract carrier authority under its No. MC 13426 and subs, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115648 (Sub-No. 23), filed May 19, 1971. Applicant: LUTHER LOCK, doing business as LUTHER LOCK TRUCKING, 974 Gilchrist, Post Office Box 290, Wheatland, WY 82201. Applicant's representative: Ward A. White, Post Office Box 568, Cheyenne, WY 82001. Authority sought to operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Stone, stone aggregates, and rock, faced or split*, from points in Albany, Laramie, Platte, and Converse Counties, Wyo., to points in Washington, Oregon, California, Nevada, Arizona, North Dakota, Minnesota, Wisconsin, Illinois, Michigan, Indiana, Missouri, Arkansas, Tennessee, Louisiana, Utah, points in Texas east of U.S. Highway 75 (Interstate Highway 45) and south of U.S. Highway 80 (Interstate Highway 20), and points in Albany, Laramie, Platte, and Converse Counties, Wyo.; and (b) *rock, faced or split*, from points in Albany, Laramie, and Platte Counties, Wyo., to points in Colorado, Idaho, Kansas, Nebraska, South Dakota, Iowa, New Mexico, Oklahoma, Montana, and points in Texas on and west of U.S. Highway 75 (Interstate Highway 45) and on and north of U.S. Highway 80 (Interstate Highway 20). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cheyenne, Wyo., or Denver, Colo.

No. MC 115917 (Sub-No. 23), filed May 17, 1971. Applicant: UNDERWOOD & WELD COMPANY, INC., Post Office Box 247, Crossnore, NC 28616. Applicant's representative: Wilmer B. Hill, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products* (except in bulk), from the plantsites and warehouse facilities of International Salt Co., at Cleveland, Ohio, to points in Alabama, Florida, Georgia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; and (2) *pepper, ground*, in packages, in mixed loads with *salt and salt products*, from the plantsites and warehouse facilities of International Salt Co., at Watkins Glen, N.Y., to points in Alabama, Florida, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116101 (Sub-No. 10), filed May 17, 1971. Applicant: QUICK AIR FREIGHT, INC., Port Columbus, Cargo Building, Columbus, Ohio. Applicant's representative: James R. Stiverson and Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical distribution equipment*, in emergency service, from Oxford, Ohio to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117167 (Sub-No. 2), filed May 13, 1971. Applicant: WHEELER'S TOWING & SERVICE, INC., 5050 L

Street, Omaha, NE 68117. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked, disabled, inoperative, stolen, abandoned, and repossessed motor vehicles and cargo trailers* by use of wrecker equipment only, between Omaha, Nebr., and Council Bluffs, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) *wrecked, disabled, inoperative, stolen, abandoned, and repossessed motor vehicles* (except automobiles), in truckaway service, between Omaha, Nebr., and Council Bluffs, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 117815 (Sub-No. 176), filed May 17, 1971. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Aristo Kansas Meat Packers, Division of Aristo Foods, Inc., at or near Holton, Kans., to points in Illinois, Indiana, Iowa, Minnesota, Michigan, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 117940 (Sub-No. 47), filed May 20, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C to appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite and/or storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restricted to traffic originating at the named origins and destined to

the named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 119160 (Sub-No. 4), filed May 13, 1971. Applicant: H. E. SPANN & COMPANY, INC., Post Office Box 1111, Mount Pleasant, TX 75455. Applicant's representative: Mert Starnes, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Gravel, sand, rock, coliche, shell, iron ore, ready-mix asphalt, riprap, aggregate, dirt, bulk cement mixed with sand, crushed limestone, flexible base, and sand mixed with stone, gravel and crushed stone or rock*, in bulk, in dump trucks or trailers with dump bodies, from points in Miller and Lafayette Counties, Ark., to points in Arkansas (except points in Little River, Columbia, Hempstead, Howard, Sevier, and Polk Counties, Ark.), Louisiana (except points in Webster, DeSoto, Bossier, and Caddo Parishes, La.), Oklahoma (except points in McCurtain, Pushmataha, Bryan, Choctaw, and Atoka Counties, Okla.) and Texas (except points in Grayson, Collin, Fannin, Hunt, Lamar, Hopkins, Red River, Titus, Camp, Bowie, Morris, Cass, Marion, Harrison, and Panola Counties, Tex.). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 119399 (Sub-No. 27), filed May 17, 1971. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Post Office Box 1375, Joplin, MO 64801. Applicant's representative: David L. Stitton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry chemicals, including fertilizer and fertilizer materials*, in bulk and in packages, from Military and Hallowell, Kans., to points in Arkansas, Colorado, Iowa, Missouri, Nebraska, Oklahoma, and Texas, and (2) *Fertilizer and fertilizer materials*, dry, in bulk or in packages; *insecticides, fungicides, and herbicides*, except liquid in bulk, also in mixed shipments with manufactured fertilizer and fertilizer materials, from points on the Arkansas and Verdigris Rivers in Oklahoma to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 119531 (Sub-No. 151), filed May 7, 1971. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, OH 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic material*, expanded, from Cincinnati, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant request it be held at Chicago, Ill., or Cincinnati, Ohio.

No. MC 119619 (Sub-No. 54), filed May 10, 1971. Applicant: DISTRIBUTORS SERVICE CO., a corporation, 2000 West 43d Street, Chicago, IL 60609. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, cooked, cured, or preserved, with or without vegetable, milk, egg, or fruit ingredients, other than frozen, from the plantsite facilities utilized by Armour-Dial, Inc., at Fort Madison, Iowa, to points in Illinois, Ohio, Minnesota, West Virginia, New York, Pennsylvania, and Connecticut; and (2) *meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from points in Indiana, Illinois, Missouri, Minnesota, Kansas, Nebraska, and Wisconsin, to the plantsite facilities used by Armour-Dial, Inc., at Fort Madison, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119669 (Sub-No. 23) (Correction), filed May 3, 1971, published in the FEDERAL REGISTER issue of May 27, 1971, and republished in part as corrected this issue. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, Columbus, IN. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. NOTE: The sole purpose of this partial republication is to show the correct docket number assigned. The rest of the application remains as previously published.

No. MC 119777 (Sub-No. 213), filed May 10, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: William G. Thomas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Laundry and dry cleaning equipment, metal stampings, casting, and parts, attachments, and accessories*, used in the assembly and/or manufacture of laundry and dry cleaning

equipment, between the plantsite of Huebsch Originators, American Laundry & Machine Industries, Division of McGraw-Edison, Madisonville, Ky., and points in the United States (except Hawaii). NOTE: Applicant states that the requested authority can be tacked but not feasible. It has no present intention to tack, therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 119815 (Sub-No. 9), filed May 11, 1971. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., 814 Norton Avenue, Bedford, IN 47421. Applicant's representative: Walter F. Jones, Jr., Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rough castings*, from Amite, La., to Bedford, Ind.; and (2) *munition deactivating furnaces, machine parts, and clam shell bucket bails*, from Bedford, Ind., to points in the United States (except Hawaii), restricted to traffic originating at or destined to the plantsite of Bedford Machine Co., Inc., Bedford, Ind., and under contract with Bedford Machine Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Indianapolis, Ind.

No. MC 123407 (Sub-No. 83), filed May 14, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, pulpboard, and hardboard; materials and accessories used in the installation thereof*, from Pulaski County, Ark., to points in the United States in and east of Montana, Wyoming, Colorado, New Mexico, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Little Rock, Ark.

No. MC 123407 (Sub-No. 84), filed May 21, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, building materials; and materials, accessories, and supplies used in the installation thereof*, from Lakeville, Minn., to points in Iowa, Michigan, Minnesota,

Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 124211 (Sub-No. 185), filed May 17, 1971. Applicant: HILT TRUCK LINE, INC., Post Office Drawer 988 D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts, accessories, and supplies, and petroleum products*, from Council Bluffs, Iowa, to points in the United States (except Alaska and Hawaii). Restriction: The authority sought herein, to the extent it duplicates authority presently held by applicant, shall not be construed as conferring more than one operating right severable by sale or otherwise. NOTE: Applicant states that the requested authority cannot be tacked with its pending certificate in MC 124211 Sub-No. 141, tacking would take place at origin involved in subject application, to provide a through service. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124711 (Sub-No. 11), filed May 17, 1971. Applicant: BECKER AND SONS, INC., 2643 West Central El Dorado, KS 67042. Applicant's representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals, including fertilizer and fertilizer materials*, in bulk, and in packages, from Military, Kans., and Hallowell, Kans., to points in Arkansas, Colorado, Iowa, Missouri, Nebraska, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 124735 (Sub-No. 13), filed May 17, 1971. Applicant: R. C. KERCHEVAL, Jr., 4424 Fourth Avenue South, Seattle, WA 98134. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trailer axles and parts, suspensions, landing gear, fifth wheels, hitches and parts thereof, and mechanical refrigeration units*, from Montgomery, Ala.; Marshfield, Springfield, and Warrenton, Mo.; Holland, Mich.; and Minneapolis, Minn.; to Portland, Ore.; under contract with Standard Parts & Equipment Co., Portland, Ore. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 125194 (Sub-No. 15), filed May 14, 1971. Applicant: STATE LINE

DAIRY, INC., 1015 State Line Road, Niles, MI 49120. Applicant's representative: J. M. Neath, Jr., 900, One Vandenberg Center, Grand Rapids, MI 49502. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk and dairy products and filled or imitation milk and dairy products, fruit drinks, and salads*, from Indianapolis, Ind., to points in Indiana, under contract with The Kroger Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Lansing or Detroit, Mich.

No. MC 125513 (Sub-No. 6), filed May 19, 1971. Applicant: HOWARD G. SLAUGHTER, doing business as SLAUGHTER BEVERAGE TRANSPORT, Rural Delivery 1, Townsend, Del. 19734. Applicant's representative: Howard G. Slaughter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk, in tank vehicles), from Winston-Salem, N.C., to Wilmington and Milford, Del. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Wilmington, Del., Philadelphia, Pa., or Washington, D.C.

No. MC 126222 (Sub-No. 11), filed May 17, 1971. Applicant: JOSEPH A. SIEFERT AND JOSEPH J. SIEFERT, a partnership, doing business as SIEFERT BROS. TRUCKING CO., U.S. Highway 51 South, Post Office Box 310, DuQuoin, IL 62832. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toys and games*, from the plant site of Turco Manufacturing Co. at DuQuoin, Ill., to points in the United States (except Alaska and Hawaii), under a continuing contract with Turco Manufacturing Co. at DuQuoin, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 128642 (Sub-No. 7), filed May 17, 1971. Applicant: SKYLINE TRANSPORT, INC., 6120 Eastborne Avenue, Baltimore, MD 21224. Applicant's representative: J. Meredith Russell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk, from facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. Restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128791 (Sub-No. 8), filed April 21, 1971. Applicant: L & S BOAT TRANSPORTATION COMPANY, INC., 5924 Ulmerton Road, Clearwater, FL 33516. Applicant's representative: Dale E. Lewis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats, boat parts, equipment and supplies moving in connection therewith*, from Burlington, and Monmouth Counties, N.J., to points in Florida, Georgia, South Carolina, North Carolina, Alabama, and Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 128862 (Sub-No. 11), filed May 6, 1971. Applicant: B. J. CECIL TRUCKING, INC., Box C, Claypool, AZ 85532. Applicant's representative: Earl H. Carroll, 363 North First Avenue, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Shredded tin scrap*, from points in Arizona to points in Grant County, N. Mex., and (2) *copper cement*, from points in Arizona to McGill, Nev. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Tyrone, N. Mex.

No. MC 129340 (Sub-No. 1), filed May 17, 1971. Applicant: A. C. ENTERPRISES, INC., Post Office Box 927, Parkersburg, WV. Applicant's representative: James R. Stiverson and Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives), between points in Marshall, Ohio; Cabell, Mason, Jackson, Lincoln, Putnam, Monongalia, Preston, Taylor, Upshur, Barbour, Tucker, Wayne, Randolph, Grant, Mineral, Hampshire, Hardy, Berkeley, Jefferson, Morgan, Pendleton, Pocahontas, and that part of Harrison, Braxton, Lewis, Marion, and Wetzel north and east of U.S. Highway 19 and 250, Counties, W. Va.; Greenup, and Boyd Counties, Ky.; points in Belmont, Lawrence, and Gallia Counties, Ohio; Garrett and Allegheny Counties, Md.; Washington and Green Counties, Pa.; on the one hand, and, on the other the Kanawha County Airport near Charleston, W. Va.; the Huntington Ashland Airport near Huntington, W. Va.; the Wood County Airport, near Parkersburg, W. Va.; the Cleveland-Hopkins Airport, near Cleveland, Ohio; the Greater Cincinnati Airport (in Kentucky) near Cincinnati, Ohio; the Greater Pittsburgh Airport, near Pittsburgh, Pa.; the Detroit Metropolitan Airport near Detroit, Mich., restricted to shipment having a prior or subsequent movement by air. Lawrence and Gallia Counties, Ohio, restricted against traffic between Cleveland-Hopkins and Greater Cincinnati Airports. NOTE: Applicant

states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Columbus, Ohio.

No. MC 127900 (Sub-No. 1), filed April 30, 1971. Applicant: GROOME TRANSPORTATION, INC., Byrd Airport, Sandston, Va. Applicant's representative: M. Bruce Morgan, 201 Azar Building, Glen Burnie, Md. 21061. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk), having immediately prior or immediately subsequent movement by air, (1) between Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, Richard E. Byrd Airport, Sandston, Va.; Norfolk Municipal Airport, at or near Norfolk, Va., and Patrick Henry Airport, at or near Newport News, Va.; and (2) between Byrd Airport, Sandston, Va.; and Norfolk Municipal Airport, at or near Norfolk, Va., and Patrick Henry Airport, at or near Newport News, Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 133220 (Sub-No. 3), filed May 10, 1971. Applicant: RECORD TRUCK LINE, INC., Box 11, Henderson, TN 38340. Applicant's representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire prevention sprinkler systems parts, accessories, and attachments*; and (2) *power piping, pipe fittings, pipe connections, castings and valves*, from the plantsites and warehouse facilities of Grinnell Corp., Grinnell Co., Inc., and Grinnell Industrial Piping Co. at Atlanta, Ga., Dallas, Tex., and Kernersville, N.C., to points in the United States (except Alaska and Hawaii); and (3) *materials used in the fabrication, assembly, and installation of* (1) and (2) above from points in the United States (except Alaska and Hawaii) to the named plant and warehouse sites of Grinnell Corp., Grinnell Co., Inc., and Grinnell Industrial Piping Co. under continuing contract or contracts with Grinnell Corp., Grinnell Co., Inc., and Grinnell Industrial Piping Co. NOTE: Applicant has common carrier authority pending under MC 125227 Sub 10, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 133775 (Sub-No. 10), filed May 11, 1971. Applicant: REEFER TRANSIT LINE, INC., 55 East Washington Boulevard, Chicago, IL 60602. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*,

meal products, and meat byproducts, and articles distributed by meat packing-houses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant facilities of Banner Beef Co., at Hospers, Iowa, to points in Ohio, Pennsylvania, New York, New Jersey, West Virginia, Virginia, Maryland, Delaware, Massachusetts, Connecticut, Rhode Island, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 134672 (Sub-No. 1), filed March 22, 1971. Applicant: E. N. SCULLY, S. H. SCULLY, L. A. SCULLY, and R. J. SCULLY, a partnership doing business as, VALENCIA TRUCKING, 25555 Avenue Stanford, Valencia, CA. Applicant's representative: William Davidson, 2455 East 27th Street, Vernon, CA 90058. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in California within an area bounded as follows: Beginning at the intersection of the Golden State Freeway and Antelope Valley Freeway, and proceeding northwesterly along the Golden State Freeway to its intersection with the Castaic Canyon Road, thence northwesterly along Castaic Canyon Road to its intersection with the San Francisco Rancho Township line, thence northeasterly along the San Francisco Rancho Township line and thence easterly along the San Francisco Rancho Township line to its intersection with township line T. 4 N., thence easterly along township line T. 4 N. to its intersection with Sierra Highway, thence southwesterly along Sierra Highway to its intersection with Sand Canyon Road, thence southerly along Sand Canyon Road to its intersection with the Antelope Valley Freeway, thence southwesterly along Antelope Valley Freeway to its intersection with the Golden State Freeway, on the one hand, and, on the other, Los Angeles, Montebello, Pico Rivera, and Santa Fe Springs, Calif. Carrier intends to interline with other carriers at Los Angeles, Montebello, Pico Rivera, and Santa Fe Springs, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134776 (Sub-No. 12), filed May 21, 1971. Applicant: MILTON TRUCKING, INC., Post Office Box 207, Milton, PA 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs, confectioneries* (except in bulk); (1) from Canajoharie, N.Y., to points in Pennsylvania, Maryland, Ohio, Indiana, and Michigan; and (2) from Holland, Mich., to Canajoharie, N.Y., under contract with Beech Nut,

Inc. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 134847 (Sub-No. 3), filed February 7, 1971. Applicant: BESSETTE TRANSPORT INC., 505 Provost Street, Irberville, PQ, Canada. Applicant's representative: Norman F. Menard, 441 Maisonneuve Boulevard, St. Johns, PQ, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bedford Slate, slate detergent, ammoniated stripper and slate detergent*, from ports of entry on the international boundary line between the United States and Canada at or near Champlain, Ogdensburg, and Rouses Point, N.Y., and Highgate Springs, Newport, Vt., to Atlanta, Ga., Baltimore, Md., Pensacola, Fla., Cincinnati, Ohio, New Orleans, La., Jersey City, N.J., and Boston, Mass. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 134880 (Sub-No. 1), filed May 3, 1971. Applicant: RICHMOND TRANSFER LTD., 425 Alexander Street, Vancouver 4, BC, Canada. Applicant's representative: J. Stewart Black, 1322 Laburnum Street, Vancouver 9, BC, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products*, from international boundary at or near Blaine and Lynden, Wash., to Bellingham, Wash. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle or Bellingham, Wash.

No. MC 135276 (Sub-No. 1), filed April 30, 1971. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water Street, Frederick, MD 21701. Applicant's representative: Francis J. Ortman, 1700 Pennsylvania Avenue NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bituminous asphalt hot mix and stone*, in dump trucks, from points in Frederick and Washington Counties, Md., to points in Fulton, Franklin, Adams, and York Counties, Pa.; Morgan, Berkeley, and Jefferson Counties, W. Va.; and Frederick, Loudoun, and Clarke Counties, Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135340 (Sub-No. 1), filed May 21, 1971. Applicant: C. A. WALKER TRUCK LINES, INC., 1518 North Santa Fe Avenue, Chillicothe, IL 61532. Applicant's representative: Robert T. Lawley, 300 Reich Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles,

from Henry, Ill., to points in Iowa, Indiana, Michigan, Minnesota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Springfield or Chicago, Ill.

No. MC 135403 (Sub-No. 1), filed May 17, 1971. Applicant: CARROL G. MILLER, doing business as MILLER TRANSFER & STORAGE, 31259 East Highway 66, Barstow, CA 92311. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square Street, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Los Angeles, Orange, San Diego, Ventura, Santa Barbara, Kern, Riverside, Imperial, and San Bernardino Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 135416 (Sub-No. 1), filed May 19, 1971. Applicant: ROBERT C. HUDAK, doing business as CHAMPION VAN AND STORAGE, 879 North Highway 101, Post Office Box 194, Buellton, CA 93427. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Santa Barbara, San Luis Obispo, and Ventura Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant does not specify the location.

No. MC 135439 (Sub-No. 2), filed May 17, 1971. Applicant: MICHAEL J. MANNING, doing business as MANNING TRANSPORT, 829 24th Avenue SE., Minneapolis, MN 55414. Applicant's representative: Michael Manning (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, dairy byproducts, fruit juices, and fruit drinks*, from St. Paul, Minn., to Amery, Baldwin, Chipewau Falls, Hudson, La Crosse, Luck, New Richmond, and Whitehall, Wis., under contract with Sanitary Farm Dairies, St. Paul Division of Land O'Lakes, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135497 (Sub-No. 1), filed May 14, 1971. Applicant: I-5 FREIGHT-LINE, INC., 5949 North Basin Avenue, Portland, OR 97217. Applicant's representative: John G. McLaughlin, 726 Blue Cross Building, Portland, Ore. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except household goods as defined in 17 M.C.C. 467, commodities in bulk, in tank vehicles, and commodities which because of size or weight require the use of special equipment in transit), over regular routes as follows: (1) Over regular routes: (a) Between Portland, Ore., and Medford, Ore., from Portland over U.S. Highway 99, 99E, and 99W, and Interstate Highway 5 to Eugene, Ore., thence continue over U.S. Highway 99 (also over Interstate Highway 5), to Medford, and return over the same route, serving all intermediate points and all off-route points within 10 miles of the above-described routes (except between Portland and Salem, Ore.); (b) between Corvallis, Ore., and Foster, Ore., from Corvallis to Lebanon over U.S. Highway 20 (also over Oregon State Highway 34), and return over the same route; from Lebanon to Foster over U.S. Highway 20; and return over the same route, serving all intermediate points and off-route points within 10 miles of the described routes; and (2) over irregular routes: Between points in Douglas, Jackson, and Josephine Counties, Ore. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Eugene, or Medford, Ore.

No. 135527 (Sub-No. 2), filed May 17, 1971. Applicant: PHD TRUCKING SERVICE, INC., Post Office Box 106, Spanish Fork, UT 84660. Applicant's representative: Miss Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ore and ore concentrates*, in bulk, from Darwin, Calif., to International Smelter at Tooele, Utah, and (2) *shale cinders* (Ute-lite) in bulk, from Ute-lite Corp. plantsite in Summit County, Utah, to points in Nevada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City or Provo, Utah.

No. MC 135535 (Sub-No. 2), filed May 10, 1971. Applicant: EL DORADO TRANSPORTATION, INC., 206 North Concord, Minneapolis, KS 67467. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Slide-in pickup campers; chassis model campers; mini motor homes, and repair parts and accessories* when shipped in combination loads with slide-in campers, chassis model campers or mini motor homes, and chassis model campers and mini motor homes in drive-away service and repair parts and accessories, when moving therewith, between the plantsite and/or

storage facilities of El Dorado Industries, Inc., at or near Minneapolis, Kans., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia, and shipping pallets and/or shipping blocks, chains, boomers, and turnbuckles on return, under contract with Nimrod/El Dorado Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 135606 (Sub-No. 1), filed May 17, 1971. Applicant: MARC A. ROBIN, No. 5 York Building, Viewmont Village Apartments, Scranton, PA 18508. Applicant's representative: Thomas J. Jones, 502-505 Brooks Building, Scranton, Pa. 18503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used batteries and lead*, except in bulk in tank vehicles, between the Borough of Throop, Lackawanna County, Pa., on the one hand, and, on the other, points in West Virginia, Virginia, Michigan, Ohio, Delaware, Maryland, Massachusetts, Maine, Vermont, New Hampshire, Rhode Island, Connecticut, New Jersey, New York, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or New York.

No. MC 135608, filed May 10, 1971. Applicant: INMAN TRANSPORT, INC., Post Office Box 666, Inman, SC 29349. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods, foodstuffs, and beverage drinks*, in cans and glass bottles, from Augusta, Ga., and Inman, S.C., to points in Alabama, Florida, Georgia, Indiana, Kentucky, Maryland, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia; (2) *canned goods and foodstuffs*, from the plantsites and warehouses of R J R Foods, Inc., located at Baltimore, Md., Cambridge, Md., and Harvey, La., and from copackers plant located at Humboldt Tenn., to Inman, S.C.; (3) *empty cans and can lids* (including return of empty pallets), from Auburndale, Tampa, Miami, and Winter Garden, Fla.; Atlanta, Ga.; Indianapolis, Ind.; Baltimore, Md.; Greensboro, N.C.; and Cincinnati, Ohio; to Augusta, Ga., and Inman, S.C.; (4) *labels and fruit juice concentrate*, from the plantsite of R J R Foods, Inc., located at Baltimore, Md., to Inman, S.C.; (5) *empty beverage glass bottles* in fiberboard containers (including return of empty pallets), from Montgomery, Ala.; Jacksonville, Lakeland, and Tampa,

Fla.; Atlanta, Ga.; Asheville, Charlotte, Greensboro, and Henderson, N.C.; Columbia, Greenville, Laurens, and Spartanburg, S.C.; Chattanooga, Tenn.; and Fairmont and Huntington, W. Va.; to Augusta, Ga., and Inman, S.C.; (6) *caps, covers or tops for glass bottles*, in fiberboard containers, from Glassboro, N.J., Columbia and Spartanburg, S.C., to Augusta, Ga., and Inman, S.C., and (7) *fiberboard boxes*, from Atlanta and Augusta, Ga., Charlotte, N.C., Laurens and Newberry, S.C., to Augusta, Ga., and Inman, S.C., under contract with R J R Foods, Inc., and London Dry Ltd. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C., Charlotte, N.C., or Atlanta, Ga.

No. 135611 (Sub-No. 2), filed May 20, 1971. Applicant: ROBERT A. WALKER AND DONALD M. WHITED, a partnership, doing business as WALKER & WHITED TRANSPORTATION, 320 North Eighth Street, Brawley, CA 92227. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed supplements*, liquid, in bulk, from Imperial, Calif., to points in Arizona. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 135616, filed May 17, 1971. Applicant: PERRYBURG TRUCKING CO., INC., 24982 Thompson Road, Perysburg, OH 43551. Applicant's representative: Harry C. Ames, Jr., 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, from the plantsite of Guardian Industries Corp., at or near Ash Township, Monroe County, Mich., to points in the United States (except Alaska and Hawaii), under a continuing contract with Guardian Industries Corp.. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 135619, filed May 14, 1971. Applicant: RALPH M. ROWEY, doing business as ROWEY TRUCKING COMPANY, 148 Knight Street, Woonsocket, RI 02895. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, RI 02905. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, liquid, in bulk, between Tiverton, R.I., on the one hand, and, on the other, points in Barnstable, Bristol, and Plymouth Counties, Mass., and Rhode Island under contract with Northeast Petroleum Corp., Northeast Petroleum Corporation of Rhode Island and Old Colony Petroleum Co., Inc. NOTE: If a hearing is deemed necessary,

applicant requests it be held at Providence, R.I., or Boston, Mass.

No. MC 135627, filed May 19, 1971. Applicant: NORMAN CUMBERLAND AND ROBERT SMITH, a partnership, doing business as FOREST FARM PRODUCTS, 168 North Fulton Avenue, Rochester, IN 46975. Applicant's representative: Norman Cumberland (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soybean solubles*, condensed in bulk, from Remington, Ind., to points in Indiana, Ohio, Illinois, Michigan, Missouri, Kentucky, and Iowa, under contract with Griffith Food Products, Inc., Remington, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fort Wayne, Ind.

No. MC 135629, filed May 20, 1971. Applicant: RAY KENDALL, doing business as KENDALL TRUCKING, 5191 Journal Street, Orlando, FL 32810. Applicant's representative: Richard J. Brooks, Post Office Box 1531, Tallahassee, FL 32302. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Tires*, used by motor driven or propelled vehicles, from Dayton, Toledo, and Akron, Ohio, and Cumberland, Md., to the warehouse or warehouses of El Dorado Tires, Inc., doing business as El Dorado Buyers Group. NOTE: If a hearing is deemed necessary, applicant requests it be held at Orlando, Fla.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub-No. 433) filed May 11, 1971. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, 180 Boyden Avenue, Maplewood, NJ 07040. Applicant's representative: Richard Fryling (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers: (1) between Woodbridge and Rahway, N.J.; from junction New Jersey Highway 35 and U.S. Highway 1, Woodbridge, N.J., over New Jersey Highway 35 to junction New Jersey Highway 35 and New Jersey Highway 27, Rahway, N.J., and return over the same route, serving all intermediate points; and (2) between Perth Amboy and Edison, N.J., from junction New Jersey Highway 35 and New Jersey Highway 440, Perth Amboy, N.J., over New Jersey Highway 440 to junction New Jersey Turnpike at Interchange 10, Edison, N.J., and return over the same route, serving all intermediate points. NOTE: Applicant states it intends to tack the above-routes to its existing routes. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 82965 (Sub-No. 2), filed May 19, 1971. Applicant: AMADOR STAGE LINES, INC., 213 13th Street, Post Office Box 2190, Sacramento, CA 95810. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1401, San

Francisco, CA 94105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending in points in Sacramento, San Joaquin, Yolo, and Placer Counties, Calif., and extending to points in the United States, including Alaska (but excluding Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Sacramento or San Francisco, Calif.

No. MC 125221 (Sub-No. 5), filed May 17, 1971. Applicant: BI-STATE DEVELOPMENT AGENCY OF THE MISSOURI-ILLINOIS METROPOLITAN DISTRICT, 818 Olive Street, St. Louis, MO 63101. Applicant's representative: Roy E. Krupp, 3869 Park Avenue, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, between Waterloo, Ill., and St. Louis, Mo., from St. Louis, Mo., over the Veterans Bridge, to East St. Louis, Ill.; thence over Illinois Highway 3 to Water Street; thence over Water Street to Illinois Highway 3, thence over Illinois Highway 3 to Columbia Road; thence over Columbia Road to Columbia, Ill., thence over Illinois Highway 3 to Waterloo, Ill., and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or East St. Louis, Ill.

No. MC 125330 (Sub-No. 3), filed May 10, 1971. Applicant: DOMENICO BUS SERVICE, INC., 75 New Hook Access Road, Bayonne, NJ 07002. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, between the Boroughs of Brooklyn and Richmond (Staten Island), N.Y., on the one hand, and, on the other, the facilities of the American Telephone & Telegraph Co. at Piscataway, N.J., under a contract or continuing contract with the Brooklyn-Staten Island Commuters. NOTE: Applicant also holds common carrier authority under MC 118848 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 135603, filed May 12, 1971. Applicant: 4-D CORPORATION, 117 North Jefferson Street, Milwaukee, WI 53202. Applicant's representative: John J. Ottusch, 660 East Mason Street, Milwaukee, WI 53202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round trip charter operations, between points in Wisconsin, Illinois, Missouri, Kansas, Colorado, Iowa, Nebraska, and Indiana. NOTE: If a hearing is deemed necessary, applicant requests it be held

at Milwaukee or Madison, Wis., or Chicago, Ill.

APPLICATIONS OF FREIGHT FORWARDERS

No. FF-494 (W. T. C. AIR FREIGHT, INC., Freight Forwarder Application), filed May 18, 1971. Applicant: W. T. C. AIR FREIGHT, INC., Post Office Box 92923, Los Angeles, CA 90009. Applicant's representative: Louis P. Haffer, 1730 Rhode Island Avenue NW., Washington, DC 20036. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carrier by railroad, express, water, air, or motor vehicle in the transportation of: *General commodities* (except household goods as defined by the Commission, commodities which, because of size or weight, require the use of special equipment, classes A and B explosives, and commodities in bulk), restricted to shipments having a prior or subsequent movement by aircraft, between points in the United States (including Alaska and Hawaii).

No. FF-405 (JET AIR FREIGHT, Freight Forwarder Application), filed May 27, 1971. Applicant: JET AIR FREIGHT, 900 West Florence Avenue, Inglewood, CA 90301. Applicant's representative: Gary L. Zimmerman, Wilshire Boulevard at Doheny, 9100 Wilshire Boulevard, Suite 201, Beverly Hills, CA 90212. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by railroad, express, water, air, or motor vehicles in the transportation of: *General commodities*, between points in the United States, restricted to shipments having a prior or subsequent movement by aircraft.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130146, filed May 10, 1971. Applicant: LEO LEONARD ANDY, JR., and LEO LEONARD ANDY, SR., a partnership, doing business as ANDY TRANSPORTATION COMPANY, 614 Stanley Avenue, Clarksburg, WV. For a license (BMC-4) to engage in operations as a broker at Clarksburg, W. Va., in arranging for the transportation in interstate or foreign commerce of *General commodities*, between points in Kentucky, Ohio, Tennessee, and West Virginia.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 114457 (Sub-No. 110), filed May 3, 1971. Applicant: DART TRANSIT COMPANY, a corporation, 780 North Prior Avenue, St. Paul, MN 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers* (except paper and glass containers), *container ends*, *accessories for containers*, and *material*,

equipment, and *supplies* used in the manufacture, sale, and distribution of containers, container ends, and accessories for container ends, between points in Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin, and (2) *Paper containers*, *paper container ends*, *accessories for paper containers*, and *materials*, *equipment*, and *supplies* used in the manufacture, sale, and distribution of paper containers, paper container ends and accessories for paper containers, between Windsor Locks, Portland, Uncasville, Conn.; Boston, Holyoke, Haverhill, and Natick, Mass.; Carteret and Teterboro, N.J.; Tonawanda, Buffalo, Syracuse, Piermont, N.Y.; Culloden, W. Va.; Philadelphia, Pa.; Chicago, Ill.; Melvindale, Midland, and Three Rivers, Mich.; Cleveland, Middleton, Mount Vernon, Newark, and Van Wert, Ohio; Elkhart, Ind.; Milwaukee, Wis.; and St. Louis and St. Louis County, Mo.; on the one hand, and, on the other, Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin. Note: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 128853 (Sub-No. 6), filed May 14, 1971. Applicant: COOKE CARTAGE & STORAGE, LTD., 110 Anne Street South, Barrie, ON Canada. Applicant's representatives: Ronald J. Mastel and Frank J. Kerwin, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle seats*, not in containers, from those ports of entry on the international boundary line between the United States and Canada, located at or near Detroit and Port Huron, Mich., and Buffalo, Niagara Falls, Alexandria Bay, and Lewiston, N.Y., to points in Maryland, under contract with Heywood-Wakefield Company of Canada, Ltd.

No. MC 128998 (Sub-No. 3), filed May 17, 1971. Applicant: VANWAYS, INC., 1230 West River Road, Oscoda, MI 48750. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*; (a) between points in Michigan; (b) between points in Florence, Forest, Marinette, Oneida, Vilas, and Iron Counties, Wis.; and (c) between points in Michigan on the one hand, and, on the other, points in Florence, Forest, Marinette, Oneida, Vilas, and Iron Counties, Wis., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in

connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. Note: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that it holds duplicating authority under its lead No. MC 128998. All such duplicating authority shall be eliminated if and when the instant application is granted.

No. MC 135175 (Sub-No. 2), filed May 17, 1971. Applicant: B. C. CARTAGE COMPANY, a corporation, 3222 North Main Street, Gainesville, FL 32601. Applicant's representative: W. E. Cordell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment*, *materials*, and *supplies*, for the account of Western Electric Co., Inc., between points in Alachua, Union, Columbia, Gilchrist, Levy, Lafayette, Dixie, Suwannee, Taylor, Madison, Putnam, Bradford, Marion, Hamilton, Clay, and Jefferson Counties, Fla., on traffic having a prior or subsequent out-of-State movement.

No. MC 135181 (Sub-No. 2), filed May 17, 1971. Applicant: MAIERHOFER BROS., INC., 8253 North Lincoln Avenue, Skokie, IL 60076. Applicant's representatives: John M. Duffy and Gregory J. Scheurich, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, in containers; and *empty beer containers*, on return, from South Bend, Ind., to Skokie, Ill., and Lockport, Ill., under contract with Jas. P. Paulus Co. and Mondrella & Sons, Inc.

No. MC 135346 (Sub-No. 2), filed May 14, 1971. Applicant: CITIZEN AUTO STAGE COMPANY, a corporation, doing business as CITIZEN EXPRESS LINES, 454 Grand Avenue, Nogales, AZ 85621. Applicant's representative: Robert J. Corber, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances*, *equipment*, and *parts*, between points in Santa Clara County, Calif., and the International Border at Nogales, Ariz., under contract with Memorex Corp., Santa Clara, Calif. Note: Applicant now holds common carrier authority under its No. MC 54541 Sub-No. 1, therefore dual operations may be involved. Common control may also be involved.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8022 Filed 6-9-71; 8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 7, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules

of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42222—*Sulphuric acid from Agricola, Fla.* Filed by O. W. South, Jr., agent (No. A6261), for interested rail carriers. Rates on acid, sulphuric, in tank carloads, as described in the application, from Agricola, Fla., to specified points in Alabama, Florida, and Georgia.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 44 to Southern Freight Association, agent, tariff ICC S-881. Rates are published to become effective on July 8, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8122 Filed 6-9-71; 8:51 am]

[I.C.C. Order No. 57; Rev. S.O. 994]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, Agent, The Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees, is unable to transport traffic over its line between Plymouth, Ind., and South Bend, Ind., because of track and bridge damage.

It is ordered, That:

(a) Rerouting traffic: The Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees, being unable to transport traffic over its line between Plymouth, Ind., and South Bend, Ind., because of track and bridge damage, the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees, and the Baltimore & Ohio Railroad Co. are hereby authorized to reroute or divert such traffic normally interchanged at La Paz, Ind., so as to accomplish interchange at Walkerton, Ind. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of the other railroad to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted

and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 11:59 p.m., June 2, 1971.

(g) Expiration date: This order shall expire at 11:59 p.m., June 30, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 2, 1971.

INTERSTATE COMMERCE
COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.71-8121 Filed 6-9-71; 8:51 am]

SUPERIOR TRUCKING CO. ET AL.

Assignment of Hearings

JUNE 7, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate

ate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

I & S No. M-24644, Clothing, New England Territory, assigned July 20, 1971, Washington, D.C., canceled.

MC-106644 Sub 95, Superlor Trucking Co., application dismissed.

MC-52657 Sub 664, Arco Auto Carriers, Inc., application dismissed.

MC-85465 Sub 17, West Nebraska Express, Inc., application dismissed.

MC 113267 Sub 254, Central & Southern Truck Lines, Inc., assigned July 15, 1971, in Room 1210 Federal Office Building, 701 Loyola Avenue, New Orleans, La.

MC 115286 Sub 211, W. J. Digby, Inc., assigned July 14, 1971, in Room 1210 Federal Building, 701 Loyola Avenue, New Orleans, La.

MC 134668 Sub 1, Marine Terminals, Inc., assigned June 7, 1971, Miami, Fla., postponed indefinitely.

MC-F-10996 Nelson Freightways, Inc.—Purchase (Portion)—C. Rickard & Sons, Inc., now assigned June 21, 1971, at Washington, D.C., canceled and reassigned to July 26, 1971, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC-4405 Sub 466, Dealers Transit, Inc., application dismissed.

MC 41098 Sub 36, Global Van Lines, Inc., assigned June 28, 1971, at Boston, Mass., canceled and transferred to Modified Procedure.

MC-19227 Sub 132, Leonard Bros. Trucking Co., Inc., application dismissed.

MC-108068 Sub 69, U.S.A.C. TRANSPORT, INC., application dismissed.

MC 61231 Sub 52, Ace Lines, Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert Street.

MC 108119 Sub 27, E. L. Murphy Trucking Co., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert Street.

MC 111545 Sub 153, Home Transportation Co., Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert St.

MC 113855 Sub 231, International Transport, Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert St.

MC 123407 Sub 76, Sawyer Transport, Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert St.

MC 133189 Sub 2, Vant Transfer, Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert St.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8123 Filed 6-9-71; 8:51 am]

¹ Also embraces MC-F-11003, P & G Motor Freight, Inc.—Purchase (Portion)—C. Rickard & Sons, Inc., MC-F-11047, Bowman Transportation, Inc.—Purchase (Portion)—C. Rickard & Sons, Inc., FD 26542, Bowman Transportation, Inc., Notes.

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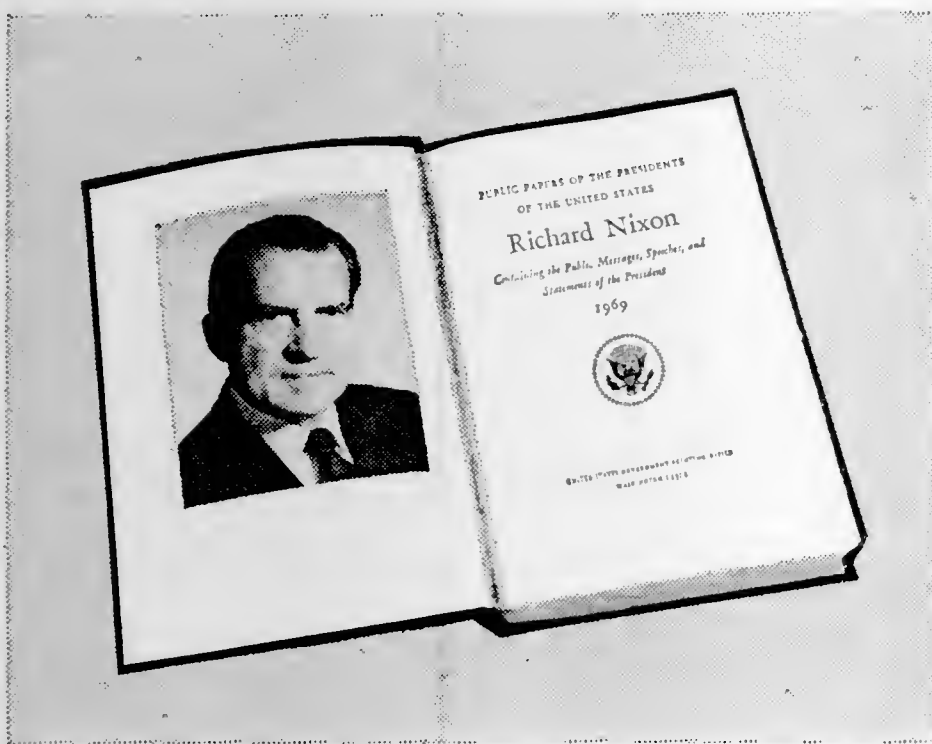
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List of CFR Parts Affected

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Title 24—HOUSING AND HOUSING CREDIT
Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development
SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM
PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE
List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
California	San Bernardino	Victorville	112 081 0050 02	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, Fla. 32301.	City Hall, City of Anna Maria, 10005 Gulf Dr., Anna Maria, FL 33501.	June 11, 1971.
Florida	Manatee	Anna Maria	112 081 0050 02	State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Do.	Do.
Do.	do.	Bradenton Beach	112 081 0345 02	do.	City Hall, City of Bradenton Beach, 207 1st St. North, Bradenton Beach, FL 33510.	Do.
Do.	do.	Holmes Beach	112 081 1430 02	do.	Office of the City Clerk, City of Holmes Beach, 5901 Marina Dr., Holmes Beach, FL 33510.	Do.
Do.	Palm Beach	Tequesta	112 069 2982 03 112 069 2982 04	do.	Office of the Village Manager, Village Hall, 357 Tequesta Dr., Tequesta, FL 33465.	Do.
Georgia	De Kalb	Decatur	113 089 1610 03 113 089 1610 04	State Planning and Programming Bureau, 270 Washington St. S.W., Atlanta, GA 30334.	Office of the City Clerk, City of Decatur, Post Office Box 220, Decatur, GA 30030.	Do.
Do.	Bibb	City of Macon and Bibb County (except Payne City).		Georgia Insurance Department, State Capitol, Atlanta, GA 30334.		Do.
Missouri	Clay, Jackson, and Platte	Kansas City				Do.
New Jersey	Ocean	Lavallette Borough	134 029 1630 03 134 029 1630 04	New Jersey Department of Environmental Protection, Division of Water Resources, Box 1390, Trenton, NJ 08625.	Borough Hall, Lavallette, N.J. 08735.	Do.
New Mexico	Dona Ana	Las Cruces	135 013 0470 02 through 135 013 0470 09	Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	City Hall Planning Department, Post Office Box 760, Las Cruces, NM 88001.	Do.
New York	Suffolk	East Hampton		State Planning Office, Santa Fe, N. Mex. 87501.		Do.
Wisconsin	Pierce	Bay City	155 093 0350 02 155 093 0350 03	State Engineer's Office, Santa Fe, N. Mex. 87501.	New Mexico Insurance Department, Post Office Drawer 1260, Santa Fe, NM 87501.	Do.
				Department of Natural Resources, Post Office Box 450, Madison, WI 53701.	Village Board Meeting Room, Village Hall, Village of Bay City, Bay City, Wis. 54723.	Do.
				Wisconsin Insurance Department, 4802 Sheboygan Ave., Madison, WI 53081.		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective July 22, 1970, 35 F.R. 12360, Aug. 1, 1970)

Issued: June 11, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71-8138 Filed 6-10-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS
List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:
§ 1915.3 List of flood hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
California	San Bernardino	Victorville	11 12 081 0650 02	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, FL 32301.	City Hall, City of Anna Maria, 10005 Gulf Dr., Anna Maria, FL 33501	June 11, 1971.
Florida	Manatee	Anna Maria	11 12 081 0650 02	State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.		July 1, 1970.
Do.	do.	Bradenton Beach	11 12 081 0345 02	do.	City Hall, City of Bradenton Beach, 207 1st St. North, Bradenton Beach, FL 33510.	Do.
Do.	do.	Holmes Beach	11 12 081 1430 02	do.	Office of the City Clerk, City of Holmes Beach, 5901 Marina Dr., Holmes Beach, FL 33510.	July 11, 1970.
Do.	Palm Beach	Tequesta	11 12 099 2982 03 11 12 099 2982 04	do.	Office of the Village Manager, Village Hall, 357 Tequesta Dr., Tequesta, FL 33458.	Dec. 4, 1970.
Georgia	De Kalb	Decatur	11 13 089 1610 03 11 13 089 1610 04	State Planning and Programming Bureau, 270 Washington St., S.W., Atlanta, GA 30334.	Office of the City Clerk, City of Decatur, Post Office Box 220, Decatur, GA 30090.	June 17, 1970.
Do.	Bibb	City of Macon and Bibb County (except Payne City), Kansas City		Georgia Insurance Department, State Capitol, Atlanta, GA 30334.		June 11, 1971.
Missouri	Clay, Jackson, and Platte	Lavallette	11 34 029 1630 03 11 34 029 1630 04	New Jersey Department of Environmental Protection, Division of Water Resources, Box 1390, Trenton, NJ 08646.	Borough Hall, Lavallette, N.J. 08745.	Sept. 9, 1970.
New Jersey	Ocean	Lavallette Borough		Department of Banking and Insurance, State House Annex, Trenton, N.J. 08646.		
New Mexico	Dona Ana	Las Cruces	11 35 013 0470 02 11 35 013 0470 09	State Planning Office, Santa Fe, N. Mex. 87501.	City Hall Planning Department, Post Office Box 799, Las Cruces, NM 88001.	Aug. 7, 1970.
New York	Suffolk	East Hampton		State Engineer's Office, Santa Fe, N. Mex. 87501.		June 11, 1971.
Wisconsin	Pierce	Bay City	11 55 093 0350 02 11 55 093 0350 03	New Mexico Insurance Department, Post Office Drawer 1299, Santa Fe, NM 87501.	Village Board Meeting Room, Village Hall, Village of Bay City, Bay City, Wis. 54723.	Aug. 7, 1970.
				Wisconsin Insurance Department, 4802 Sheboygan Ave., Madison, WI 53701.		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 23, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective July 22, 1970, 35 F.R. 12360, Aug. 1, 1970)

Issued: June 11, 1971.

CHARLES W. WIECKING,
 Acting Federal Insurance Administrator.

[FR Doc.71-8139 Filed 6-10-71;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission
PART 213—EXCEPTED SERVICE
Department of Commerce and Department of Justice

1. Section 213.3314 is amended to show that the position of Deputy Assistant Secretary for Tourism is no longer excepted under Schedule C.
 Effective on publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (1) of § 213.3314 is revoked.

2. Section 213.3310 is amended to show that the position of Chief, Criminal Section, Internal Security Division, is no longer excepted under Schedule C.
 Effective on publication in the FEDERAL REGISTER (6-11-71), subparagraph (4) of paragraph (p) of § 213.3310 is revoked.
 (5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
 [SEAL] JAMES C. SPRY,
 Executive Assistant to the Commissioners.

[FR Doc.71-8189 Filed 6-10-71;8:49 am]

PART 213—EXCEPTED SERVICE
Environmental Protection Agency

Section 213.3318 is amended to show that one position of Secretary to the Director, Office of Congressional Affairs, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-11-71), paragraph (r) is added to § 213.3318 as set out below.

§ 213.3318 Environmental Protection Agency.

(r) One Secretary to the Director Office of Congressional Affairs.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
 [SEAL] JAMES C. SPRY,
 Executive Assistant to the Commissioners.

[FR Doc.71-8188 Filed 6-10-71;8:49 am]

PART 213—EXCEPTED SERVICE
Occupational Safety and Health Review Commission

Section 213.3344 is added to show that the position of one Confidential Assistant to the Chairman is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-11-71), § 213.3344 is added as set out below.

§ 213.3344 Occupational Safety and Health Review Commission.

(a) One Confidential Assistant to the Chairman.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
 [SEAL] JAMES C. SPRY,
 Executive Assistant to the Commissioners.

[FR Doc.71-8190 Filed 6-10-71;8:50 am]

PART 213—EXCEPTED SERVICE
Selective Service System

Section 213.3346 is amended to show that one position of Private Secretary to the Deputy Director of Selective Service is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-11-71), paragraph (d) is added to § 213.3346 as set out below.

§ 213.3346 Selective Service System.

(d) One Private Secretary to the Deputy Director of Selective Service.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
 [SEAL] JAMES C. SPRY,
 Executive Assistant to the Commissioners.

[FR Doc.71-8191 Filed 6-10-71;8:50 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 719—RECONSTITUTION OF FARMS, ALLOTMENTS, AND BASES

This part is issued pursuant to the Agricultural Adjustment Act of 1938,

as amended (7 U.S.C. 1281 et seq.), to provide for the constitution and reconstitution of farms for the purposes of farm marketing quota, acreage allotment, feed grain, rural environmental assistance and other programs administered by the State and county ASC committees.

This part is reissued in order to consolidate the existing provisions and nineteen amendments (29 F.R. 13370, 16185; 30 F.R. 3855, 5701, 6511, 6975; 31 F.R. 1236, 3186, 4580, 7030, 13204, 14253, 15019; 32 F.R. 14599; 33 F.R. 9145, 9755, 11811; 34 F.R. 244, 11410; and 35 F.R. 10353) with necessary reorganization of content for clarity, together with the following principal changes:

(1) Land covered by a cropland adjustment or cropland conversion program agreement may be combined with other land if the farm operator agrees to a zero permitted acreage for the commodity under agreement.

(2) An option is provided whereby States may choose not to notify owners of the action taken on a reconstitution request.

(3) The approval of the State committee and concurrence by the Deputy Administrator are required in specified cases of farm reconstitution involving certain types of corporations and family trusts.

(4) The owner-designation method is expanded to cover feed grain bases. In addition, a memorandum of understanding is to be filed by both the buyer and seller where the owner-designation method is to be used. The filing of the memorandum makes unnecessary the current restriction on the use of the owner-designation method only during the first year after the sale of land by an owner. The restriction is therefore eliminated.

Since farms are now being reconstituted for the 1971 programs, it is essential that this part as revised and reissued be made effective as soon as possible. It is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, this part shall become effective upon publication in the FEDERAL REGISTER.

Sec.
 719.1 Applicability.
 719.2 Definitions.
 719.3 Farm constitution.
 719.4 Guides for determining the land constituting a farm.
 719.5 County committee action to reconstitute a farm.
 719.6 Farm corporations and trusts.
 719.7 Reconstitution of farm allotments, history acreages, and farm bases.
 719.8 Rules for determining allotments and bases where reconstitution is made by division.
 719.9 Rules for determining farm bases, farm allotments, and history acreages where reconstitution is by combination.
 719.10 Preservation of cropland and allotment acreage.
 719.11 Eminent domain acquisitions.
 719.12 Exempting Federal prison farms and Federal wildlife refuges.

Sec.
 719.13 Supervisory authority of ASC State committee.
 719.14 Transfer of allotments and feed grain bases—State public lands.
 719.15 Federally owned land under restrictive lease.

AUTHORITY: The provisions of this Part 719 issued under secs. 375, 378, 379, 52 Stat. 66, as amended, 72 Stat. 995, as amended, 79 Stat. 1211, 7 U.S.C. 1375, 1378, 1379; secs. 601, 602, 706, 79 Stat. 1206, as amended, 1210, 7 U.S.C. 1801 note, 1838, 1305; sec. 105, 84 Stat. 1368, 7 U.S.C. 1441 note.

§ 719.1 Applicability.

The provisions of this part apply to reconstitution of farms, allotments and bases for 1971 and subsequent years under any program administered by the Agricultural Stabilization and Conservation Service through State and county committees. The provisions of §§ 719.1 to 719.15 (29 F.R. 13370, 16185; 30 F.R. 3855, 5701, 6511, 6975; 31 F.R. 1236, 3186, 4580, 7030, 13204, 14253, 15019; 32 F.R. 14599; 33 F.R. 9145, 9755, 11811; 34 F.R. 244, 11410; 35 F.R. 10353) are superseded.

§ 719.2 Definitions.

In determining the meaning of the provisions of this part, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, words importing the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. The following terms shall have the following meanings:

(a) *Allotment*. Acreage allocated to a farm for a year for cotton, peanuts, rice, tobacco, or wheat, pursuant to the Agricultural Adjustment Act of 1938, as amended. The term includes base acreage allotments for cotton and domestic allotments for wheat.

(b) *Combination*. Consolidation of two or more farms or parts of farms into one farm.

(c) *Committees*—(1) *Community committee*. Persons elected within a community as the community committee under the regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees in Part 7 of Subtitle A of this title.

(2) *County committee*. Persons elected within a county as the county committee under the regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees in Part 7 of Subtitle A of this title, except that for Puerto Rico and the Virgin Islands, the Caribbean Area Agricultural Stabilization and Conservation Committee shall, insofar as applicable, perform the functions of the county committee.

(3) *State committee*. Persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State committee under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, except that for Puerto Rico and the Virgin Islands,

the Caribbean Area Agricultural Stabilization and Conservation Committee shall, insofar as applicable, perform the functions of the State committee.

(d) *County.* County or parish of a State except that for Alaska, Puerto Rico and the Virgin Islands, county shall be an area designated by the State committee with the concurrence of the Deputy Administrator.

(e) *County Executive Director.* Person employed by the county committee to execute the policies of the county committee and be responsible for day-to-day operations of the ASCS county office or the person acting in such capacity.

(f) *Cropland.* Land which the county committee determines meets any of the following conditions:

(1) Is currently being tilled for the production of a crop for harvest.

(2) Has been tilled and is currently devoted to legumes or grasses which were established by a producer.

(3) Is suitable for crop production and although not currently tilled it can be established that the land has been tilled in a prior year.

(4) Has been tilled and is currently devoted to vineyards, orchards, or one-row shelter belt planting (excluding abandoned orchards or vineyards).

(5) Is preserved as cropland under § 710.10. Land classified as cropland shall be removed from such classification upon a determination by the county committee that the land (i) is removed from agricultural production; (ii) is no longer suitable for production of crops; (iii) is devoted to trees (other than orchards or one-row shelter belt plantings) which were planted in the preceding year except that land planted to trees in the fall of the preceding year will retain its cropland classification for the succeeding year; or (iv) is no longer preserved as cropland under the provisions of § 719.10 and does not meet the conditions in subparagraphs (1) through (4) of this paragraph.

(g) *Current year.* Calendar year for which the applicable allotment, base acreage, history acreage, yields, marketing quota penalties, or other program determinations are established or considered.

(h) *Department.* U.S. Department of Agriculture.

(i) *Deputy Administrator.* Deputy Administrator, or acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(j) *Division.* Dividing a farm into two or more farms or parts of farms.

(k) *Farm number.* Serial number assigned to a farm by the county committee for the purpose of identification.

(l) *Federally owned land.* Land owned by the Federal Government or any department, bureau, or agency thereof, or any corporation whose stock is wholly owned by the Federal Government.

(m) *Landlord.* An owner who rents or leases, or a tenant who subleases, farmland to another person.

(n) *OGC representative.* Deputy General Counsel, or appropriate Regional Attorney, or Attorney-in-Charge, Office of the General Counsel.

(o) *Operator.* Person who is in general control of the farming operations on the farm during the program year.

(p) *Owner.* Person who has legal ownership of farmland.

(q) *Person.* Individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable, a State, a political subdivision of a State, or any agency thereof.

(r) *Preceding year.* Calendar year immediately preceding the current year.

(s) *Producer.* Person who as owner, landlord, tenant or sharecropper, is entitled to share in the crops available for marketing from the farm or in the proceeds thereof, and, in the case of rice, a person who furnishes water for a share of the crop.

(t) *Reconstitution.* Change in the land constituting a farm as a result of combination or division.

(u) *Representative of the State committee.* Member of the State committee or any employee of the State committee.

(v) *Secretary.* Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority is delegated to act in his stead.

(w) *Sharecropper.* A producer who performs work in connection with the production of a crop under the supervision of the operator and who receives a share of such crop for his labor.

(x) *State executive director.* Person employed by the State committee to execute the policies of the State committee and to be responsible for the day-to-day operations of the ASCS State office, or the person acting in such capacity.

(y) *Tenant.* (1) A person usually called a "cash tenant," "fixed-rent tenant," or "standing-rent tenant," who rents land from another for a fixed amount of cash or a fixed amount of a commodity to be paid as rent; or (2) a person, other than a sharecropper, usually called a "share tenant," who rents land from another person and pays as rent a share of the crops or proceeds therefrom.

(z) *Representative of the county committee.* A member of the county committee or any employee of the county committee.

§ 719.3 Farm constitution.

(a) *Farms constituted under prior regulations.* Land which has been properly constituted under prior regulations shall remain so constituted until a reconstitution is required under paragraph (d) of this section.

(b) *Farms constituted for the first time or reconstituted hereafter.* With respect to the constitution and identification of land as a farm for the first time or the reconstitution of farms made hereafter, a farm shall include all land operated by one person which is nearby and easily accessible except that it shall not

include land under any of the following conditions:

(1) Land under separate ownership unless (i) the owners agree in writing, and (ii) the county committee determines that the land is approximately equally productive;

(2) Field-rented tracts under a short-term agreement of 1 year or less (such tracts shall remain with the farm of which they are a part);

(3) Federally owned land under a lease restricting the production of price-supported commodities in excess supply;

(4) Federal- and State-owned wildlife refuges unless the former owner has possession of the land under a leasing agreement with the eminent domain acquiring agency; or

(5) Land covered by a whole farm conservation reserve contract unless all the other land included in the farm is also covered by a whole farm conservation reserve contract.

(6) Land covered by a whole farm cropland conversion program agreement unless all the other land included in the farm is also covered by a whole farm cropland conversion program agreement.

(7) Land covered by a cropland adjustment or cropland conversion program agreement unless (i) the specific commodity diverted under the agreement is also diverted under a cropland adjustment or cropland conversion program agreement covering the other land and having the same expiration date, or (ii) the other land does not have an allotment or base of the same commodity, or (iii) the farm operator agrees to a zero permitted acreage for the commodity under agreement.

(c) *Location of farm for administrative purposes.* (1) If all land in the farm is located in one county, the farm shall be administratively located in such county.

(2) If the land in the farm is located in more than one county, the farm shall be administratively located in either of such counties as the county committees and the farm operator agree. If no agreement can be reached, the farm shall be administratively located in the county (i) where the principal dwelling is situated, or (ii) where the major portion of the farm is located, if there is no dwelling.

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, if the land in the farm is part of an Indian reservation and is operated by a grazing association, the farm may be administratively located in the county where such grazing association has its headquarters if the county committees involved and the farm operator agree to such location, provided the persons using the land do not reside thereon and the geographic features are such that administrative access would be more practical.

(d) *Required reconstitutions.* A reconstitution of a farm either by division or by combination shall be required whenever:

(1) A change has occurred in the operation of the land after the last constitution or reconstitution and as a result of such change the farm does not meet the conditions for constitution of a farm as set forth in paragraph (b) of this section: *Provided*, That no reconstitution shall be made if the county committee determines that the primary purpose of the change in operation is to (i) establish eligibility to transfer allotments subject to sale or lease or (ii) obtain small farm benefits under a program;

(2) The farm was not properly constituted under the applicable regulations in effect at the time of the last constitution or reconstitution;

(3) An owner requests in writing that his land no longer be included in a farm which is composed of tracts under separate ownership;

(4) The county committee determines that the farm was reconstituted on the basis of false information furnished by the owner or farm operator; or

(5) The county committee determines that the tracts of land included in a farm are not being operated as a single farming unit.

§ 719.4 Guides for determining the land constituting a farm.

(a) *General.* In determining the constitution of a farm, consideration shall be given to a number of provisions such as ownership, operation, accessibility and nearness, and the productiveness of different tracts. A brief explanation of these provisions is outlined in this section to assist committees in properly determining what land is to be included in a farm.

(b) *Ownership.* The county committee shall require specific proof where there is doubt as to ownership.

(c) *Family members.* Land owned by different members of an immediate family living in the same household and operated as a single farming unit shall be considered as being under the same ownership in determining a farm.

(d) *Parent corporations and subsidiaries.* All land which is nearby and easily accessible and which is owned and operated by a parent corporation and subsidiary corporations of which the parent corporation owns more than 50 percent of the shares of stock (or which is owned and operated by such subsidiary corporations) shall be constituted as one farm.

(e) *Nearby and easily accessible.* Tracts of land shall be considered nearby and easily accessible if the county committee determines such tracts are close enough together so that they will be operated as a single farming unit. In determining whether such tracts are nearby and easily accessible, the county committee shall consider whether: (1) The farm labor and machinery are or could be freely interchanged during the period when normal farming operations are in progress; (2) the cropping pattern or land uses will be such as to reflect a single farming unit.

(f) *Productivity.* Combinations of tracts under different ownership shall not be permitted where the county com-

mittee determines that (1) one tract is primarily irrigated land and the other tract is primarily nonirrigated, or (2) the present productivity of the cropland on one tract differs substantially from the productivity of the other tract. Farm yields may be considered in making this determination but they should not be the sole basis for such determination.

(g) *Operation.* The county committee, in determining the constitution of a farm, shall satisfy itself that the operator will be in general control of the farming operations on the farm in the program year.

§ 719.5 County committee action to reconstitute a farm.

Action to reconstitute a farm may be initiated by the county committee, the farm owner, or the operator of the farm. Any request for a farm reconstitution shall be filed with the county committee. The county committee shall act on each proposed reconstitution. All interested operators shall be notified of the action taken by the county committee. All interested owners shall also be notified provided the State committee determines such notification is desirable and this policy is applicable to all counties in the State. If the proposed reconstitution is approved, the notice shall show the program year in which the reconstitution will become effective for each allotment, base, and program.

§ 719.6 Farm corporations and trusts.

Notwithstanding any other provision of this part, whenever the county committee has reason to believe a farm corporation(s) or trust(s) are formed primarily for the purpose of obtaining additional program benefits under this Title 7, the farm or farms shall not remain as presently constituted, or be reconstituted, when owned and operated, or operated but not owned, by corporations or trusts listed below without approval of the State committee and concurrence by the Deputy Administrator: (a) Corporations in which more than 50 percent of the shares of stock is owned by members of the same family living in the same household; (b) corporations in which more than 50 percent of the shares of stock is owned by stockholders common to more than one of the corporations; (c) trusts in which the beneficiaries and the trustee are family members living in the same household.

§ 719.7 Reconstitution of farm allotments, history acreages, and farm bases.

(a) *When to reconstitute.* Farms shall be reconstituted as soon as it is determined that the land areas are not properly constituted and, to the extent practicable, shall be based on the facts and conditions existing at the time the change requiring the reconstitution occurred. For each farm reconstituted, the farm allotments, history acreages, and farm bases shall also be reconstituted in accordance with the provisions of this part. County office records shall be corrected as necessary to reflect prop-

erly the basic data for each farm as reconstituted.

(b) *Effective date of reconstitutions.* The effective date of the reconstitution shall be as follows:

(1) *Allotment crops.* (i) The reconstitution shall be effective for an allotment crop for the current program year if such reconstitution is initiated before such crop is or would have been planted.

(ii) The reconstitution may be made effective for the current program year after the crop has been or would have been planted if the county committee determines that no adverse effect to the program will result and the farm owner(s) and operator(s) agree to make the reconstitution effective for such year.

(2) *Feed grain crops.* (i) The reconstitution shall be effective for feed grain crops for the current program year if such reconstitution is initiated before any spring seeded feed grain crop is or would have been planted.

(ii) The reconstitution may be made effective for the current program year after any spring seeded feed grain crop has been or would have been planted if the county committee determines that no adverse effect to the program will result and the farm(s) and operator(s) agree to make the reconstitution effective for such year.

(3) *Conservation Reserve, Cropland Conversion, and Cropland Adjustment Programs.* The reconstitution shall be effective for purposes of the Conservation Reserve, Cropland Conversion, and Cropland Adjustment Programs (CRP, CCP, and CAP) for the current program year unless the reconstitution would cause noncompliance with the contract or agreement.

(4) *Rural Environmental Assistance Program.* The reconstitution shall not be effective for purposes of the Rural Environmental Assistance Program (REAP) if the county committee has approved cost-sharing for a producer on the farm for the current program year unless (i) the parent farm on which cost-sharing was approved was not properly constituted at the time of approval, or (ii) the county committee determines that some producer on the farm would not be eligible to participate in the REAP if the reconstitution is not made effective.

(5) *Misrepresentation.* Notwithstanding any other provision of this section, if the county committee determines that the farm was or was not reconstituted because of a misrepresentation by a producer, the farm shall be properly reconstituted, and the effective date of such reconstitution for all purposes shall be retroactive to the date the farm was improperly constituted.

(c) *Maximum and minimum provisions, adjustments, and release and re-apportionment.* Allotments for reconstituted farms resulting from the divisions or combinations of parent farms in accordance with this part are subject to maximum and minimum

allotment provisions and to adjustments from allotment reserves for the commodity and released farm allotments as provided in the regulations governing the determination of allotments for the commodity.

(d) *Continuous application.* Where a farm reconstitution for the current year is made before the current year's allotments or bases are determined, the history acreages and other basic data for the reconstituted farms shall be used to establish the current year's allotments and bases: *Provided*, That where the current year's preliminary allotment on one or more parent farms involved in a proposed combination would be reduced for underplanting, the allotment shall be determined as follows: (1) The current year's allotment for each parent farm shall be established separately, and then (2) the current year's allotment for the combined farm shall be determined by adding the allotments established for the parent farm.

§ 719.8 Rules for determining allotments and bases where reconstitution is made by division.

The methods for dividing allotments and bases in order of precedence are estate, designation by landowner, contribution (including contribution-cropland and contribution-history), cropland, and history.

(a) *Estate method.* The estate method is the proration of the allotments and bases for a parent farm among the heirs in settling an estate. If the estate sells a tract of land before the farm is divided among the heirs, the allotments and bases for the tract shall be determined by using one of the methods provided in paragraphs (b) through (f) of this section. The allotments and bases shall be divided among the heirs in settling an estate as follows:

(1) In accordance with a will by the testator if the county committee determines that the terms of the will are such that a division can reasonably be made on this basis.

(2) If the provisions of subparagraph (1) of this paragraph are not applicable, the allotments or bases shall be apportioned in the manner agreed to in writing by all interested heirs. An agreement by the administrator or executor shall not be accepted in lieu of an agreement by the heirs.

(3) If the provisions of subparagraphs (1) and (2) of this paragraph do not apply, the allotments and bases shall be divided pursuant to paragraphs (c) through (f) of this section, as applicable.

(b) *Designation of allotments and bases by landowner.* If the ownership of a tract of land is transferred from a parent farm, the county committee shall at the request of the transferring owner divide the allotments and bases between the parent farm and the transferred tract, or between the applicable tracts if the entire farm is sold to two or more purchasers, in the manner designated by the owner of the parent farm subject to conditions set forth in this paragraph. If the county committee determines that

the allotments and bases cannot be divided in the manner designated by the owner because of the conditions set forth in this paragraph, the owner shall be notified and permitted to revise the designation so as to meet the conditions in this paragraph. If the owner does not furnish a revised designation of allotments and bases within a reasonable time after such notification or if the revised designation does not meet the conditions of this paragraph, the county committee shall make the proration of allotments and bases in accordance with paragraphs (c) through (f) of this section. If a parent farm is composed of tracts under separate ownership, each separately owned tract being transferred in part shall be considered a separate farm and shall be constituted separately from the parent farm using the rules in paragraphs (c) through (f) of this section, as applicable, prior to application of the provisions of this paragraph. The eligibility conditions that shall be complied with for applying this method of division are:

(1) The interested owners (seller and purchaser) shall file a memorandum of understanding of the designation with the county committee. The heirs of an estate may use this method to designate the allotments or bases for allocation to a tract of land sold prior to dividing the parent farm among the heirs in settling an estate: *Provided, however*, That designation by the administrator or executor shall not be accepted in lieu of designation by the heirs.

(2) Where the land of the parent farm is subject to a deed of trust, lien, or mortgage, the holder of the deed of trust, mortgage, or lien must agree to the division of allotments and bases.

(3) Neither the tract transferred from the parent farm nor the remaining portion of the parent farm shall receive allotments or bases in excess of allotments or bases for similar farms in the same area having allotments or bases of the commodity or commodities involved and such allotments or bases shall be consistent with good land use.

(4) Where the part of the farm from which the ownership is being transferred was owned for a period of less than 3 years, the provisions of this paragraph shall not be applicable to such transfer unless the State committee with concurrence of the Deputy Administrator finds that the primary purpose of the ownership transfer was not to retain or sell an allotment or base. In the absence of such a finding, and if the farm contains land which has been owned for a period of less than 3 years, that part which has been owned for less than 3 years shall be considered as a separate farm and the allotments and bases shall be assigned to that part using the rules in paragraphs (c) through (f) of this section, as applicable. Such apportionment shall be made prior to any designation of allotments and bases with respect to the part which has been owned for 3 years or more.

(5) This method is not applicable to burley tobacco except where the owner-

ship of the tract is transferred for non-agricultural uses.

(6) The land for which ownership is being transferred to a Federal, State, or other agency was not or could not have been acquired under the right of eminent domain. If eminent domain is applicable, the provisions of § 719.11 shall apply.

(c) *Contribution method.* The contribution method for dividing allotments and bases is the proration of the parent farm's allotments and bases to each identical tract separated from the parent farm in the same proportion that each tract contributed to the allotments and bases at the time of combination. Unless the provisions of paragraph (a) or (b) of this section are applicable this method shall be used to divide allotments and bases for a farm which resulted from a combination that became effective during the 6-year period immediately prior to the current year. This method for dividing allotments shall be used beyond the 6-year period if records are available to show the contribution of the separate tracts at the time of combination unless the county committee determines with the concurrence of a representative of the State committee that the use of the contribution method would not result in an equitable distribution of the allotments and bases considering available land, cultural operations, and changes in type of farming. The contribution method shall not be used in cases involving the division for any commodity for which there was no allotment or base established at the time of combination, and a parent farm, in the case of rice, which includes one or more tracts on which an established crop rotation system was being carried out at the time of the combination.

(d) *Contribution-Cropland or Contribution-History method.* In cases where the allotments or bases are divided by the contribution method pursuant to paragraph (c) of this section and a further division of an identical tract is required, the allotments and bases shall first be apportioned to the identical tracts and then apportioned among the parts of the identical tracts by the cropland or history method pursuant to paragraph (e) or (f) of this section, as applicable.

(e) *Cropland method.* The cropland method for dividing allotments and bases is the proration of allotments and bases to the tracts being separated from the parent farm in the same proportion that the cropland acreage for each such tract bears to the cropland for the parent farm. For rice, the acreage of cropland that is available for the production of rice shall be used to make the proration. The county committee shall verify or redetermine, if considered necessary, the cropland on each of the tracts of the parent farm prior to making the proration. This method shall be used if the provisions of paragraphs (a) through (c) of this section are not applicable unless the county committee determines that a division by the history method

would result in allotments and bases more representative of the operation normally carried out on each tract during the respective base period for the commodities. Notwithstanding any other provision of this paragraph, the allotments and bases shall be apportioned on the basis of the cropland available for and adapted to the production of the allotment or feed grain crop on each tract when the owners file with the county office a written agreement as to the amount of available and adapted cropland and the county committee approves such agreement.

(f) *History method.* The history method of division of allotments and bases is the proration of allotments and bases to the tracts being separated from the parent farm on the basis of the acreage determined to be representative of the operations normally carried out on each tract during the respective base period for the commodities. The history method shall be used when the county committee determines that division by the cropland method should not be used.

(g) *Variation in reconstituted allotments and bases.* Allotments or bases apportioned among the divided tracts, pursuant to paragraphs (c) through (f) of this section, may be increased or decreased by as much as 10 percent of the allotment or base established for the parent farm if (1) the interested owners agree in writing, and (2) the county committee determines that the method used did not provide an equitable distribution concerning available land, cultural operations and changes in type of farming. Any increase in an allotment or base on a tract pursuant to this paragraph shall be offset by a corresponding decrease on the other tract and all variations between tracts must be compensating.

(h) *Adjustments in conserving bases.* Conserving bases for farms divided pursuant to paragraphs (c) through (f) of this section, and apportioned among the tracts, may be adjusted by the county committee taking into consideration the physical location of conserving use acreage, the feed grain bases and allotments apportioned to the reconstituted farms, and changes in type of farming. Any decrease in the conserving base on a tract must be offset by a corresponding increase on the other tract and all conserving base adjustments must be compensating.

(i) *Divided history acreage and other data.* The history acreage and other basic data, except commodity yields and minimum allotments, for divided farms shall be determined by using the same percentage figure as was used to apportion the allotment or base crop for the respective commodity. For commodity yields and minimum allotments applicable commodity regulations shall apply.

§ 719.9 Rules for determining farm bases, farm allotments, and history acreages where reconstitution is by combination.

If two or more farms or tracts are combined for the current year, the cur-

rent year's allotments, farm bases, history acreages, planted acreages, and acreages considered planted for the years in the base period for the respective commodities for the reconstituted farm shall be the sum of the allotments, farm bases, history acreages, planted acreages, and acreages considered planted for each of the tracts comprising the combination, subject to the provisions of § 719.7(c).

§ 719.10 Preservation of cropland and allotment acreage.

(a) *Definitions.* Notwithstanding the definitions in § 719.2, for the purposes of this section, the following terms shall have the following meanings:

(1) *Final acreage.* The actual crop acreage, plus any additional acreage considered planted to the crop under applicable commodity regulations.

(2) *Underplanted acreage.* The acreage by which the allotment or feed grain base for a commodity exceeds the final acreage of the commodity.

(b) *Preservation of cropland and acreage available for diversion credit—*
(1) *CAP, CCP, CRP, GPCP, and RCP.* Cropland acreage established and maintained in vegetative cover under the Cropland Adjustment Program, Cropland Conversion Program, Conservation Reserve Program, Great Plains Conservation Program, and Regional Conservation Program, shall retain its cropland classification for the period of time the contract or agreement is in effect plus the period of time thereafter that the cover is maintained. Cropland acreage established in trees under one of the programs listed in this section shall retain its cropland classification for the period of time the contract or agreement is in effect plus an equal period thereafter provided the practice is maintained. All acreage under this subparagraph shall be available for diversion credit to the extent of the underplanted acreage of an allotment or feed grain base crop where needed to protect the history for such crop.

(2) *REAP-ACP and comparable practices carried out without Federal cost-sharing.* Cropland acreage established and maintained in vegetative cover (excluding trees) under the Rural Environmental Assistance Program, the Agricultural Conservation Program, or comparable practices carried out without Federal cost-sharing shall retain its cropland classification for the period of time that the cover is maintained. To qualify for diversion credit under this subparagraph (2), the following conditions shall be met:

(i) Acreage must be in excess of the sum of the conserving base and set-aside acreage requirements under other adjustment programs.

(ii) The practice must have been established after November 3, 1965, and carried out in accordance with good farming practices.

(iii) The producer must request preservation in the year in which the cover is established except that the county committee may accept a request in a

later year if the producer establishes to the satisfaction of the county committee that the cover was established after November 3, 1965, and the request is made before December 31 of the year in which preservation credit is needed.

(c) *Termination of diversion credit.* Acreage shall cease to be available for diversion credit when:

(1) The permanent vegetation is destroyed or not properly maintained.

(2) The additional period of protection in the case of trees established under a conservation program listed in paragraph (b) of this section expires or the trees are destroyed.

(d) *Diversion credit for divided farms.* When a parent farm is reconstituted by division, future diversion credit shall accrue to the farm or tract on which the vegetative cover is physically located.

(e) *Use of diversion credit.* The diversion credit determined under the provisions of this section for each underplanted allotment or feed grain base crop shall be considered as acreage devoted to the crop and shall be utilized in the establishment of future State, county, and farm allotments and bases. Notwithstanding any other provisions of this part, this section shall not be applicable with respect to a crop for which there is participation in the set aside program for wheat, feed grains, or upland cotton authorized by the Agricultural Act of 1970 and payments are earned for such participation.

§ 719.11 Eminent domain acquisitions.

(a) *Commodities covered.* This section provides a uniform method for handling farm allotments for extra long staple cotton, upland cotton, peanuts, rice in farm States, tobacco and wheat; and feed grain bases for corn, grain sorghums and barley; on land involved in an eminent domain acquisition. If eligible for pooling under this section, such allotments and bases are pooled for the benefit of the owner who is displaced from his farm by an eminent domain acquisition. Such pooling is for a 3-year period from the date of displacement and during such period the owner so displaced may request transfers of allotments and bases from the pool to other farms in the United States owned by him. This section does not apply in the case of extra long staple cotton, upland cotton, peanuts, and tobacco to any farm from which the owner was displaced prior to 1950; in the case of wheat to any farm from which the owner was displaced prior to 1954; in the case of rice to any farm from which the owner was displaced prior to 1955; and in the case of feed grains to any farm from which the owner was displaced prior to 1961.

(b) *Eminent domain acquisition.* An eminent domain acquisition is a taking of title to land, or the taking of an impoundment easement to impound water on the land, or the taking of a flowage easement to intermittently flood the land, consummated with respect to land which is, or could be, so taken under the power of eminent domain by a Federal, State,

or other agency. Such acquisition may be by court proceedings to condemn the land or by negotiation between the agency and the owner. Any acquisition by an agency with respect to land not subject to the agency's power of eminent domain shall not be an eminent domain acquisition for purposes of this section. All land acquired by an agency for the intended project, including surrounding land not needed for the project but acquired as a package acquisition, shall be considered to be in the eminent domain acquisition if the agency expended funds for the package acquisition on the basis of its power of eminent domain. For example, a governmental agency acquires 150 acres of land from an owner as a package acquisition and requires 130 acres for the public purpose but supports the expenditure of funds for the unneeded 20 acres on the grounds that no additional cost resulted, or that avoidance of condemnation proceedings warranted the package acquisition.

(c) *Owner.* For purposes of this section, owner means the person, or persons in a joint ownership, having title to the land for a period of at least 12 months immediately prior to the date of transfer of title or grant of impoundment or flowage easement under the eminent domain acquisition. If such person or persons have owned the land for less than such 12-month period, they may, nevertheless, be considered the owner if the State committee determines that such person or persons acquired the land for the purpose of carrying out farming operations and not for the purpose of obtaining status as an owner under this section. However, no person shall be considered the owner if he acquired the land subject to an eminent domain acquisition under an outstanding contract to an agency or an option by an agency or subject to pending condemnation proceedings. In any case where the current title holder cannot be considered the owner for the purposes of this section, the State committee shall determine the person or persons who previously had title to the land and who qualify for status as the owner under the criteria in this paragraph.

(d) *Displacement.* The owner shall be considered displaced from a farm covered by an eminent domain acquisition on the date (1) the right to produce an allotment or feed grain crop is relinquished voluntarily even though the owner is not required to give up possession of the land; or (2) in the case of a flowage easement the owner determines it is no longer practical to conduct farming operations on the land; or (3) the owner loses possession of the land as owner or as lessee under a lease from the agency or its designee if the lease provided unbroken possession to the owner from the date of acquisition to the end of the lease or extensions of the lease. In cases where the agency and the owner have executed a binding contract for acquisition of the farm, the owner may be considered displaced prior to completion of the acquisition if he wishes to plant the commodity on other land he owns or buys.

(e) *Notice of displacement.* The owner shall notify the county committee in writing of the eminent domain acquisition and furnish the date of displacement as soon as possible so that the allotments and bases may be pooled in accordance with this section. Failure to so notify the county committee shall not operate to extend the 3-year period of the pool.

(f) *Pool.* Whenever the county committee determines, by notice from the owner or otherwise, than an owner has been displaced, the county committee shall establish in a pool for a 3-year period, beginning on the date of displacement, the allotments and bases eligible for pooling under this section. Pooled allotments and bases shall be considered fully planted and for each year in the pool, shall be established in accordance with applicable commodity regulations.

(g) *Cases where pooling not permitted or required.*—(1) *Agency has authority to continue crop production.* Pooling shall not be permitted if the agency files written notice with the county committee within 30 days after the date of acquisition designating the crops it intends to continue producing and the county committee determines that the agency has the authority under its power of eminent domain to make the acquisition solely for the purpose of continued crop production. An agency intention to continue crop production after the date of displacement as an interim revenue producing operation cannot form the basis for retention of allotments and bases on the acquired farm unless it has power of eminent domain to acquire land solely for continued crop production. In general, agencies with such power are limited to experiment stations and educational institutions with vocational agricultural training programs.

(2) *Owner waives right to have pooling.* If the owner files written notice with the county committee of intention to waive his right to have all the allotments and bases, or any part thereof, pooled and the county committee determines that the owner fully understands his right to have allotments and bases pooled and has not been coerced to waive his right, the allotments and bases shall be retained on the agency acquired land.

(3) *Less than 15 percent of cropland acquired.* If an agency acquires part of a farm and the cropland on the land so acquired represents less than 15 percent of the total cropland on the farm, the allotments and bases shall be retained on the portion of the farm not acquired by the agency and shall not be pooled.

(4) *15 percent or more of cropland acquired.* If an agency acquires part of a farm and the cropland on the farm so acquired represents 15 percent or more of the total cropland on the farm, the allotments and bases attributable to the acquired land shall be retained on the portion of the farm not acquired by the agency if the owner files a written request with the county committee for such retention. However, only such amounts of allotments and bases may

be retained as can be supported on the available cropland and which will not exceed the allotments and bases established on similar farms in the area, taking into consideration the land, labor, and equipment available for the production of the commodity, crop rotation practices and other physical factors affecting production. Allotments and bases not retained shall be pooled.

(5) *In-county transfer upon displacement.* If, prior to pooling, an owner files a request to transfer the allotments and bases to other farms which he owns in the same county, the county committee may approve a direct transfer without formal establishment in the pool. Such transfer shall be subject to the requirements of paragraph (j) of this section.

(h) *Release of pooled allotments.* Pooled allotments, but not feed grain bases, may be released on an annual basis by the owner to the county committee during any year for which the allotments are pooled and not otherwise transferred from the pool. The county committee may reapportion such released allotments to other farms in the same county having allotments for such commodity. Pooled allotments shall not be released on a permanent basis or surrendered after release to the State committee for reapportionment in other counties. Reapportionment shall be on the basis of past acreage of the commodity, land, labor, and equipment available for the production of the commodity, crop rotation practices and soil and other physical facilities affecting the production of the commodity. Released pooled allotment shall be regarded as fully planted in the pool and not on the farm receiving reapportionment. This paragraph shall govern the release and reapportionment of pooled allotments notwithstanding other procedures contained in applicable commodity regulations.

(i) *Sale, lease, and owner transfers.* Pooled allotments for which there is statutory authority implemented in the applicable commodity regulations for transfer of allotments on a permanent or temporary basis by sale, lease, or by owner (within the meaning of owner for such purposes) may be transferred permanently from the pool by the owner or temporarily for the life of the pooled allotment, subject to the terms and conditions in the applicable commodity regulations for such transfers.

(j) *Regular transfers from pool.*—(1) *General rule.* The owner may request transfer of all or part of the pooled allotments and bases to any farm in the United States of which he is the bona fide owner: *Provided,* That there are farms in the receiving county with allotments or bases for the particular commodity, or if there are no such farms, the county committee determines that farms in the receiving county are suitable for the production of the commodity. For purposes of this paragraph:

(i) Receiving farm means the farm to which transfer from the pool is to be made;

(ii) Receiving State and county committees mean those committees for the State and county in which the receiving farm is located; and

(iii) Transferring State and county committees mean those committees for the State and county in which the agency acquired farm is located.

(2) *Application for transfer.* The owner shall file with the receiving county committee written application for transfer of allotment and feed grain base from the pool within 3 years after the date of displacement. The application shall contain a certification by the owner that he has made no side agreement with any person for the purpose of obtaining an allotment or feed grain base from the pool, for a person other than himself. The owner shall attach to the application all pertinent documents pertaining to his ownership or purchase of land and any leasing arrangements as for example, the deed of trust or mortgage, warranty deed, note, sales agreement, and lease.

(3) *Action by receiving county committee.* The receiving county committee shall consider each application and determine whether the transfer from the pool shall be approved. Before an application is acted upon by the receiving county committee, the owner shall personally appear before the receiving county committee after reasonable notice, bring any additional pertinent documents as may be requested for examination by the receiving county committee, and answer all pertinent questions bearing on the proposed transfer: *Provided,* That the personal appearance requirement may be waived if the receiving county committee determines from facts presented to it on behalf of the owner that such personal appearance would unduly inconvenience the owner on account of illness or other good cause and such personal appearance would serve no useful purpose. Any action by the receiving county committee shall be subject to the approval required under subparagraph (5) of this paragraph.

(4) *Elements of bona fide ownership.* The receiving county committee shall approve the transfer from the pool only where the documents and other evidence presented by the owner show conclusively that the owner has made a normal acquisition of the receiving farm for the purpose of bona fide ownership to reestablish his farming operations. The elements of such an acquisition shall include, but are not limited to, the following conditions:

(i) Appropriate legal documents must establish title to the receiving farm;

(ii) If the owner was the operator of the acquired farm at the date of displacement, such owner shall personally operate and be the operator of the receiving farm for the first year that allotment or feed grain base is transferred;

(iii) If the owner was not the operator of the acquired farm at the date of displacement and he was not a producer because the leasing or rental agreement

provided for cash, fixed rent, or standing-rent payment, such owner shall not be required to personally operate and be the operator of the receiving farm but at least 75 percent of the allotment or feed grain base for the receiving farm shall be planted on the receiving farm for the first year;

(iv) If the owner was not the operator of the acquired farm at the date of displacement but he was a producer on the acquired farm at the date of displacement by virtue of receiving a share of the crops produced on the acquired farm, such owner shall not be required to be the operator of the receiving farm but he shall be a producer on the receiving farm the first year that an allotment or feed grain base is transferred;

(v) The contractual arrangements between the owner and the seller of the receiving farm shall not contain a requirement that the receiving farm be leased to the seller or a person designated by or subject to the control of the seller nor shall the seller or a person designated by or subject to the control of the seller lease the receiving farm for the first year the allotment or feed grain base is transferred even though such contractual arrangements are silent as to any lease; and

(vi) Contractual arrangements under which the receiving farm was purchased or leased are customary in the community where the receiving farm is located with respect to purchase price, size of payments due, time when payments are due, and size of rental payments, if any.

(5) *Action of receiving State committee.* The approval of a transfer from the pool under this paragraph by the receiving county committee shall be effective upon concurrence by the receiving State committee. Notwithstanding any other provision of this section, the receiving State committee may authorize a transfer from the pool in any case where the owner presents evidence satisfactory to the receiving State committee that the eligibility requirements of subparagraph (4) (ii), (iii), or (iv) of this paragraph cannot be met without creating a hardship because of illness, old age, multiple farm ownership, or lack of a dwelling on the farm to which allotment or feed grain base is to be transferred. Notwithstanding any other provisions of this section and particularly subparagraph (4) (v) of this paragraph, the receiving State committee may authorize a transfer from the pool in any case where the owner presents evidence satisfactory to the receiving State committee that the owner has made a normal acquisition of the receiving farm for the purpose of bona fide ownership to reestablish his farming operations although the farm is leased to the seller of the farm for the first year the allotment is transferred.

(6) *Amount of allotment or feed grain base available for transfer.* Upon completion of all necessary approvals under this paragraph, the receiving county committee shall issue an appropriate allotment or feed grain base notice under

the applicable commodity regulations. The allotment or feed grain base to be transferred for a commodity shall be no greater than an amount required to establish an allotment or feed grain base comparable with allotments or feed grain bases determined for other farms in the same area which are similar (except for the past acreage of the commodity), taking into consideration the land, labor, and equipment available for the production of the commodity, crop rotation practices, and the soil and other physical factors affecting the production of the commodity. For purposes of determining such amount, the receiving county committee shall consider the receiving tract as a separate farm when such tract is in combination with land under separate ownership. The acreage transferred from the pool shall not exceed the allotment or feed grain base most recently established for the acquired farm and placed in the pool. When all or a part of the allotment or feed grain base placed in the pool is transferred and used to establish or increase the allotment or feed grain base for other farms owned or purchased by the owner, all or the proportionate part of the past acreage history for the acquired farm shall be transferred to and considered for purposes of future allotments or feed grain bases to have been planted on the receiving farm for which an allotment or feed grain base is established or increased under this section. If only a part of the available allotment or feed grain base is transferred from the pool, the remaining part of the allotment and feed grain base, and past acreage history shall remain in the pool for transfer to other farms of the owner until all such allotment or feed grain base acreage has been transferred or until the period of eligibility for establishing or increasing allotments or feed grain bases under this section has expired.

(7) *Cancellation of transfers.* If any allotment or feed grain base is transferred under this paragraph and it is later determined by the receiving county or State committee, or the Deputy Administrator, that the transfer was obtained by misrepresentation by or on behalf of the owner, or the conditions applicable under subparagraph (4) of this paragraph are not met, the allotment or feed grain base for the receiving farm shall be reduced for each year the transfer purportedly was in effect by the amount attributable to the acreage transferred from the pool; and if the time for withdrawal from the pool has not expired, the amount of acreage initially transferred from the pool shall be returned to the pool after the period of time has expired in which the producer could exercise his rights of review and court action. Any cancellation of transfer of allotment or feed grain base by the receiving county committee shall be subject to approval by the receiving State committee. The receiving county

committee shall issue any notice of marketing quota and penalty as may be required in accordance with applicable commodity regulations.

(8) *Effect of release of pooled allotment.* Notwithstanding the provisions prescribed in this paragraph, if the displaced owner files a request for the transfer of a pooled allotment within the prescribed period for filing such request but his request for transfer is filed during a year in which all or a part of the pooled allotment was released to the transferring county committee pursuant to paragraph (h) of this section, the application for transfer will be processed in the usual manner but the amount of the commodity released shall not be effective on the receiving farm until the succeeding year. When a request for transfer of a pooled allotment involves a transfer from one State to another, the receiving State committee shall obtain information from the transferring State committee as to whether any part of the allotment for which the transfer is requested has been released to the transferring county committee for the current year.

(k) *Constitution of acquired land.* (1) Where the owner leases part but not all of the agency acquired land, such part shall be constituted as a separate farm on the date of his displacement from the land not so leased.

(2) If a parent farm consists of separate ownership tracts, each such tract being acquired in whole or in part shall be considered as a separate farm for purposes of paragraphs (g) (3) and (4) of this section.

(3) If part of a farm is acquired by an agency and the owner is displaced therefrom, such part shall be constituted as a separate farm on the date of displacement unless the allotments and bases are retained on the part not acquired as provided in paragraphs (g) (3) and (4) of this section in which case the farm shall not be reconstituted but the farmland and cropland data shall be corrected on all appropriate records for the parent farm.

(1) *Successors in interest.*—(1) *Designation of beneficiary.* The owner may file with the county committee a written designation of beneficiary of his rights in the allotments and bases attributable to the acquired land in the event of his death and may revise such designation from time to time. The beneficiary of a deceased owner may exercise the right to continue a lease or to negotiate a lease with the agency or its designee and exercise the regular transfer rights with respect to farms owned by such beneficiary and may also exercise the release and sale, lease and owner transfer rights under this section.

(2) *Cases where no beneficiary designated.* If the owner does not file a designation of beneficiary under subparagraph (1) of this paragraph and the owner dies before displacement or after pooling occurs, the following persons shall be considered the beneficiary with the rights as provided under subparagraph (1) of this paragraph:

(i) The surviving joint owner of the farm where two persons own the farm as joint tenants with right of survivorship under which title passes to the survivor;

(ii) The person(s) who succeed to the deceased owner's interest under a will or by intestate succession. However, in the case of intestate succession, such person(s) shall be limited to surviving spouse, mother, father, brothers, sisters, or children of the deceased owner. In the settlement of the estate of the deceased owner, the heirs may file a written agreement with the county committee for the division of the deceased owner's rights under this section.

(m) *Limitations on transfers from pool.* (1) No transfer from the pool under paragraph (h), (i), or (j) of this section shall be approved if there remains unpaid any marketing quota penalty due with respect to the marketing of the commodity from the acquired farm or by the displaced owner; or if any of the commodity produced on the acquired farm has not been accounted for as required under applicable commodity regulations.

(2) If the tobacco or peanut allotment for an acquired farm next established after the date of displacement would have been reduced because of false or improper identification of the commodity produced on or marketed from the farm or due to a false acreage report, the allotment shall be reduced in the pool in accordance with the applicable regulations.

§ 719.12 Exempting Federal prison farms and Federal wildlife refuges.

No marketing penalty shall be assessed or entered on the county or State office debt record for excess acreage of any commodity which may be produced on a Federal prison farm or Federal wildlife refuge; *Provided, however,* That this exception does not apply to penalties incurred by an individual who has a separate interest in a crop which is subject to marketing quotas and which was produced on such Federal prison farms and Federal wildlife refuges.

§ 719.13 Supervisory authority of ASC State committee.

The State committee may take any action required by these regulations which has not been taken by the county committee. The State committee may also (a) correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this part, or (b) require a county committee to withhold taking any action which is not in accordance with the regulations of this part.

§ 719.14 Transfer of allotments and feed grain bases—State public lands.

(a) *General authority.* Section 706 of the Food and Agriculture Act of 1965 (79 Stat. 1210, 7 U.S.C. 1305) enacted November 3, 1965, authorizes the Secretary to permit transfers of allotments and feed grain bases between farms in the same county where both farms are

composed of public lands of the State. Such transfers, effective beginning with the 1966 crops, shall be permitted in accordance with the conditions prescribed by this section.

(b) *Applications for transfer.* An application in writing requesting the transfer of one or more of the allotments and feed grain bases on a farm entirely composed of public lands of a State shall be filed with the county committee by the agency of the State charged with the administration of the land in such farms. The application shall identify the farms as being within the same county, show that each farm is entirely composed of public lands of the State, and list the acreages requested to be transferred. Additional information as to the present operations on the farms, including all leasing arrangements, shall also be set forth in the application.

(c) *Closing date for filing applications.* The State committee shall establish the closing date for filing applications under paragraph (b) of this section for each year which shall be no later than the date when planting of the commodity involved in the transfer becomes general in the county.

(d) *Productivity adjustments in allotments, bases, and history acreages.* Each transfer of allotment and feed grain base under this section shall be adjusted for differences in farm productivity if the yield (projected for the year the transfer is to take effect) for the farm to which transfer is made exceeds the yield (projected for the year the transfer is to take effect) for the farm from which transfer is made by more than 10 percent. The county committee shall determine the amount of allotment or base to be transferred where productivity adjustment is required by dividing (1) the product of the yield for the farm from which transfer is made and the acreage to be transferred from such farm, by (2) the yield for the farm to which transfer is made. History acreage for the farm receiving allotment or base shall be adjusted by the same percentage as the allotment or base being transferred is adjusted. The amount of allotment, base, and related farm history acreage transferred from the farm from which the transfer is made with respect to that farm shall be the full amount but the amount of allotment base, and related farm history acreage for the farm to which the transfer is made shall be the adjusted amount. The county acreage history, if applicable, shall be reduced to correspond with the adjusted history transferred to the farm. The history remaining unassigned to the county as a result of such productivity adjustments shall be tabulated by the State committee and included with the sum of county history acreages for purposes of determining the State history acreage.

(e) *Limitation on acreages to be transferred.* The amount of allotment or feed grain base on a farm after a transfer under this section is made shall not exceed the average amount of allotment or feed grain base of at least three but not more than five farms with acreages of

cropland similar to the farm receiving the transfer in the community having the applicable allotment or base on these farms.

(f) *Permanent vegetative cover requirement.* Each transfer of any allotment or base shall be subject to the condition that an acreage equal to the allotment or base transferred (before any productivity adjustment) shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made.

(g) *County committee action.* The county committee shall approve transfer under this section only if it determines that a timely filed application has been received, that the conditions of this section have been met, and a representative of the State committee has approved the transfer. The county committee shall issue revised notices of allotments and bases for each farm affected by the transfer. If a county committee obtains evidence that the conditions applicable to any transfer under this section have not been met, a report of the facts shall be made to the State committee. The State committee shall determine whether such conditions have been met and if not met, shall require that the transfer be canceled and retransferred to the original farm. Where cancellation and retransfer is required, the county committee shall issue revised notices of allotment and bases showing the reasons for cancellation of the transfer.

§ 719.15 Federally owned land under restrictive lease.

(a) *General.* It is the policy of the United States to prohibit the cultivation of crops of price-supported commodities in surplus supply on farmland leased from the United States.

(b) *Price-supported commodities in surplus supply.* It has been determined that the following price-supported commodities are in surplus supply: Cotton (upland and extra-long staple), corn, grain sorghum, rice, wheat, peanuts, dry edible beans, barley, flaxseed, soybeans, and tobacco of the kinds for which acreage allotments are in effect.

Effective date: Upon publication in the FEDERAL REGISTER (6-11-71).

Signed at Washington, D.C., on June 4, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 71-8200 Filed 6-10-71; 8:51 am]

SUBCHAPTER C—SPECIAL PROGRAMS PART 760—INDEMNITY PAYMENT PROGRAMS

Subpart—Beekeeper Indemnity Payment Program

This subpart contains the regulations which set forth the terms and conditions under which indemnity payments will be made to eligible beekeepers who suffer

losses of their honeybees as a result of the application of pesticides.

Sec.	Administration.
760.100	Definitions.
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760.102	Requirements of eligibility.
760.103	Application for payment.
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760.105	Proving utilization of pesticides.
760.106	Proving nonfault.
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760.113	Estates and trusts; minors.
760.114	Setoffs.
760.115	Overdisbursement.
760.116	Death, incompetency, or disappearance.
760.117	Records, and inspection thereof.

AUTHORITY: The provisions of this subpart issued pursuant to Public Law 91-524 (84 Stat. 1382).

§ 760.100 Administration.

The beekeeper indemnity payment program is administered by the Agricultural Stabilization and Conservation Service under the supervision and direction of the Deputy Administrator, State and County Operations. In the field, the program is carried out by the ASC State and County Committees.

§ 760.101 Definitions.

For the purposes of this subpart, the following terms shall have the meaning specified:

(a) "Apiary" means the place where bees are kept, commonly known as a "bee yard".

(b) "Application period" means any period with respect to which application for payment is made beginning not earlier than January 1, 1967, and ending not later than December 31, 1973.

(c) "ASCS" means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(d) "Bee" means the honeybee, *Apis mellifera* L.

(e) "Beekeeper" means a person who maintains colonies of bees.

(f) "Colony" means a community of bees living together in a hive with a queen.

(g) "Colony destroyed" means a colony in which the kill of bees by pesticides was so severe that the colony did not survive.

(h) "Colony moderately damaged" means a colony so damaged by pesticides as to destroy only the field bees.

(i) "Colony severely damaged" means a colony in which the field bees were killed by pesticides, the colony suffered damage to the brood, but the colony did survive.

(j) "County Committee" means the Agricultural Stabilization and Conservation County Committee.

(k) "DASCO" means the Deputy Administrator, State and County Operations, ASCS.

(l) "Person" means an individual, partnership, association, corporation, trust, estate or other legal entity.

(m) "Pesticide" means an economic poison which was registered pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135-135k), and approved for use by the Federal Government.

(n) "Queen nucleus" means a small colony of bees maintained solely for the purpose of producing queen bees.

(o) "Queen nucleus destroyed" means a queen nucleus in which the kill of bees by pesticides was so severe that the queen nucleus did not survive.

(p) "Queen nucleus severely damaged" means a queen nucleus in which the kill of bees by pesticides was so severe that the queen nucleus could not survive without additional bees or brood.

(q) "State Committee" means the Agricultural Stabilization and Conservation State Committee.

§ 760.102 Indemnity payment.

An indemnity payment computed in accordance with § 760.109 will be made under this subpart to a beekeeper who has suffered a loss of his bees as a result of the application of pesticides and who establishes to the satisfaction of the County Committee that he meets all of the requirements of this subpart.

§ 760.103 Requirements of eligibility.

A beekeeper, to be eligible for an indemnity payment, shall file an application for payment with the County Committee and establish to the satisfaction of the County Committee all of the following:

(a) That during the application period, he suffered a loss of bees;

(b) That the loss of bees was the result of the use of pesticides near or adjacent to his apiary, and occurred without his fault;

(c) That if he used pesticides, his use of pesticides in no way contributed to the loss of his bees;

(d) That if he had advance notice that pesticides were going to be used near or adjacent to his apiary, he took reasonable precautions to protect his bees from exposure to pesticides, or, if he took no such precautions, that his failure to do so was reasonable under the circumstances;

(e) That after exposure of his bees to pesticides, he took reasonable action to reduce the extent of the bee loss to the extent that such action was feasible; and

(f) That the loss of bees was not partially or entirely due to any cause other than the use of pesticides.

§ 760.104 Application for payment.

(a) The beekeeper or his legal representative shall complete, sign and file an application for payment with the ASCS County Office serving the area where the beekeeper's headquarters is located.

(b) Applications for payment on losses of bees sustained prior to the effective date of this subpart shall be filed before

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December 31, 1971, or such later date as DASCO may specify.

(c) Applications for payment on losses of bees sustained after the effective date of this subpart shall be filed as promptly as practicable but not later than one year following the date of loss.

(d) The application for payment shall be accompanied by the information required by §§ 760.105-760.109, and such other information as may be reasonably required to enable the County Committee to determine the eligibility of the beekeeper to receive an indemnity payment.

§ 760.105 Proving loss of bees.

A beekeeper shall submit to the County Committee an executed Form ASCS-448 or Form ASCS-449, whichever is applicable, specifying the number of colonies destroyed, severely damaged, and moderately damaged; the number of queen nuclei destroyed and severely damaged; and evidence of the losses of bees specified in such form.

(a) With respect to any loss of bees which occurred between January 1, 1967, and the effective date of this subpart, both dates inclusive, such evidence may include, but is not limited to:

(1) Official reports of bee losses filed by the beekeeper with State or local authorities.

(2) Daybook or other regularly kept business records in which losses of bees were recorded by the beekeeper at the time of such losses.

(3) Written statements signed by disinterested persons, such as landowners, farmers, or apiary inspectors, having personal knowledge of the beekeeper's loss of bees.

(4) Photographs showing bee losses: Provided, That such photographs shall be authenticated as to date, location, and accuracy of what they portray.

(5) Reports of State or local apiary inspectors.

(6) The beekeeper's tax returns or other reports showing losses of bees.

(b) With respect to any loss of bees for which application for payment will be made and which occurs after the effective date of this subpart, such evidence shall include, but is not limited to:

(1) A written statement signed by a disinterested person, such as the State apiarist, ASCS personnel, or other persons familiar with beekeeping, describing losses of bees which he has observed.

(2) Full information regarding the loss, including but not limited to the following:

(i) Cause of loss;

(ii) Extent of loss;

(iii) Date of loss;

(iv) Location of apiary.

§ 760.106 Proving utilization of pesticides.

A beekeeper shall submit to the County Committee evidence that the loss of his bees occurred as a result of the utilization of pesticides near or adjacent to his apiary. Such evidence may include, but is not limited to:

(a) Reports of chemical tests performed on the bees which were killed.

(b) Records, signed statements, or official reports of pesticide applicators or farmers who either applied pesticides or contracted for their application within the normal forage range of the beekeeper's bees.

(c) Records, signed statements, or official reports of representatives of local canneries or pesticide vendors who supplied pesticides which were used within the normal forage range of the beekeeper's bees.

(d) Records, signed statements, or official reports of local, State or Federal governmental agencies or colleges and universities having verified information with respect to the application of pesticides in the locality where the beekeeper's apiaries were located.

§ 760.107 Proving nonfault.

A beekeeper shall submit to the County Committee (a) a statement signed by the beekeeper stating whether or not he used pesticides, and (b) if he did use pesticides, evidence that his use thereof in no way contributed to the loss of his bees.

§ 760.108 Proving reasonable care.

A beekeeper shall submit to the County Committee evidence that he exercised reasonable care in connection with the use of pesticides by others. Such evidence shall consist of, but is not limited to, written statements signed by the beekeeper:

(a) Stating whether or not he received advance notice that pesticides were going to be applied near or adjacent to his apiary.

(b) Describing what actions he took (if he received such notice) to protect his bees from pesticides, or why there was no suitable action he could take.

(c) Describing what steps he took, after exposure of his bees to pesticides, to improve the condition of his colonies and to reduce the extent of bee loss, or why there were no suitable steps he could take.

§ 760.109 Computation of payment.

(a) The County Committee will determine the amount of the indemnity payment due a beekeeper whom it has determined to be in compliance with the terms and conditions of this subpart. Such payment shall be in the amount of the beekeeper's net loss from losses of his bees resulting from application of pesticides, less any indemnification for the loss of his bees or payment of any nature which the beekeeper has received through insurance, legal action, or otherwise. The beekeeper may have his net loss determined by the County Committee on the basis of the following rates:

(1) \$20 for each colony destroyed,

(2) \$15 for each colony severely damaged,

(3) \$5 for each colony moderately damaged,

(4) \$7.50 for each queen nucleus destroyed, and

(5) \$5 for each queen nucleus severely damaged;

or he may have his payment determined by the County Committee on the basis of evidence submitted by him to the County Committee relating to the following:

(i) The cost of bees obtained to replace those lost,

(ii) Loss of sales of honey and beeswax,

(iii) Loss of pollination fees, and

(iv) Loss of sales of queen bees and packaged bees.

§ 760.110 Appeals.

The Appeal Regulations issued by the Administrator, ASCS, Part 780 of this chapter, shall be applicable to appeals by beekeepers from determinations made pursuant to the regulations in this subpart.

§ 760.111 Assignments.

A beekeeper shall not assign any indemnity payment due or to come due under the regulations in this subpart.

§ 760.112 Instructions.

DASCO shall cause to be prepared such forms and instructions as are necessary for carrying out the regulations in this subpart. Beekeepers may obtain such forms, including the following, from the ASCS county office:

ASCS-448—Beekeeper Indemnity Payment Program Report of Loss on a Colony Basis and Application for Payment.

ASCS-449—Beekeeper Indemnity Payment Program Report of Loss on a Loss of Income Basis and Application for Payment.

§ 760.113 Limitation of authority.

(a) County executive directors and State and County Committees do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(b) The State Committee may take any action authorized or required by the regulations in this subpart to be taken by the County Committee when such action has not been taken by the County Committee. The State Committee may also (1) correct, or require a County Committee to correct, any action taken by such County Committee which is not in accordance with the regulations in this subpart, or (2) require a County Committee to withhold taking any action which is not in accordance with the regulations in this subpart.

(c) No delegation herein to a State or County Committee shall preclude DASCO or his designee from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or County Committee.

§ 760.114 Estates and trusts; minors.

(a) A receiver of an insolvent debtor's estate and the trustee of a trust estate shall, for the purposes of this subpart, be considered to represent an insolvent beekeeper and the beneficiaries of a trust, respectively, and the honeybee losses of the receiver or trustee shall be

considered to be the honeybee losses of the persons he represents. Program documents executed by any such person will be accepted only if such person has authority to sign the applicable documents, and such documents are otherwise legally valid.

(b) A minor who is a beekeeper shall be eligible for indemnity payments only if he meets one of the following requirements: (1) The rights of majority have been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable program documents are signed by the guardian; or (3) a bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had he been an adult.

§ 760.115 Setoffs.

(a) If any indebtedness of the beekeeper to any agency of the United States is listed on the county claims control record, indemnity payments due the beekeeper under the regulations in this part shall be applied, as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(b) Compliance with the provisions of this section shall not deprive the beekeeper of any right he would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 760.116 Overdisbursement.

A beekeeper shall be personally liable for repayment of the amount by which any indemnity payment disbursed to him exceeds the amount of such payment authorized under the regulations in this subpart.

§ 760.117 Death, incompetency, or disappearance.

In the case of the death, incompetency, or disappearance of any beekeeper who is entitled to an indemnity payment, such payment may be made to the person or persons specified in the regulations contained in Part 707 of this chapter. The persons requesting such payment shall file Form ASCS-325, "Application For Payment Of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," as provided in that part.

§ 760.118 Records, and inspection thereof.

The beekeeper, and any other person who furnishes information to such beekeeper or to the County Committee to enable the beekeeper to receive an indemnity payment under this subpart, shall maintain any books, records and accounts supporting any information furnished to the County Committee, for 3 years following the end of the year during which the application for payment was filed. The beekeeper or any other person who furnishes such information to the beekeeper or to the County Committee shall permit authorized rep-

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representatives of the Department of Agriculture and the General Accounting Office, during regular business hours, to inspect, examine, and make copies of such books, records, and accounts.

NOTE: The reporting and/or recordkeeping requirement contained herein has been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: Date of publication (6-11-71).

Signed at Washington, D.C., on May 28, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-8201 Filed 6-10-71;8:51 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Export Reg. 18, Amdt. 3]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Export Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of exports of oranges, except Navel, Temple, and Murcott Honey oranges and grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the exportation of grapefruit and oranges grown in Florida.

The recommendations by the Growers Administrative Committee for less restrictive grade limitations on the exportation of oranges and grapefruit is consistent with the available supply of and demand for such fruits by the major

export market outlets. The recommended grade regulations are necessary to insure a continuous supply of good quality fruit and to promote expansion of the export markets.

Order. In paragraph (a) of § 905.527 (Export Reg. 18; 35 F.R. 14607, 16787, 18742) the provisions of subparagraphs (1) and (5) are revised to read as follows:

§ 905.527 Export Regulation 18.

(a) * * *

(1) Any oranges, other than Navel, Temple and Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet;

(5) Any grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet;

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated June 8, 1971, to become effective June 8, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8203 Filed 6-10-71;8:51 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 71-460]

PART 541—DEFINITIONS

PART 545—OPERATIONS

Participation Loan Transactions

Correction

In F.R. Doc. 71-7627 appearing at page 10722 in the issue for Wednesday, June 2, 1971, the following changes should be made:

1. In the third line of § 545.6-4(a) (1) "ticipate" should read "participate".

2. In the 16th line of § 545.6-4(a) (1) the reference to "§ 545.6X1(b) (4)" should read "§ 545.6-1(b) (4)".

3. In the third line of the authority citation in the middle column on page 10723 the reference to "7943-48 Comp." should read "1943-48 Comp."

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1902]

PART 13—PROHIBITED TRADE PRACTICES

Bell & Howell Co.

Subpart—Advertising falsely or misleadingly: § 13.71 Financing: 13.71-10

Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 Truth in Lending Act; § 13.155 *Prices*: 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions*: 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: § 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions*: § 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Bell & Howell Co., Chicago, Ill., Docket No. C-1902, Apr. 20, 1971]

In the Matter of Bell & Howell Co., a Corporation

Consent order requiring a Chicago, Ill., seller of motion picture equipment to cease violating the Truth in Lending Act by failing to make all disclosures required by Regulation Z of said Act on one side of a page of the instrument, failing to disclose the "total of payments," and failing to state in required terms the cash price, the down payment, the number and due dates of the payments, the amount of the finance charge, and the deferred payment price.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Bell & Howell Co., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to make all disclosures required to be made by Regulation Z prior to consummation of the transaction, as required by § 226.8(a) of Regulation Z.

2. Failing to disclose together, either on an instrument evidencing the obligation on the same side of the page or on one side of a separate statement which identifies the transaction, all disclosures required by § 226.8(b) and (c), as required by § 226.8(a) (1) and (2) of Regulation Z.

3. Failing, in any consumer credit transaction, to disclose accurately the sum of the payments scheduled to repay the indebtedness, and to describe that sum as the "Total of Payments", as required by § 226.8(b) (3) of Regulation Z.

4. Stating, in any advertisement, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the

dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit unless it states all of the following items, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d) (2) of Regulation Z:

(a) The cash price;

(b) The amount of the downpayment required or that no downpayment is required, as applicable;

(c) The number, amount and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate; and

(e) The deferred payment price.

5. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, and 226.10 of Regulation Z, the implementing Regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the consummation of any consumer credit transaction or in any aspect of preparation, creation, or placing of advertising as relates to any consumer credit transaction, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale resultant in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist contained herein.

Issued: April 20, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-8145 Filed 6-10-71;8:45 am]

[Docket No. C-1904]

PART 13—PROHIBITED TRADE PRACTICES

Borden, Inc.

Subpart—Advertising falsely or misleadingly: § 13.175 *Quality of product or service*. Subpart—Using deceptive techniques in advertising: § 13.2275

Using deceptive techniques in advertising: 13.2275-70 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Borden, Inc., New York, N.Y., Docket No. C-1904, Apr. 21, 1971]

In the Matter of Borden, Inc., a Corporation

Consent order requiring a New York City seller and distributor of an instant coffee designated "Kava Instant Coffee" to cease misrepresenting that its depictions or demonstrations of any food product are actual proof of the quality of that product, or using such misrepresentation to induce the purchase of such product.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That Borden, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of Kava coffee or any other coffee product or nondairy food product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination of any advertisement by means, of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents directly or by implication:

(a) That depictions or demonstrations, presented either alone or accompanied by oral or written statements, are actual proof of the quality or merits of any such food product when in fact such depictions or demonstrations contain distortions or exaggerations and do not constitute actual proof thereof.

2. Disseminating, or causing the dissemination of any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondent's preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That the respondent shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the respondent shall within sixty (60) days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form of its compliance with the order.

Issued: April 21, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-8146 Filed 6-10-71;8:45 am]

[Docket No. C-1900]

PART 13—PROHIBITED TRADE PRACTICES

Colgate-Palmolive Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service*: 13.170-16 Cleansing, purifying. Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising*: 13.2275-70 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Colgate-Palmolive Co. et al., New York, N.Y., Docket No. C-1900, Apr. 12, 1971]

In the Matter of Colgate-Palmolive Co., a Corporation, and Masius, Wynne-Williams, Street & Finney, Inc., a Corporation, and Norman, Craig & Kummel, Inc., a Corporation, and William Esty Co., a Corporation

Consent order requiring a New York City seller and distributor of home laundry preparations containing enzymes to cease misrepresenting that any such product will remove all types of stains, or that any specific ingredient will remove stains, and that for a period of 1 year disclose on all consumer packages the types of stains which the product can remove and those which it cannot remove, and that such disclosures be made on appropriate radio and television advertising of the product; it is further ordered that respondent's advertising agencies cease misrepresenting that respondent's product will remove all types of stains where such representation is known to be false.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Colgate-Palmolive Co., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of any home laundry products containing enzymes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any such product will remove all types of stains. "Stains" as used herein means spots or local discolorations caused by other than dirt or body soil.

2. Representing, directly or by implication, that any specific ingredient in any such product removes any stain if such stain can reasonably be expected to be removed satisfactorily under normal washing procedures by such product without such ingredient.

3. Representing, directly or by implication, in advertising, that any such product has the ability to remove stains unless:

(A) For a period of not more than 6 months subsequent to the date this order becomes effective and until such time

that respondent complies with the provisions of paragraph (B) below, respondent clearly and conspicuously discloses in each such radio, television and printed advertisement that such product will not remove all types of stains; and

(B) Beginning at a date not later than 6 months after this order becomes effective and for a period of 1 year thereafter:

(a) Respondent clearly and conspicuously discloses on all consumer packages of such product which it sells (1) the types of stains which the product can reasonably be expected to remove satisfactorily, (2) the recommended procedures for obtaining such removal, and (3) the types of stains likely to be found in fabrics subject to home laundry cleaning, which the product cannot reasonably be expected to remove satisfactorily, and

(b) Respondent clearly and conspicuously discloses in each such radio, television and printed advertisement that the types of stains the product will not remove appear on the product's package.

4. The required disclosures, as set forth above, need appear only once in the audio and once in the video of every commercial specified in paragraph 3 of the order. The audio and video portions of such disclosure, where applicable, shall be in reasonable concurrence with each other and the visual portion of the disclosure required by paragraph 3(B) (b) of the order may consist either (1) of a showing of the package disclosure simultaneously with the audio disclosure, or (2) of a superimposed statement.

It is ordered, That respondents Masius, Wynne-Williams, Street & Finney, Inc., a corporation; Norman, Craig & Kummel Inc., a corporation; and William Esty Co., Inc., a corporation, their officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of any home laundry products containing enzymes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: Representing, directly or by implication that any such product will remove all types of stains when respondents knew or should have known that such representation was false or deceptive.

It is further ordered, That all respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions involved in the advertising, promotion, distribution, or sale of consumer products.

It is further ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That parts I and II of this order shall become effective ninety (90) days after the order is final.

It is further ordered, That all respondents shall, within sixty (60) days and at the end of six (6) months after the effective date of the order served upon them, file with the Commission a report, in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: April 12, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-8147 Filed 6-10-71;8:46 am]

[Docket No. C-1906]

PART 13—PROHIBITED TRADE PRACTICES

Costumer et al.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, The Costumer et al., Los Angeles, Calif., Docket No. C-1906, Apr. 3, 1971]

In the Matter of The Costumer, a Corporation, Trading as Travilla, and William J. Travilla and William V. Sarris, Individually and as Officers of Said Corporation

Consent order requiring a Los Angeles, Calif., manufacturer and distributor of women's apparel, including ladies' dresses, to cease violating the Flammable Fabrics Act by importing or selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents The Costumer, a corporation, trading as Travilla, and its officers, and William J. Travilla and William V. Sarris, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce or selling or delivering after sale or shipment, in commerce, any product, fabric or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material

fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since April 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries of any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and

form in which they have complied with this order.

Issued: April 23, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8148 Filed 6-10-71; 8:46 am]

[Docket No. C-1898]

PART 13—PROHIBITED TRADE PRACTICES

D'Arcy Advertising Co.

Subpart—Advertising falsely or misleadingly: § 13.150 *Premiums and prizes*: 13.150-35 *Prizes*; § 13.157 *Prize contests*; § 13.160 *Promotional sales plans*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1905 *Terms and conditions*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, D'Arcy Advertising Co., St. Louis, Mo., Docket No. C-1898, Apr. 12, 1971]

In the matter of D'Arcy Advertising Co., a Corporation

Consent order requiring a St. Louis, Mo., advertising agency retained by McDonald's Corp. in preparing its advertising to cease participating in any advertising promotion if it knows that all the prizes will not be awarded, failing to disclose that holders of winning coupons must submit to personal interviews, failing to disclose the number and nature of the prizes available, distributing winning numbers in States where they have been prohibited by law, and engaging in any contest or game of chance without disclosing the total number and exact nature of the prizes, and other significant details.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That D'Arcy Advertising Co., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with its participation in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or any other promotional device, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. (1) Participating in promotional devices if it knows, has reason to know, or should have known that all prizes of the value and type represented will not be awarded or distributed.

(2) Participating in promotional devices if it knows, has reason to know, or should have known that individuals submitting winning numbers, coupons, tickets, symbols, or other entries, will not be awarded any prize or award to which they are entitled.

(3) Failing to disclose, clearly and conspicuously, in all printed advertising that individuals who hold winning coupons will be asked to submit an affidavit and submit to a personal interview; and failing to disclose all terms or conditions which individuals will be asked to or have to comply with in order to obtain a prize.

(4) Failing to disclose, clearly and conspicuously, in all printed advertising and promotional material the exact number of prizes which will be available, the exact nature of the prizes, their approximate retail value, and the odds of winning each such prize: *Provided, however,* That in those promotional devices in which the odds cannot be determined with reasonable accuracy, respondent shall clearly and conspicuously disclose the approximate number of individuals to whom the promotional device is being disseminated.

(5) Distributing winning numbers, coupons, tickets, symbols, or other entries to States in which "sweepstakes," games, contests, or any other promotional devices have been voided or prohibited by law.

(6) Representing, directly or by implication, that prizes have been purchased unless they have in fact been purchased before or during the time the promotional device is in progress.

(7) Failing to furnish or make reasonable arrangements with others to furnish to requesting individuals a complete list of the names of winners together with the address of and prize won by each.

(8) Failing to maintain or make reasonable arrangements with others to maintain adequate records (a) which disclose the facts upon which any of the representations of the type described in paragraphs 1-7 of this order are based, and (b) from which the validity of the representations of the type described in paragraphs 1-7 of this order can be determined. Such records shall be maintained for a period of four (4) years after completion of the promotional device to which they pertain.

(9) Failing to furnish upon the request of the Federal Trade Commission:

(a) A complete list of the names and addresses of the winners of each prize, and a description of the prize, including its retail value;

(b) A list of the winning numbers or symbols, if utilized, for each prize;

(c) The total number of coupons or other entries distributed;

(d) The total number of participants in the promotion;

(e) The total number of prizes in each category or denomination which were made available; and

(f) The total number of prizes in each category or denomination which were awarded.

B. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or other

promotional device unless the following are disclosed clearly and conspicuously in all printed advertising and promotional material concerning such devices:

(1) The total number of prizes to be awarded;

(2) The exact nature of the prizes, their approximate retail value and the number of each;

(3) All of the terms, conditions and obligations with which individuals will be asked to or have to comply with in order to obtain a prize; and

(4) The odds of winning each prize: *Provided, however,* That in those promotional devices in which odds cannot be determined with reasonable accuracy respondent shall clearly and conspicuously disclose the approximate number of individuals to whom the promotional device is being disseminated.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance with this order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner in which they have complied with this order.

Issued: April 12, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8149 Filed 6-10-71; 8:46 am]

[Docket No. C-1896]

PART 13—PROHIBITED TRADE PRACTICES

Howard-Gibco Corp.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices*: 13.155-85 *Sales below cost*. Subpart—Combining or conspiring: § 13.395 *To control marketing practices and conditions*. Subpart—Selling below cost: § 13.2180 *Selling below cost*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Howard-Gibco Corp., Texarkana, Tex., Docket No. C-1896, Apr. 8, 1971]

In the Matter of Howard-Gibco Corp., a Corporation

Consent order requiring a Texarkana, Tex., operator of retail chain stores in four southwestern States to cease selling its fluid milk at a price less than the cost thereof to respondent.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent, Howard-Gibco Corp., a corporation, its officers, directors, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale or sale of its fluid milk in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Selling or offering to sell its fluid milk at a price less than the cost thereof to respondent with the purpose or intent, or where the effect may be, substantially to lessen competition or tend to create a monopoly in the sale of fluid milk.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of the managers and assistant managers of each of its retail stores.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form of its compliance with this order.

Issued: April 8, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8150 Filed 6-10-71; 8:46 am]

[Docket No. C-1909]

PART 13—PROHIBITED TRADE PRACTICES

J.E.M. Imports, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition*: 13.1185-80 *Textile Fiber Products Identification Act*; § 13.1212 *Formal regulatory and statutory requirements*: 13.1212-80 *Textile Fiber Products Identification Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-70 *Textile Fiber Products Identification Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, J.E.M. Imports, Inc., et al., San Francisco, Calif., Docket No. C-1909, Apr. 26, 1971]

¹ Commissioner Dixon dissented, as he does not think the order is effective.

In the Matter of J.E.M. Imports, Inc., a Corporation, Also Doing Business as J. E. Mamiye Import Co., and Jack E. Mamiye, Individually and as an Officer of Said Corporation

Consent order requiring a San Francisco, Calif., importer and distributor of textile fiber products, including bedspreads, to cease misbranding such textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents J.E.M. Imports, Inc., a corporation, also doing business as J. E. Mamiye Import Company, and its officers, and Jack E. Mamiye, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding such textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such textile fiber product showing in a clear legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of the order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order,

file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: April 26, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.
[FR Doc. 71-8151 Filed 6-10-71; 8:46 am]

[Docket No. C-1907]

PART 13—PROHIBITED TRADE PRACTICES

Kastorian Fur Corp. and Tom Papastavros

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely*; 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition*; 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements*; 13.1212-30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*; 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179, 15 U.S.C. 45, 69f) [Cease and desist order, Kastorian Fur Corp. et al., New York, N.Y., Docket C-1907, Apr. 26, 1971]

In the Matter of Kastorian Fur Corp., a Corporation, and Tom Papastavros, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer of fur garments to cease misbranding and falsely invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Kastorian Fur Corp., a corporation, and its officers and Tom Papastavros, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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2. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on an invoice that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: April 26, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.
[FR Doc. 71-8152 Filed 6-10-71; 8:46 am]

[Docket No. 87650]

PART 13—PROHIBITED TRADE PRACTICES

Kennecott Copper Corp.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Cease and desist order, Kennecott Copper Corp., New York, N.Y., Docket No. 8765, May 5, 1971]

In the Matter of Kennecott Copper Corp., a Corporation

Order requiring the Nation's largest copper mining corporation with headquarters in New York City to divest itself within 6 months of the largest coal producer in the United States with headquarters in St. Louis, Mo., and not to make further acquisitions in the coal industry for the next 10 years without prior Federal Trade Commission approval.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. It is ordered, That Kennecott Copper Corp., a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successor, and assigns, within six (6) months from the date of service upon it of this order, shall divest, absolutely and in good faith, subject to the approval of the Federal Trade Commission, all assets, properties, rights and privileges, tangible and intangible, including, but not limited to, all plants, equipment, trade names, trademarks, and good will, acquired by Kennecott Copper Corp., as a result of the acquisition of the assets and business of Peabody Coal Co., together with all additions and improvements thereto, of whatever description, so as to restore Peabody as a going concern and effective competitor in the mining, production, and sale of coal.

II. It is further ordered, That none of the assets, properties, rights or privileges, described in paragraph I of this order, shall be sold or transferred, directly or indirectly, to any person who is at the time of the divestiture an officer, director, employee, or agent of or under the control or direction of, respondent or any of respondent's subsidiary or affiliated corporations, or owns or controls, directly or indirectly, more than one (1) percent of the outstanding shares of common stock of Kennecott Copper Corp., or to any purchaser who is not approved in advance by the Federal Trade Commission.

III. It is further ordered, That if respondent divests the assets, properties, rights and privileges, described in paragraph I of this order, to a new corporation or corporations, the stock of each of which is wholly owned by Kennecott Copper Corp., and if respondent then distributes all of the stock in said corporation or corporations to the stockholders of Kennecott Copper Corp., in proportion to their holdings of Kennecott Copper Corp.'s stock, then paragraph II of this order shall be inapplicable, and the following paragraphs IV and V shall take force and effect in its stead.

IV. It is further ordered, That no person who is an officer, director or executive employee of Kennecott Copper Corp., or who owns or controls, directly or indirectly, more than one (1) percent of the stock of Kennecott Copper Corp., shall be an officer, director or executive employee of any new corporation or corporations described in paragraph III, or shall own or control, directly or indirectly, more than one (1) percent of the stock of any new corporation or corporations described in paragraph III.

V. It is further ordered, That any person who must sell or dispose of a stock interest in Kennecott Copper Corp., or the new corporation or corporations, described in paragraph III of this order may do so within six (6) months after the date on which distribution of the

stock of the said corporation or corporations is made to stockholders of Kennecott Copper Corp.

VI. It is further ordered, That pending divestiture, respondent shall not make any changes in the corporate structure, business operations, or in any plants, machinery, buildings, equipment or other property of whatever description of Peabody Coal Co. other than those changes made in the ordinary course of business.

VII. It is further ordered, That respondent shall for a period of ten (10) years from the date of service of this order, cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, all or any part of the share capital of any corporation engaged in the mining, production or sale of coal in the United States, or capital assets pertaining to such mining, production or sale of coal.

VIII. It is further ordered, That as used in this order, the word "person" shall include all members of the immediate family of the individual specified and shall include corporations, partnerships, associations and other legal entities as well as natural persons.

IX. It is further ordered, That respondent shall periodically, within sixty (60) days from the date of service of this order and every sixty (60) days thereafter until divestiture is effected, submit to the Federal Trade Commission a detailed written report of its actions, plans, and progress, in complying with the provisions of this order, and fulfilling its objectives.

X. It is further ordered, That respondent's request for continued in camera treatment of documents identified as CX 163, CX 164 A-H, and CX 154 V-27 be, and it hereby is, granted.

XI. It is further ordered, That the documents identified as CX 11, CX 124 A-N, CX 125 A-C, CX 196 A-H, and RX 186 be, and they hereby are, a part of the public record.

XII. It is further ordered, That respondent's request for reconsideration of its motion of December 31, 1968 that Commissioner Jones withdraw from participation in this proceeding, or, in the alternative, that the Commission determine that Commissioner Jones be disqualified from such participation be, and it hereby is, denied.

Issued: May 5, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.
[FR Doc. 71-8153 Filed 6-10-71; 8:46 am]

[Docket No. C-1938]

PART 13—PROHIBITED TRADE PRACTICES

Lanz of California, Inc., et al.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Im-*

RULES AND REGULATIONS

porting, selling or transporting flammable wear.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Lanz of California, Inc., et al., Los Angeles, Calif., Docket No. C-1908, Apr. 26, 1971]

In the Matter of Lanz of California, Inc., a Corporation, and The House of a Thousand Fabrics, a Corporation, and Kurt Scharff, Frank Neustatter, Joseph Basch, Werner Scharff, Margarete Rand, and Emanuel Rand, Individually and as Officers of Said Corporations

Consent order requiring a Los Angeles, Calif., importer and distributor of textile fiber products, including silk scarves, to cease violating the Flammable Fabrics Act by importing or selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Lanz of California, Inc., a corporation, and its officers, and The House of a Thousand Fabrics, a corporation, and its officers, and Kurt Scharff, Frank Neustatter, Joseph Basch, Werner Scharff, Margarete Rand, and Emanuel Rand, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling or offering for sale products made of fabric or related material which has been shipped and received in commerce, as "commerce," "product," "fabric," or "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of such products and effect the recall of such products from customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in

writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since July 15, 1969, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: April 26, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.
[FR Doc. 71-8154 Filed 6-10-71; 8:46 am]

PART 13—PROHIBITED TRADE PRACTICES

Lever Brothers Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service*; 13.170-16 Cleansing, purifying. Subpart — Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising*; § 13.2275-10 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Lever Brothers Co., Inc., et al., New York, N.Y., Docket No. C-1899, Apr. 12, 1971]

In the Matter of Lever Brothers Co., Inc., a Corporation, and SSC&B, Inc., a Corporation, and J. Walter Thompson Co., a Corporation

Consent order requiring a New York City seller and distributor of home laundry preparations containing enzymes to cease misrepresenting that any such product will remove all types of stains, or that any specific ingredient will remove stains, and that for a period of 1 year disclose on all consumer packages the types of stains which the product can remove and those which it cannot remove, and that such disclosures be made on appropriate radio and television advertising of the product; it is further ordered that respondent's advertising agencies cease misrepresenting that respondent's product will remove all types of stains where such representation is known to be false.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered*, That respondent, Lever Brothers Co., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of any home laundry products containing enzymes, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any such product will remove all types of stains. "Stains" as used herein means spot or local discolorations caused by other than dirt or body soil.

2. Representing, directly or by implication, that any specific ingredient in any such product removes any stain if such stain can reasonably be expected to be removed satisfactorily under normal washing procedures by such product without such ingredient.

3. Representing, directly or by implication, in advertising, that any such product has the ability to remove stains unless:

(A) For a period of not more than 6 months subsequent to the date this order becomes effective and until such time that respondent complies with the provisions of paragraph (B) below, respondent clearly and conspicuously discloses in each such radio, television and printed advertisement that such product will not remove all types of stains; and

(B) Beginning at a date not later than 6 months after this order becomes effective and for a period of 1 year thereafter:

(a) Respondent clearly and conspicuously discloses on all consumer packages of such product which it sells (1) the types of stains which the product can reasonably be expected to remove

satisfactorily, (2) the recommended procedures for obtaining such removal, and (3) the types of stains likely to be found in fabrics subject to home laundry cleaning, which the product cannot reasonably be expected to remove satisfactorily, and

(b) Respondent clearly and conspicuously discloses in each such radio, television and printed advertisement that the types of stains the product will not remove appear on the product's package.

4. The required disclosures, as set forth above, need appear only once in the audio and once in the video of every commercial specified in paragraph 3 of the order. The audio and visual portions of such disclosure, where applicable, shall be in reasonable concurrence with each other and the visual portion of the disclosure required by paragraph 3(B) (b) of the order may consist either (1) of a showing of the package disclosure simultaneously with the audio disclosure, or (2) of a superimposed statement.

II. *It is ordered*, That respondent SSC&B, Inc., a corporation, and J. Walter Thompson Co., a corporation, their officers, representatives, agents and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, sale and distribution of any home laundry products containing enzymes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: Representing, directly or by implication, that any such product will remove all types of stains when respondents knew or should have known that such representation was false or deceptive.

III. *It is further ordered*, That all respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions involved in the advertising, promotion, distribution, or sale of consumer products.

It is further ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That parts I and II of this order shall become effective ninety (90) days after the order is final.

It is further ordered, That all respondents shall, within sixty (60) days and at the end of six (6) months after the effective date of the order served upon them, file with the Commission a report, in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: April 12, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8155 Filed 6-10-71; 8:46 am]

[Docket No. 8791o]

PART 13—PROHIBITED TRADE PRACTICES

Mather Hearing Aid Distributors, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*; § 13.15-225 *Personnel or staff*; § 13.170 *Qualities or properties of product or service*; § 13.170-52 *Medicinal, therapeutic, healthful, etc.*; § 13.205 *Scientific or other relevant facts*. Subpart—Misrepresenting oneself and goods—*Business status, advantages or connections*: § 13.1520 *Personnel or staff*; *Misrepresenting oneself and goods*—*Goods*: § 13.170 *Qualities or properties*; § 13.1740 *Scientific or other relevant facts*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Mather Hearing Aid Distributors, Inc., et al., Spokane, Wash., Docket No. 8791, Apr. 29, 1971]

In the Matter of Mather Hearing Aid Distributors, Inc., a Corporation, and United Hearing Centers, Inc., a Corporation, and Washington Hearing Center, Inc., a Corporation, and Marion Spreuw, Individually and as an Officer of Said Corporations

Order requiring three sellers of hearing aid "devices," two located in Spokane, Wash., and one in Great Falls, Mont., to cease misrepresenting that their hearing aids involved a new scientific principle, would be helpful regardless of the hearing disability, prevent deafness, transform high tones to lower tones, were invisible when worn, fit entirely within the ear canal, needed no batteries, and that hearing aids for both ears were more beneficial than for one; respondents also misrepresented that their sales personnel had medical or scientific training, and made other false and misleading representations.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

PART I

It is ordered, That respondents Mather Hearing Aid Distributors, Inc., a corporation, United Hearing Centers, Inc., a corporation, Washington Hearing Aid Center, Inc., a corporation, or any substitute or successor organization, and their officers, and Marion Spreuw, individually and as an officer of said corporations, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hearing aids, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination of any advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication, that:

(a) They merchandise a hearing aid which is a new invention, or involves a new mechanical or scientific principle when such product or one involving such principle has been on a market in the United States for more than 1 year.

(b) Their hearing aids are either invisible or undiscernible when worn.

(c) They merchandise a hearing aid which will fit entirely into the ear canal.

(d) They render a service or merchandise a device, not a hearing aid, which will improve an individual's hearing.

(e) A particular model or type of hearing aid does not require batteries, when, in fact, said model or type does require batteries.

(f) They employ expertly trained individuals to repair or service hearing aids.

(g) They will clean, repair or service hearing aids, or that they provide service centers where all types of hearing aids may be cleaned, repaired or serviced, unless in all instances respondents:

(1) Make a bona fide attempt to clean, repair, or service hearing aids brought to them for that purpose, and

(2) Clearly and conspicuously disclose in immediate conjunction therewith that they do not perform major repairs and that they do not perform major service upon hearing aids.

(h) Use of two hearing aids, one in each ear, for those suffering from a hearing disability of both ears, will be more beneficial than use of one, unless in immediate conjunction therewith it is clearly and conspicuously disclosed that many individuals suffering from a hearing disability of both ears will not receive greater benefits from use of two hearing aids than from the use of one.

2. Disseminating, or causing the dissemination of any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which fails to clearly and conspicuously disclose that:

(a) The business of respondents is the sale of hearing aids.

(b) Persons replying to respondents' advertisements may be contacted by salesmen, or otherwise, for the purpose of inducing them to purchase a hearing aid sold by respondents.

3. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of hearing aids in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph 1, Part I of this order, or fails to comply with the affirmative requirements of paragraph 2 of Part I thereof.

PART II

It is further ordered, That respondents Mather Hearing Aid Distributors, Inc., a corporation, United Hearing Centers, Inc., a corporation, Washington Hearing Aid Center, Inc., a corporation, or any substitute or successor corporation

and their officers, and Marion Spreuw, individually and as an officer of said corporations, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hearing aids in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that:

(a) Their sales personnel have had medical or scientific education or training which enables them to diagnose hearing disabilities or to prescribe the proper hearing aid for an individual with a hearing disability.

(b) They merchandise a hearing aid which will transform high tones into lower tones.

(c) Purchasers of hearing aids, sold by respondents, will after purchase be routinely visited in their homes by representatives of respondents for the purpose of observing the progress of such purchasers in the use of the devices, or to adjust or regulate said devices when necessary.

(d) Their hearing aids will be beneficial to individuals with hearing problems unless in immediate conjunction therewith it is clearly and conspicuously disclosed that not all individuals suffering a hearing disability will benefit from use of a hearing aid.

(e) Use of their hearing aids will restore an individual's "natural" or "normal" hearing, will prevent deterioration of an individual's hearing, will prevent an individual from becoming deaf, will physiologically improve or correct a sensorineural hearing disability.

(f) Use of their hearing aids will enable an individual with a hearing disability to distinguish and understand sounds in group situations or when background noise is present, unless in immediate conjunction therewith it is clearly and conspicuously disclosed that many individuals with a hearing disability will not receive such benefits from use of a hearing aid.

(g) Their business is other than selling hearing aids to the public for a profit.

2. Misrepresenting in any manner:

(a) The nature or purpose of their business.

(b) The education or training of their sales personnel.

(c) The efficacy of their hearing aids.

3. Failing to deliver a copy of this order to cease and desist to all operating divisions of the corporate respondents and to all officers, managers and salesmen, both present and future, and any other person now engaged or who becomes engaged in the sale of hearing aids as respondents' agent, representative or employee; and failing to secure a signed statement from each of said persons acknowledging receipt of a copy thereof.

4. Failing to notify the Commission at least thirty (30) days prior to any

proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the initial decision, as modified by the accompanying opinion, and as above modified, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Issued: April 29, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8156 Filed 6-10-71; 8:46 am]

[Docket No. C-1897]

PART 13—PROHIBITED TRADE PRACTICE

McDonald's Corp. and McDonald's System, Inc.

Subpart—Advertising falsely or misleadingly: § 13.150 *Premiums and prizes*; § 13.150-35 *Prizes*; § 13.157 *Prize contest*; § 13.160 *Promotional sales plans*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1905 *Terms and conditions*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, McDonald's Corp. et al., Chicago, Ill., Docket No. C-1897, Apr. 12, 1971]

In the Matter of McDonald's Corp., and McDonald's System, Inc., Corporations

Consent order requiring a major chain of hamburger restaurants with headquarters in Chicago, Ill., to cease failing to award its prizes as represented, failing to disclose that holders of winning numbers might be asked additional questions, failing to disclose the exact number, nature and value of prizes available, distributing winning numbers in States where such contests are illegal, failing to furnish lists of winners of prizes over \$5, failing to maintain records, and engaging in any contest or game of chance without disclosing the total number and exact nature of the prizes, and other significant details.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That McDonald's Corp., a corporation, and McDonald's System, Inc., a corporation, and their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the prep-

aration, promotion, sale, distribution, or use of any "sweepstakes," contests or games of chance, or similar promotional devices in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. (1) Failing to award and distribute all prizes of the value and type represented.

(2) Failing to award and distribute to individuals submitting winning numbers, coupons, tickets, symbols, or other entries, any prize or award to which they are entitled.

(3) Failing to disclose, clearly and conspicuously, in all advertising that individuals who hold winning coupons might be asked for an interview or an affidavit; and failing to disclose all terms or conditions which individuals will be asked to or have to comply with in order to obtain a prize.

(4) Failing to disclose, clearly and conspicuously, in all advertising and promotional material, the exact number of prizes in each category or denomination to be made available, the exact nature of the prizes, their approximate retail value, and the odds of winning each such prize; *Provided, however*, That in those promotional devices in which the odds cannot be determined with reasonable accuracy, respondents shall clearly and conspicuously disclose the approximate number of individuals to whom the promotional device is being disseminated.

(5) Distributing winning numbers, coupons, tickets, symbols, or other entries to States in which such sweepstakes, contests or games of chance, or similar promotional devices have been voided or prohibited by law; *Provided, however*, That this subparagraph shall not apply to those distributions the respondents have neither participated in nor directed, authorized, ratified, or condoned.

(6) Representing, directly or by implication, that prizes have been purchased unless they have in fact been purchased before or during the time the promotional device is in progress.

(7) Failing to furnish to requesting individuals a complete list of the names of winners of all prizes having a retail value of \$5 or more together with the address of and prize won by each.

(8) Failing to maintain adequate records (a) which disclose the facts upon which any of the representations of the type described in paragraphs 1-7 of this order are based, and (b) from which the validity of the representations of the type described in paragraphs 1-7 of this order can be determined.

(9) Failing to furnish upon the request of the Federal Trade Commission:

(a) A complete list of the names and addresses of the winners of each prize, having a retail value of \$5 or more, and a description of the prize, including its approximate retail value;

(b) A list of the winning numbers or symbols, if utilized, for each prize;

(c) The total number of coupons or other entries distributed;

(d) The total number of known participants in the promotion;

(e) The total number of prizes in each category or denomination which were made available; and

(f) The total number of prizes in each category or denomination which were awarded.

B. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contests or games of chance, or similar promotional devices unless the following are disclosed clearly and conspicuously in all advertising and promotional material concerning such devices:

(1) The total number of prizes to be awarded;

(2) The exact nature of the prizes, their approximate retail value and the number of each;

(3) All of the terms, conditions and obligations with which individuals will be asked to or have to comply with in order to obtain a prize; and

(4) The odds of winning each prize; *Provided, however*, That in those promotional devices in which odds cannot be determined with reasonable accuracy respondents shall clearly and conspicuously disclose the approximate number of individuals to whom the promotional device is being disseminated.

For the purpose of this order, the phrase "directly or through any corporate or other device," insofar as it imposes responsibility upon respondents for acts and practices engaged in by respondents' licensees and said licensees' representatives, shall be construed to impose such responsibility upon respondents for only those said acts or practices which have been participated in, or directed, authorized, ratified or condoned by respondents.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, or any other change in the corporations which may affect compliance with this order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner in which they have complied with this order.

Issued: April 12, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8157 Filed 6-10-71; 8:47 am]

[Docket No. C-1905]

PART 13—PROHIBITED TRADE PRACTICES

Mr. Tony, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements*: 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, Mr. Tony, Inc., et al., New York, N.Y., Docket No. C-1905, Apr. 22, 1971]

In the Matter of Mr. Tony, Inc., a Corporation, Formerly Trading Under Its Own Name and as Mr. Tony of Park Avenue, Inc., Mr. Tony Contracting, Inc., Mr. Tony of Madison Avenue, Inc., Mr. Tony of Third Avenue, Inc., Mr. Tony of Second Avenue, Inc., Mr. Tony of Fifth Avenue, Inc., and Mr. Tony of First Avenue, Inc., and Irving Lieberman, David Leboni, and Richard W. Baker, Individually and as Officers of the Said Corporation, and Ann Lieberman, Individually and as a Former Officer of the Aforesaid Corporations

Consent order requiring a New York City manufacturer and seller of men's suits to cease misbranding its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Mr. Tony, Inc., a corporation, and its officers, formerly trading as Mr. Tony of Park Avenue, Inc., Mr. Tony Contracting, Inc., Mr. Tony of Madison Avenue, Inc., Mr. Tony of Third Avenue, Inc., Mr. Tony of Second Avenue, Inc., Mr. Tony of Fifth Avenue, Inc., and Mr. Tony of First Avenue, Inc., and Irving Lieberman, Richard W. Baker, and David Leboni, individually and as officers of the said corporation, and Ann Lieberman, individually and as a former officer of the aforesaid corporations, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: April 2, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8160 Filed 6-10-71; 8:47 am]

[Docket No. 1901]

PART 13—PROHIBITED TRADE PRACTICES

Procter & Gamble Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service*: 13.170-16 Cleansing, purifying. Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising*: 13.2275-70 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, The Procter & Gamble Co. et al., Cincinnati, Ohio, Docket No. 1901, Apr. 12, 1971]

In the Matter of The Procter & Gamble Co., a Corporation, and Tatham-Laird & Kudner, Inc., a Corporation, and Grey Advertising, Inc., a Corporation, and Compton Advertising, Inc., a Corporation

Consent order requiring a Cincinnati, Ohio, seller and distributor of home laundry preparations containing enzymes to cease misrepresenting that any such product will remove all types of stains, or that any specific ingredient will remove stains, and that for a period of 1 year disclose on all consumer packages the types of stains which the product can remove and those which it cannot remove, and that such disclosures be made on appropriate radio and television advertising of the product; it is further ordered that respondent's advertising agencies cease misrepresenting that respondent's product will remove all types of stains where such representation is known to be false.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent The Procter & Gamble Co., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of any home laundry products containing enzymes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any such product will remove all types of stains. "Stains" as used herein means spots or local discolorations caused by other than dirt or body soil.

2. Representing, directly or by implication, that any specific ingredient in any such product removes any stain if such stain can reasonably be expected to be removed satisfactorily under normal washing procedures by such product without such ingredient.

3. Representing, directly or by implication, in advertising, that any such product has the ability to remove stains unless:

(A) For a period of not more than six (6) months subsequent to the date this order becomes effective and until such time that respondent complies with the provisions of paragraph (B) below, respondent clearly and conspicuously discloses in each such radio, television and printed advertisement that such product will not remove all types of stains; and

(B) Beginning at a date not later than six (6) months after this order becomes effective and for a period of 1 year thereafter:

(a) Respondent clearly and conspicuously discloses on all consumer packages of such product which it sells (1) the types of stains which the product can reasonably be expected to remove satisfactorily, (2) the recommended procedure for obtaining such removal, and (3) the types of stains likely to be found in fabrics subject to home laundry cleaning, which the product cannot reasonably be expected to remove satisfactorily, and

(b) Respondent clearly and conspicuously discloses in each such radio, television and printed advertisement that the types of stains the product will not remove appear on the product's package.

4. The required disclosures, as set forth above, need appear only once in the audio and once in the video of every commercial specified in paragraph 3 of the order. The audio and visual portions of such disclosure, where applicable, shall be in reasonable concurrence with each other and the visual portion of the disclosure required by paragraph 3(B) (b) of the order may consist either (1) of a showing of the package disclosure simultaneously with the audio disclosure or (2) of a superimposed statement.

It is ordered, That respondents Tatham-Laird & Kudner, Inc., a corporation; Grey Advertising, Inc., a corporation; and Compton Advertising, Inc., a corporation, their officers, representatives, agents, and employees, directly or

through any corporate or other devices, in connection with the advertising, offering for sale, sale, and distribution of any home laundry products containing enzymes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: Representing, directly or by implication, that any such product will remove all types of stains when respondents knew or should have known that such representation was false or deceptive.

It is further ordered, That all respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions involved in the advertising, promotion, distribution, or sale of consumer products.

It is further ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other changes in corporation which may affect compliance obligations arising out of the order.

It is further ordered, That parts I and II of this order shall become effective ninety (90) days after the order is final.

It is further ordered, That all respondents shall, within sixty (60) days and at the end of six (6) months after the effective date of the order served upon them, file with the Commission a report, in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: April 12, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8158 Filed 6-10-71; 8:47 am]

[Docket No. C-1903]

PART 13—PROHIBITED TRADE PRACTICES

Rhodes Pharmacal Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service*: 13.170-24 Cosmetic or beautifying; § 13.265 *Tests and investigations*. Subpart—Misrepresenting oneself and goods—Goods: § 13.1710 *Qualities or properties*; § 13.1762 *Tests, purported*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Rhodes Pharmacal Co., Inc., et al., Chicago, Ill., Docket No. C-1903, Apr. 21, 1971]

In the Matter of Rhodes Pharmacal Co., Inc., a Corporation, J. Sanford Rose, Individually and as Officer of Said Corporation, and Elan Corp., a Corporation, and James S. Rose, Individually and as Officer of Said Corporation

Consent order requiring a Chicago, Ill., seller and distributor of cosmetic and beauty aid products to cease misrepresenting that tests or experiments are proof of any feature of its beauty aid products or using such misrepresentations to induce purchase of respondents' products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. It is ordered. That respondents Rhodes Pharmacal Co., Inc., a corporation, and its officers and J. Sanford Rose, individually and as officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution, of "Donnatelli" Honey and Egg Creme Facial, or other beauty aid products do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing the dissemination of any advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents directly or by implication:

(a) That tests, experiments or demonstrations, or the results thereof, presented either alone or accompanied by oral or written statements, or any other evidence, are proof of any fact or product feature of any such beauty aid products, when in fact such tests, experiments, or demonstrations, or the results thereof, or other evidence do not constitute actual proof of such fact or product feature.

2. Disseminating, or causing the dissemination of any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondents' preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in paragraph 1 hereof.

II. It is ordered. That respondent Elan Corp., a corporation and its officers, and James S. Rose, individually, and as officer of said corporation, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution, of "Renascene" Honey and Egg Creme Facial, and Couvert Make-Up, or other beauty aid products, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing the dissemination of any advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act which represents directly or by implication:

(a) That tests, experiments or demonstrations, or the results thereof, presented either alone or accompanied by oral or written statements, or any other evidence, are proof of any fact or product feature of any such beauty aid products, when in fact such tests, experiments or demonstrations or the results thereof, or

other evidence do not constitute actual proof of such fact or product feature.

2. Disseminating, or causing the dissemination of any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondents' preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered. That the respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered. That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered. That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Issued: April 21, 1971.

By the Commission.

[SEAL]

CHARLES A. TOBIN,
Secretary.

[FR Doc.71-8159 Filed 6-10-71;8:47 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 148b—AMPHOTERICIN

Amphotericin B for Injection; Correction

In F.R. Doc. 70-15180 appearing at page 17324 in the FEDERAL REGISTER of November 11, 1970, the first sentence in § 148b.2(b) (4) is corrected by changing "§ 141.4(b)" to read "§ 141.4(e)".

Date: May 28, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.
[FR Doc.71-8162 Filed 6-10-71;8:47 am]

PART 148k—NYSTATIN

Nystatin Oral Suspension

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 148k to provide for certification of the subject antibiotic:

§ 148k.12 Nystatin oral suspension.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Nystatin oral suspension is a suspension containing nystatin and one or more suitable preservatives, suspending agents, surfactants, flavorings, and colorings in purified water. Each milliliter contains 100,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. Its pH is not less than 4.5 and not more than 6.0. The nystatin used conforms to the standards prescribed by § 148k.1(a) (1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on: (a) The nystatin used in making the batch for potency, safety, loss on drying, pH, and identity.

(b) The batch for potency and pH.

(ii) Samples required:

(a) The nystatin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The batch: A minimum of 5 immediate containers.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place an accurately measured representative aliquot of the sample into a high-speed glass blender jar containing sufficient dimethylformamide to give a convenient concentration. Blend for 3 to 5 minutes. Dilute an aliquot with sufficient dimethylformamide to give a stock solution containing 400 units of nystatin per milliliter (estimated). Remove an aliquot of the stock solution and further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted suspension.

Data supplied by the manufacturer concerning the subject antibiotic have been evaluated. Since the conditions prerequisite to providing for its certification have been complied with and since it is in the public interest not to delay in so providing, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-11-71).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Date: May 25, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.
[FR Doc.71-8161 Filed 6-10-71;8:47 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2,4,5,6-Tetrachloroisophthalonitrile

A petition (PP 1F1024) was filed by the Diamond Shamrock Chemical Co., 300 Union Commerce Building, Cleveland, Ohio 44115, proposing establishment of tolerances for combined residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on peanut vine hay, sugar beet tops, and sweet corn forage at 20 parts per million; celery at 15 parts per million; snap beans, broccoli, brussels sprouts, cabbage, carrots, cauliflower, cucumbers, melons, pumpkins, squash (summer and winter), and tomatoes at 5 parts per million; lima beans (pods removed), and sweet corn (kernels plus cob with husks removed) at 1 part per million; and peanuts and sugar beets at 0.1 part per million (negligible residue).

Subsequently the petitioner amended the petition by withdrawing the request for tolerances on peanut vine hay, sugar beet tops, and sweet corn forage at 20 parts per million; on snap beans at 5 parts per million; and by changing the proposed tolerance on carrots from 5 parts per million to 1 part per million and the proposed tolerance on peanuts from 0.1 part per million (negligible residue) to 0.3 part per million. Lima beans and sugar beets were also withdrawn.

Prior to December 2, 1970, the Secretary of Agriculture certified that the pesticide chemical is useful for the purposes for which the proposed tolerances are being established. The Fish and Wildlife Service, Department of the Interior, advised that it has no objections to the proposed tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration of the data submitted in the petition and other relevant material, it is concluded that:

1. Since label restrictions against feeding sweet corn forage and peanut vine hay to livestock have been proposed and since no prime feed items containing residues of fungicide are involved in this petition, the proposed uses are not reasonably expected to result in residues in meat, milk, poultry, and eggs. The uses are classified in the category specified in § 420.6(a) (3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant

Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.275 is revised to read as follows:

§ 420.275 2,4,5,6-Tetrachloroisophthalonitrile; tolerances for residues.

Tolerances are established for the combined residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on raw agricultural commodities as follows:

15 parts per million in or on celery.

5 parts per million in or on broccoli, brussels sprouts, cabbage, cauliflower, cucumbers, melons, pumpkins, squash (summer and winter), and tomatoes.

1 part per million in or on carrots and sweet corn (kernels plus cob with husks removed).

0.3 part per million in or on peanuts.

0.1 part per million (negligible residue) in or on potatoes.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-11-71).

(Sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2))

Dated: June 7, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-8183 Filed 6-10-71;8:49 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 246]

PART 1002—FEES

Services Performed in Connection With Licensing and Related Activities

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 19th day of May 1971.

It appearing, that the Commission, on June 6, 1966, issued its report in this proceeding, and therein prescribed fees and regulations pertaining thereto for application to various activities of the Commission, which fees and regulations were revised and modified by the Commission's supplemental report and order of August 21, 1967;

If further appearing, that the Commission, on May 20, 1969, issued a notice of proposed rule making reopening this proceeding, under authority of the Independent Offices Appropriations Act of 1952 (32 U.S.C.A. 483a) Budget Bureau Circular No. A-25 of September 23, 1959, and 5 U.S.C. 553 (the Administrative Procedure Act) for the purpose of determining (1) whether the tentative schedule of fees which accompanied the said notice is reasonable, and if not, what fees would be reasonable, and (2) what other basis of assessing fees, other than cost to the Commission might be more equitable to the general public and to the recipient of the benefit or service;

If further appearing, that the said notice of proposed rule making invited the representations of all interested parties setting forth their views with respect to the tentative fees and the questions set forth above; and that notice to all interested parties was given through publication of the said notice in the FEDERAL REGISTER of June 4, 1969 (34 F.R. 6508);

And it further appearing, that various parties submitted their views and suggestions on the proposed fees and that the Commission has considered such representations and, on the date hereof, has made and filed its report setting forth its conclusions and findings and its reasons therefor, which report is hereby referred to and made a part hereof;

It is ordered. That the revised fees and regulations pertaining thereto set forth below be, and they are hereby, prescribed for application as set forth therein and in the said report;

It is further ordered. That the fees and regulations prescribed hereby shall supersede those previously prescribed and that this order shall become effective on August 19, 1971, and shall remain in effect until modified or revoked in whole or in part by further order of the Commission;

And it is further ordered. That notice of this order shall be given to the general public by depositing a copy thereof in the office of the secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register. (65 Stat. 290, 5 U.S.C. 140)

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

Section 1002.2 of Chapter X, Subchapter A of Title 49 of the Code of Federal Regulations, is amended to read as follows:

§ 1002.2 Filing fees.

(a) *Manner of payment.* All filing fees will be payable at the time and place the application, petition, notice, tariff, contract, or other document is tendered for filing. Fees will be payable to the Interstate Commerce Commission by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency.

(b) *Fees not refundable.* Fees will be assessed for every filing in the types of proceedings listed in the schedule of fees contained in paragraph (d) of this section. After the application, petition, notice, tariff, contract, or other document has been accepted for filing by the Commission, the filing fee will not be refunded, regardless of whether the application, petition, notice, tariff, contract, or other document is granted or approved, denied, dismissed, or withdrawn. If an application, petition, notice, tariff, contract, or other document is rejected by the Commission as incomplete or for some other reason, the fee will be returned.

(c) *Related or consolidated proceedings.* (1) Separate fees need not be paid on related applications filed by the same applicant which would be the subject of one proceeding, such as a single petition for modification of more than one certificate or permit held by the same person; a related plan of track relocation, joint use, purchase of trackage rights, and issuance of securities; a section 5 motor common carrier acquisition application combined with a related section 207 application for a certificate of public convenience and necessity; or the like. In such instances, the only fee to be assessed will be that applicable to the embraced proceeding which carries the highest filing fee as listed in paragraph (d) of this section:

(2) Separate fees will be assessed for the filing of temporary authority applications as provided in paragraph (d) (6) of this section, regardless of whether such applications are related to an application for corresponding permanent authority.

(3) The Commission may reject concurrently filed applications, petitions, notices, contracts, or other documents asserted to be related and refund the filing fee if, in its judgment, they embrace two or more severable matters which should be the subject of separate proceedings.

(d) *Schedule of filing fees.*¹

TYPE OF PROCEEDING FEE

PART I: APPLICATION FOR OPERATING AUTHORITY OR EXEMPTIONS

(1) An application for a certificate authorizing the construction, extension, acquisition, or operation of lines of railroad. Section 1 (18)-(20) -----	\$700
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¹ Except as noted, statutory references are to the Interstate Commerce Act. The proceedings for which fees are assessed are arranged in four major categories.

(2) A motor carrier exemption application. Section 204a(4a) -----	350	carriers through ownership of stock or otherwise. Section 5(2) -----	700
(3) An application for motor common carrier authority, including an application for a certificate of registration. Sections 206 and 206(a)(6) -----	350	(23) An application to acquire trackage rights over, joint ownership in, or joint use of, any railroad lines owned and operated by any other carrier and terminals incidental thereto. Section 5(2) -----	700
(4) An application for motor contract carrier authority. Section 209 -----	350	(24) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. Section 5(2) -----	700
(5) A petition to renew authority to transport explosives under section 206 or 209 -----	5	(25) An application for a determination of fact of competition. Section 5(15) -----	100
(6) An application for motor carrier temporary authority. Sections 210a (a) and (b) -----	60	(26) An application for approval of, or to amend, a rate association agreement. Section 5a -----	300
(7) An extension of the time period during which an outstanding application for emergency temporary authority as defined in 49 CFR 113.1(b)(1); may continue -----	10	(27) All applications for authority to hold a position as officer or director. Section 20a(12) -----	10
(8) A petition to modify permits of motor carriers by the addition of a shipper or shippers for whom service may be performed under section 209 -----	50	(28) An application to issue securities; an application to assume obligation or liability in respect to securities of another; an application or petition for modification of an outstanding authorization; or an application for exemption from competitive bidding requirements of Ex Parte No. 158, 49 CFR 1115.25, Sections 20a, 20b, or 21a -----	200
(9) An application for a broker's license. Section 211 -----	350	(29) An application for temporary authority to operate a motor or water carrier. Section 210a(b) or 311(b) -----	60
(10) A water carrier exemption application. Section 302 or 303 -----	350	(30) An application for transfer or lease of a certificate or permit, including a certificate of registration, and a broker license or change of control of companies holding broker's licenses. Sections 212(b), 312, or 410(g) -----	100
(11) An application for water common carrier authority. Section 309 (a) -----	350	(31) A petition to transfer a water carrier exemption authorized under sections 302 and 303 to the successor -----	100
(12) An application for water contract carrier authority. Section 309(f) -----	350	(32) An application for approval of a motor vehicle rental contract. 49 CFR 1057.6(b) -----	30
(13) An application for water carrier temporary authority. Section 311(a) -----	60	PART IV: OTHER PROCEEDINGS	
(14) An application for freight forwarder authority. Section 410 -----	350	(33) An application for relief from the long-and-short-haul and aggregate-of-intermediate provisions, including applications for relief with respect to additional commodities, origins or destinations, but not including petitions for modification of conditions, effective or not yet effective of outstanding orders, or amendments to applications not yet disposed of. Section 4 -----	250
(15) A petition to remove or alter an operating restriction contained in a certificate or permit and petitions seeking modification, clarification, or interpretation of a certificate or permit. "No fee is required for a request seeking the modification of a certificate or permit only to the extent of making a correction or a change in the name presently appearing therein of (a) a shipper or owner of a plantsite, or (b) a geographical point or highway" -----	200	(34) An application for authority to establish released value rates or ratings, except that no fee will be assessed for applications seeking such authority in connection with reduced rates established to relieve distress caused by drought or other calamitous visitation under section 22(1) of the act. Sections 20(11), 219, 413 -----	200
(16) An application for authority to deviate from authorized regular route, 49 CFR Part 1042 -----	15	(35) An application for special permission for short notice or the waiver of tariff-publishing requirements, including applications to extend or eliminate the scheduled expiration date of an outstanding special permission or to broaden the application thereof to additional territory or tariffs, except amendments to pending applications not yet disposed of, and	
PART II: APPLICATIONS TO DISCONTINUE TRANSPORTATION SERVICE			
(17) An application for authority to abandon all or a portion of a line of railroad or the operation thereof. Section 1(18) -----	200		
(18) Notice or petition to discontinue train or ferry service. Section 13a -----	650		
PART III: APPLICATIONS TO ENTER UPON A PARTICULAR FINANCIAL TRANSACTION OR JOINT ARRANGEMENT			
(19) An application for use of terminal facilities. Section 3(5) -----	150		
(20) An application for the pooling or division of traffic. Section 5(1) -----	100		
(21) An application of two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership. Section 5(2) -----	700		
(22) An application of a noncarrier to acquire control of two or more			

applications to postpone the effectiveness of suspended schedules, when carrier or agent is requested to do so, in order to afford the Commission more time for disposition of the proceeding or to postpone the scheduled effective date of protested schedules or those for which a fourth-section application has been filed, in order to afford the boards more time within which to process the protests or applications. -----	20
(36) Application for basic (original) valuation of a pipeline carrier's operating property. Section 19a -----	10/hour
(37) Application for each annual valuation of a pipeline carrier's operating property as of the close of any calendar year following the carrier's basic valuation. Section 19a ² -----	
(38) Freight forwarder contracts and amendments thereto. Section 409 -----	(*)
(39) An application for original qualification as an insurer, surety, or self-insurer -----	65
(40) An annual qualification service fee for insurer, surety, or self-insurer accepted certificate of insurance or surety bond (\$50 minimum) -----	(*)
(41) A petition for waiver of any provision of the lease and interchange regulations, 49 CFR Part 1057. -----	

² The following fees are based on the carrier's size:

Cost of reproduction (millions)	Fee
Under 10 -----	\$50
10-29.9 -----	200
30-49.9 -----	500
50-74.9 -----	700
75-99.9 -----	1,000
100-149.9 -----	1,300
150-199.9 -----	1,850
200-299.9 -----	2,500
Over 300 -----	4,300

³ \$1 per contract.

⁴ \$10 per accepted certificate of insurance or surety bond (\$50 minimum).

(42) A petition for reinstatement of revoked operating authority -----	60
(43) A request that the Commission amend its records to reflect a change in the name of a motor carrier, water carrier, or freight forwarder, not involving a change in ownership, management, or control, that is subject to the jurisdiction of the Commission -----	15
(44) A petition to define or redefine a commercial zone, or to remove the exemption applicable to commercial zone movements and a petition for individual determination of the exempt areas within which air cargo pickup and delivery service or transportation of air passengers may be performed. Sections 203(b)(7a), 203(b)(8); 49 CFR 1047.40(c) and 1047.45 (c) -----	150
(45) A complaint seeking or a petition requesting institution of an investigation seeking the prescription of divisions of joint rates, fares, or charges. Section 15(6) -----	200

[FR Doc.71-8199 Filed 6-10-71; 8:50 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 54—GRANTS FOR SPECIALIZED SERVICE FACILITIES

Subpart D—Grants for Initial Cost of Professional and Technical Personnel of Community Mental Health Centers

PRIORITY OF PROJECTS

Notice of proposed rule making, public rule making procedures and postponement of effective date have been omitted in the issuance of the following amendment to Subpart D—Grants for Initial Cost of Professional and Technical Per-

sonnel of Community Mental Health Centers. The subject regulations relate solely to grants; furthermore, it is in the public interest that the amendment be made effective immediately upon publication in the FEDERAL REGISTER so that initial grants for the cost of professional and technical personnel of community mental health centers may be awarded in accordance with the amended regulations before the expiration of the current fiscal year.

The purpose of the amendment is to enable the Secretary of Health, Education, and Welfare to give special consideration in the award of initial grants under Part B of the Community Mental Health Centers Act (42 U.S.C. 2688-2688d) to those community mental health centers with respect to which construction grants have been made under Part A of the Community Mental Health Centers Act (42 U.S.C. 2681-2687).

The following amendment to Subpart D shall become effective on the date of publication in the FEDERAL REGISTER (6-11-71).

Section 54.304 is amended to read as follows:

§ 54.304 Priority of projects.

In determining the priority of projects, the Secretary will give special consideration to those applications for an initial grant with respect to which a grant has been made under Part A of the Act to assist in financing the construction of the center, and will take into account the factors enumerated in section 220(c) of the Act.

(Sec. 223, Community Mental Health Centers Act as amended, 79 Stat. 429; 42 U.S.C. 2688c)

Dated: June 1, 1971.

VERNON E. WILSON,
Administrator, Health Services
and Mental Health Administration.

Approved: June 9, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-8334 Filed 6-10-71; 10:01 am]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 211, 242]

ALIEN REGISTRATION RECEIPT CARDS AND ORDERS TO SHOW CAUSE

Withdrawal of Notice of Proposed Rule Making

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER on May 21, 1971 (36 F.R. 9251), pursuant to section 553 of title 5 of the United States Code (80 Stat. 383) and in which there were set out the terms of proposed amendments to §§ 211.1(b) (1) and (2) and 242.1 (b) and (c) pertaining to the invalidation and surrender of alien registration receipt cards in certain instances and to the issuance of orders to show cause. Several representations concerning the proposed rule making have been received and considered. In light of the representations received, it has been determined that no further action will be taken with regard to those proposed rules.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: June 7, 1971.

RAYMOND F. FARRELL,
Commissioner of
Immigration and Naturalization.

[FR Doc. 71-8175 Filed 6-10-71; 8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[24 CFR Part 8]

[Docket No. R-71-111]

EQUAL EMPLOYMENT OPPORTUNITY UNDER HUD CONTRACTS AND HUD ASSISTED CONSTRUCTION CONTRACTS

Notice of Proposed Rule Making

The Department of Housing and Urban Development is considering amending Title 24 of the Code of Federal Regulations to include a new Part 8 entitled "Equal Employment Opportunity under HUD Contracts and HUD Assisted Construction Contracts." The proposed amendment, issued pursuant to 41 CFR 60-1.6(c) and Executive Order No. 11246, Equal Employment Opportunity, 31 F.R. 12319, establishes procedures for HUD administration of the equal employment opportunity policy in cases where HUD funds are involved.

Generally, under the proposed regulations, HUD would adopt the applicable provisions of 41 CFR Part 60-1 promulgated by the Department of Labor. However, in addition, § 8.25 Award of contracts sets forth specific steps to be followed by HUD with respect to the award of construction contracts in excess of \$100,000, and nonconstruction contracts in excess of \$50,000. Also, § 8.35 requires the filing of written affirmative action compliance programs in connection with construction contracts of \$1 million or more. Section 8.100 sets the effective date as 60 days after publication in the FEDERAL REGISTER, applicable to all contracts which have not been executed as of that date.

Accordingly, interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should identify the proposed rule by the above docket number and should be filed in triplicate with the Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410, not later than July 16, 1971. All relevant material will be considered before adoption of a final rule. Copies of comments submitted will be available for examination during business hours, both before and after the specified closing date, at the above address.

The proposed rule is issued pursuant to section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

The proposed Part 8 reads as follows:

PART 8—EQUAL EMPLOYMENT OPPORTUNITY UNDER HUD CONTRACTS AND HUD ASSISTED CONSTRUCTION CONTRACTS

Sec.	Purpose.
8.1	Definitions.
8.5	Responsibilities.
8.10	Equal opportunity clause.
8.15	Exemptions.
8.20	Award of contracts.
8.25	Affirmative action compliance programs—nonconstruction contracts.
8.30	Affirmative action compliance programs—construction contracts.
8.35	Pre-bid requirements and conferences.
8.40	Participation in areawide equal employment opportunity program.
8.45	Reports and other required information.
8.50	Compliance reviews.
8.55	Complaint procedure.
8.60	Hearings and sanctions.
8.65	Intimidation and interference.
8.70	Segregated facilities certificate.
8.75	Solicitations or advertisements for employees.
8.80	Access to records of employment.
8.85	Notices to be posted.
8.90	Program directives and instructions.
8.95	Effective date.
8.100	

Authority: The provisions of this Part 8 issued under sec. 201, Executive Order 11246, 30 F.R. 12319; and 41 CFR 60-1.6(c).

§ 8.1 Purpose.

This part prescribes standards and procedures for the Department of Housing and Urban Development in the implementation of its responsibilities as a compliance agency under Executive Order 11246; the rules and regulations of the Secretary of Labor, codified in 41 CFR Part 60, prescribed thereunder; and other rules, orders, instructions, designations, and directives issued by the Office of Federal Contract Compliance, Department of Labor.

§ 8.5 Definitions.

(a) "Administering agency" means any department, agency, and establishment in the Executive Branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

(b) "Agency" means any contracting or any administering agency of the Government.

(c) "Applicant" means an applicant for Federal assistance from the Department involving a construction contract, or other participant in a program involving a construction contract as determined by the Department. The term also includes such persons after they became recipients of such Federal assistance.

(d) "Compliance Agency" means the agency designated by the Director on a geographical, industry, or other basis to conduct compliance reviews and to undertake such other responsibilities in connection with the administration of the order as the Director may determine to be appropriate. In the absence of such a designation, the Compliance Agency will be determined as follows:

(1) In the case of a prime contractor not involved in construction work, the Compliance Agency will be the agency whose contracts with the prime contractor have the largest aggregate dollar value;

(2) In the case of a subcontractor not involved in construction work, the Compliance Agency will be the Compliance Agency of the prime contractor with which the subcontractor has the largest aggregate value of subcontracts or purchase orders for the performance of work under contracts;

(3) In the case of a prime contractor or subcontractor involved in construction work, the Compliance Agency for each construction project will be the agency providing the largest dollar value for the construction projects; and

(4) In the case of a contractor who is both a prime contractor and subcontractor, the Compliance Agency will be

determined as if such contractor is a prime contractor only.

(e) "Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

(f) "Contract" means any Government contract or any federally assisted construction contract.

(g) "Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

(h) "Department" means the Department of Housing and Urban Development.

(i) "Director" means the Director, Office of Federal Contract Compliance, U.S. Department of Labor, or any person to whom he delegates authority under the regulations of the Secretary of Labor.

(j) "Equal opportunity clause" means the contract provisions set forth in § 8.15 (a) or (b), as appropriate.

(k) "Facilities" as used in § 8.75, includes, but is not limited to waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees.

(l) "Federally assisted construction contract" means any agreement or modification thereof between any applicant and any person for construction work which is paid for in whole or in part with funds obtained from the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Department for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(m) "Government" means the Government of the United States of America.

(n) "Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. Services, as used in this section includes, but is not limited to, the following services: Utility, construction, transportation, research, insurance, and fund depository. Government contract does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally assisted construction contracts.

(o) "Hearing officer" means the individual or board of individuals designated to conduct hearings.

PROPOSED RULE MAKING

(p) "Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

(q) "Order" means Parts II, III, and IV of Executive Order 11246, dated September 24, 1965 (30 F.R. 12319), as amended by Executive Order 11375 dated October 13, 1967 (32 F.R. 14303), and any Executive Order amending or superseding such orders.

(r) "Person" means any natural person, corporation, partnership, unincorporated association, State or local government, or subdivision of such a government.

(s) "Prime contractor" means any person holding a contract, and for the purposes of Subpart B (General Enforcement, Compliance Review, and Complaint Procedure) of the "rules and regulations", any person who has held a contract subject to the order.

(t) "Recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

(u) "Rules, regulations, and relevant orders" of the Secretary of Labor used in paragraph (4) of the equal opportunity clause means rules, regulations, and relevant orders of the Secretary of Labor or his designee issued pursuant to the order.

(v) "Secretary" means the Secretary of Housing and Urban Development.

(w) "Site of construction" means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility at which a contractor, subcontractor, or other participating party meets a demand or performs a function relating to the contract or subcontract.

(x) "Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed.

(y) "Subcontractor" means any person holding a subcontract and, for the purposes of Subpart B (General Enforcement, Compliance Review, and Complaint Procedure) of the "rules and regulations", any person who has held a subcontract subject to the order. The term "First-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

(z) "United States" as used herein shall include the several States, the Dis-

trict of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

§ 8.10 Responsibilities.

(a) General. The Department of Housing and Urban Development is responsible for: (1) Implementing the requirements of the order, the "rules and regulations," OFCC directives and all other rules, regulations, and orders issued pursuant thereto, and (2) obtaining the compliance of all contractors for which the Department is the Compliance Agency.

(b) Contract Compliance Officer (CCO). The Assistant Secretary for Equal Opportunity has been designated the Contract Compliance Officer (CCO) for the Department by the Secretary (35 F.R. 7138, May 6, 1970), and is responsible for developing and administering the Department's program under the order.

(c) General Deputy Contract Compliance Officer (GDCCO). The Deputy Assistant Secretary for Equal Opportunity has been designated the General Deputy Contract Compliance Officer (GDCCO) for the Department by the Secretary (35 F.R. 7138, May 6, 1970), to assist the Contract Compliance Officer in the performance of his duties. He is authorized to exercise the authority delegated to the Contract Compliance Officer.

(d) Deputy Contract Compliance Officer (DCCO). Each Assistant Regional Administrator for Equal Opportunity has been designated by the Contract Compliance Officer as Deputy Contract Compliance Officer (DCCO) for the Region in which he serves. Deputy Contract Compliance Officers are responsible for field administration of programs of contract compliance in conformity with directives and guidelines promulgated by the Contract Compliance Officer.

(e) Heads of Program Areas. Assistant Secretaries of the Department who are authorized to extend Federal financial assistance which involves construction work shall be responsible for effectuating the Order, "rules and regulations," OFCC directives, this Part 8, directives of the Department and all other rules, regulations, and orders issued pursuant thereto as they relate to construction contracts financially assisted by the Department.

§ 8.15 Equal opportunity clause.

(a) Government contracts. Except as otherwise provided, the following equal opportunity clause contained in section 202 of the Order shall be included in each Government contract entered into by the Department (and modification thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated

during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Department's contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) *Federally assisted construction contracts.* Except as otherwise provided, the following language shall be included as a condition of any grant, contract,

loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of para-

graphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the Department and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Department and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Department in the discharge of its primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Department or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the Department may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) *Subcontracts.* Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) *Incorporation by reference.* The equal opportunity clause may be incorporated by reference in Government bills of lading, transportation requests, contracts for deposit of Government funds, contracts for issuing and paying U.S. savings bonds and notes, contracts and subcontracts less than \$50,000 and such other contracts as the Director may designate.

(e) *Incorporation by operation of the order and departmental regulations.* By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order, the "rules and regulations" and these regulations to include such a clause whether or not it is physically incorporated in such contracts. The clause is applicable to every nonexempt contract where there is no written contract between the Department and the contractor.

(f) *Adaptation of language.* Such necessary changes in language may be made in the equal opportunity clauses as shall be appropriate to identify properly the parties and their undertakings.

§ 8.20 Exemptions.

(a) *General.*—(1) *Transactions of \$10,000 or under.* Contracts and subcontracts not exceeding \$10,000, other than Government bills of lading, are exempt from the requirements of the equal opportunity clause. In determining the applicability of this exemption to any federally assisted construction contract, or subcontract thereunder, the amount of such contract or subcontract rather than the amount of the Federal financial assistance shall govern. The Department, applicants, contractors, and subcontractors shall not procure supplies or services in less than usual quantities to avoid applicability of the equal opportunity clause.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to contracts and subcontracts for indefinite quantities (including, but not limited to, open-end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the purchaser has reason to believe that the amount to be ordered in any year under such contract will not exceed \$10,000. The applicability of the equal opportunity clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order exceeds \$10,000. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the equal opportunity clause with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) *Contracts with State or local governments.* The requirements of the equal opportunity clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or

subdivision of such government which does not participate in work on or under the contract or subcontract. In addition, State and local governments are exempt from the requirements of filing the annual compliance report provided for by § 8.50 and maintaining a written affirmative action compliance program prescribed in §§ 8.30 and 8.35.

(b) *Specific contracts and facilities not connected with contracts.* The equal opportunity clause will not be required to be included in any contract or subcontract exempted by the Director under the provisions of 41 CFR 60-1.5(b) (1) or (2) provided such exemption has not been withdrawn under the provisions of 41 CFR 60-1.5(d).

(c) *National security.* Any requirement set forth in the regulations in this part shall not apply to any contract or subcontract whenever the Secretary determines that such contract or subcontract is essential to the national security and that its award without complying with such requirement is necessary to the national security. Upon making such a determination, the Secretary will notify the Director in writing within 30 days.

§ 8.25 Award of contracts.

(a) All Contracting Officers and all officers who approve applications for Federal financial assistance involving a construction contract, shall prior to approval follow either of the procedures in subparagraphs (1) or (2) of this paragraph:

(1) Notify the Contract Compliance Officer or appropriate Deputy as soon as practicable of the impending award of each nonexempt construction contract in excess of \$100,000, the name and address of the prime contractor, anticipated time of performance, name and address of each known subcontractor and whether the prime contractor and known subcontractors have:

(i) Participated in any previous contract subject to the equal opportunity clause, and

(ii) Filed with the Joint Reporting Committee, the Director, an agency, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements.

(2) Consult a list (supplied by the Contract Compliance Officer) of contractors who have previously been found to be in noncompliance with equal opportunity requirements. In the event of an impending award to any contractor on such list, the Contract Compliance Officer or appropriate Deputy shall be advised and the procedures of paragraph (b), (c), and (d) of this section shall be followed.

(b) The Contract Compliance Officer or appropriate Deputy shall review the available information relative to the prospective prime contractor's equal opportunity compliance status and notify the Contracting Officer or Approving Officer of any deficiencies found to exist. A copy of such report shall be forwarded to the Director.

(c) Contracting Officers or Approving Officers shall: (1) Notify the bidder, of-

feror, or applicant of any deficiencies found to exist by the Contract Compliance Officer or appropriate Deputy, and (2) direct any bidder, offeror, or applicant so notified to negotiate with the Contract Compliance Officer and to take such actions as the Contract Compliance Officer may require.

(d) The award of any such contract shall be conditioned upon the Contract Compliance Officer's notification to the Contracting Officer or Approving Officer that the bidder, offeror, or applicant has taken action or has agreed to take action satisfactory to the Contract Compliance Officer, appropriate Deputy, or the head of the agency as provided in § 8.55(a). Any such agreement to take action shall be stated in the contract, if the Contract Compliance Officer so requires.

(e) In the case of nonconstruction contracts, all Contracting Officers shall:

(1) Notify the Contract Compliance Officer as soon as practicable of the impending award of each nonexempt, nonconstruction Government contract in excess of \$50,000, the name and address of the prime contractor, anticipated time of performance, name and address of each known subcontractor and whether the prime contractor and known subcontractors have:

(i) Participated in any previous contract or subcontract subject to the equal opportunity clause;

(ii) Filed with the Joint Reporting Committee, the Director, an agency, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements; and

(iii) Developed and have on file at each establishment affirmative action programs pursuant to Part 60-2 of the "rules and regulations."

(2) The Contract Compliance Officer shall notify the Compliance Agency (designated pursuant to the Director's Order No. 1 and 41 CFR 60-1.3(d)) of the impending award of each contract covered by subparagraph (1) of this paragraph. Based upon the information furnished by the Compliance Agency, the Contract Compliance Officer shall advise the Contracting Officer to take such action with respect to the impending award as may be appropriate pursuant to the rules, regulations, and relevant orders of the Secretary of Labor and this Part 8.

(f) The invitation for bids for each formally advertised nonconstruction contract, shall include a notice, and Department officials shall state at the outset of negotiations for each negotiated contract, that if the award, when let, should exceed the amount of \$1 million, the prospective contractor and his known first-tier subcontractors with subcontracts of \$1 million or more will be subject to a compliance review before the award of the contract. No such contract shall be awarded unless a precaward compliance review of the prospective contractor and his known first-tier \$1 million subcontractors has been conducted by the Compliance Agency within 12 months prior to the award. If an agency other than the Department is the Compliance Agency, the Department will

notify the Compliance Agency and request appropriate action and findings in accordance with this paragraph. In order to qualify for the award of a contract, a contractor and such first-tier subcontractors must be found to be in compliance pursuant to Part 60-2 of the "rules and regulations."

(g) A preaward compliance review may be conducted prior to award of contracts in any case where the CCO has reasonable grounds, based on a complaint, the Department's own investigation, or otherwise, to believe that the contractor or subcontractor is unable or unwilling to comply with the requirements of the equal opportunity clause. (Such reviews are in addition to those required pursuant to paragraph (f) of this section.)

§ 8.30 Affirmative action compliance programs—nonconstruction contracts.

Order No. 4 (41 CFR Part 60-2), issued by the Secretary of Labor, sets forth requirements for the development of affirmative action compliance programs for nonconstruction contractors.

§ 8.35 Affirmative action compliance programs—construction contracts.

(a) *Requirements of programs.* The Department or the applicant shall require each Federal or federally assisted construction prime contractor on projects costing \$1 million or more, regardless of the number of employees, and each Federal or federally assisted construction prime contractor and subcontractor shall require each subcontractor on projects costing \$1 million or more with a subcontract of \$100,000 or more, regardless of the number of employees, to develop a written affirmative action compliance program.

(b) *Purposes.* The purposes of the written affirmative action program are:

(1) To identify areas of employment, employment policies and practices which require action by the contractor or subcontractor to assure equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, or national origin;

(2) To analyze these areas, policies, and practices to determine what actions by the contractor or subcontractor will be most effective in assuring equal opportunity; and

(3) To establish a plan to achieve employment opportunity through those actions identified as potentially most effective.

§ 8.40 Prebid requirements and conferences.

(a) In any area or for any class of contracts designated by the Director, or by the CCO, no bid invitations will be issued for any Federal or federally assisted construction contract unless such bid invitation contains definite minimum standards for affirmative action and a statement that contractors and subcontractors must meet such minimum standards to be eligible for award.

(b) Whenever the submission of a written affirmative action program is required before the award of a contract, definite minimum standards for such program shall be incorporated in the bid invitations or requests for proposal issued in connection with such contracts.

(c) When the Director or CCO so requires, a prebid conference will be held in which the minimum standards for affirmative action will be explained to those in attendance. All known prospective bidders will be notified of the date, time, and place of the prebid conference.

(d) Bids which fail to meet the standards prescribed shall be deemed nonresponsive and will not be considered for award.

§ 8.45 Participation in areawide equal employment opportunity programs.

Any contractor who is a participant in, or is a member of an organization or association which participates in, an areawide equal employment opportunity program which is approved by the Department and the Office of Federal Contract Compliance for the purpose of effectuating the goals of Executive Order 11246, may be deemed to be in compliance with the order by virtue of such participation and shall be exempt from the requirement of developing and maintaining a written affirmative action program, unless required to do so under the areawide equal employment opportunity program.

§ 8.50 Reports and other required information.

(a) *Requirements for prime contractors and subcontractors.* (1) Each prime contractor shall file, and each prime contractor and subcontractor shall cause its subcontractors to file annually, on or before the 31st day of March, complete and accurate reports on Standard Form 100 (EEO-1) promulgated jointly by the Office of Federal Contract Compliance, the Equal Employment Opportunity Commission and Plans for Progress or such form as may hereafter be promulgated in its place if such prime contractor or subcontractor (i) is not exempt from the provisions of the "rules and regulations" in accordance with 41 CFR 60-1.5; (ii) has 100 or more employees; (iii) is a prime contractor or first-tier subcontractor; and (iv) has a nonexempt contract, subcontract or purchase order, serves as a depository of Government funds, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes: *Provided*, That any subcontractor below the first tier which performs construction work shall be required to file such a report if it meets requirements of subdivisions (i), (ii), and (iv) of this subparagraph.

(2) Each person required by subparagraph (1) of this paragraph to submit reports shall file such a report with the Department within 30 days after the award to him of a contract or subcontract, unless such person has submitted such a report within 12 months preceding

the date of the award. Subsequent reports shall be submitted annually in accordance with subparagraph (1) of this paragraph, or at such other intervals as the CCO or the Director may require. The Department, with the approval of the Director, may extend the time for filing any report.

(3) The Director, the CCO, or the applicant, on his own motion, may require a prime contractor or subcontractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Director, CCO or the applicant deems necessary for the administration of the order.

(4) Failure to file timely, complete and accurate reports as required constitutes noncompliance with the prime contractor's or subcontractor's obligations under the equal opportunity clause and is grounds for the imposition by the Department, the Director, an applicant, prime contractor or subcontractor, of any sanctions as authorized by the order and the "rules and regulations." Any such failure shall be reported in writing to the Director by the CCO as soon as practicable after it occurs.

(b) *Requirements for bidders or prospective contractors.* (1) *Previous reports.* Each bidder or prospective prime contractor and proposed subcontractor, where appropriate, shall state in the bid or in writing at the outset of negotiations for the contract: (i) Whether it has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2; (ii) whether it has participated in any previous contract or subcontract subject to the equal opportunity clause and (iii) if so, whether it has filed with the Joint Reporting Committee, the Director, an agency, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements.

(2) *Additional information.* A bidder or prospective prime contractor or proposed subcontractor shall be required to submit such information as the CCO, the Deputy CCO, or the Director requests prior to the award of the contract or subcontract. When a determination has been made to award the contract or subcontract to a specific contractor, such contractor shall be required, prior to award, or after the award, or both, to furnish such other information as the Department, the applicant, or the Director requests.

(c) *Use of reports.* Reports filed pursuant to this section shall be used only in connection with the administration of the order and the Civil Rights Act of 1964, or in furtherance of the purposes of the order and said Act.

§ 8.55 Compliance reviews.

(a) *General.* The purpose of a compliance review is to determine if the prime contractor or subcontractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to ensure that applicants are employed and that employees are placed,

trained, upgraded, promoted, and otherwise treated during employment without regard to race, color, religion, sex, or national origin. It shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned practices, policies, and conditions resulting therefrom. Where necessary, recommendations for appropriate sanctions shall be made. Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through conciliation and persuasion. Before the contractor can be found to be in compliance with the order, it must make a specific commitment, in writing, to correct any such deficiencies. The commitment must include the precise action to be taken and dates for completion. The time period allotted shall be no longer than the minimum period necessary to effect such changes. Upon approval of the Contract Compliance Officer, the appropriate Deputy, or the Secretary of such commitment, the contractor may be considered in compliance, on condition that the commitments are faithfully kept. The contractor shall be notified that making such commitments does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

(b) *Regular compliance reviews.* Each Deputy Contract Compliance Officer shall institute a program of regular compliance reviews of those contractors and subcontractors for which he is assigned responsibility.

(c) *Special compliance review.* The special compliance review of bidders, applicants, offerors, contractors, or subcontractors will be conducted at the request of the CCO or the Director, OFCC to determine compliance or ability to comply with the order, the "rules and regulations," these rules and regulations and directives issued pursuant thereto.

(d) *Reports.* (1) *Special compliance review reports.* A special compliance review report shall be provided to the CCO or the Director, OFCC, as directed.

(2) *Regular compliance review reports.* A report of each compliance review shall be forwarded to the CCO within 30 days after the regular review is conducted unless otherwise provided.

(3) *Preaward compliance review report.* A written report of every preaward compliance review required by the "rules and regulations," or otherwise required by the Director including findings, will be forwarded to the Director by the CCO within 10 days after the award for a postaward review.

(4) *Additional reports.* A written report of every other compliance review or any other matter processed by the Department involving an apparent violation of the equal opportunity clause shall be submitted to the Director. Such report shall contain a brief summary of the findings, including a statement of conclusions regarding the contractor's compliance or noncompliance with the requirements of the order, and a statement of the disposition of the case, including any corrective action taken or recommended and any sanctions or penalties imposed or recommended.

cluding any corrective action taken or recommended and any sanctions or penalties imposed or recommended.

§ 8.60 Complaint procedure.

(a) *Who may file complaints.* Any employee of any contractor or applicant for employment with such contractor may, by himself or by an authorized representative, file in writing a complaint of alleged discrimination in violation of the equal opportunity clause. Such complaint is to be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the CCO or the Director upon good cause shown.

(b) *Where to file.* Complaints may be filed with the Director of OFCC or at any HUD Regional or Area Office, FHA Insuring Office or with the CCO. Any HUD employee receiving a complaint shall forward the complaint directly to the CCO or his designee. The CCO shall transmit a copy of the complaint to the Director within 10 days after the receipt thereof.

(c) *Contents of complaint.* (1) The complaint should include the name, address, and telephone number of the complainant, the name and address of the prime contractor or subcontractor committing the alleged discrimination, a description of the acts considered to be discriminatory, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant or his authorized representative.

(2) Where a complaint contains incomplete information, the CCO shall seek promptly the needed information from the complainant. In the event such information is not furnished to the CCO within 60 days of the date of such request, the case may be closed.

(d) *Investigations.* For each complaint filed against a prime contractor or subcontractor for which HUD is the Compliance Agency, the CCO shall institute a prompt investigation and shall be responsible for developing a complete case record. A complete case record consists of the name and address of each person interviewed, and a summary of his statement, copies or summaries of pertinent documents, and a narrative summary of the evidence disclosed in the investigation as it relates to each violation revealed. When a complaint is filed against a prime contractor or subcontractor for which the Department is not the compliance agency, the CCO shall transmit the complaint to the Director for disposition.

(e) *Resolution of complaints.* (1) If the complaint investigation by the CCO shows no violation of the equal opportunity clause, he shall so inform the Director. The Director may request further investigation by the CCO.

(2) If any complaint investigation or compliance review indicates a violation of the equal opportunity clause, the matter should be resolved by informal means whenever possible. Such informal means

may include the holding of a compliance conference. Each prime contractor and subcontractor shall be advised that the resolution is subject to review by the Director, and may be disapproved if he determines that such resolution is not sufficient to achieve compliance.

(3) Where any complaint investigation or compliance review indicates a violation of the equal opportunity clause and the matter has not been resolved by informal means, the CCO with the approval of the Director shall afford the contractor an opportunity for a hearing. If the final decision reached in accordance with the provisions of § 60-1.26 of the "rules and regulations" is that a violation of the equal opportunity clause has taken place, the CCO with the approval of the Director, may cause the cancellation, termination, or suspension of any contract or subcontract, cause a contractor to be debarred from further contracts or subcontracts, or may impose such other sanctions as are authorized by the order.

(4) When a prime contractor or subcontractor, without a hearing, shall have complied with the recommendations or orders of the CCO or the Director and believes such recommendations or orders to be erroneous, he shall, upon filing a request therefor within 10 days of such compliance, be afforded an opportunity for a hearing and review of the alleged erroneous action by the CCO or the Director.

(5) For reasonable cause shown, the CCO may reconsider or cause to be reconsidered any matter on his own motion or pursuant to a request.

(f) *Report to the Director.* Within 60 days from receipt of a complaint or within such additional time as may be allowed by the Director for good cause shown, the CCO shall process a complaint and submit to the Director the case record and summary report containing the following information:

(1) Name and address of the complainant.

(2) Brief summary of findings, including a statement as to the CCO's conclusions regarding the contractor's compliance or noncompliance with the requirements of the equal opportunity clause.

(3) A statement of the disposition of the case, including any corrective action taken and any sanctions or penalties imposed or, whenever appropriate, the recommended corrective action and sanctions or penalties.

§ 8.65 Hearings and sanctions.

(a) The Secretary with the approval of the Director may convene formal or informal hearings as he may deem appropriate for inquiring into the status of compliance by any prime contractor or subcontractor with the terms of the equal opportunity clause.

(b) The Secretary may propose or apply sanctions in the event of noncompliance by a contractor or subcontractor

with the requirements of the equal opportunity clause, subject to the limitations of the "rules and regulations," particularly § 60-1.27.

(c) The conduct of hearings and the proposal and application of sanctions shall be in accordance with the requirements of the order and of the "rules and regulations."

§ 3.70 Intimidation and interference.

The sanctions and penalties contained in Subpart D of the order may be exercised by the CCO or the Director against any prime contractor, subcontractor or applicant who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the order or any other Federal, State, or local laws requiring equal employment opportunity.

§ 3.75 Segregated facilities certificate.

Prior to the award of any nonexempt Government contract or subcontract or federally assisted construction contract or subcontract, the Department or the applicant shall require the prospective prime contractor, and each prime contractor and subcontractor shall require each subcontractor, to submit a certification, in the form approved by the Director, that the prospective prime contractor or subcontractor does not and will not maintain any facilities he provides for his employees in a segregated manner, or permit his employees to perform their services at any location under his control where segregated facilities are maintained; and that he will obtain a similar certification in the form approved by the Director, prior to the award of any nonexempt subcontract.

§ 3.80 Solicitations or advertisements for employees.

In solicitations or advertisements for employees placed by or on behalf of a prime contractor or subcontractor, the requirements of paragraph (2) of the equal opportunity clause shall be satisfied whenever the prime contractor or subcontractor complies with any of the following:

(a) States expressly in the solicitations or advertising that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin;

(b) Uses display or other advertising, and the advertising includes an appropriate insignia prescribed by the Director. The use of the insignia is considered subject to the provisions of 18 U.S.C. 701;

(c) Uses a single advertisement, and the advertisement is grouped with other advertisements under a caption which clearly states that all employers in the group assure all qualified applicants equal consideration for employment without regard to race, color, religion, sex, or national origin;

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(d) Uses a single advertisement in which appears in clearly distinguishable type the phrase "an equal opportunity employer."

§ 3.85 Access to record of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to his books, records, and accounts pertinent to compliance with the order, and all rules and regulations promulgated pursuant thereto, by the Department or the Director for purposes of investigation to ascertain compliance with the equal opportunity clause of the contract or subcontract. Information obtained in this manner shall be used only in connection with the administration of the order and the administration of the Civil Rights Act of 1964, and in furtherance of the purposes of the order and that Act.

§ 3.90 Notices to be posted.

Contractors and subcontractors required to do so by paragraphs (1) and (3) of the equal opportunity clause shall post notices to be provided by the CCO. Such notices shall be in compliance with the requirements of § 60-1.42 of the "rules and regulations."

§ 3.95 Program directives and instructions.

Appropriate program officials may issue such directives, procedures, and instructions as they consider necessary to achieve equal employment opportunity in programs administered by them, provided such issuances are not inconsistent with the provisions of the order, the rules, regulations, and directives of the Secretary of Labor or the Director, and these regulations. A copy of such directives, procedures, and instructions shall be submitted to the CCO for approval prior to issuance.

§ 3.100 Effective date.

The regulations contained in this part shall become effective _____ (60 days after publication in the FEDERAL REGISTER) for all contracts, solicitations, invitations for bids, or requests for proposals which shall be sent by the Department or an applicant on or after said effective date and for all negotiated contracts which have not been executed as of said effective date.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc. 71-8205 Filed 6-10-71; 8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 146]

[CGFR 71-53]

CORROSIVE LIQUIDS

Notice of Proposed Rule Making

The Coast Guard is considering amending the regulations governing cor-

rosives to prescribe a new definition that contains a testing criteria for damage to living tissue and other materials, to change the phrase "corrosive liquid" to "corrosive materials" wherever it appears except in those requirements concerning glass carboys and to add requirements for "Corrosive Solid N.O.S."

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commandant (MHM), U.S. Coast Guard, Washington, D.C. 20591. Each person submitting comments should include his name and address, identify the notice (CGFR 71-53), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Coast Guard will hold an informal hearing on September 21, 1971, at 9:30 a.m. in Conference Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. There will be no cross examination of persons presenting statements.

The Commandant will evaluate all communications received before September 28, 1971, and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

By a separate document published at page 11304 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation proposed certain amendments to Part 173 of Title 49. The reason for these amendments is fully stated in the Board's notice. The hazardous materials regulations of the Department of Transportation in Title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make the substance of the amendments of the Hazardous Materials Regulations Board applicable to carriers by water.

In consideration of the foregoing, the Coast Guard proposes to amend Part 146 of Title 46 of the Code of Federal Regulations (1) by amending § 146.23-1 to adopt the definition of corrosive liquids contained in the proposed amendment to 49 CFR 173.240; (2) by changing the words "corrosive liquids" to "corrosive materials" wherever they appear in Part 146, except in § 146.23-15 which concerns corrosive liquids in glass carboys; (3) by amending § 146.04-5 by adding the article "Corrosive Solid N.O.S." and the requirements contained in the proposed change to 49 CFR 172.5(a); (4) by changing the classification "Cor. L" to "Cor." and the label "white" to "corrosive" to conform to the proposed change to 49 CFR 172.5; and (5) by amending § 146.23-100 by adopting the requirements of the proposed amendment to 49 CFR 173.245b.

This proposal is made under authority of R.S. 4405, as amended, R.S. 4417a. as

amended, R.S. 4462, as amended, R.S. 4472, as amended, sec 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 391a, 416, 170, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

Dated: June 3, 1971

W. F. REA III,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant
Marine Safety.

[FR Doc. 71-8103 Filed 6-10-71; 8:45 am]

Federal Aviation Administration [14 CFR Part 39]

[Docket No. 71-CE-6-AD]

BEECH MODELS B90 AND 65-A90 AIRPLANES

Proposed Airworthiness Directive Correction

In F.R. Doc. 71-6515 appearing at page 8695 in the issue of Tuesday, May 11, 1971, in the fourth line of the proposed airworthiness directive the figure "50-610000-340" should read "50-610000-349".

Federal Railroad Administration [49 CFR Part 228]

[Docket No. HS-1; Notice No. 1]

HOURS OF SERVICE OF RAILROAD EMPLOYEES

Notice of Proposed Rule Making

The Federal Railroad Administration (FRA) of the Department of Transportation is considering a revision of Part 228 of Title 49, Code of Federal Regulations. The proposed revision modifies Part 228 in accordance with Public Law 91-169, 45 U.S.C.A. 61, 83 Stat. 463, which became effective December 26, 1970. It also prescribes recordkeeping and reporting requirements and sets forth the statutory penalties for violations.

The principal modification of Part 228 is the removal of the present requirement that rail carriers use specific recordkeeping forms and methods. This change will permit rail carriers to develop improved systems of recording data the FRA requires for administrative and enforcement purposes. Under the proposed rule, each carrier may develop a recordkeeping system tailored to its own needs.

Interested persons are invited to participate in making the proposed rule by submitting written data, views, or arguments. Communications should be submitted to the Docket Clerk, Office of Hearings and Proceedings, Federal Railroad Administration, Attention: Docket No. HS-1, 400 Seventh Street SW., Washington, DC 20591. All comments received on or before July 14, 1971, will be considered by the Administrator before taking action on the proposed rule. All written comments received will be available for examination by interested persons. The docket may be examined at any time during regular business hours,

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at Room 5100, 400 Seventh Street SW., Washington, DC 20591.

In consideration of the foregoing, it is proposed to amend Title 49 of the Code of Federal Regulations by revising Part 228 as set forth below.

Issued in Washington, D.C., on June 8, 1971.

CARL V. LYON,
Acting Administrator.

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

Sec. 228.1 Scope.
228.3 Application.
228.5 Definitions.
228.7 Hours of duty.
228.9 Railroad records; general.
228.11 Hours of duty records.
228.13 Train delay records.
228.15 Record of train movements kept at reporting station.
228.17 Dispatcher's record of train movements.
228.19 Monthly reports of excess service.
228.21 Civil penalty.
228.23 Criminal penalty.

AUTHORITY: The provisions of this Part 228 issued under sec. 12, 24 Stat. 383, as amended, sec. 20, 24, Stat. 386, as amended, 49 U.S.C. 12, 24; sec. 6, 80 Stat. 937, 49 U.S.C. 1655; and sec. 1-4, 34 Stat. 1415, as amended, 45 U.S.C. 61-64; and § 1.49(d) of the Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(d).

§ 228.1 Scope.

This part prescribes reporting and recordkeeping requirements with respect to the hours of service of railroad employees.

§ 228.3 Application.

This part applies to each common carrier engaged in the transportation of passengers or property by railroad—

(a) In the District of Columbia or any territory of the United States;

(b) From a State or territory of the United States or the District of Columbia to another State or territory of the United States or the District of Columbia;

(c) From any place in the United States to an adjacent foreign country; or

(d) From any place in the United States through a foreign country to another place in the United States.

§ 228.5 Definitions.

In this part—

"Administrator" means the Administrator of the Federal Railroad Administration or any person to whom he has delegated authority in the matter concerned.

"Employee" means an individual actually engaged in or connected with the movement of any train or who dispatches, reports, transmits, receives, or delivers orders pertaining to train movements by the use of telegraph, telephone, radio, or any other electrical or mechanical device.

"Railroad" includes all bridges, ferries, and roads, whether owned or operated under a contract, agreement, or

lease, used in connection with that railroad.

§ 228.7 Hours of duty.

(a) For purposes of this part, an employee's time on duty begins when he reports for duty and ends when he is finally released from duty, and includes—

(1) Time engaged in or connected with the movement of any train;

(2) Any interim period available for rest at a location that is not a designated terminal;

(3) Any interim period less than four hours available for rest at a designated terminal;

(4) Time spent in deadhead transportation enroute to a duty assignment; and

(5) Time engaged in any other service for the carrier.

(b) Time spent in deadhead transportation by an employee returning from duty to his point of final release may not be counted in computing time off duty or time on duty.

§ 228.9 Railroad records; general.

Records maintained under this part shall be—

(a) Signed by the employee whose time on duty is being recorded or, in the case of train and engine crews, signed by the ranking crew member;

(b) Retained for 2 years; and

(c) Available for inspection and copying by the Administrator during regular business hours.

§ 228.11 Hours of duty records.

Each carrier shall keep a record of the following information concerning the hours of duty of each employee:

(a) Identification of employee.

(b) Place, date, and beginning and ending times for hours of duty in each occupation.

(c) Total time on duty in all occupations.

(d) Number of consecutive hours off duty prior to going on duty.

§ 228.13 Train delay records.

Each carrier shall keep a record of time delays of 10 or more minutes experienced at a single location by train and engine service crews. The location, date, beginning and ending times, and cause of the delay shall be set forth in the record.

§ 228.15 Record of train movements kept at reporting station.

Each carrier shall keep a record of train movements at each station, tower, office, or other place where information about the movement of trains is reported or relayed by employees through the use of telegraph, telephone, radio, or any other electrical or mechanical device. The direction of travel and time of passing, or times of arrival and departure, shall be set forth in the record.

§ 228.17 Dispatcher's record of train movements.

Each carrier shall keep, for each dispatching district, a record of train movements made under the direction and control of a dispatcher who uses telegraph,

telephone, radio, or any other electrical or mechanical device to dispatch, report, transmit, receive, or deliver orders pertaining to train movements. The following information shall be included in the record:

- Identification of timetable in effect.
- Location and date.
- Identification of dispatchers and their times on duty.
- Weather conditions at 6-hour intervals.
- Identification of enginemen and conductors and their times on duty.
- Identification of trains and engines.
- Station names and office designations.
- Distances between stations.
- Direction of movement and the time each train passes all reporting stations.
- Arrival and departure times of trains at all reporting stations.
- Unusual events affecting movement of trains and identification of trains affected.

§ 228.19 Monthly reports of excess service.

(a) Each carrier shall report to the Administrator each of the following instances within 30 days after the calendar month in which the instance occurs:

- Members of a train or engine crew or other employees engaged in or connected with the movement of trains are on duty for more than 14 consecutive hours (12 hours after December 25, 1972).
- Members of a train or engine crew or other employees engaged in or connected with the movement of trains return to duty after 14 hours of continuous service (12 hours after December 25, 1972) without at least 10 consecutive hours off duty.
- Members of a train or engine crew or other employees engaged in or connected with the movement of trains continue on duty without at least 8 consecutive hours off duty during the preceding 24 hours.¹
- Members of a train or engine crew or other employees engaged in or connected with the movement of trains return to duty without at least 8 consecutive hours off duty during the preceding 24 hours.¹

- Employees who transmit, receive, or deliver orders affecting train movements are on duty for more than 9 hours in any 24-hour period at an office where two or more shifts are employed.

¹ Instances involving tours of duty that are broken by 4 or more consecutive hours off duty time at a designated terminal and do not contain more than a total of 14 hours time on duty (12 hours after December 25, 1972), are not required to be reported, provided such tours of duty are immediately preceded by 8 or more consecutive hours off duty time. Instances involving tours of duty that are broken by less than 8 consecutive hours off duty and contain more than a total of 14 hours time on duty (12 hours after December 25, 1972), must be reported.

(6) Employees who transmit, receive, or deliver orders affecting train movements are on duty for more than 12 hours in any 24-hour period at an office where one shift is employed.

(b) Reports required by paragraph (a) of this section shall be filed in writing on FRA Form F-6180-3² with the Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20591. A separate form shall be used for each instance reported.

§ 228.21 Civil penalty.

A carrier that fails or refuses to keep records or file reports as required by this part, or to make records available to the Administrator for inspection or copying, is liable to a civil penalty of \$500 for each offense as prescribed by section 20 of the Interstate Commerce Act, 49 U.S.C. 20. Each day a failure or refusal continues is a separate offense.

§ 228.23 Criminal penalty.

Whoever knowingly and willfully—

- Makes, causes to be made, or participates in the making of a false entry in reports required to be filed or records required to be kept by this part;
- Destroys, mutilates, alters, or otherwise falsifies such records;
- Neglects or fails to make full, true, and correct entries in such records; or
- Keeps a record contrary to the requirements of this part;

is subject to a \$5,000 fine and 2 years' imprisonment as prescribed by section 20 of the Interstate Commerce Act, 49 U.S.C. 20.

[FR Doc. 71-8174 Filed 6-10-71; 8:48 am]

Hazardous Materials Regulations Board

[49 CFR Parts 171, 172, 173, 174, 175, 177]

[Docket No. HM-57; Notice No. 71-17]

TRANSPORTATION OF HAZARDOUS MATERIALS

Proposed Classification of Corrosive Hazards

On August 31, 1970, the Director, Office of Hazardous Materials, published Docket No. HM-57, an advance notice of proposed rule making on classification of corrosive hazards (35 F.R. 14090). That document noted that the present definition for corrosives does not prescribe any testing criteria for damage to living tissue or to materials, and that present regulations may be subject to varied interpretation.

The Director suggested establishment of two corrosive classifications, Class A and Class B, with definite benchmarks for each classification. The notice suggested that the Class A designation cover

² Form may be obtained from the Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20591. Reproduction is authorized.

potential damage to living tissue, and that the Class B designation cover potential damage to other material.

The Hazardous Materials Regulations Board has thoroughly reviewed all of the comments received and concludes that the following changes in the classification system presented in the advance notice have merit.

Hazard degrees. The Board recognizes that some materials are considerably more corrosive than others, e.g., hydrofluoric acid as compared to formic acid. A differentiation in hazard degree classification would appear justified. However, the Board agrees with many of the commenters that a dual classification system for corrosives would include only a relatively small number of compounds in the suggested Class B category, and would appear to complicate the regulations unnecessarily without a significant contribution to the improvement of safety. The Board also believes that some hazardous materials now classed as corrosive liquids should be otherwise classified. They will be the subject of future regulatory proposals.

Test methods—1. Damage to living tissue. The Board concludes that the proposed 24-hour duration rabbit test, specified by § 191.11 of the HEW Regulations, may be too stringent. However, exposure times of from 10 minutes to 4 hours as suggested by some commenters would not provide a sufficient safety factor. The corrosive effect on the skin may not be apparent immediately, and an exposed individual may delay washing off the corrosive material. Based upon these considerations, the Board is proposing to reduce the specified HEW test duration from 24 to 8 hours. The Board also concludes that the suggested scoring number criteria are not sufficiently reliable and should be eliminated as an evaluation of skin destruction. The Board proposes, therefore, to adopt the definition of tissue destruction given in 21 CFR 191.1(h), but with the 24-hour exposure prescribed in that section reduced to 8 hours.

2. Damage to materials. The Board does not agree with some of the comments that claimed the suggested corrosion rate of 0.05 inch per year (IPY) is too stringent and went so far as to suggest a minimum regulated rate of 0.05 inch per week. The Board considers a minimum corrosion rate of 0.05 IPY necessary in order to provide sufficient flexibility to account for the many and varied factors encountered under transportation conditions. For example, one of the lighter steel drums used as a shipping container has a wall thickness of 0.024 inch. Small steel pails can be as thin as 0.015 inch. A corrosion rate of 0.050 IPY would result in a 0.008 inch loss during a 60-day transportation period. This is a severe decrease in wall thickness of such containers. Allowing a corrosion rate greater than 0.050 IPY would be unduly hazardous for materials shipped in these thin-walled containers. Therefore, 0.050 IPY is being proposed as the corrosion rate benchmark.

In view of these considerations, the Board is proposing new definition and test criteria for the corrosive effects of materials on human tissue and on two basic packaging materials—steel and aluminum.

The adoption of these criteria and standard test methods will enable a shipper to determine the proper classification for his product much more readily than is now possible. This new definition and the subsequently outlined criteria are not intended in themselves to alter the present packaging requirements as described in the Department's Hazardous Materials Regulations. The Board does recognize, however, that some materials formerly not considered subject to the regulations may come under these packaging requirements; therefore, it might be necessary for different packagings to be introduced by a shipper for certain products. Substantive changes to packaging requirements, where appropriate, may be the subject of future rule making. The only exception is packaging for solid materials for which there are no present requirements, and this is being covered in this notice.

The Board believes the effect of corrosion on commonly used packaging materials, steel and aluminum, also must be considered. The Board recognizes that plastics, wood, and paper composites are also used in the packaging of hazardous materials. The deterioration of these nonmetals cannot be expressed in the same manner as the corrosion of metals. However, practical experience indicates that with the exception of organic solvents, products which severely attack the nonmetals generally would be corrosive to aluminum or steel. The Board concludes that present regulatory test criteria relating to the definition should be limited to the corrosion data determined for these two commonly used metals. Primary concern involves the severe effect of a product leaking from its shipping container onto other containers which are not resistant to its corrosiveness, thus causing damage within the limited period of transportation.

A maximum temperature of 130° F. was selected as the basis for corrosion rate determination. This temperature is often used to represent the nominal upper limit of the normal transport environment.

In addition to corrosive liquids, the Board also considered the potential corrosiveness of solid products such as sodium hydroxide pellets, chromic fluoride, and aluminum chloride. When spilled from a container on human tissue or other packaging or lading, and in the presence of moisture, solid corrosive products may have an effect similar to that of a concentrated solution of the product. For this reason, the Board believes that corrosive solids should be classified according to the most severe effect of a concentrated solution of the commodity.

In order for the Department to obtain exact corrosion values of regulated commodities on steel and aluminum, considerable experimental work would be required. Few data are available in the lit-

erature or from the manufacturers of the products, especially data covering the desired concentration and temperature range as well as severe corrosion attack rates. However, the data presented in "Corrosion Data Survey," 1967 edition, published by the National Association of Corrosion Engineers, provides a useful basis for suggested corrosion criteria. The information presented in "Corrosion Data Survey" appears to cover the general conditions of a relatively severe attack during the period of transportation.

In Docket No. HM-8; Notice No. 70-13 (35 F.R. 11742), on page 11764, a new label was proposed for corrosive liquids. If the regulations proposed herein are adopted, the Board would delete the word "Liquid" on the label.

Based on the above considerations, it is proposed to amend 49 CFR Parts 171, 172, 173, 174, 175, 177 as follows:

I. Part 171:

In § 171.7, paragraphs (c) (12) and (d) (7) would be added to read as follows:

§ 171.7 Matter incorporated by reference.

(c) * * *
(12) National Association of Corrosion Engineers, 2400 West Loop South, Houston, TX 77027.

(1) Article	(2) Classed as—	(3) Exemptions and packaging (see sec.)	(4) Label required if not exempt	(5) Maximum quantity in one package		
				(a) Rail express	(b) Passenger carrying aircraft	(c) Cargo only aircraft
(add) Corrosive solid, n.o.s.....	Cor.....	173.244, 173.245b..	Corrosive.....	100 pounds..	25 pounds..	100 pounds..
...

III. Part 173:

(A) In Part 173, Table of Contents, the heading of Subpart E and §§ 173.240, 173.242, 173.244, 173.245 would be amended; § 173.245b would be added to read as follows:

Subpart E—Corrosive Materials; Definition and Preparation

Sec.	
173.240	Corrosive materials; definition.
173.242	Bottles containing corrosive liquids.
173.244	Exemptions for corrosive materials.
173.245	Corrosive liquids not specifically provided for.
173.245b	Corrosive solids not specifically provided for.

(B) The heading of Subpart E would be amended to read as follows:

Subpart E—Corrosive Materials; Definition and Preparation

(C) Section 173.240 would be amended to read as follows:

§ 173.240 Corrosive materials; definition.

(a) A corrosive material for the purpose of Parts 170 to 189 of this chapter is a liquid or solid that causes visible destruction or irreversible alterations in the skin tissue at the site of contact, or that

(d) * * *

(7) National Association of Corrosion Engineers' report entitled, "Corrosion Data Survey," 1967 edition.

II. Part 172:

(A) In § 172.4, Class 8 of the table as shown in Docket No. HM-8; Notice No. 70-13 paragraph (a) would be amended to read as follows:

§ 172.4 Classifications, abbreviations, labels, terms, and symbols.

(a) * * *

Class 8:
Corrosive materials..... Cor..... Corrosive.

(B) In § 172.5 paragraph (a), the Commodity List would be amended from that proposed in Docket No. HM-8; Notice 70-13 to change all entries in the column "Classed as" from "Cor. L." to "Cor."; in the column "Label required if not exempt", all entries "Corrosive Liquid" would be changed to read "Corrosive"; the commodity list would be further amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *

has a severe corrosion rate on materials of packaging. For solids, this determination must be made on the basis of the properties of the solid in concentrated solution.

(1) A material is considered to be destructive or cause irreversible alterations in tissue if when tested on the intact skin of the albino rabbit by the technique described in 21 CFR 191.11, the structure of the tissue at the site of contact is destroyed or changed irreversibly in 8 hours or less.

(2) Damage to materials of packing is considered severe if the corrosion rate of a liquid or of a solid in concentrated solution exceeds 0.050 inch per year on steel or aluminum. Data published in the "Corrosion Data Survey" may be used as an acceptable guideline for classification purposes. In cases where no data are available in this survey, an acceptable corrosion test is described in NACE Standard TM-01-69.

(D) In § 173.242, the heading would be amended to read as follows:

§ 173.242 Bottles containing corrosive liquids.

(E) In § 173.244, the heading would be amended; paragraph (c) would be added to read as follows:

§ 173.241 Exemptions for corrosive materials.

(c) Corrosive solids, except those for which no exemptions are provided as indicated by the "No exemption" statement in § 172.5 of this chapter, in inside earthenware, glass, metal, or compatible plastic receptacles of not more than 5 pounds capacity each, in wooden or fiberboard outside containers not exceeding 25 pounds net weight each are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 177 of this chapter, except § 177.817 of this chapter.

(F) In § 173.245, the heading would be amended to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(G) Section 173.245b would be added to read as follows:

§ 173.245b Corrosive solids not specifically provided for.

(a) Corrosive solids, as defined in § 173.240, other than those for which special requirements are prescribed, must be packaged in containers fully complying with § 173.24, as follows:

(1) Wooden boxes with inside containers which must be earthenware, glass, metal, or compatible plastic receptacles of not more than 10 pounds net weight capacity each.

(2) Fiberboard boxes with inside containers which must be earthenware, glass, metal, or compatible plastic receptacles of not more than 10 pounds net weight capacity each.

(3) Fiberboard boxes with one inside compatible plastic bag not over 25 pounds net weight capacity.

(4) Metal drums not over 55 gallons capacity.

(5) In multiwall paper bags not exceeding 110 pounds net weight, of at least four-ply construction including moisture-barrier ply, and made tight against sifting and moisture. Completed package, filled to weight with product and closed for shipment, must be able to withstand six drops from a height of 4 feet onto a solid surface, one drop on each end, one drop on each face, and one drop on each side (edge), without sifting or rupture.

(H) In § 173.257, paragraph (c) would be amended to read as follows:

§ 173.257 Electrolyte (acid) or corrosive battery fluid.

(c) Electrolyte acid or corrosive battery fluid contained in polyethylene containers not over 2 quarts capacity each and packaged not more than three containers in specification 15A, 15B, 15C, 16A, or 19A (§§ 178.168, 178.169, 178.170, 178.185, 178.190 of this chapter) wooden

boxes or packaged as prescribed in paragraph (a) (6) of this section and bearing a corrosive label may be securely attached to self-propelled vehicles or mobile agricultural machinery or securely braced on a rail car floor.

(I) In § 173.399, paragraph (b) (2) would be amended to read as follows:

§ 173.399 Labeling of packages of radioactive materials.

(b) Packages containing nitric acid solutions of radioactive materials must bear both a "radioactive" label and a "corrosive" label.

(J) In § 173.402, paragraph (a) (11) as shown in Docket No. HM-8; Notice No. 70-13 would be amended to read as follows:

§ 173.402 Labeling hazardous materials.

(a) For corrosive liquids or corrosive solids, the "CORROSIVE" label as described in § 173.412.

(K) § 173.412 as shown in Docket No. HM-8; Notice No. 70-13 would be amended to read as follows:

§ 173.412 Corrosive label.

(a) Labels for packages of corrosive materials must be white on the top half of the label, and black on the bottom half. Printing of the symbol on the top half must be in black inside of a black line border. Printing on the bottom half must be in white.

(b) "Corrosive" label for packages of corrosive materials (liquid or solid).



IV. Part 174:

(A) In Part 174, Table of Contents, § 174.541 would be amended to read as follows:

Sec. 174.541 "Dangerous" placards; "Dangerous—Radioactive material" placards; or "Caution—Residual phosphorus" placards.

(B) In § 174.532, paragraph (c) (3) as shown in Docket No. HM-8; Notice No.

70-13 would be amended to read as follows:

§ 174.532 Loading other hazardous materials.

(c) Packages with "yellow," "peroxide," or "red striped" labels must not be loaded in the same end of a car containing packages with "Corrosive" labels. However, shippers who have obtained prior approval of the Bureau of Explosives may load carload shipments of such articles together when it is known that the mixture of contents would not cause a dangerous evolution of heat or gas.

(C) In § 174.541, the heading and paragraph (a) (1) as shown in Docket No. HM-8; Notice No. 70-13 would be amended; paragraph (a) (3) as now shown in the Code would be amended to read as follows:

§ 174.541 "Dangerous" placards; "Dangerous—Radioactive material" placards; or "Caution—Residual phosphorus" placards.

(a) Cars containing one or more packages bearing "red," "red gas," "red striped," "red bottom," "blue," "yellow," "peroxide," "etiologic," "poison B," or "corrosive" labels, as required by §§ 173.402 and 173.403 of this chapter.

(3) Tank cars containing flammable liquids, flammable solids, oxidizing materials, corrosive liquids, poisonous liquids or solids, class B, flammable compressed gases, or nonflammable compressed gases.

(D) In § 174.586, paragraph (g) would be amended to read as follows:

§ 174.586 Handling hazardous materials.

(g) Corrosive liquid carboys should be handled so as not to spill the contents. "Empty" carboys, so called, should be handled with necks up, and with sufficient care to prevent burns to clothing or person from leaking corrosive liquid.

V. Part 175:

In § 175.655, paragraph (h) as shown in Docket No. HM-8; Notice No. 70-13 would be amended to read as follows:

§ 175.655 Protection of packages.

(h) Carriers shall prevent contact of contents of packages bearing "yellow," "peroxide," "corrosive," or "red bottom" labels with combustible substances, such as sawdust, shavings, or sweepings, that may be present in express cars. The space should be swept or cleaned.

VI. Part 177:

(A) In Part 177, Table of Contents, § 177.858 would be amended to read as follows:

Sec. 177.858 Accidents; corrosive materials.

(B) In § 177.858, the heading would be amended to read as follows:

§ 177.858 Accidents; corrosive materials.

VII. Parts 173, 174, 177:

(A) The word or phrase "acids," "acids or corrosive liquids," "acids or other corrosive liquids," "acid or other corrosive liquid" would be deleted, and the phrase "corrosive liquid" or "corrosive liquids," as appropriate, would be inserted in place thereof, in the following: §§ 173.25(a), 173.29(d), 173.241(a), (a)(4), 173.242(a), (b), (c), 173.244(a), 173.245(a), 173.286(c), 174.532(h), and 177.839(b).

(B) The word or phrase "acid," "acids," "acids or corrosive liquids,"

"acid or corrosive liquid," "acids or corrosive liquids, white label," "corrosive liquid," or "corrosive liquids" would be deleted, and the phrase "corrosive materials" would be inserted in place thereof, in the following sections: §§ 173.28(i), 173.286(a), (b)(1), 173.401(a), 174.538(a), note (b), 174.597, heading and phrase "acid or other corrosive liquid" in paragraph (a), 177.823(a)(1), 177.834(a), (g), (k), 177.848(a), note (b), 177.854(f), and 177.858(a).

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before September 28, 1971, will be con-

sidered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)).

Issued in Washington, D.C., on June 7, 1971.

W. J. BURNS,
Chairman, Hazardous
Materials Regulations Board.

[FR Doc. 71-8102 Filed 6-10-71; 8:45 am]

Notices

DEPARTMENT OF STATE

[Public Notice 341]

DOMESTIC PETROLEUM CORP.

Notice of Application for Pipeline Permit

The Department of State has received an application, dated March 29, 1971, from the Dome Petroleum Corp., a North Dakota corporation having its main office at Bismarck, N. Dak., for a permit to construct, operate, and maintain a pipeline for petroleum, petroleum products and other liquid hydrocarbons from Burke County, N. Dak., to the international boundary line between the United States and Canada.

Notice is hereby given pursuant to section 2(a) of Executive Order 11423 of August 16, 1968, that copies of this application are available to the public and that written comments thereon will be received by the Department of State for 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Dated: June 2, 1971.

For the Secretary of State.

JOHN B. RHINELANDER,
Deputy Legal Adviser.

[FR Doc 71-8167 Filed 6-10-71; 8:48 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

LARGE POWER TRANSFORMERS FROM FRANCE

Antidumping Proceeding Notice

JUNE 9, 1971.

A question has arisen regarding the scope of the Antidumping Proceeding Notice with respect to large power transformers from France published in the FEDERAL REGISTER of June 17, 1970 (35 F.R. 9934, F.R. Doc. 70-7526).

The purpose of this amendment is to make it clear that the notice applies to all types of transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power, including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers.

The Antidumping Proceeding Notice relating to large power transformers from France, referred to above, accordingly is amended by inserting a comma followed by the words "including all transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power (including but not limited to shunt re-

actors, autotransformers, rectifier transformers, and power rectifier transformers)," after the word "transformers" in the first paragraph.

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[FR Doc. 71-8280 Filed 6-10-71; 8:51 am]

LARGE POWER TRANSFORMERS FROM ITALY

Antidumping Proceeding Notice

JUNE 9, 1971.

A question has arisen regarding the scope of the Antidumping Proceeding Notice with respect to large power transformers from Italy published in the FEDERAL REGISTER of June 17, 1970 (35 F.R. 9934, F.R. Doc. 70-7527).

The purpose of this amendment is to make it clear that the notice applies to all types of transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power, including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers.

The Antidumping Proceeding Notice relating to large power transformers from Italy, referred to above, accordingly is amended by inserting a comma followed by the words "including all transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power (including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers)," after the word "transformers" in the first paragraph.

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[FR Doc. 71-8279 Filed 6-10-71; 8:51 am]

LARGE POWER TRANSFORMERS FROM JAPAN

Antidumping Proceeding Notice

JUNE 9, 1971.

A question has arisen regarding the scope of the Antidumping Proceeding Notice with respect to large power transformers from Japan published in the FEDERAL REGISTER of June 17, 1970 (35 F.R. 9934, F.R. Doc. 70-7528).

The purpose of this amendment is to make it clear that the notice applies to all types of transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power, including but not limited to shunt reactors, autotransformers, recti-

fier transformers, and power rectifier transformers.

The Antidumping Proceeding Notice relating to large power transformers from Japan, referred to above, accordingly is amended by inserting a comma followed by the words "including all transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power (including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers)," after the word "transformers" in the first paragraph.

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[FR Doc. 71-8276 Filed 6-10-71; 8:51 am]

LARGE POWER TRANSFORMERS FROM SWEDEN

Antidumping Proceeding Notice

JUNE 9, 1971.

A question has arisen regarding the scope of the Antidumping Proceeding Notice with respect to large power transformers from Sweden published in the FEDERAL REGISTER of June 17, 1970 (35 F.R. 9934, F.R. Doc. 70-7529).

The purpose of this amendment is to make it clear that the notice applies to all types of transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power, including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers.

The Antidumping Proceeding Notice relating to large power transformers from Sweden, referred to above, accordingly is amended by inserting a comma followed by the words "including all transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power (including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers)," after the word "transformers" in the first paragraph.

ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[FR Doc. 71-8277 Filed 6-10-71; 8:51 am]

LARGE POWER TRANSFORMERS FROM SWITZERLAND

Antidumping Proceeding Notice

JUNE 9, 1971.

A question has arisen regarding the scope of the Antidumping Proceeding

Notice with respect to large power transformers from Switzerland published in the FEDERAL REGISTER of June 17, 1970 (35 F.R. 9934, F.R. Doc. 70-7530).

The purpose of this amendment is to make it clear that the notice applies to all types of transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution and utilization of electrical power, including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers.

The Antidumping Proceeding Notice relating to large power transformers from Switzerland, referred to above, accordingly is amended by inserting a comma followed by the words "including all transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power (including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers)," after the word "transformers" in the first paragraph.

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[FR Doc. 71-8275 Filed 6-10-71; 8:51 am]

LARGE POWER TRANSFORMERS FROM UNITED KINGDOM

Antidumping Proceeding Notice

JUNE 9, 1971.

A question has arisen regarding the scope of the Antidumping Proceeding Notice with respect to large power transformers from the United Kingdom published in the FEDERAL REGISTER of June 17, 1970 (35 F.R. 9935, F.R. Doc. 70-7531).

The purpose of this amendment is to make it clear that the Notice applies to all types of transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power, including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers.

The Antidumping Proceeding Notice relating to large power transformers from United Kingdom, referred to above, accordingly is amended by inserting a comma followed by the words "including all transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power (including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers)," after the word "transformers" in the first paragraph.

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[FR Doc. 71-8278 Filed 6-10-71; 8:51 am]

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

ENVIRONMENTAL STATEMENTS

Proposed Guidelines on Preparation and Coordination

In order to facilitate and promote compliance with the requirements of the National Environmental Policy Act of 1969 (83 Stat. 852), and particularly section 102(2) thereof (42 U.S.C. 4332); Guidelines for Statements on Proposed Federal Actions Affecting the Environment, Council on Environmental Quality (36 F.R. 7724, Apr. 23, 1971); and Executive Order 11514, Protection and Enhancement of Environmental Quality, March 5, 1970 (35 F.R. 4247, Mar. 7, 1970), particularly section 2(b) thereof regarding the preparation and coordination of environmental statements, the Office, Chief of Engineers has prepared guidance to be used by all elements of the Corps of Engineers with civil works responsibilities in preparing and processing environmental statements as required by the Act.

Interested persons are invited to submit such written comments and suggestions concerning the proposed Engineer Regulation as they may desire. Communications should identify the subject matter by the above title and should be submitted in duplicate to the Office, Chief of Engineers, Attention: ENGCV-PV, 1000 Independence Avenue SW., Forrestal Building, Department of the Army, Washington, DC 20314. All communications received on or before July 9, 1971, will be considered before issuing the Engineer Regulation. The proposed Engineer Regulation contained in this notice may be changed in light of the comments received. A copy of each submission will be available for public inspection during business hours, both before and after the closing date set forth above, in the OCE Public Affairs Office at the above address.

The proposed Engineer Regulation on Preparation and Coordination of Environmental Statements reads as follows:

1. *Purpose.* This regulation provides guidance for preparation and coordination of Environmental Statements as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190). The procedures described in this regulation are consistent with the Council on Environmental Quality Guidelines for Statements on Proposed Federal Actions Affecting the Environment, dated April 23, 1971.

2. *Applicability.* This regulation applies to all elements of the Corps of Engineers with civil works responsibilities for planning, development, and management of water resource developments and is applicable to both preauthorization and postauthorization project activities.

3. *References.* a. ER 1165-2-500, "Environmental Guidelines for the Civil Works Program of the Corps of Engineers," November 30, 1970.

b. National Environmental Policy Act of 1969 (Public Law 91-190) (83 Stat. 852).

c. Executive Order 11514, "Protection and Enhancement of Environmental Quality," March 5, 1970 (35 F.R. 4247, Mar. 7, 1970) (copy inclosed as Appendix A).

d. Guidelines for Statements on Proposed Federal Actions Affecting the Environment, Council on Environmental Quality (36 F.R. 7724, Apr. 23, 1971) (inclosed as Appendix B).

4. *Policy.* In formulating water resource development or management plans, impact on the environment will be fully considered from the initiation of preauthorization planning through postauthorization planning, construction, and project operation and management. Early and continuing efforts in cooperation with appropriate local, State and Federal agencies and the interested public, will be undertaken to develop alternatives and measures which will enhance, protect, preserve, and restore the quality of the environment or, at least, minimize and mitigate unavoidable deleterious effects. Preparation of the environmental statement required by the Act will constitute an integral part of the preauthorization process. The statement will serve as a summation of evaluations of the effects that alternative actions would have on the environment and as an explanation and objective evaluation of the finally recommended plan.

a. *Compliance and review.* Prior to forwarding, environmental statements (including comments and views of agencies, groups, and the public) will be carefully reviewed by District and Division Engineers to insure that:

(1) The statement fully satisfies the requirements of this regulation and the references cited herein.

(2) The project or proposal described in the statement is fully consistent with the policies enunciated in the National Environmental Policy Act, ER 1165-2-500, and other pertinent directives which have implemented the Act.

b. *Further guidance.* If after taking all measures within his authority, the District or Division Engineer is unable to satisfy the requirements of paragraph 4a "Compliance and review," above, he will report the matter to the Chief of Engineers, Attention: ENGCV, and request the necessary authority or guidance.

c. *Operation, maintenance, and management.* In the development of plans for operation, maintenance, and management activities, all possible significant effects on the environment will be considered. Such consideration will include alternative uses of available resources when the proposed O&M activity will de-

grade the quality of the environment, curtail the beneficial uses of the environment, or serve short-term purposes to the disadvantage of long-term environmental goals. Typical examples of these activities which could have an adverse impact on the environment are as follows:

(1) Disposal of dredged material in wetlands or marshlands.

(2) Disposal of polluted dredged material in unconfined or open water areas.

(3) Debris collection and disposal activities.

(4) Resource management programs involving the cutting, sale and/or disposal of forest resources; extensive plant disease eradication; predator or vector control; and aquatic plant control.

(5) Reservoir regulation in which some environmental benefits must be sacrificed in the interest of other environmental benefits or economic considerations, e.g., undesirable drawdown to provide water for power and for downstream water quality control.

(6) Leases, licenses, rights-of-way, administrative permits, and other actions involving use by others of project resources.

d. *Regulatory permits.* In evaluating permit applications, the responsible Federal officer will carefully evaluate the impact on the environment of the proposed action considering environmental information provided by the applicant, all advice received from Federal, State, and local agencies, and comments of the public. If the Federal officer believes that granting the permit may be warranted but could lead to significant environmental degradation, an environmental statement will be prepared.

5. *Agency actions requiring statements.* The following types of Corps of Engineers actions will require the preparation of an environmental statement by reporting officers. For those actions not identified in this paragraph, reporting officers should request further guidance from the Chief of Engineers, Attention: ENGCW. Where environmental statements have been previously filed and are older than 3 years or have significant changes in the proposal or associated environment, the statement will be updated, coordinated, and transmitted to the CEQ.

a. *Legislation.* Recommendations or reports to the Congress on proposals for legislation affecting Corps of Engineers programs including proposals to authorize projects (survey, review, and comprehensive reports and legislation).

b. *Continuing authorities.* Recommendations or reports on proposals for authorization of projects by the Chief of Engineers or the Secretary of the Army under special authorities, including detailed Project Reports prepared under the following special continuing authorities:

(1) Section 205, 1948 FCA, as amended (33 U.S.C. 701s).

(2) Section 107, 1960 R&HA, as amended (33 U.S.C. 577).

(3) Section 103, 1962 R&HA, as amended (33 U.S.C. 426g).

(4) Section 2, 1937 FCA, as amended (33 U.S.C. 701g).

(5) Section 3, 1945 R&HA, as amended (33 U.S.C. 603a).

(6) 1909 R&HA, as amended (33 U.S.C. 5).

c. *Construction or land acquisition not started.* Initiation of construction of land acquisition on projects which are not yet started but for which funds have been appropriated or are provided by the current fiscal year Appropriation Act.

d. *Requests for initiation of construction or land acquisition.* Budget submissions requesting funds for the initiation of construction or land acquisition on authorized projects.

e. *Continuing construction and land acquisition, and operation and maintenance.* The National Environmental Policy Act of 1969 requires an environmental statement in those instances where a major Federal action has a significant impact upon the environment. It is the desire of the Chief of Engineers, though not required by the Act, to conduct a systematic review of all Corps projects and to have environmental statements prepared for all projects with impacts that may be considered significant for any reason. In recognition of the heavy workload immediately imposed upon District Engineers through this requirement, it is proposed that statements on these projects be submitted over a span of 3 years. This program contemplates the early submission of statements on those projects of highest priority and so graduated that those of lowest priority will be the last to be submitted. In determination of the priority ranking of projects under this requirement, those projects having the greatest impact upon the environment and those projects where scheduled actions are such as to preclude the possible adoption of alternative plans will be considered highest in priority. A project can be exempted from this 3-year schedule requirement if a statement has already been filed that is less than 3 years old by the time of the President's budget submission and no significant changes have taken place in the proposal or the associated environment.

f. *Regulatory permits.* Issuance of permits for structures, dumping, or other actions in navigable waters of the United States whenever any of the Federal, State, or local agencies which are authorized to develop and enforce environmental standards certify, or the District Engineer determines, that the action which it is proposed to permit would have a significant and adverse effect on the quality of the environment. This regulation does not apply to requirements for environmental statements of Federal leases for oil drilling to be done on the outer continental shelf; Corps permits for such drilling are confined to findings on the effect of this activity on navigation and on national security; inquiries concerning environmental considerations will be referred to the Federal

leasing agency. See 33 CFR 209.131 *Permits for Discharges or Deposits Into Navigable Waters.*

g. *Cooperative shore protection projects.* Where the non-Federal agency will accomplish the construction, a final environmental statement will be on file with CEQ prior to advertisement of the work. The statement will be prepared by the District Engineer, following the guidance provided by this regulation. In the event the non-Federal agency desires to prepare the draft environmental statement, copies will be furnished the District Engineer, who will review the statement and, if it is suitable, proceed with coordination and further processing.

h. *Regulatory control of project resources.* Certain administrative actions regarding utilization of Corps of Engineers project resources have the potential of significantly affecting the environment. These actions are normally initiated by outside parties and involve a lease, license, permit, easement, or other entitlement for use. An environmental statement will be prepared for these actions which may include: leasing of project lands for industrial uses, airports, etc.; requests for rights-of-way for overhead utilities, pipelines, roads and highways; mineral extractions such as sand, gravel, rock, etc., or any other proposed use of project resources which could degrade the quality of the environment. Where an environmental statement is deemed not necessary because there will be no adverse effects, this finding will be included in the transmitting report to higher authority.

i. *Disposal of lands for port and industrial uses.* For disposal of surplus project lands for development of port and industrial facilities pursuant to section 108 of River and Harbor Act of 1960 (Public Law 86-645) (74 Stat. 487) (33 U.S.C. 578), District Engineers will prepare an environmental statement and process it with the proposed action to higher authority.

j. *Exclusions.* Specifically excluded from the required preparation of environmental statements are the emergency flood control, shore protection, and disaster recovery actions performed by the Corps of Engineers pursuant to its statutory authority under Public Law 99-84th Congress (69 Stat. 186), Emergency Bank Protection for Highways, Highway Bridge Approaches and Public Works (sec. 14, 1946 Flood Control Act) (60 Stat. 641) (33 U.S.C. 701r), or as directed by the Office of Emergency Preparedness under the provisions of Public Law 91-606 (84 Stat. 1744).

6. *Budget submission data.* The time requirements for submission of environmental statements as set forth below, have been established with a view to meeting, to the maximum extent, the requirements specified by the Council on Environmental Quality. (See paragraph 10(c) of the CEQ "Guidelines.")

a. *Requests for initiation of construction and land acquisition.* For budget

recommendations in this category, final environmental statements must have been transmitted to CEQ by September 1 of the calendar year in which the budget is being submitted by Division and District Engineers.

b. *Requests for continuing construction and land acquisition and operation and maintenance activities.* With reference to paragraph 5e, for those projects on which environmental statements are selected for submission under the first year of the 3-year schedule, final statements will have been submitted to CEQ not later than January 1, 1972, with the statements scheduled for the second and third years being planned for submission by September 1, 1972, and 1973, respectively.

c. *Listings.* The annual budget recommendations of Division Engineers will provide a listing of projects recommended in each budget category indicating the time of actual or scheduled submission of the final environmental impact statements to the CEQ.

7. *General considerations—A. Environmental statements.* The environmental statement is an independent report summarizing the direct and indirect environmental impacts of a proposed water resources development project or other proposal, taking into consideration the detailed appraisal and analysis of Federal and State agencies with jurisdiction by law or special expertise with respect to environmental impacts and public concerns with particular emphasis on conservation and environmental action groups. Environmental statements will be based on the considerations discussed below, the CEQ "Guidelines," Appendix B and the guidance contained in Appendix C. Statements will:

(1) Describe environmental impacts sufficiently to permit evaluation and independent appraisal of the favorable and adverse environmental effects of the recommended proposal and each alternative. They will be simple and concise, yet include all pertinent facts. In no case will possible adverse effects be ignored or slighted in an attempt to justify an action previously recommended or currently supported. Similarly, care must be taken to avoid overstating either favorable or unfavorable effects.

(2) Discuss significant relationships between the proposal and other existing and anticipated developments. This will include not only Corps proposals but actions by others, either public or private, which will affect the impact of the project or will be affected by the project. These will include both specific proposals and general trends.

(3) Discuss the significance of the regional and national environmental impact of the project, as applicable. Conclusions should be supported with information indicating the relative scarcity or abundance of the environmental resources in question and other factors bearing on regional and national significance.

(4) Be submitted as separate documents, not as inclosures or appendices to other documents such as preauthorization

tion survey reports or design memoranda. However, statements will bring together and summarize the various findings of other documents with respect to environmental considerations.

(5) Not be used to resolve conflicts or to present unsupported conclusions, but should demonstrate that the Corps has fully considered the potential impact of the proposal upon the environment. The statement will summarize information and cite sources of overall appraisals and responsible judgments of complex environmental matters and interrelationships (e.g., water quality by EPA, fish and wildlife resources by BSF&WL or other authoritative sources).

(6) Contain objective analyses and normally avoid the use of project cost figures but should include approximate monetary or other cost comparisons of alternatives which illustrate different environmental impacts and economic or social trade-offs necessary to achieve environmental objectives.

(7) Summarize comments and/or recommendations of an environmental nature by appropriate Governmental agencies.

(8) Summarize formal views and recommendations received from organizations and individuals with an environmental resource interest. Presentation will be in a subsection under "Coordination With Others."

(9) Be reviewed by District Counsel to assure legal responsiveness to the Act.

(10) Be prepared in simple and concise terms with the understanding that they are—or will be—public documents and may receive broad exposure in the news media and careful public scrutiny. Where the use of technical terms is necessary, they should be adequately defined. Length would depend upon the nature of the impacts and the environmental setting of a particular proposal.

(11) Contain the comments of the Environmental Protection Agency with respect to water quality aspects of the proposed action, which have been previously certified by the appropriate State or interstate organization as being in substantial compliance with applicable water quality standards.

(12) Contain a description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impacts by commenting agencies. Project maps will be included.

b. *Planning relationships.* (1) In the development of new projects or proposals, environmental considerations will be integrated into the planning process from the beginning. Preliminary identification and assessment of possible environmental impacts and effects will be made and fully discussed at early stages in the study. Consultation and coordination with Federal, State, and local agencies which have jurisdiction by law or special expertise and the interested public with respect to the environmental impacts involved will be started as soon as these impacts are tentatively identified and will continue throughout the planning process. Reporting officers

will insure that such consultation has been sufficient to identify all significant impacts prior to circulation of environmental statements, including preliminary drafts.

(2) On projects which were recommended, authorized or under construction prior to the National Environmental Policy Act of 1969, the opportunity to study and evaluate a full range of alternatives may be more limited. However, to the maximum extent feasible, alternative solutions and opportunities for environmental enhancement, preservation, restoration, and mitigation will be investigated prior to preparation of the statement. Regardless of the level at which formal coordination is to take place, reporting officers will carefully examine and evaluate the environmental impact of all reasonable alternatives in coordination with appropriate Federal, State, and local agencies and the public prior to preparing a recommendation or an environmental statement, whether preliminary draft, draft, or final.

8. *Public participation—A. Policy.* Public participation will be incorporated into the conduct of the Corps water resources program and must be viewed as an integral part of the planning process. Public participation is a continuous two-way communication process which involves: Keeping the public fully informed about the status and progress of studies and findings of plan formulation and evaluation activities; and actively soliciting from all concerned citizens their opinions and perceptions of objectives and needs, and their preferences regarding resources use and alternative development or management strategies, and any other information and assistance relevant to plan formulation and evaluation. Specific guidance on the implementation of public participation is being developed.

b. *Preauthorization project studies.* In each project study, all possible means (formal and informal) will be emphasized to establish and maintain effective two-way communications with interested citizens and conservation and environmental groups. Public meetings, informal meetings and workshops with the project area and the use of news media are means to develop this free-flowing dialog to assist in the identification of the environmental concerns and develop appropriate measures within the proposed plan to mitigate, eliminate, or reduce environmental impacts. Unresolved environmental conflicts must be clearly set forth with a full and complete discussion of both sides of the issue. The general public and participating conservation environmental groups should be kept fully and continuously informed about impacts and be provided with opportunities to make inputs.

(1) During the second public meeting or formulation stage meeting, all anticipated environmental impacts and effects of each solution under consideration will be identified and discussed. There will be prepared an environmental information section or inclosure to the

public meeting announcement in order to generate meaningful and thorough discussion during the meeting. Views of interested citizens and conservation and environmental groups will be sought and considered.

(2) A preliminary draft environmental statement will be prepared for the third or late stage public meeting and will be summarized in the notice of public meeting and with reference to how copies may be obtained. The environmental discussion regarding the proposal and alternatives will be specific and thorough regarding the environmental impacts and effects. Views of interested citizens and conservation and environmental groups will be sought and considered.

c. *Post-authorization project studies.* Public participation will be developed for post-authorization planning studies whenever there are substantive changes from the authorized plan.

d. *Public review.* During the review of the environmental statement by Federal, State, and local agencies, copies of the preliminary draft and draft statement will be made available to groups which actively participated in the study, to citizen and conservation and environmental groups with known interests in the environmental considerations of the project, and in response to requests from the general public. To insure public awareness during this process, action offices will prepare and publish a news release on the proposed action, stating that a copy of the preliminary draft or draft environmental statement has been prepared and is available upon request. This news release should be given as wide a coverage as deemed sufficient to accomplish the purpose of this directive and the intent of paragraph 6a(vii) and 10 of the "Guidelines" of the CEQ. When significant environmental impacts or public concern have become apparent subsequent to the last public meeting, reporting officers will notify the Division Engineer of the facts and issues involved and request a decision as to whether a public meeting should be held prior to or during coordination of the statement.

9. *Coordination.* Existing coordination procedures will be utilized in obtaining the views of Federal, State, and local agencies to the maximum extent practicable concerning the review of preliminary draft and draft environmental statements.

a. *Time limits.* Reporting officers should establish time limits of not less than 45 days for reply, after which it may be presumed, unless the agency requests a specific extension of time, that the agency consulted has no comment to make. In exceptional cases, where time is a very critical factor, time limits of 30 days may be established. To the fullest extent possible, no administrative action will be taken, regarding the proposal, sooner than 90 days after a draft environmental statement has been circulated for comment, or sooner than 30 days after a final environmental statement has been made available to CEQ.

b. *Federal agencies.* (1) Appendix 2, CEQ "Guidelines" will be used to determine the Federal agencies with jurisdiction by law or special expertise to whom the statement is to be sent for comment on the environmental impacts.

(2) Section 8 of CEQ Guidelines, reference d, requires that, in addition to normal coordination procedures, the following rules apply to coordination with the Environmental Protection Agency (EPA):

(a) Comments of the Administrator or his designated representative will accompany each final statement on matters related to air or water quality, noise control, solid waste disposal, radiation criteria and standards, or other provisions of the authority of EPA.

(b) Copies of basic proposals (studies, proposed legislation, rules, leases, permits, etc.) will be furnished to EPA with each statement. For actions for which statements are not being prepared but which involve the authority of EPA, EPA will be informed that no statement will be prepared and that comments are requested on the proposal.

(c) A period of 45 days will be allowed for EPA review of statements and/or proposals; however, it will be presumed that the agency has no comments to make only when the impacts or matters related to the authorities of EPA are minor or the agency has indicated that it does not desire to comment.

c. *State and local agencies.* Coordination of the environmental statement with State and local agencies authorized to develop and enforce environmental standards may be obtained directly with the agencies and with the appropriate State, regional, or metropolitan clearinghouse unless the Governor has designated some other point for obtaining this review. For additional guidance see ER 1120-2-112, "Coordination of Investigations and Reports with Clearinghouses."

10. *Availability of environmental statements.* Draft and final environmental statements including comments received during review will be made available to the public to the greatest extent practicable in accordance with paragraph 8 of this regulation, section 2(b) of Executive Order 11514, "Protection and Enhancement of Environmental Quality," paragraph 10 of the CEQ "Guidelines" and the following:

a. *Draft environmental statements.* The District Engineer will furnish copies of draft environmental statements in response to requests from the public and will furnish public information file copies to the Division office and the appropriate State, regional, and metropolitan clearinghouses. Copies will also be on file in the Office of the Chief of Engineers.

b. *Final environmental statements.* After the final environmental statement has been filed with CEQ, the District Engineer will furnish copies, including comments, in response to requests from the public and furnish on an expedited basis, public information file copies to the appropriate State, regional, and metropolitan clearinghouses. Information

copies will also be provided to all Federal, State, and local agencies and conservation/environmental groups with which the statement was coordinated. This is to enable the public or government agency to comment on the final statement to CEQ if they so desire, within the 30-day period prior to the administrative actions being taken. Copies will also be on file in the Office of the Chief of Engineers.

c. *Number of copies.* In order to comply with paragraph 10(b) of CEQ "Guidelines" reporting officers will provide 30 copies of all draft environmental statements to OCE at the time formal coordination with responsible Federal, State, and local agencies is initiated. When significant or controversial environmental issues are raised during the draft review process, 20 copies of the letters discussing the issues will be furnished OCE for transmittal to CEQ in advance of furnishing the final coordinated environmental statement. Thirty copies of the final coordinated statement will be furnished OCE for further processing to CEQ. OCE will notify Division and District Engineers when final statements are filed and will provide each with copies of the filed final statement.

11. *Preparation and processing.* Statements will be prepared by the officer initially preparing the recommendation or report (normally the District Engineer). The initiating officer is recognized as the responsible Federal official within the meaning of section 102(2)(C) of Public Law 91-190, except for such changes as reviewing authorities may deem necessary in the original proposal and covering statement, to be consistent with the policies of the Secretary of the Army. Agency comments and the views expressed should be directed at the environmental impacts and should be no older than 12 months for new proposals nor older than 3 calendar years for previously authorized projects. More recent coordination will be required if significant changes in the proposal or in the associated environment have occurred in the meantime.

a. *Survey reports.* (1) An assessment of the environmental resources in the project area will be prepared by the environmental planners and presented at the Checkpoint I Conference. This assessment will be based on the results of the environmental inventory (App. C, paragraphs 2 and 3) and will be the continuing reference document for the environmental planning in the survey report and the preparation of the environmental statement.

(2) The environmental assessment and an analysis of probable environmental impacts of the considered project alternatives will be presented at the formulation stage public meeting. The environmental presentation at this meeting will be made in a way that will: (a) Lead to public understanding of the environmental setting in the proposed project area, and the environmental trade-offs under consideration; (b) be

deserving of confidence that Corps planning is environmentally knowledgeable and responsive; and (c) obtain the reviews and comments of interested citizen and conservation and environmental groups.

(3) A preliminary draft statement (PDS) will be prepared before the late stage public meeting. The PDS will objectively present the anticipated impacts of the selected plan which may be recommended, but will also present in clear and concise terms the probable impacts of alternative plans considered during the study.

(4) The PDS, perhaps revised after the final public meeting, will be circulated to the agencies noted in paragraph 9, "Coordination", for review and comment. The review period will be not less than 30 days. If any agency does not respond within the time specified, a comment to that effect will be included in the attached coordination letters section. Copies of the PDS will be furnished to groups which actively participated in the study, to citizen and conservation and environmental groups with known interests in the environmental considerations of the project. At the time of the circulation of the PDS for field level review the District Engineer will prepare and issue a news release stating that a copy of the preliminary draft environmental statement may be obtained from the District Engineer.

(5) After the return of field level review comments the District will prepare a final version of the PDS and this statement will accompany the District report to the Division Engineer. Review comments of all agencies together with a summary of comments received from the public, will be attached to the PDS.

(6) The Division Engineer will give appropriate coverage to the PDS in the Public Notice and will review and comment on the PDS when he submits his report and statement to the Board of Engineers for Rivers and Harbors (BERH).

(7) BERH will review the PDS at the time it reviews the project report. BERH will note in the Board report that it has reviewed the PDS of a certain data and has considered the impacts discussed therein when developing the views and recommendations contained in the Board report.

(8) After the review of the PDS at BERH and by OCE elements, the PDS will be converted into the draft statement at OCE. The draft statement will be circulated for review and comment to the appropriate State or States and the affected Federal agencies at the Washington level and known interested citizen, conservation and environmental groups, and response to requests from the general public. The draft statement, together with all field level coordination comments, the Chief of Engineers Report, and the Board of Engineers for Rivers and Harbors report will be provided CEQ by OCE at this time. The review period will be 90 days. The public Affairs Office, OCE, will prepare and issue

a news release stating that a copy of the draft environmental statement is available from the Office of the Chief of Engineers. Copies of the draft environmental statement will be furnished the Division and District Engineers. District Engineers will provide public information file copies to the appropriate State, regional, and metropolitan clearinghouses.

(9) After termination of the review period the final environmental statement incorporating all comments received, will be prepared at OCE in consultation with field offices and accompany the Chief's report on the project to Office, Secretary of Army (OSA) for transmittal to Office of Management and Budget (OMB).

(10) After receipt of the OMB comments, OSA will transmit the final environmental statement to CEQ and Congress together with the project report. The Public Affairs Office, OCE, will prepare and issue a news release stating that a final environmental statement has been filed with CEQ and a copy is available from the Office of the Chief of Engineers. Mention in this news release should be made that copies are available at the Division and District Engineers' offices.

(11) Copies of final environmental statement will be furnished the agencies and organizations with whom the draft environmental statement was coordinated. Copies of the final environmental statement will be furnished the Division and District Engineers. District Engineers will provide public information copies to the appropriate State, regional, and metropolitan clearinghouses.

b. *Special projects and continuing authorities.* It is contemplated that all required consultation with Federal, State, and local agencies, and the public concerning the environmental aspects will be accomplished at field level by District Engineers without further referral to any of these agencies by the Chief of Engineers.

(1) An assessment of the environmental resources in the project area will be prepared by the environmental planners and will be the continuing reference document for the environmental planning in the project report and the preparation of the environmental statement.

(2) A draft statement will be prepared before the public meeting. The draft statement will objectively present the anticipated impacts of the selected plan which may be recommended but will also present in clear and concise terms the probable impacts of alternative plans considered during the study. The content of the draft statement will be summarized in the Notice of Public Meeting and discussed at the meeting.

(3) The draft statement, revised as applicable, after the public meeting, together with draft report, will be forwarded to OCE through the Division Engineer for concurrence of proposed action prior to coordination of report and statement.

(4) Appropriate comments on the report and draft statement will be made by OCE and the District Engineer re-

quested to make the appropriate changes.

(5) After the changes in the report and draft statement are made, the District Engineer will circulate the draft statement for formal review and comment to appropriate Federal, State, and local agencies, clearinghouses and known interested citizen, conservation and environmental groups and response to requests from the general public. Thirty copies of the draft statement will be furnished OCE for transmittal to CEQ. The review period may be as short as 30 days except 45 days will be allowed for EPA comment. This coordination starts the 90-day period before the administrative action can be taken. At the same time the District Engineer will prepare and issue a news release stating that a copy of the draft environmental statement may be obtained from the District Engineer.

(6) After other agency review comments and comments of the interested public are received, the District will prepare the final environmental statement and attach copies of all comments received. Thirty copies of the final environmental statement will be sent to the Division Engineer for further action.

(7) The Division Engineer will review and comment on the final environmental statement when he submits the report and statement to OCE.

(8) OCE will review and have revised the final environmental statement where necessary. Office, Secretary of Army will transmit the final environmental statement to the CEQ. This action will start the 30-day period before the action can be taken. The Public Affairs Office, OCE, will prepare and issue a news release stating that a final environmental statement has been filed with CEQ and a copy is available from the Office, Chief of Engineers and District Engineer.

(9) Copies of the final environmental statement will be furnished the Division and District Engineers. District Engineers will furnish copies of the final environmental statement to the agencies and organizations with whom the draft environmental statement was coordinated. District Engineers will also provide public information copies to the appropriate State, regional, and metropolitan clearinghouses.

c. *Authorized projects not started.* It is contemplated that all required consultation with Federal, State, and local agencies and the public concerning the environmental aspects will be accomplished at field level by District Engineers without further referral to any of these agencies by the Chief of Engineers. See paragraph 8, Public Participation, for guidance on holding public meetings in connection with preparation of statements for authorized projects.

(1) Prior to submittal of the General Design Memorandum, the District Engineer will update the environmental statement prepared when the project was authorized or prepare one if none has been prepared. For projects for which statements are required (paragraph 5,

"Agency actions requiring environmental statements") and for which the GDM has been previously submitted, draft statements will be prepared as soon as possible. Preparation should be started at least 9 months prior to the proposed action for which the statement is required in order to allow time for consultation with appropriate agencies prior to preparing the draft, preparation of the draft, and processing as indicated in the following subparagraphs.

(2) The updated statement or new draft will be circulated for formal review and comment to the appropriate Federal, State, and local agencies, clearinghouses, and known interested citizen, conservation and environmental groups and response to requests from the general public. Thirty copies of the draft statement will be furnished OCE for transmittal to CEQ. This review period may in exceptional cases be as short as 30 days, except that 45 days will be allowed for EPA comments. This coordination starts the 90-day period before the administrative action can be taken. At the same time, the District Engineer will issue a news release stating that a copy of the draft environmental statement may be obtained from the District Engineer.

(3) After other agency review comments and comments of the interested public are received, the District will prepare the final environmental statement and attach copies of all comments received. Thirty copies of the final environmental statement will be sent to the Division Engineer for further action.

(4) The Division Engineer will review and comment on the final environmental statement when he submits the GDM (if appropriate) and statement to OCE.

(5) OCE will review and revise the final environmental statement where necessary. Office, Secretary of Army will transmit the final environmental statement to the CEQ. This action will start the 30-day period before the administrative action can be taken. The Public Affairs Office, OCE, will prepare and issue a news release stating that a final environmental statement has been filed with CEQ and a copy is available from the Office, Chief of Engineers and the District Engineer.

(6) Copies of the final environmental statement will be furnished the Division and District Engineers. District Engineers will furnish copies of the final environmental statement to the agencies and organizations with whom the draft environmental statement was coordinated. District Engineers will also provide information copies to the appropriate State, regional, and metropolitan clearinghouses.

d. *Operation and maintenance and continuing construction.* It is contemplated that all required consultation with Federal, State, and local agencies, and the public concerning the environmental aspects will be accomplished at field level by District Engineers without further referral to any of these agencies by the Chief of Engineers.

(1) Paragraph 5c, page 4, establishes the requirements for preparation of environmental statements regarding Operation and Maintenance and Continuing Construction projects.

(2) The updated statement or new draft will be circulated for formal review and comment to the appropriate Federal, State, and local agencies, clearinghouses, and known interested citizen, conservation and environmental groups and response to requests from the general public. Thirty copies of the draft statement will be furnished OCE for transmittal to CEQ. This review period may in exceptional cases be as short as 30 days, except that 45 days will be allowed for EPA comments. This coordination starts the 90-day period before the administrative action can be taken. At the same time, the District Engineer will issue a news release stating that a copy of the draft environmental statement may be obtained from the District Engineer.

(3) After other agency review comments and comments of the interested public are received, the District will prepare the final environmental statement and attach copies of all comments received. Thirty copies of the final environmental statement will be sent to the Division Engineer for further action.

(4) The Division Engineer will review and comment on the final environmental statement when he submits the statement to OCE.

(5) OCE will review and revise the final environmental statement where necessary. Office, Secretary of Army will transmit the final environmental statement to the CEQ. This action will start the 30-day period before the action can be taken. The Public Affairs Office, OCE, will prepare and issue a news release stating that a final environmental statement has been filed with CEQ and a copy is available from the Office, Chief of Engineers and the District Engineer.

(6) Copies of the final environmental statement will be furnished the Division and District Engineers. District Engineers will furnish copies of the final environmental statement to the agencies and organizations with whom the draft environmental statement was coordinated. District Engineers will also provide information copies to the appropriate State, regional, and metropolitan clearinghouses.

e. *Permit applications.* For permit actions on which statements are required by paragraph 5f above, the preparation and coordination of an environmental statement will be accomplished at field level.

(1) The District Engineer will require the applicant to furnish information and an assessment of the environmental impacts of the proposed action.

(2) If a Public Hearing is required, an environmental assessment of the proposed action will be included in the Public Notice of Hearing and the environmental issues will be fully discussed by the applicant at the hearing.

(3) The District Engineer will prepare a draft environmental statement utilizing the information obtained from the various agencies and the public in response to the original public notice, the information provided by the applicant and the public hearing, if one was held.

(4) The draft statement will be circulated for formal review and comment to the appropriate Federal, State, and local agencies, and known interested citizen, conservation and environmental groups and response to requests from the general public. Thirty copies of the draft statement will be furnished OCE for transmittal to CEQ. This review period may be as short as 30 days, except that 45 days will be allowed for EPA comments. This coordination starts the 90-day period before the administrative action can be taken. At the same time the District Engineer will issue a news release stating that a copy of the draft environmental statement may be obtained from the District Engineer.

(5) After other agency review comments and comments of the interested public are received, the District will prepare the final environmental statement and attach copies of all comments received. Thirty copies of the final environmental statement together with the District Engineer's report and recommendations on the application as required by ER 1145-2-303 will be transmitted to higher authority for further action.

(6) If higher authority decision is favorable to the application, the Office, Secretary of Army will transmit the final environmental statement to the CEQ at least 30 days prior to approval of the application. The Public Affairs Office, OCE, will prepare and issue a news release stating that a final environmental statement has been filed with CEQ and a copy is available from the Office, Chief of Engineers and the District Engineer.

(7) Copies of the final environmental statement will be furnished the Division and District Engineers. District Engineers will furnish copies of the final environmental statement to the agencies and organizations with whom the draft environmental statement was coordinated. District Engineers will also provide information copies to the appropriate State, regional, and metropolitan clearinghouses.

(8) If higher authority decision is unfavorable to the application, the application together with the reasons for denial will be returned to the applicant. CEQ will be informed of the denial and that a final environmental statement will not be filed.

f. *Disposal of land for port and industrial uses.* When District Engineers determine that surplus project property may be disposed of for development of public port or industrial facilities is in the public interest, he will prepare an environmental statement to accompany his report and recommendation. It is contemplated that all required consultation with Federal, State, and local agencies,

and the public concerning the environmental aspects will be accomplished at field level by District Engineers without further referral to any of these agencies by the Chief of Engineers.

(1) The District Engineer will prepare a draft environmental statement utilizing information obtained from appropriate Federal, State, and local agencies and probably new owners. A public meeting may be used to obtain information and views from the interested public. The statement will set forth, among other things, what the new owner intends to develop on the property and the possible uses to be made of it. Also, state what constraints will be placed on the owner, such as reversionary clause, uses, need for permits for structures or discharges into navigable waters.

(2) The draft statement will be circulated for formal review and comment to the appropriate Federal, State, and local agencies, and known interested citizen, conservation, and environmental groups and response to requests from the general public. Thirty copies of the draft statement will be furnished OCE for transmittal to the CEQ. This review period may be as short as 30 days, except that 45 days will be allowed for EPA comments. This coordination starts the 90-day period before the administrative action can be taken. At the same time, the District Engineer will issue a news release stating that a copy of the draft environmental statement may be obtained from the District Engineer.

(3) After other agency review comments and comments of the interested public are received, the District will prepare the final environmental statement and attach copies of all comments received. Thirty copies of the final environmental statement together with the District Engineer's report and recommendations, as required by ER 405-1-909, will be transmitted to higher authority for further action.

(4) If higher authority decision is favorable to the request for disposal of project lands, the Office, Secretary of Army will transmit the final environmental statement to the CEQ at least 30 days prior to the issuance of the Public Notice of Disposal as required by paragraph 32c(2) of ER 405-1-909. The Public Affairs Office, OCE, will prepare and issue a news release stating that a final environmental statement has been filed with the CEQ and a copy is available from the Office, Chief of Engineers and the District Engineer.

(5) Copies of the final environmental statement will be furnished the Division and District Engineers. District Engineers will furnish copies of the final environmental statement to the agencies and organizations with whom the draft environmental statement was coordinated. District Engineers will also provide information copies to the appropriate State, Regional, and metropolitan clearinghouses.

(6) If higher authority decision is unfavorable to the request, the CEQ will be informed of the denial and that a

final environmental statement will not be filed.

12. *Implementation.* Officers in charge of elements described in paragraph 2 above, will modify planning and other procedures to insure compliance and implementation in a timely manner.

APPENDIX A—EXECUTIVE ORDER 11514, PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY, MARCH 5, 1970

See 35 F.R. 4247, March 7, 1970.

APPENDIX B—REVISED CEQ GUIDELINES ON ENVIRONMENTAL IMPACT STATEMENTS PREPARED UNDER SECTION 102(2)(C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT

See 36 F.R. 7724, May 28, 1971.

APPENDIX C—PREPARATION OF ENVIRONMENTAL STATEMENTS

1. *General.* Preparation of environmental statements will be based on considerations discussed in the CEQ Interim Guidelines and the detailed guidance to follow. These directions are intended to assure consistency of effort in preparing statements and are not proposed to induce unthinking uniformity or limit flexibility when preparing the statements. These statements have several levels of importance with reference to the decision-making process. Corps relations with the public, and internal project planning activities. A careful, objective detailing of environmental impacts, alternatives, and implications of a proposed project should give reviewers both within and outside the Corps insight into the particular trade-offs and commitments associated with the action. The general public, environmental action groups, trade and special interest associations, governmental agencies, and congressional committees will all expect the statements to be a valid source of information on project effects, as well as a reflection of how the agency views environmental factors and seeks to accommodate them. Since the statements will be made available to the public and may receive broad exposure in the media, it can be assumed that they will receive careful scrutiny. Most importantly, preparation of the statements should cause systematic consideration of environmental impacts. An imaginative evaluation of alternatives and their implications should begin in the earliest stages of project formulation, with planners contemplating the criteria and range of information to be employed in preparation of final statements.

2. *Working papers.* In order to assure a comprehensive treatment of environmental concerns, a check list of pertinent environmental elements should be compiled by the environmental planners. A discussion of these elements should establish their importance, placing emphasis on whether they are unique, endangered, old, popular, etc.—in essence, explore the ecological, aesthetic, cultural, and other values which appear to make the elements environmentally significant. The manner in which economic considerations affect those values should also be discussed. For projects on which initial formulation has been completed, much of the information needed to characterize the elements may already be contained in existing survey documents, design memoranda and project files. Conversely, the organization of working papers at an early stage in the planning process will assist in subsequent survey studies and postauthorization design. Planners should keep abreast of current literature and information sources to aid in compiling environmental data. Two such information sources are: "Perspectives in Environmental Planning," OCE publication, April 1970; and

"Environment Reporter," BNA publication (each field office has a subscription).

3. *Environmental elements.* Logical categories and sample elements for the working papers follow.

a. *Geological elements:* Land forms (mountains, canyons), rock and mineral features, paleontologic items (fossils), structures (faults, synclines).

Related: Soils, erosion, strip mined areas, caves.

b. *Hydrological elements:* Lakes, reservoirs, estuaries, rivers, subsurface water, marshes, valley storage, springs.

Related: Turbidity, pollutants, aquifer recharge areas, surf.

c. *Botanical elements:* Trees, shrubs, aquatic plants, microflora.

Related: seasonal colors, virgin forests.

d. *Zoological elements:* Mammals, birds, amphibians, fish, shellfish, microfauna.

Related: migration routes, breeding characteristics.

e. *Archaeological/historical/cultural elements:* Ruins, artifact sites, ghost towns, battlefields, cemeteries, festival sites, ethnic colonies.

f. *Economic conditions, social relationships, human well-being.*

g. *Miscellaneous elements:* Scientific areas, National parks or forests, hunting clubs, wildlife refuges, contemporary human features (buildings, transportation systems).

It should be noted that the elements under the last three categories are relevant to the human environment and their consideration is essential to assure treatment responsive to the full concern of the NEPA.

4. *Format.* Environmental statements will constitute a document separate from other Corps papers and consist of the cover sheet, summary sheet, statement, and letters of coordination. All information will be typed single spaced on one side of the page only. To facilitate review, draft statements may be prepared in double space format. Appendix D includes samples of format for draft and final statements.

a. *Cover sheet.* This will be prepared on plain bond and will contain the following:

(1) Date.

(2) Type of statement: Draft/Final Environmental Statement.

(3) Official project name and associated water feature and State.

(4) Preparing office.

b. *Summary sheet.* This will be prepared on plain bond and will follow exactly the format prescribed by Appendix I of the CEQ "Guidelines." See Appendix D for samples of draft and final summary sheets. For the dates required in item 6 use the following: Draft statements use date of ENGOW letter to CEQ, final statements use date of OSA letter to CEQ.

5. *Content of statement.* The body of the environmental statement will contain the following eight separate sections (and attachment containing coordination letters) with the length of each being adequate to identify and develop the required information and a one page map of the proposed project. Artist's sketches and selected photos may be incorporated, if they will be particularly helpful in describing the environmental setting or environmental impacts.

a. *Project description.* Describe the proposal by name, specific location, purposes, authorizing document (if applicable), current status, and benefit-cost ratio. Generally delineate the project purpose and what the plan of the proposal entails. It is most important that a clear word picture be presented. If reservoir, give dimensions: surface acres of conservation pool; flood control pool; acres of total project; length; miles of shoreline, etc.; however, leaving out the technical

specifications unless these are important to the understanding of just what the project is.

b. *Environmental setting without the project.* Describe the area, the present level of economic development, existing land and water uses, and other environmental determinants. Discuss in detail the environmental setting without focusing only on the immediate area at the risk of ignoring important regional aspects critical to the assessment of environmental impacts. Include appropriate information on topography, vegetation, animal life, historical, archeological, geological features, and social and cultural habits and customs. Discuss population trends and trends of agriculture and industry and describe what the future environmental setting is likely to be in the absence of the proposed project. It is possible and often desirable to treat the project setting in relation to river basins, watersheds or functional ecosystems. Discuss the interrelations of projects and alternatives proposed, under construction or in operation by any agency or organization.

c. *The environmental impact of the proposed action.* (1) Identify environmental impacts, viewed as changes or conversions of environmental elements which result from the direct or indirectly from; include land loss and land use changes which could be expected downstream from and adjacent to the project such as urbanization, changes in water features and characteristics, etc. Discuss impact upon the economy and social conditions and identify environmental elements which may be modified or lost. Such impacts shall be detailed in a dispassionate manner to provide a basis for a meaningful treatment of the trade-offs involved. Quantitative estimates of losses or gains (e.g., acres of marshland, number of ducks nesting or harvested) will be set forth whenever practicable. Discuss both the beneficial and detrimental impacts of the environmental changes or conversions placing some relative value on the impacts described. Discuss these effects not only with reference to the project area, but in relation to any applicable region, basin, watershed, or ecosystem. Relate the impact to the river basin or regional entity in which the action is proposed; and discuss the interrelationship of projects and alternatives, proposed, under construction, or in operation by other agencies or organizations. A thoughtful assessment of the environmental elements should aid in determining impacts. For example, the filling of a portion of the wetlands of an estuary would involve the obvious conversion of aquatic/marsh areas to terrestrial environments, the loss of wetland habitats and associated organisms, a gain in area for terrestrial organisms, a change in the nutrient regime of the runoff water entering that portion of the estuary, alteration of the hydrology of some given area, perhaps the introduction of buildings or roads, curtailment of certain commercial uses, disruption of water-based recreational pursuits, conversion of wildland aesthetics to less-pristine attributes, perhaps the removal of some portion of popular duck hunting grounds or unique bird nesting area, etc.

(2) Discuss both the beneficial and detrimental aspects of the environmental changes or conversions placing some relative value on the impacts described. A distinction should be observed here, whereby the impacts (changes) were initially detailed without making value judgments while at this point are discussed in terms of their effects (who or what is affected by the changes). Identify the recipient (environmental element, interest group, industry, agency) of these effects and the nature and extent of the impacts on them. Discuss

these effects not only with reference to the project area, but in relation to any applicable region, basin, watershed, or ecosystem. In the example given, the loss of wetland might have relevance to different areas depending on the uniqueness of the filled area, the developmental plans and state of adjacent and regional wetlands, and the extent of the secondary effects of the filling (alteration of estuarine salinity wedge, sedimentation effects on adjacent shellfish, the modification of the surficial and groundwater hydrology of contiguous marsh and upland areas, etc.).

(3) Identify remedial, protective, and mitigation measures which would be taken as a part of the proposed action by the Corps or others, to eliminate, or compensate for, any detrimental aspects of the proposed action. Such measures taken for the minor or short-lived negative aspects of the project will be discussed in this section. The adverse effects which cannot be satisfactorily dealt with will be considered in greater detail along with their abatement and mitigation measures in the following section.

d. *Any adverse environmental effects which cannot be avoided should the proposal be implemented.* Discuss only those detrimental aspects of the proposed action which cannot be eliminated either within the framework of responsibility of those agencies or groups who identified the problem, or by alternative measures as a part of the proposed action. The discussion will identify the nature and extent of the adverse effects and the parties affected. It should include a discussion of adverse effects or objections raised by others. The loss of a given acreage of wetland by filling may be mitigated by purchase of a comparable land area, but this does not eliminate the adverse effect. Certainly the effects on the altered elements will not disappear simply because additional land is purchased. Identify the nature and extent of the principal adverse effects and the parties affected. For example, the effects of the filled wetland might include the loss of shellfish through sedimentation actions (turbidity and burial), the loss of organisms through the leaching of toxic substances from polluted marsh sediments used in the fill, the loss of a popular/valuable waterfowl census site in the estuary or the burial of ancient Indian midden sites of indeterminate archeological value. Present and comment on the objections of all concerned parties.

e. *Alternatives to the proposed action.* Describe the various alternatives considered, their general environmental impact, and the reason(s) why each was not recommended. Identify alternatives as to their beneficial and detrimental effects on the environmental elements, specifically taking into account the alternative of no action. This latter alternative requires a projection of the future environmental setting if the project is not accomplished (includes both natural and man-induced changes). Discuss economically justified alternatives predicated upon standard evaluation methods, but additionally, insofar as possible, identify and evaluate other ways of providing functions similar to those provided by the proposed project but which were specifically formulated with environmental quality objectives in mind. For example, the environmental trade-offs involved in filling the marsh would be different for alternatives such as: utilizing an inland site rather than filling in the marsh, hauling fill material from an upland borrow pit rather than dredging it from the estuary, or providing construction on piles or floats rather than on fill material. Discuss other possible solutions which may be outside Corps authorities.

f. *The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* Assess the cumulative and long-term impacts of the proposed action with the view that each generation is a trustee of the environment for succeeding generations. Give special attention to considerations that would narrow the range of beneficial uses of the environment or pose long-term risks to health or safety. The propriety of any action should be weighed against the potential for damage to man's life support system—the biosphere—thereby guarding against the short-sighted foreclosure of future options or needs. It is appropriate to make such evaluations on land-use patterns and development, alterations in the organic productivity of biological communities and ecosystems and modifications in the proportions of environmental components (water, uplands, wetland, vegetation, fauna) for a region or ecosystem. For example, if a coastal marsh is extensively filled, the ability of an associated estuary to support its normal biota might be seriously impaired. Altered sediment, nutrient, and biocidal additions to the waters might well affect the inherent biological productivity of the estuary. In other words, if the estuary's marshes are modified enough to affect basic estuarine processes, certain of the amenities, biota, products, industry, and recreation opportunities could be lost. The long-term implications of these changes are directly related to the degree that the losses are sizeable or unique.

g. *Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.* Discuss irrevocable uses of resources, changes in land use, destruction of archeological or historical sites, unalterable disruptions in the ecosystems, and other effects that would curtail the diversity and range of beneficial uses of the environment should the proposal be implemented. For example, in filling a marsh there could be a number of potential irreversible or irretrievable effects. The particular aquatic habitat filled in the marsh would be permanently lost for aquatic organisms and fill would be removed from one area and deposited in another. Include possible indirect actions—those made economically feasible, as a result of the proposed action—that would cause changes in land and water use could not be halted or reversed under free enterprise principles.

h. *Coordination with others.* The coordinations and public participation efforts will be summarized in this section under three subheadings: Public participation, Government agencies, and Citizen Groups.

(1) *Public participation.* This section will briefly summarize the public participation efforts accomplished during the conduct of the study, indicating number of public meetings, informal meetings and workshops conducted, and a brief discussion of environmental issues identified, if any. For an authorized project or other administrative action, discuss measures taken to involve or inform the public of the actions and the environmental issues.

(2) *Government agencies.* Each government agency with whom coordination of the environmental statement has been accomplished will be listed. Relevant and appropriate comments will be included in the revised statements incorporating changes where necessary. Additionally, each separate view expressed concerning the environmental effects of the proposal will be summarized in a comment and appropriately discussed in a response. If an agency did not provide comments on the statement, "No comments received" will be placed under the agency name.

(3) *Citizen groups.* The objective of this section is to clearly set forth the magnitude and breadth of concerns of private citizens and conservation groups regarding specific identifiable environmental impacts related to the project. The environmental issues or impacts identified by citizens and conservation groups will be incorporated in the statement where appropriate. All views expressed, concerning the environmental effects of the proposal will be set forth in a comment and appropriately discussed in a response, as are those from government agencies. To give appropriate coverage and avoid duplication of response to the same environmental concern, District Engineers may consolidate or combine the environmental issues raised into appropriate groupings. Source of the comments should be clearly identified.

(4) Copies of all correspondence from governmental agencies, citizens and conservation interests received concerning the proposal will be attached to the statement.

(5) The reporting officer will make every effort to reconcile areas of discrepancy or disagreement, where comments or reviewing agencies pose significant objection to or recommend modification of the statement. Where agreement cannot be reached within a reasonable period of time, subsequent to receipt of comments, the comments will be discussed (in (2) and (3) above) and a subsection entitled "Unreconciled Conflicts" will be added to this section of the statement. This subsection will contain a brief, but complete and thorough discussion of the problem(s). The discussion will be a concise and objective analysis of the environmental issues, presenting both sides of the issue.

APPENDIX D

The following are samples of the format for cover and summary sheets to be followed in preparing environmental statements. Pages D-2 and D-3 are for a draft statement, pages D-4 and D-5 are for a final statement, and pages D-6 through D-8 show format for the section on "Coordination with others."

Samples of final environmental statements, selected to give a broad exposure to the many and varied problems and conditions, will be made available to field offices. These should be used to build a working reference in each office.

FORT MYERS BEACH CHANNEL, FLA.

(X) Draft. () Final Environmental Statement.

Responsible office: U.S. Army Engineer District, Jacksonville, Fla.

1. Name of action: (X) Administrative.

() Legislative.

2. Description of action: This is a channel extension 11 feet by 125 feet by 2,000 feet with a turning basin. Dredged material will be used as beach nourishment. Located in Lee County, Fla.

3. a. *Environmental impacts:* Dredging of 40,000 cubic yards of material used as beach nourishment on Estero Island. Increased channel and turning basin will decrease chances of vessel damage by collision or grounding.

b. *Adverse environmental effects:* Loss of 7 acres of bottom biota and temporary turbidity during construction.

4. Alternatives: "No-development."

5. Comments requested:

Florida Department of Natural Resources. Florida Department of Air and Water Pollution Control.

U.S. Department of Transportation. Fish and Wildlife Service, USDI.

Florida Department of Transportation. U.S. Department of Housing and Urban Development.

Geological Survey, USDI. Environmental Protection Agency.

6. Draft statement to CEO -----

SOUTH ELLENVILLE RONDOUT CREEK BASIN, N.Y.

() Draft. (X) Final Environmental Statement.

Responsible office: U.S. Army Engineer District, New York, N.Y.

1. Name of action: (X) Administrative.

() Legislative.

2. Description of action: Flood control protection project consisting of a system of levees, concrete chute, stilling basin, debris barrier, floodwalls and transition walls, bridge replacements, and associated interior drainage facilities in Ulster County, N.Y.

3. a. *Environmental impacts:* Provide flood proofing of unprotected flood plains; accelerate development of flood plain; loss of natural stream section and natural vegetation, and loss of recharging underground aquifers.

b. *Adverse environmental effects:* Concrete chute will replace natural stream and act as barrier to restrict circulation and may diminish water for recharging underground aquifers.

4. Alternatives: Reservoir control; stream diversion; and "no-development."

5. Comments received:

Water Quality Office, EPA. Soil Conservation Service, USDA. New York Department of Environmental Conservation.

Village of Ellenville, N.Y. Bureau of Water Hygiene, EPA.

Bureau of Sport Fisheries and Wildlife, USDI.

County of Ulster, N.Y. Town of Warrarsing, N.Y.

6. Draft statement to CEO -----

Final statement to CEO -----

8. *Coordination with others—A. Public participation.* Two public meetings were held on this project. This first on September 1, 1969, for the initiation of the study and the second on February 23, 1971, to discuss the proposed plan. The environmental aspects of the proposed plan were thoroughly discussed. News releases were issued concerning the public meetings and that the draft environmental statement had been prepared and was available from the District Engineer.

b. *Government agencies.* The draft environmental statement was sent to the following governmental agencies requesting their views and comments. Their comments are summarized below and copies of the replies attached to the environmental statement.

(1) *Water Quality Office, USEPA.*

Comment: No comments to offer in connection with the project.

(2) *Bureau of Water Hygiene, USEPA.*

Comment: Concurred with the project and the Environmental Statement since the health aspects of recreation are not a factor nor are there any water supply facilities involved with the project.

Comment: Requested that the phrase: "bearing little value scenically" be excluded from the statement.

Response: The comment was considered valid and the phrase was eliminated from the present statement.

(3) *Soil Conservation Service, USDA.*

Comment: No comments to offer in connection with the project.

(4) *U.S. Fish and Wildlife Service, USDI.*

Comment: Project will have no adverse effects upon fish and wildlife and it offers no opportunity to benefit these resources.

Response: The comment was considered valid and incorporated into the present statement.

Comment: The "no-development" alternative fails to deal squarely with the intent of

the National Environmental Policy Act of 1969.

Response: It is believed that the method selected would best lend itself to the mountainous terrain and other topographic and geologic characteristics of the area from a design point of view and still accomplish the purpose of the project with the least environmental disruption. As indicated in the statement, the plan of improvement would provide for beautification measures to enhance the scenic attractiveness of the area and would also improve the economic conditions of landowners, both necessary to an improved environmental condition. On the other hand, a "no-development" alternative would allow periodic flooding to continue, and as previously experienced, would cause extensive damage to the surrounding lands which would adversely affect the environment, and may also result in environmental losses equivalent to about \$250,000 annually during the life of the project. On this basis, it appears that project implementation of the plan selected would be a more favorable course of action than the selection of a "no-development" alternative.

(5) *Department of Environmental Conservation, New York State.*

Comment: The project will be a desirable addition to the area as it now exists.

Comment: Statement should make reference to construction precautions which are normally undertaken to minimize surficial disturbance and consequent erosion.

Response: The comment was considered valid and was incorporated into the present statement.

Comment: The phrase: "bearing little value scenically" is subjective.

Response: Concur in this comment, and the phrase was eliminated from the present statement.

Comment: A section of natural stream will be destroyed; natural vegetation bordering this section will be removed; and a concrete chute will prevent infiltration in the vicinity of Route 52 bridge.

Response: The additional environmental impacts, regarding the replacement of a portion of the natural stream with a concrete chute and the removal of natural vegetation, and the effect of the proposed chute on the existing infiltration process have been incorporated into the present statement.

Comment: Alternatives considered should be described; environmental losses due to a "no-development" alternative have not been identified; and an alternative with only environmental objectives has not been included.

Response: A more detailed explanation of the alternatives considered for the project has been included in the statement. With regard to the comment on the environmental losses that may result from a "no-development" alternative, non-implementation of the project would allow periodic flooding to continue that could cause damages to the surrounding areas, such as loss of trees, vegetation, top soil, etc., and possible loss to human life, with a resultant unfavorable effect on the environment. The estimate of a \$250,000 annual loss noted in the statement represents the annual loss to local interests if flood control measures are not instituted and was based on the annual benefits that would accrue if the project is implemented. The estimated benefits were derived by computing the actual flood damages suffered by the area residents from the largest flood of record in conjunction with data developed from hydraulic and hydrologic studies. Actual flood damage losses were gathered from personal interviews with the local inhabitants during field investigations. An alternative with only environmental objectives in

mind was incorporated into the present statement.

Comment: There is also an irreversible commitment of about one-half mile of natural stream and an irretrievable commitment of the remainder of the undeveloped flood plain.

Response: The irreversible commitment attributed to the replacement of a portion of the natural stream and on irretrievable commitment of the remainder of the undeveloped flood plain are reflected in the present statement.

Comment: The statement does not objectively evaluate environmental impact.

Response: The present statement has been revised to contain additional environmental impacts that would result from project implementation.

(6) *County of Ulster, N.Y.*

Comment: Concurred with the draft statement and the project, and noted that implementation of the project would greatly enhance and beautify the village of Ellenville and the Shawangunk Valley, and will help bring more sportsmen and tourists into the area.

(7) *Village of Ellenville, N.Y.*

Comment: Concurred with the draft statement and the project.

(8) *Town of Wawarsing, N.Y.*

Comment: Concurred with the draft statement and the project.

c. *Citizen groups.* There is no known environmental conflicts or issues raised by citizen or conservation groups.

(NOTE: This section will treat the concerns of citizen, conservation, and environmental groups in the same manner as those in the preceding section under *Government agencies*. Copies of all correspondence received will be attached to the statement. For further guidance see Appendix C.)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-8116 Filed 6-10-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

LICENSING DEPARTMENT INVENTIONS

Notice of Availability for Exclusive Licensing

Pursuant to authority delegated by the Secretary in 7 CFR 19.3 (35 F.R. 7493), the Acting Administrator, Agricultural Research Service, determined that certain Department inventions shall be made available for exclusive licensing under the provisions of Government Patent Policy (28 F.R. 10943) and 7 CFR 19.5 (35 F.R. 7493). Notice was given (36 F.R. 1919) that 15 Department inventions were available for exclusive licensing.

The notice specified that applicants for exclusive licenses would have a period of 60 days from the date of publication (Wednesday, February 3, 1971) in which to file information as required by 19.6 application for licenses, of Title 7 CFR (35 F.R. 7493). Applications have been received within the 60-day period for inventions numbered 12 (Patent application S.N. 865,199) and 13 (U.S. Patent 3,205,130) as listed in that notice. The remaining inventions listed in that notice will continue to be available for ex-

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clusive licensing for an indefinite period. At the end of each 60-day period, from the date of initial publication, the Agricultural Research Service will consider the applications received during that period.

Future notices will list other inventions available for exclusive licensing, at which time reference will be made to those inventions listed in previous notices which are still available.

Applications should be mailed to the Administrator, Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., this 7th day of June 1971.

GEORGE W. IRVING, JR.,
Administrator,
Agricultural Research Service.

[FR Doc.71-8202 Filed 6-10-71;8:51 am]

Consumer and Marketing Service HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the

ESTABLISHMENTS SLAUGHTERING HUMANELY

Name of Establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Willhelm Foods, Inc.	6992	(*)						
Valley Meat Packing Co., Inc.	7676	(*)						
Rahr Meat Service.	7678	(*)						
Hardin Meat Market	7684	(*)						
Timberland Packing Corp.	7687	(*)						
Hayre Abattoir	7688	(*)						
Rocky Mountain Packing Co.	7690	(*)					(*)	
Ricks Packing Co.	7710	(*)					(*)	
Fun Mountain Meats.	7712	(*)					(*)	
Vollmer & Sons, Inc.	7713	(*)		(*)			(*)	
Schramm Packing Co.	7719	(*)					(*)	
Tolman Meat Processing	7724	(*)					(*)	
Condi Packing Co., Inc.	7814	(*)					(*)	
Sam's Meat Packing Co.	7908	(*)					(*)	
Parlin's Country Sausage	7923	(*)					(*)	
New establishments reported: 15.								
Riverside Abattoir, Inc.	210	(*)						
Beeville Packing Co.	377	(*)		(*)				
Del Canto Meat Co.	445	(*)		(*)				
Clayton Packing Co.	2373	(*)						
Rollin Packing Co.	6583	(*)				(*)		
Muskegon Meat & Food Lockers	7015	(*)		(*)				
Sixty Six Packing Co.	7023	(*)		(*)				
Bowman Locker Plant	7690	(*)						
Rocklake Locker Plant	7624	(*)						
Ind's Food Market	7637	(*)					(*)	
Ferrante & Cro.	7687	(*)					(*)	

Species Added: 12.

Done at Washington, D.C., on June 3, 1971.

L. V. SANDERS,

Acting Deputy Administrator, Meat and Poultry Inspection Program.

[FR Doc.71-8110 Filed 6-10-71;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

BERL L. HANKINS

Notice of Loan Application

JUNE 4, 1971.

Berl L. Hankins, Post Office Box 1226, Sitka, AK 99835, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 39 feet in length, to en-

gage in the fishery for salmon, halibut, crab, and tuna.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,

Chief,
Division of Financial Assistance.

[FR Doc.71-8164 Filed 6-10-71;8:47 am]

[Docket No. B-518]

BRENTON H. PEROW

Notice of Loan Application

JUNE 4, 1971.

Brenton H. Perow, Star Route No. 2, Bath, Maine 04530, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 31 feet in length, to engage in the fishery for lobsters, shrimp, and groundfish (cod, cusk, haddock, hake, pollock, and ocean perch).

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,

Chief,
Division of Financial Assistance.

[FR Doc.71-8165 Filed 6-10-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-122; NDA 10-491]

LEMMON PHARMACAL CO.

Anergex; Order Withdrawing Approval of New Drug Application

On February 27, 1969, there was published in the FEDERAL REGISTER, 34 F.R.

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2680, a Notice of Opportunity for Hearing in which the Commissioner of Food and Drugs proposed to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application number 10-491 for Anergex; and all amendments and supplements thereto, on the ground that new information before him with respect to this drug, evaluated together with the evidence available to him when the application was approved, shows that there is a lack of substantial evidence that this drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended or suggested in its labeling.

Lemmon Pharmacal Co., Sellersville, Pa. 18960, holder of NDA No. 10-491 for Anergex on March 19, 1969, filed a letter requesting a hearing pursuant to the February 27, 1969 publication. Earlier, on November 12, 1968, and again on March 11, 1969, the Commissioner had notified Lemmon by letter that certain manufacturing and control data were inadequate. Lemmon submitted inadequate material to show that their deficiencies had been corrected on March 25, 1969, and on September 27, 1969, there was published in the FEDERAL REGISTER, 34 F.R. 14908, an Amended Notice of Opportunity for Hearing to include the additional grounds that the methods used in and the facilities and controls used for the manufacture, processing, and packing of the drug are inadequate to assure and preserve the drug's identity, strength, quality and purity.

Lemmon on October 24, 1969, filed a letter stating that it was requesting a hearing pursuant to both FEDERAL REGISTER notices. In a letter dated January 15, 1970, Lemmon's attorney enclosed a letter dated January 12, 1970, from the President of Lemmon which included supporting medical documentation and stated reasons why the firm contends that a hearing is in order.

On May 19, 1970, the Commissioner by letter notified Lemmon that the Hearing Regulations and Regulations Describing the Scientific Content of Adequate and Well Controlled Clinical Investigations, published in the FEDERAL REGISTER (35 F.R. 7250) of May 8, 1970, were applicable to any request for a hearing, and on June 15, 1970, Lemmon responded to the Commissioner's letter setting forth a factual analysis to support the label claims for Anergex.

The presentation by Lemmon has been considered, and the Commissioner of Food and Drugs concludes that there is no genuine and substantial issue of fact requiring a hearing and that the legal arguments offered are insubstantial, all as explained in more detail below.

REASONS FOR WITHDRAWAL OF APPROVAL

1. *The drug.* The label for Anergex (Poison Oak Extract) for Injection states that it contains in each milliliter 40 milligrams of extractive substances from *Toxicodendron quercifolium* dissolved and/or suspended in dilute alcohol (35 percent v/v), with 4 percent benzyl

alcohol to reduce pain of injection. It is recommended for use in the treatment of certain conditions (allergic rhinitis, asthma, eczema, food sensitivity, urticaria, hives, angioneurotic edema) generally considered to be allergic in etiology.

The recommended daily dose is 1 milliliter intramuscularly for 6 to 8 days.

The rationale for the preparation is that by giving daily injections the patient is desensitized.

2. *Clinical evidence to support the claims of effectiveness.* Lemmon in its package insert states that Anergex is "A specially prepared botanical extract which seems to inhibit the allergic response," but later in the same insert states that "It is not recommended for use in vague conditions that might have an allergic element in the background. In the insert, Lemmon lists allergic rhinitis, asthma, food sensitivity, urticaria, hives, angioneurotic edema as specific allergic states for which Anergex is useful.

The National Academy of Sciences-National Research Council's (NAS-NRC) Drug Efficacy Study Panels for Allergy and Dermatology III both reviewed the Medical Evaluation of Reports from the New Drug Application (NDA-10-491) filed in 1956 and the scientific literature. The Allergy Panel stated that literature references submitted by Lemmon present data that was obtained in an uncontrolled fashion and that there is no evidence to substantiate the claims for Anergex. The panel cited three scientific articles in support of its position. The panel in Dermatology III also found Anergex ineffective despite nine cited references, since it found no support clinically or in the literature for the drug's use.

After the Commissioner notified Lemmon on May 19, 1970, that the May 8, 1970, regulations would apply to Anergex, Lemmon on June 15, 1970, replied stating that the May 8, 1970, regulation setting forth the procedural requirements are not applicable to Anergex, since its right to a hearing was fixed on March 19, 1960, and that erroneous conclusions were drawn by the NAS-NRC panels. Even though Lemmon alleges it is not governed by the May 8, 1970, regulations, it submitted a factual analysis of the clinical and other investigational data. A review of Lemmon's submission follows:

I. "Treatment of Allergy in Children: A Double Blind Study"; Troncelliti, E. A., M.D.; Review of Allergy and Applied Immunology 19:403-407, July-August 1965. Examination of the study clearly shows that it cannot be accepted as an adequate and well controlled study for the following reasons:

(a) The selection of patients (subjects) is inadequate because the diagnostic criteria for determining whether any patient had rhinitis, asthma, eczema, gastrointestinal disorders (food sensitivity), or urticaria is not stated, and there is no indication in the patient's clinical records that skin tests, temperatures, physical examinations for swollen glands, or confirmatory laboratory tests were

conducted. In the protocol abstract and the article, Dr. Troncelliti indicated that laboratory studies including skin tests were to be conducted to confirm that the patients were suffering from an allergic reaction. There is no record that this was ever done. The personal patient and family histories are incomplete and there is no indication that any physical examinations were ever done. There were too many conditions (5) being studied for 51 patients, and no real criteria were used to diagnose the patients for allergy conditions to make sure that a patient was suffering from an allergy and not something else. The clinical reports indicate that of the 30 patients allegedly suffering from rhinitis, about ten suffered from asthmatic bronchitis which is a disease condition, not an allergic condition, where the allergy often improves when the underlying infection clears up.

(b) In five of the rhinitis patients one or two other drugs were used (concomitant therapy), and in one case the drug was penicillin. It is difficult if not impossible to evaluate the effectiveness of any drug in a study where concomitant therapy is being employed. The fact concomitant therapy was present was not mentioned in the article.

(c) The final conclusions of the study are based on using all patients even though Dr. Troncelliti's diagnosis groups the patients separately. No evaluation was made as to Anergex's effectiveness in each allergic condition. It should be noted here that eczema is not a medical diagnosis, but a nonspecific term used to describe a number of disease conditions.

(d) There is no indication what the placebo was, how it was prepared, or whether it caused pain at the site of injection [Anergex does cause pain at the site of injection (label and package insert)]. The protocol and article indicate this placebo had only the "appearance" of Anergex. Lemmon in its submission states a placebo should be similar in appearance and pain producing properties.

(e) It is apparent that Dr. Troncelliti in evaluating Anergex and the placebo has ignored the evaluations of slight and moderate improvement that appear in the clinical reports. If these two categories are included, then the placebo might have been as effective in treating the conditions as Anergex. There is no explanation as to why the evaluations of slight and moderate improvement were not considered.

II. "Non-Specific Therapy in Allergy: A Double Blind Study;" Abruzzi, W. A., M.D., and Silson, J. E., M.D.; Clinical Medicine, 74:57-60, February 1967. Only the published article was submitted by Lemmon with no supporting clinical reports or raw data. This study cannot be considered for two reasons. The first is that William A. Abruzzi, M.D., was disqualified by the Food and Drug Administration to conduct acceptable clinical studies on August 31, 1966, and has not been reinstated. On March 16, 1967, the then Commissioner of the Food and Drug Administration notified the Mulford Co.,

then the holder of NDA 10-491, that Dr. Abruzzi had been disqualified as a clinical investigator and that it could only rely on his study if it supplied proof of the reliability of the study. The President of Mulford on April 4, 1967, assured the Agency that the company would not seek to rely on Abruzzi's study unless it could accumulate supporting data. To this date the Agency has received nothing to support the reliability of the Abruzzi study.

The second reason is that the article does not contain sufficient information to demonstrate that it is a well controlled double blind clinical study.

(a) There is no showing that skin tests or other laboratory procedures were used to establish the diagnosis of the patient's condition.

(b) There is no indication how the placebo was prepared, whether it contained alcohol, and whether it caused pain on injection, and

(c) What, if any, concomitant therapy occurred in the study is not noted. The Agency also finds it incredible that one physician could treat 143 outpatients for a series of 8 straight days including Saturday and Sundays and never have at least one patient miss an injection.

III. Lemmon states that the Agency cannot rely on two studies cited by one of the NAS-NRC panels to support its position. The agency is relying on its finding that there is a lack of any adequate and well controlled clinical studies. Lemmon is correct when it stated that studies that are not well controlled cannot be relied on. It is the lack of such studies that is the basis for the Agency withdrawing the approval of the NDA 10-491, Anergex.

IV. The Miscellaneous Clinical Reports, Physician Survey and Unpublished Clinical Studies, Physicians and Patients Reports are testimonials from physicians and others. These are unacceptable as clinical proof. The two animal studies are not acceptable to prove the effectiveness of human drugs. Lemmon cited six allegedly partially controlled clinical studies which could provide corroborative support for adequate and well controlled clinical studies regarding efficacy, but since Lemmon has not met the requirement of supplying such studies, the partially controlled corroborative studies cannot raise a genuine and substantial issue of fact.

V. Lemmon states that on March 19, 1969, it supplied the Agency with all the information it had in regard to manufacturing, identification, testing, and standardization. On September 19, 1969, the Agency published the amended notice finding the information insufficient. The particulars are these:

(a) The Agency found that the raw material controls were unsatisfactory because there is no reference infrared (IR) spectrum submitted for the purpose of establishing a standard against which the raw material would be tested. The IRs submitted only serve to prove that samples tested were similar.

(b) Lemmon's letter of January 12, 1970, indicated one active principal is

pentadecylcatechol, but the letter fails to provide any assay specifications for pentadecylcatechol, nor does it indicate the amount present in each batch.

(c) The laboratory controls on the finished dosage form of Anergex were unsatisfactory because there are no specifications and/or methods for determining the specific activity or potency of the drug, which is necessary since the active ingredients have not been fully identified. There is no assay or specification for the ingredient benzyl alcohol.

(d) The stability data is also unsatisfactory in that it consists of a toxicity study on one lot of Anergex to establish its stability after 5 years and 10 IR spectra obtained from 10 different lots. The ages of the lots when the IRs were determined was not submitted. A toxicity study does not prove stability, nor do IRs when there is no established reference standard infrared spectrum. Anergex is a solution and/or suspension and Lemmon has offered no evidence that the drug is physically stable. The suspended material may precipitate or change size during storage. (Label: climatic conditions may increase the amount of suspended particles) Lemmon has done no studies on what effect precipitation or particle size changes have on effectiveness. These are only some of the controls lacking in the production of Anergex to assure and preserve the drug's identity, strength, quality, and purity.

Lemmon contends that the May 8, 1970, regulations do not apply to good manufacturing practices. Clearly, these procedural regulations require the applicant who elects to avail himself of a hearing to provide a full factual analysis setting forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing (21 CFR 130.14). Moreover, it would be a useless task for the Commissioner to grant a hearing on the manufacturing practices where the drug had been withdrawn because there is a lack of substantial evidence of effectiveness.

VI. Lemmon in its January 12, 1970, letter stated essentially the same things it had in its June 15, 1969, letter, except it requested that it should be heard on a proposal to limit the indications for Anergex to specific desensitization of Rhus Dermatitis (poison oak dermatitis). Lemmon has never offered Anergex for Rhus Dermatitis, nor has it submitted well controlled double blind clinical studies to demonstrate that Anergex would be effective for such use. Its effectiveness for Rhus dermatitis would hardly be a proper question for a hearing under this withdrawn notice.

VII. The legal objections urged by Lemmon, including whether a right to hearing was fixed, have been resolved in *Upjohn v. Finch*, 432 F. 2d 944 (C.A. 6, 1970); *Pharmaceutical Manufacturers Assn. v. Richardson*, 318 F. Supp. 301 (D. Del., 1970) and *Pfizer v. Richardson*, 434 F. 2d 536 (C.A. 2, 1970).

Therefore, the Commissioner, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (section 505(e), 52 Stat. 1052, as amended; 21 U.S.C.

355(e)) and under authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to Anergex NDA 10-491, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling and that the methods used in and the facilities and controls used for the manufacture, processing, and packing of the drug are inadequate to assure and preserve the drug's identity, strength, quality, and purity.

For the foregoing reasons, approval of new drug application No. 10-491, and all amendments and supplements thereto, is withdrawn effective on the date of the signature of this document.

Dated: May 31, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc. 71-8163 Filed 6-10-71; 8:47 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-358]

CINCINNATI GAS & ELECTRIC CO. ET AL.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matter

The Cincinnati Gas & Electric Co. (Cincinnati), Fourth and Main Streets, Cincinnati, OH 45202; Columbus and Southern Ohio Electric Co. (Columbus), 215 North Front Street, Columbus, OH 43215; and The Dayton Power and Light Co. (Dayton), 25 North Main Street, Dayton, OH 45401, pursuant to the Atomic Energy Act of 1954, as amended, have filed an application dated April 6, 1970, for construction permits and facility licenses to authorize construction and operation of two single cycle, forced circulation, boiling water nuclear reactors on a site on the east shore of the Ohio River, just north of Moscow and about 24 miles southeast of Cincinnati, in Washington Township, Clermont County, Ohio. In a subsequent amendment to the application, dated December 15, 1970, the applicants amended the application to reflect a single unit.

The proposed reactor, designated by the applicants as the Wm. H. Zimmer Nuclear Power Station Unit 1 (Zimmer Station), is designed for initial operation at approximately 2,436 megawatts (thermal), with a net electrical output of approximately 807 megawatts.

Cincinnati, Columbus, and Dayton will share undivided ownership of the proposed Zimmer Station as tenants in common, and will share in the engineering and construction costs in proportion to

[Docket No. 22628; Order 71-6-23]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority, June 3, 1971.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 2 and Joint Conferences 2-3 and 1-2-3 of the International Air Transport Association (IATA). The agreement, which was adopted by mail votes, has been assigned the above-designated CAB agreement numbers.

The agreement would provide for increases in certain normal and special fares applying to/from points in West/West Central Africa. Except to the very limited extent that the agreement involves fares between such African points and Guam/Okinawa/American Samoa, it is not directly applicable in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found, on a tentative basis, that the following resolutions, incorporated in the agreement as indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB 22433: IATA resolutions
R-3..... JT23 (Mail 275) 055.
JT23 (Mail 275) 065.
JT123 (Mail 666) 058.
JT123 (Mail 666) 068.

2. It is not found that the following resolutions, which are incorporated in the agreement as indicated and which do not directly affect air transportation, are adverse to the public interest or in violation of the Act:

Agreement CAB 22433: IATA resolutions
R-1..... 200 (Mail 098) 052.
200 (Mail 098) 062.

3. It is not found that Resolution 200 (Mail 098) 072b, which is incorporated in Agreement CAB 22433, R-2, affects air transportation within the meaning of the Act.

Accordingly, it is ordered, That:

1. Action on Agreement CAB 22433, R-3, be and hereby is deferred with a view toward eventual approval;

2. Agreement CAB 22433, R-1, be and hereby is approved; and

3. Jurisdiction is disclaimed with respect to Agreement CAB 22433, R-2.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

their ownership interests as set forth in the application. Cincinnati, acting for itself and as agent for Columbus and Dayton, will have responsibility for the design, construction and operation of Zimmer Station.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after May 21, 1971.

A copy of the application, including amendments, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Clermont County Library, Third and Broadway, Batavia, OH.

Dated at Bethesda, Md., this 14th day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director.

Division of Reactor Licensing.

[FR Doc. 71-7039 Filed 5-20-71; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 20993; Order 71-6-22]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Cargo Matters

Issued under delegated authority, June 3, 1971.

By Order 71-5-91, dated May 19, 1971, action was deferred, with a view toward eventual approval, on an agreement embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted as a result of the third meeting of the Cargo Traffic Procedures Committee. The agreement, in addition to incorporating various technical and procedural changes to existing resolutions, incorporates two new resolutions which (a) provide for a documentation charge within TC-1 for the preparation of an air waybill, and (b) provides rules for the carriage of pets.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-5-91 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22429, R-1 through R-5, be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-8186 Filed 6-10-71; 8:49 am]

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.
[FR Doc.71-8187 Filed 6-10-71;8:49 am]

[Docket No. 19923; Order 71-6-38]

LIABILITY AND CLAIM RULES AND PRACTICES

Order Expanding Issues

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of June 1971.

By order 70-7-121, dated July 24, 1970, the Board approved, *pendente lite*, certain agreements of the U.S. scheduled route carriers arrived at in Board authorized discussions, and relating to liability and claim rules and practices. In this order the Board attached conditions to its approval of some agreements and initiated an investigation as to whether such agreements were adverse to the public interest, or whether the tariff rules and practices related thereto were lawful. The Board further noted that:

From the inception of this proceeding in August 1967 to date, the Board has received a substantial volume of correspondence on this subject from shippers and various shipper groups, the general public, and Members of the Congress. Much of such correspondence and other written presentations is thoughtful and compelling, and the Board can only conclude, as it earlier indicated in 1967, that a substantial degree of public dissatisfaction has existed and will still exist with respect to the air carriers' rules and practices concerning air freight liability and claims.

With rare exception, however, protestants offer little opposition to the pending agreements of the carriers and their proposed rule changes, *per se*. Rather, the opposition has focused largely on what the carriers have not proposed to revise, and/or that their proposed revisions do not go far enough. Thus, it appears that the proposed revisions to these rules are considered typically to constitute an improvement, albeit a lesser one than most would have contemplated.

In addition, the Board stated that:

The Board intends, at least initially, that the investigation be limited to the major issues just discussed. With regard to other rules and issues of lesser import, which the carriers have not resolved, the Board will instruct its staff to develop revised and improved rules to be circulated to the carriers and shippers,¹ which if adopted will obviate an investigation thereof by the Board. We will not hesitate, however, to broaden the investigation to include other rules and issues should it appear that these informal procedures are not successful.

¹ In addition to rules directly concerned with liability, the Board also takes note of concern expressed by shippers with rules involving carrier terms of acceptance, as well as the numerous individual carrier exceptions throughout the carriers' tariff. The staff effort will therefore embrace these aspects as well.

At this point, some 10 months after the investigation was first ordered, with limited exceptions, the carrier parties have not implemented the approved agreements, either conditionally or unconditionally. Moreover, there appears to be no basis to assume that there will be a meeting of the minds upon the rules and issues of lesser import outside of the forum of the investigation. We have decided, therefore, that the public interest will best be served by formally including these additional issues in the heretofore ordered investigation. While these rules were not included in the initial order of investigation, the Board, nonetheless, believes that they are of considerable concern to air shippers and receivers; that they appear to create confusion and antagonism in the minds of many air cargo users; that they may be unlawful; and that they raise questions of public interest with respect to the carriers' agreements on claims rules and practices. Notwithstanding this inclusion of these additional issues in the formal investigation heretofore ordered, our action herein will not preclude any stipulation by all parties as to a just and reasonable rule to replace one of those which we have brought or are here bringing into the investigation, and an exploration of such procedure within the framework of this investigation is encouraged.

Specifically, the additional matters with which we are concerned involve (1) the different treatment of similar international traffic in some instances by the same carrier moving over a domestic segment and which is dependent upon the identity of the international carrier (Rule 2¹; Rule 10, ATP CAB No. 8; Rule 5, ATP CAB No. 158); (2) form and content of the air shipping document (Rules 2 and 26); (3) dissimilar or unpublished (in tariffs) carrier terms of acceptance, pickup, liability, handling, or delivery of goods (Rules 2, 12, 18, 22, 54 (c), and 66; Rule 20, ATP CAB No. 19); (4) certain rates on tropical fish, inter alia (ATP CAB No. 158²); (5) a significant issue as to the obligation of the carrier to monitor shippers' documents (Rule 28); (6) remittance of (a) proceeds from carrier sale of undelivered goods (Rule 38), or (b) c.o.d. fees (Rule 66); (7) assessment of higher charges via carrier-specified routing than are available via alternate routing (Rule 42 (A); Rule 20, ATP CAB No. 8); and (8) reserved air freight practices (Rules 44 and 46). The foregoing rules may variously limit the carriers' common carrier obligation to carry, or provide unsup-

¹ Unless otherwise noted, all rule references refer to Official Air Freight Rules Tariff No. 1-B, CAB No. 98, Airline Tariff Publishers, Inc., Agent (ATP).

² The rates in question are applicable only when the shipper does not make a declaration of value, and are optional *vis-a-vis* higher rates with the usual declared value option, thus raising a substantive question of lawfulness.

ported limitations upon the carriers' liability, or the availability of full liability coverage for shippers, and may result in unreasonable provisions and unjust discrimination as among shipments and shippers. As before, the investigation of the foregoing will be further extended to embrace similar rules and practices in other domestic and international tariffs.

Upon consideration of all relevant matters, the Board finds that these provisions may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and that they should be investigated, and will expand the issues in Docket 19923 to embrace the foregoing provisions, as well as comparable provisions of the carrier parties in other domestic and international tariffs.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, 412, 414, and 1002 thereof:

It is ordered, That:

1. The investigation, heretofore ordered in Docket 19923 by Order 70-7-121, dated July 24, 1970, is hereby expanded to include a determination of whether the provisions of the rules contained in the enumerated tariffs listed in the attached Appendix A,³ to the extent they apply on behalf of the carrier parties in Docket 19923, and the rules, regulations, and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. The scope of said investigation is further expanded to include the issue of whether Agreement CAB 19891-A4 embodying the provisions of Rule 38 of Airline Tariff Publishers, Inc., Agent's Tariff CAB No. 96 is adverse to the public interest or in violation of the Federal Aviation Act of 1958; and

3. Copies of this order will be served upon all parties to the proceeding in Docket 19923.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board,

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8185 Filed 6-10-71;8:49 am]

³ Appendix A filed as part of the original document.

CIVIL SERVICE COMMISSION DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Revocation of Authority To Make Noncareer Executive Assign- ment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Director, Office of Housing Management, Renewal and Housing Management.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-8194 Filed 6-10-71;8:50 am]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Chief, Consumer Affairs Section, Antitrust Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-8192 Filed 6-10-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary (Field Coordination), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-8193 Filed 6-10-71;8:50 am]

SMALL BUSINESS ADMINISTRATION

Notice of Revocation of Authority To Make Noncareer Executive Assign- ment; Correction

In the FEDERAL REGISTER of May 13, 1971 (F.R. Doc. 71-6692), on page 8823 a notice of revocation of authority to make noncareer executive assignment for the position of Associate General

Counsel, Finance, Small Business Administration, was published in error.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-8195 Filed 6-10-71;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

CELANESE CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a(d) (1)), notice is given that a petition (PP 1F1143) has been filed by Celanese Chemical Co., 245 Park Avenue, New York, NY 10017, proposing establishment of tolerances (21 CFR Part 420) for residues of the fungicides acetic acid at 1.4 percent and propionic acid at 0.6 percent in or on the raw agricultural commodities grains of barley, corn, oats, sorghum, and wheat.

The analytical method proposed in the petition for determining residues of the preservatives is a procedure in which the grain samples are ground and the acids extracted with a dilute pyridine solution. The samples are filtered and the acid titrated with standard sodium hydroxide.

Dated: June 4, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant Admin-
istrator for Pesticides Pro-
grams.

[FR Doc.71-8204 Filed 6-10-71;8:51 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-20; Special Permission 5345]

CAL-HAWAIIAN FREIGHT, INC.

General Increases in Rates in U.S. Pacific and Hawaiian Trade; First Supplemental Order

By the original order in this proceeding served March 5, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including July 7, 1971 various revised pages to Tariff FMC-F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 1 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon not less than 1 day's notice, Second Revised Page 30 and First Revised Page 31

which will change tariff matter continued in effect by reason of suspension in this proceeding.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-20 to make the changes in rates and provisions as set forth in exhibits of Second Revised Page 30 and First Revised Page 31 in Special Permission Application No. 1, said changes to become effective on not less than 1 day's notice, is hereby granted. The authority requested by Special Permission Application No. 1 to file a new rate on household refrigerators or freezers and to file a services fee rule on the advancement of charges, is hereby denied.

2. The authority granted hereby does not prejudice the right of this Commission to suspend and/or investigate any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Intercoastal Shipping Act, 1933.

3. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of First Supplemental Order in Docket No. 71-20 and Federal Maritime Commission Special Permission No. 5345."

4. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8171 Filed 6-10-71;8:48 am]

[Docket No. 71-49; Special Permission 5353]

GULF PUERTO RICO LINES, INC.

General Increases in Rates in U.S. Gulf/Puerto Rico Trade; First Supplemental Order

By the original order in this proceeding served April 30, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including September 1, 1971, Supplement No. 7 and various revised pages to Tariff FMC-F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 54 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon not less than 1 day's notice, of certain revised pages which will

change tariff matter continued in effect by reason of suspension in this proceeding. Authority is further sought to obtain continuing special permission to make changes in rates and provisions held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates and charges.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-49 to make the changes in rates and provisions as set forth in the Appendix to Special Permission Application No. 54, said changes to become effective on full statutory notice, is hereby granted. The short notice authority requested by Special Permission Application No. 54 is hereby denied.

2. Authority is further granted to Gulf Puerto Rico Lines, Inc., to depart from the terms of Rule 20(c) of the Commission's Domestic Tariff Circular No. 3 and the terms of the original order in Docket No. 71-49 to make changes in rates and provisions in its Tariff FMC-F No. 1 held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates or charges, unless otherwise authorized by the Commission. This authority extends to and including September 1, 1971.

3. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Interstate Shipping Act, 1933.

4. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of First Supplemental Order in Docket No. 71-49 and Federal Maritime Commission Special Permission No. 5353."

5. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes and permits the statutory filing of reduced rates, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8172 Filed 6-10-71; 8:48 am]

NOVO CORP. AND J. R. WILLEVER, INC.

Notice of Agreement Filed

Notice is hereby given that the following Agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Edward Schmeltzer, Esq., Morgan, Lewis & Bockius, 1140 Connecticut Avenue NW., Washington, DC 20036.

Agreement No. FF 71-3 between Novo Corp. (Novo) and J. R. Willever, Inc. (Willever), FMC License No. 540, is intended to secure Federal Maritime Commission approval for an agreement whereby Novo will buy all of the outstanding stock of Willever. Novo will pay the stockholders of Willever a cash amount based on the net assets of Willever as of May 31, 1971, determined from an actual audited balance sheet, plus \$25,000 less accrual of employee bonuses and Federal income taxes.

J. R. Willever, Inc., holds Independent Ocean Freight Forwarder License No. 540. Subsidiaries of Novo Corp. include:

Barnett/Freeslate International Corp.—Independent Ocean Freight Forwarder License No. 865.

Novo International Corp.—Independent Ocean Freight Forwarder License No. 773.

Barnett International Forwarders, Inc. of California—Independent Ocean Freight Forwarder License No. 689.

The stock purchase will not become effective until after the Federal Maritime Commission approves the transaction.

Dated: June 7, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8173 Filed 6-10-71; 8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-289]

COLUMBIA LNG CORP. AND CONSOLIDATED SYSTEM LNG CO. Notice of Application

JUNE 9, 1971.

Take notice that on June 4, 1971, Columbia LNG Corp. (Columbia LNG), 20 Montchanin Road, Wilmington, DE 19807, and Consolidated System LNG Co. (Consolidated), 445 West Main Street, Clarksburg, WV 26301, jointly filed in Docket No. CP71-289, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the receipt, storage, and regasification of liquefied natural gas (LNG) and transportation of regasified LNG, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicants propose to construct and operate an LNG receiving terminal at Cove Point, Calvert County, Md., and approximately 82.6 miles of 36-inch pipeline from said terminal to a point of interconnection with the facilities of United Fuel Gas Co. (United) at United's Loudoun Compressor Station in Loudoun County, Va. The proposed terminal facilities will consist of docking and receiving facilities, for the receipt of LNG from cryogenic tankers, insulated cryogenic tanks for the storage of approximately 1,500,000 barrels of LNG, facilities for regasification of the LNG and other ancillary and auxiliary facilities. The estimated total cost of these pipeline and terminal facilities is \$131,145,000. Columbia LNG states that its portion of this cost will be approximately \$67,148,000, which cost is to be financed by the issuance of common stock and installment promissory notes to its parent company, The Columbia Gas System Inc. Consolidated states that its portion of this total cost of construction will be approximately \$63,997,000 which cost is to be financed by the sale of securities to its parent company, Consolidated Natural Gas Co.

Applicants state that the capacity of these facilities when completed, in 1975, will be equivalent to approximately 1,000,000 Mcf of vaporous gas per day. Columbia LNG proposes to sell to United annual volumes of regasified LNG equivalent to an average of approximately 300,000 Mcf per day. Consolidated proposes to sell to Consolidated Gas Supply Corp. annual volumes of regasified LNG equivalent to an average of approximately 200,000 Mcf per day.

Applicants filed information on the environmental impact of the proposed project similar to that previously filed in the related import proceeding in Docket No. CP71-68 et al.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days

for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8296 Filed 6-10-71; 8:52 am]

[Docket No. CP71-290] CONSOLIDATED SYSTEM LNG CO. Notice of Application

JUNE 9, 1971.

Take notice that on June 4, 1971, Consolidated System LNG Co. (applicant), 445 West Main Street, Clarksburg, WV 26301, filed in Docket No. CP71-290 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas pipeline facilities and the employment of said facilities for the sale of natural gas to Consolidated Gas Supply Corp. (Consolidated Supply), for resale in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct, in 1974, and operate approximately 190.2 miles of 30-inch pipeline extending from a connection with facilities proposed to be constructed by appli-

cant and Columbia LNG Co. (Columbia) in Loudoun County, Va., to a point of connection with the facilities of Consolidated Supply located in Clinton County, Pa. Applicant states that the purpose of the facilities proposed herein is to transport and sell up to 200,000 Mcf of regasified liquefied natural gas (LNG) per day to Consolidated Supply. The instant proposal is related to the proposed importation of LNG for which an application is pending in Docket No. CP71-68 et al., and to the construction of an LNG receiving terminal proposed by applicant and Columbia in Docket No. CP71-289. The estimated costs of the facilities proposed herein is \$46,122,800, which cost applicant states will be financed by the issuance of long-term promissory notes and common stock to its parent company, Consolidated Natural Gas Co.

Applicant filed information on the environmental impact of the proposed project similar to that previously filed in the related import proceeding in Docket No. CP71-68 et al.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests or petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8295 Filed 6-10-71; 8:52 am]

FEDERAL RESERVE SYSTEM MISSOURI BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Missouri Bancshares, Inc., Kansas City, Mo., for approval of acquisition of 90.65 percent or more of the voting shares of Bank of Ferguson, Ferguson, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Missouri Bancshares, Inc., Kansas City, Mo. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 90.65 percent or more of the voting shares of Bank of Ferguson, Ferguson, Mo. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Missouri Commissioner of Finance and requested his views and recommendation. The Commissioner indicated that he had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 17, 1971 (36 FR. 7328), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the fifth largest registered bank holding company and banking organization in Missouri, has 7 subsidiary banks with \$395 million in deposits, representing approximately 3.8 percent of the total commercial bank deposits in the State. (All banking data are as of June 30, 1970, and reflect holding company formations and acquisitions approved by the Board to date.) Consumption of the proposal herein would increase Applicant's share of total deposits in the State to 4 percent, and Applicant would become the State's fourth largest registered bank holding company and banking organization.

Bank (\$20.9 million deposits) the only bank in Ferguson, is the seventh largest of the 12 banks in its service area, which is approximated by the northeast portion of St. Louis County, and holds 6.7 percent of that area's deposits. Bank faces strong competition from the other area banks, three of which are affiliated with St. Louis-based holding companies. Applicant has two subsidiaries

located 18 and 30 miles from Bank, but the amount of competition between these subsidiaries and Bank appears to be minimal. None of Applicant's other subsidiary banks competes with Bank to any significant extent. Additionally, the development of such competition in the future is considered unlikely because of distances separating Applicant's subsidiaries and Bank, the presence of numerous banking alternatives, and Missouri's restrictive branching law. Consummation of the proposal may enhance competition by making Bank a more effective competitor in its service area. It does not appear that existing competition would be eliminated, or significant potential competition foreclosed, by consummation of Applicant's proposal, or that there would be undue adverse effects on any bank in the area involved.

On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. Considerations relating to the financial and managerial resources as they relate to Applicant, its subsidiaries, and Bank are regarded as consistent with approval of the application. Unlike the other area banks, Bank has been operated conservatively, and does not appear to have made a broad effort to meet the banking needs of area residents. Applicant proposes to change this conservative policy and to establish new services, including trust services, payroll accounting, and an expanding consumer loan program, which should enable Bank to better serve the expanding needs of the area. These considerations relating to convenience and needs lend weight in support of approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth above, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the thirtieth calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,¹ June 7, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8144 Filed 6-10-71; 8:45 am]

¹ Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

NOTICES

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

ISLAND CREEK COAL CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

(1) ICP Docket No. 3048 000, Island Creek Coal Co., North Branch Mine, USBM ID No. 46 01309 0, Bayard, Grant County, W. Va.: ICP Permit No. 3048 014 (Galls Roof Bolter, Ser. No. 1110-67).
ICP Permit No. 3048 015 (Jeffrey Ram Car, Ser. No. 34028).
ICP Permit No. 3048 016 (Jeffrey Ram Car, Ser. No. 34029).

In accordance with the provisions of section 305(a)(7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JUNE 8, 1971.

[FR Doc.71-8166 Filed 6-10-71; 8:47 am]

OFFICE OF ECONOMIC OPPORTUNITY

SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Delegation of Authority Regarding National Summer Youth Sports Program

1. Pursuant to section 602(d) of the Economic Opportunity Act of 1964, as amended (hereinafter the "Act"), I hereby

by delegate to the Secretary of Health, Education, and Welfare (hereinafter the "Secretary") such authority pursuant to section 222(a) of the Act as may be necessary for the purpose of carrying out a program to provide sports instruction and competition and supplemental health and nutrition services during the summer of 1971 to youth living in metropolitan areas of concentrated poverty. The program shall be known as the "National Summer Youth Sports Program." The Director of the Office of Economic Opportunity (hereinafter the "Director") shall transfer to the Secretary such funds as the Director and the Secretary agree are necessary to finance this program.

2. In connection with the foregoing delegation, I further delegate to the Secretary authority under section 225(b) to provide a separate allotment, assuring an equitable distribution of funds reflecting the relative incidence in each State of the needs to which this program is directed, of the funds transferred to him for this program.

3. I further delegate to the Secretary such authority under sections 242, 244(2), 602, and 610-1(c) of the Act as may be necessary and appropriate in order to carry out his functions under this delegation.

4. The powers hereby delegated shall be exercised in accordance with the provisions of the Economic Opportunity Act and with such memoranda of understanding as may be entered into between the Secretary and the Director.

5. All operating information, evaluation reports and other data concerning the program administered under this delegation shall be freely exchanged between the Department of Health, Education, and Welfare and the Office of Economic Opportunity pursuant to sections 602(d) and 633 of the Act.

6. The powers hereby delegated may be redelegated by the Secretary, with or without authority for further redelegation. The Director shall be advised of all such redelegations.

Dated: April 5, 1971.

FRANK CARLUCCI,
Director.

Office of Economic Opportunity.

Approved: June 7, 1971.

RICHARD NIXON,
President of the
United States.

[FR Doc.71-8206 Filed 6-10-71; 8:51 am]

OFFICE OF MANAGEMENT AND BUDGET

COST OF HOSPITAL AND MEDICAL CARE AND TREATMENT FURNISHED BY THE UNITED STATES

Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by section 2(a) of the Act of September 25, 1962 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 F.R. 10737), the following rates are established for use in connection with the recovery, as authorized by such Act, from tortiously liable third persons of the cost of hospital and medical care and treatment furnished by the United States (Part 43 of Chapter I of Title 28 of the Code of Federal Regulations), and have been determined to represent the reasonable value of hospital, nursing home, medical, surgical or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished:

(a) For such care and treatment furnished by the United States in Federal hospitals and nursing homes, with the exception of Canal Zone Government hospitals—

	Effective July 1, 1971, and thereafter
Hospital care per inpatient day:	
Federal general and tuberculosis hospitals	\$61.00
Federal mental hospitals	27.00
Veterans' Administration nursing home units	20.00
Outpatient medical and dental treatment:	
Per facility visit	13.00

(b) For such care and treatment furnished at Government expense in a facility not operated by the United States, the rates shall be the amounts expended by the United States for such care and treatment;

(c) For such care and treatment at Canal Zone Government hospitals, the rates shall be those established, and in effect at the time the care and treatment is furnished, by the Canal Zone Government for such care and treatment furnished to beneficiaries of other United States Government agencies.

For the period beginning July 1, 1971, the rates prescribed herein supersede those established by the Director of the Bureau of the Budget on June 23, 1970 (35 F.R. 10531).

GEORGE P. SHULTZ,
Director, Office of
Management and Budget.

MAY 27, 1971.

[FR Doc.71-8170 Filed 6-10-71; 8:48 am]

NOTICES

SECURITIES AND EXCHANGE COMMISSION

[Files Nos. 7-3788-7-3794]

ALLEGHENY POWER SYSTEM, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Oppor- tunity for Hearing

JUNE 7, 1971.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

File No.	
AllegHENY Power System, Inc.	7-3788
Arizona Public Service Co.	7-3789
Arkansas Louisiana Gas Co.	7-3790
Baltimore Gas & Electric Co.	7-3791
Boise Cascade Corp.	7-3792
Caterpillar Tractor Co.	7-3793
Central & South West Corp.	7-3794

Upon receipt of a request, on or before June 22, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8176 Filed 6-10-71; 8:48 am]

[Files Nos. 7-3795-7-3801]

CONSUMERS POWER CO. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Oppor- tunity for Hearing

JUNE 7, 1971.

In the matter of applications of the Cincinnati Stock Exchange for unlisted

trading privileges in certain securities. The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

File No.	
Consumers Power Co.	7-3795
Florida Power Corp.	7-3796
Florida Power & Light Co.	7-3797
General Tire & Rubber Co.	7-3798
Houston Lighting & Power Co.	7-3799
Idaho Power Co.	7-3800
Kaiser Aluminum & Chemical Corp.	7-3801

Upon receipt of a request, on or before June 22, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8177 Filed 6-10-71; 8:48 am]

[70-5028]

EASTERN UTILITIES ASSOCIATES ET AL.

Notice of Proposed Issue and Sale of Notes by Holding Company and Subsidiary Companies to Banks and Open Account Advances by Hold- ing Company to Subsidiary Com- pany

JUNE 7, 1971.

In the matter of Eastern Utilities Associates, Post Office Box 2333, Boston, MA 02107; Blackstone Valley Electric Co., Post Office Box 1111, Lincoln, RI 02865; Brockton Edison Co., 36 Main Street, Brockton, MA 02403; Fall River Electric Light Co., 85 North Main Street, Fall River, MA 02772; and Montaup Electric Co., Post Office Box 391, Fall River, MA 02772.

Notice is hereby given that Eastern Utilities Associates (EUA), a registered holding company, and its four electric utility subsidiary companies, Blackstone Valley Electric Co. (Blackstone), Brockton Edison Co. (Brockton), Fall River

Electric Light Co. (Fall River), and Montaup Electric Co. (Montaup), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a)(1), 7, 12(b), and 12(f) of the Act and Rules 45(a) and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

(Thousands of dollars)

	EUA	Blackstone	Brockton	Fall River	Montaup
The Chase Manhattan Bank (N.A.), New York, N.Y.	\$2,300		\$800	\$2,300	\$4,200
Industrial National Bank of Rhode Island, Providence, R.I.	1,200				
Rhode Island Hospital Trust National Bank, Providence, R.I.		1,200			
The First National Bank of Boston, Boston, Mass.	\$5,400		600	2,400	4,300
State Street Bank and Trust Co., Boston, Mass.			900		
Plymouth Home National Bank, Brockton, Mass.			400		
First County National Bank, Brockton, Mass.			300		
H.M.C. Dunfee Trust Co., Fall River, Mass.				650	
Fall River Trust Co., Fall River, Mass.				700	
Fall River National Bank, Fall River, Mass.				250	
Total from banks	5,400	4,700	3,300	6,300	8,500
EUA		9,800	10,800	1,800	
Maximum amount of aggregate short-term borrowings from banks and advances from EUA to be outstanding at any one time	5,400	14,500	14,100	8,100	8,500

The notes to banks will be dated as of the date of issuance, will bear interest at a rate not to exceed the prime rate on the date of issuance (presently 5½ percent per annum) and will be prepayable in whole or in part without penalty. Notes issued after July 1, 1971, and prior to October 1, 1971, will mature on October 1, 1971, and all notes issued on and after October 1, 1971, and prior to January 3, 1972, will mature on January 3, 1972. The advances by EUA to Blackstone and Brockton will be subordinated to the rights of the preferred stockholders of Blackstone and Brockton, respectively, to receive dividends and in liquidation if, and so long as, (a) preferred stock dividends are in arrears (or in the event of liquidation, the liquidation rights of preferred stockholders have not been satisfied) and (b) the sum of the advances from EUA, the notes payable to banks and all other securities representing unsecured debt, maturing in less than 10 years, exceeds 10 percent of the company's secured debt, capital stocks, premium and surplus. The advances will bear interest payable on October 1, 1971, and January 3, 1972, at the prime rate in effect at the First National Bank of Boston on those respective dates or the rate at which EUA is then borrowing from said Bank, whichever is lower, except that to the extent advances are made hereunder from the proceeds of issuance by EUA of its \$17 million 5-year unsecured promissory notes (Holding Company Act Release No. 17085), such advances shall bear interest payable at the rate incurred by EUA.

Blackstone expects to have outstanding, at July 1, 1971, an estimated \$9,100,000 principal amount of short-term loans, including at \$4,400,000 loan from EUA; Brockton, Fall River and Montaup except to have outstanding principal

EUA, Blackstone, Brockton, Fall River, and Montaup propose to issue and sell short-term, unsecured, promissory notes to banks, and, in the cases of Blackstone, Brockton, and Fall River, to also receive open-account advances from EUA, from time to time during the period beginning July 1, 1971, and ending January 3, 1972, in the maximum aggregate amounts to be outstanding at any one time, as shown below:

amounts of short-term notes of \$13 million, including \$10,800,000 loan from EUA, \$7,100,000, including \$1,800,000 loan from EUA, and \$7,200,000, respectively. The proceeds from the proposed notes and advances will be used in part by the respective companies to meet cash requirements for construction and to pay short-term loans at or prior to maturity. Blackstone, Brockton, or Fall River may prepay its notes to banks, in whole or in part, by the use of an advance from EUA, or may repay an advance from EUA with the proceeds of notes issued to banks. Any advance from EUA for such purpose will bear interest, for the unexpired term of the prepaid note, at the lower of the prime rate or the rate borne by the prepaid note. If the interest rate on a note issued to a bank for the purpose of obtaining funds to repay an advance from EUA shall exceed the rate on the advance being repaid, EUA shall reimburse or credit Blackstone, Brockton, or Fall River, as the case may be, for the added interest required for the term of the note so issued.

In the event of any permanent financing by any of the borrowing companies (with the exception of permanent financing by EUA the proceeds of which are applied to the payment or prepayment of its 5-year note), the net cash proceeds therefrom will be applied to the payment of its short-term note indebtedness or advances from EUA then outstanding, and the maximum amount of short-term note indebtedness and advances to be outstanding at any one time, as proposed herein, will be reduced by the amount of the proceeds of such permanent financing.

The application-declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed

transactions. The fees and expenses to be incurred in connection with the proposed transactions are to be supplied by amendment.

Notice is further given that any interested person may, not later than June 28, 1971, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective, as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8181 Filed 6-10-71; 8:49 am]

[File No. 1-4692]

FAS INTERNATIONAL, INC. Order Suspending Trading

JUNE 4, 1971.

The common stock, 2 cents par value and the 5 percent convertible subordinated debentures due 1989 of FAS International, Inc., being traded on the New York Stock Exchange, Inc., pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of FAS International, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily

suspended, this order to be effective for the period June 6, 1971, through June 15, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8182 Filed 6-10-71; 8:49 am]

[File Nos. 7-3802-7-3807]

KIMBERLY-CLARK CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 7, 1971.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Kimberly-Clark Corp.	7-3802
S. S. Kresge Co.	7-3803
Long Island Lighting Co.	7-3804
Middle South Utilities, Inc.	7-3805
Montana Power Co.	7-3806
Occidental Petroleum Corp.	7-3807

Upon receipt of a request, on or before June 22, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8178 Filed 6-10-71; 8:48 am]

[File No. 7-3808]

LOEWS CORP. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 7, 1971.

In the matter of application of the Philadelphia-Baltimore-Washington

Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Loews Corp. (Delaware, File No. 7-3808).

Upon receipt of a request, on or before June 22, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8180 Filed 6-10-71; 8:49 am]

[File No. 7-3809]

SCHERING-PLOUGH CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 7, 1971.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Schering-Plough Corp., File No. 7-3809.

Upon receipt of a request, on or before June 22, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities

and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8179 Filed 6-10-71; 8:49 am]

INTERSTATE COMMERCE COMMISSION

EAGLE MOTOR LINES, INC., ET AL.

Assignment of Hearings

JUNE 8, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 73165 Sub 292, Eagle Motor Lines, Inc., assigned June 28, 1971, in the Moot Courtroom, The College of Law, The Ohio State University, 1659 North High Street, Columbus, Ohio.

MC 83835 Sub 79, Wales Transportation, Inc., assigned June 28, 1971, in the Moot Courtroom, The College of Law, The Ohio State University, 1659 North High Street, Columbus, Ohio.

FD 26268, Chicago, Milwaukee, St. Paul & Pacific Railroad Co., now assigned July 22, 1971, at Green Bay, Wis., at the Courthouse Annex, Second Floor, 125 South Adams Street.

FD 26496, Norfolk Southern Railway Co.—Abandonment—Portion of its Bayboro Branch Line in Craven and Pamlico Counties, N.C., assigned July 19, 1971, at New Bern, N.C., in U.S. District Courtroom (Judge Larkin's Courtroom) 401 Middle Street.

MC-115841 Sub 386, Colonial Refrigerated Transportation Inc., assigned July 19, 1971, at Sioux City, Iowa, in Second Floor Jury Room, Federal Building, Sixth and Douglas Streets.

MC-115841 Sub 387, Colonial Refrigerated Transportation Inc., assigned July 26, 1971, at Sioux City, Iowa, in Second Floor Jury Room, Federal Building, Sixth and Douglas Streets.

MC 113678 Sub 407, Curtis, Inc., assigned July 23, 1971, in Room 1430, Federal Building-Courthouse, Denver, Colo.

MC 114211 Sub 149, Warren Transport, Inc., assigned July 19, 1971, in Room 1430, Federal Building-Courthouse, Denver, Colo.

MC 115524 Sub 14, William P. Bursch, doing business as Bursch Trucking Co., assigned July 26, 1971, in Room 1430, Federal Building-Courthouse, Denver, Colo.

MC 134968 Sub 1, Bert F. Jones, doing business as Miley Bee Xpress, assigned July 22, 1971, in Room 1430, Federal Building-Courthouse, Denver, Colo.

MC 135082, Bursch Trucking, Inc., assigned July 26, 1971, in Room 1430, Federal Building-Courthouse, Denver, Colo.

MC 2860 Sub 87, National Freight Inc., assigned July 15, 1971, in Room 1430, Federal Building-Courthouse, Denver, Colo.

FD 26446, Atchison, Topeka & Santa Fe Railway Co. Abandonment in Prowers, Bent, & Otero Counties, Colo., assigned July 22, 1971, in the City Council Chambers, Second Floor, City Hall, Pueblo, Colo.

MC 31389 Sub 134, McLean Trucking Co., assigned July 19, 1971, for continued hearing in Room 914, Federal Building, 167 Main Street, Memphis, Tenn.

MC 31364 Sub 4, Francis Hill, doing business as Hill Furniture Carriers, assigned July 26, 1971, at the Office of Interstate Commerce Commission, Washington, D.C.

MC 114457 Sub 93, Dart Transit Co., assigned July 26, 1971, at Chicago, Ill., in Room 1630, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 134784 Sub 1, Transportes Hispanos, Inc., assigned July 19, 1971, at Chicago, Ill., in Room 1630, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 135254, Fernando Mireles, doing business as Transporters "Azteca", Ltd., assigned July 19, 1971, at Chicago, Ill., in Room 1630, Everett McKinley Dirksen Building, 219 South Dearborn Street.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8196 Filed 6-10-71; 8:50 am]

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 8, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42223—Salt from Stafford, Tex. Filed by Southwestern Freight Bureau, agent, (No. B-244), for interested rail carriers. Rates on salt, common (sodium chloride), evaporated or rock, plain or iodized, in carloads, as described in the application, from Stafford, Tex., to Illinois Freight Association, northern, southern, and western trunkline territories, as described in the application.

Grounds for relief—Market competition, rate relationship, short-line distance formula and grouping.

Tariffs—Supplements 75 and 202 to Southwestern Freight Bureau, Agent, tariffs ICC 4883 and 4691, respectively. Rates are published to become effective on July 5, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8197 Filed 6-10-71; 8:50 am]

NOTICES

[Notice 309]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 7, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3255 (Sub-No. 10 TA), filed May 28, 1971. Applicant: PEP TRUCKING CO., INC., 386 Henderson Street, Jersey City, NJ 07302. Applicant's representative: Robert E. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Brick and paving block, from Jersey City, N.J., and Flushing, N.Y., to New Haven, Conn., for 150 days. Supporting shipper: Hastings Pavement Co., Inc., 49 Water Mill Lane, Great Neck, Long Island, NY 11021. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 61403 (Sub-No. 213 TA), filed May 26, 1971. Applicant: THE MASON AND DIXON TANK LINES, INC., Eastman Road, Post Office Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid chemicals, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Texas, for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 629, Plaquemine, LA. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce

Commission, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 113855 (Sub-No. 241 TA), filed May 26, 1971. Applicant: INTERNATIONAL TRANSPORT, INC., U.S. Highway 52 South, Rochester, MN 55901. Applicant's representative: Thomas J. Van Osdel (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Snowmobiles, (2) snowmobile trailers; (3) parts, attachments and accessories, for the commodities described in (1) and (2) above; and (4) snowmobile clothing and accessories, from Crosby, Minn., to points in Washington, Oregon, California, Idaho, Nevada, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Michigan, Wisconsin, Illinois, Indiana, Ohio, New York, Pennsylvania, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, and New Jersey, for 180 days. Supporting shipper: Scorpion, Inc., Crosby, Minn. 56441. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 115162 (Sub-No. 229 TA), filed May 28, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Box 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Composition building board and parts, materials and accessories incidental to the installation thereof, from Mobile, Ala., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, for 180 days. Supporting shipper: National Gypsum Co., Building Products Division, 325 Delaware Avenue, Buffalo, NY 14202. Attention: Harold C. Halm, Transportation Manager—Service. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 116073 (Sub-No. 173 TA), filed May 28, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Buildings, in sections, from Hometown, Pa., to points in Maine, Vermont, New Hampshire, Connecticut, Delaware, Massachusetts, Rhode Island, New York, Maryland, and New Jersey, for 180 days. Supporting shipper: Speedspace Building Systems, Post Office Box 109, Tamaqua, PA 18252. Send protests to: J. H.

Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 119767 (Sub-No. 270 TA), filed May 28, 1971. Applicant: BEAVER TRANSPORT CO., Post Office Box 188, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dairy products and other commodities distributed by dairies (except commodities in bulk), from plantsites, warehouses, storage and production facilities utilized by Land O'Lakes, Inc., in Chicago, Ill., and its commercial zone as defined by the Commission, to points in Ohio on and west of a line beginning at Sandusky, Ohio, and extending south along Ohio 4 to Marion, Ohio, and then south along U.S. Highway 23 to Portsmouth, Ohio, and points in Kentucky, for 180 days. Supporting shipper: Land O'Lakes, Inc., Post Office Box 116, Minneapolis, MN 55440 (Gary Huntbach, Supervisor, Traffic Division). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 123048 (Sub-No. 191 TA), filed May 28, 1971. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul Martinson (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Tractors (except truck tractors designed to be used in the transportation of property on highways) and tractor attachments in mixed loads with tractors, from the plant and warehouse facilities of J. I. Case Co. at Bettendorf, Iowa; to points in Wisconsin, Michigan, Illinois, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Florida, Georgia, South Carolina, North Carolina, West Virginia, and Alabama, for 180 days. Supporting shipper: J. I. Case Co., 700 State Street, Racine, WI 53404 (James Pavel, Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 126328 (Sub-No. 4 TA), filed May 28, 1971. Applicant: ACTION VAL MOTOR EXPRESS LIMITED, 1193 Ricard Street, Acton Vale, PQ Canada. Applicant's representative: Edwin W. Free, Jr., 25 Keith Avenue, Barre, VT 05641. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Snowmobile, snowmobile trailers, all terrain vehicles (not including new or used automobiles), seamobiles, parts and accessories thereof, and snow mobile clothing, including suits, boots, helmets, and gloves, from ports of entry on the international boundary line between Canada and the United States, to Albany, and Horsehead, N.Y.; South Portland, Maine;

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Somerset, Pa.; Lansing, Mich.; Green Bay, Madison, Brillion, and De Pere, Wis.; New Hope, Minn.; Fargo, N. Dak.; Wichita, Kans.; Hamilton, Great Falls, and Belgrade, Mont.; Boise, Idaho; Salt Lake City, Utah; Denver, Colo.; and San Jose, Calif.; and Sparks, Nev., and within a 15-mile radius of said cities, and return with above damaged and rejected commodities, and tarpaulins, strapping, plywood, and pallets incidental to the outbound traffic, for 180 days. Supporting shipper: Skiroule, Ltee, Wickham, Quebec, Canada. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Montpelier, VT 05602.

No. MC 134073 (Sub-No. 10 TA), filed May 28, 1971. Applicant: GENOVA TRANSPORT, INC., 484 Clayton Road, Williamstown, NJ 08094. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Plastic articles, for the account of Crown Zellerbach corporation at Glassboro, N.J., from Glassboro, N.J., to Atlanta, Ga.; Baltimore, Md.; Hershey, Pa.; New York, N.Y.; for 150 days. Supporting shipper: Crown Zellerbach, Post Office Box 5810, Berkeley, Mo. 63134. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 134264 (Sub-No. 9 TA), filed May 27, 1971. Applicant: OCKENFEL'S TRANSFER, INC., Post Office Box 3, 732 Rundell St., Iowa City, IA 52240. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Corrugated plastic drainage tubing and related articles, supplies and accessories, from Cresco, Iowa, to points in Illinois, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and (2) materials, equipment, and supplies used in the manufacture, processing, sale, distribution, and installation of corrugated plastic drainage tubing, from points in Illinois, Indiana, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin to Cresco and Iowa City, Iowa, for 180 days. Supporting shipper: Advanced Drainage Systems, Inc., Iowa City, Iowa 52240. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Fourth and Perry Streets, Davenport, IA 52801.

No. MC 135379 (Sub-No. TA), filed May 28, 1971. Applicant: EASTERN TRANSPORT, INC., 320 Stiles Street, Linden, NJ 07036. Applicant's representative: George A. Olsen, Traffic Consultant, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a contract carrier, by motor vehicle, over

irregular routes, transporting: Such merchandise as is dealt in by wholesale, retail chain grocery, and food business houses (except commodities in bulk), and in connection therewith equipment, materials, and supplies used in the conduct of such business (except commodities in bulk) for the account of Food Fair Stores, Inc.; (1) between Linden and Paterson, N.J., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y., New York, N.Y., Connecticut, and New Jersey; (2) from New York, N.Y., to points in Westchester and Rockland Counties, N.Y., Connecticut, and New Jersey. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Food Fair Stores, Inc., of Linden, N.J., for 150 days. Supporting shipper: Food Fair Stores, Inc., Food Fair Building, 3175 John F. Kennedy Boulevard, Philadelphia, PA 19101. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 135635 TA, filed May 27, 1971. Applicant: MERRILL E. FLEIG, Rural Route 4, Box 237, Fairfield, IA 52556. Applicant's representative: Kenneth F. Dudley, 611 Church, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Automatic livestock watering and feeding equipment, animal pens, and equipment, concrete flooring slat forms and equipment, and livestock equipment, from Fairfield, Iowa, to points in Delaware, Maryland, North Carolina, and Virginia, for 180 days. Supporting shipper: Fairfield Engineering & Manufacturing Co., 601 West Kirkwood Avenue, Fairfield, IA 52556. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Fourth and Perry Streets, Davenport, IA 52801.

No. MC 135643 (Sub-No. 1 TA), filed May 28, 1971. Applicant: SAFE TRANSPORT, INC., 610 Cooper Street, Hamilton, IL 62341. Applicant's representatives: Routman & Lawly, 300 Relsch Building, Springfield, Ill. 62701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Wood chips, from Hamilton, Ill., to Dubuque, Keokuk, and Fort Madison, Iowa, for 180 days. Supporting shipper: Hiram Walker & Sons, Inc., Post Office Box 1196, 2400 Southwest Washington Street, Peoria, IL 61601. Send protests to: Raymond E. Mauk, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

MOTOR CARRIERS OF PASSENGERS

No. MC 124935 (Sub-No. 4 TA), filed May 28, 1971. Applicant: ALMEIDA BUS

LINES, INC., 23 Swift Street, New Bedford, MA 02740. Applicant's representative: Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, between Hyannis, Mass., and Provincetown, Mass., serving all intermediate points, restricted to the discharge of passengers on eastbound trips and receiving of passengers on westbound trips, from Hyannis, over Yarmouth Road to its junction with U.S. Highway 6, thence over U.S. Highway 6 to Provincetown; also from Hyannis over Massachusetts Highway 28 to junction U.S. Highway 6, thence over U.S. Highway 6 to Provincetown, Mass.; also from Hyannis over Yarmouth Road and Willow Street to junction U.S. Highway 6A in Yarmouth, thence over U.S. Highway 6A to junction U.S. Highway 6, thence

over U.S. Highway 6 to Provincetown; and return over the same routes, for 180 days. NOTE: Applicant does intend to tack the authority in MC-124935 at Hyannis, Mass. Supporting shippers: There are approximately 36 statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, RI 02903.

No. MC 134170 (Sub-No. 2 TA), filed May 27, 1971. Applicant: WAUKEGAN NORTH CHICAGO TRANSIT COMPANY, 1400 10th Street, Waukegan, IL 60085. Applicant's representative: Donald S. Mullins, 4704 West Irving Park

Road, Chicago, IL 60641. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicles with passengers, between Great Lakes Naval Training Center, Great Lakes, Ill., and Milwaukee, Wis., for 180 days. Supporting shipper: Curtis L. Wagner, Jr., Chief, Regulatory Law Office, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8198 Filed 6-10-71;8:50 am]

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PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing
Service

■

MILK IN CHICAGO REGIONAL
AND CERTAIN OTHER
MARKETING AREAS

Notice of Recommended Decision
and Opportunity to File
Written Exceptions

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1030, 1032, 1046, 1049, 1050, 1062, 1099]

[Dockets No. AO-361-A3, etc.]

MILK IN CHICAGO REGIONAL AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

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1049	Indiana	AO-319-A16
1050	Central Illinois	AO-355-A9
1062	St. Louis-Orarks	AO-10-A12
1099	Paducah, Ky.	AO-183-A21

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. Seven copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as herein-after set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Clayton, Mo., on July 14-22, 1970, pursuant to notice thereof which was issued June 26, 1970 (35 F.R. 10692).

The material issues on the record of the hearing relate to:

1. Application of a uniform milk classification plan in the seven markets;
2. Revision of the present Class I classification;
3. Classification and pricing of milk not needed for Class I use;
4. Miscellaneous classification and accounting changes:
 - (a) Other source milk definition;
 - (b) Accounting for nonfat milk solids added to milk and milk products;

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- (c) Classification of milk transferred or diverted to other plants;
 - (d) Classification and end-of-month inventories;
 - (e) Shrinkage allowances;
 - (f) Allocation of receipts to utilization;
 - (g) Obligations relative to other source milk; and
 - (h) Reports;
5. Changing the butterfat differentials; and
 6. Advance announcement of prices for surplus milk.

General setting of the hearing. Prior to the hearing, the National Milk Producers Federation, an organization of cooperative associations of dairy farmers and federations of such cooperative associations, undertook the development of a uniform milk classification plan for use under Federal milk orders. Guidelines were formulated for use by member organizations in the drafting of specific classification proposals for consideration at public hearings.

Using these guidelines as a basis for their proposals, Associated Milk Producers, Inc., Dairywomen, Inc., Mid-America Dairywomen, Inc., and Pure Milk Products Cooperative petitioned the Department for a hearing on various proposals relating to the classification and pricing of milk in the seven subject markets. These four cooperative associations, which will be referred to in this decision as the "principal" cooperatives, collectively represent a substantial number of the producers associated with each of these markets.

The main thrust of the cooperatives' proposals was the proposed use of an identical classification plan under each of the seven orders. As proposed, the new plan would have three classes of utilization rather than the two classes now provided in each order. The present Class II classification would be redesignated as Class III and a new Class II classification, which would include various milk products now in Class I and Class II, would be established.

Corollary proposals by the principal cooperatives would provide that the Class III price under each order be the Minnesota-Wisconsin manufacturing milk price for the month. They proposed that the new Class II price under each order be the Minnesota-Wisconsin price plus 10 cents. They proposed also that a single handler butterfat differential apply to all three classes. This differential, which would be identical among the seven orders, would be based on the Chicago butter price times a factor of 0.115.

These proposals in general were endorsed at the hearing by the Association of Operating Cooperatives on behalf of six Wisconsin-based producer groups. These cooperatives proposed, however, that the price to be applicable to milk used in butter and nonfat dry milk be the lower of the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price. Another cooperative association, Land O'Lakes, Inc., proposed that the lower of the Minnesota-Wisconsin price or the product formula price apply to all Class III uses of milk. Its butter-

nonfat dry milk formula price would be lower relative to the formula price proposed by the Association of Operating Cooperatives.

A uniform classification plan for the seven orders was advocated also by the Milk Industry Foundation and the International Association of Ice Cream Manufacturers, national trade associations of fluid milk and ice cream processors whose members operate in each of the seven subject markets. Instead of taking a position on whether there should be two or three use classes, these groups offered alternative proposals on the classification of various milk products under either type of classification plan. Individual handlers also made proposals concerning specific aspects of the classification scheme.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. **Application of a uniform milk classification plan in the seven markets.** Each of the seven orders under consideration should provide for the same basic classification plan. As adopted herein, each order would provide for three classes of utilization, with the milk uses included in each class being the same for each order. Likewise, the same basic procedure would be used under each order for classifying milk transferred or diverted from cool plants to other plants, and for allocating a handler's receipts to his utilization to determine the classification of his producer milk. Also, each order would use the same butterfat differential, which would be identical for all classes, and the same Class II and Class III price formulas.

The statutory authority for Federal milk orders specifies that an order shall classify milk purchased by handlers from producers or associations of producers in accordance with the form in which or the purpose for which the milk is used. When each of the seven subject orders was promulgated, the classification plan adopted reflected the marketing conditions and practices prevailing at the time in the local area concerned. Because conditions were seldom alike from market to market, the classification plans often varied from one order to another. As long as the markets remained relatively isolated from each other, marketing problems resulting from the differences in the various classification plans were minimal.

In recent years the "local" character of these markets has been disappearing. Intermarket movements of milk have become commonplace as handlers and producers alike seek to find additional outlets for milk. Such milk movements have been encouraged or facilitated by such developments as inspection reciprocity between health jurisdictions, improved highway networks and transportation equipment, conversion from can handling to farm bulk tanks, new processing and packaging techniques, and concentration of processing and

packaging operations in large, specialized facilities.

Widespread distribution patterns prevail particularly for the processors of specialty products such as yogurt and sterilized cream items. Although the volume of these products is relatively limited, it is probably the distribution of these products more than any others that has precipitated such general interest within the industry for uniform classification provisions among Federal orders.

Several cases cited on the record serve to illustrate the widespread movements of packaged specialty products. At the time of the hearing a handler regulated under the Paducah order was distributing half and half or whipping cream in 20 federally regulated marketing areas, including six of the markets involved in this hearing. Similarly, a handler under the Louisville-Lexington-Evansville order was selling half and half, yogurt or sour cream in 12 Federal order markets. A processor with plants in New York and Ohio was selling yogurt in nearly every State east of the Mississippi River, which includes most of the markets involved in this proceeding.

Although the seven orders have been revised from time to time to reflect the closer intermarket relationships, the classification plans of these orders continue to differ. The differences relate not only to the products included in each respective class, but also to the attendant class prices and butterfat differentials, the rules for classifying milk moved from one plant to another, the procedure for allocating a handler's receipts to his utilization, the method of classifying end-of-month inventories, and the manner of classifying shrinkage.

Such differences in the classification and pricing of milk are often disruptive to the competitive relationships of handlers and to the marketing of producer milk. Many of these differences, though, have little, if any, foundation under today's marketing conditions. It is thus concluded that a generally uniform classification and pricing plan should be incorporated in each of the seven orders under consideration.

It should be noted that the amendments to each of the seven orders that are attached to this decision do not reflect the proposed amendments to such orders that were set forth in the Assistant Secretary's decision on "General Provisions" which was issued on April 15, 1971 (36 F.R. 7514), of which official notice is taken. Correlation of the General Provisions amendments with those adopted herein would be necessary at a later stage in this proceeding.

2. **Revision of the present Class I classification.** With certain exceptions noted below, Class I milk under each of the seven subject orders should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, eggnog, buttermilk, filled milk, and milk shake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat

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milk solids, concentrated (if in a consumer-type package), or reconstituted, likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

In addition, Class I milk should include all skim milk and butterfat disposed of in the form of any other fluid or frozen milk product (if not specifically designated as a Class II or Class III use) that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids.

As a convenience in drafting order provisions, each product designated herein as a Class I product would be defined in the seven orders as a "fluid milk product."

Class I milk should include also packaged fluid milk products that are in a plant's inventory at the end of the month. In addition, any skim milk and butterfat not specifically accounted for in Class II or Class III, except that shrinkage permitted a Class III classification, should be classified as Class I milk.

Except for sterilized products, most of the products herein included in Class I are presently included in the Class I classification under each of the seven orders. Only the Chicago Regional order, however, now includes any milk shake mixes in Class I. None of the orders includes eggnog in Class I. The Paducah order is the only one of the seven orders that includes sterilized fluid milk products (other than cream items) in Class I.

The adopted Class I classification would not include cream products or mixtures of cream and milk or skim milk (such as half and half) containing 9 percent or more butterfat. Sweet cream (except that in frozen, concentrated, aerated or sterilized form) and half and half are presently Class I products under the seven orders. Grade A sour cream is a Class I product under all but the Indiana order, while Grade A sour cream

¹ The reader should keep in mind that the orders do not classify products per se but rather the skim milk and butterfat disposed of in the form of a particular product or used to produce a particular product. To simplify the presentation of the findings and conclusions, however, reference is made in this decision to Class I products, Class II products and Class III products, or to certain products included in a particular class.

mixtures are Class I items under all but the Indiana and Paducah orders. Also, non-Grade A sour cream is presently a Class I product under the Paducah and Louisville-Lexington-Evansville orders.

Under the adopted changes, yogurt would not be a Class I product. A Class I classification for yogurt, which is now in the surplus class under these orders, was proposed by the principal cooperatives.

The proposals concerning the Class I classification of milk related primarily to the use under all orders of a uniform fluid milk product definition based on product composition, and to the appropriate classification of milk shake and ice milk mixes, eggnog, sterilized fluid milk products, cream, yogurt, fluid milk products to which nonfat milk solids have been added and ending inventory. The classification of cream and yogurt is discussed under Issue 3 which deals with the classification and pricing of milk not needed for Class I use. The method of accounting for nonfat milk solids added to fluid milk products is discussed under Issue 4(b). The classification of ending inventory is dealt with under Issue 4(d). The remaining Class I issues are dealt with at this point.

Milk shake and ice milk mixes containing less than 20 percent total solids should be included in Class I. Such mixes containing a greater percentage of solids should be Class III products.

The principal cooperatives proposed that milk shake mixes that "are not further processed in a commercial establishment" be in Class I. They proposed that all other milk shake mixes be in Class II. The national organizations of fluid milk and ice cream processors, on the other hand, asked that all milk shake mixes be included in the lowest classification.

Milk shake and ice milk mixes are being marketed generally through two channels. Limited quantities of such mixes are processed for home consumption, with such mixes being distributed to consumers through food stores and on home delivery routes. The major outlet for milk shake and ice milk mixes, though, is the so-called "soft-serve" trade. Mixes processed by regulated handlers for this use are sold to commercial establishments where the product is run through a special freezer and dispensed to the public in a semisoft form.

Milk shake and ice milk mixes are basically similar in composition and purpose to what might be considered as traditional frozen desserts, such as ice cream. Although such shake mixes are intended to be consumed in a semisoft form, or even in a very thick fluid form, they are being marketed for essentially the same use as the traditional frozen desserts. This is the case whether such mixes are sold through the "soft-serve" trade or for home use. With minor exception, as noted below, milk used in milk shake and ice milk mixes thus should be classified in the same class as milk used in the traditional frozen desserts. As discussed later in this decision, the classification

cation plan adopted herein includes frozen desserts in Class III.

It is possible that a product very similar in composition and form to chocolate milk could be marketed under the label of a milk shake mix for the purpose of having a lower classification apply to the product. Since such a product actually would have the same general form and purpose as other fluid milk products now classified as Class I under these orders, it should be included in the Class I classification. It is necessary, though, to provide some means of distinguishing between such a product and the general category of milk shake mixes that are being sold in competition with frozen desserts. For this purpose, the total solids content of the product should be used. A standard of 20 percent or more total solids should encompass those milk shake and ice milk mixes intended for use as a type of frozen dessert. Mixes with less solids are similar in composition to chocolate milk and other flavored fluid milk products and should be a Class I product.

The principal cooperatives proposed that eggnog, which is presently a Class II product under each order, be included in the new intermediate price class. Although recognizing that eggnog is a beverage that competes with presently defined fluid milk products, the cooperatives contended that eggnog should not be a Class I product because of its relatively high butterfat content and its highly seasonal demand. In addition to generally supporting the cooperatives' position, handlers urged that eggnog flavored fluid milk products be included in the same class as eggnog since eggnog and eggnog flavored products are competing products.

Including eggnog in Class I recognizes that this product has essentially the same marketing characteristics that other Class I products being marketed for beverage use have. Eggnog is prepared for use as a beverage. Regulated handlers processing eggnog distribute this product in the same type of consumer packages and in the same trade channels as in the case of other Class I beverages, including eggnog flavored fluid milk products. Thus, the classification of milk used in eggnog should be the same as the Class I classification applicable to other beverage products.

No exception to the Class I classification of milk should be made for fluid milk products in sterilized form. This was proposed by the principal cooperatives and the national organizations of fluid milk and ice cream processors. A group of handlers in the Indiana and Louisville-Lexington-Evansville markets proposed, however, that all sterilized products in rigid metal or glass containers be excluded from Class I.

The sterilization of fluid milk products does not change the form or purpose of such products. As in the case of the unsterilized fluid milk products which they resemble, such sterilized products are disposed of in fluid form for consumption as a beverage. They are generally intended for use in place of their unsteri-

lized counterparts and are thus competing for the same consumers.

Returns to producers for milk disposed of in the form of fluid milk products should be the same whether such products are sterilized or unsterilized. Such products in either form are being marketed for the same beverage use. Classifying all such products in Class I will assure that the returns from producer milk used in sterilized fluid milk products will contribute on the same basis as returns from producer milk used in unsterilized fluid milk products toward inducing an adequate supply of milk for beverage use.

With the removal of any exception to the Class I classification of milk because of sterilization, specific reference must be made in the "fluid milk product" definition to the exclusion of certain products that otherwise could be construed to fall within such definition. Such products are evaporated or condensed milk or skim milk, formulas in hermetically sealed glass or all-metal containers that are especially prepared for infant feeding or dietary use, and products (such as flavored drinks in "pop" bottles) containing by weight less than 6.5 percent nonfat milk solids. These products, which are being sold in sterilized form, are now excluded from the Class I classification and, as proposed by cooperatives and handlers, such exclusion should be continued, notwithstanding the fact that they are sold to the public in fluid form. Evaporated milk and condensed milk sold for home use are intended primarily for cooking purposes. They are not consumed normally as a beverage. Infant and dietary formulas, which are being sold in hermetically sealed glass or all-metal containers, are specialized food products prepared for a limited use. Such formulas do not compete with other milk beverages consumed by the general public. Similarly, fluid products containing only a minimal amount of nonfat milk solids are not considered as being in the competitive sphere of the traditional milk beverages.

Fluid milk products should not be defined only on the basis of product composition, as was proposed by the principal cooperatives. Contending that the present fluid milk product definition in each order does not clearly identify those products that are intended to be classified as Class I products, the cooperatives proposed that a fluid milk product be defined solely in terms of moisture and milk solids content of the product. As proposed by producers, a "fluid milk product" would be any product containing at least 6.5 percent but less than 27 percent nonfat milk solids, less than 9 percent moisture, all computed on the basis of weight.

In support of their proposal, proponents indicated that such a definition would result in a more uniform application among the seven orders of the classification provisions. They contended that the listing of products under the current definitions does not accommodate the proper classification of new products or variations of the listed products when

they are introduced on the market. Proponents pointed out that as market administrators have had to make order interpretations in response to this situation variations in interpretation and classification have resulted among the markets. Adoption of the proposed definition, it was contended, would eliminate such problems. Any product meeting the specified composition limits for a fluid milk product would be a fluid milk product regardless of the name under which the product might be marketed.

Proponents recognized, however, that their proposed fluid milk product definition would include some products not intended by them to be in Class I, and, at the same time, would exclude certain products that they wanted in this classification. To overcome this problem, proponents stated that certain products should be listed by name, either as inclusions or exclusions, to assure that the fluid milk product definition would include those products, and only those products, warranting a Class I classification.

Handlers generally took the position that the fluid milk product definition should continue to list by name those products intended to be included in Class I. They believed that this procedure would result in less confusion within the industry concerning the application of this definition.

The primary concern with any fluid milk product definition is that it clearly define the products or types of products that are intended to be included in the definition. The fluid milk product definition adopted herein, which incorporates both the listing of specified products and the use of composition percentages, should meet this requirement. Incorporation of this definition in each of the seven orders will provide a uniform basis for identifying those products that are to be fluid milk products.

For simplicity, the fluid milk product definition should continue to list the generic names of those products commonly sold for consumption as beverages. The products listed in the adopted definition encompass most of the forms in which milk for fluid uses is sold. Anyone referring to this fluid milk product definition may easily ascertain in the case of most milk products whether or not a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate the classification of new milk products developed for fluid consumption. With certain limited exceptions noted, the fluid milk product definition is intended to include all milk products that are distributed for use as beverages. Although a new milk beverage introduced on the market might not be encompassed within the list of named products, it should be treated as a fluid milk product, nevertheless, if its composition is similar to that of the listed products. This will be the result of the standards of product composition for fluid milk products herein adopted.

As indicated, the adopted composition standards would embrace any product not specified as a Class II or Class III

product that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids. These standards are chosen so as to conform as closely as possible to the water, solids and butterfat content of those products specifically listed in the fluid milk product definition that are commonly sold for use as beverages.

The 9 percent butterfat standard coincides with the butterfat percentage adopted herein to delineate the mixtures of cream and milk or skim milk to be included in Class II. The total solids and water percentages represent a reasonable measure of the fluidity of those products that normally are consumed as beverages. The 6.5 percent nonfat milk solids standard is used to exclude from the fluid milk product definition those products which contain some milk solids but which are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles. In the case of the nonfat milk solids standard, it is intended that nonfat milk solids include such milk solids as lactose and the nonfat solids in dried whey.

3. *Classification and pricing of milk not needed for Class I use.* The present Class II classification of milk under each of the seven orders should be redesignated as Class III, and a new Class II classification that would include certain products now in Class I and Class II should be established. The new Class II price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 20 cents. The price under each of the orders for the redesignated Class III classification should be the basic formula price for the month.

The new Class II classification should include skim milk and butterfat used to produce cottage cheese, creamed or partially creamed cottage cheese, yogurt, sour cream and any sour mixture of cream and milk or skim milk containing 9 percent or more butterfat. Included also in this classification should be skim milk and butterfat disposed of in the form of a "fluid cream product", i.e., cream or any mixture of cream and milk or skim milk containing 9 percent or more butterfat. Packaged fluid cream products that are in inventory at the end of the month likewise should be in Class II. In addition, any product containing 6 percent or more nonmilk fat (or oil) that resembles any product already named in this paragraph should be in this class.

The redesignated Class III classification should include skim milk and butterfat used to produce cheese (other than cottage cheese and creamed or partially creamed cottage cheese), butter, plastic cream, frozen cream, anhydrous milk fat, any milk product in dry form, milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen dessert, frozen dessert mixes, custards, puddings, pancake mixes, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal con-

tainers, evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, any concentrated milk product in bulk, fluid form, and any product containing 6 percent or more nonmilk fat (other than a Class II product). Any other product not otherwise designated as a Class I or Class II product also should be included in Class III.

Other Class III uses should include bulk fluid milk products and bulk fluid cream products in inventory at the end of the month, and that portion of modified (by the addition of nonfat milk solids) fluid milk products not included in the Class I classification. Also, a Class III classification should apply to bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and at which there is no disposition of fluid milk products other than those received in consumer-type packages. In addition, Class III should include any fluid milk product or product listed in the Class II classification that is dumped or disposed of for animal feed. Also, shrinkage within certain limits should be classified as Class III milk.

The Class II classifications under the present orders are essentially alike. Class II uses include skim milk and butterfat used to produce any product other than a fluid milk product, and skim milk and butterfat in fluid milk products that are disposed of to commercial food processing establishments, dumped, disposed of for animal feed, or in inventory at the end of the month. Under the Southern Illinois and Central Illinois orders, such classification of inventory is limited to fluid milk products in bulk form. The orders also include shrinkage (within certain limits) in this classification and that portion of the skim milk equivalent of nonfat milk solids added to fluid milk products that is not classified as Class I milk.

Under five of the seven orders, the present Class II price is the Minnesota-Wisconsin manufacturing milk price. The Indiana order establishes the Class II price at the lower of the Minnesota-Wisconsin price of a butter-nonfat dry milk formula price. Under the Louisville-Lexington-Evansville order, the Class II price for the months of September through March is the Minnesota-Wisconsin price. For the remaining months, it is the Minnesota-Wisconsin price less 10 cents.

The principal cooperatives proposed that the present Class II classification under each order be redesignated as Class III and that many of the uses now included in the surplus class be included in a new, higher-priced Class II classification. These uses would include all soft and hard cheeses except cheddar cheese, frozen desserts, milk shake mixes sold to commercial establishments for further processing, eggnog, cream in plastic, frozen, aerated or sterilized form, anhydrous milkfat, sour cream,

sour mixtures (dips), evaporated or condensed milk or skim milk, dietary and infant formulas, custards, puddings, pancake mixes, any product with 6 percent or more nonmilk fat (or oil), and fluid milk products disposed of to commercial food processors. In addition, the cooperatives proposed that the new Class II also include all cream products now in Class I, i.e., cream, mixtures of cream and milk or skim milk containing 9 percent or more butterfat, sour cream and sour mixtures. Under their proposal, producer milk allocated to these uses would be priced under each order at the Minnesota-Wisconsin price plus 10 cents.

Of the present Class II uses, only cheddar cheese, butter, dried products, dumptage, animal feed, shrinkage, ending inventory, and the non-Class I portion of modified fluid milk products would remain in the lowest class under the cooperatives' proposal. These groups asked that milk in such uses be priced under each order at the Minnesota-Wisconsin price.

In support of their proposed classification plan, proponents contended that the present differences in the demand for certain groups of milk products support three different price levels, or classes of utilization, for milk. They stated that the demands for cheddar cheese, butter and nonfat dry milk are quite sensitive to changes in product prices, thus warranting the classification of milk used in such products in the lowest priced class. Proponents contended, on the other hand, that other products presently in Class II should be included in an intermediate-priced class since the demands for such products are less sensitive to price changes.

The principal cooperatives testified also that handlers generally demand a regular supply of producer milk for many of their proposed Class II uses and that alternative supplies of milk or milk products for such uses cannot be obtained for less than the Class II price they propose. Moreover, they claimed that a higher price for some of the surplus milk uses would result in products other than fluid milk products bearing some of the burden of attracting a total supply of milk for the market.

The principal cooperatives contended further that a lower price should apply to milk used in cream and cream mixtures now in Class I. They pointed out that the present classification has placed these products in a poor competitive position in the market relative to nondairy substitutes. Indicating that the industry already may have waited too long to shift cream products to a lower price category, proponents urged a lower price for milk used in such products with the hope that the declining demand for cream could be halted.

The classification plan proposed by the principal cooperatives was generally endorsed by other cooperative associations operating in or near the seven markets. One group of cooperatives urged, however, that all "American" cheeses, rather than just cheddar cheese, be included in Class III. "American" cheeses are com-

monly considered to include cheddar cheese, colby cheese, granular or stirred curd cheese, and washed curd cheese. Another cooperative proposed that cheddar cheese and colby cheese be in separate classes, but with little difference in the prices established for such classes. Three producer groups also proposed that yogurt be included in the proposed new Class II, rather than in Class I as proposed by the principal cooperatives.

As noted earlier, the national trade associations of fluid milk and ice cream processors did not take a position at the hearing on whether there should be two or three classes of utilization. The two handler groups stated that if a three-class system is adopted certain products proposed by the principal cooperatives to be in the new Class II should be included, instead, in Class III. They urged that the lowest classification apply to frozen desserts (including those with yogurt flavoring), puddings, sour cream, sour mixtures, and dispositions to commercial food processors.

Other handler groups and individual handlers likewise opposed a higher price on milk used in certain manufactured products. Particular attention was focused on milk and condensed products sold to food processors and on evaporated milk. Representatives of the "soft-serve" frozen dessert industry urged that milk shake mixes for commercial use be in the lowest class. Some handlers advocated that the only classification change be that of classifying cream products in a lower class. They proposed that any action to maintain producer returns at present levels because of a change in the classification of cream be limited to increasing the Class I price.

Producer milk not needed for Class I use must be priced at a level that insures the orderly disposition of the milk. Normally, excess milk supplies must be channeled into manufacturing uses. This requires that such milk be priced competitively with manufacturing grade milk if the market is to be cleared of its reserve supplies.

Within this framework, however, the price for reserve milk should be set at the highest possible level. The prices for all classes of milk must result in a level of returns to producers, as reflected through the blend price, that attracts an adequate supply of quality milk for the Class I market. To the extent that the price for reserve milk in a market contributes less value than possible to the total producer returns required to attract the necessary milk supplies, the Class I price must be higher than otherwise necessary to make up this difference. Thus, it is in the public interest that the price for reserve milk supplies be maintained at the highest practicable level.

Several Wisconsin and Minnesota cooperative associations engaged in the manufacture of butter and nonfat dry milk proposed that all seven of the orders under consideration provide for the use of a butter-nonfat dry milk formula for pricing surplus milk. Under the proposal of the Wisconsin cooperatives, the lower of the Minnesota-Wisconsin price or a

butter-nonfat dry milk formula price would apply to producer milk processed into butter and nonfat dry milk. Other proposed Class III uses would be priced at the Minnesota-Wisconsin price. A cooperative based in Minnesota proposed that the lower of the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price apply to all Class III uses.

Different formula prices were proposed, however, by these producer groups. The Wisconsin cooperatives urged the adoption of essentially the same butter-nonfat dry milk formula contained in the Indiana order. The formula proposed by the Minnesota cooperative, on the other hand, would yield a price 12 cents per hundredweight lower than the Indiana formula because of the greater processing costs for butter and nonfat dry milk, or "make allowance," built into the formula. In 1969, the proposed pricing would have returned 17 to 29 cents (depending on the formula used) per hundredweight less than the use of the Minnesota-Wisconsin price alone.

The basic contention of these cooperatives was that plants processing butter and nonfat dry milk from a Class I market's surplus milk cannot afford to pay the Minnesota-Wisconsin price for milk so used. They indicated that the difference between the market value for these products and the Minnesota-Wisconsin price is considerably less than the amount required to cover the operating costs of such plants. Such plants associated with a fluid market, proponents claimed, have particularly high costs of operation because of the underutilized plant capacity that results when there is a heavy demand for milk at bottling plants. The cooperatives maintained that the class price for milk used in butter and nonfat dry milk must assure processors of such products a minimum processing allowance.

As pointed out, producer milk not needed for Class I use should not be priced lower than is necessary for the orderly disposition of the milk. Presently, handlers and cooperative associations in the seven markets are generally disposing of milk not needed for Class I use at prices that are not less than the Minnesota-Wisconsin price adopted herein as the minimum price for surplus milk. The Minnesota-Wisconsin price is now the lowest price for surplus milk under the St. Louis-Ozarks, Paducah, Southern Illinois, Central Illinois, and Chicago Regional orders. There is no indication that handlers or cooperatives in these five markets are experiencing difficulty in disposing of excess milk supplies at this price level. This includes the Chicago Regional market where nearly one-half of the 7.115 billion pounds of producer milk in 1969 was disposed of in Class II uses.

In the Louisville-Lexington-Evansville market where the Minnesota-Wisconsin price also applies to surplus milk except in certain months, reserve supplies likewise are being disposed of at not less than the Minnesota-Wisconsin price. During the period of January 1969 through June 1970, 176 million pounds of the market's 424 million pounds of

Class II producer milk were disposed of by a cooperative to nonpool plants for manufacturing at not less than this price level. This included sales in those months (April-August) when the Class II price under the Louisville-Lexington-Evansville order is the Minnesota-Wisconsin price less 10 cents.

Although the Indiana order now provides for the use of a butter-nonfat dry milk formula price in combination with the Minnesota-Wisconsin price, there is no indication that handlers or cooperatives in this market are disposing of their surplus milk under conditions uniquely different from those faced by handlers in the other nearby markets under consideration. Much of the producer milk associated with the Indiana market is, in fact, produced in the State of Wisconsin.² Such milk not needed for Class I use by Indiana handlers is either transferred from Indiana pool plants back to manufacturing plants in the Wisconsin production area or diverted directly to such plants from nearby farms. Processors in Wisconsin buying milk for manufacturing use are generally paying not less than the Minnesota-Wisconsin price for such milk. Moreover, handlers in the Indiana market are not limited to butter and nonfat dry milk uses in disposing of milk not needed for Class I purposes. Of the total quantity of milk processed in this market into manufactured products in 1969, only one-fifth was used in butter and nonfat dry milk.

Under these circumstances, it must be concluded that conditions in each of the seven markets support the use of the Minnesota-Wisconsin price as the minimum price for surplus milk.

Certain uses of producer milk not needed for Class I purposes should be priced at a level 20 cents per hundredweight higher than the Minnesota-Wisconsin price. These uses, which are included in a new Class II classification, were set forth at the beginning of this discussion on pricing surplus milk.

Of the products adopted herein for inclusion in the new Class II, the one of principal importance is cottage cheese. In six of the seven markets under consideration, cottage cheese production in 1969 would have represented between 74 and 92 percent of the milk used that year in the proposed Class II products. As noted later, cottage cheese data for one market are not available. For this discussion, the term "cottage cheese" encompasses cottage cheese (i.e., the dry curd), creamed cottage cheese, and partially creamed cottage cheese.

In 1969, handlers in the Chicago Regional market used 343 million pounds of skim milk and butterfat in the production of cottage cheese. This was equal

² Official notice is taken of the publication issued February 1971 by the Dairy Division, Consumer and Marketing Service, U.S. Department of Agriculture (C&MS-50 (1969)), titled "Sources of Milk for Federal Order Markets." This publication indicates that in December 1969 over 26 percent of the producer milk on the Indiana market was produced in Wisconsin.

to 10 percent of the total producer milk in the market that was used in Class II that year. Corresponding figures for the other markets are: Louisville-Lexington-Evansville—72 million pounds, 27 percent; Indiana—127 million pounds, 29 percent; Southern Illinois—70 million pounds, 23 percent; Central Illinois—35 million pounds, 33 percent; and St. Louis-Ozarks—60 million pounds, 14 percent. Cottage cheese production data for the Paducah market, where about 21 million pounds of producer milk were used in Class II in 1969, were not placed in the record since they would have revealed confidential information.

In these markets cottage cheese has been considered for pricing purposes merely as one of various uses for producer milk not needed for the Class I market. There are, however, several distinguishing characteristics of cottage cheese production that support a higher price for milk in this use than for milk channeled into the residual surplus uses. There is little, if any, relationship between the quantity of cottage cheese made and the amount of reserve milk in the market, as is the case with respect to butter and nonfat dry milk, for instance. Regulated handlers, in conjunction with their fluid-milk sales, generally move cottage cheese through the same retail and wholesale outlets. In addition to supplying the Class I requirements of handlers, producers are expected to make available sufficient supplies of fresh, high quality milk for the production of cottage cheese.³ This is not the case with respect to butter, nonfat dry milk, hard cheese or ice cream.

Although some cottage cheese is made in specialized country plants, as the economics of location would suggest, cottage cheese production is commonly an integral part of the processing operations at fluid milk distributing plants. Such plants are usually located in or near the populated centers of the market. This entails a greater hauling expense for producers than when the reserve milk is processed in the production area, as is generally the case with respect to butter, nonfat dry milk and hard cheese manufacture. Also, cottage cheese, unlike most other manufactured products, has a more limited storage life and must be processed on a regular basis. Thus, as in the case of fluid milk products, handlers require that adequate supplies of producer milk be made available at their distributing plants at all times for cottage cheese use.

The adopted Class II price (the Minnesota-Wisconsin price plus 20 cents) is a reflection of at least the minimum addi-

³ The reliance on producers for milk for cottage cheese production is not unique to the seven markets under consideration. As noted in the November 1970 issue of Federal Milk Order Market Statistics, 80 percent of the creamed cottage cheese made in the United States in 1969 was processed from milk regulated under Federal milk orders. Official notice is taken of this publication which was issued by the Dairy Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C.

tional value which producer milk used in cottage cheese has to regulated handlers. The local producer supplies are the only dependable supplies of quality fluid milk within the normal milksheds of the seven subject markets for cottage cheese production. In these markets, any nearby milk of the necessary quality is attached to other regulated fluid milk markets and would be available to handlers only sporadically. With the handling and transportation charges, the cost of this milk to handlers would be at least as high as the adopted Class II price.

Handlers choosing not to use producer milk in making cottage cheese can use reconstituted nonfat dry milk for this purpose. The price per pound of spray process nonfat dry milk in the Chicago area in 1969 averaged 22.99 cents. Assuming that it takes 8.5 pounds of nonfat dry milk to make 100 pounds of fluid skim milk, the cost of nonfat dry milk would have been about \$1.95 per hundredweight of skim milk equivalent.

Under the pricing adopted herein, the Class II price in 1969 would have averaged \$4.62 and the handler butterfat differential would have averaged 7.8 cents. This would have resulted in an average skim milk cost under the order of \$1.96 per hundredweight for producer milk used in cottage cheese. Thus, the ingredient cost for handlers using nonfat dry milk in the production of cottage cheese would have been nearly the same as when using producer milk.

Rather than produce his own cottage cheese, a handler might choose to purchase the finished product from some other Federal order market where a lower price applies to cottage cheese milk. There is no indication, however, that under the adopted pricing such a handler could materially enhance his competitive position relative to handlers using producer milk. The cost of transporting cottage cheese, a relatively bulky and perishable item, from distant areas to outlets in the seven markets would generally negate any apparent price advantage attributable to differences in order prices applicable to cottage cheese milk.

Milk used in yogurt should be priced at the Class II price level rather than at the Class I level as the principal cooperatives proposed. Yogurt is a soft, nonfluid, "spoonable" product. It is not a beverage as are other products defined herein as fluid milk products.

Yogurt has some of the marketing characteristics of cottage cheese, although, unlike cottage cheese, very limited quantities of yogurt are made in the seven markets under consideration. To the extent of this limited production, however, processors generally use regular supplies of inspected milk. Although yogurt can be made from cream and nonfat dry milk, processors indicated that milk is preferred. Since yogurt has a relatively limited shelf life, it is made on a continuing basis, thus requiring a regular supply of milk at all times. As in the case of cottage cheese production, these conditions warrant that producer milk used

in yogurt be priced at a level above the price for milk disposed of through the traditional residual uses for surplus milk.

The new Class II should not include yogurt flavored frozen desserts. Frozen desserts containing milk cultured with the lactic acid producing bacteria used in yogurt are being marketed in such forms as sherbet, mix for the "soft-serve" trade, and chocolate covered frozen yogurt on a stick. These products compete with other frozen desserts and thus should be classified in the same Class III classification adopted herein for such other frozen desserts.

Classifying the several types of cream items, some of which are now in Class I while others are in Class II, in the new Class II will accommodate proponents' desire for a lower price for milk used in cream products and at the same time price at the same level a variety of products that often compete with each other. Half and half, whether sterilized or unsterilized, and light cream are used principally by consumers in coffee. Aerated cream and sterilized and unsterilized whipping cream are used as dessert toppings. Both graded and ungraded sour cream and sour mixtures are used by consumers for the same purpose. The same classification for these cream products will result in uniform pricing to handlers for milk used in products competing in the same trade channels for the same users.

Although the present Class I cream products sold in these markets must be made from inspected milk, which is delivered regularly by producers to distributing plants, there was general agreement by producers that milk sold in the form of such products should no longer be subject to the Class I price. Relative to the total Class I sales of producer milk in these markets, cream products represent approximately 2 percent of the present Class I market. Thus, this classification change will have relatively little effect on the total returns to producers.

In connection with the reclassification of cream products, it is desirable to define a new term—"fluid cream product." "Fluid cream product" would mean cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat. For purposes of the order, this definition is not intended to include frozen cream, plastic cream, or anhydrous milk fat.

With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining if a plant meets the pooling requirements of the order. To accommodate this, certain changes are necessary in those pool plant definitions that make specific reference to the movement of cream.

The orders now provide that any "filled" product containing 6 percent or more nonmilk fat (or oil) shall be a Class II product. With the establishment of a new intermediate price class, it is appropriate that any such filled products that resemble the proposed Class II products made with milk fat likewise be in-

cluded in this new class. The substitution of nonmilk fat for milk fat in a product merely changes the composition of the product and not its use. For competitive reasons, a comparable classification of products made with milk fat and their filled counterparts is necessary.

Certain other milk uses now in the lowest price class should not be included in the new Class II as cooperatives proposed. As previously noted, several cooperatives held that various hard cheeses should be placed in a class apart from cheddar cheese. All hard cheeses, however, and not just cheddar cheese, or cheddar cheese and colby cheese, or all "American" cheeses, as proposed by various cooperatives, should be included in the redesignated Class III classification.

The record does not provide any breakdown on the quantity of milk being used in the seven markets in the individual types of hard cheese. Data for the States of Wisconsin, Indiana, Illinois, Missouri, and Kentucky, as well as national data, would suggest, though, a ratio of 3 pounds of milk used in American cheese (cheddar, colby, granular, or stirred curd, and washed curd) to every 1 pound of milk used in all other hard cheeses. In 1969, an estimated 1.5 billion pounds of milk were used in all hard cheeses in the seven markets combined.

Proponents provided no data that would establish that producer milk used in hard cheeses other than cheddar cheese is of significantly greater value to regulated handlers than milk used in cheddar cheese. Although data for the seven local markets are not available, prices paid to dairy farmers by plants processing American cheese and plants processing other "miscellaneous" types of cheese are compiled on a national basis by the Department's Statistical Reporting Service. In 1969, pay prices at plants processing "miscellaneous" cheese averaged about 8 cents per hundredweight higher than the prices paid at plants processing American cheese.⁴ Thus, it must be concluded that under the pricing herein adopted for Class II and Class III milk there is no basis for differentiating for pricing purposes between milk going into various types of hard cheese.

With respect to several other present Class II products which cooperatives proposed be reclassified upward, the form in which milk is generally used by manufacturers is a major consideration in the classification of milk used in such products. Frozen desserts (including commercial milkshake and ice milk mixes), dietary and infant formulas, custards, puddings, pancake mixes, candy, soups, and other food products are made in varying degrees from concentrated forms of milk. Condensed milk or skim milk,

nonfat dry milk, dry buttermilk, dry whey, butter, cream, plastic cream, or frozen cream, for example, may be used, often interchangeably or in combination, in the processing of such products. Because of processing techniques and product formulations, milk in its whole, fluid form does not lend itself to the processing of these various manufactured products. Thus, a milk plant operator or other food processor using producer milk in such products first would have to concentrate the milk before making the finished product.

When the cost of converting producer milk into a concentrated "intermediate" product is considered, such milk priced at 20 cents per hundredweight over the Minnesota-Wisconsin price would not be competitive with concentrated dairy products from other sources. Such concentrated products, which need not be made from inspected milk for many uses, are obtainable from unregulated plants where no more than the Minnesota-Wisconsin price has been paid for milk. In addition, handlers could use dried products made from producer milk priced under one of the seven subject orders. As under the cooperatives' proposal, milk used in dried products would be priced at the Minnesota-Wisconsin price.

Condensed milk or skim milk, plastic cream, frozen cream, and anhydrous milk fat are "intermediate" products that also should be included in the lowest classification. These products are normally used in making other products, primarily frozen desserts and food products such as candy. Under the classification adopted herein, frozen desserts and food products are Class III uses for milk. Accordingly, producer milk used in the several intermediate products likewise should be priced at the Class III level.

A Class III classification for producer milk used in evaporated milk will permit this use to remain as a competitive outlet for milk surplus to the needs of the Class I market. Evaporated milk made from milk regulated under these seven orders must compete in a national market with evaporated milk processed from other graded or ungraded milk that is often priced at no more than the Minnesota-Wisconsin price. Comparable pricing should prevail under these seven orders.

In proposing a uniform classification and pricing plan for the seven markets, the principal cooperatives emphasized that any new plan adopted should not result in less total returns to producers in the combined seven-market area. Handlers, on the other hand, stressed that their total cost for milk should not be increased.

The effect on producer returns cannot be controlling in deciding on the matter of classification here under consideration. Although the total value of producer milk under the seven orders combined would have remained virtually unchanged in 1969 under the adopted classification and pricing plan, this would not necessarily have been the case if a different group of markets had been involved. Providing for classification and

pricing provisions that are generally uniform among various markets cannot necessarily encompass at the same time the maintenance of the same value of producer milk in each market.

With the differences that now exist in the seven orders in classification and pricing, resolution of these differences would be expected to have some effect on the value of producer milk. Had the revised classification and pricing plan adopted herein been in effect in 1969, the average blend price in the Indiana market would have been increased 7 cents per hundredweight, while in the Paducah market there would have been a decrease of 7 cents. With respect to the other areas, the average blend price would have been 1 cent lower for the Chicago Regional market, 1 cent higher for the Louisville-Lexington-Evansville and Southern Illinois markets, and 2 cents higher for the Central Illinois market. Only in the St. Louis-Ozarks market would there have been no change in producer returns as a result of the proposed classification and price changes.

4. *Miscellaneous classification and accounting changes.* The following findings and conclusions relate to certain miscellaneous classification proposals by handlers and producers and to some of the order changes that are necessary to implement the revised classification plan adopted herein for each of the seven subject orders.

(a) *Other source milk definition.* A common other source milk definition should be adopted for each order.

Because of the revised classification plan, certain changes in the present other source milk definition of each order are necessary. This definition would continue to serve, however, the present function of implementing the identification of various categories of receipts at a regulated plant.

Presently, fluid milk products (which include cream) from any source other than producers, cooperatives acting as a handler for farm bulk tank milk, pool plants, and plant inventory at the beginning of the month are considered as other source milk. Under the revised classification plan, cream no longer would be defined as a fluid milk product. To facilitate the application of other provisions of each order, however, it is desirable that fluid cream products, when in bulk form, continue to be treated in the same manner as fluid milk products for purposes of applying the other source milk definition.

Fluid cream products that are received at a pool plant from any source in consumer-type packages and disposed of, or held in inventory, in the same container in which received should not be considered as other source milk. Such packaged fluid cream products should be treated as "pass-through" products in the same manner as now provided for manufactured milk products, such as butter or creamed cottage cheese, that may be received at a pool plant and then disposed of from the plant without further processing. Receipts of packaged fluid cream products would be considered as other

source milk, however, under circumstances where the receiving handler is unable to account for all disposition of such products or reprocesses such products.

The orders now provide that manufactured products from any source that are reprocessed, converted into, or combined with another product in the plant shall be considered as other source milk. It should be provided, however, that cottage cheese (i.e., the dry curd) which is received at a pool plant and to which cream is then added be treated instead as a pass-through item. Cottage cheese cannot be converted into any product other than creamed or partially creamed cottage cheese, which are Class II products under the adopted classification plan. Thus, receipts of cottage cheese should not be treated as other source milk that is subject to allocation to a handler's lowest utilization.

Other source milk should include any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order. Four of the seven orders now have such a provision concerning the unaccounted for disappearance of milk products. The other source milk definitions in the Chicago Regional, Paducah and Louisville-Lexington-Evansville orders do not specify such disappearance as other source milk.

It is necessary that a handler be required to account for all manufactured milk products, such as nonfat dry milk, that can be converted into Class I products. Otherwise, a handler with inadequate records could gain a competitive advantage over his competitors who properly account for all milk products received. Treating any unexplained disappearance of milk products as other source milk will assist in the uniform application of the regulatory plan to all handlers.

(b) *Accounting for nonfat milk solids added to milk and milk products.* No change should be made in the present method of classifying the skim milk equivalent of nonfat milk solids added to a fluid milk product.

Currently, each of the seven orders provides that a modified fluid milk product shall be classified as Class I in the amount of the weight of an equal volume of an unmodified product of the same nature and butterfat content. The remaining skim milk equivalent of the nonfat milk solids in such product is classified in Class II.

The principal cooperatives proposed that the amount of a modified fluid milk product that is classified as Class I be the actual weight of the modified product rather than the weight of a like unmodified product.

Proponents stated that when verification of the nonfat milk solids used to modify natural milk and skim milk involves laboratory tests of the modified product, the amount of modification is expressed as a percentage of the weight of the modified product. Where labora-

tory analysis is used to determine the total milk solids disposed of in modified products, proponents contended that administrative procedures could be simplified by using the actual product weight factor.

There was no showing of the extent to which laboratory analysis of modified products is used in verification by market administrators in these seven markets. Also, there was no claim that any saving in administrative cost would be possible under the procedure proposed by the cooperatives in those instances where the market administrator determines the amount of solids added to modified products by using production records rather than by laboratory tests of packaged products. Accordingly, it is not clear from this record that the proposed procedure would result in any net saving in administrative cost.

Proponents did not attempt to demonstrate any economic basis for making the slightly greater charge for nonfat milk solids used to modify fluid milk products which would result from their proposal. Their proposed procedure would increase slightly the quantity of a modified product priced in Class I. A gallon of modified skim milk containing 11 percent nonfat milk solids would be classified in Class I on an 8.7 pounds weight factor as compared to the present basis of an 8.63 pounds weight factor. The larger weight factor would add about one-tenth cent (ranging from 0.09 cent under the Chicago Regional order to 0.11 cent under the St. Louis-Ozarks order) to a handler's obligation under the order per gallon of such product sold.

The present method of classifying modified fluid milk products increases total Class I sales only to the extent of the volume of the unmodified product that the added nonfat milk solids replaces. In the absence of evidence that the present procedure is inappropriate, it should be continued. The present procedure is used under Federal orders generally and, therefore, carries out the objective of uniformity in this respect.

Handlers may add nonfat milk solids to several of the proposed Class II products, such as half and half and light cream. To simplify the accounting procedures, each order should provide that in these cases the entire weight of the skim milk equivalent of the solids added be classified in Class II. This procedure differs from that applicable to modified fluid milk products in that no part of the skim milk equivalent of the added solids would be classified in the lowest class. As described in more detail later, a handler will have the opportunity to have nonfat dry milk or condensed milk that is added to, or used to produce, a Class II product allocated directly to his Class II use. Thus, classification of the entire skim milk equivalent in Class II would not adversely affect the handler's pool obligation under this allocation procedure.

(c) *Classification of milk transferred or diverted to other plants.* Certain changes should be made in the provisions of each order that prescribe the classi-

fication of fluid milk products that are transferred or diverted from a pool plant to another plant. Several of the changes become necessary with the adoption of three classes of utilization in place of the present two classes. Other changes are appropriate for purposes of uniformity among orders and clarity in the classification of milk.

Under the adopted classification plan, fluid cream products (cream and mixtures of cream and milk or skim milk containing 9 percent or more butterfat) would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its final use. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant be classified in a manner similar to that now used in classifying transfers of bulk fluid milk products.

Each order now prescribes a procedure for classifying transfers of bulk fluid milk products from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant. To determine such classification, the nonpool plant's utilization must be assigned to its receipts of milk from each source. Some amplification of this procedure is appropriate to set forth clearly the priority for assigning the different types of plant use to the different sources of fluid milk products and bulk fluid cream products received at the nonpool plant.

Under the proposed assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk.

Thus, any Class I route disposition of the nonpool plant in the marketing area of a Federal order, and any transfers of packaged fluid milk products from the nonpool plant to plants fully regulated under such order, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under such order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders. Next, any other Class I disposition of packaged fluid milk products from the nonpool plant would be assigned to any remaining unassigned receipts of packaged fluid milk products, at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred from the nonpool plant to the regulated plant would be assigned next. Such use would be assigned, first,

to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under that order and, second, to any such remaining receipts from plants fully regulated under other orders.

Additional unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of bottling grade milk from dairy farmers and other unregulated nonpool plants.

Under the final assignment step, any Class III utilization, then Class II utilization, and then any remaining Class I utilization, at the nonpool plant would be assigned to any remaining unassigned receipts of fluid milk products and bulk fluid cream products at the nonpool plant from all Federal order plants.

In determining the classification of milk transferred or diverted from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

Each of the seven orders now provides that transfers of fluid milk products from a pool plant to a producer-handler shall be classified as Class I milk. The St. Louis-Ozarks order requires also that such transfers to a producer-handler under any other order likewise shall be Class I. This additional requirement should apply under each of the orders.

Under the Federal order program, producer-handlers, in their capacity as handlers, are exempt from the pricing and pooling provisions of the various orders. In consideration of this exemption, each order requires a Class I classification of all fluid milk products that are transferred from a pool plant to a producer-handler as defined under that particular order. Inasmuch as the producer-handler exemption under each order is predicated on essentially the same basis, a Class I classification of milk transferred from a pool plant regulated under one order to a producer-handler as defined under another order would be in keeping with the general basis for producer-handler exemption.

Bulk fluid cream products transferred from a pool plant to a producer-handler should be assigned to the extent possible to the latter's Class III use, and then Class II use. If the producer-handler does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

As in the case of all other fluid milk products, such transfers of cream are now classified as Class I milk. Such classification tends to assure that producers do not carry for producer-handlers the burden of all reserve supplies for their Class I market. With the removal of cream from the Class I classification, as adopted herein, a mandatory Class I classification of cream transfers to producer-handlers would not be necessary for this purpose.

In addition to the Class I classification of all fluid milk products transferred to a producer-handler, the Chicago Regional order provides for a similar classification of all fluid milk products transferred to an "exempt distributing plant." Also, a similar classification applies under the St. Louis-Ozarks order to all fluid milk products transferred to a plant operated by a "governmental agency." Under each of these two orders, the adopted method for classifying bulk fluid cream products transferred to a producer-handler should apply likewise to transfers of bulk fluid cream products to these two other types of plants.

The classification of milk transferred or diverted from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant should not be contingent upon any distance limitation. Presently, such mileage (or area) limitations apply under the Chicago Regional, Louisville-Lexington-Evansville and St. Louis-Ozarks orders. Until recently, similar limitations applied also under the Southern Illinois and Central Illinois orders. These limitations under the latter two orders were removed by amendatory actions (35 F.R. 12267, 18107) subsequent to the classification hearing on which this decision is based.

The Chicago Regional order provides that fluid milk products transferred in bulk form from a pool plant to a nonpool plant located outside the States of Wisconsin, Minnesota, Iowa, Illinois, Indiana, Michigan, or Ohio shall be classified as Class I milk to the extent of the nonpool plant's Class I disposition, regardless of where such disposition is made. Transfers to nonpool plants located in these States, on the other hand, are classified on a basis that assigns the nonpool plant's Class I utilization to its various sources of receipts in accordance with where the plant disposes of its Class I milk.

Under the Louisville-Lexington-Evansville order, milk transferred or diverted to a nonpool plant located 250 miles or more from the nearer of Louisville, Kentucky, or Evansville, Indiana, is classified as Class I milk regardless of its use at the nonpool plant. Recognition is given under the classification provisions of such order to the nonpool plant's actual utilization in the case of milk transferred to less distant plants.

Classification provisions similar to those for the Louisville-Lexington-Evansville order are contained in the St. Louis-Ozarks order. In this case, the automatic Class I classification applies on transfers and diversions of milk to plants located more than 350 miles from St. Louis.

The conditions prompting the initial adoption of these mileage limitations no longer prevail, thereby making their continued use inappropriate. The use of mileage limitations evolved in large part from the relatively high transportation cost of milk relative to its value for manufacturing and from the administrative cost of verifying the utilization of milk transferred to plants distant from the local market. Under today's conditions

of distribution, milk regularly moves greater distances as a routine matter. Moreover, Federal orders now operate throughout much of the United States. Arrangements for verifying the utilization at distant plants can be made easily through the facilities of the various market administrators' offices.

Also, the mileage limitations often are no longer consistent with the existing supply patterns. Milk is often moved considerable distances from producers' farms to distributing plants. When such milk is not needed for fluid use, it is usually diverted to manufacturing plants located close to the production area. Classifying such milk in Class I because of applicable mileage limitations is not consistent with the obvious manufacturing use of the milk. Removal of such provisions will promote uniformity in classification among the seven markets.

(d) *Classification of end-of-month inventories.* Each of the seven orders should provide that packaged fluid milk products in a handler's inventory at the end of the month be classified as Class I milk. Such inventory should be priced at the current month's Class I price, with no subsequent adjustment because of a change in the Class I price level in the following month. A Class III classification should apply to ending inventory of fluid milk products in bulk form.

This would continue under the Southern Illinois and Central Illinois orders the present practice of classifying ending inventory of packaged fluid milk products in Class I and classifying ending inventory of bulk fluid milk products in the lowest class. These two orders provide, though, that a handler's obligation for Class I inventory shall be adjusted in the following month to the extent that the Class I price level initially applicable to such inventory changes.

The classification of inventory under the other five orders being considered would be changed. Presently, all end-of-month inventories of fluid milk products, whether in bulk or packaged form, are classified in the lowest class.

The principal cooperatives proposed that all seven orders classify all ending inventories of fluid milk products in Class III. They claimed that this procedure would be less complicated for handlers since handlers only occasionally would have any adjustment in their pool obligation as a result of having Class III inventories reclassified the following month in Class I. Proponents stated that with packaged inventories in Class I, as under the Central Illinois and Southern Illinois orders, each handler usually has some adjustment each month in his obligation for Class I inventories. The cooperatives' proposed classification of ending inventories was supported by handlers.

In the interest of establishing uniform classification provisions among the orders, the same procedure for classifying end-of-month inventory should be adopted for each of the seven orders. Either type of inventory classification procedure now being used in the seven markets results over the long run in

the same pool obligation for handlers and the same returns to producers. There are factors to be considered, however, that support extending to the other five markets the procedure now used in the Southern Illinois and Central Illinois markets—but without the provision for monthly price adjustments.

At the close of the monthly accounting period, fluid milk products that have been packaged but not yet delivered to the place of sale may be at any one of several places in a handler's distribution system. Depending on the handler's method of operation, such places could include the cold storage room within his processing plant, trucks parked on or near the plant's premises, distribution points, or trucks in transit to distribution points or places of sale. It would not be unusual for one handler to decide differently from another as to which point in his distribution system packaged fluid milk products are no longer a part of his inventory.

When ending inventory is classified in the lowest class, the classification of packaged fluid milk products can be contingent entirely on what point in his distribution system a handler decides such products are not in inventory. This situation does not arise when ending inventory of packaged fluid milk products is classified as Class I milk, the ultimate utilization of such products.

As noted, the Southern Illinois and Central Illinois orders provide for readjusting a handler's pool obligation on his Class I inventory if the Class I price level changes the following month. Thus, if the Class I price increases over the previous month's price (at which the inventory was first accounted for), the handler is charged the difference between the Class I price for the current month and the Class I price for the preceding month on the quantity of ending inventory classified as Class I milk in the preceding month. If the current Class I price is less than that for the preceding month, the handler receives a corresponding credit.

Discontinuance of this provision will eliminate minor adjustments of handlers' obligations which the industry considers undesirable and will simplify administration of the order. This change will have minimal effect on the overall milk costs for handlers and returns to producers. For the 18-month period of February 1969 through July 1970, the monthly rate of adjustment averaged plus 1.6 cents per hundredweight.

Under the revised classification plan, skim milk and butterfat disposed of in the form of a fluid cream product would be classified as Class II milk. Packaged fluid cream products that are in a handler's inventory at the end of the month should be classified as Class II milk, the ultimate utilization of these products in such form. In the following month, such inventory, as Class II inventory on hand at the beginning of the month, should be allocated directly to the handler's Class II utilization.

Fluid cream products in bulk form that are on hand at the end of the month should be classified in Class III. As in

the case of bulk milk, the final use of cream being held in bulk form is not necessarily apparent from that form. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify any bulk cream inventory in Class III and then apply a reclassification charge should the cream eventually be used in a higher class.

For the first month that the revised classification plan is effective under each of the seven orders, certain transitional provisions relating to inventory should apply. Under the Chicago Regional, Indiana, Louisville-Lexington-Evansville, St. Louis-Ozarks, and Paducah orders, beginning inventories of packaged fluid milk products and packaged cream items will have been priced in the prior month at the lowest class price. As adopted herein, beginning inventories of packaged fluid milk products normally would be allocated directly to a handler's Class I utilization. Beginning inventories of packaged fluid cream products normally would be allocated directly to Class II uses. Such allocation assumes that the products were priced at the corresponding price level in the preceding month. Since this would not be the case for the first month under the revised classification plan, such inventories should be allocated in the first month to Class III in the same manner as inventories of bulk fluid milk products and bulk fluid cream products.

This same allocation procedure for beginning inventories may have equal applicability in other months and should be applied when appropriate. A plant that becomes pooled under the order may not have been subject in the preceding month to any Federal order or to an order providing for the Class I classification of packaged inventories of fluid milk products. In this case, the plant's current receipts of producer milk, rather than its beginning inventories, should be given first priority to the plant's Class I utilization.

The Southern Illinois and Central Illinois orders presently classify ending inventories of packaged fluid cream products in Class I. Thus, in the last month that the present classification plan is effective, handlers under these two orders will have paid the Class I price for these packaged products in ending inventory. The next month, however, such packaged products, as beginning inventory, would be allocated under the revised classification plan to Class II. In this case, handlers under the two orders should receive a credit on such products in the first month that the revised orders are effective. Such credit would be at the difference between the Class I price for the preceding month applicable to these products and the Class II price for the current month. This price adjustment is necessary to assure that handlers will be subject to the same pricing for such products whether the products enter into the month's accounting as beginning inventory or are made from current receipts of producer milk.

(e) *Shrinkage allowances.* The classification of shrinkage under each order should be changed only to the extent necessary to achieve uniformity among the seven orders in the application of certain shrinkage provisions.

A cooperative association proposed that any plant losses experienced by a handler be classified as Class I milk. Currently, a handler is permitted to have a certain amount of shrinkage classified in Class II. In conjunction with the shrinkage proposal, this producer group also proposed that no exception to the Class I classification of fluid milk products disposed of on routes be made for route returns. Presently, the orders permit route returns that are disposed of for animal feed or dumped to be classified in Class II.

The cooperative proposed that in lieu of the Class II shrinkage and route return allowances a handler be given a credit on his pool obligation of 2 cents per hundredweight for all milk, skim milk, and cream handled in bulk form in his plant. To maintain the present relationship in the proration of shrinkage between the receiving and processing operations, the cooperative proposed that a handler be allowed 0.5-cent per hundredweight for receiving and 1.5 cents per hundredweight for processing, or a total of 2 cents if the handler performed both operations.

While urging that the classification provisions of the seven orders be made as uniform as possible, the principal cooperatives proposed that no change be made at this time in the shrinkage provisions of the orders.

Other than to make them uniform in several respects, no basic change should be made at this time in the shrinkage provisions of the seven orders, or in the arrangement for classifying route returns. Although there may be some merit in revising these provisions to a greater extent than is set forth herein, such changes should be based on a thorough exploration of the issue at a hearing after adequate public notice. These conditions were not met at this hearing.

Each of the orders now provides that with respect to a handler's shrinkage of milk that is received at his pool plant directly from producers, up to 2 percent of such receipts may be classified as Class II milk, the lowest utilization. Should the handler transfer some of the producer milk to another pool plant for processing, the Class II shrinkage which the handler may claim on such milk is limited to 0.5 percent of the milk.

This division of shrinkage between the receiving handler and the processing handler also applies under those orders which provide for a cooperative association to be the handler on bulk tank milk which it receives at the farm and delivers to a pool plant. If, in this case, the plant operator purchases such milk on the basis of scale weights, the maximum Class II shrinkage allowance for the plant operator is 1.5 percent of such milk. The cooperative, as the receiving handler, is the responsible handler for any difference between the farm weights and the weight at which the plant operator

purchases the milk. Of this difference, up to 0.5 percent of the milk at farm weights is allowed the cooperative as Class II shrinkage. If the plant operator purchases the milk on the basis of farm weights, however, he is permitted the full 2 percent Class II shrinkage allowance.

With respect to producer milk diverted from a pool plant to a nonpool plant or, under certain of the orders, to another pool plant, either by a plant operator or by a cooperative association, the shrinkage allowances under the present orders are not consistent in all cases with the shrinkage classification outlined above. There is little, if any, reason for applying shrinkage allowances differently under the several orders under comparable handling arrangements. The shrinkage provisions of these orders should be modified to the extent necessary to make them generally uniform with respect to the same handling arrangements.

In this regard, each order should provide that in the case of milk diverted to a nonpool plant or, if permitted, to another pool plant, the diverting handler shall be allowed up to 0.5 percent Class III shrinkage on the milk if it is not purchased on the basis of farm weights by the operator of the plant where the milk is physically received. Where such diversions are to a pool plant, the operator of the plant to which the milk is diverted should be permitted in this case up to 1.5 percent Class III shrinkage. If the operator of the nonpool plant or pool plant purchases such milk on the basis of farm weights, no shrinkage allowance on the milk should be permitted the diverting handler. In the case of the operator of the pool plant where the milk is physically received, such operator should receive the full 2 percent allowance.

(f) *Allocation of receipts to utilization.* In adopting a revised classification plan under each of the seven orders, conforming changes must be made in the provisions that prescribe how a handler's receipts from different sources shall be allocated to his utilization for the purpose of classifying producer milk. Such changes are necessary to provide for the allocation of receipts to three classes of utilization rather than two classes as at present.

In this connection, the adoption of three use classes requires a new consideration of how other source milk shall be allocated to a handler's utilization of milk. Under the present orders, other source milk is allocated in most cases to a handler's surplus uses to the extent possible, regardless of how it actually may have been used. The producers who are relied upon for a regular supply of milk for the local fluid market thus receive the highest possible classification of their milk. Depending on the supply conditions, milk from unregulated supply plants and other Federal order plants is permitted to share in varying degrees with local producer milk in the higher value of the handler's Class I sales.

In conjunction with the revised classification plan, however, handlers using

certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products should be permitted to have such other source milk allocated directly to their Class II uses. Under the plan herein, such other source milk to which direct allocation could apply would be limited to milk products that are not fluid milk products or fluid cream products (such as nonfat dry milk and condensed milk or skim milk).

The national associations of fluid milk and ice cream processors proposed that if a three-class system is adopted handlers should have the option of having other source milk allocated to their Class II utilization rather than allocated to the extent possible to the lowest class. It was their position that the Class II price for producer milk should not be set at a level that is any higher than the cost to handlers of obtaining alternative supplies of milk or milk products for Class II use. These groups contended that with such pricing there is no justification for "down-allocating" to Class III any receipts of other source milk which actually may have been used in Class II.

Handlers indicated further that with optional allocation a handler could choose to use other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk for Class II use. Also, these groups stated that down-allocation of other source milk would imply an intent to provide undue protection of the Class II market for producers. They maintained that such protection is not justified, or apparently intended by producers in view of no producer proposal for a compensatory payment on other source milk used in Class II.

The principal cooperative associations, on the other hand urged in connection with their proposal for three classes that producers have first claim on a handler's Class II use as well as on his Class I use. It was their contention that producer milk not used in Class I should receive the next highest possible classification since the milk was produced for the Class I market and represents the reserve supply for this segment of the dairy industry.

As pointed out earlier in this decision, the establishment of a new intermediate price class is supported by the fact that handlers rely largely on producers for a regular supply of milk for the products herein included in Class II. The major use of other source milk in making these Class II products is the addition of nonfat dry milk to cream products, mainly half and half, and to skim milk being used for the manufacture of cottage cheese. On occasion, when producer supplies are short, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or skim milk may be similarly used. Handlers choosing to use such other source milk in this way should be permitted to have such milk allocated directly to their Class II utilization rather than allocated first to any Class III utilization they may have.

In establishing a new intermediate price class, it is not intended that this outlet for producer milk necessarily be reserved for local producers. This new use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed under the revised classification plan on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use. As was shown previously, this would be so with respect to the alternative use of nonfat dry milk, the type of other source milk most commonly used in the proposed Class II products. Nonfat dry milk has certain advantages for handlers that producer milk cannot provide. It can be added easily to milk or milk products to increase their nonfat milk solids content. Also, its storability permits handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, the higher cost of nonfat dry milk relative to producer milk would tend to limit its use to only those situations where the nonfat dry milk has a distinct processing advantage for handlers.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle in his plant any receipts of fluid other source milk with his receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating that he actually used fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk in essentially the same manner as now provided by the orders.

In keeping with the goal of classifying milk uniformly under the seven orders, certain changes should be made in the

orders to effect a uniform application of the allocation provisions to multiple-plant handlers. Presently, the seven orders differ as to how the allocation procedure shall be carried out for handlers who operate two or more pool plants regulated under the same order.

Each order should provide that for purposes of allocating a multiple-plant handler's receipts to his utilization the operations of all of his pool plants be combined. Thus, in determining the classification of producer milk, the market administrator would combine the utilization in each of the respective classes at all of the handler's pool plants, and, likewise, the respective types of receipts at such plants.

The multiple-plant handler should have the option, however, of requesting that the allocation of receipts to utilization be done on an individual plant basis rather than on a system basis. Such allocation should be permitted, however, only if the handler does not have at any of his pool plants receipts of other source milk from unregulated supply plants and other Federal order plants that would be allocated on a pro rata basis with producer milk to the plant's Class I utilization.

This application of the allocation provisions to a multiple-plant handler is now used under the Chicago order. The Paducah order requires that allocation be on a system basis in all cases. The other five orders provide that allocation be on an individual plant basis unless there are receipts of other source milk at any one of the plants that are to be prorated with producer milk to the plant's Class I utilization. The Indiana and Louisville-Lexington-Evansville orders provide that in this case system allocation shall apply at those steps of the allocation procedure where such other source milk is to be allocated. The St. Louis-Ozarks, Southern Illinois, and Central Illinois orders, on the other hand, require in this case that all allocations of the handler's receipts to utilization be done on the basis of his total system.

Conditions in the individual markets do not require continuance of the several allocation methods now provided in the orders under consideration. At this time when handlers or plants are often subject at different times to the regulatory provisions of different orders, the use of uniform accounting provisions should promote equity and reduce misunderstanding in the milk industry of the regulatory program. There would be little, if any, change in a handler's total obligation under the order or in producer returns from extending the use of the Chicago order's allocation procedure to the other markets involved here.

It should be noted that under the proposed allocation provisions for multiple-plant handlers the present requirement that a handler submit reports of receipts and utilization for each of his pool plants would be continued. Likewise, the amount of shrinkage and overage of skim milk and butterfat experienced by a handler would continue to be determined

separately for each of his pool plants. An exception to this procedure is now permitted under the Chicago order. On the basis of this record, this is not changed. Under that order, reporting and shrinkage or overage determinations, if approved by the market administrator, may be done on a system basis if a handler so requests.

In those cases where allocation of receipts to utilization is done on a system basis, it is necessary that the handler's obligation, as determined by the market administrator, likewise be computed for the handler's total system. When allocation is on an individual plant basis, the orders should provide that a handler's obligation may be determined for each of his plants individually if he so requests.

The revised application of the allocation provisions to multiple-plant handlers requires that the rules for determining the quantity of milk eligible for Class I location adjustment for such handlers be explicit in each order. Certain modifications of the present location adjustment provisions are thus necessary to assure that these rules are clearly set forth. In this connection, the objective of uniformity in classification and pricing among these markets can be furthered by making such rules in each order uniform to the extent possible at this time.

The rules defining the quantities of skim milk and butterfat eligible for location adjustment deal with situations in which Class I milk at a given plant must be assigned to a variety of milk sources, including inventory, other source milk, producer milk received directly at such plant, and milk received by transfer from other pool plants. The assignment of such Class I use to receipts from various sources is necessary in order to determine the amount of producer milk at each plant to which the location adjustment applies.

Six of the seven orders now contain the same general rules for determining the quantity of milk from each source eligible for location adjustment. The seventh order, Chicago Regional, provides a different system of location pricing. Class I transfers by pool plants under the Chicago order are priced at the Zone I Class I price, regardless of the location of the plant from which the transfer is made. The transferee distributing plant is allowed a location adjustment credit based on the location of the transferor plant to the extent that the receipt from such plant does not exceed 110 percent of the Class I use assigned to such receipt. Class I use at the distributing plant, after deducting packaged receipts and receipts of other source milk, is prorated to receipts directly from producers and receipts from other pool plants. Because this system of location credits is unique to the Chicago Regional order and is adapted to marketing practices in that area, no change should be made in these provisions of the Chicago order on the basis of this record. Continuing such provisions will not have serious effect on uniformity of classification and accounting of milk.

The remaining six orders provide that location adjustment credit be assigned to receipts from transferor plants in sequence according to the location of the transferor plant, starting with the plant where the highest Class I price is applicable. Such assignment is after direct receipts from producers and other source milk are assigned to Class I use. (For the purpose of computing location adjustments, receipts of farm bulk tank milk from producers for whom a cooperative association acts as the handler are treated the same as direct producer receipts. In this discussion the term "direct producer receipts" includes such cooperatively handled milk.)

Two of the orders provide that the initial assignment of Class I milk to direct producer receipts apply to 100 percent of such receipts. Four of the orders provide for assignment of location adjustment credit to transferor plants after taking into account a 5-percent reserve in Class II at the transferee plant. The reserve is taken into account in two different ways. It is expressed in two orders (Paducah and St. Louis-Ozarks) as 5 percent of direct producer receipts and in the two other orders (Central Illinois and Southern Illinois) as 5 percent of Class I disposition. Since substantially the same reserve is provided in these four orders, it should be expressed uniformly in each of the orders. As adopted herein, the reserve would be based on the amount of producer milk received. In the two orders (Indiana and Louisville-Lexington-Evansville) where no reserve is provided now, no change should be made in this respect on the basis of this record.

The St. Louis-Ozarks order provides a detailed procedure for assigning other source milk in a handler's system to Class I utilization at each plant before calculating the quantity of skim milk and butterfat eligible for location adjustment. The other orders do not. Since it is necessary to make such assignments, rules for making the assignments should be provided in each of the orders, and they should be uniform.

The rules for determining the quantity of milk that is eligible at each plant for location adjustment are more extensive for a multiple-plant system than for an individual plant. For that reason, the provisions applicable when skim milk and butterfat are allocated on an individual plant basis are set forth separately from those applicable to a plant system.

After subtracting Class I utilization at each plant which may be assigned to beginning inventory and receipts of other source milk, it is then necessary to determine the quantities of milk received directly from producers and from each other pool plant which are eligible for location adjustment. Since the eligibility for location adjustment of Class I transfers to another plant is determined at the transferee plant, the first step in determining the quantity eligible for location adjustment at any plant is to separate any Class I utilization based on transfers to another plant.

The first step in determining the quantity to which the location adjustment

applies in the case of the transferee plant which reports as a single plant is to exclude from total Class I utilization any Class I transfers to other pool plants which are not assigned location adjustment credit at the transferee plant. This is to avoid assigning location adjustments to receipts at the plant on the basis of transfers from the plant which are not eligible for such adjustment. Then, subtract any beginning inventory and other source milk allocated to Class I. Next, subtract 95 percent (100 percent in Indiana and Louisville-Lexington-Evansville orders) of the receipts at such plant from producers and from cooperative associations acting as handlers on farm bulk tank deliveries. The remaining Class I utilization is the quantity eligible for assignment to receipts of fluid milk products from other pool plants. Such eligible quantity shall be assigned to fluid milk products received by transfer during the month from each pool plant in sequence starting with receipts from the plant having the highest Class I price. The quantity so assigned eligibility for location adjustment, however, shall apply only to the extent that the transfer was classified in Class I at the transferor plant.

The quantity of Class I disposition from the plant (other than transfers to pool plants) which is allocated to producer milk plus the quantity eligible for location adjustment based on transfers which are classified as Class I milk is the quantity of producer milk on which a handler location adjustment applies.

In the multiple-plant system, other source milk is allocated according to the total utilization in all plants of the handler's system. Thus, to determine the quantity of producer milk eligible for location adjustment at each plant in a system, it is necessary to first identify the Class I utilization and utilization in other classes which is to be assigned to other source milk received at each plant. This is done to determine the net amount of milk received from producers at each location which remains eligible for location adjustments.

The first assignment step for the multiple-plant system is to assign Class II and Class III utilization at each plant (exclusive of transfers to other pool plants of the handler) to other source milk receipts at such plant to the extent of combined classification in such classes. This will identify the other source milk at each plant which is not to be assigned Class I utilization at the particular plant.

If other source milk of the same category is received at two or more plants, such other source milk shall be assigned first to the combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices. This sequence of assignment complements the "nearby rule" for assigning location adjustments to producer milk.

It is possible that some other source milk allocated to the handler's Class II and Class III utilization will remain after

the above assignment. This will happen when other source milk is received at a plant having little or no Class II and Class III utilization which transfers milk to a plant where the proportion of Class II and Class III use is relatively large. Such remaining other source milk (and inventory) allocated to Class II and Class III should be assigned first to remaining Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices.

After the above assignment of beginning inventory and other source milk to combined Class II and Class III utilization at each plant, remaining quantities of such receipts at each plant shall be assigned to Class I milk at that plant. After subtracting the assigned inventory and other source milk in Class I at each plant, the remaining Class I milk is eligible for assignment of location adjustments.

From such remaining pounds of Class I skim milk and butterfat, respectively, at each plant (excluding all transfers to the handler's other pool plants and Class I transfers to pool plants of other handlers which are not assigned location adjustment at the transferee plant) subtract 95 percent (100 percent in Indiana and Louisville-Lexington-Evansville orders) of the skim milk and butterfat in direct producer receipts. The remaining Class I milk is eligible for assignment of location adjustments to fluid milk products received by transfer from other pool plants. Such eligible quantity shall be assigned to receipts from other pool plants in sequence beginning with receipts from the plant having the highest Class I price.

The quantity of skim milk and butterfat eligible for location adjustment at each plant in the system shall be the Class I disposition from the plant (other than transfers to pool plants) which is allocated to producer milk plus Class I transfers to other pool plants which are determined at the transferee plant to be eligible for location adjustment.

Since five of these six orders provide for diversion of producer milk between pool plants, it is necessary to consider such diverted milk in computing the quantity of milk eligible for location adjustment at each plant under such orders. The five orders have different rules for pricing such diverted milk. Two (Central Illinois and Southern Illinois) price diverted milk at the pool plant to which diverted, while the Louisville-Lexington-Evansville order prices all diverted milk at the plant from which diverted. The St. Louis-Ozarks and Indiana orders price diverted milk at the plant to which diverted if the diverte plant is located in specified areas and at the plant from which diverted in other cases.

The rules adopted herein would treat diverted milk the same as a receipt from producers at the location where it is priced at the diverte plant. It is treated in the computation as producer milk at such plant. When it is priced at the plant from which diverted, it is treated as a re-

ceipt of producer milk at the plant from which diverted and as a transfer from such plant to the diverte plant.

(g) *Obligations relative to other source milk.* As indicated earlier in this decision, it is proposed herein that each of the orders be clarified with respect to the classification of milk that is transferred or diverted from a pool plant to a nonpool plant not regulated under any order, particularly when the nonpool plant also has receipts of milk from plants regulated under other Federal orders. In conjunction with these changes, other revisions should be made to assure that handlers are not assessed a "double charge" on Class I other source milk from such nonpool plants for which a Class I charge already has been assessed under some Federal order. Under the present orders, such a charge could result in the following manner.

Producer milk could be transferred in bulk from a pool plant under the Indiana order to an unregulated nonpool plant and be assigned to the nonpool plant's Class I utilization. In determining his pool obligation, the pool plant operator would be charged for this Class I utilization of milk at the Class I price.

During the same month, bulk milk could be transferred from the nonpool plant to a pool plant under the Southern Illinois order and be allocated to such pool plant's Class I utilization. In this case, the operator of the pool plant would be charged under the Southern Illinois order the difference between the order's Class I price and weighted average price for this receipt of "other source" Class I milk.

Thus, to the extent of the Class I milk that was moved to the nonpool plant from the Indiana market as Class I milk, the Class I other source milk received at the Southern Illinois pool plant from the nonpool plant is, in effect, priced twice as Class I milk under the Federal order system.

More and more, plants are tending to specialize in the processing of certain products, or in the packaging of products in particular types of containers. It is not uncommon for milk to be transferred from a pool plant to an unregulated nonpool plant for special processing and the finished products to be moved back into the regulated market. When the milk is initially priced at the Class I price, the market price structure is in no way undermined if this milk, or its equivalent, is disposed of by the nonpool plant in the regulated market.

The orders therefore should provide that the operator of the Southern Illinois plant, in this example, will have no obligation to the pool on such other source Class I milk. This is achieved through a revision of the allocation provisions and the procedure for computing the pool obligation of a pool plant operator. Receipts of packaged fluid milk products at a pool plant from an unregulated supply plant would be allocated to the pool plant's Class I utilization to the extent that an equivalent amount of skim milk or butterfat disposed of to the unregulated plant by handlers fully

regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order. This allocation would be made prior to any other allocation of receipts to the plant's Class I utilization, and no order obligation would apply to the milk so allocated to Class I. In the case of fluid milk products received from an unregulated supply plant in bulk form, the provisions setting forth a handler's pool obligation would specify that no payment would apply to any of such milk allocated to Class I if, as just described for packaged milk, an equivalent amount of milk received at the unregulated plant had been priced as Class I milk under some order.

In this same connection, the provisions in each order prescribing the obligation of a partially regulated distributing plant should be changed. When such plant's obligation is computed as though it were a pool plant, proper recognition must be given to any transfers from the plant to a regulated plant that are considered to already have been priced as Class I milk under some Federal order. Also, in computing such plant's pool obligation on route sales in a Federal order marketing area, recognition should be given to any receipt of milk at such plant from another unregulated plant if an equivalent amount of milk received at the latter plant already has been priced as Class I milk under an order.

Each order now imposes a handler assessment for administering the order on all other source Class I milk except that received in fluid form from an other order plant. This may include milk that already has been priced as Class I milk under some Federal order as described above. With the removal of a "double" Class I charge on such milk, each order should be changed to likewise remove any assessment on such milk for administrative expenses. It is presumed that such milk was subject to a similar charge under the order that initially priced the milk.

The orders should be changed also with respect to the application of location adjustments to other source Class I milk. As just described, each of the orders provides that a pool plant operator's obligation to the producer-settlement fund shall include a payment for fluid milk products received from an unregulated supply plant if they are allocated to Class I. The handler's payment is determined by charging him at the Class I price for the Class I other source milk and giving him a credit on the milk at the weighted average price (uniform price in the case of the Chicago Regional order). Both the Class I and weighted average prices are adjusted for the location of the unregulated supply plant. The adjustment of the weighted average price, though, is so limited as to be not less than the lowest class price. No such limitation is applied currently to the Class I price adjustment.

In his testimony on how to implement certain classification proposals, a witness for a cooperative association indi-

PROPOSED RULE MAKING

cated that such a limitation on the Class I price adjustment should be provided. Although the producers' proposals are not being implemented in the manner envisioned by this witness, the problem raised concerning the applicable location adjustment nevertheless should be dealt with.

Providing that any adjusted Class I price applicable to other source milk be not less than the Class III price is appropriate under each order. Otherwise, under certain conditions a handler could receive payment from the producer-settlement fund on Class I milk obtained from an unregulated supply plant. Such payment could result when the location differential for the distant plant is greater than the difference between the Class I and Class III prices. In this circumstance, producers under the order, in effect, would be providing the handler with a credit that reduces his cost for the distant milk below its value for manufacturing use at the point of purchase. From the standpoint of marketing efficiency, the handler should not be provided an incentive, which would be at the expense of local producers, to import such distant milk into the local market. It is unreasonable to expect that such a handler credit should apply on the other source milk.

A similar situation now exists with respect to the obligation of the operator of a partially regulated distributing plant or an other order plant. In certain cases, the handler's obligation includes a payment to the producer-settlement fund at the difference between the Class I price applicable at his plant and either the weighted average price or the Class III price. For the same reasons, each order should provide, in computing the obligation of such a handler also, that the Class I price, as adjusted for location, shall not be less than the Class III price.

(h) *Reports.* The proposed changes in the classification of milk are not expected to require any major change in the amount of information to be submitted by handlers in their monthly reports of receipts and utilization. The reporting provisions of each order must be changed, however, to reflect the new categories of information that each market administrator will need in administering an order. These changes stem largely from the proposed reclassification of cream and the revised accounting methods necessary for implementing a three-class classification scheme.

5. *Changing the butterfat differentials.* A single butterfat differential should apply under each of the seven orders to adjust all class prices and the uniform price to actual butterfat test. This differential should be the Chicago butter price multiplied by 0.115, rounded to the nearest one-tenth cent.

Presently, the Class I butterfat differential under these orders is the Chicago butter price for the preceding month multiplied by 0.120. The Class II butterfat differential is the Chicago butter price for the current month times the factor listed for the respective market: Chicago Regional and Louisville-Lexing-

ton-Evansville, 0.120; Central Illinois, Southern Illinois, and St. Louis-Ozarks, 0.115; Indiana, 0.113; and Paducah, 0.115 during the months of August-March and 0.110 during the months of April-July.

The "butter price" used to compute the butterfat differentials for Class I and Class II milk is the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the U.S. Department of Agriculture. This butter price would continue to be used under the revised orders.

The butterfat differential applicable to the uniform price to producers under each of the seven orders except Paducah is derived from the weighted average of the values of Class I and Class II butterfat. It is computed each month by multiplying the total pounds of butterfat in the producer milk allocated to each class by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of butterfat in producer milk, and rounding the result to the nearest one-tenth cent. The butterfat differential to producers under the Paducah order is determined from a fixed schedule of rates in the order which are related to the Chicago butter price, i.e., for each 5-cent change in the butter price, the butterfat differential changes one-half cent per point of butterfat.

The principal cooperative associations proposed that all class and uniform prices be subject to adjustment by a single butterfat differential based upon the Chicago butter price times a factor of 0.115. Handler opposition to the proposal was limited largely to the proposed decrease in the Class I butterfat differential that would result.

Lowering the Class I butterfat differential factor from 0.120 to 0.115 will accommodate producers' request for a readjustment of the values of skim milk and butterfat in Class I milk at a time of declining use of butterfat in fluid milk products. In 1960, the average butterfat test of fluid milk products (including cream items) in 63 Federal order markets was 3.76 percent. In 1969, the average butterfat test for such products in 60 markets was 3.32 percent. Comparable data for the seven subject markets as they are presently constituted are not available. On the basis of information compiled for such of the area now regulated by the seven orders, however, there is every indication that the use of butterfat in Class I in each of the seven markets is following the national trend.²

It is estimated that under the adopted classification plan the average butterfat test of Class I products in the seven markets would have ranged from 2.7 percent to 3.2 percent in 1969. On this basis,

² Official notice is taken of the annual summaries for 1960 and 1969 of Federal Milk Order Market Statistics which were issued by the Dairy Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C.

the effect of changing the Class I butterfat differential factor from 0.120 to 0.115 would be to increase the average Class I price at test by less than 3 cents per hundredweight. The effect upon the average handler's cost for skim milk would be an increase of 10.5 cents per hundredweight.

Using a single factor of 0.115 for computing the Class II and Class III butterfat differentials will result in a uniform adjustment of class prices of butterfat content among the markets under consideration. Continuation of the several butterfat differential factors now in use would offset to some extent the benefits to be gained through the adoption of a uniform classification plan and identical Class II and Class III prices for the seven orders. For example, if skim milk used to produce cottage cheese is to be priced uniformly among these markets, the same butterfat differential must apply under each order to such skim milk.

The Class I, Class II, and Class III butterfat differentials for the current month should be based upon butter prices for the current month. This requires that the butterfat differentials be announced after the end of the month. This represents a change only for the Class I differential which presently is based on butter prices prevailing during the preceding month and announced by the fifth or sixth day of the current month.

With the use of the same butterfat differential factor for each class, as adopted herein, there appears to be no need for announcing more than one butterfat differential, or for doing so before the end of the month in which it applies. The average butter price changes very little from month to month, and changes that do occur result in relatively limited changes in the butterfat differential. In 1969, the monthly butterfat differential would have changed from that applicable in the preceding month five times—twice downward and three times upward. Such changes would have averaged 0.2 cent, with a maximum change of 0.3 cent. Each change in the price of butter is readily seen by following the daily quotations for butter. In the absence of regulation, such information would be the best available for determining trends in butter prices and should be adequate for this purpose under regulation.

As previously indicated, the butterfat differential to producers in six of the seven markets reflects the weighted value of butterfat in the class uses. Since the same butterfat differential will now be used for all classes, the butterfat differential for adjusting the uniform price should be the same differential used for adjusting class prices.

It is recognized that the basic formula price of these seven orders is determined by adjusting the average Minnesota-Wisconsin price at test to a 3.5 percent butterfat basis by using a factor of 0.120 times the average Chicago butter price. The appropriateness of such factor for this purpose was not considered at the hearing and no consideration is given in this decision to changing this factor for

such purpose. Moreover, since this method of determining the basic formula price is now used under all Federal milk orders throughout the country, it would appear that any change in this butterfat differential factor should be considered simultaneously in all orders.

6. *Advance announcement of prices for surplus milk.* The proposals by handlers to announce order prices for surplus milk at the beginning of the month rather than at the end of the month in which the prices apply, or to use bracketed pricing, should not be adopted.

Under the present two-class orders, the Class II price is announced by either the fifth or the sixth day of each month. This price applies to producer milk delivered to handlers during the preceding month. The present Class II prices are based on prices paid to farmers in Minnesota and Wisconsin for manufacturing grade milk. The average Minnesota-Wisconsin price for a particular month is announced by the Department shortly after the end of such month. The current procedure for announcing the Class II price after the end of the month thus permits such price to reflect the corresponding manufacturing milk pay prices for the same month.

The national associations of fluid milk and ice cream processors proposed that the class prices to be applicable in a particular month to surplus milk be announced at least by the fifth day of such month, and preferably before the beginning of the month. Such prices necessarily would reflect the prices paid for manufacturing grade milk in the preceding month.

Another group of handlers proposed that the Class II price for the current month be based on the Class III price for the preceding month. The group indicated, though, that if the Class II price is based instead on the current basic formula price the Class II price should increase or decrease only in 12-cent increments.

Handlers maintained that under the present announcement procedure they are often disadvantaged by not knowing the cost of producer milk for manufacturing use until after the end of the month in which the milk is processed. They claimed that when there is a significant increase in the order price the delayed notice of the increase prevents them from making corresponding adjustments in their resale prices on a timely basis.

The proposal as it concerned the announcement of the price for the proposed Class III classification was opposed by the principal cooperatives. They claimed that for handlers manufacturing the principal surplus products the Class III price should correspond as closely as possible with the prices being paid for manufacturing grade milk in the same month.

For the regulated handler processing producer milk into butter, nonfat dry milk and cheddar cheese, advance announcement of the applicable class price could place him at a competitive disadvantage on his sales of these manufactured products. The pay prices for

manufacturing grade milk in Minnesota and Wisconsin are closely related to the market values of cheddar cheese, nonfat dry milk and butter, the principal uses for such milk. These product prices are established on a regular basis in a market that is national in scope. The manufacturers of ungraded milk are fully aware of the movements of these products prices and adjust their pay prices for milk in response to changes in the prices for the finished products. Regulated handlers who are processing these particular products must compete in the same national market in which the processors of manufacturing grade milk are competing.

Substantial quantities of milk are disposed of by regulated handlers in the seven markets in the form of butter, nonfat dry milk and cheese. In 1969, over 2 billion pounds of milk, or 57 percent of the total Class II use, were so disposed of by handlers in the Chicago Regional market. Southern Illinois handlers used 56 percent, or nearly 236 million pounds, of that market's total Class II milk that year in manufacturing these products. Although lesser quantities of milk were used in such products in the other five markets, such uses still represented 25 percent or more of the total Class II use for each market. Thus, handlers in the seven markets have a very definite interest in the relationship of the applicable class price with prices being paid currently for manufacturing grade milk.

Accordingly, the prices paid by regulated handlers for Class III milk should correspond very closely with the pay prices for manufacturing grade milk if these handlers are to be competitive in the sale of the principal surplus products. Basing the Class III price for a particular month on the prices paid for manufacturing grade milk in the preceding month would not result in the price coordination necessary for those regulated handlers heavily engaged in the production of cheddar cheese, nonfat dry milk or butter.

The same considerations are involved in the case of an advance announcement of prices for milk used in the proposed Class II products, or in the case of bracketed pricing for such milk. The influence of the manufacturing milk price level on the competitive relationship of producer milk for Class II uses is similar to that for producer milk used in the proposed Class III products. Therefore, the prices for Class II milk should be announced on the same basis as the prices for Class III milk.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth

herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

A handler presented a motion at the hearing that proposals for establishing a new intermediate price class (Class II) be rejected and denied. The motion was presented for inclusion in the hearing record; a ruling by the presiding officer was not requested.

The motion, as restated in the handler's brief is as follows: "That the proposals for such intermediate classification should be rejected and denied, for the reasons that said proposals and the related Order provisions proposed would result in discriminatory regulation, capricious regulation, arbitrary regulation, special legislation and class legislation; would constitute the practice of classification among parties and the selection of regulated parties on an unnatural and unreasonable basis; and would, therefore, be unlawful if adopted."

The statutory authority for Federal milk orders specifies that an order shall classify milk purchased by regulated handlers from producers or associations of producers in accordance with the form in which or the purpose for which the milk is used. Such authority does not limit the number of use classes that may be established. The evidence of this record supports the adoption of three classes of utilization for producer milk under the seven subject orders.

As previously found, producers would represent in most circumstances the most economical source of milk for use in the intermediate-priced (Class II) milk uses. Nevertheless, handlers would not be precluded under the terms of each order from obtaining from alternative sources nonfluid other source milk for Class II use. As adopted herein, such alternative supplies could be allocated directly to such uses and no pool obligation would apply to such other source milk.

Under these circumstances, there is no basis for rejecting and denying the proposal by producers for three classes of utilization. The motion to do so is denied.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act

are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the aforesaid marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. Section 1030.7 is revised as follows:

§ 1030.7 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package) or reconstituted: Milk, skim milk, lowfat milk, milk drinks, eggnog, buttermilk, filled milk, and milkshake and icemilk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1030.42 or § 1030.43(a) (1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal

volume of an unmodified product of the same nature and butterfat content.

2. Section 1030.8 is revised as follows:

§ 1030.8 Route disposition.

"Route disposition or disposed of on routes" means a delivery (including disposition from a retail plant store) of any fluid milk product classified as Class I pursuant to § 1030.41(a) to a retail or wholesale outlet other than a milk plant. Disposition of a plant through a vendor or through a distribution point shall be considered a route delivery at the location of the wholesale or retail outlet to which delivery is made.

3. In § 1030.11, paragraphs (a) (1) and (b) (1) (iii) are revised as follows:

§ 1030.11 Pool plant.

(a)

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted under § 1030.16, and milk received from a handler pursuant to § 1030.13(h), but excluding receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II or Class III uses from other pool distributing plants, and receipts from unregulated supply plants and other order plants which are assigned pursuant to § 1030.47(a) (7) (i) (a) and (ii) and the corresponding step of § 1030.47(b).

(b)

(1)

(iii) Partially regulated distributing plants and assigned to Class I milk disposed of in the marketing area from such plants pursuant to § 1030.45(d);

4. In § 1030.13(h), subparagraph (2) is revised as follows:

§ 1030.13 Handler.

(h)

(2) All of the producer milk on which he is the handler pursuant to this paragraph shall be considered a transfer from such handler's pool distributing plant to another pool distributing plant for the purposes of classification pursuant to §§ 1030.40 through 1030.48;

5. In § 1030.16(a), subparagraph (2) is revised as follows:

§ 1030.16 Producer milk.

(a)

(2) That milk received by diversion from other order plants which is assigned pursuant to § 1030.47(a) (7) (ii) and the corresponding step of § 1030.47(b).

6. Section 1030.17 is revised as follows:

§ 1030.17 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source other than producers, cooperative associations acting as a handler pursuant to § 1030.13 (e), pool plants, and inventory at the beginning of the month;

(b) Products (other than fluid milk products, bulk fluid cream products, and cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

7. A new § 1030.19a is added as follows:

§ 1030.19a Fluid cream product.

"Fluid cream product" means cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat.

8. In § 1030.22, paragraphs (j), (k), (l), and (m) are revised as follows:

§ 1030.22 Duties.

(j) Publicly announce on or before: (1) The fifth day of each month, the Class I price for the current month pursuant to § 1030.51(a);

(2) The fifth day of each month, the Class II and Class III prices pursuant to § 1030.51 (b) and (c) and the butterfat differential pursuant to § 1030.52, all for the preceding month; and

(3) The 14th day after the end of each month, the uniform price pursuant to § 1030.71;

(k) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1030.47(a) (1) and the corresponding step of § 1030.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1030.47 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in verification of such report;

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any

change in such allocation arising from the verification of such report; and

9. In § 1030.30(a), subparagraphs (3) and (5) are revised as follows:

§ 1030.30 Reports of receipts and utilization.

(3) Fluid milk products and bulk fluid cream products received from other pool plants (or pool plants of other handlers, if applicable);

(5) Inventories at the beginning and the end of the month of the following products, showing separately such inventories in bulk form and in packaged form:

(i) Fluid milk products; and
(ii) Fluid cream products except those received in packaged form from another plant;

10. Sections 1030.40 through 1030.46 are revoked and new §§ 1030.40 through 1030.48 are substituted therefor as follows:

§ 1030.40 Classification of all skim milk and butterfat.

All skim milk and butterfat to be reported by a handler pursuant to § 1030.30 and 1030.31 shall be classified each month in accordance with §§ 1030.41 through 1030.48. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1030.41 Class I milk.

Except as provided in §§ 1030.43, 1030.45, and 1030.48, Class I milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid milk product;

(b) In inventory at the end of the month of packaged fluid milk products; and

(c) Not specifically accounted for as Class II or Class III milk.

§ 1030.42 Class II milk.

Except as provided in §§ 1030.43, 1030.45, and 1030.48, Class II milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid cream product;

(b) Used to produce:
(1) Yogurt, cottage cheese, creamed or partially creamed cottage cheese, sour cream, and any sour mixture of cream and milk or skim milk containing 9 percent or more butterfat; and

(2) Any product containing 6 percent or more nonmilk fat (or oil) that resembles any product specified in paragraphs (a) and (b) (1) of this section; and

(c) In inventory at the end of the month of packaged fluid cream products,

§ 1030.43 Class III milk.

Except as provided in §§ 1030.45 and 1030.48, Class III milk shall be all skim milk and butterfat:

(a) Used to produce:

(1) Cheese (other than cottage cheese and creamed or partially creamed cottage cheese);

(2) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(3) Any milk product in dry form;

(4) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(5) Custards, puddings, and pancake mixes;

(6) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(7) Evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(8) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in § 1030.42(b) (2); and

(9) Any product that is not a fluid milk product and that is not specified in subparagraphs (1) through (8) of this paragraph or in § 1030.42;

(b) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and at which there is no disposition of fluid milk products other than those received in consumer-type packages;

(c) In inventory at the end of the month of bulk fluid milk products and bulk fluid cream products;

(d) In fluid milk products and products specified in § 1030.42 that are disposed of by a handler for animal feed;

(e) In fluid milk products and products specified in § 1030.42 that are dumped by a handler if the marketing administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(f) If skim milk represented by the nonfat milk solids added to a fluid milk product that is in excess of the quantity of such skim milk included within the fluid milk product definition pursuant to § 1030.7; and

(g) In shrinkage that is:
(1) Assigned pursuant to § 1030.44(a) to the receipts specified in § 1030.44(a) (2); and
(2) Specified in § 1030.44 (b) and (c).

§ 1030.44 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to §§ 1030.30 and 1030.31, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant (or at all of the handler's pool plants combined if a single report is

filed pursuant to § 1030.30), which shall be assigned pro rata to:

(1) The net quantity of skim milk and butterfat, respectively, in the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) The quantity of skim milk and butterfat, respectively, in receipts of other source milk, excluding any such receipts used in the computations pursuant to paragraph (b) (5) and (6) of this section or in the form of packaged fluid milk products;

(b) The quantity of skim milk and butterfat, respectively, that was assigned pursuant to paragraph (a) of this section to the receipts specified in subparagraph (1) of such paragraph which is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk described in § 1030.16 (a) and (a-1);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in producer milk described in § 1030.16(b), except that if the plant operator receiving such milk purchases the milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to a nonpool plant, except that if the operator of the nonpool plant purchases such milk on the basis of farm weights, no shrinkage shall be allowed;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants (or pool plants of other handlers, if applicable);

(5) Plus 1.5 percent of the skim milk and butterfat respectively, in bulk fluid milk products received from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other pool plants (or pool plants of other handlers, if applicable) and to nonpool plants; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1030.13 (d) or (e), but not to exceed 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of farm weights, no shrinkage shall be allowed.

§ 1030.45 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid

cream product from a pool plant to the pool plant of another handler (or to any pool plant if allocations pursuant to § 1030.47 are on an individual plant basis) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee plant after the computations pursuant to § 1030.47(a) (11) and the corresponding step of § 1030.47(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilizations available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of §§ 1030.41 through 1030.43.

(c) *Transfers to "producer-handlers and transfers and diversions to exempt distributing plants.* Skim milk or but-

terfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's or diverte's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant shall be classified as Class I milk, subject to the following conditions:

(1) If the transferor or divortor handler so requests and the conditions described in subdivisions (i) and (ii) of this subparagraph are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in subparagraphs (2) through (7) of this paragraph:

(i) The transferor or divortor handler claims such classification in his report of receipts and utilization filed pursuant to § 1030.30 for the month within which such transaction occurred; and

(ii) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(2) Class I route disposition of the nonpool plant in the marketing area of each Federal milk order and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated under such order shall be assigned to the extent possible:

(i) First to receipts of packaged fluid milk products at such nonpool plant from pool plants; and

(ii) Any remaining such route disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(3) Class I disposition from the nonpool plant of packaged fluid milk products other than that described in subparagraph (2) of this paragraph shall be assigned pro rata to any receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants that remain unassigned after the assignment pursuant to subparagraph (2) of this paragraph;

(4) Class I disposition of packaged fluid milk products described in sub-

paragraph (2) of this paragraph that was not assigned pursuant to such subparagraph and transfers of bulk fluid milk products from the nonpool plant to pool plants and other order plants, to the extent that such transfers and any remaining transfers of packaged fluid milk products to each such pool plant and other order plant exceed receipts of fluid milk products from such plant and that such excess is allocated to Class I at the transferee plant, shall be assigned to the extent possible:

(1) First to receipts of fluid milk products at such nonpool plant from pool plants that remain unassigned after the assignments pursuant to subparagraphs (2) and (3) of this paragraph; and

(ii) Any remaining such Class I disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(5) Any remaining unassigned Class I utilization at the nonpool plant shall be assigned to the extent possible:

(i) First to such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of bottling grade milk for such nonpool plant; and

(ii) Any remaining unassigned Class I utilization shall be assigned to the nonpool plant's receipts of bottling grade milk from plants not fully regulated under any Federal milk order;

(6) Any remaining unassigned receipts of fluid milk products and bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned pro rata to such remaining unassigned receipts from each source in sequence to any Class III utilization, then any Class II utilization and then any remaining Class I utilization at the nonpool plant; and

(7) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1030.16 Classification of producer milk.

Each month the market administrator shall determine the classification of producer milk in the following manner:

(a) Correct for mathematical and other obvious errors all reports filed pursuant to §§ 1030.30 and 1030.31 and compute separately for each pool plant (or for all of a handler's pool plants combined if a single report is filed pursuant to § 1030.30) and for each cooperative association with respect to milk for which it is the handler pursuant to § 1030.13 (d) or (e) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1030.40 through 1030.45 and 1030.48. For purposes of this paragraph and § 1030.47,

fluid cream products that are received from another plant in packaged form and disposed of, or held in inventory, in the same container in which received shall not be included in a handler's receipts, inventory, or disposition unless such products become other source milk pursuant to § 1030.17 (b) or (c);

(b) For each handler described in § 1030.13(a), allocate in accordance with § 1030.47 such handler's receipts of skim milk and butterfat to his utilization of skim milk and butterfat in each class, subject to the following conditions:

(1) If the handler is a cooperative association, such receipts and utilization shall not include any milk for which it is the handler pursuant to § 1030.13 (d) or (e); and

(2) If the handler operates two or more pool plants, such receipts and utilization shall be for all of his pool plants combined unless the handler requests in his reports filed pursuant to § 1030.30 that the classification of producer milk be determined separately for each of his pool plants and he has no skim milk or butterfat that would be allocated under § 1030.47(a) (10) or (11) or the corresponding steps of § 1030.47 (b); and

(c) The quantity of producer milk in each class shall be the following:

(1) For each cooperative association with respect to milk for which it is the handler pursuant to § 1030.13 (d) or (e), the combined pounds of skim milk and butterfat in each class that were determined pursuant to paragraph (a) of this section; and

(2) For each handler described in § 1030.13(a), the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1030.47(a) (13) and the corresponding step of § 1030.47(b).

§ 1030.47 Allocation of receipts to utilization.

For the purpose of § 1030.46, a handler's receipts shall be allocated to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1030.43(g) (2);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(ii) Receipts of exempt milk;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to subparagraph (6) (vi) of this paragraph, as follows:

(i) Form Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the immediately preceding month under any Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products that are in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1030.42;

(6) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) that was not subtracted pursuant to subparagraph (5) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) for which bottling grade certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant, that were not subtracted pursuant to subparagraph (2) (i) of this paragraph;

(vi) Receipts of reconstituted skim milk in filled milk from another order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant; and

(vii) Receipts of fluid milk products (other than exempt milk) from a government which has elected nonproducer status for the month pursuant to § 1030.9;

(7) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) (i) and (6) (v) of this paragraph;

(a) For which the handler requests Class II or Class III classification; or

(b) Which are in excess of the pounds of skim milk determined by multiplying

the pounds of skim milk remaining in Class I by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis), and bulk fluid milk products from other order plants that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph; and

(ii) Receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph, if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory at the beginning of the month of fluid milk products and fluid cream products (and, for the first month that this subparagraph is effective, Grade A sour cream and Grade A sour mixtures) that were not subtracted pursuant to subparagraph (4) of this paragraph;

(9) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) (i), (6) (v), and (7) (i) of this paragraph and that were not offset by transfers of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(11) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraphs (6) (vi) and (7) (ii) of this paragraph;

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1030.22(k) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remainder of such receipts;

(12) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk prod-

ucts and bulk fluid cream products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) according to the classification of such products pursuant to § 1030.45(a); and

(13) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage"; and

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

§ 1030.48 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise. In the case of milk received from producers by a handler described in § 1030.13(e) for delivery to a pool plant, such handler shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1030.16(c), and the operator of such pool plant shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1030.16(b).

(b) Milk received by a pool plant operator from a handler described in § 1030.13(e) shall be classified according to the use or disposition of the milk at such pool plant and the value of the milk at class prices shall be included in the operator's pool obligation pursuant to § 1030.70.

(c) If verification by the market administrator discloses that the original classification of skim milk or butterfat was incorrect, such skim milk or butterfat shall be reclassified.

11. Section 1030.51 is revised as follows:

§ 1030.51 Class prices.

Subject to the provisions of § 1030.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus \$1.26.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 20 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

12. Section 1030.52 is revised as follows:

§ 1030.52 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the class prices specified in § 1030.51 and the uniform price specified in § 1030.71 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by an amount,

rounded to the nearest one-tenth cent, that is equal to the butter price for the month multiplied by 0.115.

13. In § 1030.53, the introductory text and paragraph (c) (5) are revised and a new paragraph (e) is added as follows:

§ 1030.53 Location adjustments to handlers.

A location adjustment for each handler shall be computed by the market administrator as follows:

(c) * * *

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to § 1030.47;

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

14. Section 1030.60 is revised as follows:

§ 1030.60 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1030.31

(c) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of skim milk and butterfat, respectively, in the partially regulated distributing plant's route disposition in the marketing area;

(2) Subtract the pounds of skim milk and butterfat, respectively, received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in the partially regulated distributing plant's route disposition in the marketing area;

(4) Combine the remaining pounds of skim milk and butterfat and multiply the total by the difference between the Class I price and the uniform price, both prices to be applicable at the location

of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1030.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1030.70 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the non-pool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1030.70(f) and the credit specified in § 1030.84(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1030.11(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his report filed pursuant to § 1030.31(c) a similar report for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for bottling grade milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for bottling grade milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if subparagraph (1)(iii) of this paragraph applies.

15. In § 1030.61(b), subparagraph (2) is revised as follows:

§ 1030.61 Plants subject to other Federal orders.

(b)

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

16. Section 1030.70 is revised as follows:

§ 1030.70 Computation of the net pool obligation of each handler.

The monthly net pool obligation of each handler described in § 1030.13(a), (d), (e), and (h) shall be determined for such handler, or for each pool plant of such handler if the allocations pursuant to § 1030.47 are on an individual plant basis and the handler requests separate statements. Such obligation shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class determined pursuant to § 1030.46 by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1030.47(a)(13) and the corresponding step of § 1030.47(b) by the respective class price applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1030.47(a)(8) and the corresponding step of § 1030.47(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1030.47(a)(6) (i) through (iv) and (vii) and the corresponding step of § 1030.47(b), excluding receipts of bulk fluid cream product from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1030.47(a)(6) (v) and (vi) and the corresponding step of § 1030.47(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest nonpool plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1030.47(a)(10) and the corresponding step of § 1030.47(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract an amount equal to the minus location adjustment computed pursuant to § 1030.53(c)(13) or (d).

17. Section 1030.71 is revised as follows:

§ 1030.71 Computation of the uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content at plants in Zone I, as follows:

(a) Combine into one total the values computed pursuant to § 1030.70 for all handlers, except those of handlers who failed to make payments required pursuant to § 1030.84 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, the amount obtained by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential specified in § 1030.52, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1030.82(a);

(d) Add an amount representing not less than one-half the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1030.70(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

18. In § 1030.80(a), the introductory text of subparagraph (1) is revised as follows:

§ 1030.80 Time and method of payment for producer milk.

(a)

(1) On or before the 18th day of the following month to each producer, not less than the uniform price, as adjusted pursuant to §§ 1030.52 and 1030.82, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

§ 1031.81 [Revoked]

19. Section 1030.81 is revoked.

20. In § 1030.82, paragraph (b) is revised as follows:

§ 1030.82 Location differentials to producers and on nonpool milk.

(b) The uniform price applicable to other source milk shall be reduced at the rates set forth in § 1030.53(a), except that the adjusted uniform price shall not be less than the Class III price.

21. In § 1030.84(b), subparagraph (2) is revised as follows:

§ 1030.84 Payments to the producer-settlement fund.

(b)

(2) The value at the uniform price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1030.70(f).

22. Section 1030.88 is revised as follows:

§ 1030.88 Expense of administration.

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 18th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own farm production);

(b) Other source milk allocated to Class I pursuant to § 1030.47(a)(6) and (10) and the corresponding steps of § 1030.47(b), except such other source milk on which no handler obligation applies pursuant to § 1030.70(f); and

(c) Class I milk disposed of on a route in the marketing area from a partially regulated distributing plant that exceeds

the skim milk and butterfat subtracted pursuant to § 1030.60(a)(2). A cooperative association handler pursuant to § 1030.13(e) shall make the payments set forth herein on the producer milk described in § 1030.16(c).

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

1. In § 1032.14, paragraphs (a)(2) and (b)(3) are revised as follows:

§ 1032.14 Producer milk.

(a)

(2) By a cooperative association as a handler pursuant to § 1032.9(d) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1032.44(c) or as Class I shrinkage; or

(b)

(3) Milk of a producer diverted during the month as Class II or Class III milk from a pool plant to an other order plant for not more days of production of producer milk by such producer than is received at a pool plant(s) pursuant to paragraph (a) of this section: *Provided*, That milk so diverted shall not be producer milk if, notwithstanding the provisions of this subparagraph, the milk is fully subject to the pricing and pooling provisions of the other order;

2. Section 1032.15 is revised as follows:

§ 1032.15 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source other than producers, cooperative associations acting as a handler pursuant to § 1032.9(d), pool plants, and inventory at the beginning of the month;

(b) Products (other than fluid milk products, bulk fluid cream products, and cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

3. Section 1032.16 is revised as follows:

§ 1032.16 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted: Milk, skim milk, lowfat milk, milk drinks, eggnog, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1032.42 or § 1032.43(a)(1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

4. A new § 1032.16a is added as follows:

§ 1032.16a Fluid cream product.

"Fluid cream product" means cream or mixture of cream and milk or skim milk containing 9 percent or more butterfat.

5. Section 1032.17 is revised as follows:

§ 1032.17 Route.

"Route" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) or any fluid milk product to a retail or wholesale outlet other than (a) a pool plant or a nonpool plant, or (b) a commercial food processor pursuant to § 1032.43(b).

6. In § 1032.22, paragraphs (h), (k), (l), and (m) are revised as follows:

§ 1032.22 Duties.

(h) Publicly announce on or before:

(1) The sixth day of each month, the Class I price for the current month pursuant to § 1032.51(a);

(2) The sixth day of each month, the Class II and Class III prices pursuant to § 1032.51(b) and (c) and the butterfat differential pursuant to § 1032.52, all for the preceding month; and

(3) The 12th day after the end of each month, the uniform price pursuant to § 1032.71;

(k) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1032.47(a)(11) and the corresponding step of § 1032.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products

from an other order plant, the class to which such receipts are allocated pursuant to § 1032.47 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any change in such allocation arising from the verification of such report.

7. In § 1032.30(a), subparagraphs (1) (iii) and (2) are revised as follows:

§ 1032.30 Reports of receipts and utilization.

(a) * * *

(1) * * *

(iii) Fluid milk products and bulk fluid cream products received from other pool plants; and

(2) Inventories at the beginning and the end of the month of the following products, showing separately such inventories in bulk form and in packaged form:

(i) Fluid milk products; and
(ii) Fluid cream products except those received in packaged form from another plant;

8. In § 1032.32, paragraph (b) is revised as follows:

§ 1032.32 Payroll reports.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1032.62(a) shall report to the market administrator, on or before the 20th day after the end of the month for each dairy farmer from whom milk was received, the same information as required pursuant to paragraph (a) of this section.

9. Sections 1032.40 through 1032.46 are revoked and new §§ 1032.40 through 1032.48 are substituted therefor as follows:

§ 1032.40 Classification of all skim milk and butterfat.

All skim milk and butterfat to be reported by a handler pursuant to § 1032.30 shall be classified each month in accordance with §§ 1032.41 through 1032.48. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1032.41 Class I milk.

Except as provided in §§ 1032.43, 1032.45, and 1032.48, Class I milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid milk product;

(b) In inventory at the end of the month of packaged fluid milk products; and

(c) Not specifically accounted for as Class II or Class III milk.

§ 1032.42 Class II milk.

Except as provided in §§ 1032.43, 1032.45, and 1032.48, Class II milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid cream product;

(b) Used to produce:

(1) Yogurt, cottage cheese, creamed or partially creamed cottage cheese, sour cream, and any sour mixture of cream and milk or skim milk containing 9 percent or more butterfat; and

(2) Any product containing 6 percent or more nonmilk fat (or oil) that resembles any product specified in paragraphs (a) and (b) (1) of this section; and

(c) In inventory at the end of the month of packaged fluid cream products.

§ 1032.43 Class III milk.

Except as provided in §§ 1032.45 and 1032.48, Class III milk shall be all skim milk and butterfat:

(a) Used to produce:

(1) Cheese (other than cottage cheese and creamed or partially creamed cottage cheese);

(2) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(3) Any milk product in dry form;

(4) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(5) Custards, puddings, and pancake mixes;

(6) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(7) Evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(8) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in § 1032.42(b) (2); and

(9) Any product that is not a fluid milk product and that is not specified in subparagraphs (1) through (8) of this paragraph or in § 1032.42;

(b) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and at which there is no disposition of fluid milk products other than those received in consumer-type packages;

(c) In inventory at the end of the month of bulk fluid milk products and bulk fluid cream products;

(d) In fluid milk products and products specified in § 1032.42 that are disposed of by a handler for animal feed;

(e) In fluid milk products and products specified in § 1032.42 that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(f) In skim milk represented by the nonfat milk solids added to a fluid milk product that is in excess of the quantity of such skim milk included within the fluid milk product definition pursuant to § 1032.16; and

(g) In shrinkage that is:

(1) Assigned pursuant to § 1032.44(a) to the receipts specified in § 1032.44(a) (2); and

(2) Specified in § 1032.44(b) and (c).

§ 1032.44 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1032.30, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant, which shall be assigned pro rata to:

(1) The quantity of skim milk and butterfat, respectively, in the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) The quantity of skim milk and butterfat, respectively, in receipts of other source milk in bulk fluid form, excluding any such receipts used in the computations pursuant to paragraph (b) (5) and (6) of this section;

(b) The quantity of skim milk and butterfat, respectively, that was assigned pursuant to paragraph (a) of this section to the receipts specified in subparagraph (1) of such paragraph which is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in milk physically received at such plant directly from producers (excluding that received by diversion from another pool plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a cooperative association acting as a handler pursuant to § 1032.9(d) and in milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk purchases the milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no shrinkage shall be allowed;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1032.9 (c) or (d), but not to exceed 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of farm weights, no shrinkage shall be allowed.

§ 1032.45 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler (or to any pool plant if allocations pursuant to § 1032.47 are on an individual plant basis) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee or diveree plant after the computations pursuant to § 1032.47(a) (1) and the corresponding step of § 1032.47(b);

(2) If the transferor or divertor plant received during the month other source milk to be allocated pursuant to § 1032.47 (a) (6) or the corresponding step of § 1032.47(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor or divertor handler received during the month other source milk to be allocated pursuant to § 1032.47(a) (10) or (11) or the corresponding steps of § 1032.47(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee or diveree plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other

order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilizations available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of §§ 1032.41 through 1032.43.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to a nonpool plant that is not an other order plant or

a producer-handler plant shall be classified as Class I milk, subject to the following conditions:

(1) If the transferor or divertor handler so requests and the conditions described in subdivisions (i) and (ii) of this subparagraph are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in subparagraphs (2) through (7) of this paragraph:

(i) The transferor or divertor handler claims such classification in his report of receipts and utilization filed pursuant to § 1032.30 for the month within which such transaction occurred; and

(ii) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(2) Class I route disposition of the nonpool plant in the marketing area of each Federal milk order and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated under such order shall be assigned to the extent possible:

(i) First to receipts of packaged fluid milk products at such nonpool plant from pool plants; and

(ii) Any remaining such route disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(3) Class I disposition from the nonpool plant of packaged fluid milk products other than that described in subparagraph (2) of this paragraph shall be assigned pro rata to any receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants that remain unassigned after the assignment pursuant to subparagraph (2) of this paragraph;

(4) Class I disposition of packaged fluid milk products described in subparagraph (2) of this paragraph that was not assigned pursuant to such subparagraph and transfers of bulk fluid milk products from the nonpool plant to pool plants and other order plants, to the extent that such transfers and any remaining transfers of packaged fluid milk products to each such pool plant and other order plant exceed receipts of fluid milk products from such plant and that such excess is allocated to Class I at the transferee plant, shall be assigned to the extent possible:

(i) First to receipts of fluid milk products at such nonpool plant from pool plants that remain unassigned after the assignments pursuant to subparagraphs (2) and (3) of this paragraph; and

(ii) Any remaining such Class I disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(5) Any remaining unassigned Class I utilization at the nonpool plant shall be assigned to the extent possible:

(d) First to such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of bottling grade milk for such nonpool plant; and

(ii) Any remaining unassigned Class I utilization shall be assigned to the nonpool plant's receipts of bottling grade milk from plants not fully regulated under any Federal milk order;

(6) Any remaining unassigned receipts of fluid milk products and bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned pro rata to such remaining unassigned receipts from each source in sequence to any Class III utilization, then any Class II utilization, and then any remaining Class I utilization at the nonpool plant; and

(7) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1032.46 Classification of producer milk.

Each month the market administrator shall determine the classification of producer milk in the following manner:

(a) Correct for mathematical and other obvious errors all reports filed pursuant to § 1032.30 and compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1032.9 (c) or (d) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1032.40 through 1032.45 and § 1032.48. For purposes of this paragraph and § 1032.47, fluid cream products that are received from another plant in packaged form and disposed of, or held in inventory, in the same container in which received shall not be included in a handler's receipts, inventory, or disposition unless such products become other source milk pursuant to § 1032.15 (b) or (c);

(b) For each handler described in § 1032.9(a), allocate in accordance with § 1032.47 such handler's receipts of skim milk and butterfat to his utilization of skim milk and butterfat in each class, subject to the following conditions:

(1) If the handler is a cooperative association, such receipts and utilization shall not include any milk for which it is the handler pursuant to § 1032.9 (c) or (d); and

(2) If the handler operates two or more pool plants, such receipts and utilization shall be for all of his pool plants combined unless the handler requests in his reports filed pursuant to § 1032.30 that the classification of producer milk be determined separately for each of his pool plants and he has no skim milk or butterfat that would be allocated under § 1032.47(a) (10) or (11) or the corresponding steps of § 1032.47(b); and

(c) The quantity of producer milk in each class shall be the following:

(1) For each cooperative association with respect to milk for which it is the handler pursuant to § 1032.9 (c) or (d), the combined pounds of skim milk and butterfat in each class that were determined pursuant to paragraph (a) of this section; and

(2) For each handler described in § 1032.9(a), the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1032.47(a) (13) and the corresponding step of § 1032.47(b).

§ 1032.47 Allocation of receipts to utilization.

For the purpose of § 1032.46, a handler's receipts shall be allocated to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1032.43(g) (2);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to subparagraph (6) (vi) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the immediately preceding month under any Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products that are in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1032.42;

(6) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) that was not subtracted pursuant to subparagraph (5) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) for which bottling grade certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(vi) Receipts of reconstituted skim milk in filled milk from another order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(7) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) and (6) (v) of this paragraph;

(a) For which the handler requests Class II or Class III classification; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis), and bulk fluid milk products from other order plants that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph; and

(ii) Receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph, if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory at the beginning of the month of fluid milk products and fluid cream products that were not subtracted pursuant to subparagraph (4) of this paragraph;

(9) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the

pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2), (6) (v), and (7) (i) of this paragraph and that were not offset by transfers of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(11) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraphs (6) (v) and (7) (ii) of this paragraph;

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1032.22(k) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remainder of such receipts;

(12) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) according to the classification of such products pursuant to § 1032.45 (a); and

(13) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage"; and

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

§ 1032.48 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise. In the case of milk received from producers by a handler described in § 1032.9(d) for delivery to a pool plant, such handler shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1032.14(a) (2), and the operator of such pool plant shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1032.14(a) (1).

(b) Milk received by a pool plant operator from a handler described in § 1032.9(d) shall be classified according to the use or disposition of the milk at such pool plant and the value of the

milk at class prices shall be included in the operator's pool obligation pursuant to § 1032.70.

(c) If verification by the market administrator discloses that the original classification of skim milk or butterfat was incorrect, such skim milk or butterfat shall be reclassified.

10. Section 1032.51 is revised as follows:

§ 1032.51 Class prices.

Subject to the provisions of §§ 1032.52 and 1032.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the Class I price pursuant to Part 1062 of this chapter (St. Louis-Ozarks) minus 7 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 20 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

11. Section 1032.52 is revised as follows:

§ 1032.52 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the class prices specified in § 1032.51 and the uniform price specified in § 1032.71 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by an amount, rounded to the nearest one-tenth cent, that is equal to the Chicago butter price for the month multiplied by 0.115.

12. Section 1032.53 is revised as follows:

§ 1032.53 Location adjustments to handlers.

(a) For producer milk received at a pool plant which is classified as Class I milk and eligible pursuant to paragraph (b) or (c) of this section for location adjustment, the Class I price specified in § 1032.51(a) shall be adjusted for the location of such plant by the following amount:

(1) At a plant in the southern zone, plus 7 cents;

(2) At a plant in the northern zone, minus 7 cents;

(3) At a plant outside the marketing area, minus 15 cents if such plant is 100 or more miles from the city or village limits of Alton, Robinson, or Vandalia, Ill., whichever is nearest, and minus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles; *Provided*, That the adjustment at a plant outside the marketing area and in the State of Illinois south of the northernmost boundaries of the Illinois counties of Adams and Schuyler and at a plant in the Indiana counties of Fountain, Parke, Vermilion, and Warren shall be the same as for a pool plant located in the northern zone; and

(4) In determining location adjustments, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(b) If skim milk and butterfat are allocated on an individual plant basis pursuant to § 1032.47, the quantity of milk received at the plant as producer milk or by diversion from another pool plant that shall be subject to any location adjustment applicable at such plant shall be determined as follows:

(1) From the total pounds of Class I skim milk and butterfat, respectively, at such plant subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1032.47 (a) and (b) and any Class I transfers to other pool plants;

(2) The amount of Class I transfers from such plant to other pool plants that is eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) From the total pounds of Class I skim milk and butterfat, respectively, at such transferee plant (excluding Class I transfers to other pool plants that are not eligible for location adjustment as determined at such other pool plants) subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1032.47 (a) and (b);

(ii) From the remaining pounds of Class I skim milk and butterfat, respectively, subtract 95 percent of the skim milk and butterfat, respectively, in receipts at such transferee plant of producer milk and by diversion from other pool plants;

(iii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iv) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (iii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(3) The sum of the quantities determined pursuant to subparagraphs (1) and (2) (iv) of this paragraph, or the total pounds of milk received at the plant as producer milk and by diversion from another pool plant, whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(c) If skim milk and butterfat are allocated on a system basis pursuant to § 1032.47, the quantity of milk received at each plant as producer milk or by diversion from another pool plant that shall be subject to any location adjustment applicable at such plant shall be determined as follows:

(1) Assign to the skim milk and butterfat, respectively, in the combined Class II and Class III utilization at each plant of the handler (excluding any such utilization at each plant based on transfers to other pool plants of the handler) any beginning inventory and other source milk receipts at such plant of the respective category allocated to such combined class uses pursuant to each subparagraph of § 1032.47(a) and the corresponding step of § 1032.47(b). If the same category of other source milk

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to be assigned to the combined Class II and Class III utilization was received at two or more plants of the handler, such other source milk shall be assigned first to the combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices (excluding in each case utilization based on transfers to his other pool plants). To the extent that combined Class II and Class III utilization of beginning inventory and other source milk remains unassigned, such remainder shall be assigned first to the remaining combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices;

(2) From the total pounds of Class I skim milk and butterfat, respectively, at each plant of the handler (excluding transfers to his other pool plants and Class I transfers to pool plants of other handlers) subtract the pounds of skim milk and butterfat in the respective category of other source milk received and beginning inventory at such plant which exceed the quantities assigned to Class II and Class III utilization at such plant pursuant to subparagraph (1) of this paragraph;

(3) The amount of transfers from each plant to other pool plants of the handler operating such plant and Class I transfers to pool plants of other handlers that are eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) To the pounds of Class I skim milk and butterfat, respectively, remaining at the transferee plant after the computation pursuant to subparagraph (2) of this paragraph add any Class I transfers from such plant to other pool plants that are eligible for location adjustment as determined at the plants to which such transfers were made, and then subtract 95 percent of the skim milk and butterfat, respectively, in receipts at such transferee plant of producer milk and by diversion from other pool plants;

(ii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iii) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (ii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(4) The sum of the quantities determined pursuant to subparagraphs (2) and (3)(iii) of this paragraph, or the total pounds of milk received at the plant as producer milk and by diversion from another pool plant, whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

13. In § 1032.61(e), subparagraph (2) is revised as follows:

§ 1032.61 Plants subject to other Federal orders.

(e)

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

14. Section 1032.62 is revised as follows:

§ 1032.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1032.30(c) and 1032.32(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of skim milk and butterfat, respectively, in the partially regulated distributing plant's route disposition in the marketing area;

(2) Subtract the pounds of skim milk and butterfat, respectively, received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in the partially regulated distributing plant's route disposition in the marketing area;

(4) Combine the remaining pounds of skim milk and butterfat and multiply the total by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1032.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1032.70 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order); and

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1032.70(f) and the credit specified in § 1032.84(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1032.12 (b) and (c), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1032.30 (c) and 1032.32(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and rec-

ords showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for bottling grade milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for bottling grade milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if subparagraph (1)(iii) of this paragraph applies.

15. Section 1032.70 is revised as follows:

§ 1032.70 Computation of the net pool obligation of each handler.

The monthly net pool obligation of each handler described in § 1032.9 (a), (c), and (d) shall be determined for such handler, or for each pool plant of such handler if the allocations pursuant to § 1032.47 are on an individual plant basis and the handler requests separate statements. Such obligation shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class determined pursuant to § 1032.46 by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1032.47(a)(13) and the corresponding step of § 1032.47(b) by the respective class price applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1032.47(a)(8) and the corresponding step of § 1032.47(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1032.47(a)(6) (i) through (iv) and the corresponding step of § 1032.47(b), excluding receipts of bulk

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fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1032.47(a)(6) (v) and (vi) and the corresponding step of § 1032.47 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest nonpool plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1032.47(a)(10) and the corresponding step of § 1032.47(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price for the preceding month and the Class II price for the current month by the hundredweight of skim milk and butterfat in any products specified in § 1032.42 (a) and (b) that were in Class I inventory at the end of the preceding month.

16. In § 1032.71, paragraph (c) is revised as follows:

§ 1032.71 Computation of the uniform price.

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, the amount obtained by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential specified in § 1032.52, and multiply the result by the total hundredweight of such milk;

17. In § 1032.72, paragraph (b) is revised as follows:

§ 1032.72 Notification of handlers.

(b) The uniform price computed pursuant to § 1032.71 and the butterfat differential computed pursuant to § 1032.52; and

18. In § 1032.80(a), subparagraph (1) and the introductory text of subparagraph (2) are revised as follows:

§ 1032.80 Time and method of payment for producer milk.

(a)

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such han-

dler before the 25th day of the month an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this subparagraph;

(2) On or before the 20th day of the following month to each producer, an amount equal to not less than the uniform price, as adjusted pursuant to §§ 1032.52 and 1032.82, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments;

§ 1032.81 [Revoked]

19. Section 1032.81 is revoked.

20. Section 1032.82 is revised as follows:

§ 1032.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1032.53(a); and

(b) The weighted average price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted weighted average price shall not be less than the Class III price.

21. In § 1032.84(b), subparagraph (2) is revised as follows:

§ 1032.84 Payments to the producer-settlement fund.

(b)

(2) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1032.70(f).

22. Section 1032.87 is revised as follows:

§ 1032.87 Expense of administration.

As his pro rata share of the expense of administering the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1032.9(d) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1032.47(a)(6) and (10) and the corresponding steps of § 1032.47(b), except such other source milk on which no handler obligation applies pursuant to § 1032.70(f); and

(c) Class I milk disposed of on a route in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1032.62(a)(2).

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. Section 1046.11 is revised as follows:

§ 1046.11 Country plant.

"Country plant" means a milk plant, other than a city plant, which is approved by a duly constituted health authority to supply milk or skim milk to a city plant(s) for disposition as "Grade A" milk and at which milk is received during the month from persons described in § 1046.7(a) or from a cooperative association in its capacity as a handler pursuant to § 1046.8(c).

2. In § 1046.12, paragraphs (b) and (c) are revised as follows:

§ 1046.12 Pool plant.

(b) A country plant during any of the months of October through March from which not less than 50 percent, and during other months not less than 40 percent, of the receipts of milk at such plant from persons described in § 1046.7(a) and from a cooperative association in its capacity as a handler pursuant to § 1046.8(c) is moved to and received at a city plant in the form of milk or skim milk;

(c) A country plant during the months of April through September from which not less than 50 percent of the combined receipts of milk from persons described in § 1046.7(a) and from a cooperative association in its capacity as a handler pursuant to § 1046.8(c) during the preceding period of October through March was moved to and received at a city plant(s) in the form of milk or skim milk, unless the operator of such plant notifies the market administrator in writing on or before March 15 of withdrawal of the plant from the pool for the months of April through September next following; and

3. Section 1046.15 is revised as follows:

§ 1046.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted: Milk, skim milk, lowfat milk, milk drinks, eggnog, buttermilk, filled milk, and milk shake and ice milk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1046.42 or § 1046.43(a) (1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form,

formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

4. A new § 1046.15a is added as follows:

§ 1046.15a Fluid cream product.

"Fluid cream product" means cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat.

5. Section 1046.16 is revised as follows:

§ 1046.16 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source other than producers, cooperative associations acting as a handler pursuant to § 1046.8(c), pool plants, and inventory at the beginning of the month;

(b) Products (other than fluid milk products, bulk fluid cream products, and cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

6. In § 1046.22, paragraphs (k), (m), (n), and (o) are revised as follows:

§ 1046.22 Duties.

(k) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate and notify each handler in writing the prices and butterfat differential determined for each month as follows:

(1) On or before the eighth day of each month, the Class I price for the current month pursuant to § 1046.51(a);

(2) On or before the eighth day of each month, the Class II and Class III prices pursuant to § 1046.51 (b) and (c) and the butterfat differential pursuant to § 1046.52, all for the preceding month; and

(3) On or before the 12th day after the end of each month, the uniform price pursuant to § 1046.71;

(m) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1046.47(a) (1) and the corresponding step of § 1046.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon

the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1046.47 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

7. In § 1046.30(a), subparagraphs (2) and (4) are revised as follows:

§ 1046.30 Reports of receipts and utilization.

(a) * * *

(2) The quantities of skim milk and butterfat contained in fluid milk products and bulk fluid cream products received from other pool plants and in milk received from a cooperative association in its capacity as a handler pursuant to § 1046.8(c);

(4) The quantities of skim milk and butterfat contained in inventories at the beginning and at the end of the month of the following products, showing separately such inventories in bulk form and in packaged form:

(i) Fluid milk products; and

(ii) Fluid cream products except those received in packaged form from another plant;

8. Section 1046.31 is revised as follows:

§ 1046.31 Payroll reports.

On or before the 20th day after the end of each month, each handler who received milk from producers or from a cooperative association of producers and each handler who is the operator of a partially regulated distributing plant and who does not elect to make payments pursuant to § 1046.62(a) shall submit to the market administrator for each of his plants his producer or dairy farmer payroll for deliveries during the month which shall show (a) the total pounds of milk received from each producer, producer cooperative association or dairy farmer, and the average butterfat content of such milk, (b) the prices paid and the amount of payment to each producer, producer cooperative association, or dairy farmer, and (c) the nature and amount of any credits, deductions, or charges involved in such payments.

9. Sections 1046.40 through 1046.46 are revoked and new §§ 1046.40 through 1046.48 are substituted therefor as follows:

§ 1046.40 Classification of all skim milk and butterfat.

All skim milk and butterfat to be reported by a handler pursuant to § 1046.30 shall be classified each month in accordance with §§ 1046.41 through 1046.48. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1046.41 Class I milk.

Except as provided in §§ 1046.43, 1046.45, and 1046.48, Class I milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid milk product;

(b) In inventory at the end of the month of packaged fluid milk products; and

(c) Not specifically accounted for as Class II or Class III milk.

§ 1046.42 Class II milk.

Except as provided in §§ 1046.43, 1046.45, and 1046.48, Class II milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid cream product;

(b) Used to produce:

(1) Yogurt, cottage cheese, creamed or partially creamed cottage cheese, sour cream, and any sour mixture of cream and milk or skim milk containing 9 percent or more butterfat; and

(2) Any product containing 6 percent or more nonmilk fat (or oil) that resembles any product specified in paragraph (a) of this section and subparagraph (1) of this paragraph; and

(c) In inventory at the end of the month of packaged fluid cream products.

§ 1046.43 Class III milk.

Except as provided in §§ 1046.45 and 1046.48, Class III milk shall be all skim milk and butterfat:

(a) Used to produce:

(1) Cheese (other than cottage cheese and creamed or partially creamed cottage cheese);

(2) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(3) Any milk product in dry form;

(4) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(5) Custards, puddings, and pancake mixes;

(6) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(7) Evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(8) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in § 1046.42(b) (2); and

(9) Any product that is not a fluid milk product and that is not specified in subparagraphs (1) through (8) of this paragraph or in § 1046.42;

(b) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and at which there is no disposition of fluid milk products other than those received in consumer-type packages;

(c) In inventory at the end of the month of bulk fluid milk products and bulk fluid cream products;

(d) In fluid milk products and products specified in § 1046.42 that are disposed of by a handler for animal feed;

(e) In fluid milk products and products specified in § 1046.42 that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(f) In skim milk represented by the nonfat milk solids added to a fluid milk product that is in excess of the quantity of such skim milk included within the fluid milk product definition pursuant to § 1046.15; and

(g) In shrinkage that is:

(1) Assigned pursuant to § 1046.44(a) to the receipts specified in § 1046.44(a) (2); and

(2) Specified in § 1046.44(b) and (c).

§ 1046.44 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1046.30, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant, which shall be assigned pro rata to:

(1) The quantity of skim milk and butterfat, respectively, that is equal to 50 times the maximum amount that may be computed pursuant to paragraph (b) of this section; and

(2) The quantity of skim milk and butterfat, respectively, in other source milk received in bulk form as fluid milk products, excluding any such receipts used in the computations pursuant to paragraph (b) (5) and (6) of this section;

(b) The quantity of skim milk and butterfat, respectively, that was assigned pursuant to paragraph (a) of this section to the receipts specified in subparagraph (1) of such paragraph which is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in milk physically received at such plant directly from producers (excluding that received by diversion from another pool plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a cooperative association acting as a handler pursuant to § 1046.8(c) and in milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk purchases the milk on the basis of farm

weights, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no shrinkage shall be allowed;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1046.8 (b) or (c), but not to exceed 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of farm weights, no shrinkage shall be allowed.

§ 1046.45 Classification of transfers and diversions.

(a) Transfers and diversions to pool plants. Skim milk or butterfat transferred or diverted by the operator of a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1046.8(c) in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler (or, in the case of such plant operator, to any pool plant if allocations pursuant to § 1046.47 are on an individual plant basis) shall be classified as Class I milk unless both handlers request the same classification in another class. The classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee or diveree plant after the computations pursuant to § 1046.47(a) (1) and the corresponding step of § 1046.47(b);

(2) If the transferor or divertor plant received during the month other source milk to be allocated pursuant to § 1046.47 (a) (6) or the corresponding step of § 1046.47(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor or divertor handler received during the month other

source milk to be allocated pursuant to § 1046.47(a) (10) or (11) or the corresponding steps of § 1046.47(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee or divertee plant; and

(4) If a specified classification is not claimed by both handlers in the case of transfers or diversions by such a cooperative association, such skim milk and butterfat shall be classified pro rata to the respective amounts remaining in each class at the pool plant of the transferee or divertee handler after making the assignments pursuant to § 1046.47(a) (11) and the corresponding step of § 1046.47(b), and after the assignment of milk for which a specified classification has been claimed pursuant to this paragraph.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilizations available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of §§ 1046.41 through 1046.43.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified as Class I milk, subject to the following conditions:

(1) If the transferor or divertor handler so requests and the conditions described in subdivisions (i) and (ii) of this subparagraph are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in subparagraphs (2) through (7) of this paragraph:

(i) The transferor or divertor handler claims such classification in his report of receipts and utilization filed pursuant to § 1046.30 for the month within which such transaction occurred; and

(ii) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(2) Class I route disposition of the nonpool plant in the marketing area of each Federal milk order and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated under such order shall be assigned to the extent possible:

(i) First to receipts of packaged fluid milk products at such nonpool plant from pool plants; and

(ii) Any remaining such route disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(3) Class I disposition from the nonpool plant of packaged fluid milk products other than that described in subparagraph (2) of this paragraph shall be assigned pro rata to any receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants that remain unassigned

after the assignment pursuant to subparagraph (2) of this paragraph;

(4) Class I disposition of packaged fluid milk products described in subparagraph (2) of this paragraph that was not assigned pursuant to such subparagraph and transfers of bulk fluid milk products from the nonpool plant to pool plants and other order plants, to the extent that such transfers and any remaining transfers of packaged fluid milk products to each such pool plant and other order plant exceed receipts of fluid milk products from such plant and that such excess is allocated to Class I at the transferee plant, shall be assigned to the extent possible:

(i) First to receipts of fluid milk products at such nonpool plant from pool plants that remain unassigned after the assignments pursuant to subparagraphs (2) and (3) of this paragraph; and

(ii) Any remaining such Class I disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(5) Any remaining unassigned Class I utilization at the nonpool plant shall be assigned to the extent possible:

(i) First to such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of bottling grade milk for such nonpool plant; and

(ii) Any remaining unassigned Class I utilization shall be assigned to the nonpool plant's receipts of bottling grade milk from plants not fully regulated under any Federal milk order;

(6) Any remaining unassigned receipts of fluid milk products and bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned pro rata to such remaining unassigned receipts from each source in sequence to any Class III utilization, then any Class II utilization, and then any remaining Class I utilization at the nonpool plant; and

(7) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1046.46 *Classification of producer milk.*

Each month the market administrator shall determine the classification of producer milk in the following manner:

(a) Correct for mathematical and other obvious errors all reports filed pursuant to § 1046.30 and compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1046.8 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1046.40 through 1046.45 and 1046.48. For purposes of this paragraph and § 1046.47, fluid cream products that are received

from another plant in packaged form and disposed of, or held in inventory, in the same container in which received shall not be included in a handler's receipts, inventory, or disposition unless such products become other source milk pursuant to § 1046.16 (b) or (c);

(b) For each handler described in § 1046.8(a), allocate in accordance with § 1046.47 such handler's receipts of skim milk and butterfat to his utilization of skim milk and butterfat in each class, subject to the following conditions:

(1) If the handler is a cooperative association, such receipts and utilization shall not include any milk for which it is the handler pursuant to § 1046.8 (b) or (c); and

(2) If the handler operates two or more pool plants; such receipts and utilization shall be for all of his pool plants combined unless the handler requests in his reports filed pursuant to § 1046.30 that the classification of producer milk be determined separately for each of his pool plants and he has no skim milk or butterfat that would be allocated under § 1046.47(a) (10) or (11) or the corresponding steps of § 1046.47(b); and

(c) The quantity of producer milk in each class shall be the following:

(1) For each cooperative association with respect to milk for which it is the handler pursuant to § 1046.8 (b) or (c), the combined pounds of skim milk and butterfat in each class that were determined pursuant to paragraph (a) of this section; and

(2) For each handler described in § 1046.8(a), the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1046.47(a) (13) and the corresponding step of § 1046.47(b).

§ 1046.47 *Allocation of receipts to utilization.*

For the purpose of § 1046.46, a handler's receipts shall be allocated to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1046.43(g) (2);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to subparagraph (6) (vi) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the immediately preceding month under any Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products that are in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1046.42;

(6) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) that was not subtracted pursuant to subparagraph (5) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) for which bottling grade certification is not established;

(iii) Receipts of fluid milk products from unidentifiable sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(7) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) and (6) (v) of this paragraph;

(a) For which the handler requests Class II or Class III classification; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, milk from a cooperative association acting as a handler pursuant to § 1046.8(c), fluid milk products from pool plants of other handlers (or any

pool plant if allocation is on an individual plant basis), and bulk fluid milk products from other order plants that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph; and

(ii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph, if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory at the beginning of the month of fluid milk products and fluid cream products (and, for the first month that this subparagraph is effective, sour cream and Grade A sour mixtures) that were not subtracted pursuant to subparagraph (4) of this paragraph;

(9) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2), (6) (v), and (7) (i) of this paragraph and that were not offset by transfers of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(11) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraphs (6) (vi) and (7) (ii) of this paragraph:

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1046.22(m) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remainder of such receipts;

(12) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) and from a cooperative association acting as a handler pursuant to § 1046.8(c) according to the classifica-

tion of such products pursuant to § 1046.45(a); and

(13) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage"; and

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

§ 1046.48 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) If verification by the market administrator discloses that the original classification of skim milk or butterfat was incorrect, such skim milk or butterfat shall be reclassified.

10. Section 1046.51 is revised as follows:

§ 1046.51 Class prices.

Subject to the provisions of §§ 1046.52 and 1046.53, the class prices per hundred-weight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus \$1.29, plus 20 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 20 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

11. Section 1046.52 is revised as follows:

§ 1046.52 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the class prices specified in § 1046.51 and the uniform price specified in § 1046.71 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by an amount, rounded to the nearest one-tenth cent, that is equal to the Chicago butter price for the month multiplied by 0.115.

12. Section 1046.53 is revised as follows:

§ 1046.53 Location differentials to handlers.

(a) For milk received from producers or from a cooperative association in its capacity as a handler pursuant to § 1046.8(c) at a pool plant located 85 miles or more from the city hall in Evansville, Ind., or Louisville, Lexington, Danville, Elizabethtown, or Madisonville, Ky., whichever is nearest, and classified as Class I milk and eligible pursuant to paragraph (c) or (d) of this section for location adjustment, the Class I price specified in § 1046.51(a) shall be reduced according to the location of such plant by 15 cents if such plant is less than 95 miles from such city hall, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 95 miles.

(b) In determining location adjustments pursuant to this section, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(c) If skim milk and butterfat are allocated on an individual plant basis pursuant to § 1046.47, the quantity of milk received at the plant from producers, including receipts of a cooperative association handler pursuant to § 1046.8(c) delivered to such plant, that shall be subject to location adjustment shall be determined as follows:

(1) From the total pounds of Class I skim milk and butterfat, respectively, at such plant subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1046.47 (a) and (b) and any Class I transfers or diversions to other pool plants;

(2) The amount of Class I transfers or diversions from such plant to other pool plants that is eligible for a location adjustment shall be determined at the transferee or diveree plant as follows:

(i) From the total pounds of Class I skim milk and butterfat, respectively, at such transferee or diveree plant (excluding Class I transfers or diversions to other pool plants that are not eligible for location adjustment as determined at such other pool plants) subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1046.47 (a) and (b);

(ii) From the remaining pounds of Class I skim milk and butterfat, respectively, subtract the skim milk and butterfat, respectively, in receipts at such transferee or diveree plant from producers and from cooperative associations acting as a handler pursuant to § 1046.8(c);

(iii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer or diversion from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iv) The amount of Class I transfers and diversions eligible for location adjustment at each transferor or divertor plant shall be the quantity assigned pursuant to subdivision (iii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred or diverted from such plant to the transferee or diveree plant, whichever is less; and

(3) The sum of the quantities determined pursuant to subparagraphs (1) and (2)(iv) of this paragraph, or the total pounds of milk received at the plant from producers and from cooperative associations acting as a handler pursuant to § 1046.8(c), whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(d) If skim milk and butterfat are allocated on a system basis pursuant to § 1046.47, the quantity of milk received at each plant from producers, including receipts of a cooperative association handler pursuant to § 1046.8(c) delivered to such plant, that shall be subject to any location adjustment applicable at such plant shall be determined as follows:

(1) Assign to the skim milk and butterfat, respectively, in the combined Class II and Class III utilization at each plant of the handler (excluding any such utilization at each plant based on transfers or diversions to other pool plants of the handler) any beginning inventory and other source milk receipts at such plant of the respective category allocated to such combined class uses pursuant to each subparagraph of § 1046.47(a) and the corresponding step of § 1046.47(b). If the same category of other source milk to be assigned to the combined Class II and Class III utilization was received at two or more plants of the handler, such other source milk shall be assigned first to the combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices (excluding in each case utilization based on transfers or diversions to his other pool plants). To the extent that combined Class II and Class III utilization of beginning inventory and other source milk remains unassigned, such remainder shall be assigned first to the remaining combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices;

(2) From the total pounds of Class I skim milk and butterfat, respectively, at each plant of the handler (excluding transfers and diversions to his other pool plants and Class I transfers and diversions to pool plants of other handlers) subtract the pounds of skim milk and butterfat in the respective category of other source milk received and beginning inventory at such plant which exceed the quantities assigned to Class II and Class III utilization at such plant pursuant to subparagraph (1) of this paragraph;

(3) The amount of transfers and diversions from each plant to other pool plants of the handler operating such plant and Class I transfers and diversions to pool plants of other handlers that are eligible for a location adjustment shall be determined at the transferee or diveree plant as follows:

(i) To the pounds of Class I skim milk and butterfat, respectively, remaining at the transferee or diveree plant after the computation pursuant to subparagraph (2) of this paragraph add any Class I transfers and diversions from such plant to other pool plants that are eligible for location adjustment as determined at the plants to which such transfers and diversions were made, and then subtract the skim milk and butterfat, respectively, in receipts at such transferee plant from producers and from cooperative associations acting as a handler pursuant to § 1046.8(c);

(ii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer or diversion from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iii) The amount of Class I transfers and diversions eligible for location adjustment at each transferor or divertor plant shall be the quantity assigned pursuant to subdivision (ii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred or diverted from such plant to the transferee or diveree plant, whichever is less; and

(4) The sum of the quantities determined pursuant to subparagraphs (2) and (3)(iii) of this paragraph, or the total pounds of milk received at the plant from producers and from cooperative associations acting as a handler pursuant to § 1046.8(c), whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

13. In § 1046.61(b), subparagraph (2) is revised as follows:

§ 1046.61 Plants subject to other Federal orders.

(b)

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

14. Section 1046.62 is revised as follows:

§ 1046.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1046.30(b) and 1046.31 the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of skim milk and butterfat, respectively, in the partially regulated distributing plant's route disposition in the marketing area;

(2) Subtract the pounds of skim milk and butterfat, respectively, received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool

plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in the partially regulated distributing plant's route disposition in the marketing area;

(4) Combine the remaining pounds of skim milk and butterfat and multiply the total by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1046.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1046.70 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1046.70(f) and the credit specified in

§ 1046.84(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1046.12 (b) or (c), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1046.30(b) and 1046.31 similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for bottling grade milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for bottling grade milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if subparagraph (1)(iii) of this paragraph applies.

15. Section 1046.70 is revised as follows:

§ 1046.70 Computation of the net pool obligation of each handler.

The monthly net pool obligation of each handler described in § 1046.8 (a), (b), and (c) shall be determined for such handler, or for each pool plant of such handler if the allocations pursuant to § 1046.47 are on an individual plant basis and the handler requests separate statements. Such obligation shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class determined pursuant to § 1046.46 by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1046.47(a)(13) and the corresponding step of § 1046.47(b) by the respective class price applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month

and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1046.47(a) (8) and the corresponding step of § 1046.47(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1046.47(a) (6) (i) through (iv) and the corresponding step of § 1046.47(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transfer plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1046.47(a) (6) (v) and (vi) and the corresponding step of § 1046.47(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest nonpool plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1046.47(a) (10) and the corresponding step of § 1046.47(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

16. In § 1047.71, paragraphs (c) and (e) (2) are revised as follows:

§ 1046.71 Computation of weighted average and uniform prices.

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, the amount obtained by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential specified in § 1046.52, and multiply the result by the total hundredweight of such milk;

(2) The total hundredweight for which a value is computed pursuant to § 1046.70(f);

17. In § 1046.80, paragraphs (a) and (b) are revised as follows:

§ 1046.80 Time and method of payment for producer milk.

(a) On or before the last day of each month for milk received during the first 15 days of the month from such pro-

ducer who has not discontinued delivery of milk to such handler, an amount computed at not less than the Class III price for the preceding month without deduction for hauling;

(b) On or before the 17th day after the end of each month for milk received from such producer during such month, an amount computed at not less than the uniform price per hundredweight for the month, as adjusted pursuant to § 1046.52, and plus or minus adjustments for errors made in previous payments to such producer and less (1) the payment made pursuant to paragraph (a) of this section, (2) the location differential pursuant to § 1046.82, (3) marketing service deductions pursuant to § 1046.87, and (4) proper deductions authorized by such producer which, in the case of a deduction for hauling, shall be in writing and signed by such producer or, in the case of members of a cooperative association which is marketing the producer's milk, by such association;

§ 1046.81 [Revoked]

18. Section 1046.81 is revoked.

19. In § 1046.82, paragraph (b) is revised as follows:

§ 1046.82 Location differentials to producers and on nonpool milk.

(b) The weighted average price applicable to other source milk shall be reduced at the rates set forth in § 1046.53, except that the adjusted weighted average price shall not be less than the Class III price.

20. In § 1046.84, paragraph (b) is revised as follows:

§ 1046.84 Payments to the producer-settlement fund.

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices as adjusted by the butterfat and location differentials pursuant to §§ 1046.52 and 1046.82, respectively; and

(2) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1046.70(f).

21. Section 1046.88 is revised as follows:

§ 1046.88 Expense of administration.

As his pro rata share of the expense of administering the order, each handler, excluding a cooperative association in its capacity as a handler pursuant to § 1046.8(c), shall pay to the market administrator on or before the 15th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own production) and milk received from a cooperative association in its capacity as a handler pursuant to § 1046.8(c);

(b) Other source milk allocated to Class I pursuant to § 1046.37(a) (6) and

(10) and the corresponding steps of § 1046.47(b), except such other source milk on which no handler obligation applies pursuant to § 1046.70(f); and

(c) Class I milk disposed of on a route in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1046.62(a) (2).

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. Section 1049.11 is revised as follows:

§ 1049.11 Supply plant.

"Supply plant" means a plant in which during the month some milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and shipped in bulk as milk or skim milk to a distributing plant.

2. Section 1049.15 is revised as follows:

§ 1049.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted: Milk, skim milk, lowfat milk, milk drinks, eggnog, buttermilk, filled milk, and milk shake and ice milk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1049.42 or § 1049.43(a) (1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

3. Section 1049.16 is revised as follows:

§ 1049.16 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source other than producers, pool plants, and inventory at the beginning of the month;

(b) Products (other than fluid milk products, bulk fluid cream products, and

cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

4. Section 1049.17 is revised as follows:

§ 1049.17 Route.

"Route" means a delivery (including that custom-packaged for another person, disposition from a plant store or from a distribution point, and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk pursuant to § 1049.41(a), other than a delivery in bulk form to any milk or filled milk processing plant.

5. A new § 1049.20 is added as follows:

§ 1049.20 Fluid cream product.

"Fluid cream product" means cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat.

6. In § 1049.27, paragraphs (j), (l) (1), (m), (n), and (o) are revised as follows:

§ 1049.27 Duties.

(j) Publicly announce on or before:

(1) The sixth day of each month, the Class I price for the current month pursuant to § 1049.51(a);

(2) The sixth day of each month, the Class II and Class III prices pursuant to § 1049.51(b) and (c) and the butterfat differential pursuant to § 1049.52, all for the preceding month; and

(3) The 14th day after the end of each month, the uniform price pursuant to § 1049.71;

(l) * * *

(1) The amount and value of his milk in each class computed pursuant to §§ 1049.46 and 1049.70, respectively;

* * *

(m) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1049.47(a) (11) and the corresponding step of § 1049.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1049.47 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

7. In § 1049.30(a), subparagraphs (2) and (5) are revised as follows:

§ 1049.30 Reports of receipts and utilization.

(a) * * *

(2) Fluid milk products and bulk fluid cream products received by transfer or diversion from other pool plants;

* * *

(5) Inventories at the beginning and the end of the month of the following products, showing separately such inventories in bulk form and in packaged form:

(i) Fluid milk products; and

(ii) Fluid cream products except those received in packaged form from another plant;

* * *

8. Sections 1049.40 through 1049.46 are revoked and new §§ 1049.40 through 1049.48 are substituted therefor as follows:

§ 1049.40 Classification of all skim milk and butterfat.

All skim milk and butterfat to be reported by a handler pursuant to §§ 1049.30 and 1049.31 shall be classified each month in accordance with §§ 1049.41 through 1049.48. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1049.41 Class I milk.

Except as provided in §§ 1049.43, 1049.45, and 1049.48, Class I milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid milk product;

(b) In inventory at the end of the month of packaged fluid milk products; and

(c) Not specifically accounted for as Class II or Class III milk.

§ 1049.42 Class II milk.

Except as provided in §§ 1049.43, 1049.45, and 1049.48, Class II milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid cream product;

(b) Used to produce:

(1) Yogurt, cottage cheese, creamed or partially creamed cottage cheese, sour cream, and any sour mixture of cream and milk or skim milk containing 9 percent or more butterfat; and

(2) Any product containing 6 percent or more nonmilk fat (or oil) that resembles any product specified in paragraph (a) of this section and subparagraph (1) of this paragraph; and

(c) In inventory at the end of the month of packaged fluid cream products.

§ 1049.43 Class III milk.

Except as provided in §§ 1049.45 and 1049.48, Class III milk shall be all skim milk and butterfat:

(a) Used to produce:

(1) Cheese (other than cottage cheese and creamed or partially creamed cottage cheese);

(2) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(3) Any milk product in dry form;

(4) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(5) Custards, puddings, and pancake mixes;

(6) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(7) Evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(8) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in § 1049.42(b) (2); and

(9) Any product that is not a fluid milk product and that is not specified in subparagraphs (1) through (8) of this paragraph or in § 1049.42;

(b) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and at which there is no disposition of fluid milk products other than those received in consumer-type packages;

(c) In inventory at the end of the month of bulk fluid milk products and bulk fluid cream products;

(d) In fluid milk products and products specified in § 1049.42 that are disposed of by a handler for animal feed;

(e) In fluid milk products and products specified in § 1049.42 that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(f) In skim milk represented by the nonfat milk solids added to a fluid milk product that is in excess of the quantity of such skim milk included within the fluid milk product definition pursuant to § 1049.15; and

(g) In shrinkage that is:

(1) Assigned pursuant to § 1049.44(a) to the receipts specified in § 1049.44(a) (2); and

(2) Specified in § 1049.44 (b) and (c).

§ 1049.44 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a

handler pursuant to § 1049.30, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant, which shall be assigned pro rata to:

(1) The quantity of skim milk and butterfat, respectively, in the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) The quantity of skim milk and butterfat, respectively, in receipts of other source milk in bulk fluid form, excluding any such receipts used in the computations pursuant to paragraph (b) (5) and (6) of this section;

(b) The quantity of skim milk and butterfat, respectively, that was assigned pursuant to paragraph (a) of this section to the receipts specified in subparagraph (1) of such paragraph which is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in milk physically received at such plant directly from producers (excluding that received by diversion from another pool plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk purchases the milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no shrinkage should be allowed;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1049.8(b), but not to exceed 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of farm weights, no shrinkage shall be allowed.

§ 1049.45 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler (or to any pool plant if allocations pursuant to § 1049.47 are on an individual plant basis) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee or diveree plant after the computations pursuant to § 1049.47(a) (11) and the corresponding step of § 1049.47(b);

(2) If the transferor or divertor plant received during the month other source milk to be allocated pursuant to § 1049.47(a) (6) or the corresponding step of § 1049.47(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor or divertor handler received during the month other source milk to be allocated pursuant to § 1049.47(a) (10) or (11) or the corresponding steps of § 1049.47(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee or diveree plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified

as Class II or Class III milk to the extent of such utilizations available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of §§ 1049.41 through 1049.43.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified as Class I milk, subject to the following conditions:

(1) If the transferor or divertor handler so requests and the conditions described in subdivisions (i) and (ii) of this subparagraph are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in subparagraphs (2) through (7) of this paragraph:

(i) The transferor or divertor handler claims such classification in his report of receipts and utilization filed pursuant to § 1049.30 for the month within which such transaction occurred; and

(ii) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(2) Class I route disposition of the nonpool plant in the marketing area of

each Federal milk order and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated under such order shall be assigned to the extent possible:

(i) First to receipts of packaged fluid milk products at such nonpool plant from pool plants; and

(ii) Any remaining such route disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(3) Class I disposition from the nonpool plant of packaged fluid milk products other than that described in subparagraph (2) of this paragraph shall be assigned pro rata to any receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants that remain unassigned after the assignment pursuant to subparagraph (2) of this paragraph;

(4) Class I disposition of packaged fluid milk products described in subparagraph (2) of this paragraph that was not assigned pursuant to such subparagraph and transfers of bulk fluid milk products from the nonpool plant to pool plants and other order plants, to the extent that such transfers and any remaining transfers of packaged fluid milk products to each such pool plant and other order plant exceed receipts of fluid milk products from such plant and that such excess is allocated to Class I at the transferee plant, shall be assigned to the extent possible:

(i) First to receipts of fluid milk products at such nonpool plant from pool plants that remain unassigned after the assignments pursuant to subparagraphs (2) and (3) of this paragraph; and

(ii) Any remaining such Class I disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(5) Any remaining unassigned Class I utilization at the nonpool plant shall be assigned to the extent possible:

(i) First to such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of bottling grade milk for such nonpool plant; and

(ii) Any remaining unassigned Class I utilization shall be assigned to the nonpool plant's receipts of bottling grade milk from plants not fully regulated under any Federal milk order;

(6) Any remaining unassigned receipts of fluid milk products and bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned pro rata to such remaining unassigned receipts from each source in sequence to any Class III utilization, then any Class II utilization, and then any remaining Class I utilization at the nonpool plant; and

(7) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully

regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1049.46 Classification of producer milk.

Each month the market administrator shall determine the classification of producer milk in the following manner:

(a) Correct for mathematical and other obvious errors all reports filed pursuant to § 1049.30 and compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1049.8(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1049.40 through 1049.45 and § 1049.48. For purposes of this paragraph and § 1049.47, fluid cream products that are received from another plant in packaged form and disposed of, or held in inventory, in the same container in which received shall not be included in a handler's receipts, inventory, or disposition unless such products become other source milk pursuant to § 1049.16 (b) or (c);

(b) For each handler described in § 1049.8(a), allocate in accordance with § 1049.47 such handler's receipts of skim milk and butterfat to his utilization of skim milk and butterfat in each class, subject to the following conditions:

(1) If the handler is a cooperative association, such receipts and utilization shall not include any milk for which it is the handler pursuant to § 1049.8(b); and

(2) If the handler operates two or more pool plants, such receipts and utilization shall be for all of his pool plants combined unless the handler requests in his reports filed pursuant to § 1049.30 that the classification of producer milk be determined separately for each of his pool plants and he has no skim milk or butterfat that would be allocated under § 1049.47(a) (10) or (11) or the corresponding steps of § 1049.47(b); and

(c) The quantity of producer milk in each class shall be the following:

(1) For each cooperative association with respect to milk for which it is the handler pursuant to § 1049.8(b), the combined pounds of skim milk and butterfat in each class that were determined pursuant to paragraph (a) of this section; and

(2) For each handler described in § 1049.8(a), the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1049.47(a) (13) and the corresponding step of § 1049.47(b).

§ 1049.47 Allocation of receipts to utilization.

For the purpose of § 1049.46, a handler's receipts shall be allocated to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of

skim milk classified as Class III milk pursuant to § 1049.43(g) (2);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to subparagraph (6) (vi) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the immediately preceding month under any Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products that are in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1049.42;

(6) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) that was not subtracted pursuant to subparagraph (5) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) for which bottling grade certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(vi) Receipts of reconstituted skim milk in filled milk from another order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(7) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) and (6)(v) of this paragraph;

(a) For which the handler requests Class II or Class III classification; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis), and bulk fluid milk products from other order plants that were not subtracted pursuant to subparagraph (6)(vi) of this paragraph; and

(ii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraph (6)(vi) of this paragraph, if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory at the beginning of the month of fluid milk products and fluid cream products that were not subtracted pursuant to subparagraph (4) of this paragraph;

(9) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2), (6)(v), and (7)(i) of this paragraph and were not offset by transfers of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(11) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraphs (6)(vi) and (7)(ii) of this paragraph:

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the per-

centage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1049.27(m) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remainder of such receipts;

(12) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) according to the classification of such products pursuant to § 1049.45(a); and

(13) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage"; and

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

§ 1049.48 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) If verification by the market administrator discloses that the original classification of skim milk or butterfat was incorrect, such skim milk or butterfat shall be reclassified.

9. Section 1049.51 is revised as follows:

§ 1049.51 Class prices.

Subject to the provisions of §§ 1049.52 and 1049.53, the class prices per hundred-weight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus \$1.27, plus 20 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 20 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

10. Section 1049.52 is revised as follows:

§ 1049.52 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the class prices specified in § 1049.51 and the uniform price specified in § 1049.71 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by an amount, rounded to the nearest one-tenth cent, that is equal to the butter price for the month multiplied by 0.115.

11. Section 1049.53 is revised as follows:

§ 1049.53 Location adjustments to handlers.

(a) For producer milk received at a pool plant which is classified as Class I milk and eligible pursuant to paragraph (b) or (c) of this section for location adjustment, the Class I price specified in § 1049.51(a) shall be reduced according to the location of such plant by the applicable amount set forth below:

(1) At any plant located within:	Rate of adjustment per hundred-weight (cents)
(i) The State of Ohio or any Indiana county not specifically named in subdivisions (ii) through (iv) of this subparagraph	0
(ii) Any of the Indiana counties of Adams, Allen, Blackford, Cass, Carroll, De Kalb, Huntington, Jay, La Grange, Miami, Noble, Steuben, Wabash, Wells, White, and Whitley	4
(iii) Any of the Indiana counties of Benton, Elkhart, Fulton, Jasper, Kosciusko, Marshall, Newton, Pulaski, and St. Joseph, and the Michigan counties of Berrien and Cass	8
(iv) Any of the Indiana counties of Lake, La Porte, Porter, and Starke	12

(2) For any plant located outside the area specified in subparagraph (1) of this paragraph, the applicable amount shall be 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearest of the Monument Circle in Indianapolis or the main post offices of Fort Wayne, South Bend, or Valparaiso, all in Indiana, plus the location adjustment applicable at such nearest point pursuant to subparagraph (1) of this paragraph; and

(3) In determining location adjustments, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(b) If skim milk and butterfat are allocated on an individual plant basis pursuant to § 1049.47, the quantity of milk received at the plant that shall be subject to location adjustment shall be determined as follows. In applying the following rules, diversions to pool plants pursuant to § 1049.14(c) shall be treated the same as producer milk at the divertor plant and shall be excluded from receipts at the divertor plant, except that in the case of diversions to a pool plant located in the marketing area or to a pool plant at which the location adjustment is zero such diversions shall be treated the same as a transfer from the divertor plant to the plant to which diverted;

(1) From the total pounds of Class I skim milk and butterfat, respectively, at such plant subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1049.47 (a) and (b) and any Class I transfers to other pool plants;

(2) The amount of Class I transfers from such plant to other pool plants that is eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) From the total pounds of Class I skim milk and butterfat, respectively, at

such transferee plant (excluding Class I transfers to other pool plants that are not eligible for location adjustment as determined at such other pool plants) subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1049.47 (a) and (b);

(ii) From the remaining pounds of Class I skim milk and butterfat, respectively, subtract the skim milk and butterfat, respectively, in receipts at such transferee plant of producer milk;

(iii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iv) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (iii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(3) The sum of the quantities determined pursuant to subparagraphs (1) and (2)(iv) of this paragraph, or the total pounds of milk received at the plant as producer milk, whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(c) If skim milk and butterfat are allocated on a system basis pursuant to § 1049.47, the quantity of milk received at each plant as producer milk that shall be subject to any location adjustment applicable at such plant shall be determined as follows:

(1) Assign to the skim milk and butterfat, respectively, in the combined Class II and Class III utilization at each plant of the handler (excluding any such utilization at each plant based on transfers to other pool plants of the handler) any beginning inventory and other source milk receipts at such plant of the respective category allocated to such combined class uses pursuant to each subparagraph of § 1049.47(a) and the corresponding step of § 1049.47(b). If the same category of other source milk to be assigned to the combined Class II and Class III utilization was received at two or more plants of the handler, such other source milk shall be assigned first to the combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices (excluding in each case utilization based on transfers to his other pool plants). To the extent that combined Class II and Class III utilization of beginning inventory and other source milk remains unassigned, such remainder shall be assigned first to the remaining combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices;

(2) From the total pounds of Class I skim milk and butterfat, respectively, at each plant of the handler (excluding transfers to his other pool plants and Class I transfers to pool plants of other

handlers) subtract the pounds of skim milk and butterfat in the respective category of other source milk received and beginning inventory at such plant which exceed the quantities assigned to Class II and Class III utilization at such plant pursuant to subparagraph (1) of this paragraph;

(3) The amount of transfers from each plant to other pool plants of the handler operating such plant and Class I transfers to pool plants of other handlers that are eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) To the pounds of Class I skim milk and butterfat, respectively, remaining at the transferee plant after the computation pursuant to subparagraph (2) of this paragraph add any Class I transfers from such plant to other pool plants that are eligible for location adjustment as determined at the plants to which such transfers were made, and then subtract the skim milk and butterfat, respectively, in receipts at such transferee plant of producer milk;

(ii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iii) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (ii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(4) The sum of the quantities determined pursuant to subparagraphs (2) and (3)(iii) of this paragraph, or the total pounds of milk received at the plant as producer milk, whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(d) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

12. In § 1049.61(e), subparagraph (2) is revised as follows:

§ 1049.61 Plants subject to other Federal orders.

(e) . . .

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

13. Section 1049.62 is revised as follows:

§ 1049.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on

or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1049.31(b) and 1049.32(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of skim milk and butterfat, respectively, in the partially regulated distributing plant's route disposition in the marketing area;

(2) Subtract the pounds of skim milk and butterfat, respectively, received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in the partially regulated distributing plant's route disposition in the marketing area;

(4) Combine the remaining pounds of skim milk and butterfat and multiply the total by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1049.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated

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distributing plant in the class to which allocated at the fully regulated plant.

Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1049.70 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1049.70(f) and the credit specified in § 1049.82(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1049.12(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1049.31(b) and 1049.32(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for bottling grade milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for bottling grade milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator

of the nonpool supply plant if subparagraph (1)(iii) of this paragraph applies.

14. Section 1049.70 is revised as follows:

§ 1049.70 Computation of the net pool obligation of each handler.

The monthly net pool obligation of each handler described in § 1049.8 (a) and (b) shall be determined for such handler, or for each pool plant of such handler if the allocations pursuant to § 1049.47 are on an individual plant basis and the handler requests separate statements. Such obligation shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class determined pursuant to § 1049.46 by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1049.47(a)(13) and the corresponding step of § 1049.47(b) by the respective class price applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1049.47 (a)(8) and the corresponding step of § 1049.47(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.47(a)(6) (i) through (iv) and the corresponding step of § 1049.47 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.47(a)(6) (v) and (vi) and the corresponding step of § 1049.47 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest nonpool plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1049.47(a)(10) and the corresponding step of § 1049.47(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

15. In § 1049.71, paragraphs (c) and (e)(2) are revised as follows:

§ 1049.71 Computation of uniform prices.

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, the amount obtained by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential specified in § 1049.52, and multiply the result by the total hundredweight of such milk;

(e)

(2) The total hundredweight for which a value is computed pursuant to § 1049.70(f);

§ 1049.72 [Revoked]

16. Section 1049.72 is revoked.

17. In § 1049.73, paragraph (b) is revised as follows:

§ 1049.73 Location differentials to producers and on nonpool milk.

(b) The weighted average price applicable to other source milk shall be reduced at the rates set forth in § 1049.53, except that the adjusted weighted average price shall not be less than the Class III price.

18. In § 1049.80(a), subparagraphs (1) and (2) are revised as follows:

§ 1049.80 Time and method of payment.

(a)

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for each hundredweight of producer milk received during such month, an amount computed at not less than the uniform price adjusted pursuant to §§ 1049.52, 1049.73, and 1049.85, less any payment made pursuant to subparagraph (1) of this paragraph. If by such date the handler has not received full payment from the market administrator pursuant to § 1049.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

19. In § 1049.82(b), subparagraph (2) is revised as follows:

§ 1049.82 Payments to the producer-settlement fund.

(b)

(2) The value at the weighted average price applicable at the location of

the plants from which received of other source milk for which a value is computed pursuant to § 1049.70(f).

20. Section 1049.86 is revised as follows:

§ 1049.86 Expense of administration.

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own farm production);

(b) Other source milk allocated to Class I pursuant to § 1049.47(a)(6) and (10) and the corresponding steps of § 1049.47(b), except such other source milk on which no handler obligation applies pursuant to § 1049.70(f); and

(c) Class I milk disposed of on a route in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1049.62(a)(2).

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

1. In § 1050.14, paragraph (a)(2) and the introductory text of paragraph (c) are revised as follows:

§ 1050.14 Producer milk.

(a)

(2) By a cooperative association as a handler pursuant to § 1050.9(d) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1050.44(c) or as Class I shrinkage;

(c) Diverted from a pool plant to a nonpool plant that is not an other order plant or to a nonpool plant that is an other order plant if diverted as Class II or Class III milk, subject to the conditions of this paragraph. For pricing purposes, milk so diverted shall be deemed to be received at the plant from which diverted, unless the plant to which the milk is diverted is located more than 110 miles from the city hall in Peoria, Ill. (by the shortest highway distance as determined by the market administrator) in which case the milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted;

2. Section 1050.15 is revised as follows:

§ 1050.15 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source other than producers, cooperative associations acting as a handler pursuant to § 1050.9(d), pool plants, and inventory at the beginning of the month;

(b) Products (other than fluid milk products, bulk fluid cream products, and

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cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

3. Section 1050.16 is revised as follows:

§ 1050.16 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted: Milk, skim milk, lowfat milk, milk drinks, eggnog, butter-milk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1050.42 or § 1050.43(a)(1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

4. A new § 1050.16a is added as follows:

§ 1050.16a Fluid cream product.

"Fluid cream product" means cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat.

5. Section 1050.17 is revised as follows:

§ 1050.17 Route.

"Route" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product to a retail or wholesale outlet other than (a) a pool plant or a nonpool plant, or (b) a commercial food processor pursuant to § 1050.43(b).

6. In § 1050.22, paragraphs (h), (k), (l), and (m) are revised as follows:

§ 1050.22 Duties.

(h) Publicly announce on or before:

(1) The sixth day of each month, the Class I price for the current month pursuant to § 1050.51(a);

(2) The sixth day of each month, the Class II and Class III prices pursuant to § 1050.51 (b) and (c) and the butterfat differential pursuant to § 1050.52, all for the preceding month; and

(3) The 12th day after the end of each month, the uniform price pursuant to § 1050.71;

(k) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1050.47(a)(11) and the corresponding step of § 1050.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1050.47 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

7. In § 1050.30(a), subparagraphs (1)(iii) and (2) are revised as follows:

§ 1050.30 Reports of receipts and utilization.

(a)

(1)

(iii) Fluid milk products and bulk fluid cream products received from other pool plants; and

(2) Inventories at the beginning and end of the month of the following products, showing separately such inventories in bulk form and in packaged form:

(i) Fluid milk products; and

(ii) Fluid cream products except those received in packaged form from another plant;

8. In § 1050.32, paragraph (b) is revised as follows:

§ 1050.32 Payroll reports.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1050.62(a) shall report to the market administrator, on or before the 20th day after the end of the month for each dairy farmer from whom milk was received, the same information as re-

quired pursuant to paragraph (a) of this section.

9. Sections 1050.40 through 1050.46 are revoked and new §§ 1050.40 through 1050.48 are substituted therefor as follows:

§ 1050.40 Classification of all skim milk and butterfat.

All skim milk and butterfat to be reported by a handler pursuant to § 1050.30 shall be classified each month in accordance with §§ 1050.41 through 1050.48. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1050.41 Class I milk.

Except as provided in §§ 1050.43, 1050.45, and 1050.48, Class I milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid milk product;

(b) In inventory at the end of the month of packaged fluid milk products; and

(c) Not specifically accounted for as Class II or Class III milk.

§ 1050.42 Class II milk.

Except as provided in §§ 1050.43, 1050.45, and 1050.48, Class II milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid cream product;

(b) Used to produce:

(1) Yogurt, cottage cheese, creamed or partially creamed cottage cheese, sour cream, and any sour mixture of cream and milk or skim milk containing 9 percent or more butterfat; and

(2) Any product containing 6 percent or more nonmilk fat (or oil) that resembles any product specified in paragraphs (a) and (b) (1) of this section; and

(c) In inventory at the end of the month of packaged fluid cream products.

§ 1050.43 Class III milk.

Except as provided in §§ 1050.45 and 1050.48, Class III milk shall be all skim milk and butterfat:

(a) Used to produce:

(1) Cheese (other than cottage cheese and creamed or partially creamed cottage cheese);

(2) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(3) Any milk product in dry form;

(4) Milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(5) Custards, puddings, and pancake mixes;

(6) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(7) Evaporated or condensed milk or skim milk in plain or sweetened form

that is in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(8) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in § 1050.42(b) (2); and

(9) Any product that is not a fluid milk product and that is not specified in subparagraphs (1) through (8) of this paragraph or in § 1050.42;

(b) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and at which there is no disposition of fluid milk products other than those received in consumer-type packages;

(c) In inventory at the end of the month of bulk fluid milk products and bulk fluid cream products;

(d) In fluid milk products and products specified in § 1050.42 that are disposed of by a handler for animal feed;

(e) In fluid milk products and products specified in § 1050.42 that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(f) In skim milk represented by the nonfat milk solids added to a fluid milk product that is in excess of the quantity of such skim milk included within the fluid milk product definition pursuant to § 1050.16; and

(g) In shrinkage that is:

(1) Assigned pursuant to § 1050.44(a) to the receipts specified in § 1050.44(a) (2); and

(2) Specified in § 1050.44 (b) and (c).

§ 1050.44 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1050.30, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant, which shall be assigned pro rata to:

(1) The quantity of skim milk and butterfat, respectively, in the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) The quantity of skim milk and butterfat, respectively, in receipts of other source milk in bulk fluid form, excluding any such receipts used in the computations pursuant to paragraph (b) (5) and (6) of this section;

(b) The quantity of skim milk and butterfat, respectively, that was assigned pursuant to paragraph (a) of this section to the receipts specified in subparagraph (1) of such paragraph which is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in milk physically received at such plant directly from producers (excluding that received by diversion from another pool plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a cooperative association acting as a handler pursuant to § 1050.9(d) and in milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk purchases the milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no shrinkage shall be allowed;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1050.9 (c) or (d), but not to exceed 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of farm weights, no shrinkage shall be allowed.

§ 1050.45 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler (or to any pool plant if allocations pursuant to § 1050.47 are on an individual plant basis) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee or diveree plant after the computations pursuant to § 1050.47(a) (11) and the corresponding step of § 1050.47(b);

(2) If the transferor or divertor plant received during the month other source milk to be allocated pursuant to § 1050.47 (a) (6) or the corresponding step of § 1050.47(b), the skim milk or butterfat so transferred or diverted shall be classi-

fied so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor or divertor handler received during the month other source milk to be allocated pursuant to § 1050.47(a) (10) or (11) or the corresponding steps of § 1050.47(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee or diveree plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilizations available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of §§ 1050.41 through 1050.43.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in

the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified as Class I milk, subject to the following conditions:

(1) If the transferor or divertor handler so requests and the conditions described in subdivisions (i) and (ii) of this subparagraph are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in subparagraphs (2) through (7) of this paragraph:

(i) The transferor or divertor handler claims such classification in his report of receipts and utilization filed pursuant to § 1050.30 for the month within which such transaction occurred; and

(ii) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(2) Class I route disposition of the nonpool plant in the marketing area of each Federal milk order and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated under such order shall be assigned to the extent possible:

(i) First to receipts of packaged fluid milk products at such nonpool plant from pool plants; and

(ii) Any remaining such route disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(3) Class I disposition from the nonpool plant of packaged fluid milk products other than that described in subparagraph (2) of this paragraph shall be assigned pro rata to any receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants that remain unassigned after the assignment pursuant to subparagraph (2) of this paragraph;

(4) Class I disposition of packaged fluid milk products described in subparagraph (2) of this paragraph that was not assigned pursuant to such subparagraph and transfers of bulk fluid milk products from the nonpool plant to pool plants and other order plants, to the extent that such transfers and any remaining

transfers of packaged fluid milk products to each such pool plant and other order plant exceed receipts of fluid milk products from such plant and that such excess is allocated to Class I at the transferee plant, shall be assigned to the extent possible:

(i) First to receipts of fluid milk products at such nonpool plant from pool plants that remain unassigned after the assignments pursuant to subparagraphs (2) and (3) of this paragraph; and

(ii) Any remaining such Class I disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(5) Any remaining unassigned Class I utilization at the nonpool plant shall be assigned to the extent possible:

(i) First to such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of bottling grade milk for such nonpool plant; and

(ii) Any remaining unassigned Class I utilization shall be assigned to the nonpool plant's receipts of bottling grade milk from plants not fully regulated under any Federal milk order;

(6) Any remaining unassigned receipts of fluid milk products and bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned pro rata to such remaining unassigned receipts from each source in sequence to any Class III utilization, then any Class II utilization, and then any remaining Class I utilization at the nonpool plant; and

(7) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1050.46 Classification of producer milk.

Each month the market administrator shall determine the classification of producer milk in the following manner:

(a) Correct for mathematical and other obvious errors all reports filed pursuant to § 1050.30 and compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1050.9 (c) or (d) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1050.40 through 1050.45 and § 1050.48. For purposes of this paragraph and § 1050.47, fluid cream products that are received from another plant in packaged form and disposed of, or held in inventory, in the same container in which received shall not be included in a handler's receipts, inventory, or disposition unless such products become other source milk pursuant to § 1050.15 (b) or (c);

(b) For each handler described in § 1050.9(a), allocate in accordance with

§ 1050.47 such handler's receipts of skim milk and butterfat to his utilization of skim milk and butterfat in each class, subject to the following conditions:

(1) If the handler is a cooperative association, such receipts and utilization shall not include any milk for which it is the handler pursuant to § 1050.9 (c) or (d); and

(2) If the handler operates two or more pool plants, such receipts and utilization shall be for all of his pool plants combined unless the handler requests in his reports filed pursuant to § 1050.30 that the classification of producer milk be determined separately for each of his pool plants and he has no skim milk or butterfat that would be allocated under § 1050.47(a) (10) or (11) or the corresponding steps of § 1050.47(b); and

(c) The quantity of producer milk in each class shall be the following:

(1) For each cooperative association with respect to milk for which it is the handler pursuant to § 1050.9 (c) or (d), the combined pounds of skim milk and butterfat in each class that were determined pursuant to paragraph (a) of this section; and

(2) For each handler described in § 1050.9(a), the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1050.47(a) (13) and the corresponding step of § 1050.47(b).

§ 1050.47 Allocation of receipts to utilization.

For the purpose of § 1050.46, a handler's receipts shall be allocated to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1050.43(g) (2);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to subparagraph (6) (iv) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the immediately preceding month under any Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products that are in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1050.42;

(6) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) that was not subtracted pursuant to subparagraph (5) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) for which bottling grade certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(7) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) and (6) (v) of this paragraph;

(a) For which the handler requests Class II or Class III classification; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis), and bulk fluid milk products from other order plants that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph; and

(ii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph,

if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory at the beginning of the month of fluid milk products and fluid cream products that were not subtracted pursuant to subparagraph (4) of this paragraph;

(9) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2), (6) (v), and (7) (i) of this paragraph and that were not offset by transfers of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(11) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraphs (6) (vi) and (7) (ii) of this paragraph;

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1050.22(k) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remainder of such receipts;

(12) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) according to the classification of such products pursuant to § 1050.45(a); and

(13) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage"; and

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

§ 1050.48 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise. In the case of milk received from producers by a handler described in § 1050.9(d) for delivery to a pool plant, such handler shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1050.14(a) (2), and the operator of such pool plant shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1050.14(a) (1).

(b) Milk received by a pool plant operator from a handler described in § 1050.9 (d) shall be classified according to the use or disposition of the milk at such pool plant and the value of the milk at class prices shall be included in the operator's pool obligation pursuant to § 1050.70.

(c) If verification by the market administrator discloses that the original classification of skim milk or butterfat was incorrect, such skim milk or butterfat shall be reclassified.

10. Section 1050.51 is revised as follows:

§ 1050.51 Class prices.

Subject to the provisions of §§ 1050.52 and 1050.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus \$1.19, plus 20 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 20 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

11. Section 1050.52 is revised as follows:

§ 1050.52 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the class prices specified in § 1050.51 and the uniform price specified in § 1050.71 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by an amount, rounded to the nearest one-tenth cent, that is equal to the Chicago butter price for the month multiplied by 0.115.

12. Section 1050.53 is revised as follows:

§ 1050.53 Location adjustments to handlers.

(a) For producer milk received at a pool plant located outside Zone I which is classified as Class I milk and eligible pursuant to paragraph (b) or (c) of this section for location adjustment, the Class I price specified in § 1050.51(a) shall be reduced according to the location of such plant as follows:

(1) At a plant in Zone II or in the Illinois counties of Henry and Mercer, by 5 cents;

(2) At a plant located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the Illinois counties of Mercer, Henry, Bureau, La Salle, Grundy, and Kankakee, by 7.5 cents if such plant is 50 or more miles from the city hall in Peoria, Ill., and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles; and

(3) In determining location adjustments, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(b) If skim milk and butterfat are allocated on an individual plant basis pursuant to § 1050.47, the quantity of milk received at the plant as producer milk or by diversion from another pool plant that shall be subject to any location adjustment applicable at such plant shall be determined as follows:

(1) From the total pounds of Class I skim milk and butterfat, respectively, at such plant subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1050.47 (a) and (b) and any Class I transfers to other pool plants;

(2) The amount of Class I transfers from such plant to other pool plants that is eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) From the total pounds of Class I skim milk and butterfat, respectively, at such transferee plant (excluding Class I transfers to other pool plants that are not eligible for location adjustment as determined at such other pool plants) subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1050.47 (a) and (b);

(ii) From the remaining pounds of Class I skim milk and butterfat, respectively, subtract 95 percent of the skim milk and butterfat, respectively, in receipts at such transferee plant of producer milk and by diversion from other pool plants;

(iii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iv) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (iii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(3) The sum of the quantities determined pursuant to subparagraphs (1) and (2) (iv) of this paragraph, or the total pounds of milk received at the plant as producer milk and by diversion from another pool plant, whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(c) If skim milk and butterfat are allocated on a system basis pursuant to § 1050.47, the quantity of milk received

at each plant as producer milk or by diversion from another pool plant that shall be subject to any location adjustment applicable at such plant shall be determined as follows:

(1) Assign to the skim milk and butterfat, respectively, in the combined Class II and Class III utilization at each plant of the handler (excluding any such utilization at each plant based on transfers to other pool plants of the handler) any beginning inventory and other source milk receipts at such plant of the respective category allocated to such combined class uses pursuant to each subparagraph of § 1050.47(a) and the corresponding step of § 1050.47(b). If the same category of other source milk to be assigned to the combined Class II and Class III utilization was received at two or more plants of the handler, such other source milk shall be assigned first to the combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices (excluding in each case utilization based on transfers to his other pool plants). To the extent that combined Class II and Class III utilization of beginning inventory and other source milk remains unassigned, such remainder shall be assigned first to the remaining combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices;

(2) From the total pounds of Class I skim milk and butterfat, respectively, at each plant of the handler (excluding transfers to his other pool plants and Class I transfers to pool plants of other handlers) subtract the pounds of skim milk and butterfat in the respective category of other source milk received and beginning inventory at such plant which exceed the quantities assigned to Class II and Class III utilization at such plant pursuant to subparagraph (1) of this paragraph;

(3) The amount of transfers from each plant to other pool plants of the handler operating such plant and Class I transfers to pool plants of other handlers that are eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) To the pounds of Class I skim milk and butterfat, respectively, remaining at the transferee plant after the computation pursuant to subparagraph (2) of this paragraph add any Class I transfers from such plant to other pool plants that are eligible for location adjustment as determined at the plants to which such transfers were made, and then subtract 95 percent of the skim milk and butterfat, respectively, in receipts at such transferee plant of producer milk and by diversion from other pool plants;

(ii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iii) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (ii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(4) The sum of the quantities determined pursuant to subparagraphs (2) and (3)(iii) of this paragraph, or the total pounds of milk received at the plant as producer milk and by diversion from another pool plant, whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(d) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

13. In § 1050.61(e), subparagraph (2) is revised as follows:

§ 1050.61 Plants subject to other Federal orders.

(e)

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

14. Section 1050.62 is revised as follows:

§ 1050.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1050.30(c) and 1050.32(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of skim milk and butterfat, respectively, in the partially regulated distributing plant's route disposition in the marketing area;

(2) Subtract the pounds of skim milk and butterfat, respectively, received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and

priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in the partially regulated distributing plant's route disposition in the marketing area;

(4) Combine the remaining pounds of skim milk and butterfat and multiply the total by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1050.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1050.70 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1050.70(f) and the credit specified in § 1050.84(b)(2), the obligation for such handler shall include a similar obligation

for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1050.12 (b) and (c), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1050.30(c) and 1050.32(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for bottling grade milk received at the plant during the month from dairy farmers; and

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for bottling grade milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if subparagraph (1)(iii) of this paragraph applies.

15. Section 1050.70 is revised as follows:

§ 1050.70 Computation of the net pool obligation of each handler.

The monthly net pool obligation of each handler described in § 1050.9 (a), (c), and (d) shall be determined for such handler, or for each pool plant of such handler if the allocations pursuant to § 1050.47 are on an individual plant basis and the handler requests separate statements. Such obligation shall be a sum or money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class determined pursuant to § 1050.46 by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1050.47(a)(13) and the corresponding step of § 1050.47(b) by the respective class price applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the

location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1050.47 (a)(8) and the corresponding step of § 1050.47(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.47(a)(6) (i) through (iv) and the corresponding step of § 1050.47 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.47(a)(6) (v) and (vi) and the corresponding step of § 1050.47 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest nonpool plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1050.47(a)(10) and the corresponding step of § 1050.47(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price for the preceding month and the Class II price for the current month by the hundredweight of skim milk and butterfat in any products specified in § 1050.42 (a) and (b) that were in Class I inventory at the end of the preceding month.

16. In § 1050.71, paragraph (c) is revised as follows:

§ 1050.71 Computation of the uniform price.

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, the amount obtained by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential specified in § 1050.52, and multiply the result by the total hundredweight of such milk;

17. In § 1050.72, paragraph (b) is revised as follows:

§ 1050.72 Notification of handlers.

(b) The uniform price computed pursuant to § 1050.71 and the butterfat differential

computed pursuant to § 1050.52; and

18. In § 1050.80, paragraph (a) is revised as follows:

§ 1050.80 Time and method of payment for producer milk.

(a) On or before the 20th day of the following month, each handler shall make payment to each producer for milk received from such producer during such month an amount equal to not less than the uniform price, as adjusted pursuant to §§ 1050.52, 1050.82, and 1050.88, multiplied by the hundredweight of milk received from such producer during the month, less proper deductions authorized in writing by such producer, and plus or minus adjustments for errors made in previous payments made to such producer. If by such date the handler has not received full payment from the market administrator pursuant to § 1050.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) The weighted average price applicable to other source milk shall be reduced at the rates set forth in § 1050.53, except that the adjusted weighted average price shall not be less than the Class III price.

21. In § 1050.84(b), subparagraph (2) is revised as follows:

§ 1050.84 Payments to the producer-settlement fund.

(2) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1050.70(f).

22. Section 1050.87 is revised as follows:

§ 1050.87 Expense of administration.

As his pro rata share of the expense of administering the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1050.9(d) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own production);

ferential computed pursuant to § 1050.52; and

18. In § 1050.80, paragraph (a) is revised as follows:

§ 1050.80 Time and method of payment for producer milk.

(a) On or before the 20th day of the following month, each handler shall make payment to each producer for milk received from such producer during such month an amount equal to not less than the uniform price, as adjusted pursuant to §§ 1050.52, 1050.82, and 1050.88, multiplied by the hundredweight of milk received from such producer during the month, less proper deductions authorized in writing by such producer, and plus or minus adjustments for errors made in previous payments made to such producer. If by such date the handler has not received full payment from the market administrator pursuant to § 1050.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) The weighted average price applicable to other source milk shall be reduced at the rates set forth in § 1050.53, except that the adjusted weighted average price shall not be less than the Class III price.

21. In § 1050.84(b), subparagraph (2) is revised as follows:

§ 1050.84 Payments to the producer-settlement fund.

(2) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1050.70(f).

22. Section 1050.87 is revised as follows:

§ 1050.87 Expense of administration.

As his pro rata share of the expense of administering the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1050.9(d) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1050.47(a) (6) and (10) and the corresponding steps of § 1050.47(b), except such other source milk on which no handler obligation applies pursuant to § 1050.70(f); and

(c) Class I milk disposed of on a route in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1050.62(a)(2).

PART 1062—MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

1. In § 1062.7, paragraph (a) is revised as follows:

§ 1062.7 Producer.

(a) Received at a pool plant (excluding milk received as a diversion from an other order plant which is allocated to Class II or Class III pursuant to § 1062.47 (a)(7) (i) and the corresponding step of § 1062.47(b); or

2. In § 1062.14, paragraphs (a)(1), (b)(2)(ii), and (c)(3) are revised as follows:

§ 1062.14 Producer milk.

(a)

(1) Received at the pool plant from producers or from a cooperative association acting as a handler pursuant to § 1062.8(d), but excluding milk received as a diversion from an other order plant which is allocated to Class II or Class III pursuant to § 1062.47(a)(7) (ii) and the corresponding step of § 1062.47(b);

(b)

(2)

(ii) Is not so delivered and constitutes shrinkage pursuant to 1062.44(c) or Class I shrinkage; and

(c)

(3) By the operator of a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1062.8(c) as Class II or Class III milk to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act for not more days of production of producer milk than is physically received at pool plants less the number of days' production diverted pursuant to subparagraph (2) of this paragraph, if such milk is not fully subject to the pricing and pooling provisions of such other order;

3. Section 1062.15 is revised as follows:

§ 1062.15 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source other than producers, cooperative associations acting as a handler pursuant to § 1062.8(d), pool plants, and inventory at the beginning of the month;

(b) Products (other than fluid milk products, bulk fluid cream products, and cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

4. Section 1062.16 is revised as follows:

§ 1062.16 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted: Milk, skim milk, low-fat milk, milk drinks, eggnog, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1062.42 or § 1062.43(a) (1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

5. Section 1062.17 is revised as follows:

§ 1062.17 Route disposition.

"Route disposition" or "disposed of on routes" means any delivery of a fluid milk product to a retail or wholesale outlet (including any delivery through a vendor, or a sale in packaged form from a plant or plant store), except a delivery to another plant or to a commercial food establishment pursuant to § 1062.43(b).

6. A new § 1062.19a is added as follows:

§ 1062.19a Fluid cream product.

"Fluid cream product" means cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat.

7. In § 1062.22, paragraphs (i), (l), (m), and (n) are revised as follows:

§ 1062.22 Duties.

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate and mail to each handler at his last known address the prices determined for each month as follows:

(1) On or before the fifth day of each month, the Class I price for the current month pursuant to § 1062.51(a);

(2) On or before the fifth day of each month, the Class II and Class III prices pursuant to § 1062.51 (b) and (c) and the butterfat differential pursuant to § 1062.52, all for the preceding month; and

(3) On or before the 10th day after the end of each month, the uniform price pursuant to § 1062.71;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1062.47(a) (11) and the corresponding step of § 1062.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1062.47 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in verification of such report. In the case of milk received from another order market pool plant the classification of such milk shall be the quantities assigned to each class pursuant to § 1062.47. In the case of milk received from another order handler pool plant, the market administrator shall report the allocation of skim milk and butterfat in the same percentage as the marketwide estimate for all handlers pursuant to paragraph (l) of this section; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any change in such allocation arising from the verification of such report.

8. In § 1062.30(a), subparagraphs (1) (ii), (2), and (3) (i) are revised as follows:

§ 1062.30 Reports of receipts and utilization.

(a)
(1)

(ii) Fluid milk products and bulk fluid cream products received from other pool plants; and

(2) Inventories described in subparagraph (3) (i) of this paragraph that are on hand at the beginning of the month;

(3)
(i) Of inventories at the end of the month of the following products, showing separately such inventories in bulk form and in packaged form:

(a) Fluid milk products; and
(b) Fluid cream products except those received in packaged form from another plant;

9. In § 1062.31, the introductory text is revised as follows:

§ 1062.31 Payroll reports.

On or before the 20th day after the end of the month each handler described in § 1062.8(a), for each of his pool plants, and each cooperative association with respect to milk for which it is the handler pursuant to § 1062.8 (c) and (d) shall submit to the market administrator the producer payroll, and each handler making payments pursuant to § 1062.62(b) his payroll for dairy farmers delivering Grade A milk, which shall show for each producer or dairy farmer:

10. Sections 1062.40 through 1062.46 are revoked and new §§ 1062.40 through 1062.48 are substituted therefor as follows:

§ 1062.40 Classification of all skim milk and butterfat.

All skim milk and butterfat to be reported by a handler pursuant to § 1062.30 shall be classified each month in accordance with §§ 1062.41 through 1062.48. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1062.41 Class I milk.

Except as provided in §§ 1062.43, 1062.45, and 1062.48, Class I milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid milk product;

(b) In inventory at the end of the month of packaged fluid milk products; and

(c) Not specifically accounted for as Class II or Class III milk.

§ 1062.42 Class II milk.

Except as provided in §§ 1062.43, 1062.45, and 1062.48, Class II milk shall be all skim milk and butterfat:

(a) Disposed of in the form of a fluid cream product;

(b) Used to produce:

(1) Yogurt, cottage cheese, creamed or partially creamed cottage cheese, sour cream, and any sour mixture of cream and milk or skim milk containing 9 percent or more butterfat; and

(2) Any product containing 6 percent or more nonmilk fat (or oil) that resembles any product specified on paragraphs (a) and (b) (1) of this section; and

(c) In inventory at the end of the month of packaged fluid cream products.

§ 1062.43 Class III milk.

Except as provided in §§ 1062.45 and 1062.48, Class III milk shall be all skim milk and butterfat.

(a) Used to produce:

(1) Cheese (other than cottage cheese and creamed or partially creamed cottage cheese);

(2) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(3) Any milk product in dry form;

(4) Milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(5) Custards, puddings, and pancake mixes;

(6) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(7) Evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(8) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in § 1062.42(b) (2); and

(9) Any product that is not a fluid milk product and that is not specified in subparagraphs (1) through (8) of this paragraph or in § 1062.42;

(b) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and at which there is no disposition of fluid milk products other than those received in consumer-type packages;

(c) In inventory at the end of the month of bulk fluid milk products and bulk fluid cream products;

(d) In fluid milk products and products specified in § 1062.42 that are disposed of by a handler for animal feed;

(e) In fluid milk products and products specified in § 1062.42 that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(f) In skim milk represented by the nonfat milk solids added to a fluid milk product that is in excess of the quantity of such skim milk included within the fluid milk product definition pursuant to § 1062.16; and

(g) In shrinkage that is:

(1) Assigned pursuant to § 1062.44(a) to the receipts specified in § 1062.44(a) (2); and

(2) Specified in § 1062.44 (b) and (c).

§ 1062.44 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1062.30, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant, which shall be assigned pro rata to:

(1) The quantity of skim milk and butterfat, respectively, in the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) The quantity of skim milk and butterfat, respectively, in receipts of other source milk in the form of fluid milk products, excluding any such receipts used in the computations pursuant to paragraph (b) (5) and (6) of this section;

(b) The quantity of skim milk and butterfat, respectively, that was assigned pursuant to paragraph (a) of this section to the receipts specified in subparagraph (1) of such paragraph which is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in milk physically received at such plant directly from producers (excluding that received by diversion from another pool plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a cooperative association acting as a handler pursuant to § 1062.8 (d) and in milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk purchases the milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no shrinkage shall be allowed;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid products transferred to other plants; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of

milk from producers for which a cooperative association is the handler pursuant to § 1062.8 (c) or (d), but not to exceed 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of farm weights, no shrinkage shall be allowed.

§ 1062.45 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler (or to any pool plant if allocations pursuant to § 1062.47 are on an individual plant basis) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee or diveree plant after the computations pursuant to § 1062.47(a) (11) and the corresponding step of § 1062.47(b);

(2) If the transferor or divertor plant received during the month other source milk to be allocated pursuant to § 1062.47(a) (6) or the corresponding step of § 1062.47(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor or divertor handler received during the month other source milk to be allocated pursuant to § 1062.47(a) (10) or (11) or the corresponding steps of § 1062.47(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee or diveree plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which

allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilizations available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of §§ 1062.41 through 1062.43.

(c) *Transfers to producer-handlers and transfers and diversions to Government agency plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a plant exempt pursuant to § 1062.60(b) shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's or divertor's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified as Class I milk, subject to the following conditions:

(1) If the transferor or divertor handler so requests and the conditions described in subdivisions (i) and (ii) of this subparagraph are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in subparagraphs (2) through (7) of this paragraph:

(i) The transferor or divertor handler claims such classification in his report of receipts and utilization filed pursuant to § 1062.30 for the month within which such transaction occurred; and

(ii) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(2) Class I route disposition of the nonpool plant in the marketing area of each Federal milk order and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated under such order shall be assigned to the extent possible:

(i) First to receipts of packaged fluid milk products at such nonpool plant from pool plants; and

(ii) Any remaining such route disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(3) Class I disposition from the nonpool plant of packaged fluid milk products other than that described in subparagraph (2) of this paragraph shall be assigned pro rata to any receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants that remain unassigned after the assignment pursuant to subparagraph (2) of this paragraph;

(4) Class I disposition of packaged fluid milk products described in subparagraph (2) of this paragraph that was not assigned pursuant to such subparagraph and transfers of bulk fluid milk products from the nonpool plant to pool plants and other order plants, to the extent that such transfers and any remaining transfers of packaged fluid milk products to each such pool plant and other order plant exceed receipts of fluid milk products from such plant and that such excess is allocated to Class I at the transferee plant, shall be assigned to the extent possible:

(i) First to receipts of fluid milk products at such nonpool plant from pool plants that remain unassigned after the assignments pursuant to subparagraphs (2) and (3) of this paragraph; and

(ii) Any remaining such Class I disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(5) Any remaining unassigned Class I utilization at the nonpool plant shall be assigned to the extent possible:

(i) First to such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of bottling grade milk for such nonpool plant; and

(ii) Any remaining unassigned Class I utilization shall be assigned to the nonpool plant's receipts of bottling grade milk from plants not fully regulated under any Federal milk order;

(6) Any remaining unassigned receipts of fluid milk products and bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned pro rata to such remaining unassigned receipts from each source in sequence to any Class III utilization, then any Class II utilization, and then any remaining Class I utilization at the nonpool plant; and

(7) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1062.46 Classification of producer milk.

Each month the market administrator shall determine the classification of producer milk in the following manner:

(a) Correct for mathematical and other obvious errors all reports filed pursuant to § 1062.30 and compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1062.8 (c) or (d) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1062.40 through 1062.45 and § 1062.48. For purposes of this paragraph and § 1062.47, fluid cream products that are received from another plant in packaged form and disposed of, or held in inventory, in the same container in which received shall not be included in a handler's receipts, inventory, or disposition unless such products become other source milk pursuant to § 1062.15 (b) or (c);

(b) For each handler described in § 1062.8(a), allocate in accordance with § 1062.47 such handler's receipts of skim milk and butterfat to his utilization of skim milk and butterfat in each class, subject to the following conditions:

(1) If the handler is a cooperative association, such receipts and utilization shall not include any milk for which it is the handler pursuant to § 1062.8 (c) or (d); and

(2) If the handler operates two or more pool plants, such receipts and utilization shall be for all of his pool plants combined unless the handler requests in his reports filed pursuant to § 1062.30 that the classification of producer milk be determined separately for each of his pool plants and he has no skim milk or butterfat that would be allocated under § 1062.47(a) (10) or (11) or the corresponding steps of § 1062.47(b); and

(c) The quantity of producer milk in each class shall be the following:

(1) For each cooperative association with respect to milk for which it is the handler pursuant to § 1062.8 (c) or (d), the combined pounds of skim milk and butterfat in each class that were determined pursuant to paragraph (a) of this section; and

(2) For each handler described in § 1062.8(a), the combined pounds of skim

milk and butterfat remaining in each class after the computations pursuant to § 1062.47(a) (13) and the corresponding step of § 1062.47(b).

§ 1062.47 Allocation of receipts to utilization.

For the purpose of § 1062.46, a handler's receipt shall be allocated to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1062.43(g) (2);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to subparagraph (6) (vi) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the immediately preceding month under any Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products that are in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product) that is added to, or used to produce, any product specified in § 1062.42;

(6) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) that was not subtracted pursuant to subparagraph (5) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) for which bottling grade certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order or from a plant exempt pursuant to § 1062.60(b);

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(7) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) and (6) (v) of this paragraph;

(a) For which the handler requests Class II or Class III classification; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis), and bulk fluid milk products from other order plants that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph; and

(ii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph, if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory at the beginning of the month of fluid milk products and fluid cream products (and, for the first month that this subparagraph is effective Grade A sour cream and Grade A sour mixtures) that were not subtracted pursuant to subparagraph (4) of this paragraph;

(9) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2), (6) (v), and (7) (i) of this paragraph and that were not offset by transfers of fluid milk

products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(11) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraphs (6) (vi) and (7) (ii) of this paragraph;

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1062.22(1) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler;

(ii) From Class I, the remainder of such receipts; and

(iii) The quantity of skim milk, if any, subtracted pursuant to subdivision (ii) of this subparagraph shall be assigned pro rata to the receipts from other order plants under market pool orders and under handler pool orders which were assigned pursuant to subdivisions (i) and (ii) of this subparagraph (the skim milk subtracted pursuant to subdivision (i) of this subparagraph shall be subject to the same proration);

(12) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) according to the classification of such products pursuant to § 1062.45(a); and

(13) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage"; and

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

§ 1062.48 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) For the purposes of §§ 1062.41 through 1062.48, §§ 1062.50 through 1062.54, and §§ 1062.70 through 1062.72, milk delivered by a cooperative association in its capacity as a handler pursuant to § 1062.8(d) shall be classified and allocated as producer milk according to the use or disposition by the receiving handler and the value thereof at class prices

shall be included in the receiving handler's net pool obligation pursuant to § 1062.70. For purposes of location adjustment pursuant to § 1062.53 and administrative expense pursuant to § 1062.88, such milk shall be treated as producer milk of the receiving handler.

(c) If verification by the market administrator discloses that the original classification of skim milk or butterfat was incorrect, such skim milk or butterfat shall be reclassified.

11. Section 1062.51 is revised as follows:

§ 1062.51 Class prices.

Subject to the provisions of §§ 1062.52 and 1062.53, the class prices per hundredweight for the month shall be as follows:

(a) **Class I price.** The Class I price at plants located in Zone I shall be the basic formula price for the preceding month plus \$1.40, plus 20 cents.

(b) **Class II price.** The Class II price shall be the basic formula price for the month plus 20 cents.

(c) **Class III price.** The Class III price shall be the basic formula price for the month.

12. Section 1062.52 is revised as follows:

§ 1062.52 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the class prices specified in § 1062.51 and the uniform price specified in § 1062.71 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by an amount, rounded to the nearest one-tenth cent, that is equal to the Chicago butter price for the month multiplied by 0.115.

13. Section 1062.53 is revised as follows:

§ 1062.53 Location adjustments to handlers.

(a) For milk received at a pool plant from producers or from cooperative associations acting as a handler pursuant to § 1062.8(d) which is classified as Class I milk and eligible pursuant to paragraph (b) or (c) of this section for location adjustment, the Class I price at such pool plant, if located:

(1) In Zone I of the marketing area, shall be the price specified in § 1062.51 (a) except as provided in subparagraph (4) of this section;

(2) In Zone II of the marketing area, shall be the Zone I price plus a location adjustment of 15 cents;

(3) In Zone III of the marketing area, shall be the Zone I price plus a location adjustment of 17 cents;

(4) In Zone A (the Missouri counties of Barry, Christian, Douglas, Greene, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Webster, Wright, and Texas), for any plant which does not dispose of fluid milk products in consumer-type packages and which is qualified as a pool plant pursuant to § 1062.12 (b) or (c) or a supply plant which qualifies pursuant to § 1062.12(d), shall be the price specified in § 1062.51(a) less 27 cents;

(5) Outside the marketing area and Texas County, Missouri, and more than 30 miles from the city hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer, shall be the Class I price applicable in Zone I, less a location adjustment of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the city hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer; and

(6) In determining location adjustments, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(b) If skim milk and butterfat are allocated on an individual plant basis pursuant to § 1062.47, the quantity of milk received at the plant that shall be subject to location adjustment shall be determined as follows. In applying the following rules, diversions to pool plants located more than 120 miles from the city hall in either Springfield or St. Louis, Mo., as determined pursuant to § 1062.14(c)(4), shall be treated the same as receipts from producers at the divertee plant and shall be excluded from receipts at the divertor plant, and diversions to pool plants located within 120 miles of the city hall in either Springfield or St. Louis, Mo., as determined pursuant to § 1062.14(c)(5), shall be treated the same as a transfer from the divertor plant to the plant to which diverted:

(1) From the total pounds of Class I skim milk and butterfat, respectively, at such plant subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1062.47 (a) and (b) and any Class I transfers to other pool plants;

(2) The amount of Class I transfers from such plant to other pool plants that is eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) From the total pounds of Class I skim milk and butterfat, respectively, at such transferee plant (excluding Class I transfers to other pool plants that are not eligible for location adjustment as determined at such other pool plants) subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1062.47 (a) and (b);

(ii) From the remaining pounds of Class I skim milk and butterfat, respectively, subtract 95 percent of the skim milk and butterfat, respectively, in receipts at such transferee plant from producers and cooperative associations acting as a handler pursuant to § 1062.8 (d);

(iii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iv) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (iii) of this subparagraph or the quantity of Class I skim milk and butterfat trans-

ferred from such plant to the transferee plant, whichever is less; and

(3) The sum of the quantities determined pursuant to subparagraphs (1) and (2)(iv) of this paragraph, or the total pounds of milk received at the plant from producers and cooperative associations acting as a handler pursuant to § 1062.8(d), whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(c) If skim milk and butterfat are allocated on a system basis pursuant to § 1062.47, the quantity of milk received at each plant from producers and cooperative associations acting as a handler pursuant to § 1062.8(d) that shall be subject to any location adjustment applicable at such plant shall be determined as follows:

(1) Assign to the skim milk and butterfat, respectively, in the combined Class II and Class III utilization at each plant of the handler (excluding any such utilization at each plant based on transfers to other pool plants of the handler) any beginning inventory and other source milk receipts at such plant of the respective category allocated to such combined class uses pursuant to each subparagraph of § 1062.47(a) and the corresponding step of § 1062.47(b). If the same category of other source milk to be assigned to the combined Class II and Class III utilization was received at two or more plants of the handler, such other source milk shall be assigned first to the combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices (excluding in each case utilization based on transfers to his other pool plants). To the extent that combined Class II and Class III utilization of beginning inventory and other source milk remains unassigned, such remainder shall be assigned first to the remaining combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices;

(2) From the total pounds of Class I skim milk and butterfat, respectively, at each plant of the handler (excluding transfers to his other pool plants and Class I transfers to pool plants of other handlers) subtract the pounds of skim milk and butterfat in the respective category of other source milk received and beginning inventory at such plant which exceed the quantities assigned to Class II and Class III utilization at such plant pursuant to subparagraph (1) of this paragraph;

(3) The amount of transfers from each plant to other pool plants of the handler operating such plant and Class I transfers to pool plants of other handlers that are eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) To the pounds of Class I skim milk and butterfat, respectively, remaining at the transferee plant after the computation pursuant to subparagraph (2) of this paragraph add any Class I transfers

from such plant to other pool plants that are eligible for location adjustment as determined at the plants to which such transfers were made, and then subtract 95 percent of the skim milk and butterfat, respectively, in receipts at such transferee plant from producers and cooperative associations acting as a handler pursuant to § 1062.8(d);

(ii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iii) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (ii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(4) The sum of the quantities determined pursuant to subparagraphs (2) and (3)(iii) of this paragraph, or the total pounds of milk received at the plant from producers and cooperative associations acting as a handler pursuant to § 1062.8(d), whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

14. Section 1062.60 is revised as follows:

§ 1062.60 Exemptions.

(a) **Producer-handler.** Sections 1062.40 through 1062.48, 1062.50 through 1062.54, 1062.61, 1062.62, 1062.70 through 1062.72, 1062.80, and 1062.82 through 1062.89 shall not apply to a producer-handler; and

(b) **Governmental agency.** None of the provisions of this part except §§ 1062.13, 1062.45(c), and 1062.47(a)(6)(iv) and the corresponding step of § 1062.47 (b) shall apply to a plant operated by a governmental agency.

15. In § 1062.61(e), subparagraph (2) is revised as follows:

§ 1062.61 Plants subject to other Federal orders.

(c)

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

16. Section 1062.62 is revised as follows:

§ 1062.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on

or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1062.30(b) and 1062.31 the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of skim milk and butterfat, respectively, in the partially regulated distributing plant's route disposition in the marketing area;

(2) Subtract the pounds of skim milk and butterfat, respectively, received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in the partially regulated distributing plant's route disposition in the marketing area;

(4) Combine the remaining pounds of skim milk and butterfat and multiply the total by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1062.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1062.70 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1062.70(f) and the credit specified in § 1062.84(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1062.12(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1062.30 (b) and 1062.31 similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for bottling grade milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for bottling grade milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if subpara-

graph (1) (iii) of this paragraph applies.
17. Section 1062.70 is revised as follows:

§ 1062.70 Computation of the net pool obligation of each handler.

The monthly net pool obligation of each handler described in § 1062.8 (a), (c) and (d) shall be determined for such handler, or for each pool plant of such handler if the allocations pursuant to § 1062.47 are on an individual plant basis and the handler requests separate statements. Such obligation shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class determined pursuant to § 1062.46 by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1062.47(a) (13) and the corresponding step of § 1062.47(b) by the respective class price applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1062.47(a) (8) and the corresponding step of § 1062.47(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1062.47(a) (6) (i) through (iv) and the corresponding step of § 1062.47(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1062.47(a) (6) (v) and (vi) and the corresponding step of § 1062.47(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest nonpool plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1062.47(a) (10) and the corresponding step of § 1062.47(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Add the amount obtained from multiplying the hundredweight of skim

milk and butterfat in receipts of fluid milk products from a handler pool other order plant subtracted from each class pursuant to § 1062.47(a) (11) (iii) and the corresponding step of § 1062.47(b) by the applicable class price pursuant to this part adjusted for location of the plant from which received.

18. In § 1062.71, paragraphs (c) and (e) (2) are revised as follows:

§ 1062.71 Computation of uniform prices.

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, the amount obtained by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential specified in § 1062.52, and multiply the result by the total hundredweight of such milk;

(e)

(2) The total hundredweight for which a value is computed pursuant to § 1062.70 (f) and (g);

19. In § 1062.80, paragraphs (a) and (b) (2) are revised as follows:

§ 1062.80 Time and method of payment.

(a) On or before the 17th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price computed pursuant to § 1062.71 for such producer's deliveries of milk, adjusted pursuant to §§ 1062.52 and 1062.82, respectively, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1062.85, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b)

(2) Who is still delivering Grade A milk to such handler, a partial payment with respect to milk received from him during the first 15 days of such month computed at not less than the Class III price for 3.5 percent milk for the preceding month, without deduction for hauling;

20. Section 1062.81 is revoked.

21. Section 1062.82 is revised as follows:

§ 1062.82 Location differentials to producers and on nonpool milk.

(a) For producer milk received at pool plants located outside Zone I and more

than 30 miles from the city hall in St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer, there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1062.53(a) (2), (3), and (5); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1062.53(a) (2), (3), and (5), except that the adjusted weighted average price shall not be less than the Class III price.

22. In § 1062.84(b), subparagraph (2) is revised as follows:

§ 1062.84 Payments to the producer-settlement fund.

(b)

(2) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1062.70 (f) and (g), plus in the case of milk received from a handler pool market the amount of the location differential at the location of the plant from which received applied to the quantity of Class II and Class III milk reported pursuant to § 1062.22(m) which is in excess of the Class II and Class III milk pursuant to § 1062.70(g) except that for milk received from a handler pool market the value applicable pursuant to this subparagraph shall not exceed the value for such quantity calculated pursuant to § 1062.70(g).

23. Section 1062.88 is revised as follows:

§ 1062.88 Expense of administration.

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 2.5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own production and milk received from a cooperative association acting as a handler pursuant to § 1062.8 (d));

(b) Other source milk allocated to Class I pursuant to § 1062.47(a) (6) and (10) and the corresponding steps of § 1062.47(b), except such other source milk on which no handler obligation applies pursuant to § 1062.70(f); and

(c) Class I milk disposed of on a route in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1062.62(a) (2).

PART 1099—MILK IN THE PADUCAH, KY., MARKETING AREA

1. In § 1099.8, paragraph (b) is revised as follows:

§ 1099.8 Pool plant.

(b) A distributing plant or supply plant from which the volume of milk and skim milk shipped to pool plants qualified pursuant to paragraph (a) of

this section, or disposed of as Class I milk, except filled milk, on route distribution is equal to not less than 50 percent of the receipts of milk from dairy farmers producing milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority (including milk of such dairy farmers diverted by the plant operator), from cooperative associations in their capacity as handlers pursuant to § 1099.10(e) and fluid milk products, except filled milk, received from other plants; *Provided*, That if a supply plant ships to pool plants qualified pursuant to paragraph (a) of this section milk and skim milk equal to at least 75 percent of its receipts of milk from such dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1099.10(e) in October and November and 35 percent of such milk in three additional months during the period from August through January, such plant shall, upon written application to the market administrator on or before the end of such period, be designated as a pool plant until the end of any month during the succeeding August through January period in which the milk of such plant is disposed of in such a way that it becomes impossible for the plant to reestablish its qualification under the terms of this proviso: *And provided further*, That in the case of a supply plant operated by a cooperative association which supplies to other pool plants at least two-thirds of the producer milk of its producer members (including both the milk delivered directly from the farms of member producers and that delivered from the plant of the association) delivered to all plants during the current month or during the immediately preceding 12-month period, the milk which such association causes to be delivered to the pool plants of other handlers in its capacity as a handler pursuant to § 1099.10(e), shall be considered as having been received first at the plant of such cooperative association for the purpose of qualifying such plant as a pool plant pursuant to this paragraph.

2. In § 1099.13, paragraph (b) is revised as follows:

§ 1099.13 Producer milk.

(b) Received by a cooperative association as a handler pursuant to § 1099.10(e) but which is not delivered to a pool plant of another handler and which constitutes shrinkage pursuant to § 1099.44 (c) or as Class I shrinkage;

3. Section 1099.14 is revised as follows:

§ 1099.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source other than producers, cooperative associations acting as a handler pursuant to § 1099.10 (e), pool plants, and inventory at the beginning of the month;

(b) Products (other than fluid milk products, bulk fluid cream products, and

cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

4. Section 1099.15 is revised as follows:

§ 1099.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted: Milk, skim milk, low fat milk, milk drinks, eggnog, buttermilk, filled milk, and milk shake and ice milk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1099.42 or § 1099.43 (a) (1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

5. A new § 1099.19a is added as follows:

§ 1099.19a Fluid cream product.

"Fluid cream product" means cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat.

6. In § 1099.22, paragraphs (k), (l), (m), and (n) are revised as follows:

§ 1099.22 Duties.

(k) Publicly announce, by posting in his office and by other means he deems appropriate, on or before:

(1) The fifth day of each month, the Class I price for the current month pursuant to § 1099.51(a);

(2) The fifth day of each month, the Class II and Class III prices pursuant to § 1099.51 (b) and (c) and the butterfat differential pursuant to § 1099.52, all for the preceding month; and

(3) The 10th day after the end of each month, the uniform price pursuant to § 1099.71;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1099.47(a) (11) and the corresponding step of § 1049.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1099.47 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in verification of such report;

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any change in such allocation arising from the verification of such report.

7. In § 1099.30(a), subparagraphs (1), (4), and (7) are revised as follows:

§ 1099.30 Reports of receipts and utilization.

(a)

(1) The quantities of skim milk and butterfat contained in all receipts at each of his distributing and supply plants of:

(i) Producer milk, showing separately that from cooperative associations pursuant to § 1099.10(e);

(ii) Fluid milk products and bulk fluid cream products received from other pool plants; and

(iii) Other source milk;

(4) Inventories at the beginning and the end of the month of the following products, showing separately such inventories in bulk form and in packaged form:

(i) Fluid milk products; and

(ii) Fluid cream products except those received in packaged form from another plant;

(7) Each handler with respect to fluid milk products and products specified in § 1099.42 that are disposed of for animal feed or dumped shall report to the market administrator such information and at such time as the market administrator may require.

8. In § 1099.31(c), the introductory text is revised as follows:

§ 1099.31 Payroll reports.

(c) On or before the 25th day after the end of the month each handler oper-

this section, or disposed of as Class I milk, except filled milk, on route distribution is equal to not less than 50 percent of the receipts of milk from dairy farmers producing milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority (including milk of such dairy farmers diverted by the plant operator), from cooperative associations in their capacity as handlers pursuant to § 1099.10(e) and fluid milk products, except filled milk, received from other plants; *Provided*, That if a supply plant ships to pool plants qualified pursuant to paragraph (a) of this section milk and skim milk equal to at least 75 percent of its receipts of milk from such dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1099.10(e) in October and November and 35 percent of such milk in three additional months during the period from August through January, such plant shall, upon written application to the market administrator on or before the end of such period, be designated as a pool plant until the end of any month during the succeeding August through January period in which the milk of such plant is disposed of in such a way that it becomes impossible for the plant to reestablish its qualification under the terms of this proviso: *And provided further*, That in the case of a supply plant operated by a cooperative association which supplies to other pool plants at least two-thirds of the producer milk of its producer members (including both the milk delivered directly from the farms of member producers and that delivered from the plant of the association) delivered to all plants during the current month or during the immediately preceding 12-month period, the milk which such association causes to be delivered to the pool plants of other handlers in its capacity as a handler pursuant to § 1099.10(e), shall be considered as having been received first at the plant of such cooperative association for the purpose of qualifying such plant as a pool plant pursuant to this paragraph.

2. In § 1099.13, paragraph (b) is revised as follows:

§ 1099.13 Producer milk.

(b) Received by a cooperative association as a handler pursuant to § 1099.10(e) but which is not delivered to a pool plant of another handler and which constitutes shrinkage pursuant to § 1099.44 (c) or as Class I shrinkage;

3. Section 1099.14 is revised as follows:

§ 1099.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source other than producers, cooperative associations acting as a handler pursuant to § 1099.10 (e), pool plants, and inventory at the beginning of the month;

(b) Products (other than fluid milk products, bulk fluid cream products, and

cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

4. Section 1099.15 is revised as follows:

§ 1099.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted: Milk, skim milk, low fat milk, milk drinks, eggnog, buttermilk, filled milk, and milk shake and ice milk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1099.42 or § 1099.43 (a) (1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

5. A new § 1099.19a is added as follows:

§ 1099.19a Fluid cream product.

"Fluid cream product" means cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat.

6. In § 1099.22, paragraphs (k), (l), (m), and (n) are revised as follows:

§ 1099.22 Duties.

(k) Publicly announce, by posting in his office and by other means he deems appropriate, on or before:

(1) The fifth day of each month, the Class I price for the current month pursuant to § 1099.51(a);

(2) The fifth day of each month, the Class II and Class III prices pursuant to § 1099.51 (b) and (c) and the butterfat differential pursuant to § 1099.52, all for the preceding month; and

(3) The 10th day after the end of each month, the uniform price pursuant to § 1099.71;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1099.47(a) (11) and the corresponding step of § 1049.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1099.47 pursuant to such report, and, thereafter, any change in such allocation required to correct errors disclosed in verification of such report;

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any change in such allocation arising from the verification of such report.

7. In § 1099.30(a), subparagraphs (1), (4), and (7) are revised as follows:

§ 1099.30 Reports of receipts and utilization.

(a)

(1) The quantities of skim milk and butterfat contained in all receipts at each of his distributing and supply plants of:

(i) Producer milk, showing separately that from cooperative associations pursuant to § 1099.10(e);

(ii) Fluid milk products and bulk fluid cream products received from other pool plants; and

(iii) Other source milk;

(4) Inventories at the beginning and the end of the month of the following products, showing separately such inventories in bulk form and in packaged form:

(i) Fluid milk products; and

(ii) Fluid cream products except those received in packaged form from another plant;

(7) Each handler with respect to fluid milk products and products specified in § 1099.42 that are disposed of for animal feed or dumped shall report to the market administrator such information and at such time as the market administrator may require.

8. In § 1099.31(c), the introductory text is revised as follows:

§ 1099.31 Payroll reports.

(c) On or before the 25th day after the end of the month each handler oper-

cottage cheese) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product (other than a fluid milk product or a bulk fluid cream product) that is in a form in which it may be converted into a Class I product and which is not otherwise accounted for under the order.

4. Section 1099.15 is revised as follows:

§ 1099.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means:

(1) Any of the following products in fluid or frozen form, including such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted: Milk, skim milk, low fat milk, milk drinks, eggnog, buttermilk, filled milk, and milk shake and ice milk mixes containing less than 20 percent total solids; and

(2) Any milk product in fluid or frozen form that is not specified in subparagraph (1) of this paragraph or in § 1099.42 or § 1099.43 (a) (1) through (8), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk or skim milk in plain or sweetened form, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

5. A new § 1099.19a is added as follows:

§ 1099.19a Fluid cream product.

"Fluid cream product" means cream or a mixture of cream and milk or skim milk containing 9 percent or more butterfat.

6. In § 1099.22, paragraphs (k), (l), (m), and (n) are revised as follows:

§ 1099.22 Duties.

(k) Publicly announce, by posting in his office and by other means he deems appropriate, on or before:

(1) The fifth day of each month, the Class I price for the current month pursuant to § 1099.51(a);

(2) The fifth day of each month, the Class II and Class III prices pursuant to § 1099.51 (b) and (c) and the butterfat differential pursuant to § 1099.52, all for the preceding month; and

(3) The 10th day after the end of each month, the uniform price pursuant to § 1099.71;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1099.47(a) (11) and the corresponding step of § 1049.47(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1099.47 pursuant to such report, and

ating a partially regulated distributing plant, except one who elects at the time of reporting pursuant to § 1099.30 to make payments pursuant to § 1099.62(a), shall report his payments to dairy farmers qualified to be producers as if such plant were a pool plant, showing for each such dairy farmer:

9. Sections 1099.40 through 1099.46 are revoked and new §§ 1099.40 through 1099.48 are substituted therefor as follows:

§ 1099.40 Classification of all skim milk and butterfat.

All skim milk and butterfat to be reported by a handler pursuant to § 1099.30 shall be classified each month in accordance with §§ 1099.41 through 1099.48. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1099.41 Class I milk.

Except as provided in §§ 1099.43, 1099.45, and 1099.48, Class I milk shall be all skim milk and butterfat:

- (a) Disposed of in the form of a fluid milk product;
- (b) In inventory at the end of the month of packaged fluid milk products; and
- (c) Not specifically accounted for as Class II or Class III milk.

§ 1099.42 Class II milk.

Except as provided in §§ 1099.43, 1099.45, and 1099.48, Class II milk shall be all skim milk and butterfat:

- (a) Disposed of in the form of a fluid cream product;
- (b) Used to produce:
 - (1) Yogurt, cottage cheese, creamed or partially creamed cottage cheese, sour cream, and any sour mixture of cream and milk or skim milk containing 9 percent or more butterfat; and
 - (2) Any product containing 6 percent or more nonmilk fat (or oil) that resembles any product specified in paragraphs (a) and (b)(1) of this section; and
- (c) In inventory at the end of the month of packaged fluid cream products.

§ 1099.43 Class III milk.

Except as provided in §§ 1099.45 and 1099.48, Class III milk shall be all skim milk and butterfat:

- (a) Used to produce:
 - (1) Cheese (other than cottage cheese and creamed or partially creamed cottage cheese);
 - (2) Butter, plastic cream, frozen cream, and anhydrous milkfat;
 - (3) Any milk product in dry form;
 - (4) Milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

- (5) Custards, puddings, and pancake mixes;

(6) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(7) Evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(8) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in § 1099.42(b)(2); and

(9) Any product that is not a fluid milk product and that is not specified in subparagraphs (1) through (8) of this paragraph or in § 1099.42;

(b) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and at which there is no disposition of fluid milk products other than those received in consumer-type packages;

(c) In inventory at the end of the month of bulk fluid milk products and bulk fluid cream products;

(d) In fluid milk products and products specified in § 1099.42 that are disposed of by a handler for animal feed;

(e) In fluid milk products and products specified in § 1099.42 that are dumped by a handler if the market administrator is notified of such dumping in advance and is given opportunity to verify such dispositions;

(f) In skim milk represented by the nonfat milk solids added to a fluid milk product that is in excess of the quantity of such skim milk included within the fluid milk product definition pursuant to § 1099.15; and

(g) In shrinkage that is:

- (1) Assigned pursuant to § 1099.44(a) to the receipts specified in § 1099.44(a)(2); and
- (2) Specified in § 1099.44(b) and (c).

§ 1099.44 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1099.30, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant, which shall be assigned pro rata to:

- (1) The quantity of skim milk and butterfat, respectively, in the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) The quantity of skim milk and butterfat, respectively, in other source milk received in the form of bulk fluid milk products, excluding any such receipts used in the computations pursuant to paragraph (b)(5) and (6) of this section;

(b) The quantity of skim milk and butterfat, respectively, that was assigned

pursuant to paragraph (a) of this section to the receipts specified in subparagraph (1) of such paragraph which is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in milk physically received at such plant directly from producers;

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a cooperative association acting as a handler pursuant to § 1099.10(e), except that if the plant operator receiving such milk purchases the milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no shrinkage shall be allowed;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1099.10(d) or (e) but not to exceed 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of farm weights, no shrinkage shall be allowed.

§ 1099.45 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to the pool plant of another handler (or to any pool plant if allocations pursuant to § 1099.47 are on an individual plant basis) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee plant after the computations pursuant to § 1099.47(a)(11) and the corresponding step of § 1099.47(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1099.47(a)(6) or the corresponding step of § 1099.47(b) the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1099.74(a)(10) or (11) or the corresponding steps of § 1099.47(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee plant.

(b) *Transfers to other order plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively that are in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III milk to the extent of such utilizations available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim fluid milk product under such other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the

provisions of §§ 1099.41 through 1099.43.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified as Class I milk, subject to the following conditions:

(1) If the transferor or divortor handler so requests and the conditions described in subdivisions (i) and (ii) of this subparagraph are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in subparagraphs (2) through (7) of this paragraph;

(i) The transferor or divortor handler claims such classification in his report of receipts and utilization filed pursuant to § 1099.30 for the month within which such transaction occurred; and

(ii) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(2) Class I route disposition of the nonpool plant in the marketing area of each Federal milk order and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated under such order shall be assigned to the extent possible:

(i) First to receipts of packaged fluid milk products at such nonpool plant from pool plants; and

(ii) Any remaining such route disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(3) Class I disposition from the nonpool plant of packaged fluid milk products other than that described in subparagraph (2) of this paragraph shall be assigned pro rata to any receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants that remain unassigned after the assignment pursuant to subparagraph (2) of this paragraph;

(4) Class I disposition of packaged fluid milk products described in subparagraph (2) of this paragraph that was not assigned pursuant to such subparagraph and transfers of bulk fluid milk products

from the nonpool plant to pool plants and other order plants, to the extent that such transfers and any remaining transfers of packaged fluid milk products to each such pool plant and other order plant exceed receipts of fluid milk products from such plant and that such excess is allocated to Class I at the transferee plant, shall be assigned to the extent possible:

(i) First to receipts of fluid milk products at such nonpool plant from pool plants that remain unassigned after the assignments pursuant to subparagraphs (2) and (3) of this paragraph; and

(ii) Any remaining such Class I disposition and transfers from the nonpool plant shall be assigned pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(5) Any remaining unassigned Class I utilization at the nonpool plant shall be assigned to the extent possible:

(i) First to such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of bottling grade milk for such nonpool plant; and

(ii) Any remaining unassigned Class I utilization shall be assigned to the nonpool plant's receipts of bottling grade milk from plants not fully regulated under any Federal milk order;

(6) Any remaining unassigned receipts of fluid milk products and bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned pro rata to such remaining unassigned receipts from each source in sequence to any Class III utilization, then any Class II utilization, and then any remaining Class I utilization at the nonpool plant; and

(7) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1099.46 Classification of producer milk.

Each month the market administrator shall determine the classification of producer milk in the following manner:

- (a) Correct for mathematical and other obvious errors all reports filed pursuant to § 1099.30 and compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1099.10(d) or (e) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1099.40 through 1099.45, and § 1099.48. For purposes of this paragraph and § 1099.47, fluid cream products that are received from another plant in packaged form and disposed of, or held in inventory, in the same container in which received shall not be included in a handler's receipts, inventory, or disposition unless

such products become other source milk pursuant to § 1099.14 (b) or (c);

(b) For each handler described in § 1099.10(a), allocate in accordance with § 1099.47 such handler's receipts of skim milk and butterfat to his utilization of skim milk and butterfat in each class, subject to the following conditions:

(1) If the handler is a cooperative association, such receipts and utilization shall not include any milk for which it is the handler pursuant to § 1099.10 (d) and (e); and

(2) If the handler operates two or more pool plants, such receipts and utilization shall be for all of his pool plants combined unless the handler requests in his reports filed pursuant to § 1099.30 that the classification of producer milk be determined separately for each of his pool plants and he has no skim milk or butterfat that would be allocated under § 1099.47(a) (10) or (11) or the corresponding steps of § 1099.47(b); and

(c) The quantity of producer milk in each class shall be the following:

(1) For each cooperative association with respect to milk for which it is the handler pursuant to § 1099.10 (d) or (e), the combined pounds of skim milk and butterfat in each class that were determined pursuant to paragraph (a) of this section; and

(2) For each handler described in § 1099.10(a), the combined pounds of skim milk and butterfat remaining in each class after the computation, pursuant to § 1099.47(a) (13) and the corresponding step of § 1099.47(b).

§ 1099.47 Allocation of receipts to utilization.

For the purpose of § 1099.46, a handler's receipts shall be allocated to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1099.43(g) (2);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to subparagraph (6) (vi) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the immediately preceding month under any Federal milk order providing for a similar allocation

of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products that are in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1099.42;

(6) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) that was not subtracted pursuant to subparagraph (5) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) for which bottling grade certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(7) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) and (6)(v) of this paragraph;

(a) For which the handler requests Class II or Class III classification; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis), and bulk fluid milk products from other order plants that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph; and

(ii) Receipts of bulk fluid milk products from an other order plant that are

in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraph (6) (vi) of this paragraph, if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory at the beginning of the month of fluid milk products and fluid cream products (and, for the first month that this subparagraph is effective, sour cream) that were not subtracted pursuant to subparagraph (4) of this paragraph;

(9) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2), (6) (v), and (7) (i) of this paragraph and that were not offset by transfers of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(11) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraphs (6) (vi) and (7) (ii) of this paragraph;

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1099.22(1) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remainder of such receipts;

(12) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) according to the classification of such products pursuant to § 1099.45(a); and

(13) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage"; and

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

§ 1099.48 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise. In the case of milk received from producers by a handler described in § 1099.10(e) for delivery to a pool plant, such handler shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1099.13(b), and the operator of such pool plant shall have the burden of proving the classification of skim milk and butterfat in the milk specified in § 1099.13(a).

(b) Milk received by a pool plant operator from a handler described in § 1099.10(e) shall be classified according to the use or disposition of the milk at such pool plant and the value of the milk at class prices shall be included in the operator's pool obligation pursuant to § 1099.70.

(c) If verification by the market administrator discloses that the original classification of skim milk or butterfat was incorrect, such skim milk or butterfat shall be reclassified.

10. Section 1099.51 is revised as follows:

§ 1099.51 Class prices.

Subject to the provisions of §§ 1099.52 and 1099.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the Class I price pursuant to Part 1062 of this chapter (St. Louis-Ozarks) plus 25 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 20 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

11. Section 1099.52 is revised as follows:

§ 1099.52 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the class prices specified in § 1099.51 and the uniform price specified in § 1099.71 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by an amount, rounded to the nearest one-tenth cent, that is equal to the Chicago butter price for the month multiplied by 0.115.

12. Section 1099.53 is revised as follows:

§ 1099.53 Location adjustments to handlers.

(a) For producer milk received at a pool plant located more than 40 miles from the nearest county courthouse in any of the counties included in the marketing area which is classified as Class I milk and eligible pursuant to paragraph (c) or (d) of this section for location

adjustment, the Class I price specified in § 1099.51(a) shall be reduced by 7.5 cents, and by an additional 1.5 cents for each 10 miles or fraction thereof that such plant is located beyond 50 miles of the respective courthouse.

(b) In determining location adjustments pursuant to this section, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(c) If skim milk and butterfat are allocated on an individual plant basis pursuant to § 1099.47, the quantity of milk received at the plant as producer milk that shall be subject to location adjustment shall be determined as follows:

(1) From the total pounds of Class I skim milk and butterfat, respectively, at such plant subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1099.47 (a) and (b) and any Class I transfers to other pool plants;

(2) The amount of Class I transfers from such plant to other pool plants that is eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) From the total pounds of Class I skim milk and butterfat, respectively, at such transferee plant (excluding Class I transfers to other pool plants that are not eligible for location adjustment as determined at such other pool plants) subtract any beginning inventory and other source milk allocated to Class I pursuant to § 1099.47 (a) and (b);

(ii) From the remaining pounds of Class I skim milk and butterfat, respectively, subtract 95 percent of the skim milk and butterfat, respectively, in receipts at such transferee plant of producer milk;

(iii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iv) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (iii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(3) The sum of the quantities determined pursuant to subparagraphs (1) and (2)(iv) of this paragraph, or the total pounds of milk received at the plant as producer milk, whichever is less, shall be the total quantity of milk eligible for location adjustment at such plant.

(d) If skim milk and butterfat are allocated on a system basis pursuant to § 1099.47, the quantity of milk received at each plant as producer milk that shall be subject to any location adjustment applicable at such plant shall be determined as follows:

(1) Assign to the skim milk and butterfat, respectively, in the combined Class II and Class III utilization at each plant of the handler (excluding any such utilization at each plant based on transfers to other pool plants of the handler)

any beginning inventory and other source milk receipts at such plant of the respective category allocated to such combined class uses pursuant to each subparagraph of § 1099.47(a) and the corresponding step of § 1099.47(b). If the same category of other source milk to be assigned to the combined Class II and Class III utilization was received at two or more plants of the handler, such other source milk shall be assigned first to the combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices (excluding in each case utilization based on transfers to his other pool plants). To the extent that combined Class II and Class III utilization of beginning inventory and other source milk remains unassigned, such remainder shall be assigned first to the remaining combined Class II and Class III utilization at the plant where the lowest Class I price applies and then in sequence to such utilization at plants having the next higher Class I prices;

(2) From the total pounds of Class I skim milk and butterfat, respectively, at each plant of the handler (excluding transfers to his other pool plants and Class I transfers to pool plants of other handlers) subtract the pounds of skim milk and butterfat in the respective category of other source milk received and beginning inventory at such plant which exceed the quantities assigned to Class II and Class III utilization at such plant pursuant to subparagraph (1) of this paragraph;

(3) The amount of transfers from each plant to other pool plants of the handler operating such plant and Class I transfers to pool plants of other handlers that are eligible for a location adjustment shall be determined at the transferee plant as follows:

(i) To the pounds of Class I skim milk and butterfat, respectively, remaining at the transferee plant after the computation pursuant to subparagraph (2) of this paragraph add any Class I transfers from such plant to other pool plants that are eligible for location adjustment as determined at the plants to which such transfers were made, and then subtract 95 percent of the skim milk and butterfat, respectively, in receipts at such transferee plant of producer milk;

(ii) Assign the remaining amount of Class I skim milk and butterfat to fluid milk products received by transfer from other pool plants in sequence beginning with receipts from the plant having the highest Class I price; and

(iii) The amount of Class I transfers eligible for location adjustment at each transferor plant shall be the quantity assigned pursuant to subdivision (ii) of this subparagraph or the quantity of Class I skim milk and butterfat transferred from such plant to the transferee plant, whichever is less; and

(4) The sum of the quantities determined pursuant to subparagraphs (2) and (3)(iii) of this paragraph, or the total pounds of milk received at the plant as producer milk, whichever is less,

shall be the total quantity of milk eligible for location adjustment at such plant.

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

13. In § 1099.61(e), subparagraph (2) is revised as follows:

§ 1099.61 Plants subject to other Federal orders.

(e)

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

14. Section 1099.62 is revised as follows:

§ 1099.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1099.30(b) and 1099.31(c) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of skim milk and butterfat, respectively, in the partially regulated distributing plant's route disposition in the marketing area;

(2) Subtract the pounds of skim milk and butterfat, respectively, received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in the partially regulated distributing plant's route disposition in the marketing area;

(4) Combine the remaining pounds of skim milk and butterfat and multiply the total by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distribut-

ing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1099.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1099.70 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1099.70(f) and the credit specified in § 1099.82(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1099.8(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1099.30(b) and 1099.31(c) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for bottling grade milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for bottling grade milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if subparagraph (1)(iii) of this paragraph applies.

15. Section 1099.70 is revised as follows:

§ 1099.70 Computation of the net pool obligation of each handler.

The monthly net pool obligation of each handler described in § 1099.10 (a), (d), and (e) shall be determined for such handler, or for each pool plant of such handler if the allocations pursuant to § 1099.47 are on an individual plant basis and the handler requests separate statements. Such obligation shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class determined pursuant to § 1099.46 by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1099.47(a)(13) and the corresponding step of § 1099.47(b) by the respective class price applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1099.47(a)(8) and the corresponding step of § 1099.47(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.47(a)(6) (i) through (iv)

and the corresponding step of § 1099.47 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.47(a)(6) (v) and (vi) and the corresponding step of § 1099.47 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest nonpool plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1099.47(a)(10) and the corresponding step § 1099.47(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

16. In § 1099.71, paragraphs (c) and (e) (2) are revised as follows:

§ 1099.71 Computation of the uniform price.

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, the amount obtained by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential specified in § 1099.52, and multiply the result by the total hundredweight of such milk;

(e)

(2) The total hundredweight for which a value is computed pursuant to § 1099.70(f);

17. In § 1099.80, paragraphs (a) (1) and (2) and (c) (1) and (2) are revised as follows:

§ 1099.80 Time and method of payment for producer milk.

(a)

(1) On or before the last day of each month to each such producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class

III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this subparagraph;

(2) On or before the 17th day of the following month, an amount equal to not less than the uniform price adjusted pursuant to §§ 1099.52 and 1099.86, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 1099.87, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment pursuant to § 1099.83 from the market administrator for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(c)

(1) On or before the 28th day of the month an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk so received from such cooperative association during the first 15 days of the month, less proper deductions authorized in writing by the cooperative association;

(2) On or before the 14th day of the following month not less than the uniform price adjusted by the butterfat and location differentials pursuant to §§ 1099.52 and 1099.86 multiplied by the hundredweight of milk so received from the cooperative association during the month, subject to the following adjustments: (i) less payments made to such cooperative association pursuant to subparagraph (1) of this paragraph, (ii) less proper deductions authorized in writing by such cooperative association: *Provided*, That if by such date the handler has not received full payment pursuant to § 1099.83 from the market administrator for such month, he may reduce pro rata his payments on such milk as in the case of payments to producers pursuant to paragraph (a) of this section, and payments hereunder shall be

completed not later than the date for making payments pursuant to this subparagraph next following the receipt of the balance due from the market administrator; and

18. In § 1099.82(b), subparagraph (2) is revised as follows:

§ 1099.82 Payments to the producer-settlement fund.

(b)

(2) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1099.70(f).

§ 1099.85 [Revoked]

19. Section 1099.85 is revoked.

20. In § 1099.86, paragraph (c) is revised as follows:

§ 1099.86 Location differentials to producers and on nonpool milk.

(c) The weighted average price applicable to other source milk shall be reduced at the rates set forth in § 1099.53, except that the adjusted weighted average price shall not be less than the Class III price.

21. Section 1099.88 is revised as follows:

§ 1099.88 Expense of administration.

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own production) and milk received from a cooperative association acting as a handler pursuant to § 1099.10(e);

(b) Other source milk allocated to Class I pursuant to § 1099.47(a)(6) and (10) and the corresponding steps of § 1099.47(b), except such other source milk on which no handler obligation applies pursuant to § 1099.70(f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted to § 1099.62(a)(2).

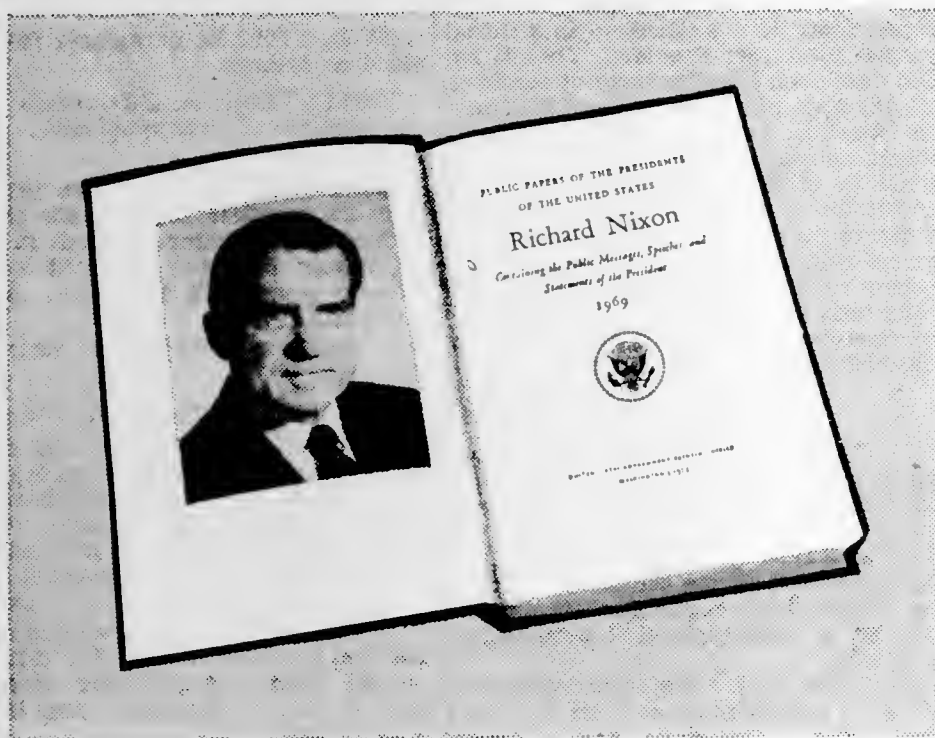
Signed at Washington, D.C., on June 4, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-8021 Filed 6-10-71; 8:45 am]

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Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 484]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.784 Lemon Regulation 484.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the Act, to make this

regulation effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 8, 1971.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period June 13, 1971, through June 19, 1971, are hereby fixed as follows:

- (i) District 1: Unlimited;
- (ii) District 2: 300,000 cartons;
- (iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 10, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-8366 Filed 6-11-71; 8:56 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-571]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e) (4) relating to the State of North Carolina, a new subdivision (vii) relating to Harnett, Johnston, and Wake Counties is added to read:

- (4) North Carolina. . . .

(vii) The adjacent portions of Harnett, Johnston, and Wake Counties bounded by a line beginning at the junction of Secondary Road 1309 and Secondary Road 1536 in Johnston County; thence, following Secondary Road 1309 in a southwesterly direction to Secondary Road 1313; thence, following Secondary Road 1313 in a northwesterly direction to Secondary Road 1312; thence, following Secondary Road 1312 in a southwesterly direction to Secondary Road 1551; thence, following Secondary Road 1551 in a southerly direction to Secondary Road 1532; thence, following Secondary Road 1532 in Harnett County in a southwesterly direction to Secondary Road 1546; thence, following Secondary Road 1546 in a northerly direction to Secondary Road 1500; thence, following Secondary Road 1500 in a northwesterly direction to Secondary Road 1501; thence, following Secondary Road 1501 in a northerly direction to Secondary Road 2778 in Wake County; thence, following Secondary Road 2778 in a northeasterly direction to Secondary Road 2762; thence, following Secondary Road 2762 in a southeasterly direction to Secondary Road 2754; thence, following Secondary Road 2754 in a northeasterly direction to Secondary Road 2758; thence, following Secondary Road 2758 in a northeasterly direction to Secondary Road 1006; thence, following Secondary Road 1006 in a northeasterly direction to Secondary Road 2746; thence, following Secondary Road 2746 in a southeasterly direction to Secondary Road 2742; thence, following Secondary Road 2742 in a northeasterly direction to Secondary Road 2740; thence, following Secondary Road 2740 in a southeasterly direction to Secondary Road 1533 in Johnston County; thence, following Secondary Road 1533 in a southeasterly direction to Secondary Road 1534; thence, following Secondary Road 1534 in a southeasterly direction to Secondary Road 1536; thence, following Secondary Road 1536 in a southeasterly direction to its junction with Secondary Road 1309 in Johnston County.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines portions of Harnett, Johnston, and Wake Counties in North Carolina because of the existence of hog cholera. This action is deemed necessary to prevent spread of the disease. The restrictions pertaining to the interstate movement of swine

and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portions of such counties.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc. 71-8324 Filed 6-11-71; 8:55 am]

[Docket No. 71-570]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, the reference to the State of Massachusetts in the introductory portion of paragraph (e) and paragraph (e) (2) relating to the State of Massachusetts are deleted.

2. In § 76.2, in paragraph (e) (4) relating to the State of North Carolina, subdivision (i) relating to Bertie County is deleted, and a new subdivision (i) relating to Guilford County is added to read:

(4) *North Carolina.* (i) That portion of Guilford County bounded by a line beginning at the junction of State Highway 6 and U.S. Highway 29, 70, 421; thence, following U.S. Highway 29, 70, 421 in a northeasterly direction to Secondary Road 3000; thence, following Secondary Road 3000 in an easterly direction to Secondary Road 3006; thence, following Secondary Road 3006 in a northerly direction to U.S. Highway 70A; thence, following U.S. Highway 70A in a northeasterly direction to Secondary Road 2851; thence, following Secondary Road 2851 in a northerly direction to Secondary Road 2821; thence, following Secondary Road 2821 in a northeasterly direction to Secondary Road 2819; thence, following Secondary Road 2819 in a southeasterly direction to Sec-

ondary Road 2752; thence, following Secondary Road 2752 in a southeasterly direction to Secondary Road 2814; thence, following Secondary Road 2814 in a southeasterly direction to U.S. Highway 70A; thence, following U.S. Highway 70A in a southeasterly direction to Secondary Road 3053; thence, following Secondary Road 3053 in a southwesterly direction to Secondary Road 3124; thence, following Secondary Road 3124 in a southwesterly direction to Secondary Road 3045; thence, following Secondary Road 3045 in a southeasterly direction to Secondary Road 3072; thence, following Secondary Road 3072 in a westerly direction to Secondary Road 3048; thence, following Secondary Road 3048 in a northwesterly direction to Secondary Road 3078; thence, following Secondary Road 3078 in a southwesterly direction to Secondary Road 3029; thence, following Secondary Road 3029 in a northwesterly direction to Secondary Road 3036; thence, following Secondary Road 3036 in a northwesterly direction to Secondary Road 3038; thence, following Secondary Road 3038 in a northwesterly direction to State Highway 6; thence, following State Highway 6 in a northwesterly direction to its junction with U.S. Highway 29, 70, 421.

3. In § 76.2, paragraph (e) (5) relating to the State of Texas is amended to read:

(5) *Texas.* (i) All of Callahan, Eastland, Galveston, Harris, Montgomery, and Tom Green Counties.

(ii) That portion of the State of Texas comprised of all of Bell, Bosque, Ellis, Hill, Johnson, McLennan, and Williamson Counties and portions of Coryell and Tarrant Counties, and bounded by a line beginning at the junction of the Tarrant-Dallas-Ellis County lines; thence, following the Dallas-Ellis-County line in an easterly direction to the junction of the Dallas-Ellis-Kaufman County lines; thence, following the Kaufman-Ellis-County line in a southeasterly direction to the junction of the Kaufman-Ellis-Henderson County lines; thence, following the Ellis-Henderson County line in a southeasterly direction to the junction of the Ellis-Henderson-Navarro County lines; thence, following the Ellis-Navarro County line in a southwesterly direction to the junction of the Ellis-Navarro-Hill County lines; thence, following the Navarro-Hill County line in a southeasterly direction to the junction of the Hill-Navarro-Limestone County lines; thence, following the Limestone-Hill County line in a southwesterly direction to the junction of the McLennan-Hill-Limestone County lines; thence, following the McLennan-Limestone County line in a southeasterly direction to the junction of the Limestone-Falls-McLennan County lines; thence, following the Falls-McLennan County line in a southwesterly direction to the junction of the Falls-McLennan-Bell County lines; thence, following the Falls-Bell County line in a southeasterly direction to its junction with the Bell-Milam-Falls County lines; thence, following the Bell-

Milam County line in a southwesterly direction to the junction of the Bell-Milam-Williamson County lines; thence, following the Williamson-Milam County line in a southeasterly direction to the junction of the Williamson-Milam-Lee County lines; thence, following the Williamson-Lee County line in a southwesterly direction to the junction of the Williamson-Lee-Bastrop County lines; thence, following the Williamson-Bastrop County line in a generally northwesterly direction to the junction of the Williamson-Bastrop-Travis County lines; thence, following the Williamson-Travis County line in a generally northwesterly direction to the junction of the Williamson-Bastrop-Travis County lines; thence, following the Williamson-Bastrop-Travis County line in a northeasterly direction to the junction of the Williamson-Burnet-Bell County lines; thence, following the Bell-Burnet County line in a northwesterly direction to the junction of the Bell-Burnet-Lampasas County lines; thence, following the Bell-Lampasas County line in a northerly direction to the junction of the Bell-Lampasas-Coryell County lines; thence, following the Bell-Coryell County line in a northeasterly direction to State Highway 36 in Bell County; thence, following State Highway 36 in a northwesterly direction to U.S. Highway 84 in Coryell County; thence, following U.S. Highway 84 in a northwesterly direction to the Coryell-Hamilton County line; thence, following the Coryell-Hamilton County line in a northeasterly direction to the junction of the Coryell-Hamilton-Bosque County lines; thence, following the Hamilton-Bosque County line in a northwesterly direction to the junction of the Hamilton-Bosque-Erath County lines; thence, following the Bosque-Erath County line in a northeasterly direction to the junction of the Bosque-Erath-Somervell County lines; thence, following the Bosque-Somervell County line in a northeasterly direction to the junction of the Bosque-Somervell-Johnson County lines; thence, following the Somervell-Johnson County line in a northerly direction to the junction of the Somervell-Johnson-Hood County lines; thence, following the Johnson-Hood County line in a northerly direction to the junction of the Johnson-Hood-Parker County lines; thence, following the Parker-Johnson County line in an easterly direction to the junction of the Parker-Johnson-Tarrant County lines; thence, following the Johnson-Tarrant County line in an easterly direction to Interstate Highway 35W in Tarrant County; thence, following Interstate Highway 35W in a northerly direction to State Highway 121; thence, following State Highway 121 in a northeasterly direction to the junction of the Denton-Tarrant-Dallas County lines; thence, following the Tarrant-Dallas County line in a southerly direction to its junction with the Ellis County line.

(iii) That portion of Potter County bounded by a line beginning at the junction of the Potter-Oldham County line

and the south bank of the Canadian River; thence, following the south bank of the Canadian River in a generally northeasterly direction to the south bank of Lake Meredith; thence, following the south bank of Lake Meredith, in a generally northeasterly direction to the Potter-Moore County line; thence, following the Potter-Moore County line in an easterly direction to the junction of the Potter-Moore-Carson County lines; thence, following the Potter-Carson County line in a southerly direction to the junction of the Potter-Carson-Armstrong-Randall County lines; thence, following the Potter-Randall County line in a westerly direction to the junction of the Potter-Randall-Oldham County lines; thence, following the Potter-Oldham County line in a northerly direction to its junction with the south bank of the Canadian River.

(Sees. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Guilford County, North Carolina because of the existence of hog cholera. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portion of such county.

The amendments also exclude a portion of Worcester County, Mass.; a portion of Bertie County, N.C.; all of Collin, Comanche, Erath, Hood, and Somervell Counties and portions of Tarrant, Brown, Hamilton, Limestone, Mills, Navarro, and Stephens Counties in Texas, from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine. No areas in Bertie County, N.C.; Collin, Comanche, Erath, Hood, Somervell, Brown, Hamilton, Limestone, Mills, Navarro, and Stephens Counties in Texas, or in Massachusetts remain under the quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effectively promptly in order to be of maximum benefit to affected persons. It

does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc. 71-8325 Filed 6-11-71; 8:55 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

PART 115—PROCEDURES FOR REVIEW OF CERTAIN NUCLEAR REACTORS EXEMPTED FROM LICENSING REQUIREMENTS

Codes and Standards for Nuclear Power Plants

On November 25, 1969, the Atomic Energy Commission published in the FEDERAL REGISTER (34 F.R. 18822) proposed amendments of its regulations in 10 CFR Part 50, "Licensing of Production and Utilization Facilities," and 10 CFR Part 115, "Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Requirements," which would establish minimum quality standards for the design, fabrication, erection, construction, testing, and inspection of certain systems and components of boiling and pressurized water-cooled nuclear power reactor plants by requiring conformance with appropriate editions of published industry codes and standards.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. Upon consideration of the comments received and other factors involved, the Commission has adopted the amendments set out below. These amendments have been changed substantially to reflect consideration of the comments received and to minimize interference with the established equipment procurement practices of the nuclear power industry. Some of the more significant changes from the proposed rule are:

a. The rule as rewritten requires that the determination of which code revisions are applicable be based on component order date rather than

construction permit date. To prevent abuse of this provision and to minimize the use of outdated codes, the revised rule requires compliance with more recent codes than those in effect on the order date if the components are ordered more than a specified number of months before issuance of the construction permit.

b. The rule has been changed to make its provisions apply to future code revisions on the date they become effective unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary.

c. The definition of reactor coolant pressure boundary has been revised.

d. The date for compliance with the more recent industry codes has been changed from April 1, 1970, to January 1, 1971.

The Commission believes these changes adopted will eliminate most of the concerns expressed, will help to simplify and stabilize the facility licensing process, and will provide an equivalent increase in protection of the health and safety of the public to that which would be provided in the proposed rule.

Criterion 1 of the "General Design Criteria for Nuclear Power Plants" (Appendix A of Part 50) requires that structures, systems, and components of nuclear powerplants which are important to safety be designed, fabricated, erected, and tested to quality standards that reflect the importance of the safety functions to be performed. It has been generally recognized that, for boiling and pressurized water-cooled reactors, pressure vessels, piping, pumps, and valves which are part of the reactor coolant pressure boundary should, as a minimum, be designed, fabricated, inspected, and tested in accordance with the requirements of the applicable American Society of Mechanical Engineers (ASME) codes in effect at the time the equipment is purchased, and that protection systems (electrical and mechanical sensors and associated circuitry) should, as a minimum, be designed to meet the criteria developed by the Institute of Electrical and Electronics Engineers (IEEE).

Because of the safety significance of uniform early compliance by the nuclear industry with the requirements of these ASME and IEEE codes and published code revisions, the Commission has adopted the following amendments to Parts 50 and 115, which require that certain components and systems of water-cooled reactors important to safety comply with these codes and appropriate revisions to the codes at the earliest feasible time. However, use of the ASME Code N-symbol is not required and inspection and survey systems other than those specified by ASME may be used if they provide an acceptable level of quality and safety. AEC quality assurance requirements are set forth in Appendix B to Part 50. The inspection and survey systems required by the amendments

which follow may be used in partial fulfillment of these requirements to the extent that they are shown by the description of the quality assurance program required by § 50.34(a)(7) to satisfy the applicable requirements of Appendix B.

In cases where compliance with specified code requirements, or portions thereof, would result in hardships or unusual difficulties without a compensating increase in the level of safety, the Commission may grant exemptions under § 50.55a(b)(1). Section 50.55a(b)(2) provides a basis for the authorization of alternatives to the requirements of the specified codes and standards if it can be shown that an acceptable level of safety and quality will be provided.

The Commission considers that a significant improvement in the level of quality in design, fabrication, and testing of systems and components important to safety of water-cooled reactors will be afforded by compliance with the requirements of more recent versions of the codes than those specified in the amendments, or portions thereof, and encourages such compliance whenever practicable, regardless of the date of purchase of equipment or the provisions of these amendments.

Compliance with the provisions of the amendments and the referenced codes is intended to insure a basic, sound quality level. It may be that the special safety significance of a particular system or component will call for supplementary measures. If analysis of the system shows that such is the case, appropriate supplementary measures are expected to be adopted by applicants and licensees, or will be required by the Commission.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 50 and 115 are published as a document subject to codification to be effective 30 days after publication in the FEDERAL REGISTER.

1. A new paragraph (v) is added to § 50.2 to read as follows:

§ 50.2 Definitions.

As used in this part:

(v) "Reactor coolant pressure boundary" means all those pressure-containing components of boiling and pressurized water-cooled nuclear power reactors, such as pressure vessels, piping, pumps, and valves, which are:

(1) Part of the reactor coolant system, or

(2) Connected to the reactor coolant system, up to and including any and all of the following:

(i) The outermost containment isolation valve in system piping which penetrates primary reactor containment,

(ii) The second of two valves normally closed during normal reactor operation in system piping which does not penetrate primary reactor containment,

(iii) The reactor coolant system safety and relief valves.

For nuclear power reactors of the direct cycle boiling water type, the reactor coolant system extends to and includes the outermost containment isolation valve in the main steam and feedwater piping.

2. Paragraph (c) of § 50.55 is amended to read as follows:

§ 50.55 Conditions of construction permits.

Each construction permit shall be subject to the following terms and conditions:

• • • • •

(c) Except as modified by this section and § 50.55a, the construction permit shall be subject to the same conditions to which a license is subject.

3. A new § 50.55a is added to 10 CFR Part 50 to read as follows:

§ 50.55a Codes and standards.

Each construction permit for a utilization facility shall be subject to the following conditions, in addition to those specified in § 50.55:

(a) Structures, systems, and components shall be designed, fabricated, erected, constructed, tested, and inspected to quality standards commensurate with the importance of the safety function to be performed.

(b) As a minimum, the systems and components of boiling and pressurized water-cooled nuclear power reactors specified in paragraphs (c), (d), (e), (f), and (g) of this section shall meet the requirements described in those paragraphs, except that the American Society of Mechanical Engineers (hereinafter referred to as ASME) Code N-symbols need not be applied, and the protection systems of nuclear power reactors of all types shall meet the requirements described in paragraph (h) of this section, except as authorized by the Commission upon demonstration by the applicant for or holder of a construction permit that:

(1) Design, fabrication, installation, testing, or inspection of the specified system or component is, to the maximum extent practical, in accordance with generally recognized codes and standards, and compliance with the requirements described in paragraphs (c) through (h) of this section or portions thereof would result in hardships or unusual difficulties without a compensating increase in the level of quality and safety; or

(2) Proposed alternatives to the described requirements or portions thereof will provide an acceptable level of quality and safety. For example, the use of inspection or survey systems other than those required by the specified ASME Codes and Addenda may be authorized under this subparagraph provided that an acceptable level of quality and safety in design, fabrication, installation, and testing is achieved.

(c) Pressure vessels:

(1) For construction permits issued before January 1, 1971, for reactors not licensed for operation, pressure vessels

which are part of the reactor coolant pressure boundary¹ shall meet the requirements for Class A vessels set forth in section III of the ASME Boiler and Pressure Vessel Code, applicable Code Cases, and Addenda² in effect³ on the date of order⁴ of the vessel. The pressure vessels may meet the requirements set forth in editions of this Code, applicable Code Cases, and Addenda which have become effective after the date of vessel order, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such pressure vessels.

(2) For construction permits issued on or after January 1, 1971, pressure vessels which are part of the reactor coolant pressure boundary¹ shall meet the requirements for Class A vessels set forth in section III of the ASME Boiler and Pressure Vessel Code and Addenda² in effect³ on the date of order⁴ of the pressure vessel, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such pressure vessels: *Provided, however*, That if the pressure vessel is ordered more than 18 months prior to the date of issuance of the construction permit, compliance with the requirements for Class A vessels set forth in section III of the ASME Boiler and Pressure Vessel Code and Addenda in effect 18 months prior to the date of issuance of the construction permit is required. The pressure vessels may meet the requirements set forth in editions of

¹ Components which are connected to the reactor coolant system and are part of the reactor coolant pressure boundary defined in § 50.2(v) need not meet these requirements, provided:

(a) In the event of postulated failure of the component during normal reactor operation, the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system only, or

(b) the component is or can be isolated from the reactor coolant system by two valves (both closed, both open, or one closed and the other open). Each open valve must be capable of automatic actuation and, assuming the other valve is open, its closure time must be such that, in the event of postulated failure of the component during normal reactor operation, each valve remains operable and the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system only.

² Copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017. Copies are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

³ ASME and United States of America Standard Code Addenda are considered "in effect" 6 months after their date of issuance.

⁴ The Code issue applicable to a component is governed by the order or contract date for the component, not the contract date for the nuclear energy system.

⁵ The use of specific Code Cases may be authorized by the Commission upon request pursuant to § 50.55a(b)(2).

this Code and Addenda which have become effective after the date of vessel order or after 18 months prior to the date of issuance of the construction permit unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such pressure vessels.

(d) Piping:

(1) For construction permits issued before January 1, 1971, for reactors not licensed for operation, piping which is part of the reactor coolant pressure boundary¹ shall meet the requirements set forth in:

(i) The American Standard Code for Pressure Piping (ASA B31.1), Addenda, and applicable Code Cases² or the USA Standard Code for Pressure Piping (USAS B31.1.0), Addenda, and applicable Code Cases² or the Class I Section of the USA Standard Code for Pressure Piping (USAS B31.7)² in effect³ on the date of order⁴ of the piping and

(ii) The nondestructive examination and acceptance standards of ASA B31.1 Code Cases N7, N9, and N10, except that the acceptance standards of Class I piping of the USA Standard Code for Pressure Piping (USAS B31.7) may be applied.

The piping may meet the requirements set forth in editions of ASA B31.1, USAS B31.1.0, and USAS B31.7, Addenda, and Code Cases which became effective after the date of order of the piping unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such piping.

(2) For construction permits issued on or after January 1, 1971, piping which is part of the reactor coolant pressure boundary¹ shall meet the requirements for Class I piping set forth in the USA Standard Code for Pressure Piping (USAS B31.7) and Addenda² in effect³ on the date of order⁴ of the piping and the requirements applicable to piping of articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda² in effect on the date of the piping unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such piping: *Provided, however*, That if the piping is ordered more than 6 months prior to the date of issuance of the construction permit, compliance with the requirements for Class I piping set forth in USAS B31.7 and Addenda² in effect 6 months prior to the date of issuance of the construction permit is required. The piping may meet the requirements set forth in editions of these Codes and Addenda² which have become effective after the date of piping order or after 6 months prior to the date of issuance of the construction permit, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such piping.

(e) Pumps:

(1) For construction permits issued before January 1, 1971, for reactors not licensed for operation, pumps which are part of the reactor coolant pressure boundary¹ shall meet—

(i) The requirements for Class I pumps set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power, Addenda, and Code Cases² in effect³ on the date of order⁴ of the pumps, or

(ii) The nondestructive examination and acceptance standards set forth in ASA B31.1 Code Cases N7, N9, and N10, except that the acceptance standards for Class I pumps set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda in effect on the date of order of the pumps may be applied.

The pumps may meet the requirements set forth in editions of the Draft ASME Code for Pumps and Valves for Nuclear Power, Addenda, and Code Cases which became effective after the date of order of the pumps, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such pumps.

(2) For construction permits issued on or after January 1, 1971, pumps which are part of the reactor coolant pressure boundary¹ shall meet the requirements for Class I pumps set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda² in effect³ on the date of order⁴ of the pumps and the requirements applicable to pumps set forth in articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda² in effect on the date of order of the pumps, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such pumps: *Provided, however*, That if the pumps are ordered more than 12 months prior to the date of issuance of the construction permit, compliance with the requirements for Class I pumps set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda² and the requirements applicable to pumps set forth in articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda² in effect 12 months prior to the date of issuance of the construction permit is required. The pumps may meet the requirements set forth in editions of these Codes or Addenda² which have become effective after the date of pump order or after 12 months prior to the date of issuance of the construction permit, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such pumps.

(f) Valves:

(1) For construction permits issued before January 1, 1971, for reactors not licensed for operation, valves which are part of the reactor coolant pressure

boundary¹ shall meet the requirements set forth in:

(i) The American Standard Code for Pressure Piping (ASA B31.1), Addenda, and applicable Code Cases, or the USA Standard Code for Pressure Piping (USAS B31.1.0), Addenda, and applicable Code Cases, in effect³ on the date of order⁴ of the valves or the Class I section of the Draft ASME Code for Pumps and Valves for Nuclear Power,² Addenda, and Code Cases in effect on the date of order of the valves or

(ii) The nondestructive examination and acceptance standards of ASA B31.1 Code Cases N2, N7, N9, and N10, except that the acceptance standards for Class I valves set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda in effect on the date of order of the valves may be applied.

The valves may meet the requirements set forth in editions of ASA B31.1, USAS B31.1.0, and the Draft ASME Code for Pumps and Valves for Nuclear Power, Addenda, and Code Cases, which became effective after the date of order of the valves, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such valves.

(2) For construction permits issued on or after January 1, 1971, valves which are part of the reactor coolant pressure boundary¹ shall meet the requirements for Class I valves set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda² in effect³ on the date of order⁴ of the valves and the requirements applicable to valves set forth in articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda² in effect on the date of order of the valves, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such valves: *Provided, however*, That if the valves are ordered more than 12 months prior to the date of issuance of the construction permit, compliance with the requirements for Class I valves set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda² and the requirements applicable to valves set forth in articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda² in effect 12 months prior to the date of issuance of the construction permit is required. The valves may meet the requirements set forth in editions of these Codes or Addenda² which have become effective after the date of valve order or after 12 months prior to the date of issuance of the construction permit, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such valves.

(g) Inservice inspection requirements: For construction permits issued on or after January 1, 1971, systems and components shall meet the requirements set

forth in section XI of the ASME Boiler and Pressure Vessel Code and Addenda² in effect 6 months prior to the date of issuance of the construction permit, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such systems and components. Systems and components may meet the requirements set forth in editions of this Code and Addenda which have become effective after 6 months prior to the date of issuance of the construction permit, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such systems and components.

(h) Protection systems: For construction permits issued after January 1, 1971, protection systems shall meet the requirements set forth in the Institute of Electrical and Electronics Engineers Criteria for Nuclear Power Plant Protection Systems (IEEE 279) in effect³ 12 months prior to the date of issuance of the construction permit, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such protection systems. Protection systems may meet the requirements set forth in later editions or revisions of IEEE 279 which have become effective after 12 months prior to the date of issuance of the construction permit, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such protection systems.

(i) Power reactors for which a notice of hearing on an application for a provisional construction permit or a construction permit has been published on or before December 31, 1970, may meet the requirements of paragraphs (c)(1), (d)(1), (e)(1), and (f)(1) of this section instead of paragraphs (c)(2), (d)(2), (e)(2), and (f)(2) of this section, respectively.

4. A new paragraph (n) is added to § 115.3 to read as follows:

§ 115.3 Definitions.

As used in this part:

(n) "Reactor coolant pressure boundary" means all those pressure-containing components of boiling and pressurized water-cooled nuclear power reactors, such as pressure vessels, piping, pumps, and valves, which are:

² For purposes of this regulation, the proposed IEEE 279 became "in effect" on Aug. 30, 1968, and future IEEE 279 editions or revisions will become "in effect" on the effective date printed on the document. Copies may be obtained from the Institute of Electrical and Electronics Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017. A copy is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

(1) Part of the reactor coolant system, or

(2) Connected to the reactor coolant system, up to and including any and all of the following:

(i) The outermost containment isolation valve in system piping which penetrates primary reactor containment,

(ii) The second of two valves normally closed during normal reactor operation in system piping which does not penetrate primary reactor containment,

(iii) The reactor coolant system safety and relief valves.

For nuclear power reactors of the direct cycle boiling water type, the reactor coolant system extends to and includes the outermost containment isolation valve in the main steam and feedwater piping.

5. Paragraph (a) of § 115.43 is amended to read as follows:

§ 115.43 Conditions of construction authorizations.

Each construction authorization shall be subject to the following terms and conditions:

(a) Except as modified by this section and § 115.43a, the construction authorization shall be subject to the same conditions to which an operating authorization is subject.

6. A new § 115.43a is added to 10 CFR Part 115 to read as follows:

§ 115.43a Codes and standards.

Each construction authorization shall be subject to the following conditions, in addition to those specified in § 115.43:

(a) Structures, systems, and components shall be designed, fabricated, erected, constructed, tested, and inspected to quality standards commensurate with the importance of the safety function to be performed.

(b) As a minimum, the systems and components of boiling and pressurized water-cooled nuclear power reactors specified in paragraphs (c), (d), (e), (f), and (g) of this section shall meet the requirements described in those paragraphs, except that the American Society of Mechanical Engineers (hereinafter referred to as ASME) Code N-symbol need not be applied, and the protection systems of nuclear power reactors of all types shall meet the requirements described in paragraph (h) of this section, except as authorized by the Commission upon demonstration by the applicant for or holder of a construction authorization that:

(1) Design, fabrication, installation, testing, or inspection of the specified system or component is, to the maximum extent practical, in accordance with generally recognized codes and standards, and compliance with the requirements described in paragraphs (c) through (h) of this section or portions thereof would result in hardships or unusual difficulties without a compensating increase in the level of quality and safety; or

(2) Proposed alternatives to the described requirements or portions thereof will provide an acceptable level of quality and safety. For example, the use of inspection and survey systems other than those required by the specified ASME Codes and Addenda may be authorized under this subparagraph provided that an acceptable level of quality and safety in design, fabrication, installation, and testing is achieved.

(c) Pressure vessels:

(1) For construction authorizations issued before January 1, 1971, for reactors not authorized for operation, pressure vessels which are part of the reactor coolant pressure boundary¹ shall meet the requirements for Class A vessels set forth in section III of the ASME Boiler and Pressure Vessel Code, applicable Code Cases, and Addenda² in effect³ on the date of order⁴ of the vessel. The pressure vessels may meet the requirements set forth in editions of this Code, applicable Code Cases and Addenda which have become effective after the date of vessel order, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such pressure vessels.

(2) For construction authorizations issued on or after January 1, 1971, pressure vessels which are part of the reactor coolant pressure boundary¹ shall meet the requirements for Class A vessels set forth in section III of the ASME

¹ Components which are connected to the reactor coolant system and are part of the reactor coolant pressure boundary defined in § 115.3(n) need not meet these requirements, provided:

(a) In the event of postulated failure of the component during normal reactor operation, the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system only, or

(b) the component is or can be isolated from the reactor coolant system by two valves (both closed, both open, or one closed and the other open). Each open valve must be capable of automatic actuation and, assuming the other valve is open, its closure time must be such that, in the event of postulated failure of the component during normal reactor operation, each valve remains operable and the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system only.

² Copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017. Copies are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

³ ASME and United States of America Standard Code Addenda are considered "in effect" 6 months after their date of issuance.

⁴ The Code issue applicable to a component is governed by the order or contract date for the component, not the contract date for the nuclear energy system.

Boiler and Pressure Vessel Code and Addenda² in effect³ on the date of order⁴ of the pressure vessel, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such pressure vessels: *Provided, however*, That if the pressure vessel is ordered more than 18 months prior to the date of issuance of the construction authorization, compliance with the requirements for Class A vessels set forth in section III of the ASME Boiler and Pressure Vessel Code and Addenda in effect 18 months prior to the date of issuance of the construction authorization is required. The pressure vessels may meet the requirements set forth in editions of this Code and Addenda which have become effective after the date of vessel order or after 18 months prior to the date of issuance of the construction authorization, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such pressure vessels.

(d) Piping:

(1) For construction authorizations issued before January 1, 1971, for reactors not authorized for operation, piping which is part of the reactor coolant pressure boundary¹ shall meet the requirements set forth in

(i) The American Standard Code for Pressure Piping (ASA B31.1), Addenda, and applicable Code Cases,² or the USA Standard Code for Pressure Piping (USAS B31.1.0), Addenda, and applicable Code Cases² or the Class I Section of the USA Standard Code for Pressure Piping (USAS B31.7)³ in effect³ on the date of order⁴ of the piping and

(ii) The nondestructive examination and acceptance standards of ASA B31.1 Code Cases N7, N9, and N10, except that the acceptance standards of Class I piping of the USA Standard Code for Pressure Piping (USAS B31.7) may be applied.

The piping may meet the requirements set forth in editions of ASA B31.1, USAS B31.1.0, and USAS B31.7, Addenda, and Code Cases which became effective after the date of order of the piping, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such piping.

(2) For construction authorizations issued on or after January 1, 1971, piping which is part of the reactor coolant pressure boundary¹ shall meet the requirements for Class I piping set forth in the USA Standard Code for Pressure Piping (USAS B31.7) and Addenda² in effect³ on the date of order⁴ of the piping and the requirements applicable to piping of articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda² in effect on the date of order of the piping, unless the Commission

⁴ The use of specific Code Cases may be authorized by the Commission upon request pursuant to § 115.43a(b)(2).

has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such piping: *Provided, however*, That if the piping is ordered more than 6 months prior to the date of issuance of the construction authorization, compliance with the requirements for Class I piping set forth in USAS B31.7 and Addenda² in effect 6 months prior to the date of issuance of the construction authorization is required. The piping may meet the requirements set forth in editions of these Codes and Addenda² which have become effective after the date of piping order or after 6 months prior to the date of issuance of the construction authorization, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such piping.

(e) Pumps:

(1) For construction authorizations issued before January 1, 1971, for reactors not authorized for operation, pumps which are part of the reactor coolant pressure boundary¹ shall meet

(i) The requirements for Class I pumps set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power, Addenda, and Code Cases in effect on the date of order of the pumps, or

(ii) The nondestructive examination and acceptance standards set forth in ASA B31.1 Code Cases N7, N9, and N10, except that the acceptance standards for Class I Pumps set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda², in effect³ on the date of order⁴ of the pumps may be applied.

The pumps may meet the requirements set forth in editions of the Draft ASME Code for Pumps and Valves for Nuclear Power, Addenda, and Code Cases which became effective after the date of order of the pumps, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such pumps.

(2) For construction authorizations issued on or after January 1, 1971, pumps which are part of the reactor coolant pressure boundary¹ shall meet the requirements for Class I pumps set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda² in effect³ on the date of order⁴ of the pumps and the requirements applicable to pumps set forth in articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda in effect on the date of order of the pumps, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such pumps: *Provided, however*, That if the pumps are ordered more than 12 months prior to the date of issuance of the construction authorization, compliance with the requirements for Class I pumps set forth in the Draft ASME Code for Pumps and Valves for

Nuclear Power and Addenda² and the requirements applicable to pumps set forth in articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda in effect 12 months prior to the date of issuance of the construction authorization is required. The pumps may meet the requirements set forth in editions of these Codes or Addenda which have become effective after the date of pump order or after 12 months prior to the date of issuance of the construction authorization, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such pumps.

(f) Valves:

(1) For construction authorizations issued before January 1, 1971, for reactors not authorized for operation, valves which are part of the reactor coolant pressure boundary¹ shall meet the requirements set forth in

(i) The American Standard Code for Pressure Piping (ASA B31.1), Addenda, and applicable Code Cases, or the USA Standard Code for Pressure Piping (USAS B31.1.0), Addenda, and applicable Code Cases in effect³ on the date of order⁴ of the valves or the Class I Section of the Draft ASME Code for Pumps and Valves for Nuclear Power, Addenda, and Code Cases in effect on the date of order of the valves or

(ii) The nondestructive examination and acceptance standards of ASA B31.1 Code Cases N2, N7, N9, and N10, except that the acceptance standards for Class I valves set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda² in effect on the date of order of the valves may be applied.

The valves may meet the requirements set forth in editions of ASA B31.1, USAS B31.1.0, and the Draft ASME Code for Pumps and Valves for Nuclear Power, Addenda, and Code Cases, which became effective after the date of order of the valves, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such valves.

(2) For construction authorizations issued on or after January 1, 1971, valves which are part of the reactor coolant pressure boundary¹ shall meet the requirements for Class I valves set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda² in effect³ on the date of order⁴ of the valves and the requirements applicable to valves set forth in articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda² in effect on the date of order of the valves, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable or unnecessary for such valves: *Provided, however*, That if the valves are ordered more than 12 months prior to the date of issuance of the construction authorization, compliance with the requirements

for Class I valves set forth in the Draft ASME Code for Pumps and Valves for Nuclear Power and Addenda^{*} and the requirements applicable to valves set forth in articles 1 and 8 of section III of the ASME Boiler and Pressure Vessel Code and Addenda in effect 12 months prior to the date of issuance of the construction authorization is required. The valves may meet the requirements set forth in editions of these Codes or Addenda which have become effective after the date of valve order or after 12 months prior to the date of issuance of the construction authorization, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such valves.

(g) Inservice inspection requirements: For construction authorizations issued on or after January 1, 1971, systems and components shall meet the requirements set forth in section XI of the ASME Boiler and Pressure Vessel Code and Addenda²⁰ in effect 6 months prior to the date of issuance of the construction authorization, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such systems and components. Systems and components may meet the requirements set forth in editions of this Code and Addenda which have become effective after 6 months prior to the date of issuance of the construction authorization, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such systems and components.

(h) Protection systems: For construction authorizations issued after January 1, 1971, protection systems shall meet the requirements set forth in the Institute of Electrical and Electronics Engineers Criteria for Nuclear Power Plant Protection Systems (IEEE 279) in effect²¹ 12 months prior to the date of issuance of the construction authorization, unless the Commission has published a notice in the FEDERAL REGISTER that compliance with such requirements or any part thereof is unacceptable for such protection systems. Protection systems may meet the requirements set forth in later editions or revisions of IEEE 279 which have become effective after 12 months prior to the date of issuance of the construction authorization, unless the Commission has published a notice in the FEDERAL

^{*}For purposes of this regulation, the proposed IEEE 279 became "in effect" on August 30, 1968, and future IEEE 279 editions or revisions will become "in effect" on the effective date printed on the document. Copies may be obtained from the Institute of Electrical and Electronics Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017. A copy is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

REGISTER that compliance with such requirements or any part thereof is unacceptable for such protection systems.

(Secs. 103, 104, 181, 183, 68 Stat. 936, 937, 948, 954, as amended; 42 U.S.C. 2133, 2134, 2201(i), 2233)

Dated at Washington, D.C., this 2d day of June 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc. 71-8254 Filed 6-11-71; 8:49 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 71-461]

PART 563—OPERATIONS

Participation Loan Transactions

Correction

In F.R. 71-7628 appearing at page 10724 in the issue for Wednesday, June 2, 1971, in amendatory paragraph 2 the reference to "§ 2563.9-2" should read "§ 563.9-2".

Chapter VI—Farm Credit Administration

SUBCHAPTER F—BANKS FOR COOPERATIVES

PART 672—CENTRAL BANK FOR COOPERATIVES DEBENTURES

PART 673—BANKS FOR COOPERATIVES CONSOLIDATED DEBENTURES

Miscellaneous Amendments

Part 672 is deleted from Chapter VI of Title 12 of the Code of Federal Regulations, and Part 673 thereof is amended by revising §§ 673.2 and 673.3 to read as follows:

§ 673.2 Custodian and Acting Custodian.

(a) The Collateral Officer, Accounting, Budget and Data Management Division, Farm Credit Administration, shall serve, ex officio, as Custodian of collateral pledged by the Central Bank for Cooperatives for consolidated debentures. Any Assistant Collateral Officer of said Division shall serve, ex officio, as Acting Custodian of collateral pledged by the Central Bank for Cooperatives for consolidated debentures, in the event the said Custodian is unable to serve for any reason.

(b) The Farm Loan Registrar in each farm credit district shall serve, ex officio, as Custodian of collateral pledged by the bank for cooperatives of the district for consolidated debentures; and the Deputy Registrar and any Acting Deputy Registrar in each farm credit district shall serve, ex officio, as Acting Custodian of collateral pledged by the bank for cooperatives of the district for consolidated debentures, in the event the

said Custodian is unable to serve for any reason. The operating title of the Farm Loan Registrar when so serving shall be Custodian. The operating title of the Deputy Registrar and any Acting Deputy Registrar when so serving shall be Acting Custodian.

§ 673.3 Bonding of Custodian and Acting Custodian.

Each Custodian shall be covered under a fidelity bond with a corporate surety on the approved list of the Treasury Department in the amount of \$50,000 to insure the faithful performance of his duties and provide against financial loss. Each Acting Custodian of collateral for the Central Bank for Cooperatives shall likewise be covered in the amount of \$50,000, but like coverage for Acting Custodians of collateral for district banks for cooperatives shall be in the amount of \$25,000.

(Sec. 37, 48 Stat. 263, as amended; 12 U.S.C. 1134m)

E. A. JAENKE,
Governor,
Farm Credit Administration.

[FR Doc. 71-8294 Filed 6-11-71; 8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Aircraftworthiness Docket No. 68-WE-20-AD; Amdt. 39-1228]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

Amendment 39-635 (33 F.R. 11714), AD-68-17-1, provides for inspection and replacement of the main landing gear actuator beam support link in accordance with the manufacturer's Service Bulletin 32-90. The repetitive inspections required in Amendment 39-635 were no longer required when the links were replaced with 65-19657-11 or -13 links. After issuing Amendment 39-635, due to service experience, the Agency has determined that the 65-19657-13 link requires repeat inspections. Therefore, the AD is being amended to provide a repeat inspection for the 65-19657-13 link when installed, and to delete the -13 link as a terminating action.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-635 (33 F.R. 11714), AD 68-17-1, is amended as follows:

(1) Amend the applicability statement beginning: "1. Airplanes Affected, . . ." to include Boeing Service Bulletin 32-189, dated May 25, 1971, or later FAA-approved revisions.

(2) Amend the paragraph beginning: "To detect cracks . . ." to include Part No. 65-19657-13.

(3) Amend paragraph (a) to include Boeing Service Bulletin 32-189 dated May 25, 1971, or later FAA-approved revisions.

(4) Amend paragraph (b)(2) to delete Part No. 65-19657-13 as a replacement part.

(5) Amend paragraph (c)(1) to include -13 link for reinspection.

(6) Amend paragraph (c)(2) to delete -13 link as terminating action.

(7) Amend paragraph (d) to include -13 link to require the 7-day preinstallation inspection.

This amendment becomes effective June 15, 1971.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on June 3, 1971.

ARVIN O. BASNIGHT,
Director, Western Region.

[FR Doc. 71-8263 Filed 6-11-71; 8:50 am]

[Aircraftworthiness Docket No. 71-SO-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On April 17, 1971, F.R. Doc. No. 71-5362 was published in the FEDERAL REGISTER (36 F.R. 7303), amending Part 71 of the Federal Aviation Regulations by designating the Baxley, Ga., transition area.

On May 25, 1971, F.R. Doc. No. 71-7226 was published in the FEDERAL REGISTER (36 F.R. 9443), amending F.R. Doc. No. 71-5362 by altering Baxley, Ga., transition area description by deleting "028" and substituting "030". Subsequent to publication of the amendment, National Ocean Survey refined the final approach radial for the VOR DME A Instrument Approach Procedure to the "029" radial. It is necessary to amend the FEDERAL REGISTER document to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 71-5362 is amended as follows:

In line 5 of the Baxley, Ga., transition area description " . . . 030 . . ." is deleted and " . . . 029 . . ." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 3, 1971.

W. B. RUCKER,
Acting Director, Southern Region.
[FR Doc. 71-8264 Filed 6-11-71; 8:50 am]

[Aircraftworthiness Docket No. 71-SO-85]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones

On May 14, 1971, F.R. Doc. No. 71-6700 was published in the FEDERAL REGISTER (36 F.R. 8864), amending Part 71 of the Federal Aviation Regulations by altering the Miami, Fla. (International Airport), Homestead, Fla., and other control zones.

In the amendment, an extension to the Miami (International Airport) control zone was predicated on Runway 27L ILS localizer west course. Additionally, in the Homestead control zone, the latitude for Homestead AFB was cited as "25°19'50" N." in lieu of "25°29'15" N." and an extension was predicated on Homestead TACAN 055° radial. Refined plotting by National Ocean Survey disclosed that required control zone protection for the instrument approach procedures for which the extensions were designated is contained within the basic 5-mile-radius zones. It is necessary to amend the FEDERAL REGISTER document to correct the latitude of Homestead AFB and delete the extensions predicated on the Miami International Airport Runway 27L ILS localizer west course and Homestead TACAN 055° radial. Since these amendments are editorial or less restrictive in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 71-6700 is amended as follows:

MIAMI, FLA. (INTERNATIONAL AIRPORT)

" . . . within 1.5 miles each side of Runway 27L ILS localizer east course, extending from the 5-mile-radius zone to 1 mile west of Orange RBN; . . ." is deleted.

The Homestead, Fla., control zone is amended to read:

HOMESTEAD, FLA.

Within a 5-mile radius of Homestead AFB (lat. 25°29'15" N., long. 80°23'00" W.); within 2 miles each side of the ILS localizer southwest course, extending from the 5-mile-radius zone to 1.5 miles northeast of the OM.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 3, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.
[FR Doc. 71-8265 Filed 6-11-71; 8:50 am]

[Aircraftworthiness Docket No. 71-SO-89]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On April 27, 1971, F.R. Doc. No. 71-7235 was published in the FEDERAL REGISTER (36 F.R. 9448), proposing to amend Part 71 of the Federal Aviation Regulations by altering the St. Petersburg, Fla., control zone and Tampa, Fla., transition area.

In the proposal, the transition area radius circle predicated on Peter O. Knight Airport was cited as 5 miles in lieu of 7 miles. It is necessary to amend the FEDERAL REGISTER Document to reflect this change.

In consideration of the foregoing, F.R. Doc. No. 71-7235 is amended as follows:

In the Tampa, Fla., transition area description " . . . within a 5-mile radius of Peter O. Knight Airport (lat. 27°54'55" N., long. 82°27'05" W.) and Albert-Whitted Airport (lat. 27°45'53" N., long. 82°37'39" W.) . . ." is deleted and " . . . within a 7-mile radius of Peter O. Knight Airport (lat. 27°54'55" N., long. 82°27'05" W.); within a 5-mile radius of Albert-Whitted Airport (lat. 27°45'53" N., long. 82°37'39" W.) . . ." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 3, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc. 71-8266 Filed 6-11-71; 8:51 am]

[Aircraftworthiness Docket No. 71-SO-92]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On May 19, 1971, F.R. Doc. No. 71-6934 was published in the FEDERAL REGISTER (36 F.R. 9066), amending Part 71 of the Federal Aviation Regulations by altering the Pensacola NAS, Fla., and Pensacola, Fla., control zones.

In the amendment, an extension to Pensacola NAS, Fla. control zone was predicated on the Pensacola TACAN 214° radial in lieu of the 193° radial. Additionally, in the Pensacola, Fla. control zone, reference was made to Pickens LOM and a 4-mile radius was predicated on NAS Ellison Field, extending clockwise from a line 2 miles northeast of and parallel to the 331° bearing from Brent LOM to the 5-mile-radius zone. Subsequent to publication of the rule, it was determined that Pickens LOM should be Pickens RBN and, with the elimination of the extension predicated on the 331°

bearing from Brent LOM, inadequate controlled airspace protection existed north and northwest of NAS Ellison Field. It is necessary to amend the FEDERAL REGISTER document to reflect these changes. Since these amendments are editorial or minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 71-6934 is amended as follows:

In line 11 of Pensacola NAS, Fla. control zone description " * * * 214 " is deleted and " * * * 193 " is substituted therefor.

In line six of Pensacola, Fla. control zone description " * * * Pickens LOM " is deleted and " * * * Pickens RBN " is substituted therefor, and in line nine " * * * northeast " is deleted and " * * * southwest " is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 2, 1971.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[FR Doc.71-8267 Filed 6-11-71;8:51 am]

[Airspace Docket No. 71-WA-21]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas

The purpose of these amendments to Part 73 of the Federal Aviation Regulations is to change the name of the controlling agency for Restricted Areas R-3101 PMRFAC Four, Hawaii, Subarea A, and R-3120 PMRFAC Five, Hawaii, from FAA, Lihue Flight Service Station to FAA, Lihue Combined Station/Tower.

The Lihue Flight Service Station and Airport Tower were combined on December 3, 1970, and are therefore known as the Lihue Combined Station/Tower.

Since these amendments are editorial in nature and no substantive change in the regulations is effected, notice and public procedure thereon are unnecessary, and good cause exists for making these amendments effective on less than 30 days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER, as herein-after set forth.

Section 73.31 (36 F.R. 2338) is amended as follows:

1. R-3101 PMRFAC Four, Hawaii, Subarea A is amended by deleting "Controlling Agency: FAA, Lihue Flight Service Station," and substituting "Controlling Agency: FAA, Lihue Combined Station/Tower," therefor.

2. R-3120 PMRFAC Five, Hawaii, is amended by deleting "Controlling Agency: FAA, Lihue Flight Service Station," and substituting "Controlling Agency: FAA, Lihue Combined Station/Tower," therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 4, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8268 Filed 6-11-71;8:51 am]

[Docket No. 11120; Amdt. No. 760]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective July 8, 1971.

Fortuna, Calif.—Rohnerville Airport; VOR Runway 11, Amdt. 1; Revised.
Fresno, Calif.—Fresno Air Terminal; VOR Runway 11L, Amdt. 4; Revised.
Pahokee, Fla.—Palm Beach County Glades Airport; VOR Runway 17, Amdt. 5; Revised.
Palmdale, Calif.—Palmdale Production FLT/ Test INSTLN AF Plant NR 2; VOR-A, Amdt. 1; Revised.

Pittsburgh, Pa.—Greater Pittsburgh Airport; VOR Runway 26L, Original; Established.

Pittsburgh, Pa.—Greater Pittsburgh Airport; VOR Runway 5, Original; Established.

Port Angeles, Wash.—William R. Fairchild International Airport; VOR-1, Amdt. 3; Canceled.

Port Angeles, Wash.—William R. Fairchild International Airport; VOR-A, Original; Established.

Fresno, Calif.—Fresno Air Terminal; VOR TAC Runway 29R, Amdt. 1; Revised.

Palmdale, Calif.—Palmdale Production FLT/ Test INSTLN AF Plant NR 42; VORTAC Runway 25, Amdt. 1; Revised.

Rockingham, N.C.—Rockingham-Hamlet Airport; VOR/DME-A, Amdt. 2; Revised.

Shelby, N.C.—Shelby Municipal Airport; VOR/DME Runway 4, Amdt. 2; Revised.

2. Section 97.25 is amended by establishing, revising or canceling the following LOC-LDA SIAPs, effective June 17, 1971.

Philadelphia, Pa.—Philadelphia International Airport; LOC (BC) Runway 27, Original; Established.

Washington, D.C.—Dulles International Airport; LOC (BC) Runway 1L, Original; Established.

3. Section 97.25 is amended by establishing, revising or canceling the following LOC-LDA SIAPs, effective July 8, 1971.

Raleigh, N.C.—Raleigh-Durham Airport; LOC (BC) Runway 23, Amdt. 15; Revised.

4. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAPs, effective July 8, 1971.

Fresno, Calif.—Fresno Air Terminal; NDB Runway 29R, Amdt. 16; Revised.

New York, N.Y.—LaGuardia Airport; NDB Runway 22, Amdt. 6; Revised.

Tifton, Ga.—Henry Tift Myers Airport; NDB Runway 33, Amdt. 2; Revised.

Xenia, Ohio—Greene County Airport; NDB Runway 25, Original; Established.

York, Pa.—York Airport; NDB-A, Amdt. 3; Revised.

5. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective July 8, 1971.

Fresno, Calif.—Fresno Air Terminal; ILS Runway 29R, Amdt. 19; Revised.

New York, N.Y.—LaGuardia Airport; ILS Runway 22, Amdt. 7; Revised.

Palmdale, Calif.—Palmdale Production FLT/ Test INSTLN AF Plant NR 42; ILS Runway 25, Amdt. 1; Revised.

Raleigh, N.C.—Raleigh-Durham Airport; ILS Runway 5, Amdt. 14; Revised.

Rocky Mount, N.C.—Rocky Mount-Wilson Airport; ILS Runway 4, Amdt. 1; Revised.

6. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAPs, effective July 8, 1971.

Atlanta, Ga.—De Kalb-Peachtree Airport; RNAV Runway 20L, Original; Established.

Binghamton, N.Y.—Broome County Airport; RNAV Runway 10, Original; Established.

Binghamton, N.Y.—Broome County Airport; RNAV Runway 16, Original; Established.

Binghamton, N.Y.—Broome County Airport; RNAV Runway 28, Original; Established.

Erie, Pa.—Erie International Airport; RNAV Runway 24, Amdt. 1; Revised.

Leesburg, Va.—Leesburg Municipal/Godfrey Field; RNAV Runway 17, Amdt. 1; Revised.

Manassas, Va.—Manassas Municipal (Harry P. Davis Field); RNAV Runway 16, Original; Established.

Norfolk, Va.—Norfolk Regional Airport; RNAV Runway 6, Original; Established.

Philadelphia, Pa. (Ambler)—Wings Field; RNAV Runway 13, Original; Established.

Pittsburgh, Pa.—Greater Pittsburgh Airport; RNAV Runway 5, Original; Established.

Pittsburgh, Pa.—Greater Pittsburgh Airport; RNAV Runway 14, Original; Established.

Pittsburgh, Pa.—Greater Pittsburgh Airport; RNAV Runway 23, Original; Established.

Pittsburgh, Pa.—Greater Pittsburgh Airport; RNAV Runway 32, Original; Established.

Washington, D.C.—Dulles International Airport; RNAV Runway 12, Original; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on June 2, 1971.

JAMES F. RUDOLPH,
Director,

Flight Standards Service.

NOTE: Incorporation by reference provisions in §§97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.71-8086 Filed 6-11-71;8:45 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-422; Order No. 434]

UNIFORM SYSTEM OF ACCOUNTS FOR CLASSES A, B, C, AND D PUBLIC UTILITIES, LICENSEES, AND NATURAL GAS COMPANIES

Accumulated Deferred Investment Tax Credits

JUNE 7, 1971.

The Commission, in this order, is amending paragraph C of Account 255, Accumulated Deferred Investment Tax Credits found in the Uniform System of Accounts for Classes A, B, C, and D Public Utilities and Licensees and for Classes A, B, C, and D Natural Gas Companies. The purpose of this amendment is to more specifically clarify accounting directed by Order No. 290, Docket No. R-232 (29 F.R. 16214, Dec. 23, 1964); Order No. 389, Docket No. R-344 (34 F.R. 17434, Oct. 29, 1969); Order No. 389A, Docket No. R-344 (F.R. 879, Jan. 22, 1970) and Order No. 419, Docket No. R-390 (36 F.R. 518, Jan. 14, 1971).

The amendment relating to the clarification of the accounting directed by Order No. 290, has to do with including a reference to account 413, Expenses of Electric Plant Leased to Others, in the second sentence of paragraph C, of Account 255, Accumulated Deferred Investment Tax Credits, of the Uniform System of Accounts prescribed for Classes A, B, C, and D Public Utilities and Licensees. The inclusion of this referenced account closes a gap in the accounting directed in Order No. 290.

The amendment relating to the clarification of the accounting directed by Order No. 389 (amended by Order No. 389A) and Order No. 419 has to do with eliminating a reference to " * * * ; account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work; account 417, Income from Nonutility Operations; or account 418, Nonoperating Rental Income. * * * " in paragraph C of account 255, Accumulated Deferred Investment Tax Credits, of the Uniform System of Accounts prescribed for Classes A, B, C, and D Public Utilities and Licensees and for Classes A, B, C, and D Natural Gas Companies. Elimination of the referenced accounts will remove a conflict between the other accounting changes directed by Order No. 389, as amended, and Order No. 419, relative to account 255.

The Commission finds:

(1) The amendments of the Commission's Uniform Systems of Accounts, herein prescribed are necessary and appropriate for administration of the Federal Power Act and the Natural Gas Act.

(2) In view of the clarifying nature of these amendments, compliance with the notice and public procedure provisions of 5 U.S.C. 553 is unnecessary.

(3) Since the amendments prescribed herein affect current accounting, good cause exists for making these amendments effective upon issuance of this order.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 3, 4, 301, 304, 308, and 309 thereof (41 Stat. 1063, 1065, 1353; 46 Stat. 798; 49 Stat. 838, 839, 854, 855, 858; 61 Stat. 501; 16 U.S.C. 796, 797, 825, 825c, 825g, 825h) and of the Natural Gas Act, as amended, particularly sections 8, 10, and 16 thereof (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o), Orders:

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSEES

(A) The Commission's Uniform System of Accounts for Class A and Class B, Public Utilities and Licensees prescribed by Part 101, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

The text of account "255, Accumulated Deferred Investment Tax Credits" of the Balance Sheet Accounts is amended by revising the second sentence of paragraph C to read as follows:

Balance Sheet Accounts

8. DEFERRED CREDITS

255 Accumulated deferred investment tax credits.

C. * * * Contra entries affecting such account subdivisions shall be appropriately recorded in account 413, Expenses

of Electric Plant Leased to Others; or account 414, Other Utility Operating Income. * * *

PART 104—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C PUBLIC UTILITIES AND LICENSEES

(B) The Commission's Uniform System of Accounts for Class C, Public Utilities and Licensees prescribed by Part 104, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

The text of account "255, Accumulated Deferred Investment Tax Credits" of the Balance Sheet Accounts is amended by revising the second sentence of paragraph C to read as follows:

Balance Sheet Accounts

8. DEFERRED CREDITS

255 Accumulated deferred investment tax credits.

C. * * * Contra entries affecting such account subdivisions shall be appropriately recorded in account 413, Expenses of Electric Plant Leased to Others; or account 414, Other Utility Operating Income. * * *

PART 105—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS D PUBLIC UTILITIES AND LICENSEES

(C) The Commission's Uniform System of Accounts for Class D, Public Utilities and Licensees prescribed by Part 105, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

The text of account "255, Accumulated Deferred Investment Tax Credits" of the Balance Sheet Accounts is amended by revising the second sentence of paragraph C to read as follows:

Balance Sheet Accounts

8. DEFERRED CREDITS

255 Accumulated deferred investment tax credits.

C. * * * Contra entries affecting such account subdivisions shall be appropriately recorded in account 413, Expenses of Electric Plant Leased to Others; or account 414, Other Utility Operating Income. * * *

PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B NATURAL GAS COMPANIES

(D) The Commission's Uniform System of Accounts for Class A and Class B,

Natural Gas Companies prescribed by Part 201, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

The text of account "255, Accumulated Deferred Investment Tax Credits" of the Balance Sheet Accounts is amended by revising paragraph C to read as follows:

Balance Sheet Accounts

8. DEFERRED CREDITS

255 Accumulated deferred investment tax credits.

C. If any of the investment tax credits to be deferred are related to utility operations other than gas or to nonutility operations, appropriate subdivisions of this account shall be maintained. Contra entries affecting such subdivisions shall be appropriately recorded in accounts 413, Expenses of Gas Plant Leased to Others; or 414, Other Utility Operating Income.

PART 204—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS C NATURAL GAS COMPANIES

(E) The Commission's Uniform System of Accounts for Class C, Natural Gas Companies prescribed by Part 204, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

The text of account "255, Accumulated Deferred Investment Tax Credits" of the Balance Sheet Accounts is amended by revising paragraph C to read as follows:

Balance Sheet Accounts

8. DEFERRED CREDITS

255 Accumulated deferred investment tax credits.

C. If any of the investment tax credits to be deferred are related to utility operations other than gas or to nonutility operations, appropriate subdivisions of this account shall be maintained. Contra entries affecting such subdivisions shall be appropriately recorded in account 413, Expenses of Gas Plant Leased to Others; or 414, Other Utility Operating Income.

PART 205—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS D NATURAL GAS COMPANIES

(F) The Commission's Uniform System of Accounts for Class D, Natural Gas Companies prescribed by Part 205, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

The text of account "255, Accumulated Deferred Investment Tax Credits" of the Balance Sheet Accounts is amended by revising paragraph C to read as follows:

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Balance Sheet Accounts

8. DEFERRED CREDITS

255 Accumulated deferred investment tax credits.

C. If any of the investment tax credits to be deferred are related to utility operations other than gas or to nonutility operations, appropriate subdivisions of this account shall be maintained. Contra entries affecting such subdivisions shall be appropriately recorded in account 413, Expenses of Gas Plant Leased to Others; or 414, Other Utility Operating Income.

(G) This order is effective upon issuance.

(H) The Acting Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8232 Filed 6-11-71;8:47 am]

Title 20—EMPLOYEES' BENEFITS

Chapter I—Bureau of Employees' Compensation, Department of Labor MISCELLANEOUS AMENDMENTS TO CHAPTER

Parts 01, 3, and 25 of Title 20 of the Code of Federal Regulations are hereby amended in the manner indicated below.

The provisions of 5 U.S.C. 553 which require notice of proposed rulemaking, opportunity for public participation, and delay in the effective date are not applicable because these rules relate to agency personnel matters. Further, I do not believe such procedures would serve a useful purpose here. Accordingly, the amendments shall become effective immediately.

The provisions of these Parts 01, 3, and 25 are issued under section 32, 39 Stat. 749, as amended; 5 U.S.C. 8145, 8149; 1946 Reorg. Plan No. 2, section 3, 3 CFR, 1943-1948 Comp., p. 1064; 60 Stat. 1095; 1950 Reorg. Plan No. 19, section 1, 3 CFR, 1949-1953 Comp., p. 1010; 64 Stat. 1271, Secretary's Order No. 18-67, 32 F.R. 12971.

Title 20, Code of Federal Regulations, is amended as follows:

PART 01—STATEMENT OF PROCEDURES

1. Section 01.2 is revised as follows:

§ 01.2 Review by the Bureau.

An award for or against the payment of compensation may be reviewed by the Bureau under section 8128(a) at any

time, on its own motion or on application of the claimant. No formal application for review is required, but a written request for review, stating reasons why the decision should be changed and accompanied by evidence not previously submitted to the Bureau, is necessary to invoke action. Such request shall be made to the Director, Bureau of Employees' Compensation, U.S. Department of Labor, Washington, D.C. 20211.

PART 3—CASES INVOLVING THE LIABILITY OF A THIRD PARTY

2. Section 3.1 is revised as follows:

§ 3.1 Prosecution of third party action by beneficiary.

If an injury or death for which compensation is payable under the Act is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefor, and, as a result of suit brought by the beneficiary or by someone on his behalf, or as a result of settlement made by him or on his behalf in satisfaction of the liability of such other person, the beneficiary shall recover damages or receive any money or other property in satisfaction of the liability of such other person on account of such injury or death, the proceeds of such recovery shall be applied as follows:

3. Section 3.4 is revised as follows:

§ 3.4 Distribution of damages recovered by beneficiary.

If an injury or death for which compensation is payable under the Act is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefor, and, as a result of suit brought by the beneficiary or by someone on his behalf, or as a result of settlement made by him or on his behalf in satisfaction of the liability of such other person, the beneficiary shall recover damages or receive any money or other property in satisfaction of the liability of such other person on account of such injury or death, the proceeds of such recovery shall be applied as follows:

(a) If an attorney is employed, a reasonable attorney's fee and the cost of collection, if any, shall first be deducted from the gross amount of the settlement;

(b) The beneficiary is entitled to retain one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted, plus an amount equivalent to a reasonable attorney's fee proportionate to any refund to the United States;

(c) There shall then be remitted to the Bureau the compensation which has been paid on account of the injury, which shall include payments made on account of medical or hospital treatment, funeral expense, and any other payments that have been made by the Bureau on account of the injury or death;

(d) Any surplus then remaining may be retained by the injured employee or his dependents, and the net amount of damages received by the beneficiary

shall be credited against future payments of compensation to which the beneficiary may be entitled under the Act on account of the same injury.

4. Section 3.5 is revised as follows:

§ 3.5 Distribution of damages where cause of action is assigned.

If the Bureau realizes upon a cause of action assigned to the United States pursuant to 5 U.S.C. 8131, it shall apply the money or other property so received in the following manner; namely: After deducting the amount of any compensation paid in respect of the injury or death on account of which the cause of action arose, and the expense of such realization or collection, which sum shall be placed to the credit of the proper fund of the Bureau, the surplus, if any, of such amount received shall be paid to the beneficiary and credited pro tanto upon any future payments of compensation payable to him on account of the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a settlement or recovery remaining after the expenses of such realization or collection have been deducted.

PART 25—COMPENSATION FOR DISABILITY AND DEATH OF NONCITIZENS OUTSIDE THE UNITED STATES

5. Section 25.1 is revised as follows:

§ 25.1 General statement.

The provisions of this part shall apply in respect to compensation, under the Federal Employees' Compensation Act, payable only to employees of the United States who are neither citizens nor residents of the United States, any territory, or Canada, or payable to any dependents of such employees. It has previously been determined, pursuant to 5 U.S.C. 8137, that the amount of compensation, as provided under such Act, is substantially disproportionate to the compensation for disability or death which is payable in similar cases under local law, regulation, custom, or otherwise, in areas outside the United States, any territory, or Canada. Therefore, in respect to cases of such employees whose injury (or injury resulting in death) has occurred subsequent to December 7, 1941, or may occur, the following provisions shall be applicable.

6. Section 25.2(a) and (b) is revised as follows:

§ 25.2 General adoption of local law.

(a) Pursuant to the provisions of 5 U.S.C. 8137, the benefit features of local workmen's compensation laws, or provisions in the nature of workmen's compensation, in effect in the areas referred to in § 25.1, shall, effective as of December 7, 1941, by adoption and adaptation, as recognized by the Director, Bureau of Employees' Compensation, apply in the cases of the employees specified in § 25.1: *Provided, however*, That there is not established and promulgated under this part, for the particular locality, or for a class of employees in the particular locality, a special schedule of compensation for injury or death.

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cality, a special schedule of compensation for injury or death.

(b) The benefit provisions as thus adopted or adapted are those dealing with the money payments for injury and death (including provisions dealing with medical, surgical, hospital and similar treatment and care), as well as those dealing with services and purposes forming an integral part of the local plan, provided they are of a kind or character similar to services and purposes authorized by the Federal Employees' Compensation Act. Procedural provisions, designations of classes of beneficiaries in death cases, limitations (except those affecting amounts of benefit payments), and any other provisions not directly affecting the amounts of the benefit payments, in such local plans, shall not apply, but in lieu thereof the pertinent provisions of the Federal Employees' Compensation Act shall apply, unless modified by further specification in this section. However, the Director may at any time modify, limit or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives, or groups entitled to payment under local statute or custom whether or not included in the classes of beneficiaries otherwise specified by this subchapter.

7. Section 25.4 is revised as follows:

§ 25.4 Authority to settle and pay claims.

In addition to the authority to receive, process and pay claims, when delegated such representative or agency receiving delegation of authority shall, in respect to cases adjudicated under this part, and when so authorized by the Director, have authority (a) to make lump sum awards (in the manner prescribed by 5 U.S.C. 8135) whenever such authorized representative shall deem such settlement to be for the best interest of the United States, and (b) to compromise and pay claims for any benefits provided for under this part, including claims in which there is a dispute as to jurisdiction or other facts, or questions of law. The Director shall, in administrative instructions to the particular representative concerned, establish such procedures in respect to action under this section as may be deemed necessary, and may specify the scope of any administrative review of such action.

§ 25.23 [Revoked]

8. Section 25.23 is revoked.

9. Section 25.24(a) is revised as follows:

§ 25.24 Territory of the Pacific Islands.

(a) The special schedule of compensation established by Subpart B of this part shall apply, with the modifications or additions specified in paragraph (b) of this section, as of July 18, 1947, in the Territory of the Pacific Islands which comprises all of the Mariana Islands except Guam, all of the Caroline Islands including the Island of Palau, and all of the Marshall Islands, and shall be applied

retrospectively in cases of injury (or death from injury) occurring on and after such date. Compensation in all cases pending as of February 1, 1951, shall be adjusted accordingly, with credit taken in the amount of compensation paid prior to such date. Refund of compensation shall not be required if the amount of compensation paid in any case, otherwise than through fraud, misrepresentation, or mistake, and prior to February 1, 1951, exceeds the amount provided for under this section; and such case shall be deemed compromised and paid under 5 U.S.C. 8137.

(5 U.S.C. 8145, 8149)

Signed at Washington, D.C., this 8th day of June 1971.

JOHN M. EKEBERG,
Director,
Bureau of Employees' Compensation.
[FR Doc.71-8262 Filed 6-11-71;8:50 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

DELEGATIONS FROM SECRETARY AND ASSISTANT SECRETARY

Under authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120) § 2.120(a) (3) is revised to read as follows to conform with the Department's notice regarding such functions published in the FEDERAL REGISTER of May 14, 1971 (36 F.R. 8893):

§ 2.120 Delegations from the Secretary and Assistant Secretary.

(a)
(3) Functions pertaining to sections 301, 311, 314, and 361 of the Public Health Service Act (42 U.S.C. 241, 243, 246, and 264) that relate to pesticides, product safety, interstate travel sanitation (except interstate transportation of etiologic agents under 42 CFR 72.25), milk and food service sanitation, shellfish sanitation, and poison control.

Effective date: May 14, 1971.

Dated: June 2, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8247 Filed 6-11-71;8:49 am]

SUBCHAPTER C—DRUGS

PART 148w—CEPHALOSPORIN Nonsterile Cephaloglycin Dihydrate

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 507,

59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 148w.3(b) (1) is revised to read as follows to change the sample preparation method for the subject antibiotic:

§ 148w.3 Nonsterile cephaloglycin dihydrate.

(b) *Tests and methods of assay*—(1) *Potency*. Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient sterile distilled water to give a stock solution of 100 micrograms of cephaloglycin per milliliter (estimated). Further dilute an aliquot of the stock solution with 0.1M potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 10 micrograms of cephaloglycin per milliliter (estimated).

This order merely makes a technical change that will speed up the assay of the subject antibiotic. Since the revision is noncontroversial and nonrestrictive in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-12-71).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: June 1, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.
[FR Doc.71-8248 Filed 6-11-71;8:49 am]

PART 149v—MITHRAMYCIN

Mithramycin for Injection

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 149v *Mithramycin for injection* is revised in the sixth sentence of paragraph (a) (1) by changing "3.0" to read "4.0" to raise the upper limit of the LD₅₀ test.

This order merely makes a technical change in the certification requirements to take into account biological and laboratory variations during testing. Since the revision is noncontroversial and nonrestrictive in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-12-71).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: June 1, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.
[FR Doc.71-8249 Filed 6-11-71;8:49 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7117]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Revision of Rates; Correction

On May 25, 1971, T.D. 7117 was published in the FEDERAL REGISTER (36 F.R. 9393). The corrections listed below are made to the Income Tax Regulations (26 CFR Part 1), as prescribed by T.D. 7117:

1. The following corrections should be made in the tables appearing in § 1.3:

(a) In Table XVII—Returns Claiming 2 Exemptions, in the rates for incomes of "at least \$9,900 but less than \$9,950", the entry in the fourth column now reading "1,234" should read "1,334".

(b) In Table XVIII—Returns Claiming 3 Exemptions, following the set of entries for incomes of "at least \$4,900 but less than \$4,950", the next set of entries should be designated "at least \$4,950 but less than \$5,000".

(c) In Table XXI—Returns Claiming 6 Exemptions, in the rates for incomes of "at least \$7,350 but less than \$7,400", the entry in the sixth column now reading "395" should read "495".

2. The parenthesis mark appearing on the 17th line in paragraph (b) of § 1.1347-1 should be replaced by a comma.

JAMES F. DRING,
Director, Legislation and
Regulations Division.
[FR Doc.71-8331 Filed 6-11-71;8:56 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 602—LEATHER, LEATHER GOODS AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 614 (35 F.R. 15226), the Secretary of Labor appointed and convened Industry Committee No. 100-B for the leather, leather goods and related products industry in Puerto Rico, referred to the Committee the question of the minimum wage rate or rates to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour

Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 100-B are hereby published, to be effective June 28, 1971, in this order amending § 602.2 of Title 29, Code of Federal Regulations.

In § 602.2, subdivision (4) of subparagraphs (1), (2), (3), and (5) of paragraph (a); and subparagraph (1) of paragraph (b) are amended to read as follows:

§ 602.2 Wage rates.

(a)
(1) *Belt classification*. (i) The minimum wage for this classification is \$1.60 an hour.

(2) *Baseball and softball classification*. (i) The minimum wage for this classification is \$1.35 an hour.

(3) *Sporting and athletic goods classification*. (i) The minimum wage for this classification is \$1.39 an hour.

(5) *General classification*. (i) The minimum wage for this classification is \$1.325.

(b) *1961 coverage classification*. (1) The minimum wage for this classification is \$1.60 an hour.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Signed at Washington, D.C., this 8th day of June 1971.

HORACE E. MENASCO,
Administrator, Wage and Hour
Division, U.S. Department of
Labor.

[FR Doc.71-8327 Filed 6-11-71;8:56 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70-158a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Biscayne Bay, Florida

This amendment changes the regulations for the Rickenbacker Causeway Bridge across the Atlantic Intracoastal Waterway, Biscayne Bay, Miami, Fla., to extend the times when the draw may remain closed to vessels. This amendment

was circulated as a public notice dated January 26, 1971, by the Commander, Seventh Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 70-158) on January 26, 1971 (36 F.R. 1208). Several comments were received and considered. Editorial changes have been made.

Accordingly, Part 117 of 33 CFR is amended by revoking § 117.447a(b) and revising § 117.447a (a) and (d) to read as follows:

§ 117.447a Biscayne Bay, Fla., Rickenbacker Causeway Bridge.

(a) The draw shall open on signal except that—

(1) From 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except legal holidays, the draw need open only on the hour and half-hour for vessels; and

(2) From 11 a.m. to 6 p.m. on Saturdays, Sundays, and legal holidays, the draw need open only on the hour and half-hour for vessels?

(b) [Deleted]

(d) The draw shall open at any time for the passage of a public vessel of the United States, tugs with tows, cruise boats operating on a regular schedule, or a vessel in an emergency involving danger to life or property. The opening signal from these vessels shall be 4 blasts of a whistle, horn, other sound producing device, or by shouting.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 146(c) (5) 33 CFR 1.05-1 (c) (4) (35 F.R. 15922))

Effective date. This revision shall become effective on July 16, 1971.

Dated: June 8, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-8284 Filed 6-11-71;8:52 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter I—Federal Procurement Regulations

PART 1-1—GENERAL

Subpart 1-1.7—Small Business Concerns

SMALL BUSINESS, SIZE STANDARDS AND RELATED DEFINITIONS

This amendment of the Federal Procurement Regulations changes §§ 1-1.701-1 and 1-1.701-6 to include new and revised small business size standards and related definitions prescribed by the Small Business Administration.

1. Section 1-1.701-1 is amended to prescribe new and revised provisions in paragraphs (a), (b), (c), (d), (e), (f),

(g), (h), and (i). As amended, the section reads as follows:

§ 1-1.701-1 Small business concern (for Government procurement).

(a) *General*. A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in this § 1-1.701. ("Concern" means any business entity organized for profit with a place of business located in the United States, including but not limited to, an individual, partnership, corporation, joint venture, association, or cooperative. "Annual receipts" means the gross income, less returns and allowances, sales of fixed assets and interaffiliate transactions, of a concern, and its affiliates, from sales of products and services, interest, rent, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year, whether on a cash, accrual, completed contracts, percentage of completion, or any other acceptable accounting basis and reported or to be reported to the Department of the Treasury, Internal Revenue Service, for Federal income tax purposes. If a concern has been in business less than a year its annual receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the concern's annual receipts to include the affiliate's receipts during the accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.)

(1) If a procurement calls for more than one item and the bidder can bid on any or all items, the bidder must meet the size standard for each item on which it submits a bid. If a procurement calls for more than one item and a bidder is required to bid on all or none of such items, the bidder can qualify as a small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value. (For size standard purposes, a product or service is classified into only one industry, even though, for other purposes, it could be classified into more than one industry.)

(2) If no standard for an industry, field of operation, or activity (e.g., animal specialty; fin fish; management-logistics support to be performed outside the United States) has been set forth in this § 1-1.701-1, a concern bidding on a Government contract is a small business if, including its affiliates, it is independently owned and operated, is not dominant in the field of operations

in which it is bidding on Government contracts, and has 500 employees or less.

(b) *Construction*. Any concern bidding on a Government contract for construction, alteration, or repair (including painting and decorating) of buildings, bridges, or other real property, or other work which is classified in Division C, Contract Construction of the Standard Industrial Classification Manual, as amended, prepared and published by the Office of Management and Budget (formerly Bureau of the Budget), Executive Office of the President, is classified:

(1) *General*. As small if its average annual receipts for its preceding 3 fiscal years do not exceed \$7,500,000 (except that if the concern is located in Alaska, such receipts do not exceed \$9,375,000).

(2) *Dredging*. As small if it is bidding on a contract for dredging and its average annual receipts for its preceding 3 fiscal years do not exceed \$5 million (except that if the concern is located in Alaska, such receipts do not exceed \$6,250,000).

(c) *Manufacturing*. Any concern bidding on a contract for a product it manufactured is classified:

(1) *Food canning and preserving*. As small if it is bidding on a contract for food canning and preserving and its number of employees does not exceed 500 persons, exclusive of agricultural labor as defined in the Federal Unemployment Tax Act, 26 U.S.C. 3306(k).

(2) *Pneumatic tires*. As small if it is bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112: *Provided*, That (i) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture, (ii) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured worldwide during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

(3) *Passenger cars*. As small if it is bidding on a contract for passenger cars within Census Classification Code 37171: *Provided*, That (i) the value of the passenger cars within Census Classification Code 37171 which it manufactured or otherwise produced in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture or production of such passenger cars, (ii) the value of the passenger cars within Census Classification Code 37171, which it manufactured or otherwise produced during the preceding calendar year was less than 5 percent of the total value of all

such cars manufactured or produced in the United States during the said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

(4) *Rebuilding on a factory basis or equivalent.* As small if it is bidding on a contract for rebuilding machinery or equipment on a factory basis, the purpose of which is to restore such machinery or equipment to as serviceable and as like new condition as possible and its number of employees does not exceed the number of employees specified for the classification code applicable to the manufacturer of the original item.

NOTE: The size standard contained herein is not limited to concerns who are manufacturers of the original item but is applicable to all bidders or offerors. The term "rebuilding on a factory basis" as used in this subsection does not include ordinary repair services such as those involving minor repair and/or preservation operations.

(5) *Manufacturing industries listed in § 1-1.701-1(h).* As small if it is bidding on a contract for a product classified within an industry set forth in paragraph (h) of this section and its number of employees does not exceed the size standard established for that industry.

(6) *Manufacturing industries not listed in § 1-1.701-1(h).* As small if it is bidding on a contract for a product classified within an industry not set forth in paragraph (h) of this section and its number of employees does not exceed 500 persons.

(d) *Small business nonmanufacturer.* Any concern which submits a bid or offer in its own name, other than for a construction or service contract, but which proposes to furnish a product not manufactured by itself, is deemed to be a small business concern when:

(1) It is a small business concern within the meaning of § 1-1.701-1(a);

(2) Its number of employees does not exceed 500 persons; and

(3) In the case of Government procurement reserved for or involving the preferential treatment of small business concerns (including equal low bids), such nonmanufacturer shall furnish in the performance of the contract the products of a small business manufacturer or producer which products are manufactured or produced in the United States. However, if the goods to be furnished are woolen, worsted, knitwear, duck, and webbing, dealers and converters shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear) and, if finishing is required, by a small finisher. If the procurement is for thread, dealers and converters shall furnish such products which have been finished by a small finisher. (Finishing of thread is defined as all "dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specification, but ex-

cluding mercerizing, spinning, throwing, or twisting operations.") If the procurement is for a refined petroleum product, other than a product classified in Standard Industrial Classification Industries No. 2951, Paving mixtures and blocks, No. 2952, Asphalt felts and coatings, No. 2992, Lubricating oils and greases, or No. 2999, Products of petroleum and coal, not elsewhere classified, paragraph (i) of this section is for application. ("Non-manufacturer" means any concern which in connection with a specific Government procurement contract, other than a construction or service contract, does not manufacture or produce the products required to be furnished by such procurement. Nonmanufacturer includes a concern which can manufacture or produce the products referred to in the specific procurement, but does not do so in connection with that procurement.)

(e) *Research, development, and testing.* Any concern bidding on a contract for research, development, and/or testing is classified:

(1) As small if it is bidding on a contract for research and/or development which requires delivery of a manufactured product and (i) it qualifies as a small business manufacturer within the meaning of § 1-1.701-1(c) for the industry into which the product is classified, or (ii) it qualifies as a small business nonmanufacturer within the meaning of § 1-1.701-1(d).

(2) As small if it is bidding on a contract for research and/or development which does not require delivery of a manufactured product or on a contract for testing and its number of employees does not exceed 500 persons.

(f) *Services.* Any concern bidding on a contract for services is classified:

(1) *General.* As small if it is bidding on a contract for services not otherwise defined in this § 1-1.701-1 and its average annual receipts for its preceding 3 fiscal years do not exceed \$1 million (\$1,250,000 if the concern is located in Alaska).

(2) *Engineering.* As small if it is bidding on a contract for engineering services other than marine engineering services and its average annual receipts for its preceding 3 fiscal years do not exceed \$5 million (\$6,250,000 if the concern is located in Alaska).

(3) *Motion pictures.* As small if it is bidding on a contract for motion picture production or motion picture services and its average annual receipts for its preceding 3 fiscal years do not exceed \$5 million (\$6,250,000 if the concern is located in Alaska).

(4) *Janitorial and custodial.* As small if it is bidding on a contract for janitorial and custodial services and its average annual receipts for its preceding 3 fiscal years do not exceed \$3 million (\$3,750,000 if the concern is located in Alaska).

(5) *Base maintenance.* As small if it is bidding on a contract for base maintenance and its average annual receipts for its preceding 3 fiscal years do not exceed \$5 million (\$6,250,000 if the concern is located in Alaska).

(6) *Naval architectural and marine engineering.* As small if it is bidding on a contract for naval architectural and marine engineering services and its average annual receipts for its preceding 3 fiscal years do not exceed \$6 million (\$7,500,000 if the concern is located in Alaska).

(7) *Marine cargo handling.* As small if it is bidding on a contract for marine cargo handling services and its average annual receipts for its preceding 3 fiscal years do not exceed \$5 million (\$6,250,000 if the concern is located in Alaska).

(8) *Food.* As small if it is bidding on a contract for food services and its average annual receipts for its preceding 3 fiscal years do not exceed \$4 million (\$5 million if the concern is located in Alaska).

(9) (i) *Laundry.* As small if it is bidding on a contract for laundry services including linen supply, diaper services, and industrial laundering if its average annual receipts for its preceding 3 fiscal years do not exceed \$3 million (\$3,750,000 if the concern is located in Alaska).

(ii) *Cleaning and dyeing.* As small if it is bidding on a contract for cleaning and dyeing (including rug cleaning services) and its average annual receipts for its preceding 3 fiscal years do not exceed \$1 million (\$1,250,000 if the concern is located in Alaska).

(10) *Computer programming.* As small if bidding on a contract for computer programming services and its average annual receipts for its preceding 3 fiscal years do not exceed \$3 million (\$3,750,000 if the concern is located in Alaska).

(11) *Flight training.* As small if it is bidding on a contract for flight training services and its average annual receipts for its preceding 3 fiscal years do not exceed \$5 million (\$6,250,000 if the concern is located in Alaska).

(12) *Motorcar and truck rental and leasing.* As small if it is bidding on a contract for motorcar rental and leasing services or truck rental and leasing services and its average annual receipts for its preceding 3 fiscal years do not exceed \$5 million (\$6,250,000 if the concern is located in Alaska).

(13) *Tire recapping.* As small if it is bidding on a contract for tire recapping services and its average annual receipts for its preceding 3 fiscal years do not exceed \$3 million (\$3,750,000 if the concern is located in Alaska). This paragraph applies only to procurements requiring the services of tire retreading and repair shops (Standard Industrial Classification Industry No. 7534, Tire Retreading and Repair Shops) and not to procurements for the repairing and/or retreading of pneumatic aircraft tires which, by reason of the extent and nature of the equipment and operations required, is considered for size standards purposes to be manufactured within the meaning of Standard Industrial Classification Industry No. 3011, Tires and Inner Tubes (see § 1-1.701-1(h)).

(14) *Data processing.* As small if it is bidding on a contract for data processing services and its average annual receipts

for its preceding 3 fiscal years do not exceed \$3 million (\$3,750,000 if the concern is located in Alaska).

(15) *Computer maintenance.* As small if it is bidding on a contract for computer maintenance services and its average annual receipts for its preceding 3 fiscal years do not exceed \$5 million (\$6,250,000 if the concern is located in Alaska).

(g) *Transportation.* Any concern bidding on a contract for passenger or freight transportation, not elsewhere defined in this section, is classified:

(1) *General.* As small if its number of employees does not exceed 500 persons.

(2) *Air transportation.* As small if it is bidding on a contract for air transportation and its number of employees does not exceed 1,500 persons.

(3) *Trucking.* As small if it is bidding on a contract for trucking (local and long-distance), warehousing, packing and crating, and/or freight forwarding, and its annual receipts do not exceed \$5 million (\$6,250,000 if the concern is located in Alaska).

(h) *Table of specific industry employment size standards for the purpose of Government procurement.* (See footnotes at end of table.)

MANUFACTURING		
Census classification code	Industry	Employment size standard (number of employees) ¹
MAJOR GROUP 19—ORDNANCE AND ACCESSORIES		
1929	Ammunition, except for small arms, not elsewhere classified.	1,500
MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS		
2011	Meat packing plants.	750
2026	Fluid milk.	750
2033	Vegetable oil milk, except cottonseed and soybean.	1,000
MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES ²		
MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS		
3011	Passenger car and motorcycle pneumatic tires (casings).	(?)
3012	Truck and bus (and off-the-road) pneumatic tires.	(?)

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL		
3537	Industrial trucks, tractors, and trailers and stackers.	750
3573	Electric computing equipment.	1,000
3574	Calculating and accounting machines, except electronic computing equipment.	1,000
MAJOR GROUP 37—TRANSPORTATION EQUIPMENT		
3717	Motor vehicles and parts.	1,000
37171	Passenger cars (knocked down or assembled).	(?)
3721	Aircraft.	1,500
3722	Aircraft engines and engine parts.	1,000
3729	Aircraft parts and auxiliary equipment, not elsewhere classified.	1,000
3731	Shipbuilding and repairing.	1,000

¹The size standard for SIC 2011 is set forth in § 1-1.701-1(i).

²The size standards for SIC 3011, 3012, and 37171 are set forth in §§ 1-1.701-1(c)(2) and 1-1.701-1(c)(3).

³The three Standard Industrial Classification Industries (3711, 3712, and 3714) have been combined because of a major problem of defining the reporting unit in terms of these industries. This difficulty arises from the fact that many large establishments have integrated operations which include the production of parts or bodies and the assembly of complete vehicles at the same location.

⁴Includes maintenance as defined in the Federal Aviation Regulations (14 CFR 1.1) but excludes contracts solely for preventive maintenance as defined in 14 CFR 1.1. As defined in the Federal Aviation Regulations: "Maintenance" means inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance.

⁵"Preventive maintenance" means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations.

⁶Guided missile engines and engine parts are classified in SIC 3722. Missile control systems are classified in SIC 3662.

(1) *Refined petroleum products.* Any concern bidding on a contract for a refined petroleum product other than a product classified in Standard Industrial Classification Industries No. 2951, Paving mixtures and blocks; No. 2952, Asphalt felts and coatings; No. 2992, Lubricating oils and greases; or No. 2999, Products of petroleum and coal, not elsewhere classified, is classified as small if (1) (i) its number of employees does not exceed 1,000 persons; (ii) if it does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined

product basis), or throughput or other form of processing agreement, with the same effect as though such facilities had been leased; and (iii) the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks: *Provided, however,* That a petroleum refining concern which meets the requirements in (1) (i) and (ii) of this paragraph may furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement, in effect on the date of the bid or offer, between the bidder or offeror and the refiner of the product to be delivered to the Government which requires exchanges in a stated ratio on a refined petroleum product for a refined petroleum product basis, and precludes a monetary settlement, and that the products exchanged for the products offered and to be delivered to the Government meet the requirements in (1) (iii) of this paragraph: *And provided further,* That the exchange of products for products to be delivered to the Government will be completed within 90 days after the expiration of the delivery period under the Government contract, and that any products furnished pursuant to a bona fide exchange agreement must be for delivery in the same Petroleum Administration for Defense (PAD) District as that in which the small refinery is located; or (2) its number of employees does not exceed 500 persons and the product to be delivered to the Government has been refined by a concern which qualifies under (1) of this paragraph. The proviso in (1) (iii) of this paragraph that the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks contemplates that, in accomplishing such refining, the bidder will utilize its own employees and facilities which it owns or obtains under a bona fide lease as distinguished from any other arrangement having the same effect as a lease. The provision permitting a concern which meets the requirements in (1) (i) and (ii) of this paragraph to furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement which meets prescribed requirements, contemplates that the product exchanged by the bidder for the product to be furnished shall have been refined by the bidder utilizing only its own employees and its own facilities or facilities obtained through a bona fide lease. ("Bona fide feed stocks" means crude and any other hydrocarbon

Chapter 101—Federal Property Management Regulations
SUBCHAPTER E—SUPPLY AND PROCUREMENT
PART 101-26—PROCUREMENT SOURCES AND PROGRAMS
Consolidation of Requirements

material actually charged to refinery processing units as distinguished from materials used as components in products to be delivered after merely filtering, settling, or blending. "Crude-oil capacity" means the maximum daily average throughput of a refinery in complete operation, with allowance for necessary shutdown time for routine maintenance, repairs, etc. It approximates the maximum daily average crude runs to stills that can be maintained for an extended period.)

2. Section 1-1.701-5 is revised to read as follows:

§ 1-1.701-5 Number of employees.

In connection with the determination of small business status, "number of employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full time, part time, temporary, or other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters. If a concern has not been in existence for four full calendar quarters, "number of employees" means the average employment of such concern and its affiliates during the period such concern has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month. If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the applicant's number of employees to include the affiliate's number of employees during the entire applicable accounting period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even though such concern had been an affiliate during a portion of the applicable accounting period.

3. Section 1-1.701-6 is revised to read as follows:

§ 1-1.701-6 Industry.

"Industry" means a grouping of establishments primarily engaged in similar lines of activity as listed and described in the Standard Industrial Classification (SIC) Manual, as amended, prepared and published by the Office of Management and Budget (formerly Bureau of the Budget), Executive Office of the President. (The Standard Industrial Classification (SIC) Manual, as amended, is used as a guide by the Small Business Administration in defining industries. Its use, therefore, is advisory and not mandatory.)

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective August 16, 1971, but may be observed earlier.

Dated: June 7, 1971.

ROBERT L. KUNZIG,
 Administrator of General Services.
 [FR Doc.71-8314 Filed 6-11-71;8:54 am]

This amendment establishes policy regarding the consolidation of individual small volume requirements to enable the Government to benefit from lower prices normally obtainable through larger volume procurements from commercial sources.

The table of contents for Part 101-26 is amended to add § 101-26.106 as follows:

Sec. 101-26.106 Consolidation of requirements.

Subpart 101-26.1—General

Section 101-26.100 is revised and § 101-26.106 is added to read as follows:

§ 101-26.100 Scope of subpart.

This subpart provides guidance for the management or control of procurement or related functions.

§ 101-26.106 Consolidation of requirements.

Full consideration shall be given to the consolidation of individual small volume requirements to enable the Government to benefit from lower prices normally obtainable through definite quantity contracts for larger volume procurements. This policy pertains to procurement from commercial sources either direct or through an intermediary agency and does not apply to GSA stock items or small volume requirements normally obtained from a GSA self-service store. Where practical, agencies shall establish procedures which will permit planned requirements consolidation on an agency-wide basis. Where not practical, the requirements consolidation effort may be limited to a bureau, to other agency segments, or to a program, if such limited consolidation will provide significant price advantages when procurement is effected on a volume basis. Purchase requests submitted to GSA for item requirements exceeding maximum order limitations in Federal Supply Schedule contracts shall be submitted in accordance with the applicable instructions contained in the respective schedules. Special buying services desired by agencies for procurement or other consolidated item requirements shall be requested from GSA in accordance with § 101-26.102.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective June 18, 1971.

Dated: June 7, 1971.

ROBERT L. KUNZIG,
 Administrator of General Services.
 [FR Doc.71-8289 Filed 6-11-71;8:52 am]

SUBCHAPTER H—UTILIZATION AND DISPOSAL
PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Housing for Displaced Persons

Section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902) authorizes the Administrator of General Services to transfer to a State agency surplus federally owned real property for the purpose of providing replacement housing as required under title II of this Act for persons who are to be displaced by Federal or federally assisted projects. Subparts 101-47.2 and 101-47.3 are amended to implement this section of the Act.

The table of contents for Part 101-47 is amended by adding new § 101-47.308-8 as follows:

Sec. 101-47.308-8 Property for displaced persons.

Subpart 101-47.2—Utilization of Excess Real Property

1. Section 101-47.203-5(a) is revised as follows:

§ 101-47.203-5 Screening of excess real property.

(a) Notices of availability will be submitted to each such agency which shall, within 30 calendar days from the date of notice, advise GSA if there is a firm requirement or a tentative requirement for the property. Agencies having tentative or firm requirements for surplus Federal real property for replacement housing for displaced persons, as authorized by section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902), shall review these notices for the additional purpose of identifying properties for which they may have such a requirement. When such a requirement exists, the agency shall so advise the appropriate GSA regional office.

(1) In the event a tentative requirement exists, the agency shall, within an additional 30 calendar days, advise GSA if there is a firm requirement.

(2) Within 60 calendar days after advice to GSA that a firm requirement exists, the agency shall furnish GSA a request for transfer of the property pursuant to § 101-47.203-7.

2. Sections 101-47.204-1 (a) and (b) are revised to read as follows:

§ 101-47.204-1 Reported property.

(a) The holding agency, the Secretary of Health, Education, and Welfare, and the Secretary of the Interior, will be notified of the date upon which determination as surplus becomes effective. The Secretary of Housing and Urban Development also will be so notified but only as to those properties that HUD identifies as having potential for housing and

for related public, commercial, or industrial facilities under section 414 of the Housing and Urban Development Act of 1969, as amended. (See § 101-47.203-5.) Any Federal agency that has identified a property as being required for replacement housing for displaced persons under section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 also will be notified of the date upon which determination as surplus becomes effective.

(b) The notices to the Secretaries of Health, Education, and Welfare and the Interior will be sent to the offices designated by them to serve the area in which the property is located. The notices to the Secretary of Housing and Urban Development will be sent to the central office of HUD. The notices to the Federal agencies having a requirement pursuant to section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will be sent to the office making the request unless another office is designated.

Subpart 101-47.3—Surplus Real Property Disposal

Section 101-47.308-8 is added as follows:

§ 101-47.308-8 Property for displaced persons.

(a) Pursuant to section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the disposal agency is authorized to transfer surplus real property to a State agency, as hereinafter provided, for the purpose of providing replacement housing under title II of this Act for persons who are to be displaced by Federal or federally assisted projects.

(b) Upon receipt of the notice of surplus determination (§ 101-47.204-1(a)), any Federal agency having a requirement for such property for housing for displaced persons may solicit applications from eligible State agencies.

(c) Federal agencies shall notify the disposal agency within 20 calendar days after the date of the notice of determination of surplus if it is able to interest an eligible State agency in acquiring the property under section 218.

(d) Both holding and disposal agencies shall cooperate, to the fullest extent possible, with Federal and State agency representatives in their inspection of such property and in furnishing information relating thereto.

(e) The interested Federal agency shall advise the disposal agency and request transfer of the property to the selected State agency under section 218 within 25 calendar days after the expiration of the 20-calendar-day period specified in § 101-47.308-8(c).

(f) Any request submitted by a Federal agency pursuant to § 101-47.308-8(e) shall be in the form of a letter addressed to the appropriate GSA regional office and shall set forth the following information: (1) Identification of the property by name, location,

and control number; (2) a request that the property be transferred to a specific State agency including the name and address and a copy of the State agency's application or proposal; (3) a certification by the appropriate Federal agency official that the property is required for housing for displaced persons pursuant to section 218, that all other options authorized under title II of the Act have been explored and replacement housing cannot be found or made available through those channels, and that the Federal or federally assisted project cannot be accomplished unless the property is made available for replacement housing; (4) any special terms and conditions that the Federal agency desires to include in conveyance instruments to insure that the property is used for the intended purpose; (5) identification by name and proposed location of the Federal or federally assisted project which is creating the requirement; (6) purpose of the project; (7) citation of enabling legislation or authorization for the project when appropriate; (8) a detailed outline of steps taken to obtain replacement housing for displaced persons as authorized under title II of the Act; and (9) arrangements that have been made to construct replacement housing on the surplus property and to insure that displaced persons will be provided housing in the development.

(g) In the absence of a notice under § 101-47.308-8(c) or a request under § 101-47.308-8(e), the disposal agency shall proceed with the appropriate disposal action.

(h) If, after considering other uses for the property, the disposal agency determines that the property should be made available for replacement housing under section 218, it shall transfer the property to the designated State agency on such terms and conditions as will protect the interest of the United States, including the payment or the agreement to pay to the United States all amounts received by the State agency from any sale, lease, or other disposition of the property for such housing. The sale, lease, or other disposition of the property by the State agency shall be at the fair market value as approved by the disposal agency, unless a compelling justification is offered for disposal of the property at less than fair market value, in which event the disposal may be made at such other value as is approved by the disposal agency.

(i) The State agency shall bear the costs of any out-of-pocket expenses necessary to accomplish the transfer of the property, such as costs of surveys, fencing, or security of the remaining property.

(j) The disposal agency, if it approves the request, shall transfer the property to the designated State agency. If the request is disapproved, the disposal agency shall notify the Federal agency requesting the transfer. The disposal agency shall furnish the holding agency a copy of the transfer or notice of disapproval, and the Federal agency re-

questing the transfer a copy of the transfer when appropriate.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (6-12-71).

Dated: June 7, 1971.

ROBERT L. KUNZIG,
 Administrator of General Services.

[FR Doc.71-8288 Filed 6-11-71;8:52 am]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES
 [Tariff Circular No. 3; Exemption Application No. 10]

PART 531—PUBLICATION, POSTING, AND FILING OF FREIGHT AND PASSENGER RATES, FARES, AND CHARGES IN THE DOMESTIC OFFSHORE TRADE

Exemption; Carriage of Miscellaneous Cargoes Between Houston, Tex., and Prudhoe Bay on Arctic Coast of Alaska

Application for exemption from the Intercoastal Shipping Act, 1933 and the Shipping Act, 1916, and regulations applicable thereto, for miscellaneous cargoes, excepting liquid in bulk, transported between Houston, Tex., on the one hand and on the other the Arctic Coast of Alaska between Beechey Point and Tigvariak Island (Prudhoe Bay), via the Gulf of Alaska, the Bering Sea, and the Arctic Ocean was filed in the FEDERAL REGISTER.

The effect of such an exemption would be to permit movements by barge to the area involved with freedom from tariff filing requirements and regulation with respect to the reasonableness of rates.

The proposed operations are radically different from that usually associated with common carriage. No sailing schedules can be maintained because of the timing of operations dictated by the ice conditions in Prudhoe Bay. Much of the operation will be in the nature of proprietary carriage since in most instances the full capacity of a given barge will be chartered by a single company. The specialized outfit of the vessels designated for certain cargoes will make it impractical for the carriers to provide uniform service for all shippers. Finally, special contracts as to the risk of loss and damage will be required due to the extraordinary hazards involved.

The conditions under which the operation is conducted make rate and tariff regulation an unnecessary and undue burden. However, as the building of the North Slope progresses there may be a demand for a fully diversified type of common carrier service which will require full regulatory surveillance by this

Commission. In view of this, the exemption is limited to the 1971 season.

Any carriers indicating a desire to perform a service similar to that proposed by the applicant may file similar applications for exemption which will be expeditiously considered.

The exemption will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory or be detrimental to commerce. Therefore, pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553 and sections 35 and 43 of the Shipping Act, 1916, 46 U.S.C. 833(a), and 841(a); Part 531 of Title 46 CFR is amended as follows:

§ 531.26 Exemptions.

Section 531.26 is amended by an addition of a new sentence to paragraph (c), reading as follows:

(c) . . . The provisions of the Intercoastal Shipping Act, 1933 and the Shipping Act, 1916, as amended, shall not apply to direct service by water between Houston, Tex., and Prudhoe Bay, Alaska, of miscellaneous cargoes not including liquid in bulk provided by Puget Sound Tug & Barge Co. during 1971.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8305 Filed 6-11-71; 8:53 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-590]

PART 0—COMMISSION ORGANIZATION

Requests for Inspection of Records

Order. 1. Under the Commission's rules implementing the Public Information Act of 1966 (5 U.S.C. 552), there are three categories of records. The first category consists of records listed in §§ 0.453 and 0.455 as being routinely available for public inspection. Such records are available for inspection simply by going to the place where the records are kept or by writing for copies in accordance with § 0.465. The second category consists of records listed in § 0.457 as being not routinely available for public inspection and those which have been withheld from disclosure under § 0.459 on the request of the person submitting them and a determination that they may lawfully be withheld from inspection. Such records are made available for inspection only upon written request setting forth the reasons for inspection and the facts in support thereof (see § 0.461). The third category consists of the Commission's general correspondence files (§ 0.456) and records which are not listed in the rules. Because a general determination cannot be made as to whether such

records should be routinely available for inspection and individual determinations have not been made, and because papers properly available or unavailable for inspection are filed together, the records are made available for inspection only upon written request. The Commission is thereby afforded an opportunity to review the records and make the necessary determination. In making such a request, however, it is unnecessary to state the reasons for inspection or supporting facts, unless the Commission, upon a review of the records, determines that they may be lawfully withheld from inspection and that there is a valid reason for doing so.

2. Since § 0.461(a) of our rules sets forth the procedure for inspection of all Commission records not listed as "routinely available for public inspection," but without distinction between the second and third categories of records described above, we are amending this section to state more clearly the procedures which govern requests for inspection of records under this section. The section, as amended, is set forth below.

3. Authority for the amendment set forth below is contained in sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r), and the Public Information Act of 1966, 5 U.S.C. 552. Because the amendment relates to matters of procedure and is intended to clarify rather than change the rules, the procedural and effective date provisions of 5 U.S.C. 553 do not apply.

4. In view of the foregoing: It is ordered, Effective June 16, 1971, that § 0.461 of the rules and regulations is amended as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: June 3, 1971.

Released: June 7, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

In Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, § 0.461(a) is revised to read as follows:

§ 0.461 Requests for inspection of materials not routinely available for inspection.

(a) Any person desiring to inspect Commission records which are not listed in § 0.453 or § 0.455 shall file a request for inspection. An original and one copy shall be submitted. Each such request shall identify, with particularity, the materials to be inspected. If the records are of the kinds listed in § 0.457 or if they have been withheld from disclosure under § 0.459, the request shall, in addition, contain a statement of the reasons for inspection and the facts in support thereof. In the case of other materials, no such statement need accompany the request; but the Commission may require the submission of such a statement prior

¹ Commissioners Burch, Chairman; and Houser absent.

to action on the request if it determines that the material in question may lawfully be withheld from inspection.

[FR Doc. 71-8318 Filed 6-11-71; 8:55 am]

[FCC 71-591]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

International Public Correspondence Service

Order. In the matter of amendment of Part 83 of the Commission's rules to reflect the changes in the International Radio Regulations with respect to categories of ship stations in the international public correspondence service.

1. The International Radio Regulations, Geneva, 1968 established four service categories for ship stations in the international public correspondence service in lieu of the previous three service categories. Further, the service categories now apply to radiotelephone as well as radiotelegraph service. It is not practical to license ship stations solely equipped with radiotelephone according to categories of service. Accordingly, only ship stations equipped with telegraph will be licensed with categories of service designated. These service categories are determined by the hours that service of a ship station is provided in the international public correspondence service. The former third category, which indicated unspecified hours of service, is now the fourth category. The majority of U.S. cargo vessels have unspecified hours of service and were therefore in the third category. These vessels are now in the new fourth category. The attached order will bring our rules into conformity with the International Radio Regulations.

2. In view of the foregoing, the Commission finds that amendment of §§ 83.3 (e) (2) and 83.22(a) (1) are necessary to bring the rules into conformity with the International Radio Regulations.

3. The amendments adopted herein, are procedural in nature and concern a matter in which the public is not particularly interested, and, hence, the prior notice, procedure, and effective date provisions of 5 U.S.C. 553 are not applicable.

4. Accordingly, it is ordered, That pursuant to the authority contained in sections 4(i), 303(r), and 351(a) (2) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended effective June 16, 1971, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; Sec. 351, Sec. 10(b), 50 Stat., as amended, 192; 47 U.S.C. 154, 303, 351)

Adopted: June 3, 1971.

Released: June 7, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

¹ Commissioners Burch, Chairman; and Houser absent.

1. In § 83.3, paragraph (e) (2) is amended to read as follows:

§ 83.3 Maritime mobile service.

(e) Public ship station. . . .

(2) Public ship stations authorized for public correspondence are further classified according to their hours of service as designated in this section:

First category. These stations carry on a continuous service for public correspondence. Second category. These stations maintain a service of 16 hours per day for public correspondence as designated in Appendix 12, Radio Regulations, Geneva, 1968 or, in cases of voyages of short duration, as otherwise designated by the Commission in accordance with those Regulations.

Third category. These stations maintain a service of 8 hours per day for public correspondence as designated in Appendix 12, Radio Regulations, Geneva, 1968 or, in cases of voyages of short duration, as otherwise designated by the Commission in accordance with those Regulations.

Fourth category. These stations maintain a service of public correspondence, the duration of which is prescribed but is less than that of stations of the third category, or is not prescribed but is determined by the master of the vessel pursuant to his authority under section 360 of the Communications Act.

2. In § 83.22 paragraph (a) (1) is amended to add subdivision (iv).

§ 83.22 Administrative classification of stations.

(a) . . .

(1) Public ship stations authorized to employ telegraphy for public correspondence:

- (i) First category.
- (ii) Second category.
- (iii) Third category.
- (iv) Fourth category.

[FR Doc.71-8319 Filed 6-11-71; 8:55 am]

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

SUBCHAPTER H—EASTERN PACIFIC TUNA FISHERIES

PART 280—YELLOWFIN TUNA

Optional Procedure for Fishing Inside and Outside Regulatory Area

In order that the tuna industry may increase the efficient utilization of fishing

vessels, 50 CFR 280.6(e) (1), which imposes the incidental catch limitation of § 280.6(c) on all trips where fish have been taken both within and outside the regulatory area, is amended at the request of the industry, to provide fishermen with an optional procedure when funds and manpower are available.

Vessels desiring to fish both outside the regulatory area and within that area on the same trip may do so under this amendment by calling at an available inspection port for the purpose of receiving a well inspection. Official seals will be affixed to wells containing fish taken outside or inside the regulatory area, as appropriate, and the same being noted in the vessel's log. Upon arrival at a point of sale or delivery, the seals will be removed by the appropriate authorities.

(Subsection (c) of sec. 6, Tuna Conventions Act of 1950, as amended, 16 U.S.C. 955(e), as modified by Reorganization Plan Number 4, effective October 3, 1970, 35 F.R. 15627)

This amendment shall be effective upon publication in the FEDERAL REGISTER (6-12-71).

Issued at Washington, D.C., and dated June 9, 1971.

WILLIAM M. TERRY,
Acting Director,
National Marine Fisheries Service.

§ 280.6 Restrictions applicable to fishing vessels.

A new subdivision (iv) of § 280.6(e) (2) is added to read as follows:

- (e) . . .
- (2) . . .

(iv) Notwithstanding the first sentence of § 280.6(e) (1), vessels which desire to fish both inside and outside of the regulatory area on the same voyage may do so without being subject to the incidental catch limitations set forth in § 280.6(c) regarding that portion of the catch taken outside the regulatory area: *Provided*, That such vessels observe the following procedures: prior to either leaving or entering the regulatory area, whichever is applicable, the vessel shall notify the Regional Director of its intention, and request the designation of an inspection port; upon notification by the Regional Director of the availability of an inspection port, the vessel shall proceed immediately to such port for inspection by an agent of the U.S. Government and sealing of wells containing fish. Any vessel failing to comply with any of the above requirements, tampering with or removing an official seal or altering the logs shall be subject to the incidental catch limitations set forth in § 280.6(c) for its entire voyage. Upon arrival at point of sale or delivery, the official seals

will be removed by an agent of the U.S. Government.

[FR Doc.71-8328 Filed 6-11-71; 8:54 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter V—Office of Foreign Assets Control, Department of the Treasury

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Relaxation of Controls on Dealings Abroad and Importation of Merchandise of Mainland Chinese Origin

The Foreign Assets Control Regulations are being amended by the addition of a general license (§ 500.547). This section authorizes persons subject to the jurisdiction of the United States to deal in abroad and import into the United States on or after June 10, 1971, merchandise of mainland Chinese origin and merchandise of Chinese type. In view of the issuance of this general license, § 500.544 authorizing noncommercial importations of Chinese origin merchandise is revoked as unnecessary. No change is made in the status of Chinese assets blocked as of May 7, 1971.

Section 500.547 is hereby added to the Foreign Assets Control Regulations to read as follows:

§ 500.547 Transactions involving mainland Chinese merchandise authorized.

(a) Except as provided in paragraphs (b) and (c) of this section, all transactions prohibited by § 500.204 are licensed.

(b) This section does not authorize:

(1) Any transaction entered into prior to June 10, 1971; or,

(2) Any transaction involving merchandise, the country of origin of which is North Korea or North Viet-Nam.

(c) Customs transactions incident to the importation of merchandise being imported pursuant to this section are authorized notwithstanding the provisions of § 500.808.

§ 500.544 [Revoked]

Section 500.544 is hereby revoked.

[SEAL] MARGARET W. SCHWARTZ,
Director,
Office of Foreign Assets Control.

[FR Doc.71-8396 Filed 6-11-71; 10:41 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Character of Total Distributions From Qualified Plans Paid After December 31, 1969

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulation, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 26, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 26, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 402(a)(5) and 403(a)(2)(C) of the Internal Revenue Code of 1954 (relating respectively to limitation on capital gains treatment of certain total distributions from employee trusts and under certain employee annuity plans), as added by section 515(a) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 643), such regulations are hereby amended as follows:

PARAGRAPH 1. Section 1.72-16 is amended by revising example (1) of subparagraph (3) of paragraph (c) to read as follows:

§ 1.72-16 Life insurance contracts purchased under qualified employee plans.

(c) Treatment of proceeds of life insurance and annuity contracts.

(3)

Example (1). A noncontributory profit-sharing plan of X Company, whose plan year

is the calendar year, provides that each employee's rights to employer contributions on his behalf and the income derived therefrom are nonforfeitable at the time such contributions are paid or such income is credited to the employee's account. The plan is funded with individual life insurance contracts with face values of \$25,000. The cash value of the contract for the benefit of A on December 31, 1969, is \$5,000, the cash value of such contract on January 1, 1975 (immediately before A's death) is \$11,000, and the amount of post-1969 employer contributions credited to A's account (as defined in paragraph (c)(2) of § 1.402-2) is \$4,000. The portion of the premiums includible in A's gross income under the provisions of paragraph (b) of this section and considered as contributions of the employee is \$940. The excess (\$14,000) of the total face amount of the contract (\$25,000) over the cash value of the contract immediately before death (\$11,000) is excludable from gross income under this paragraph. Under paragraph (b)(2)(i) of § 1.402(a)-2, the ordinary income element of the total distribution is \$4,000, and under paragraph (b)(3) of such section, the capital gain element of the total distribution is \$6,060 (\$25,000 - (\$940 + \$4,000 + \$14,000)). Accordingly, under paragraph (b)(6) of § 1.402(a)-2, the portion of the ordinary income element of the total distribution which is excludable from gross income under section 101(b) is \$1,988 (\$5,000 × (\$4,000 ÷ \$10,060)), and the portion of the capital gain element of the total distribution which is excludable from gross income under section 101(b) is \$3,012 (\$5,000 × (\$6,060 ÷ \$10,060)).

PAR. 2. Section 1.402(a) is amended by adding a new paragraph (5) immediately after paragraph (4), and by revising the historical note. These added and revised provisions read as follows:

§ 1.402(a) Statutory provisions; taxability of beneficiary of employees' trust; exempt trust.

Sec. 402. Taxability of beneficiary of employees' trust—(a) Taxability of beneficiary of exempt trust

(5) Limitation on capital gains treatment. The first sentence of paragraph (2) shall apply to a distribution paid after December 31, 1969, only to the extent that it does not exceed the sum of—

(A) The benefits accrued by the employee on behalf of whom it is paid during plan years beginning before January 1, 1970, and

(B) The portion of the benefits accrued by such employee during plan years beginning after December 31, 1969, which the distributee establishes does not consist of the employee's allocable share of employer contributions to the trust by which such distribution is paid.

The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

[Sec. 402(a) as amended by secs. 1, 2(a), Act of April 22, 1960 (Public Law 86-437, 74 Stat. 79); sec. 4(c), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 825); sec. 221(c)(1), Rev. Act 1964 (78 Stat. 75); sec. 232(e)(1), Rev. Act 1964 (78 Stat. 111); sec. 515(a)(1), Tax Reform Act 1969 (83 Stat. 643)]

PAR. 3. Section 1.402(a)-1 is amended by revising subdivision (ii) of subparagraph (1) of paragraph (a), by adding two new sentences immediately after the first sentence of subdivision (i) of subparagraph (6) of such paragraph, by adding a new subparagraph (9) immediately after subparagraph (8) of such paragraph, and by adding a new sentence immediately after the first sentence of subparagraph (1) of paragraph (b). These revised and added provisions read as follows:

§ 1.402(a)-1 Taxability of beneficiary under a trust which meets the requirements of section 401(a).

(a) In general. (1) (i)

(ii) The provisions of section 402(a) relate only to a distribution by a trust described in section 401(a) which is exempt under section 501(a) for the taxable year of the trust in which the distribution is made. With two exceptions, the distribution from such an exempt trust when received or made available is taxable to the distributee to the extent provided in section 72 (relating to annuities). First, for taxable years beginning before January 1, 1964, section 72(e)(3) (relating to the treatment of certain lump sums), as in effect before such rate, shall not apply to such distributions. For taxable years beginning after December 31, 1963, such distributions may be taken into account in computations under sections 1301 through 1305 (relating to income averaging) unless the distributee chooses to compute the tax under section 72(n)(4). Secondly, certain total distributions described in section 402(a)(2) are taxable as long-term capital gains. For taxable years ending after December 31, 1969, the portion of such a distribution treated as long-term capital gain is subject to limitation under section 402(a)(5). For the treatment of such total distributions, see subparagraph (6) of this paragraph. Under certain circumstances, an amount representing the unrealized appreciation in the value of the securities of the employer is excludable from gross income for the year of distribution. For the rules relating to such exclusion, see paragraph (b) of this section. Furthermore, the exclusion provided by section 105(d) is applicable to a distribution from a trust described in section 401(a) and exempt under section 501(a) if such distribution constitutes wages or payments in lieu of wages for a period during which an employee is absent from work on account of a personal injury or sickness. See § 1.72-15 for the rules relating to the tax treatment of accident or health benefits received under a plan to which section 72 applies.

(6) (i) If the total distributions payable with respect to any employee under a trust described in section 401(a) which in the year of distribution is exempt under section 501(a) are paid to, or includible in the gross income of, the distributee within 1 taxable year of the distributee on account of the employee's death after such separation from the service, the amount of such distribution, to the extent it exceeds the net amount contributed by the employee, shall be considered a gain from the sale or exchange of a capital asset held for more than 6 months. Under section 402(a)(5), for taxable years ending after December 31, 1969, the amount of a distribution considered under the previous sentence to be a gain from the sale or exchange of a capital asset held for more than 6 months shall be limited at provided in § 1.402(a)-2. Section 72(n)(4) and § 1.72-19 apply to the portion of the total distributions payable not treated as long-term capital gain or the net amount contributed by the employee. The total distributions payable are includible in the gross income of the distributee within 1 taxable year if they are made available to such distributee and the distributee fails to make a timely election under section 72(h) to receive an annuity in lieu of such total distributions. The "net amount contributed by the employee" is the amount actually contributed by the employee plus any amounts considered to be contributed by the employee under the rules of section 72(f), 101(b), and subparagraph (3) of this paragraph, reduced by any amounts theretofore distributed to him which were excludable from gross income as a return of employee contributions. See, however, paragraph (b) of this section for rules relating to the exclusion of amounts representing net unrealized appreciation in the value of securities of the employer corporation. In addition, all or part of the amount otherwise includible in gross income under this paragraph by a non-resident alien individual in respect of a distribution by the United States under a qualified pension plan may be excludable from gross income under section 402(a)(4). For rules relating to such exclusion, see paragraph (c) of this section. For additional rules relating to the treatment of total distributions described in this subdivision in the case of a non-resident alien individuals, see sections 871 and 1441 and the regulations thereunder.

(9) If a total distribution includes an annuity contract, or a retirement income, endowment, or other life insurance contract, which satisfies the requirements of subparagraph (2) of this paragraph, so that the cash value of such contract is excluded from the gross income of the distributee under such subparagraph, the portion of such distribution other than such contract is deemed to be a return of the net amount contributed by the employee to the extent of such contributions. See example (2) of paragraph (b)(4)(ii) of § 1.402(a)-2.

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(b) Distributions including securities of the employer corporation—(1) In general. (i) If a trust described in section 401(a) which is exempt under section 501(a) makes a distribution to a distributee, and such distribution includes securities of the employer corporation, the amount of any net unrealized appreciation in such securities shall be excluded from the distributee's income in the year of such distribution to the following extent:

(a) If the distribution constitutes a total distribution to which the regulations of paragraph (a)(6) of this section are applicable, the amount to be excluded is the entire net unrealized appreciation attributable to that part of the total distribution which consists of securities of the employer corporation; and

(b) If the distribution is other than a total distribution to which paragraph (a)(6) of this section is applicable, the amount to be excluded is that portion of the net unrealized appreciation in the securities of the employer corporation which is attributable to the amount considered to be contributed by the employee to the purchase of such securities.

The portion of a total distribution to which (a) of this subdivision applies is limited to the capital gain element as defined in § 1.402(a)-2(b)(3) or § 1.402(a)-2(d)(3). The amount of net unrealized appreciation which is excludable under the regulations of (a) and (b) of this subdivision shall not be included in the basis of the securities in the hands of the distributee at the time of distribution for purposes of determining gain or loss on their subsequent disposition. In the case of a total distribution the amount of net unrealized appreciation which is not included in the basis of the securities in the hands of the distributee at the time of distribution shall be considered as a gain from the sale or exchange of a capital asset held for more than 6 months to the extent that such appreciation is realized in a subsequent taxable transaction. However, if the net gain realized by the distributee in a subsequent taxable transaction exceeds the amount of the net unrealized appreciation at the time of distribution, such excess shall constitute a long-term or short-term capital gain depending upon the holding period of the securities in the hands of the distributee.

PAR. 4. Immediately after section 1.402(a)-1 there is added a new section 1.402(a)-2, which reads as follows:

§ 1.402(a)-2 Character of total distributions paid after December 31, 1969.

(a) In general. In the case of a total distribution paid or made available after December 31, 1969, section 402(a)(5) limits the extent to which such distribution may be treated as long-term capital gain under section 402(a)(2) and paragraph (a)(6) of § 1.402(a)-1. Generally, the amount to be treated as long-term capital gain (hereafter referred to in this section as "the capital gain element of a total distribution") is the sum of—

(1) The benefits accrued during plan years beginning before January 1, 1970, by the employee with respect to whom such distribution is paid, and

(2) The excess of the benefits accrued during plan years beginning after December 31, 1969, by such employee over the amount established by the distributee as such employee's allocable share of employer contributions to the plan.

If the remainder of such a distribution exceeds the net employee contributions, such excess (hereafter referred to in this section as "the ordinary income element of a total distribution") is income other than gain from the sale or exchange of a capital asset. For purposes of this section, the term "plan year" means a taxable year of the trust which is a part of the plan. For purposes of this section, the term "net employee contributions" means the "net amount contributed by the employee," as defined in paragraph (a)(6)(i) of § 1.402(a)-1, except that it shall not include any amount considered to be contributed by the employee under the rules of section 101(b). Paragraphs (b) and (c) of this section provide rules for computing the capital gain element and the ordinary income element of a total distribution from a defined contribution plan. Paragraphs (d) and (e) of this section provide rules for computing such elements in the case of a total distribution from a defined benefit plan. Principles similar to those provided by paragraphs (b), (c), (d), and (e) shall apply where, during the period of an employee's participation in a defined contribution or defined benefit plan, the plan becomes a defined benefit or defined contribution plan (as the case may be). Paragraph (f) of this section provides rules which require the employer to communicate, or cause to be communicated, the amounts of the capital gain element and the ordinary income element to a distributee of a total distribution made after December 31, 1971. See section 72(n)(4) and § 1.72-19 for rules for computing the tax imposed by section 1 or 3 for a taxable year in which there is paid or distributed a total distribution which includes an ordinary income element. See paragraph (b) of § 1.6041-2 for requirements for reporting a distribution under an employees' trust.

(b) Defined contribution plans; general rules—(1) Scope. This paragraph provides rules for computing the capital gain element and the ordinary income element of a total distribution from a plan which during the entire period of the employee's participation is a money purchase pension plan, a profit-sharing plan, or a stock bonus plan as defined in subdivision (i), (ii), or (iii), respectively, of paragraph (b)(1) of § 1.401-1 (referred to in this section as a "defined contribution plan"). See paragraph (c) of this section for additional rules for computing the ordinary income element of a total distribution from a defined contribution plan which was in effect on December 31, 1969, with respect to an employee who was a participant in such plan at any time during the plan year which includes such date.

(2) *Ordinary income element*—(i) *In general.* Except as provided in subdivision (v) of this subparagraph, the ordinary income element of a total distribution from a defined contribution plan is the lesser of—

(a) The employer contributions credited to the account of the employee with respect to whom such distribution is paid, or

(b) The excess (if any) of the employee's account balance immediately before such distribution over the sum of—

(1) the net employee contributions, (2) the amount of net unrealized appreciation in employer securities (determined under paragraph (b) of § 1.402(a)-1), and (3) if the distribution is on account of the employee's death before other separation from the service, the portion of such distribution excludable from gross income under paragraph (c) of § 1.72-16.

(ii) *Employer contributions defined.* For purposes of this paragraph, the term "employer contributions credited to the account of the employee" includes—

(a) Amounts actually contributed to the plan by the employer or a predecessor of the employer (and, in the case of a profit-sharing plan, by a member of an affiliated group of corporations of which the employer is a member) which (1) are credited to the account of the employee or (2) are not so credited but are used to purchase an annuity, retirement income, endowment, or other life insurance contract for the employee.

(b) Funds in the plan arising from forfeitures on any termination of service which are allocated to the account of the employee, and

(c) Dividends paid under an annuity, retirement income, endowment, or other life insurance contract, which are used to purchase additional benefits for, or otherwise insure to the benefit of, the employee, except to the extent established by the distributee that such dividends are attributable to employee contributions.

For plan years beginning after December 31, 1969, the amount considered as employer contributions credited to the account of the employee under this subdivision shall, at the option of the distributee, be reduced by the excess (if any) of the total gross premiums paid under an annuity, retirement income, endowment, or other life insurance contract purchased for the employee over the total adjusted premiums under such contract. For purposes of this subdivision, the adjusted premium for any year is the amount of premium considered by the insurer in computing the cash surrender value of an insurance contract for such year. The total adjusted premiums shall not include the adjusted premiums for any period for which the gross premiums are waived. The amount of employer contributions credited to the account of the employee does not include any amounts considered to be contributed by the employee under the rules of section 72(f) or paragraph (b) of § 1.72-16.

(iii) *Partially vested rights.* For purposes of subdivision (i) (a) of this sub-

paragraph, if, because an employee's rights under a plan are forfeitable in part, the amount of a total distribution is less than the balance in his account immediately before payment of such distribution, the amount of employer contributions credited to the account of the employee is the amount of such contributions otherwise determined under this subparagraph, multiplied by a fraction—

(a) The numerator of which is the excess (if any) of the amount of such distribution over the net employee contributions, and

(b) The denominator of which is the excess (if any) of such balance over the net employee contributions.

(iv) *Pretermination distributions.* For purposes of subdivision (i) (a) of this subparagraph, the amount of employer contributions credited to the account of the employee does not include any employer contributions credited to the account of the employee included in a pretermination distribution. For purposes of this subdivision, a pretermination distribution is the sum of the amounts distributed or made available to a distributee during a plan year beginning after December 31, 1969, which amounts are includible in the gross income of the distributee and which are not distributed or made available to the distributee by reason of the employee's death or other separation from the service. A pretermination distribution does not include an amount distributed or made available to a distributee to the extent that the plan is reimbursed by insurance for such amount. The portion of employer contributions credited to the account of the employee included in a pretermination distribution is the amount of such distribution, multiplied by a fraction (not greater than 1)—

(a) The numerator of which is the amount of employer contributions credited to the account of the employee as of the beginning of such year, and

(b) The denominator of which is the excess (if any) of the balance in the account of the employee as of the beginning of such year over the net employee contributions as of the beginning of such year.

(v) *Distributions on account of death after separation from service.* The ordinary income element of a total distribution paid to, or includible in the gross income of, a distributee on account of an employee's death after separation from the service is the product of—

(a) The excess (if any) of (1) the sum of the amount of such distribution and the portion of the payments received by the employee after such separation and before death which were not includible in his gross income, over (2) the net employee contributions as of the time of such separation, and

(b) A fraction, the numerator of which is the ordinary income element of the total distribution the employee would have received if the balance in his account had been paid to him upon such

separation, and the denominator of which is the excess (if any) of the amount of the total distribution the employee would have received upon such separation over the net employee contributions as of the time of such separation.

(vi) *Examples.* The application of this subparagraph may be illustrated by the following examples:

Example (1). (i) A noncontributory profit-sharing plan, whose plan year is the calendar year, provides that an employee's rights in employer contributions on his behalf and the income derived therefrom are fully nonforfeitable only after 10 years of participation in the plan. The plan was established on January 1, 1971. The rights of an employee with less than 10 years of participation are nonforfeitable in the same proportion as the number of full years of participation bears to 10. Upon a showing of hardship, the plan permits distributions to participating employees before termination of not more than 50 percent of the amount in the employee's account in which his rights are nonforfeitable. As of the beginning of employee A's fourth year of participation, the amount in his account was \$6,000, and the amount of employer contributions credited to his account was \$4,200. During the plan year, A received a hardship distribution of \$800 (includible in his gross income under paragraph (a) (1) of § 1.402(a)-1), and employer contributions of \$1,500 were credited to his account. A was separated from the service of his employer during the following year and received a total distribution of \$2,800 (40 percent of the amount in his account, \$7,000).

(ii) Under subdivision (iv) of this subparagraph, the amount of employer contributions credited to A's account included in the hardship distribution is \$560 ($\$800 \times (\$4,200 \div \$6,000)$). Thus, as of the end of the plan year in which the hardship distribution is made, the amount of employer contributions credited to A's account is \$5,140 ($\$4,200 + \$560 + \$1,500$).

(iii) Under subdivision (iii) of this subparagraph, the amount of the employer contributions credited to A's account as of the time the total distribution is paid is \$2,056 ($\$5,140 \times (\$2,800 \div \$7,000)$). Accordingly, the ordinary income element of the total distribution is \$2,056, and under subparagraph (3) of this paragraph, the capital gain element is \$744 ($\$2,800 - \$2,056$).

Example (2). (i) The facts are the same as in example (1) except that the plan permits participating employees to make contributions which may be withdrawn upon a showing of hardship. As of the beginning of the plan year in which the hardship distribution is made, the \$6,000 account balance includes \$400 of net employee contributions. A makes no additional contributions to the plan. The \$200 difference between the amount of the hardship distribution (\$800) and the net employee contributions (\$400) is includible in A's gross income under paragraph (a) (1) of § 1.402(a)-1.

(ii) Under subdivision (iv) of this subparagraph, the amount of employer contributions credited to A's account included in the hardship distribution is \$300 ($(\$800 - \$400) \times (\$4,200 \div (\$6,000 - \$400))$). Thus, as of the end of the plan year in which the hardship distribution is made, the amount of employer contributions credited to A's account is \$5,400 ($\$4,200 + \$300 + \$1,500$), and the net employee contributions included in A's account is zero ($\$400 - \400).

(iii) Under subdivision (iii) of this subparagraph, the amount of employer contributions credited to A's account as of the

time the total distribution is paid is \$2,160 ($\$5,400 \times (\$2,800 \div \$7,000)$). Accordingly, the ordinary income element of the total distribution is \$2,160, and under subparagraph (3) of this paragraph, the capital gain element is \$640 ($\$2,800 - \$2,160$).

(3) *Capital gain element.* The capital gain element of a total distribution from a defined contribution plan is the excess (if any) of the amount of such distribution over the sum of—

(i) The net employee contributions,

(ii) The ordinary income element of such distribution, and

(iii) If the distribution is on account of the employee's death before other separation from the service, the portion of such distribution excludable from gross income under paragraph (c) of § 1.72-16.

(4) *Distributions including annuity, etc., contracts*—(i) *In general.* If a total distribution includes an annuity contract, or a retirement income, endowment, or other life insurance contract, which is irrevocably converted into a contract which satisfies the requirements of paragraph (a) (2) of § 1.402(a)-1, so that the cash value of the contract is excluded from the gross income of the distributee under such paragraph, the ordinary income element and the capital gain element of such distribution are the amounts of such elements otherwise determined under this paragraph, multiplied by a fraction—

(a) The numerator of which is the excess (if any) of the amount of such distribution over the sum of the net employee contributions and the cash value of such contract, and

(b) The denominator of which is the excess (if any) of the amount of such distribution over the net employee contributions.

(ii) *Examples.* The application of this subparagraph may be illustrated by the following examples:

Example (1). (i) Employee A receives a total distribution from a noncontributory qualified profit-sharing plan, established on January 1, 1971, consisting of cash of \$15,000 and an annuity contract the cash value of which is \$45,000. The annuity contract satisfies the requirements of paragraph (a) (2) of § 1.402(a)-1. The amount distributed represents the total amount credited to his account at the time of the distribution. The amount of employer contributions credited to A's account at the time of such distribution is \$24,000.

(ii) Under subparagraph (2) of this paragraph, the ordinary income element of such distribution is \$24,000, and under subparagraph (3) of this paragraph, the capital gain element of such distribution is \$36,000 ($\$60,000 - \$24,000$). Accordingly, under subdivision (i) of this subparagraph, the ordinary income element of such distribution is \$6,000 ($\$24,000 \times (\$60,000 - \$45,000) \div (\$60,000 - \$24,000)$), and the capital gain element is \$9,000 ($\$36,000 \times (\$60,000 - \$45,000) \div (\$60,000 - \$24,000)$).

Example (2). The facts are the same as in example (1) except that the plan permits employees to make contributions and the balance in the account at the time of the distribution, \$60,000, included net employee contributions of \$10,000. Under subparagraph (2) of this paragraph, the ordinary income element of such distribution is

\$24,000, and under subparagraph (3) of this paragraph, the capital gain element of such distribution is \$26,000 ($\$60,000 - (\$10,000 + \$24,000)$). Accordingly, under subdivision (i) of this subparagraph, the ordinary income element of such distribution is \$2,400 ($\$24,000 \times (\$60,000 - \$10,000 - \$45,000) \div (\$60,000 - \$10,000)$), and the capital gain element of such distribution is \$2,600 ($\$26,000 \times (\$60,000 - \$10,000 - \$45,000) \div (\$60,000 - \$10,000)$). Under paragraph (a) (9) of § 1.402(a)-1, the remaining cash of \$10,000 is excludable from the employee's gross income as a return of his contributions.

Example (3). The facts are the same as in example (2) except that the net employee contributions included in the \$60,000 account balance is \$20,000. Under subparagraph (2) of this paragraph, the ordinary income element of such distribution is \$24,000 and under subparagraph (3) of this paragraph, the capital gain element of such distribution is \$16,000 ($\$60,000 - (\$20,000 + \$24,000)$). Accordingly, under subdivision (i) of this subparagraph, the ordinary income element of such distribution is \$0 ($\$24,000 \times ((\$60,000 - \$20,000 - \$45,000) \div (\$60,000 - \$20,000))$) and the capital gain element of such distribution is \$0 ($\$16,000 \times ((\$60,000 - \$20,000 - \$45,000) \div (\$60,000 - \$20,000))$). Under paragraph (a) (9) of § 1.402(a)-1, the cash of \$15,000 is excludable from the employee's gross income as a return of his contributions. The remaining \$5,000 ($\$20,000 - \$15,000$) of net employee contributions is treated as A's investment in the contract for purposes of section 72.

(5) *Retirement bonds*—(i) *In general.* If, at the time a total distribution is made, the distributee receives a U.S. retirement plan bond or the trust retains a retirement bond registered in his name, the ordinary income and the capital gain elements of such distribution are the amounts of such elements otherwise determined under this paragraph (as if the value of all such bonds were included in such distribution), multiplied by a fraction—

(a) The numerator of which is the excess (if any) of the amount of such distribution over the net employee contributions not included, under paragraph (b) (1) of § 1.405-3, in the basis of such bonds, and

(b) The denominator of which is the excess (if any) of the sum of the amount of such distribution and the value of all such bonds over the net employee contributions.

(ii) *Example.* The application of this subparagraph may be illustrated by the following example:

Example (1). Employee A receives a total distribution of \$15,000 in cash from a contributory qualified money purchase pension plan, established on January 1, 1971. A also receives U.S. retirement plan bonds having a value of \$45,000. These amounts represent the total amount credited to A's account at the time of the distribution. The amount of employer contributions credited to A's account at the time of the distribution is \$24,000. The net employee contributions at such time is \$10,000, of which \$8,000 is included in the basis of such bonds.

(ii) If the value of the retirement bonds is included in the distribution, the ordinary income element of such distribution is, under subparagraph (2) of this paragraph, \$24,000, and the capital gain element of such distribution is, under subparagraph (3) of

this paragraph, \$26,000 ($\$60,000 - (\$10,000 + \$24,000)$). Accordingly, under subdivision (i) of this subparagraph, the ordinary income element of such distribution is \$6,240 ($\$25,000 \times (\$15,000 - \$2,000) \div ((\$15,000 + \$45,000) - \$10,000)$), and the capital gain element of such distribution is \$6,760 ($\$26,000 \times (\$15,000 - \$2,000) \div ((\$15,000 + \$45,000) - \$10,000)$). The remaining cash of \$2,000 is excludable from A's gross income as a return of that portion of his contributions which is not included in the bonds he received.

(6) *Allocation of death benefit exclusion.* For purposes of this paragraph, if, under section 101(b) and § 1.101-2, any portion of a total distribution is excludable from the gross income of a distributee, the amount so excluded shall be allocated ratably between the ordinary income element of such distribution and the capital gain element of such distribution. Thus, for example if \$5,000 of a total distribution of \$50,000 paid to the widow of an employee is excludable from her gross income, and if the ordinary income element of such distribution is \$18,000 and the capital gain element of such distribution is \$32,000, \$1,800 ($\$5,000 \times (\$18,000 \div \$50,000)$) of the ordinary income element and \$3,200 ($\$5,000 \times (\$32,000 \div \$50,000)$) of the capital gain element are excludable from her gross income.

(c) *Defined contribution plans; transitional rules*—(1) *Scope.* This paragraph provides additional rules for computing the ordinary income element of a total distribution from a defined contribution plan if—

(i) Such plan was in effect on December 31, 1969, and

(ii) The employee with respect to whom such distribution is made was a participant in such plan at any time during the plan-year which includes such date.

(2) *In general.* The ordinary income element of a total distribution described in subparagraph (1) of this paragraph shall be determined under paragraph (b) (2) of this section by taking into account only the post-1969 employer contributions credited to the account of the employee with respect to whom such distribution is made. For purposes of this paragraph, the term "post-1969 employer contributions credited to the account of the employee" means amounts which constitute employer contributions credited to the account of the employee (as defined in paragraph (b) (2) (ii) of this section) and which—

(i) In the case of actual contributions to the plan, are contributed to the plan during plan years beginning after December 31, 1969,

(ii) In the case of funds arising from forfeitures, are allocable to the account of the employee during plan years beginning after such date, and

(iii) In the case of dividends under an annuity, retirement income, endowment, or other life insurance contract, are paid during plan years beginning after such date.

If an amount is actually contributed to the plan during a plan year beginning

after December 31, 1969, but, under section 404(a)(6) and paragraph (c) of § 1.404(a)-1, such amount is deemed to have been paid during a taxable year of the employer which ends with or within a plan year beginning before January 1, 1970, such amount is considered to have been contributed to the plan during the earlier plan year.

(3) *Special rule for losses*—(i) *Scope*. This subparagraph provides rules for computing the ordinary income element of a total distribution if the sum of the adjusted pre-1970 balance and the post-1969 employer contributions credited to the account of the employee is greater than the excess (if any) of the balance in his account immediately before payment of such distribution over the net employee contributions.

(ii) *Ordinary income element*. The ordinary income element of a total distribution described in subdivision (i) of this subparagraph is—

(a) The product of (1) the excess (if any) of the balance in the account of the employee immediately before payment of such distribution over the net employee contributions, and (2) a fraction, the numerator of which is the post-1969 employer contributions credited to the account of the employee, and the denominator of which is the sum of such contributions and the adjusted pre-1970 balance, or

(b) At the option of the distributee, if the recordkeeping requirements of subdivision (iv) of this subparagraph are satisfied, the excess (if any) of (1) the balance in the account of the employee immediately before payment of such distribution over (2) the sum of the adjusted pre-1970 balance (reduced by any net losses allocable thereto) and the net employee contributions.

(iii) *Adjusted pre-1970 balance*—(a) *In general*. For purposes of this subparagraph, the term "adjusted pre-1970 balance" means the excess (if any) of—

(1) The balance in the account of an employee as of the close of the last plan year beginning before January 1, 1970 (including any actual employer contribution subsequently credited to his account which, under the last sentence of subparagraph (2) of this paragraph, is considered to have been contributed to the plan during such plan year), over

(2) The net employee contributions as of the close of such plan year.

(b) *Pretermination distributions*. The adjusted pre-1970 balance shall be reduced by the portion of such balance included in a pretermination distribution. Except as provided in (c) of this subdivision (iii), the portion of the adjusted pre-1970 balance included in a pretermination distribution is the amount of such distribution, multiplied by a fraction (not greater than 1)—

(1) The numerator of which is the adjusted pre-1970 balance as of the beginning of such year, and

(2) The denominator of which is the excess (if any) of the balance in the account of the employee as of the be-

ginning of such year over the net employee contributions as of the beginning of such year.

(c) *Pretermination distribution; losses*. If, as of the beginning of a plan year in which a pretermination distribution is made, the sum of the adjusted pre-1970 balance and the post-1969 employer contributions credited to the account of the employee is greater than the excess of the balance in his account over the net employee contributions, the portion of the pretermination distribution considered to consist of post-1969 employer contributions and the portion of such distribution considered to be from the adjusted pre-1970 balance shall be the amounts determined under paragraph (b)(2)(iv) of this section and (b) of this subdivision (iii), respectively, multiplied by a fraction—

(1) The numerator of which is the excess of the account balance over the net employee contributions, and

(2) The denominator of which is the sum of the adjusted pre-1970 balance and the post-1969 employer contributions credited to the account of the employee.

(iv) *Specific allocation of loss*. Subdivision (ii)(b) of this subparagraph applies only if, under the books and records of a trust, gain and loss on sales and exchanges of assets held or considered to be held by the trust at the close of the last plan year beginning before January 1, 1970, and related items of income and expense are separately accounted for and allocated to employees who participated in the plan at the close of such year, so that for each such employee, the difference between the sum of the allocated amounts of gain and income, and the sum of the allocated amounts of loss and expense, with respect to such assets may be determined for the loss period. For purposes of this subdivision, the loss period is the period starting with the first day of the first plan year beginning after December 31, 1969, and ending at the time of the employee's death or other separation from the service. An asset acquired by a trust as a result of a contribution by an employer which is deemed to have been paid by the employer under section 404(a)(6) and paragraph (c) of § 1.404(a)-1 for a taxable year ending with or within a plan year beginning before January 1, 1970, is considered to be held by the trust for such plan year. To the extent an asset is acquired with the proceeds of the sale of, or in exchange for, an asset held or considered to be held by the trust at the close of the last plan year beginning before December 31, 1969, such asset is considered to be held by the trust at such time. In accounting for such assets, the trust may use any inventory method permitted under subpart D, part II, subchapter E, chapter 1 of the Code.

(4) *Examples*. The application of this paragraph may be illustrated by the following examples:

Example (1). (i) A profit-sharing plan, whose plan year is the calendar year, provides that each employee's rights to employer contributions on his behalf and the income derived therefrom are nonforfeitable at the time such contributions are paid or such income is credited to the employee's account. The plan permits but does not require employees to make contributions. A, an employee whose participation in the plan began on January 1, 1965, has a balance in his account on December 31, 1969, of \$8,000, of which \$2,000 was contributed by A. A retires on January 1, 1980, and receives a total distribution of \$29,000 (the balance in A's account as of December 31, 1979). The amount of post-1969 employer contributions credited to A's account is \$12,000 and the amount of A's contributions after December 31, 1969, is \$6,000.

(ii) The ordinary income element of this total distribution is determined without regard to subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$6,000) and the post-1969 employer contributions (\$12,000) is not greater than the excess of the account balance (\$29,000) over the net employee contributions (\$8,000).

Under subparagraph (2) of this paragraph, the ordinary income element of A's total distribution is \$12,000. Under paragraph (b)(3) of this section, the capital gain element of A's total distribution is \$9,000 (\$29,000 - \$8,000 - \$12,000).

Example (2). (i) The facts are the same as in example (1) except that the amount of the total distribution is \$23,000.

(ii) The ordinary income element of this total distribution is determined under subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$6,000) and the post-1969 employer contributions (\$12,000) is greater than the excess of the account balance (\$23,000) over the net employee contributions (\$8,000). Under subparagraph (3)(ii)(a) of this paragraph, the ordinary income element of A's total distribution is \$10,000 [(\$23,000 - \$8,000) × (\$12,000 ÷ (\$6,000 + \$12,000))]. Under paragraph (b)(3) of this section, the capital gain element of A's total distribution is \$5,000 (\$23,000 - \$8,000 - \$10,000).

Example (3). (i) The facts are the same as in example (2) except that instead of retiring on January 1, 1980, A receives a pretermination distribution of \$10,000.

(ii) The portion of the distribution which is considered to be a return of net employee contributions is \$8,000. Of the remaining \$2,000, \$1,333 [(\$2,000 × (\$12,000 ÷ (\$23,000 - \$8,000)))] is considered to consist of post-1969 employer contributions credited to A's account and \$667 [(\$2,000 × (\$6,000 ÷ (\$23,000 - \$8,000)))] is considered to be from the adjusted pre-1970 balance.

(iii) After the pretermination distribution, A's account balance is \$13,000 (\$23,000 - \$10,000), the amount of post-1969 employer contributions credited to his account is \$10,667 (\$12,000 - \$1,333), the adjusted pre-1970 balance is \$5,333 (\$6,000 - \$667), and his net employee contributions is \$0 (\$8,000 - \$8,000).

Example (4). (i) A noncontributory profit-sharing plan of X Company, whose plan year is the calendar year, provides that each employee's rights to employer contributions on his behalf and the income derived therefrom are nonforfeitable at the time such contributions are paid or such income is credited to the employee's account. The books and records of the trust which is a part of the plan are maintained so that the requirements of subdivision (iv) of this subparagraph are satisfied. A, an employee of X Com-

pany, began to participate in the plan on January 1, 1964. On December 31, 1969, his account balance was \$9,000, consisting of \$1,000 of cash and 100 shares of Y Company stock valued at \$8,000. In 1970, the \$1,000 of cash in A's account is used to purchase 10 shares of Z Company stock. A retires on January 1, 1975, and receives a total distribution of \$18,200 (the balance in A's account as of December 31, 1974), consisting of the 100 shares of Y Company stock valued at \$8,700, the 10 shares of Z Company stock valued at \$1,200, and \$8,300 of cash. From January 1, 1970, to December 31, 1974, X Company contributions credited to A's account are \$11,000.

(ii) The ordinary income element of this total distribution is determined under subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$9,000) and the post-1969 employer contributions (\$11,000) is greater than the excess of the account balance (\$18,200) over the net employee contributions (zero). Under subparagraph (3)(ii)(b) of this paragraph, because there is no loss allocated to the adjusted pre-1970 balance, the ordinary income element of A's total distribution is \$9,200 (\$18,200 - (\$9,000 + zero)). Under paragraph (b)(3) of this section, the capital gain element of A's total distribution is \$9,000 (\$18,200 - \$9,200).

Example (5). (i) The facts are the same as in example (4) except that when A retires the value of the 100 shares of Y Company stock is \$7,600, so that the amount of A's total distribution is \$17,100 (\$7,600 + \$1,200 + \$8,300).

(ii) The ordinary income element of this total distribution is determined under subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$9,000) and the post-1969 employer contributions (\$11,000) is greater than the excess of the account balance (\$17,100) over the net employee contributions (zero). The loss allocated to the adjusted pre-1970 balance is \$200 (\$9,000 - (\$7,600 + \$1,200)). Under subparagraph (3)(ii)(b) of this paragraph, the ordinary income element of A's total distribution is \$8,300 [(\$17,100 - (\$9,000 + \$200) + zero)]. Under paragraph (b)(3) of this section, the capital gain element of A's total distribution is \$8,800 (\$17,100 - \$8,300).

Example (6). (i) The facts are the same as in example (4) except that A does not retire on January 1, 1975, but instead receives a pretermination distribution of \$4,000 on such date.

(ii) Under paragraphs (b)(2)(iv) and (c)(3)(iii)(c) of this section, the amount of post-1969 employer contributions credited to A's account included in the pretermination distribution is \$2,200 [\$4,000 × (\$11,000 ÷ (\$18,200 + (\$18,200 ÷ (\$11,000 + \$9,000)))], and under subparagraphs (3)(iii)(b) and (c) of this paragraph, the portion of the adjusted pre-1970 balance included in the pretermination distribution is \$1,800 [\$4,000 × (\$9,000 ÷ (\$18,200 + (\$18,200 ÷ (\$11,000 + \$9,000)))].

Example (7). (i) A noncontributory profit-sharing plan of X Company, whose plan year is the calendar year, provides that each employee's rights to employer contributions on his behalf and the income derived therefrom are nonforfeitable at the time such contributions are paid or such income is credited to the employee's account. A, an employee of X Company, began to participate in the plan on January 1, 1965. On December 31, 1969, his account balance was \$10,000, consisting of \$6,000 of cash and a life insurance contract having a cash value of \$4,000. As of such date, \$400 is considered to be contributed by A under paragraph (b) of § 1.72-16. During plan years beginning after December 31, 1969, the X Company actually contributed \$16,800. During this period, the total gross premiums under the contract

were \$8,000 and the total adjusted premiums were \$7,000. A dies on January 10, 1978, and his widow receives a total distribution of \$44,000, consisting of \$11,000 of cash in his account and insurance proceeds of \$33,000. The cash value of the contract immediately before A's death was \$9,000. The total amount considered to be contributed by A under paragraph (b) of § 1.72-16 is \$1,200.

(ii) The amount of post-1969 employer contributions credited to A's account is \$15,000 [(\$16,800 - (\$8,000 - \$7,000) + (\$1,200 - \$400))]. The ordinary income element of this total distribution is determined under subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$9,600 (\$10,000 - \$400)) and the post-1969 employer contributions (\$15,000) is greater than the excess of the account balance (\$20,000 (\$11,000 + \$9,000)) over the net employee contributions (\$1,200). Under subparagraph (3)(ii)(a) of this paragraph, the ordinary income element of the total distribution is \$11,463 [(\$20,000 - \$1,200) × (\$15,000 ÷ (\$15,000 + \$9,600))]. Under paragraph (b)(3) of this section, the capital gain element of the total distribution is \$7,337 [\$44,000 - (\$1,200 + \$11,463 + \$33,000 - \$9,000)].

(d) *Defined benefit plan; general rules*—(1) *Scope*. This paragraph provides rules for computing the capital gain element and the ordinary income element of a total distribution from a plan which, during the entire period of the employee's participation, is a pension plan other than a money purchase pension plan within the meaning of paragraph (b)(1)(i) of § 1.401-1 (referred to in this section as a "defined benefit plan"). The ordinary income element of a total distribution from a defined benefit plan upon separation from the service other than by reason of death shall be determined on the basis of level funding of the plan during the employee's participation in the plan, payment of employer contributions at the end of the plan year, and a growth rate of 6 percent per annum compounded annually. A total distribution on account of death before other separation from the service is considered to be separately funded by the employer by level annual contributions and a mortality based on *United States Life Tables; 1959-1961*. Under subparagraph (2)(iii) of this paragraph, the portion of the death benefit deemed to consist of employer contributions bears the same ratio to the total death benefit as the level premiums necessary to provide the total death benefit assuming a growth rate of 6 percent per annum compounded annually bears to the level premium necessary to provide the total death benefit assuming no growth. See paragraph (e) of this section for additional rules for computing the ordinary income element of a total distribution from a defined benefit plan which was in effect on December 31, 1969, with respect to an employee who was a participant in such plan at any time during the plan year which includes such date.

(2) *Ordinary income element*—(i) *In general*. Except as provided in subdivisions (iii) and (iv) of this subparagraph, the ordinary income element of a total distribution from a defined benefit plan is the product of—

(a) The excess (if any) of such distribution over the employee's total voluntary contributions to the plan, and

(b) The ordinary income factor corresponding to the number of years of participation by the employee in the plan,

reduced (but not below zero) by the employee's total mandatory contributions to the plan. The ordinary income element shall not be greater than the excess of such distribution over the net employee contributions.

(ii) *Definitions*. For purposes of this paragraph—

(a) The amount of an employee's total mandatory contributions to a defined benefit plan is the sum of all amounts actually contributed to such plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or in order to receive full benefits under such plan. Any amount considered to be contributed by the employee under the rules of section 72(f) or paragraph (b) of § 1.72-16 shall be considered a mandatory contribution.

(b) The amount of an employee's total voluntary contributions to a defined benefit plan is the sum of all amounts (other than mandatory contributions) actually contributed to such plan by the employee, reduced by any amounts previously distributed to him which constitute a return of such contributions.

(c) The number of years of participation by an employee in a defined benefit plan means the difference, to the nearest whole year, between the date of his separation from the service and the date on which he became a participant in the plan.

(d) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

pany, began to participate in the plan on January 1, 1964. On December 31, 1969, his account balance was \$9,000, consisting of \$1,000 of cash and 100 shares of Y Company stock valued at \$8,000. In 1970, the \$1,000 of cash in A's account is used to purchase 10 shares of Z Company stock. A retires on January 1, 1975, and receives a total distribution of \$18,200 (the balance in A's account as of December 31, 1974), consisting of the 100 shares of Y Company stock valued at \$8,700, the 10 shares of Z Company stock valued at \$1,200, and \$8,300 of cash. From January 1, 1970, to December 31, 1974, X Company contributions credited to A's account are \$11,000.

(ii) The ordinary income element of this total distribution is determined under subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$9,000) and the post-1969 employer contributions (\$11,000) is greater than the excess of the account balance (\$18,200) over the net employee contributions (zero). Under subparagraph (3)(ii)(b) of this paragraph, because there is no loss allocated to the adjusted pre-1970 balance, the ordinary income element of A's total distribution is \$9,200 (\$18,200 - (\$9,000 + zero)). Under paragraph (b)(3) of this section, the capital gain element of A's total distribution is \$9,000 (\$18,200 - \$9,200).

Example (5). (i) The facts are the same as in example (4) except that when A retires the value of the 100 shares of Y Company stock is \$7,600, so that the amount of A's total distribution is \$17,100 (\$7,600 + \$1,200 + \$8,300).

(ii) The ordinary income element of this total distribution is determined under subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$9,000) and the post-1969 employer contributions (\$11,000) is greater than the excess of the account balance (\$17,100) over the net employee contributions (zero). The loss allocated to the adjusted pre-1970 balance is \$200 (\$9,000 - (\$7,600 + \$1,200)). Under subparagraph (3)(ii)(b) of this paragraph, the ordinary income element of A's total distribution is \$8,300 [(\$17,100 - (\$9,000 + \$200) + zero)]. Under paragraph (b)(3) of this section, the capital gain element of A's total distribution is \$8,800 (\$17,100 - \$8,300).

Example (6). (i) The facts are the same as in example (4) except that A does not retire on January 1, 1975, but instead receives a pretermination distribution of \$4,000 on such date.

(ii) Under paragraphs (b)(2)(iv) and (c)(3)(iii)(c) of this section, the amount of post-1969 employer contributions credited to A's account included in the pretermination distribution is \$2,200 [\$4,000 × (\$11,000 ÷ (\$18,200 + (\$18,200 ÷ (\$11,000 + \$9,000)))], and under subparagraphs (3)(iii)(b) and (c) of this paragraph, the portion of the adjusted pre-1970 balance included in the pretermination distribution is \$1,800 [\$4,000 × (\$9,000 ÷ (\$18,200 + (\$18,200 ÷ (\$11,000 + \$9,000)))].

Example (7). (i) A noncontributory profit-sharing plan of X Company, whose plan year is the calendar year, provides that each employee's rights to employer contributions on his behalf and the income derived therefrom are nonforfeitable at the time such contributions are paid or such income is credited to the employee's account. A, an employee of X Company, began to participate in the plan on January 1, 1965. On December 31, 1969, his account balance was \$10,000, consisting of \$6,000 of cash and a life insurance contract having a cash value of \$4,000. As of such date, \$400 is considered to be contributed by A under paragraph (b) of § 1.72-16. During plan years beginning after December 31, 1969, the X Company actually contributed \$16,800. During this period, the total gross premiums under the contract

were \$8,000 and the total adjusted premiums were \$7,000. A dies on January 10, 1978, and his widow receives a total distribution of \$44,000, consisting of \$11,000 of cash in his account and insurance proceeds of \$33,000. The cash value of the contract immediately before A's death was \$9,000. The total amount considered to be contributed by A under paragraph (b) of § 1.72-16 is \$1,200.

(ii) The amount of post-1969 employer contributions credited to A's account is \$15,000 [(\$16,800 - (\$8,000 - \$7,000) + (\$1,200 - \$400))]. The ordinary income element of this total distribution is determined under subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$9,600 (\$10,000 - \$400)) and the post-1969 employer contributions (\$15,000) is greater than the excess of the account balance (\$20,000 (\$11,000 + \$9,000)) over the net employee contributions (\$1,200). Under subparagraph (3)(ii)(a) of this paragraph, the ordinary income element of the total distribution is \$11,463 [(\$20,000 - \$1,200) × (\$15,000 ÷ (\$15,000 + \$9,600))]. Under paragraph (b)(3) of this section, the capital gain element of the total distribution is \$7,337 [\$44,000 - (\$1,200 + \$11,463 + \$33,000 - \$9,000)].

(d) *Defined benefit plan; general rules*—(1) *Scope*. This paragraph provides rules for computing the capital gain element and the ordinary income element of a total distribution from a plan which, during the entire period of the employee's participation, is a pension plan other than a money purchase pension plan within the meaning of paragraph (b)(1)(i) of § 1.401-1 (referred to in this section as a "defined benefit plan"). The ordinary income element of a total distribution from a defined benefit plan upon separation from the service other than by reason of death shall be determined on the basis of level funding of the plan during the employee's participation in the plan, payment of employer contributions at the end of the plan year, and a growth rate of 6 percent per annum compounded annually. A total distribution on account of death before other separation from the service is considered to be separately funded by the employer by level annual contributions and a mortality based on *United States Life Tables; 1959-1961*. Under subparagraph (2)(iii) of this paragraph, the portion of the death benefit deemed to consist of employer contributions bears the same ratio to the total death benefit as the level premiums necessary to provide the total death benefit assuming a growth rate of 6 percent per annum compounded annually bears to the level premium necessary to provide the total death benefit assuming no growth. See paragraph (e) of this section for additional rules for computing the ordinary income element of a total distribution from a defined benefit plan which was in effect on December 31, 1969, with respect to an employee who was a participant in such plan at any time during the plan year which includes such date.

(2) *Ordinary income element*—(i) *In general*. Except as provided in subdivisions (iii) and (iv) of this subparagraph, the ordinary income element of a total distribution from a defined benefit plan is the product of—

(a) The excess (if any) of such distribution over the employee's total voluntary contributions to the plan, and

(b) The ordinary income factor corresponding to the number of years of participation by the employee in the plan,

reduced (but not below zero) by the employee's total mandatory contributions to the plan. The ordinary income element shall not be greater than the excess of such distribution over the net employee contributions.

(ii) *Definitions*. For purposes of this paragraph—

(a) The amount of an employee's total mandatory contributions to a defined benefit plan is the sum of all amounts actually contributed to such plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or in order to receive full benefits under such plan. Any amount considered to be contributed by the employee under the rules of section 72(f) or paragraph (b) of § 1.72-16 shall be considered a mandatory contribution.

(b) The amount of an employee's total voluntary contributions to a defined benefit plan is the sum of all amounts (other than mandatory contributions) actually contributed to such plan by the employee, reduced by any amounts previously distributed to him which constitute a return of such contributions.

(c) The number of years of participation by an employee in a defined benefit plan means the difference, to the nearest whole year, between the date of his separation from the service and the date on which he became a participant in the plan.

(d) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

were \$8,000 and the total adjusted premiums were \$7,000. A dies on January 10, 1978, and his widow receives a total distribution of \$44,000, consisting of \$11,000 of cash in his account and insurance proceeds of \$33,000. The cash value of the contract immediately before A's death was \$9,000. The total amount considered to be contributed by A under paragraph (b) of § 1.72-16 is \$1,200.

(ii) The amount of post-1969 employer contributions credited to A's account is \$15,000 [(\$16,800 - (\$8,000 - \$7,000) + (\$1,200 - \$400))]. The ordinary income element of this total distribution is determined under subparagraph (3) of this paragraph because the sum of the adjusted pre-1970 balance (\$9,600 (\$10,000 - \$400)) and the post-1969 employer contributions (\$15,000) is greater than the excess of the account balance (\$20,000 (\$11,000 + \$9,000)) over the net employee contributions (\$1,200). Under subparagraph (3)(ii)(a) of this paragraph, the ordinary income element of the total distribution is \$11,463 [(\$20,000 - \$1,200) × (\$15,000 ÷ (\$15,000 + \$9,600))]. Under paragraph (b)(3) of this section, the capital gain element of the total distribution is \$7,337 [\$44,000 - (\$1,200 + \$11,463 + \$33,000 - \$9,000)].

(d) *Defined benefit plan; general rules*—(1) *Scope*. This paragraph provides rules for computing the capital gain element and the ordinary income element of a total distribution from a plan which, during the entire period of the employee's participation, is a pension plan other than a money purchase pension plan within the meaning of paragraph (b)(1)(i) of § 1.401-1 (referred to in this section as a "defined benefit plan"). The ordinary income element of a total distribution from a defined benefit plan upon separation from the service other than by reason of death shall be determined on the basis of level funding of the plan during the employee's participation in the plan, payment of employer contributions at the end of the plan year, and a growth rate of 6 percent per annum compounded annually. A total distribution on account of death before other separation from the service is considered to be separately funded by the employer by level annual contributions and a mortality based on *United States Life Tables; 1959-1961*. Under subparagraph (2)(iii) of this paragraph, the portion of the death benefit deemed to consist of employer contributions bears the same ratio to the total death benefit as the level premiums necessary to provide the total death benefit assuming a growth rate of 6 percent per annum compounded annually bears to the level premium necessary to provide the total death benefit assuming no growth. See paragraph (e) of this section for additional rules for computing the ordinary income element of a total distribution from a defined benefit plan which was in effect on December 31, 1969, with respect to an employee who was a participant in such plan at any time during the plan year which includes such date.

(2) *Ordinary income element*—(i) *In general*. Except as provided in subdivisions (iii) and (iv) of this subparagraph, the ordinary income element of a total distribution from a defined benefit plan is the product of—

(a) The excess (if any) of such distribution over the employee's total voluntary contributions to the plan, and

(b) The ordinary income factor corresponding to the number of years of participation by the employee in the plan,

reduced (but not below zero) by the employee's total mandatory contributions to the plan. The ordinary income element shall not be greater than the excess of such distribution over the net employee contributions.

(ii) *Definitions*. For purposes of this paragraph—

(a) The amount of an employee's total mandatory contributions to a defined benefit plan is the sum of all amounts actually contributed to such plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or in order to receive full benefits under such plan. Any amount considered to be contributed by the employee under the rules of section 72(f) or paragraph (b) of § 1.72-16 shall be considered a mandatory contribution.

(b) The amount of an employee's total voluntary contributions to a defined benefit plan is the sum of all amounts (other than mandatory contributions) actually contributed to such plan by the employee, reduced by any amounts previously distributed to him which constitute a return of such contributions.

(c) The number of years of participation by an employee in a defined benefit plan means the difference, to the nearest whole year, between the date of his separation from the service and the date on which he became a participant in the plan.

(d) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(e) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(f) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(g) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(h) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(i) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(j) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(k) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(l) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(m) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(n) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(o) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(p) The ordinary income factor corresponding to the number of years of participation by an employee in a defined benefit plan is determined under the following table:

(a) The excess (if any) of such distribution over the employee's total voluntary contributions to the plan, and

(b) The ordinary income factor corresponding to the number of years of participation by the employee in the plan,

reduced (but not below zero) by the employee's total mandatory contributions to the plan. The ordinary income element shall not be greater than the excess of such distribution over the net employee contributions.

(ii) *Definitions*. For purposes of this paragraph—

(a) The amount of an employee's total mandatory contributions to a defined benefit plan is the sum of all amounts actually contributed to such plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or in order to receive full benefits under such plan. Any amount considered to be contributed by the employee under the rules of

(iii) *Distributions on account of death before separation from service.* (a) The ordinary income element of a total distribution paid to, or includible in the gross income of, a distributee on account of an employee's death before other separation from the service is the product of—

(1) The excess (if any) of such distribution over the sum of the employee's total voluntary contributions to the plan and the portion of such distribution excludable from gross income under paragraph (c) of § 1.72-16, and

(2) The death benefit factor corresponding to the age of the employee on the date he began participation in the plan,

reduced (but not below zero) by the employee's total mandatory contributions to the plan. The ordinary income element shall not be greater than the excess of such distribution over the net employee contributions.

(b) The death benefit factor corresponding to the age of the employee on the date he began participation in the plan (entry age) is determined under the following table:

Entry age	Death benefit factor	Entry age	Death benefit factor
20	.48390	43	.79795
21	.49307	44	.81257
22	.50200	45	.82682
23	.51111	46	.84068
24	.52067	47	.85415
25	.53115	48	.86708
26	.54264	49	.87918
27	.55503	50	.89045
28	.56819	51	.90078
29	.58201	52	.91020
30	.59620	53	.91881
31	.61078	54	.92676
32	.62574	55	.93417
33	.64100	56	.94110
34	.65655	57	.94755
35	.67233	58	.95342
36	.68826	59	.95853
37	.70428	60	.96281
38	.72033	61	.96623
39	.73633	62	.96883
40	.75213	63	.97063
41	.76770	64	.97170
42	.78299		

(iv) *Distributions on account of death after separation from service.* The ordinary income element of a total distribution paid to, or includible in the gross income of, a distributee on account of an employee's death after separation from the service shall be determined by applying subdivision (i) of this subparagraph to a distribution equal to the sum of the amount of such distribution on account of death and the portion of the payments received by the employee after such separation and before death which were not includible in his gross income.

(v) *Examples.* The application of this subparagraph may be illustrated by the following examples:

Example (1). (i) A qualified pension plan provides that a participant may elect upon attaining normal retirement age to receive either an annuity determined under the plan's benefit formula or an amount of cash equal to the commuted value of such annuity. Participants are required to contribute

3 percent of annual compensation to the plan. A began to participate in the plan on January 1, 1972, and retired on July 1, 1998, when he attained normal retirement age. The amount of A's total mandatory contributions to the plan is \$7,000. A elected to receive a total distribution of \$72,000.

(ii) Under subdivision (i) of this subparagraph, the ordinary income element of A's total distribution is \$23,515 (\$72,000 × 0.42382) — \$7,000. Under subparagraph (3) of this paragraph, the capital gain element of A's distribution is \$41,485 (\$72,000 — (\$7,000 + \$23,515)).

Example (2). (i) A qualified pension plan provides in part that if a participant dies before other separation from the service, his beneficiary will receive an amount equal to the sum of the participant's total voluntary contributions to the plan and 2 times the participant's annual rate of compensation at the time of his death. Employees are not required to contribute to the plan. A began to participate in the plan on January 1, 1972, when he was 35 years of age. When A died on June 10, 1983, his annual rate of compensation was \$9,500, and the amount of his total voluntary contributions was \$3,000. On January 15, 1984, A's widow received a total distribution of \$22,000 (\$3,000 + (2 × \$9,500)).

(ii) Under subdivision (ii) of this subparagraph, the ordinary income element of the total distribution is \$12,774 (\$22,000 — \$3,000) × 0.67233. Under subparagraph (3) of this paragraph, the capital gain element of A's distribution is \$9,226 (\$22,000 — (\$3,000 + \$12,774)).

Example (3). (i) A qualified pension plan provides in part that if a participant dies within the 100-month period following retirement, his beneficiary will receive an amount equal to the product of the participant's monthly pension and the number of months remaining in such period. Employees are not required to contribute to the plan, but voluntary contributions may be made. A began to participate in the plan on January 1, 1972, retired on January 1, 2002, and began to receive an annuity at that time. The amount of A's total voluntary contributions is \$9,000. A died on August 15, 2003, and his widow received a total distribution of \$18,000. Before his death, A excluded a total of \$1,000 from gross income under section 72.

(ii) Under subdivision (iv) of this subparagraph, the ordinary income element of the total distribution is \$3,795 [(\$18,000 + \$1,000) — \$9,000] × 0.37947. Under subparagraph (3) of this paragraph, the capital gain element of the total distribution is \$6,205 (\$18,000 — (\$9,000 — \$1,000) + \$3,795).

(3) *Capital gain element.* The capital gain element of a total distribution from a defined benefit plan is the excess (if any) of the amount of such distribution over the sum of—

(i) The net employee contributions,

(ii) The amount of the ordinary income element of such distribution, and

(iii) If the distribution is on account of the employee's death before other separation from the service, the portion of such distribution excludable from gross income under paragraph (c) of § 1.72-16.

(4) *Distributions including annuity, etc., contracts.* If a total distribution includes an annuity contract, or a retirement income, endowment, or other life insurance contract, which is irrevocably converted into a contract which satisfies the requirements of paragraph

(a) (2) of § 1.402(a)-1, so that the cash value of the contract is excluded from the gross income of the distributee under such paragraph, the ordinary income element of such distribution are the amounts of such elements otherwise determined under this paragraph, multiplied by a fraction—

(i) The numerator of which is the excess (if any) of the amount of such distribution over the sum of the net employee contributions and the cash value of such contract, and

(ii) The denominator of which is the excess (if any) of the amount of such distribution over the net employee contributions.

(5) *Retirement bonds.* If, at the time a total distribution is made, the distributee receives a U.S. retirement plan bond or the trust retains a retirement bond in his name, the ordinary income element and the capital gain element of such distribution are the amounts of such elements otherwise determined under this paragraph (as if the value of all such bonds were included in such distribution), multiplied by a fraction—

(i) The numerator of which is the excess (if any) of such distribution over the net employee contributions not included, under paragraph (b) (1) of § 1.405-3, in the basis of such bonds, and

(ii) The denominator of which is the excess (if any) of the sum of the amount of such distribution and the value of all such bonds over the net employee contributions.

(6) *Allocation of death benefit exclusion.* For purposes of this paragraph, if, under section 101(b) and § 1.101-2, any portion of a total distribution is excludable from the gross income of a distributee, the amount so excluded shall be allocated ratably between the ordinary income element of such distribution and the capital gain element of such distribution.

(e) *Defined benefit plans; transitional rules.*—(1) *Scope.* This paragraph provides additional rules for computing the ordinary income element of a total distribution from a defined benefit plan if—

(i) Such plan was in effect on December 31, 1969, and

(ii) The employee with respect to whom such distribution is paid was a participant in such plan at any time during the plan year which includes such date.

(2) *In general.* Except as provided in subparagraph (3) of this paragraph, the ordinary income element of a total distribution described in subparagraph (1) of this paragraph shall be determined under paragraph (d) (2) (i) or (iv) of this section by taking into account only—

(i) The portion of such distribution which was accrued by the employee during plan years beginning after December 31, 1969; and

(ii) Mandatory contributions made by the employee to the plan during such plan years.

(3) *Distributions on account of death before separation from service.* The ordinary income element of a total distribution described in subparagraph (1) of this paragraph paid to, or includible in the gross income of, a distributee on account of an employee's death before other separation from the service is the amount determined under paragraph (d) (2) (iii) of this section, multiplied by the difference between one and a fraction—

(i) The numerator of which is his total number of years of service with the employer (or a predecessor of the employer) performed as of the close of the last plan year beginning before January 1, 1970, and

(ii) The denominator of which is his total number of years of service.

(4) *Accrued portion of total distribution.*—(i) *In general.* For purposes of subparagraph (2) (i) of this paragraph, the portion of a total distribution which was accrued by an employee during plan years beginning after December 31, 1969, is the product of—

(a) The excess (if any) of such distribution over the employee's total voluntary contributions to the plan, and

(b) One minus a fraction, the numerator of which is the employee's accrued benefit as of the close of the last plan year beginning before January 1, 1970, and the denominator of which is his benefit as of his separation from the service.

(ii) *Accrued benefit.* For purposes of subdivision (i) (b) of this subparagraph, an employee's accrued benefit as of the close of the last plan year beginning before January 1, 1970, is the periodic benefit commencing at age 65 (without regard to any benefit attributable to total voluntary employee contributions to the plan) to which he would be entitled under the plan as in effect at the close of such year if he continued to earn annually until normal retirement age the same amount of compensation as he earned in such year, multiplied by a fraction—

(a) The numerator of which is his total number of years of service with the employer (or a predecessor of the employer) performed as of the close of such year, and

(b) The denominator of which is the total number of years of service he would have performed as of normal retirement age.

For example, A is a participant in a defined benefit plan which provides benefits based on average compensation for the five highest consecutive calendar years. A earned \$7,000 in 1965, \$7,500 in 1966, \$8,000 in 1967, \$8,500 in 1968, and \$9,000 in 1969. These years were the 5 consecutive years of A's highest compensation. For purposes of computing A's accrued benefit as of the close of the last plan year beginning before January 1, 1970, if A's normal retirement is

on January 1, 1972, his average compensation for the 5 highest consecutive years is \$8,700 ((\$9,000 + \$9,000 + \$9,000 + \$8,500 + \$8,000) ÷ 5). For such purposes, if A's normal retirement is on January 1, 1977, his average compensation for the 5 highest consecutive years is \$9,000 ((\$9,000 + \$9,000 + \$9,000 + \$9,000 + \$9,000) ÷ 5).

(iii) *Benefit as of separation from service.* For purposes of subdivision (i) (b) of this subparagraph, the benefit as of an employee's separation from the service before normal retirement age is the adjusted periodic benefit commencing at age 65 (without regard to any benefit attributable to the total voluntary employee contributions to the plan) to which the employee would be entitled (assuming his benefits under the plan were nonforfeitable) as of normal retirement age or as of the first date on which benefits could have become payable, whichever is greater. The benefit as of an employee's separation from the service on or after normal retirement age is the adjusted periodic benefit commencing at age 65 to which he would be entitled upon such separation.

(iv) *Special rules.* (a) If the normal form of retirement benefit under the plan as in effect at the employee's separation from the service differs from that under the plan as in effect as of the close of the last plan year beginning before January 1, 1970, the periodic benefits referred to in subdivision (i) (b) of this subparagraph shall be converted to a straight life annuity by multiplying the amount of each by whichever of the following factors is appropriate:

Type of benefit	Factor
Straight life annuity	1.00000
Annuity for 5 years certain and life thereafter ¹	1.04387
Annuity for 10 years certain and life thereafter ¹	1.15354
Annuity for 15 years certain and life thereafter ¹	1.29708
Annuity for 20 years certain and life thereafter ¹	1.44956
Life annuity with installment refund	1.14067
Life annuity with one-half continued to surviving spouse of employee	1.21493
Life annuity with two-thirds continued to surviving spouse of employee	1.28657
Life annuity with entire amount continued to surviving spouse of employee	1.42985

¹ In the case of annuities for periods certain other than those provided in the foregoing table, the factor shall be computed by interpolation between the nearest given factors in the table.

(b) For purposes of subdivisions (ii) and (iii) of this subparagraph, if a periodic benefit commences at an age other than 65, the adjusted periodic benefit commencing at age 65 is the amount of the periodic benefit commencing at such other age multiplied by whichever of the following conversion factors is appropriate:

Age at which periodic benefit commences	Conversion factor
75	0.24103
74	0.28469
73	0.33408
72	0.38967
71	0.45200
70	0.52161
69	0.59908
68	0.68501
67	0.78004
66	0.88481
65	1.00000
64	1.12631
63	1.26448
62	1.41526
61	1.57943
60	1.75781
59	1.95122
58	2.16053
57	2.38664
56	2.63055
55	2.89330

(5) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). (i) A qualified pension plan provides a benefit at age 65 of 40 percent of a participant's average annual compensation during the last 5 years of service. The plan further provides for early retirement after age 55 with a 1 percent reduction in benefits for each year under age 65. The plan provides for full vesting after 20 years of participation and permits voluntary employee contributions. B's service began on January 1, 1955, and he began to participate in the plan on January 1, 1960. B retires on January 1, 1985, at age 65. B's average annual compensation during his last 5 years of service is \$9,000, his annual compensation for calendar year 1969 is \$7,000, his total service is 30 years, his service as of December 31, 1969, is 15 years, and his participation in the plan is 25 years. During B's participation in the plan the amount of his total voluntary employee contributions is \$6,000. B elects under the plan to receive a total distribution of \$46,000 (including B's \$6,000 total voluntary employee contributions).

(ii) B's accrued benefit as of the close of the last plan year beginning before January 1, 1970, is \$1,400 (\$7,000 × 0.40 × (15 ÷ 30)), and his benefit as of separation from the service is \$3,600 (\$9,000 × 0.40). B's portion of the total distribution accrued during plan years beginning after December 31, 1969, is \$24,444 [\$40,000 × (1 — (\$1,400 ÷ \$3,600))] and his ordinary income element is \$11,138 (\$24,444 × 0.45567). Under paragraph (d) (3) of this section, B's capital gain element is \$28,862 (\$46,000 — (\$6,000 + \$11,138)).

Example (2). (i) The facts are the same as in example (1), except that B retires on January 1, 1980, at age 60. His average annual compensation during his last 5 years of service is \$8,500, and his participation in the plan is 20 years. B elects under the plan to receive a total distribution of \$42,000 (including B's \$6,000 total voluntary employee contributions).

(ii) B's accrued benefit as of the close of the last plan year beginning before January 1, 1970, is \$1,400 (\$7,000 × 0.40 × (15 ÷ 30)), and his benefit as of separation from the service is \$5,678, which is the greater of \$3,400 (\$8,500 × 0.40 × 1) or \$5,678, \$8,500 × 0.40 × (1.00 — 0.05) × 1.75781. The portion of B's total distribution accrued during plan years beginning after December 31, 1969, is \$27,124

$[\$36,000 \times (1 - (\$1,400 \div \$5,678))]]$ and the ordinary income element of his distribution is \$14,747 $(\$27,124 \times 0.54369)$. The capital gain element of his distribution is \$21,253 $(\$42,000 - (\$6,000 + \$14,747))$.

(f) **Reporting.** (1) An employer who maintains a qualified plan under which total distributions may be made shall communicate, or cause it to be communicated, in writing, to any distributee of a total distribution made after December 31, 1971, the following information (where applicable):

(i) The gross amount of such distribution (including the value of any retirement plan bonds distributed to or held for the distributee);

(ii) The ordinary income element and the capital gain element of such distribution;

(iii) The net employee contributions;

(iv) The portions of such distribution excludable from the gross income of the distributee under paragraph (c) of § 1.72-16 and paragraph (b) of § 1.402(a)-1;

(v) The value of any retirement plan bonds distributed to or held for the distributee in excess of the net employee contributions included in the basis of such bonds; and

(vi) The value of any annuity contract distributed as part of such distribution in excess of the net employee contributions considered to be an investment in the contract.

(2) The obligation of the employer to communicate the information in subparagraph (1) of this paragraph to the distributee shall be satisfied if the fiduciary of the trust or the payer of such distribution communicates the information to the distributee.

(3) The failure to establish procedures to satisfy the requirements of this paragraph or the failure to satisfy such requirements shall be taken into account in determining whether a plan is a definite written program and arrangement which is communicated to employees (within the meaning of paragraph (a) (2) of § 1.401-1).

PAR. 5. Section 1.402(a) is amended by adding a new subparagraph (C) to paragraph (2) immediately after subparagraph (B) and revising the historical note. These added and revised provisions read as follows:

§ 1.403(a) **Statutory provisions: taxation of employee annuities: qualified annuity plan.**

Sec. 403. Taxation of employee annuities—
(a) **Taxability of beneficiary under a qualified annuity plan.**

(2) **Capital gains treatment for certain distributions.**

(C) **Limitation on capital gains treatment.** Subparagraph (A) shall apply to a payment paid after December 31, 1969, only to the extent it does not exceed the sum of—

(i) The benefits accrued by the employee on behalf of whom it is paid during plan years beginning before January 1, 1970, and

(ii) The portion of the benefits accrued by such employee during plan years beginning after December 31, 1969, which the payee establishes does not consist of the employee's allocable share of employer contributions under the plan under which the annuity contract is purchased.

The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph.

[Sec. 403(a) as amended by sec. 23(b), Technical Amendments Act 1958 (72 Stat. 1622); sec. 4(d), Self-Employed Individuals Tax Retirement Act 1962 (78 Stat. 825); sec. 232 (e) (4), Rev. Act 1964 (78 Stat. 111); sec. 515(a) (2), Tax Reform Act 1969 (83 Stat. 644)]

PAR. 6. Section 1.403(a)-1 is amended by revising paragraph (b) to read as follows:

§ 1.403(a)-1 **Taxability of beneficiary under a qualified annuity plan.**

(a)

(b) The amounts received by or made available to any employee referred to in paragraph (a) of this section under such annuity contract shall be included in gross income of the employee for the taxable year in which received or made available, as provided in section 72 (relating to annuities), except that certain total distributions described in section 403(a) (2) are taxable as long-term capital gains. For taxable years ending after December 31, 1969, the portion of such distribution treated as long-term capital gains is subject to limitation under section 403(a) (2) (C). For the treatment of such total distributions, see § 1.403(a)-2. However, for taxable years beginning before January 1, 1964, section 72 (e) (3) (relating to the treatment of certain lump sums) as in effect before such date, shall not apply to such amounts. For taxable years beginning after December 31, 1963, such amounts may be taken into account in computations under sections 1301 through 1305 (relating to income averaging) unless the payee chooses to compute the tax under section 72(n) (4).

PAR. 7. Section 1.403(a)-2 is amended by revising paragraph (a) to read as follows:

§ 1.403(a)-2 **Capital gains treatment for certain distributions.**

(a) If the total amounts payable with respect to any employee for whom an annuity contract has been purchased by an employer under a plan which—

(1) Is a plan described in section 403(a) (1) and § 1.403(a)-1, and

(2) Requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan, are paid to, or includible in gross income of the payee within 1 taxable year of the payee by reason of the employee's death or other separation from the service, or death after such separation from the service, such total payments, to the extent they exceed the net amount contributed by the employee, shall, except as limited by section 403(a) (2) (C) for taxable years ending after December 31, 1969, be considered a gain from the sale or exchange of a capital asset held for more than 6 months. The limitation on the long-term capital gain treatment under section 403(a) (2) (C) shall be determined under the rules set forth in § 1.402(a)-2, except that the rules provided by paragraphs (b) (4) and (d) (4) of § 1.402(a)-2 shall not be applied to distributions to which this section applies, and any reference in § 1.402(a)-2 to a provision of section 402 or the regulations thereunder shall be treated as a reference to the corresponding provision of section 403 or the regulations thereunder. In applying the rules provided in § 1.402(a)-2 the term "plan year" shall have the same meaning as under paragraph (a) (2) of § 1.404(a)-8. Section 72(n) (4) and § 1.72-19 apply to the portion of the total amounts payable not treated as long-term capital gain or the net amount contributed by the employee. The "net amount contributed by the employee" is the amount actually contributed by the employee plus any amounts considered to be contributed by the employee under the rules of sections 72(f), 101(b), and paragraph (d) of § 1.403(a)-1, reduced by any amounts theretofore distributed to him which were excludable from his gross income as a return of employee contributions. For example, if under an annuity contract purchased under a plan described in this section, the total amounts payable to the employee's widow are paid to her in the year in which the employee dies, in the amount of \$8,000, and if \$5,000 thereof is excludable under section 101(b), and if the ordinary income element of such distribution is \$4,000, the capital gain element is \$3,400, and the net employee contributions \$600, \$2,703 $(\$5,000 \times (\$4,000 : \$7,400))$ of the ordinary income element and \$2,297 $(\$5,000 \times (\$3,400 : \$7,400))$ of the capital gain element are excludable from her gross income. The net employee contributions, \$600, is excludable from her gross income as a return of the employee's contributions.

PAR. 8. Section 1.6041-2 is amended by revising subparagraph (1) of paragraph (b) to read as follows:

§ 1.6041-2 **Return of information as to payments to employees.**

(b) **Distributions under employees' trust or under supplemental unemployment benefit trust.** (1) Amounts which are distributed or made available to a beneficiary, and to which section 402 (relating to employees' trusts) or section 403 (relating to employee annuity plans) applies, shall be reported on Forms 1099 and 1096 to the extent such amounts are includible in the gross income of such beneficiary when the amounts so includible are \$600 or more in any calendar year except that for calendar years ending after December 31, 1970, for any distribution described in § 1.402(a)-2 or § 1.403(a)-2, the requirement of reporting on Forms 1099 and 1096 in the preceding sentence shall be satisfied by reporting on Form W-2(P) and either Form 1096 or W-3, in any calendar year except that for calendar years ending after December 31, 1970, for any distribution described and sick and accident benefits) totaling

PAR. 9. Section 1.6041-2 is amended by revising paragraph (b) to read as follows:

§ 1.6041-2 **Return of information as to payments to employees.**

(b) **Distributions under employees' trust or under supplemental unemployment benefit trust.** (1) Amounts which are distributed or made available to a beneficiary, and to which section 402 (relating to employees' trusts) or section 403 (relating to employee annuity plans) applies, shall be reported on Forms 1099 and 1096 to the extent such amounts are includible in the gross income of such beneficiary when the amounts so includible are \$600 or more in any calendar year except that for calendar years ending after December 31, 1970, for any distribution described in § 1.402(a)-2 or § 1.403(a)-2, the requirement of reporting on Forms 1099 and 1096 in the preceding sentence shall be satisfied by reporting on Form W-2(P) and either Form 1096 or W-3, in any calendar year except that for calendar years ending after December 31, 1970, for any distribution described and sick and accident benefits) totaling

(b) **Distributions under employees' trust or under supplemental unemployment benefit trust.** (1) Amounts which are distributed or made available to a beneficiary, and to which section 402 (relating to employees' trusts) or section 403 (relating to employee annuity plans) applies, shall be reported on Forms 1099 and 1096 to the extent such amounts are includible in the gross income of such beneficiary when the amounts so includible are \$600 or more in any calendar year except that for calendar years ending after December 31, 1970, for any distribution described in § 1.402(a)-2 or § 1.403(a)-2, the requirement of reporting on Forms 1099 and 1096 in the preceding sentence shall be satisfied by reporting on Form W-2(P) and either Form 1096 or W-3, in any calendar year except that for calendar years ending after December 31, 1970, for any distribution described and sick and accident benefits) totaling

\$600 or more in 1 year to an individual must file an annual information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or a person other than the trustee of the trust should not be considered in determining whether the \$600 minimum has been paid by the trustee. The provisions of this subparagraph shall not be applicable to payments of supplemental unemployment compensation benefits made after December 31, 1970, which are treated as if they were wages for purposes of section 3401(a). Such amounts are required to be reported on Form W-2. See paragraph (b) (14) of § 31.3401(a)-1 of this chapter (Employment Tax Regulations).

[FR Doc.71-8140 Filed 6-11-71;8:45 am]

[26 CFR Parts 1, 13]

INCOME TAX

Treatment of Property Transferred in Connection With Performance of Services

Correction

In F.R. Doc. 71-7510 appearing at page 10787 in the issue of Thursday, June 3, 1971, the following changes should be made:

1. The fourth line of example 3 in § 1.83-3(c) (2) reading "remains employed with corporation X, agrees" should read "remains employed with corporation X, corporation X agrees".

2. The word "of" in the third from last line of § 1.83-6(a) should read "or".

3. The word "in" appearing in the fifth line of the undesignated paragraph following § 1.402(b)-1(b) (3) (ii) should read "is".

4. The word "employ's" appearing in the seventh and eighth lines of the undesignated paragraph following § 1.402(b)-1(d) (1) (ii) should read employee's".

5. The 11th line of § 1.402(b)-1(d) (2) (iii) reading "nuty for the employee provided only" should read "nuty contract for the employee, or if".

6. The word "his" appearing in the 30th line of the undesignated paragraph following § 1.403(c)-1(d) (1) (ii) should read "the".

[26 CFR Part 45]

EXCISE TAX

Filing of Special Tax Returns

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which

are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC: LR: T, Washington, D.C. 20224, by June 28, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 28, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 6001, 6091, and 7805 of the Internal Revenue Code of 1954 (68 Stat. 731, 752, and 917; 26 U.S.C. 6001, 6091, and 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to automate the processing of low-volume tax returns at internal revenue service centers and to effect economies by providing that taxpayers subject to the same class of special (occupational) tax for the same taxable period at two or more locations file but one special tax return, the Miscellaneous Excise Tax Regulations under 26 CFR Part 45 are amended as follows:

PARAGRAPH 1. Section 45.6001-11 is amended by revising paragraph (b), by redesignating paragraph (c) as paragraph (d), and by adding a new paragraph (c). The revised provisions read as follows:

§ 45.6001-11 **Returns relating to special taxes.**

(b) **Separate returns.** A separate return on the prescribed form shall be made for each business in respect of which a person incurs liability for a special tax. (See § 45.4903-1 which provides that special tax shall be paid for each place of business and § 45.4904-1 which provides that special tax must be paid for each business conducted at the same address.)

(c) **Returns covering multiple locations.** In the case of a business conducted at multiple locations, only one return shall be filed with respect to that business. Such return shall list the addresses of all such locations. In the case of a return on Form 11-B, the number of coin-operated gaming devices (as defined in section 4432(a) (2)) at each location must be listed.

(d) **Execution of returns, Form 11 and Form 11-B.** In addition to the requirements for the execution of returns generally as set forth in paragraph (c) of § 45.6001-6, it is required that where the business is operated in a trade name, both the real name of the proprietor and the trade name shall be used when executing Form 11 and Form 11-B.

PAR. 2. Section 45.6091-1 is amended to read as follows:

§ 45.6091-1 **Place for filing special tax returns.**

A return on Form 11 or 11-B required to be made pursuant to the provisions of § 45.6001-11 shall be filed with the director of the internal revenue service center for the internal revenue district in which is located the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

PAR. 3. Section 45.6151-1 is amended to read as follows:

§ 45.6151-1 **Time and place for paying special taxes.**

The special taxes required to be reported on Forms 11 and 11-B are due and payable to the internal revenue service, without assessment or notice and demand, at the time prescribed in § 45.6071-2 for filing such returns. For regulations relating to place for filing returns, see § 45.6091-1.

[FR Doc.71-8393 Filed 6-11-71;9:11 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 201]

FEDERAL SEED ACT REGULATIONS

Notice of Proposed Rule Making

Statement of Considerations. The Association of Official Seed Analysts (AOSA) was founded in 1908. Its members are seed laboratories supported by State or Federal funds. It establishes the recommended rules for all official laboratories.

The Association at its annual meeting in June 1970 adopted numerous changes in its Rules for Seed Testing.

It has been the policy under the Federal Seed Act since its passage in 1939 to correlate the Rules for Seed Testing in the rules and regulations under the Federal Seed Act with the Rules for Seed Testing adopted by the AOSA. This correlation benefits those persons who are subject to the Federal Seed Act.

Pursuant to the provisions of section 402 of the Federal Seed Act approved August 9, 1939, as amended (7 U.S.C. 1592) and the administrative procedure provisions of 5 U.S.C. section 553, notice is hereby given of intention to promulgate the following amendments to the regulations (7 CFR Part 201, as amended) under the Federal Seed Act. Public hearing with reference thereto will be held at 10 a.m. on July 12, 1971, in Room 2096, South Building, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, DC.

Interested persons are invited to attend the hearing and to offer comments or suggestions regarding the proposals. Any comments or suggestions bearing on the proposals that are not made or presented in person at the hearing may be transmitted in duplicate by mail addressed to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, and

AGRICULTURAL SEED—Continued	
9. Section 201.58(b)(3) would be amended by adding at the end of the subparagraph the following: "Sugar beets may require 16 hours soaking in water at 25° C., followed by rinsing and then drying for 2 hours at room temperature."	Col. 3—change to read "15-30; 20-30."
10. Section 201.58(b)(10) would be amended by adding the following sentence: "If there are over 75 percent normal fluorescent seedlings present at the time of the first count, break the contact of the roots of the nonfluorescent seedlings from the substratum and record the fluorescence at the time of the final count."	Col. 3—delete "20-30." Col. 3—delete "Test at 30° C." Col. 2—delete "p"; add "s." Col. 3—add "; 5-15" before "15"; add "; 15-25" after "15." Col. 5—delete "49"; add "28." Col. 7—delete present wording. Rewrite as follows: "Dark; prechill in soil at 5° C. for 4 weeks."
11. Section 201.58(c)—Table 2: germination requirements for indicated kinds—Would be amended as listed below:	Col. 3—delete "20-30"; Col. 3—delete "20-30"; Col. 3—add "; 15-30" after "20-30." Col. 3—reverse to read "15-25; 20-30."
AGRICULTURAL SEED	
Bentgrass: Colima (including Astoria and Highland) Agrostis tenuis	Col. 3—add "; 15-25" after "10-30." Col. 3—add "; 15-25" after "10-30."
Creeping—Agrostis palustris	Col. 3—add "15-25;" before "15-30." Col. 3—delete "15-30."
Canada—Poa compressa	Col. 3—reverse to read "15-25; 20-30."
Glaucantha—Poa glaucantha	Col. 3—add "5-35;" before "15-25."
Kentucky (all vars.—Poa pratensis)	Col. 5—delete "42"; add "28." Col. 7—delete present wording. Rewrite as follows: "Prechill at 5° C. for 4 weeks."
Brome: Field—Bromus arvensis	Col. 3—add "; 20-30" after "15-25." Col. 3—add "; 20-30" after "15-25."
Dropseed, sand—Sporobolus cryptandrus	Col. 2—insert "p." Col. 3—insert "15-25." Col. 4—insert "7." Col. 5—insert "14." Col. 6—insert "light; presoak at 15° C. for 24 hours."
Fescue: Meadow—Festuca elatior	Col. 2—add "T" after "p." Col. 3—add "; 30" after "20-30." Col. 2—B. P. T. Col. 3—5-35." Col. 4—"4." Col. 5—"14." Col. 6—"light; KNO."
Tall—Festuca arundinacea	
Beneath "Hardinggrass—Phalaris tuberosa var. stipitata," insert "Hardinggrass (alternate method)."	
Millet: Brown-top—Panicum ramosum	
Add Alternate method and insert in:	
VEGETABLE SEED	
Burdock, great—Arctium lappa	Col. 5—delete "21"; add "14."
Lettuce—Lactuca sativa	Col. 6—delete "for at least 1/2 hour."
12. Section 201.58a would be amended by adding the following paragraph:	§ 201.58c Detection of capian, mercury, or thiam on seed.
§ 201.58a Indistinguishable seed.	The bioassay method may be used according to the procedure given in Association of Official Seed Analysts, Handbook No. 26, "Microbiological Assay of Fungicide-treated Seeds," May 1964.
(c) Wheat. In determining the varietal purity, the phenol method may be used according to the procedure given in the Association of Official Seed Analysts, Handbook No. 28 "A Standardized Phenol Method for Testing Wheat Seed for Varietal Purity," June 1965.	JOHN C. BLUM, Deputy Administrator, Regulatory Programs.
13. Following § 201.58b a new section would be added as follows:	JUNE 4, 1971. [FR Doc.71-8125 Filed 6-11-71; 8:45 am]

FEDERAL REGISTER, VOL. 36, NO. 114—SATURDAY, JUNE 12, 1971

[7 CFR Part 1040] MILK IN SOUTHERN MICHIGAN MARKETING AREA

Notice of Proposed Suspension of Certain Provision of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a certain provision of the order regulating the handling of milk in the Southern Michigan marketing area is being considered for the months of July through December 1971.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 6 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be suspended is "yogurt" in § 1040.12. This section defines a "fluid milk product."

The suspension would result in yogurt being classified during the July-December 1971 period as a Class III product rather than as a Class I product. A similar suspension now in effect will expire on June 30, 1971.

Handlers who distribute a major portion of the producer milk on the Southern Michigan market request that the present suspension be continued for several months beyond the June 30 expiration date. These parties allege that the marketing conditions prompting the earlier suspension action have not changed materially. They maintain that without continuation of the suspension Southern Michigan handlers will be unable to compete for yogurt sales with handlers in neighboring markets who pay a minimum price for milk in such use that is substantially less than the Southern Michigan Class I price.

A hearing on this issue in the Southern Michigan market has been delayed pending the Department's recommendations on proposals to adopt a uniform plan of milk classification for seven Midwest Federal order markets, including several in which Michigan handlers are distributing yogurt. A recommended decision on such a uniform classification plan was issued June 4, 1971. Southern Michigan handlers contemplate requesting a hearing following the proceedings on the seven markets.

Signed at Washington, D.C., on June 8, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-8270 Filed 6-11-71; 8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 71-54]

FLINT RIVER, GA.

Drawbridge Operation

The Coast Guard is considering amending the regulations for the Georgia State Highway Department bascule bridge on U.S. 84 across the Flint River, Mile 28.4 at Bainbridge, Ga., to allow the draw to remain closed at all times. The present regulations require that the draw open on signal. This change is being considered because of the lack of marine traffic. The draw was last opened for the passage of a vessel in 1929.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Eighth Coast Guard District (oan), Customhouse, New Orleans, La. 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before July 12, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of 33 CFR be amended by adding § 117.245(i) (7a) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(i)

(7a) Flint River, Ga., U.S. Highway 84 bridge at Bainbridge. The draw need not open for the passage of vessels and paragraph (b) through (c) of this section do not apply to this bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: June 7, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-8282 Filed 6-11-71; 8:51 am]

[CGFR 71-55]

LAGUNA MADRE, TEXAS

Drawbridge Operation

The Coast Guard is considering amending the regulations for the Texas Highway Department swing barge bridge across Humble Oil and Refining Co. Channel on the John F. Kennedy Causeway (Park Road 22) to permit the draw to remain closed to the passage of vessels at all times. The present regulations require that the draw open on signal from 7 a.m. to 4 p.m. and that the draw open on signal if at least 1 hour's notice has been given from 4 p.m. to 7 a.m. This change is being considered because an alternate channel has been completed that bypasses the navigation opening on which the draw of this bridge is located. A new bridge will soon be constructed to replace the present bridge; construction material will be located in the navigation channel during construction of the new bridge.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Eighth Coast Guard District (oan), Customhouse, New Orleans, La. 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before July 12, 1971, and his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be

amended by revising § 117.245(j) (40) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(j) . . .

(40) *Laguna Madre, Tex.* John F. Kennedy Causeway swing barge bridge across Humble Oil and Refining Co. Channel. The draw need not open for the passage of vessels and paragraphs (b) through (e) of this section shall not apply to this bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(o) (5); 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

PROPOSED RULE MAKING

Dated: June 7, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-8283 Filed 6-11-71; 8:51 am]

Federal Aviation Administration
[14 CFR Part 121]

[Docket No. 10358]

LIMITATION OF USE BY CERTIFICATE HOLDERS OF PILOTS THAT HAVE REACHED THEIR 60TH BIRTHDAY

Notice of Postponement of Public Hearing

Notice was issued on April 9, 1971, and published in the FEDERAL REGISTER (36 F.R. 7153; April 15, 1971), that the FAA would hold a public hearing at 9:30 a.m., June 15, 1971, to receive the views of all interested persons concerning proposals to amend Part 121 of the Federal Aviation Regulations by amending or revoking § 121.383(c), the "age 60" rule.

Request for a postponement of the hearing has been made on June 10, 1971, in behalf of Air Line Pilots Association, International (ALPA), one of the interested persons who have requested an opportunity to make an oral statement at the hearing. A majority of the interested persons requesting such an opportunity have agreed to a postponement.

I find that ALPA has a substantive interest in the matter, that good cause exists for the postponement, and that the postponement is consistent with the public interest.

Therefore, the hearing is postponed until a date to be fixed by the FAA and to be published in the FEDERAL REGISTER.

Issued in Washington, D.C., on June 11, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-8411 Filed 6-11-71; 11:04 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-152]

FOREIGN CURRENCIES

Rates of Exchange for Swiss Franc

JUNE 2, 1971.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Swiss franc between May 24 and May 28, 1971.

Treasury Decision 71-101 published as the rate of exchange for the Swiss franc for use during the calendar quarter beginning April 1 through June 30, 1971, \$0.232800, as certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)).

For the dates listed below, the Federal Reserve Bank of New York certified rates for the Swiss franc which vary by 5 per centum or more from the rate \$0.232800. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert Swiss currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published.

Swiss franc:	
May 24, 1971	\$0.245275
May 25, 1971	.244693
May 26, 1971	.244606
May 27, 1971*	.232800
May 28, 1971*	.232800

* Rate did not vary by 5 per centum or more from the rate of exchange published in T.D. 71-101 for use during calendar quarter beginning Apr. 1, 1971.

Rates of exchange certified for the Swiss franc which vary by 5 per centum or more from the rate of \$0.232800 during the balance of the calendar quarter ending June 30, 1971, will be published in a Treasury Decision for dates subsequent to May 28, 1971, and before July 1, 1971.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-8316 Filed 6-11-71; 8:55 am]

Fiscal Service

[Dept. Circ. 570, 1970 Rev., Supp. No. 15]

WILSHIRE INSURANCE COMPANY

Surety Company Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has

Notices

been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of \$135,000 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

WILSHIRE INSURANCE COMPANY
LOS ANGELES, CALIFORNIA

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: June 8, 1971.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.
[FR Doc.71-8281 Filed 6-11-71; 8:51 am]

DEPARTMENT OF DEFENSE

Department of the Army

OFFICE OF CIVIL DEFENSE

Delegation of Authority

Subsection 4(c) of Delegations of Authority promulgated August 19, 1964 (29 F.R. 11852), is amended by deleting the words "having an original single item acquisition cost of less than fifty thousand dollars (\$50,000)" therefrom. As revised, subsection 4(c) reads as follows:

Sec. 4. Regional Directors . . .

(c) Determination on an individual case basis of Federal surplus property which does not so appear in the representative lists of categories of property (presently known as the "U&N" list and contained in the Federal Civil Defense Guide, Part F, Chapter 5, Appendix 3) to be usable and necessary for the civil defense program of a specific proposed donee for the purposes of donation under the Federal Property and Administrative Services Act of 1949, as amended.

Dated: May 28, 1971.

JOHN E. DAVIS,
Director of Civil Defense.
[FR Doc.71-8207 Filed 6-11-71; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, BRANCH OF LANDS AND MINERALS OPERATIONS, DIVISION OF TECHNICAL SERVICES, NEW MEXICO STATE OFFICE

Redelegation of Authority

JUNE 2, 1971.

1. Pursuant to the authority contained in Part I, section 1.1(a) of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Branch of Lands and Minerals Operations, in the Division of Technical Services, authority to take action on the matters listed in Part II-A, sections 2.2(b)(d), 2.5, 2.6, and 2.9.

2. The Chief, Division of Technical Services, may in his discretion, personally exercise any authority hereby delegated to the Chief, Branch of Lands and Minerals Operations.

3. The authority delegated in paragraph 1 above may not be redelegated.

4. The Chief, Branch of Lands and Minerals Operations may, by written order, designate any qualified employee of the Branch to perform the functions of his position in his absence. Such order will be approved by the Chief, Division of Technical Services.

5. Effective date. This redelegation will become effective June 15, 1971.

W. J. ANDERSON,
State Director.

Approved:

JOHN O. CROW,
Associate Director.

[FR Doc.71-8257 Filed 6-11-71; 8:50 am]

[Wyoming 28577]

WYOMING

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 7, 1971.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. Wyoming 28577, for the withdrawal of lands described below, from location and entry under the general mining laws, but not the mineral leasing laws, subject to valid existing rights.

The applicant wishes to assure tenure of the described lands which contain valuable recreational improvements.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present

their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 2120 Capitol Avenue, Cheyenne, WY 82001.

The Department's regulations 43 CFR 2351.4(c) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

- SIXTH PRINCIPAL MERIDIAN, WYOMING
MEDICINE BOW NATIONAL FOREST
Boswell Creek Campground
- T. 12 N., R. 78 W.,
Sec. 22, lot 1;
Sec. 23, lot 4.
- Miller Lake Campground
- T. 13 N., R. 78 W.,
Sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.
- North French Creek Administrative Site
- T. 16 N., R. 80 W.,
Sec. 27, W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 28, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.
- Bow River Campground
- T. 18 N., R. 80 W.,
Sec. 22, SW $\frac{1}{4}$ SE $\frac{1}{4}$.
- Hog Park Reservoir Recreation Area
- T. 12 N., R. 84 W.,
Sec. 5, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 6, lots 2, 3, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 7, N $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 8, NW $\frac{1}{4}$.
- Haskins Creek Campground
- T. 14 N., R. 86 W.,
Sec. 27, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 1,065.65 acres.

MARLON C. OSBORNE,
Acting State Director.

[FR Doc.71-8258 Filed 6-11-71; 8:50 am]

NOTICES

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m., July 1, 1971.

SEWARD MERIDIAN, ALASKA

- T. 13 N., R. 1 W.,
Sec. 1, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
Sec. 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 4, all;
Sec. 9, N $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 10, all;
Sec. 15, all;
Sec. 22, N $\frac{1}{2}$;
Sec. 23, W $\frac{1}{2}$.
Containing 3,639.48 acres.
- T. 14 N., R. 1 W.,
Sec. 3, N $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 15, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 27, all;
Sec. 28, all;
Sec. 29, NE $\frac{1}{4}$;
Sec. 33, all;
Sec. 34, lots 1, 2, 3, 4, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 35, lots 1, 2, 3, 4, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$.
Containing 3,661.82 acres.

2. The land is mountainous with the elevation ranging from 350 to 4,400 feet above sea level. The soil is mostly thin and rocky. Timber is first and second growth spruce, birch, aspen, and cottonwood, with dense alder and willow undergrowth. Lands in these surveys are traversed by the Main Fork and the South Fork of Eagle River, and unimproved dirt roads.

3. There are two overlapping power site classifications in T. 14 N., R. 1 W. They are Power Site Classification No. 107 created by departmental order and Power Site Classification No. 399 created by Geological Survey. Portions of these classifications, as amended, have been designated Power Project No. 2405 by the Federal Power Commission. They are reserved under the provisions of section 24 of the Federal Power Act of June 10, 1920, as amended, and embrace, in part, the following described lands:

SEWARD MERIDIAN, ALASKA

- T. 14 N., R. 1 W.,
Sec. 27: N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 35: NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$.

4. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 4582 dated January 17, 1969, as modified and amended by Public Land Office 4962, dated December 11, 1970, and the requirements of applicable law, rules, and regulations.

5. Inquiries concerning the lands should be addressed to the Manager,

Anchorage Land Office, 555 Cordova Street, Anchorage AK 99501.

CLARK R. NOBLE,
Land Office Manager.

[FR Doc.71-8290 Filed 6-11-71; 8:52 am]

Bureau of Reclamation
YUMA PROJECT, ARIZONA-
CALIFORNIA VALLEY DIVISION

Availability of Water

APRIL 26, 1971.

Public notice announcing availability of water for Arizona State land sold pursuant to the provisions of Title 37, Arizona Revised Statutes, article 3, sections 37-231 et seq., and for which a certificate of purchase has been issued.

1. Land for which water will be available. In pursuance of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, especially the Act of August 13, 1914 (38 Stat. 686), as amended, and the Act of June 29, 1956 (70 Stat. 409), notice is hereby given that upon proper water-right application being made therefor, water will be furnished under the Valley Division of the Yuma Project, during calendar year 1971 and thereafter for the following described land:

VALLEY DIVISION
GILA AND SALT RIVER BASE AND MERIDIAN, ARIZONA

Section	Description	Irrigable acreage
16.	T. 10 S., R. 24 W., That portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ lying west of the Main Drain.	20.50
10.	T. 9 S., R. 24 W., N $\frac{1}{2}$ SE $\frac{1}{4}$	70.00

2. Limit of area for which water right may be secured. The maximum acreage of State land for which water-right application may be made shall be one hundred sixty (160) acres of irrigable land for each landowner or certificate of purchase holder.

3. Application for water rights. (a) All water-right applications must be made to the Yuma County Water Users' Association, North Second Avenue, Yuma, Ariz., upon form provided for that purpose as indicated in subsection 3(b) and may be made on or after the date of this notice.

(b) The following form of water-right application has been adopted for use in connection with State land under certificate of purchase and located in the Valley Division of the Yuma Project: Form Yuma B-3 for Arizona State lands sold pursuant to the provisions of Title 37, Arizona Revised Statutes, article 3, sections 37-231 et seq., and for which a certificate of purchase has been issued.

(c) Applications for fractions of the parcels described in section 1 or for less than all of the acreage therein specified for any parcel will not be approved.

4. Construction and other charges on the Valley Division. The land in the Valley Division covered by this notice is affected by contracts between the United States of America and Yuma County Water Users' Association, dated May 31, 1906, February 5, 1931, and April 1, 1957, respectively, copies of which are available for inspection at the office of said Association and at the office of the Project Manager, Bureau of Reclamation, Yuma, Ariz. Under said contracts, the Association is entitled to collect and retain payment of the following charges: Annual operation and maintenance charges covering the cost of operating and maintaining the irrigation system and other Association expenses, and a construction charge to return the cost of the system. These charges are assessable against each acre of said land now and hereafter found irrigable by or under the authority of the Secretary of the Interior. The construction charge for each such acre is \$85 payable in not to exceed 30 equal installments which shall not be less than \$2.93 at the time of filing water-right application, and not less than \$2.83 on each December 1 thereafter until all of said construction charge has been paid in full. The above-mentioned operation and maintenance charges shall be payable to Yuma County Water Users' Association pursuant to public notices to be issued annually by the Association covering the assessments levied by it to provide revenues to meet its obligations and expenses. At the time of filing water-right application, the applicant will be required to apply for membership in said Association. No such application will be approved until the applicant has become a member of the Association, as evidenced by stock of said Association duly issued to the applicant.

5. Exclusion of land by action of Colorado River. Every water-right application shall contain the following provisions:

The Applicant hereby releases the United States and the Association from any and all claims for loss or damages on account of (1) the exclusion of said land or any part thereof, from the irrigable land of said project, or (2) the failure to supply water for the irrigation of any part of the land hereinbefore described when such exclusion or failure is due to (a) the destruction by flood, erosion, encroachment, or other action of the Colorado River, of the levees erected by the Bureau of Reclamation along the banks of said river, or (b) a change in the location of said levees when such change is considered necessary by the United States to prevent the destruction of said levees from the said causes. Land so excluded shall be relieved from payment of all construction and operation and maintenance charges which otherwise would thereafter become due from the land so excluded, but construction and operation and maintenance charges heretofore paid on land so excluded shall not be refunded.

6. Increased construction charge. In all cases where water-right application for any State land described in section

1 hereof shall not be made within 1 year from the date of this notice, the construction charge for such land shall be increased 5 per centum each year until such application is made and an initial installment is paid.

E. A. LUNDBERG,
Regional Director, Region 3,
Bureau of Reclamation.

[FR Doc.71-8256 Filed 6-11-71; 8:50 am]

National Park Service

DINOSAUR NATIONAL MONUMENT

Notice of Intention To Issue
Concession Permits

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Dinosaur National Monument, proposes to issue concession permits to Hatch River Expeditions, Inc., and Western Rivers Expeditions, Inc., authorizing them to provide concession facilities and services for the public at Dinosaur National Monument for a period of five (5) years from January 1, 1971, through December 31, 1975.

The foregoing concessioners have performed their obligations under prior permits to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, are entitled to be given preference in the renewal of the permits and in the negotiation of new permits. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Dinosaur National Monument, Post Office Box 101, Dinosaur, CO 81610, for information as to the requirements of the proposed permits.

Dated: June 1, 1971.

EDWARD A. HUMMEL,
Assistant Director,
National Park Service.

[FR Doc.71-8259 Filed 6-11-71; 8:50 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

NATIONAL SCHOOL LUNCH PROGRAM AND COMMODITY ONLY SCHOOLS

Income Poverty Guidelines for Determining Eligibility for Free and Reduced Price Lunches

Pursuant to section 9 of the National School Lunch Act, as amended (42 U.S.C. 1758, Public Law 91-248), the income poverty guidelines for determining eligi-

bility for free and reduced price lunches in National School Lunch Program and commodity only schools are prescribed, as of July 1, 1971, as follows:

Family size	48 States, D.C., and outlying areas ¹	Hawaii	Alaska
One.....	\$2,040	\$2,330	\$2,490
Two.....	2,670	3,050	3,270
Three.....	3,310	3,780	4,050
Four.....	3,940	4,500	4,830
Five.....	4,580	5,170	5,550
Six.....	5,110	5,830	6,290
Seven.....	5,640	6,430	6,910
Eight.....	6,170	7,040	7,560
Nine.....	6,650	7,540	8,140
Ten.....	7,130	8,130	8,720
Eleven.....	7,640	8,680	9,300
Twelve.....	8,080	9,230	9,880
Each additional family member.....	480	550	580

¹"Outlying Areas" include the Commonwealth of Puerto Rico, Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

The income poverty guidelines set forth above are the minimum family size annual income levels to be used by local school food authorities in establishing eligibility for free and reduced price lunches in schools after July 1, 1971.

The income poverty guidelines are based on the latest statistics on poverty levels reported by the Census Bureau's Current Population Reports, Series P-60, No. 77, dated May 7, 1971. Variations for Hawaii and Alaska are consistent with such variations established by the Office of Economic Opportunity in its Income Poverty Guidelines (34 F.R. 20431, Dec. 31, 1969; 35 F.R. 5948, Apr. 10, 1970), with appropriate adjustments.

"Income," as the term is used in this notice, is similar to that defined in the Bureau of Census report, "24 Million Americans, Poverty in the United States: 1969", Consumer Income, Current Population Reports, Series P-60, No. 76, Dec. 16, 1970. "Income" means income before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions, or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest on savings or bonds, income from estates or trusts or net rental income; (6) public assistance or welfare payments; (7) unemployment compensation; (8) Government civilian employee or military retirement, or pensions, or veterans' payments; (9) private pensions or annuities; (10) alimony or child support payments; (11) regular contributions from persons not living in the household; (12) net royalties; and (13) other cash income.

In applying these guidelines, school food authorities may consider both the income of the family during the past 12 months and the family's current rate of income to determine which is the better indicator of the need for free and reduced price lunches.

Effective date. This notice shall be effective on and after July 1, 1971.

Dated: June 8, 1971.

RICHARD E. LYNK,
Assistant Secretary.

[FR Doc.71-8271 Filed 6-11-71;8:51 am]

DEPARTMENT OF COMMERCE

Office of the Secretary
CALIFORNIA STATE POLYTECHNIC
COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00253-33-46040. Applicant: California State Polytechnic College, 3801 West Temple Avenue, Pomona, CA 91768. Article: Electron microscope, Model EM 9S, Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used by a faculty member and his students in research concerning the fine structure of intracellular symbiotic bacteria in insects. General Cytology and Experimental Biology and Ultrastructural Studies are two courses in which the article will be used to teach electron microscope techniques in the simplest way possible.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forglio Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 12, 1971, that the relative simplicity of design and ease of operation

NOTICES

of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.
[FR Doc.71-8208 Filed 6-11-71;8:45 am]

DIVISION STATE MEDICAL EXAMINATION

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00344-33-46500. Applicant: Division State Medical Examination, 150 Cabinet Street, Newark, NJ 07107. Article: Ultramicrotome, Model LKB 8800, Manufacturer: LKB Produkter, A.B., Sweden.

Intended use of article: The article will be used to study biologic material, mainly various mammalian tissues, including human biopsy material (kidney, heart, liver, and gastrointestinal tract). Projects concern human biopsy and animal experiments in acute and chronic drug states, including acute chronic alcoholism and heavy metal intoxication.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare

(HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of April 5, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the successful sectioning of the softer specimens encountered in the applicant's studies and ultrastructural analysis of human biopsy material and analogous experimental animal tissue. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00768-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purpose as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8209 Filed 6-11-71;8:45 am]

HARVARD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office

of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00247-33-46500. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, MA 02138. Article: Ultramicrotome, Model LKB 8800A, Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research and educational training in cellular anatomy, cellular biology (including vertebrate and invertebrate pathology, morphogenesis, and immunology) as well as virology. Investigations concern structures of microtubules and more especially that of the sites from which they develop; and effect of various biological substances on cell membranes of *Trypanosoma cruzi* and its transformation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW)

advised that "smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

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We are advised by HEW in its memorandum of February 5, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies involving the preparation of ultrathin serial sections of *I. Cruzii*, *S. masoni* and *B. glabrata* for high resolution electron microscopy, particularly to those studies involving the softer or the more difficult cut specimens. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8210 Filed 6-11-71;8:45 am]

LANKENAU HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00250-33-46500. Applicant: The Lankenau Hospital, Lancaster and City Line Avenues, Philadelphia, PA 19151. Article: Ultramicrotome, Model LKB 8800A, Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used by the Department of Pathology for examination of biopsy material for diagnostic purposes. The Division of Research is investigating lung transplantation, fine structure of human amnion and chorion, and virus infected cells and tissues.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform

in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristic of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of February 12, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the cutting of the softer specimens encountered in the applicant's study of the fine structure of lung and human fetal membranes. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8211 Filed 6-11-71;8:45 am]

MICHIGAN STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00283-33-46500. Applicant: Michigan State University, Center for Laboratory Animal Resources, 127D Giltner Hall, East Lansing, MI 48823. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for a comparative study of placental membranes involving descriptions of the vascular patterns and relationship between the maternal and fetal circulation; monitoring of enzyme activity during the course of pregnancy; and for studies of hormone receptor sites in the placenta.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely compar-

ble domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of February 26, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the successful ultrathin sectioning of the softer or more difficult specimens encountered in the applicant's research studies involving the architecture and identification of viral capsids from infected chicken embryo yolk sacs and bovine fetus. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc. 71-8212 Filed 6-11-71; 8:46 am]

NAVAL MEDICAL RESEARCH UNIT NO. 4

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00343-33-46500. Applicant: Naval Medical Research Unit No. 4, Great Lakes, Ill., 60088. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter, A.B., Sweden.

Intended use of article: The article will be used to section virus infected tissues and organs as well as tissue cultures from animal and human sources. Visualization and identification of the virus particles in situ by electron microscopy of ultrathin sections will be employed for disease diagnosis and research on the pathogenesis of viral infections.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended

to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of April 5, 1971, that cutting speeds in excess of 4 mm./sec are pertinent to the successful sectioning of the softer specimens encountered in the applicant's research studies relating to the development of rapid methods for the diagnosis of viral infections that involves ultrathin serial sectioning of a variety of tissue and tissue culture monolayers. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc. 71-8213 Filed 6-11-71; 8:46 am]

PASSAVANT MEMORIAL HOSPITAL Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00225-33-46500. Applicant: Passavant Memorial Hospital, 303 East Superior Street, Chicago, IL 60611. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for sectioning of a variety of materials including renal and surgical biopsy material. An initial and essential part of the work will be development of techniques for the rapid embedding and sectioning of biopsy material for diagnostic purpose.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in

physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of January 29, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies involving the sectioning of a variety of biopsy and autopsy specimens including renal and brain tissues and the development of techniques for rapid embedding and sectioning. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00612-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8214 Filed 6-11-71; 8:46 am]

UNIVERSITY OF WISCONSIN Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00214-33-46500. Applicant: University of Wisconsin Medical School, Bardeen Medical Labs., 1255 Linden Drive, Madison, WI 53706. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for biological studies on embryonic tissues from mammalian and avian sources. The properties to be investigated are those which lend themselves to an understanding of embryonic cell death as a normal and necessary morphogenetic process in development.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for

such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of January 29, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies involving the successful sectioning of embryonic limb buds composed of loosely packed mesenchymal cells that are quite soft. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8215 Filed 6-11-71; 8:46 am]

**POLYTECHNIC INSTITUTE OF
BROOKLYN**

**Notice of Decision on Application for
Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00322-33-46500. Applicant: Polytechnic Institute of Brooklyn, 333 Jay Street, Brooklyn, NY 11201. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter, A.B., Sweden.

Intended use of article: The article will be used to study the effect of certain chemicals such as thallium sulfate, thallium radioactive, potassium sulfate, etc., upon chicken and rat embryos in the production of hadacidin birth defects. The changes in development of bones, connective tissue and malformation caused by these chemicals are being investigated.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cut-

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ting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of March 26, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the ultrathin sectioning of difficultly cut chicken and rat embryos for reconstruction of ultrastructure to study development of bone, connective tissue and malformations in the applicant's program for the investigation of birth defects. HEW cites as a precedent its prior recommendation relating Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8216 Filed 6-11-71; 8:46 am]

SOUTHERN ILLINOIS UNIVERSITY

**Notice of Decision on Application for
Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00311-33-46500. Applicant: Southern Illinois University, Laboratory of Molecular Virology, Carbondale, IL 62901. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to study biological materials, primarily virus-host-cell systems. The properties of the materials to be investigated are those which lend themselves to an understanding of the structural bases for the controlled transcription of the DNA molecule in poxviruses, which involves the arrangement of information

along DNA molecules, the continuity of the polynucleotide strands and location and structure of the replication point.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speed and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of March 19, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the ultrathin sectioning of tissue culture cells and loose masses of large molecules encountered in the applicant's ultrastructural studies of virus infected cells and polynucleotide strands of viral DNA. HEW cites as a precedent its prior recommendation relating Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

NOTICES

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8217 Filed 6-11-71; 8:46 am]

STANFORD UNIVERSITY

**Notice of Decision on Application for
Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00307-33-46500. Applicant: Stanford University, Purchasing Department, 820 Quarry Road, Palo Alto, CA 94304. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used in a study of the substructure and function of cell types, including lymphocytes, histiocytes, eosinophils, and Reed-Sternberg cells in lesions of Hodgkin's disease. The primary objective of the research is to improve methods for the diagnosis of Hodgkin's disease.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of

the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of March 19, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the ultrathin sectioning of the softer specimens encountered in the applicant's research studies involving substructure and function of a variety of cell types. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8218 Filed 6-11-71; 8:46 am]

STANFORD UNIVERSITY

**Notice of Decision on Application for
Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00187-33-46500. Applicant: Stanford University, Department of Medicine, 300 Pasteur Drive, Palo Alto, CA 94305. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research concerning the ultrastructural localization of insulin in the kidney, liver, and pancreas of animals of varying physiological states. In addition, attempts will be made to stain ultrathin plastic sections of insulin-containing tissues directly with ferritin conjugated-insulin antibodies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of January 19, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies in ultrastructural localization of insulin in the kidney, liver, and pancreas of normal and treated animals. HEW cited as precedent its prior recommendation relating to Docket No. 70-00612-33-46500 which conforms in many particulars with the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article,

for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8219 Filed 6-11-71; 8:46 am]

TEXAS A & M UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D. C.

Docket No. 71-00285-91-46500. Applicant: Texas A & M University, Department of Biochemistry & Biophysics, College Station, TX 77483. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for studies of tissues from plant embryos (shepherd's purse, peanut, coconut, cotton) and plant endosperm (coconut) to determine how seed specific proteins are synthesized and sequestered in aleurone vacuoles.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher

cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultra-thin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of February 26, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies which involve the production of very thin serial sections of uniform thickness from difficultly cut and soft specimens of plant embryos in which fat globules, lipid droplets, etc., are intact. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8220 Filed 6-11-71; 8:46 am]

TRUSTEES OF HEALTH AND HOSPITALS OF THE CITY OF BOSTON, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00350-33-46040. Applicant: Trustees of Health and Hospitals of the City of Boston, Inc., 909 Massa-

chusetts Avenue, Boston, MA 02118. Article: Electron microscope, Model EM-9S-2. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used at the Mallory Institute of Pathology for postgraduate training in pathology. House officers in pathology (interns, residents, and fellows) will be given instruction in normal and pathologic fine structure. Electron microscopy, tissue preparations, and studies of normal and abnormal fine structure will be taught to the present 21 trainees.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgslo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 20, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8221 Filed 6-11-71; 8:46 am]

UNIVERSITY OF CONNECTICUT

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the

Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00342-33-46500. Applicant: The University of Connecticut, Health Center, Hartford Plaza, Hartford, CT 06105. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to produce thin sections for electron microscopy. The research involves ultrastructural study of nervous tissue and subcellular fractions of nervous tissue. Projects include the effects of psychoactive drugs on ultrastructural distribution of glycogen in mouse brain, study of synaptic structure in the cerebellum of the dogfish shark, and attempts to isolate and ultrastructurally characterize presynaptic and postsynaptic membranes from brain functions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultra-thin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec. We are advised by HEW in its memo-

randum of April 5, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's ultrastructural study of nervous tissue and subcellular fractions including presynaptic and postsynaptic membranes from brain fractions which requires ultrathin serial sectioning of soft specimens. HEW cites as precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8222 Filed 6-11-71; 8:47 am]

UNIVERSITY OF CONNECTICUT

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00315-33-46500. Applicant: University of Connecticut, Storrs, Conn. 06268. Article: Three ultramicrotomes, Model LKB 8800A and accessories. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to produce ultrathin sections for electron microscopic studies dealing with the fine structure of nervous tissue from the cerebellum of developing and adult animals, normal and operated. One of the major projects is the study of the maturation of intercellular contacts and synaptic membranes, as well as their reaction to axonal degeneration at different stages of maturation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in

thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultra-thin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of March 26, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to obtaining uniform ultrathin serial sections of the soft embryonic tissue encountered in the applicant's studies of the fine structure of nervous tissue including maturation of intercellular contact and synaptic membrane. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8223 Filed 6-11-71; 8:47 am]

UNIVERSITY OF ILLINOIS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00275-33-46500. Applicant: University of Illinois, Purchasing Division, Urbana-Champaign Campus, 223 Administration Building, Urbana, IL 61801. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to thin-section a variety of materials from plants, animals and metals. The investigations involve the study of the ultrastructural properties of these materials and also, the localization and the role of enzymes in plant, animal and microbial cells.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum

range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of February 19, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the sectioning, for ultrastructural study by the applicant, of such soft materials as embryonic cells or pellets of cell organelles. HEW cites as a precedent its prior recommendations relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8224 Filed 6-11-71; 8:47 am]

UNIVERSITY OF MISSOURI

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00260-33-46500. Applicant: University of Missouri-Columbia, School of Veterinary Medicine, Department of Veterinary Anatomy, Columbia, MO 65201. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for studies of biological tissues from mammalian sources and used for experimental purposes. These tissues include the central nervous system, infundibulum, hypophysis and testis of the newborn, immature and adult animal for research studying the fine structure of the nervous and endocrine systems.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of February 12, 1971, that cutting speeds in excess of 4 mm./sec are pertinent to the serial sectioning of the softer specimens of testis, pituitary gland and the glands neural portions, from newborn animals, encountered in the applicant's fine structural studies into normal development and neuronal damage following the use of antifertility compounds and other procedures. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8225 Filed 6-11-71; 8:47 am]

UNIVERSITY OF ROCHESTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00332-46500. Applicant: University of Rochester, River Campus, Rochester, NY 14627. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research concerning the ultrastructure of nerve tissue, particularly axonal and synaptic membrane ultrastructure. Another project involves fixation techniques for electron microscopy of different vertebrate tissues such as skeletal muscle, heart, central and peripheral nervous system, liver, kidney, bone, etc., as well as in invertebrate nervous tissue.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is,

therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of April 5, 1971, that cutting speeds in excess of 4 mm./sec are pertinent to the applicant's research studies involving fixation techniques and ultrastructure of nerve tissue which will require ultrathin sectioning of very soft invertebrate nervous tissue. HEW cites as a precedent its prior recommendation relating to Docket Number 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8226 Filed 6-11-71; 8:47 am]

UNIVERSITY OF SOUTHERN CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00261-33-46500. Applicant: University of Southern California, School of Medicine, Department of Pathology, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Ultramicrotome,

Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to produce both serial ultrathin sections and one micron thick sections of human and animal brain. Research includes preparation of human tissues obtained at surgery and autopsy in order to study material in which slow or latent viral infection are suspected; and the examination of primary tumors of the human nervous system to search for viral particles and to determine variant submicroscopic cellular differences. Educational purposes include instruction of graduate students in experimental pathology and residents in neuropathology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of February 12, 1971, that cutting speeds in excess of 4 mm./sec. are

pertinent to the cutting of the softer or more difficult specimens encountered in the applicant's research studies involving the ultrathin serial sectioning of human and animal brain and other nervous system tissues to verify and identify virus budding from a membrane. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8227 Filed 6-11-71; 8:47 am]

UNIVERSITY OF TEXAS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00348-33-46500. Applicant: The University of Texas, M.D. Anderson Hospital and Tumor Institute at Houston, Texas Medical Center, Houston, Tex. 77025. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter, A.B., Sweden.

Intended use of article: The article will be used for research involving the quantitative studies of number and distributions of microtubules in various motile systems such as the mitotic spindle, spermatozoan flagellum, cilia and centrioles. In addition, an attempt will be made to localize various enzymes by ultracytochemical techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut sur-

faces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec).

The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec.

We are advised by HEW in its memorandum of April 20, 1971, that cutting speeds in excess of 4 mm/sec are pertinent to the research studies involving the applicant's "selected cell ultramicrotomy" techniques as well as the applicant's studies of microtubules and localization of enzymes in soft tissue requiring ultrathin sectioning of single cells. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8228 Filed 6-11-71; 8:47 am]

UNIVERSITY OF WISCONSIN

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a

scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00282-33-46500. Applicant: University of Wisconsin, Department of Pathology, Service Memorial Institute, 470 North Charter Street, Madison, WI 53706. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for projects involving procedures for both investigative and diagnostic examination of a variety of tissues (kidney, brain, and lung) with diseases of interest to the immunopathologist.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable

domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec.

We are advised by HEW in its memorandum of February 19, 1971, that cutting speeds in excess of 4 mm/sec are pertinent to the satisfactory sectioning of the softer or more difficult cut specimens encountered in the sectioning of needle biopsy and other specimens of lung and kidney tissue in the normal and diseased state for the applicant's study at the ultrastructural level. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8229 Filed 6-11-71; 8:47 am]

WAGNER COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00183-33-46500. Applicant: Wagner College, 631 Howard Avenue, Staten Island, NY 10301. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for educational and research purposes. Research projects include (a) an investigation of new embedding materials for special tissues, consisting of new polymers formed by interaction of epoxy resins and thiokol rubbers, (b) an investigation of the finer structures of specific bacteria and the intracellular multiplication of microbes within certain tissues of experimental animals as well as in monolayer tissues cultures, (c) time study of tumor detection in susceptible animals, and (d) identification of an enzyme system by forming complexes with electron dense labelers. The article will also be used as a teaching instru-

ment in courses in electron microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article is intended to be used, which is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of January 19, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies involving the comparison of methacrylate with new polymers, as embeddings for particular tissues for the production of the thinnest possible sections. HEW further advises, that tumor and biopsy specimens are also to be sectioned. HEW cited as precedent its prior recommendation relating to Docket No. 71-00001-63-46500 which conforms many particulars with the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.71-8230 Filed 6-11-71; 8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-337; NADA 12-114V]

ABBOTT LABORATORIES

Erythromycin Stearate With Hexocyclium Methylsulfate; Notice of Opportunity for Hearing

In an announcement in the FEDERAL REGISTER of June 10, 1970 (35 F.R. 8955), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration and the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, following evaluation by the Administration of a report received from the Academy on Byogic, NADA (new animal drug application) No. 12-114V. Byogic contains erythromycin stearate and hexocyclium methylsulfate and is marketed by Abbott Laboratories, North Chicago, Ill. 60064.

The announcement invited the holder of said new animal drug application and any other interested persons to submit pertinent data on the drug's effectiveness.

No data were received in response to the announcement and available information fails to provide substantial evidence that the drug is effective for the respiratory-enteritis complex and sequelae in cats, dogs, and small laboratory animals.

Therefore, notice is given to Abbott Laboratories and to any other interested person who may be adversely affected that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of NADA No. 12-114V and all amendments and supplements thereto. This action is proposed on the grounds that there is a lack of substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant and any other interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 12-114V should not be withdrawn.

Promulgation of the order will cause any drug similar in composition to the above cited drug product and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or
2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. The time shall be not more than 90 days after the expiration of said 30 days, unless the hearing examiner and the applicant otherwise agree.

NOTICES

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8251 Filed 6-11-71; 8:49 am]

E. R. SQUIBB & SONS, INC.

Certain Drinking Water Preparations Containing Oxytetracycline; Notice of Drugs Deemed Adulterated

In the FEDERAL REGISTER of August 25, 1970 (35 F.R. 13589 and 13590) announcements were published concerning the drugs Gland-O-Lac.

Gol-A-Cin (DESI 0135 NV) and Vit-A-Cin (DESI 0141 NV) by E. R. Squibb & Sons, Inc., Agricultural Research Center, Three Bridges, N.J. 08887. The announcements set forth the findings of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, and the Food and Drug Administration that these drugs are probably not effective for poultry under the conditions of use prescribed, recommended, or suggested in the labeling. Said announcements provided the manufacturer and all interested parties a 6 month period in which to submit new animal drug applications.

E. R. Squibb & Sons, Inc., did not submit a new animal drug application for the above named products within the time permitted. In their response to the announcements, they stated that the listed drugs have been deleted from their product line.

Based on the foregoing and information before him, the Commissioner of Food and Drugs concludes that the above named drugs are adulterated within the meaning of section 501(a)(5) of the Federal Food, Drug, and Cosmetic Act in that they are not the subject of approved new animal drug applications pursuant to Section 512 of the act. Therefore, notice is given to E. R. Squibb & Sons, Inc., and to all interested persons that all stocks of said drugs within the jurisdiction of the act are deemed adulterated within the meaning of the act and are subject to appropriate regulatory action.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 501(a)(5), 512, 32 Stat. 1049, as amended, 82 Stat. 343-51; 21 U.S.C. 351(a)(5), 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8252 Filed 6-11-71; 8:49 am]

[Docket No. FDC-D-346; NADA No. 10-077V]

JENSEN-SALSBERY LABORATORIES

Tyrothricin-Papain-Urea Boluses; Notice of Opportunity for Hearing

In the FEDERAL REGISTER of August 25, 1970 (35 F.R. 13542, DESI 10077V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration and the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, following evaluation by the Administration of a report received from the Academy on Uterase Boluses, NADA (new animal drug application) No. 10-077V, which contains tyrothricin, papain, and urea, and marketed by Jensen-Salsbery Laboratories, Division of Richardson-Merrell, Inc., Kansas City Mo. 64108.

The announcement invited the holders of said new animal drug application and any other interested persons to submit pertinent data on the drug's effectiveness.

No data were received in response to the announcement and available information fails to provide substantial evidence that the drug is effective for intrauterine treatment of bovine endometritis and for treatment following removal of retained placenta.

Therefore, notice is given to Jensen-Salsbery Laboratories and to any interested person who may be adversely affected that the Commissioner proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of NADA 10-077V and all amendments and supplements thereto held by said firm on the grounds that:

New information before the Commissioner with respect to the drug was evaluated together with the evidence available to him when the application was approved. These data do not provide substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In accordance with provisions of section 512 of the Act (21 U.S.C. 360b), the Commissioner will give the applicants and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 10-077V should not be withdrawn. Promulgation of the order will cause any drug similar in composition to the above listed drug product and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing

Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or
2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing the Commissioner without further notice will enter a final order withdrawing the approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing a genuine and substantial issue of fact requiring a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. The time shall be not more than 90 days after the expiration of said 30 days, unless the hearing examiner and the applicant otherwise agree.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8253 Filed 6-11-71; 8:49 am]

NOTICES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Designation and Delegation of Authority

SECTION A. *Designation.* Norman V. Watson is hereby designated to serve as Acting Assistant Secretary for Housing Management during the present vacancy in the Office of Assistant Secretary for Housing Management with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Housing Management.

SEC. B. *Delegation of authority.* G. Richard Dunnells, Special Assistant to the Under Secretary, is hereby authorized to exercise the power and authority of the Deputy Assistant Secretary for Housing Management and, during any absence of Norman V. Watson, to serve as Acting Assistant Secretary for Housing Management with all the power and authority delegated to the Assistant Secretary for Housing Management.

This document supersedes the designation published at 35 F.R. 12621, August 7, 1970, and the delegation of authority published at 35 F.R. 19585, December 24, 1970.

(Sec. 7(d), Dept. of HUD Act, 42 U.S.C. 3535(d))

Effective date. This delegation and designation shall be effective as of March 8, 1971.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc. 71-8315 Filed 6-11-71; 8:55 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-389]

FLORIDA POWER AND LIGHT CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

The Florida Power and Light Co., 4200 Flagler Place, Post Office Box 3100, Miami, FL 33101, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, dated April 30, 1971, for authorization to construct and operate a pressurized water nuclear reactor, designated as the Hutchinson Island Nuclear Power Plant, Unit No. 2, on Hutchinson Island in St. Lucie County, Fla. The 1,132-acre site is located about 10 miles from Fort Pierce and 10 miles from Stuart on the east coast of Florida.

The proposed facility is designed for initial operation at approximately 2,440 thermal megawatts with a net electrical output of approximately 890 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after June 12, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, FL 33450.

Dated at Bethesda, Md., this 1st day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,

Division of Reactor Licensing.

[FR Doc. 71-7833 Filed 6-11-71; 8:45 am]

[Docket No. 50-219]

JERSEY CENTRAL POWER AND LIGHT CO.

Consideration of Issuance of Amendment to Provisional Operating License

The Atomic Energy Commission (the Commission) will consider the issuance of an amendment to Provisional Operating License No. DPR-16 which would authorize the Jersey Central Power and Light Co. (Jersey Central) to operate the Oyster Creek Nuclear Power Plant Unit No. 1 (the facility) at steady-state power levels up to a maximum of 1,930 megawatts (thermal), in accordance with the provisions of the license and the Technical Specifications incorporated therein. The facility is a single cycle, forced circulation, boiling water reactor, and is located in Lacey Township, Ocean County, N.J. The license presently authorizes Jersey Central to operate the facility at steady-state power levels up to a maximum of 1,690 megawatts (thermal).

No such amendment to the license will be issued until receipt of a report on the application by the Advisory Committee on Reactor Safeguards, the issuance of a favorable safety evaluation by the AEC Division of Reactor Licensing, and findings by the Commission that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I.

Prior to the issuance of an amendment to the facility license, the facility will be inspected by the Commission to determine whether the modification to the facility has been made in accordance

with the application, as amended. The amendment to the license will not be issued until the Commission has made the findings, reflecting its review of the application for license amendment, which will be set forth in the proposed license amendment, and has concluded that the issuance of the license amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order. In accordance with 10 CFR 2.714, a petition for leave to intervene which is not timely filed will be dismissed unless the petitioner shows good cause for failure to file it on time.

For further details with respect to the matter under consideration, see (1) Jersey Central's application for license amendment dated December 31, 1970, and supplement thereto dated January 26, 1971, and as they become available, (2) the report of the Advisory Committee on Reactor Safeguards on the application for license amendment, (3) the proposed license amendment, (4) the proposed changes to the Technical Specifications incorporated in the proposed license amendment, and (5) the safety evaluation prepared by the Division of Reactor Licensing, which will be available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of items (2), (3), and (5) may be obtained when available upon request sent to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 3d day of June 1971.

For the Atomic Energy Commission,

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc. 71-8286 Filed 6-11-71; 8:52 am]

[Docket No. 50-171]

PHILADELPHIA ELECTRIC CO.

Order Extending Provisional Operating License Expiration Date

By application dated May 20, 1971, the Philadelphia Electric Co. requested an extension of the expiration date of Provisional Operating License No. DPR-12 which authorizes possession, use, and operation of its Peace Bottom Unit No. 1 nuclear powerplant located in York County, Pa., at power levels up to a maximum of 115 megawatts (thermal).

Good cause having been shown in the application for this extension pursuant to 10 CFR Part 50 and the provisions of paragraph 6 of the license: *It is hereby ordered*, That the expiration date of Provisional Operating License No. DPR-12 is extended from June 24, 1971 to December 24, 1972.

This order is effective as of its date of issuance.

Date of issuance: June 2, 1971.

For the Atomic Energy Commission,

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc. 71-8287 Filed 6-11-71; 8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 20993; Order 71-6-30]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority June 4, 1971.

By Order 71-5-93, dated May 19, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 71-5-93 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22332, R-6, R-7, and R-9 through R-11, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-8297 Filed 6-11-71; 8:53 am]

[Docket No. 22628; Order 71-6-39]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Delayed Inaugural Flights

Issued under delegated authority June 7, 1971.

By Order 71-5-101, action was deferred, with a view toward eventual approval, on an agreement adopted by Joint Conference 3-1 of the International

Air Transport Association (IATA). The agreement permits Northwest Airlines to postpone to dates not later than December 14, 1971, the performance of its inaugural flights between San Francisco and Hong Kong via Honolulu, Tokyo, and Taipei.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-5-101 will herein be finalized.

Accordingly, it is ordered, That:

Agreement CAB 22430 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-8298 Filed 6-11-71; 8:53 am]

[Docket No. 22419, etc.]

HOUSTON-MONTERREY-MEXICO CITY SERVICE CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on July 13, 1971, at 10 a.m., d.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the Report of Prehearing Conference served May 21, 1971, and all other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 8, 1971.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[FR Doc. 71-8299 Filed 6-11-71; 8:53 am]

[Docket No. 19923, etc.]

LIABILITY AND CLAIM RULES AND PRACTICES INVESTIGATION

Notice of Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled proceeding now assigned to be held on June 24 is postponed to July 1, 1971, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., June 9, 1971.

[SEAL] JOHN E. FAULK,
Hearing Examiner.

[FR Doc. 71-8300 Filed 6-11-71; 8:53 am]

[Docket No. 22617]

WTC AIR FREIGHT

Notice of Hearing Regarding Proposed Revised Aggregate Rates

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on July 26, 1971, at 10 a.m., d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the Report of Prehearing Conference served November 16, 1970, the notice to all parties dated May 14, 1971, and all other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 8, 1971.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[FR Doc. 71-8301 Filed 6-11-71; 8:53 am]

ENVIRONMENTAL PROTECTION AGENCY

RHODIA, INC.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 409 (b) (5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a (d) (1), 348 (b) (5)), notice is given that a pesticide petition (PP 1F1155) has been filed by Rhodia, Inc., Chipman Division, 120 Jersey Avenue, New Brunswick, NJ 08903, proposing establishment of tolerances (21 CFR, Part 420) for residues of the insecticide phosalone (S-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone) O,O-diethyl phosphorodithioate) in or on the raw agricultural commodities cherries at 10 parts per million; apricots, peaches, and plums (fresh prunes) at 6 parts per million; and nectarines at 3 parts per million.

Notice is also given that the same firm has filed a related food additive petition (FAP 1H2659) proposing establishment of a food additive tolerance (21 CFR, Part 121) of 15 parts per million for residues of phosalone in or on dried apricots and dried prunes resulting from application of the insecticide to the growing apricots and plums (fresh prunes).

The analytical method proposed in the pesticide petition for determining residues of the insecticide is a gas chromatographic procedure with an electron capture detector.

Dated: June 8, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc. 71-8255 Filed 6-11-71; 8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19058-19060; FCC 71R-181]

NIAGARA COMMUNICATIONS, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Niagara Communications, Inc., Savannah, Ga., Docket No. 19058, File No. 723-M-L-89; Marine Telephone Co., Inc., Savannah, Ga., Docket No. 19059, File No. 804-M-P-99; Answering Network of Georgia, Inc., Savannah, Ga., Docket No. 19060, File No. 901-M-L-80; for a Public Coast Class III-B radio station at Savannah, Ga.

1. This proceeding involves the mutually exclusive applications of Niagara Communications, Inc. (Niagara), Marine Telephone Co., Inc., and Answering Network of Georgia, Inc. (Answering), for authority to construct and operate a public coast Class III-B radio station at Savannah, Ga. By Order FCC 70-1125, released October 28, 1970, the Commission designated the applications for hearing. Presently before the Review Board is a motion to enlarge issues, filed April 15, 1971, by Answering seeking the addition of a financial qualifications issue against Niagara.¹

2. In support of its motion, petitioner first points out that Niagara indicated, in its application, that \$3,600 would be required to establish the proposed station; that it (Niagara) had recently completed a \$27,000 contract for a State governmental agency; and that a balance sheet was on file in connection with another application. That application, petitioner notes, contains a bank loan commitment for \$30,000 from the Liberty National Bank of Buffalo. Answering next refers to the Review Board's opinion in the Bay Shore, N.Y., proceeding, Niagara Communications, Inc., 27 FCC 2d 500, 21 RR 2d 49, released February 8, 1971, in which a financial qualifications issue was added against Niagara. Petitioner asserts that Niagara is currently prosecuting applications for 13 new Public Coast stations,² and intends to finance all of its proposals with the same \$30,000 loan commitment from the Buffalo, N.Y., bank. Petitioner argues that since the Review Board felt that serious financial questions were raised in the Bay Shore proceeding, and since Niagara's financial proposal is the same in this proceeding as in Bay Shore, the

Review Board should add the requested issue. In addition, Answering maintains that Niagara's balance sheet does not indicate the amount by which its current assets exceed current liabilities, and that Niagara has not shown to what extent, if at all, alleged funds from Niagara's recently completed \$27,000 contract will be available for financing this proposal. The Safety and Special Radio Services Bureau supports the requested enlargement. Both petitioner and the Bureau concede that the petition is late, but argue that since the order of the Review Board in Bay Shore, and a subsequent order of the Commission specifying a financial issue against Niagara in a different Public Coast application, FCC 71-329, released April 14, 1971 (based on the Review Board's action in Bay Shore), were released after the designation order in this proceeding, good cause exists for the late filing.

3. In opposition, Niagara states that it has already withdrawn several of its pending applications; that it intends to withdraw its Salem, N.J. application; and that, in addition to Savannah, it now has applications pending only in Atlantic City and Virginia Beach. Niagara further states that in the recently completed Bay Shore hearing, it introduced a revised bank loan commitment letter for \$75,000. It would be unfair, Niagara argues, to use this hearing to go into the financial proposals in applications already through hearing and awaiting the Hearing Examiner's decision. Niagara further maintains that it would be speculative to examine its financial proposals in applications not now before the Review Board. Finally, Niagara argues that good cause for the untimely petition has not been shown, since some of its various applications were on file and a matter of public record prior to the time the Savannah application was designated for hearing; as to those applications filed after Savannah, Niagara urges that they "should be disposed of at the time these matters are considered, not in the Savannah hearing."

4. The Review Board is of the view that Answering has shown good cause for the late filing of its petition. We also believe that, to the extent that petitioner seeks an issue to determine the amount of funds Niagara has available, such an inquiry is warranted. Niagara's application includes only the \$30,000 bank commitment letter, which has previously been found to be inadequate to establish that Niagara can meet the costs of its pending applications; a statement that a \$27,000 contract was recently completed, which does not, of itself, show the availability of any funds; and a reference to a balance sheet, which does not show a substantial surplus of current liquid assets over current liabilities. No amendment reflecting changed or additional sources of financing has been filed in this proceeding, and, even though Niagara has dismissed several of its pending applications, it is not apparent from Niagara's application or the pleadings filed

¹ Other related pleadings before the Board for consideration are: (1) Comments, filed Apr. 20, 1971, by the Safety and Special Radio Services Bureau; and (2) opposition, filed Apr. 22, 1971, by Niagara Communications, Inc.

² Answering alleges that Niagara has applications also pending for Public Coast stations in Sarasota, St. Petersburg Beach, Punta Gorda, and Venice, Fla.; Atlantic City and Salem, N.J.; Bay Shore, East Hampton, and West Islip, N.Y.; Warwick and Providence, R. I.; and Virginia Beach, Va.

herein that it has sufficient funds to meet the estimated costs of this and other pending applications. The Board finds no basis, however, for the addition of an issue inquiring into Niagara's proposed costs. Petitioner has not challenged any specific costs, it has not alleged that necessary costs have been omitted, and it has supplied no affidavits regarding Niagara's proposed costs. The issue specified, therefore, will be limited to an inquiry into the amount of funds Niagara has available to meet its estimated costs.

5. *Accordingly, it is ordered.* That the motion to enlarge issues, filed April 15, 1971, by Answering Network of Georgia, Inc., is granted to the extent indicated herein, and is denied in all other respects; and

6. *It is further ordered.* That the issues in this proceeding are enlarged by the addition of the following issue: To determine whether Niagara Communications, Inc., has available sufficient funds to construct and operate the stations proposed in the instant and other pending applications, and in light thereof, whether Niagara Communications, Inc., is financially qualified.

7. *It is further ordered.* That the burdens of proceeding and proof under the issue added herein shall be on Niagara Communications, Inc.

Adopted: June 7, 1971.

Released: June 8, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-8320 Filed 6-11-71; 8:55 am]

[Dockets Nos. 18759-18761; FCC 71R-180]

RKO GENERAL, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard application of RKO General, Inc. (WNAC-TV), Boston, Mass., for renewal of broadcast license, Docket No. 18759, File No. BRCT-63; Community Broadcasting of Boston, Inc., Boston, Mass., Docket No. 18760, File No. BPCT-4198; The Dudley Station Corporation, Boston, Mass., Docket No. 18761, File No. BPCT-4277; for construction permit for new television broadcast station.

1. This proceeding involves the mutually exclusive application of RKO General, Inc. (WNAC-TV) (hereinafter RKO), for renewal of license for its television broadcast station in Boston, Mass., and those of Community Broadcasting of Boston, Inc. (hereinafter Community), and The Dudley Station Corp. for authorization to construct a new television broadcast station in the same community. The proceeding was designated for hearing by order of the Commission (FCC 69-1335, 34 F.R. 19852, published Dec. 18, 1969) on, inter alia, an anticompetitive practices issue as to RKO. Presently before the Review Board is a petition to enlarge issues, filed

December 28, 1970, by Community.¹ Petitioner requests the addition of an issue to determine whether in their testimony and statements in the KHJ-TV proceeding (Docket Nos. 16679-80), officers, employees, and/or former employees of RKO, or of its parent corporation, General Tire and Rubber Co. (hereinafter General), misrepresented or concealed facts or were lacking in candor in regard to the existence and nature of reciprocal trade practices engaged in by the two corporations.

2. In support of its petition, Community notes that under the anticompetitive practices issue designated in the instant proceeding, petitioner was given permission to inspect over 72,000 pieces of paper at General's headquarters in Akron, Ohio. The cited documents, explains Community, involved the intra-corporate and intercorporate relations of General and, in large part, its challenged trade practices.² Petitioner contends that the documents reviewed at Akron disclose that the RKO and General personnel who testified in regard to reciprocal trade practices in the KHJ-TV proceeding "either concealed facts within their knowledge or misrepresented the situation." The bulk of Community's petition consists of the juxtaposition of testimony obtained from sworn witnesses in the KHJ-TV proceeding with statements and other information contained in documents subsequently inspected at General's headquarters.³ In general, petitioner argues that, in their KHJ-TV testimony, the witnesses tended to deny the existence

of any real pattern of reciprocal dealings between General and its suppliers, while the documents obtained through discovery in this proceeding demonstrate an aggressively pursued policy of reciprocal dealing covering all aspects of General's business affairs. Further, asserts Community, such a policy was known and implemented by the same corporate officers who testified in the KHJ-TV proceeding.

3. The following citations are representative of the myriad examples set forth by petitioner in support of alleged lack of candor by RKO and General officials: (1) Community alleges that when John Ragsdale was asked to disclose the purpose of compiling dollar amounts of sales to and from General by suppliers, he replied that he did not at first know, but later discovered that the purpose was to determine trends in purchasing and sales. However, as proof of its assertion that General's suppliers were "required, as a condition precedent to doing business with General and its family of subsidiaries, to purchase General's products and services" and that Ragsdale knew the information compiled by him was "a check to determine what companies should be favored with General's business and to what extent", petitioner submits letters, memoranda, and other documents such as the following memorandum written on August 31, 1961, by Ragsdale to a General area representative:

Our records indicate that in 1960 purchases of the Colorado Fuel & Iron Corp. from your dealer in Pueblo amounted to \$19,446. These are figures as supplied directly from Colorado Fuel.

To date in 1961, we have purchased 26,400 in bead wire from this company and \$12,500 through our Aerojet Division in California. At this rate, we should purchase in excess of \$40,000 and it is hard to determine how much our purchases will be through Aerojet.

In view of this, I would suggest that Colorado Fuel & Iron reconsider directing their purchases to our competition, and I might further suggest that perhaps they owe us a little more business. (Document No. 01904)

Petitioner also sets forth the letter of March 1, 1965, from Ragsdale to an official of General's Truck Tire Sales Division in reference to a company called Herrin Transportation:

I have told the Traffic Department to cease negotiations with Herrin until we are favored with the 200 tire order they were to give us last week at the price that was favorable to them.

When this order is received we will then negotiate the 30 tire per month order and the amount of freight they can expect from us in 1965. (Document No. 72353)

(2) Community notes that when James Filson was asked whether reciprocal dealings were part of his duties, he stated, "No, not reciprocal dealings. I would say very strongly, no." (Tr. 3894) As proof of Filson's lack of candor in making such a response, petitioner points to documents such as a March 11, 1963, communication from Filson to an associate:

In regard to your inquiry concerning Sunbeam Bakeries, as you know, Continental Baking Co. supplies the bread and Langendorf supplies the hamburger buns at Sacramento.

They are both good customers of ours purchasing tires and advertising time.

No change can be made, as it would certainly affect our relationship with these companies. (Document No. 11420)

Petitioner also cites Filson's statement of April 29, 1963, that "I personally feel that we are giving too much freight to some of the large carriers for what we get in return." (Documents Nos. 12056-57) (3) Petitioner cites the testimony of Robert Wilke wherein, Community contends, Wilke denied that he was a "trade relations man" or coordinated his activities with Ragsdale. (Tr. 3515-16) Petitioner contrasts that testimony with such documents as: (a) The June 9, 1961 letter from Ragsdale to Wilke:

We are negotiating with Dow Chemical for some business we can give them. In the course of our negotiations we mentioned the fact that they should be using our owned and operated stations for their advertising. (Document No. 02356)

and, (b) the following exchange between Ragsdale and Wilke: Ragsdale to Wilke on August 16, 1961:

• • • It has been brought to my attention that they [Hertz] buy about \$150,000 annually in broadcast advertising. Corporate-wise we do considerable rental business and have agreements with all most [sic] all the rental car agencies. If there is any way in this area we can be helpful to you, I would appreciate hearing from you. (Document No. 3408)

Wilke to Ragsdale on August 21, 1961:

We have been fortunate in doing a substantial amount of business with Hertz. • • • I am checking to see whether some of the other rental agencies are customers or prospects and I'll give you a call if we need some help. (Document No. 3407)

(4) Community asserts that G. Lawrence Murphy, Jr., testified that he never used General's purchases as a wedge to get business (Tr. 4228), but indicates that Mr. Murphy's testimony is contradicted by such documents as a report of May 14, 1962, about Cities Service Co.:

Using Columbia Carbon (carbon black) in quantities we do [sic], we felt this would be a contributing factor in the securing of this business. (Document No. 19055)

Petitioner continues that Mr. Murphy stated at the KHJ-TV hearing that the information which Ragsdale compiled on purchases and sales "was put together to some extent to justify Ragsdale's existence". (Tr. 4207) However, contends Community, the witness must have known that the information was being gathered for purposes of reciprocal dealing as is illustrated by a July 1961 note from Ragsdale to Murphy which stated:

With regard to Aerojet's paint contract, I am attaching a list of accounts to whom we sell latex and you will notice it is pretty complete. The only company we don't do business with is Glidden, so therefore, they should not be favored. (Document No. 3430)

4. In opposition, RKO first argues that Community's petition is grossly untimely and that good cause for the late filing has not been shown. Specifically, RKO contends that the same allegations now made by Community were made in the KHJ-TV renewal proceeding by Fidelity Television, Inc., which was there represented by the same counsel as is Community here. Moreover, urges RKO, "the bulk of items upon which Community ostensibly relies in its petition are identical with those of which its counsel was fully aware prior to the closing of the KHJ-TV record in August 1968, or are merely cumulative, dealing essentially with the same subjects covered by these documents." Respondent pleads that Community's petition violates § 1.229(c) of the Commission rules, not only because of untimeliness, but also because it is not supported by the requisite documents or by affidavits of persons with personal knowledge of the facts. The petition is further deficient, submits RKO, because only the KHJ-TV exhibits are subject to official notice. Lack of supporting affidavits, affirms RKO, "accounts for the flagrant distortions and omissions in documents and testimony by which Community has sought to persuade the Review Board that enlargement of the issue is warranted."

5. Turning to the merits of the petition, RKO argues that Community falls far short of showing that the likelihood of proving its allegations is so substantial as to outweigh the petition's procedural defects. The applicant first notes that the Examiner in the KHJ-TV case was asked to make adverse findings against RKO on issues of candor and misrepresentation, but refused to do so. RKO denounces the space Community devotes to reciting difficulties encountered in obtaining documents in the KHJ-TV case and labels it "a patently unfair attempt to rehash discovery matters which were put to rest by the Examiner in the KHJ-TV case." RKO asserts that all of the documents which Fidelity could have legitimately required were produced, given the limited scope of the issue in that case, i.e., reciprocal trade practices involving RKO between 1962 and 1967 and having a material bearing on its stewardship of KHJ-TV. RKO also condemns what it terms "Community's generalized and self-serving characterizations of the testimony" of RKO and General witnesses. Respondent maintains that Community neglects to notice that testimony of the cited officers and employees was corroborated in the KHJ-TV case by testimony of executives of other companies. Lastly, RKO submits a detailed rebuttal of Community's allegations with respect to particular witnesses.⁴

"No good purpose would be served by setting forth RKO's rebuttal here. However, running through the whole of RKO's showing is the contention that Community has distorted testimony; reopened questions already settled at the KHJ-TV hearings; cited documents which fail to support its claims; and engaged in sheer speculation and illogical inferences.

6. In reply, Community denies that its petition is untimely. Petitioner argues that the documents available to Fidelity in the KHJ-TV proceeding "merely scratched the surface" with regard to General's anticompetitive practices and that the present allegations are based upon documents made available (and reviewed) in the instant proceeding. Petitioner maintains that its petition was filed immediately after having examined the 72,000 documents in question and following comparison of them with the transcript in the KHJ-TV case—a time-consuming task. Community argues that RKO's assertion that the documents referred to are identical with those in the KHJ-TV proceeding (or are merely cumulative) is ludicrous inasmuch as RKO supports its allegation with only 13 examples of duplication. Community contends further that it cited over 140 documents unavailable to counsel prior to this proceeding; that all pertinent documents bearing on the issues were not specifically referred to in the petition; and that only with the discovery of documents in the instant case did the scope of the alleged anticompetitive practices of RKO and General become clear. Petitioner insists that RKO has contradicted itself by simultaneously claiming (a) that Community had access to all documents relied upon in its instant petition at the time of the KHJ-TV proceeding, and (b) that RKO was justified in withholding documents in the former proceeding because the anticompetitive issue in the KHJ-TV proceeding was limited. In reply to RKO's argument that the petition is also deficient because it is unsupported by affidavits, Community points out that the files of General and the KHJ-TV hearing record were the only two sources of documents used and that the former source was at all times within the control of General. Finally, Community affirms that it has shown a substantial likelihood of proving its allegations by pleading that the bulk of documents cited remains unchallenged. Petitioner seeks to distinguish the conclusions drawn in the KHJ-TV proceeding by referring to the paucity of documents there available to the Presiding Officer. Petitioner reminds the Board that "the same kind of evidence is not the same evidence", and urges that the conclusion RKO draws from the consistent testimony of its witnesses is unavailing, as all its witnesses had an interest in resolution of the antitrust issue.

7. In the Broadcast Bureau's view, Community's petition does not comply with the timeliness provisions of § 1.229 of the Commission's rules. The Bureau does, however, urge acceptance of the pleading, in view of the extensive and detailed discovery measures undertaken by Community and in light of the grave public interest questions presented by its allegations. The Bureau invokes the doctrine set forth in *The Edgefield-Saluda Radio Co.*, 5 FCC 2d 148, 8 RR 2d 611 (1966). With qualified exception, the Bureau endorses Community's requested issues. Although the Bureau does not find

petitioner's allegations as to Michael O'Neil, Thomas O'Neil, and Hathaway Watson persuasive, it registers its belief that an adequate threshold showing has otherwise been made and would support a broadly inclusive issue in the interests of compiling a complete and informed record. In support the Bureau cites Christian Voice of Central Ohio, 27 FCC 2d 185, 20 RR 2d 1233 (1971).

8. The Review Board is of the opinion that Community's petition must be granted despite its admitted untimeliness under § 1.229 of the Commission's rules. Although Community has failed to plead good cause explicitly in its petition,⁹ the requisite showing is inherently present in the background of the petition, viz., petitioner had to review 72,000 documents at General's headquarters in Akron, Ohio, and also had to reevaluate the testimony of witnesses in the KHJ-TV proceeding in light of those documents. Further, the Board has concluded that petitioner's request for issues is based substantially upon documents newly discovered in the instant proceeding and that these documents are not merely cumulative with documents and information available to counsel in the KHJ-TV proceeding. Moreover, Community's petition raises serious public interest questions as to RKO's qualifications to be a Commission licensee. Consideration of Community's petition on its merits is therefore required under the rationale set forth in *The Edgefield-Saluda Radio Co.*, supra.¹⁰

9. Turning to the merits of Community's petition, we are persuaded that, with the exceptions noted below, a more than sufficient showing has been made for addition of the requested issues. When compared with the totality of documents relied upon by Community, the testimony of Messrs. Ragsdale, Filson, Wilke, and Murphy in the KHJ-TV proceeding raises substantial questions as to the candor and truthfulness of those witnesses concerning the nature and extent of RKO's and General's reciprocal trade practices. While RKO's opposition may now meet a number of petitioner's specific allegations, much of the material referred to by Community remains unchallenged or unsatisfactorily refuted. Taken as a whole, RKO's showing fails to resolve doubts raised by the apparent incongruity of responses made by executive witnesses at the KHJ-TV hearing with statements cited and excerpted in the instant petition. Petitioner has, for example, documented correspondence sufficient on its face to contradict John G. Ragsdale's testimony at hearing (paragraph 3, Item 1, supra); James Filson's disclaimer of reciprocal dealings (paragraph 3, Item 2, supra);

⁹ Petitioner does, however, address itself to this question in its reply pleading.

¹⁰ No merit attaches to RKO's argument that Community's petition is also procedurally deficient for lack of a supporting affidavit. The petition is based entirely upon a hearing transcript of which the Board can take official notice and upon documents within the control of General.

Robert Wilke's denial of engaging in "trade relations" (paragraph 3, Item 3, supra); and G. Lawrence Murphy, Jr.'s affirmation that he did not have recourse to General's purchasing power in order to secure business (paragraph 3, Item 4, supra). Respondent, in opposition, has sought to establish in general that the KHJ-TV renewal proceeding renders the instant matter res judicata and has answered with particularity certain specific allegations of petitioner. RKO has not, however, addressed itself to many individual allegations, inter alia, those set forth as Items 1 to 3, paragraph 3, supra. Moreover, respondent's reply to such specifics as Item 4, paragraph 3, supra, has not always been convincing nor unqualified. The Board is therefore unable to dispose of the instant petition by means of the responsive pleadings before it. That the Hearing Examiner in the KHJ-TV case refused to make adverse findings with respect to the veracity or candor of the RKO witnesses is irrelevant to our decision since the Examiner had there before him only a fraction of the material currently relied upon by petitioner. Nor do we find pertinent RKO's contention that the testimony of Messrs. Ragsdale, Wilke, Filson, and Murphy was corroborated by that of former General and RKO employees and by that of executives of other corporations. The more limited scope of the anti-competitive practices issue tried in the KHJ-TV proceeding does not here preclude a de novo resolution of misrepresentation or candor issues. The Board will therefore specify issues against RKO in the terms requested by Community. Finally, the Review Board notes that the issues will be drafted "sufficiently broad so as not to restrict or unduly limit the scope of all relevant and material evidence which should be admitted to compile a complete and proper record". Christian Voice of Central Ohio, 27 FCC 2d at 189, 20 RR 2d at 1237, supra. However, as was further noted by the Commission in *Christian Voice of Central Ohio*, supra, the Hearing Examiner is empowered to regulate the admissibility of evidence so as to ensure against surprise and other unfairness.

10. Accordingly, it is ordered, That the petition to enlarge issues, filed December 28, 1970, by Community Broadcasting of Boston, Inc. is granted; and

11. It is further ordered, That the motion for leave to file comments on revision of page five of "Reply to opposition of RKO General, Inc., to petition to enlarge issues", filed February 23, 1971, by RKO General, Inc., is granted; and

12. It is further ordered, That the issues in the instant proceeding are enlarged so as to include the following issues:

(a) To determine whether in sworn testimony given in the course of the KHJ-TV proceeding, Dockets Nos. 16679-16680, officers, employees, and/or former employees of General Tire and Rubber Co., or of RKO General, Inc., misrepresented facts, concealed facts, or were lacking in candor with regard to the

existence, nature, and extent of reciprocal trade practices engaged in by General Tire and Rubber Co. and RKO General, Inc.; and

(b) To determine in light of the evidence adduced pursuant to the aforementioned issue whether RKO General, Inc., should be disqualified as licensee of WNAC-TV or, alternatively, assessed a comparative demerit; and

13. It is further ordered, That the burden of proceeding with the introduction of evidence shall be on Community Broadcasting of Boston, Inc., and the burden of proof under the issues added herein shall be on RKO General, Inc.

Adopted: June 3, 1971.

Released: June 7, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-8321 Filed 6-11-71; 8:55 am]

[FCC 71-587]

PRIMER ON ASCERTAINMENT OF COMMUNITY PROBLEMS

Applicants in Pending Hearing Cases To Comply With Primer

JUNE 4, 1971.

In paragraph 79 of the report and order adopting the Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971), we stated that "applicants in pending hearing cases may amend their applications if deemed necessary in view of our action here, within ninety (90) days of the release of the report and order, or such further time as the presiding tribunal may allow for cause shown." Since that time, it has come to our attention that a number of questions have been raised concerning the effect to be given to such amendments.

In our view, the disposition of these questions is controlled by two fundamental principles, long governing adjudicatory proceedings. First, we have often permitted an applicant to eliminate a disqualifying factor through amendments submitted during the course of the hearing. See *Fidelity Radio, Inc.*, 1 FCC 2d 661 (1965). Because of the special circumstances surrounding our requirements relating to the ascertainment of community problems issue, we determined that amendments would be permitted in this instance in all pending hearing cases whether or not the record had been closed. See *Risner Broadcasting, Inc.*, 28 FCC 2d 330 (1971). On the other hand, we have consistently refused to allow any applicant to obtain a comparative advantage over his competitors by relying upon an amendment submitted after the hearing has begun. See *Flower City Television Corp.*, 4 FCC 2d 384 (1966).

For these reasons, we are convinced that any applicant should be permitted to submit an appropriate, corrective

amendment concerning the ascertainment of community problems pursuant to paragraph 79 of the report and order supra, and that such amendments should be accepted and considered in deciding any relevant disqualifying issue. However, while such amendments may be accepted whether or not there is a disqualifying issue relating to the applicant who submits such an amendment, we believe it would be inappropriate to give any weight to such an amendment in considering the comparative ascertainment efforts and programing differences of the applicants, whether or not a disqualifying issue has been specified as to one or more of them.¹ Since, to do otherwise, might give one applicant an unfair advantage over his competitors or might require additional hearings further delaying the ultimate disposition of the case, we are confident that implementation of the guidelines set forth above will treat applicants fairly, serve the public interest, and avoid any undue burden upon the adjudicatory process.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-8322 Filed 6-11-71; 8:55 am]

[Report No. 547]

COMMON CARRIER SERVICES INFORMATION²

Domestic Public Radio Services Applications Accepted for Filing⁴

JUNE 7, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list,

¹ For example, where A and B have been designated for a consolidated hearing, with a disqualifying ascertainment of community problems issue specified against applicant A and comparative ascertainment efforts and programing differences issues specified as to both applicants, either or both applicants may file an amendment. Assuming that both applicants have filed proper amendments, the amendment submitted by applicant A may be considered in deciding the disqualifying issue, but neither amendment may be considered in the resolution of the comparative ascertainment efforts and programing differences issues.

² Action by the Commission June 3, 1971. Commissioners Robert E. Lee, Johnson, H. Rex Lee, and Wells, with Commissioner Bartley (Acting Chairman) concurring in part and dissenting in part and issuing a statement.

³ All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

⁴ The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon

the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX

APPLICATIONS ACCEPTED FOR FILING DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE:

File No., applicant, call sign and nature of application

- 6413-C2-AL-71—Bay Radio-Telephone Dispatch, Inc. (KLF607). Consent to assignment of license from Bay Radio-Telephone Dispatch, Inc., Assignor, to Tel Sec Radio, Inc., Assignee (2-way at Green Bay, Wis.).
- 5588-C2-R-71—South Central Bell Telephone Co. (KLF514). Renewal of Developmental License expiring July 1, 1971. Term: July 1, 1971 to July 1, 1972. (Temporary locations within the territory of the grantee.)
- 6738-C2-P-71—Sherman M. Wolf, doing business as Zipcall (New). C.P. for a new 2-way station. Frequency: 454.300 MHz (base). Location: 350 Cedar Street, Needham, MA.
- 6739-C2-P-71—Central Mobile Radio Phone Service (KQK595). C.P. for an additional base channel to operate on 152.03 MHz at its existing site 505 Jefferson Avenue, Toledo, OH.
- 6744-C2-P-71—Morrison Radio Relay Corp. (KKJ460). C.P. to add a second channel to operate on 43.22 MHz at existing location No. 2: Fidelity Union Tower Building, 1511 Bryan Street, Dallas, TX.
- 6745-C2-P-(8)-71—RAM Broadcasting of Texas, Inc. (New). C.P. for a new 1-way-signaling station. Frequencies: 43.22 and 43.58 MHz. Locations: location No. 1: KTVT(TV) Tower Cedar Hill, Tex.; location No. 2: 7038 Greenville Avenue, Dallas, TX; location No. 3: 3333 Fort Worth Avenue, Dallas, TX, and location No. 4: 5210 Bridge Street, Fort Worth, TX.
- 6747-C2-P-(2)-71—Tel-Car, Inc. (KRM969). C.P. to add an additional repeater antenna to operate on 459.15 MHz at existing site location No. 1: 7 miles south-southwest of Albion, Idaho, and add an additional control antenna to operate on 454.15 MHz at a new site identified as location No. 3: 1.9 miles west of Pocatello, Idaho.
- 6754-C2-AL-71—Maureen L. Smith (KQC881). Consent to assignment of license from Maureen L. Smith, Assignor, to Del Mintz, doing business as National Mobile Radio, Assignee (1-way-signaling station at Cleveland, Ohio).
- 6414-C2-AL-71—ABC Phone & Radio Answering Service, Inc. (KFL895). Consent to assignment of license from ABC Phone & Radio Answering Service, Inc., Assignor, to Airsignal International, Inc., Assignee (2-way station at Bradenton, Fla.).
- 6746-C2-P-(2)-71—General Telephone Co. of Florida (KIY440). C.P. to change antenna location from Bellevue Avenue and A.C.L. Railroad, Lake Wales, Fla., to 2.5 miles west-southwest of Hilland City, Fla., operating on 152.57 and 152.81 MHz and replace transmitters. Also change service from manual to IMTS.

RURAL RADIO SERVICE

- 6743-C1-ML-71—South Central Bell Telephone Co. (KPP66). Modification of license to add point of communication, namely: Lake Charles Dredging & Towing Co., Inc., at Port Eads, La. (WHA79) on frequency 454.40 MHz. Station location: Approximately 2 miles northwest of Venice, La. (Central Office Station).

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

- 5632-C1-P-71—South Central Bell Telephone Co. (KZS92). C.P. for renewal of a developmental license expiring July 1, 1971. Term: July 1, 1971 to July 1, 1972.
- 6734-C1-P-71—General Telephone Co. of the Northwest, Inc. (New). C.P. for a new station to be located at 17230 Northeast 95th Street, Redmond, WA. Frequencies: 4407.5 MHz toward Rattlesnake Ledge, Wash., and 4422.5 MHz toward Fort Lawton, Wash.
- (INFORMATIVE: A waiver is requested in accordance with FCC rules and regulations, Part 21.701(a) for operation of the subject radio facilities on Government frequencies.)
- 6735-C1-P-71—Pacific Northwest Bell Telephone Co. (New). C.P. for a new station to be located at Building 654, Fort Lawton, Wash. Frequencies: 4707.5V Kingston, Wash. and 4722.5H toward Redmond, Wash.
- (INFORMATIVE: A waiver of Part 21.120(a) and Part 21.701(a) of the Commission's rules, is requested.)
- 6736-C1-P-71—Pacific Northwest Bell Telephone Co. (KOT50). C.P. to add frequency 4707.5 MHz toward Redmond, Wash., and 4722.5 MHz toward Vashon, Wash. Station location: Rattlesnake Ledge, 2.8 miles southwest of North Bend, Wash.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued
(INFORMATIVE: A waiver of Part 21.120(a) and Part 21.701(a) of the Commission's rules, is requested.)

6737-C1-P-71—Beaver State Telephone Co. (KPT38), C.P. to modify existing transmitters with Collins 5248-MW/50A10-1MW.
6740-C1-P-71—Continental Telephone Co. of Virginia (New), C.P. for a new station to be located at 121 North Marshall Street, Chase City, VA. Frequencies: 6212.1 and 11,665 MHz toward Clover, Va.

CORRECTION

6527-C1-P/MIL-71—The Chesapeake & Potomac Telephone Co. of Virginia (KGC79), Correct applicant name to read: The Chesapeake & Potomac Telephone Co. All other terms same as indicated in Report No. 545, dated May 24, 1971.

6741-C1-P-71—Southwestern Bell Telephone Co. (WAY31), C.P. to add frequencies 5974.8 and 6093.5 MHz toward Hartley, Tex., a new point of communication. Station location: 142 feet southwest of Ninth and Porter Streets, Dumas, TX.
6742-C1-P-71—Southwestern Bell Telephone Co. (New), C.P. for a new station to be located at 3 miles north of Hartley, Tex. Frequencies: 6226.9 and 6345.5 MHz toward Dumas and Dalhart, Tex.

6748-C1-P-71—Michigan Bell Telephone Co. (KQ164), C.P. to add frequencies 6278.8 and 11,155 MHz toward Perkins, Mich. Station location: 1005 First Street, Escanaba, MI.
6749-C1-P-71—Michigan Bell Telephone Co. (KQ170), C.P. to add frequencies 6026.7 and 11,605 MHz toward Escanaba, Mich. Station location: On west side of Highway M-35, 0.9 mile south of Perkins, Mich.

6750-C1-P-71—The Western Union Telegraph Co. (WGF83), C.P. to add frequencies 6004.5 and 6123.1 MHz toward Mount Weather, Va. Station location: 0.9 mile southwest of Middletown, Va.

6751-C1-P-71—The Western Union Telegraph Co. (New), C.P. for a new station to be located at Mount Weather, 2.2 miles southwest of Blount, Va. Frequencies: 6226.9 and 6345.5 MHz toward Middletown East, Va., and 6256.5 and 6375.2 MHz toward Short Hills, Va.

6752-C1-P-71—The Western Union Telegraph Co. (KQ050), C.P. to add frequencies 5974.8 and 6093.5 MHz toward Mount Weather, Va., and 6004.5 and 6123.1 MHz toward Tenley, D.C. Station location: 2.5 miles southeast of Harpers Ferry, Va. (Short Hills).

6753-C1-P-71—The Western Union Telegraph Co. (KGB34), C.P. to add frequencies 6226.9 and 6345.5 MHz toward Short Hills, Va. Station location: 41st Street and Wisconsin Avenue, Washington, DC.

6777-C1-P-71—City of Anchorage Telephone Utility (New), C.P. for a new station to be located at 7441 Debarr Road, Anchorage, Alaska. Frequencies: 5945.3 and 6106.3 MHz toward Eagle River, Alaska, via passive reflector.

6778-C1-P-71—Matanuska Telephone Association, Inc. (New), C.P. for a new station to be located at Eagle River Road, one-half mile south of Eagle River Shopping Center, Alaska. Frequencies 6197.2 and 6404.8 MHz toward Anchorage, Alaska, via passive reflector.

6842-C1-P-71—Navajo Communications Co. (New), C.P. for a new station to be located at 2 blocks west of the junction of Highway 666 and 550, Shiprock, N. Mex. Frequencies: 6197.2 and 6315.9 MHz on azimuth 161°14'.

6843-C1-P-71—Navajo Communications Co. (New), C.P. for a new station to be located at Hogback, 13.7 miles southeast of Shiprock, N. Mex. Frequencies 5945.2 and 6063.8 MHz on azimuth 341°17'; and 6004.5 and 6123.1 MHz on azimuth 191°03'.

6844-C1-P-71—Navajo Communications Co. (New), C.P. for a new station to be located at Deza Butte, 3.5 miles northwest of Tonahuti, N. Mex. Frequencies 6256.5 and 6375.2 MHz on azimuth 10°57'; 6197.2 and 6315.9 MHz on azimuth 227°44'; and 2112.4 MHz on azimuth 114°26'.

6845-C1-P-71—Navajo Communications Co. (New), C.P. for a new station to be located at 1.1 miles west of Highway 56, Crownpoint, N. Mex. Frequency 2162.4 MHz on azimuth 11°47'.

6846-C1-P-71—Navajo Communications Co. (New), C.P. for a new station to be located at St. Michaels, 4.2 miles west of Window Rock, Ariz. Frequencies: 5945.2 and 6063.8 MHz on azimuth 47°32'; 6256.5 and 6375.2 MHz on azimuth 282°11'; and 11,235 and 11,525 MHz on azimuth 76°59'.

FEDERAL REGISTER, VOL. 36, NO. 114—SATURDAY, JUNE 12, 1971

NOTICES

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

6847-C1-P-71—Navajo Communications Co. (WCZ49), C.P. to correct coordinates to read latitude 35°40'18" N., longitude 109°02'17" W. at its station Rattlesnake Ridge, 1.1 miles east of Window Rock, Ariz., and replace existing facilities 7762.5 and 7812.5 MHz to 10,835 and 11,075 MHz directed toward St. Michaels, Ariz., on azimuth 257°01'.

6848-C1-P-71—Navajo Communications Co. (WCZ47), C.P. to correct coordinates to read latitude 35°40'28" N., longitude 109°12'24" W. at its station Defiance Summit, 8.5 miles west of Window Rock, Ariz., and replace existing facilities 7137.5, 7187.5, 7175.0, and 7225.0 MHz to 6004.5 and 6123.1 MHz on azimuth 102°08'; and 5945.2 and 6063.8 MHz on azimuth 290°25'.

6849-C1-P-71—Navajo Communications Co. (WCZ46), C.P. to replace transmitters and change frequencies from 7800.0 and 7850.0 MHz to 6197.2 and 6315.9 MHz on azimuth 110°12'; and 7762.5 and 7812.5 MHz to 6256.5 and 6375.2 MHz on azimuth 355°33' at Gauda Mesa, 5 miles northwest of Ganado, Ariz.

6850-C1-P-71—Navajo Communications Co. (WCZ45), C.P. to correct coordinates to read latitude 36°03'25" N., longitude 109°35'54" W. at its station Cottonwood Junction, 0.5 miles southwest of Chinle, Ariz., and replace existing facilities 7175.0 and 7225.0 MHz to 5945.2 and 6063.8 MHz on azimuth 20°37'; and 7137.5 and 7187.5 MHz to 6004.5 and 6123.1 MHz on azimuth 175°32'.

6851-C1-P-71—Navajo Communications Co. (WCZ44), C.P. to correct coordinates to read latitude 36°09'12" N., longitude 109°33'13" W. at its station Chinle, Ariz., and replace existing facilities 7800.0 and 7850.0 MHz to 6197.2 and 6315.9 MHz on azimuth 200°39'; and add 6256.5 and 6375.2 MHz on azimuth 311°32'.

6852-C1-P-71—Navajo Communications Co. (New), C.P. for a new station to be located at Yale Point, 2.4 miles south of Rough Rock, Ariz. Frequencies: 6004.5 and 6123.1 MHz on azimuth 131°22'; 5945.2 and 6063.8 MHz on azimuth 306°49'; and 6034.2 and 6152.8 MHz on azimuth 82°06'.

6853-C1-P-71—Navajo Communications Co. (WCZ39), C.P. to replace transmitters and change frequencies 8125.1 and 8243.5 MHz to 6226.9 and 6345.5 MHz on azimuth 49°14'; 8164.3 and 8361.9 MHz to 6256.5 and 6375.2 MHz on azimuth 246°25'; and add 6197.2 and 6315.9 MHz on azimuth 129°31'. Location: Black Mesa, 8.1 miles southwest of Kayenta, Ariz.

6854-C1-P-71—Navajo Communications Co. (New), C.P. for a new station to be located at Lukachukai, Ariz. Frequencies 6286.2 and 6404.8 MHz on azimuth 262°28'.

6855-C1-P-71—Navajo Communications Co. (WCZ38), C.P. to change location to 1.5 miles from junction of Highway 164 and 464, Kayenta, Ariz. at latitude 36°43'43" N., longitude 110°15'25" W.; replace transmitters and change frequencies 7814.3 and 7932.7 MHz to 5974.8 and 6093.5 MHz on azimuth 329°18'.

6856-C1-P-71—Navajo Communications Co. (WCZ43), C.P. to replace transmitters and change frequencies from 7873.5 and 8051.1 MHz to 6004.5 and 6123.1 MHz on azimuth 65°58'; and 8125.1 and 8243.5 MHz to 5945.2 and 6063.8 MHz on azimuth 180°57'. Location: Preston Mesa, 15 miles northwest of Tuba City, Ariz.

6857-C1-P-71—Navajo Communications Co. (WCZ50), C.P. to replace transmitters and change frequencies 7814.3 and 7932.7 MHz to 6197.2 and 6315.9 MHz on azimuth 9°55' at its station Graveyard Junction, 0.6 miles west of Tuba City, Ariz.

6859-C1-P-71—Hawaiian Telephone Co. (KUP41), C.P. to correct coordinates to read latitude 20°53'24" N., longitude 156°30'21" W. at its station Church and Wells Streets, Wailuku, Hawaii; replace transmitters; change frequencies 6219.5 and 6338.1 MHz to 6204.7 and 6323.3 MHz and add 2173.6 MHz on azimuth 128°31'.

6860-C1-P-71—Hawaiian Telephone Co. (KUP48), C.P. to replace transmitters and change frequencies 5967.4 and 6068.0 MHz to 5952.6 and 6071.2 MHz and add 2122 MHz on azimuth 308°39' at its station Haleakala, 5.8 miles southeast of Waialeale, Hawaii.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

6814-C1-P-71—Eastern Microwave, Inc. (KPP81), C.P. to add frequencies 6049.0 and 6108.3 MHz and delete frequency 5960.0 MHz on azimuth 47°41'. Location: 0.2 mile northwest of Gouverneur, N.Y.

(INFORMATIVE: Applicant proposes to provide the television signal of Station WNEW-TV to New Channels Corp. in Potsdam, N.Y. Waiver of rule, section 21.701(i) requested.)

NOTICES

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—continued

6815-C1-P-71—Eastern Microwave, Inc. (KEA66), C.P. to add frequency 5960.0 MHz via power split on azimuth 295°11'. Location: Blue Hill, 2 miles southeast of Fine, N.Y., at latitude 44°13'20" N., longitude 75°07'35" W.

6816-C1-P-71—Eastern Microwave, Inc. (KPP81), C.P. to add frequency 6049.0 and 6108.3 MHz and delete frequency 5960.0 MHz on azimuth 47°41'. Location: 0.2 mile northwest of Gouverneur, N.Y., at latitude 44°20'38" N., longitude 75°29'19" W.

6817-C1-P-71—Eastern Microwave, Inc. (KPP82), C.P. to add frequency 6390.0 MHz on azimuth 15°01'. Location: 2 miles southwest of Potsdam, N.Y., at latitude 44°38'54" N., longitude 75°01'07" W.

(INFORMATIVE: Applicant proposes to provide the television signal of Station WNEW-TV of New York City to New Channels Corp. in Massena and Canton, N.Y. Waiver of rule, section 21.701(i) requested.)

Sierra Microwave, Inc., and Western Tele-Communications, Inc. (New), Applications, resubmitted jointly by Sierra and Western, for new facilities between Mount Vaca, Calif., and Salt Lake City, Utah, reinstated and returned to pending status, Sierra Microwave (Files Nos. 7173-C1-P-66, 7175/76-C1-P-66, 7178-C1-P-66, 7180 through 7182-C1-P-66, 2404-C1-P-67, and 3057 through 3059-C1-P-71; and Western Tele-Communications (Files Nos. 7183-C1-P-66 and 1786-C1-P-71).

(NOTE: See new Western application, File No. 6858-C1-P-71, this Public Notice and Western major amendment, File No. 7183-C1-P-66, this Public Notice.)

6858-C1-P-71—Western Tele-Communications, Inc. (New), C.P. for new station at 950 Stockton Street, San Francisco, Calif. (latitude 37°47'42" N., longitude 122°24'24" W.), transmitting on frequencies 10,715 MHz and 10,955 MHz toward Mount Vaca, Calif., on azimuth 20°32'.

(INFORMATIVE: Applicants (Sierra Microwave and Western Tele-Communications, Inc.) propose to change the origin of their jointly proposed Mount Vaca, Calif.-Salt Lake City, Utah, system from Mount Vaca to San Francisco, Calif. This application does not involve new service. See Sierra Microwave, Inc. (Files Nos. 7173-C1-P-66, 7175/76-C1-P-66, 7178-C1-P-66, 7180 through 7182-C1-P-66, 2404-C1-P-67, 3057 through 3059-C1-P-71; and Western Tele-Communications, Inc. (Files Nos. 7183-C1-P-66 and 1786-C1-P-71. See also major amendment, File No. 7183-C1-P-66 this Public Notice.)

Major Amendment

7183-C1-P-66—Western Tele-Communications, Inc. (KOC42), Application amended to add frequencies 5945.2 MHz and 6004.5 MHz, via power split, toward passive reflector near Logan, Utah, on azimuth 89°56', and on to destination at Logan, Utah, on azimuth 262°11'. Station location: Promontory, 20 miles west of Tremonton, Utah.

(INFORMATIVE: Applicants (Sierra Microwave, Inc., and Western Tele-Communications, Inc.) propose to provide two channels of nonbroadcast program material, originating in San Francisco area, to North Utah Community TV in Logan, Utah. See application File No. 6858 C1-P-71, this Public Notice.)

[FR Doc.71-8323 Filed 6-11-71; 8:55 am]

FEDERAL MARITIME COMMISSION AUSTRALIA/U.S. ATLANTIC & GULF CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the

discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Edward F. Reardon, Agent, Australia/U.S. Atlantic & Gulf Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 9450-5 would modify the Australia/U.S. Atlantic & Gulf Conference's basic agreement to permit its member lines to adopt rules permitting the establishment of absorption and equalization practices between Australian ports.

Dated: June 9, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8306 Filed 6-11-71; 8:53 am]

INTERNATIONAL MOVERS' RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Carroll F. Genovese, Executive Secretary, Movers' & Warehousemen's Association of America, Inc., Suite 1101, Warner Building, Washington, DC 20004.

Agreement No. 8530-2, among the members of the International Movers' Rate Agreement, modifies the self-policing system of the agreement by deleting the third paragraph of paragraph 6, containing the present provisions, and adding a new paragraph 11 incorporating language to conform to the requirements of the Commission's General Order 7 (Revised).

Dated: June 9, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8307 Filed 6-11-71; 8:54 am]

NEW ZEALAND RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the

Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John R. Mahoney, Esq., Casey, Lane & Mittendorf, 26 Broadway, New York, NY 10004.

Agreement No. 9831-1 between Pace Line, Farrell Lines, Inc., and Columbus Line expands the present basic agreement which allows the parties to meet and discuss rules governing the interchange and pooling of container equipment and related matters to include "rates, charges, and rules in connection with the transportation of freight from New Zealand to the Atlantic and Gulf coast ports of the United States." Each party reserves the right to alter any rate, charge classification, or related tariff matter upon 48 hours advance notice to the others.

Dated: June 9, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8308 Filed 6-11-71;8:54 am]

NORTH ATLANTIC MEDITERRANEAN FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such

agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Burton H. White, Esq., Burlingham Underwood Wright, White & Lord, 25 Broadway, New York, NY 10004.

Agreement No. 9548-3, between the member lines of the North Atlantic Mediterranean Freight Conference, modifies Articles 3.1, 13.4(a), 20.2, and 20.4 of the basic agreement to provide as follows:

1. A second sentence has been added to Article 3.1 to provide that any member failing to have a Conference sailing during any one period of 180 consecutive days, shall lose all right to vote on the amendment of the agreement.

2. Article 13.4(a) has been amended to provide that unanimous approval of all members not disqualified from voting under the provisions of Article 3.1 is required for the amendment of this agreement.

3. Articles 20.2 and 20.4 have been amended to increase the amount of guarantee from \$15,000 to \$25,000.

Dated: June 9, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8309 Filed 6-11-71;8:54 am]

PORT OF SEATTLE AND SEA-LAND SERVICE, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the

ing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. T. P. McCutchan, Manager, Property Management, Port of Seattle, Post Office Box 1209, Seattle, WA 98111.

Agreement No. T-2005-7, between the Port of Seattle (Port) and Sea-Land Service, Inc. (Sea-Land), modifies the basic agreement which provides for the lease of certain terminal facilities at Seattle, Wash. The purpose of the modification is to provide for office renovations for Sea-Land as well as provide for the Port to reimburse Sea-Land for the expenses incurred through the above action. The monthly rental is to be increased by \$1,300 to amortize the Port's payment for the added construction.

Dated: June 9, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8310 Filed 6-11-71;8:54 am]

RED SEA AND GULF OF ADEN/U.S. ATLANTIC AND GULF RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the

matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the Statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, Secretary, Red Sea and Gulf of Aden/U.S. Atlantic and Gulf Rate Agreement, 25 Broadway, New York, NY 10004.

Agreement No. 8558-5, among the member lines of the Red Sea and Gulf of Aden/U.S. Atlantic and Gulf Rate Agreement, will modify the basic agreement by updating the terms of its self-policing provisions to include language required by the Commission's General Order 7 (revised).

Dated: June 9, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8311 Filed 6-11-71;8:54 am]

SCANDINAVIA BALTIC GREAT LAKES WESTBOUND FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Lars-Inge Carlsson, Secretary, Scandinavia Baltic Great Lakes Westbound Freight Conference, Packhusplatsen 6, Gothenburg, Sweden.

Agreement No. 9408-2 amends article 1 of the basic agreement to provide for the deletion of Canadian ports from the scope of the Conference.

Dated: June 9, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8312 Filed 6-11-71;8:54 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No. Owner/Operator and Vessels

01088---	Schulte & Bruns: Stadt Bremen. Auguste Schulte. Erika Schulte. Guenther Schulte. Mathilde Schulte. Susanne Schulte. Joachim Schulte. Stadt Emden. Johann Schulte. Konsult Schulte. Henriette Wilhelmine Schulte. Lucie Schulte. Elsbeth Schulte. Elise Schulte. Ursula Schulte. Heinrich Schulte. Stadt Wolfsburg. Ilse Schulte. Herman Schulte.
02151---	Anchor Line, Ltd.: Star Assyria.
02374---	Minouts Shipping Corp.: Minouts.
02566---	Granton Shipping Co., Ltd.: Granton.
03219---	Whitwill, Cole & Co., Ltd.: Irish Wasa.
03428---	Hachiuma Kisen K.K.: Chita Maru.
04067---	Aksjeselskapet Kosmos: Jumunda.
04147---	Theokipa Enterprises, Ltd.: Maria Matheos.
04153---	Sodini Shipping Enterprises, Ltd.: Stella.
04161---	A & S Transportation Co.: Judson K. Stickle. Forest.
04164---	Modern Transportation Co.: Raritan. Seaway 6.
04287---	Monsanto Co.: M-31. M-13. M-12. M-11. M-22. M-21. M-23. Chem-96. M-25. M-24. M-30. Ett-106. Ett-102. Ett-101.
04553---	Hokoku Suisan Kabushiki Kaisha: Elmel Maru.
04793---	Snam S.P.A.: Agipgas Quarta. Cortemaggiore. Alderamine. Agip Venezia. Agip Livorno. Agip Bari. Agip Trieste. Agip Genova. Agip Ancona. Agip Roma. Agip Milano.
04974---	Saga Shipping A/S: Sagaland. Sagatind. Sagafjell. Sagahorn.
05059---	Oriental Central American Lines, Inc.: Oriental Fantasia.
05346---	Sociedad Anonima de Navegacion Petrolera: Cabo Pilar.
05509---	Sansa Compania Naviera S.A.: Ioannis S.
05671---	Petroleos del Peru: Transoceanica. 9 De Octubre. Huascarana.
05694---	Koel Gyogyo Kabushiki Kaisha: Koel Maru No. 7.
05810---	John Hudson Fuel & Shipping, Ltd.: Hudson Venture. Hudson Friendship.
05813---	George Rogwold & Lucille B. Rogwold (H & W): Olympia.
05840---	Mr. Rihel Sakishima: Sakiyoshimaru.
05876---	Rail & Water Terminal of Montreal, Ltd.: Voyageur D. Guard Mavoline.
05877---	Transport Desgagnés, Inc.: Mont St. Martin.
05880---	Estrella Atlantica Navegacion S.A. Panama: Malagasy.
05884---	A. T. Davies Enterprises, Inc.: M/V Seafarer.
05912---	Sarna Navigation S.A.: Sea Pioneer.
05915---	Estrella Leal Navegacion S.A.: M V Dauntless Colocotronis.
05924---	Amur Transport, Inc.: M T Amura.
05929---	Liverpool Liners, Ltd.: Sig Ragne.
05930---	Onepark Shipping Co., Ltd.: Troll River.
05931---	Canpark Shipping Co., Ltd.: Arctic Troll.
05938---	Kingsfield Compania Naviera S.A. Panama: Messiniaki Paradis.
05939---	Estrella Tropica Navegacion S.A. Panama: Messiniaki GI.

Certificate No.	Owner/Operator and Vessels
05940...	Fortuna Oceanica Navegacion S.A. Panama: Messinaki Idea.
05941...	Alma del Atlantico Naviera S.A. Panama: Aristagoras.
05942...	Empresas Armadoras S.A. Panama: Hull 911 T.B.N.
05952...	Koei Gyogyo Kabushiki Kaisha: Koelmaru No. 18.
05971...	Kunitake Kalun Kabushiki Kaisha: Kunitomo Maru. Yohitomo Maru.
05972...	Louis Ormestad A/S: Armlund.
02201...	International Harvester Co.: The International.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8313 Filed 6-11-71;8:54 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-600, etc.]

GALAXY OIL CO. ET AL.

Notice of Applications for "Small Producer" Certificates¹

JUNE 3, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 28, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time re-

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

quired herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

Docket No.	Date filed	Name of applicant
CS71-600...	4-30-71	Galaxy Oil Co., 1100 Hamilton Bldg., Wichita Falls, Tex. 71001.
CS71-601...	4-30-71	Howell Drilling, Inc. (Operator) et al., 604 Millam Bldg., San Antonio, Tex. 78205.
CS71-602...	4-30-71 5-5-71	Hydram Oil & Gas Co., 230-D Frito-Lay Tower, Dallas, Tex. 75235.
CS71-603...	4-30-71	Par Oil Corp., 504 Beek Bldg., Shreveport, La. 71101.
CS71-604...	4-30-71	Grane A. Chalmers, c/o Jerome M. Alper, Attorney, 818 18th St. N.W., Suite 1020, Washington, DC 20006.
CS71-605...	5-3-71	Estate of William G. Hells, 502 Whitney Bldg., New Orleans, La. 70130.
CS71-606...	5-3-71	Joseph Arnold Scott, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-607...	5-3-71	Isaac Arnold, Jr., 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-608...	5-3-71	Robert Tilly Arnold, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-609...	5-3-71	Isaac Arnold, III, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-610...	5-3-71	Antoinette Arnold, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-611...	5-3-71	Joyce M. Gilmore, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-612...	5-3-71	Jerry Chambers, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-613...	5-3-71	Stephen A. Lieber, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-614...	5-3-71	Lance Resources, Inc., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-615...	5-3-71	Neil E. Hanson, 1234 American Bldg., Houston, Tex. 77002.
CS71-616...	5-3-71	Robert Joseph Barnhart, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-617...	5-3-71	Harold E. Mertz, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-618...	5-3-71	Douglas B. Marshall, Jr., 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-619...	5-3-71	Esther M. Mertz, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-620...	5-3-71	Robert W. Gilmore, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-621...	5-3-71	Russell Scott, Jr., 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-622...	5-3-71	Mary Cullen Scott, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-623...	5-3-71	Payne, Inc., Post Office Box 11837, Oklahoma City, OK 73114.
CS71-624...	5-3-71	Post Oak Oil Co., Post Office Box 11837, Oklahoma City, OK 73114.
CS71-625...	5-3-71	Big Chief Drilling Co., Post Office Box 11837, Oklahoma City, OK 73114.
CS71-626...	5-3-71	Arctic Oil Co., 8300 Santa Monica Blvd., Los Angeles, CA 90069.
CS71-627...	5-3-71	Bradley-Shaw, 1022 Union Center Bldg., Wichita, Kans. 67202.
CS71-628...	5-3-71	Frost National Bank, Trustee, Will Crews Morris Trust Co., Post Office Drawer 1600, San Antonio, TX 78206.
CS71-629...	5-3-71 5-6-71	Don D. Montgomery, Jr., 1365 First National Bldg., Oklahoma City, Okla. 73102.

Docket No.	Date filed	Name of applicant
CS71-630...	5-3-71	Ralph L. Leaderbrand, Operator, Post Office Box 1625, Shreveport, La. 71102.
CS71-631...	5-3-71	Eason Oil Co., Post Office Box 1755, Oklahoma City, OK 73118.
CS71-632...	5-3-71	Nieklos Oil & Gas Co., 518 First City National Bank Bldg., Houston, Tex. 77002.
CS71-633...	5-3-71	Irene Wrightman Cernadas Trust, 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-634...	8-21-70	Manier Oil Co., 1010 Wilson Bldg., Corpus Christi, Tex. 78401.
CS71-635...	5-3-71	Four M Properties, Ltd. (successor to Radford Byerly, Trustee), 2807 First City National Bank Bldg., Houston, Tex. 77002.
CS71-636...	5-3-71	Occidental Petroleum Corp., 5000 Stockdale Highway, Bakersfield, CA 93309.
CS71-637...	5-3-71	Prudential Drilling Co. et al., 1880 Post Oak Tower Bldg., Houston, Tex. 77027.
CS71-638...	5-3-71	Norman V. Kinsey et al., Post Office Box 1738, Shreveport, La. 71102.
CS71-639...	5-3-71	I. A. Wyatt et al., c/o Edward Bynum, Attorney, 219 Couch Dr., Oklahoma City, OK 73102.
CS71-640...	5-3-71	J. E. Taubert & N. A. Steed, 1000 First-Wichita National Bldg., Wichita Falls, Tex. 76301.
CS71-641...	5-3-71	Frank B. Trent, Post Office Box 250, Minden, La. 71055.
CS71-642...	5-3-71	Joseph S. Morris, 516 Alamo National Bldg., San Antonio, Tex. 78205.
CS71-643...	5-3-71	W. R. Burton Industries, Inc., Post Office Box 3001, Lake Charles, La. 70601.
CS71-644...	5-3-71	Edmond J. Ford, Jr., 1714 Wilson Tower, Corpus Christi, Tex. 78401.
CS71-645...	5-3-71	Powers Operating Co., 1816 Vaughn Plaza, Corpus Christi, TX 78401.
CS71-646...	4-30-71	Ladd Petroleum Corp., 830 Denver Club Bldg., Denver, Colo. 80202.
CS71-647...	4-30-71	Woods Petroleum Corp., Post Office Box 18667, Oklahoma City, OK 73118.
CS71-648...	4-30-71	Hickerson Oil Co., 2420 Western Federal Savings Bldg., Denver, Colo. 80202.
CS71-649...	4-30-71	Saratoga Production Co., Inc., 2801 South Golden Way, Denver, CO 80227.
CS71-650...	4-30-71	Davis Oil Co., 1230 Denver Club Bldg., Denver, Colo. 80202.
CS71-651...	5-3-71	A. R. Dillard, Jr. et al., 1100 First-Wichita National Bldg., Wichita Falls, Tex. 76301.
CS71-652...	5-3-71	Lois Dee Dillard et al., 1100 First-Wichita National Bldg., Wichita Falls, Tex. 76301.
CS71-653...	5-3-71	Nancy Jane Dillard et al., 1100 First-Wichita National Bldg., Wichita Falls, Tex. 76301.
CS71-654...	5-3-71	Lois Dee Miller, 1100 First-Wichita National Bldg., Wichita Falls, Tex. 76301.
CS71-655...	5-3-71	Nancy Jane Harvey, 1100 First-Wichita National Bldg., Wichita Falls, Tex. 76301.
CS71-656...	5-3-71	A. R. Dillard, Jr., Operator, 1600 10th St., Wichita Falls, TX 76301.
CS71-657...	5-3-71	A. R. Dillard, Inc., 1600 10th St., Wichita Falls, TX 76301.
CS71-658...	5-3-71	Buttes Gas & Oil Co., 522 Southwest Tower, Houston, Tex. 77002.
CS71-659...	5-3-71	Kilroy Properties, Inc., and W. S. Kilroy, 1408 First City National Bank Bldg., Houston, Tex. 77002.
CS71-660...	5-3-71	Curtis Hankamer, 714 Houston Citizens Bank Bldg., Houston, Tex. 77002.
CS71-661...	5-3-71	Gilbert Montgomery, 1365 First National Bldg., Oklahoma City, Okla. 73102.

Docket No.	Date filed	Name of applicant
CS71-662...	5-3-71	Dorle Corp., 1365 First National Bldg., Oklahoma City, Okla. 73102.
CS71-663...	5-3-71	Great Plains Land Co., c/o William V. Byrd, 2504 Republic National Bank Tower, Dallas, Tex. 75201.
CS71-664...	5-3-71	Walters Drilling Co., 400 Insurance Bldg., Wichita, Kans. 67202.
CS71-665...	5-3-71	Love Oil Co., Inc., 3003 North Central, Suite 2101, Phoenix, AZ 85012.
CS71-666...	5-3-71	W. H. Cocke, 2110 Bank of the Southwest Bldg., Houston, Tex. 77002.
CS71-667...	4-30-71	Josephine A. Bryan, c/o Jerome M. Alper, Attorney, 818 18th St. N.W., Suite 1020, Washington, DC 20006.
CS71-668...	4-30-71	P. F. Martyn, c/o Jerome M. Alper, Attorney, 818 18th St. N.W., Suite 1020, Washington, DC 20006.
CS71-669...	4-30-71	Milo H. Abernethy, c/o Jerome M. Alper, Attorney, 818 18th St. N.W., Suite 1020, Washington, DC 20006.
CS71-670...	4-30-71	R. H. Abernethy, c/o Jerome M. Alper, Attorney, 818 18th St. N.W., Suite 1020, Washington, DC 20006.
CS71-671...	5-3-71	M. H. Marr, 2500 Republic National Bank Bldg., Dallas, Tex. 75201.
CS71-672...	5-3-71	Jack W. Grigsby, 1108 Commercial National Bank Bldg., Shreveport, La. 71101.
CS71-673...	5-3-71	Magnus Petroleum Co., 3535 Northwest 58th St., Oklahoma City, OK 73112.
CS71-674...	5-3-71	Hawn Brothers et al., 100 Hawn Bldg., Corpus Christi, Tex. 78401.
CS71-675...	5-3-71	Petroleum Management, Inc. (Operator), et al., 1912 The 600 Bldg., Corpus Christi, Tex. 78401.
CS71-676...	5-3-71	Glasscock Oil Co. (Producer & Operator), 1912 The 600 Bldg., Corpus Christi, Tex. 78401.
CS71-677...	5-3-71	Hanover Planning Co., Inc., Suite 1410, 211 North Erway Bldg., Dallas, Tex. 75201.
CS71-678...	5-3-71	Lago Petroleum Co., 2318 Bank of the Southwest Bldg., Houston, Tex. 77002.
CS71-679...	5-3-71	Underwood Oil Co., Inc., Suite 420, Oil & Gas Bldg., Wichita Falls, Tex. 76301.
CS71-680...	5-3-71	Okanar Oil Co., Post Office Box 54, Marietta, GA 30060.
CS71-681...	5-3-71	Robert M. Beren, 1130 Vickers, KSB&T Bldg., Wichita, Kans. 67202.
CS71-682...	5-3-71	United Energy Corp., A-112 Petroleum Center Bldg., San Antonio, Tex. 78201.
CS71-683...	5-3-71	Gilling Oil Co., First State Bank Bldg., Mission, Tex. 78572.
CS71-684...	5-3-71	Pennie W. Adkins, Testametary Executor of the Estate of John P. Adkins, Jr., Post Office Box 36, Mineral Wells, TX 79667.
CS71-685...	5-3-71	A. J. Gamble, 202 Fairfield Ave., Bastrop, La. 71220.
CS71-686...	5-3-71	North Central Oil Corp., 1300 Main St., Suite 1000, Houston, TX 77002.
CS71-687...	5-3-71	N. C. Glinther, 1400 Bank of the Southwest Bldg., Houston, Tex. 77002.
CS71-688...	5-3-71	Alverne R. Conley, 205 Pine St., Minden, La. 71055.
CS71-689...	5-3-71	Quinn Sale Corp., 420 Lincoln Center, Ardmore, Okla. 73401.
CS71-690...	5-3-71	C. A. Barton, Complex 2, O.C.S., Lafayette, La. 70501.
CS71-691...	5-3-71	Joseph W. Moore, 2010 Gulf Bldg., Houston, Tex. 77002.
CS71-692...	5-3-71	Dakota Mining & Development Corp., Post Office Box 449, Carthage, TX 75633.
CS71-693...	5-3-71	Mrs. Dorothy Wilson Hancock, Post Office Box 68, Beeville, TX 78102.
CS71-694...	5-3-71	B. C. McKeever, 901 Beek Bldg., Shreveport, La. 71101.
CS71-695...	5-3-71	Betty Sue McKeever, 901 Beek Bldg., Shreveport, La. 71101.

Docket No.	Date filed	Name of applicant
CS71-696...	5-3-71	Federal Petroleum, Inc., 1601 Liberty Bank Bldg., Oklahoma City, Okla. 73102.
CS71-697...	5-3-71	Burk Royalty Co., 800 Oil & Gas Bldg., Wichita Falls, Tex. 71001.
CS71-698...	5-3-71	Almslie Perrault, Operators et al., 602 National Bank of Tulsa Bldg., Tulsa, Okla. 74103.
CS71-699...	5-3-71	Jack D. Hodgden, 1108 Bass Bldg., Enid, Okla. 73501.

[FR Doc.71-8104 Filed 6-11-71;8:45 am]

[Docket No. RP71-122]

ARKANSAS LOUISIANA GAS CO.

Notice of Filing and Order Providing for Hearing and Suspending Proposed Revised Tariff Sheets

JUNE 7, 1971.

Take notice that on May 18, 1971, Arkansas Louisiana Gas Co. (Arkla) filed a written report, pursuant to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, and tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, consisting of Original Sheets Nos. 3A, 3B, and 3C, to become effective June 15, 1971, in order to effectuate a gas curtailment policy which Arkla will follow in order to conserve gas on its system for meeting the "human needs" of its customers.

Original Sheet No. 3C sets forth an "Emergency Interim Policy" which states that Arkla's " * * * gas supply is critically low and worsening" and that Arkla will immediately institute a policy of conserving its existing gas supplies by extending the productive life of all connected sources for the benefit of human needs customers who are defined as those in the domestic and commercial classifications.

Original Sheets Nos. 3A and 3B set forth the details of the curtailment program which Arkla will follow when curtailments are necessary to protect deliveries to human needs customers. Gas reductions will become increasingly restrictive as Arkla discontinues deliveries to the five categories of customers hereinafter named. Category I includes all interruptible customers who receive service subject to curtailment at Arkla's sole discretion. Category A includes all users of gas who could switch to an alternate fuel regardless of whether such users have yet installed alternate fuel facilities. Category B includes large users of gas for fuel or as a raw material who cannot use an alternate fuel and whose operations would be reduced or completely shut down if gas supplies were curtailed. Category C consists of those who use small amounts of gas for industrial or regular commercial purposes and for pilot lights in auxiliary

equipment or industrial plants. The highest priority is Category D consisting of schools, churches, residences, hospitals, and other human needs customers.

Original Sheet No. 3B lists the general criteria which will govern the administration of Arkla's curtailment policy. Among those criteria is Arkla's intent to interrupt completely deliveries to one category of customers before reducing deliveries within the next category of service. All those within a given category, to the extent practicable, will be curtailed on a parity with deliveries to all others within that particular category. Curtailments of resale customers in Oklahoma and Kansas will be in accordance with the priority of service provisions of Section 10 of the General Terms and Conditions applicable to Rate Schedule G-2 of Arkla's presently effective tariff. Section 10 provides in effect that Arkla will curtail deliveries of gas to its resale customers before reducing deliveries of gas to its own direct industrial customers. However, Arkla will curtail its own direct industrial customers before reducing the volumes of gas which the resale customers need for supplying their residential customers.

Original Sheet No. 3B also indicates that deliveries to Cities Service Gas Co. under Arkla's Rate Schedule X-26 will be treated on a parity with other customers and will not be given preference over its obligations to serve its other customers.

Arkla will not curtail deliveries to purchasers of gas from wells not connected to its pipeline system because no benefits to its pipeline customers would accrue from curtailment of unconnected sources of supply.

The final provision governing Arkla's curtailment policy is set forth in paragraph (h) on Original Sheet No. 3B as follows:

This filing contemplates and hereby provides that, insofar as practicable, it shall be applied and followed on a companywide basis and will control in all respects, and that Seller (Arkla) shall be relieved of all liabilities, penalties, charges, payments, price adjustments, alternate fuel subsidizations and claims of whatever kind, contractual and otherwise, resulting from or arising out of Seller's failure to deliver all, or any portion of, the volumes of gas desired by any particular customer or customers to the extent that such failure results from Seller's implementation of the curtailment policies set out herein, notwithstanding inconsistent provisions in sales contracts, jurisdictional and nonjurisdictional, heretofore entered into.

Arkla's proposal to effectuate the curtailment plan by adding Original Sheets Nos. 3A, 3B, and 3C to the General Terms and Conditions of its tariff raises issues which may require development in evidentiary proceedings. The tariff

changes have not been shown to be justified and their operation may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. Therefore, it appears appropriate to suspend the effectiveness of the proposed tariff sheets for 1 day from June 15, 1971.

Arkla's filing indicates that it has been served on its customers and interested State Commissions.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of Original Sheets Nos. 3A, 3B, and 3C submitted for filing by Arkla and that such tariff sheets be suspended and the use thereof be deferred as herein provided.

(2) Good cause exists to waive the requirements of § 154.22 of the Commission's regulations under the Natural Gas Act in order to permit the submission for filing of Original Sheets Nos. 3A, 3B, and 3C.

The Commission orders:

(A) Pending hearing and decision on the issues raised by Arkla's filing in Docket No. RP71-122 Original Sheets Nos. 3A, 3B, and 3C, such tariff sheets are hereby suspended and the use thereof is deferred until June 16, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) The requirements of § 154.22 of the Commission's regulations are waived with respect to Arkla's tender for filing of Original Sheets Nos. 3A, 3B, and 3C.

(C) Any person desiring to be heard or make any protest with respect to said filing should on or before June 21, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8234 Filed 6-11-71; 8:48 am]

[Docket No. RI71-1099, etc.]

CONTINENTAL OIL COMPANY ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

MAY 27, 1971.

In the order providing for hearing on and suspension of proposed changes in

rates, and allowing rate changes to become effective subject to refund, issued May 6, 1971, and published in the FEDERAL REGISTER May 14, 1971, 36 F.R., 8903, Appendix "A": Change footnote 8 to read: "The effective rate and proposed rate for low pressure gas are 19.5 cents and 21.5 cents, respectively." Add the following footnote: "Pertains to gas produced from the W. D. Block 52, 53, 55, N½ 56, 58, 59, and 84 under the basic contract." Docket No. RI71-1015, Continental Oil Co. under column headed "Rate in Effect" and footnote reference "9a" to 20.5

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8237 Filed 6-11-71; 8:48 am]

[Docket No. RP71-121]

EASTERN SHORE NATURAL GAS CO.

Notice of Filing and Order Providing for Hearing and Suspending Proposed Revised Tariff Sheets

JUNE 7, 1971.

Take notice that on May 17, 1971, Eastern Shore Natural Gas Co. (Eastern Shore) filed a written report, pursuant to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, and tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, consisting of Original Sheets Nos. 34F and 34G, to become effective June 16, 1971, in order to effectuate a gas curtailment policy in the event a gas shortage on its system should develop at any time in the future.

Eastern Shore states that, while it expects to nominate sufficient volumes of gas for storage injection to be able to meet all of its customers' requirements during the coming 1971-72 heating season, it has been advised that its supplier, Transcontinental Gas Pipe Line Corp. (Transco), may find it necessary to curtail firm service to its customers during the immediate future. If Transco should invoke curtailments, Eastern Shore states that it would expect to curtail service to its customers in accordance with the terms of the curtailment policy set forth in proposed Original Sheets Nos. 34F and 34G which, if accepted by the Commission, would add a new section 20 to the general terms and conditions of its tariff to govern all necessary cutbacks in service resulting from curtailments in deliveries by Transco or other gas deficiencies.

Section 20 supersedes any prior curtailment provisions in Eastern Shore's service agreements or sales contracts and applies to all classes of customers regardless of whether they are subject to the Commission's jurisdiction or not. The curtailment policy would reduce gas deliveries during a gas deficiency under a four-step procedure. First, all interruptible sales will be proportionately reduced until all such sales are entirely curtailed. Interruptible sales are defined as those made directly by Eastern Shore as well as those made by its resale customers. Second, if oper-

ating pressure prevents maintenance of adequate service to firm resale customers, all direct industrial firm sales will be entirely discontinued before any curtailments are made in firm deliveries to resale customers. Third, if operating pressure is not a problem, firm industrial sales, including those made by resale customers, will be curtailed in proportion to the total firm industrial sales until all firm industrial sales are completely curtailed, except that industrial customers whose usage fails to exceed 100 Mcf per day will not be curtailed until necessary under the fourth step. Fourth, firm sales to resale customers will be curtailed in proportion to the total daily contract demands of all customers, including the industrial sales not subject to interruption under the third step.

It is noted that section 13 of the general terms and conditions of Eastern Shore's presently effective tariff contains provisions governing curtailments if Eastern Shore is unable to meet its customers' requirements because of pipeline capacity limitations or other operational problems which are unassociated with a gas supply deficiency. If Eastern Shore intends for the newly submitted section 20 to control curtailments for all purposes under all circumstances, it should make an additional filing to clarify the applicability of existing section 13.

Eastern Shore's proposal to add section 20 to the general terms and conditions of its tariff raises issues which may require development in evidentiary proceedings. The tariff changes have not been shown to be justified and their operation may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. Therefore, it appears appropriate to suspend the effectiveness of the proposed tariff sheets for 1 day from June 16, 1971.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of Original Sheets Nos. 34F and 34G submitted for filing by Eastern Shore and that such tariff sheets be suspended and the use thereof be deferred as herein provided.

(2) Good cause exists to waive the requirements of § 154.22 of the Commission's regulations under the Natural Gas Act in order to permit the submission of Original Sheets Nos. 34F and 34G.

The Commission orders:

(A) Pending hearing and decision on the issues raised by Eastern Shore's filing in Docket No. RP71-121 of Original Sheets Nos. 34F and 34G, such tariff sheets are hereby suspended and the use thereof is deferred until June 17, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) The requirements of § 154.22 of the Commission's regulations are waived with respect to Eastern Shore's tender for filing of Original Sheets Nos. 34F and 34G.

(C) Any person desiring to be heard or make any protest with respect to said

filing should on or before June 21, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petition to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8238 Filed 6-11-71; 8:48 am]

[Docket No. CP71-288]

INDUSTRIAL GAS CORP.

Notice of Application

JUNE 7, 1971.

Take notice that on June 2, 1971, Industrial Gas Corp. (applicant), Post Office Box 1473, Charleston, WV 25325, filed in Docket No. CP71-288 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of certain existing facilities for the transportation and sale of natural gas, for a limited term, to Consolidated Gas Supply Corp. (Consolidated), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that to help alleviate an emergency supply situation existing on Consolidated's system, it began delivery of natural gas on August 12, 1970, to Consolidated at two delivery points in Boone County, W. Va., pursuant to § 2.68 of the Commission's General Policy and Interpretations. Thereafter, by order of the Commission in Docket No. CP71-71, issued on February 22, 1971, applicant was authorized to sell up to 5,000 Mcf of natural gas per day to Consolidated for a period ending June 30, 1971. Applicant requests authorization for the limited period commencing July 1, 1971, until June 30, 1976, to continue the transportation and sale heretofore authorized in Docket No. CP71-71.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be con-

sidered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8239 Filed 6-11-71; 8:48 am]

[Docket No. R-400]

LIMITATION PROVISIONS IN GAS RATE SCHEDULES RELATING TO MINIMUM TAKE PROVISIONS

Order on Petition for Rehearing

JUNE 7, 1971.

On May 10, 1971, the Public Service Commission of the State of New York (PSC) filed a petition for rehearing of the Commission's order, issued on April 9, 1971, terminating this proposed rule making proceeding. PSC avers that the Commission erred in terminating this proceeding because it removed conditions imposed in outstanding temporary and permanent certificates, upon volumetric requirements to be paid for by pipeline purchasers under take-or-pay provisions in their gas purchase contracts. PSC contends that such action of the Commission was taken without providing it the opportunity to be heard concerning the elimination of such volumetric limitations.

PSC has misinterpreted the notice of proposed rule making issued September 23, 1970, and the order terminating our proposed rule making.

The notice of September 23, 1970, stated (in footnote 2 thereof) that: "It is proposed that such order shall be applicable to all rate schedules accepted for filing whether under a permanent or a temporary certificate of public convenience and necessity." And further, the notice expressly took recognition of the fact that the Commission had issued temporary and permanent certificates for

the sale of natural gas containing certain volumetric delivery conditions insofar as take-or-pay obligations are concerned. In most instances, after the initiation of the rule making proceeding in Docket No. R-400 on September 23, 1970, such take-or-pay volumetric limitations were expressly conditioned on the outcome of the proceedings in Docket No. R-400.

Thus, when we issued our order terminating the proposed rulemaking proceeding in Docket No. R-400, where the permanent or temporary certificates contained take-or-pay volumetric limitations, subject to the final outcome of Docket No. R-400, it was proper and within the scope of the proposed rulemaking proceeding for the Commission to eliminate any such limitation from each of such certificates. The termination order does not cover those certificates which were not specifically made subject to the outcome of Docket No. R-400.

PSC further contends that although the Commission's action in terminating the rulemaking proceeding " . . . may have little immediate effect upon either producer revenues or pipeline costs, since the pipelines in many cases already are voluntarily accepting gas at considerably faster rates," it may have an adverse effect in the future. However, when we terminated this proceeding, we noted that the adoption of the proposed rulemaking "at this time" would not be in the public interest. Our surveillance of the obligations incurred by interstate pipeline companies under their contractual obligations to take-or-pay for minimum quantities of natural gas is a continuing one, and if, in the future, the situation warrants our taking action such as that which we proposed when we issued the notice of September 23, 1970, we will do so.

PSC's application for rehearing sets forth no further facts or principles of law which were not fully considered in the April 9, 1971, order, or which, having now been considered, warrant any modification of that order.

The Commission orders:

PSC's application for rehearing of the order terminating the rulemaking proceeding in Docket No. R-400, issued April 9, 1971, is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8240 Filed 6-11-71; 8:48 am]

[Docket No. CP71-278]

LO-VACA GATHERING CO.

Notice of Application

JUNE 3, 1971.

Take notice that on May 20, 1971, Lo-Vaca Gathering Co. (applicant), Post Office Drawer 521, Corpus Christi, TX 78403, filed in Docket No. CP71-278 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of existing facilities

for a limited term sale of natural gas to Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been advised by Natural of a need for additional volumes of natural gas to meet existing contractual requirements. Specifically, applicant seeks a limited authorization with pregranted abandonment, to sell up to 148,000 Mcf of natural gas per day to Natural for a period of 18 months beginning no earlier than June 1, 1971. Applicant states that the selling price for the sales proposed herein will be 30.5 cents per Mcf subject to upward or downward B.t.u. adjustments.

Applicant also states that it is exempt from regulation by the Federal Power Commission under the provisions of section 1(c) of the Natural Gas Act and proposes this sale for resale of natural gas in interstate commerce subject to the following conditions:

(1) The certificate issued herein be limited to authorization of the proposed sale to Natural and facilities necessary to make such sale;

(2) The Commission waive its accounting and other reporting requirements with respect to Applicant for the term of the limited term certificate sought herein. Applicant states that it will be willing to report the volumes sold to Natural pursuant to the requested authorization;

(3) The nonjurisdictional status of the facilities and operations of independent producers and other suppliers from whom Applicant purchases gas and the sales by such independent producers and other suppliers be not affected during the term of the authorization sought herein;

(4) With the exception of the sale to be certificated herein, all of Applicant's existing facilities, and sales from its system are and will continue to be exempt from Commission regulation, and the nonjurisdictional status of its existing sales will not be rendered jurisdictional or otherwise affected by Commission regulation of the sale proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the

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Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8241 Filed 6-11-71;8:48 am]

[Docket No. CP71-280]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

JUNE 7, 1971.

Take notice that on May 25, 1971, Natural Gas Pipeline Company of America (applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP71-280 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval of the abandonment of an exchange of natural gas between Lone Star Gas Co. (Lone Star) and applicant and the facilities employed to effectuate said exchange, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The order of September 24, 1970, issued in Docket No. CP71-25, authorized the construction and operation of facilities for the exchange of natural gas between applicant and Lone Star. This exchange service provided for the delivery to applicant of natural gas purchased by Lone Star from Lone Star Producing Co. (Producing) in the Puryear Gas Unit in the Buffalo Wallow Field, Hemphill County, Tex., and the redelivery of natural gas by applicant to Lone Star in Wise County, Tex.

Applicant states that Lone Star has assigned its Puryear Gas Unit purchase contract to applicant and Lone Star will therefore no longer have natural gas available for the exchange service. Accordingly, applicant requests permission and approval to abandon the subject exchange service conditioned upon the receipt of the Commission authorization requested by Lone Star, Producing and Lone Star Gathering Co. in their presently pending application in Docket No. CP71-274.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Com-

mission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8242 Filed 6-11-71;8:48 am]

[Docket No. RP71-119]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Proposed Changes in FPC Gas Tariff To Establish New Policies Regarding Curtailment and Interruption of Deliveries

JUNE 4, 1971.

Take notice that on May 17, 1971, Panhandle Eastern Pipe Line Co. (Panhandle) filed a written report, pursuant to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, and tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, consisting of Second Revised Sheet No. 42 and Original Sheets Nos. 42-A, 42-B, and 42-C, to become effective July 1, 1971, in order to effectuate a gas curtailment and interruption policy which Panhandle will follow to meet any gas shortage or operating problems which might arise.

Although Panhandle's report states that it is injecting gas into its underground storage reservoirs at rates which will permit completion of injection prior to the 1971-72 heating season, it avers that it "is unable to predict whether the availability of gas supplies will at all times permit deliveries without some curtailment from time to time." Therefore, it has submitted the above-mentioned tariff sheets which propose revisions in section 16 of the general

terms and conditions of its tariff to establish curtailment and interruption procedures in the event of any occurrences which might prevent it from being able to meet its customers' requirements.

If Panhandle finds it necessary to limit deliveries of gas because of pipeline modifications, repairs, etc., it will curtail gas under § 16.1, as revised, which provides that all interruptible deliveries will first be discontinued followed by curtailment of storage deliveries to its direct firm industrial users using more than 50 Mcf per day and will require its resale customers to reduce deliveries to their firm industrial users using more than 50 Mcf per day before restricting deliveries to firm domestic and commercial consumers.

Revised § 16.2 would permit Panhandle to curtail deliveries on any part of its system as the circumstances may require in event of interruptions caused by force majeure.

Section 16.3, as revised, would govern any curtailments required because of a deficiency in basic gas supplies. When gas supplies are deficient, Panhandle will determine a uniform percentage of industrial usage which may be curtailed to bring available gas supplies into balance with the gas required for storage injections and for providing the percentage of authorized deliveries which can be met. During a given curtailment period, the maximum quantity of gas which a customer buying under a contract specifying a daily volume can obtain from Panhandle will be the base period volume reduced by the percentage of industrial usage specified by Panhandle in its curtailment notice, divided by the number of days in the month during which curtailment takes place. A customer buying under a contract specifying a monthly, seasonal, or annual volume can obtain the base period volume reduced by the percentage of industrial usage specified by Panhandle in its curtailment notice. The annual contract volume under the CS (Combined Service) Rate Schedule, and the seasonal and annual volumes under export authorization, will be reduced by the volume curtailed under § 16.3.

No adjustment in demand charges will be made for curtailments occurring under § 16.3 as a result of a gas supply deficiency, but demand charge adjustments will be made for curtailments arising under §§ 16.1 and 16.2 as a result of force majeure or pipeline modifications, repairs, etc. The minimum bill provided for in the LS (Limited Service), SS (Seasonal Service) and CS Rate Schedules

¹ Original Sheet No. 42-B defines the base period as the pertinent month in which the customer's takes of gas from Panhandle were the greater, using the two corresponding calendar months in the period from May 1969 through April 1971 to make the determination. The base period volume is the volume of gas delivered by Panhandle in the base period but not in excess of the product of the number of days in the month times the contract demand or daily contracted volume in effect during the curtailment period. Industrial usage is generally defined as gas consumed by a customer in generating electricity and gas sold to consumers using more than 50 Mcf per day.

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will be credited with the aggregate volume curtailed under section 16.

Panhandle's report indicates that it has been served on both its jurisdictional and nonjurisdictional customers and interested State Commissions.

Any person desiring to be heard or to make any protest with reference to the proposed tariff sheets submitted by Panhandle to effectuate curtailment and interruption policies in response to Order No. 431 should on or before June 18, 1971, file with the Federal Power Commission, 441 G Street NW, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as parties in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Panhandle's report and proposed tariff sheets, submitted pursuant to Order No. 431, are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8236 Filed 6-11-71;8:48 am]

[Docket No. CP67-349]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Cost of Service Filing

JUNE 7, 1971.

Take notice that on May 3, 1971, South Texas Natural Gas Gathering Co. (applicant), Post Office Drawer 521, Corpus Christi, TX 78403, filed in Docket No. CP67-349 a cost of service statement in the form required by § 154.63(f) of the Commission's regulations under the Natural Gas Act.

The Commission's order heretofore issued in Docket No. CP67-349 granted applicant a conditioned certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing the construction and operation of facilities and the sale of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco). The order issuing this conditioned certificate incorporated the terms of a stipulation and agreement which was the result of conferences between the parties to the sale and the Commission's staff during which it was determined that this service would be rendered at an initial rate of 19.58 cents per Mcf. After a period of operation consisting of at least 15 months, the order requires that applicant submit cost of service statements justifying this rate. Applicant states that the cost of service statement filed herein are in compliance with this order.

Any person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than June 28, 1971, data, views, comments, or suggestions in writing concerning this cost of service statement and the rate therein involved.

An original and 14 conformed copies should be filed with the Commission. Submissions to the Commission should indicate the name and address of the person to whom correspondence in regard to the cost of service statement should be addressed and whether the person filing them requests a conference or formal hearing at the Federal Power Commission to discuss the cost of service statement as it relates to this presently effective rate. The Commission will consider all such written submissions before acting on the matters herein involved.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8243 Filed 6-11-71;8:48 am]

[Docket No. CP71-281]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JUNE 7, 1971.

Take notice that on May 26, 1971, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP71-281 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas gathering facilities to be located offshore of the coast of Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate approximately 9.5 miles of 20-inch gathering pipeline and two meter and regulating stations to connect the Block 541 Fields, Brazos Area, offshore Texas, to applicant's 30-inch transmission line presently under construction in Block 538 of the Brazos Area. Applicant states that it has contracted with Texaco, Inc., to purchase natural gas in both the Block 538 and 541 Fields and estimates that the initial deliveries from these fields will be 40,000 Mcf per day. The facilities proposed herein will be utilized to gather and transport this gas. The estimated cost of the facilities proposed herein is \$3,387,000, which cost applicant states will be financed initially from short-term loans and available cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8244 Filed 6-11-71;8:49 am]

[Docket No. CP71-285]

TRUNKLINE GAS CO.

Notice of Application

JUNE 7, 1971.

Take notice that on June 1, 1971, Trunkline Gas Co. (applicant), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP71-285 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain offshore natural gas gathering facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into a contract with Tenneco Oil Co. (Tenneco) for the purchase of natural gas produced from Tenneco's leases covering South Timbalier Blocks 169 and 196, offshore Louisiana. Applicant seeks authorization herein to construct and operate 10.8 miles of 10 3/4-inch pipeline to transport the gas purchased from Tenneco to applicant's existing 26-inch pipeline in Ship Shoal Block 185, offshore Louisiana. The estimated cost of the facilities proposed herein is \$1,280,000, which cost applicant states will be financed from available funds.

Applicant states that the facilities proposed herein and the gas supplies to be connected thereby are essential to enable it to meet its contract obligations to its existing customers and that these facilities must be constructed during the summer construction season.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under

the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice, that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8245 Filed 6-11-71;8:49 am]

[Docket No. G-2730 etc.]

HILDA B. WEINERT ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

MAY 26, 1971.

In the notice of applications for certificates, abandonment of service and petitions to amend certificates, issued May 19, 1971 and published in the FEDERAL REGISTER May 28, 1971, 36 F.R. 9801, add footnote reference "17" after Docket No. "CI71-786" Add footnote "17 Applicant proposes to sell and to deliver for exchange natural gas produced in the Buffalo Wallow Field, Exchange gas, if any, would be redelivered by Natural Gas Pipeline Company of America in Liberty County, Tex., or at a mutually agreeable alternate point."

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8238 Filed 6-11-71;8:48 am]

FEDERAL RESERVE SYSTEM

SECURITY FINANCIAL SERVICES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Security Financial Services, Inc., Sheboygan, Wis., for approval of acquisition of 80 percent or more of the voting shares of Farmers-Merchants National Bank in Princeton, Princeton, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3)

of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Security Financial Services, Inc., Sheboygan, Wis. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Farmers-Merchants National Bank in Princeton, Princeton, Wis. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 22, 1971 (36 F.R. 7623), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the 13th largest banking organization in Wisconsin, controls two banks with aggregate deposits of \$73 million, representing 0.8 percent of the State's total deposits. (All banking data are as of June 30, 1970, adjusted to reflect bank holding company formations and acquisitions approved by the Board through April 30, 1971.) Upon acquisition of Bank (\$11 million in deposits), Applicant would increase its share of statewide deposits to 0.9 percent and would become the 11th largest banking organization in the State.

Bank, the only bank located in Princeton (est. population 1,500), serves the west-central part of Green Lake County. Applicant's two banking subsidiaries are approximately 80 miles east of Bank in Sheboygan.

Bank is the largest of eight banks competing in the Princeton area, holding 19.6 percent of area deposits. The second and third largest banks in the area hold 17.6 percent and 16.4 percent of area deposits, respectively. All of the banks in the area primarily serve the towns in which they are located, and Bank is not regarded as dominating the area. Based upon the record before it, the Board concludes that consummation of the proposed acquisition would not eliminate significant existing or potential competition, nor would it have an adverse competitive effect on other area banks.

Considerations relating to the financial and managerial resources and future prospects, as they relate to Applicant, its subsidiaries, and Bank are regarded as consistent with approval of

the application. Bank's affiliation with Applicant would make available trust, travel and computer services to Bank's customers for the first time and existing services would be improved and broadened. Affiliation would also give Bank the expertise and capability to service certain loan requests that it has avoided in the past because of a lack of experience in handling the larger commercial and agricultural borrowers in the area. Considerations relating to the convenience and needs of the communities served by Bank lend some support for approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors, June 7, 1971.

Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer and Sherrill.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8246 Filed 6-11-71;8:49 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN BARBADOS

Entry or Withdrawal From Warehouse for Consumption

JUNE 8, 1971.

On May 28, 1971, the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, and extended through September 30, 1973, requested the Government of Barbados to enter into consultations concerning exports to the United States of cotton textile products in Category 39 produced or manufactured in Barbados. In that request the U.S. Government stated its view that exports in this category from Barbados should be restrained for the 12-month period beginning May 28, 1971, and extending through May 27, 1972.

Notice is hereby given that under the provisions of Articles 3 and 6(c) of the Long-Term Arrangement, if no solution is mutually agreed upon by the two governments within sixty (60) days of the date of the aforementioned note, entry and withdrawal from warehouse for consumption of cotton textile products

in Category 39 produced or manufactured in Barbados and exported from Barbados on and after the date of such note may be restrained.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee,
and Deputy Assistant Secretary for Resources.

[FR Doc.71-8260 Filed 6-11-71;8:50 am]

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PERU

Entry or Withdrawal From Warehouse for Consumption

JUNE 8, 1971.

On May 28, 1971, the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, and extended through September 30, 1973, requested the Government of Peru to enter into consultations concerning exports to the United States of cotton textile products in Category 22 produced or manufactured in Peru. In that request the U.S. Government stated its view that exports in this category from Peru should be restrained for the 12-month period beginning May 28, 1971, and extending through May 27, 1972.

Notice is hereby given that under the provisions of Article 3 and 6(c) of the Long-Term Arrangement, if no solution is mutually agreed upon by the two governments within sixty (60) days of the date of the aforementioned note, entry and withdrawal from warehouse for consumption of cotton textile products in Category 22 produced or manufactured in Peru and exported from Peru on and after the date of such note may be restrained.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee,
and Deputy Assistant Secretary for Resources.

[FR Doc.71-8261 Filed 6-11-71;8:56 am]

RENEGOTIATION BOARD

VOLUNTARY PARTICIPATION IN RULE MAKING PROCEDURE

Notice is hereby given that the Renegotiation Board has adopted the following policy:

By section 111 of the Renegotiation Act of 1951, as amended, the functions exercised by the Renegotiation Board under that act are excluded from the operation of the Administrative Procedure Act except as to the requirements of section 3 thereof (5 U.S.C. 552). However, in order that the public may have an opportunity to consider proposed rules and to offer comments and suggestions thereon, the Board will, whenever appropriate, utilize the public participation procedures of the Administrative Procedure Act, 5 U.S.C. 553, in issuing rules or regulations. The Board will publish notices

of proposed rule making except when such procedures would be impracticable, unnecessary or contrary to the public interest, as, for example, in emergencies or in instances where public participation would be useless or wasteful because proposed amendments to the Board's regulations cover minor technical matters.

In connection with any notice of proposed rule making, written material or suggestions submitted will be available for public inspection during regular business hours in the library at the principal office of the Board, 1910 K Street NW., Washington, DC.

Dated: June 8, 1971.

LAWRENCE E. HARTWIG,
Chairman.

[FR Doc.71-8292 Filed 6-11-71;8:52 am]

SMALL BUSINESS ADMINISTRATION

ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation of Authority Regarding Financial Assistance

Delegation of Authority No. 4, Revision 2 (35 F.R. 13234), as amended (35 F.R. 16759, 36 F.R. 653, and 36 F.R. 8537), is hereby further amended by revising Item I.H. to read as follows:

I.
H. To guarantee the payments of rentals under leases entered into by small business concerns and to guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to \$500,000.

Effective date: April 30, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-8293 Filed 6-11-71;8:52 am]

TARIFF COMMISSION

[TEA-I-21]

TELEVISION RECEIVERS

Notice of Investigation and Hearing

Investigation instituted. Following receipt of a petition filed by three major unions representing workers in the U.S. television receiver industry, the U.S. Tariff Commission, on June 8, 1971, instituted an investigation under section 301(b)(1) of the Trade Expansion Act of 1962 to determine whether television receivers and parts thereof, provided for in item 685.20 of the Tariff Schedules of the United States, are, as a result in major part of concessions granted thereon under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry producing like or directly competitive products.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., EDST, on August 24, 1971, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

Requests to appear must contain a careful estimate of the aggregate time desired for presentation of oral testimony by all witnesses for whose appearances the request is filed.

Inspection of petition. The petition filed in this case is available for inspection by persons concerned at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York Office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: June 9, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-8291 Filed 6-11-71;8:52 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 9, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42224—Roofing and building material from Port Arthur, Tex. Filed by Southwestern Freight Bureau, agent (No. B-235), for interested rail carriers. Rates on roofing and building material, in carloads, as described in the application, from Port Arthur, Tex., to specified points in Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Ohio, and Tennessee.

Grounds for relief—Market competition. Tariff—Supplement 1 to Southwestern Freight Bureau, agent, tariff ICC #952. Rates are published to become effective on July 15, 1971.

By the Commission

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8302 Filed 6-11-71;8:53 am]

UNITED PARCEL SERVICE, INC., ET AL.

Assignment of Hearings

JUNE 9, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective

assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-115495 Sub 19, United Parcel Service, Inc., assigned July 26, 1971, at Memphis, Tenn., at the Albert Pick Motor Inn, 300 North Second Street.

MC-1515 Sub 161, Greyhound Lines, Inc., assigned July 22, 1971, at Holiday Inn Motel, North Center Avenue, Somerset, Pa. MC-74321 Sub 48, B. F. Walker, Inc., assigned July 9, 1971, at Denver, Colo., in Room 571, Federal Building and Courthouse.

FD 26380, St. Louis-San Francisco Railway Co.—Trackage Rights—The Texas & Pacific Railway Co., assigned July 13, 1971 in Room 211, Conference Room, Corps of Engineers, Federal Building, Third and Boulder, Tulsa, OK.

FD 26381, St. Louis-San Francisco Railway Co. Construction in Okmulgee and Muskogee Counties, Okla., assigned July 15, 1971, in Room 211, Conference Room, Corps of Engineers, Federal Building, Third and Boulder, Tulsa, OK.

FD 26382, St. Louis-San Francisco Railway Co. Abandonment in Okmulgee and Muskogee Counties, Okla., assigned July 19, 1971, in Room 211, Conference Room, Corps of Engineers, Federal Building, Third and Boulder, Tulsa, OK.

MC-353 Sub 4, Robert G. Freese, doing business as Lane's Motor Freight Lines, assigned July 21, 1971, in Room 211, Conference Room Corps of Engineers, Federal Building, Third and Boulder, Tulsa, OK.

MC-118282 Sub 27, Johnny Brown's, Inc., assigned June 28, 1971, Dallas, Tex., canceled and application dismissed.

MC-115826 Sub 211, W. J. Digby, Inc., MC-133448 Sub 23, Refrigerated Food Line, Inc., now assigned July 14, 1971, New Orleans, La., canceled and transferred to modified procedure, as protested.

MC-84528 Sub 18, Automobile Transport Company of California, assigned July 26, 1971, at San Francisco, Calif., in Room 13216B, Federal Building, 450 Golden Gate Avenue.

MC-134066 Sub 4, Kodiak Refrigerated Lines, Inc., assigned August 2, 1971, at San Francisco, Calif., in Room 13216B, Federal Building, 450 Golden Gate Avenue.

MC-133814 Sub 8, E. E. Carroll, doing business as Carroll Trucking, now assigned June 21, 1971, Montgomery, Ala., postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8303 Filed 6-11-71;8:53 am]

[Notice 7001]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 9, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of pub-

lication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

F.D. 26641. By order of June 7, 1971, the Motor Carrier Board approved the transfer to Coast Carloading Co., a corporation, Los Angeles, Calif., of amended permit and order in No. FF-155, issued November 12, 1959, to United Freight, Inc., Los Angeles, Calif., authorizing operations as a freight forwarder of commodities generally from points in Los Angeles, Orange, Santa Barbara, and Ventura Counties, Calif., to all points in the United States, except points in California, R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017, attorney for applicants.

No. MC-FC-72790. By order of June 2, 1971, the Motor Carrier Board approved the transfer to Frazier Motor, Inc., 2012 Gihon Road, Parkersburg, WV 26101, of certificate No. MC-118458, issued to Robert G. Frazier, doing business as Frazier Motor Co., 2012 Gihon Road, Parkersburg, WV 26101, authorizing the transportation of: Wrecked and disabled motor vehicles, using wrecker equipment, between Parkersburg, W. Va., on the one hand, and, on the other, points in Kentucky, Virginia, West Virginia, Pennsylvania, and Ohio.

No. MC-FC-72895. By order of June 7, 1971, the Motor Carrier Board approved the transfer to Mollen Transfer & Storage Co., Inc., 233 Water Street, Binghamton, NY 13902, the certificate in No. MC-78819 issued September 16, 1943, to J. F. Mollen, doing business as Mollen Transfer & Storage Co., Binghamton, N.Y. 13902, authorizing transportation of: Paper cartons, from Binghamton, N.Y., to Scranton, Wilkes-Barre, and South Montrose, Pa., and points and places in New York; radios, refrigerators, soap, and vegetable oil shortening, from Binghamton, N.Y., to points and places in New York and Pennsylvania within 40 miles of Binghamton. Return, with no transportation for compensation except as otherwise authorized to Binghamton; theatrical properties, between Binghamton, N.Y., and points and places in New York, Pennsylvania, New Jersey, Massachusetts, Connecticut, Rhode Island, Maryland, Ohio, and the District of Columbia; and household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between Binghamton, N.Y., and points and places within 50 miles of Binghamton, on the one hand, and, on the other, points and places in New York, Pennsylvania, New Jersey, Massachusetts, Connecticut, Rhode Island, Maryland, Ohio, and the District of Columbia.

No. MC-FC-72902. By order of June 7, 1971, the Motor Carrier Board approved the transfer to John S. Armitage, Stafford Springs, Conn., of certificate No. MC-117241, issued December 5, 1967, to Darwin Clark Tractor Sales Inc., Eastford, Conn., authorizing the transpor-

tation of: Fertilizer and fertilizer materials, and agricultural insecticides, fungicides, and herbicides, from Portland, East Windsor, and North Haven, Conn., to points in Rhode Island, points in Branstable, Bristol, and Plymouth Counties, Mass., and points in Rensselaer, Columbia, Dutchess, Putnam, Westchester, Suffolk, and Nassau Counties, N.Y. John S. Armitage, 10 Armitage Road, Stafford Springs, CT 06076, transferee and Darwin Clark Tractor Sales Inc., Old Colony Road, Eastford, Conn. 06242, transferor.

No. MC-FC-72903. By order of June 4, 1971, the Motor Carrier Board approved the transfer to The Timlaph Corp. of Virginia, Richmond, Va., of certificate of registration No. MC-120866 (Sub-No. 1), issued September 1, 1964, to The Timlaph Corp., Richmond, Va., evidencing a right to engage in transportation in interstate commerce as described in Certificate of Public Convenience and Necessity No. K-68, dated February 13, 1961, issued by the commonwealth of Virginia State Corporation Commission. Draw L.

Carraway, 1111 E Street NW., Washington, DC 20004, attorney for applicants.

No. MC-FC-72910. By order of June 2, 1971, the Motor Carrier Board approved the transfer to Ralph Neff Trucking, Inc., Rapid City, S. Dak., of the operating rights in certificates Nos. MC-124755 (Sub-No. 4) and MC-124755 (Sub-No. 7) issued October 2, 1967 and March 27, 1969, respectively to Hoag Trucking, Inc., Philip, S. Dak., authorizing the transportation of aggregates from points in a described area in South Dakota and Wyoming to points in a described area of Nebraska, and waste, scrap materials and salvaged commodities from and to points in South Dakota and points in Illinois, Minnesota, and Colorado, with certain exceptions. Gene R. Bushnell, Post Office Box 190, Rapid City, SD 57701, attorney for applicants.

No. MC-FC-72913. By order of June 7, 1971, the Motor Carrier Board approved the transfer to Russell Transportation, Inc., Omaha, Nebr., of the operating rights in certificate No. MC-

134320, issued October 22, 1970, to W. V. Williams, doing business as Williams Transport, Granite City, Ill., authorizing the transportation of general commodities, with unusual exceptions, between Kansas City, Kans., and Cameron, Mo., serving no intermediate points. Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102, attorney for applicants.

No. MC-FC-72914. By order of June 2, 1971, the Motor Carrier Board approved the transfer to McAllister's Express, Inc., 43 Pitman Street, Somerville, MA 02143, of the operating rights in certificate No. MC-11111 issued June 14, 1941, to Thomas F. McAllister, doing business as McAllister Express, 43 Pitman Street, Somerville, MA 02143, authorizing the transportation of general commodities, with the usual exceptions, between Boston, Cambridge, and Somerville, Mass.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8309 Filed 6-11-71;8:53 am]

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EXECUTIVE ORDER 11597

Amendment to Executive Order No. 11513 Increasing the Membership of the President's Commission on School Finance

By virtue of the authority vested in me by the Constitution and statutes of the United States, Section 1(b) of Executive Order No. 11513¹ of March 3, 1970, is amended by deleting "sixteen" and inserting "eighteen".



THE WHITE HOUSE,
June 11, 1971.

[FR Doc. 71-8451 Filed 6-11-71; 3:59 pm]

¹ 3 CFR, 1970 Comp., p. 102; 35 F.R. 4113.

Rules and Regulations

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7127]

PART 301—PROCEDURE AND ADMINISTRATION

Exempt Organizations and Certain Trusts; Additional Amounts and Penalties

On February 17, 1971, notice of proposed rule making with respect to the amendments of the regulations on Procedure and Administration (26 CFR Part 301) under sections 6652, 6684, 6685, and 7207 of the Internal Revenue Code of 1954 to conform the regulations to changes made by sections 101 (c), (d) (4), (e) (4) and (5) of the Tax Reform Act of 1969 (83 Stat. 519, 522, 524) was published in the FEDERAL REGISTER (36 F.R. 3067). After consideration of all such relevant matters as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (f) of § 301.6652-2, as set forth in paragraph 3 of the notice of proposed rule making is revised.

PAR. 2. Paragraph (b) of § 301.6684-1, as set forth in paragraph 5 of the notice of proposed rule making, is revised.

(Sec. 7805, Internal Revenue Code of 1954, (68A Stat. 917; 26 U.S.C. 7805)

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of
the Internal Revenue.

Approved: June 8, 1971.

EDWIN S. COHEN,
Assistant Secretary
of the Treasury.

In order to conform the regulations on procedure and Administration (26 CFR Part 301) under sections 6652, 6684, 6685, and 7207 of the Internal Revenue Code of 1954 to sections 101 (c), (d) (4), (e) (4), and (e) (5) of the Tax Reform Act of 1969 (83 Stat. 519, 522, 524), such regulations are amended as follows:

PARAGRAPH 1. Section 301.6652 is amended by redesignating paragraph (d) of section 6652 as (e) and by adding a new paragraph (d) to section 6652 and by revising the historical note. These amended and added provisions read as follows:

§ 301.6652 Statutory provisions; failure to file certain information returns.

SEC. 6652. Failure to file certain information returns.

(d) Returns by exempt organizations and by certain trusts—(1) Penalty on organization or trust. In the case of a failure to file a return required under section 6033 (relating to returns by exempt organizations), section 6034 (relating to returns by certain trusts), or section 6043(b) (relating to exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the exempt organization or trust failing so to file, \$10 for each day during which such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed \$5,000.

(2) Managers. The Secretary or his delegate may make written demand upon an organization failing to file under paragraph (1) specifying therein a reasonable future date by which such filing shall be made, and if such filing is not made on or before such date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, \$10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed hereunder on all persons for such failure to file shall not exceed \$5,000. If more than one person is liable under this paragraph for a failure to file, all such persons shall be jointly and severally liable with respect to such failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(3) Annual reports. In the case of a failure to file a report required under section 6056 (relating to annual reports by private foundations) or to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual reports), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file or meet the publicity requirement, \$10 for each day during which such failure continues, but the total amount imposed hereunder on all such persons for such failure to file or comply with the requirements of section 6104(d) with regard to any one annual report shall not exceed \$5,000. If more than one person is liable under this paragraph for a failure to file or comply with the requirements of section 6104(d), all such persons shall be jointly and severally liable with respect to such failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty

to perform the act in respect of which the violation occurs.

(e) Alcohol and tobacco taxes. For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see, generally, subtitle E.

[Sec. 6652 as amended by sec. 85, Technical Amendments Act 1958 (72 Stat. 1664); sec. 19(d), Rev. Act 1962 (76 Stat. 1057); sec. 221(b)(2), Rev. Act 1964 (78 Stat. 74); sec. 313(e) (2)(B) and (3), Social Security Amendments, 1965 (79 Stat. 385); sec. 101 (d)(4), Tax Reform Act of 1969 (83 Stat. 522)]

PAR. 2. Section 301.6652-1 is amended by revising paragraphs (e) and (f) to read as follows:

§ 301.6652-1 Failure to file certain information returns.

(e) Manner of payment. The amount imposed under subsection (a), (b), or (c) of section 6652 and this section on any person shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(f) Showing of reasonable cause. The amount imposed by subsection (a), (b), or (c) of section 6652 shall not apply with respect to a failure to file a statement within the time prescribed if it is established to the satisfaction of the district director or the director of the internal revenue service center that such failure was due to reasonable cause and not to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause.

PAR. 3. Immediately following § 301.6652-1 there is added a new § 301.6652-2 which reads as follows:

§ 301.6652-2 Failure by exempt organizations and certain trusts to file certain returns or annual reports or to comply with section 6104(d) for taxable years beginning after December 31, 1969.

(a) Exempt organization or trust. In the case of a failure to file a return required by—

(1) Section 6033, relating to returns by exempt organizations,

(2) Section 6034, relating to returns by certain trusts, or

(3) Section 6043(b), relating to returns regarding the liquidation, dissolution, termination, or substantial contraction of an exempt organization, within the time and in the manner prescribed for filing such return (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause,

there shall be paid by the exempt organization or trust failing to file such return \$10 for each day during which such failure continues. However, the total amount imposed on any exempt organization or trust under this paragraph for such failure with regard to any one return shall not exceed \$5,000.

(b) *Managers.* If an exempt organization or trust fails to file under section 6652(d)(1), the Commissioner may, by written demand, request that such organization or trust file the delinquent return within 90 days after the date of mailing of such demand, or within such additional period as the Commissioner shall determine is reasonable under the circumstances. If such organization or trust does not so file on or before the date specified in such demand, there shall be paid by the person or persons responsible for such failure to file \$10 for each day after such date during which such failure continues, unless it is shown that such failure is due to reasonable cause. However, the total amount imposed under this paragraph on all persons responsible for such failure with regard to any one return shall not exceed \$5,000.

(c) *Annual reports.*—(1) *In general.* In the case of a failure—

(i) To file the annual report required under section 6056, relating to annual reports by private foundations, or

(ii) To comply with the requirements of section 6104(d), relating to public inspection of private foundations' annual reports,

within the time and in the manner prescribed for filing such report or complying with section 6104(d) (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid by the person or persons responsible for failing to file such report or to comply with section 6104(d) \$10 for each day during which such failure continues. However, the total amount imposed under this subparagraph on all persons responsible for any such failure with regard to any one annual report shall not exceed \$5,000.

(2) *Amount imposed.* The amount imposed under section 6652(d)(3) is \$10 per day for a failure to file the annual report and \$10 per day for a failure to comply with section 6104(d). For example, assume that an annual report must be filed by X private foundation on or before May 15, 1972, for calendar year 1971. Such foundation without reasonable cause does not file the report until May 29, 1972. Further, the foundation without reasonable cause does not comply with section 6104(d) by publishing notice of the availability of the annual report until July 30, 1972. In this case, the person failing to file the report and to comply with section 6104(d) within the prescribed time is required to pay \$900, \$140 for filing the report 14 days late, and \$760 for complying with section 6104(d) 76 days late.

(3) *Cross reference.* For the penalty for willful failure to file the annual report and notice required under section

6056 or to comply with section 6104(d), see § 301.6685-1.

(d) *Special rules.* For purposes of section 6652(d) and this section—

(1) *Person.* The term "person" means any officer, director, trustee, employee, member, or other individual whose duty it is to perform the act in respect of which the violation occurs.

(2) *Liability.* If more than one person (as defined in subparagraph (1) of this paragraph) is liable for a failure to file or to comply with section 6652(d) (2) or (3), all such persons shall be jointly and severally liable with respect to such failure.

(e) *Manner of payment.* The amount imposed under section 6652(d) and this section on any exempt organization, trust, or person (as defined in paragraph (d)(1) of this section) shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(f) *Showing of reasonable cause.* No amount imposed by section 6652(d) shall apply with respect to a failure to file or comply under this section if it is established to the satisfaction of the district director or director of the internal revenue service center that such failure was due to reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement containing a declaration by the appropriate person (as defined in paragraph (d)(1) of this section), or in his absence, by any officer, director, or trustee of the organization, that the statement is made under the penalties of perjury, setting forth all the facts alleged as reasonable cause.

(g) *Group returns.* If a central organization is authorized to file a group return on behalf of two or more of its local organizations for the taxable year in accordance with paragraph (d) of § 1.6033-2 (Income Tax Regulations), the responsibility for timely filing of such a return is placed upon the central organization for purposes of this section. Consequently, the amount imposed by section 6652(d)(1) for failure to file the group return shall be paid by the central organization and the amount imposed by section 6652(d)(2) for failure to file the group return within the time prescribed by the Commissioner shall be paid by the person or persons responsible for filing the group return.

(h) *Effective date.* This section shall apply for taxable years beginning after December 31, 1969.

PAR. 4. A new § 301.6684 and an historical note are added immediately before new § 301.6684-1. These added provisions read as follows:

§ 301.6684 Statutory provisions; assessable penalties with respect to liability for tax under chapter 42.

SEC. 6684. Assessable penalties with respect to liability for tax under chapter 42. If any person becomes liable for tax under any section of chapter 42 (relating to private foundations) by reason of any act or failure to act which is not due to reasonable cause and either—

(1) Such person has theretofore been liable for tax under such chapter, or

(2) Such act or failure to act is both willful and flagrant,

then such person shall be liable for a penalty equal to the amount of such tax.

[Sec. 6684 as added by sec. 101(c), Tax Reform Act 1969 (83 Stat. 519)]

PAR. 5. A new § 301.6684-1 is added immediately before new § 301.6685 and reads as follows:

§ 301.6684-1 Assessable penalties with respect to liability for tax under chapter 42.

(a) *In general.* If any person (as defined in section 7701(a)(1)) becomes liable for tax under any section of chapter 42 (other than section 4940 or 4948(a)), relating to private foundations, by reason of any act or failure to act which is not due to reasonable cause and either—

(1) Such person has theretofore (at any time) been liable for tax under any section of such chapter (other than section 4940 or 4948(a)), or

(2) Such act or failure to act is both willful and flagrant,

then such person shall be liable for a penalty equal to the amount of such tax.

(b) *Showing of reasonable cause.* The penalty imposed by section 6684 shall not apply to any person with respect to a violation of any section of chapter 42 if it is established to the satisfaction of the district director or director of the internal revenue service center that such violation was due to reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration by such person that it is made under the penalties of perjury, setting forth all the facts alleged as reasonable cause.

(c) *Willful and flagrant.* For purposes of this section, the term "willful and flagrant" has the same meaning as such term possesses in section 507(a)(2)(A) and the regulations thereunder.

(d) *Effective date.* This section shall take effect on January 1, 1970.

PAR. 6. A new § 301.6685 and an historical note are added immediately before new § 301.6685-1. These added provisions read as follows:

§ 301.6685 Statutory provisions; assessable penalties with respect to private foundation annual reports.

SEC. 6685. Assessable penalties with respect to private foundation annual reports. In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to file the report and the notice required under section 6056 (relating to annual reports by private foundations) or to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual reports) and who fails so to file or comply, if such failure is willful, shall pay a penalty of \$1,000 with respect to each such report or notice.

[Sec. 6685 as added by sec. 101(e)(4), Tax Reform Act 1969 (83 Stat. 524)]

PAR. 7. A new § 301.6685-1 is added immediately before § 301.6801 and reads as follows:

§ 301.6685-1 Assessable penalties with respect to private foundation annual reports.

(a) *In general.* In addition to the penalty imposed by section 7207, relating to fraudulent returns, statements, or other documents, any person (as defined in paragraph (b) of this section) who is required to file the annual report and the notice of availability of such report required under section 6056, relating to annual reports by private foundations, or to comply with the requirements of section 6104(d), relating to public inspection of private foundations' annual reports, shall pay a penalty of \$1,000 with respect to each such report or notice.

(b) *Person.* For purposes of this section, the term "person" means any officer, director, trustee, employee, member, or other individual whose duty it is to perform the act in respect of which the failure occurs.

(c) *Effective date.* This section shall take effect on January 1, 1970.

PAR. 8. Section 301.7207 is amended by revising section 7207 and by revising the historical note to read as follows:

§ 301.7207 Statutory provisions; fraudulent returns, statements, or other documents.

SEC. 7207. Fraudulent returns, statements, or other documents. Any person who willfully delivers or discloses to the Secretary or his delegate any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

[Sec. 7207, as amended by sec. 7(m)(3), Self Employed Individuals Tax Retirement Act 1962 (76 Stat. 831); sec. 101(e)(5), Tax Reform Act 1969 (83 Stat. 524)]

PAR. 9. Section 301.7207-1 is amended to read as follows:

§ 301.7207-1 Fraudulent returns, statements, or other documents.

Any person who willfully delivers or discloses to any officer or employee of the Internal Revenue Service any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047 (b) or (c) or, after December 31, 1969, section 6056 or 6104(d), to furnish information to any officer or employee of the Internal Revenue Service or any other

§ 301.6685-1 Assessable penalties with respect to private foundation annual reports.

(a) *In general.* In addition to the penalty imposed by section 7207, relating to fraudulent returns, statements, or other documents, any person (as defined in paragraph (b) of this section) who is required to file the annual report and the notice of availability of such report required under section 6056, relating to annual reports by private foundations, or to comply with the requirements of section 6104(d), relating to public inspection of private foundations' annual reports, and who fails so to file or comply, if such failure is willful, shall pay a penalty of \$1,000 with respect to each such report or notice with respect to which there is a failure so to file or comply.

(b) *Person.* For purposes of this section, the term "person" means any officer, director, trustee, employee, member, or other individual whose duty it is to perform the act in respect of which the failure occurs.

(c) *Effective date.* This section shall take effect on January 1, 1970.

(d) *Cross reference.* For the amount imposed for failure to file the annual report required by section 6056 or to comply with section 6104(d), see paragraph (c) of § 301.6652-2.

PAR. 8. Section 301.7207 is amended by revising section 7207 and by revising the historical note to read as follows:

§ 301.7207 Statutory provisions; fraudulent returns, statements, or other documents.

SEC. 7207. Fraudulent returns, statements, or other documents. Any person who willfully delivers or discloses to the Secretary or his delegate any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

Any person required pursuant to sections 6047 (b) or (c), 6056, or 6104(d) to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

[Sec. 7207, as amended by sec. 7(m)(3), Self Employed Individuals Tax Retirement Act 1962 (76 Stat. 831); sec. 101(e)(5), Tax Reform Act 1969 (83 Stat. 524)]

PAR. 9. Section 301.7207-1 is amended to read as follows:

§ 301.7207-1 Fraudulent returns, statements, or other documents.

Any person who willfully delivers or discloses to any officer or employee of the Internal Revenue Service any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047 (b) or (c) or, after December 31, 1969, section 6056 or 6104(d), to furnish information to any officer or employee of the Internal Revenue Service or any other

person who willfully furnishes to such officer or employee of the Internal Revenue Service or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

[FR Doc.71-8332 Filed 6-14-71; 8:51 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 20—OCCUPATIONAL TRAINING OF UNEMPLOYED PERSONS

Definition of Permanent Resident

Pursuant to authority contained in section 207 of the Manpower Development and Training Act of 1962 (76 Stat. 29, 42 U.S.C. 2587) and Secretary's Order No. 7-71, § 20.1 of Title 29 of the Code of Federal Regulations is hereby amended in the manner set forth below. The purpose is to modify the definition of permanent resident used for training eligibility purposes under the Manpower Development and Training Act.

The provisions of 5 U.S.C. 553 regarding notice and publication procedures are not applicable since these regulations involve only matters of public benefit. Further, I do not believe that such procedure would serve a useful purpose here. The amendments shall become effective upon publication in the FEDERAL REGISTER (6-15-71).

PAR. 20.1, paragraph (1) is revised to read as follows:

§ 20.1 Definitions.

(1) "Permanent resident of the United States" means a person whose principal actual dwelling place is within a State or any other place continental or insular, including the Trust Territory of the Pacific Islands, which is subject to the jurisdiction of the United States and who is not a nonimmigrant alien as defined in section 101(a)(15) of the Immigration and Nationality Act: *Provided*, That for the purposes of this part the term shall also include an alien whose name is registered in a consular office on an administrative waiting list for an immigrant visa, who has in his possession a valid indefinite labor certification for employment in the Virgin Islands issued by the Department of Labor, who has been lawfully admitted into the United States to perform labor in the Virgin Islands, and whose training under the Act will not conflict with the conditions of his admittance into the United States.

(76 Stat. 29; 42 U.S.C. 2587)

Signed at Washington, D.C., this 8th day of June 1971.

MALCOLM R. LOVELL, Jr.,
Assistant Secretary for Manpower.

[FR Doc.71-8345 Filed 6-14-71; 8:46 am]

Title 32—NATIONAL DEFENSE

Chapter XVIII—Office of Civil Defense, Office of the Secretary of the Army

PART 1801—CONTRIBUTIONS FOR CIVIL DEFENSE EQUIPMENT

Loan of Excess Personal Property

Part 1801 of Chapter XVIII of Title 32 of the Code of Federal Regulations is amended as follows:

Section 1801.3 is revised by designating existing provisions as paragraph "(a)" and by adding a new paragraph, designated as "(b)", all to read as follows:

§ 1801.3 Request for contributions.

(a) *Project application.* A request for a Federal contribution must be made on an OCD prescribed project application form and in accordance with the procedures and criteria set forth in OCD guidance material.

(b) *Loan of excess personal property.* Available personal property excess to the needs of the Department of Defense or any other Federal agency, as determined and so reported by the head thereof, may be furnished to an applicant on a loan basis in lieu of a Federal financial contribution where an authorized OCD official has determined that the loan of an item or items of property will result in a reduction in cost to the Government of a particular civil defense project or enhancement of the civil defense capability likely to accrue from the project. Such loans will be made in accordance with the procedures and criteria set forth in OCD guidance material.

(64 Stat. 1250, 1255, 50 U.S.C. App. 2281; 2253; Reorg. Plan No. 1 of 1958 as amended, 72 Stat. 1799-1801, 23 F.R. 4991, E.O. 10952, as amended, 26 F.R. 6577; Delegation of Authority Regarding Civil Defense Functions and Establishment of the Office of Civil Defense, Apr. 10, 1964, 29 F.R. 5017)

Dated: June 4, 1971.

JOHN E. DAVIS,
Director of Civil Defense.

[FR Doc.71-8335 Filed 6-14-71; 8:45 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

SUBCHAPTER B—INTERNATIONAL MAIL

INCREASED RATES AND FEES

In the daily issue of Friday, May 14, 1971, 36 F.R. 8879 (as corrected, 36 F.R. 9564), the Department proposed increases in certain postage rates and fees for international mail. To the extent that the proposed rate and fee revisions were not directly required by the Universal Postal Union Convention (Tokyo, 1969, effective July 1, 1971); or to keep international rates at a level not below domestic rates and fees for corresponding rate and service categories, the proposed increases were designed to produce revenues necessary to provide adequate cost coverage for the various categories

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of international mail and services related thereto.

The Department afforded interested persons an opportunity to submit written comments relative to the proposals. After consideration of all comments received, it has been determined to adopt the proposals, as well as the miscellaneous changes required by the Universal Postal Union Convention and also published in the cited issue of the *FEDERAL REGISTER*, without change. Accordingly, the revisions set forth below are hereby adopted, to be effective July 1, 1971.

Subchapter B of Title 39, CFR, will be appropriately amended in order to codify the new rates and fees and other changes.

INTERNATIONAL RATES AND FEES; MISCELLANEOUS MATTER

I. Canada and Mexico—A. Regular surface rates. 1. Letter mail: 8 cents per ounce up to 12 ounces; eighth zone priority mail rates for heavier weights.

2. Small packets: 8 cents for the first 2 ounces and 2 cents for each additional ounce.

3. Parcel post: \$1.20 for the first 2 pounds and 35 cents for each additional pound or fraction.

B. Exceptional surface rates.

Ounces	Books and sheet music	Publishers' second class	Publishers' controlled circulation
2	\$0.14	\$0.03	\$0.05
4	.14	.05	.07
8	.14	.08	.11
16	.17	.13	.20
32	.21	.21	.34
64	.36	.36	.58
Each additional 32 ounces	.18	.18	.29

C. Air mail. Air parcel post (to Mexico only): \$1.23 first 4 ounces; 24 cents each additional 4 ounces or fraction.

II. Countries other than Canada and Mexico—A. Regular surface rates. 1. Letter mail, printed matter and small packets:

Ounces	Letter mail	Printed matter	Small packets
1	\$0.15	\$0.08	\$0.15
2	.26	.08	.15
4	.31	.12	.15
8	.76	.19	.29
16	1.11	.33	.48
32	2.40	.57	.86
64	3.81	.96	
Each additional 32 ounces		.48	

¹ Post and postal cards 10 cents.

2. Parcel post:

(i) Central America, the Caribbean Islands, Bahamas, Bermuda, and St. Pierre and Miquelon: \$1.20 for the first 2 pounds and 35 cents for each additional pound or fraction.

(ii) All other countries: \$1.30 for the first 2 pounds and 40 cents for each additional pound or fraction.

B. Exceptional surface rates. 1. Postal Union of the Americas and Spain (PUAS) Countries:

Ounces	Books and sheet music	Publishers' second class	Publishers' controlled circulation
2	\$0.14	\$0.03	\$0.05
4	.14	.05	.07
8	.14	.08	.11
16	.17	.13	.20
32	.21	.21	.34
64	.36	.36	.58
Each additional 32 ounces	.18	.18	.29

¹ Except Spain and Spanish possessions.

2. All other countries:

Ounces	Books and sheet music	Publishers' second class	Publishers' controlled circulation
2	\$0.14	\$0.04	\$0.05
4	.14	.06	.07
8	.14	.10	.11
16	.17	.17	.20
32	.28	.28	.34
64	.48	.48	.58
Each additional 32 ounces	.24	.24	.29

C. Air mail. 1. Letter mail:

(i) Central America, South America, the Caribbean Islands, Bahamas, Bermuda, and St. Pierre and Miquelon: 17 cents per half ounce.

(ii) All other countries: 21 cents per half ounce.

2. Aerogrammes and post cards: 15 cents each.

3. Parcel post: Individual country rates increased 10 percent.

III. Special service fees—A. Customs clearance and delivery. The fee on dutiable postal union mail other than small packets will be increased to 35 cents. The fee on dutiable small packets and parcel post will be increased to 70 cents.

B. Return receipts for registered or insured mail. The fee will be increased to 20 cents if the receipt is requested at time of mailing and to 40 cents if it is requested after mailing.

C. Request for recall or change of address. The fee will be increased to 60 cents.

D. Inquiries. The fee will be increased to 30 cents.

IV. Miscellaneous changes. A. "The Samples of Merchandise" class of postal union mail will be discontinued. Articles formerly transmitted under that classification must be mailed as "Small Packets," or they may be mailed in "Letter Packages" or as parcel post. In conjunction with the discontinuance of "Samples of Merchandise," "Combination Packages" and "Grouped Articles" are likewise being discontinued.

B. The maximum weight limit for printed matter to P.U.A.S. countries is being established at 22 pounds, and the minimum weight limit for direct sacks of prints addressed to one addressee lowered to 22 pounds to all countries.

C. The "8-ounce merchandise package" service to Canada is being discontinued.

(5 U.S.C. 301, 39 U.S.C. 501, 505; CF. 39 U.S.C. 101(d), 401, 403, 404(2), 407)

Louis A. Cox,
Deputy General Counsel.

[FR Doc.71-8330 Filed 6-14-71; 8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14—Department of the Interior

PART 14-1—GENERAL

Novation Agreements and Change of Name Agreements

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 301, Subpart 14-1.51 of Chapter 14, Title 41 of the Code of Federal Regulations, is hereby approved as set forth below.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the public rulemaking process. However, because this subpart is largely a general statement of Departmental policy and internal procedure the rulemaking process will be waived and this subpart will become effective upon publication in the *FEDERAL REGISTER* (6-15-71).

RICHARD R. HITE,
Deputy Assistant Secretary
for Administration.

JUNE 8, 1971.

Part 14-1 is amended by adding Subpart 14-1.51, as follows:

Subpart 14-1.51—Novation Agreements and Change of Name Agreements

Sec.	Scope of subpart.
14-1.5100	Scope of subpart.
14-1.5101	Agreement to recognize a successor in interest.
14-1.5102	Agreement to recognize change of name of contractor.
14-1.5103	Processing novation agreements and change of name agreements.

AUTHORITY: The provisions of this Subpart 14-1.51 issued under sec. 205(c), Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c).

Subpart 14-1.51—Novation Agreements and Change of Name Agreements

§ 14-1.5100 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to Government contracts when such interests are acquired incidental to a transfer of all the assets of a contractor or such part of his assets as is involved in the performance of the contracts, and (b) a change of name of a contractor. (See also § 1-30.710 of this title on assignment of claims in the case of transfer of a business or corporate merger.)

§ 14-1.5101 Agreement to recognize a successor in interest.

(a) The transfer of a Government contract is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract where the third party's interest is incidental to the transfer of all the assets of the contractor, or all that part of the contractor's assets involved in the performance of the contract. Examples include, but are not limited to:

- (1) Sale of such assets;
- (2) Transfer of such assets pursuant to merger or consolidation of corporation; and
- (3) Incorporation of a proprietorship or partnership.

(b) When a contractor requests that the Government recognize a successor in interest the contractor shall be required to provide the contracting officer with one copy of each of the following, as applicable:

(1) A properly authenticated copy of the instrument by which the transfer of assets was effected, as for example, a bill of sale, certificate of merger, indenture of transfer, or decree of court;

(2) A list of all contracts and purchase orders which have not been finally settled between the contracting officer and the transferor, showing the contract number, the name and address of the purchasing office involved, the total dollar value of each contract as amended, the type of contract involved, and the balance remaining unpaid;

(3) A certified copy of the resolution of the boards of directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) Opinion of counsel for the transferor and transferee that the transfer was properly effected in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets of the transferor and the transferee as of dates immediately prior to and after the transfer of assets;

(9) Evidence of security clearance requirements if required; and

(10) Consent of sureties on all contracts listed under subparagraph (2) of this paragraph where bonds are required.

(c) When it is consistent with the Government's interest to recognize a successor in interest to a Government contract, the contracting officer shall execute a novation agreement with the transferor and the transferee, which shall ordinarily provide in part that:

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(1) The transferee assumes all the transferor's obligations under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal law.

(d) All agreements, prior to execution, shall be reviewed by Government counsel for legal sufficiency. A format for such an agreement for use when the transferor and transferee are corporations, and all the assets of the transferor and transferred, is set forth herein. This format may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

NOVATION AGREEMENT

This Agreement, entered into as of (date upon which the transfer of assets became effective pursuant to applicable State law) 19--, by and between the ABC Corp., a corporation duly organized and existing under the laws of the State of ----- (hereinafter referred to as the "Transferor"); the XYZ Corp., [add if appropriate] (formerly known as the LMN Corp.), a corporation duly organized and existing under the laws of the State of ----- with its principal office in the city of ----- (hereinafter referred to as the "Transferee"); and the United States of America (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government, represented by the contracting officers has entered into certain contracts and purchase orders with the Transferor [name]; ----- (or) [as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference]; and the term "the contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, heretofore made between the Government, represented by contracting officers and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties or obligations thereunder), and including modifications thereto hereafter made in accordance with the terms and conditions of such contracts and purchase orders between the Government and the Transferee;

2. Whereas, as of ----- 19--, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a [term descriptive of the legal transaction involved] between the Transferor and the Transferee;

3. Whereas, the Transferee by virtue of said assignment, conveyance and transfer, has acquired all the assets of the Transferor;

4. Whereas, by virtue of said assignment, conveyance and transfer, the Transferee has assumed all the duties, obligations, and liabilities of the Transferor under the contracts;

5. Whereas, the Transferee is in a position fully to perform the contracts, and such duties and obligations as may exist under the contracts;

6. Whereas, it is consistent with the Government's interest to recognize the Transferee as the successor party to the contracts;

7. Whereas, there has been filed with the Government evidence of said assignment, conveyance, or transfer;

[Where a change of name is also involved, such as prior or concurrent change of name of the transferee, an appropriate recital shall be used; for example:

[8. Whereas, there has been filed with the Government a certificate dated ----- 19--, signed by the Secretary of the State of ----- to the effect that the corporate name of LMN Corp. was changed to XYZ Corp. on ----- 19--.]

Now, Therefore, in consideration of the premises, the parties hereto agree as follows: The Transferor hereby confirms said assignment, conveyance and transfer to the Transferee, and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the contracts.

10. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants, and conditions contained in the contracts. The Transferee further assumes all obligations and liabilities of, and all claims and demands against, the Transferor under the contracts, in all respects as if the Transferee were the original party to the contracts.

11. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the contracts with the same force and effect as if the action had been taken by the Transferee.

12. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the contracts. The Transferee hereby becomes entitled to all right, title, and interest of the Transferor in and to the contracts in all respects as if the Transferee were the original party to the contracts. The term "contractor" as used in the contracts shall be deemed to refer to the Transferee rather than to the Transferor.

13. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

14. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Government to the Transferor and all other action heretofore taken by the Government, pursuant to its obligations under any of the contracts, shall be deemed to have discharged pro tanto the Government's obligations under the contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the contracts, to the extent of the amounts so paid or reimbursed.

15. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (1) said assignment conveyance and transfer, or (2) this Agreement, other than those which the Government in the absence of said assignment conveyance and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the contracts.

16. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (1)

assumes under this Agreement, or (ii) may hereafter undertake under the contracts as they may hereafter be amended or modified in accordance with the terms and conditions thereof; and the Transferor hereby waives notice of and consents to any such amendment or modification.

17. Except as herein modified, the contracts shall remain in full force and effect.

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By _____
(ABC Corp.)
[CORPORATE SEAL] (Title)
By _____
(XYZ Corp.)
[CORPORATE SEAL] (Title)

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corp., named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19____.

[CORPORATE SEAL] By _____
[CORPORATE SEAL] (Title)

CERTIFICATE

I, _____, certify that I am the Secretary of XYZ Corp., named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19____.

[CORPORATE SEAL] By _____
[CORPORATE SEAL] (Title)

§ 14-1.5102 Agreement to recognize change of name of contractor.

(a) Where only a change of name is involved, so that the rights and obligations of the parties remain unaffected, an agreement between the contracting officer and the contractor shall be executed effecting the amendment of all existing contracts between the parties so as to reflect the contractor's change of name. Prior to the execution of such agreement, one copy of each of the following shall be deposited by the contractor with the contracting officer:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) Opinion of counsel for the contractor as to the effective date of the change of name and that it was properly effected in accordance with applicable law; and

(3) A list of all contracts and purchase orders which have not been finally settled between the contracting officer and the transferor, showing the contract

number, the name and address of the purchasing office involved, the total dollar value of each contract as amended, and the balance remaining unpaid.

(b) A format for such an agreement which shall be adapted for specific cases is set forth below.

CHANGE OF NAME AGREEMENT

This Agreement, entered into as of _____, 19____, by and between the ABC Corporation (formerly the XYZ Corp. and hereinafter sometimes referred to as the "contractor"), a corporation duly organized and existing under the laws of the State of _____, and the United States of America, represented by the Department of _____ (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government represented by contracting officers has entered into certain contracts and purchase orders with the XYZ Corp. [namely: _____] (or [as set forth in the attached list marked "Exhibit A" to this agreement and herein incorporated by reference]; and the term "the contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, entered into between the Government, represented by a contracting officer and the contractor (whether or not performance and payment have been completed and releases executed, if the Government or the contractor has any remaining rights, duties, or obligations thereunder);

2. Whereas, the XYZ Corp., by an amendment to its certificate of incorporation, dated _____, 19____, has changed its corporate name to ABC Corp.;

3. Whereas, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Government and of the contractor under the contracts are unaffected by said change; and

4. Whereas, there has been filed with the Government documentary evidence of said change in corporate name;

Now, Therefore, in consideration of the premises, the parties hereto agree, that the contracts covered by this Agreement are hereby amended by deleting therefrom the name "XYZ Corp." wherever it appears in the contracts and substituting therefor the name "ABC Corp."

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By _____
(ABC Corp.)
[CORPORATE SEAL] (Title)

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corp., named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19____.

[CORPORATE SEAL] By _____
[CORPORATE SEAL] (Title)

§ 14-1.5103 Processing novation agreements and change of name agreements.

(a) Where a contractor seeks a novation or change of name agreement, the documents pertaining thereto shall be forwarded to the contracting officer. In addition to the documents otherwise required by this Subpart 14-1.51, the contractor shall forward to the contracting officer a list of all other contracts with other bureaus or offices of the Department. This list shall include the identifying number and date of each such contract and the bureaus and offices involved.

(b) A signed copy of the executed novation agreement or change of name agreement shall be forwarded to the contractor, and a signed copy shall be retained in the office or bureau executing the agreement.

(c) After execution and distribution of an agreement, the original contract(s) affected thereby shall be appropriately modified by the contracting officer.

(d) The list of Department contracts referred to in paragraph (a) of this section shall be forwarded to the Office of Survey and Review which shall maintain a record of all contractors seeking novation agreements or change of name agreements and that Office shall notify the bureaus affected.

[FR Doc.71-8344 Filed 6-14-71;8:46 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-12; Notice No. 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires and Tire Selection and Rims for Passenger Cars

Correction

In F.R. Doc. 71-7465 appearing at page 10733 in the issue of Wednesday, June 2, 1971, in Table I-J, the sixth entry in the first column, now reading "B78-13", should read "D78-13".

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-572]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of

February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e) (5) relating to the State of Texas, subdivision (i) relating to Callahan, Eastland, Galveston, Harris, Montgomery, and Tom Green Counties is amended to read:

(5) Texas. (i) All of Callahan, Eastland, Galveston, Harris, Montgomery, Parker, and Tom Green Counties.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines all of Parker County, Tex., because of the existence of hog cholera. This action is deemed necessary to prevent spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined county.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc.71-8369 Filed 6-14-71;8:45 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 351, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and

Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) Order, as amended. The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 908.651 (Valencia Reg. 351, 36 F.R. 10773) during the period June 4, 1971, through June 11, 1971, are hereby amended to read as follows:

§ 908.651 Valencia Orange Regulation 351.

(b) Order. (1) * * *
(i) District 1: 272,000 cartons;
(ii) District 2: 501,000 cartons;
(iii) District 3: 77,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 10, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8367 Filed 6-14-71;8:49 am]

[Lemon Reg. 483, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the

Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) Order, as amended. The provisions in paragraph (b) (1) (i) of § 910.783 (Lemon Reg. 483, 36 F.R. 10937) during the period June 6, 1971, through June 12, 1971, are hereby amended to read as follows:

§ 910.783 Lemon Regulation 483.

(b) Order. (1) * * *
(ii) District 2: 300,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 10, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8368 Filed 6-14-71;8:49 am]

[Avocado Reg. 13]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Limitation of Shipments

On May 29, 1971, and June 8, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9871, 11043), regarding a proposed regulation to be made effective pursuant to the marketing agreement, as amended, and order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida. The proposed regulation was recommended by the Avocado Administrative Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Avocado Administrative Committee (established pursuant to the marketing agreement and order), and other available information, it is hereby

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TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Acuña	6-21-71	14 oz.	6-14-71	14 oz.	7-10-71		
Fuchs	6-21-71	14 oz.	7-5-71	14 oz.	7-10-71	10 oz.	8-2-71
K-5	6-28-71	16 oz.	7-12-71	14 oz.	7-26-71	2 1/8 in.	
Dr. DuPuis No. 2	6-21-71	16 oz.	7-5-71	14 oz.	7-10-71		
Hardee	7-5-71	14 oz.	7-12-71	14 oz.	8-2-71		
Pollock	7-5-71	18 oz.	7-12-71	16 oz.	7-26-71		
Shimmons	7-5-71	16 oz.	7-12-71	14 oz.	7-26-71		
Nadir	7-5-71	14 oz.	7-12-71	12 oz.	7-19-71	10 oz.	8-2-71
Katherine	7-5-71	16 oz.	7-19-71	14 oz.	8-2-71		
Dawn	7-19-71	12 oz.	8-2-71	10 oz.	8-10-71		
Peterson	7-20-71	14 oz.	8-9-71	10 oz.	8-23-71	8 oz.	9-6-71
Trapp	8-9-71	14 oz.	8-23-71	12 oz.	9-6-71		
Walton	8-10-71	16 oz.	8-30-71	14 oz.	9-13-71	12 oz.	9-27-71
Ruchle	7-19-71	18 oz.	8-2-71	16 oz.	8-16-71	14 oz.	8-30-71
Pinelli	8-2-71	18 oz.	8-16-71	16 oz.	8-30-71	3 1/8 in.	
Webb 2	7-19-71	18 oz.	8-2-71	16 oz.			8-16-71
Nesbitt	8-16-71	18 oz.	8-23-71	16 oz.	9-13-71	10 oz.	9-20-71
Tommaso	8-30-71	14 oz.	9-6-71	12 oz.	9-13-71	2 1/8 in.	
Booth 8	9-13-71	16 oz.	9-27-71	15 oz.	10-11-71	13 oz.	
Fairchild	8-30-71	16 oz.	9-13-71	14 oz.	9-27-71	12 oz.	10-4-71
Niroyd	8-30-71	18 oz.	9-13-71	16 oz.	9-27-71	3 1/8 in.	
Black Prince	9-13-71	23 oz.	9-27-71	16 oz.	10-18-71		
Catalina	9-13-71	24 oz.	9-20-71	22 oz.	10-4-71		
Blair	9-27-71	14 oz.	10-18-71				
Collinson	9-27-71	16 oz.	10-25-71				
Chica	9-27-71	12 oz.	10-11-71	10 oz.	10-25-71		
Rue	9-27-71	30 oz.	10-4-71	24 oz.	10-18-71	18 oz.	11-1-71
Booth 5	10-4-71	16 oz.	10-25-71				
Dickson	10-4-71	15 oz.	10-18-71	12 oz.	10-25-71		
Simpson	10-4-71	16 oz.	10-25-71				
Vera	10-4-71	16 oz.	10-25-71				
Sherman	10-4-71	16 oz.	10-18-71	14 oz.	11-1-71	10 oz.	11-22-71
Marcus	10-4-71	32 oz.	11-15-71				
Booth 10	10-11-71	16 oz.	11-8-71				
Booth 7	10-11-71	16 oz.	10-25-71	14 oz.	11-8-71		
Avon	10-11-71	15 oz.	11-1-71				
Booth 11	10-11-71	16 oz.	11-1-71				
Leona	10-11-71	14 oz.	10-25-71				
Winslowson	10-11-71	18 oz.	11-1-71				
Nelson	10-11-71	14 oz.	10-25-71	12 oz.	11-8-71	10 oz.	11-29-71
Hall	10-11-71	26 oz.	10-25-71	20 oz.	11-8-71		
Lula	10-18-71	18 oz.	11-1-71	14 oz.	11-15-71		
Choquette	10-18-71	24 oz.	11-1-71	20 oz.	11-22-71		
Montroe	10-18-71	24 oz.	11-1-71	20 oz.	11-22-71		
Herman	10-18-71	16 oz.	11-1-71	14 oz.	11-15-71		
Murphy	10-18-71	16 oz.	11-1-71	14 oz.	11-15-71	11 oz.	12-6-71
Ajax (H7 B)	10-25-71	18 oz.	11-15-71				
Booth 1	10-25-71	16 oz.	11-15-71				
Booth 3	10-25-71	16 oz.	11-15-71				
Taylor	10-25-71	14 oz.	11-8-71	12 oz.	11-22-71		
Dunedin	11-8-71	16 oz.	11-22-71	14 oz.	12-6-71	10 oz.	12-27-71
Byars	11-15-71	16 oz.	12-6-71				
Linda	11-15-71	18 oz.	12-6-71				
Nabal	11-15-71	14 oz.	12-6-71				
Wagner	12-6-71	12 oz.	12-20-71	10 oz.	1-3-72		
Schmidt	1-17-72						
Itzamus	2-14-72						

found and determined that the regulation, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The recommendation of the Avocado Administrative Committee reflects its appraisal of the avocado crop and current and prospective market conditions. Shipments of avocados are expected to begin on or about June 14, 1971. The committee has considered and recommended the sizes, quality, and maturity standards, including shipping periods, for the various varieties of avocados, so as to prevent the handling of immature or other undesirable fruit and to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to growers pursuant to the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date of June 14, 1971, was published in the FEDERAL REGISTER (36 F.R. 9871, 11043), and no objection to this regulation or such effective date was received; (2) the recommendation and supporting information for regulation during the period specified herein were submitted to the Department after an open meeting of the Avocado Administrative Committee on May 12, 1971, which was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (3) the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee; (4) information concerning such provisions and effective time has been disseminated among handlers of such avocados; (5) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; (6) shipments of the current crop of such avocados are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to all shipments of such avocados in order to effectuate the declared policy of the act.

§ 915.313 Avocado Regulation 13.

(a) Order:

(1) During the period June 14, 1971, through April 30, 1972, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade;

(2) On and after the effective time of this regulation, except as otherwise provided in subparagraphs (9) and (10) of this paragraph, no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with subparagraphs (3), (4), (5), and (6) of this paragraph.

(3) From the date listed for the respective variety in Column 2 of Table I to the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(4) From the date listed for the respective variety in Column 4 of Table I to the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(5) From the date listed for the respective variety in Column 6 of Table I to the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7, of such table or is of at least the diameter specified for such variety in said Column 7;

(6) From October 25, 1971, through November 7, 1971, no handler shall handle any avocados of the Booth 8 variety unless the individual fruit in each lot of such avocados weighs at least 10 ounces or is at least 3 1/8 inches in diameter, and from November 8, 1971, through November 14, 1971, no handler shall handle any avocados of the Booth 8 variety unless the individual fruit in each lot of such avocados weighs at least 8 ounces or is at least 2 1/8 inches in diameter;

(7) Except as otherwise provided in subparagraphs (9) and (10) of this paragraph, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 5, 1971.

(ii) From July 5, 1971, through July 11, 1971, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From July 12, 1971, through August 1, 1971, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From August 2, 1971, through August 29, 1971, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(v) From August 30, 1971, through September 19, 1971, the individual fruit in each lot of such avocados shall weigh at least 12 ounces.

(8) Except as otherwise provided in subparagraphs (9) and (10) of this paragraph, varieties of avocados not covered by subparagraphs (2) through (7) of this paragraph shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 20, 1971.

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(ii) From September 20, 1971, through October 17, 1971, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 18, 1971, through December 19, 1971, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(9) Notwithstanding the provisions of subparagraphs (2) through (8) of this paragraph regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided*, That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I or in subparagraphs (6), (7), and (8) of this paragraph. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(10) The provisions of subparagraphs (2) through (9) of this paragraph shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color for that fruit when mature.

(b) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit; and the term "U.S. No. 3" shall have the same meaning as set forth in the U.S. Standards for Florida Avocados (§§ 51.3050-51.3069 of this title).

(c) The provisions of this regulation shall become effective June 14, 1971.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 11, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc. 71-8421 Filed 6-11-71; 12:35 pm]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order Nos. 90, 98, 103, 104, 106, 121, 130]

MILK IN CERTAIN MILK MARKETING AREAS

Redesignation of Effective Date of Suspension of Certain Provisions

This order redesignates the effective date of suspension of certain provisions of the orders regulating the handling of milk in the Nashville, Tenn.; Mississippi; Oklahoma Metropolitan and Red

River Valley marketing areas which an order issued May 28, 1971 (36 F.R. 10775) pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) suspended effective June 15, 1971.

The effective date of the suspension is hereby changed to September 1, 1971, with respect to the following designated provisions:

PART 1098—MILK IN NASHVILLE, TENN., MARKETING AREA

In § 1098.11, paragraph (c).

PART 1103—MILK IN MISSISSIPPI MARKETING AREA

In § 1103.11, paragraph (c).

PART 1104—MILK IN RED RIVER VALLEY MARKETING AREA

In § 1104.63(d) the words "during the months of September through December."

PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

1. § 1106.9, paragraph (c).

2. In § 1106.11, the portion of paragraph (c) which reads: "which owns or operates a plant described in § 1106.9 (c)."

Statement of consideration. This order defers until September 1, 1971, the effective date of the suspension of certain provisions of the Nashville, Oklahoma Metropolitan, and Mississippi milk orders under which a cooperative association may designate pool status for a plant operated by the cooperative association. It similarly defers to such date the suspension of a provision of the Red River Valley order which would result in requiring some delivery of a producer's milk to a pool plant each month to qualify such producer for diversion.

No change is made in the effective date of the suspension action affecting the point of pricing of diverted milk under the Chattanooga, Nashville, Mississippi, Red River Valley, and Oklahoma Metropolitan milk orders as set forth in the May 28, 1971, suspension order.

The reasons for suspension of all the above provisions were set forth in the May 28, 1971, suspension order. It was stated therein that such provisions, taken together, provided the means and economic incentive to pool under these orders large quantities of milk delivered to plants in distant areas.

This action deferring the effective date of suspension of the aforesaid provisions is based upon further review of marketing conditions in the respective markets, and particularly reconsideration of the need to allow cooperative plants traditionally associated with the local markets to continue to carry out their role of balancing needed market supplies and efficiently handling the normal reserve milk of such markets during the current

months of heavy milk production. As indicated in the May 28, 1971, order of suspension, it was for the performance of these valid marketing functions that the aforesaid cooperative supply plant provisions were adopted in these marketing orders so as to facilitate orderly marketing of regular milk supplies. The diversion provision of the Red River Valley order, referred to herein, also serves to facilitate the handling of seasonal surpluses of regular market supplies. From our further review and reconsideration of the May 28, 1971, suspension order it is anticipated that the immediate suspension of the point of pricing of diverted milk provisions in the Chattanooga, Nashville, Mississippi, Red River Valley, and Oklahoma Metropolitan milk orders as set forth in the May 28, 1971, suspension order should be sufficient to remove the monetary economic incentive which has existed heretofore in these markets for the introduction into their pools, directly or indirectly, of substantial quantities of unneeded distant milk. However, the market situation in these areas will be continuously reviewed to assure that this limited suspension is sufficient to accomplish the intent and purpose of the May 28, 1971, suspension order.

Proposals for amending the several orders with respect to the issues involved in the May 28, 1971, suspension action have been invited to be received on or before June 15, 1971, and it is proposed to schedule a public hearing thereon shortly thereafter.

In view of the imminent effective date of the May 28 suspension order it is impracticable to provide any notice of proposed rulemaking and public procedure thereon with respect to the modified effective date provided herein or to delay the effective date of this order. Further, the order will serve to relieve restriction that would otherwise result from the suspension order of May 28, 1971.

It is therefore ordered, That the effective date of the suspension with respect to the above designated order provisions is September 1, 1971, instead of June 15, 1971, as specified in the order issued May 28, 1971.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C., on June 11, 1971.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc. 71-8422 Filed 6-14-71; 8:51 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[71-560]

PART 564—SETTLEMENT OF INSURANCE

Settlement of Insurance Upon Default

JUNE 8, 1971.

Resolved that, notice and public procedure having been duly afforded (36 F.R.

6764) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines that it is advisable to amend § 564.1 of the Rules and Regulations for Insurance of Accounts (12 CFR 564.1) for the purpose of providing for payment of insurance on the amount of an insured member's account as of the date of default of an insured institution, including earnings computed to such date. Accordingly, the Federal Home Loan Bank Board hereby amends § 564.1 by revising paragraphs (a) and (b) thereof to read as follows, effective July 15, 1971:

§ 564.1 Settlement of insurance upon default.

(a) *General.* In the event of a default by an insured institution, the Corporation will promptly determine, from the savings account contracts and the books and records of the institution, the insured members thereof and the amount of the insured account of each such member. The Corporation will give to each member written notice of the time and place of payment of insurance by mail at the last known address as shown by the books of the insured institution.

(b) *Amount of insured account.* The amount of an insured account is the amount which the insured member would have been entitled to withdraw as of the date of default, plus interest thereon accrued to such date or dividends prorated to such date at the announced or anticipated rate, without regard to whether the account is subject to any pledge. In the case of an account with a fixed or minimum term or a qualifying or notice period that has not expired as of such date, dividends or interest thereon shall be computed as if the account could have been withdrawn on such date without any penalty or reduction in rate of earnings.

(Secs. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM,
Assistant Secretary.

[FR Doc. 71-8371 Filed 6-14-71; 8:49 am]

Chapter VII—National Credit Union Administration

PART 748—MINIMUM SECURITY DEVICES AND PROCEDURES

Penalty Provision; Correction

The document adopting Part 748 of Chapter VII of Title 12 of the Code of Federal Regulations, published in the FEDERAL REGISTER on Saturday, June 5, 1971, at 36 F.R. 10940, is corrected by changing the section number cited in line 1 of § 748.8 from "2053" to "205(e) (3)".

HERMAN NICKERSON, JR.,
Administrator.

JUNE 9, 1971.

[FR Doc. 71-8353 Filed 6-14-71; 8:47 am]

FEDERAL REGISTER, VOL. 36, NO. 115—TUESDAY, JUNE 15, 1971

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-EA-84; Amdt. 39-1231]

PART 39—AIRWORTHINESS DIRECTIVES

Avco Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Avco Lycoming type TIO 540-A aircraft engines.

There have been reports of failures of the fuel injector manifold to nozzle tube assemblies. A failure of this type creates a hazardous situation as fuel will be sprayed on the engine from the broken line. It appears that the break occurs as a result of engine vibration together with the present number of fuel line clamps. Since this deficiency exists in aircraft with similar type designs, an airworthiness directive is being issued requiring an inspection and relocation of present clamps and installation of additional clamps.

Since the foregoing requires expeditious adoption of this rule, notice and public procedure hereon are impractical and the rule may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

Avco Lycoming. Applies to TIO 540-A series engines with serial numbers lower than 1931-61.

Compliance required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent possible failures of the fuel injector manifold to nozzle tube assemblies accomplish the following:

1. Visually inspect each tube assembly for fuel stains, cracks, dents, and bend radii under five-eighths inch. Replace cracked or dented lines and increase bends to five-eighths inch or more without denting or kinking before further flight.
2. Install support clamps in accordance with the instructions contained in Lycoming Service Bulletin No. 335 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective June 22, 1971.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 4, 1971.

GEORGE M. GARY,
Director, Eastern Region.

[FR Doc. 71-8354 Filed 6-14-71; 8:47 am]

[Airspace Docket No. 71-WE-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On May 7, 1971, F.R. Doc. 71-6422 was published in the FEDERAL REGISTER (36 F.R. 8510) adopting an amendment to Part 71 of the Federal Aviation Regulations that altered the transition area at Ellensburg, Wash.

Subsequent to the publication of this document, it was determined that errors had been made in describing the transition area. Action is taken herein to correct those errors.

Since there corrections are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary, and the effective date as originally adopted may be retained.

In consideration of the foregoing, F.R. Doc. 71-6422 (36 F.R. 8510) is amended by deleting "V-25" in the description of the 9,500 feet MSL portion of the transition area and substituting "V-2S" therefor.

In the description of the 1,200-foot portion of the transition area after "V-2S" insert "16.5-mile-radius circle" centered on the Ellensburg VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, as amended; 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on June 3, 1971.

LEE E. WARREN,
Acting Director, Western Region.

[FR Doc. 71-8356 Filed 6-14-71; 8:48 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-9192]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Timely Advance Notice of Record Dates for Publicly Traded Securities

On February 17, 1971, in Securities Exchange Act Release No. 9076, and in the FEDERAL REGISTER for February 24, 1971 (36 F.R. 3431), the Securities and Exchange Commission published a proposal to adopt Rule 10b-17 (17 CFR 240.10b-17) under the Securities Exchange Act of 1934 (the "Act"). The Commission has considered the comments and suggestions received and has adopted the

rule as stated below effective July 12, 1971.

The new rule will require issuers of publicly traded securities to furnish specified advance information concerning impending dividends or other distributions in cash or in kind; planned splits or reverse splits; and rights or other subscription offerings (hereinafter collectively referred to as distributions) to the National Association of Securities Dealers, Inc. (NASD), or an exchange on which the securities are registered and which has substantially comparable procedures to those set forth herein.¹

The reports for issuers of over-the-counter securities will be required at least 10 days prior to the record date set by the issuer for determining the identity of the security holders to whom the rights to these distributions accrue. In the case of a rights offering or other offerings requiring a registration statement under the Securities Act of 1933, where such 10 days advance notice of the record date may not be practicable, the information will be required on or before the record date and in no event later than the day on which the registration statement to which the offering relates becomes or is declared effective by the Commission.² In those situations where the issuer would report to the NASD, the rule will also provide that exemptions from these requirements could be granted by the Commission. It is contemplated, however, that such an exemption will be granted only in special circumstances where the purposes of the rule are not applicable and where the NASD does not need the report to enable it to adequately disseminate the information to its members and the investing public.

The rule has been revised to specifically exempt redeemable securities issued by open-end investment companies and ordinary interest payments on debt securities since these type of securities generally do not present any of the problems which the rule is designed to meet. In addition, the rule will indicate that if exact per share cash distributions cannot be given to the NASD because of

¹ Presently the New York, American, Philadelphia-Baltimore-Washington, Midwest, Pacific Coast, Boston, Cincinnati, Detroit, and National Stock Exchanges have substantially comparable requirements. Of course, this does not mean that these exchanges must have identical procedures. Indeed, these exchanges may (as at present) have different advance reporting periods and special procedures if such requirements enable these organizations to adequately disseminate the news of impending distributions, to set "ex" dates for trading purposes, and to otherwise properly execute their self-regulatory responsibilities.

² Of course, in order to avoid unnecessary and burdensome settlement problems, where a distribution is dependent on action of the Commission or other governmental authority, the record date should not be set until such action is taken.

existing conversion rights which may affect the per share distribution, then a reasonable approximation of the per share distribution may be given so long as the actual per share data is subsequently provided on the record date.

As indicated in Release No. 9076 (36 F.R. 3430), it has been the experience of the Commission and the securities industry that the failure of a publicly held company to provide a timely announcement of the record date with respect to these types of distributions has had a misleading and deceptive effect on both the broker-dealer community and the investing public. As a direct result of such failure, purchasers and their brokers may have entered into and settled securities transactions without knowledge of the accrual of rights to these distributions and were thus unable to take necessary steps to protect their interests. Further, sellers who have received the distributions as recordholders on the specified record date, after having disposed of their securities, have also disposed of the cash or stock dividends or other rights received as such recordholders without knowledge of possible claims of purchasers of the underlying security to those rights. In some instances, the broker-dealers who have acted for such buyers or sellers have settled resulting disputes at their own expense, while, in others, the disputes have led to arbitration and to litigation. In many instances, innocent buyers and sellers have suffered losses. In addition, some issuers have made belated declarations of stock splits or dividends with the apparent knowledge that this action would have a manipulative effect on the market for their securities. In these cases, "buy-in" transactions effected by purchasers to liquidate the sellers' obligations have had the effect of raising the price of the security. This effect has been particularly significant when the existing floating supply of the security is limited.

The NASD and securities exchanges have long had procedures for obtaining and disseminating information of the character called for by this rule. Based on this information, these organizations are then able to disseminate news of impending distributions and to set "ex" dates for trading purposes through various media, including the standard financial services and membership bulletins, to the brokerage community and investing public. The advance publication of an ex-date is thus designed to provide an appropriate cutoff date which will not only enable the broker-dealer community to settle transactions in the normal course of business with a minimum of additional paper work but will also provide adequate notice of the steps that must be taken by their members at settlement (e.g. request settlement with due-bills) so as to protect public customers.³

³ For a further explanation of the ex-date and due-bill procedure see Securities Exchange Act Release No. 9076 (36 F.R. 3430).

It has been the experience of the securities industry that generally 10 days advance notice of a record date is sufficient to enable the self-regulatory organizations to reasonably accomplish these objectives. However, in such cases as the issuance of rights or warrants or other distributions where a registration statement under the Securities Act of 1933 is required, 10 days advance notice is not always practicable because the issuer must await affirmative Commission action before the distribution can occur. Thus, notice of the latter types of distribution, if such 10 days advance notice is not practicable, must be given by the issuer on or before the record date and in no event later than the date the registration statement becomes effective.

Commission action. The Securities and Exchange Commission acting pursuant to the provisions of the Act and particularly the power conferred by sections 10(b) and 23(a) and deeming it necessary and appropriate in the public interest and for the protection of investors, hereby adopts § 240.10b-17 of Chapter II of Title 17 of the Code of Federal Regulations effective July 12, 1971. The text is as follows:

§ 240.10b-17 Untimely announcements of record dates.

(a) It shall constitute a "manipulative or deceptive device or contrivance" as used in section 10(b) of the Act for any issuer of a class of securities publicly traded by the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange to fail to give notice in accordance with paragraph (b) of this section of the following actions relating to such class of securities:

(1) A dividend or other distribution in cash or in kind, except an ordinary interest payment on a debt security, but including a dividend or distribution of any security of the same or another issuer;

(2) A stock split or reverse split; or

(3) A rights or other subscription offering.

(b) Notice shall be deemed to have been given in accordance with this section only if:

(1) Given to the National Association of Securities Dealers, Inc., no later than 10 days prior to the record date involved or, in case of a rights subscription or other offering if such 10 days advance notice is not practical, on or before the record date and in no event later than the effective date of the registration statement to which the offering relates, and such notice includes:

(i) Title of the security to which the declaration relates;

(ii) Date of declaration;

(iii) Date of record for determining holders entitled to receive the dividend or other distribution or to participate in the stock or reverse split;

(iv) Date of payment or distribution or, in the case of a stock or reverse split

or rights or other subscription offering, the date of delivery;

(v) For a dividend or other distribution including a stock or reverse split or rights or other subscription offering:

(a) In cash, the amount of cash to be paid or distributed per share, except if exact per share cash distributions cannot be given because of existing conversion rights which may be exercised during the notice period and which may affect the per share cash distribution, then a reasonable approximation of the per share distribution may be provided so long as the actual per share distribution is subsequently provided on the record date.

(b) In the same security, the amount of the security outstanding immediately prior to and immediately following the dividend or distribution and the rate of the dividend or distribution.

(c) In any other security of the same issuer, the amount to be paid or distributed and the rate of the dividend or distribution.

(d) In any security of another issuer, the name of the issuer and title of that security, the amount to be paid or distributed, and the rate of the dividend or distribution and if that security is a right or a warrant, the subscription price.

(e) In any other security (including securities not covered under (b) through (d) of this subdivision) the identity of the property and its value and basis for assigning that value;

(vi) Method of settlement of fractional interests;

(vii) Details of any condition which must be satisfied or Government approval which must be secured to enable payment of distribution; and in

(viii) The case of stock or reverse split in addition to the aforementioned information;

(a) The name and address of the transfer or exchange agent; or

(2) The Commission, upon written request or upon its own motion, exempts the issuer from compliance with subparagraph (1) of this paragraph either unconditionally or on specified terms or conditions, as not constituting a manipulative or deceptive device or contrivance comprehended within the purpose of this section or;

(3) Given in accordance with procedures of the national securities exchange or exchanges upon which a security of such issuer is registered pursuant to section 12 of the Act which contain requirements substantially comparable to those set forth in subparagraph (1) of this paragraph.

(c) The provisions of this rule shall not apply, however, to redeemable securities issued by open-end investment companies registered with the Commission under the Investment Company Act of 1940.

(Secs. 10(b), 23(a), 48 Stat. 891,901, as amended 49 Stat. 1379, 15 U.S.C. 78j, 78w)

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

JUNE 7, 1971.

[FR Doc. 71-8346 Filed 6-14-71; 8:47 am]

Title 21—FOOD AND DRUGS

Chapter 1—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Procedures for Recall of Products From Market

The Commissioner of Food and Drugs concludes that a policy statement should be established setting forth FDA's revision of procedures for recall of products from the market. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 304, 701(a), 705, 52 Stat. 1044, as amended, 1055, 1057-58; 21 U.S.C. 334, 371(a), 375) and the Federal Hazardous Substances Act (secs. 6, 10, 74 Stat. 376-78, as amended; 15 U.S.C. 1265, 1269), and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 3:

§ 3.85 Revision of procedures for recall of products from the market.

(a) Recalls have been evolved by the Food and Drug Administration over the years as the most effective method of removing all units of products found to be adulterated, to present a danger to health, to involve gross fraud or deception of consumers, or to be materially misleading to the detriment of consumers' health and welfare. A recall was an alternative to multiple seizures. If the distributor did not cooperate in a recall, legal actions were initiated.

(b) For several years FDA has compiled and made available to the public and press weekly lists of all recalls. Included in the lists are the product involved, the name and address of the recalling firm, reason for the recall, and the geographic area of the product's distribution.

(c) The recall has been expanded in recent years to cover nearly all removals of products from the marketplace, no matter the reason. This expansion has placed demands on FDA's resources, had reduced the sense of urgency that should be associated with a recall, and at times has generated unfavorable publicity for the processor or distributor in instances where the reason for the recall had little or no significance for consumers.

(d) Therefore, in consideration of these facts and to provide better consumer protection through improved and

current good manufacturing practices, current medical and scientific opinion, standards and regulations promulgated under statutory authority, and official compendia.

(Secs. 304, 701(a), 705, 52 Stat. 1044, as amended, 1055, 1057-58, 21 U.S.C. 334, 371(a), 375; secs. 6, 10, 74 Stat. 376-78, as amended, 15 U.S.C. 1265, 1269)

Dated: June 7, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc. 71-8274 Filed 6-14-71; 8:45 am]

SUBCHAPTER C—DRUGS

CAPREOMYCIN SULFATE

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 141, 145, 146, and 148 are amended and new Part 151g is established as follows to provide for certification of the antibiotic capreomycin sulfate ampoules:

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Section 141.5(b) is amended by alphabetically inserting a new item in the table, as follows:

§ 141.5 Safety test.

Antibiotic drug	Diluent (diluent number as listed in sec. 141.3)	Test dose		Route of administration as described in paragraph (c) of this section
		Concentration in units or milligrams of activity per milliliter	Volume in milliliters to be administered to each mouse	
Capreomycin sulfate	4	3.0 mg.	0.5	Intravenous.

2. Section 141.7(c) is amended by alphabetically inserting a new item in the table, as follows:

§ 141.7 Histamine test.

Antibiotic	Diluent (diluent number as listed in sec. 141.3(b))	Concentration of test solution (milligrams of activity per milliliter)	Volume of test solution to be injected (milliliters per kilogram of body weight)	
Capreomycin sulfate	4	3.0	1.0	

3. Section 141.111 (a) and (b) are amended by alphabetically inserting a new item in the tables, as follows:

§ 141.111 Microbiological turbidimetric assay.

(a)					
Working standard stock solutions				Standard response line concentrations	
Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration	Storage time under refrigeration	Diluent (solution number as listed in § 141.102(a))	Final concentrations—units or micrograms of antibiotic activity per milliliter
Distilled water	1 mg.	7 days	Distilled water	64, 80, 100, 125, 156, µg.	

(b) . . .

Antibiotic	Test organism	Medium (nutrient broth)	Suggested volume of inoculum to be added to each 100 milliliters of medium (nutrient broth)	Incubation temperature
Capreomycin	I	3	0.05	37
...

PART 145—ANTIBIOTIC DRUGS; DEFINITIONS AND INTERPRETATIVE REGULATIONS

4. Section 145.2(a) is amended by adding thereto a new subparagraph, as follows:

§ 145.2 Definitions of antibiotic substances.

(a) . . .
(36) *Capreomycin*. Each of the antibiotic substances produced by the growth of *Streptomyces capreolus*, and each of the same substances produced by any other means, is a kind of capreomycin.

5. Section 145.3 is amended by adding a new subparagraph to paragraph (a) and another to paragraph (b), as follows:

§ 145.3 Definitions of master and working standards.

(a) . . .
(44) *Capreomycin*. The term "capreomycin master standard" means a specific lot of capreomycin designated by the Commissioner as the standard of comparison in determining the potency of the capreomycin working standard.
(b) . . .
(44) *Capreomycin*. The term "capreomycin working standard" means a specific lot of a homogeneous preparation of capreomycin.

6. Section 145.4(b) is amended by adding thereto a new subparagraph, as follows:

§ 145.4 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

(b) . . .
(47) *Capreomycin*. The term "microgram" applied to capreomycin means the capreomycin activity (potency) contained in 1.0870 micrograms of the capreomycin master standard when dried for 4 hours at 100° C. and a pressure of 5 millimeters or less.

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

7. Section 146.8(b) (1) is amended by alphabetically inserting a new item in the fee schedule list, as follows:

§ 146.8 Fees.
 . . .
 (1) . . .

Test	Chargeable fee per test
Capreomycin I content	\$72
...	...

PART 148—ANTIBIOTIC DRUGS; PACKAGING AND LABELING REQUIREMENTS

§ 148.2 [Amended]

8. Section 148.2 *Packaging requirements* is amended by revising the first sentence to read as follows: "Each antibiotic drug subject to certification under section 507 of the act shall be packaged in immediate containers which shall be of such composition as not to cause any change in the strength, quality, or purity of the contents beyond any limits therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded."

PART 151g—CAPREOMYCIN

9. The following new Part 151g is added to Title 21, Chapter I:

§ 151g.1 Sterile capreomycin sulfate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity*. Sterile capreomycin sulfate is the amorphous sulfate salt of capreomycin. It is a white or essentially white powder. Capreomycin has been separated chromatographically into components designated capreomycins Ia, Ib, IIa, and IIb. Each component has been partially characterized according to its type and amino acid content. Capreomycin Ia contains serine and no alanine. Capreomycin Ib contains alanine and no serine. Capreomycin I is a mixture of capreomycins Ia and Ib. It is so purified and dried that:

(i) Its potency is not less than 700 micrograms and not more than 1,050 micrograms of capreomycin per milligram on an "as is" basis. If it is packaged for dispensing, its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of capreomycin that it is represented to contain.

(ii) It is sterile.
(iii) It passes the safety test.
(iv) It is nonpyrogenic.
(v) It contains no histamine nor histamine-like substance.

(vi) Its loss on drying is not more than 10 percent.

(vii) Its pH in an aqueous solution containing 30 milligrams per milliliter (or if packaged for dispensing, after reconstitution as directed in the labeling) is not less than 4.5 and not more than 7.5.

(viii) Its capreomycin I content is not less than 90 percent of the total capreomycins.

(ix) Its residue on ignition is not more than 3 percent.

(x) Its heavy metals content is not more than 30 parts per million.

(2) *Labeling*. It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples*. In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, safety, pyrogens, histamine, loss on drying, pH, capreomycin I content, residue on ignition, and heavy metals.
(ii) Samples required:

(a) If the batch is packaged for repackaging or for use in the manufacture of another drug:

(1) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(2) For sterility testing: 20 packages, each containing approximately 500 milligrams.

(b) If the batch is packaged for dispensing:

(1) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*. Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient sterile distilled water to give a stock solution of convenient concentration; also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with sterile distilled water to give a stock solution of convenient concentration. Further dilute the stock solution with sterile distilled water to the reference concentration of 100 micrograms of capreomycin per milliliter (estimated).

(2) *Sterility*. Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (1) of that section.

(3) *Safety*. Proceed as directed in § 141.5 of this chapter.

(4) *Pyrogens*. Proceed as directed in § 141.4(a) of this chapter, using a solution containing 10 milligrams per milliliter.

(5) *Histamine*. Proceed as directed in § 141.7 of this chapter.

(6) *Loss on drying*. Proceed as directed in § 141.501(e) of this chapter.

(7) *pH*. Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 30 milligrams per milliliter; however, if it is packaged for dispensing, use the solution obtained after reconstituting the drug as directed in the labeling.

(8) *Capreomycin I content*—(i) *Equipment*—(a) *Sheet (chromatographic)*. Whatman No. 1 filter paper for chromatography 20 x 50 centimeters.

(b) *Chamber (chromatographic)*. Square glass chromatography jar, 30 x 30 x 60 centimeters, designed for descending chromatography. The bottom of the tank is filled with 1.5 inches of a mixture of 70 percent *n*-propyl alcohol and 30 percent distilled water (v/v) and allowed to equilibrate for 2 days. The mobility of the capreomycin factors, capreomycin I and capreomycin II, depends to a large extent upon the amount of water vapor present in the chromatographic chamber. The mobility can be restricted by using more *n*-propyl alcohol and less water in the equilibrating solvent, or it can be increased by raising the water content. The *R_f* value (the distance traveled by a particular antibiotic factor divided by the distance traveled by the solvent front) should be approximately 0.50 for capreomycin I and approximately 0.60 for capreomycin II.

(ii) *Preparation of solutions*—(a) *0.1N citrate buffer, pH 6.2*. Dissolve 21.0 grams of citric acid monohydrate in 1 liter of distilled water. Adjust the pH to 6.2 with 50 percent aqueous sodium hydroxide.

(b) *Developing solvent*. Mix *n*-propyl alcohol, distilled water, triethylamine, and glacial acetic acid in volumetric proportions of 75:33:8:8, respectively.

(iii) *Preparation of the capreomycin sample solution*. Dissolve approximately 200 milligrams of the sample, accurately weighed, with distilled water in a 10-milliliter volumetric flask. Dilute to volume with distilled water. This sample should be refrigerated when not in use.

(iv) *Preparation of the chromatogram*. Use separate sheets for each capreomycin sample solution and for blanks without sample application. Evenly apply a 100-microliter aliquot of the capreomycin sample solution to the origin line of a sheet. A U-shaped glass rod is placed under the chromatogram during spotting. Dry the streak thoroughly with warm air. Place the sample sheets and a blank sheet in the chamber and develop them in a descending manner for 16 hours. Remove the sheets from the chamber and air dry for about 1 hour.

(v) *Processing the chromatogram*. Examine each sheet under short-wavelength (254 nanometers) ultraviolet light and locate the main streak (*R_f* approximately 0.5) and the preceding streak (capreomycin II, *R_f* approximately 0.6). Outline the main zone lightly with a pencil. Outline an area on the blank sheet approximately equal in size and in the same location as those outlined on the sample sheets. Cut the

marked areas from the sheets and then cut them into approximately 1.5-centimeter squares. For each sheet, place the squares into a glass-stoppered 50-milliliter Erlenmeyer flask.

(vi) *Elution*. To each flask, add 10 milliliters of 0.1N citrate buffer, pH 6.2, and agitate on a reciprocating shaker for 1 hour. Filter each of the shaken solutions through Whatman No. 1 filter paper into separate 10-milliliter glass-stoppered Erlenmeyer flasks. Transfer 3 milliliters of each filtrate into separate 50-milliliter volumetric flasks and dilute to volume with distilled water.

(vii) *Capreomycin sample solution for direct measurement of absorbance*. Pipette 1.0 milliliter of the sample solution prepared as described in subdivision (iii) of this subparagraph into a 100-milliliter glass-stoppered volumetric flask. Dilute to volume with 0.1N citrate buffer, pH 6.2. Transfer 3.0 milliliters of this solution into a 50-milliliter volumetric flask and dilute to volume with distilled water.

(viii) *Absorbance measurement*. Using a suitable spectrophotometer, 1.0-centimeter quartz cells, and distilled water as the reference solvent, determine the absorbance of each eluate and of each sample solution at the absorption maximum at about 268 nanometers.

(ix) *Calculation of percent capreomycin I in samples*. Calculate as follows:

$$\text{Percent capreomycin I} = \frac{A_1 - A_2}{A_3} \times 100,$$

where:

A₁ = Absorbance of the eluate from the main zone of the sample sheet;

A₂ = Absorbance of the eluate from the area of the blank sheet corresponding to the area of the capreomycin I of the sample sheet;

A₃ = Absorbance of the capreomycin sample solution described in subdivision (vii) of this subparagraph.

If the assay of capreomycin I from the chromatogram is less than 90 percent of total capreomycins, repeat the procedure described in subdivisions (iv), (v), (vi), (vii), and (viii) of this subparagraph two more times and at the same time determine the recovery of total capreomycins from the unchromatographed sheet as described in subdivision (x) of this subparagraph. The average of three valid assays should then be reported.

(x) *Recovery of total capreomycins from the unchromatographed sheet*—(a) *Procedure*. Evenly apply a 100-microliter aliquot of the capreomycin sample solution (prepared as described in subdivision (iii) of this subparagraph) to the origin line of a sheet. Dry the streak thoroughly with warm air. The paper is not chromatographed before elution. Cut the area containing the streak from the sheet and then cut into approximately 1.5-centimeter squares. Place the squares into a glass-stoppered 50-milliliter Erlenmeyer flask and proceed as directed in subdivisions (vi), (vii), and (viii) of this subparagraph. Likewise, cut an equal-sized area from an untreated part of the sheet and cut it into approximately 1.5-centimeter squares. Place the squares in a glass-stoppered

50-milliliter Erlenmeyer flask and also proceed as directed in subdivisions (vi), (vii), and (viii) of this subparagraph.

(b) *Calculation*. Calculate the recovery of total capreomycins as follows:

$$\text{Recovery of total capreomycins} = \frac{A_1 - A_2}{A_3} \times 100,$$

where:

A₁ = Absorbance of the eluate from the unchromatographed sheet;

A₂ = Absorbance of the eluate from the unchromatographed blank sheet;

A₃ = Absorbance of the capreomycin sample solution described in subdivision (vii) of this subparagraph.

To be a valid assay, the recovery of total capreomycins from the unchromatographed sheet must be 100±2 percent.

(9) *Residue on ignition*. Proceed as directed in § 141.510, of this chapter, except ignite at 700° C.

(10) *Heavy metals*. Proceed as directed in § 141.511 of this chapter.

Data supplied by the manufacturer concerning the subject antibiotic have been evaluated. Since the conditions prerequisite to providing for its certification have been complied with and since not delaying in so providing is in the public interest, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-15-71).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: June 1, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.

[FR Doc. 71-8250 Filed 6-14-71; 8:45 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Phosalone

A petition (PP 0F0948) was filed by Rhodia, Inc., Chipman Division, 120 Jersey Avenue, New Brunswick, NJ 08903, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the insecticide phosalone in or on the raw agricultural commodities citrus fruits at 5 parts per million; and brazil nuts, bush nuts, butternuts, cashews, chestnuts, filberts, hazelnuts, hickory nuts, macadamia nuts, pecans, and walnuts at 0.05 part per million (negligible residue).

Subsequently, the petitioner amended the petition by withdrawing the request for a tolerance for residues in or on citrus fruits.

Prior to December 2, 1970, the Secretary of Agriculture certified that this

pesticide chemical is useful for the purposes for which tolerances are being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed uses are not reasonably expected to result in residues of the insecticide in meat, milk, poultry, and eggs as specified in § 420.6(a)(3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Pro-

grams of the Environmental Protection Agency (36 F.R. 9038), § 420.263 is revised to read as follows:

§ 420.263 Phosalone; tolerances for residues.

Tolerances are established for residues of the insecticide phosalone (S-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone) O,O-diethyl phosphorodithioate) in or on raw agricultural commodities as follows:

10 parts per million in or on apples, grapes, and pears.

0.05 part per million (negligible residue) in or on brazil nuts, bush nuts, butternuts, cashews, chestnuts, filberts, hazelnuts, hickory nuts, macadamia nuts, pecans, and walnuts.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written ob-

jections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-15-71). (Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: June 8, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc. 71-8337 Filed 6-14-71; 8:46 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 999]

PRUNE IMPORTS

Notice of Proposed Rule Making

Notice is hereby given that the Department is giving consideration to proposed grade, size, and other requirements, governing the importation of prunes, pursuant to section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674; and as further amended by Public Law 91-670 approved January 11, 1971), hereinafter referred to as the "act".

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than 60 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Section 8e of the act provides, in part, that whenever a marketing order issued by the Secretary of Agriculture pursuant to section 8c of the act (7 U.S.C. 608c) contains any terms or conditions regulating the grade, size, quality, or maturity of prunes produced in the United States, the importation of prunes into the United States during the period of time such order is in effect shall be prohibited unless such commodity complies with the grade, size, quality and maturity provisions of such order or comparable restrictions promulgated under said section 8e. Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California (hereinafter referred to as the "marketing order"), prescribes grade and size provisions for such prunes.

Under the marketing order, prunes meeting the effective grade and size requirements pursuant thereto are designated standard prunes and may be used for any purpose. Prunes which fail to meet these requirements are designated substandard prunes and are permitted for use in human consumption outlets as prune products in which the prunes lose their form and character as prunes by conversion prior to consumption, or for use in non-human consumption outlets. However, substandard prunes for disposition in the human consumption outlets must be within the maximum tolerances specified for certain defects (i.e.,

Proposed Rule Making

mold, imbedded dirt, insect infestation, and decay).

The size restrictions pursuant to the marketing order are for varieties of prunes defined therein as French prunes and for varieties of prunes defined as non-French prunes. Imported prunes generally have been small in size; and it is expected that prunes to be imported would continue to be of small sizes. The size of prunes to be imported would be more characteristic of those varieties defined in the marketing order as French prunes, rather than of those varieties defined as non-French prunes. Consequently, the application of the respective size restrictions under the marketing order to prunes to be imported would not be practicable because of such variation. Therefore, a comparable size restriction should be established for imported prunes. It is proposed that the size restriction under the marketing order with respect to French prunes should be established for all imported prunes as a comparable size restriction. As to grade requirements for imported prunes, it is proposed that those in effect pursuant to the marketing order be made applicable.

Also included in the proposal are other requirements which pertain to the importation of prunes (e.g., inspection and certification, exemptions, specified entry declarations, certification forms, filing and retention of certifications, and books and records).

The proposal is as follows:

§ 999.200 Regulation governing the importation of prunes.

(a) **Definitions.** (1) "Prunes" means and includes all sun-dried or artificially dehydrated plums, of any type or variety, produced from plums, except: (i) Sulfur-bleached prunes which are produced from yellow varieties of plums and are commonly known as silver prunes; and (ii) plums which have not been dried or dehydrated to a point where they are capable of being stored prior to packaging, without material deterioration or spoilage unless refrigeration or other artificial means of preservation are used, and so long as they are treated by a process which is in conformity with, or generally similar to, the processes for treatment of plums of that type which have been developed or recommended by the Food Technology Division, College of Agriculture, University of California, for the specialty pack known as "high moisture content prunes," but this exception shall not apply if and when such plums are dried to the point where they are capable of being stored without material deterioration or spoilage, refrigeration or other artificial means of preservation.

(2) "Standard prunes" means any lot of prunes meeting the grade and size

requirements prescribed in paragraph (b)(1) of this section.

(3) "Manufacturing grade substandard prunes" means any lot of prunes which meets the grade requirements prescribed in paragraph (b)(2) of this section but fails to meet the requirements for standard prunes.

(4) "Size" means the number of prunes contained in a pound.

(5) "Person" means any individual, partnership, corporation, association, or other business unit.

(6) "Fruit and Vegetable Division" means the Fruit and Vegetable Division of the Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(7) "USDA inspector" means an inspector of the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, or any other duly authorized employee of the USDA.

(8) "Importation" means release from custody of the U.S. Bureau of Customs.

(b) **Grade and size requirements.** (1) Except as provided in subparagraph (2) of this paragraph or paragraph (d) of this section, no person may import any lot of prunes into the United States unless the prunes are inspected and an inspection certificate issued with respect thereto, and the lot meets the applicable grade requirements specified in Exhibit A of this section and the average count (i.e., number) of the prunes in such lot is 100 or less per pound. In determining whether any lot conforms to the size requirements, the following tolerance shall apply: In a sample of 100 ounces, the count per pound of 10 ounces of the smallest prunes may not vary from the count per pound of 10 ounces of the largest prunes by more than 45 points.

(2) Any person may import any lot of prunes into the United States for use in human consumption outlets as prune products in which the prunes lose their form and character as prunes by conversion prior to consumption if the prunes are inspected and an inspection certificate issued with respect thereto, and the lot meets the grade requirements set forth in paragraph C (1), (2), and (3) of Exhibit A of this section, and the importer first files as a condition of such importation an executed "Prune Form No. 1 Prunes—Section 8e Entry Declaration".

(c) **Inspection and certification requirements—(1) Inspection.** Inspection shall be performed by a USDA inspector in accordance with the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (Part 52 of this title). The cost of each such inspection and related certification shall be borne by the applicant.

(2) **Certification.** Each lot of prunes inspected in accordance with subparagraph (1) of this paragraph shall be covered by an inspection certificate. Each such certificate shall set forth, among other things, the following:

- (i) The date and place of inspection.
- (ii) The name of the applicant.
- (iii) The quantity and identifying marks of the lot inspected.
- (iv) The statement, as applicable: "Meets U.S. import requirements for standard prunes under section 8e of the AMA Act of 1937"; "Meets U.S. import requirements for manufacturing grade substandard prunes under section 8e of the AMA Act of 1937"; or "Falls to meet U.S. import requirements for prunes under section 8e of the AMA Act of 1937".

(v) If the lot fails to meet the import requirements, a statement of the reason therefor.

(d) **Exemptions.** Notwithstanding any other provisions of this section, the importation of any lot of prunes which in the aggregate does not exceed 150 pounds, net weight, and any prunes that are so denatured as to render them unfit for human consumption shall be exempt from the requirements of this section.

(e) **Additional requirements.**—(1) **General.** Prior to importation of any prunes, the person importing such prunes shall file an inspection certificate with the Collector of Customs at the port at which the customs entry is filed. In addition, if such prunes are manufacturing grade substandard prunes, such person shall also file with the Collector of Customs an executed "Prunes—Section 8e Entry Declaration", prescribed in subparagraph (2) of this paragraph as Prune Form No. 1. Promptly after such filing, such person shall transmit a copy of this executed form to the Fruit and Vegetable Division. No person may import, sell, or use any manufacturing grade substandard prunes other than for use as set forth in paragraph (b) (2) of this section. Each person importing manufacturing grade substandard prunes shall obtain from each purchaser, no later than the time of delivery to such purchaser, and file with the Fruit and Vegetable Division not later than the fifth day of the month following the month in which the prunes were delivered, an executed "Prunes—Section 8e Certification of Processor or Reseller", prescribed in subparagraph (3) of this paragraph as Prune Form No. 2. One copy of this executed form shall be retained by the importer and one copy shall be retained by the purchaser.

(2) **Prune Form No. 1.** The following is prescribed as Prune Form No. 1:

PRUNE FORM NO. 1

PRUNES—SECTION 8e ENTRY DECLARATION

I certify to the U.S. Department of Agriculture and the Bureau of Customs that none of the manufacturing grade substandard prunes being imported and which are identified below will be used other than in manufacturing in which the prunes lose their form and identity as prunes.

1. Name of vessel: _____
2. Country of origin of prunes: _____
3. Date of arrival: _____
4. City of arrival: _____
5. Unloading pier: _____
6. Substandard prunes entered: _____

Lot or chop mark	Number of containers	Total net weight (lbs.)

I agree to obtain from each person to whom any of the manufacturing grade substandard prunes listed under item 6 are delivered an executed Prune Form No. 2 "Prunes—Section 8e Certification of Processor or Reseller" and to file the same with the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the fifth day of the month following the month in which the prunes were delivered.

Dated: _____
Name of firm: _____
Address: _____
Signature: _____
Title: _____

(3) **Prune Form No. 2.** The following is prescribed as Prune Form No. 2:

PRUNE FORM NO. 2
PRUNES—SECTION 8e CERTIFICATION OF PROCESSOR OR RESELLER

I hereby certify to the U.S. Department of Agriculture that I have acquired the manufacturing grade substandard prunes covered by this certification; that I will use or sell them for use only in manufacturing in which the prunes lose their form and identity as prunes as permitted by the Regulation Governing the Importation of Prunes (7 CFR 999.200); and that I am: (check one or both if applicable)

- _____ processor (user of prunes for manufacturing).
_____ reseller (dealer in prunes for manufacturing).

1. Date of purchase: _____
2. Place of purchase: _____
3. Name and address of importer or seller: _____
4. Prunes acquired: _____

Number of containers	Total net weight (lbs.)

Dated: _____
Name of firm: _____
Address: _____
Signature: _____
Title: _____

(4) **Manufacturing Grade Substandard Prunes—sale by other than importer.** Each wholesaler or other reseller of manufacturing grade substandard prunes should, for his protection, obtain from each purchaser and hold in his files an executed Prune Form No. 2 certification

covering each sale or all sales of a calendar year.

(f) **Reconditioning.** Nothing contained in this section shall preclude the reconditioning of failing lots of prunes, prior to importation, so that such prunes may be made eligible to meet the grade requirements prescribed pursuant to paragraph (b) (1) or (2) of this section.

(g) **Books and records.** Each person subject to this section shall maintain true and complete records of his transactions with respect to imported prunes. Such records and copies of executed forms shall be retained for not less than 2 years subsequent to the calendar year of acquisition. The Secretary, through his duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted at any such times to inspect such records and any prunes held by such person.

(h) **Other restrictions.** The provisions of this section do not supersede any restrictions or prohibitions on the importation of prunes under the Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, or any other applicable laws or regulations or the need to comply with applicable food and sanitary regulations of city, county, State, or Federal Agencies.

(i) **Compliance.** Any person who violates any provision of this section shall be subject to a forfeiture in the amount prescribed in section 8a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), or, upon conviction, a penalty in the amount prescribed in section 8c(14) of said act, or to both such forfeiture and penalty. False representations to an agency of the United States on any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

EXHIBIT A

GRADE REQUIREMENTS

A. **Defects.** Defects are: (1) Off-color; (2) inferior meat condition; (3) end cracks; (4) fermentation; (5) skin or flesh damage; (6) scab; (7) burned; (8) mold; (9) imbedded dirt; (10) insect infestation; (11) decay.

B. **Explanation of terms.** (1) "Off-color" means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) "Inferior meat condition" means flesh which is fibrous, woody or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) "End cracks" means callous growth cracks, at the blossom end of prunes, aggregating more than three-eighths of one inch ($\frac{3}{8}$ ") but not more than one-half of one inch ($\frac{1}{2}$ ") in length.

(4) "Fermentation" means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

(5) "Skin or flesh damage" means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, except end cracks as defined in this section, aggregating more than three-eighths of one inch ($\frac{3}{8}$ ") in length;

(b) Splits or skin breaks exposing flesh and materially affecting the normal appearance of the prunes;

(c) Any checks, splits or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect appearance, edibility or keeping quality.

(6) "Scab" means tough or thick scab exceeding in the aggregate the area of a circle three-eighths of one inch ($\frac{3}{8}$ ") in diameter or by unsightly scab of another character exceeding in the aggregate the area of a circle three-fourths of one inch ($\frac{3}{4}$ ") in diameter.

(7) "Burned" means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(8) "Mold" means a characteristic fungus growth and is self-explanatory.

(9) "Imbedded dirt" means the presence of dirt or other extraneous material so imbedded in, or adhering to, the prune that it cannot readily be removed in washing the fruit.

(10) "Insect infestation" means the presence of insects, insect fragments or insect remains.

C. **Maximum tolerances.** Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) There shall be no tolerance allowance for live insect infestation.

(2) The tolerance allowance for decay shall not exceed one percent (1%).

(3) The combined tolerance allowance for mold, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%).

(4) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed eight percent (8%).

(5) The combined tolerance allowance for end cracks, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed ten percent (10%), except that the first eight percent (8%) of end cracks shall be given one-half value and any additional percentage of end cracks shall be given full value.

(6) The combined tolerance allowance for off-color, inferior meat condition, end cracks, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed fifteen percent (15%), except that the first eight percent (8%) of end cracks shall be given one-half value and any additional percentage of end cracks shall be given full value.

Dated: June 8, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8389 Filed 6-14-71; 8:50 am]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Food and Drug Administration
[21 CFR Part 3]

**INGREDIENT STATEMENTS
REGARDING OILS AND FATS**

Proposed Statement of Policy

The Commissioner of Food and Drugs is studying the best means of providing

important nutritional information on the labels of various foods. This document concerning labeling statements regarding oils and fats is one of several which are part of this study.

A food industry practice has been to declare individual vegetable oils, hardened vegetable oils, animal and marine oils and fats, and the hardened counterparts in the ingredients statement of fabricated foods under such broad terms as "shortening," "vegetable oil," or "hardened (or hydrogenated) vegetable oil."

This practice was supported by trade correspondence TC-62, TC-94, and TC-209 issued by the Food and Drug Administration on February 15 and 21, and March 21, 1940, respectively.

TC-62 allows the hardened fat or oil to be declared in the ingredients statement as such without naming the individual oil beyond its vegetable, animal, or marine origin.

TC-94 allows various shortenings in fabricated foods to be declared in the ingredients statement solely as "shortening" without naming each specific fat or oil when the particular shortening cannot always be predicted in advance.

TC-209 allows vegetable oil used for frying potato chips to be declared in the ingredients statement as cooked (or fried) in vegetable oil.

The labeling practices permitted by these trade correspondences were allowed on the understanding that if it developed that the practices resulted in denying consumers the information which the provisions of the law guarantee, such permission would have to be withdrawn after due notice.

In recent years there has developed heightened consumer interest in the kind and exact nature of fats and oils added to fabricated foods. Further, the various fats and oils used by the food industry have become more readily available; therefore, the shortening ingredients of fabricated foods can be predicted by the manufacturers of fabricated foods and are readily available from their suppliers.

Having considered these developments, the Commissioner of Food and Drugs concludes that a policy statement should be established as proposed below to withdraw the opinions expressed in the subject trade correspondences and to prescribe updated requirements.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403(i), 701(a), 52 Stat. 1048, 1055; 21 U.S.C. 343(i), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new section be added to Part 3, as follows:

§ 3.83 Ingredient statements regarding oils and fats.

(a) In view of the ready availability of various fats and oils and hardened fats from vegetable and animal sources, and the consumer's desire to know the specific identity and nature of the fat ingredients in the foods he purchases, the Food and Drug Administration withdraws the opinions expressed in trade correspondences TC-62, TC-94, and TC-209 (issued February 15 and 21, and March 21, 1940, respectively) and will

regard as misbranded articles of food which do not bear in the ingredients statement the common or usual name of the individual shortening or fat ingredient, whether animal or vegetable, in its proper order of predominance.

(b) The names by which such ingredients shall be declared in label statements are as follows:

(1) The rendered fat or oil, or stearin derived therefrom (any or all of which may be hydrogenated), of any animal, or any combination of two or more such articles, shall be declared by the name of the specific animal fat, oil, or stearin; for example, "beef fat." If the animal fat or oil is hydrogenated, the name should include the term "hydrogenated," "partially hydrogenated," or "hardened," whichever is factual and desirable. Where combinations are used, the names shall be arranged in order of predominance, with the animal fat, oil, or stearin present in greatest proportion named first.

(2) Any vegetable food fat or oil, or stearin derived therefrom (any or all of which may be hydrogenated), or any combination of two or more such articles, shall be declared by the name of the for example, "cottonseed oil" or "soybean oil." If the vegetable fats or oils present are hydrogenated, the declaration should include the term "hydrogenated," "partially hydrogenated," or "hardened"; for example, "hydrogenated cottonseed oil," "partially hydrogenated cottonseed oil," or "hardened cottonseed oil," whichever is factual and desirable. If two or more vegetable food fats or oils are used, they shall be named in order of predominance with the one present in the greatest proportion named first in the series; for example, "cottonseed oil, soybean oil, and corn oil."

(c) Regulatory proceedings may be initiated regarding interstate shipment of articles labeled contrary to the provisions of this section if such act occurs after 1 year following the addition of this section to this Part 3.

Interested persons may, within 90 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: June 8, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.
[FR Doc.71-8272 Filed 6-14-71; 8:45 am]

[21 CFR Parts 3, 125]

EDIBLE OILS, FATS, AND FATTY ACIDS
Labeling Requirements

The Commissioner of Food and Drugs is studying the best means of providing important nutritional information on the labels of various foods. This document

concerning the labeling of oils, fats, and fatty foods is one of several which are part of this study.

A. Consumers are being confused and misled by labeling statements such as "no cholesterol," "less cholesterol," or "lower cholesterol," especially on products containing substantial amounts of saturated fats. Also, the term "unsaturated" applied to edible oils, fats, and fatty foods is ambiguous and therefore misleading. Accordingly, the Commissioner concludes that in the interest of consumers § 3.41 should be expanded as proposed below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403, 701, 52 Stat. 1047-48, as amended, 1055-56, as amended; 21 U.S.C. 343, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 3.41 be amended by adding two new paragraphs, as follows:

§ 3.41 Status of articles offered to the general public for the control or reduction of blood cholesterol levels and for the prevention and treatment of heart and artery disease under the Federal Food, Drug, and Cosmetic Act.

(d) Any statement in the labeling which represents or suggests that the article contains less or no cholesterol will be considered to be a direct or implied claim as specified in paragraph (c) of this section.

(e) Because of the ambiguity of the term "unsaturated," the Food and Drug Administration considers the term misleading when applied to the labeling of edible oils, fats, or fatty foods. Labeling statements are acceptable, however, that indicate the content of the fat and its source and of saturated, monounsaturated, and polyunsaturated fatty acids, in accordance with § 125.12 of this chapter. Any other labeling use of the terms "polyunsaturated," "monounsaturated," or "saturated" in relation to the fat content of foods will be considered misleading.

B. In a notice published in the FEDERAL REGISTER of May 25, 1965 (30 F.R. 6984), the Food and Drug Administration proposed to establish requirements for label statements relating to oils, fats, and fatty foods used as a means of regulating the intake of fatty acids in dietary management. The notice provided for the filing of comments within 60 days after said date, and this was extended to October 22, 1965, by a notice published July 27, 1965 (30 F.R. 9323).

In response, comments were received from a number of sources. Some favored the proposal, some opposed it, and some indicated that the role of fats in the diet had not been sufficiently studied to make a sound decision.

The American Heart Association and the American Diabetes Association filed comments in favor of the proposal.

The American Medical Association's Council on Foods and Nutrition urged rejection or postponement of the proposal

for a year to permit completion of a study and submission of findings to the Food and Drug Administration.

The proposal was terminated by an order published March 2, 1966 (31 F.R. 3301), with the stipulation that the proposal could be resubmitted or another made at some future time when additional facts bearing on the issue of appropriate labeling requirements have been developed.

The American Medical Association's Council on Foods and Nutrition submitted their report on May 5, 1967, which concludes with four recommendations, as follows:

1. Labels of foods which contain 10 percent or more of the dry weight as fat should be permitted to indicate the fatty acid composition of the contained fat.

2. Label information should include the fat content of the product as purchased in percent and the percentages of saturated, monounsaturated, and polyunsaturated fatty acids expressed as the esterified fatty acids.

3. Labeling the fatty acid content of foods should be a voluntary program permitted at the manufacturer's discretion.

4. The manufacturer should be permitted to call attention in his advertising to the fatty acid content of the product; however, since optimal results with a fat-modified diet require regulation of all sources of fat and cholesterol within the diet, no claims for the prevention or mitigation of disease should be permitted either on the product label or in associated advertising.

In the last 5 years, the terms "saturated," "monounsaturated," and "polyunsaturated," as applied to food fats or fatty acids, have received a great deal more publicity. As a result, numerous consumers have indicated strong interest in this subject generally, have inquired as to the types of fats being used in foods, and have requested information about fat-containing foods.

Accordingly, the Commissioner of Food and Drugs concludes that in response to such inquiries and requests, and in the interest of consumers, a regulation on such labeling requirements should be established as proposed below. Therefore, pursuant to provisions of the act (secs. 403(j), 701, 52 Stat. 1048, 1055-56, as amended; 21 U.S.C. 343(j), 371) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new section be added to Part 125, as follows:

§ 125.12 Label statements relating to oils, fats, and fatty acids used as a means of regulating intake of fatty acids.

(a) A food containing 10 percent or more fat on a dry weight basis and not less than 3 grams of fat in an average serving, and represented for special dietary use by man as a means of regulating the intake of fatty acids, shall bear an accurate label statement of:

(1) The percentage of polyunsaturated fatty acids, calculated as the glyceryl ester of the total *cis-cis*-methylene-interrupted polyunsaturated fatty

acids, and in equal prominence the percentage of saturated fatty acids, calculated as the glyceryl ester of the fatty acids, both being percentages of the fat in the food as prepared for consumption according to directions.

(2) The total fat content in terms of percentage of the food, as prepared for consumption according to directions.

(3) The total fat content in terms of the percentage of the total calories in the food provided by fat.

(4) The total number of calories provided by an average serving of the food.

(5) The specific fat source and the word "hydrogenated," or "partially hydrogenated," if true.

(b) For the purpose of this section, foods containing less than 10 percent fat on a dry weight basis and foods containing less than 3 grams of fat in an average serving shall not be considered to be suitable for use by man as a means of regulating the intake of fatty acids. Determinations of fat and saturated fatty acids should be based on appropriate AOAC methods or methods giving comparable results. The *cis-cis*-methylene-interrupted polyunsaturated fatty acids determination should be made by using the official Canadian Food and Drug Directorate FA-59 method. Because of natural variation in fatty acid content occurring in specific oils on a batch-to-batch basis, a reasonable variation in the declaration of the fatty acid content will be permitted.

Interested persons may, within 90 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: June 8, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-8273 Filed 6-14-71; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 11134]

BRITISH AIRCRAFT CORPORATION MODEL BAC 1-11 200 AND 400 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to British Aircraft Corp. Model BAC 1-11 200 and 400 series airplanes. There has

been a report of failure of the flap secondary drive system due to excessive end float in one of the eight trackside support bearing assemblies. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require periodic inspections of the bearing assemblies and correction of excessive end float pending installation of modified bearing assemblies on British Aircraft Corp. Model BAC 1-11 200 and 400 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. All communications received on or before July 15, 1971, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend section 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORP. Applies to Model BAC 1-11 200 and 400 series airplanes.

Compliance is required as indicated.

To prevent possible failures of the flap system secondary drive shafts at the trackside support bearing assemblies, accomplish the following at each bearing assembly (eight per airplane) which has not had British Aircraft Corp. Modification PM 4642 incorporated:

(a) For each bearing assembly, within the next 1,000 landings after the effective date of this AD, or before the accumulation of 4,000 landings, whichever occurs later, and thereafter at intervals not to exceed 1,350 landings from the last inspection, visually inspect the bearing assembly for end float in accordance with British Aircraft Corp. Model BAC 1-11 Alert Service Bulletin No. 27-A-PM 4642, dated September 28, 1970, or an FAA-approved equivalent.

(b) If the bearing assembly end float is found to exceed 0.050 inches during an inspection required by this AD and—

(1) The four alternate locking tabs have not been bent over, comply with paragraph (c), (d), or (e).

(2) The four alternate tabs have been bent over, comply with paragraph (d) or (e).

(c) Bend over the four alternate locking tabs of the affected bearing assembly in accordance with paragraph 2.1.3. of British Aircraft Corp. Model BAC 1-11 Alert Service Bulletin No. 27-A-PM 4642, dated September 28, 1970, or an FAA-approved equivalent. Repeat the inspection specified in paragraph (a) on

PROPOSED RULE MAKING

the affected bearing assembly at intervals not to exceed 1,350 landings from the last inspection.

(d) Overhaul the affected bearing assembly by replacing the fork end, bushings, thrust washers, and retaining ring with serviceable parts of the same part number. Before the accumulation of a total of 4,000 landings on the overhauled bearing assembly and thereafter at intervals not to exceed 1,350 landings from the last inspection, repeat the inspection specified in paragraph (a).

(e) Replace the affected bearing assembly with a serviceable bearing assembly which has BAC Modification PM 4642 incorporated.

(f) Operators who have not kept records of the number of landings accumulated on individual bearing assemblies shall substitute airplane landings in lieu thereof.

(g) For the purpose of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the BAC 1-11 airplane.

(h) Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval by the Chief, Aircraft Certification Staff, FAA Europe, Africa, and Middle East Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

Issued in Washington, D.C., on June 9, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-8355 Filed 6-14-71; 8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SW-20]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Winnsboro, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the

Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as herein-after set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

WINNSBORO, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winnsboro Municipal Airport (latitude 32°56'22" N., longitude 95°16'43" W.) and within 1.5 miles each side of the Quitman, Tex., VOR 054° radial extending from the 5-mile radius area to the VOR.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at Winnsboro, Tex., Municipal Airport.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on June 4, 1971.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.71-8357 Filed 6-14-71; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-45]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Jefferson, Ohio, transition area (36 F.R. 2209).

The VOR instrument approach procedure for Ashtabula-Jefferson Airport has been cancelled and will require alteration of the 700-foot-floor transition area in order that only that controlled airspace necessary to protect aircraft executing the VOR instrument approach procedure prescribed for Ashtabula County Airport will be designated.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice

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in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Jefferson, Ohio, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Jefferson, Ohio, 700-foot-floor transition area and insert the following in lieu thereof:

JEFFERSON, OHIO

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°46'40" N., 80°41'45" W. of Ashtabula County Airport, Ashtabula, Ohio, and within 3.5 miles each side of the Jefferson, Ohio, VORTAC 243° radial, extending from the 5-mile-radius area to 11.5 miles southwest of the VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 26, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-8358 Filed 6-14-71; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-43]

TRANSITION AREA AND CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Johnstown, Pa., control zone (36 F.R. 2094) and transition area (36 F.R. 2210).

The VOR instrument approach procedures for Johnstown-Cambria County Airport, Johnstown, Pa., have been revised in accordance with the U.S. Standard for Terminal Instrument Procedures. The revised procedures will require alteration of the control zone and 700-foot-floor transition area to provide controlled airspace protection for aircraft executing the procedures. In addition, the proposed alteration will amend the hours of control zone designation.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER

will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Johnstown, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Johnstown, Pa., control zone and insert the following in lieu thereof:

Within a 5.5-mile radius of the center, 40°19'00" N., 78°50'00" W. of Johnstown-Cambria County Airport, Johnstown, Pa.; within 3.5 miles each side of the Johnstown VORTAC 044° radial, extending from the 5.5-mile-radius zone to 10 miles northeast of the VORTAC; within 3 miles each side of the Johnstown VORTAC 216° radial, extending from the 5.5-mile-radius zone to 8.5 miles southwest of the VORTAC, and within 3.5 miles each side of the Johnstown VORTAC 320° radial, extending from the 5.5-mile-radius zone to 10.5 miles northwest of the VORTAC. This control zone is effective from 0700 to 2300 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Johnstown, Pa. 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the center, 40°19'00" N., 78°50'00" W. of Johnstown-Cambria County Airport, Johnstown, Pa.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).

Issued in Jamaica, N.Y., on May 26, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-8359 Filed 6-14-71; 8:48 am]

Hazardous Materials Regulations Board

[49 CFR Part 178]

[Docket No. HM-87; Notice No. 71-18]

TRANSPORTATION OF HAZARDOUS MATERIALS

Cargo Tank Attachments

The Hazardous Materials Regulations Board is considering amending

§ 178.340-8 of the Department's Hazardous Materials Regulations to clarify the requirements for accessory attachments to specifications MC 306, MC 307, and MC 312 cargo tanks.

The Truck Trailer Manufacturer's Association and the Steel Tank Institute both have petitioned the Board to clarify the regulations regarding light-weight attachments to a cargo tank shell. In view of the present requirements for pads at the point of all appurtenance attachments made by welding, difficulty in application of the regulations has arisen regarding non-liquid-carrying appurtenances welded to a cargo tank shell or head. Data were submitted to substantiate the performance standards described in the proposed rule, showing that these attachments can be made without adversely affecting tank integrity. The Board believes there is merit in the petitioners' proposals.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 178 as follows:

In § 178.340-8, paragraph (a) would be amended to read as follows:

§ 178.340 General design and construction requirements applicable to specification MC 306 (§ 178.341), MC 307 (§ 178.342), and MC 312 (§ 178.343) cargo tanks.

§ 178.340-3 Accident damage protection.

(a) Appurtenances: The term "appurtenance" means any cargo tank accessory attachment that has no liquid product retention or other liquid containment function, and provides no structural support to the tank.

(1) The design, construction, and installation of any appurtenance to the shell or head of the cargo tank must be such as to minimize the possibility of appurtenance damage or failure adversely affecting the product retention integrity of the tank.

(2) Structural members, such as the suspension subframe, overturn protection and external rings, when practicable, should be utilized as sites for attachment of appurtenances and any other accessories to a cargo tank.

(3) Except as prescribed in subparagraph (5) of this paragraph, the welding of any appurtenance to a shell or head must be made by attachment to a mounting pad. The thickness of a mounting pad must not be less than that of the shell or head to which it is attached. A pad must extend at least 2 inches in each direction from any point of attachment of an appurtenance. Pads must have rounded corners or otherwise be shaped in a manner to preclude stress concentrations on the shell or head. The mounting pad must be attached by a continuous weld around the pad.

(4) The appurtenance must be attached to the mounting pad so there will be no adverse effect upon the product-retention integrity of the tank if any force is applied to the appurtenance, in any direction, except normal to the tank, or within 45° of normal.

(5) Side cabinets, conduit clips, brake-line clips, and similar light attaching

devices which are of a metal thickness, construction, or material appreciably less strong but not more than 72 percent of the thickness of the tank shell or head to which such a device is attached, may be secured directly to the tank shell or head if each device is so designed and installed that damage to it will not affect the product retention integrity of the tank. Welds must be of the lap type. These light weight attachments should be secured to the tank shell by continuous weld as to preclude formation of pockets, which may become sites for incipient corrosion.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before August 24, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on June 8, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant
Marine Safety, by direction
of the Commandant.

KENNETH L. PIERSON,
Acting Director, Bureau of
Motor Carrier Safety, Federal
Highway Administration.

[FR Doc.71-8360 Filed 6-14-71; 8:48 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition for Purpose of Government Procurements for Products of Meat Packing Plants

Pursuant to authority contained in section 3 of the Small Business Act (15 U.S.C. 632), notice is hereby given that the Small Business Administration proposes to reduce the definition of a small business for the purpose of Government procurements for products classified in SIC Industry 2011, Meat Packing Plants.

Currently a concern is small for the purpose of Government procurements of products classified in SIC Industry 2011, Meat Packing Plants, if, together with

its affiliates, its number of employees does not exceed 750 persons. This definition became effective June 1, 1967. Prior to that time the size standard was 500 employees. The increase in the size standard was based upon the conclusion that there was not an adequate competitive base for companies competing on set-aside procurements, and accordingly that the base should be extended to widen the Government market for products classified in the aforementioned industry. Further it had been brought to the attention of the Small Business Administration that the intermediate concerns (those having between 500 and 750 employees) were not as diversified as the "industry giants" and that the lack of diversification caused them to be at a competitive disadvantage. Therefore the 750-employee size standard was adopted.

We now have information that the conditions which caused us to increase the size standard do not now prevail. Accordingly we are of the opinion that the definition of small business should be reduced back to 500 employees, unless we are furnished persuasive evidence to the contrary. The rationale for this proposal is as follows:

1. There presently are numerous concerns with under 500 employees capable of bidding on Government contracts for products in SIC Industry 2011, Meat Packing Plants.

2. While the intermediate firms may not be classified as "industry giants," they are among the leading concerns in the industry. In fact less than 2 percent of the concerns in the industry have more than 500 employees. Further, concentration in the industry has been declining and the intermediate concerns as a class suffer no diseconomies of scale viz-a-viz so called industry "giants." Finally, in many cases, advances in technology and transportation and the construction of newer plants supplanting older outmoded facilities in terminal market cities have allowed aggressive intermediate-sized concerns to increase their market shares. The wide use of Federal grades for beef have made it easier for such firms to compete on equal terms with packers selling brand names already well known.

In view of the above the SBA proposes to reduce the procurement size standard for SIC Industry 2011 from 750 employees to 500 employees.

Interested parties may file with the Small Business Administration within 30 days of publication of this proposal in the FEDERAL REGISTER, written statements of facts, opinions, or arguments concerning this proposal.

All correspondence shall be addressed to:

Small Business Administration, Size Standards Staff, 1441 L Street NW., Washington, DC 20416.

Dated: June 9, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-8412 Filed 6-14-71; 8:51 am]

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition for Purpose of Government Procurements for Fluid Milk Products

Pursuant to authority contained in section 3 of the Small Business Act (15 U.S.C. 632), notice is hereby given that the Small Business Administration proposes to reduce the definition of a small business for the purpose of Government procurements for products classified in SIC Industry 2026, Fluid Milk.

Currently a concern is small business for the purpose of Government procurement of products classified in SIC Industry 2026, Fluid Milk, if, together with its affiliates, its number of employees does not exceed 750 persons. This definition became effective May 11, 1964. It was based on a conclusion that, in determining which concerns were to be considered small for the purpose of receiving SBA assistance, the Small Business Administration primarily should be concerned with their competitive position on a National basis and should give little consideration to the question whether the definition would include as small the leading producers in significant local competitive markets. Under these circumstances, a 750-employee size standard seemed appropriate.

Now we are of the opinion that, in the absence of persuasive reasons to the contrary, the size standard for an industry should not be so high as to include the leading producers in significant local competitive markets, and insofar as the definition of small business for the purpose of Government procurements for products in SIC 2026, Fluid Milk is concerned, we have the following views:

1. The currently effective 750-employee size standard includes all or almost all of the largest local dairies which, in most instances, have a greater market share in local areas than the National and regional giants. Further, these concerns have reached such economies of scale and have gained such competitive strength that they can compete with any concern in their local market areas including National and regional giants, and accordingly they should not need small business set-aside protection.

2. While Government contracts may be vital to the preservation of some smaller local dairies, this generally is not true of National, regional, or larger local dairies.

3. Due to the increased use of automation the currently effective size standard includes larger companies than intended.

In view of the above SBA proposes to reduce the procurement size standard for SIC Industry 2026 from 750 employees to 500 employees.

Interested parties may file with the Small Business Administration within 30 days of publication of this proposal in the FEDERAL REGISTER, written statements of facts, opinions, or arguments concerning this proposal.

All correspondence shall be addressed to:

Associate Administrator for Procurement and Management Assistance, Small Business Administration, 1441 L Street NW., Washington, DC 20416. Attention: Size Standards Staff.

Dated: June 9, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-8413 Filed 6-14-71;8:51 am]

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition for Purpose of Government Procurements for Custodial and Janitorial Services

Pursuant to authority contained in section 3 of the Small Business Act (15 U.S.C. 632), notice is hereby given that the Small Business Administration proposes to decrease the small business size standard for the purpose of Government procurements for custodial and janitorial services from average annual receipts not exceeding \$3 million, to average annual receipts not exceeding \$2 million.

Prior to May 21, 1966, the size standard for this industry was average annual receipts not exceeding \$1 million. However, effective on such date, the standard was raised from \$1 million to \$3 million (31 F.R. 7375). The basis for the increase were that (1) costs, prices, and the total market volume had increased substantially since \$1 million standard was adopted, and (2) that the size of Government contracts for janitorial and custodial services had increased to the point where a small business receiving one or two large contracts would become large.

The Small Business Administration has just completed a review of preliminary 1967 Census of Business data for SIC Industry 7349, Miscellaneous Serv-

ices to Dwellings and other Buildings, and also a computer run showing the Defense Department's Military Prime Contract Awards of \$10,000 or more for Federal Supply Classification S709 Custodial and Janitorial Services.

The Census data show that 9,434 business enterprises or 99 percent of the total number of businesses in the industry reported annual receipts of less than \$1 million and that these 9,434 businesses accounted for more than half of the total industry receipts.

The DOD data show that there were 719 awards for custodial and janitorial services in the total amount of \$39.4 million, and that small business concerns were awarded not only the 666 small business set-aside contracts for a total of \$34.6 million, but also received all the awards on unrestricted procurements available both to small and large business. These data also show that the average size contract was only \$50,000 and the medium size contract was only \$30,000.

It is the opinion of the Small Business Administration that, under the above circumstances, even though there have been further cost and price increases since 1966, the \$3 million standard currently in effect is too high in that it clearly includes companies that are able to compete successfully without the assistance of set-aside protection. If the small business set-aside program is to be of value to the small business community, it must be based on definitions of small business which have the effect of offering a protective umbrella only to those concerns which need such protection in order to successfully compete.

Accordingly the Small Business Administration proposes to lower the small business size standard from \$3 million to \$2 million.

Interested parties may file with the Small Business Administration within 30 days of publication of this proposal in the FEDERAL REGISTER, written statements

of facts, opinions, or arguments concerning the proposal.

All correspondence shall be addressed to:

Small Business Administration, 1441 L Street NW., Washington, DC 20416. Attention: Size Standards Staff.

Dated: June 10, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-8414 Filed 6-14-71;8:51 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 153]

ANTIDUMPING

Extension of Time for Submissions

JUNE 11, 1971.

On April 13, 1971, a notice of proposed rule making inviting interested persons to submit suggestions for improving the Antidumping Regulations was published in the FEDERAL REGISTER (36 F.R. 7012). A period of 60 days from the date of publication was provided in accordance with section 553, title 5, United States Code, for all interested persons to submit relevant suggestions to the Commissioner of Customs.

In order to provide additional time in which to submit suggestions, as requested by several persons, the time period for submissions is hereby extended until July 30, 1971.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved:

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-8464 Filed 6-14-71;9:02 am]

Notices

[OR 7771]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 7, 1971.

The Bureau of Sport Fisheries and Wildlife, Department of the Interior, has filed an application, Serial No. OR 7771, for the withdrawal of public lands described below, from all forms of appropriation under the public land laws, including the mining laws but not from leasing under the mineral leasing laws.

The applicant desires the use of the lands as part of the Malheur National Wildlife Refuge for the management of migratory birds and other wildlife.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street (Post Office Box 2965), Portland, OR 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

WILLAMETTE MERIDIAN

T. 25 S., R. 33 E.,

Sec. 34, lot 10.

T. 26 S., R. 33 E.,

Sec. 3, lots 2, 4, and 10 and SW¼SE¼;

Sec. 10, W¼NE¼.

The area described aggregates 199.90 acres in Harney County.

IRVING W. ANDERSON,

Acting Chief,

Division of Technical Services.

[FR Doc.71-8387 Filed 6-14-71;8:50 am]

POST OFFICE DEPARTMENT

ACTING JUDICIAL OFFICER

Designation

The order set out below was issued by the Judicial Officer on June 3, 1971.

(5 U.S.C. 301; 39 U.S.C. 308a, 501; 39 CFR 821.3(c) (e); 36 F.R. 4755)

DAVID A. NELSON,
General Counsel.

DESIGNATION OF ACTING JUDICIAL OFFICER

1. Except as provided in paragraph 2 below or as otherwise specifically ordered, the Chief Hearing Examiner is designated as the Acting Judicial Officer during the absence of the Judicial Officer.

2. Except as otherwise specifically ordered Hearing Examiner John Lewis is designated as Acting Judicial Officer during the absence of the Judicial Officer solely with respect to any proceeding assigned to the Chief Hearing Examiner for hearing and initial decision.

3. The Acting Judicial Officer is hereby empowered to exercise the full authority of the Judicial Officer while he is so serving as provided by the laws and regulations pertaining to the Postal Service.

ADAM G. WENCHEL,
Judicial Officer.

[FR Doc. 71-8364 Filed 6-14-71;8:48 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, DIVISION OF MANAGEMENT SERVICES, ET AL., NEVADA

Redelegation of Authority Regarding Lands and Resources

JUNE 10, 1971.

Pursuant to the authority contained in section 1.1 of Bureau Order No. 701, as amended (29 F.R. 10526), authority to take action on the following matters is redelegated as follows:

The Chief, Division of Management Services, and the Chief, Branch of Records and Data Management are authorized to take action on the matters listed in sections 2.2(c), 2.3(c), and 2.4(a) (4) of the above cited order.

The Chief, Branch of Lands and Minerals Operations is authorized to take actions on the matters listed in sections 2.6 and 2.9 of the above cited order.

The authority delegated herein may not be redelegated.

These redelegations are effective June 15, 1971.

NOLAN F. KEIL,
State Director, Nevada.

Approved:

JOHN O. CROW,
Associate Director.

[FR Doc.71-8333 Filed 6-14-71;8:45 am]

STATE DIRECTOR, ALASKA

Delegation of Authority

JUNE 9, 1971.

Pursuant to Bureau of Land Management Manual 1510.03B2 (33 F.R. 7590), State Director, Bureau of Land Management, Alaska, is delegated authority to negotiate contracts in excess of \$2,500, under section 302(c)(10) of the FPAS Act of 1949, for air transportation services not related to emergency fire suppression or suppression, in accordance with the following:

1. *Limitations.* This authority may be used only:

(a) To hire aircraft with crew for transportation of persons or cargo, not for project work.

(b) To hire such aircraft for unforeseeable short term needs, where lead time is not available to permit Portland Service Center to handle the contract.

(c) After it has been determined that Bureau-owned aircraft, or aircraft available under existing contracts or offers (when appropriate) cannot satisfy the need.

2. *Redelegation.* This authority may be redelegated only to qualified personnel within the State Office Division of Management Services. Redelegation must be published in the FEDERAL REGISTER.

ED HASTLEY,
Acting Assistant Director,
Administration.

[FR Doc.71-8342 Filed 6-14-71;8:46 am]

Office of Hearings and Appeals

[Docket No. M 71-21]

FREEMAN COAL MINING CORP.

Notice of Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 861(c) (Supp. V, 1970)), notice is given that the Freeman Coal Mining Corporation has filed a petition to modify the application of § 75.316-2(b) of Title 30, Code of Federal Regulations, to five of its mines, namely,

Crown Mine, Farmersville, Montgomery County, Ill.
Orient No. 6, Waltonville, Jefferson County, Ill.
Orient No. 5, Benton, Franklin County, Ill.
Orient No. 4, Pittsburg, Williamson County, Ill.
Orient No. 3, Waltonville, Jefferson County, Ill.

Section 75.316-2(b) provides as follows:

(b) Permanent stoppings, overcasts, undercasts, and shaft partitions should be constructed of substantial, incombustible material, such as concrete, concrete blocks,

cinder block, brick, or tile, or some other incombustible material having sufficient strength to serve the purpose for which the stopping or partition is intended. In heavy or caving areas, timbers laid longitudinally "skin to skin" may be used. Such permanent stoppings should be erected between the intake and return aircourses in entries and should be maintained to and including the third connecting crosscut outby the faces of the entries. Permanent stoppings should be used to separate belt haulage entries from entries used as intake and return aircourses.

Petitioner proposes to modify the application of § 75.316-2(b) to the mines listed by continuing to use wood which has been treated as fire retardant to construct partitions and stoppings in the mine areas known as panels and/or room entries. Petitioner asserts that the use of fire retardant wood in those areas guarantees no less than the same measure of protection afforded the miners by the use of concrete, concrete blocks, or other nonflexible materials in con-

structing stoppings and partitions and in fact would increase the protection afforded the miners because of the flexibility and other advantageous physical characteristics of wood. Petitioner asserts that the standard set forth in § 75.316-2(b) would result in a diminution of safety to the miners.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

JUNE 7, 1971.

[FR Doc.71-8343 Filed 6-14-71; 8:46 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

TEMPLETON LIVESTOCK MARKET ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	Current name of stockyard and date of change in name
CALIFORNIA	
Templeton Sales Yard, Templeton, Oct. 3, 1959...	Templeton Livestock Market, Apr. 26, 1971.
IOWA	
Traer Sales Company, Inc., Traer, Mar. 11, 1957...	Traer Auction Company, Inc., June 1, 1971.
KANSAS	
Cloud County Livestock Commission Company, Inc., Concordia, May 7, 1952.	Hansen Livestock Auction, May 24, 1971.
MISSOURI	
Thayer Sales Company, Thayer, May 18, 1959...	Sho Me Feeder Pigs, Inc., Mar. 1, 1971.
NEBRASKA	
Morrison Livestock Auction, Scottsbluff, Nov. 28, 1938.	Morrison's Twin City Livestock Auction Co., Apr. 16, 1971.
TEXAS	
Crockett Livestock Auction, Crockett, Jan. 16, 1957.	Crockett Livestock Auction, Inc., Apr. 6, 1971.
Dalhart Auction Co., Dalhart, Nov. 6, 1956.....	Dalhart Auction Company, Apr. 30, 1971.

Done at Washington, D.C., this 9th day of June 1971.

EDWARD L. THOMPSON,
Acting Chief, Registrations, Bonds, and
Reports Branch, Livestock Marketing Division.

[FR Doc.71-8370 Filed 6-14-71; 8:49 am]

DEPARTMENT OF COMMERCE

National Technical Information Service

POLICY FOR HONORING AND FILLING ORDERS RECEIVED

Change in Prepayment Requirement and Establishment of Billing Procedure

The National Technical Information Service has modified its previous policy

of requiring prepayment on all orders and will honor all orders received accompanied by a purchase order from business, industry, State and local government. Such orders will be billed to the customer on a biweekly basis. A handling charge of 50 cents per line item filled will be included in the billing. Prospective customers are encouraged to inquire concerning the NTIS deposit account system which provides a more

efficient ordering system for repeat customers.

WILLIAM T. KNOX,
Director.

Approved: June 8, 1971.

JAMES H. WAKELIN, Jr.,
Assistant Secretary
for Science and Technology.

[FR Doc.71-8383 Filed 6-14-71; 8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 12516]

METHYSERGIDE MALEATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug for oral use:

Sansert Tablets, containing methysergide maleate; Sandoz Pharmaceuticals, Division of Sandoz-Wander, Inc., Route 10, Hanover, New Jersey 07936 (NDA 12-516).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that methysergide maleate is effective for the prevention or reduction of intensity and frequency of vascular headaches in patients suffering from one or more severe vascular headaches per week and in patients suffering from vascular headaches that are uncontrollable or so severe that preventive therapy is indicated regardless of the frequency of the attack.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. **Form of drug.** Methysergide maleate preparations are in tablet form suitable for oral administration.

2. **Labeling conditions.** a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For the prevention or reduction of intensity and frequency of vascular headaches in the following kinds of patients:

1. Patients suffering from one or more severe vascular headaches per week.
2. Patients suffering from vascular headaches that are uncontrollable or so severe that preventive therapy is indicated regardless of the frequency of the attack.
- c. The package labeling and other labeling bearing information for use of the drug by practitioners begins with the following statement, set apart in a "box":

WARNING

Retroperitoneal Fibrosis, Pleuropulmonary Fibrosis and Fibrotic Thickening of Cardiac Valves May Occur in Patients Receiving Long-term Methysergide Maleate Therapy. Therefore, This Preparation Must be Reserved for Prophylaxis in Patients Whose Vascular Headaches Are Frequent and/or Severe and Uncontrollable and Who Are Under Close Medical Supervision.

(See Also "Warnings" Section.)

(Labeling Guidelines for the drug are available from the Administration on request.)

3. **Marketing status.** Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraph (a) (1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a) (3) (ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

A copy of the Academy's report has been furnished the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, DC 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12516, directed to the attention of

the following appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 18, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8341 Filed 6-14-71; 8:46 am]

[DESI 7863]

TOPICAL ANESTHETICS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following topical anesthetic drugs:

1. Quotane Ointment, containing dimethisoquin hydrochloride; Smith Kline & French Laboratories, 1500 Spring Garden Street, Philadelphia, Pennsylvania 19101 (NDA 7-863).

2. Quotane Lotion, containing dimethisoquin hydrochloride; Smith Kline & French Laboratories (NDA 7-943).

3. Nescuta Ointment, containing pramoxine hydrochloride, dipreron hydrochloride; Philips Roxane Laboratories, Division of Philips Roxane, Inc., 330 Oak Street, Columbus, Ohio 43216 (NDA 11-824).

4. Creme Dyclone, containing dyclonine hydrochloride; The Dow Chemical Co., Post Office Box 1656, Indianapolis, Indiana 46206 (NDA 9-925).

These drugs are regarded as new drugs. The effectiveness classification and marketing status are described below.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are possibly effective for their labeled indications for the relief of discomfort in minor skin and anogenital conditions.

B. Marketing status. Marketing of such drugs with labeling which recommends or suggests their use for indications for which they have been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice "Conditions for Marketing New Drugs

Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

The above-named holders of the new drug applications for these drugs have been mailed a copy of the Academy's report. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 7863, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 18, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8340 Filed 6-14-71; 8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-106]

ACTING ASSISTANT REGIONAL ADMINISTRATOR FOR RENEWAL ASSISTANCE, REGION II (NEW YORK)

Designation

Margaret M. Myerson, Renewal Management Specialist, is hereby designated to serve as Acting Assistant Regional Administrator for Renewal Assistance, Region II (New York), during a vacancy in the position of Assistant Regional Administrator for Renewal Assistance, with all the powers, functions, and duties delegated or assigned to the Assistant Regional Administrator for Renewal Assistance.

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

Effective date: March 29, 1971.

S. WILLIAM GREEN,
Regional Administrator, Region II.
[FR Doc.71-8395 Filed 6-14-71; 8:51 am]

[Docket No. D-71-105]

**ACTING REGIONAL ADMINISTRATOR,
REGION X (SEATTLE)****Designation**

The officials appointed to the following listed positions in Region X (Seattle) are hereby designated to serve as Acting Regional Administrator, Region X, during the absence of the Regional Administrator and the Deputy Regional Administrator, Region X, with all the powers, functions, and duties delegated or assigned to the Regional Administrator: *Provided*, That no official is authorized to serve as Acting Regional Administrator, Region X, unless all other officials whose title precede his in this designation are unable to act by reason of absence:

1. Assistant Regional Administrator for Administration, Joseph L. Perry.
2. Assistant Regional Administrator for Metropolitan Planning and Development, John R. Merrill.
3. Assistant Regional Administrator for Renewal and Housing Management, Robert C. Scalla.
4. Regional Counsel, Walter R. Rodgers.

This designation supersedes all previous designations.

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

Effective date: April 22, 1971.

OSCAR PEDERSON,
Regional Administrator,
Region X (Seattle).

[FR Doc. 71-8394 Filed 6-14-71; 8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23371]

ALLEGHENY-MOHAWK MERGER**Notice of Hearing**

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on July 14, 1971, at 10 a.m. e.d.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC before Examiner Merritt Ruhlen.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on June 4, 1971, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 9, 1971.

[SEAL] MERRITT RUHLEN,
Hearing Examiner.

[FR Doc. 71-8392 Filed 6-14-71; 8:51 am]

NOTICES

[Dockets Nos. 21604, 21605]

**ALOHA AIRLINES, INC., AND
HAWAIIAN AIRLINES, INC.****Notice of Further Postponement of
Hearing**

Aloha Airlines, Inc. v. Hawaiian Airlines, Inc., Docket 21604; Hawaiian Airlines, Inc. v. Aloha Airlines, Inc., Docket 21605; enforcement proceeding.

Upon consideration of the request of Aloha Airlines, Inc., dated June 8, 1971, notice is hereby given that the hearing in the above-entitled matters is further postponed to be held on July 1, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Examiner.

Dated at Washington, D.C., June 9, 1971.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[FR Doc. 71-8391 Filed 6-14-71; 8:51 am]

[Dockets Nos. 22973, 23067; Order 71-6-60]

EXECUTIVE AIRLINES, INC., ET AL.**Order Regarding New England Service
Investigation**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of June 1971.

New England Service Investigation, Docket 22973; Application of Executive Airlines, Inc., for a certificate of public convenience and necessity authorizing air transportation pursuant to section 401 of the Federal Aviation Act of 1958, as amended, Docket 23067.

By order 70-12-164, the Board instituted the New England Service Investigation to consider various measures to improve air service to New England, including route realignment and the certification of replacement arrangements which had previously been authorized on a temporary basis.

Numerous pleadings have been filed in response to Order 70-12-164.¹ Upon consideration of these pleadings and the relevant facts, we have decided to modify the scope of the investigation in certain respects, for the purpose of affording the Board greater flexibility in fashioning a route pattern which will best meet the needs of New England.

With respect to the certification of replacement service, the investigation, as originally constituted, was limited to points involved in the replacement arrangements between Northeast, Mohawk, and air taxis, approved in Order 69-12-73, dated December 16, 1969. We have decided to broaden the scope of the proceeding to include other New England points at which the certificated carriers, Northeast and Mohawk, are not presently providing service. Specifically, we will broaden the scope of the proceeding to include all Northern New England points, at which the incumbent certificated carriers have been authorized to suspend service or have never inaugurated service.² An air taxi operator, Executive, has expressed an interest in providing certificated air service at most of these points, and in view of the long-standing service difficulties in New England, we consider it appropriate to undertake, at this time, a full review of whether these New England communities require certificated service, and if so, whether this service should be provided by a certificated carrier operating on its own behalf, or by an air taxi replacement carrier, with the certificated carrier obligated to resume service if the replacement service terminates.

A total of 22 cities will be placed in issue. For 18 of the 22 cities we shall consider authorizing new certificated service to the hub cities of Boston, New York, and/or Albany, as set forth in the note below.³ The issues with respect to the markets in issue will include (1) whether the authority of the incumbent certificated carrier should be deleted, suspended (including possible continuation of a substitute agreement), or transferred to another carrier; and (2) whether a new carrier should be certificated.

The foregoing petitions to intervene will be granted. It is found that the petitioners have a sufficient interest in the subject matter of this proceeding which may not be adequately represented by existing parties, and that the

¹ Answer and Motion of Executive Airlines, Inc.; Answers to Executive's motion filed by eight parties (Greater Portland Chamber of Commerce; Union of Professional Airmen; city of Bangor and the Greater Bangor Area Chamber of Commerce; Winnepesaukee Aviation, Inc.; Burlington-Lake Champlain Chamber of Commerce; city of Worcester, Worcester Area Chamber of Commerce, and the Worcester Municipal Airport; State of New Hampshire; and Northeast Airlines, Inc.); and petitions to intervene filed by the city of Portland, Maine; New York State Department of Transportation; Air New England, Inc.; Burlington-Lake Champlain Chamber of Commerce; the New England Council for Economic Development; and Delta Air Lines, Inc.

² The only point in issue which a certificated carrier is currently serving is New Bedford, Mass., which is being included because of the extent of air taxi operations at that point.

³ See the following table:

⁴ Thus, Executive's application, Docket 23067, will be consolidated to the extent Executive seeks authority to operate at 17 of the 18 points in issue for new certification (Executive has not applied for authority to serve Rutland, Vt.). Executive's request to serve the three hub cities shall be considered only in the manner outlined in footnote 3, supra. For the reasons set forth below, we shall not consolidate Executive's application insofar as the carrier seeks authority to serve the following nine points: Portsmouth and Whitefield, N.H.; Portland, Brunswick, Bangor, and Presque Isle, Maine; Pittsfield, Mass.; and Springfield, Mass.-Hartford, Conn.; and New London, Conn. We shall also consolidate Mohawk's application in Docket 18133 for Burlington-Montreal authority subject to the condition that all flights serving Montreal must also serve Albany. (Mohawk now has such authority pursuant to an exemption granted in Order E-24859, Mar. 16, 1967.)

⁵ Order 70-12-164 had consolidated the applications of Mohawk and Northeast in Dockets 21331, 21332, and 21333, and these applications will continue in issue to the extent they seek authorizations or deletions

For the remaining four points, we shall consider whether the incumbent carrier should be deleted, but shall not consider any new certifications.⁴

Finally, Order 70-12-164 placed in issue the realignment of Northeast's segments in New England. We have decided to expand the proceeding to include the possible realignment of Mohawk's New England routes.⁵

We shall consolidate pending applications insofar as they conform to the amended scope of the proceeding.⁶

FOOTNOTE—Continued

Massachusetts:

10. Worcester	-----	Albany/Boston/ New York.
11. Hyannis	-----	Boston/New York.
12. Nantucket	-----	Boston/New York.
13. Martha's Vineyard	-----	Boston/New York.
14. New Bedford	-----	Boston/New York.
Vermont:		
15. Burlington	-----	Albany/Boston.
16. Rutland	-----	Albany/New York.
17. Montpelier	-----	Boston/New York.
18. Newport	-----	Boston/New York.

We shall also consider service between the nonhub cities on flights serving a hub city. To assure that primary attention will be focused upon the provision of feeder service to Albany, Boston, and/or New York, we have decided to impose a pretrial two-stop restriction upon all flights operated between the hub cities.

⁴ New London, Conn.; Brunswick, Maine; and Whitefield and Portsmouth, N.H. Consideration of new certification at New London is unnecessary because Allegheny and Pilgrim now provide ample service at this point. At the remaining three points, service has long been nonexistent (either suspended or not inaugurated) due to airport problems and we see no reasonable basis for considering new certifications at these points.

⁵ Order 70-12-164 provided that proposed realignments would be submitted contemporaneously with the service plan discussed below. In view of our modification of the service plan required, we have decided to require the submission of proposed realignments within 60 days of the date of this order.

⁶ Thus, Executive's application, Docket 23067, will be consolidated to the extent Executive seeks authority to operate at 17 of the 18 points in issue for new certification (Executive has not applied for authority to serve Rutland, Vt.). Executive's request to serve the three hub cities shall be considered only in the manner outlined in footnote 3, supra. For the reasons set forth below, we shall not consolidate Executive's application insofar as the carrier seeks authority to serve the following nine points: Portsmouth and Whitefield, N.H.; Portland, Brunswick, Bangor, and Presque Isle, Maine; Pittsfield, Mass.; and Springfield, Mass.-Hartford, Conn.; and New London, Conn. We shall also consolidate Mohawk's application in Docket 18133 for Burlington-Montreal authority subject to the condition that all flights serving Montreal must also serve Albany. (Mohawk now has such authority pursuant to an exemption granted in Order E-24859, Mar. 16, 1967.)

⁷ Opposition to inclusion of the route protection issue was expressed in the Answers of Northeast Airlines, Inc.; Winnepesaukee Aviation, Inc.; and the city of Bangor and the Greater Bangor Area Chamber of Commerce (hereinafter Bangor). Bangor also opposed consolidating Executive's application in Docket 23067. Filings in support of Executive's motion to consolidate were received from the Burlington-Lake Champlain Chamber of Commerce and the State of New Hampshire. In addition, the following parties' pleadings supported inclusion of the route protection issue: Burlington-Lake Champlain Chamber of Commerce and the Union of Professional Airmen. The City of Worcester, Worcester Area Chamber of Commerce and the Worcester Municipal Airport stated that they had no objection to consolidating Executive's application or including the route protection issue.

⁸ See Orders 70-111, dated Nov. 23, 1970, and E-24829, dated Mar. 7, 1967.

⁹ See footnote 6, supra.

¹⁰ Hartford/Springfield, Portland, Bangor, and Presque Isle.

¹¹ Pittsfield.

NOTICES

Executive's Answer and Motion suggest, inter alia, that the following additional issues be included in the proceeding: (1) whether points in issue should be eligible for subsidy; and (2) whether recipients of new certification should be given "route protection"; i.e., whether air taxis should be excluded from newly certificated markets.⁷

In the interests of affording the Board the greatest possible flexibility, we have decided to consider these additional issues. However, we recognize that these issues raise difficult questions of policy, and our inclusion of these issues in the investigation should not be construed as an expression of our views on their merits.

We are not persuaded that we should include an additional issue proposed by Executive, viz, whether any air taxi awarded certificated authority in this proceeding should be authorized to continue operating as an air taxi under Part 298. Except in some relatively unusual circumstances,⁸ the Board has ordinarily not permitted certificated air carriers to operate as air taxis. Inclusion of this issue in the present proceeding would complicate and delay resolution of New England's air service needs and, on the basis of the matters presented to us thus far, we are not persuaded that inclusion of the issue is warranted. However, we invite interested persons to comment further on this issue in petitions for reconsideration of this order.

We have also decided against placing in issue nine of the points proposed by Executive.⁹ Some of these points are presently served by certificated carriers which have not sought to delete or suspend their authority.¹⁰ Another point has never been certificated.¹¹ Finally, some of the nine points are being placed in

issue in this proceeding for deletion only, for reasons set forth above.¹² We are not persuaded, at this time, that this proceeding should be expanded to include these points. However, we will entertain petitions for reconsideration of this issue.

We have also decided to modify the requirement imposed in the instituting order for submission of a service plan. This proceeding was instituted contemporaneously with the Board's approval of a merger between Northwest and Northeast and in conjunction therewith, Northwest was directed to submit, within 180 days after consummation of the merger, a plan for its service to the New England points served by Northeast. In view of the withdrawal of the Northeast-Northwest merger, this condition must be modified. The Bangor parties have suggested that the obligation to submit a service plan be placed on Northeast itself or on any future successor to Northeast's route system. Although we are basically in accord with the position taken by Bangor, we believe that it would be premature to impose, at this time, a service plan requirement on Delta, which has recently applied for approval of a merger with Northeast. However, we do intend to require submission of a service plan in the future—by Delta in the event that a Delta-Northeast merger is approved or by Northeast, in the event the merger is not approved. For similar reasons, we intend to require submission of a service plan by either Allegheny or Mohawk, depending upon the outcome of the Allegheny/Mohawk merger.

On a related matter, we believe it would be useful for Delta and Allegheny, which have filed applications with the Board for approval of mergers with Northeast and Mohawk, respectively, to advise the Board as to their intentions with respect to New England air service, in the event the proposed mergers are approved. While these matters are likely to be explored in the merger proceedings themselves, we consider it desirable to develop a full record on these questions in the present proceeding. In addition, if the pending mergers are approved, the acquiring carriers might be bound by the evidentiary record developed in the present case. For these reasons, we are granting Delta's petition to intervene and are inviting Allegheny to become a party to the proceeding.

Finally, we have determined that this proceeding might result in a major Federal action significantly affecting the quality of the human environment and are therefore invoking the procedures outlined in our policy statement implementing the National Environmental Policy Act of 1969 (14 CFR 399.110, 35 F.R. 10582). In accordance with 14 CFR 399.110(d), the Board encourages participation in this proceeding, in accordance with its rules of practice, by appropriate Federal, State, and local

¹² Whitefield, Brunswick, New London, and Portsmouth.

agencies and by other interested persons to the end of insuring that a complete record is developed which will permit full consideration of any possible environmental impact. All parties to this investigation are directed to proceed in conformity with the requirements of 14 CFR 399.110.

Accordingly, it is ordered, That:

1. Ordering paragraph 1 of Order 70-12-164, be and it hereby is amended to read as follows:

1. An investigation, to be designated as the New England Service Investigation, be and it hereby is instituted in Docket 22973, pursuant to sections 204(a), 401(g), 401(h), 401(j), and 404(a) of the Federal Aviation Act of 1958, as amended, to determine,

(a) Whether the public convenience and necessity require the alteration, amendment, or modification of Northeast Airlines, Inc.'s certificates of public convenience and necessity for routes 72 and 27-F to effect a realignment of (1) points north of New York-Newark on segments 1, 2, 3, 4, and 5 of route 27, and (2) route 27-F;

(b) Whether the public convenience and necessity require the alteration, amendment, or modification of Mohawk Airlines, Inc.'s certificates of public convenience and necessity for routes 72 and 94 to effect a realignment of (1) segments 3, 4, 5, 7, and 10 of route 94, and (2) route 72;

(c) Whether the public convenience and necessity require the suspension of service by, or the deletion, suspension, or transfer to other carriers of the existing authority of, Northeast Airlines, Inc., and Mohawk Airlines, Inc., in the following markets:

Maine:	Hub Cities
1. Bar Harbor	Boston.
2. Augusta	Boston.
3. Rockland	Boston.
4. Lewiston	Boston.
New Hampshire:	
5. Lebanon	Boston/New York.
6. Manchester	Boston/New York.
7. Keene	Albany/Boston/ New York.
8. Laconia	Boston/New York.
9. Berlin	Boston/New York.
Massachusetts:	
10. Worcester	Albany/Boston/ New York.
11. Hyannis	Boston/New York.
12. Nantucket	Boston/New York.
13. Martha's Vineyard	Boston/New York.
14. New Bedford	Boston/New York.
Vermont:	
15. Burlington	Albany/Boston.
16. Rutland	Albany/New York.
17. Montpelier	Boston/New York.
18. Newport	Boston/New York.

(d) Whether the public convenience and necessity require the authorization of additional air service in the markets set forth in paragraph 1(c): *Provided*, That (1) any new authority awarded in these markets shall be subject to a two-stop restriction between the hub cities set forth above; and (2) any route segment awarded in the proceeding (a) must include at least one hub point and one nonhub point, as set forth above; and (b) may include more than one nonhub and more than one hub point, so long as at least two nonhub points are included between any two hub points;

(e) Whether the exemption of air taxi operators under Part 298 of the Board's Economic Regulations should be amended to prohibit air taxis from operating in any markets set forth in 1(c) above in which new air service is authorized;

(f) Whether new air service which is authorized in this investigation should be subsidy-eligible or ineligible; and

(g) Whether the public convenience and necessity require the deletion of Northeast Airlines, Inc.'s authority at Brunswick, Maine; Whitefield and Portsmouth, N.H.; and New London, Conn.;

2. Northeast Airlines, Inc., and Mohawk Airlines, Inc., be and they hereby are directed to file, with appropriate applications, proposed realignments, if deemed necessary, of their New England route structures within 60 days of the issuance of this order;

3. Ordering paragraphs 2, 3, 4, and 5 of Order 70-12-164, be and they hereby are vacated;

4. The applications of Northeast Airlines, Inc., in Dockets 21331 and 21332, Mohawk Airlines, Inc., in Dockets 18133 and 21333, and Executive Airlines, Inc., in Docket 23067, be and they hereby are consolidated for hearing in the New England Service Investigation, to the extent they conform with the scope of the proceeding as set forth in ordering paragraph 1, supra;

5. The petitions for leave to intervene filed by or on behalf of the following listed persons, be and they hereby are granted: Delta Air Lines, Inc.; the city of Portland, Maine; New York State Department of Transportation; Air New England, Inc.; Burlington-Lake Champlain Chamber of Commerce; and the New England Council for Economic Development;

6. Motions to consolidate applications and petitions for reconsideration of this order may be filed no later than 20 days after service of this order and answers to such pleadings may be filed no later than 20 days thereafter;

7. This proceeding shall be conducted in accordance with the standards established in 14 CFR 399.110;

8. This order shall be served upon Airlift International, Inc.; American Airlines, Inc.; Braniff Airways, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; The Flying Tiger Line Inc.; National Airlines, Inc.; New York Airways, Inc.; North Central Airlines, Inc.; Northwest Airlines, Inc.; Ozark Air Lines, Inc.; Pan American World Airways, Inc.; Piedmont Aviation, Inc.; Seaboard World Airlines, Inc.; Southern Airways, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; the chief executive of each community mentioned in ordering paragraphs 1(c) and 1(g), supra, the Governors and the State commissioners having jurisdiction over air transportation of the following States: Connecticut, Maine, Massachusetts, New Hampshire, New York, and Vermont; the Environmental Protection Agency; and the Council on Environmental Quality; and

9. The applications set forth in paragraph 4, be and they hereby are dismissed to the extent not consolidated herein.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8390 Filed 6-14-71;8:51 am]

ENVIRONMENTAL PROTECTION AGENCY

AMERICAN CYANAMID CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 1F1156) has been filed by the American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing the establishment of tolerances (21 CFR Part 420) for negligible residues of the insecticide O,O,O',O'-tetramethyl O,O'-thiodi-p-phenylene phosphorothioate and its sulfoxide metabolite O,O,O',O'-tetramethyl O,O'-sulfinyl-di-p-phenylene phosphorothioate in or on the raw agricultural commodities citrus fruits and the meat, fat, and meat byproducts of cattle at 0.1 part per million; and in milk at 0.02 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a procedure in which the parent compound and its sulfoxide metabolite are separated by column chromatography followed by reduction of the sulfoxide to the parent compound by reaction with titanous chloride and gas chromatographic analysis of each fraction using a cesium bromide thermionic detector.

Dated: June 8, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.71-8336 Filed 6-14-71;8:46 am]

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability of Comments

The Council on Environmental Quality has issued "Guidelines for Statements on Proposed Federal Actions Affecting the Environment" (36 F.R. 7724, Apr. 23, 1971) to implement section 102(2)(C) of the National Environmental Policy Act (Public Law 91-190). The "Guidelines" direct the Environmental Protection Agency (EPA) to make available to the public comments rendered by EPA on those draft environmental impact statements filed with and reviewed by the Agency.

In accordance with the "Guidelines", the comments of the Environmental Protection Agency on the draft environmental impact statements listed below (all comments rendered since April 23, 1971) are available for public review at Environmental Protection Agency, Office of Public Affairs, 1626 K Street NW., Room 710, Washington, DC 20460.

Agency requesting EPA comments	Title of draft environmental impact statement	EPA Logistics No.
National Science Foundation	National Hall Research Experiment	2
Do.	Winter Orographic Cloud Modification Experiment	3
Atomic Energy Commission	Radioactive Waste Repository, Lyons, Kans.	11
U.S. Coast Guard, DOT	Bridge Permit Application, Southern Crossing, San Francisco Bay	11
Forest Service, Department of Agriculture	Use of Zectran Pesticide	25
Atomic Energy Commission	Midland Power Plant Units 1 and 2, Midland, Mich.	38
Department of State	Rainy River International Pipeline, International Falls, Minn.	309-1

Dated: June 10, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71-8361 Filed 6-14-71;8:48 am]

FEDERAL MARITIME COMMISSION

BOARD OF TRUSTEES OF GALVESTON WHARVES AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Mr. C. S. Devoy, Port Director and General Manager, Galveston Wharves, 802 Rosenberg, Post Office Box 328, Galveston, TX 77550.

Agreements Nos. T-2520, T-2521, and T-2522, between the Board of Trustees of the Galveston Wharves (Galveston) and Lykes Bros. Steamship Company, Inc. (Lykes), provide for berthing arrangements for Lykes' Seabee ships and barges at Galveston, Tex.

Agreement No. T-2520 is a 10-year lease which provides for first call on berth privileges for Lykes' Seabee ships at Galveston. As compensation, Lykes will pay Galveston an annual minimum rental dockage of \$30,000.

Agreement No. T-2521 is a 3-year lease providing for first call on berth privileges for Lykes' Seabee barges at a covered barge loading, unloading, and interchange terminal. As compensation, Lykes will pay Galveston an annual minimum gross revenue guarantee of \$70,000.

Agreement No. T-2522 is a 3-year lease providing for first call on berth privileges for Lykes' Seabee barges at a barge marshaling yard at Pelican Island. As compensation, Lykes will pay Galveston a guaranteed minimum rental of \$87.50 per day.

Use of the berths and premises covered by the agreements will be subject to Galveston's published tariffs, except that the provisions of the agreements shall control whenever they are in conflict with the provisions of the Tariff.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8373 Filed 6-14-71;8:49 am]

CARIBBEAN TRAILER EXPRESS, LTD., AND FEEDERSHIPS, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

A. Montalvo, Traffic Manager, Shipcraft Agency, Inc., 42 Broadway, Suite 2101, New York, N.Y. 10004.

Agreement No. 9951, between Caribbean Trailer Express, Ltd., and Feederships, Inc., covers a through billing arrangement on cargo from U.S. Atlantic and gulf ports to ports in the Bahamas, Colombia, East Coast of Central America, British, French and Netherlands Guiana, Haiti, Leeward, and Windward Islands, Netherlands Antilles, Panama, Surinam, Trinidad, and Venezuela, with transshipment at ports in Jamaica (Kingston), Montego Bay, and Port Kaiser), under terms and conditions set forth in the agreement.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8374 Filed 6-14-71;8:49 am]

CARIBBEAN TRAILER EXPRESS, LTD., AND FEEDERSHIPS, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

A. Montalvo, Traffic Manager, Shipcraft Agency, Inc., 42 Broadway, Suite 2101, New York, N.Y. 10004.

Agreement No. 9952, between Caribbean Trailer Express, Ltd., and Feeder-ships, Inc., covers a through billing arrangement on cargo from U.S. Atlantic and gulf ports to ports in the Bahamas, Colombia, East Coast of Central America, British, French and Netherlands Guiana, Haiti, Leeward and Windward Islands, Netherlands Antilles, Panama, Surinam, Trinidad, and Venezuela, with transshipment at ports in the Dominican Republic (Azua, Barahona, Boca Chica, La Romana, Manzanillo, Puerto Plata, Rio Haina, Sanchez, San Pedro De Macoris, and Santo Domingo), under terms and conditions set forth in the agreement.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8375 Filed 6-14-71; 8:49 am]

FEEDERSHIPS, INC., AND CARIBBEAN TRAILER EXPRESS, LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

the statement should indicate that this has been done.

Notice of agreement filed by:

A. Montalvo, Traffic Manager, Shipcraft Agency, Inc., 42 Broadway, Suite 2101, New York, N.Y. 10004.

Agreement No. 9954, between Feeder-ships, Inc., and Caribbean Trailer Express, Ltd., covers a through billing arrangement on cargo from the Bahamas, Colombia, East Coast of Central America, British, French and Netherlands Guiana, Haiti, Leeward and Windward Islands, Netherlands Antilles, Panama, Surinam, Trinidad, and Venezuela to U.S. Atlantic and gulf ports, with transshipment at ports in the Dominican Republic (Azua, Barahona, Boca Chica, La Romana, Manzanillo, Puerto Plata, Rio Haina, Sanchez, San Pedro De Macoris, and Santo Domingo), under terms and conditions set forth in the agreement.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8376 Filed 6-14-71; 8:49 am]

FEEDERSHIPS, INC., AND CARIBBEAN TRAILER EXPRESS, LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

A. Montalvo, Traffic Manager, Shipcraft Agency, Inc., 42 Broadway, Suite 2101, New York, N.Y. 10004.

Agreement No. 9953, between Feeder-ships, Inc., and Caribbean Trailer Express, Ltd., covers a through billing arrangement on cargo from ports in the Bahamas, Colombia, East Coast of Central America, British, French and Netherlands Guiana, Haiti, Leeward and Windward Islands, Netherlands Antilles, Panama, Surinam, Trinidad, and Venezuela to U.S. Atlantic and gulf ports, with transshipment at ports in Jamaica (Kingston, Montego Bay, and Port Kaiser), under terms and conditions set forth in the agreement.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8377 Filed 6-14-71; 8:49 am]

GREECE/UNITED STATES ATLANTIC RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

P. J. Warmstein, Secretary, Greece/United States Atlantic Rate Agreement, c/o American Export Isbrandtsen Lines, Inc., 26 Broadway, New York, N.Y. 10004.

Agreement No. 9238-5 modifies the Conference's self-policing provisions to include the mandatory provisions required by the Commission's General Order 7 as revised on October 27, 1970.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8381 Filed 6-14-71; 8:50 am]

LINEA AMAZONICA S.A. AND BOOTH-LAMPORT JOINT SERVICE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should be indicate this has been done.

Notice of agreement filed by:

Mr. A. Heston, Dover Shipping Agency, Inc., 21 West Street, New York, N.Y. 10006.

Agreement No. 9769-1, amends the basic agreement between Linea Amazonica S.A., and The Booth Steamship Co., Ltd., and Lamport & Holt Line, Ltd., parties to the Booth-Lamport Joint Service which provides for the spacing of sailings and the establishment of rates by the parties in the trade between U.S. Atlantic and Gulf ports and the ports of the Leeward & Windward Islands, Barbados, Trinidad, Guyanas, and Brazilian and River Amazon, by enlarging Article 1 to add the trade from Amazon River ports to San Juan, Puerto Rico.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8378 Filed 6-14-71; 8:49 am]

TURKEY/UNITED STATES ATLANTIC RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

P. J. Warmstein, Secretary, Turkey/United States Atlantic Rate Agreement, c/o American Export Isbrandtsen Lines, Inc., 26 Broadway, New York, N.Y. 10004.

Agreement No. 9239-5 modifies the Conference's self-policing provisions to include the mandatory provisions required by the Commission's General Order 7 as revised on October 27, 1970.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8379 Filed 6-14-71; 8:49 am]

MOVERS' & WAREHOUSEMEN'S ASSOCIATION OF AMERICA, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as

amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Carroll F. Genovese, Executive Secretary, Movers' & Warehousemen's Association of America, Inc., Suite 1101, Warner Building, Washington, DC 20004.

Agreement No. 8540-C, between the members of the Movers' & Warehousemen's Association of America, Inc., modifies the basic agreement, as amended, which provides for the establishment and maintenance of agreed rates, charges, and practices for and in connection with the transportation of household goods and effects between U.S. ports and ports of Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands. The purpose of the modification is to comply with the provisions of the Commission's General Order 7 (Revised), which provides for self-policing systems, mandatory provisions thereof, and the requirement for the filing of minutes of meetings between members of the approved agreements. All other provisions of the agreement, as amended, remain unchanged.

Dated: June 10, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8380 Filed 6-14-71; 8:50 am]

[Independent Ocean Freight Forwarder License No. 284]

INGE & CO., INC.

Order of Revocation

On May 14, 1971, the Commission received notification from Alfred Schech-

ter, President, Inge & Co., Inc., 42 Broadway, New York, NY 10004, advising that he wished to discontinue the operation of Inge & Co., Inc., immediately.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(g) (dated September 29, 1970).

It is ordered, That the Independent Ocean Freight Forwarder License of Inge & Co., Inc., be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License No. 284 of Inge & Co., Inc., be and is hereby revoked effective May 14, 1971, without prejudice to reapplication for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Inge & Co., Inc.

AARON W. REESE,
Managing Director.

[FR Doc.71-8382 Filed 6-14-71; 8:50 am]

FEDERAL POWER COMMISSION

[Docket No. R171-1081 etc.]

RUTH PHILLIPS BISIKER ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

JUNE 4, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

¹ Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
R171-1081...	Ruth Phillips Biskier...	4	9	Transcontinental Gas Pipe Line Corp., (La Gloria Area, Jim Wells and Brooks Counties, Tex., R.R. District No. 4).	\$3,622 26,280	5-10-71	.....	11-10-71	\$11.03/21 \$12.03/21 \$13.03/21	\$21.35/247	
R171-1082...	Gramplan Co., Ltd.	4	10	do.	1,186 8,652	5-10-71	.....	11-10-71	\$11.03/21 \$12.03/21 \$13.03/21	\$21.35/247	
R171-1083...	Getty Oil Co.	13	22	Tennessee Gas Pipeline Co. (East Bay City Field, Matagorda County, Tex., R.R. District No. 3).	422,011	5-7-71	.....	11-7-71	15.65/55	25.0	R164-721.
R171-1084...	Amoco Production Co. et al.	83	27	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (East Bay City Field, Matagorda County, Tex., R.R. District No. 3).	151,840	5-7-71	.....	11-7-71	21.0	25.0	R171-630.
R171-1085...	Continental Oil Co. et al.	102	21	Transcontinental Gas Pipe Line Corp. (Harris Field, Live Oak County, Tex., R.R. District No. 2).	10,000	5-12-71	.....	11-12-71	19.00	21.00	R171-708.

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
¹ For gas not requiring compression or which is compressed by buyer.
² For gas presently compressed by buyer if seller elects to take over operation and maintenance of compressor facilities of buyer.
³ For gas requiring compression if seller elects to install and operate own compressor facilities.
⁴ Subject to a 0.21931 cents per Mcf dehydration deduction.
⁵ Unilateral increase after expiration of contract term.

* Agreement dated Mar. 22, 1971, which replaces expired July 15, 1948, contract and provides, among other things, for the renegotiated rate herein.
¹ Increase to contract rate.
² Includes documents required by Opinion No. 567. Increase applies only to gas from the Upper Slick & Wilcox (Luling) Reservoirs.
³ Accepted to become effective on the date shown in the "Effective Date" column. The acceptance of the agreement filed by Getty Oil Co. is subject to the conditions prescribed elsewhere in this order.

The agreement filed by Getty Oil Co. in addition to providing for its proposed increased rate also provides for future escalations to any higher area ceiling or settlement rate prescribed by the Commission. The provisions relating to the area rate do not conform with § 154.93(b-1) of the Commission's regulations. Consistent with Commission action taken on similar filings not in conformity with § 154.93(b-1), the agreements are accepted for filing upon expiration of statutory notice with the condition that the provisions relating to the area rate will only apply upon the Commission's approval of a just and reasonable rate, or settlement rate, in an applicable area rate proceeding, for gas of comparable quality and vintage.

The proposed increased rates involved here relate to sales in the Texas gulf coast area. They were filed after the issuance of Opinion No. 595 on May 6, 1971, where the Commission determined the just and reasonable rates for sales in the Texas gulf coast area. The proposed rates exceed the applicable area base rates determined in that opinion. In these circumstances we shall suspend the proposed rates for 5 months. Such action, in effect, will result ultimately in the rejection of these filings unless Opinion No. 595 is stayed, inasmuch as the section 5(a) determinations in that opinion are effective as of August 1, 1971.

[FR Doc.71-8233 Filed 6-14-71; 8:45 am]

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[Docket No. CS71-700 etc.]

ROBERT I. WILLIAMS ET AL.

Notice of Applications for "Small Producer" Certificates¹

JUNE 4, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 28, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

Docket No.	Date filed	Name of applicant
CS71-700...	5-3-71	Robert I. Williams, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-701...	5-3-71	Il. B. Lively, Operator et al., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-702...	5-3-71	First City National Bank of Houston and Alfred C. Glassell, Jr., Trustees for 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-703...	5-3-71	J. Earle Lawless, 1012 The 600 Bldg., Corpus Christi, Tex. 78401.
CS71-704...	5-3-71	Beren Corp., 1776 Lincoln St., Suite 601, Denver CO 80203.
CS71-705...	5-3-71	Cleveland Davis, Post Office Box 458, Angleton, TX 77515.
CS71-706...	5-3-71	Cleveland Davis, Jr., Trustee of the Cleveland Davis, Jr. Trust, Post Office Box 458, Angleton, TX 77515.
CS71-707...	5-3-71	Robert Mosbacher et al., 21st Floor Capital National Bank Bldg., Houston, Tex. 77002.
CS71-708...	5-3-71	Alfred C. Glassell, Jr., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-709...	5-3-71	Norman A. Book, 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-710...	5-3-71	Julian Evans, 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-711...	5-3-71	Gene M. Woodfin, Trustee, 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-712...	5-3-71	Cecil F. Hildeberg, Jr., 600 First National Bank Bldg., Jackson, Miss. 39205.
CS71-713...	5-3-71	Stewart Varn, d.b.a. Varn Petroleum Co., 1022 Union Center Bldg., Wichita, Kans. 67202.
CS71-714...	5-3-71	Edwin G. Bradley, 1022 Union Center Bldg., Wichita, Kans. 67202.
CS71-715...	5-3-71	Arnold Petroleum, Inc., 6403 North Grand Blvd., Oklahoma City, OK 73116.
CS71-716...	5-3-71	The Monaghan Co., 808 First National Bldg., Oklahoma City, Okla. 73102.
CS71-717...	5-3-71	N. B. Marye, 1400 Bank of the Southwest, Houston, Tex. 77002.
CS71-718...	5-3-71	Milton McGreevy, Room 100, 912 Baltimore Ave., Kansas City, MO 64105.
CS71-719...	5-3-71	San Salvador Corp., c/o Powers Operating Co., 1816 Vaughn Plaza, Corpus Christi, TX 78401.
CS71-720...	5-3-71	Gato Oil, Inc., c/o Powers Operating Co., 1816 Vaughn Plaza, Corpus Christi, TX 78401.
CS71-721...	5-3-71	Great Western Drilling Co., Post Office Box 1659, Midland, TX 79701.
CS71-722...	5-3-71	A. E. Amerman, Jr., 830 Bankers Mortgage Bldg., Houston, Tex. 77002.
CS71-723...	5-3-71	D. C. Latimer, Post Office Box 3139, West Jackson, MS 39217.
CS71-724...	5-3-71	E. Lyle Johnson, 620 North Broadway, Moore, OK 73059.
CS71-725...	5-3-71	M. F. McCall, 730 Lane Bldg., Shreveport, La. 71101.
CS71-726...	5-3-71	Don D. Montgomery, 1305 First National Bldg., Oklahoma City, OK 73102.
CS71-727...	5-3-71	Peto Oil Co., 2850 Bank of New Orleans Bldg., 1010 Common St., New Orleans, LA 70112.
CS71-728...	5-3-71	Hurt Oil & Gas Corp., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-729...	5-3-71	Geodynamics Oil & Gas, Inc., 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-730...	5-3-71	Jenkintown Program, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-731...	5-3-71	Salco Special Program, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-732...	5-3-71	Special Machel 1970 Drilling Venture, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-733...	5-3-71	Geo/Sea Resources—1970, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-734...	5-3-71	Special Lio 1970 Drilling Venture, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-735...	5-3-71	Special Geo Resources 1970 Drilling Venture III, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-736...	5-3-71	Pioneer Resources 1970 Drilling Venture, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-737...	5-3-71	Special Geo Resources 1970 Drilling Venture I, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.

Docket No.	Date filed	Name of applicant
CS71-738...	5-3-71	Harling Co., 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-739...	5-3-71	Pyramid Associates, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-740...	5-3-71	Western Growth Resources, 1970, Series B, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-741...	5-3-71	Cameron, Stewart Special Program, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-742...	5-3-71	McMullen Program, Phase II, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-743...	5-3-71	Special Geo Resources 1970 Drilling Venture II, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-744...	5-3-71	Joe Barnhart, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-745...	5-3-71	Antoinette Tilly Arnold, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-746...	5-3-71	Margaret Cullen Marshall, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-747...	5-3-71	Wilhelmina Ann Barnhart, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-748...	5-3-71	Russell Scott III, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-749...	5-3-71	Isaac Arnold, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-750...	5-3-71	Agnes Louise Scott, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-751...	5-3-71	Mary Hugh Scott, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-752...	5-3-71	The Mary Dacey Trusts Nos. 1, 2, 3, and 4, 430 Lincoln Center, Ardmore, OK 73401.
CS71-753...	5-3-71	Sea Properties, Ltd., 420 Lincoln Center, Ardmore, OK 73401.
CS71-754...	5-3-71	Crooked Hole, Inc., 420 Lincoln Center, Ardmore, OK 73401.
CS71-755...	5-3-71	Sam Noble, 420 Lincoln Center, Ardmore, OK 73401.
CS71-756...	5-3-71	Seagins Petroleum Corp., 1002 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-757...	5-3-71	Intraamerican Drilling Fund 1970 Program, 1002 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS71-758...	5-3-71	Mrs. Marilyn Watkins Bancum, 913 Erie, Shreveport, LA 71106.
CS71-759...	5-3-71	Fair Operating Account (successor to Ralph E. Fair et al.), 715 Alamo National Bldg., San Antonio, TX 78205.
CS71-760...	5-3-71	Ralph E. Fair, Inc., et al., 715 Alamo National Bldg., San Antonio, Tex. 78205.
CS71-761...	5-3-71	Alison Suzanne Robertson, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-762...	5-3-71	Corbin J. Robertson, Jr., 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-763...	4-26-71	Mahoney Drilling Co., Suite 430, 200 West Douglas, Wichita, KS 67202.
CS71-764...	4-26-71	T. W. Mahoney, Suite 430, 200 West Douglas, Wichita, KS 67202.
CS71-765...	4-26-71	F. W. Mahoney, Suite 430, 200 West Douglas, Wichita, KS 67202.
CS71-766...	5-3-71	Wilhelmina Cullen Robertson, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-767...	5-3-71	Cornelia Cullen Long, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-768...	5-3-71	Roy H. Cullen, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-769...	5-3-71	Harry H. Cullen, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-770...	5-3-71	Katherine Cullen Burton, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-771...	5-3-71	Douglas B. Marshall, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-772...	5-3-71	Elizabeth Robertson Geiselman, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-773...	5-3-71	Lillie Therese Robertson, 500 Jefferson Bldg., Houston, Tex. 77002.

Docket No.	Date filed	Name of applicant
CS71-774...	5-3-71	Carroll Christine Robertson, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-775...	5-3-71	Corbin J. Robertson, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-776...	5-3-71	Enrico Portanova, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-777...	5-3-71	Ugo Portanova, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-778...	5-3-71	Wilhelmina Anne Barnhart, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-779...	5-3-71	Hugh Roy Marshall, 500 Jefferson Bldg., Houston, Tex. 77002.
CS71-780...	5-3-71	C. H. Lyons, Jr., 1500 Beck Bldg., Shreveport, La. 71101.
CS71-781...	5-3-71	R. L. Nauman, 1500 Beck Bldg., Shreveport, La. 71101.
CS71-782...	5-4-71	A. A. Kennitz, Box 729, Hobbs, NM 88240.
CS71-783...	5-4-71	The Anschutz Corp., Inc., 1110 Denver Club Bldg., Denver, Colo. 80202.
CS71-784...	5-4-71	Warren V. Kaess, Trustee, 3210 One Shell Plaza, Houston, TX 77002.
CS71-785...	5-4-71	Herbert L. Dillon, Jr., 3210 One Shell Plaza, Houston, TX 77002.
CS71-786...	5-4-71	Lloyd H. Smith et al., 3210 One Shell Plaza, Houston, TX 77002.
CS71-787...	5-4-71	W. R. Persons, 3210 One Shell Plaza, Houston, TX 77002.
CS71-788...	5-4-71	Arthur E. Jones, 3210 One Shell Plaza, Houston, TX 77002.
CS71-789...	5-4-71	Estate of R. A. Irwin, Deceased, 3210 One Shell Plaza, Houston, TX 77002.
CS71-790...	5-4-71	Jack London, Jr. and Billinda Petroleum Corp., 6403 Northwest Grand Blvd., Oklahoma City, OK 73116.
CS71-791...	5-4-71	John T. Mines, Room 307, 100 Southwest Main St., Rocky Mount, NC 27801.
CS71-792...	5-3-71	Northeast Blanco Development Corp. (Operator) et al., Jacquelyn M. Williams, 2120 First National Bldg., Oklahoma City, OK 73102.
CS71-793...	5-3-71	Everett J. Carlson, Operator, 304 Millam Bldg., San Antonio, Tex. 78205.
CS71-794...	5-3-71	Cleo Oil & Gas Co., 1822 Bank of the Southwest Bldg., Houston, Tex. 77002.
CS71-795...	5-3-71	Harper Oil Co., 300 Hightower Bldg., Oklahoma City, Okla. 73102.
CS71-796...	5-3-71	Harvey Broyles et al., Post Office Box 1511, Shreveport, LA 71102.
CS71-797...	5-3-71	Vernon E. Neuhaus, Mission, Tex. 75572.
CS71-798...	5-3-71	Basic Minerals Corp., 1912 The 600 Bldg., Corpus Christi, Tex. 78401.
CS71-799...	5-3-71	Beverly Oil, Inc., 1912 The 600 Bldg., Corpus Christi, Tex. 78401.

[FR Doc.71-8231 Filed 6-14-71; 8:45 am]

FEDERAL RESERVE SYSTEM

BANKS OF IOWA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Banks of Iowa, Inc., which is a bank holding company located in Cedar Rapids, Iowa, for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Union Bank and Trust Co., Ottumwa, Iowa.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors, June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8362 Filed 6-14-71; 8:48 am]

CITIZENS AND SOUTHERN NATIONAL BANK AND CITIZENS AND SOUTHERN HOLDING CO.

Order for Recommended Decision of Hearing Examiner

In the matter of the applications of the Citizens and Southern National Bank and the Citizens and Southern Holding Co., Savannah, Ga., for a determination under section 4(c)(8) of the Bank Holding Company Act of 1956 relating to the planned activities of their nonbanking subsidiary, the Citizens & Southern Credit Service Corp. (Docket No. BHC-99).

On November 20, 1969, pursuant to an order of the Board of Governors, a hearing was held in the captioned matter before a hearing examiner selected by the Civil Service Commission pursuant to section 3344 of title 5 of the United States Code. The record made at said hearing has been duly filed with the Board.

Inasmuch as section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) was substantially amended on December 31, 1970, by the

passage of the Bank Holding Company Act Amendments of 1970, and section 4(c)(8), as amended, is controlling with respect to the issues to be determined in this matter, on April 29, 1971, the Board issued a Notice of Opportunity for Hearing in this matter pursuant to section 4(c)(8), as amended. No request for hearing has been received and the time for filing any such request has elapsed.

Because the Hearing Examiner before whom the record was made has become unavailable, the Civil Service Commission has appointed Philip J. LaMacchia (whose address is U.S. Civil Service Commission, 1900 E Street NW., Washington, DC) as the Hearing Examiner herein, pursuant to section 3344 of title 5 of the United States Code. Therefore,

It is hereby ordered, That this matter be and hereby is referred to Hearing Examiner LaMacchia for his recommended decision pursuant to section 4(c)(8), as amended. In accordance with the Board's Rules of Practice for Formal Hearings (12 CFR 263), applicants are hereby given an opportunity to file with the Examiner within 15 days of receipt of this order proposed findings and conclusions and supporting briefs.

By order of the Board of Governors, June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8372 Filed 6-14-71; 8:49 am]

COMMERCE BANCSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Commerce Bancshares, Inc., which is a bank holding company located in Kansas City, Mo., for prior approval by the Board of Governors of the acquisition by applicant of more than 80 percent of the voting shares of Fenton Bank, Fenton, Mo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial

resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

By order of the Board of Governors, June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8363 Filed 6-14-71; 8:48 am]

HUNTINGTON BANCSHARES INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Huntington Bancshares Inc., which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The Woodville State Bank, Woodville, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the

SECURITIES AND EXCHANGE COMMISSION

[70-5035]

AMERICAN ELECTRIC POWER CO., INC.

Notice of Filing and Order for Hearing Regarding Proposed Issue and Sale of Debentures by Registered Holding Company at Competitive Bidding

JUNE 9, 1971.

Notice is hereby given that American Electric Power Co., Inc. (AEP), 2 Broadway, New York, NY 10004, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

AEP proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, \$100 million principal amount of its ----- percent debentures due 1986. The interest rate of the debentures (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to AEP (which will be not less than 99 percent nor more than 102.75 percent of the principal amount thereof) will be determined by the competitive bidding. The debentures will be subordinated to AEP's 3 1/8 percent sinking fund debentures due 1977 (of which \$5,979,000 were outstanding as of March 31, 1971) and will be nonrefundable through the issuance of lower-cost debt or preferred stock for 5 years.

The AEP system includes seven electric utility subsidiary companies, three of which are responsible for the major component of the system's construction program, which for 1971 and 1972 is estimated at \$1 billion. AEP anticipates making capital contributions to its subsidiary companies in 1971 of \$130 million, which represent the common equity element of the financing of the construction program. AEP has filed a declaration seeking authorization to issue and sell short-term debt during the period June 30, 1971, to June 30, 1973, in an aggregate amount not to exceed \$150 million outstanding at any one time (File No. 70-5029). In addition to the short-term debt, AEP proposes to issue and sell \$100 million of debentures, proposed herein, and approximately \$100 million of common stock in the last quarter of 1971 or the first quarter of 1972. The proceeds from the sale of the debentures, together with other funds, will be used to pay maturing short-term debt, for working capital, and for other corporate purposes.

It appearing to the Commission that it is appropriate in the public interest

office of the Board of Governors or the Federal Reserve Bank of Cleveland.

By order of the Board of Governors, June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8338 Filed 6-14-71; 8:46 am]

UNITED BANK CORPORATION OF NEW YORK

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by United Bank Corporation of New York, Albany, N.Y., for prior approval by the Board of Governors of action whereby Applicant would become a bank holding company through the acquisition of 100 percent of the voting shares of State Bank of Albany, Albany, N.Y., and 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Liberty National Bank and Trust Co., Buffalo, N.Y.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

By order of the Board of Governors, June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8339 Filed 6-14-71; 8:46 am]

and in the interest of investors and consumers that a public hearing be held with respect to the proposed transaction; that interested persons be afforded an opportunity to be heard at such hearing with respect to the proposed transaction; and that the declaration should not be permitted to become effective except pursuant to further order of the Commission:

It is ordered, That a hearing be held on June 23, 1971, at the office of the Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549. On such date, the hearing room clerk will advise as to the room in which the hearing will be held.

It is further ordered, That a Hearing Examiner, hereafter to be designated, shall preside at said hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under section 18(c) of the Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation of the Commission having advised the Commission that it has made a preliminary examination of the declaration and that, upon the basis thereof, the following matters and questions are presented for consideration, without prejudice, however, to the presentation of additional matters and questions upon further examination:

(1) Whether the proposed issue and sale of debentures by AEP meets the standards of section 7 of the Act, and particularly the requirements of sections 7(c)(2) and 1(d).

(2) Whether the fees, commissions, and other expenses to be incurred are for necessary services and reasonable in amount.

(3) Whether the accounting entries to be made in connection with the proposed transactions are proper and in accord with sound accounting principles.

(4) What terms or conditions, if any, the Commission's order should contain.

(5) Generally, whether the proposed transactions are in all respects compatible with the provisions and standards of the applicable sections of the Act and of the rules promulgated thereunder.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That any person, other than declarant, desiring to be heard in connection with this proceeding or proposing to intervene therein shall file with the Secretary of the Commission, on or before June 25, 1971, a written request relative thereto as provided in Rule 9 of the Commission's rules of practice. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request.

It is further ordered, That the Secretary of the Commission shall give notice

of the aforesaid hearing by mailing copies of this notice and order by certified mail to AEP, The Public Service Commission of Indiana, The Public Service Commission of Kentucky, The Michigan Public Service Commission, The Public Utilities Commission of Ohio, The Tennessee Public Service Commission, The State Corporation Commission of Virginia, The Public Service Commission of West Virginia, and The Federal Power Commission and that notice to all other interested persons shall be given by a general release of the Commission and by publication of this notice and order in the FEDERAL REGISTER.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8347 Filed 6-14-71; 8:47 am]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JUNE 9, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 10, 1971, through June 19, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8348 Filed 6-14-71; 8:47 am]

[811-980]

LEXINGTON CORPORATE LEADERS FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JUNE 9, 1971.

Notice is hereby given that Lexington Corporate Leaders Fund, Inc., (Applicant), 177 North Dean Street, Englewood, NJ, a Delaware corporation registered as a management open-end, diversified investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file

with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant states that on January 26, 1971, its board of directors determined it to be in the best interests of Applicant's shareholders to liquidate Applicant's portfolio and retain its assets entirely in cash. Such action was taken because Applicant's expenses as a percentage of its net asset value had been rising significantly due to the small and decreasing size of Applicant's net assets. All of Applicant's assets were converted to cash in the aggregate amount of \$800,873, on January 27, 1971, and the offering of Applicant's shares to the public was discontinued. On that date there were 178 persons holding outstanding shares of the Applicant. Applicant's shareholders were notified of the Board's action by letter dated February 10, 1971. Applicant further states that as of May 13, 1971, there were only 28 shareholders remaining and Applicant's aggregate net asset value was \$123,404.

Applicant represents that it is not presently making and does not presently propose to make any public offering of its securities and that following deregistration it is intended to dissolve Applicant pursuant to Delaware law and to distribute the remaining net assets to remaining shareholders.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may not later than June 30, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission upon the basis of the information stated in

the application, unless an order for hearing upon said proposal shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8349 Filed 6-14-71; 8:47 am]

[245F-3621]

LOV'N LEATHER, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

JUNE 8, 1971.

I. Lov'n Leather, Inc. (Issuer), 1169 Cushman Street, San Diego, CA 92110, was incorporated in Nevada on June 8, 1970. It has been engaged principally in retailing boots, shoes and accessories for both men and women with an authorized capitalization of 75,000 shares of \$1 par value common stock. On June 22, 1970, Lov'n Leather, Inc., filed a notification and offering circular with the San Francisco Regional Office pursuant to Regulation A for an offering of 5,000 shares of common stock for \$1 per share.

Authorization to commence the offering was granted on October 13, 1970. The Issuer in its Form 2-A report filed on October 28, 1970, reported that the offering was completed on October 21, 1970.

II. The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading with respect to the following:

1. The notification and offering circular fail to name John L. Stone, Jack Glatfelter, Albert Tucey, and Walter Kenrick, who purchased the entire 5,000 shares being offered, as underwriters of the offering.

2. The notification fails to name the States in which the offering is intended to be made.

3. The notification and offering circular fail to mention the issuer's intent to increase the number of shares outstanding as a result of a 500 for 1 stock split.

4. The notification and offering circular were never amended to disclose the extension of the offer, the price at which the shares were to be offered, the aggregate public offering price, the method of distribution, or the underwriter's compensation.

B. The terms and conditions of Regulation A have not been complied with in that: (1) The company failed to state the method by which the shares were to be offered and, (2) the report on Form 2-A is false and misleading with respect to the completion date of the offering, the true offering price to the public, and the proceeds accruing to the underwriters.

C. The offering was and is being made in violation of section 17(a) of the Securities Act of 1933, as amended, for the reasons described above.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the Issuer under Regulation A be temporarily suspended:

It is ordered, Pursuant to Rule 261(a), subparagraph 1 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the Issuer file answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8350 Filed 6-14-71; 8:47 am]

[812-2805]

MINNESOTA SMALL BUSINESS INVESTMENT CO.

Notice of Filing of Application for Order Exempting and Permitting Proposed Transactions

JUNE 9, 1971.

Notice is hereby given that Minnesota Small Business Investment Co. (MSBIC), 2338 Central Avenue Northeast, Minneapolis, MN, a Minnesota corporation, registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 (Act) and licensed as a

small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to section 17(b) of the Act to exempt from section 17(a) of the Act the sale by a proposed subsidiary corporation (Subsidiary) of \$200,000 in convertible debenture bonds through private placement to certain affiliated persons of MSBIC, and for an order under Rule 17d-1 of the Act authorizing such transactions. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Background. On April 19, 1968, MSBIC purchased a \$250,000 5-year, 8 percent debenture bond of Educational Consultants, Inc. (ECI), a Minnesota corporation. ECI never operated profitably. To raise working capital, the president of ECI transferred to ECI his interest in a Minneapolis office building known as the Nicollet Mall Building (Building). It was intended that the Building be sold and the proceeds applied first to short-term obligations against the Building and the balance used as working capital for ECI. ECI was unable to dispose of the Building.

By April 1969, the condition of ECI was such that in MSBIC's judgment ECI's survival was in doubt. MSBIC wrote off its loan to ECI and, in an attempt to salvage its investment, purchased the Building for a price of approximately \$1,394,000. Under the terms of the purchase agreement, \$70,000 was to be a cash payment; \$250,000 was to be paid by MSBIC surrendering for cancellation ECI's debenture bond in that amount; \$363,000 was to be paid by MSBIC's assumption of the balance on the underlying contract for deed in said amount; and MSBIC was to assume various mortgages for the remainder of the purchase price. The closing was held April 23, 1969. The Small Business Administration (SBA) notified MSBIC that in the opinion of the SBA the purchase of the Building by MSBIC constituted an "overline" investment, an improper concentration of investment in real estate. The SBA informed MSBIC that it may not invest any further money into refurbishing the Building to attract new tenants. At present rentals and occupancy (80 percent) the Building has a negative annual cash flow of 80 to 100 thousand dollars. According to the application, the Building was appraised four times between January 1969, and early 1970, ranging between \$950,000 and \$1,600,000.

After several months of negotiations the SBA gave conditional approval to a proposal by MSBIC to form a wholly-owned subsidiary corporation into which it would transfer the Building in exchange for stock. Under the proposed plan, the Subsidiary will raise working capital through the sale by private placement to insiders of MSBIC of \$200,000 in convertible debenture bonds. The interest rate on these bonds will be

8 percent. Fully converted, the bondholders would own approximately two-sevenths of the then outstanding stock of the Subsidiary.

The application further states that on November 30, 1970, the equity of MSBIC in the Building was approximately \$467,000. An insertion of \$200,000 into the building would not affect the equity of MSBIC if the \$200,000 remains as debt. Furthermore, the equity of MSBIC would increase from \$467,000 to \$476,000 if the bonds should be converted since MSBIC would own five-sevenths of \$667,000, the value of the Subsidiary. The application states that to be absolutely equal, the equity of MSBIC in the Building, if it gives up two-sevenths for \$200,000, should be \$500,000. Inasmuch as its equity in the Building as of November 30, 1970, is slightly less than \$500,000, the proposed transaction is slightly weighted in favor of MSBIC in the event of conversion.

According to the application, the effects of the proposed plan would be to peg MSBIC's investment in the Building at present levels, to eliminate the contingent and assumed liabilities of the Building from MSBIC's financial statements, to generate sufficient money with which to carry the Building over the next several years if rentals remain at present levels and to provide funds necessary for alterations and remodeling of vacant space. The directors of MSBIC, who collectively account for ownership of approximately 70 percent of MSBIC's outstanding stock are of the opinion that, in view of the tight money market, the bonds must be sold to affiliated persons. The affiliated persons most likely to purchase all or a significant portion of the bonds would be Fidelity Securities and Investment Co., which controls MSBIC through ownership of more than 50 percent of MSBIC's outstanding stock; and Robert Resnick, who is the second largest shareholder.

Commission jurisdiction. Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from purchasing any security or other property from such registered investment company or from any company controlled by such registered company. The proposed sale by MSBIC's Subsidiary of its debentures to affiliated persons of MSBIC would, therefore, be prohibited under section 17(a). The Commission, upon application pursuant to section 17(b), may grant an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company, acting as principal, to participate in, or to effect any transactions in connection with any

joint enterprise or other joint arrangement in which such registered company, or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by the Commission. The proposed sale of convertible debentures by the Subsidiary to certain affiliated persons, as previously described, requires the granting of an application under Rule 17d-1. In passing upon such application, the Commission must consider whether the participation of the registered company or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Supporting statements. MSBIC contends that the Building cannot now be sold at a price near its true value. In addition, the management of MSBIC is of the opinion that since the Building is operating at a loss, the only basis upon which MSBIC can salvage its investment is to infuse sufficient money into renovation of the Building to attract new tenants. MSBIC also alleges that the proposed sale of debentures to affiliated persons is fair to the shareholders of MSBIC for the reasons that: (a) In the event of default by the Subsidiary, the relationship of the affiliated persons to MSBIC is such that any action detrimental to MSBIC or its Subsidiary would be tempered; (b) such affiliated persons would be more lenient creditors than outsiders; (c) these same affiliated persons would be logical sources of additional financing, if such should ever become necessary.

The proposed transactions will be submitted to shareholders of MSBIC for approval at a special meeting called for that purpose. The SBA has required the proxy material and any other information submitted to the shareholders in connection with these transactions to be filed with it.

Notice is further given that any interested person may, not later than June 29, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon MSBIC at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission

upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8351 Filed 6-14-71; 8:47 am]

[612-2928]

PRINCIPAL CERTIFICATE SERIES, INC.

Notice of Filing of Application for Order Approving Amendment to Depositary Agreement of Face-Amount Certificate Company

JUNE 7, 1971.

Notice is hereby given that Principal Certificate Series, Inc. (Principal), 1120 Fourth Avenue, Seattle, WA 98101, a registered face-amount certificate company, has filed an application pursuant to section 28(c) of the Investment Company Act of 1940 (Act) for an order approving a depositary agreement, as amended (Third Amended Agreement), between Principal and Bankers Trust Co. (Bank), wherein Principal undertakes to deposit and maintain with Bank qualified investments and reserves as required by section 28 of the Act with respect to its series of certificates mentioned below.

By order dated June 8, 1960, the Commission approved a depositary agreement dated as of June 15, 1960, between Principal and Bank pursuant to section 28(c) of the Act, which agreement provided for the deposit and maintenance by Principal with Bank of qualified investments and reserves as required by section 28 with respect to its Series 6, 10, 15, 20, and Single Payment Certificates in accordance with terms specified in said agreement. Similarly, by order dated October 21, 1961, the Commission approved a depositary agreement, as amended (Amended Agreement) which agreement extended the provisions of the original agreement to the following additional series of certificates which Principal thereafter began issuing: Short-Term Single Payment Certificates Series A-3, A-5, A-7, and A-10; and by order dated April 25, 1963, the Commission approved a Depositary Agreement, as amended (Second Amended Agreement) which agreement extended the provisions of the original agreement to the additional Single Payment Certificate Series B which Principal thereafter began issuing. The Third Amended Agreement, approval of which is now sought by Principal, extends the provisions of the agreement as so amended to two additional series of certificates, Series 15A and 22A, which Principal contemplates issuing.

The Third Amended Agreement, as does the original as amended to date, provides, among other things, that Principal shall at all times deposit and maintain with the Bank qualified assets having an aggregate value at least equal to its minimum certificate reserve requirements, which shall be held separate and segregated and that Principal may withdraw assets on deposit for the purpose of retiring certificates, or for any purpose if the remaining assets on deposit will equal the minimum reserve requirements. Assets representing minimum reserves for certificates sold within certain States which States require that such reserves be held by a depository or depositories within such States may, for the above minimum reserve requirements, be deducted in computing assets of Principal to be held by the Bank.

Section 28(c) provides, among other things, that the Commission shall by rule, regulation, or order, in the public interest or for the protection of investors, require a registered face-amount certificate company to deposit and maintain, upon such terms and conditions as the Commission shall prescribe, and as are appropriate for the protection of investors, with one or more institutions having the qualifications required by section 26 (a) (1) of the Act for a trustee of a unit investment trust, all or any part of the investments maintained by such company as certificate reserve requirements under the provisions of section 28(b) of the Act.

Notice is further given that any interested party may, not later than June 21, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, and order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8352 Filed 6-14-71; 8:47 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 7-A-1.1]

ASSISTANT DIRECTOR, OFFICE OF ADMINISTRATIVE SERVICES, ET AL.

Delegation of Administrative Activities

I. Pursuant to the authority delegated by the Deputy Assistant Administrator for Administration (Management) to the Director, Office of Administrative Services, in Delegation of Authority No. 7-A-1 (36 F.R. 11063), the following authority is hereby redelegated to the specific positions as indicated herein:

A. **Assistant Director, Office of Administrative Services.** 1. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the Agency.

2. To enter into contracts for supplies and services pursuant to Delegation of Authority No. 410 dated March 26, 1962 (27 F.R. 3017), from the Administrator of the General Services Administration to the heads of executive agencies.

3. To issue Government bills of lading, printing and binding orders, purchase orders, work orders, telephone orders, and tax exemption certificates.

4. To rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of meetings of SBA advisory councils.

B. **Chief, Procurement and Supply Division.** 1. To contract for supplies, materials and equipment, printing, and special services.

2. To enter into contracts for supplies and services pursuant to Delegation of Authority No. 410 dated March 26, 1962 (27 F.R. 3017), from the Administrator of the General Services Administration to the heads of Executive Agencies.

3. To issue Government bills of lading, printing and binding orders, purchase orders, and tax exemption certificates.

C. **Assistant Chief, Procurement and Supply Division.** 1. To issue Government bills of lading, printing and binding orders, purchase orders, and tax exemption certificates as they relate to Delegation of Authority No. 410 dated March 26, 1962 (27 F.R. 3017), from the Administrator of the General Services Administration to the heads of Executive Agencies.

D. **Warehouse Foreman, Procurement and Supply Division.** 1. To issue Government bills of lading.

E. **Chief, Office Services Division.** 1. To issue work orders, telephone orders, and authorize and approve repairs to machinery and equipment.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

Effective date: February 23, 1971.

N. J. BILLINGSLEY,
Director,

Office of Administrative Services.

[FR Doc.71-8365 Filed 6-14-71; 8:48 am]

TARIFF COMMISSION

[TEA-F-24]

SEYMOUR SHOES, INC.

Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

Investigation instituted. Upon petition under section 301(a)(2) of the Trade Expansion Act of 1962, filed by Seymour Shoes, Inc., Haverhill, Mass., the U.S. Tariff Commission, on June 10, 1971, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the women's dress shoes of the kind produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The petitioner has not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

Inspection of petition. The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City Office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: June 10, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-8388 Filed 6-14-71; 8:50 am]

INTERSTATE COMMERCE COMMISSION

MISLETOE EXPRESS ET AL.

Assignment of Hearings

JUNE 10, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but

interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 42405 Sub 29, Missetoe Express Service doing business as Missetoe Express, now assigned July 26, 1971, in the Holiday Inn-Downtown, 301 North 11th Street, Fort Smith, AR.

MC-125650 Sub 7, Mountain Pacific Trucking Corp., assigned July 7, 1971, at Billings, Mont., will be held in Room 246, U.S. Post Office Buildings, First Avenue North and 26th Street, instead of U.S. District Courtroom.

MC 64832 Sub 3, Magnolia Truck Lines, Inc., MC 135027, Overnight Express, assigned for continued hearing June 22, 1971, in the Sun 'N' Sand Motel, Jackson, Miss.

MC-C-7122, Hopper Truck Lines v. Western Gillette, Inc., et al., assigned July 21, 1971, at Phoenix, Ariz., in Room 1010 Federal Building, 230 North First Avenue.

MC-123048 Sub 185, Diamond Transportation System, Inc., assigned July 12, 1971, at Chicago, Ill., in Room 1630, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 107295 Sub 377, Pre-Fab Transit, Co., now assigned June 24, 1971, at Columbus, Ohio, canceled and application dismissed.

MC 125102 Sub 11, Leonard DeLue, Ettalla Partnership, doing business as Armored Motors Service, now assigned September 13, 1971, at Washington, D.C. at the Offices of the Interstate Commerce Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-8384 Filed 6-14 7:18:50 am]

[Notice 310]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 9, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 437 TA), filed May 5, 1971. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Post Office Box 160,

Kenosha, WI 53140. Applicant's representative: Albert B. Barber (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Folding tent campers*, designed to be drawn by passenger automobiles, in truckaway service, from Santa Rosa, Calif., to points in Washington, Oregon, Nevada, Arizona, Idaho, and Utah, for 150 days. Supporting shippers: Nimrod/El Dorado Industries, Inc., 500 Ford Boulevard, Hamilton, OH 45011 (Thomas James, Manager, Marketing Services). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 45134 (Sub-No. 9 TA), filed May 31, 1971. Applicant: COLLINS TRUCK LINE, INC., 3705 Marshall Street NE., Minneapolis, MN 55421. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer*, dry, in bulk, from Pine Bend, Minn., to points in North Dakota, for 150 days. Supporting shipper: Farmers Union Central Exchange, St. Paul, Minn. Send protests to: District Supervisor E. C. Sjogren, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55104.

No. MC 51143 (Sub-No. 4 TA), filed May 26, 1971. Applicant: B & B TRANSPORTATION, INC., 37 Ryder Avenue, Cranston, RI 02920. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, RI 02905. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Augusta, Maine, to Waterville, Maine, and *empty malt beverage containers*, from Waterville, Maine, to Augusta, Maine, for 180 days. Note: Applicant does intend to tack the authority in MC-51143 at Augusta, Maine. Supporting shipper: Waterville Distributors Inc., Allen Street and Eastern Avenue, Waterville, ME. Send protests to: Gerald H. Curry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 187 Westminster Street, Providence, RI 02903.

No. MC 52861 (Sub-No. 24 TA), filed June 1, 1971. Applicant: WILLS TRUCKING, INC., 2535 Center Street, Cleveland, OH 44113. Applicant's representative: Keith F. Henley, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Coal*, from points in West Virginia to points in Cuyahoga, Lake, and Ashtabula Counties, Ohio, for 180 days. Supporting shipper: Valley Camp Coal Co., 700 Westgate Tower, Cleveland, Ohio. Send protests to: District Supervisor Bacceti, Interstate Commerce Com-

mission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 95376 (Sub-No. 3 TA), filed May 31, 1971. Applicant: MCVEY TRUCKING, INC., Rural Route No. 1, Oakwood, IL 61858. Applicant's representatives: Foreman, Meachum, and Clapper, 704-710 Baum Building, Danville, IL 61832. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Vermillion County, Ind., to points in Vermillion and Champaign Counties, Ill., for 150 days. Supporting shipper: River Coal Co., Inc., Post Office Box 711, Dana, IL. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 102567 (Sub-No. 144 TA), filed May 31, 1971. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, LA 71010. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Plaquemine, La., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Texas, for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 629, Plaquemine, LA 70764. Mr. Roger M. Feig, Traffic Supervisor, Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T-4009, Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 103993 (Sub-No. 638 TA), filed May 31, 1971. Applicant: MORGAN DRIVEWAY, INC., 2800 Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements; and (2) *buildings*, in sections, on undercarriages, from Rocky Mount, N.C., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Woodchuck Enterprises, Rocky Mount, N.C. 27801. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 111401 (Sub-No. 337 TA) (Correction), filed May 26, 1971, published FEDERAL REGISTER issue of June 5, 1971, and corrected and republished in part as corrected this issue. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Note: The purpose of this partial republication is to show Georgia as a destination State in lieu

of Louisiana, which was erroneously shown in previous publication. The rest of the application remains the same.

No. MC 114989 (Sub-No. 12 TA), filed May 31, 1971. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., Post Office Box 623, 1910 South Walnut Street, Hopkinsville, KY 42240. Applicant's representative: Richard D. Gleaves, 833 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Milk cartons*, from Sikeston, Mo., to Madisonville, Ky., for 180 days. Supporting shipper: Wm. M. Corum, Vice President, Goldenrod Dairy Foods, 234 North Scott Street, Madisonville, KY 42431. Send protests to: Wayne L. Merlatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 116073 (Sub-No. 174 TA), filed May 31, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Maine Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tassar, Post Office Box 919, Moorhead, MN 56560. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and *buildings*, in sections, from Ringtown, Pa., to points in Maine, New Hampshire, Virginia, Connecticut, Massachusetts, New York, New Jersey, Delaware, Maryland, Vermont, West Virginia, and Rhode Island, for 180 days. Supporting shippers: Broadmore Homes of Pennsylvania, Inc., 100 Fleetwood Drive, Post Office Box 300, Ringtown, PA 17967; Barrington Homes of Pennsylvania, Inc., 100 Fleetwood Drive, Post Office Box 300, Ringtown, PA 17967. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 116982 (Sub-No. 9 TA), filed May 31, 1971. Applicant: FUCHS, INC., 306 Water Street, Sauk City, WI 53583. Applicant's representative: Michael J. Wyngaard, 125 West Doty Street, Madison, WI 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Building and housing units*, complete, knocked down or in sections, and *component parts thereof*; (2) *materials, equipment, and supplies* used in the manufacture, sale, distribution, erection, and completion of the items named in part 1; (3) *wood products*; (4) *composition wood products*; (5) *laminated products*; (6) *parts and accessories for products named in items 3, 4, and 5*; (7) *return shipments* of the items named in parts 1 through 6; (1) between Moberly, Mo., on the one hand, and, on the other, points in New York, West Virginia, Alabama, Arkansas, Minnesota, South Dakota, Nebraska, Iowa, Missouri, Kansas, Kentucky, Illinois, Wisconsin, Michigan, Ohio, Pennsylvania, Tennessee, Indiana, Oklahoma, North Dakota, Texas, Louisi-

ana, Mississippi, and Georgia; (2) between Mazomanie, Wis., on the one hand, and, on the other, points in New York, West Virginia, Alabama, Arkansas, Nebraska, Kansas, Kentucky, Ohio, Pennsylvania, Texas, Tennessee, Oklahoma, Louisiana, Mississippi, and Georgia; and (3) between Moberly, Mo., and Mazomanie, Wis., said operations are limited to a transportation service to be performed, under a continuing contract or contracts, with Wick Building Systems, Inc. Supporting shipper: Wick Building Systems, Inc., Box 108, Mazomanie, WI 53560. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 119774 (Sub-No. 26 TA), filed May 28, 1971. Applicant: MARY ELLEN STIDHAM, N. M. STIDHAM, A. E. MANKINS (INEX MANKINS EXECUTRIX) and JAMES E. MANKINS, SR., a partnership, doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, 301 Main Street, Third Floor, Kilgore, TX 75662. Applicant's representative: James E. Mankins (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Houston, Tex., to Shreveport, La., for 180 days. Supporting shipper: AMF Beaird, Inc., Post Office Box 1115, Shreveport, LA 71102. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 126537 (Sub-No. 27 TA), filed May 26, 1971. Applicant: KENT I. TURNER, KENNETH E. TURNER, ERVIN L. TURNER, a partnership, doing business as TURNER EXPEDITING SERVICE, Post Office Box 21333, Standiford Field, Louisville, KY 40221. Applicant's representative: George M. Catlett, Suite 703-706, McClure Building, Frankfort, KY 40601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to shipments having a prior or subsequent movement by air; (1) between Tri-Cities Airport, Sullivan County, Tenn., and places in Roanoke and Tazewell Counties, Va.; and (2) from points in Tazewell County, Va., to Newark Airport, Newark, N.J., for 180 days. Note: Applicant states tacking is proposed with its presently held authority under MC 126537 (Sub-No. 5) and MC 126537 (Sub-No. 18). Supporting shippers: Mr. G. T. Abston, Traffic Manager, General Instruments Corp., Capacitor Division, Walnut Street, Tazewell, VA 24651; Mr. Harold D. Widner, Warehouse Manager and Traffic Manager, Eastern Isles, Inc., Richlands, Tazewell County, Va.; Mr. Harry E. Dixon, Harry E. Dixon, Transportation Management

Service, 3104 Brambleton Avenue SW., Roanoke, VA 24002. Send protests to: Mr. Wayne L. Merlatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 128879 (Sub-No. 17 TA), filed May 31, 1971. Applicant: C-B TRUCK LINES, INC., 400 South Hull, Post Office Box 1774, Clovis, NM 88101. Applicant's representative: Jerry R. Murphy, 708 LaVeta Drive NE., Albuquerque, NM 87108. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment; (1) between Clovis, N. Mex., and Amarillo, Tex.; (2) between Clovis, N. Mex., and Lubbock, Tex.; (3) between Lovington, N. Mex., and Lubbock, Tex.; (4) between Lovington, N. Mex., serving no intermediate points on any route, and restricted against service between Amarillo and Lubbock, Tex.; (a) from Clovis, N. Mex., over U.S. Highway 60 and 84 to Farwell, Tex., thence U.S. Highway 60 to Canyon, Tex., thence U.S. Highway 87 and Interstate Highway 27 to Amarillo, Tex., and return over the same route; (b) from Clovis, N. Mex., over U.S. Highway 84 and 60 to Farwell, Tex., thence U.S. Highway 84 to Lubbock, Tex., and return over the same route; (c) from Lovington, N. Mex., over U.S. Highway 82 to Plains, Tex., thence over U.S. Highway 82 and 380 to Brownfield, Tex., thence over U.S. Highway 62 and 82 to Lubbock, Tex., and return over the same route; (d) from Lovington, N. Mex., over U.S. Highway 82 to Plains, Tex., thence over U.S. Highway 82 and 380 to Brownfield, Tex., thence over U.S. Highway 87 and Interstate 27 to Amarillo, Tex., and return over the same route, for 180 days. Note: Applicant intends to tack the requested authority to authority presently held by it in its Sub-No. 10TA, at Clovis, N. Mex., and Lovington, N. Mex. Applicant proposes to interline with all carriers desiring to do so at El Paso, Tex., Lovington, N. Mex., Clovis, N. Mex., Amarillo, Tex., and Lubbock, Tex., including C.B. Motor Freight Co. at Lovington, N. Mex. Supporting shippers: There are approximately 135 statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10515 Federal Building and U.S. Courthouse, 500 Gold Avenue SW., Albuquerque, NM 87101.

No. MC 133794 (Sub-No. 2 TA), filed May 28, 1971. Applicant: CONVERTERS TRANSPORTATION, INC., Box No. 351, Garnerville Holding Terminal, Garnerville, NY 10923. Applicant's representative: William Traub, 10 East 40th

Street, New York, NY 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Piece goods*, between the facilities of Hull Dye & Print Works, Inc., West Haven, Conn., on the one hand, and, on the other, points in Rockland and Westchester Counties, N.Y., New York, N.Y., and Bergen, Essex, Hudson, Passaic, Union, and Middlesex Counties, N.J.; and (2) *materials and supplies* used in the dyeing or finishing of piece goods, from the aforementioned points and places in New York and New Jersey to the plant of Hull Dye Works, Inc., Derby, Conn., for 180 days. Supporting shipper: Hull Dye & Print Works, Inc., Derby, Conn. 06418. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, NY 10007.

No. MC 133816 (Sub-No. 2 TA), filed May 28, 1971. Applicant: KENNETH L. PARKS AND KEITH O. PARKS, a partnership, doing business as K & K WHOLESALE CO., Post Office Box 222, Lowell, OR 97452. Applicant's representative: Howard E. Speer, 835 East Park Street, Eugene, OR 97401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, from points in Clark County, Nev., to points in Washington, for 180 days. NOTE: This temporary authority will be tacked on to the existing authority of the carrier, MC 133816 Sub 1, which authorizes the carrier to haul lime from Clark County, Nev., to points in Oregon. Supporting shipper: The Flintkote Co., U.S. Lime Division, 1120 21st Street, Milwaukie, OR 97222. Send protests to: A. E. Odums, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, OR 97204.

No. MC 135582 (Sub-No. TA), filed May 31, 1971. Applicant: JAMES BOND TRUCKING COMPANY, INC., 12 East Hidalgo Street, Phoenix, AR 85040. Applicant's representative: Earl Carroll, 363 North First Avenue, Phoenix, AR 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete aggregate*, from Wahweap Creek, located approximately 3 miles northeast of Glen Canyon City, Utah, to site of Navajo Generating Station located adjacent to Page, Ariz., over unnumbered county roads and U.S. Highway 89, between Glen Canyon City, Utah, and Page, Ariz., under a contract with Salt River Project, for 180 days. Supporting shipper: Salt River Project, Project Manager for the Navajo Generating Station, Post Office Box 1980, Phoenix, AR 85001. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427, Federal Building, 230 North First Avenue, Phoenix, AR 85025.

No. MC 135641 (Sub-No. 1 TA) filed May 31, 1971. Applicant: M. B. AND B. G. CUTHBERTSON, a partnership, doing business as, M. B. CUTHBERTSON

& SON, Rural Route 2, Box 37, Toledo, IA 52342. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel bin grain storage systems*, from Peoria and Marengo, Ill., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Frigidome Corp., 2335 West Altorfer Drive, Peoria, IL 61614. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Fourth and Perry Streets, Davenport, IA 52801.

No. MC 135645 TA, filed May 28, 1971. Applicant: C. A. WHEAT AND ANNA J. WHEAT, a partnership, doing business as PLAINS OIL COMPANY, Post Office Box 10, Laramie, WY 82070. Applicant's representative: T. Stockton, The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, from Salt Lake City, Utah, and Denver, Colo., to points in Wyoming, for 180 days. Supporting shippers: Coca-Cola Bottling Co. of Casper, 637 West Yellowstone, Post Office Box 875, Casper, WY 82601; Coca-Cola Bottling Co. of Laramie, Inc., Post Office Box 1287, Laramie, WY 82070. Send protests to: District Supervisor, Paul A. Naughton, Interstate Commerce Commission, Bureau of Operations, 1006 Federal Building and Post Office, 100 East B Street, Casper, WY 82601.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71-8385 Filed 6-14-71; 8:50 am]

[Notice 311]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 10, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9325 (Sub-No. 54 TA) (Correction), filed May 20, 1971, published FEDERAL REGISTER issue June 6, 1971, and corrected and republished in part as corrected this issue. Applicant: K LINES, INC., 341 Foothills Road, Lake Oswego, OR 97034. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, OR. NOTE: The purpose of this partial republication is to include Idaho as a destination State, which was inadvertently omitted in previous publication. The rest of the notice remains as previously published.

No. MC 32882 (Sub-No. 59 TA), filed May 30, 1971. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, Post Office Box 17039, Portland, OR 97217. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, 806 Southwest Broadway, Portland, OR 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and storage facilities of Potlatch Forest Industries, Inc., at Lewiston, Idaho, to points in Spokane County, Wash., ports of entry on the United States and Canada in the States of Washington and Idaho, and points in Oregon and Washington on and west of U.S. Highway 97, for 180 days. Supporting shipper: Potlatch Forests, Inc., Lewiston, Idaho 83501. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 18088 (Sub-No. 53 TA), filed May 30, 1971. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., Post Office Drawer 8, Office: Industrial Parkway, Sycamore, AL 35149. Applicant's representative: Erris H. Barnett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tire cord yarn*, on beams, in beams rack equipped trailers, between plantsite and warehouse of Monsanto Co., Gonzalez and Pensacola, Fla., on the one hand, and, on the other, plantsite and warehouse of Firestone Tire & Rubber Co., Bowling Green, Ky., or near Bowling Green, Ky., and *empty beams*, on return, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Attention: Richard E. Bailey, Division Transportation Manager. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, AL 35203.

No. MC 72442 (Sub-No. 33 TA) (Correction), filed May 3, 1971, published FEDERAL REGISTER issue May 15, 1971, and

corrected and republished in part as corrected this issue. Applicant: AKERS MOTOR LINES, INC., Post Office Box 579, Gastonia, NC 28052. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. NOTE: The purpose of this partial republication is to clarify a portion of the restriction relative to service at authorized points in Georgia which reads: "traffic moving to, from, or through . . . (a), (b), and (c)". This should read: "traffic moving from or to . . ." The rest of the publication remains the same.

No. MC 95876 (Sub-No. 111 TA) (Correction), filed May 18, 1971, published FEDERAL REGISTER issue June 6, 1971, and republished in part as corrected this issue. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, Post Office Box 844, St. Cloud, MN 56301. Applicant's representative: Richard A. Rennie (same address as above). NOTE: The purpose of this partial republication is to reflect Iowa in lieu of Louisiana as a destination State in (1) and (2) which was shown erroneously in previous publication. The rest of the application remains the same.

No. MC 107295 (Sub-No. 523 TA), filed May 31, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials and materials used in the installation and application of such commodities* (except iron and steel and commodities in bulk), from the plantsite and warehouse facilities of Certain-Teed Products Corp. at Chicago Heights, Ill., to points in Wisconsin, for 180 days. Supporting shipper: Edward J. Finn, Traffic Manager, Certain-Teed Products Corp., Shelter Materials Group, Valley Forge, Pa. 19481. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107295 (Sub-No. 524 TA), filed May 30, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished and unfinished plywood panels*, from North Stratford, N.H., and Charlestown, Mass., to points in Alabama, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and Wisconsin, for 180 days. Supporting shipper: Kenneth Hull, President, Allied Wood Products Corp., North Stratford, N.H. 03590. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107515 (Sub-No. 756 TA), filed June 1, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: K. Edward Wolcott, Suite 1600, First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food-stuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsites and warehouses of the Pillsbury Corp. in Terre Haute, Ind., to Thomasville, Cairo, West Albany, Alma, Quitman, Nashville, Adel, Brunswick, and Waycross, Ga.; Lakeland, Miami, Adgewood, Tampa, Jacksonville, Hialeah, Taft, Mericamp, St. Petersburg, and Tallahassee, Fla., for 180 days. Supporting shipper: The Pillsbury Co., 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 110525 (Sub-No. 1004 TA), filed May 30, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Texas, for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 629, Plaquemine, LA 70764. Send protests to: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 113362 (Sub-No. 214 TA), filed June 1, 1971. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, Post Office Box 562, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Kansas Meat Packers located at Holton, Kans., to points in Illinois, Pennsylvania, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Ohio, Maine, and the District of Columbia, for 150 days. Supporting shipper: Kansas Meat Packers, Post Office Box 327, Holton, KS 66436. Send protests to: Ellis L. Annett, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 114312 (Sub-No. 22 TA), filed June 3, 1971. Applicant: ABBOTT TRUCKING, INC., Route 3, Box 74, Delta, OH 43515. Applicant's representative: Harvey A. Rosenzweig, Columbus Center, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, from Marseilles, Ill., to points in the Lower Peninsula of Michigan, for 180 days. Supporting shipper: Farm Bureau Services, Inc., 7373 West Saginaw Highway, Lansing, MI. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 114533 (Sub-No. 229 TA), filed May 31, 1971. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Processed and unprocessed film, prints, slides, audio and video tapes, including motion picture film, vision motion pictures*, (B) *audit media and other business records* and (C) *graphic arts material*, having a prior or subsequent movement by air, between Seattle-Tacoma International Airport in King County, Wash., on the one hand, and, on the other, Bellingham, Wash., for 150 days. Supporting shipper: KVOS Television Corp., 1151 Ellis Street, Bellingham, WA 98225. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 115331 (Sub-No. 311 TA), filed June 3, 1971. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Burnt shale*, in bulk, from Brooklyn, Ind., to points in St. Louis, Mo., and to points in St. Louis, Jefferson, Franklin, and St. Charles Counties, Mo., for 180 days. Supporting shipper: Hydraulic Press Brick Co., 705 Olive Street, St. Louis, MO 63101. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 116063 (Sub-No. 124 TA), filed June 3, 1971. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2400 Cold Springs Road, 76106, Post Office Box 270, Fort Worth, TX 76101. Applicant's representative: W. H. Cole (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Sodium bromide solution*, in bulk, in tank vehicles, from Kansas City, Kans., to El Dorado, Ark., for 180 days. Supporting Shipper: The Proctor & Gamble Co., Post Office Box 599, Cincinnati, OH 45201. Send protests to: H. C. Morrison, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 117344 (Sub-No. 214 TA) (Amendment), filed May 12, 1971, published FEDERAL REGISTER issue of May 27, 1971, amended and republished in part as amended this issue. Applicant: THE MAXWELL CO., 10380 Evandale Drive, Post Office Box 15010, Cincinnati, OH 45215. Applicant's representative: John G. Spencer (same address as above). NOTE: The purpose of this partial republication is to include Colorado, Maine, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, and the District of Columbia as destination States, which were inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 117465 (Sub-No. 16 TA), filed June 2, 1971. Applicant: BEAVER EXPRESS SERVICE, INC., doing business as BEAVER EXPRESS, Post Office Box 151, 1215 Kansas, Woodward, OK 73108. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives), moving in express service: Route 1, between Amarillo, Tex., and Portales, N. Mex., from Amarillo, Tex., over U.S. Highway 66 (and/or 140) to Tucumcari, N. Mex., thence over New Mexico Highway 18, to its junction with New Mexico Highway 88 to Portales, and return over the same route, serving all intermediate points. Route 2, between Portales, N. Mex., and Amarillo, Tex., from Portales, N. Mex., over U.S. Highway 70 to its junction U.S. 70 at Clovis, thence over U.S. Highway 60 to Amarillo, Tex., and return over the same route, serving all intermediate points. Route 3, between Dalhart, Tex., and Clayton, N. Mex., from Dalhart over U.S. Highway 87 to Clayton, N. Mex., and return over the same route, serving all intermediate points. Route 4, between Boise City, Okla., and Clayton, N. Mex., from Boise City, Okla., over U.S. 64 to Clayton, N. Mex., and return as an alternate route for operating convenience only, for 180 days. NOTE: Applicant states it will tack at Amarillo and Dalhart; interline Morgan Express, MC-120080 at Amarillo. Supporting shippers: There are approximately 29 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1012

NOTICES

Herring Plaza, 317 East Third Street, Amarillo, TX 79101.

No. MC 127539 (Sub-No. 22 TA), filed May 31, 1971. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th Street, Tacoma, WA 98421. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh hanging meat products*, from Wallula, Wash., to San Francisco, Oakland, Sacramento, Los Angeles, and San Jose, Calif., for 150 days. Supporting shipper: Cudahy Co., Wallula, Wash. 99363. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 129034 (Sub-No. 2 TA), filed May 31, 1971. Applicant: LOOMIS COURIER SERVICE, INC., 55 Battery Street, Seattle, WA 98121. Applicant's representative: Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, between points in Multnomah, Clackamas, and Washington Counties, Ore., on the one hand, and, on the other, points in Clark, Cowlitz, Lewis, Thurston, Pierce, and King Counties, Wash., restricted to transportation service to be performed under a continuing contract or contracts with banks and banking institutions, for 180 days. Supporting shippers: South Sound National Bank, 701 South Sound Boulevard, Lacey, WA 98501; United States National Bank of Oregon, 321 Southwest Sixth Avenue, Post Office Box 4412, Portland, OR 97208; Portland Federal Savings, 444 Southwest Fifth Avenue, Portland, OR 97204, and The Bank of California, 407 Southwest Broadway, Portland, OR 97208. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 134631 (Sub-No. 7 TA), filed June 3, 1971. Applicant: SCHULTZ TRANSIT, INC., Post Office Box 503, 323 Bridge Street, Winona, MN 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radio, phonograph and stereo cabinets, record changer bases and speaker boxes*, with or without mechanisms, from Winona and Red Wing, Minn., to New York, N.Y., and Los Angeles, Calif., and points in their respective commercial zones, for 180 days. Supporting shipper: Winona Industrial Sales Corp., Winona, Minn. 55987. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S.

Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135651 TA, filed June 3, 1971. Applicant: W. O. MOORE, doing business as MOORE & SONS CO., Post Office Box 630, Covington, GA 30209. Applicant's representative: Frank A. Holloway, 902 Healey Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *T.O.F.C. Freight trailers containing freight and empty trailers*, from Atlanta, Ga., railroad ramps to Covington, Conyers, Lawrenceville, Lithonia, Monroe, Griffin, McDonough, and Porterdale, Ga., and return. NOTE: trailers loaded at origins will be delivered to Atlanta ramps in or via a regular route; trailers made empty at destinations may be delivered to one of the above points for loading, instead of returning the trailers empty to the Atlanta, Ga., ramps, thus conserving time, mileage, and undue expense to shippers, as trailers would be made empty occasionally at destinations close to an origin where trailers would be loaded instead of shipper having to request a trailer from Atlanta ramps (greater utilization), for 180 days. Supporting shippers: Mobile Chemical Co., Post Office Box 71, Covington, GA 30209; C. E. Glass, 1548 Stone Ridge Drive, Stone Mountain, GA 30083; Cole Steel Equipment Co., 1629 Litton Drive, Stone Mountain, GA 30083; Gulf Equipment Co., 1595 Mountain Industrial Boulevard, Stone Mountain, GA 30083. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 135646 TA filed May 31, 1971. Applicant: JIMMIE W. DERVAN, doing business as DERVAN CARTAGE SERVICE, 321 North Washington Street, Albany, GA 31701. Applicant's representative: Monty Schumacher, 2045 Peachtree Road NE., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, in tank vehicles, household goods, as defined by the Commission, and automobiles in primary and secondary service), and *empty trailers*, between Albany, Ga., on the one hand, and, on the other, points in Sumter, Crisp, Randolph, Terrell, Lee, Worth, Turner, Clay, Calhoun, Dougherty, Tift, Early, Baker, Mitchell, Colquitt, Seminole, Decatur, Grady, Miller, and Thomas Counties, Ga., restricted to traffic having a prior or subsequent movement by rail in trailer-on-flatcar-service, for 180 days. Supporting shippers: Smithwick Construction Co., 1001 South Slappey Drive, Albany, GA; Hinman, Inc., 1124 Highland Avenue, Albany, GA; Lilliston Corp., Dawson Road, Albany, Ga.; Georgia Agricultural & Industrial Warehouse, Inc., Sylvester, Ga.; and American Eagle Antiques Corp., Newton, Ga. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

NOTICES

No. MC 135652 TA, filed June 2, 1971. Applicant: SERVICE TRANSFER, INC., 4557 Princess Anne Road, Virginia Beach, VA 23562. Applicant's representative: L. E. Major, Jr., 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, moving in containers, trailers and empty containers, trailers and chassis, between all points in the cities of Norfolk, Portsmouth, Hampton, Virginia Beach, Newport News, Chesapeake, and the counties of Isle of Wight, Sussex, James City, York, Gloucester, Nansemond, Surry, Prince George, Charles City, New Kent, Southampton, Mathews, Middlesex, King and Queen, King William, Accomack, Northampton, Northumberland, Richmond, and Lancaster, restricted to the transportation of traffic having a prior or subsequent movement by water, and being performed pursuant to a continuing contract with United States Lines, Inc., for 180 days. Supporting shipper: United States Lines, Inc., 200 East Main Street, Norfolk, VA 23510. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

MOTOR CARRIER OF PASSENGERS

No. MC 129644 (Sub-No. 3 TA), filed June 3, 1971. Applicant: C & J TRAVEL, INC., 163 Central Avenue, Dover, NH 03820. Applicant's representative: Mary E. Kelley, 10 Tremont Street, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations of not more than 11 persons in any one vehicle (not including the driver and children under 10 years of age who do not occupy seats) and general commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Durham, N.H., on the one hand, and, on the other, Logan International Airport at Boston, Mass. Restriction: Service to be subject to the following restrictions: Said operations restricted against the transportation of packages or articles weighing more than

200 pounds in the aggregate from one consignor at one location to one consignee and one location during a single day. Carrier shall conduct separately its for-hire carrier operations and its other business activities. Carrier shall maintain separate accounts and records therefor. Carrier shall not transport property as both private and for-hire carrier in the same vehicle at the same time. Applicant does not conduct any private carrier operations. In addition to its motor carrier operations it operates a travel agency. These restrictions are contained in its present general commodity description, except that weight is limited to 100 pounds, for 180 days. Supporting shippers: University of New Hampshire, Durham, N.H. 03824. Attention: Business Manager, the New England Center for Continuing Education, Durham, N.H. 03824. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8386 Filed 6-14-71; 8:50 am]

[No. 29886]

OFFICIAL—SOUTHWESTERN DIVISIONS

Notice of Petition for Modification of Orders

MAY 18, 1971.

The Commission received on April 1, 1971, a petition for leave to file an accompanying petition on behalf of certain rail common carriers for modification of outstanding orders in the above-entitled proceeding, 287 ICC 553, 289 ICC 235, and 292 ICC 447, so as to depart from the prescribed basis for divisions of revenues to permit the deduction of delivery allowances before prorating rates on carloads of newsprint paper moving from Boise-Southern, La., for delivery by the Chesapeake and Ohio Railway Co., Norfolk and Western Railway Co., and Chesapeake Western Railway at destinations in the States of Virginia and West Virginia.

Petitioners, in support of modification, aver that similar modification was granted on September 1, 1964, in respect to movements of newsprint paper forwarded from Pine Bluff, Ark., to destinations in Virginia and West Virginia on the lines of the Chesapeake and Ohio Railway Co., Norfolk and Western Railway Co., and Chesapeake Western Railway, that a new newsprint paper mill has been recently completed at Boise-Southern, La.; that production has begun and it is essential for competitive reasons that Boise-Southern be accorded the same basis of rates, privileges, rules, and regulations as now in effect from Pine Pluff, Ark., and other newsprint producing points in the South, and that the prescribed basis of divisions is not suitable for application to the services performed by petitioners on newsprint paper.

The petition may be inspected at the office of the Secretary of the Commission, Washington, D.C. General public notification of the filing of this petition will be given by publication of the instant notice in the FEDERAL REGISTER.

Any persons interested in the matters involved in this petition may, on or before 20 days from the date of publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the relief sought. An original and 15 copies of such replies must be filed with the Commission and must show service of two copies upon Mr. J. H. McMahon, Chairman, Southwestern Freight Bureau, 1015 Locust Street, St. Louis, MO 63101. Thereafter, the Commission will proceed to dispose of the matter, including the observance of any additional requirements that appear warranted to assure due process of law. It is not contemplated that there will be any further general public notification published in the FEDERAL REGISTER of the succeeding procedural handling of this proceeding. Subsequent orders entered herein will be served solely on persons responding to this notice and on petitioner.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8329 Filed 6-11-71; 8:54 am]

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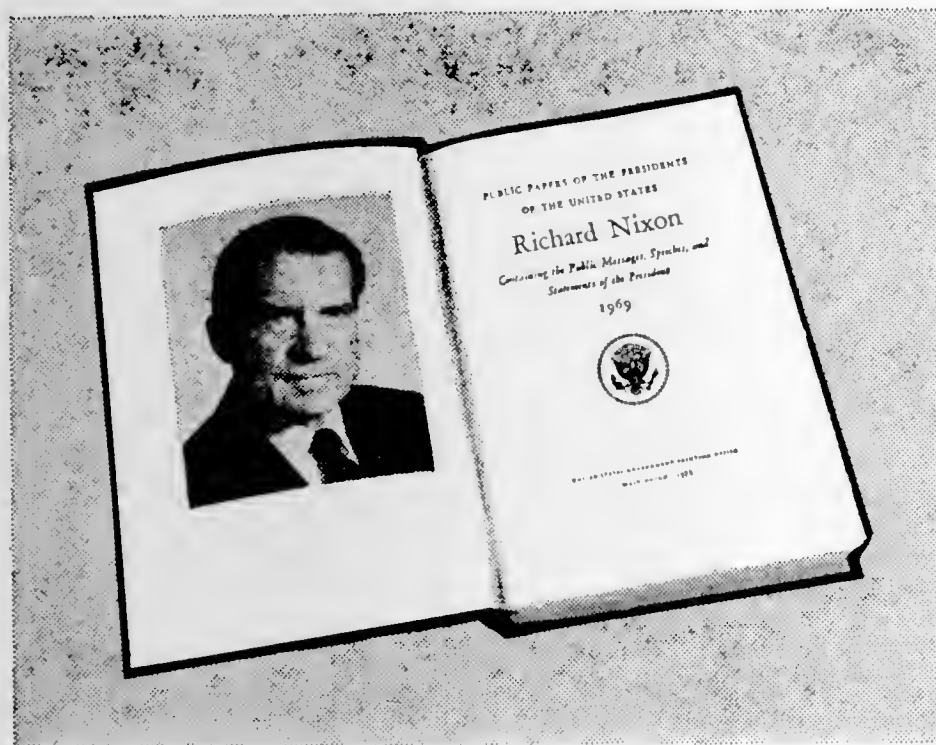
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Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 5]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1970-71 and Subsequent Marketing Years

MISCELLANEOUS AMENDMENTS

This amendment to the tobacco allotment and marketing quota regulations is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purposes of this amendment are as follows:

1. Paragraph (g) of § 725.51 makes an editorial correction in the definition of dealer or buyer.

2. Paragraph (o) of § 725.51 and paragraph (c) of § 725.94 are amended to establish a uniform percentage of 0.50 percent for computing maximum allowable floor sweepings. Prior to this amendment, two percentage rates were applicable, one for tied tobacco, the other for untied tobacco. Since very little flue-cured tobacco is marketed in tied form, and in view of the difficulty in administering two different rates, a single rate is considered justifiable.

3. Paragraph (b) of § 725.58, paragraph (b) of § 725.60 and paragraphs (a), (b), and (c) of § 725.73 are amended to eliminate references to insufficient cropland when determining effective farm acreage allotment, effective farm marketing quota and history acreage. These changes result from an overall change in policy and conform to changes already made in other regulations.

4. In § 725.72 paragraphs (i), (j), (p), and (q) are amended and paragraph (t) is added to clarify that any pooled allotment may be leased and transferred during the 3-year life of such pooled allotment; to expand on provisions prohibiting subleasing of quota to include other limitations; to expand on the conditions necessary for cancellation, dissolution or revision of transfer; and to clarify provisions for handling leased quota where farm is reconstituted after lease and transfer. This amendment also provides that allotment and marketing quota on land under restrictive lease shall not be eligible for lease and transfer.

5. Section 725.75 is amended to eliminate provisions for reducing tobacco allotment because of insufficient cropland on the farm. This is a comparison amendment to Amendment 3.

6. Paragraph (e) of § 725.92 is added to provide the rate of penalty for excess tobacco marketed during 1971-72 marketing season.

7. Paragraph (a) of § 725.98 is amended to specify that the farm yield is to be used in lieu of the farm's actual yield in determining amount of allotment reduction for false acreage certification.

8. Paragraph (d) of § 725.99 is amended to expand provisions for handling suspended sales and submitting data to Kansas City Data Processing Center.

Since the production of the 1971 crop is now under way, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall become effective upon filing of this document with the Director, Office of the Federal Register.

1. Paragraphs (g) and (o) of § 725.51 are amended to read as follows:

§ 725.51 Definitions.

(g) *Dealer or buyer.* A person who engages to any extent in acquiring or selling tobacco in the form normally marketed by producers.

(o) *Floor sweepings.* The actual quantity of scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business: *Provided*, That floor sweepings above the pounds determined by multiplying 0.50 (fifteen-ths of 1 percent) percentage times the total first sales of tobacco at auction for the season for the warehouse, shall be deemed to be leaf account tobacco. Floor sweeping tobacco shall be kept separate from any other tobacco when sold.

2. Paragraph (b) (2) (ii) of § 725.58 is revised to read as follows:

§ 725.58 Determination of farm acreage allotments and effective farm acreage allotments.

(b) *Effective farm acreage allotment.*

(2)
(i) Subtract from the acreage computed under (1) of this subparagraph the (a) acreage obtained by dividing the pounds leased and transferred from the farm for the current year by the current year's farm yield for the lessor farm, and (b) acreage reduced because of a violation of the marketing quota regulations.

3. Paragraph (b) of § 725.60 is revised to read as follows:

§ 725.60 Determination of effective farm marketing quotas.

(b) *Downward adjustment.* The farm marketing quota, after adjustment, if any, under paragraph (a) of this section, shall be adjusted downward by subtracting (1) the pounds overmarketed in the preceding marketing year plus additional pounds overmarketed in any prior marketing year for which a reduction in quota has not been made, (2) the pounds reduced for violation of the tobacco marketing quota regulations for a prior year, and (3) the pounds leased and transferred from the farm for the current year.

4. In § 725.72, paragraph (i), (j), (p), and (q) are amended, and a new paragraph (t) is added, to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

(i) *Pooled allotments.* Marketing quotas established for allotments in a pool pursuant to Part 719 may be eligible for lease and transfer during the 3-year life of the pooled allotment. An agreement to lease and transfer shall not serve to extend the life of such pooled allotment.

(j) *Subleasing and limitation on lease and transfer to and from a farm.*—(1) *No subleasing.* No transfer shall be made from a farm receiving quota under a transfer agreement for the term of the transfer agreement.

(2) *Limitation on lease and transfer to and from a farm for the same crop year.* If a lease and transfer agreement is in effect for any farm, no transfer of quota shall be made (i) from such farm receiving quota by transfer or (ii) to such farm which had quota transferred from it.

(p) *Cancellation, dissolution, or revision of transfer.*—(1) *Cancellation.* Any transfer of allotment and quota under this section which was approved by the county committee in error or on the basis of incorrect information furnished by the parties to the agreement shall be canceled by the county committee. Such cancellation shall be effective as of the date of approval for purposes of determining overmarketings and undermarketings from the farms, and for purposes of determining eligibility for price support and marketing quota penalties except that such cancellation shall not be effective for the current marketing year for price support and marketing quota penalty purposes if: (1) The transfer approval

was made in error or on the basis of incorrect information unknowingly furnished by the parties to the leasing agreement; and, (ii) the parties to the leasing agreement were not notified of the cancellation before the tobacco was planted.

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committee. Such written notification shall be filed prior to planting the tobacco, except that dissolution or revision shall be effective if (i) the county committee, with approval of the State executive director, finds that it was agreed upon prior to planting the tobacco and (ii) the terms of the dissolution or revision in writing, are filed with the county committee no later than July 31 of the current year. In such a case, an official notice of the effective farm acreage allotment and effective farm marketing quota, reflecting the dissolution or revision, shall be issued by the county committee to each of the operators involved in the leasing agreement. If the request to dissolve or revise the lease is made after the applicable closing time for the current year, but prior to the last crop year for which the lease agreement is effective, the next allotment and quota established for the farm shall reflect the dissolution or revision.

(q) *Reconstitutions after lease and transfer.* Allotments for reconstituted farms shall be divided or combined in accordance with Part 719 of this chapter. For this purpose, the farm acreage allotment being divided or combined for a farm in the current year shall be the allotment after lease and transfer has been made. However, in the case of a division, the county committee may allocate, under Part 719 of this chapter, the leased quota involved to the tracts involved in the division as the parent farm owner and operator designate in writing. In the absence of a written designation, the county committee shall apportion the leased quota.

(t) *Allotment and marketing quota on land under restrictive lease.* If a farm is federally owned and a lease is in effect restricting the production of flue-cured tobacco, the quota established for such allotment shall not be eligible for lease and transfer.

5. Paragraphs (a) (1), (b), and (c) of § 725.73 are revised to read as follows:

§ 725.73 Determining tobacco history acreages.

(a) *Farm acreage allotment fully preserved.* . . .

(1) In the current year or either of the 2 preceding years (i) the sum of (a) the final tobacco acreage as determined under Part 718 of this chapter, (b) the acreage computed for pounds

leased and transferred from the farm under lease and transfer provisions, and (c) the acreage regarded as planted to tobacco under the conservation programs and practices determined pursuant to Part 719 of this chapter, was as much as 75 per centum of the farm's history allotment (basic allotment minus acreage reduced for (1) overmarketings and (2) violation of marketing quota regulations), or (ii) the farm acreage allotment is or was in the eminent domain allotment pool; or . . .

(b) *Computed history acreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under paragraph (a) of this section, the tobacco history acreage shall be the sum of the acreage (not to exceed the farm acreage allotment) as follows:

(1) Final tobacco acreage.
(2) Acreage computed for pounds leased and transferred from the farm.
(3) Acreage regarded as planted to tobacco under the conservation programs and practices.

(c) *Adjustment of tobacco history acreage for abnormal weather or disease.* If the county committee determines (with the approval of a representative of the State committee) that for any year the sum of the final tobacco acreage, the acreage computed for pounds leased and transferred from the farm under the lease and transfer provisions, and the acreage regarded as planted to tobacco under the conservation programs and practices is less than 75 per centum of the farm acreage allotment (after any reduction for violation of the marketing quota regulations and adjustment for overmarketings) because of abnormal weather or disease, the tobacco history acreage for such year shall be adjusted to become the smaller of (1) the farm acreage allotment, or (2) the sum of the (i) final tobacco acreage for the farm, (ii) the acreage computed for pounds leased and transferred from the farm, (iii) the acreage regarded as planted to tobacco under the conservation programs and practices, and (iv) if the farm operator makes a written request of the county committee not later than August 1 of the crop year involved, the additional acreage which the county committee determines (with the approval of a representative of the State committee) would have been included in the final acreage if the weather had been normal, or there had been no disease. Any adjustment in tobacco history acreage because of abnormal weather or disease shall not be considered as acreage devoted to tobacco in determining whether or not 75 percent of the farm acreage allotment is planted.

§ 725.75 [Revoked]

6. Section 725.75, Reduction in farm allotment because of cropland limitation, is hereby repealed.

7. Section 725.92 is amended by adding paragraph (e) to read as follows:

§ 725.92 Rate of penalty.

(e) (1) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing year specified was:

AVERAGE MARKET PRICE	
Marketing year:	Cents per pound
1970-71	72.0

(2) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

RATE OF PENALTY	
Marketing year:	Cents per pound
1971-72	54

8. The last sentence of paragraph (c) of § 725.94 is amended to read as follows:

§ 725.94 Penalties considered to be due from warehousemen, dealers, buyers, and others excluding the producer.

(c) *Leaf account tobacco.* . . . The actual quantity of floor sweepings which the State executive director determines have been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco if the amount thereof for the warehouse does not exceed the maximum allowable floor sweepings for the season as determined by multiplying 0.50 percentage by producers' sales.

9. The next to the last sentence of paragraph (a) of § 725.98 is amended to read as follows:

§ 725.98 Producers' records and reports.

(a) *Failure to file reports or filing false reports.* . . . If the condition in subdivisions (i) and (ii) of this paragraph are not applicable, the next established allotment shall be reduced by the pounds computed as follows: The acreage falsely certified (difference between certified and measured acreage) shall, for the year of the violation, be multiplied by the farm yield. . . .

10. Paragraph (d) of § 725.99 is amended to read as follows:

§ 725.99 Warehouseman's records and reports.

(d) *Suspended sale record.* (1) Any tobacco sale bill covering a sale of tobacco for which a valid marketing card or dealer identification card was not presented shall be given to a marketing recorder who shall stamp such bills, "Suspended."

(2) When cleared, such suspended sale bill shall show suspended—cleared and date cleared. Such tobacco sale data shall be submitted to KCDPC after the sale is cleared. If a suspended sale is not

cleared by the last auction sale day for the warehouse for the season, it shall be considered a sale of excess tobacco and penalty at the full rate shall be remitted by the warehouseman.

(Secs. 313, 314, 316, 317, 373, 374, 375, 378, 379, 52 Stat. 47, as amended 48, as amended, 75 Stat. 496, as amended, 79 Stat. 66, 52 Stat. 65, as amended, 66, as amended, 72 Stat. 995, as amended, 79 Stat. 1211; 7 U.S.C. 1313, 1314, 1314b, 1314c, 1373, 1374, 1375, 1378, 1379)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on June 11, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-8453 Filed 6-15-71;8:49 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 67, Amdt. 10]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Navel, Temple, and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the restrictions on the handling of varieties of oranges grown in Florida.

The recommendation by the Growers Administrative Committee for less restrictive grade and size limitations on fresh shipments of certain varieties of

oranges is consistent with the available supply of and current and prospective demand for such fruit by fresh market outlets. The lower grade regulation recommended for the period June 14, 1971, through June 20, 1971, and still lower grade and size regulations recommended for the period June 21, 1971, through September 12, 1971, reflect the seasonably progressive decline of the external appearance and size of such oranges. The recommended grade and size regulations are necessary to insure a continuous supply of good quality fruit to consumers and to improve overall returns to producers.

Order. In § 905.529 (Orange Reg. 67; 35 F.R. 18741, 19245, 19246; 36 F.R. 1522, 2860, 3194, 3460, 3884, 5494, 6493, 9129), the provisions of subdivisions (i) and (ii) of paragraph (a) (2) are amended to read as follows:

§ 905.529 Orange Regulation 67.

(a) . . .
(2) . . .

(i) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet except that during the period June 14, 1971, through June 20, 1971, no handler shall ship oranges, other than Navel, Temple, and Murcott Honey oranges, grown in the production area, that grade less than U.S. No. 1 Golden;

(ii) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2¹/₁₆ inches in diameter except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided*, That during the period June 21, 1971, through September 12, 1971, any handler may ship oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, that are not smaller than 2¹/₁₆ inches in diameter except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided further*, That in determining the percentage of oranges in any lot which are smaller than the applicable minimum of 2¹/₁₆ inches in diameter such percentage shall be based only on those oranges in such lot which are of a size 2¹/₁₆ inches in diameter or smaller and in determining the percentage of oranges in any lot which are smaller than the applicable minimum of 2¹/₁₆ inches in diameter such percentage shall be based only on those oranges in such

lot which are of a size 2¹/₁₆ inches in diameter or smaller;

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, June 10, 1971, to become effective June 14, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8416 Filed 6-15-71;8:46 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 615—MEN'S AND BOYS' CLOTHING AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order; Correction

On May 22, 1971, wage order revising § 615.2 of Title 29, Code of Federal Regulations to be effective June 4, 1971, was published in the FEDERAL REGISTER at page 9294.

As section 8(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 208) provides that the recommendations of the industry committee shall take effect upon the expiration of 15 days after the date of publication, the effective date of this wage order is corrected from June 4, 1971, to June 7, 1971.

Signed at Washington, D.C., this 9th day of June 1971.

H. E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.71-8436 Filed 6-15-71;8:48 am]

PART 697—INDUSTRIES IN AMERICAN SAMOA

Wage Order; Correction

On May 20, 1971, wage order revising §§ 697.1 and 697.3 of Title 29, Code of Federal Regulations to be effective June 2, 1971, was published in the FEDERAL REGISTER at pages 9134 and 9135.

As section 8(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 208) provides that the recommendations of the industry committee shall take effect upon the expiration of 15 days after the date of publication, the effective date of this wage order is corrected from June 2, 1971, to June 5, 1971.

Signed at Washington, D.C., this 9th day of June 1971.

H. E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.71-8437 Filed 6-15-71;8:48 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department RULES OF PROCEDURE BEFORE THE JUDICIAL OFFICER

The Judicial Officer has revised the Rules of Procedure codified in Parts 951 through 957 of title 39, Code of Federal Regulations. Accordingly, Parts 951-957 are revised to read as hereinafter set out. The revision, which reflects enactment of the Postal Reorganization Act (Public Law 91-375), updates terminology and office designations used in the present rules, but does not change the substance of the rules. This document is effective July 1, 1971, the scheduled date for the commencement of operations of the United States Postal Service.

PART 951—PROCEDURE GOVERNING THE ELIGIBILITY OF PERSONS TO PRACTICE BEFORE THE POSTAL SERVICE

- Sec.
951.1 Authority for rules.
951.2 Eligibility to practice.
951.3 Persons ineligible for admission to practice.
951.4 Authorization of appearance may be required.
951.5 Complaint of misconduct.
951.6 Censure, suspension or disbarment; grounds.
951.7 Notice of disbarment; exclusion from practice.

AUTHORITY: The provisions of this Part 951 issued under 39 U.S.C. 204, 401.

§ 951.1 Authority for rules.

The Judicial Officer promulgates these rules pursuant to authority delegated by the Postmaster General.

§ 951.2 Eligibility to practice.

(a) Any individual who is a party to any proceeding before the Judicial Officer, the Board of Contract Appeals or a hearing examiner may appear for himself or by an attorney at law.

(b) The head of any department of the Postal Service may establish such special rules and regulations pertaining to eligibility to practice before such department as he may deem to be necessary or desirable.

(c) Generally, except as provided in § 951.3, any attorney at law who is a member in good standing of the Bar of the Supreme Court of the United States or of the highest court of any State, District, Territory, Protectorate or Possession of the United States, or of the District of Columbia, and is not under any order of any court or executive department of one of the foregoing governmental entities suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law may represent others before the U.S. Postal Service.

(d) When any person acting in a representative capacity appears in person or signs a paper in practice before the Postal Service his personal appearance or signature shall constitute a representation to the Postal Service that under

the provisions of this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts. The Postal Service does not generally take formal action or issue any certificate to show that an individual is eligible to practice before it. (But see § 951.4.)

§ 951.3 Persons ineligible for admission to practice.

(a) No person disbarred from practice before the Postal Service or in any other executive department of any of the governmental entities mentioned in § 951.2 (c) will be eligible to practice before the Postal Service until said order of disbarment shall have been revoked.

(b) Any person who, subsequently to being admitted to practice before the Postal Service, is disbarred by any governmental entity mentioned in § 951.2 (c) shall be deemed suspended from practice before the Postal Service during the pendency of said order or disbarment.

(c) No person who has been an attorney, officer, clerk, or employee in the Postal Service will be recognized as attorney for prosecuting before it or any office thereof any case or matter which he was in anywise connected while he was such attorney, officer, clerk, or employee.

(d) No person coming within the prohibitions of 18 U.S.C. 203, 205, or 207, will be recognized as attorney before the Postal Service or any office thereof.

§ 951.4 Authorization of appearance may be required.

The Judicial Officer, the head of any department of the Postal Service or any hearing examiner may require any person to present satisfactory evidence of his authority to represent the person for whom he appears.

§ 951.5 Complaint of misconduct.

(a) If the head of any department of the Postal Service has reason to believe, or if complaint be made to him, that any person is guilty of conduct subjecting him to suspension or disbarment, the head of such office shall report the same to the Judicial Officer.

(b) Whenever any person submits to the Judicial Officer a complaint against any person who has practiced, is practicing or holding himself out as entitled to practice before the Postal Service, the Judicial Officer may refer such complaint to the Chief Inspector for a complete investigation and report.

(c) At any time, the Judicial Officer may refer the complaint to the General Counsel for the preparation of formal charges to be lodged against and served upon the person against whom the complaint has been made.

§ 951.6 Censure, suspension or disbarment: grounds.

(a) The Judicial Officer may censure, suspend or disbar any person against whom a complaint has been made and upon whom charges have been served as provided in § 951.5 if he finds that such person:

(1) Does not possess the qualifications required by § 951.2;

(2) Has failed to conform to standards of ethical conduct required of practitioners at the Bar of any court of which he is a member;

(3) Represents, as an associate, an attorney who, known to him, solicits practice by means of runners or other unethical methods;

(4) By use of his name, personal appearance, or any device, aids or abets an attorney to practice during the period of his suspension or disbarment, such suspension or disbarment being known to him;

(5) Displays towards the Judicial Officer, Board of Contract Appeals or any hearing examiner assigned to the Postal Service, conduct which, if displayed toward any court of any State, the United States, any of its Territories or the District of Columbia, would be cause for censure, suspension or disbarment; or

(6) Is otherwise guilty of misconduct or lacking in character or professional integrity.

(b) Before any person shall be censured, suspended or disbarred, he shall be afforded an opportunity to be heard by the Judicial Officer on the charges made against him. The General Counsel or his designee shall prosecute such cases.

(c) In the event the Judicial Officer is unavailable for any reason, cases relating to the censure, suspension or disbarment of attorneys will be governed as herein provided, except that the hearing will be conducted by a hearing examiner appointed pursuant to the provisions of the Administrative Procedure Act or by some other disinterested member of the headquarters staff of the Postal Service who shall be appointed by the Deputy Postmaster General.

§ 951.7 Notice of disbarment; exclusion from practice.

Upon the disbarment of any person, notice thereof will be given to the heads of the departments of the Postal Service and to the other Executive Departments, and thereafter, until otherwise ordered, such disbarred persons will not be entitled to practice before the Postal Service or any department thereof.

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

- Sec.
952.1 Authority for rules.
952.2 Scope of rules.
952.3 Informal dispositions.
952.4 Office, business hours.
952.5 Complaints.
952.6 Interim impounding.
952.7 Notice of hearing.
952.8 Service.
952.9 Filing documents for the record.
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952.18 Evidence.
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952.20 Witness fees.
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952.23 Proposed findings and conclusions.
952.24 Decisions.
952.25 Exceptions to initial decision or tentative decision.
952.26 Judicial Officer.
952.27 Motion for reconsideration.
952.28 Orders.
952.29 Modification or revocation of orders.
952.30 Supplemental orders.
952.31 Computation of time.
952.32 Official record.
952.33 Public information.

AUTHORITY: The provisions of this Part 952 issued under 39 U.S.C. 204, 401.

§ 952.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service (See § 952.26) pursuant to authority delegated by the Postmaster General.

§ 952.2 Scope of rules.

These rules of practice shall be applicable in all formal proceedings before the Postal Service, 39 U.S.C. §§ 3003 and 3005, including such cases instituted under prior rules of practice pertaining to these or predecessor statutes, unless timely shown to be prejudicial to the respondent.

§ 952.3 Informal dispositions.

These rules do not preclude the disposition of any matter by agreement between the parties either before or after the filing of a complaint when time, the nature of the proceeding, and the public interest permit.

§ 952.4 Office, business hours.

The offices of the officials mentioned in these rules are located at the headquarters of the U.S. Postal Service, 12th and Pennsylvania Avenue NW., Washington, DC 20260, and are open Monday through Friday from 8:45 a.m. to 5:15 p.m.

§ 952.5 Complaints.

When the General Counsel of the Postal Service or his designated representative believes that a person (1 U.S.C. 1) is using the mails in a manner requiring formal administrative action under 39 U.S.C. 3005 he shall prepare and file with the Docket Clerk a complaint which names the person involved; states the legal authority and jurisdiction under which the proceeding is initiated; states the facts in a manner sufficient to enable the person named therein to make answer thereto; and recommends the issuance of an appropriate order. The person so named in the complaint shall be known as the respondent.

§ 952.6 Interim impounding.

In preparation for or during the pendency of a proceeding initiated under 39 U.S.C. 3005, mail addressed to a respondent may be impounded upon obtaining

an appropriate order from a United States District Court, as provided in 39 U.S.C. 3007.

§ 952.7 Notice of hearing.

When a complaint is filed the Docket Clerk shall issue a notice of hearing stating the time and place of the hearing and the date for filing an answer which shall not exceed 15 days from the service of the complaint, and a reference to the effect of failure to file an answer or appear at the hearing. (See §§ 952.10 and 952.11.) Whenever practicable, the hearing date shall be within 30 days of the date of the notice.

§ 952.8 Service.

(a) The Docket Clerk shall cause a notice of hearing and a copy of the complaint to be transmitted to the postmaster at any office of address of the respondent or to the inspector in charge of any division in which the respondent is doing business, which shall be delivered to the respondent or his agent by said postmaster or a supervisory employee of his post office or a postal inspector. A receipt acknowledging delivery of the notice shall be secured from the respondent or his agent and forwarded to the Docket Clerk, U.S. Postal Service, Washington, DC 20260, to become a part of the official record.

(b) In the event no person can be found to accept service of the notice of hearing and complaint pursuant to paragraph (a) of this section, the notice may be delivered in the usual manner as other mail addressed to the respondent. A statement, showing the time and place of delivery, signed by the postal employee who delivered the notice of hearing shall be forwarded to the Docket Clerk and constitute evidence of service.

§ 952.9 Filing documents for the record.

(a) Each party shall file with the Docket Clerk pleadings, motions, orders and other documents for the record. The Docket Clerk shall cause copies to be delivered promptly to other parties to the proceeding and to the presiding officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the presiding officer. One copy shall be signed as the original.

(c) Documents shall be dated and state the docket number and title of the proceeding. Any pleading or other document required by order of the presiding officer to be filed by a specified date shall be delivered to the Docket Clerk on or before such date. The date of filing shall be entered thereon by the Docket Clerk.

§ 952.10 Answer.

(a) The answer shall contain a concise statement admitting, denying, or explaining each of the allegations set forth in the complaint.

(b) Any facts alleged in the complaint which are not denied or are expressly admitted in the answer may be considered as proved, and no further evidence regarding these facts need be adduced at the hearing.

(c) The answer shall be signed personally by an individual respondent, or in the case of a partnership by one of the partners, or, in the case of a corporation or association, by an officer thereof.

(d) The answer shall set forth the respondent's address and the name and address of his attorney.

(e) The answer shall affirmatively state whether the respondent will appear in person or by counsel at the hearing.

(f) If the respondent does not desire to appear at the hearing in person or by counsel he may request that the matter be submitted for determination pursuant to paragraph (b) of § 952.11.

§ 952.11 Default.

(a) If the respondent fails to file an answer within the time specified in the notice of hearing, he shall be deemed in default, and to have waived hearing and further procedural steps. The Judicial Officer shall thereafter issue an order without further notice to the respondent.

(b) If the respondent files an answer but fails to appear at the hearing, the presiding officer shall receive complainant's evidence and render an initial decision.

§ 952.12 Amendment of pleadings.

(a) Amendments proposed prior to the hearing shall be filed with the Docket Clerk. Amendments proposed thereafter shall be filed with the presiding officer.

(b) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing and, provided that the amendment is reasonably within the scope of the proceeding initiated by the complaint, the presiding officer shall make such ruling on the motion as he deems to be fair and equitable to the parties.

(c) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(d) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues made by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(e) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 952.13 Continuances and extensions.

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

§ 952.14 Hearings.

Hearings are held at the headquarters of the Postal Service, Washington, DC 20260, or other locations designated by the presiding officer.

§ 952.15 Change of place of hearings.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining:

- (a) The evidence to be offered in such place;
- (b) The names and addresses of the witnesses who will testify;
- (c) The reasons why such evidence cannot be produced at Washington, D.C. The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 952.16 Appearances.

- (a) A respondent may appear and be heard in person or by attorney.
- (b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer. See Part 951 of this chapter.
- (c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the complaint shall be mailed to the attorney.
- (d) A respondent must promptly file a notice of change of attorney.

§ 952.17 Presiding officers.

- (a) The presiding officer at any hearing shall be a Hearing Examiner qualified pursuant to the Administrative Procedure Act (5 U.S.C. 556) or the Judicial Officer (39 U.S.C. 204). The Chief Hearing Examiner shall assign cases to Hearing Examiners upon rotation so far as practicable. The Judicial Officer may, for good cause shown, preside at the reception of evidence in proceedings where expedited hearings are requested by either party.
- (b) The presiding officer shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon offers of proof, admissibility of evidence and matters of procedure;
- (4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;
- (6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;
- (7) Order prehearing conferences for the purpose of the settlement or simplification of issues by the parties;
- (8) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(9) Render an initial decision, which becomes the final Agency decision unless a timely appeal is perfected; the Judicial Officer may issue a tentative or a final decision.

§ 952.18 Evidence.

(a) Except as otherwise provided in these rules, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the presiding officer deems proper to insure a fair hearing. The presiding officer shall exclude irrelevant, immaterial or repetitious evidence.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) Authoritative writings of the medical or other sciences, may be admitted in evidence but only through the testimony of expert witnesses or by stipulation.

(f) Lay testimonials will not be received in evidence as proof of the efficacy or quality of any product or thing sold through the mails.

(g) The written statement of a competent witness may be received in evidence provided that such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all respects true, and, in the case of expert witnesses, that the statement correctly states his opinion or knowledge concerning the matters in question.

(h) A party who objects to the admission of evidence shall make a brief statement of the grounds for the objection. Formal exceptions to the rulings of the presiding officer are unnecessary.

§ 952.19 Subpoenas.

The Postal Service is not authorized by law to issue subpoenas requiring the attendance or testimony of witnesses.

§ 952.20 Witness fees.

The Postal Service does not pay fees and expenses for respondent's witnesses or for depositions requested by respondent.

§ 952.21 Depositions.

(a) Not later than 5 days after the filing of respondent's answer, any party may file application with the Docket Clerk for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order for the taking of the deposition will

specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(c) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. The deposition officer shall put the witness on oath. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony, or to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, cured or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(d) At the hearing any part or all of the deposition may be offered in evidence by any party who was present or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(e) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(f) Within the United States or within a territory or insular possession, subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held; within a foreign country, depositions may be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or any other person designated in the order for the taking of a deposition.

(g) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories, none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall

be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

§ 952.22 Transcript.

(a) Hearings shall be stenographically reported by a contract reporter of the Postal Service under the supervision of the assigned presiding officer. Argument upon any matter may be excluded from the transcript by order of the presiding officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript shall be supplied to the parties to the proceeding by the reporter at rates not to exceed the maximum rates fixed by contract between the Postal Service and the reporter. Copies of parts of the official record other than the transcript may be obtained by the respondent from the reporter upon the payment to him of a reasonable price therefor.

(b) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official transcript, or copies thereof, which have been filed with the record. Within 10 days after the receipt by any party of a copy of the official transcript, or any part thereof, he may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the presiding officer, notify the presiding officer in writing of his concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence. Thereafter, the presiding officer shall by order specify the corrections to be made in the transcript. The presiding officer on his own initiative may order corrections to be made in the transcript with prompt notice to the parties of the proceeding. Any changes ordered by the Hearing Examiner other than by agreement of the parties shall be subject to objection and exception.

§ 952.23 Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to answer the complaint or having answered, either fails to appear at the hearing or indicates in the answer that he does not desire to appear, may, unless at the discretion of the presiding officer such is not appropriate, submit proposed findings of fact, conclusions of law and supporting reasons either in oral or written form in the discretion of the presiding officer. The presiding officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless given orally the date set for filing of proposed findings of fact and conclusions of law shall be within 15 days after the delivery of the official transcript to the Docket Clerk who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties, if

not submitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

§ 952.24 Decisions.

(a) *Initial decision by hearing examiner.* A written initial decision shall be rendered with all due speed. The initial decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order or denial thereof. The initial decision shall become the final Agency decision unless an appeal is perfected in accordance with § 952.25.

(b) *Tentative or final decision by the Judicial Officer.* When the Judicial Officer presides at the hearing he shall issue a final or a tentative decision. Such decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order or denial thereof. The tentative decision shall become the final Agency decision unless exceptions are filed in accordance with § 952.25.

(c) *Oral decisions.* The presiding officer may render an oral decision (an initial decision by a hearing examiner, or a tentative or final decision by the Judicial Officer) at the close of the hearing when the nature of the case and the public interest warrant. A party who desires an oral decision shall notify the presiding officer and the opposing party at least 5 days prior to the date set for the hearing. Either party may submit proposed findings and conclusions either orally or in writing at the conclusion of the hearing.

§ 952.25 Exceptions to initial decision or tentative decision.

(a) A party in a proceeding presided over by a hearing examiner, except a party who failed to file an answer, may appeal to the Judicial Officer by filing exceptions in a brief on appeal within 15 days from the receipt of the examiner's initial decision.

(b) A party in a proceeding presided over by the Judicial Officer, except one who has failed to file an answer, may file exceptions within 15 days from the receipt of the Judicial Officer's tentative decision.

(c) If an initial or tentative decision is rendered orally by the presiding officer at the close of the hearing, he may then orally give notice to the parties participating in the hearing of the time limit within which an appeal must be filed.

(d) Upon receipt of the brief on appeal from an initial decision of a hearing examiner, the docket clerk shall

promptly transmit the record of the proceedings to the Judicial Officer. The date for filing the reply to an appeal brief or to a brief in support of exceptions to a tentative decision by the Judicial Officer is 10 days after the receipt thereof. No additional briefs shall be received unless requested by the Judicial Officer.

(e) Briefs upon appeal or in support of exceptions to a tentative decision by the Judicial Officer shall be filed in triplicate with the Docket Clerk and contain the following matter in the order indicated:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited with page references.

(2) A concise abstract or statement of the case.

(3) Numbered exceptions to specific findings and conclusions of fact or conclusions of law of the presiding officer.

(4) A concise argument clearly setting forth points of fact and of law relied upon in support of each exception taken, together with specific references to the parts of the record and the legal or other authorities relied upon.

(f) Unless permission is granted by the Judicial Officer no brief shall exceed 50 printed or 100 typewritten pages double spaced.

(g) The Judicial Officer will extend the time to file briefs only upon written application for good cause shown. The Docket Clerk shall promptly notify the applicant of the decision of the Judicial Officer on the application. If the appeal brief or brief in support of exceptions is not filed within the time prescribed, the defaulting party will be deemed to have abandoned the appeal or waived the exceptions, and the initial or tentative decision shall become the final Agency decision.

§ 952.26 Judicial Officer.

The Judicial Officer is authorized (a) to act as presiding officer at hearings, (b) to render tentative decisions, (c) to render final Agency decisions, (d) to issue Postal Service orders for the Postmaster General, (e) to refer the record in any proceeding to the Postmaster General or the Deputy Postmaster General for final Agency decision and (f) to revise or amend these rules of practice. The entire official record will be considered before a final Agency decision is rendered. Before rendering a final Agency decision, the Judicial Officer may order the hearing reopened for the presentation of additional evidence by the parties.

§ 952.27 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of a final Agency decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion.

§ 952.28 Orders.

If an order is issued which prohibits delivery of mail to a respondent it shall be incorporated in the record of the proceeding. The Docket Clerk shall cause the order to be published in the Postal Bulletin and transmitted to such postmasters and other officers and employees of the postal service as may be required to place the order into effect.

§ 952.29 Modification or revocation of orders.

A party against whom an order has been issued may file an application for modification or revocation thereof. The Docket Clerk shall transmit a copy of the application to the General Counsel, who shall file a written reply. A copy of the reply shall be sent to the applicant by the Docket Clerk. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 952.30 Supplemental orders.

When the General Counsel or his designated representative shall have reason to believe that a person is evading or attempting to evade the provisions of any such order by conducting the same or a similar enterprise under a different name or at a different address he may file a petition with accompanying evidence setting forth the alleged evasion or attempted evasion and requesting the issuance of a supplemental order against the name or names allegedly used. Notice shall then be given by the Docket Clerk to the person that the order has been requested and that an answer may be filed within 10 days of the notice. The Judicial Officer, for good cause shown, may hold a hearing to consider the issues in controversy, and shall, in any event, render a final decision granting or denying the supplemental order.

§ 952.31 Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

§ 952.32 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 952.33 Public information.

The Law Librarian of the Postal Service maintains for public inspection in the Law Library copies of all initial, tentative and final Agency decisions. The Docket Clerk maintains the complete official record of every proceeding.

PART 953—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAILABILITY

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AUTHORITY: The provisions of this Part 953 issued under 39 U.S.C. 204, 401.

§ 953.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General.

§ 953.2 Limitation.

The rules shall be applicable only to cases where the matter offered for mailing shall be of substantial value or quantity. The initial determination of this question by the General Counsel may be appealed to the Judicial Officer.

§ 953.3 Initiation.

Upon receipt of mail matter of doubtful mailability under the provisions of 18 U.S.C. 1302, 1461, 1463, 1717 or 1718 (see also 39 U.S.C. 3001) submitted by a postmaster pursuant to § 123.8(b) of this chapter, the General Counsel shall: (a) File a complaint with the Docket Clerk of the Postal Service or (b) instruct the postmaster to accept such matter for mailing.

§ 953.4 Complaint.

The complaint shall: (a) State statutory and/or regulatory authority for withholding the matter from the mails; (b) specify the character or content of the matter which the Complainant believes to be nonmailable; and (c) request the issuance of a notice of hearing by the Docket Clerk.

§ 953.5 Notice of hearing; service.

Upon receipt of the complaint the Docket Clerk shall issue a notice setting the time and place for the hearing. The date set for the hearing shall be within ten days of the date of the filing of the complaint. The notice, together with copies of the complaint and these rules, shall be sent promptly to the postmaster at the place of mailing to be served upon the mailer or his agent. A receipt therefor shall be obtained and forwarded immediately to the Docket Clerk. If personal service cannot be made, the notice of hearing shall be deposited in the mails for delivery in the regular course which shall constitute valid service. A report of such delivery shall be promptly forwarded to the Docket Clerk.

§ 953.6 Compromise and informal dispositions.

The mailer may request a conference with the Complainant to consider informal disposition of any question of mail-

ability or apply to the Complainant for the withdrawal of the matter from the mails. When such a request is received, the scheduled hearing date will be postponed for such period of time as may be necessary but in no event longer than 5 days unless specifically requested by the mailer. If no agreement is reached, the proceeding shall promptly be rescheduled for hearing.

§ 953.7 Answer.

The mailer may file an answer to the complaint and appear in person or by counsel at the hearing. The answer shall contain a reply to each allegation in the complaint and shall be filed in triplicate with the Docket Clerk, U.S. Postal Service, Washington, DC 20260, at least 3 days prior to the date set for the hearing. Each allegation not answered shall be deemed admitted.

§ 953.8 Default.

If no answer to the complaint is filed, the mailer shall be deemed in default and the Judicial Officer shall instruct the postmaster of the disposition to be made of the matter in accordance with § 953.17. If the mailer files an answer but fails to appear at the hearing, the Hearing Examiner shall receive the evidence of the Complainant and render an initial decision pursuant to § 953.13.

§ 953.9 Hearing.

Unless otherwise ordered by the presiding officer, the hearing shall be held at the headquarters of the Postal Service, 12th and Pennsylvania Avenue NW., Washington, DC 20260, on the date set in the notice.

§ 953.10 Change of place of hearing.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining: (a) The evidence to be offered in such place; (b) the names and addresses of the witnesses who will testify; (c) the reasons why such evidence cannot be produced at Washington, D.C. The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 953.11 Presiding officers.

The presiding officer at any hearing shall be a Hearing Examiner qualified pursuant to the Administrative Procedure Act (5 U.S.C. 556) or the Judicial Officer (39 U.S.C. 204). The Chief Hearing Examiner shall assign cases to Hearing Examiners upon rotation so far as practicable. The Judicial Officer may, for good cause shown, preside at the reception of evidence in proceedings where expedited hearings are requested by either party.

§ 953.12 Proposed findings of fact.

Unless otherwise ordered, proposed findings of fact and conclusions of law shall be submitted orally or in writing at the conclusion of the hearing.

§ 953.13 Initial decision.

Unless given orally at the conclusion of the hearing, the Hearing Examiner shall render an initial decision as expeditiously as practicable following the conclusion of the hearing, and the receipt of the proposed findings, if any. The initial decision shall become the decision of the Postal Service if an appeal is not perfected.

§ 953.14 Appeal.

Either party may file exceptions in a brief on appeal to the Judicial Officer within 5 days after receipt of the initial decision unless additional time is granted. A reply brief may be filed within 5 days after the receipt of the appeal brief by the opposing party.

§ 953.15 Final Agency decision.

The Judicial Officer shall render a final Agency decision or refer the matter to the Postmaster General for decision. The decision shall be served upon the parties and the postmaster.

§ 953.16 Expedition.

For the purposes of further expedition the parties may, with the concurrence of the Judicial Officer, agree to waive any of these procedures. When the Judicial Officer presides at the hearing, he shall render a tentative or final decision after the conclusion of the hearing. Exceptions may be filed to a tentative decision in accordance with § 953.14.

§ 953.17 Disposition.

Matter found to be nonmailable shall be held at the post office where detained for a period of 15 days from the date of the Postal Service decision, unless extended by the Judicial Officer. During that time the mailer may make application for the withdrawal of the matter. The Judicial Officer shall order the matter returned to the mailer or otherwise disposed of in accordance with 39 U.S.C. 3001(b).

PART 954—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE DENIAL, SUSPENSION OR REVOCATION OF SECOND-CLASS MAIL PRIVILEGES

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AUTHORITY: The provisions of this Part 954 issued under 39 U.S.C. 204, 401.

§ 954.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General.

§ 954.2 Scope of rules.

The rules of practice shall apply to all Postal Service proceedings concerning applications, denials, suspensions and revocations of second-class mailing privileges arising under former title 39 U.S.C. 4351, 4352, 4353, 4354, 4355, 4356, and 4369 as continued by sec. 3 of the Postal Reorganization Act (Public Law 91-315).

§ 954.3 Informal dispositions.

These rules do not preclude the informal dispositions of second-class mailing privilege matters before or after institution of proceedings.

§ 954.4 Office, business hours.

The offices of the officials mentioned in these rules are located at the U.S. Postal Service, 12th and Pennsylvania Avenue NW., Washington, DC 20260, and are open Monday through Friday from 8:45 a.m. to 5:15 p.m.

§ 954.5 Application.

A publisher may file an application for second-class mailing privileges. (See Part 132 of this chapter.) An authorized administrative official of the Postal Service (hereinafter called "the Director") rules upon all applications. If he denies the application he shall notify the publisher specifying the reasons for his denial and attaching a copy of these rules. Before taking action on an application, the Director may call upon the publisher for additional information or evidence to support or clarify the application. Failure of the publisher to furnish such information or evidence may be cause for the Director to deny the application as incomplete or, on its face, not fulfilling the requirements for entry.

§ 954.6 Revocation or suspension.

When the Director determines that a publication is no longer entitled to second-class mailing privileges, he shall issue a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons and attaching a copy of these rules.

§ 954.7 Failure to appeal proposed action.

A ruling of the Director shall become final upon failure of the publisher to file a petition in accordance with the requirements of § 954.8(b).

§ 954.8 Pleading.

(a) *Place of filing.* Parties shall file documents of record in triplicate, unless otherwise ordered by the presiding officer after intervention pursuant to § 954.10 with the Docket Clerk of the

Postal Service, who shall cause copies to be delivered to the other parties and to the presiding officer. The Docket Clerk shall maintain a docket and the files in all proceedings.

(b) *Petition.* A publisher may appeal from a ruling of the Director by filing a petition within 15 days of the receipt of the ruling unless the time is extended by the Director. The petition shall state the reasons why the publisher believes the ruling of the Director is erroneous. The petition shall also allege facts showing compliance with each provision of law or regulation on which the publisher's claim to second-class mail privileges is based. The publisher shall attach to his petition a copy of the letter of the Director denying, suspending or revoking second-class mail privileges.

(c) *Notice of hearing.* Upon receipt of the petition the Docket Clerk shall set a date for the hearing and issue a notice of hearing to the parties stating the time and place of the hearing, the date for filing an answer, and the name of the presiding officer.

(d) *Answer.* The Director shall answer the petition within 15 days after filing and admit or deny each allegation of the petition.

(e) *Amendment.* An amendment of a pleading may be offered by any party at any time prior to the close of the hearing. If the presiding officer deems it appropriate to permit the amendment of a pleading, he may impose such conditions, by way of continuance of the hearing date or otherwise, as he considers necessary to assure a fair hearing.

§ 954.9 Default.

If a publisher fails to appear at the hearing, the presiding officer may: (a) Dismiss the petition; (b) order the petitioner to show cause within 30 days from the date of the order why an order of dismissal should not be entered, and thereafter enter such order as the presiding officer deems to be appropriate. If the petition is dismissed by order of a Hearing Examiner, the dismissal may be appealed to the Judicial Officer within 15 days from the date of the order.

§ 954.10 Intervention or other participation.

To intervene or otherwise participate in a proceeding, any person may file a timely application in accordance with § 954.8(a). A timely application is one which will not unduly delay the proceeding. The application shall state whom the potential intervenor represents, his interest, the extent to which he desires to participate, and the evidence he seeks to introduce. The presiding officer shall fix the time within which the parties shall answer the application. The presiding officer shall grant or deny the application on such terms and conditions as he deems appropriate. In so doing the presiding officer will consider, among other things, whether intervention or other participation is consistent with the timely and proper adjudication of the rights of the original parties.

[31 F.R. 5198, Mar. 31, 1966. Redesignated at 31 F.R. 16270, Dec. 20, 1966]

§ 954.11 Hearings.

Hearings are held at the headquarters of the Postal Service, Washington, DC 20260, or other locations designated by the presiding officer.

§ 954.12 Change of place of hearing.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement setting forth:

- (a) The evidence to be offered in such place;
 - (b) The names and addresses of the witnesses who will testify;
 - (c) The reasons why such evidence cannot be produced at Washington, D.C.
- The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 954.13 Appearances.

(a) The General Counsel of the Postal Service or a member of his staff designated by him shall represent the Director.

(b) A publisher or intervenor may appear and be heard in person or by attorney. Attorneys may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer. See Part 951 of this chapter.

(c) An attorney representing a publisher or intervenor shall file a written authorization from the publisher or intervenor before he may participate in the proceeding. The publisher or intervenor must promptly file a notice of change of attorneys.

(d) When a publisher or intervenor is represented by an authorized attorney all subsequent pleadings shall be served upon the attorney.

§ 954.14 Presiding officers.

(a) The Chief Hearing Examiner shall assign a case to a Hearing Examiner, so far as practical in rotation, to preside over the hearing. The Hearing Examiner shall be qualified pursuant to the Administrative Procedure Act (5 U.S.C. 3105).

(b) The presiding officer shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon matters of evidence and procedure;
- (4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;
- (6) Require the filing of briefs on any matter upon which he is required to rule;
- (7) Order prehearing conferences for the settlement or simplification of issues by consent of the parties;
- (8) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;
- (9) Render an initial decision.

§ 954.15 Judicial Officer.

The Judicial Officer is authorized (a) to act as presiding officer at hearings and (b) to render a final Postal Service Decision for the Postmaster General. On appeal from an Initial Decision of a Hearing Examiner, the Judicial Officer will consider the entire record including the initial decision and the exceptions to that decision. Before any final agency decision has been rendered, the Judicial Officer may order the hearing reopened for the presiding officer to take additional evidence.

§ 954.16 Procedure.

(a) *Evidence.* The general rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States apply. The rules may be relaxed to the extent that the presiding officer may deem proper to insure an adequate and fair hearing. The presiding officer may exclude irrelevant or repetitious evidence.

(b) *Subpoenas.* The Postal Service is not authorized to issue subpoenas.

(c) *Fees.* The Postal Service does not pay fees and expenses for witnesses of, or depositions requested by, the publisher or intervenor.

(d) *Depositions.* Depositions may be taken as follows:

(1) Not later than 5 days after the filing of Director's answer, any party may file application with the presiding officer for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(2) If the application is granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(3) Each witness testifying upon deposition shall be duly sworn by the deposition officer and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the deposition officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony, or to errors and irregularities occurring at the oral examination in the

manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, cured or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(4) At the hearing any part or all of the deposition may be offered in evidence by any party who was present or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(5) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(6) Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held; within a foreign country, depositions may be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or any other person designated in the order for the taking of a deposition.

(7) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories, none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the deposition officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

§ 954.17 Transcript.

(a) A contract reporter of the Postal Service under the supervision of the presiding officer shall report hearings. The reporter shall supply the parties with copies of the transcript at rates not to exceed those fixed by contract between the Postal Service and the reporter.

(b) Changes in the official transcript may be made only when they involve substantial errors. A party may file a motion for correction of the official transcript within 10 days after his receipt of the transcript or any part thereof. Other parties shall, within such time as may be specified by the presiding officer, notify the presiding officer in writing if they object to the requested corrections. Failure of a party to interpose timely objection to a proposed correction may be considered by the presiding officer to be concurrence. The presiding officer shall then specify the corrections to be made in the transcript. He may on his

own initiative order corrections in the transcript after notice to the parties subject to their objection.

§ 954.18 Proposed findings and conclusions.

(a) A party to a proceeding may submit proposed findings of fact and conclusions of law to the presiding officer. The presiding officer shall determine whether they shall be oral or written. The presiding officer may require parties to a proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. When the proposed findings and conclusions are not submitted orally they shall be filed within 15 days after delivery of the official transcript to the Docket Clerk. The Docket Clerk shall notify the parties of the filing date which shall be the same for both parties. If not submitted by that date, the findings and conclusions will not be considered or included in the record.

(b) Except when presented orally, proposed findings of fact and conclusions of law shall be set forth in numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits relied upon to support the conclusions proposed. Each proposed conclusion shall be separately stated.

§ 954.19 Initial decision.

(a) Upon request of either party the presiding officer may render an oral initial decision at the close of the hearing when the nature of the case and the public interest warrant. If a party desires an oral initial decision he shall notify the presiding officer and the opposing party at least 5 days prior to the date set for hearing. Parties may then submit proposed findings and conclusions orally or in writing at the conclusion of the hearing.

(b) If an oral initial decision is not rendered, the presiding officer shall render a written initial decision with all due speed after the parties have submitted all posthearing material. The initial decision shall become the final agency decision unless it is appealed.

(c) The initial decision shall include findings upon all material issues of fact and law presented on the record and the reasons for those findings.

§ 954.20 Appeal and final decision.

(a) A party may appeal to the Judicial Officer from an initial decision by filing exceptions in a brief on appeal within 15 days from the receipt of a written or oral initial decision.

(b) Upon receipt of the appeal brief the Judicial Officer shall set the date for the filing of the reply brief. No additional briefs shall be received unless requested by the Judicial Officer.

(c) Appeal briefs shall contain the following matter in the order indicated:

- (1) A subject index of the matters presented with page references;
- (2) A table of cases alphabetically arranged;

(3) A list of statutes and texts cited with page references;

(4) A concise abstract or statement of the case;

(5) Numbered exceptions to the findings and conclusions of the presiding officer and the reasons for the exceptions.

§ 954.21 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of a final Agency decision.

§ 954.22 Continuances.

For good cause shown, continuances or extensions may be granted by the presiding officer. Similar action may be taken by the Judicial Officer when the proceeding is on appeal.

§ 954.23 Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or holiday, in which event the period runs until the close of business on the next working day.

§ 954.24 Official record.

The pleadings, orders, exhibits, transcript of testimony, briefs, decisions and other documents filed in the proceeding constitute the official record of the proceeding.

§ 954.25 Public information.

The Law Librarian of the Postal Service maintains for public inspection in the Law Library copies of all initial and final Agency decisions. The Docket Clerk of the Postal Service maintains a complete official record of every proceeding. A person may examine a record upon authorization by the Judicial Officer.

PART 955—RULES OF PRACTICE BEFORE THE BOARD OF CONTRACT APPEALS

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AUTHORITY: The provisions of this Part 955 issued under 39 U.S.C. 204, 401.

§ 955.1 Authority, membership, and jurisdiction of the Board.

(a) The Board of Contract Appeals is the authorized representative of the Postmaster General to hear and decide appeals from decisions of contracting officers when and to the extent such appeals are expressly authorized by the terms of any contract to which the United States is a party. The Chairman of the Board of Contract Appeals is authorized to promulgate rules of procedure for the Board of Contract Appeals. These duties shall be performed by the members of the Board of Contract Appeals in addition to their other duties.

(b) The Board of Contract Appeals for the Postal Service generally consists of three members. The Board is composed of the Judicial Officer, as Chairman, the Chief Hearing Examiner and one other Hearing Examiner designated by the Chairman.

(c) The Board has the authority to conduct hearings, dismiss proceedings, take official notice of appropriate facts and decide all questions of fact and law raised by the appeal. There is no further administrative appeal from the decision of the Board. The Chairman of the Board may assign or reassign an appeal to one or more members for all purposes, except that any final decision must be by a majority of the Board. References hereinafter to the Board, except with respect to Board decisions, shall be understood to refer to the presiding member or members where such assignment has been made.

(d) When an appeal is taken pursuant to a disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may in its discretion hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal, should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

(e) Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to

secure a just and inexpensive determination of appeals without unnecessary delay.

(f) Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(g) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

(h) Whenever reference is made to contractor, appellant, contracting officer, respondent, and parties, this shall include respective counsel for the parties, as soon as appropriate notices of appearance have been filed with the Board.

PRELIMINARY PROCEDURES

§ 955.2 Appeals, how taken.

Notice of an appeal must be in writing, and the original, together with three copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within 30 days of the receipt of such decision unless otherwise provided in the contract.

§ 955.3 Contents of notice of appeal.

A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract (by number), the Postal Service department cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an authorized officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in § 955.7 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

§ 955.4 Forwarding of appeals.

When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor and contracting officer will be promptly advised of its receipt, and the contractor will be furnished a copy of these rules.

§ 955.5 Duties of the contracting officer and of Postal Service Counsel.

(a) Fifteen days after receipt of a notice of appeal the contracting officer shall compile and transmit to the Postal Service Counsel copies of all documents pertinent to the appeal, including the following:

(1) The findings of fact and the decision from which the appeal is taken, and the letter or letters or other documents

of claim in response to which the decision was issued;

(2) The contract, and pertinent plans, specifications, amendments, and change orders;

(3) Correspondence between the parties and other data pertinent to the appeal;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board.

(5) Such additional information as may be considered material.

(b) Upon receipt of the foregoing compilation, Postal Service Counsel shall prepare therefrom an appeal file, shall notify the appellant, provide him with a reasonably descriptive index or listing of its contents, and advise him that he may examine the appeal file at the office of Postal Service Counsel for the purpose of satisfying himself as to the contents, and furnishing or suggesting any additional documentation deemed pertinent to the appeal.

(c) Documents contained in the appeal file are considered, without further action by the parties, as before the Board as though they had been received in evidence at a formal hearing, unless a party files a written objection to the consideration of a particular document. Such written objection shall be filed in advance of settling the record if there is no hearing on the appeal or, if there is a hearing, then by written or oral objection as soon as practicable and, in any event, before the end of such hearing. If objection to a document is made, the Board will treat the document as having been offered in evidence and rule on its admissibility in accordance with § 955.21.

§ 955.6 Dismissal for lack of jurisdiction.

Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

§ 955.7 Pleadings.

(a) Within 30 days after receipt by the Board of the notice of appeal, the appellant shall file with the Board an original and three copies of a complaint setting forth simple, concise and direct statements of each of his claims, alleging the basis with appropriate reference to contract provisions for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. Upon receipt thereof, the Recorder of the Board (Docket Clerk) shall serve a copy upon the respondent. Should the com-

plaint not be received within 30 days, the Board may, if it finds that the notice of appeal sufficiently defines the issues before the Board, treat the notice of appeal as a complaint. In such case the Board shall notify both parties of its decision.

(b) Within 30 days from receipt of said complaint, or the aforesaid notice from the Recorder of the Board, respondent shall prepare and file with the Board an original and three copies of an answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counterclaims, as appropriate. Upon receipt thereof, the Recorder shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified. The appeal file shall be filed with the answer.

(c) The Board may consider any timely motion:

(1) To dismiss an appeal for want of jurisdiction;

(2) To dismiss for failure to prosecute an appeal;

(3) To make a pleading more definite and certain;

(4) For discovery, interrogatories to a party, or the taking of depositions;

(5) To reconsider a decision or reopen a hearing;

(6) For any other appropriate order or relief.

Response, if any, by the opposite party to a motion shall be made within 10 days of his receipt of a copy thereof, unless the Board otherwise directs. The Board may permit oral hearing or argument and briefs in support of any motion.

§ 955.8 Amendments of pleadings or record.

(a) The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer.

(b) The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in § 955.5, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or the § 955.5 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

§ 955.9 Elections as to hearings.

Within 15 days after the parties' receipt of notification from the Recorder of the Board that the Government's answer has been filed or the entrance of a general denial by the Board on behalf of the Government, they shall notify the Board whether they desire an oral hearing on the appeal. In the event either party requests an oral hearing, the Board will schedule the same as hereinafter provided. In the event both parties waive an oral hearing, the Board, unless it directs an oral hearing, will decide the appeal on the record before it, supplemented as it may permit or direct. (See § 955.14.) A party failing to elect an oral hearing within the 15-day time limitation may be deemed to have submitted its case on the record.

§ 955.10 Prehearing briefs.

Based on an examination of the documentation described in § 955.5, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may in its discretion require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to § 955.9. In the absence of a Board requirement therefor, either party may in its discretion, and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 5 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

§ 955.11 Prehearing or presubmission conference.

(a) Whether the case is to be submitted pursuant to § 955.12, or heard pursuant to § 955.18 through 955.26, the Board may upon its own initiative or upon the application of either party, call upon the parties to appear before a member of the Board for a conference to consider:

(1) The simplification or clarification of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if the case is to be heard;

(4) The possibility of agreement disposing of all or any of the issues in dispute;

(5) Such other matters as may aid in the disposition of the appeal.

(b) The results of the conference shall be reduced to writing by the Board member within 5 business days after the close of the conference, and this writing shall thereafter constitute part of the record.

§ 955.12 Submission without a hearing.

Either party may elect to waive a hearing and to submit his case upon the

Board record, as settled pursuant to § 955.14. In the event of such election to submit, the submission may be supplemented by oral argument and by briefs, arranged in accordance with §§ 955.14 and 955.24.

§ 955.13 Optional accelerated procedure.

The parties may elect to process any appeal under this section, except that the Board's consent thereto shall also be required in any appeal exceeding \$2,500 in amount. In the event of such election, the Board will decide the appeal under an accelerated procedure, pursuant to which the decision will be based upon the pleadings, or other written statements in lieu of pleadings, and on such other evidence and argument as the Board may require.

§ 955.14 Settling of the record.

(a) A case submitted on the record pursuant to § 955.12 shall be ready for decision when the parties are so notified by the Board. A case which is heard shall be ready for decision upon receipt of transcript, or upon receipt of briefs when briefs are to be submitted. At any time prior to the date that a case is ready for decision, either party, upon notice to the other, may supplement the record with documents and exhibits deemed relevant and material by the Board. The Board upon its own initiative may call upon either party, with appropriate notice to the other, for evidence deemed by it to be relevant and material. The weight to be attached to any evidence of record will rest within the sound discretion of the Board. Either party may at any stage of the proceeding, within the discretion of the Board, on notice to the other party, raise objection to material in the record or offered into the record, on the grounds of relevancy and materiality.

(b) The Board record shall consist of documentation described in § 955.5, and any additional material, pleadings, prehearing briefs, record of prehearing or presubmission conferences, depositions, interrogatories, admissions, transcripts of hearing, hearing exhibits, and post-hearing briefs, as may thereafter be developed pursuant to these rules.

(c) This record will at all times be available for inspection by the parties at the office of the Board. In the interest of convenience, prior arrangements for inspection of the file should be made with the Recorder of the Board. Copies of material in the record may, if practicable, be furnished to appellant at the cost of reproduction.

§ 955.15 Depositions.

(a) By whom and before whom to be taken. Depositions upon oral examination or upon written interrogatories may be taken by either party and used as evidence at the hearing when relevant and material to the case. Depositions may be taken before any person authorized by laws of the United States or by the laws of the place where they are taken to administer oaths.

(b) Procedure for taking. Either party may take a deposition of a witness by giving the opposite party at least 10 days

notice in writing of the time and place where such deposition will be taken. The notice shall contain: The name, address and official title of the officer before whom it is proposed to take the deposition; the name of the witness and the address; whether the deposition will be taken on oral examination or written interrogatories. The parties may stipulate in writing the requirements of the notice in which case the notice can be dispensed with. If the deposition is to be taken on written interrogatories, two copies thereof should accompany the notice or stipulation. The opposing party may serve cross interrogatories to be propounded to the witness within 10 days after receipt of the interrogatories, by forwarding them to the officer designated to take the deposition and simultaneously forwarding a copy to his opponent. Disputes in regard to the taking of depositions may be submitted to the Board for resolution.

(c) Use as evidence. No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instance, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases otherwise heard on the record, the Board may, on motion of either party and in its discretion, receive depositions as evidence in supplementation of that record.

(d) Expenses. All expenses of taking the deposition of any person shall be borne by the party taking that deposition, except that the other party shall be entitled to copies of the transcript of the deposition only upon paying therefor.

§ 955.16 Inspection of documents and admission of facts.

For good cause shown, the Board may require a party to produce and permit inspection and copying or photographing of designated documents relevant to the appeal, or permit the serving on the opposing party of a request for admission of facts. Such Board action will be taken and orders entered as are consistent with the objective of securing just and inexpensive determination of appeals without unnecessary delay.

§ 955.17 Service of papers.

(a) Service of papers in all proceedings pending before the Board may be made personally, or by mailing the same in a sealed envelope, registered, or certified, postage prepaid, addressed to the party upon whom service shall be made and the date of delivery as shown by return receipt shall be the date of service. Waiver of the service of any papers may be noted thereon or on a copy thereof or on a separate paper, signed by the parties and filed with the Board.

(b) Any papers filed with the Board, with the exception of exhibits received in a hearing, shall be filed in quadruplicate, unless the Board shall otherwise direct.

HEARINGS

§ 955.18 Where held.

Hearing will ordinarily be held in Washington, D.C., except that upon request seasonably made and upon good cause shown, the Board may in its discretion set the hearing at another location.

§ 955.19 Notice of hearings.

The parties shall be given at least 10 days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties, and to the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties. A party failing to acknowledge a notice of hearing shall be deemed to have consented to the indicated time and place of hearing.

§ 955.20 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in § 955.12. The Board shall notify the absent party of the proceedings had and shall advise him that he has 5 days from the receipt of such notification within which to show cause why the appeal should not be decided on the record made.

§ 955.21 Nature of hearings.

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject however, to the sound discretion of the Board in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the Board. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

§ 955.22 Examination of witnesses.

Witnesses before the Board will be examined orally under oath or affirma-

tion, unless the facts are stipulated, or the Board shall otherwise order. If the testimony of a witness is not given under oath the Board may, if it seems expedient, warn the witness that his statements may be subject to the provisions of title 18, United States Code, §§ 287 and 1001, and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

§ 955.23 Copies of papers.

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

§ 955.24 Posthearing briefs.

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the Board at the conclusion of the hearing.

§ 955.25 Transcript of proceedings.

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the Board and the reporter. If the proceedings are reported by an employee of the Government, the appellant may receive transcripts upon payment to the Government at the same rates as those set by contract between the Board and the independent reporter.

§ 955.26 Withdrawal of exhibits.

After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

§ 955.27 The appellant.

An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law duly licensed and in good standing in any State, Commonwealth, Territory, or in the District of Columbia, pursuant to the Rules Governing the Eligibility of Persons to Practice Before the Postal Service (§ 951.1 of this chapter, et seq.).

§ 955.28 The respondent.

Postal Service Counsel designated by the General Counsel will represent the interests of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time.

§ 955.29 Settlement.

Whenever at any time it appears that appellant and Postal Service Counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal in order to permit reconsideration by the contracting officer; *Provided, however*, That if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar.

DECISIONS

§ 955.30 Service and availability of Board decisions.

Decisions of the Board will be made in writing and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions, except those to which the provisions of section 552 of title 5, United States Code (sec. 3 of the Administrative Procedure Act, as amended), do not apply, shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made upon the record as described in § 955.14.

§ 955.31 Dismissal without prejudice.

In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any such case where the suspension has continued, or it appears that it will continue, for an inordinate length of time, the Board may in its discretion dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed.

§ 955.32 Remands from courts.

Whenever any matter is remanded to the Board from any court for further proceedings, the parties shall, within 20 days of such remand, submit a report to the Board indicating what procedures they think necessary to comply with the court's order. The Board will enter special orders governing the handling of matters remanded to it for further proceedings by any court. To the extent the court's directive and time limitations will permit, these orders will conform to these rules.

PART 956—DEBARMENT AND SUSPENSION REGULATIONS

Sec.	Purpose and scope.
956.1	Definitions.
956.2	Establishment and maintenance of list.
956.3	Treatment to be accorded firms or individuals and their affiliates in debarred status.
956.4	Causes and conditions for debarment.
956.5	Period of debarment.
956.6	Procedural requirements relating to the imposition of debarment.
956.7	

Sec.	Suspension.
956.8	Notice of suspension.
956.9	Restrictions on suspended persons and firms.
956.10	

AUTHORITY: The provisions of this Part 956 issued under 39 U.S.C. 204, 401.

§ 956.1 Purpose and scope.

(a) This part implements and supplements Postal Service Procurement Regulations.

(b) This part prescribes the terms and conditions under which firms and individuals may be debarred or suspended from contracting with the Postal Service.

(c) It is declared to be the policy of the Postal Service to invoke the provisions of this part when necessary to protect the interests of the Government.

§ 956.2 Definitions.

(a) The term "Department" means the head of any department of the Postal Service or his representative for the purpose of carrying out the provisions of this part.

(b) The term "General Counsel" includes his authorized representative.

(c) The term "Judicial Officer" includes the Acting Judicial Officer.

(d) "Debarment" means, in general, an exclusion from Government contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense or failure, or the inadequacy of performance.

(e) "Suspension" means a disqualification from Government contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct.

(f) "Placement in ineligibility status" means a disqualification from Government contracting and subcontracting pending the elimination of the circumstances which constitute the basis for the imposition of the disqualification.

(g) A "debarment list" or "debarred bidders list" means a list of names of concerns or individuals against whom any or all of the measures referred to in this section have been invoked.

(h) "Affiliates." Business concerns are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

§ 956.3 Establishment and maintenance of list.

(a) The Assistant Postmaster General, Administration Department, shall establish and maintain a consolidated list of firms and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited.

(b) The list shall show as a minimum the following information:

(1) The names of those firms or individuals debarred, suspended or placed in ineligibility status (in alphabetical order) with appropriate cross references where more than one name is involved in a single action;

(2) The basis of authority for each action;

(3) The extent of restrictions imposed; and

(4) The termination date for each debarred and suspended listing.

(c) The list shall contain the names of all firms and individuals debarred, suspended, or declared ineligible by action of the Postal Service and also the names of all firms and individuals debarred, suspended, or declared ineligible by the Comptroller General or other Governmental agencies and departments.

(d) Each Department Head shall report to the Assistant Postmaster General, Administration Department, in the manner directed by him, each action taken to debar, suspend, or declare ineligible a firm or individual, or to remove a debarment, suspension, or ineligibility designation. The Judicial Officer shall transmit to the Assistant Postmaster General, Administration Department, or his designated representative, a copy of each order by the Judicial Officer, debarment, suspending, or declaring ineligible a contractor or removing a debarment or suspension or declaration of ineligibility previously issued against a contractor. The Assistant Postmaster General, Administration Department, shall cause the various Postal Service departments and all field facilities exercising contractual functions to receive each change made in the list as it occurs.

§ 956.4 Treatment to be accorded firms or individuals and their affiliates in debarred status.

(a) A firm or individual may be listed as debarred, suspended, or ineligible for any of several reasons. The treatment to be accorded a firm or individual listed is as follows:

(1) When a statute, Executive order or controlling regulation of another Government agency prescribes the treatment to be accorded a firm or individual and their affiliates in a debarred, suspended, or ineligible status, the Postal Service will conform to the requirements of such statute, Executive order or regulation.

(2) In all other cases, bids, and proposals shall not be accepted or solicited from such listed firms or individuals and their affiliates.

(3) Where a firm or individual listed as debarred, suspended, or ineligible is proposed as a subcontractor, the Contracting Officer shall decline to approve any subcontracting with such firm or individual in any instance in which consent is required of the Government before the contract is made.

(4) Notwithstanding any provisions of this part, if the awarding of a contract or a subcontract to a firm or individual listed as debarred, suspended, or ineligible is determined by the Department Head having cognizance of the contract or subcontract to be in the best interest of the Government, such Department Head, after submitting his reasons therefor in writing to the Assistant Postmaster General, Administration Department, and after receiving his consent, may authorize the making of a

contract with such listed contractor or subcontractor.

(5) All known affiliates of a firm or individual may be included in the order of debarment but only after due consideration is given by the acting authority to all relevant facts and circumstances.

(6) The debarment, suspension, or declaration of ineligibility of a firm or individual does not of itself affect the rights and obligations of the parties to any existing contract.

§ 956.5 Causes and conditions for debarment.

(a) A Department Head is authorized with the concurrence of the General Counsel to debar a firm or individual in the public interest in accord with procedures set forth in this part for any of the causes and under the conditions following.

(b) Causes:

(1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

(2) Conviction under the Federal Anti-trust Statutes arising out of the submission of bids or proposals.

(3) Violations of a nature set forth in this part in connection with a Postal Service contract which are regarded by the Postal Service to be of so serious a nature as to justify debarment action:

(i) Willful failure to perform a Postal Service contract in accordance with the specifications or within the time limit provided in the contract;

(ii) A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Postal Service contracts: *Provided*, That such failure or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar, and that failure to perform or unsatisfactory performance caused by acts beyond the control of the firm or individual as a contractor shall not be considered to be a basis for debarment;

(iii) Violation of a contractual provision against contingent fees;

(iv) Acceptance of a contingent fee which is paid in violation of a contractual provision against contingent fees.

(4) Any other cause of such serious and compelling nature, affecting responsibility as a Government contractor, as may be determined by the Postal Service to warrant debarment.

(5) Debarment by some other Executive agency or department.

(c) Conditions:

(1) The existence of any of the causes set forth in paragraph (b) of this section does not necessarily require that a firm or individual be debarred. In each instance, whether the offense, failure, or inadequacy of performances, be of a criminal, fraudulent, or serious nature, the decision to debar shall be made within the discretion of the Department Head and shall be rendered in the best interest of the Government. Likewise, all

mitigating factors may be considered in determining the seriousness of the offense, failure, or inadequacy of performance, and in deciding whether debarment is warranted.

(2) The existence of a cause set forth in paragraph (b) (1) or (2) of this section shall be established by criminal conviction in a court of competent jurisdiction. In the event that an appeal taken from such conviction results in a reversal of the conviction, the debarment shall be removed upon the request of the bidder, unless other causes for debarment exist.

(3) The existence of a cause set forth in paragraph (b) (3) or (4) of this section shall be established by evidence which the Postal Service determines to be clear and convincing in nature.

(4) Debarment for the cause set forth in paragraph (b) (5) of this section (debarment by another agency) shall be properly provided that one of the causes for debarment set forth in paragraph (b) (1) through (4) of this section was the basis for debarment by the original debarring agency.

§ 956.6 Period of debarment.

Where statutes, Executive orders, or controlling regulations of other agencies provide a specific period of debarment, they shall be controlling. In other cases, debarment by the Postal Service shall be for a reasonable, definite, stated period of time, commensurate with the seriousness of the offense or the failure or inadequacy of performance. As a general rule, a period of debarment shall not exceed 3 years. However, when debarment for an additional period is deemed necessary, notice of the proposed additional debarment shall be furnished to the firm or individual as in the case of original debarment. Except as provided herein or as precluded by statute, Executive order or controlling regulations of another agency, debarment may be removed or the period therefor may be reduced by the Department Head who initiated the initial debarment, upon a submission of an application by the debarred firm or individual supported by documentary evidence, setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which debarment was imposed. Except as provided herein, the Department Head may, in his discretion, deny any application for removal of debarment or for reduction of its period or may refer the same to the Judicial Officer for hearing and final agency determination. In any case in which a debarment is removed or the period thereof is reduced, the Department Head approving the removal or reduction shall, within 10 days from the date thereof, transmit to the Judicial Officer, for filing, a notice thereof together with a statement of the reasons for the removal of the debarment or the reduction of the period of debarment.

§ 956.7 Procedural requirements relating to the imposition of debarment.

(a) The Department Head shall initiate a debarment proceeding by sending to

the firm or individual proposed to be debarred a written notice of proposed debarment. Such notice shall be served in any manner sufficient to establish the giving thereof, as for example, by sending it to the last known address of the firm or individual by certified mail, return receipt requested. The notice shall state: (1) That debarment is being considered; (2) the reasons for the proposed debarment; (3) the period of debarment and the proposed effective date thereof; (4) that the debarment will not become effective until after a hearing if such hearing is requested within 20 days following the receipt of the notice of the proposed debarment; and (5) that the request for a hearing is to be accompanied by a statement setting forth the grounds upon which the proposed debarment will be contested. If no hearing is requested, the action of the Department Head shall become the final Agency determination.

(b) A firm or individual who is served with a notice of proposed debarment may request a hearing by addressing such request to the Judicial Officer through the Department Head who initiated the debarment proceeding. Such hearing shall be governed by rules of procedure as set forth by the Judicial Officer. Except as provided in paragraph (c) of this section, the Judicial Officer or Acting Judicial Officer shall hear the matter and determine on the basis of the record established before him whether the proposed debarment action should be sustained. The criminal, fraudulent, or seriously improper conduct of an individual may be imputed to the firm with which he is connected where such grave impropriety was accomplished within the course of his official duty or was effected by him with the knowledge or approval of that firm. Likewise, where a firm is involved in criminal, fraudulent, or seriously improper conduct, any person who was involved in the commission of the grave impropriety may be debarred. The decision of the Judicial Officer shall be the final agency decision. The Department Head initiating the debarment proceeding shall be represented by the Law Department.

(c) (1) The Judicial Officer shall make rules of procedure to govern hearings conducted by him under these provisions.

(2) When a Department Head proposes to debar a firm or individual already debarred by another Government agency for a term concurrent with such debarment, the debarment proceedings before the Postal Service may be based entirely upon the record of facts obtained from such other agency or upon such facts and additional other facts. In such cases the facts obtained from the other agency shall be considered as established, but the party to be debarred shall have opportunity to present information to the Judicial Officer and to explain why the debarment by the Postal Service should not be imposed.

§ 956.8 Suspension.

(a) A Department Head may, where the interests of the Government require, with the concurrence of the General

Counsel, suspend any firm or individual: (1) Suspected, upon adequate evidence, of—

(i) Commission of fraud or a criminal offense as an incident to obtaining, or attempting to obtain, or in the performance of a public contract;

(ii) Violation of the Federal antitrust statutes arising out of the submission of bids and proposals; or

(iii) Commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty, which seriously and directly affects the question of present responsibility as a Government contractor; or

(2) For other cause of such serious and compelling nature, affecting responsibility as a Government contractor, as may be determined by the Department Head to warrant suspension. A pending hearing for debarment may be a cause of such serious and compelling nature as to warrant suspension.

(b) A suspension invoked by another agency of Government may be the basis for the imposition of a concurrent suspension by a Department Head.

(c) Any firm or individual suspended hereunder who believes that his suspension has not been in accordance with these rules, or with applicable laws and regulations, may appeal to the Judicial Officer for a review of the suspension. The Judicial Officer shall, upon the basis of the papers submitted or upon other appropriate opportunity to be heard, expeditiously rule upon the validity of the suspension.

§ 956.9 Notice of suspension.

(a) The Department Head concerned shall cause a notice of the suspension to be served upon the firm or individual to be suspended by certified mail, return receipt requested, within 10 days after its effective date, which notice shall state:

(1) That the suspension is based:

(i) On information that the firm or individual has committed irregularities of a serious nature in business dealings with the Government; or

(ii) On irregularities which seriously reflect upon the propriety of further dealings of the firm or individual with the Government. The irregularities should be described in general terms without disclosing the Government's evidence;

(2) That the suspension is for a temporary period pending the completion of an investigation and such other proceedings as may follow therefrom;

(3) That bids and proposals will not be solicited from the firm or individual and, if received, will not be considered for award, unless it is determined by the Postal Service to be in the best interests of the Government so to do.

(b) Answers to all inquiries concerning the suspension of any firm or individual shall be coordinated by the Department Head concerned with the General Counsel or shall be made by the General Counsel. Where a matter has been referred to the Department of Justice, the Postal Service will not furnish any more information than is contained

in the notice in answer to any inquiries until the Department of Justice has acquiesced in the furnishing of additional information.

(c) No suspension shall exceed 120 days. A suspension while in effect may be extended for an additional period of 120 days upon written determination of the reasons and necessity therefor. Notice of such extension of suspension shall be served upon the firm or individual in the manner hereinbefore set forth. In no event shall extensions of a suspension exceed in the aggregate a period of 1 year unless a debarment proceeding or a prosecutive action is pending, in which case successive additional periods of suspension may be imposed until the proceeding in question has been completed. The termination of a suspension, however, shall not prejudice a debarment proceeding which was pending or which may be brought thereafter for the same reasons that led to the suspension.

§ 956.10 Restrictions on suspended persons and firms.

Firms and individuals suspended under this part shall be subject during the period of suspension to the same restrictions, conditions and penalties set forth in § 956.4.

PART 957—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DEBARMENT AND SUSPENSION FROM CONTRACTING

Sec.	Authority for rules.
957.1	Scope of rules.
957.2	Definitions.
957.3	Initiation of debarment proceedings.
957.4	The request for a hearing.
957.5	Order relative to hearing.
957.6	Reply.
957.7	Service and filing documents for the record.
957.8	Respondent's failure to appear at the hearing.
957.9	Respondent already debarred by another Government agency.
957.10	Amendment of pleadings.
957.11	Continuances and extensions.
957.12	Hearings.
957.13	Appearances.
957.14	Conduct of the hearing.
957.15	Evidence.
957.16	Witness fees.
957.17	Depositions.
957.18	Transcript.
957.19	Proposed findings and conclusions.
957.20	Decision.
957.21	Motion for reconsideration.
957.22	Modification or revocations of orders.
957.23	Computation of time.
957.24	Official record.
957.25	Public information.
957.26	Suspension.

AUTHORITY: The provisions of this Part 957 issued under 39 U.S.C. 204, 401.

§ 957.1 Authority for rules.

The rules in this part are issued by the Judicial Officer of the Postal Service pursuant to authority delegated by the Postmaster General (39 U.S.C. secs. 204, 401; Part 956 of this chapter).

§ 957.2 Scope of rules.

The rules in this part shall be applicable in all formal proceedings before the

Postal Service pertaining to hearings initiated under Part 956 of this chapter.

§ 957.3 Definitions.

(a) The term "Department Head" means the head of any Department of the Postal Service or his representative for the purpose of carrying out the provisions of Part 956 of this chapter.

(b) The term "General Counsel" includes his authorized representative.

(c) The term "Judicial Officer" includes the Acting Judicial Officer.

(d) "Debarment" means, in general, an exclusion from Government contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense or failure, or the inadequacy of performance.

(e) "Suspension" means a disqualification from Government contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct.

(f) "Respondent" means any individual, firm or other entity which has been served a written notice of proposed debarment pursuant to Part 956 of this chapter.

(g) "The Docket Clerk" means the Docket Clerk of the Postal Service, whose office is located at 12th and Pennsylvania Avenue NW., Washington, DC 20260.

§ 957.4 Initiation of debarment proceedings.

(a) A Department Head shall initiate a debarment proceeding by serving upon the proposed Respondent a written notice of proposed debarment in the manner hereinafter (§ 957.8(d)) provided for the service of all other papers.

(b) The notice shall state:

(1) That debarment is being considered;

(2) The reasons for the proposed debarment;

(3) The period of debarment and the proposed effective date thereof;

(4) That the debarment will not become effective until after a hearing if such hearing is requested within 20 days following the receipt of the notice; and

(5) That the request for a hearing is to be submitted in the manner prescribed by the rules in this part, a copy of which shall be enclosed with the notice.

(c) If no hearing is requested within 20 days following the receipt of the notice, the action of the Department Head set forth in the notice shall become the final agency determination without further notice to the Respondent.

(d) The party against which a final agency determination has been entered pursuant to paragraph (c) of this section shall, however, at any time have the privilege of reopening a case for the limited purpose of contesting the issue of service. Such party's contentions on that issue shall be addressed to the Judicial Officer in the same manner as a request for a hearing (see § 957.5). The Judicial Officer may require such additional showings or proof as he may deem

necessary on the issue of service and shall reopen any debarment proceeding previously closed pursuant to paragraph (c) of this section if he shall find that service was incomplete or otherwise failed to adequately advise of the pendency of the proposed debarment.

§ 957.5 The request for a hearing.

A respondent may, within 20 days following the receipt of a written notice of proposed debarment, file a request for a hearing before the Judicial Officer. The request shall be addressed to the Judicial Officer through the Department Head who initiated the debarment proceeding and shall be accompanied by a concise statement admitting, denying or explaining each of the allegations set forth in the notice of proposed debarment and stating the relief desired.

§ 957.6 Order relative to hearing.

(a) The Judicial Officer shall issue an order granting the Respondent's request for a hearing, establishing the time and place thereof and advising the Respondent of the consequences of a failure to appear at the hearing (see § 957.9). Whenever practicable, the hearing date shall be within 30 days of the date of the Judicial Officer's order relative to hearing.

(b) The notice of proposed debarment and the request for a hearing together with the reply, if any, shall become the pleadings in any proceeding in which the Judicial Officer orders a hearing to be held.

§ 957.7 Reply.

Not more than 15 days from the service of the request for a hearing, the General Counsel may submit a reply on behalf of the Department Head who initiated the debarment proceeding.

§ 957.8 Service and filing documents for the record.

(a) Each party shall file with the Docket Clerk, pleadings, motions, orders and other documents for the record. The Docket Clerk shall cause copies to be served promptly on other parties to the proceeding and on the Judicial Officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the Judicial Officer. One copy shall be signed as the original.

(c) Documents shall be dated and shall state the docket number and title of the proceeding. Any pleading or other document required by order of the Judicial Officer to be filed by a specified date shall be served upon the Docket Clerk on or before such date. The date of such service shall be the filing date and shall be entered thereon by the Docket Clerk.

(d) Service of all papers shall be effected by mailing the same, postage prepaid registered, or certified mail, return receipt requested, or by causing said notice to be personally served on the proposed Respondent by an authorized representative of the Department. In the case of personal service the person making service shall secure from the proposed

Respondent or his agent, a written acknowledgment of receipt of said notice, showing the date and time of such receipt. Said acknowledgment (or the return receipt where service is effectuated by mail) shall be made a part of the record by the Department Head initiating the debarment proceeding. The date of delivery, as shown by the acknowledgment of personal service or the return receipt, shall be the date of service.

§ 957.9 Respondent's failure to appear at the hearing.

If the Respondent shall fail to appear at the hearing, the Judicial Officer shall receive the Department Head's evidence and render a departmental decision without requirement of further notice to the Respondent.

§ 957.10 Respondent already debarred by another Government agency.

(a) When a Department Head proposes to debar a firm or individual already debarred by another Government agency for a term concurrent with such debarment, the debarment proceedings before the Postal Service may be based entirely upon the record of facts obtained from such other agency or upon such facts and additional other facts. In such cases the facts obtained from the other agency shall be considered as established, but the party to be debarred shall have opportunity to present information to the Judicial Officer and to explain why the debarment by the Postal Service should not be imposed.

(b) Where the Department Head initiating the debarment proceeding relies:

- (1) Upon the provisions of paragraph (a) of this section, or
- (2) Upon all or part of the record of the proposed Respondent's previous debarment by another Government agency, in initiating such proceeding, the notice of proposed debarment shall contain a statement so stating in sufficient detail to apprise the Respondent of the extent of such reliance.

(c) The Department Head's reliance upon provisions of paragraph (a) of this section, stated in conformity with the directions set forth in paragraph (b) of this section does not deprive the Respondent of the right to request the Judicial Officer to grant a hearing pursuant to these rules, nor the Judicial Officer the full discretion to grant or deny such request.

§ 957.11 Amendment of pleadings.

(a) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing. *Provided*, That the proposed amendment is reasonably within the scope of the proceeding.

(b) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the notice of proposed debarment are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the

evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(c) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues framed by the pleadings, but fails to satisfy the Judicial Officer that an amendment of the pleadings would prejudice him on the merits, the Judicial Officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(d) The Judicial Officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have transpired since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 957.12 Continuances and extensions.
Continuances and extensions will not be granted by the Judicial Officer except for good cause shown.

§ 957.13 Hearings.

(a) Hearings are held at the headquarters of the Postal Service, Washington, D.C. 20260, or other locations designated by the Judicial Officer.

(b) A party may, not later than 7 days prior to the scheduled date of a hearing, file a request that such hearing be held at a place other than that designated in the Judicial Officer's order relative to hearing. He shall support his request with a statement outlining:

- (1) The evidence to be offered in such place;
 - (2) The names and addresses of the witnesses who will testify;
 - (3) The reasons why such evidence cannot be produced at Washington, D.C.
- The Judicial Officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 957.14 Appearances.

(a) A Respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see Part 951 of this chapter).

(c) When a Respondent is represented by an attorney, all pleadings and other papers subsequent to the notice of proposed debarment shall be mailed to the attorney.

(d) All counsel shall promptly file notices of appearance. Changes of Respondent's counsel shall be recorded by notices from retiring and succeeding counsel and from the Respondent.

(e) After a request for a hearing has been filed pursuant to the rules in this part, the Law Department shall represent the Department Head in further proceedings relative to the hearing and shall in its notice of appearance identify the individual member of such office who has been assigned to handle the case on its behalf.

§ 957.15 Conduct of the hearing.

The Judicial Officer shall have authority to:

- (a) Administer oaths and affirmations;
- (b) Examine witnesses;
- (c) Rule upon offers of proof, admissibility of evidence, and matters of procedure;

(d) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(e) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(f) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(g) Order prehearing conferences for the purpose of the settlement or simplification of issues by the parties;

(h) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(i) Render a final agency decision;

(j) Take such other further action as may be necessary to properly preside over the debarment proceeding and render decision therein.

§ 957.16 Evidence.

(a) Except as otherwise provided in the rules in this part, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the Judicial Officer deems proper to insure a fair hearing.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) The written statement of a competent witness may be received in evidence: *Provided*, That such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all respects true, and, in the case of expert witnesses, that the statement correctly states his opinion or knowledge concerning the matters in question.

§ 957.17 Witness fees.

The Postal Service does not pay fees and expenses for Respondent's witnesses or for depositions requested by Respondent.

§ 957.18 Depositions.

(a) Not later than 7 days prior to the scheduled date of the hearing any party may file application with the Docket Clerk for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each

witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(c) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order.

The deposition officer shall put the witness on oath. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony, or to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, cured or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(d) At the hearing any part or all of the deposition may be offered in evidence by any party who was present or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(e) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(f) Within the United States or within a territory or insular possession, subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held; within a foreign country, depositions may be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or any other person designated in the order for the taking of a deposition.

(g) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories,

none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

§ 957.19 Transcript.

(a) Hearings shall be stenographically reported by a contract reporter of the Postal Service under the supervision of the Judicial Officer. Argument upon any matter may be excluded from the transcript by order of the Judicial Officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript may be obtained by the Respondent from the reporter upon the payment to him of a reasonable price therefor. Copies of parts of the official record other than the transcript may be obtained from the librarian of the Postal Service or the Docket Clerk.

(b) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official transcript, or copies thereof, which have been filed with the record. Within 10 days after the receipt by any party of a copy of the official transcript, or any part thereof, he may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the Judicial Officer, notify the Judicial Officer in writing of his concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence. Thereafter, the Judicial Officer shall by order specify the corrections to be made in the transcript. The Judicial Officer on his own initiative may order corrections to be made in the transcript with prompt notice to the parties of the proceeding. Any charges ordered by the Judicial Officer other than the agreement of the parties shall be subject to objection and exception.

§ 957.20 Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to appear at the hearing may, unless at the discretion of the Judicial Officer such is not appropriate, submit proposed findings of fact, conclusions of law and supporting reasons either in oral or written form in the discretion of the Judicial Officer. The Judicial Officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless given orally the date set for filing of proposed findings of fact and conclusions of law shall be within 15 days after the delivery of the official transcript to the Docket Clerk who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If not sub-

mitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

§ 957.21 Decision.

The Judicial Officer shall issue a final agency decision. Such decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order.

§ 957.22 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of the final agency decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion.

§ 957.23 Modification or revocation of orders.

A party against whom an order of debarment has been issued may file an application for modification or revocation thereof. The Docket Clerk shall transmit a copy of the application to the General Counsel, who shall file a written reply. A copy of the reply shall be sent to the applicant by the Docket Clerk. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 957.24 Computation of time.

A designated period of time under the rules in this part exclude the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

§ 957.25 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 957.26 Public information.

The Law Librarian of the Postal Service shall maintain for public inspection in the Law Library copies of all final decisions. The Docket Clerk maintains the complete official record of every proceeding.

§ 957.27 Suspension.

(a) Any firm or individual suspended under Part 956 of this chapter who believes that his suspension has not been in accordance with the provisions thereof, or with applicable laws or regulations,

may appeal to the Judicial Officer for a review of the suspension.

(b) Any such appeal shall be addressed to the Judicial Officer through the Department Head who ordered the suspension within 20 days of the date upon which the respondent has been notified of his suspension. Such appeal shall concisely and in the manner of a pleading set forth the grounds upon which the suspension is contested and may be supported by a brief and such evidence as the respondent may desire to submit.

(c) Should the respondent desire oral argument or a hearing before the Judicial Officer in connection with his appeal, application therefor shall be included in the appeal. In the event that the Judicial Officer grants the respondent's application for a hearing the notice of suspension and the appeal shall constitute the pleadings defining the issues therein and the hearing shall be regulated in accordance with the rules in this part concerning debarment proceedings.

(d) The decision of the Judicial Officer in any appeal shall constitute the final agency determination of the issues presented thereby. Either party thereto may, however, file a motion for reconsideration thereof, in accordance with the provisions of § 957.22.

DAVID A. NELSON,
General Counsel.

[FR Doc.71-8447 Filed 6-15-71;8:49 am]

PART 958—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE REFUSAL TO RENT OR RENEW POST OFFICE BOXES AND THE CLOSING OF POST OFFICE BOXES

Effective July 1, 1971, Part 958 is amended to read as follows:

- Sec.
958.1 Authority for rules.
958.2 Scope of rules.
958.3 Notice of appeal; notice of hearing; answer.
958.4 Hearings.
958.5 Election as to hearing.
958.6 Default.
958.7 Presiding officers.
958.8 Proposed findings of fact and conclusions of law.
958.9 Initial decision.
958.10 Appeal.
958.11 Final agency decision.
958.12 Compromise and informal disposition.
958.13 Petition to revoke, amend or modify.

AUTHORITY: The provisions of this Part 958 issued under 39 U.S.C. 204, 401.

§ 958.1 Authority for rules.

The Judicial Officer promulgates the rules in this part pursuant to authority delegated by the Postmaster General.

§ 958.2 Scope of rules.

The rules in this part shall be applicable only to cases in which the General Counsel has issued a Notice of Intent to Close a Post Office Box, or in which a postmaster has refused to rent or renew the rental of a post office box, pursuant

to § 169.1 of this chapter, and a timely appeal has been filed.

§ 958.3 Notice of appeal; notice of hearing; answer.

(a) *Notice of appeal.* Any person to whom the rental or renewal of rental of a post office box has been refused by a postmaster and any person who has been served by the General Counsel with a Notice of Intent to Close a Post Office Box may make an appeal from such refusal or Intent to Close by filing a written complaint with the Docket Clerk within 20 days from the receipt of notice of such refusal or Notice of Intent to Close. The complaint shall be filed in triplicate and shall state the reasons why the person believes the action taken by the Postmaster or proposed to be taken by the General Counsel is erroneous. The complaint shall also allege facts showing compliance with each provision of law and regulation on which the person's claim to entitlement to box office rental is based. The appellant shall attach to his appeal a copy of the notice of refusal to rent or renew or Notice of Intent to Close the post office box. The appeal shall be sent to the Judicial Officer, United States Postal Service, Washington, D.C. 20260. The appeal shall be signed by the appellant or by his attorney.

(b) *Notice of hearing.* Upon receipt of the appeal the Docket Clerk shall send a copy thereof to the General Counsel and shall set the matter down for hearing not later than 30 days from the date of receipt by the Docket Clerk of the appeal. The notice of hearing shall be sent to the appellant by certified mail with return receipt requested.

(c) *Answer.* The General Counsel shall file answer to the appeal within 10 days after the receipt of the appeal by the Docket Clerk.

§ 958.4 Hearings.

Hearings are held at the Headquarters Office of the United States Postal Service, Washington, D.C., or such other location as may be designated by the presiding officer. Not later than 5 days prior to the date fixed for the hearing, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining: (a) The evidence to be offered in such place; (b) the names and addresses of the witnesses who will testify; (c) the reasons why such evidence cannot be produced at Washington, D.C. The Judicial Officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 958.5 Election as to hearing.

If both parties so elect, they may waive an oral hearing and submit the matter for decision on the basis of the appeal and answer, with the approval of the presiding officer and subject to the right of the presiding officer to require the parties to furnish such further evidence

or such briefs as the presiding officer may deem necessary. The request to waive oral hearing shall be mailed to the presiding officer not later than 10 days prior to the date set for the hearing.

§ 958.6 Default.

If a person who has not waived oral hearing fails, without notice or without adequate cause, satisfactory to the presiding officer, to appear at the hearing, the presiding officer shall issue an order dismissing the appeal. If no protest to such order of dismissal is received within 10 days from the date of issuance of the order, such order shall become final. Any protest to the order of dismissal received within 10 days from the date of its issuance shall be given such consideration as the presiding officer deems to be warranted by the facts and circumstances alleged in the protest. An order of dismissal issued under this section by a Hearing Examiner may be appealed to the Judicial Officer within 10 days from the date of the order.

§ 958.7 Presiding officers.

The presiding officer at any hearing shall be a Hearing Examiner qualified pursuant to the Administrative Procedure Act (5 U.S.C. 3105) or the Judicial Officer (39 U.S.C. 204). The Chief Hearing Examiner shall assign cases to Hearing Examiners by rotation so far as practicable. The Judicial Officer may, for good cause shown, and with his concurrence, preside at the reception of evidence in proceedings where expedited hearings are requested by either party. When the Judicial Officer presides at the hearing, he shall, in his sole discretion, render a tentative or final decision after the conclusion of the hearing. Exceptions may be filed to a tentative decision in accordance with § 958.10.

§ 958.8 Proposed findings of fact and conclusions of law.

Unless otherwise ordered by the presiding officer, proposed findings of fact and conclusions of law and supporting arguments shall be submitted orally or in writing at the conclusion of the hearing.

§ 958.9 Initial decision.

Unless given orally at the conclusion of the hearing, the Hearing Examiner shall render an initial decision as expeditiously as practicable following the conclusion of the hearing, and the receipt of the proposed findings, if any. The initial decision shall become the final agency decision if a timely appeal is not taken.

§ 958.10 Appeal.

Either party may file exceptions in a brief on appeal to the Judicial Officer within 5 days after receipt of the initial or tentative decision unless additional time is granted. A reply brief may be filed within 5 days after the receipt of the appeal brief by the opposing party.

§ 958.11 Final agency decision.

The Judicial Officer shall render a final agency decision or he shall refer the matter to the Postmaster General or the Deputy Postmaster General for such final decision. The decision shall be served upon the parties and upon the postmaster at the office where the box is located.

§ 958.12 Compromise and informal disposition.

Nothing in these rules precludes the compromise, settlement, and informal disposition of proceedings initiated under these rules at any time prior to the issuance of the final agency decision.

§ 958.13 Petition to revoke, amend or modify.

A party against whom an order has been issued may file a petition for the revocation, amendment or modification thereof. The Docket Clerk shall transmit a copy of the petition to the General Counsel, who may file a written reply. A copy of the reply shall be sent to the petitioner by the Docket Clerk. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

DAVID A. NELSON,
General Counsel.

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Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Opinion No. 595, Docket No. AR 64-2, etc.]

PART 154—RATE SCHEDULES AND TARIFFS

Just and Reasonable Rates for Natural Gas Produced in the Texas Gulf Coast Area

On May 6, 1971, the Commission issued Opinion No. 595 which, among other things, set up a new § 154.109 in the regulations under the Natural Gas Act, relating to the pricing of natural gas produced in the Texas gulf coast area.

In the opinion, the Commission directed the Secretary to cause prompt publication to be made in the FEDERAL REGISTER of the findings and ordering paragraphs and a notice of the availability of the entire opinion. Pursuant thereto, the findings and order paragraphs are set out below.

Excerpts from Federal Power Commission Opinion No. 595, Area Rate Proceeding et al. (Texas gulf coast area), FPC Docket No. AR64-2, et al., 45 FPC —, issued May 6, 1971:

FURTHER FINDINGS AND ORDER

Upon consideration of the entire record in this proceeding, which includes

public notice, public hearing with opportunity for the submission of oral and documentary evidence, for cross-examination, and for the submission of rebuttal evidence, initial decision by an examiner, exceptions thereto, and oral argument before the Commission, the Commission further finds:

(1) The Texas gulf coast area consists of Texas Railroad Commission Districts Nos. 2, 3, and 4, including the underwater Continental Shelf offshore of those districts.

(2) Each of the respondents² listed in Appendix A to this decision is, and at the time of all past sales with which we are here concerned was, a "natural gas company" within the meaning of the Natural Gas Act and is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of this Commission.

(3) Past, present, and proposed sales of natural gas to which the order herein applies are subject to the jurisdiction of this Commission.

(4) Rates for all sales of natural gas, subject to the jurisdiction of the Commission by the producers in the Texas gulf coast area that are above the applicable area rates prescribed herein, have not been shown to be just and reasonable or otherwise lawful under the provisions of the Natural Gas Act and should be disallowed, and refunds should be required as hereafter provided.

(5) The just and reasonable rates for past, present, and proposed sales of natural gas to which this order applies are the applicable area rates set forth in ordering paragraph (A) below.

(6) Rates in excess of the applicable just and reasonable rates determined herein are in that respect unjust and unreasonable.

(7) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that the Commission adopt the orders and regulations herein prescribed.

(8) Except as herein granted the exceptions to the initial decision and proposed order should be denied.

Acting pursuant to sections 4, 5, and 16 of the Natural Gas Act (52 Stat. 822, as amended, 823, 830; 15 U.S.C. 717c, 717d, 717e) and sections 553, 556, and 557 of title 5 of the United States Code (the Administrative Procedure Act, 60 Stat. 238, 239, 241, 242, as codified Sept. 6, 1966, by 80 Stat. 383, 384, 386, 387), the Commission orders:

² Where the term "respondents" is used in the finding and ordering paragraphs herein after set forth, it is to be regarded as referring to all named respondents in the Commission orders issued in this case, and to all parties on whose behalf such named respondents have filed FPC gas rate schedules for sales of gas produced in the Texas gulf coast area.

(A) Part 154 of the Commission's regulations under the Natural Gas Act, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations (18 CFR 154) is amended by adding a new § 154.109 reading as follows:

§ 154.109 Area rates; Texas gulf coast area.

(a) From and after August 1, 1971, the effective date of Opinion No. —, Docket No. AR64-2 et al., — FPC —, and prior to January 1, 1976, no rate or charge made, demanded or received under a rate schedule filed pursuant to this Part for gas produced in the Texas gulf coast area shall exceed the applicable area rate prescribed by this section except in compliance with a specific order of the Commission.

(b) Applicable area rate means the base area rate established in paragraph (c) of this section adjusted to the extent required by paragraph (d) of this section.

(c) The base area rates: The following base area rates per Mcf (at 14.65 p.s.i.a.) are hereby established, subject to the adjustments provided in paragraphs (d) and (e) of this section, for gas gathered and delivered by the seller at either a central point in the field, the tailgate of a plant or a point on the buyer's pipeline:

(1) Gas sold under contracts dated prior to January 1, 1961:

(i) 15 cents prior to January 1, 1965.
(ii) 17 cents from January 1, 1965, to September 30, 1968.

(iii) 19 cents from October 1, 1968, to September 30, 1973.

(iv) 20 cents on and after October 1, 1973.

(2) Gas sold under contracts dated on or after January 1, 1961, and prior to October 1, 1968:

(i) 18 cents prior to January 1, 1965.
(ii) 18.5 cents from January 1, 1965, to September 30, 1968.

(iii) 19 cents from October 1, 1968, to September 30, 1973.

(iv) 20 cents on and after October 1, 1973.

(3) Gas sold under contracts dated on or after October 1, 1968:

(i) 24 cents prior to October 1, 1973.
(ii) 25 cents on and after October 1, 1973.

(4) The applicable area rate shall be adjusted downward by 0.4 cent per Mcf for gas delivered closer to the wellhead than a central point in the field, the tailgate of a plant, or a point in the pipeline.

(d) Contingent escalations of area rates: From such time prior to January 1, 1976, as the Commission determines that independent producers shall have dedicated for sale to interstate pipelines natural gas produced in the Texas gulf coast area, in addition to gas already dedicated as of the effective date of this order and also in addition to any dedications used to reduce

refund obligations, in the amounts hereafter specified, the base area rates established in paragraph (c) of this section for gas sold under contracts prior to October 1, 1968, shall be increased as follows:

Total new dedications	Base area rates increase
4 billion cubic feet----	0.5 cent per Mcf.
6 billion cubic feet----	Additional .5 cent per Mcf.
10 billion cubic feet----	Additional 1 cent per Mcf.

New discoveries (as presently defined in § 2.56(f)(2) of the Commission's rules of practice and procedure) made after the date of issuance of this order on acreage committed by a contract for sale to an interstate pipeline shall be considered to be new dedications for the purpose of this provision.

(e) Quality standards and adjustments to the base area rates: The base area rates established in paragraph (c) of this section are subject to adjustment as follows:

(1) B.t.u. adjustment: For gas with more than 1,050 B.t.u.'s per cubic foot, at 60° F. and 14.73 p.s.i.a., upward adjustments shall be made on a proportional basis from a base of 1,050 B.t.u.'s. For gas with less than 1,000 B.t.u.'s per cubic foot, at 60° and 14.73 p.s.i.a., downward adjustments shall be made on a proportional basis from a base of 1,000 B.t.u.'s. Measurement of B.t.u. shall be on a wet basis.

(2) For gas sold under contracts dated on or after August 1, 1971, the following additional quality standards shall apply:

(i) *Water content.* The gas shall not contain in the aggregate more than 7 pounds of water, either in the form of liquid or vapor, per million cubic feet of gas at 60° F. and 14.73 p.s.i.a. (0.007 pound per Mcf).

(ii) *Hydrogen sulphide.* The gas shall not contain more than 1 grain of hydrogen sulphide per 100 cubic feet of gas at 60° F. and 14.73 p.s.i.a. (10 grams per Mcf).

(iii) *Total sulphur.* The gas shall not contain more than 20 grains of total sulphur per 100 cubic feet of gas at 60° F. and 14.73 p.s.i.a. (200 grams per Mcf).

(iv) *Carbon dioxide.* The gas shall not contain more than 3 percent by volume of carbon dioxide.

(v) *Other impurities.* The gas shall contain no oxygen, dust, dirt, gum, or other impurity in sufficient amounts to require the buyer to incur processing costs to eliminate such impurities in order for the gas to meet either customary commercial standards or the customary requirements of any of the interstate pipelines in the area.

(vi) *Delivery pressure.* The gas shall be delivered at a pressure sufficient to enter the buyer's pipeline except that a minimum of 500 p.s.i.g. must be available at the point of delivery.

(3) When a purchaser under contract dated on or after August 1, 1971, buys gas which deviates from the quality standard established in subparagraph

(2) of this paragraph, the base area rate shall be adjusted for any deviations from such standards as follows:

(i) The applicable area rate shall be adjusted downward by the net cost, actually incurred prior to ultimate consumption, of processing the gas to bring it up to standard.

(a) If the processing is performed by the purchaser, a reasonable return upon the net investment should be included as part of the processing cost incurred in bringing the gas up to pipeline quality.

(b) If such processing reduces the volume of the gas, the purchaser shall pay for only the volume remaining after processing.

(ii) In the case of delivery by seller of gas containing carbon dioxide in excess of the standards herein permitted, notwithstanding anything to the contrary in subparagraph (2)(iv) of this paragraph, the producers shall have the alternative of receiving payment for the total volume of gas delivered, including the carbon dioxide, providing that the B.t.u. content of the gas is measured before the removal of the carbon dioxide for the purposes of the B.t.u. adjustments specified in this order, or receiving payment for the volumes exclusive of the carbon dioxide with the B.t.u. measured by the volumes of gas only.

(f) Prior to January 1, 1976, any seller seeking to charge a rate in excess of the applicable area rate or requesting a change in the applicable area rate must file a petition for waiver or amendment of this section pursuant to § 1.7(b) of the Commission's rules of practice and procedure (18 CFR 1.7(b)) fully justifying the relief sought in the light of this opinion and order. Prior to January 1, 1976, the seller may not file any rate increase in excess of the applicable area rate herein prescribed unless and until the Commission grants the petition.

(B) The applicable area rate as defined in ordering paragraph (A) above, shall be effective from and after the effective date of this order and any amounts collected in excess thereof on or after that date shall be subject to refund plus interest at 7 percent. In addition, with respect to the rates involved in section 4(e) proceedings set out in Appendix A, the applicable area rate as defined in paragraph (A) above, shall be effective from the date such section 4(e) rates were collected subject to refund and all amounts collected under those section 4(e) rates prior to the effective date of this opinion in excess of the applicable area rate shall be subject to refund, plus interest at the rate specified in the respective section 4(e) proceeding, in accordance with the provisions of ordering paragraphs (D) and (E) herein: *Provided, however,* That with respect to such 4(e) dockets no refunds are required below the rate allowed in a final, unconditioned permanent certificate previously granted for such sale.

(C) By August 31, 1971, each respondent shall file a supplement to each applicable rate schedule, effective as of August 1, 1971, reflecting any reductions re-

quired to bring any or all of its rates into conformity with the applicable base area rate established by ordering paragraph (A) herein. The timely filing of a completed statement in conformity with Appendix C hereto shall constitute compliance with this paragraph (C).

(D) (1) Each person having on file with this Commission a rate schedule with regard to gas produced or sold within the Texas gulf coast area, or hereafter filing such a rate schedule (including a contract or amendment adding acreage or new reserves) shall, with regard to such rate schedule or amendment, file by August 31, 1971, or within 90 days from the date of first delivery under the rate schedule or amendment, whichever is later, a statement in conformity with Appendix C hereto. All statements herein required shall be signed by both the seller and the purchaser. If the seller and the purchaser are unable to agree upon any or all of the particulars entering into the computation of the applicable area rate, the seller shall file the statements herein required which shall indicate the absence of agreement and supply the information required to compute the applicable area rate as well as the contentions of the parties with respect to the quality and amount of the adjustment for any item in dispute. The purchaser may file a separate statement setting forth its views within the period herein provided.

(2) The statement filed hereunder which reflects full agreement between the seller and purchaser shall be deemed accepted by the Commission unless the Commission, within 120 days after such filing, shall otherwise order. In the event of disagreement between the seller and purchaser or, where the Commission otherwise determines that the statement filed is inconsistent with the provisions of ordering paragraph (A) herein, the Commission will after appropriate proceedings, prescribe the applicable area rate to be applied.

(3) Any respondent will be exempt from filing the statement required by subparagraph (1) hereof for any sales which are "small producer sales" as defined in the Commission's regulations under the Natural Gas Act if a producer seeks to qualify thereunder. If the Commission subsequently finds that such a producer does not qualify as a small producer such applicant shall be required to file the statement required by subparagraph (1) hereof within 90 days after any such Commission finding.

(E) Refund reports: By August 31, 1971, refund reports shall be filed with this Commission in triplicate, and one copy served on the buyer, by each producer involved in one or more of the section 4(e) proceedings set out in appendix A and as to which refunds are required under the terms of this decision. Within 20 days from the filing of the refund report the buyer shall file its written concurrence or disagreement with such report. The report shall set forth the following information (if more than

one rate schedule is involved the respondent shall supply the information for each schedule separately):

(i) The rates collected during the period subject to refund, and the periods during which each rate was collected.

(ii) The volume of gas sold at each such rate.

(iii) The difference between the total amount collected during the period subject to refund and the amount that would have been collected at the applicable area rate as defined herein subject to the proviso of ordering paragraph (B).

(iv) The computation of the applicable area rate and the basis for any difference between it and the base area rate.

(v) The interest, at rates as specified in each section 4(e) proceeding, on the above refundable excess revenues, subject to the limitation by section 105.102 (f) of the Commission's regulations under the Natural Gas Act. The interest shall be calculated to the date of the refund report.

(vi) A statement as to whether the respondent elects to attempt to discharge its refund obligations, including interests, in the manner set forth in ordering paragraph (G).

(F) Treatment of refunds: Each respondent, who does not elect to discharge its refund obligations (including interests) in the manner set forth in ordering paragraph (G), shall retain the amounts shown in the report required under ordering paragraph (E) subject to further order of the Commission directing the disposition of those amounts. If a respondent elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it is authorized so to do after notice to the Commission; and it shall pay interests thereon at the prime rate, in effect as of 12 m. on the date of issuance of this opinion and order for loans made by the Chase Manhattan Bank, on all funds thus available from August 1, 1971, to the date on which they are paid over to the persons ultimately determined to be entitled thereto in a final order of the Commission. If a respondent elects to deposit the retained funds in a special escrow account, the respondent shall make such deposit and shall comply with the escrow agreement requirements of section 250.12 of the regulations under the Natural Gas Act (18 CFR 250). Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the escrow agreement shall be deemed to be satisfactory and to have been accepted for filing.

(G) Discharge of refund obligations by additional dedications: Each producer who so elects may discharge its refund obligation under this order through credits for dedication to sale to interstate pipelines, after the date of issuance of this order and prior to January 1, 1976, of gas reserves in the Texas gulf coast area in addition to those already dedicated to interstate commerce on the effective date of this order. New discoveries (as presently defined in § 2.56(f) of the Commission's rules of practice and procedure) made after the date of issuance

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-154]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Supplies and Equipment for Aircraft

In accordance with section 309(d), Tariff Act of 1930, as amended (19 U.S.C. 1309(d)), the Department of Commerce has found and under date of April 27, 1971, has advised the Treasury Department that Honduras allows privileges to aircraft registered in the United States and engaged in foreign trade substantially reciprocal to those provided for in sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317). The same privileges are therefore hereby extended to aircraft registered in Honduras and engaged in foreign trade effective as of the date of such notification.

Accordingly, paragraph (f) of § 10.59, Customs regulations, is amended by the insertion of "Honduras" in appropriate alphabetical order and the number of this Treasury decision in the opposite column headed "Treasury Decision(s)" in the list of nations in that paragraph. (Sees. 309, 317, 759, 46 Stat. 690, as amended, 696, as amended, 759; 19 U.S.C. 1309, 1317, 1624)

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

Approved: June 3, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-8460 Filed 6-15-71; 8:50 am]

Title 32—NATIONAL DEFENSE

Chapter XVIII—Office of Civil Defense, Office of the Secretary of the Army

PART 1802—DONATION OF FEDERAL SURPLUS PERSONAL PROPERTY FOR CIVIL DEFENSE PURPOSES

Miscellaneous Amendments

Part 1802 of Chapter XVIII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Paragraph (b) of § 1802.1 is revised to read as follows:

§ 1802.1 Purpose.

(b) The program under the regulations in this part is to assist States and their political subdivisions in attaining and maintaining civil defense operational readiness by the donation of Federal surplus property for civil defense administrative and operational use; to permit such donations to eligible donees within their capacity to acquire, maintain and so utilize such property; and to authorize its collateral use for other governmental purposes so as to encourage acquisition of property needed for civil

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8423 Filed 6-15-71; 8:47 am]

¹ Copies of the complete text of Opinion No. 595 may be obtained in person from the Office of Public Information of the Federal Power Commission, or by written request addressed to the Secretary, Federal Power Commission, 441 G Street NW., Washington, DC 20426.

defense emergencies, lessen the burden of stockpiling, reduce civil defense costs, and to insure its maintenance and availability for civil defense emergencies.

2. § 1802.2 is amended by addition of a new paragraph at the end thereof. The new paragraph is designated "(k)" and reads as follows:

§ 1802.2 Definitions.

(k) *Surplus property program guidance material.* The written criteria and procedures officially promulgated by OCD over the signature of the Director of Civil Defense or of the Assistant Director of Civil Defense (Plans and Operations) for application in the civil defense donation program conducted pursuant to section 203(j) of the Act and under OCD regulations set forth at 32 CFR Part 1802. Issuances not published in the *FEDERAL REGISTER* are mailed to the civil defense director of each State.

3. Paragraph (a) of § 1802.3 is revised to read as follows:

§ 1802.3 Allocations.

(a) Lists of Federal supply classification categories of property determined usable and necessary (U&N) for civil defense purposes, including research, are promulgated as an annex to Part F, Chapter 5, Appendix 3 of the Federal Civil Defense Guide, for specific application in the surplus property donation program. Except as otherwise provided in this paragraph (a), the allocations by DHEW of surplus property to each State agency for donation for civil defense purposes and the certification by each State agency of the need and usability of surplus property for civil defense purposes in the State, shall be limited to property of the type classified as U&N on the OCD list current at the time of the allocation. Certain items or groups of items have been classified as U&N, but have been designated on the OCD list as items or groups of items which may be allocated for donation for civil defense purposes only upon the prior written approval of the State civil defense director for each proposed donation, on an individual case basis. Items of a type not classified as U&N on the OCD list are not to be allocated for civil defense donation except to a particular donee upon the prior written approval of the State civil defense director and the appropriate OCD Regional Director as to both the specified items and the designated donee, on an individual case basis.

4. Paragraph (b) (2) of § 1802.5 is revised to read as follows:

§ 1802.5 Acquisition of donable property.

(b) Conditions.

(2) That the property is usable and needed by the donee for its own civil defense purposes and is being acquired therefor, and shall be utilized and maintained in accordance with the provisions

of § 1802.6 and those of OCD surplus property program guidance material.

5. In § 1802.6, the penultimate sentence of paragraph (b) is revised to read as follows:

§ 1802.6 Additional conditions.

(b) *Distribution, maintenance, and utilization.* * * * Although ownership and control must remain in an eligible civil defense organization, consistent with the procedures of the State and, where applicable, political subdivision, possession of donated property may be transferred upon the written approval of the State or local civil defense director, as appropriate, to other agencies of Government having civil defense functions for purposes of maintenance and utilization consistent with the purpose of the program as set forth in § 1802.1(b) and in accordance with specific provisions set forth in OCD surplus property program guidance material. * * *

(Sec. 401, 64 Stat. 1254, 50 U.S.C. App. 253; 70 Stat. 493, 40 U.S.C. 484(j)(k); Reorg. Plan No. 1 of 1958, as amended, 72 Stat. 1799-1801, 23 F.R. 4991; E.O. 10952, as amended, 26 F.R. 6577; Delegation of Authority Regarding Civil Defense Functions and Establishment of the Office of Civil Defense, pub. Apr. 10, 1964, 29 F.R. 5017)

Dated: June 4, 1971.

JOHN E. DAVIS,
Director of Civil Defense.

[FR Doc.71-8401 Filed 6-15-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-1—GENERAL

PART 3-30—CONTRACT FINANCING

Miscellaneous Amendments

Chapter 3, Title 41, Code of Federal Regulations is amended as set forth below. A new Subpart 3-1.7 is added to provide procedures for application in carrying out the HEW small business program. Part 3-30 is added to provide policy and procedures for making advance payments in contracts with educational institutions for research work.

1. The table of contents of Part 3-1 is amended by adding a new Subpart 3-1.7 as follows:

Subpart 3-1.7—Small Business Concerns

Sec.	
3-1.704	Agency program direction and operation.
3-1.704-1	HEW headquarters.
3-1.704-2	Other procuring activities.
3-1.704-3	Small business specialists.
3-1.704-4	Principal procurement officer.
3-1.705	Cooperation with the Small Business Administration.

Sec.

3-1.705-1	General.
3-1.706	Procurement set-asides for small business.
3-1.706-2	Review of SBA set-aside proposals.
3-1.706-3	Withdrawal or modification of set-asides.
3-1.706-50	Small business class set-aside for construction, repair, and alteration work.
3-1.708	Certificate of competency program.
3-1.708-2	Applicability and procedure.
3-1.708-3	Conclusiveness of certificate of competency.
3-1.750	Business opportunity conferences.

AUTHORITY: The provisions of this Subpart 3-1 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. Subpart 3-1.7 is added to read as follows:

Subpart 3-1.7—Small Business Concerns

§ 3-1.704 Agency program direction and operation.

§ 3-1.704-1 HEW headquarters.

The Director, Division of Procurement and Materiel Management, OASAMOGS, is responsible for the general supervision of the HEW small business program. Within the Division of Procurement and Materiel Management (DPMM), the Small Business Advisor is responsible for developing and managing the HEW small business program, advising the Director and other HEW officials on small business problems, and representing HEW before other Government agencies on matters primarily affecting small business.

§ 3-1.704-2 Other procuring activities.

The head of the procuring activity (see § 3-75.101) or his designee shall designate a qualified individual as a small business specialist to serve as small business coordinator for the activity to provide a central point of contact to which small business concerns may direct inquiries concerning participation in the procurement program and small business matters. As deemed necessary, additional small business specialists shall be appointed in principal procurement offices. The small business specialist shall also perform such other functions as he is specifically directed to perform by this Subpart 3-1.7 and any additional functions which the head of the procuring activity may prescribe for the purpose of implementing the small business program. A copy of each appointment and termination of appointment of small business specialists shall be forwarded to the Small Business Advisor, DPMM.

§ 3-1.704-3 Small business specialists.

The small business specialist appointed pursuant to § 3-1.704-2 shall perform the following duties as determined appropriate by the head of the procuring activity or his designee:

(a) Maintain a program designed to locate capable small business sources for current and future procurements, through SBA or other methods.

(b) Coordinate inquiries and requests for advice from small business concerns on procurement matters.

(c) Prior to issuance of solicitations (or contract modifications for additional supplies or services) in excess of \$2,500, determine that small business concerns will receive adequate consideration including initiation of set-asides (see § 1-1.706 of this title). This determination may be made jointly with the contracting officer or may be in form of a recommendation to him. Disagreements between the small business specialist and the contracting officer on proposed set-aside actions shall be resolved by the head of the procuring activity or his designee, whose decision shall be final except in those cases where an SBA representative intervenes as an interested party (see § 1-1.706-2 of this title and § 3-1.706-2).

(d) Review procurement programs for possible breakout of items suitable for procurement from small business concerns.

(e) Advise small business concerns with respect to the financial assistance available under existing law and regulations and assist such concerns in applying for financial assistance, assuring that requests by small business concerns for proper assistance are not treated as a handicap in securing the award of contracts.

(f) Participate in determinations concerning responsibility of a prospective contractor (see § 1-1.310 of this title) whenever small business concerns are involved.

(g) Participate in the evaluation of a prime contractor's subcontracting program (see § 1-1.710 of this title).

(h) Assure that participation of small business concerns is accurately reported.

(i) Make available to SBA copies of solicitations when so requested.

(j) Act as liaison between the contracting officer and SBA field offices and representatives in connection with set-asides, certificates of competency, contracting pursuant to section 8(a) of the Small Business Act, and other matters in which the small business program may be involved. Procurements estimated to cost \$100,000, or more, in which certificates of competency are requested, shall be reported to the Small Business Advisor, DPMM. The report shall contain a description of the requirement, a list of the bidders or proposers, and the contract prices specified in the bids or proposals as submitted and the reason for the proposed rejection of an otherwise acceptable small business bid or proposal. Pertinent dates such as the required date for the completion of the procurement, the date of the request for the certificate of competency, etc., shall also be furnished.

(k) In cooperation with the contracting officer and technical personnel, seek and develop information on the technical

competence of small business concerns for research and development contracts. Regularly bring to the attention of the contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns that are apparently competent to perform research and development in fields in which the operating agency is interested.

§ 3-1.704-4 Principal procurement officer.

The "principal procurement officer" of a procuring activity is that individual who is charged with overall responsibility for procurement including decisions regarding, and interpretations of, policy of the operating agency or other principal Departmental organizations (e.g., Chief, Procurement Branch, OPMM, HSM).

§ 3-1.705 Cooperative with the Small Business Administration.

§ 3-1.705-1 General.

All HEW procurement activities are responsible for consulting and cooperating with the SBA in carrying out the purposes of the Small Business Act.

§ 3-1.706 Procurement set-asides for small business.

§ 3-1.706-2 Review of SBA set-aside proposals.

(a) Upon recommendation of the small business specialist that an individual procurement or class of procurements, or portion thereof, be set aside, the contracting officer shall promptly (1) concur in the recommendation, or (2) disapprove, stating in writing his reasons for disapproval. If the contracting officer disapproves the recommendation of the small business specialist, the case shall be promptly referred to the SBA representative (if one is assigned and available) for his review. The SBA representative will either concur in the decision of the contracting officer or appeal the case to the head of the procuring activity (see § 1-1.706-2(a) of this title). No further appeal action will be taken by the small business specialist. If an SBA representative is not assigned or available, and the contracting officer notifies the small business specialist of his disagreement, the small business specialist may appeal, in writing, to the head of the procuring activity for decision. A memorandum of the decision of the head of the procuring activity shall be placed in the contract file. After receipt of a decision of the head of the procuring activity, which shall be final, and if the decision approves the action of the contracting officer, the small business specialist shall forward for information and management purposes complete documentation of the case to the Small Business Advisor, DPMM. Documentation transmitted shall include as a minimum, (i) a copy of the IFB or RFP, (ii) a list of sources solicited, indicating if the invitee is small or large business by SBA definition, (iii) copies of the reasons for or against set-aside submitted by the small business specialist and the con-

tracting officer, (iv) a copy of the head of the procuring activity's decision, and (v) a complete abstract of bids or proposals received indicating the successful bidder together with any other material considered by the head of the procuring activity in arriving at his decision. The small business specialist's transmittal letter shall contain an affirmative statement that the enclosures constitute the complete file reviewed and considered by the head of the procuring activity in making his decision.

§ 3-1.706-3 Withdrawal or modification of set-asides.

If, prior to award of a contract involving an individual or class set-aside, the contracting officer considers that procurement of the set-aside from a small business concern would be detrimental to the public interest (e.g., because of unreasonable price) he may withdraw a unilateral or joint set-aside determination by giving written notice to the small business specialist or the SBA representative, as appropriate, stating the reasons for the withdrawal. In the same manner, a unilateral or joint class set-aside may be modified to withdraw one or more individual procurements. In the case of a joint set-aside determination, if the SBA representative or the small business specialist, as appropriate, does not agree with the withdrawal or modification, the action may be appealed in accordance with the procedures set forth in § 3-1.706-2(a).

§ 3-1.706-50 Small business class set-aside for construction, repair, and alteration work.

A class set-aside for small business is considered to have been made for each proposed procurement for construction, repair, and alteration work in an estimated amount ranging from \$2,500 to \$500,000. Accordingly, the contracting officer shall set aside for small business each such proposed procurement. If, in his judgment, the particular procurement falling within the dollar limits specified above is unsuitable for a set-aside for exclusive small business participation, the procedure set forth in § 3-1.706-3 shall apply. Proposed procurements for construction, repair, and alteration work in an estimated amount of more than \$500,000 shall be processed on a case by case basis.

§ 3-1.708 Certificate of competency program.

§ 3-1.708-2 Applicability and procedure.

(a) If a bid or proposal of a small business concern is to be rejected solely because the contracting officer has determined the concern to be nonresponsive as to capacity or credit, the matter shall be referred to the appropriate SBA field office having authority to process the referral in the geographical area where the small business concern is located. If required, guidance as to the location of the appropriate SBA field office may be

obtained from the SBA representative assigned to the procurement office or the nearest SBA field office. Under no circumstances will a referral be made to the SBA prior to a determination by the contracting officer that a bid or proposal of the small business concern is responsive. Concurrent referrals of two or more bids or proposals, rejected because of lack of capacity or credit for a proposed award, shall not be made to SBA by the contracting officer. Final processing of a case, including possible issuance of a certificate of competency, must be completed by SBA on each referral before the contracting officer may proceed with an additional referral to SBA on the proposed award. The award shall be withheld pending either SBA issuance of a certificate of competency or the expiration of 15 working days after SBA is so notified, whichever is earlier, subject to the following:

(1) This procedure is not mandatory if the contracting officer certifies in writing that award must be made without delay and such certificate is approved by the principal procurement officer of the procuring activity (see § 3-1.704-4).

(2) A preaward survey shall be made prior to a determination by a contracting officer that a small business concern is not responsible because of a lack of capacity or credit on a proposed award of more than \$10,000.

(3) A determination by the contracting officer that a small business concern is not responsible for reasons other than deficiencies in capacity or credit shall be approved by the principal procurement officer of the procuring activity (see § 3-1.704-4).

(i) Prior to submission of the contracting officer's determination of non-responsibility to the principal procurement officer of the procuring activity for approval, the contracting officer shall transmit a copy of the documentation supporting the determination through the small business specialist to the SBA representative, or the nearest SBA regional office, as appropriate.

(ii) If the contracting officer is not so notified, he may conclude that SBA has no objection to the determination and he may then submit it to the principal procurement officer of the procuring activity, for approval.

(iii) If the contracting officer does not agree with the SBA position, he shall then forward the determination to the principal procurement officer of the procuring activity for resolution with an explicit indication of his views and the contrary SBA position. The decision of the principal procurement officer shall be final.

(iv) The provisions of § 1-1.708-2(a)(1) of this title and § 3-1.708-2(a)(1) apply if the award must be made without delay. In such instances the determination of nonresponsibility for reasons other than deficiencies in capacity or credit shall be submitted immediately to the principal procurement officer of the procuring activity for approval. In all

other instances the provisions of § 1-1.708-2(a)(5) (i) through (v) of this title and § 3-1.708-2(a)(3) (i), (ii), and (iii) shall apply.

(v) The Small Business Advisor, DPMM, shall be informed promptly in writing of all cases where (a) a small business concern elects not to file an application for a certificate of competency, or (b) the SBA declines to issue a certificate of competency, or (c) the procurement office reverses the preaward survey negative finding.

In procurements when the highest competence obtainable or the best scientific approach is needed, as in certain negotiated procurements of research and development, highly complex equipment, or professional services, the certificate of competency procedure is not applicable to the selection of the source offering the highest competence obtainable or best scientific approach. However, if a small business concern has been selected on the basis of the highest competence obtainable or best scientific approach and, prior to award, the contracting officer determines that the concern is not responsible because of lack of capacity or credit, the certificate of competency procedure is applicable.

(b) (1) SBA field offices will notify the contracting officer of each case where they (i) plan to issue a certificate of competency or (ii) are submitting the case to the SBA Central Office, Washington, D.C., for approval prior to issuance of a certificate of competency; and provide the contracting officer or his designated representative with a brief written statement citing the reasons for SBA's proposed affirmative action. Prior to final SBA field office action, the contracting officer will be afforded an opportunity to meet or communicate with SBA field office representatives and furnish to them new or additional information on the case. Copies of significant data developed by SBA that are pertinent to the case will be made available, upon request, to the contracting officer, or his representative, at such meeting or through correspondence. SBA case files may be examined at the meeting and pertinent notes taken by the contracting officer or his representative, but such files will not be released outside SBA.

(2) One of the following courses of action shall be taken subsequent to discussions or a meeting between representatives of the contracting officer and SBA field offices:

(i) If new and additional facts presented by the SBA field office representatives so warrant, the negative determination as to capacity or credit of the apparent low bidder or offeror shall be reversed, the referral to SBA shall be withdrawn, and the contract award shall be made without the necessity for issuance of a certificate of competency.

(ii) If agreement cannot be reached between the SBA field office and the contracting officer and substantial doubt still exists as to the ability of the contractor to perform, the contracting officer shall request the SBA field office to

suspend action to permit referral of the case to the Director, DPMM, for review and possible appeal to SBA Central Office, Washington, D.C. The contracting officer shall forward to the Director, DPMM, through administrative channels on an expedited basis a complete case file with a request that the case be considered for appeal to SBA, Washington, D.C. This file shall include the data specified in § 1-1.708-2(b) of this title, SBA's rationale for proposing affirmative certificate of competency action, and the contracting officer's comments thereon. Procurement action shall be suspended until the contracting officer is informed by the Director, DPMM, of the final decision in the case. If the Director, DPMM, concludes that the request for certificate of competency action should be withdrawn and a contract awarded without benefit of a certificate of competency, the contracting officer will be so informed and provided written instructions to proceed with the procurement. If the Director, DPMM, agrees with the recommended appeal action of the contracting officer, he will request in writing the SBA Associate Administrator for Procurement and Management Assistance, Washington, D.C., to review the proposed affirmative certificate of competency action of the SBA field office. If SBA, Washington, D.C., does not concur with the proposed affirmative certificate of competency action of its field office, it shall so inform the Director, DPMM. If SBA, Washington, D.C., concurs with the affirmative certificate of competency action proposed by the SBA field office, it shall so inform the Director, DPMM, giving reasons for its position. The Director, DPMM, may then request a meeting with SBA, Washington, D.C., to present an appeal on the proposed certificate of competency action. Following an appeal, the determination made by the SBA Associate Administrator relative to certificate of competency action shall be considered final and not subject to further appeal by HEW.

(iii) If agreement cannot be reached between the contracting officer and the SBA field office, the contracting officer may conclude it would not be practicable to appeal the case to the Washington SBA level nor would it be appropriate to withdraw his request for certificate of competency action. In that case, the contracting officer shall inform the SBA field office that it must issue a certificate of competency as prerequisite to contract award. However, such action shall not be taken by the contracting officer without prior approval of the Director, DPMM.

(3) If an SBA field office fails to give a contracting officer an opportunity to refer a proposed affirmative certificate of competency action to the Director, DPMM, for review and possible appeal, appeal action described in subparagraph (2) (ii) of this paragraph may be taken by the contracting officer subsequent to the issuance of a certificate of competency if he has substantial doubt as to the ability of the contractor to perform.

§ 3-1.708-3 Conclusiveness of certificate of competency.

As provided in the Small Business Act (15 U.S.C. 637(b)(7)), procurement agencies are required to accept SBA certificates of competency as conclusive of a prospective contractor's responsibility as to capacity and credit. However, if a contracting officer has substantial doubts as to a firm's ability to perform due to lack of capacity or credit, he shall, before award, pursuant to § 3-1.708-2(b) promptly refer the matter through administrative channels to the Director DPMM. In cases referred to the Director, DPMM, the SBA may be requested to withdraw the certificate.

§ 3-1.750 Business opportunity conferences.

The Department of Commerce is responsible for coordinating the participation of Federal civilian agencies in a continuing series of conferences which are generally sponsored by local Chambers of Commerce. The objectives of these conferences are: (a) Location of additional procurement sources to broaden the procurement base of Federal buying agencies; (b) stimulation of local, regional, and national economic growth, national security, and cost reduction; (c) location of underutilized production capacity; (d) prevention or elimination of pockets of underemployment; and (e) assistance of small business concerns. As notified by the Small Business Advisor, HEW procurement activities shall provide appropriate small business specialists or procurement personnel to participate in person-to-person counseling at such conferences. Ordinarily, participation by procurement activities will be restricted to conferences held within the geographical area adjacent to their procurement offices.

3. Part 3-30 is added to read as follows:

Sec.
3-30.000 Scope of part.

Subpart 3-30.4—Advance Payments
3-30.408 Uses of advance payments.

AUTHORITY: The provisions of this Part 3-30 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

§ 3-30.000 Scope of part.

This part contains general Departmental contract financing policies and procedures applicable to the financing of all types of contracts.

Subpart 3-30.4—Advance Payments

§ 3-30.408 Uses of advance payments.

(a) All contracts for research work with educational institutions located in the United States shall provide for financing by way of advance payments, in reasonable amounts, unless otherwise prohibited by law.

(b) The Treasury Department's letter of credit method of financing advance payments shall be employed, whenever feasible. Department-wide blanket letters of credit, which apply to the financing of

all research contracts and grants between the institution and all agencies of the Department, shall be utilized to the maximum extent practicable. Where a particular educational institution is supported by research contracts and grants with only one operating agency of the Department, a single agency letter of credit, applicable to all research contracts and grants between the institution and that agency, may be employed.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (6-16-71).

Dated: June 9, 1971.

NORMAN B. HOUSTON,
Deputy Assistant Secretary
for Administration.

[FR Doc.71-8419 Filed 6-15-71; 8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 14744; FCC 71-600]

EDUCATIONAL TELEVISION SERVICE

Second report and order. In the matter of amendment of parts 2 and 74 of the Commission's rules and regulations to establish a new class of educational television service for the transmission of instructional and cultural material to multiple receiving locations on channels in the 2500-2690 MHz frequency band; amendment of Parts 81, 87, 89, 91, and 93; Docket No. 14744.

1. On June 17, 1970, the Commission adopted a further notice of proposed rule making in the above-captioned proceeding, which was released on June 23, 1970, and published in the FEDERAL REGISTER on June 26, 1970 (35 F.R. 10462; FCC 70-640). The further notice proposed to afford educators exclusive access to 28 of the 31 television channels in the 2500-2690 MHz band, presently allocated to the Instructional Television Fixed Services (ITFS) on a shared basis with operational fixed and international control stations employing ITFS technical standards. Also proposed was the reallocation of the remaining three television channels on an exclusive basis for operational fixed television systems of the type currently permitted and, since television transmission is not a function of international control stations, deletion of that class of station from the allocation. Comments were due on or before October 30, 1970, with reply comments, on or before November 20, 1970.

2. Approximately 150 comments were filed in the proceeding. These responses ranged from private citizens to those responsible for education at the public and parochial high school and college levels to industry and user groups representatives. A listing of those filing comments is appended hereto.¹ Although many of

¹ Filed as part of the original document.

the comments were expressions of opinion in the form of letters, a number of comments cited applications of ITFS in their particular locales while others were even more substantive. All of the comments have been considered in reaching this decision.

3. As stated, many of the comments reflected the application of ITFS channels in present operations or the planned use of the channels. Further, many of the comments dealt with the economic problems and complicated procedural steps necessary to obtain the funds with which instructional television could be implemented in particular jurisdictions. The Commission is, of course, aware of these difficulties. The crux of the notice, however, was not to underscore those problems, or to substantiate the needs for ITFS, but to determine whether 31 channels derived from the 2500-2690 MHz band were in fact, required for educational purposes exclusively or whether an equitable division of channels between the Instructional Television and Operational Fixed television services could be effected, thereby removing the present uncertainty concerning the future availability of the band in question.

4. None of the individuals or groups presented comments which demonstrate a need for any specific number of channels for either educational or operational fixed television purposes. Many recommended retention of 31 channels for education under fear that, to allocate any channels to industry, would merely open the door to future raids or incursions. The majority of those with educational interests supported the permanent allocation of 28 channels for ITFS as a minimum. Several expressed belief based, in part, on certain pockets of spectrum congestion (a phenomenon common throughout most of the spectrum below 10 GHz.) that even more than 31 channels would be required to handle the future growth of ITFS.

5. Several parties, principally National Education Association Joint Council on Educational Television and National Association of Educational Broadcasters, raised question concerning the possible conflict with proposals for the 2500-2690 MHz band made by the United States in connection with preparations for the forthcoming Space World Administrative Radio Conference. The Department of Health, Education, and Welfare, while supporting the proposal for exclusive allocation of 28 channels for ITFS purposes, urged that reconsideration be given to the proposal for allocating the Group H channels to other than public service users and that a final decision in this proceeding be delayed until the results of the WARC later this summer.

6. The W. J. Kessler Associates raised the question of need demonstrated by the Operational Fixed service for an exclusive allocation in the 2500-2690 MHz band and proposed two alternative allocations for ITFS access to the Group H

frequencies (one coequal with and one secondary to Operational Fixed). Kessler also suggested possible access to the 1990-2110 MHz band for educational ITFS channels, establishment of an ITFS auxiliary relay service, and revision of certain rules to permit more economical operation of ITFS facilities. These latter proposals are beyond the scope of this proceeding and will not be discussed in detail herein.

7. In addition to a number of comments which cited a need for allocation of channels for educational purposes by local government entities (e.g., police, fire departments, public health services and other public safety type services) it should be pointed out that, since adoption of the notice in this proceeding, a study has been undertaken by the Committee on Telecommunications, National Academy of Engineering, concerning the interrelationship between communications and urban development. This study, funded and sponsored jointly by a number of interested Federal Agencies including the Commission, has, in gathering background data, produced evidence to indicate that the need is valid. Problems similar to those of the educators exist with respect to local government educational use also (i.e., social, economic and budgetary cycle, and political); nonetheless, it appears that a demand for such facilities will materialize as those problems are resolved. Additionally, it would appear there is a latent demand for other types of adult educational systems for on-the-job training and community education. In view of each of these demands coupled with the paucity of substantive data regarding overall valid requirements, the Commission must weigh these demands against the available spectrum and apply its best judgment in making a determination.

8. A brief review of the allocation history of the 2500-2690 MHz band may first be in order. Prior to 1963, the band had been allocated since 1949 solely to the Fixed Service for assignment to Operational Fixed and the International Control stations on a shared basis. Because of the apparent need for short-range dissemination of instructional material by educational television interests, the relatively light usage then being made by the operational fixed service, and the desire to provide manufacturers with incentive to develop equipment operating in a specific band, as well as the ability to provide up to 31.6 MHz television channels in the 2500-2690 MHz band, the band was made available for ITFS purposes under sharing conditions presently existing. A review was to have been undertaken 3 years later (1966) to determine the extent to which educational interests had been able to make use of the band. Because the Commission was aware of the problems encountered by the educational interests in preparing, funding and implementing the new "tool" as well as in developing the operational expertise, that review was delayed. Increasing demands for accommodating

new services in the finite radio spectrum were therefore largely responsible for initiating the further notice of proposed rule making.

9. It is possible that, in view of the emphasis being placed on education at all levels, formal and informal, children and adults coupled with the development of new technology and methods of transmission (cable, satellite, etc.), formation of a policy regarding educational communication may be needed. These views are underscored by the comments and studies cited above as well as by other information before the Commission. Issues such as assignment of the channels to State or local governments and municipalities for time sharing by school, public safety and adult education; possible need for additional spectrum; possible need for establishment of educational auxiliary services, etc., could affect the potential interrelationship with the commercial broadcasting system, cable television, or ultimately, the determination of a mass media distribution policy. Since the proceeding was limited in scope, we must confine our considerations at this time to the issues proposed therein. Nonetheless, the Commission will continue to monitor the developing educational communication needs in the light of new techniques and demands and will consider initiating rule making as appropriate.

10. In response to the need for spectrum in which inservice training and instruction in special skills and safety programs can be met by television it should be pointed out that present rules permit such operation by certain government organizations on the frequencies allocated to the ITFS subject to certain eligibility requirements. Although the primary use is by the local school system, college or university, the facilities can also be used to meet many of those training needs. The Commission sees no valid reason at present why those rules should be changed.

11. With respect to the need for video transmission by operational fixed entities, there is no doubt that a need exists. Although only 16 stations have been so licensed to date in the 2500-2690 MHz band, it is believed the uncertainty with respect to the long-term status of operational fixed licensees in that band is largely responsible for the limited usage. In view of the congestion prevalent in other bands allocated to the operational fixed services coupled with the difference in technical standards involved, video would be difficult to accommodate in bands other than 2500-2690 MHz. Thus we are of the opinion that accommodation of video transmission for operational fixed services in at least some portion of the 2500-2690 MHz band is warranted.

12. As stated in paragraph 4, above, the comments did not evoke sufficient data with which a determination could be made regarding the operational fixed services. On balance and, bearing in mind the probable need for a review of the entire educational communications pol-

icy at some time in the near future, the Commission is of the opinion that the immediately foreseeable needs of the educators can be accommodated by allocating 28 channels (Groups A-G, § 74.902 of the rules plus the corresponding response frequencies listed in § 74.939) to the ITFS on an exclusive basis. By providing the exclusivity desired by the educators, planning of the systems as well as usage should be simplified since they will not need to consider the operations of new non-ITFS systems. We would hope that these channels will be used to provide for the full range of permissible services as defined in section 74.931 of the rules, thereby promoting optimum spectrum utilization.

13. With respect to the remaining three two-way channels (Group H, as defined by § 74.902 and their response channels) the Commission believes they should be allocated to the Operational Fixed Services on an exclusive basis. It is further believed that those channels should be suballocated to the Public Safety Services (Part 89 of the rules) on a primary basis and to the other services eligible for using operational fixed frequencies on a secondary basis. Such action will meet the needs of county and municipal governments to provide specialized training for police and fire, etc., departments which cannot afford to contract their training requirements to educational institutions or to establish nonprofit organizations which are eligible to use ITFS frequencies under section 74.932 of the rules. At the same time, other operational fixed users will have broader options in meeting their training and industrial needs, but will have to accept secondary status while doing so. Another alternative for general public use, including industry, was provided by the Commission in a July 30, 1970 (Memorandum Opinion and Order, FCC 70-819) when the band 2150-2160 MHz was made available for omnidirectional relay of television signals by common carriers. Since that time, a number of applications to provide that service have been received. Thus, many of the needs for provision of instructional training can be met in that manner.

14. For those stations presently authorized which are operating out-of-band, the Commission believes continued operation on a coequal "grandfathered" basis will be in the overall public interest, particularly since existing systems have been constructed to accommodate each other and we are unaware that any interference problems have arisen. Accordingly, existing licensees may, upon expiration of their present term of assignment, elect to apply for either renewal/modification of their present assignment or apply for a new assignment in a properly allocated band. No expansion of existing systems on frequencies not allocated to the service will be permitted, however.

15. With respect to the comments concerning the apparent incompatibility with the U.S. proposals for the WARC contained in Docket 18294, the Commission does not believe the decisions

reached herein present any such conflict. First of all, it should be noted the proposals to the WARC are just that, nothing more. There is no assurance that the proposals will be accepted by the international community. Consequently, the Commission is free to make its decisions based upon the present allocation table. Second, assuming the proposals are adopted, it should be pointed out that the proposed use of the 2500-2690 MHz band is as a down-link, viz., from the satellite to the earth and is intended to augment the ITFS. The powers which would be utilized at the satellite would be such as to be compatible with the terrestrial ITFS systems and no interference problems should be experienced. Finally, the location of earth stations will require careful coordination with all other users of the 2500-2690 MHz band. Since the technical parameters of ITFS systems will be the same for operational fixed systems, no particular problems should arise. Further, the directivity of the earth station antenna coupled with whatever shielding may be necessary should afford ample protection.

16. Accordingly, it is ordered, That pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, Parts 2, 74, 87, 89, 91, and 93 of the rules are amended as shown below effective July 16, 1971.

17. It is further ordered, That, the proceedings in Docket 14744 are hereby terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: June 8, 1971.

Released: June 14, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,²
[SEAL] BEN F. WAPLE,
Secretary.

Parts 2, 74, 87, 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

A. Part 2 of the rules is amended as follows:

§ 2.106 [Amended]

1. Section 2.106 is amended by deleting the words "International Control" from column 9 of the Table of Frequency Allocations in the band 2500-2690 MHz. Also, footnote NG47 is amended to read as follows:

NG47 In the band 2500-2690 MHz, the television channels 2650-2656 MHz, 2662-2668 MHz, and 2674-2680 MHz and the corresponding response frequencies 2686-9375

² Dissenting opinion of Commissioners Burch, Chairman, Bartley, and Houser filed as part of the original document.

MHz, 2687.9375 MHz, and 2688.9375 MHz may be assigned to operational fixed stations in the Public Safety Services (Part 89 of this chapter) on a primary basis and to operational fixed stations in other services on a secondary basis. Such assignments are subject to the condition that all operational fixed stations must comply with the technical standards applicable to stations in the Instructional Television Fixed Service contained in Subpart I of Part 74 of this chapter. All other frequencies in this band are available for assignment only to stations in the Instructional television fixed service. Stations authorized in this band as of July 16, 1971, which do not comply with the above provisions may continue to operate on their presently assigned frequencies on a coequal basis with other stations operating in accordance with the Table of Frequency Allocations. Requests for subsequent license renewals or modifications of existing licenses will be considered; however, expansion of systems comprised of such stations will not be permitted.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

B. Part 74 of the rules is amended as follows:

1. Section 74.902 is amended by deleting the Group H channels listed in paragraph (a), and by amending paragraph (b) to read as follows:

§ 74.902 Frequency assignments.

(b) Instructional Television Fixed Stations authorized to operate on Channels 2650-2656, 2662-2668, and 2674-2680 MHz as of July 16, 1971, may continue to operate on a co-equal basis with other stations operating in accordance with the Table of Frequency Allocations. Requests for subsequent renewals or modification of existing licenses will be considered; however, expansion of systems comprised of such stations will not be permitted except on frequencies allocated for the service.

C. In § 74.939(d), the table is amended by deleting the Group H response frequencies, the unpaired frequency following, and the note at the end.

PART 87—AVIATION SERVICES

D. Part 87 of the rules is amended as follows:

1. In § 87.463 the list of frequencies in paragraph (b) is amended by deleting the band 2500-2690 MHz and substituting the frequencies listed below, footnote (5) is revised and a new footnote (6) is added to read as follows:

§ 87.463 Frequencies available to fixed stations.

(b)

2650-2656 *
2662-2668 *
2674-2680 *

2686.9375 *
2687.9375 *
2688.9375 *

(5) This frequency band is available only for operational fixed stations employing television transmissions. The transmitting equipment for such stations shall meet the technical standards prescribed for instructional television fixed stations contained in Part 74, Subpart I, § 74.901, et seq. of this chapter. Use of these frequencies in the Aviation Services is secondary to stations in the Public Safety Radio Service. Operational fixed stations authorized in the band 2500-2690 MHz prior to July 16, 1971, may continue to be authorized on a coequal basis to other stations operating in accordance with the Table of Frequency Allocations. No expansion of existing systems on frequencies not allocated to this service will be permitted. Additional stations or new assignments may be authorized only in accordance with the provision of this section.

(6) Response frequencies. When authorized they are to be paired respectively with the bands 2650-2656, 2662-2668, and 2674-2680 MHz, and used in accordance with the technical standards prescribed for ITFS response stations in Part 74, Subpart I, of this chapter.

PART 89—PUBLIC SAFETY RADIO SERVICES

E. Part 89 of the rules is amended as follows:

1. In § 89.101, the table in paragraph (h) is amended by deleting the band 2500-2690 MHz and substituting the frequencies listed below, paragraph (i) is amended by revising subparagraph (8) and adding a new subparagraph (19) to read as follows:

§ 89.101 Frequencies.

(h)

Frequency band - MHz	Class of station(s)	Limitations
2650-2656	Operational fixed	8
2662-2668	do	8
2674-2680	do	8
2686-9375	do	19
2687-9375	do	19
2688-9375	do	19

(i)
(8) This frequency band is available only for operational fixed stations employing television transmissions. The transmitting equipment for such stations shall meet the technical standards contained in Part 74, Subpart I, § 74.901, et seq. of this chapter. Use of these frequencies in the Aviation, Industrial, and Land Transportation Radio Services is secondary to stations in the Public Safety Radio Service. Operational fixed stations authorized in the band 2500-2690 MHz prior to July 16, 1971, may continue to be authorized on a coequal basis to other stations operating in accordance with the Table of Frequency Allocations. No

expansion of existing systems on frequencies not allocated to this service will be permitted. Additional stations or new assignments may be authorized only in accordance with the provision of this section.

(19) Response frequencies: When authorized they are to be paired respectively with the bands 2650-2656, 2662-2668, and 2674-2680 MHz, and used in accordance with the Technical standards prescribed for ITFS response stations in Part 74, Subpart I, of this chapter.

PART 91—INDUSTRIAL RADIO SERVICES

F. Part 91 of the rules is amended as follows:

1. In § 91.111 the table of frequencies in paragraph (a) is amended by deleting the band 2500-2690 MHz and substituting the frequencies listed below, footnote (6) is revised and a new footnote (9) is added to read as follows:

§ 91.111 Microwave technical standards.
(a)

MICROWAVE TECHNICAL STANDARDS TABLE

Frequency band—MHz	Power† (watts)	Toler- ance (percent)	Band- width ‡	Beam width ‡ (degrees)
2550-2656	100	±1	10	10
2662-2668	100	±1	10	10
2674-2680	100	±1	10	10
2686-2690	100	±1	10	10
2696-2702	100	±1	10	10
2708-2714	100	±1	10	10
2720-2726	100	±1	10	10
2732-2738	100	±1	10	10
2744-2750	100	±1	10	10
2756-2762	100	±1	10	10
2768-2774	100	±1	10	10
2780-2786	100	±1	10	10
2792-2798	100	±1	10	10
2804-2810	100	±1	10	10
2816-2822	100	±1	10	10
2828-2834	100	±1	10	10
2840-2846	100	±1	10	10
2852-2858	100	±1	10	10
2864-2870	100	±1	10	10
2876-2882	100	±1	10	10
2888-2894	100	±1	10	10
2896-2902	100	±1	10	10
2908-2914	100	±1	10	10
2920-2926	100	±1	10	10
2932-2938	100	±1	10	10
2944-2950	100	±1	10	10
2956-2962	100	±1	10	10
2968-2974	100	±1	10	10
2980-2986	100	±1	10	10
2992-2998	100	±1	10	10
3004-3010	100	±1	10	10
3016-3022	100	±1	10	10
3028-3034	100	±1	10	10
3040-3046	100	±1	10	10
3052-3058	100	±1	10	10
3064-3070	100	±1	10	10
3076-3082	100	±1	10	10
3088-3094	100	±1	10	10
3096-3102	100	±1	10	10
3108-3114	100	±1	10	10
3120-3126	100	±1	10	10
3132-3138	100	±1	10	10
3144-3150	100	±1	10	10
3156-3162	100	±1	10	10
3168-3174	100	±1	10	10
3180-3186	100	±1	10	10
3192-3198	100	±1	10	10
3204-3210	100	±1	10	10
3216-3222	100	±1	10	10
3228-3234	100	±1	10	10
3240-3246	100	±1	10	10
3252-3258	100	±1	10	10
3264-3270	100	±1	10	10
3276-3282	100	±1	10	10
3288-3294	100	±1	10	10
3296-3302	100	±1	10	10
3308-3314	100	±1	10	10
3320-3326	100	±1	10	10
3332-3338	100	±1	10	10
3344-3350	100	±1	10	10
3356-3362	100	±1	10	10
3368-3374	100	±1	10	10
3380-3386	100	±1	10	10
3392-3398	100	±1	10	10
3404-3410	100	±1	10	10
3416-3422	100	±1	10	10
3428-3434	100	±1	10	10
3440-3446	100	±1	10	10
3452-3458	100	±1	10	10
3464-3470	100	±1	10	10
3476-3482	100	±1	10	10
3488-3494	100	±1	10	10
3496-3502	100	±1	10	10
3508-3514	100	±1	10	10
3520-3526	100	±1	10	10
3532-3538	100	±1	10	10
3544-3550	100	±1	10	10
3556-3562	100	±1	10	10
3568-3574	100	±1	10	10
3580-3586	100	±1	10	10
3592-3598	100	±1	10	10
3604-3610	100	±1	10	10
3616-3622	100	±1	10	10
3628-3634	100	±1	10	10
3640-3646	100	±1	10	10
3652-3658	100	±1	10	10
3664-3670	100	±1	10	10
3676-3682	100	±1	10	10
3688-3694	100	±1	10	10
3696-3702	100	±1	10	10
3708-3714	100	±1	10	10
3720-3726	100	±1	10	10
3732-3738	100	±1	10	10
3744-3750	100	±1	10	10
3756-3762	100	±1	10	10
3768-3774	100	±1	10	10
3780-3786	100	±1	10	10
3792-3798	100	±1	10	10
3804-3810	100	±1	10	10
3816-3822	100	±1	10	10
3828-3834	100	±1	10	10
3840-3846	100	±1	10	10
3852-3858	100	±1	10	10
3864-3870	100	±1	10	10
3876-3882	100	±1	10	10
3888-3894	100	±1	10	10
3896-3902	100	±1	10	10
3908-3914	100	±1	10	10
3920-3926	100	±1	10	10
3932-3938	100	±1	10	10
3944-3950	100	±1	10	10
3956-3962	100	±1	10	10
3968-3974	100	±1	10	10
3980-3986	100	±1	10	10
3992-3998	100	±1	10	10
4004-4010	100	±1	10	10
4016-4022	100	±1	10	10
4028-4034	100	±1	10	10
4040-4046	100	±1	10	10
4052-4058	100	±1	10	10
4064-4070	100	±1	10	10
4076-4082	100	±1	10	10
4088-4094	100	±1	10	10
4096-4102	100	±1	10	10
4108-4114	100	±1	10	10
4120-4126	100	±1	10	10
4132-4138	100	±1	10	10
4144-4150	100	±1	10	10
4156-4162	100	±1	10	10
4168-4174	100	±1	10	10
4180-4186	100	±1	10	10
4192-4198	100	±1	10	10
4204-4210	100	±1	10	10
4216-4222	100	±1	10	10
4228-4234	100	±1	10	10
4240-4246	100	±1	10	10
4252-4258	100	±1	10	10
4264-4270	100	±1	10	10
4276-4282	100	±1	10	10
4288-4294	100	±1	10	10
4296-4302	100	±1	10	10
4308-4314	100	±1	10	10
4320-4326	100	±1	10	10
4332-4338	100	±1	10	10
4344-4350	100	±1	10	10
4356-4362	100	±1	10	10
4368-4374	100	±1	10	10
4380-4386	100	±1	10	10
4392-4398	100	±1	10	10
4404-4410	100	±1	10	10
4416-4422	100	±1	10	10
4428-4434	100	±1	10	10
4440-4446	100	±1	10	10
4452-4458	100	±1	10	10
4464-4470	100	±1	10	10
4476-4482	100	±1	10	10
4488-4494	100	±1	10	10
4496-4502	100	±1	10	10
4508-4514	100	±1	10	10
4520-4526	100	±1	10	10
4532-4538	100	±1	10	10
4544-4550	100	±1	10	10
4556-4562	100	±1	10	10
4568-4574	100	±1	10	10
4580-4586	100	±1	10	10
4592-4598	100	±1	10	10
4604-4610	100	±1	10	10
4616-4622	100	±1	10	10
4628-4634	100	±1	10	10
4640-4646	100	±1	10	10
4652-4658	100	±1	10	10
4664-4670	100	±1	10	10
4676-4682	100	±1	10	10
4688-4694	100	±1	10	10
4696-4702	100	±1	10	10
4708-4714	100	±1	10	10
4720-4726	100	±1	10	10
4732-4738	100	±1	10	10
4744-4750	100	±1	10	10
4756-4762	100	±1	10	10
4768-4774	100	±1	10	10
4780-4786	100	±1	10	10
4792-4798	100	±1	10	10
4804-4810	100	±1	10	10
4816-4822	100	±1	10	10
4828-4834	100	±1	10	10
4840-4846	100	±1	10	10
4852-4858	100	±1	10	10
4864-4870	100	±1	10	10
4876-4882	100	±1	10	10
4888-4894	100	±1	10	10
4896-4902	100	±1	10	10
4908-4914	100	±1	10	10
4920-4926	100	±1	10	10
4932-4938	100	±1	10	10
4944-4950	100	±1	10	10
4956-4962	100	±1	10	10
4968-4974	100	±1	10	10
4980-4986	100	±1	10	10
4992-4998	100	±1	10	10
5004-5010	100	±1	10	10
5016-5022	100	±1	10	10
5028-5034	100	±1	10	10
5040-5046	100	±1	10	10
5052-5058	100	±1	10	10
5064-5070	100	±1	10	10
5076-5082	100	±1	10	10
5088-5094	100	±1	10	10
5096-5102	100	±1	10	10
5108-5114	100	±1	10	10
5120-5126	100	±1	10	10
5132-5138	100	±1	10	10
5144-5150	100	±1	10	10
5156-5162	100	±1	10	10
5168-5174	100	±1	10	10
5180-5186	100	±1	10	10
5192-5198	100	±1	10	10
5204-5210	100	±1	10	10
5216-5222	100	±1	10	10
5228-5234	100	±1	10	10
5240-5246	100	±1	10	10
5252-5258	100	±1	10	10
5264-5270	100	±1	10	10
5276-5282	100	±1	10	10
5288-5294	100	±1	10	10
5296-5302	100	±1	10	10
5308-5314	100	±1	10	10
5320-5326	100	±1	10	10
5332-5338	100	±1	10	10
5344-5350	100	±1	10	10
5356-5362	100	±1	10	10
5368-5374	100	±1	10	10
5380-5386	100	±1	10	10
5392-5398	100	±1	10	10
5404-5410	100	±1	10	10
5416-5422	100	±1	10	10
5428-5434	100	±1	10	10
5440-5446	100	±1	10	10
5452-5458	100	±1	10	10
5464-5470	100	±1	10	10
5476-5482	100	±1	10	10
5488-5494	100	±1	10	10
5496-5502	100	±1	10	10
5508-5514	100	±1	10	10
5520-5526	100	±1	10	10
5532-5538	100	±1	10	10
5544-5550	100	±1	10	10
5556-5562	100	±1	10	10
5568-5574	100	±1	10	10
5580-5586	100	±1	10	10
5592-5598	100	±1	10	10
5604-5610	100	±1	10	10
5616-5622	100	±1	10	10
5628-5634	100	±1	10	10
5640-5646	100	±1	10	10
5652-5658	100	±1	10	10
5664-5670	100	±1	10	10
5676-5682	100	±1	10	10
5688-5694	100	±1	10	10
5696-5702	100	±1	10	10
5708-5714	100	±1	10	10
5720-5726	100	±1	10	10</

- Sec.
1.124 Division of Compliance.
1.125 Division of Nuclear Materials Safeguards.
1.126 Division of State and Licensee Relations.

Subpart C—Principal Field Offices

- 1.130 General line of authority.
1.131 Albuquerque Operations Office.
1.132 Chicago Operations Office.
1.133 Grand Junction Office.
1.134 Idaho Operations Office.
1.135 Nevada Operations Office.
1.136 New York Operations Office.
1.137 Oak Ridge Operations Office.
1.138 Pittsburgh Naval Reactors Office.
1.139 Richland Operations Office.
1.140 San Francisco Operations Office.
1.141 Savannah River Operations Office.
1.142 Schenectady Naval Reactors Office.

Subpart D—Seal and Flag

- 1.150 Description and custody of seal.
1.151 Use of the seal or replicas.
1.152 Establishment of the official AEC flag.
1.153 Use of the AEC flag.
1.154 Report of violations.

AUTHORITY: The provisions of this Part 1 are issued under the Atomic Energy Act of 1954, as amended, 68 Stat. 919-961, 42 U.S.C. sec. 2011 et seq., and the Administrative Procedure Act, 5 U.S.C. secs. 552 and 553.

Subpart A—Introduction

§ 1.1 Creation and authority.

The Atomic Energy Commission was established by the Atomic Energy Act of 1946 (60 Stat. 755; 42 U.S.C. 1881 et seq.) approved August 1, 1946, as amended by the Atomic Energy Act of 1954 (68 Stat. 919; 42 U.S.C. 2011 et seq.) approved August 30, 1954 (as amended, called in this part the "Act"). The purpose and statutory programs of the Commission are prescribed by chapter 1 of the Act. As used in this part, the term "Commission" means the five members of the Atomic Energy Commission; "AEC" means the Atomic Energy Commission agency.

§ 1.2 Sources of additional information.

The definitive statement of the AEC's organization, policies, procedures, assignments of responsibility and delegations of authority is in the Atomic Energy Commission Manual and other elements of the Management Directives System, including local directives issued by Headquarters and Field Offices of the AEC. Copies of the manual and other elements of the Management Directives System are available for public inspection and copying at the Public Document Room, 1717 H Street NW., Washington, DC, and at each of the Field Offices. Information may also be obtained from the Division of Public Information at Headquarters, or from a public information officer at a Field Office.

§ 1.3 Location of principal offices.

(a) The principal AEC Headquarters building is located in Germantown, Md. As a part of the Headquarters, facilities are maintained within the District of Columbia at 1717 H Street NW., for the service of process and papers and for other functions. As another part of Headquarters, facilities of the regulatory staff and certain other divisions are maintained at 7920 Norfolk Avenue, Bethesda, MD. The mail address of Headquarters is Washington, D.C. 20545.

(b) The addresses of the principal field offices (see Part 1, Subpart C) are:

- (1) Albuquerque Operations Office, USAEC, Post Office Box 5400, Albuquerque, NM 87115.
- (2) Chicago Operations Office, USAEC, 9800 South Cass Avenue, Argonne, IL 60439.
- (3) Grand Junction Office, USAEC, Post Office Box 2567, Grand Junction, CO 81501.
- (4) Idaho Operations Office, USAEC, Post Office Box 2108, Idaho Falls, ID 83401.
- (5) Nevada Operations Office, USAEC, Post Office Box 1676, Las Vegas, NV 89101.
- (6) New York Operations Office, USAEC, 376 Hudson Street, New York, NY 10014.
- (7) Oak Ridge Operations Office, USAEC, Post Office Box E, Oak Ridge, TN 37830.
- (8) Pittsburgh Naval Reactors Office, USAEC, Post Office Box 109, West Mifflin, PA 15122.
- (9) Richland Operations Office, USAEC, Post Office Box 550, Richland, WA 99352.
- (10) San Francisco Operations Office, USAEC, 2111 Bancroft Way, Berkeley, CA 94704.
- (11) Savannah River Operations Office, USAEC, Post Office Box A, Aiken, SC 29801.
- (12) Schenectady Naval Reactors Office, USAEC, Post Office Box 1069, Schenectady, NY 12301.

(c) The addresses of the regional offices of the Division of Compliance (see § 1.124) are:

- (1) Region I, Division of Compliance, USAEC, 970 Broad Street, Newark, NJ 07102.
- (2) Region II, Division of Compliance, USAEC, 230 Peachtree Street NW., Atlanta, GA 30303.
- (3) Region III, Division of Compliance, USAEC, 799 Roosevelt Road, Glen Ellyn, IL 60137.
- (4) Region IV, Division of Compliance, USAEC, 10395 West Colfax, Denver, CO 80215.
- (5) Region V, Division of Compliance, USAEC, 2111 Bancroft Way, Berkeley, CA 94704.

(d) The addresses of district offices of the Division of Nuclear Materials Safeguards (see § 1.125) are:

- (1) District I Safeguards Office, USAEC, 970 Broad Street, Newark, NJ 07102.
- (2) District II Safeguards Office, USAEC, Post Office Box E, Oak Ridge, TN 37830.
- (3) District III Safeguards Office, USAEC, 2111 Bancroft Way, Berkeley, CA 94704.

Subpart B—Headquarters

§ 1.10 The Commission.

The Atomic Energy Commission, composed of five members, one of whom is designated by the President as Chairman, is established pursuant to section 21 of the Act. The following officials and staff units report directly to the Commission: the General Manager, the Director of Regulation, the Secretary, General Counsel, Controller, Director of Safeguards and Materials Management, Division of Inspection, Office of Hearing Examiners, Board of Contract Appeals, Atomic Safety and Licensing Board Panel, Atomic Safety and Licensing Appeal Board, and other committees and boards which are authorized or established specifically by the Act (see §§ 1.22 and 1.23.)

OFFICERS AND OFFICES REPORTING TO THE COMMISSION

§ 1.11 General Manager.

The General Manager is the chief executive officer of the AEC. He is authorized to discharge the administrative and executive (as distinguished from the regulatory) functions of the AEC. The Deputy General Manager is authorized to perform the administrative and executive functions of the General Manager except those for which redelegation of authority is prohibited by statute. The Assistant General Manager performs such functions as the General Manager may authorize. The assistant to the General Manager serves as AEC Contract Compliance Officer. Contract Compliance offices are located in New York, Oak Ridge, Chicago, and Albuquerque. Assistant General Managers for various functions are supervised by the General Manager.

§ 1.12 Director of Regulation.

The Director of Regulation discharges the licensing and other regulatory functions of the AEC, except where final decisions rests with a hearing examiner, an atomic safety and licensing board, or the Commission after hearing. He may issue amendments of regulations if the amendments are corrective or are of a minor or nonpolicy nature which do not substantially modify existing regulations affecting the public health and safety, the common defense and security or substantive or procedural rights. The Deputy Director of Regulation is authorized to act in the stead of the Director of Regulation during his absence. The Assistant Director for Administration performs administrative functions assigned by the Director of Regulation.

§ 1.13 Office of the Secretary of the Commission.

The Office of the Secretary of the Commission is under the supervision of the Secretary of the Commission who reports to the Commission but is also responsible for providing advice and services to the General Manager and the Director of Regulation. The Office develops and administers policies and procedures for secretariat services for the Commission's business and implementation of decisions of the Commission; advises and assists the Commission, the General Manager, and the Director of Regulation in the conduct and scheduling of business of the Commission; administers the AEC history program; and provides administrative support and liaison for advisory committees and certain offices which report directly to the Commission.

§ 1.14 Office of the General Counsel.

The Office of the General Counsel is under the supervision of the General Counsel, who is responsible to the Commission for all legal advice and assistance given by the Office, and furnishes to the General Manager and the Director of Regulation legal advice and assistance necessary to their respective responsibilities. The Office provides legal opinions

and counsel on matters concerning the AEC, and administers the patent provisions of the Atomic Energy Act.

§ 1.15 Office of the Controller.

The Office of the Controller is under the supervision of the Controller, who is the chief financial officer of the AEC. The Controller reports administratively to the General Manager, but provides advice and counsel directly to the Commission on financial matters. The Office develops and maintains the AEC's financial management program, administers the financial functions for Headquarters, and certain centralized financial operations; and monitors appraisal systems.

§ 1.16 Office of Safeguards and Materials Management.

The Office of Safeguards and Materials Management is under the supervision of a Director, who reports to the General Manager, but provides advice directly to the Commission on safeguards matters. The Office develops and coordinates the AEC's policies and programs for safeguarding source, special nuclear, and other materials. It develops policies for management and accountability of nuclear materials, and directs the implementation of safeguards and materials management policies affecting field offices and nonlicensed contractors.

§ 1.17 Division of Inspection.

The Division of Inspection is under the supervision of a Director, who makes reports to the General Manager and the Director of Regulation on matters under their respective responsibilities. If in the Director's opinion his recommendations are not followed by the General Manager or the Director of Regulation, he may report to the Commission. The Division gathers information to show whether contractors, licensees, and officers and employees of the AEC are complying with the provisions of the Act and the rules and regulations of the AEC.

§ 1.18 Office of Hearing Examiners.

The Office of Hearing Examiners is under the supervision of the Chief Hearing Examiner. The Office of Hearing Examiners is responsible for conducting hearings and issuing orders and decisions in licensing and other regulatory cases and other adjudicatory proceedings, patent licensing matters under section 153 of the Act, and civil rights matters under the Civil Rights Act of 1964, all as assigned by the Commission.

§ 1.19 Board of Contract Appeals.

The Board of Contract Appeals is under the supervision of a Chairman, who is responsible directly to the Commission. The Board decides appeals from decisions of AEC contracting officers under disputes articles of the contracts, assesses liquidated damages pursuant to section 104(c) of the Contract Work Hours Standards Act, decides proceedings for debarment of contractors, and may perform other functions in contract administration as assigned by the Commission.

§ 1.20 Atomic Safety and Licensing Board Panel.

The Atomic Safety and Licensing Board Panel's activities are supervised and coordinated by a permanent Chairman and Vice Chairman. The Panel is composed of members who serve on individual boards as assigned. Section 191 of the Act authorizes the Commission to establish one or more atomic safety and licensing boards (see § 1.22(d)). The boards conduct such hearings as the Commission may direct and make such intermediate or final decisions as it may authorize in proceedings to grant, suspend, revoke, or amend licenses or authorizations.

§ 1.21 Atomic Safety and Licensing Appeal Board.

The Atomic Safety and Licensing Appeal Board is composed of the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel and a third member designated by the Commission. The Appeal Board reviews initial decisions of presiding officers, including atomic safety and licensing boards, in (a) such licensing proceedings as may be referred to it by the Commission, (b) proceedings on applications for authorizations under Part 115 of this chapter, and (c) proceedings on applications for licenses under Part 5 of this chapter, for facilities as to which the Commission has made an arrangement for financial assistance under section 31 of the Act, or has waived charges for use of special nuclear material or source material under section 53c(4) or 63c of the Act.

§ 1.22 Committees and boards authorized specifically by the Act.

(a) The General Advisory Committee is established by section 26 of the Act. The members are appointed by the President to advise the Commission on scientific and technical matters relating to materials, production, and research and development.

(b) The Advisory Committee on Reactor Safeguards is established by section 29 of the Act. The Committee reviews safety studies and facility license applications referred to it and makes reports on them, and advises the Commission with regard to the hazards of proposed or existing production and utilization facilities and the adequacy of proposed facility safety standards.

(c) The Military Liaison Committee is established by section 27 of the Act. It serves as liaison between the Commission and the Department of Defense with regard to all atomic energy matters which relate to military applications of atomic weapons or atomic energy.

(d) The Atomic Safety and Licensing Board Panel (see § 1.20) is established pursuant to section 191 of the Act.

(e) The Patent Compensation Board is established by section 157 of the Act. The Board determines just compensation or reasonable royalties when certain actions specified in the Act are taken with regard to patents.

§ 1.23 Other committees, boards, and panels.

(a) Additional committees, boards and panels have been established by the Commission pursuant to section 161a of the Act, as follows:

- (1) Advisory Committee on Isotopes and Radiation Developments;
- (2) High Energy Physics Advisory Panel;
- (3) Advisory Committee on Medical Uses of Isotopes;
- (4) Plowshare Advisory Committee;
- (5) Advisory Committee for Biology and Medicine;
- (6) Advisory Committee on Reactor Physics;
- (7) Committee of Senior Reviewers;
- (8) Nuclear Cross Sections Advisory Committee;
- (9) Historical Advisory Committee;
- (10) Mathematics and Computer Sciences Research Advisory Committee;
- (11) Personnel Security Review Board;
- (12) Labor-Management Advisory Committee;
- (13) Advisory Committee on Technical Information;
- (14) Personnel Security Boards;
- (15) Technical Information Panel;
- (16) Standing Committee on Controlled Thermonuclear Research;
- (17) Advisory Committee on Nuclear Materials Safeguards.

(b) The Atomic Energy Labor Management Relations Panel supplements regular conciliation and mediation processes in labor-management disputes in the atomic energy program. The Panel was established at the direction of the President on March 24, 1953, and was transferred from the Federal Mediation and Conciliation Service to the AEC, effective July 1, 1956.

OFFICES AND DIVISIONS SUPERVISED BY THE GENERAL MANAGER

§ 1.25 Office of Congressional Relations.

The Office of Congressional Relations is under the supervision of a Director who reports to the General Manager. The Office provides advice and assistance to the Commission, the General Manager, the Director of Regulation, and principal staff on congressional matters; coordinates or supervises all intra-agency congressional relations activities; and maintains liaison with congressional committees and Members of Congress.

§ 1.26 Division of Industrial Participation.

The Division of Industrial Participation is under the supervision of a Director who reports to the General Manager. The Division is a focal point for industry with the objective of encouraging private participation and investment in the development and utilization of atomic energy.

§ 1.27 Division of Intelligence.

The Division of Intelligence directs the intelligence functions of the AEC.

§ 1.28 Division of Public Information.

The Division of Public Information develops and directs programs for informing the public about AEC policies, programs, and activities; conducts the public information program for Headquarters; and coordinates the public information programs of Field Offices.

§ 1.29 Office of Environmental Affairs.

The Office of Environmental Affairs is under the supervision of a Director who reports to the General Manager. The office provides advice and assistance to the General Manager on environmental matters, serves as a focal point for contacts with outside organizations on environmental matters.

ASSISTANT GENERAL MANAGERS AND OFFICES SUPERVISED BY THEM

§ 1.40 Assistant General Manager for Administration.

The Assistant General Manager for Administration develops policies and assists AEC staff in matters of administration and organization; develops policies covering classification and declassification of information, office management, procurement services, personnel administration, organization and management analysis, personnel and physical security, management information systems, telecommunications, and dissemination of technical information; manages AEC-wide telecommunications switching systems; manages AEC Headquarters automatic data processing, management information, and telecommunications facilities and services.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR ADMINISTRATION

§ 1.41 Division of Personnel.

The Division of Personnel develops and directs programs for personnel administration, organization and management analysis, management directives, and staff requirements and controls.

§ 1.42 Division of Classification.

The Division of Classification develops, recommends, and administers policies, standards, and procedures for classification and declassification of information.

§ 1.43 Division of Security.

The Division of Security coordinates and administers programs for personnel and physical security involving protection of Restricted Data and other classified information, protection of facilities, equipment and materials of security interest, and determination of eligibility for access to Restricted Data and other classified information.

§ 1.44 Division of Headquarters Services.

The Division of Headquarters Services develops and directs programs for provision of services and facilities for Headquarters, and develops policies and procedures for AEC printing and duplicating.

§ 1.45 Division of Technical Information.

The Division of Technical Information develops and administers policies and programs for the communication of scientific and technical information in nuclear science and engineering to scientists, scholars, and the public. The Division supervises the Division of Technical Information Extension at Oak Ridge.

§ 1.46 Division of Management Information and Telecommunications Systems.

The Division of Management Information and Telecommunications Systems develops and establishes policies, objectives, standards, and procedures for AEC automated management information systems and AEC telecommunications systems; and manages Headquarters automatic data process facilities, AEC-wide telecommunications switching systems, and Headquarters telecommunication facilities.

INTERNATIONAL ACTIVITIES

§ 1.50 Assistant General Manager for International Activities.

The Assistant General Manager for International Activities develops and directs a program of international cooperation in peaceful uses of atomic energy, and maintains liaison for that purpose with the Department of State, other executive branch agencies and Departments, Congress, international organizations, and foreign governments; and develops, coordinates and executes certain AEC activities in support of the Administration's disarmament program.

DIVISION SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR INTERNATIONAL ACTIVITIES

§ 1.51 Division of International Affairs.

The Division of International Affairs develops and administers a program of international cooperation in atomic energy, and maintains liaison for that purpose with the Department of State, other Federal agencies, international organizations, and foreign governments. The Division supervises AEC foreign offices at Bombay, Brussels, Buenos Aires, London, Paris, Rio de Janeiro, and Tokyo.

OPERATIONS

§ 1.60 Assistant General Manager for Operations.

The Assistant General Manager for Operations assists the General Manager in all matters involving supervision of Operations Offices, develops policies regarding and provides AEC-wide services involving contracting, operational safety, engineering and construction, waste and scrap management, labor relations, community affairs, economic impact of AEC program changes in affected geographic areas, and Federal-State cooperation for improvement of workmen's compensation laws related to radiation injuries.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR OPERATIONS

§ 1.61 Division of Contracts.

The Division of Contracts establishes and maintains policies, standards, and procedures for contracting and procurement and for personal property and supply management, transportation and traffic management, real estate management, and emergency, disaster, and mobilization planning; and provides centralized coordination of Headquarters contract actions and field actions requiring Headquarters approval, and assistance to Headquarters and field offices in obtaining equipment and materials.

§ 1.62 Division of Operational Safety.

The Division of Operational Safety develops and directs programs for the protection of Government and contractor personnel, the public, and property from hazards resulting from operations of AEC not subject to license.

§ 1.63 Division of Construction.

The Division of Construction develops policies, standards, and procedures for, and provides functional direction of, AEC-wide activities related to the design and construction of facilities and the supply of utility services except telecommunications, and review and coordination of related contractual matters; serves as a focal point in Headquarters on maintenance management.

§ 1.64 Division of Labor Relations.

The Division of Labor Relations develops and administers industrial relations policies, standards, and guides applicable to contract operations, and assists in their administration.

§ 1.65 Division of Waste and Scrap Management.

The Division of Waste and Scrap Management is responsible for nuclear waste and scrap management activities, providing for consistent policy determinations and coordinated management of waste disposal and nuclear scrap at AEC facilities.

DEVELOPMENT AND PRODUCTION

§ 1.70 Assistant General Manager for Development and Production.

The Assistant General Manager for Development and Production develops policies relating to programs for procurement, management and disposition of source materials, the assessment of uranium reserves and resources, and the manufacture of special nuclear and other special materials, and research and development on the production and application of radioisotopes and other byproduct material, uranium geology, exploration techniques, and extraction processes, and the development and use of nuclear explosives for peaceful purposes. In assigned areas, he provides program direction, review and coordination of the multiprogram laboratories.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR DEVELOPMENT AND PRODUCTION

§ 1.71 Division of Production.

The Division of Production develops and directs programs for production and processing of feed, special nuclear and other special materials, and associated process development.

§ 1.72 Division of Peaceful Nuclear Explosives.

The Division of Peaceful Nuclear Explosives develops policies and conducts programs for utilizing nuclear explosives for peaceful purposes (the Plowshare Program).

§ 1.73 Division of Isotopes Development.

The Division of Isotopes Development formulates and directs programs for the development and demonstration of applications of radioisotopes and radiation, and incorporation of these applications into the national economy; radioisotope distribution by the AEC; development of technology for the production, separation, purification, and encapsulation of radioisotopes; and encouragement of private production and distribution of isotopes.

§ 1.74 Division of Raw Materials.

The Division of Raw Materials develops and directs programs for the acquisition of source and other special materials from domestic or foreign sources or both, for the evaluation of uranium resources and production capabilities, for the assessment of the viability of the domestic uranium raw materials industry, for research and development in uranium geology, exploration and extraction; and supervises the Grand Junction Office (see § 1.133).

PLANS

§ 1.80 Assistant General Manager for Plans.

The Assistant General Manager for Plans, directs and coordinates activities involved in program planning, analysis, evaluating and reporting; develops policies relating to functions involving analysis of operating programs and related long-term forecasting of requirements and central staff support and services in program planning, project control, reporting, and cost reduction; develops and implements program analysis systems applicable to operating activities; and conducts and coordinates special analytical studies.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR PLANS

§ 1.81 Division of Operations Analysis and Forecasting.

The Division of Operations Analysis and Forecasting provides engineering and economic analysis of major technical programs and analysis of the impact of technical considerations on policy formulation for the production, use, and distribution of nuclear materials, and

forecasts requirements for and availability of nuclear materials.

§ 1.82 Division of Plans and Reports.

The Division of Plans and Reports supports other divisions in planning, project control, reporting, management improvement, agencywide and cost reduction, and performs certain agencywide functions and coordination in these fields.

§ 1.83 Division of Program Analysis.

The Division of Program Analysis develops and implements policies and systems for the program analysis aspects of AEC's planning—programming—budgeting system, special analytic studies and planning related to AEC's uranium inventory and uranium enrichment activities and facilities.

MILITARY APPLICATION

§ 1.90 Assistant General Manager for Military Application.

The Assistant General Manager for Military Application directs the Division of Military Application.

DIVISION SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR MILITARY APPLICATION

§ 1.91 Division of Military Application.

The Division of Military Application directs programs of research, development, testing, production, and reliability assessment of nuclear weapons; directs the AEC program for prevention of accidental or unauthorized nuclear detonations; maintains liaison between the AEC and the Department of Defense on nuclear weapons matters; and administers AEC activities under international agreements for cooperation involving nuclear weapons. In assigned areas, the Division provides program direction to certain multi-program laboratories.

RESEARCH AND DEVELOPMENT

§ 1.100 Assistant General Manager for Research and Development.

The Assistant General Manager for Research and Development develops policies and programs for research and development in the physical sciences, biology, medicine, and develops policies and programs for nuclear education and training conducted pursuant to section 31 of the Act. In assigned areas, he provides program direction, review, and coordination of the multiprogram laboratories.

DIVISION SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR RESEARCH AND DEVELOPMENT

§ 1.101 Division of Biology and Medicine.

The Division of Biology and Medicine plans, develops and directs programs in biomedical research, with emphasis on the biological effects of radiation, the control of radiation and other industrial hazards associated with AEC activities. The Division provides programmatic supervision and direction of the Health

and Safety Laboratory, which is a research laboratory under the nonprogrammatic administration of the New York Operations Office.

§ 1.102 Division of Research.

The Division of Research develops, coordinates, and supervises programs for research in the physical sciences and represents and supervises AEC efforts in joint and multiagency research program.

§ 1.103 Division of Nuclear Education and Training.

The Division of Nuclear Education and Training develops and administers policies and programs with respect to nuclear education and training conducted pursuant to section 31 of the Act; directs certain organizations conducting educational and training programs under contracts, and coordinates efforts of other Divisions concerned with nuclear education and training.

REACTORS

§ 1.110 Assistant General Manager for Reactors.

The Assistant General Manager for Reactors develops and directs the execution of policies and programs for the development and improvement of nuclear reactors, isotopic power systems, and associated technology, equipment, processes, materials, and facilities. He is responsible for technical direction, review, and coordination of reactor research and development programs of the multiprogram laboratories.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR REACTORS

§ 1.111 Division of Reactor Development and Technology.

The Division of Reactor Development and Technology develops and directs assigned reactor development and technology programs, exclusive of naval and space applications. Its responsibilities include programs for the development and improvement of nuclear reactors, isotopic systems, and associated equipment for civilian and assigned military applications, nuclear safety of such reactors and systems, and fostering the civilian application of nuclear power.

§ 1.112 Division of Space Nuclear Systems.

The Division of Space Nuclear Systems initiates and directs space nuclear research and development programs through the Space Nuclear Systems Office (SNSO). The Division conducts the joint AEC-NASA program for the development and application of nuclear energy for space missions. SNSO extensions are located at the Nevada Test Site, Nev., at Cleveland, Ohio, and at Albuquerque, N. Mex.

§ 1.113 Division of Naval Reactors.

(a) The Division of Naval Reactors develops and improves naval nuclear propulsion plants, acts as liaison with the Department of Defense in carrying out

naval nuclear propulsion programs, directs assigned civilian power reactor programs, and supervises the Pittsburgh and Schenectady Naval Reactors Offices.

(b) The Schenectady Naval Reactors Office conducts research and development on and design, fabrication, construction, testing, operation, and improvement of assigned naval nuclear propulsion plants (see § 1.142).

(c) The Pittsburgh Naval Reactors Office conducts research and development on and design, fabrication, construction, testing, operation, and improvement of assigned naval nuclear propulsion and civilian power reactor plants; and manages the AEC-Navy zirconium inventory (see § 1.138).

DIVISIONS SUPERVISED BY THE DIRECTOR OF REGULATION

§ 1.120 Division of Reactor Licensing.

The Division of Reactor Licensing administers the licensing of nuclear reactors other than for export, and operators of licensed reactor facilities; provides special assistance as requested in matters involving reactors exempt from licensing; and implements the reactor licensing program.

§ 1.121 Division of Reactor Standards.

The Division of Reactor Standards develops and recommends nuclear safety standards, criteria, guides and codes for the location, design, construction, and operation of nuclear reactors and other production and utilization facilities; provides technical advice and assistance to other divisions and offices, Federal agencies and other organizations on reactor safety; coordinates the participation of the regulatory staff in nuclear safety research and development; and maintains liaison with other divisions and offices, standards associations, Federal agencies and other organizations involved in nuclear standards development.

§ 1.122 Division of Materials Licensing.

The Division of Materials Licensing administers the licensing of the receipt, acquisition, delivery, manufacture, possession, ownership, use, transfer and receipt of source, special nuclear, and byproduct material, other than for export; issuance, renewal, amendment, and denial of materials licenses, licenses for nonreactor production and utilization facilities, including facilities for reprocessing irradiated source and special nuclear material, and licenses for nonreactor facility operators.

§ 1.123 Division of Radiological and Environmental Protection.

The Division of Radiological and Environmental Protection administers regulations governing the implementation of the National Environmental Policy Act of 1969 (NEPA) for all AEC licensed activities, which includes review, evaluation and processing environmental reports submitted in support of applications for licenses for the construction and operation of nuclear facilities and for the possession and use of source, byproduct, and

special nuclear materials, and preparation and processing AEC environmental statements in support of AEC licensing functions; develops and recommends rules and regulations to protect employees of licenses, the public and the environment against effects of AEC licensed activities on matters involving radiological protection and environmental effects.

§ 1.124 Division of Compliance.

The Division of Compliance develops and administers programs and policies for the inspection and investigation of licensees to ascertain compliance with license provisions and regulations relating to health and safety; establishment of bases to issue or deny, suspend, modify, or revoke a license; investigation of accidents or unusual circumstances involving materials or facilities subject to licensing and regulation; and enforcement. The Division supervises regional offices at Newark, N.J.; Atlanta, Ga.; Chicago, Ill.; Denver, Colo.; and San Francisco, Calif. (For addresses of regional offices see § 1.3(c).)

§ 1.125 Division of Nuclear Materials Safeguards.

The Division of Nuclear Materials Safeguards administers safeguards against diversion of nuclear material held by licensees. The Division participates in the development of policies for safeguarding nuclear materials; reviews and approves licensee safeguards programs, conducts inspections of licensee facilities for compliance with safeguards requirements; and takes enforcement action where warranted. District safeguards staffs are located at Newark, N.J., Oak Ridge, Tenn., and Berkeley, Calif. (For addresses of district offices, see § 1.3(d).)

§ 1.126 Division of State and Licensee Relations.

The Division of State and Licensee Relations develops and administers programs and policies for cooperation with States in their assumption of responsibility under section 274 of the Act, indemnification of licensees, export licensing of nuclear facilities and materials, and charging and collecting fees for licensing services.

Subpart C—Principal Field Offices

§ 1.130 General line of authority.

Unless stated otherwise, each principal field office is under the supervision of a Manager of Operations who reports to the General Manager for administrative direction and to appropriate Headquarters Divisions and Offices for functional direction.

§ 1.131 Albuquerque Operations Office.

The Albuquerque Operations Office conducts programs for atomic weapons production and associated functions, including coordination of participation by other field offices in the weapons program; administers contracts with Los Alamos Scientific Laboratory and the Sandia Laboratories for weapons re-

search and development under the technical direction of the Assistant General Manager for Military Application; administers certain assigned programs for nonweapons research and development; administers an exchange program with the United Kingdom on defense; and manages and is responsible for ultimate disposal of the Government-owned community of Los Alamos, N. Mex. The Office supervises the following Area Offices: Amarillo, Tex.; Burlington, Iowa; Dayton (at Miamisburg, Ohio); Kansas City, Mo.; Los Alamos, N. Mex.; Pinellas (at St. Petersburg, Fla.); Rocky Flats (at Golden, Colo.); and Sandia (at Albuquerque, N. Mex.).

§ 1.132 Chicago Operations Office.

The Chicago Operations Office administers research and development programs, including programs in development of nuclear reactors, reactor systems, and related technology; basic and applied biological, medical and physical science research; contracts for operation of the Ames Laboratory and the Argonne National Laboratory; and coordination and supervision of the Area Office, 200 BEV Accelerator Facility.

§ 1.133 Grand Junction Office.

The Grand Junction Office is under the supervision of a Manager, who reports to the Director, Division of Raw Materials. The Office conducts programs for developing reliable information on the availability of uranium and thorium to provide AEC and the nuclear industry data needed in planning nuclear programs; administering a plan and program for lease of mineral lands withdrawn by AEC; managing and disposing of surplus uranium stocks; helping assure a sufficiency of low-cost nuclear fuel to meet long-range requirements for nuclear power evaluating new or improved production methods and research and development in uranium geology, exploration, and production; and acquiring source and other special materials as required.

§ 1.134 Idaho Operations Office.

The Idaho Operations Office conducts assigned programs for design, construction, and operation of nuclear reactors, and manages the National Reactor Testing Station (NRTS), which is the location of reactor and other projects administered by the Office and other Field Offices.

§ 1.135 Nevada Operations Office.

The Nevada Operations Office manages and operates the Nevada Test Site and other designated test locations within and outside of the United States, provides support to users of test sites, performs support and operating functions at other designated locations under interagency agreements pertaining to tests and related functions, coordinates planning and execution of nuclear explosive testing projects, and

supervises the Pacific Area Support Office at Honolulu, Hawaii.

§ 1.136 New York Operations Office.

The New York Operations Office administers assigned research and development programs, including biological, medical, and physical research, isotopes development, reactor development and technology; and contracts for operation of the Brookhaven National Laboratory and other facilities engaged in the activities listed above. The Office is responsible for nonprogrammatic administration of the AEC Health and Safety Laboratory and supervises the area office at Brookhaven, N.Y.

§ 1.137 Oak Ridge Operations Office.

The Oak Ridge Operations Office conducts programs for production of special nuclear materials, related process development, uranium enrichment services, and other associated activities. It administers research and development and training, including programs in biology and medicine, isotopes development, physical research, reactor development and technology, space nuclear systems, and nuclear education and training; and contracts for operation of the Oak Ridge National Laboratory and other facilities engaged in those activities. It operates the New Brunswick Laboratory, and participates in weapons development and production programs. The Office administers programs for distribution of special nuclear materials and uranium enrichment. It performs statutory functions of the Commission for the city of Oak Ridge. It supervises the following Area Offices: Cincinnati, Ohio; Paducah, Ky.; Portsmouth (at Piketon, Ohio); and Puerto Rico (at Hato Rey, P.R.).

§ 1.138 Pittsburgh Naval Reactors Office.

The Pittsburgh Naval Reactors Office is under the supervision of a Manager who reports to the Director, Division of Naval Reactors. The Office conducts programs for research and development, design, fabrication, construction, testing, operation, and improvement of naval nuclear propulsion and civilian power reactor plants, and manages the AEC-Navy zirconium inventory.

§ 1.139 Richland Operations Office.

The Richland Operations Office conducts programs for production of special nuclear materials and other special materials, management of waste materials, and related process development. It administers research and development and training programs, industrial diversification assistance to local communities, and programs for distribution of plutonium and recovery of plutonium scrap. It performs statutory functions of the Commission for the city of Richland.

§ 1.140 San Francisco Operations Office.

The San Francisco Operations Office administers research and development programs, including programs in weapons development, reactor development

and technology, physical research, biology and medicine and peaceful uses of nuclear explosives. The Office administers contracts for operation of the Lawrence Radiation Laboratory and the Stanford Linear Accelerator Center, and supervises the Area Office at Palo Alto, Calif.

§ 1.141 Savannah River Operations Office.

The Savannah River Operations Office conducts programs for production of special nuclear and other materials and fabricated items, related process development, storage and reprocessing of fuels from AEC and other reactors, and administration of, sale, lease, loan, and purchase of assigned research and development and training programs, and participates with the Albuquerque Operations Office in weapons development and production programs.

§ 1.142 Schenectady Naval Reactors Office.

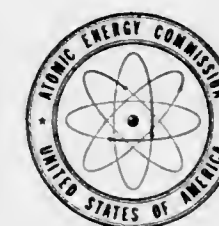
The Schenectady Naval Reactors Office is under the supervision of a Manager who reports to the Director, Division of Naval Reactors. The Office conducts programs for research and development, design, fabrication, construction, testing, operation, and improvement of assigned naval nuclear propulsion plants.

Subpart D—Seal and Flag

§ 1.150 Description and custody of seal.

(a) Pursuant to the Act, the Commission has adopted an official seal, the description of which is as follows: On a dark blue disk, a stylized atomic symbol consisting of the nucleus, in orange red, surrounded by four electrons tracing their orbit in gold. On a light blue annulet edged in gold the inscription "Atomic Energy Commission" in upper portion. In lower portion, "United States of America." A five-pointed gold star appears between the words "Atomic" and "United" and another between the words "Commission" and "America".

(b) The Official Seal is illustrated as follows:



(c) The Secretary of the Commission is responsible for custody of the impression seals and of replica (plaque) seals.

§ 1.151 Use of the seal or replicas.

(a) The use of the seal or replicas is restricted to the following:

- (1) AEC letterhead stationery.
- (2) AEC award certificates and medals.
- (3) Security credentials and employee identification cards.
- (4) AEC documents. These documents include, without limitation, agreements

with States, interagency or intergovernmental agreements, foreign patent applications, certifications, special reports to the President and Congress and, at the discretion of the Secretary of the Commission, other documents as he finds appropriate.

(5) Plaques. The design of the seal may be incorporated in plaques for display in AEC auditoriums, presentation rooms, lobbies, offices of senior officials, on the fronts of buildings occupied by AEC and in other appropriate locations at the discretion of the Secretary.

(6) The AEC flag (which incorporates the design of the seal).

(7) Official films prepared by or for the AEC, which the Director, Division of Public Information or his designee determines warrant such identification.

(8) Official AEC publications which represent the achievements or mission of AEC as a whole or which are sponsored by AEC and other Government departments or agencies.

(9) Such other uses as the Secretary of the Commission or his designee finds appropriate.

(b) Any use of the seal or replicas other than as permitted by this section is prohibited.

(c) Any person who uses the official seal in a manner other than as permitted by this section shall be subject to the provisions of 18 U.S.C. 1017, which provides penalties for the wrongful use of an official seal, and other provisions of law as applicable. (See also § 1.154.)

§ 1.152 Establishment of the official AEC flag.

The official flag is based on the design of the seal and was designed by the Heraldry Branch of the Office of the Quartermaster General in April 1957. The AEC flag is 4 feet 2 inches by 5 feet 6 inches in size with a 38-inch diameter AEC seal incorporated in the center of a white field and with a yellow fringe. (Reference: Army QMG Dwg. 5-1-230, Nov. 28, 1956.)

§ 1.153 Use of the AEC flag.

(a) The use of the flag is restricted to the following:

- (1) On or in front of AEC installation buildings.
- (2) At AEC ceremonies.
- (3) At conferences involving official AEC participation (including permanent display in AEC conference rooms).
- (4) At governmental or public appearances of AEC executives.
- (5) In private offices of senior officials.
- (6) As otherwise authorized by the Secretary of the Commission.

(b) The AEC flag must always be displayed with the U.S. Flag. When the U.S. Flag and the AEC flag are displayed on a speaker's platform in an auditorium, the U.S. Flag must occupy the position of honor and be placed at the AEC representative's right as he faces the audience and the AEC flag must be placed at his left.

§ 1.154 Report of violations.

In order to insure adherence to the authorized uses of the AEC seal and flag as provided herein, a report of each suspected violation of this part or questionable use of the AEC seal or flag should be submitted to the Secretary of the Commission.

Dated at Washington, D.C., this 10th day of June 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-8415 Filed 6-15-71;8:48 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[71-569]

PART 527—HOUSING OPPORTUNITY ALLOWANCE PROGRAM

Housing Opportunity Allowance Program

JUNE 10, 1971.

Resolved That the Federal Home Loan Bank Board considers it advisable to amend Part 527 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 527) for the following purposes:

1. To revise the provisions relating to borrower eligibility in the following respects:

a. By relating such requirements only to the time that the borrower makes application for a Housing Opportunity Allowance;

b. By eliminating the requirement that a borrower must be a citizen of the United States; and

c. By restating the "need" requirement for a Housing Opportunity Allowance;

2. To restate the limitation relating to the minimum amount of a qualifying loan;

3. To provide for qualifying loans in Alaska and Hawaii in excess of \$25,000 upon Board approval;

4. To specify the appraisal requirements for loans for the construction of new dwellings; and

5. To clarify certain other provisions of such regulations.

Accordingly, on the basis of such consideration and for such purposes, the Federal Home Loan Bank Board hereby amends said Part 527 as follows, effective June 15, 1971:

1. By revising paragraph (d) and subparagraph (4) of paragraph (k) of § 527.2 to read as follows:

§ 527.2 Definitions.

(d) *Eligible borrower.* The term "eligible borrower" means a borrower who, at the time of making application for an allowance—

(1) Is one of the following:

(i) Either spouse of a married couple living together, or both such spouses; or

(ii) A head of household with one or more dependent children;

(2) Has a current annual gross income (including income of both spouses) not in excess of the Housing Opportunity Allowance Program Regular Family Income Limits published by the Board (as revised from time to time); and

(3) Has need of a Housing Opportunity Allowance to warrant the making of a qualifying loan by a member institution.

(k) *Qualifying loan.* The term "qualifying loan" means a loan which—

(4) Is in a principal amount—

(i) Not less than 70 percent of the lesser of—

(a) An amount equal to the value of the security property; or

(b) The purchase price of the security property.

(ii) Not more than the lesser of—

(a) An amount equal to 100 percent of the value of the security property;

(b) The purchase price of the security property; or

(c) \$25,000; or, in the case of a loan secured by property located in either Alaska or Hawaii, such higher amount as the Board may approve.

2. By revising subparagraph (2) of paragraph (b) of § 527.3 to read as follows:

§ 527.3 Housing opportunity allowance.

(b) *Application.*—(1) *Form.* . . .

(2) *Statement of intention.* In making such application, each applicant shall sign a statement of intention that, if the qualifying loan is made, the borrower:

(i) Will be the title owner of the real estate securing the loan;

(ii) Will occupy the single-family dwelling comprising such real estate as a primary residence; and

(iii) Will not give or execute any secondary lien or charge upon such real estate in connection with the purchase thereof.

3. By revising paragraphs (a) and (b) of § 527.6 to read as follows:

§ 527.6 Closing documents.

(a) *Required certifications.* At the time of closing of a qualifying loan with respect to which an allowance will be credited, the following written certifications, each of which shall contain a reference to the penal provisions of Section 1014 of title 18 of the United States Code, shall be required as closing documents:

(1) *By seller and borrower.* A certification jointly executed by the borrower and seller or sellers of the security property stating (i) the purchase price thereof and the items comprising such

price; and (ii) that no lien or charge upon such property, other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan, has been given or executed by the borrower to the seller or sellers or has been contracted or agreed to be so given or executed.

(2) *By appraiser.* A certification by a qualified appraiser that (i) in the case of an existing structure, he has personally inspected both the interior and exterior of such structure; or (ii) in the case of new construction, he has examined the plans and specifications for such structure; and that he has determined the value thereof in accordance with paragraph (m) of § 527.2.

(3) *By member institution.* A certification by the member institution, that—

(i) At the time the borrower's application was approved, such borrower was, in the determination of the member institution based upon the information furnished by the borrower, an eligible borrower and did have need of a Housing Opportunity Allowance to warrant the making of a qualifying loan to such borrower;

(ii) The loan is, in the determination of the member institution, a qualifying loan; and

(iii) All certifications required by this paragraph have been obtained and are in the possession of the member institution.

(b) *Required submission to Bank.* Promptly after the closing of such qualifying loan, the member institution shall transmit to the Bank of which it is a member the Bank's copy of the borrower's application, containing the certification required to be made by the member institution pursuant to subparagraph (3) of paragraph (a) of this section, signed by an officer of the member institution, and containing the borrower's acknowledgment or receipt of the commitment respecting his allowance as required by paragraph (c) of § 527.3.

(Title I, Public Law 91-351, 84 Stat. 450, sec. 17, 47 Stat. 738, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the above amendments relate to the implementation of a benefits program, notice and public procedure thereon are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and, since such amendments relieve restriction, publication thereof for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is likewise unnecessary; and the Board hereby provides that such amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71-8458 Filed 6-15-71;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SW-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke and alter controlled airspace in the Sherman, Tex., terminal area.

At Sherman, Tex., there exist a control zone based on Perrin AFB and a 700-foot-transition area which includes Perrin AFB and Sherman Municipal Airport. This designated controlled airspace accommodates the instrument approach/departure procedures associated with Perrin AFB and Sherman Municipal Airport. Approaches to Perrin AFB utilize the USAF Perrin TACAN, ILS, VOR, and PAR facilities. The approach procedure to Sherman Municipal Airport utilizes the Perrin VOR navigational aid.

The Federal Aviation Administration has been informed that all military flight operations and the associated military activities and services provided by Perrin AFB will cease not later than June 30, 1971. This will include decommissioning of the Perrin TACAN, ILS, VOR navigational aids, and the radar units. It is anticipated the Perrin VOR will be shut down June 7, 1971.

As there will no longer be a need for a control zone and transition area to serve Perrin AFB, this associated controlled airspace will be revoked.

The 700-foot-transition area which did encompass Perrin AFB will be reduced and altered so as to include only the Sherman Municipal Airport. An alternate approach procedure serving Sherman Municipal Airport can be developed based on utilization of the recently commissioned Blue Ridge VORTAC located approximately 27 statute miles southeast of Sherman Municipal Airport. The 700-foot Sherman, Tex., transition area will provide controlled airspace to accommodate this newly developed instrument approach procedure.

As the extent of controlled airspace in the Sherman, Tex., terminal area will be materially reduced and will therefore substantially lessen the burden on the public, notice and public procedure are considered unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective August 19, 1971, as herein set forth.

(1) In § 71.171 (36 F.R. 2055), the Sherman, Tex., control zone is revoked.

(2) In § 71.181 (36 F.R. 2140), the Sherman, Tex., transition area is amended to read:

SHERMAN, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sherman, Tex., Municipal Airport (lat. 33°37'30" N., long. 96°35'09" W.).

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on June 7, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.
[FR Doc.71-8403 Filed 6-15-71;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1911]

PART 13—PROHIBITED TRADE PRACTICES

Daniel Wiener

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Daniel Wiener, New York, N.Y., Docket No. C-1911, May 5, 1971]

In the Matter of Daniel Wiener an Individual Trading as Daniel Wiener

Consent order requiring a New York City individual engaged in the sale and distribution of fabrics to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Daniel Wiener, individually and trading as Daniel Wiener, or under any other name or names and respondent's representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing, into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which "product," "fabric," or "related material" fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondent notify all of his customers who have purchased or to whom have been de-

livered the fabrics which gave rise to the complaint, of the flammable nature of said fabrics, and effect the recall of said fabrics from such customers.

It is further ordered, That the respondent herein either process the fabrics which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabrics.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon him of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabrics which gave rise to the complaint, (2) the amount of said fabrics in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabrics and effect the recall of said fabrics from customers, and of the results thereof, (4) any disposition of said fabrics since August 15, 1969, and (5) any action taken or proposed to be taken to bring said fabrics into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabrics and the results of such action. Such report shall further inform the Commission as to whether or not respondent has in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondent shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Issued: May 5, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8184 Filed 6-15-71; 8:45 am]

[Docket No. 1910]

PART 13—PROHIBITED TRADE PRACTICES

Town Talk Coat Co., Inc., and Gerald Becker

Subpart—Importing, selling or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67

Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Town Talk Coat Co., Inc., et al. New York, N.Y., Docket No. C-1910, May 5, 1971]

In the Matter of Town Talk Coat Co., Inc., a Corporation, and Gerald Becker, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer and distributor of ladies' coats, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Town Talk Coat Co., Inc., a corporation, and its officers, and Gerald Becker, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce or selling or delivering after sale or shipment in commerce any product, fabric or related material; or manufacturing for sale, selling, or offering for sale any product made of fabric or related material which has been shipped and received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable stand-

ard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of such products, and affect recall of such products from said customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since January 16, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results, of such action.

Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 5, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-8397 Filed 6-15-71;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[41 CFR Part 3-4]

PROCUREMENTS INVOLVING HUMAN SUBJECTS

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the Federal Property and Administrative Services Act of 1949, as amended, the Office of the Secretary is considering an amendment to 41 CFR Chapter 3 by adding a new Subpart 3-4.55 under Part 3-4, Special Types and Methods of Procurement.

The proposed amendment will establish policy and procedures to be followed whenever individuals may be at risk as a consequence of participation as a subject in research, development, demonstration, or other activities being conducted under contract.

Any person who wishes to submit written data, views, or comments pertaining to the proposed amendment may do so by filing them in duplicate with the Director, Division of Procurement and Materiel Management, OASAM-OGS, Room 3340, HEW North Building, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within 30 days after publication of this notice in the FEDERAL REGISTER.

As proposed, the new Subpart 3-4.55 would read as follows:

Subpart 3-4.55—Procurements Involving Human Subjects

§ 3-4.5500 Scope of subpart.

This subpart provides policies and procedures to be followed whenever individuals may be at risk as a consequence of participation as a subject in research, development, demonstration, or other activities being conducted under contract.

§ 3-4.5501 Policy.

It is the policy of the Department that no contract involving risk to human subjects shall be awarded until acceptable assurance has been given that the project or activity will be subject to initial and continuing review by an appropriate institutional committee(s) as described in Chapter 1-40, DHEW Grants Administration Manual. Except where the prime contractor holds a General Institutional Assurance (See § 3-4.5501(c)) a separate assurance will be required of each subcontractor or cooperating institution

having immediate responsibility for human subjects involved in performance of the contract.

§ 3-4.5502 Applicability.

(a) The policy set forth in § 3-4.5501 applies to all contracts which support activities in which subjects may be at risk. The identification of such programs requires the application of sound professional judgment; therefore, such determination should involve professional staff within the component agencies of the Department. HEW staff and consultants serving programs shall be responsible for identifying those specific projects or activities which require application of the policy. Since the great majority of contracts subject to this policy fall within the jurisdiction of the National Institutes of Health, the Division of Research Grants, NIH, PHS (DRG-NIH), is responsible for accepting institutional assurances and for maintaining a list of institutions which have filed acceptable assurances.

(b) Contracts involving human subjects at risk will not be awarded to an individual unless he is affiliated with or sponsored by an institution which can and will assume responsibility for safeguarding the human subjects involved.

(c) Contracting officers shall be guided by recommendations of the Division of Research Grants, NIH, regarding non-award or termination of a contract due to inadequate assurance for protection of human subjects. General Institutional Assurances (applicable to all HEW grant and contract activities) previously accepted by the DRG-NIH and listed in its current "Cumulative List of Institutions with Acceptable General Assurances for Protection of Human Subjects" will be considered acceptable for purposes of this policy. Copies of proposals selected for negotiation and requiring an institutional assurance shall be forwarded to Director, Office of Institutional Relations, Division of Research Grants, NIH, DHEW, Westwood Building, Bethesda, Md. 20014, as early as possible in order that timely action may be taken to secure or update such assurances.

§ 3-4.5503 Notice to offerors.

(a) Requests for proposals shall contain the following notice to offerors, whenever contract performance is expected to involve risk to human subjects:

NOTICE TO OFFERORS OF REQUIREMENT FOR ADEQUATE ASSURANCE OF PROTECTION OF HUMAN SUBJECTS

Prospective contractors being considered for award will be required to give acceptable assurance that the project described herein will be subject to initial and continuing review by an appropriate institutional committee. This review shall assure that the rights and welfare of the individuals involved

are adequately protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained, and that informed consent will be obtained by methods that are adequate and appropriate.

(b) The proposal should be appropriately marked in the space provided on the form, or a statement similar to the following, as appropriate, should be entered on the right hand margin of the page bearing the name of the institutional official authorized to sign or execute proposals for the institution:

(1) "Human Subjects—Reviewed and Approved on _____"
(Date)

NOTE: This date should be no later than 90 days prior to the submission date, and must not be more than 12 months prior to the proposed starting date.

(2) "Human Subjects—Review Pending on _____"
(Date)

NOTE: This date should be at least 1 month earlier than the proposed starting date on the project to avoid possible conflict with the award date.

§ 3-4.5504 Contract clause.

The following clause shall be included in contracts involving human subjects:

PROTECTION OF HUMAN SUBJECTS

(a) The Contractor agrees that the rights and welfare of human subjects involved in performance of this contract will be protected in accordance with procedures specified in its current Institutional Assurance on file with the Division of Research Grants, NIH, DHEW. The Contractor further agrees to provide certification at least annually that an appropriate institutional committee has reviewed and approved the procedures which involve human subjects in accordance with the applicable Institutional Assurance accepted by the Division of Research Grants, NIH, DHEW.

(b) The Contractor shall bear full responsibility for the proper and safe performance of all work and services involving the use of human subjects under this contract. The parties hereto agree that the Contractor retains the right to control and direct the performance of all work under this contract. No provision of this contract shall be deemed to constitute the Contractor or any subcontractor, agent or employee of the Contractor, or any other person, organization, institution, or group of any kind whatsoever, as the agent or employee of the Government. The Contractor agrees that it has entered into this contract and will discharge its obligations, duties, and undertakings and the work pursuant thereto, whether requiring professional judgment or otherwise, as an independent contractor without imputing liability on the part of the Government.

Dated: June 9, 1971.

NORMAN B. HOUSTON,
Deputy Assistant Secretary
for Administration.

[FR Doc.71-8420 Filed 6-15-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-RM-3]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Bismarck, N. Dak., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The airspace requirements for Bismarck Municipal Airport, N. Dak., have been reviewed in accordance with criteria contained in U.S. Standard for Terminal Instrument Procedures. The proposed additional 700 feet and 1,200 feet portions of the transition area are required to provide controlled airspace protection for aircraft executing prescribed instrument procedures.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (36 F.R. 2140) the description of the Bismarck, N. Dak., transition area is amended as follows:

Delete all after "• • • southeast of the OM; • • •" and substitute therefor "• • • and within 4½ miles northeast and 9½ miles southwest of the Bismarck ILS localizer northwest course extending from the 17-mile-radius area to 32 miles northwest of the OM; that airspace extending upward from 1,200 feet above the surface within a 22½-mile radius of the Bismarck VORTAC, extending from 5 miles northwest of and

PROPOSED RULE MAKING

parallel to the Bismarck VORTAC 204° radial clockwise to the Bismarck VORTAC 082° radial, and within a 33-mile radius of the Bismarck VORTAC, extending from the Bismarck 082° radial clockwise to a line 5 miles northwest of and parallel to the Bismarck VORTAC 204° radial."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Denver, Colo., on June 7, 1971.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.71-8404 Filed 6-15-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-RM-4]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Philip, S. Dak., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The airspace requirements for the Philip Airport, S. Dak., have been reviewed in accordance with the criteria contained in the U.S. Standards for Terminal Instrument Procedures (TERPs). The review has revealed that the transition area requires alteration to provide controlled airspace protection for aircraft executing prescribed instrument procedures while operating at 700 feet or more above the surface.

In consideration of the foregoing, the

FAA proposes the following airspace action.

In § 71.181 (36 F.R. 2140) the description of the Philip, S. Dak. transition area is amended to read as follows:

PHILIP, S. DAK.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Philip Airport (latitude 44°02'45" N., longitude 101°35'45" W.); that airspace bounded by a line 8 miles south of and parallel to the Philip, S. Dak., VORTAC 102° radial, extending from the VORTAC to 3 miles east of the VORTAC, and within 4.5 miles north and 9.5 miles south of the Philip VORTAC 282° radial, extending from the VORTAC to 18.5 miles west of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Denver, Colo., on June 7, 1971.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc.71-8405 Filed 6-15-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-RM-5]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Grand Forks, N. Dak. (International Airport), control zone and Grand Forks, N. Dak., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the

Office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The airspace requirements for Grand Forks, N. Dak., have been reviewed in accordance with criteria contained in U.S. Standard for Terminal Instrument Procedures (TERPs). The review revealed that the descriptions of the Grand Forks, N. Dak. (International Airport), control zone and Grand Forks, N. Dak., transition area require alteration.

The control zone extensions to the north and south are required to provide controlled airspace protection for aircraft conducting the VOR Rwy 17 and VOR Rwy 35 instrument approach procedures while operating below 1,000 feet above the surface. The additional 700-foot-transition area is required for the procedure turn area and that portion of the VOR Rwy 35 instrument approach procedure conducted between 1,500 and 1,000 feet above the surface in addition to random departures climbing from 700 feet to floor of overlying controlled airspace.

In consideration of the foregoing, the FAA proposes the following airspace actions.

In § 71.171 (36 F.R. 2055) the description of the Grand Forks, N. Dak. (International Airport), control zone is amended to read as follows:

GRAND FORKS, N. DAK. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Grand Forks International Airport (latitude 47°57'05" N., longitude 97°10'35" W.), within 2.5 miles each side of the Grand Forks VORTAC 012° radial, extending from the 5-mile-radius zone to 6.5 miles north of the VORTAC and within 3 miles each side of the Grand Forks VORTAC 173° radial, extending from the 5-mile-radius zone to 8 miles south of the VORTAC.

In § 71.181 (36 F.R. 2140) the description of the Grand Forks, N. Dak., transition area is amended to read as follows:

GRAND FORKS, N. DAK.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Grand Forks International Airport (latitude 47°57'05" N., longitude 97°10'35" W.), within 4.5 miles west and 9.5 miles east of the Grand Forks VORTAC 173° radial, extending from the VORTAC to 18.5 miles south of the VORTAC, and within a 10-mile radius of Grand Forks AFB (latitude 47°57'40" N., longitude 97°24'00" W.); that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Grand Forks AFB, and within a 29-mile radius of Red River VOR, extending clockwise from a line 5 miles east of and parallel to the Red River VOR 180° radial to a line 5 miles northwest of and parallel to the Red River VOR 209° radial.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

PROPOSED RULE MAKING

Issued in Denver, Colo., on June 7, 1971.

M. M. MARTIN,
Director, Rocky Mountain Region.
[FR Doc.71-8406 Filed 6-15-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-106]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Bowling Green, Ky., control zone and transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Bowling Green control zone described in § 71.171 (36 F.R. 2055) would be redesignated as:

Within a 5-mile radius of Bowling Green-Warren County Airport (lat. 36°57'47" N., long. 86°25'07" W.); within 3 miles each side of Bowling Green VORTAC 206° radial, extending from the 5-mile-radius zone to 9.5 miles southwest of the VORTAC.

The Bowling Green transition area described in § 71.181 (36 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bowling Green-Warren County Airport (lat. 36°57'47" N., long. 86°25'07" W.); within 3.5 miles each side of Bowling Green VORTAC 206° radial, extending from the 11-mile-radius area to 10.5 miles southwest of the VORTAC.

The proposed alterations are required to provide required controlled airspace protection for IFR operations in the Bowling Green terminal in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal

Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 7, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc.71-8407 Filed 6-15-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-105]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration and Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Lexington, Ky., control zone and transition area and designate the Frankfort, Ky., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Lexington control zone described in § 71.171 (36 F.R. 2055) would be redesignated as:

Within a 5-mile radius of Blue Grass Airport (lat. 38°02'16" N., long. 84°36'16" W.); within 1.5 miles each side of the ILS localizer northeast course, extending from the 5-mile-radius zone to 5 miles northeast of the runway end.

The Lexington transition area described in § 71.181 (36 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Blue Grass Airport (lat. 38°02'16" N., long. 84°36'16" W.); within 3 miles each side of the ILS localizer northeast course, extending from the 8.5-mile-radius area to 14 miles northeast of the runway end; within 9.5 miles northwest and 4.5 miles southeast of the ILS localizer southwest course, extending from the 8.5-mile-radius area to 18.5 miles southwest of the OM.

The Frankfort transition area would be designated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Capital City Airport (lat. 38°10'55" N., long. 84°54'16" W.); within 3 miles each side of the 062° bearing from Jett RBN (lat. 38°12'56" N., long. 84°49'32" W.), extending from the 8.5-mile-radius area to 8.5 miles northeast of the RBN; within 3 miles each side of Frankfort VOR 063° radial, extending from the 8.5-mile-radius area to 8.5 miles northeast of Jett RBN; within 3 miles each side of Frankfort VOR 240° radial, extending from the 8.5-mile-radius area to 8.5 miles southwest of the VOR.

The proposed alterations and designation are required to provide controlled airspace protection for IFR operations in the Lexington and Frankfort terminals in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 7, 1971.

W. B. RUCKER,
Acting Director, Southern Region.
[FR Doc.71-8408 Filed 6-15-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO 107]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Owensboro, Ky., control zone and transition area and the Madisonville and Henderson, Ky., transition areas.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

PROPOSED RULE MAKING

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Owensboro control zone, described in § 71.171 (36 F.R. 2055), would be redesignated as:

Within a 5-mile radius of Owensboro-Daviess County Airport (lat. 37°44'31" N., long. 87°09'57" W.); within 2.5 miles each side of Owensboro VOR 181° radial, extending from the 5-mile-radius zone to the Masonville RBN (lat. 37°39'35" N., long. 87°10'17" W.); within 3 miles each side of Owensboro VOR 222° radial, extending from the 5-mile-radius zone to 8.5 miles southwest of the VOR; within 3 miles each side of Owensboro VOR 352° radial, extending from the 5-mile-radius zone to 8.5 miles north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

The Owensboro, Madisonville, and Henderson transition areas, described in § 71.181 (36 F.R. 2140), would be redesignated as follows:

OWENSBORO, KY.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Owensboro-Daviess County Airport (lat. 37°44'31" N., long. 87°09'57" W.); within 3.5 miles each side of Owensboro VOR 181° radial, extending from the 9-mile-radius area to 8.5 miles south of Masonville RBN (lat. 37°39'35" N., long. 87°10'17" W.).

MADISONVILLE, KY.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Madisonville Municipal Airport (lat. 37°21'00" N., long. 87°24'00" W.); within 1.5 miles each side of Central City VOR 256° radial, extending from the 5.5-mile-radius area to the VOR.

HENDERSON, KY.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Henderson Airport (lat. 37°48'27" N., long. 87°41'00" W.); within 1.5 miles each side of Evansville, Ind., VORTAC 152° radial, extending from the 5.5-mile-radius area to the VORTAC; excluding the portion within Evansville, Ind., transition area.

The proposed alterations are required to provide controlled airspace protection for IFR operations in the Owensboro, Madisonville, and Henderson terminals in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 7, 1971.

W. B. RUCKER,
Acting Director, Southern Region.
[FR Doc.71-8409 Filed 6-15-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SW-26]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot-transition area at Columbus, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

COLUMBUS, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Columbus Airport (latitude 29°43'10" N., longitude 96°33'50" W.).

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at Columbus Airport.

This amendment is proposed under the authority of § 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on June 7, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.
[FR Doc.71-8410 Filed 6-15-71;8:46 am]

PROPOSED RULE MAKING

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 741]

REQUIREMENTS FOR INSURANCE Minimum Surety Bond Requirements

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 209, 85 Stat. 1015, Public Law 91-468, proposes to revise § 741.1 (12 CFR 741.1) as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456, to be received not later than July 15, 1971.

HERMAN NICKERSON, Jr.,
Administrator.

JUNE 10, 1971.

§ 741.1 Minimum surety bond requirements.

Any credit union which makes application for insurance of its accounts pur-

suant to title II of the Federal Credit Union Act must possess the minimum surety bond coverage stated in § 701.20 of this chapter in order for its application for such insurance to be approved and for such insurance coverage to continue. A federally insured credit union whose surety bond coverage is terminated shall mail notice of such termination to the Federal Regional Director not less than thirty-five (35) days prior to the effective date of such termination.

[FR Doc.71-8418 Filed 6-15 71;8 46 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management OUTER CONTINENTAL SHELF OIL AND GAS LEASING Tentative Schedule

Pursuant to the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331 et seq.) and the regulations issued thereunder (43 CFR 3301.2), notice is hereby given that a tentative 5-year Outer Continental Shelf oil and gas lease sale schedule has been prepared by the Department of the Interior.

Attention is directed to a general oil and gas lease sale offshore of eastern Louisiana indicated on the schedule for December 1971. This sale was originally planned for February 1972 and has been advanced to December 1971, in accordance with the President's June 4, 1971, energy message to Congress.

This schedule is intended to give notice to all interested parties of possible leasing actions. All sales included in the schedule are subject to modification or elimination.

The tentative sales schedule is based on further development in the Gulf of Mexico through annual general lease sales. A possible new area of leasing (offshore Alabama, Mississippi, and Florida) is listed for 1973.

In addition, public hearings on the possible opening of two new OCS leasing provinces, the Gulf of Alaska and the Atlantic, are shown.

Copies of the tentative leasing schedule may be obtained from (1) the Director, Bureau of Land Management (Attention: 310), Washington, D.C. 20240; or from (2) the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Post Office Box 53226, New Orleans, LA 70150.

Interested parties may submit comments concerning the tentative schedule to the Director, Bureau of Land Management, (Attention: 310), Washington, D.C. 20240.

WILLIAM T. PECORA,
Acting Secretary
of the Interior.

JUNE 10, 1971.

[FR Doc.71-8400 Filed 6-15-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration BUCKEYE POWER, INC.

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has pre-

pared a draft environmental statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with loan applications from the member systems of Buckeye Power, Inc., of Columbus, Ohio. These loan applications, together with funds from other sources, are to finance the construction of a 615,000 kw. electrical generating unit as an addition to the generation station near Brilliant, Ohio.

Additional information may be secured on request submitted to Mr. James N. Myers, Assistant Administrator, Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Statement have been sent to various Federal, State, and local agencies as outlined in the April 23, 1971, Guidelines of the Council on Environmental Quality. The Draft Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue SW., Washington, DC, Room 4322, or at the office of Buckeye Power, Inc., Columbus, Ohio.

Comments concerning the environmental effects of the construction proposed under the loan applications should be addressed to Mr. Myers, at the address given above. Comments must be received within 60 days of the date of publication of this notice (30 days in the case of agencies receiving a specific request for comment) to be considered in connection with the loan applications.

Any loans which may be made pursuant to these applications will be subject to, and release of funds thereunder contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and after compliance with environmental statement procedures required by the National Environmental Policy Act.

Dated in Washington, D.C. this 10th day of June 1971.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.

[FR Doc.71-8417 Filed 6-15-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration), formerly Part 5, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968 as amended by 35 F.R. 12030, July 25, 1970), is hereby amended with regard to section 3-B, formerly 5-B, Organization, as follows:

In lieu of the section *Division of Alcohol Abuse and Alcoholism (3J53)*, insert the following:

National Institute on Alcohol Abuse and Alcoholism (3J53). (1) Develops and establishes national policies and goals regarding the prevention, control, and treatment of alcohol abuse and alcoholism, and serves as a focal point for all DHEW activities in the field of alcoholism; (2) plans and develops programs of research, training, community services, and public education for prevention and control of alcoholism; (3) conducts and supports research on the biological, environmental, and social causes of alcohol abuse and alcoholism; (4) supports the training of professional and paraprofessional personnel (including recovered alcoholics) in alcoholism prevention, treatment, and control; (5) supports the development of community facilities and services for alcoholics and other problem drinkers, and supports State efforts in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism; (6) stimulates the communication of appropriate information and educational material through conferences, committees, and publications, and use of public media; (7) collaborates with, provides assistance to, and encourages other Federal agencies, national, State, and local organizations, hospitals, and voluntary groups to facilitate and extend programs for the prevention of alcoholism and for the care, treatment, and rehabilitation of alcoholics; (8) fosters programs in State and local government and in private industry for the prevention of alcoholism and for the treatment and rehabilitation of employees with drinking problems and assists the Civil Service

Commission in developing and maintaining such programs for Federal civilian employees; and (9) coordinates and stimulates statistical and biometric programs necessary for epidemiologic and longitudinal studies of alcohol usage and alcoholism.

Division of Prevention (3J5303). (1) Plans, develops, and supports programs of training and public education for the prevention and control of alcoholism in such areas as school curricula and community education; (2) collaborates with and assists Federal, State, and local agencies and nonprofit organizations in the development of such prevention and control programs; and (3) stimulates and supports the communications of appropriate information and educational material through conferences, committees, publications, and other means.

Division of State and Community Assistance Programs (3J5305). (1) Plans and administers programs for the support of nationwide services for the prevention of alcoholism and the treatment and rehabilitation of alcoholics, including: (a) The development of community facilities and services for alcoholics and other problem drinkers; (b) State efforts in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism; (2) develops the policy and regulatory framework for comprehensive State plans for the establishment and delivery of alcoholism services, and reviews and approves individual plans; and (3) collaborates with, provides assistance to, and encourages national, State, and local organizations, State and local governments, hospitals, and voluntary groups to facilitate and extend programs for the care, treatment, and rehabilitation of alcoholics.

Division of Special Treatment and Rehabilitation Programs (3J5307). (1) Plans and administers innovative programs directed toward the solution of alcohol abuse and alcoholism problems among special groups, such as Federal, State, and local government employees, employees in private industry, Indians, public intoxicants, and drinking drivers; (2) develops and supports the training of professional and paraprofessional personnel to provide services to special groups afflicted with alcoholism; and (3) coordinates and integrates these programs with other pertinent components of the NIAAA.

Division of Research (3J5309). (1) Plans and develops programs of basic and clinical research on the multiple determinants of alcoholism and on the treatment and rehabilitation of alcoholics and alcohol abusers; (2) stimulates, supports, and conducts biological, pharmacological, behavioral, and sociological research in alcoholism through grants and contracts and an intramural research program in these areas; (3) conducts and supports programs of training to increase the number and improve the utilization of research manpower; (4) coordinates and stimulates statistical

and biometric programs necessary for epidemiologic and longitudinal studies of problems of alcohol usage and alcoholics; (5) supports and conducts conferences, workshops, and symposia, and develops and stimulates publications to disseminate research findings and to interpret implications of these data for broad public information purposes; and (6) conducts periodic evaluation of programs to determine areas requiring change and further development.

Dated: May 11, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-8439 Filed 6 15 71;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-107]

ACTING ASSISTANT REGIONAL AD- MINISTRATOR FOR RENEWAL AS- SISTANCE REGION II (NEW YORK)

Designation

The officials appointed to the following listed positions in the New York Regional Office are hereby designated to serve as Acting Assistant Regional Administrator for Renewal Assistance, New York Regional Office, during the absence of the Assistant Regional Administrator for Renewal Assistance, with all the powers, functions, and duties redelegated or assigned to the Assistant Regional Administration for Renewal Assistance: *Provided*, That no official is authorized to serve as Acting Assistant Regional Administrator for Renewal Assistance, unless all other officials whose titles precede his in this designation are unable to act by reason of absence:

1. Renewal Management Specialist (Margaret M. Myerson).
2. Renewal Management Specialist (Dominick P. Felitti).
3. Rehabilitation and Codes Specialists.

This designation supersedes designation effective July 27, 1970 (35 F.R. 18009, November 24, 1970).

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

Effective as of March 2, 1971.

S. WILLIAM GREEN,
Regional Administrator, Region II.

[FR Doc.71-8461 Filed 6-15-71;8:50 am]

[Docket No. D-71-108]

CERTAIN HUD EMPLOYEES IN REGION IV (ATLANTA)

Authority To Administer Oaths

Each of the following named employees in the Department of Housing and Urban Development, Region IV (Atlanta), is hereby authorized to administer oaths under section 811(a) of the

Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a), and to verify complaints filed under the Civil Rights Act of 1968:

1. Augustus L. Clay.
2. Grady J. Norris.
3. Donald G. Webster.
4. James D. Yorker.
5. Donald D. Nicholl.
6. Randolph McMillan.
7. Robert S. Friant.
8. Dana E. McDonald.
9. Edwin F. W. Driskell.
10. Robert A. Willis.
11. Charles J. Mayson.
12. Joe L. Tucker.

Each of the following named employees of the Birmingham Area Office, Department of Housing and Urban Development, is hereby authorized to administer oaths under section 811(a) for the purpose of receiving verified complaints filed under the Civil Rights Act of 1968, 42 U.S.C. 3611(a):

1. Heager L. Hill.
2. Leland C. Rushin.
3. Jo Ann Webb.

Revocation. The redelegation of authority to certain HUD employees in Region III (Atlanta), published in 35 F.R. 1023-24, January 24, 1970, is hereby revoked as of the date of publication of this document in the FEDERAL REGISTER.

(Redelegation of authority by Regional Administrator effective June 5, 1970 (35 F.R. 8755, June 5, 1970))

Effective Date. This redelegation shall be effective as of November 1, 1970.

ALBERT L. THOMPSON,
Assistant Regional Administrator
for Equal Opportunity,
Region IV (Atlanta).

[FR Doc.71-8462 Filed 6-15-71;8:50 am]

[Docket No. D-71-109]

ACTING DEPUTY REGIONAL ADMIN- ISTRATOR REGION VIII (DENVER)

Designation and Delegation of Authority

Each of the officials appointed to the following positions is designated to serve as Acting Deputy Regional Administrator during the absence of, or vacancy in the position of, the Deputy Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Deputy Regional Administrator: *Provided*, That no official is authorized to serve as Acting Regional Administrator unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Robert F. Mello, ARA for Administration.
2. Robert J. Matuschek, Special Assistant to Regional Administrator.

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

Effective date: This designation and delegation shall be effective as of March 8, 1971.

ROBERT C. ROSENHEIM,
Regional Administrator.

[FR Doc.71-8463 Filed 6-15-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SA-422]

AIRCRAFT ACCIDENT OCCURRING NEAR HUNTINGTON, W. VA.

Notice of Investigation Hearing

In the matter of investigation of accident involving Southern Airways, Inc., DC-9, N97S, at Huntington, W. Va., on November 14, 1970.

Notice is hereby given that the Accident Investigation Hearing on the above matter will reconvene commencing at 9:30 a.m., local time, on June 23, 1971, in Room 2260, Nassif Building, 7th and D Street SW., Washington, D.C.

[SEAL] RICHARD G. RODRIGUEZ,
Senior Hearing Officer.

[FR Doc.71-8449 Filed 6-15-71;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22397; Order 71-6-64]

EASTERN AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of June 1971.

By tariff revisions filed May 14, and marked to become effective June 13, 1971, Eastern Air Lines, Inc. (Eastern), proposes to become a participant in Rule No. 56(B)(12).¹ This rule provides that shipments of dogs must be prepaid, or that collect charges for such shipments must be guaranteed in writing by the shipper. This rule is currently in effect for certain other carriers.

Rule No. 56 is involved with other provisions pertaining to c.o.d. shipments. Specifically, Rule 66(B)(1) on c.o.d. shipments provides that any shipment requiring prepayment or the guarantee in writing of transportation charges pursuant to Rule No. 56 (as now proposed by Eastern) will not be accorded c.o.d. service.

No complaints have been received against Eastern's proposal.

In support of its filing Eastern asserts that its airport offices have experienced numerous incidents where dogs shipped collect are not claimed at destination. Eastern maintains that the proposed provisions will prevent future such inci-

¹ Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 96.

NOTICES

dents. Eastern offers no reasons why c.o.d. service should be denied to dog shippers, which would be the direct result of the tariff filing.

By the adoption of this rule, operating in conjunction with Rule No. 66(B)(1), Eastern would preclude c.o.d. service for shipments of dogs. The use of c.o.d. service has become an essential method of merchandising for certain shippers and the discontinuance of such service may have a detrimental effect upon the shippers affected.

The requirement of prepayment or guarantee of payment for certain classes of shipments as set forth in Rule No. 56 may not be unreasonable per se, when considered alone; however, it is not apparent why the denial of c.o.d. service should be tied to the prepayment requirement. The Board notes that the carriers' c.o.d. tariff rules contain various provisions to protect them when providing c.o.d. service.² In these circumstances, and recognizing that Eastern is not first carrier to propose Rule No. 56(B)(12), the Board will suspend Eastern's proposal.

Upon consideration of the foregoing and all other relevant factors, the Board finds that the proposed provisions requiring prepayment or guarantee of transportation charges for shipments of dogs in Rule No. 56(B)(12), may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. In view of the effect of Rule No. 56(B)(12), when considered in conjunction with Rule No. 66(B)(1), the Board will suspend Eastern's proposed adoption of Rule No. 56(B)(12) pending investigation. Rule 66(B)(1) as well as Rule 56(B)(12) in effect for other carriers is currently under investigation in Docket 22397 and the investigation of Eastern's proposed adoption of Rule No. 56(B)(12) will be consolidated therein.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 1002 thereof,

It is ordered, That;

1. Pending hearing and decision by the Board, the provision reading "EA" in Rule No. 56(B)(12) on 18th Revised Page 22-B of Tariff CAB No. 96 issued by Airline Tariff Publishers, Inc., Agent, is suspended and its use deferred to and including September 10, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. Eastern's proposed rule be added to the investigation instituted in Docket 22397; and

² Rule No. 66, regarding c.o.d. shipments, contains additional provisions to the effect that credit will not be extended on the amount of c.o.d.; that the amount of c.o.d. is payable in cash; that no privilege of examination will be given prior to the collection thereof; that no partial collection will be made; and that no partial delivery of c.o.d. shipments will be made unless the full amount of the c.o.d. has been collected.

3. Copies of this order shall be served upon Eastern Air Lines, Inc. and upon all other parties of record in Docket 22397.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8454 Filed 6-15-71;8:50 am]

[Docket No. 23331; Order 71-6-44]

EXECUTIVE AIRLINES, INC.

Order To Show Cause Regarding Service Mail Rates

Issued under delegated authority June 8, 1971.

The Postmaster General filed a notice of intent April 27, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of \$1.48 per great circle aircraft mile for the transportation of mail by aircraft between Newark, N.J. and Pittsburgh, Pa., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Hansa Jet aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Executive Airlines, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be \$1.48 per great circle aircraft mile between Newark, N.J. and Pittsburgh, Pa., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16 (f),

¹ As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

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It is ordered, That:

1. Executive Airlines, Inc., the Postmaster General, Allegheny Airlines, Inc., Transworld Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Executive Airlines, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Executive Airlines, Inc., the Postmaster General, Allegheny Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8455 Filed 6-15-71;8:50 am]

[Dockets Nos. 19917, 21810; Order 71-6-55]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order Amending Final Service Mail Rate

Issued under delegated authority June 9, 1971.

A final service mail rate of 49.5 cents per great circle aircraft mile established by Order 71-3-187, March 30, 1971, in Dockets 19917 and 21810 is currently in effect for Sedalia, Marshall, Boonville Stage Line, Inc., operating under 14 CFR Part 298. This rate is based on five round trips per week between Independence and Wichita, via Fort Scott, Kans.

By petition filed April 29, 1971, and amended on May 7, 1971, the Postmaster

General stated that the current rate of 49.5 cents per great circle mile is based on round trip miles of 396 which is in error. The correct round trip mileage is 434 miles which produces a rate of 45.17 cents that the Postmaster General states is the proper final service mail rate.

Upon consideration of the petition and other matters officially noticed, Order 71-3-187 will be amended to establish the correct rate.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's regulations, 14 CFR Part 302, 14 CFR Part 298, and the authority duly delegated by the Board in its Organization Regulations, 14 CFR 385.16(g),

It is ordered, That:

1. The fair and reasonable final service mail rate to be paid on and after March 1, 1971, to Sedalia, Marshall, Boonville Stage Line, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 45.17 cents per great circle aircraft mile between Independence and Wichita, via Fort Scott, Kans., based on five round trips per week flown with Piper PA-23 aircraft;

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General;

3. The service mail rate here fixed and determined is in lieu of that set forth in Order 71-3-187, March 30, 1971;

4. This order shall be served on Sedalia, Marshall, Boonville Stage Line, Inc., and the Postmaster General.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8456 Filed 6-15-71;8:50 am]

[Docket No. 22628; Order 71-6-56]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 9, 1971.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conferences 1-2 and 1-2-3 of the International Air Transport Association (IATA) and adopted by mail vote. The

agreement has been assigned the above-designated CAB agreement number.

The agreement amends IATA resolutions recently approved by the Board as agreed upon at the 1970 Worldwide Passenger Fare Conference held in Honolulu, in that it would permit the combinability of normal fares in conjunction with excursion fares and that the stopover points covered by such normal fares shall not be counted for the purposes of determining the number of permissible stopovers under the excursion fares' rules. As presently exists, stopovers resulting from the combination of normal fares with excursion fares are included in the number of permissible stopovers under the excursion fares' rules.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that agreement CAB 22472, JT12(Mail 769)070d, JT123(Mail 769)071d, and JT123(Mail 667)071d is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on agreement CAB 22285 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8457 Filed 6-15-71;8:50 am]

COMMISSION ON RAILROAD RETIREMENT

STUDY OF RAILROAD RETIREMENT SYSTEM

Invitation To Submit Public Views

The Commission on Railroad Retirement was established by Public Law 91-377 to "conduct a study of the railroad retirement system and its financing for the purpose of recommending to the Congress on or before July 1, 1971, changes in such system to provide adequate levels of benefits thereunder on an actuarially sound basis." (Legislation to extend the reporting date is pending in the Congress.)

In carrying out its assigned task the Commission desires the views of all interested persons and organizations. The Commission therefore invites interested persons to submit statements of position in writing. It would be particularly helpful if written statements would follow the outline set forth below which covers five main topics: (1) The

¹ Order 71-3-87, Mar. 16, 1971.

basic concepts of the railroad retirement system; (2) benefits and costs; (3) present and future relationships between railroad retirement and social security; (4) government financial management of the system; and (5) system complexity.

The Commission will consider all written comments received by July 20, 1971. Further information may be obtained by writing or calling the Commission's Executive Director, Address: Commission on Railroad Retirement, 1111 20th Street NW., Washington, DC 20036. Phone: 202 382-2051.

MICHAEL S. MARCH,
Executive Director.

DESIRED OUTLINE FOR RESPONSES

Organizations or persons interested in providing views to the Commission, should if possible, use the following framework for organizing comments. A suggested list of topics and questions follows, but comments are not limited to these points if others seem relevant. It would be appreciated if comments or answers were grouped under the appropriate categories and points, ideally identified by number. This will assist the Commission in analyzing diverse views covering a wide range of topics. Comment in any detail which seems appropriate. Wherever possible, explain the reasoning underlying each comment or answer. Substantive analyses, historical documentation, and statistical data to support positions are especially welcomed.

I. BASIC CONCEPTS OF THE RAILROAD RETIREMENT SYSTEM

At the present time, the railroad retirement system coexists with many similar systems—social security as the basic system, private pension plans, etc.—many of which have developed since its origin. Given this situation:

A. Which of the following concepts should characterize the railroad retirement system:

1. Primarily a retirement system with benefits based chiefly on years of service and level of earnings—and largely for the workers?

2. Essentially a social insurance system emphasizing basic benefits weighted to recognize presumed social need—and covering a broad range of dependents?

3. Some other principles—or a combination of the staff retirement and social insurance concepts?

In describing your preferred option please be specific on (a) how the benefit levels for railroad workers and their dependents should compare with those under OASDI; (b) how coverage and benefits for railroad workers should be coordinated with social security; and (c) if you propose a combination, which benefits should be social insurance and which staff retirement.

B. To what extent should railroad retirement benefits correspond to the tax contributions of the worker? To worker-plus-employer contributions?

1. Should a worker or his estate be entitled to benefits at least equal to his own contributions plus interest?

2. What proportion of wages should be covered under the tax and benefit provisions of the system?

C. To what extent should benefits be vested? According to what length of service or other criteria?

D. Should the railroad retirement system rely on or leave room for company supplementary plans or for self-provision by the

individual through insurance, etc., to a greater or lesser extent than at present? How and to what extent?

II. BENEFITS AND COSTS

At present, under the provisions of Public Law 92-5 and Public Law 91-377, railroad employees pay 9.95 percent of all monthly compensation up to \$650 as a railroad retirement tax (including 0.60 percent for Medicare). This compares with 5.2 percent of covered earnings (up to \$7,800 per year) for those under social security. By 1987, railroad tax rates will rise to 10.8 percent and those for social security to 6.05 percent on a base of \$750 per month (\$9,000 annually for social security) as statutory increases in the social security tax base and rate take effect. The employers make matching contributions, and employers under the railroad retirement system pay the full cost of the supplemental annuities. Because of the financial interchange arrangement with social security, the 4.75 percent difference in tax rates represents approximately the net retained by railroad retirement. (The foregoing figures do not reflect the effects of pending legislation to increase social security tax rates or covered earnings).

As an example of the returns from both systems, the enclosed Table 1 compares, for different classes of beneficiaries, railroad retirement (or combined railroad retirement and social security) benefits with the benefits social security would have paid if the railroad employment had all been covered under it. The examples all assume that the worker began work at age 20, received maximum earnings creditable under railroad retirement, and terminated employment December 31, 1970. The table presents seven alternative patterns for the worker, his family, his work history, and causes of retirement (Item I). Railroad retirement benefits for the worker, his dependents, and any dual social security benefits are calculated, then combined into total family benefits (Item II). Total family benefits are also presented assuming that all his employment was under social security (Item III). Finally the two sets of benefits are compared by showing the ratio of railroad retirement to social security benefits (Item IV).

A. Do you consider the present level of railroad retirement benefits appropriate, given current costs of living, contribution levels and the composition of railroad retirees' families? If not, by how much should they be increased?

B. Have recent benefit increases taken account of changes in cost of living, living standards, and wage levels?

1. Is the present system of raising benefits satisfactory, or should others—e.g., automatic escalation—be explored? If so, describe the kind of escalation formula you would use, including the index or indicator to which you would gear it.

C. Are present eligibility requirements satisfactory? If not, are there any groups for which it is particularly important that eligibility requirements be adjusted, and what adjustments should be made?

D. Do you favor a joint-and-survivor option, in which a worker may elect to have his retirement benefit actuarially reduced to provide a larger benefit for his widow?

E. Do you regard the present relationship in the railroad retirement system between retirement and survivorship benefit satisfactory? What priority should these two groups receive for future changes?

F. If railroad retirement benefits should be raised, should taxes be raised also? If so, why, and by how much?

1. How should any future tax changes be accomplished: By changes in the tax rate, by raising the covered wage base, or some combination of these?

2. Would you continue the present 50/50 employer/employee cost sharing to pay for any increases in benefits?

3. Is there some limit beyond which railroad retirement taxes on workers and/or employers should not be raised? What is it?

G. Do present railroad retirement benefits bear an appropriate relationship to social security benefits?

H. Are there inequities among groups of beneficiaries within the railroad retirement system with regard to the benefit levels provided? With respect to entitlement requirements?

I. Are there inequities between railroad retirement and other similar systems regarding entitlement requirements? With respect to benefits provided?

J. Are there other anomalies or inequities regarding the railroad retirement system which ought to be considered by the Commission?

K. Do you believe that any benefit levels should be reduced or eligibility requirements tightened to offset higher priority improvements? To cover an actuarial deficit?

III. PRESENT AND FUTURE RELATIONSHIP BETWEEN RAILROAD RETIREMENT AND SOCIAL SECURITY

At present the railroad retirement system is intertwined with the social security system with respect to benefits and financing, but the provisions of the two systems are not fully coordinated. For example, because of the existence of a separate railroad system, some persons receiving dual benefits obtain higher combined payments than are possible from a full career in either system, the extra costs of which are borne largely by the railroad retirement system through the financial interchange provisions. On a broader plane, Public Law 91-377 directs the Commission to consider restructuring benefits of persons now covered by railroad retirement, and to explore "the relationship between social security and railroad retirement in the areas of benefits, tax rates, and tax base including, without limitation, the desirability and feasibility of a merger of the two systems . . ." Among the many possible options would be (1) restructuring of OASDI and railroad retirement, with the latter converted to a supplementary payment system or (2) more complete integration of railroad retirement with OASDI to eliminate dual benefits and other anomalies.

A. Do you support the present arrangement which produces dual benefits? If not, what alternatives do you favor?

B. Is your organization satisfied with the present structural and financial arrangements between railroad retirement and social security?

C. If you believe major changes in structure or a merger are desirable, what options do you believe the Commission should consider? Please outline your preferred option in as much detail as you can, both with respect to the structure and levels of benefits and their financing.

D. If you do not support a full restructuring or merger, are there any specific lesser changes which are now desirable?

IV. GOVERNMENT FINANCIAL MANAGEMENT OF THE SYSTEM

Through the years the railroad retirement system followed the principle of self-support on an actuarial basis through contributions shared equally by employees and employers,

except for the recent supplemental annuity which is funded entirely by the employers. The system now has accrued reserves of approximately \$5.4 billion; however, given present tax sources, the Chairman of the Railroad Retirement Board has estimated that if the recent 15 percent and proposed 10 percent benefit increases were to be made permanent, this sum would be completely depleted in about 20 years. The reserves are, by law, invested in Treasury obligations; there has been much debate over the rate of interest which they should earn.

A. What principles or criteria, actuarial or other, should guide the financing of railroad retirement system?

1. With regard to the actuarial status of the system, please describe explicitly what funding basis you deem adequate to produce actuarial soundness.

B. Do you consider the present investment policies satisfactory? If not, how should they be changed?

1. With respect to the media in which the reserves are invested?

2. With respect to the basis for determining the interest rate?

3. Otherwise?

C. What financial responsibility for this system is appropriate for the Federal Government? If you believe there are valid grounds for a special Federal contribution, please state and document them as fully as possible.

D. What are your views on the present financial relationship between the railroad retirement fund and that of OASDI? Is there at present an unjustifiable subsidy flowing in either direction?

E. Are the arrangements for military service credits and contributions by the Federal Government to the railroad retirement account sound?

F. Is the present Federal income tax treatment of the workers' contributions (included in taxable income) and benefits paid to the worker or his dependents (excluded from taxable income) satisfactory?

V. SYSTEM COMPLEXITY

The railroad system seems to be one of the most complex pension systems in the United States. Benefit computations, wage records, and eligibility determinations are very complicated, as are the financial interchange computations.

A. Do you feel that this imposes undue burdens on employers or recipients in time, effort, and possibly foregone benefits?

B. Are there steps possible which could reduce administrative costs without seriously affecting the workers and beneficiaries?

C. Would you favor an effort to simplify the system and reduce administrative costs by eliminating alternative computations—even if some future beneficiaries would receive somewhat reduced benefits as a result?

D. How well do you believe the present system has served its constituents? If improvements are in order, what steps are desirable?

VI. COMMENTS ON TOPICS NOT COVERED IN I-V, ABOVE

Please group under appropriate subject headings.

VII. ADDITIONAL INFORMATION

Please provide the name, address, and telephone number of a respondent or expert who can provide additional information on your answers to the above questions.

TABLE 1

Illustrative amounts of benefits payable to railroad employees under the railroad retirement and social security systems and a comparison of what would have been paid under social security if that program had covered railroad employment¹

Item	Case No.						
	1	2	3	4	5	6	7
I. Basic characteristics of employee and his family:							
A. Cause of retirement	Age	Age	P&T dis.	P&T dis.	P&T dis.	* Occ. dis.	* Occ. dis.
B. Age of employee at retirement	65	65	50	60	35	55	55
C. Age of wife at time of employee's retirement	63	63	48	48	32	53	53
D. Two children present at time of retirement	No	No	Yes	Yes	Yes	Yes	Yes
II. Computations relating to railroad employee under present program:							
A. Years of railroad service	*31	30	20	20	15	30	20
1. Before social security	No	Yes	No	Yes	No	No	No
B. Years of social security employment		14	10	10		4	11
C. Average compensation for RR annuity	\$375.00	\$304.00	\$428.00	\$320.00	\$465.00	\$385.00	\$128.00
D. Average wage for SS benefit		435.00	65.00	336.00			32.00
E. Employee benefits:							
1. Railroad retirement annuity:							
a. Payable until youngest child reaches age 18			433.20	178.85	469.50	351.35	265.75
b. Payable until employee reaches age 62 after youngest child reaches age 18			265.75	178.85	258.20	351.35	265.75
c. Payable between ages 62 and 65			244.15	178.85	258.20	351.35	240.85
d. Payable after age 65	*439.68	250.55	244.15	178.85	220.55	*492.75	240.85
2. Family dual social security benefit:							
a. Payable until youngest child reaches age 18				246.00			
b. Payable until employee reaches age 62 after youngest child reaches age 18				173.20			
c. Payable between ages 62 and 65				71.20	173.20		
d. Payable after age 65		201.50		71.20	173.20		82.20
F. Spouse annuity for SS and RR combined payable after employee reaches age 65:							
1. Spouse has no dual social security benefit on own wages	*140.85	105.95	130.85	150.25	131.65	*140.85	143.65
2. Spouse has dual social security benefit of \$100	*240.85	208.75	196.35	176.95	177.75	*232.05	175.35
G. Total employee and spouse benefits from RR and SS combined:							
1. Payable until youngest child reaches age 18			433.20	474.85	469.50	351.35	265.75
2. Payable until employee reaches age 62 after youngest child reaches age 18			265.75	352.05	258.20	351.35	265.75
3. Payable between ages 62 and 65			315.35	352.05	258.20	351.35	240.85
4. Payable after age 65:							
a. Spouse has no SSA benefit on own earnings	*577.50	651.00	455.20	592.30	355.20	*543.60	466.70
b. Spouse has SSA benefit of \$100	*677.50	663.80	510.70	529.00	398.30	*634.80	518.40
H. Aged widow's benefit payable under RR and SS combined:							
1. Payable assuming widow has no SSA benefit on own earnings	192.20	174.70	192.20	174.70	213.00	199.80	189.80
2. Payable assuming widow has an SSA benefit of \$100 a month on own earnings	210.85	174.70	223.85	174.70	225.25	232.05	221.15
III. Benefits which would have been payable by SS if railroad employment had been covered:							
A. Employee and spouse combined (includes children):							
1. Payable until youngest child reaches age 18			393.80	393.80	426.80	(?)	(?)
2. Payable until employee reaches age 62 after youngest child reaches age 18			211.70	211.70	234.70	(?)	(?)
3. Payable between ages 62 and 65			211.70	211.70	234.70	140.80	140.80
4. Payable after age 65:							
a. Spouse has no SSA benefit on own earnings	300.00	300.00	300.00	300.00	322.50	214.20	214.20
b. Spouse has SSA benefit of \$100	311.70	311.70	311.70	311.70	334.70	240.80	240.80
B. Aged widows—total benefits:							
1. Payable assuming widow is not insured on own earnings	174.70	174.70	174.70	174.70	193.70	145.20	145.20
2. Payable assuming widow has an SSA benefit of \$100 a month on own earnings	174.70	174.70	174.70	174.70	193.70	145.20	145.20

See footnotes at end of table.

Item	Case No.						
	1	2	3	4	5	6	7
IV. Ratio 11G to 11EA: 7							
A. Employee and spouse combined:							
1. Payable until youngest child reaches age 18.....			1.10	1.21	1.10	(9)	(9)
2. Payable until employee reaches age 62 after youngest child reaches age 18.....			1.26	1.66	1.10	(9)	(9)
3. Payable between ages 62 and 65.....			1.49	1.66	1.10	2.52	1.71
1. Payable after age 65:							
a. Spouse has no SSA benefit on own earnings.....	* 1.93	2.17	1.52	1.67	1.10	* 2.54	2.18
b. Spouse has SSA benefit of \$100.....	* 2.17	2.13	1.64	1.70	1.19	* 2.61	2.15

SOURCE: Railroad Retirement Board in response to Commission request.

Abbreviations used in the table:

"P&T dis." (cases 3, 4, 5): permanently and totally disabled.

"Occ. dis." (cases 6, 7): occupationally disabled.

RR: railroad retirement.

SS: social security.

SSA: Social Security Administration.

* All cases assume that an employee started work at age 20 and has always earned the maximum credited under the railroad program whether this was earned under social security or railroad retirement. All calculations assume employment terminates on Dec. 31, 1970, and that ages are age on birthday in 1971. Benefit rates for social security include the 10-percent increase of Public Law 92-5; for railroad retirement, they assume that the 15-percent increase of Public Law 91-377 and the 10-percent increase of H.R. 6111 will be permanent. Compensation and benefit amounts are monthly rates.

¹ Assumed not to meet the definition of disability contained in the Social Security Act. For purposes of the widow's benefit, employee assumed to die after attaining age 65.

² Rate payable Jan. 1, 1971, when spouse maximum of \$162.50 is effective.

³ Under the Social Security Act, the spouse would be eligible when she attains age 62. In the examples, it is assumed that the spouse does not apply for benefit until the employee attains age 65.

⁴ No benefit payable under social security.

⁵ Includes supplemental annuity.

⁶ Similar ratios can be developed for aged widows' benefits by dividing 1111 by 111B.

⁷ Wife's dual benefit based on the employee's earnings is included in section F below.

* Maximum number of years creditable in 1970.

May 25, 1971.

[FR Doc.71-8438 Filed 6-15-71; 8:48 am]

FEDERAL POWER COMMISSION

[Docket No. E-7632]

ILLINOIS POWER CO.

Notice of Proposed Change in Rate and Charge

JUNE 9, 1971.

Take notice that on May 20, 1971, Illinois Power Co. filed a change in its Rates Schedule No. 11. The change is dated June 15, 1971, and is in the form of an amendment to the Interconnection Agreement between Illinois Power Co. and Commonwealth Edison Co. The amendment (designated as No. 5) provides for an increase in the Demand Charge for Short Term Power of \$0.10 per kilowatt per week (from \$0.30 to \$0.40 per kilowatt per week). It also provides that the Demand Charge shall be the greater of (1) \$0.40 per kilowatt per week or (2) the cost per kilowatt to the supplying party of capacity purchased from other sources to the extent that such capacity is purchased in order to permit the reservation of such short-term power. In addition, it provides for a change in the reduction of weekly demand charges should the supplying party be unable to fulfill any part of its commitment from \$0.06 per kilowatt per day to one-sixth of the weekly demand charge states in (1) above per kilowatt of reduction for each day that such reduction is in effect, or, in the event that such reduction is occasioned by the reduction in the availability of the capacity purchased by the supplying party from other

systems in order to supply the short-term power, by the amount by which the charges to the supplying party are reduced under its agreement with such other systems.

The company stated that the changes were arrived at through negotiations and are mutually beneficial and reasonable in the light of current economic conditions.

Any person desiring to be heard or to make protest with respect to such change should on or before June 18, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8424 Filed 6-15-71; 8:47 am]

[Docket No. RP71-125]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Proposed Changes in FPC Gas Tariff

JUNE 10, 1971.

Take notice that on May 28, 1971, Natural Gas Pipeline Company of America (Natural) filed changes in its FPC

Gas Tariff to be effective as of July 1, 1971. The proposed tariff revisions would increase charges for jurisdictional sales and services by approximately \$58.8 million per annum based on operations for the 12-month period ended February 28, 1971, as adjusted.

Natural mentions certain principal reasons for the proposed changes in its tariff: (1) Need for an overall rate of return of 9 percent; (2) a proposed advance payment adjustment provision beyond that approved in the settlement agreement in Docket No. RP70-35; (3) the cost of new storage and gas supply pipeline facilities not yet certificated but necessary for the sales volumes the proposed rate increase filing was based; (4) additional charges by Michigan Wisconsin Pipe Line Co. for storage service to the company; (5) increases in transportation services performed to the company by Lonestar Gathering Co.; (6) increased book depreciation to 3.5 percent; (7) a decrease in sales volumes from that used in the settlement agreement in Docket No. RP70-35 due to curtailment of deliveries.

Natural proposes major revisions in its tariff form to establish a new service procedure and a related new rate structure, which involves a three-part rate for its major Rate Schedule DMQ-1. Natural has also proposed major revisions of its storage service under Rate Schedule S-1, and proposes other changes in its tariff sheets to supersede all of the presently effective Second Revised Volume No. 1.

Natural requests that the Commission waive the provisions of its regulations to the extent necessary for the purposes of accepting for filing, proposed tariff sheets incorporating the above-mentioned proposed advance payment adjustment provisions. If such waiver is not granted, Natural requests that the filing be considered as made without the subject provision, that the Commission accept for filing the tendered tariff sheets with the exception of those containing the proposed provision, and that the proposed advance payment adjustment provision be made the subject of an evidentiary proceeding.

Any person desiring to be heard or to make any protest with reference to this filing should on or before June 28, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The proposed changes are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8425 Filed 6-15-71; 8:47 am]

[Docket No. RP71-124]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Proposed Changes in Rates and Charges

JUNE 9, 1971.

Take notice that on May 14, 1971, Transcontinental Gas Pipe Line Corp. (Transco) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1,¹ to become effective July 1, 1971. The proposed rate changes would decrease charges for jurisdictional sales and services by approximately \$829,883 annually.

Transco states that the revised tariff sheets relate solely to Transco's Rate Schedule GSS for underground storage service and provide only for a tracking of the rate increase to Transco from Consolidated Gas Supply Corp. (Con-Gas) of an identical storage service under the latter's Rate Schedule GSS, Con-Gas on December 17, 1970, filed with the Commission in Docket No. RP71-77 increases in its rates, including its Rate Schedule GSS. The Commission by its order issued January 29, 1971, suspended Con-Gas' rate increase until July 1, 1971. Transco requests that the proposed rate changes become effective, without suspension, on July 1, 1971, the same day as Con-Gas' rate increase is to be made effective.

Copies of the filing were served on Transco's customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8426 Filed 6-15-71; 8:47 am]

[Docket No. RP71-123]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Proposed Changes in Rates and Charges

JUNE 9, 1971.

Take notice that on May 14, 1971, Transcontinental Gas Pipe Line Corp.

¹ Sixth Revised Sheet No. 17H and Fourth Revised Sheet No. 17M.

(Transco) tendered for filing proposed changes in its FPC Gas Tariff Original Volume No. 1,¹ to become effective July 1, 1971. The proposed rate changes would decrease charges for jurisdictional sales and services by approximately \$829,883 annually.

Transco states that the revised tariff sheets contain a reduction in rate under Transco's Rate Schedule S-2 to reflect the rate reduction in Rate Schedule X-28 of Texas Eastern Transmission Corp. resulting from the Commission's approval on March 24, 1971, of the latter's rate settlement in Docket No. RP70-29 et al. Transco further states that it will flow through to its customers under Rate Schedule S-2 any refunds applicable to purchases under Texas Eastern's Rate Schedule X-28.

Copies of the filing were served on Transco's customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8427 Filed 6-15-71; 8:47 am]

[Dockets Nos. CP71-68 etc.]

COLUMBIA LNG CORP., ET AL.

Order Consolidating Applications and Setting Date for Prehearing Conference

JUNE 10, 1971.

Columbia LNG Corp., Docket No. CP71-68; Consolidated Gas Supply Corp., Docket No. CP71-153; Southern Energy Co., Dockets Nos. CP71-151, CP71-264; Southern Natural Gas Co., Docket No. CP71-276; Columbia LNG Corp., Consolidated System LNG Co., Docket No. CP71-289; Consolidated System LNG Co., CP71-290.

Southern Energy Co. (Southern Energy) filed on November 25, 1970, an application in Docket No. CP71-151 pursuant to section 3 of the Natural Gas Act for an order authorizing the importation of 500,000 MM B.t.u. per day of liquefied natural gas (LNG) from Algeria at

¹ Ninth Revised Sheet No. 280; 18th Revised Sheet No. 28R and 28th Revised Sheet No. 28P.

Savannah, Ga. The Commission, by order dated March 11, 1971, consolidated Southern Energy's section 3 application with similar applications of Columbia LNG Corp. (Columbia) in Docket No. CP71-68 and Consolidated Gas Supply Corp. (Consolidated) in Docket No. CP71-153 for hearing and decision. The Commission's order indicated that applications pursuant to section 7 of the Act would be forthcoming from the import applicants, and that such applications would be further consolidated with those proceedings when filed.

Southern Energy's section 7 application was filed in Docket No. CP71-264 on May 4, 1971, and Southern Natural Gas Co. filed a related section 7 application in Docket No. CP71-276 on May 19, 1971. The Commission, by order dated May 28, 1971, consolidated the proceedings in Dockets Nos. CP71-68 et al., to include the applications in Dockets Nos. CP71-264 and CP71-276.

Columbia LNG Corp. and Consolidated System LNG Co. filed a joint section 7 application in Docket No. CP71-289 on June 4, 1971. Consolidated System LNG Co. filed a related section 7 application in Docket No. CP71-290 on the same date. The due date for protests or petitions to intervene in both dockets is June 18, 1971.

As required by our prior orders of March 11, 1971, and May 28, 1971, the proceedings in Dockets Nos. CP71-68 et al., will be further consolidated to include the applications in Dockets Nos. CP71-289 and CP71-290 and all parties permitted to intervene in Dockets Nos. CP71-68 et al., will be deemed intervenors in the two applications consolidated herein. However, it is necessary and appropriate that a procedure be established to avoid undue delay and eliminate unnecessarily duplicative hearings on section 7 issues.

A prehearing conference will be convened on June 21, 1971, to determine (1) what new matters, if any, are raised by the filing of the applications in Dockets Nos. CP71-289 and CP71-290 which require further hearings, and (2) to what extent new petitioners to intervene should be afforded an opportunity to explore matters previously covered in Phase II of the proceedings. Any new petitioner who requests the reexploration of Phase II matters must demonstrate by reference to the record that its request would not be unnecessarily duplicative.

The Commission finds:

It is necessary and appropriate that the proceedings in the two above-named section 7 applications be consolidated with the proceedings in Columbia LNG Corp. et al., Dockets Nos. CP71-68 et al., for hearing and decision.

The Commission orders:

(A) The joint application of Columbia LNG Corp. and Consolidated System LNG Co. in Docket No. CP71-289 and the application of Consolidated System LNG Co. in Docket No. CP71-290 are consolidated with the proceedings in Columbia LNG Corp. et al., Docket Nos. CP71-68 et al., for hearing and disposition.

(B) All intervenors in the consolidated proceeding in Dockets Nos. CP71-68 et al., will be deemed intervenors in the applications filed in Dockets Nos. CP71-289 and CP71-290 which are consolidated herein pursuant to ordering paragraph (A) above.

(C) A prehearing conference to determine the matters of which further Phase II hearings may be required in Dockets Nos. CP71-289 and CP71-290 be convened in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, on June 21, 1971, at 10 a.m., e.d.s.t. The Chief Examiner will designate an Examiner to preside at the prehearing conference on these matters, pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8428 Filed 6-15-71; 8:47 am]

[Docket No. CP71-612]

GULF OIL CORP.

Order Setting Date for Formal Hearing, Prescribing Procedures and Permitting Interventions

JUNE 9, 1971.

On February 25, 1971, Gulf Oil Corp. (Gulf) filed an application pursuant to section 7(b) of the Natural Gas Act for the authority to abandon a percentage type sale of casinghead gas to Sid Richardson Gas Co., a division of Sid Richardson Carbon and Gasoline Co. (Sid Richardson), from certain Gulf leases in the Keystone Field Area, Winkler County, Tex. Notice of the application was issued on March 2, 1971, and published in the FEDERAL REGISTER on April 8, 1971, 36 F.R. 2579.

Gulf's casinghead gas, sold pursuant to a contract dated February 1, 1970, is presently processed at Keystone Plant, jointly owned by Sid Richardson, Kermit Oil Co. (Kermit), and Phillips Petroleum Co. (Phillips). Sid Richardson and Kermit sell their share (90.5514 percent) of the residue gas to Transwestern Pipeline Co. (Transwestern) under Perry R. Bass (Operator) et al., FPC Gas Rate Schedule No. 6, at a rate of 27.3190 cents per Mcf subject to refund in Docket No. RI70-1763. Phillips sells its portion (9.4486 percent) of the residue gas to El Paso Natural Gas Co. (El Paso) under Phillips Petroleum Co. FPC Gas Rate Schedule No. 10, at a rate of 19.8105 cents per Mcf subject to refund in Docket No. RI71-293. On October 30, 1970, pursuant to the contractual provision for a right of termination, Gulf gave notice of its termination of the contract effective June 1, 1971.

On February 15, 1971, Gulf entered into a percentage type contract covering the sale of casinghead gas to Cabot Corp. (Cabot) from the same Gulf leases in the Keystone area for which Gulf is requesting approval to abandon the sale of casinghead gas to Sid Richardson.

Gulf's contract with Cabot provides for an effective date of June 1, 1971, and provides also that Gulf shall not be obligated to deliver gas to Cabot until the effective date of an order issued by the Commission granting permission and approval for Gulf to abandon the sale of casinghead gas to Sid Richardson from these leases. All of the casinghead gas covered by the contract between Gulf and Cabot is to be processed at a plant owned by Cabot.

Gulf contends that the residue gas from processing the casinghead gas at Cabot's plant will also be sold for resale in interstate commerce to Transwestern pursuant to Cabot's (Operator) FPC Gas Rate Schedule No. 49, for which the current rate is 27.2 cents per Mcf subject to refund in Docket No. RI71-334. Gulf also asserts that since the contracts for the sale of gas to Transwestern from both Keystone plant and Cabot's plant contain the same pricing provisions, a change in the sale of casinghead gas by Gulf from Keystone plant to the Cabot plant would not reduce the volume of gas available nor increase the price that Transwestern is presently obligated to pay for the gas. Gulf further contends that the additional volume of gas to be made available at Cabot's plant would materially extend its economic life, while the decrease in gas processed at Keystone plant would have little effect on its economic life. Gulf concludes that the public convenience and necessity would be benefited as a result of the requested abandonment by the extension of the life of Cabot's plant and that greater volumes of gas, as a consequence, would be ultimately available to the interstate market.

On March 16, 1971, Cabot Corp. filed a petition for leave to intervene and requested to be admitted as a party to formal hearings, if held. On March 22, 1971, Perry R. Bass (Operator) et al., and Sid Richardson filed petitions to intervene and requested alternatively an order dismissing or denying Gulf's application without the necessity for a formal hearing or, should its first request be denied, an order requiring a formal hearing and allowing Bass and Sid Richardson to participate as parties. Sid Richardson opposes Gulf's application on the grounds (1) that a reduction of the volumetric throughput of Keystone plant would increase the unit cost of supplying each Mcf of gas delivered by the plant to residue purchasers; (2) that the residue gas to be sold under Gulf's contract with Cabot would be subject to a higher ceiling because it would be "new gas" rather than "old gas;" (3) that Gulf's stated reasons for abandoning its sales to Sid Richardson do not satisfy the public interest test; (4) that the alleged benefits from switching from a larger plant to a smaller plant are criteria impossible to apply; (5) that permitting Gulf to switch its sales from one plant to another would encourage many other producers to request similar authorizations; and (6) that any diminution in the total volume of residue available for sale from Key-

stone plant would affect both Transwestern and El Paso.

Phillips also filed a petition for leave to intervene on March 22, 1971, opposing Gulf's application for abandonment on the grounds (1) that discontinuing sales of casinghead gas by Gulf to Keystone plant would make it impossible for Phillips to continue to deliver the residue from processing to El Paso and (2) that Gulf has not suggested a way for an equivalent volume of gas to be made available to El Paso. On March 29, 1971, El Paso filed a petition for leave to intervene, opposing Gulf's application for abandonment on the ground that reduction of the quantity of gas available to Keystone plant for processing would cause a reduction in the quantity of gas available to El Paso through its purchases of residue gas.

The Commission finds:

(1) It is desirable and in the public interest to allow the companies which have filed petitions to intervene to become intervenors in this proceeding, in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) The expeditious disposition of these proceedings will be effectuated by the submission by applicant of its direct testimony and exhibits on or before July 13, 1971.

The Commission orders:

(A) The companies referred to above which have filed petitions to intervene in these proceedings are hereby permitted to intervene subject to the Rules and Regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions for leave to intervene: *And provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(B) The applicant shall serve copies of its filings upon each of the intervenors, unless such service has already been effected pursuant to Part 157 of the Commission's regulations under the Natural Gas Act.

(C) A formal hearing shall be convened in this proceeding entitled Gulf Oil Corp., Docket No. C171-612, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on August 3, 1971, at 10 a.m., e.d.s.t. The Chief Examiner shall designate an appropriate officer of the Commission to preside at this hearing pursuant to the Commission's rules of practice and procedure.

(D) Applicant and any supporting intervenor(s) shall file with the Commission and serve on all other parties and the Commission staff their proposed evidence comprising their case in chief,

including any prepared testimony and exhibits, on or before July 13, 1971.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8429 Filed 6-15-71; 8:47 am]

[Dockets Nos. RP71-13, RP71-14]

EL PASO NATURAL GAS CO.

Notice of Motion for Modification of Order Permitting Tracking of Purchased Gas Increases

JUNE 8, 1971.

Take notice that El Paso Natural Gas Co. (El Paso), on June 2, 1971, filed in Docket No. RP71-13 a motion for modification of the Commission's order, issued October 30, 1970, insofar as it gives El Paso authority to file rate increases and decreases to reflect increases or decreases in the cost of purchased gas for its Southern Division System, computed in accordance with the provisions of that order and subject to the conditions contained therein.

The proposed modification would extend the expiration date of El Paso's tracking authority from December 31, 1971, to December 31, 1972, and would eliminate the 0.67 cents per Mcf limitation on aggregate net increases which El Paso may file to track increased purchased gas costs on its Southern Division System. El Paso states that subsequent to issuance of the Commission's order of October 30, 1970, several unforeseen events leading to potential future supplier rate increases, as fully described in its motion, have exposed El Paso to substantial increases in the cost of purchased gas for its Southern Division System. El Paso asserts that although the total amount of these increases cannot be accurately computed at the present time, as several of the supplier increases are contingent upon future occurrences, the amount of the increase in each instance is measurable. El Paso states that it cannot file to track these increases, as they may occur, under its current tracking authority because either the supplier increases involved represent amounts over and above the 0.67 cents per Mcf, which it is authorized to track, and/or the supplier increases will not become effective until after December 31, 1971.

Copies of the motion were served on all parties in Docket No. RP71-13, El Paso's Southern Division System distributor customers and interested State commissions.

Answers or comments relating to the petition may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before June 24, 1971.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8430 Filed 6-15-71; 8:47 am]

[Docket No. CP71-234]

EL PASO NATURAL GAS CO.

Order Granting Alternative Request in Motion, Fixing Date of Hearing, and Permitting Intervention

JUNE 9, 1971.

On June 4, 1971, Arizona Public Service Co., El Paso Natural Gas Co., Pacific Gas and Electric Co., San Diego Gas & Electric Co., Southwest Gas Corp., Public Utilities Commission of the State of California, and Tucson Gas & Electric Co. (Movants) filed a joint motion for expeditious disposition of the application¹ of El Paso Natural Gas Co. (El Paso) filed March 29, 1971, in the above-entitled proceeding. El Paso's application seeks, pursuant to section 7(c) of the Natural Gas Act (Act), a certificate of public convenience and necessity authorizing the construction and operation of 14 miles of 30-inch loop pipeline and 11,800 horsepower of additional compression on its Southern Division System, plus permission to acquire and operate about 3.2 miles of 8 $\frac{1}{2}$ -inch field pipeline, at an estimated cost of \$5,481,413, in order to transport from Arizona Public Service Co. (APS) from the West Gomez Field in Pecos County, Tex., to the vicinity of Phoenix, Ariz., up to 32,000 Mcf per day of the 50 million Mcf of gas which APS has contracted to purchase from Forest Oil Corp. (Forest).

APS has agreed to pay within 2 years time the full purchase price of approximately \$14,513,830, although the gas will be produced by Forest and transported by El Paso over an 8-year period. Of the \$14,513,830 (or 29.03 cents per Mcf), APS would pay Forest \$9,190,310 (or 18.38 cents per Mcf) and would pay the remaining sum of \$5,323,520 (or 10.65 cents per Mcf) to Coastal States Gas Producing Co. for releasing the gas from prior intransit commitment.

As grounds for their motion for expedition Movants state that the contract between Forest and APS provides for cancellation unless the Commission has approved the proposal by June 30, 1971. In view of the contractual deadline and the important issues involved, Movants have already met informally and have agreed upon a stipulation of facts which they ask the Commission to accept as the record in this proceeding. They aver that they have waived the right to an oral hearing and ask that the Commission decide the proceeding on the basis

¹ Notice of application was issued Apr. 6, 1971, and published in the FEDERAL REGISTER on Apr. 10, 1971, 36 F.R. 6921.

² The price is subject to adjustments involving the prime bank rate on the date the first payment is due. The above figure is calculated on the assumption that the applicable prime rate is 5.5 percent.

of (1) the stipulation; (2) the submission of briefs under a 2-week briefing schedule to which they have also agreed; and (3) oral argument before the Commission. Alternatively, they ask that the matter be set for an immediate hearing before a Presiding Examiner so that they may offer the stipulation, waive oral hearing, and move for omission of the intermediate decision procedure.

The joint motion states that it is filed pursuant to § 1.32 of the Commission's rules of practice and procedure. However, that section pertains to waivers of hearings in situations where no party opposes the grant of the applications. Since in the instant proceeding some of the parties are apparently opposed to the grant of El Paso's application, § 1.32 does not apply. Moreover, El Paso's application was filed pursuant to section 7(c) of the Act which provides with respect to such applications that "... the Commission shall set the matter for hearing". Consequently, the Commission will hereinafter grant Movants' alternative prayer for an immediate hearing at which time the parties may make such motions and adopt such procedural devices as may be consistent with the Commission's rules of practice and procedure.

Timely petitions for leave to intervene were filed by Arizona Public Service Co. and Tucson Gas & Electric Co. Untimely petitions for leave to intervene were filed by Pacific Gas and Electric Co., San Diego Gas & Electric Co., and Southwest Gas Corp. The Public Utilities Commission of the State of California filed an untimely notice of intervention. The California Commission and those who filed late petitions ask that the filings be accepted despite their lateness because the petitioners did not fully recognize the adverse impact which the proposals in Docket No. CP71-234 might have upon their operations until the date for filing timely petitions had elapsed.

The Commission finds:

(1) It is appropriate in the administration of the Natural Gas Act to grant the alternative prayer in Movants' motion filed June 4, 1971, by providing for the immediate hearing requested therein.

(2) Good cause has been shown for accepting the late filing of the California Commission's notice of intervention and the late petitions to intervene filed by Pacific Gas and Electric Co., San Diego Gas & Electric Co., and Southwest Gas Corp.

(3) It is desirable to allow the companies which have filed petitions to intervene to become intervenors in this proceeding in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in

the administration of the Natural Gas Act.

(4) Based on the circumstances alleged in the motion for expedition, it is in the public interest to shorten the notice period provided for in § 1.19(b) of the Commission's rules of practice and procedure.

The Commission orders:

(A) The motion filed by Movants on June 4, 1971, in Docket No. CP71-234, is granted to the extent of providing for the immediate hearing alternatively requested therein.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing June 17, 1971, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the issues raised by El Paso's application filed in this proceeding.

(C) The above-named petitioners are hereby permitted to become interveners in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; *And Provided, further*, That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) A Presiding Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8431 Filed 6-15-71;8:47 am]

LANDS WITHDRAWN IN POWER SITE RESERVES

Finding and Order

APRIL 27, 1971.

Lands withdrawn in Power Site Reserves Nos. 96, 188, and 590, Water Power Designation No. 4 and Projects Nos. 306 and 1062.

Application has been filed by the U.S. Geological Survey for revocation of Power Site Reserves Nos. 96, 188, and 590, and Water Power Designation No. 4 insofar as they pertain to certain lands in the Gila River Basin, Ariz., thereby requiring Commission consideration under section 24 of the Federal Power Act.

The Geological Survey recommended revocation of:

(1) Power Site Reserve No. 96, dated July 2, 1910, insofar as it pertains to

certain lands, aggregating about 277.17 acres, lying above the contemplated flow line of the proposed Walnut Grove reservoir on the Hassayampa River, a tributary of the Gila River.

(2) Power Site Reserve No. 188, dated June 16, 1911, insofar as it pertains to certain lands, aggregating about 7806.13 acres which were withdrawn for possible conduit location in connection with the proposed Walnut Grove and Box Canyon reservoirs on the Hassayampa River. Discharge records for the Hassayampa River at the Box Canyon dam site (located downstream from the Walnut Grove site) have been maintained since 1946. The average discharge for 22 years (1946-68) is 13.2 cfs. Power development at the Walnut Grove and Box Canyon sites is considered economically infeasible because of the small amount of water available, consequently, the lands withdrawn for conduit purposes should be released from power withdrawal.

The Geological Survey and Bureau of Reclamation reported that the Walnut Grove and Box Canyon reservoir sites should be retained in withdrawal status because the sites have potential water storage value.

(3) Power Site Reserve No. 590, dated March 21, 1917, insofar as it pertains to certain lands, aggregating about 280 acres, lying above the contemplated flow line of the proposed Christmas reservoir on the Gila River. According to the Geological Survey, the Corps of Engineers has proposed development of the Christmas site to a flow line elevation of 2,320 feet above mean sea level. Such a reservoir would extend upstream to the existing Coolidge Dam.

(4) Water Power Designation No. 4, dated February 1, 1917, insofar as it pertains to certain lands, including unsurveyed lands of undetermined acreage, lying beyond the limits of the existing San Carlos Reservoir and the proposed Christmas reservoir on the Gila River.

Many of the aforesaid lands along the Hassayampa River are also withdrawn pursuant to the filing of applications for preliminary permit for Projects Nos. 306 and 1062 which applications were withdrawn at the request of the applicants.

A notice of land withdrawal for Project No. 306 was given to the General Land Office (now Bureau of Land Management) by Commission letter dated December 15, 1924, which was amended by Commission letters dated January 15, 1925 (correction), December 4, 1925 (addition), and September 17, 1931 (interpretation). A notice of land withdrawal was not given for Project No. 1062 because it was identical to Project No. 306.

Projects Nos. 306 and 1062 proposed development of the Walnut Grove, and Box Canyon reservoir sites in conjunction with long conduits (totaling about 27 miles) to powerhouses. The withdrawals for Projects Nos. 306 and 1062 should be vacated insofar as they pertain to lands beyond the limits of the Walnut Grove and Box Canyon reservoir sites for the reasons cited in item 2 above.

All of the lands to be released from

power withdrawal lie beyond the limits of existing or potential hydroelectric projects.

The Commission finds:

The subject lands have no significant power value and it has no objection to:

(1) The revocation of Power Site Reserve No. 96 insofar as it pertains to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 10 N., R. 3 W.,
Sec. 2, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 13, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, lot 5.

(2) The revocation of Power Site Reserve No. 188 except that part pertaining to lands in sec. 23, T. 10 N., R. 3 W., and secs. 12 and 13, T. 8 N., R. 5 W., Gila and Salt River Meridian, Arizona.

(3) The revocation of Power Site Reserve No. 590 insofar as it pertains to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 3 S., R. 17 E.,
Sec. 23, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 24, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 27, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 35, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

(4) The revocation of Water Power Designation No. 4 insofar as it pertains to (a) the lands listed in the finding (3) above, and (b) lands in T. 4 S., R. 22 E., Gila and Salt River Meridian, Arizona.

The Commission orders:

The withdrawals pursuant to applications for Projects Nos. 306 and 1062 are hereby vacated insofar as they pertain to lands, aggregating about 5,740 acres, described in the attached land list.

By the Commission

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

Partial vacation of land withdrawals
Projects Nos. 306 and 1062.

LAND LIST

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 9 N., R. 3 W.,
Sec. 2, lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 14, NW $\frac{1}{4}$;
Sec. 15, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 16, S $\frac{1}{2}$ N $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 18, lot 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 10 N., R. 3 W.,
Sec. 2, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 16, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 22, lots 2, 3, 4, 5, 6, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 28, lots 2, 3, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 35, E $\frac{1}{2}$.

T. 6 N., R. 4 W.,
Sec. 4, lots 2, 3, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 9, E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 15, lots 1, 2, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 16, lot 2, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 7 N., R. 4 W.,
Sec. 19, lot 1, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 29, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 33, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 9 N., R. 4 W.,
Sec. 13, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 24, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 25, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 26, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 8 N., R. 5 W.,
Sec. 11, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 14, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 23, W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 35, W $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

[FR Doc.71-8432 Filed 6-15-71;8:48 am]

[Docket No. DA-190-Utah U.S.
Geological Survey]

LANDS WITHDRAWN IN POWER SITE RESERVE

Finding and Order

JUNE 9, 1971.

Lands withdrawn in Power Site Reserve Nos. 40, 122, and 191, Power Site Classification Nos. 294, 302, 323 and 430, Projects Nos. 59, 111, 230, 231, 238, 265, 391, 392, 647, 660, 668, 770, 808, 875, 1124, 1281, and 1633, Arizona, California, Nevada, and Utah.

Application has been filed by the U.S. Geological Survey (applicant), for outright revocation of Power Site Reserve No. 191, and Power Site Classifications Nos. 294 and 430, and partial revocation of Power Site Reserves Nos. 40 and 122, and Power Site Classifications Nos. 302 and 323 thereby requiring Commission consideration under section 24 of the Federal Power Act.

The lands in Power Site Reserve No. 191 (about 2,120 acres) lie adjacent to the Fremont River, a tributary of the Dirty Devil River which flows into Lake Powell, near the towns of Fruita and Torrey, Utah. There is no known plan to use these lands for hydroelectric development purposes and such use is considered unlikely because of the small amount of water available. The only hydroelectric plant on the Fremont River is the Garkane Power Association's 300 kw. Torrey plant for which an application for license (Project No. 2654) was filed on July 25, 1967. However, in a letter dated February 25, 1970, the Association stated that the Torrey plant was permanently shut down on January 23, 1970, and requested that the application for license be set aside. The Association also stated that there was no longer a need for Power Site Reserve No. 191. The withdrawal created under section 24 of the Federal Power Act pursuant to the filing of the application for the Torrey Project is not under consideration herein.

The subject lands in Power Site Reserves Nos. 40 and 122, and Power Site Classifications Nos. 294, 302, 323, and 430 (about 236,108 acres) were withdrawn to protect the Glen Canyon reservoir site which has been developed by the Bureau of Reclamation. The res-

ervoir (Lake Powell) is now protected by a reclamation withdrawal which is more extensive than the power withdrawals.

There are numerous possible pumped storage sites which would use Lake Powell as the lower pool. However, all of the power withdrawals recommended for revocation herein were made for conventional rather than pumped storage hydroelectric sites. Consequently, the upper pool sites are not covered by the power withdrawals. These pumped storage sites are being studied by the Bureau of Reclamation and are covered by the reclamation withdrawal. By memorandum dated February 12, 1969, the Bureau of Reclamation reported that it concurs with the Geological Survey recommendations.

Under the circumstances, Power Site Reserves Nos. 40, 122, and 191, and Power Site Classifications Nos. 294, 302, 323, and 430 no longer serve a useful purpose insofar as they pertain to the subject lands.

The lands in the Glen Canyon reservoir site are also withdrawn pursuant to the filings of applications under the Federal Power Act. These lands are among numerous lands along the Colorado River between Parker Dam and the backwater limit of Lake Powell (in the States of Arizona, California, Nevada, and Utah) variously withdrawn pursuant to the filings of applications for Projects Nos. 59, 111, 121, 230, 231, 238, 265, 391, 392, 647, 660, 661, 668, 770, 808, 875, 1124, 1281, 1503, 1633, 2234, 2248, and 2272 which applications have been withdrawn, rejected, or dismissed. A notice of land withdrawal was sent to the General Land Office (now Bureau of Land Management) for Project No. 121, however, withdrawal notices have not been given for the other projects cited. Most of the lands withdrawn for these projects are also included in reclamation and power withdrawals initiated by the Department of the Interior. Inasmuch as the Bureau of Reclamation has constructed four large multipurpose projects in this reach of the river (Parker, Davis, Hoover, and Glen Canyon) which are protected by reclamation withdrawals, the only project withdrawals still of value are those which cover the undeveloped reach of the river between Lake Mead and Glen Canyon Dam. This undeveloped reach of the river is adequately covered by the withdrawals for Projects Nos. 121, 661, 1503, 2234, 2248, and 2272, that part of the withdrawal for Project No. 111 pertaining to the proposed Marble Canyon development (one of several units proposed in the application for Project No. 111), and several power withdrawals initiated by the Department of the Interior. The withdrawals for Projects Nos. 59, 230, 231, 238, 265, 391, 392, 647, 660, 668, 770, 808, 875, 1124, 1281, and 1633, and that part of the withdrawal for Project No. 111 not pertaining to the Marble Canyon development, no longer serve a useful purpose.

The Commission finds:

The subject withdrawals no longer serve a useful purpose and it has no objection to:

(1) The revocation of Power Site Reserve No. 40 except that part pertaining to Tps. 30 and 31 S., R., 18 E., Salt Lake Meridian, Utah.

(2) The revocation of Power Site Reserve No. 122 insofar as it pertains to Ranges 10, 11, 12, 13, 14, and 15 E., Salt Lake Meridian, Utah.

(3) The revocation of Power Site Reserve No. 191 in its entirety.

(4) The revocation of Power Site Classification No. 294 in its entirety.

(5) The revocation of Power Site Classification No. 302 except that part pertaining to Tps. 30 and 31 S., R. 18 E., Salt Lake Meridian, Utah.

(6) The revocation of Power Site Classification No. 323 insofar as it pertains to Ranges 5, 6, 6 $\frac{1}{2}$, 9, 10, 11, 13, and 16 E., and Tps. 31, 32, and 33 S., R. 17 E., Salt Lake Meridian, Utah.

(7) The revocation of Power Site Classification No. 430 in its entirety.

Aggregating about 238,228 acres.

The Commissions orders:

(A) The withdrawals pursuant to applications for Projects Nos. 59, 230, 231, 238, 265, 391, 392, 647, 660, 668, 770, 808, 875, 1124, 1281, and 1633 are hereby vacated in their entirety (acreage undeterminable from the maps submitted with the applications).

(B) The withdrawal for Project No. 111 except that part pertaining to the proposed Marble Canyon development is hereby vacated (acreage undeterminable from the maps submitted with the application).

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8433 Filed 6-15-71;8:48 am]

[Docket No. DA-1095-California
U.S. Geological Survey]

LANDS WITHDRAWN IN POWER SITE CLASSIFICATION

Finding and Order

APRIL 21, 1971.

Lands withdrawn in Power Site Classification No. 79 Projects Nos. 125, 966, and 1209.

Application has been filed by the U.S. Geological Survey for revocation of the above-designated power site classification and project withdrawals in their entirety, thereby requiring Commission consideration under section 24 of the Federal Power Act.

The subject withdrawals pertain to certain lands, in the San Gabriel River Basin, lying upstream from the city of Pasadena's Azusa powerhouse (licensed Project No. 1250) which receives water from the San Gabriel Reservoir (operated by the Los Angeles County Flood Control District) through a 6-mile conduit. The Azusa powerplant has an installed capacity of 3,400 horsepower and is the only existing hydroelectric plant

In the San Gabriel River Basin. All of the subject lands lie within the Angeles National Forest.

Power Site Classification No. 79, totaling about 322 acres, affects lands in T. 2 N., R. 8 W., and Tps. 1, 2, and 3 N., Rs. 9 and 10 W., San Bernardino Meridian, California. This withdrawal consists of right-of-way strips which duplicate the withdrawal for Project No. 1250 in part, and right-of-way strips for conduit facilities that were never constructed and are no longer feasible because of the construction of the San Gabriel flood control reservoir (not licensed by the Commission) and other factors discussed below. The San Gabriel Reservoir is protected by Reservoir Site Reserve No. 17 and Department of the Interior right-of-way LA-049901.

Project No. 125 was to consist of a diversion-conduit type development involving lands (described in the attached Land List) lying upstream from the San Gabriel Reservoir. The application for this project was withdrawn March 9, 1921, at the request of the applicant after an investigation showed such development was not warranted. According to a 1968 Geological Survey report, hydroelectric development (conventional and pumped storage) above San Gabriel Reservoir is infeasible because the water supply is meager, erratic in occurrence, and fully committed to existing uses, excessive amounts of storage would be required to firm streamflow, there is a lack of good reservoir sites, and present downstream water uses do not require additional storage.

Projects Nos. 966 and 1209 consisted of 16-kv. and 33-kv. transmission lines which crossed Federal lands described in the attached Land List. The license for Project No. 1209 expired November 28, 1935, and the 16-kv. line formerly covered by that license was then included in the license for Project No. 966. The Commission accepted the surrender of the license for Project No. 966 by order dated October 5, 1943, after finding that the transmission lines which constituted the project were not primary lines as set forth in section 3(11) of the Federal Power Act. Some of the lines have been dismantled or relocated and the Federal lands involved restored to a condition satisfactory to the Forest Service. Other lines have continued in operation under a Forest Service special use permit which provides appropriate protection for the lines as they now exist on Federal lands.

Under the circumstances, Power Site Classification No. 79 and the withdrawals for Projects Nos. 125, 966, and 1209 no longer serve a useful purpose.

The action taken herein will not in any way affect the withdrawal for Project No. 1250.

The Commission finds: The withdrawals no longer serve a useful purpose, and it has no objection to the cancellation of Power Site Classification No. 79 in its entirety.

The Commission orders: The withdrawals of the subject lands pursuant to the applications for Projects Nos. 125,

966, and 1209 are hereby vacated in their entirety.

By the Commission,

[SEAL] * KENNETH F. PLUMB,
Acting Secretary.

Vacation of land withdrawals Projects Nos. 125, 966, and 1209.

LAND LIST

SAN BERNARDINO MERIDIAN, CALIFORNIA

1. The following described lands (totaling about 3,921 acres) were withdrawn pursuant to the filing on December 13, 1920, of an application for preliminary permit for Project No. 125 for which the Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letters dated January 26, 1921, and February 9, 1921.

T. 2 N., R. 8 W.,
Sec. 5, lots 3, 4, 5, 6, 11, 12, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 6, lots 9, 10, 13, 14, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 7, lots 1, 2, 3, 4, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, lots 1, 2, E $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 3 N., R. 8 W.,
Sec. 32, lots 1, 2, 3, 4, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 2 N., R. 9 W.,
Sec. 12, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 13, N $\frac{1}{2}$, SW $\frac{1}{4}$;
Sec. 14, all;
Sec. 15, SE $\frac{1}{4}$;
Sec. 21, N $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 22, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.

2. Portions (totaling about 146 acres) of the following described sections were withdrawn pursuant to the filing on March 5, 1929, of an application for license and on May 25, 1931, June 12, 1933, October 19, 1935, October 15, 1936, May 12, 1937, November 10, 1938, and May 3, 1939, of applications for amendment of license for Project No. 966 for which the Commission gave notices of land withdrawal to the General Land Office by letters dated March 27, 1929, June 25, 1931, June 21, 1933, November 4, 1935, February 6, 1936, December 12, 1936, May 29, 1937, December 23, 1938, and August 3, 1939.

T. 1 N., R. 9 W.,
Secs. 6, 7,
T. 2 N., R. 9 W.,
Secs. 4, 5, 8, 17, 18, 19, 29, 30, 31, 32.
T. 3 N., R. 9 W.,
Secs. 29, 32, 33.
T. 1 N., R. 10 W.,
Secs. 12, 14.
T. 2 N., R. 10 W.,
Secs. 19, 20, 21, 22, 23, 24.

3. Portions (totaling about 58 acres) of the following described sections were withdrawn pursuant to the filing on May 17, 1932, of an application for license and on February 16, 1933, of an application for amendment of license for Project No. 1209 for which the Commission gave notices of land withdrawal to the General Land Office by letters dated June 6, 1932, and February 24, 1933.

T. 2 N., R. 9 W.,
Sec. 19,
T. 2 N., R. 10 W.,
Secs. 18, 19, 20, 21, 22, 23, 24.
[FR Doc. 71-8434 Filed 6-15-71; 8:48 am]

[Docket No. CP71-282]

WESTERN TRANSMISSION CORP.

Notice of Application

JUNE 10, 1971.

Take notice that on May 28, 1971, Western Transmission Corp. (applicant),

250 Park Avenue, New York, NY 10017, filed in Docket No. CP71-282, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas gathering and transportation facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically requests authorization to construct and operate 11.1 miles of 6 $\frac{1}{2}$ -inch pipeline to extend from the Sugar Creek Unit of Tenneco Oil Co. to applicant's existing 12 $\frac{3}{4}$ -inch pipeline both of which are located in Carbon County, Wyo. Applicant states that the estimated cost of the facilities proposed herein is \$205,692, which will be financed from working capital. The application explains that the aforementioned facilities will be used to transport to its customer, Colorado Interstate Gas Co., additional gas reserves which have been developed within the Washakie Basin of Carbon and Sweetwater Counties, Wyo.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8435 Filed 6-15-71; 8:48 am]

FEDERAL RESERVE SYSTEM AMERICAN BANCSHARES OF MICHIGAN, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by the American Bancshares of Michigan, Inc., Kalamazoo, Mich., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the American National Bank and Trust Company of Michigan, Kalamazoo, Mich.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors, June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-8398 Filed 6-15-71; 8:45 am]

HERITAGE BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)

(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Heritage Bancorporation, Cherry Hill, N.J., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to South Jersey National Bank, Camden, N.J., and the successor by merger to the First National Iron Bank of New Jersey, Morristown, N.J.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Philadelphia.

By order of the Board of Governors, June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-8399 Filed 6-15-71; 8:45 am]

TARIFF COMMISSION

[TEA-I-22]

DINNERWARE

Notice of Investigation and Hearing

Investigation instituted. Following receipt of a petition filed by the American Dinnerware Emergency Committee on June 1, 1971, the U.S. Tariff Commission, on June 10, 1971, instituted an investigation under section 301(b) of the Trade Expansion Act of 1962 to determine whether, as a result in major part of con-

cessions granted under trade agreements—articles of fine-grained earthenware, of fine-grained stoneware, and of nonbone chinaware or of subporcelain, all the foregoing available in specified sets and provided for in items 533.14, 533.16, 533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, and 533.68 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry or industries producing articles which are like or directly competitive with the imported articles.

For the purposes of this investigation, the term "available in specified sets", as applied to items 533.14 and 533.16, has the same meaning as is provided for the other items in headnote 2 to part 2C of schedule 5 of the TSUS.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.s.t., on September 21, 1971, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

Requests to appear must contain a careful estimate of the aggregate time desired for presentation of oral testimony by all witnesses for whose appearances the request is filed.

Inspection of petition. The petition filed in this case is available for inspection by persons concerned at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: June 11, 1971.

By order of the Commission,

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc. 71-8450 Filed 6-15-71; 8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

ADVANCE ROSS ELECTRONICS CORP.

Notice of Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

After reviewing the Tariff Commission's report on its investigation of the petition for adjustment assistance filed on behalf of workers formerly employed by Advance Ross Electronics Corp. of Washington, Iowa (Report No. TEA-W-80) under section 301(c)(2) of the Trade Expansion Act of 1962, and in which report the Commission being equally divided, made no finding, the President decided, under the authority of section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the findings of those Commissioners who found in the

affirmative as the finding of the Commission. Accordingly, he has advised the Secretary of Labor that he may certify this group of workers as eligible to apply for adjustment assistance.

In view of the Tariff Commission's report, the President's authorization, and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order No. 11075 (28 F.R. 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under title III, chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigations to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210, on or before June 21, 1971.

Signed at Washington, D.C. this 4th day of June 1971.

EDGAR I. EATON,
Director, Office of
Foreign Economic Policy.

[FR Doc.71-8459 Filed 6-15-71;8:50 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 11, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42225—Chlorine to St. Marys, Ga. Filed by Southwestern Freight Bureau, agent (No. B-234), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from specified points in Louisiana and Texas, to St. Marys, Ga.

Grounds for relief—Market competition.

Tariffs—Supplements 268 and 159 to Southwestern Freight Bureau, agent, tariffs ICC 4668 and 4773, respectively. Rates are published to become effective on July 13, 1971.

FSA No. 42226—Chlorine from Taft, La. Filed by Southwestern Freight Bureau, agent (No. B-241), for interested

rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Taft, La., to Jacksonville and South Jacksonville, Fla.

Grounds for relief—Market competition.

Tariff—Supplement 268 to Southwestern Freight Bureau, agent, tariff ICC 4668. Rates are published to become effective on July 13, 1971.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8441 Filed 6-15-71;8:49 am]

DIAMOND TRANSPORTATION SYSTEM, INC., ET AL.

Assignment of Hearings

JUNE 11, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-123048 Sub 182, Diamond Transportation System, Inc., assigned July 12, 1971, Chicago, postponed indefinitely.

MC-42487 Sub 705, Consolidated Freightways Corp. of Delaware, now assigned September 13, 1971, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC-79658 Sub 12, Atlas Van Lines, Inc., assigned June 23, 1971, Chicago, Ill., postponed indefinitely.

MC-61592 Sub 194, Jenkins Truck Line, Inc., assigned July 30, 1971, in Room 1088-A, Everett McKinley Dirksen Building, Chicago, Ill.

MC-108119 Sub 25, E. L. Murphy Trucking Co., assigned July 26, 1971, in Room 1806-A, Everett McKinley Dirksen Building, Chicago, Ill.

MC-114045 Sub 341, Trans-Cold Express, Inc., assigned July 28, 1971, in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn St., Chicago, Ill.

MC-F-11030, Central Transport, Inc.—Control—Michigan Express, Inc., assigned July 19, 1971, at the Pick-Fort Shelby Hotel, Lafayette and First Street, Detroit, MI.

MC-128981, Subs 5 and 6, Land-Air Delivery, Inc., assigned July 13, 1971, in Court of Appeals, Courtroom No. 2, U.S. Courthouse and Customhouse, 1114 Market Street, St. Louis, MO.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8442 Filed 6-15-71;8:49 am]

[Notice 20]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 11, 1971.

The following letter-notices of proposals to operate over deviation routes

for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-48963 (Deviation No. 2), RE-PUBLIC TRUCK LINES, INC., Post Office Box 807, Springfield, MO 65801, filed June 2, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Dallas, Tex., over Interstate Highway 35E to Denton, Tex., thence over Interstate Highway 35 to junction U.S. Highway 82, thence over U.S. Highway 82 to Wichita Falls, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Dallas, Tex., over the Dallas-Fort Worth Turnpike to Fort Worth, Tex., thence over U.S. Highway 80 to junction U.S. Highway 281, thence over U.S. Highway 281 to Wichita Falls, Tex., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8443 Filed 6-15-71;8:49 am]

[Notice 48]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 11, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING MOTOR CARRIERS OF PROPERTY

No. MC 73165 (Sub-No. 292), filed April 23, 1971, published in the FEDERAL REGISTER of May 20, 1971, and republished this issue to reflect hearing information. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Mining machinery and related machinery tools, parts and supplies, from Columbus, Ohio, to points in New Mexico, Colorado, Nevada, Utah, Wyoming, California, and Arizona. Note: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: June 28, 1971, in the Moot Courtroom, The College of Law, The Ohio State University, 1659 North High Street, Columbus, OH.

No. MC 64112 (Sub-No. 45) (Republication), filed September 29, 1970, published in the FEDERAL REGISTER issue of October 22, 1970, and republished this issue. Applicant: NORTHEASTERN TRUCKING COMPANY, a corporation, 2508 Starita Road, Post Office Box 26276, Charlotte, NC 28213. Applicant's representative: John M. Dunn, Jr., Post Office Box 26276, Charlotte, NC 28213. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 28, 1971, and served June 2, 1971, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of paper from Riegelwood and Roanoke Rapids, N.C., to points in Connecticut, Massachusetts, Rhode Island, New Jersey, those points in Pennsylvania north of U.S. Highway 22 from the New Jersey-Pennsylvania State line to Harrisburg, Pa., and west of Interstate Highway 83 from Harrisburg to the Pennsylvania-Maryland State line, Concord, N.H., Portland, Maine, and points in New York (except those points on Long Island east of the New York, N.Y., commercial zone as defined by the Commission), restricted to the transportation of traffic originating at Roanoke Rapids or Riegelwood, N.C. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 128837 (Sub-No. 1) (Republication), filed July 17, 1970, published in the FEDERAL REGISTER issues of August 5, 1970, and October 1, 1970, and republished this issue. Applicant: HOWARD K. SMITH, an individual, Rural Route No. 2, Greenville, IL 62246. Applicant's representative: Robert T. Lawley, 308 Reisch Building, Springfield, IL 62701. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 29, 1971, and served June 2, 1971, finds: that the present and future public convenience and necessity require operation by applicant in interstate or for-

ing setting forth in detail the precise manner in which it has been prejudiced.

No. MC 113024 (Sub-No. 104) (Republication), filed November 23, 1970, published in the FEDERAL REGISTER issue of December 17, 1970, and republished this issue. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Dupont Highway, Smyrna, DE 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. The modified procedure has been followed in this proceeding on order of the Commission, Operating Rights Board, dated April 29, 1971, and served June 1, 1971, finds: (1) that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of rubber hose, from Wilmington, Del., to points in Cook and Lake Counties, Ill.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder and that an appropriate certificate should be issued. (2) That the holding by applicant of the certificate authorized to be issued in this proceeding and the permit issued in No. MC-113024 and various sub numbers thereunder will be consistent with the public interest and the national transportation policy, subject to the right of the Commission which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary to insure that applicant's operations shall conform to section 210 of the Act. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 128837 (Sub-No. 1) (Republication), filed July 17, 1970, published in the FEDERAL REGISTER issues of August 5, 1970, and October 1, 1970, and republished this issue. Applicant: HOWARD K. SMITH, an individual, Rural Route No. 2, Greenville, IL 62246. Applicant's representative: Robert T. Lawley, 308 Reisch Building, Springfield, IL 62701. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 29, 1971, and served June 2, 1971, finds: that the present and future public convenience and necessity require operation by applicant in interstate or for-

eign commerce, as a common carrier by motor vehicle, over irregular routes: (1) Of lumnite cement, in containers, from Buffington, Ind., (2) of powdered silica sand, in containers, from Ottawa, Ill., and (3) of crude fire clay, in containers, from Mayfield, Ky., and Clover, S.C., to Fulton and Owensville, Mo. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 134786 (Sub-No. 2) (Republication), filed November 9, 1970, published in the FEDERAL REGISTER issue of December 17, 1970, and republished this issue. Applicant: ARCHIE ALFRED McCORMICK, Post Office Box 14, Orms-town, PQ Canada. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 30, 1971, and served June 2, 1971, finds: that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of rough lumber, between those ports of entry on the international boundary line between the United States and Canada in New York, Vermont, and New Hampshire, on the one hand, and, on the other, points in New York, Vermont, and New Hampshire, and restricted to the transportation of rough lumber originating at or destined to points in the Province of Quebec, under a continuing contract with Trudeau Lumber, Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 15097 (Notice of Filing of Petition for Waiver of Rule 1.101(e); for Reconsideration, Modification and Correction of Grandfather Authority), filed May 21, 1971. Petitioner: WILLIAM B. MEYER RIGGING, INC., Stratford, Conn. Petitioner's representative: PAUL J. GOLDSTEIN, 109 Church Street, New Haven, CT. Petitioner states that it holds a certificate in No. MC 15097 which, insofar as it relates to heavy hauling service, reads as follows: "Heavy machinery, structural steel and equipment and supplies used in the installation of telephone and cable lines, between points in Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, and Connecticut, within 200 miles of Bridgeport, Conn." By the instant petition, petitioner requests that the Commission reconsider for clarification and modification the certificate heretofore issued, and that an appropriate order be entered modifying and clarifying that portion of said certificate now reading "heavy machinery" to read: "Commodities, the transportation of which because of size or weight requires the use of special equipment, and of related machinery parts and related contractor's materials and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight, require the use of special equipment." Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 87966 (Sub-No. 14), (Notice of Filing of Petition to Substitute the Origin Point of Peshtigo, Wis., in Place of Oconto, Wis.), filed May 24, 1971. Petitioner: ELEVELD CHICAGO FURNITURE SERVICE, INC., Chicago, Ill. Petitioner's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Petitioner states that a report and order, recommended by Charles Murphy, Hearing Examiner, dated December 11, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle; of (1) Store and office fixtures, as defined in Appendix III to Ex Parte MC-45 (as amended) and parts thereof; and (2) supplies and materials used in the installation of said store and office fixtures (except commodities in bulk), between the plantsite and facilities of Packerland Woodworking Corp., a subsidiary of Capital Fixtures & Construction Corp., at or near Oconto, Wis., on the one hand, and, on the other, points in Illinois (except Rockford, St. Charles, Elgin, Naperville, Kankakee, and those in the Chicago commercial zone), Indiana (except Michigan City), Michigan, Ohio, Pittsburgh, Pa., and St. Louis, Mo., over irregular routes. By the instant petition, petitioner desires to substitute the origin point of Peshtigo, Wis., in place of Oconto, Wis.,

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Petitioner also states that their supporting shipper, is proposing to close the present plant of their subsidiary, Packerland Woodworking Corp., and transfer all operations to a new plant at Peshtigo, Wis., which is approximately 12 miles north of Oconto, located on U.S. Highway 41. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 84719 (Sub-No. 6), filed May 19, 1971. Applicant: BEKINS MOVING & STORAGE CO., a corporation, 940 Aurora Avenue, North at 95th, Post Office Box 1428, Greenwood Station, Seattle, WA 98103. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between points in Washington, Oregon, and Idaho. NOTE: Applicant states it proposes to cancel authority presently held and which will be acquired in the pending application under section 5, if the authority requested is granted. (2) Applicant further states that it and its two affiliates Bekins Moving & Storage Co. of Oregon and Bekins Moving & Storage Co. of Idaho, presently hold authority to perform and are jointly performing, operations between points in Washington, Oregon, and Idaho, through the Portland, Oreg., and Spokane, Wash., gateways. (3) The purpose of this and the related section 5 application is to consolidate the authorities and to eliminate the gateways. (4) The instant application is a matter directly related to No. MC-F-11181, published in the FEDERAL REGISTER issue of June 2, 1971. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11159. (Correction) (SOUTHERN KANSAS GREYHOUND LINES, INC.—Purchase (Portion)—ARKOMO COACH LINES, INC.), published in the May 19, 1971, issue of the FEDERAL REGISTER, on page 9097. Prior notice should be modified to include the route between Pryor and Chouteau, Okla.,

and Rogers, Ark., should be included as a point for chartered service.

No. MC-F-11181. (Correction) (BEKINS MOVING & STORAGE CO., (A Washington corporation)—Purchase—BEKINS MOVING & STORAGE CO., (Oregon corporation) and BEKINS MOVING & STORAGE CO., (Idaho corporation)), published in the June 3, 1971, issue of the FEDERAL REGISTER, on page 10829. Prior notice should be modified to include between points in Oregon.

No. MC-F-11196. Authority sought for purchase by DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08034, of the operating rights of GARY TRUCKING CO., INC., 260 Glenwood Road, Melrose Park, PA 19128, and for acquisition by SHULMAN TRANSPORT ENTERPRISES, INC., also of Cherry Hill, N.J. 08034, of control of such rights through the purchase. Applicants' attorneys and representative: Alan Kahn, 1920, Two Penn Center Plaza, John F. Kennedy Boulevard, at 15th Street, Philadelphia, PA 19102; Herbert Burstein, 30 Church Street, New York, NY 10007; and Leonard C. Zucker, 20 Olney Avenue, Cherry Hill, NJ 08034. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in the New York, N.Y., commercial zone, as defined by the Commission; *grocery store supplies*, from Philadelphia, Pa., to points in New Jersey. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Delaware, District of Columbia, Maryland, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Ohio, Missouri, Kansas, Arkansas, Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Tennessee, Kentucky, West Virginia, Virginia, Indiana, and Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11197. Authority sought for purchase by ROGERS TRANSFER, INC., Route 46, Post Office Box 175, Great Meadows, NJ 07838, of a portion of the operating rights of STEVENS TRUCK LINES, INC. (Internal Revenue Service, Successor in Interest), 893 Ridge Road, East Webster, NY 14580, and for acquisition by JOHN E. ROGERS, RICHARD ROGERS and THOMAS ROGERS, all of Great Meadows, N.J. 07838, of control of such rights through the purchase. Applicants' attorney: Bert Collins, 140 Cedar Street, New York, NY 10006. Operating rights sought to be transferred: *Frozen foods*, as a *common carrier*, over irregular routes, from points in Erie, Niagara, Monroe, and Wayne Counties, N.Y., to New York, N.Y., Maryland, Pennsylvania, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Massachusetts, Pennsylvania, New York, and New

Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11199. Authority sought for purchase by MERCURY MOTOR EXPRESS, INC., 704 West John F. Kennedy Boulevard, Tampa, FL 33606, of a portion of the operating rights of STEVENS TRUCK LINES, INC. (Internal Revenue Service, Successor in Interest), 893 Ridge Road, East Webster, NY 14580, and for acquisition by M.M.X. CORPORATION, 308 Tampa Street, Tampa FL 33602, of control of such rights through the purchase. Applicants' attorney: David C. Venable, 711 Washington Building, 15th and New York Avenue NW., Washington, DC 20005. Operating rights sought to be transferred: *General commodities*, except explosives, as a *common carrier*, over irregular routes, between points in Erie and Genesee Counties, N.Y., on the one hand, and, on the other, points in Potter, McKean, Warren, Crawford, Venango, Forest, Elk, and Cameron Counties, Pa. Vendee is authorized to operate as a *common carrier* in Connecticut, Florida, North Carolina, South Carolina, Georgia, New York, New Jersey, Maryland, Virginia, Pennsylvania, West Virginia, District of Columbia, Delaware, Tennessee, Rhode Island, and Massachusetts. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11198. Authority sought for control by NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223, of the operating rights of GARRETT FREIGHT LINES, INC., Post Office Box 4048, Pocatello, ID 83201, and for acquisition by UNITED TRANSPORTATION INVESTMENT COMPANY, and in turn by DAVID H. RATNER, both of 310 South Michigan Avenue, Chicago, IL 60604, of control of GARRETT FREIGHT LINES, INC., through the acquisition by NAVAJO FREIGHT LINES, INC. Applicants' attorney: Jack Goodman, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be controlled: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Idaho, Montana, California, Utah, Oregon, Colorado, New Mexico, Nevada, Wyoming, Washington, North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, and Indiana, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-263 and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. NAVAJO FREIGHT LINES, INC., is authorized to operate as a *com-*

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mon carrier in New Mexico, California, Arizona, Texas, Colorado, Illinois, Missouri, Nebraska, Nevada, Indiana, Oklahoma, Iowa, Kansas, Utah, Louisiana, Maryland, Arkansas, Florida, New York, Tennessee, Wyoming, Connecticut, New Jersey, and Massachusetts. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11200. Authority sought for purchase by THE MASON AND DIXON LINES, INCORPORATED, Post Office Box 969, Eastman Road, Kingsport, Tenn. 37662, of the operating rights of ECON, INC., 1854 North Kedvale Avenue, Chicago, IL 60639, and for acquisition by E. WILLIAM KING, also of Kingsport, Tenn. 37662, of control of such rights through the purchase. Applicants' representatives: Carl W. Eilers, Post Office Box 3740, Kingsport, TN 37664. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121399 Sub-1, covering the transportation of general commodities, as a *common carrier*, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Tennessee, North Carolina, Georgia, Virginia, South Carolina, New York, New Jersey, Maryland, Delaware, District of Columbia, Pennsylvania, Illinois, Kentucky, Ohio, Indiana, Alabama, and West Virginia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER PASSENGER

No. MC-F-11195. Authority sought for purchase by SAN JUAN TOURS, INC., doing business as GLENWOOD-ASPEN STAGES, INC., 10 Lake Circle Broadmoor (Mailing address: Post Office Box 2378, 80901), Colorado Springs, Colo. 80906, of the operating rights and property of ROCKY MOUNTAIN MOTOR COMPANY, INC., doing business as COLORADO TRANSPORTATION COMPANY, 3455 Ringsby Court, Denver, CO 80216, and for acquisition by THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, 1531 Stout Street, Denver, CO 80202, of control of such rights and property through the purchase. Applicants' representative: Gunnar Alenius, Post Office Box 2378, Colorado Springs, CO 80901. Operating rights sought to be transferred: Passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, in seasonal operations from May 31 to October 1, inclusive, as a *common carrier* over regular routes, between Denver, Colo., and Estes Park, Colo., between Estes Park, Colo., and Grand Lake, Colo., from Grand Lake, Colo., to Denver, Colo., between Greeley, Colo., and Loveland, Colo., serving all intermediate points; passengers and their baggage, and express, mail and newspapers, in the same vehicle with passengers, in year-round operations, between Longmont, Colo., and Estes Park, Colo., between Denver, Colo., and Denver Mountain Parks, in a circular route beginning and ending at Denver, Colo., serving all intermediate points. Vendee

is authorized to operate as a *common carrier* in Colorado. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-8444 Filed 6-15-71; 8:49 am]

[Notice 312]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 11, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 103051 (Sub-No. 240 TA), filed June 2, 1971. Applicant: FLEET TRANSPORT COMPANY, INC., Post Office Box 7645, 934 44th Avenue North, Nashville, TN 37209. Applicant's representative: R. J. Reynolds, Jr., 604 Healey Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle; over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Hilton, Early County, Ga., to points in Alabama and Florida, for 150 days. Supporting shipper: Tenneco Oil Co., Post Office Box 2511, Houston, Tex. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, 803 1808 West End Building, Nashville, TN 37203.

No. MC 110270 (Sub-No. 7 TA), filed June 3, 1971. Applicant: BEVERAGE TRANSPORT, INC., Post Office Box 88, Route 5 and 20, East Bloomfield, NY 14443. Applicant's representative: Raymond A. Richards, Post Office Box 25, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Malt beverages*, from Merrimack, N.H., to Rochester and Lakeville, N.Y., for 180

days. Supporting shippers: Lake Beverage Corp. 23 Linden Park, Rochester, NY; Samuel F. West, Distributor, Stone Road, Lakeville, N.Y. Send protests to: District Supervisor Morris H. Gross, Interstate Commerce Commission, Bureau of Operations, Room 104, O'Donnell Building, 301 Erie Boulevard West, Syracuse, NY 13202.

No. MC 110525 (Sub-No. 1005 TA), filed May 30, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, dry, in bulk, in tank vehicles, from Hopewell, Va., to Philadelphia, Pa., for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 2365R, Morristown, NJ 07960. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 111170 (Sub-No. 163 TA), filed June 3, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *De-fluorinated phosphate feed supplements*, in bulk and in bags, from North Little Rock, Ark., to points in Louisiana, Mississippi, Missouri, Kansas, Kentucky, Illinois, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Olin, Agricultural Division, Post Office Box 991, Little Rock, AR 72203. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 112822 (Sub-No. 202 TA), filed May 31, 1971. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Joe W. Ballard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal litter and pet supplies, bleaching, cleaning, laundry and scouring compounds, materials and supplies* (except commodities in bulk), from the plantsite and distribution facilities of the Clorox Co., Oakland, Calif., to points in Oregon and Washington, for 180 days. Supporting shipper: R. W. Ernst, Division Traffic Manager, the Clorox Co., Post Office Box 24305, Oakland, CA 94623. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 114097 (Sub-No. 2 TA), filed May 31, 1971. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 South

Front Street, La Crosse, WI 54601. Applicant's representative: Fred C. Niefeldt (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New, empty glass bottles*, in cartons or boxes, 1 gallon or less in capacity, from the plantsite of Midland Glass Co., Inc., Shakopee, Minn., to the G. Heileman Brewing Co., Inc., La Crosse, Wis., for 180 days. Supporting shipper: G. Heileman Brewing Co., Inc., 925 South Third Street, La Crosse, WI 54601. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 116816 (Sub-No. 11 TA), filed May 30, 1971. Applicant: MERT TRUCKING CORP., 849 Harrison Avenue, Kearny, NJ 07032. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances*, between Carle Place, N.Y., on the one hand, and, on the other, points in New Jersey, for 180 days. Supporting shipper: Abraham & Straus, Brooklyn, N.Y. 11201. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 117119 (Sub-No. 437 TA), filed June 3, 1971. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Shawnee, Okla., to points in Arkansas, Missouri, Tennessee, Kentucky, Louisiana, Mississippi, Alabama, Georgia, Virginia, West Virginia, North Carolina, Florida, Maryland, and the District of Columbia, for 180 days. Supporting shipper: Buhler Mills, Inc., Post Office Box 4819, 1835 Union Avenue, Suite 325, Memphis, TN 38104. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 119557 (Sub-No. 5 TA), filed May 30, 1971. Applicant: HOWARD KAYLOR AND KENNETH L. STUART, a partnership, doing business as K & S TANKLINE, Drawer R, Copperhill, TN 37317. Applicant's representative: K. Edward Wolcott, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur dioxide*, in bulk, in tank vehicles, from Copperhill, Tenn., to LeMoyne, Ala., and McIntyre, Ga., for 180 days. Supporting shipper: Mr. J. D. Lemming, Manager, Transportation Pricing, Cities Service Co., Cities Service Building, 3445 Peachtree Road NE., Atlanta, GA. Send protests to: Joe J. Tate,

District Supervisor, Bureau of Operations, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, TN 37203.

No. MC 124211 (Sub-No. 186 TA), filed June 2, 1971. Applicant: HILT TRUCK LINE, INC., Post Office Box 988, DTS, Omaha, NE 68101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures, equipment, materials and supplies, and accessories* (except liquid commodities in bulk and except commodities which because of their size or weight require the use of special equipment), from Louisville, Ky., to points in the United States on and west of U.S. Highway 83 (except points in Alaska, Hawaii, and South Dakota), for 180 days. Supporting shipper: American Standard, Inc., Post Office Box 2003, New Brunswick, NJ 08903. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 705 Federal Office Building, Omaha, NE 68102.

No. MC 126276 (Sub-No. 49 TA), filed June 3, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plant and warehouse sites of Kraftco Corp., and its Division Kraft Foods, at or near Champaign, Ill., to Cleveland, Akron, Ashtabula, Canton, Dennison, Massillon, Youngstown, Cincinnati, Belle Fontaine, Lima, Columbus, Dayton, Xenia, Maple Heights, Solon, Warrensville Heights, Bedford Heights, Evendale, Woodlawn, and West Carrollton, Ohio, and Covington, Ky., for 150 days. Supporting shipper: Kraft Foods, Division of Kraftco Corp., 505 North Sacramento Boulevard, Chicago, IL 60612. Send protests to: District Supervisor Robert G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 126528 (Sub-No. 4 TA), filed June 3, 1971. Applicant: BULK HAULERS, INC., Airport Road, Post Office Box 407, Nashua, NH 03060. Applicant's representative: Thomas J. O'Loughlin, Jr. (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malleable iron scrap castings, and hard iron spruce*, loose, in dump vehicles, from New Haven, Conn., to Easton, Mass., for 180 days. Supporting shipper: Belcher Malleable Division, The Dayton Malleable Iron Co., 558 Foundry Street, Easton, MA 02334. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, Concord, N.H. 03301.

No. MC 128939 (Sub-No. 8 TA), filed June 3, 1971. Applicant: AYRCO CORPORATION, 3921 Imlay Street, Toledo, OH 43612. Applicant's representative:

James H. Ayers (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from plantsites of Hamms Brewing Co., located at St. Paul, Minn., and the Carling Brewing Co., located at Frankenmuth, Mich., to Toledo, Ohio (for the account of Maumee Valley Distributing Co.); with return of empty containers, rejected or damaged merchandise, for 150 days. Supporting shipper: Maumee Valley Distributing Co., Toledo, Ohio 43613. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 129643 (Sub-No. 6 TA), filed May 31, 1971. Applicant: GEORGE SMITH, doing business as GEORGE SMITH TRUCKING CO., 433 Mountain Avenue, 4 Winnipeg, MB Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen edible meats*, from port of entry at or near Eastport, Idaho, to points in Oregon and Washington, restricted to single line traffic originating in Winnipeg, Manitoba, Canada, for 180 days. Supporting shippers: Canada Packers, Ltd., St. Boniface, Manitoba, Canada; Burns Foods, Ltd., Post Office Box 70, Winnipeg 1, MB Canada; Swift Canadian Co., Ltd., St. Boniface, Manitoba, Canada; Jack Forgan Wholesale Meats, Ltd., 500 Dawson Road, St. Boniface, 6, MB Canada; East-West Packers Ltd., 346 Dupuy Avenue, St. Boniface 6, MB Canada; O. K. Packers, Ltd., 505 Dawson Road, St. Boniface 6, MB Canada. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 129662 (Sub-No. 1 TA), filed June 3, 1971. Applicant: ALPHONSE LOISELLE, doing business as LOISELLE TRANSPORT, 426 Deschambault Street, St. Boniface 6, MB Canada. Applicant's representative: Alphonse Loisel (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, as produced by Building Products of Canada, Ltd., from Noyes, Baudette, and Lancaster, Minn., and Pembina, N. Dak., to points in Michigan and Kansas; and *rock asphalt* from Augusta, Kans., to Noyes and Lancaster, Minn., and Pembina, N. Dak., limited to foreign commerce destined for delivery at Winnipeg, Canada, for 180 days. Supporting shipper: Building Products of Canada, Ltd., Post Office Box 99, Winnipeg 1, MB Canada. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 135283 (Sub-No. 4 TA), filed June 3, 1971. Applicant: GRAND IS-

LAND MOVING & STORAGE CO., INC., East Highway 30, Box 1665, Grand Island, NE 68801. Applicant's representative: James D. Pirnie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dehydrated or dried eggs and products thereof; dehydrated, powdered, and rendered poultry and beef products*, cooked and uncooked, from David City, Norfolk, Omaha, and Ravenna, Nebr.; Malvern, Iowa, and Springfield, Mo., to points in Delaware, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania, for 180 days. Supporting shipper: Henningsen Foods, Inc., 700 West Center Road, Omaha, NE 68106. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 135636 (Sub-No. 1 TA), filed May 31, 1971. Applicant: HARRY E. CLARK, Rural Route 1, McLeansboro, Ill. 62859. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough green lumber, pallets, boxes, blocking, nails, strapping, and steel dip tanks*, between McLeansboro, Ill., and Poplar Bluff, Mo., for 180 days. Supporting shipper: Florence Baldwin, Vice President, Joseph G. Baldwin Co., Post Office Box 276, McLeansboro, Ill. 62859. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 135640 (Sub-No. 1 TA), filed May 31, 1971. Applicant: STALEY EXPRESS, INC., 765 East Pythian, Decatur, IL 62526. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated steel and materials, equipment and supplies* used in the installation and erection thereof, from Decatur, Ill., to Janesville and Kewaunee, Wis., for 180 days. Supporting shipper: Harry D. Penwell, General Traffic Manager, Mississippi Valley Structural Steel, Inc., 2060 East Eldorado Street, Decatur, IL 62525. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 135650 TA, filed May 30, 1971. Applicant: ROYAL DELITE FOODS, INC., 4817 Governor Printz Boulevard, Edgemoor, DE 19809. Applicant's representative: Morris Chudnofsky (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in insulated and mechanical refrigerated vehicles, from Washington Court House, Ohio, to points

in Pennsylvania, New York, Maryland, Delaware, and New Jersey, for 180 days. Supporting shipper: D. S. Metcalf, Traffic Manager, 80 Grand Avenue, Oakland, CA 94612. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Old Post Office Building, Salisbury, MD 21801.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-8445 Filed 6-15-71; 8:49 am]

[Notice 701]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 16, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72915. By order of June 10, 1971, the Motor Carrier Board approved the transfer to Ralph L. Buzzell, Inc., of certificate No. MC-115548 (Sub-No. 2), issued January 7, 1957, to Ralph L. Buzzell, authorizing the transportation of: Bituminous asphalt paving mix, in bulk, in dump vehicles, in seasonal operations, from Haverhill and Groveland, Mass., to points in Stafford, Rockingham, and Hillsboro Counties, N.H., within 35 miles of Haverhill. Manuel Katz, 89 State Street, Boston, MA 02109, attorney for applicants.

No. MC-FC-72932. By order of June 10, 1971, the Motor Carrier Board approved the transfer to B & D Transport, Inc., Deming, N. Mex., of the operating rights in permit No. MC-134069 (Sub-No. 2) issued June 12, 1970 to Bill E. Dupree, doing business as Bill Dupree Transport, Deming, N. Mex., authorizing the transportation of dairy products, fruit juices, fruit concentrates, and animal fats, in vehicles equipped with mechanical refrigeration, from El Paso, Tex., to points in New Mexico. V. Lee Vesely, 111 West Broadway, Post Office Box 1056, Silver City, NM 88061, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc 71-8446 Filed 6 15-71; 8:49 am]

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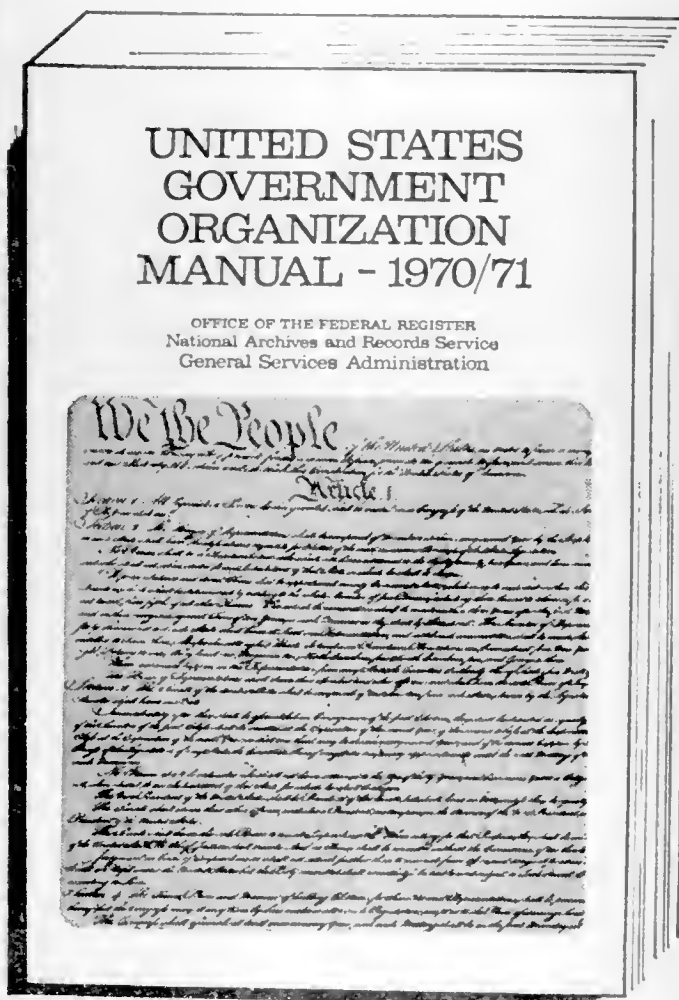
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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to show that one position of Public Information Officer is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-17-71), paragraph (s) is added to § 213.3318 as set out below.

§ 213.3318 Environmental Protection Agency.

(s) One Public Information Officer.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-8602 Filed 6-16-71;8:53 am]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 225—SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Appendix—Second Apportionment of Food Assistance and Nonfood Assistance Funds Pursuant to National School Lunch Act for Fiscal Year 1971

Pursuant to section 13, of the National School Lunch Act, as amended, food assistance and nonfood assistance funds available for the fiscal year 1971, are reapportioned among the States as follows:

State	Total Apportionment
Alabama	\$204,864
Alaska	8,666
Arizona	144,945
Arkansas	141,000
California	566,118
Colorado	165,871
Connecticut	115,650
Delaware	75,235
District of Columbia	104,260
Florida	546,992
Georgia	778,203
Guam	5,283
Hawaii	69,617
Idaho	39,150
Illinois	432,847
Indiana	309,205
Iowa	189,622

State	Total Apportionment
Kansas	94,365
Kentucky	232,384
Louisiana	648,372
Maine	93,443
Maryland	240,889
Massachusetts	223,022
Michigan	273,904
Minnesota	305,803
Mississippi	240,344
Missouri	376,033
Montana	31,358
Nebraska	85,219
Nevada	47,147
New Hampshire	74,114
New Jersey	252,685
New Mexico	122,614
New York	483,305
North Carolina	703,177
North Dakota	34,173
Ohio	555,369
Oregon	99,620
Oklahoma	261,515
Pennsylvania	231,612
Puerto Rico	221,978
Rhode Island	49,807
South Carolina	386,705
South Dakota	22,308
Tennessee	619,663
Texas	1,088,844
Utah	22,112
Vermont	50,034
Virginia	558,674
Virgin Islands	16,642
Washington	171,990
West Virginia	231,436
Wisconsin	262,339
Wyoming	27,031
Samoa, American	2,133
Trust Territory	7,892

Total \$13,347,583

(Sec. 13, 82 Stat. 117; 42 U.S.C. 1761)

Dated: June 11, 1971.

HOWARD P. DAVIS,
Acting Administrator.

[FR Doc.71-8537 Filed 6-16-71;8:52 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 11]

PART 730—RICE

Subpart—Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years

1971 RATE OF PENALTY

Basis and purpose. The amendment herein is issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purpose of this amendment is to announce the rate of penalty applicable

to excess rice produced in the 1971 crop year.

Under the Act, the penalty rate per pound on the farm marketing excess is equal to 65 per centum of the parity price per pound for rice as of June 15 of the calendar year in which the crop is produced.

Since rice will shortly be harvested in some parts of the rice-producing areas and since the rate of penalty is essential in computing the amount of penalty on any excess rice production, it is important that this amendment be issued and made effective as soon as possible. In addition, calculation of the rate of penalty is a mathematical determination. Accordingly, it is hereby found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary and contrary to the public interest, and this amendment shall become effective as provided herein.

The Subpart—Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years (32 F.R. 8666), as amended, is amended as follows:

Section 730.22 is amended by adding at the end thereof a new sentence to read as follows:

§ 730.22 Rate of penalty.

• • • The rate of penalty applicable to the 1971 crop of rice shall be 5.06 cents per pound. This is 65 per centum of the parity price as of June 15, 1971, which is determined to be 7.79 cents per pound.

(Secs. 356, 375, 52 Stat. 62 as amended, 66, as amended; 7 U.S.C. 1356, 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C. on June 11, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-8543 Filed 6-16-71;8:52 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 353]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.653 Valencia Orange Regulation 353.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part

908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 15, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 18, 1971, through June 24, 1971, are hereby fixed as follows:

- (i) District 1: 156,000 cartons;
- (ii) District 2: 414,000 cartons;
- (iii) District 3: 30,000 cartons.

(2) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

RULES AND REGULATIONS

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 16, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-8663 Filed 6-16-71; 11:12 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 1]

PART 1464—TOBACCO

Subpart—Tobacco Loan Program

MISCELLANEOUS AMENDMENTS

The regulations issued by Commodity Credit Corporation published in 35 F.R. 10000 with respect to the tobacco price support program are hereby amended as follows:

§ 1464.2 [Amended]

1. In § 1464.2, *Availability of price support*, paragraph (d) and subparagraph (1) of paragraph (e) are amended to limit the availability of price support on Burley tobacco to 110 percent of the applicable farm marketing quota which will be determined on a poundage basis. The amended paragraph (d) reads as follows:

(d) No price support will be available on Flue-cured or Burley tobacco which exceeds 110 percent of the effective farm marketing quota for the year in which marketed.

Subparagraph (1) of paragraph (e) is amended by adding the words "and Burley tobacco" after the words "Flue-cured tobacco".

§ 1464.7 [Amended]

2. In § 1464.7, *Eligible producer*, paragraph (a) is amended to provide for eligibility of producers of any kind of tobacco for which marketing quotas have been terminated, by deleting the second sentence and substituting therefor the following sentence: "All producers of any kind of tobacco for which marketing quotas have been terminated are eligible producers during the periods for which the terminations are effective."

3. In § 1464.7, *Eligible producer*, paragraph (b) is corrected by changing "1933" to "1938".

4. In § 1464.8 paragraphs (c) and (d) are amended to require that (1) tobacco of a kind for which marketing quotas are terminated will be eligible only if the association has received a certification of nonuse of pesticides containing DDT and TDE, and (2) Burley tobacco in excess of 110 percent of the farm marketing quota for the year will not be eligible. The revised paragraphs read as follows:

§ 1464.8 Eligible tobacco.

• • • (c) If Puerto Rican tobacco, or tobacco of a kind for which marketing

quotas have been terminated, is tobacco for which the association has received a certification by the producer that pesticides containing DDT and TDE, as defined in Parts 724 and 725 of this title, were not used on the tobacco in the field or after harvest; (d) if Flue-cured tobacco or Burley tobacco, (1) is offered for marketing on a tobacco sale bill which is not marked "No Price Support," and is for a number of pounds which, when added to the pounds of Flue-cured or Burley tobacco previously marketed on that year's marketing card, does not exceed 110 percent of the effective farm marketing quota for that year; or (2) is delivered directly to the association and is a quantity which, when added to the previous marketings on such card, does not exceed 110 percent of the effective farm marketing quota for that year; • • •

5. Section 1464.10 is added to suspend for the 1971 marketing season the Flue-cured tobacco discount varieties provisions of §§ 1464.3 and 1464.9. The new section reads as follows:

§ 1464.10 Suspension of provisions relating to discount varieties.

Effective only with respect to the 1971 crop, the provisions of this part relating to discount varieties of Flue-cured tobacco are suspended.

§ 1464.57 [Amended]

6. In § 1464.57, *Purchase price for tobacco*, the handling charge rate to be used in computing the purchase price for Puerto Rican tobacco is changed by deleting "\$11" and substituting therefor "\$12".

Effective date: Upon publication in the FEDERAL REGISTER (6-17-71).

Signed at Washington, D.C., on June 11, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 71-8516 Filed 6-16-71; 8:50 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

§ 103.1 [Amended]

The fourth sentence of paragraph (g) *Officers in charge of § 103.1 Delegations of authority* is amended to read as follows: "The officers in charge of the offices located in Frankfurt, Germany;

Athens, Greece; Rome, Italy; Naples, Italy; Palermo, Italy; Vienna, Austria; Manila, Philippines; Tokyo, Japan; and Hong Kong, B.C.C., are authorized to perform the following functions: Authorize waivers of grounds of excludability under sections 212 (h) and (i) of the Act; adjudicate applications for permission to reapply for admission to the United States after deportation or removal if filed by an applicant for an immigrant visa in conjunction with an application for waiver of grounds of excludability under section 212 (h) or (i) of the Act, or if filed by an applicant for a nonimmigrant visa under section 101(a) (15) (K) of the Act; approve visa petitions for any immediate relative or preference status except third and sixth preferences; in cases in which the Department of State had delegated recommending power to the consular officer, approve recommendations made by consular officers for waiver of grounds of excludability in behalf of nonimmigrant visa applicants under section 212(d) (3) of the Act and concur in proposed waivers by consular officers of the requirement of visa or passport by a non-immigrant on the basis of unforeseen emergency; exercise discretion to grant applications for the benefits of sections 211 and 212(c) of the Act; process Form I-90 applications and deliver duplicate Form I-151; extend reentry permits; and process Form N-565 applications and deliver certificates issued thereunder."

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Paragraph (c) of § 204.4 is amended to read as follows:

§ 204.4 Validity of approved petitions.

(c) *Subsequent petition by same petitioner for same beneficiary.* When a visa petition has been approved, and subsequently a new petition by the same petitioner is approved for the same preference classification in behalf of the same beneficiary, the latter approval shall be regarded as a reaffirmation or reinstatement of the validity of the original petition.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Section 212.2 is amended to read as follows:

§ 212.2 Consent to reapply for admission after deportation, removal or departure at Government expense.

(a) *Alien applying to consular officer for nonimmigrant visa or nonresident border crossing card.* Permission to reapply for admission to the United States after deportation or removal for an alien

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who is applying or will apply to a consular officer for a nonimmigrant visa or a nonresident border crossing card shall be requested through the consular officer and may be granted only in accordance with section 212(d) (3) (A) of the Act and § 212.4. However, the alien may apply for such permission on Form I-212 submitted to the consular officer, if the consular officer is willing to accept such application and if that officer, in forwarding Form I-212 for decision to the district director having jurisdiction over the place where the deportation or removal proceedings were held, recommends to the district director that the alien be permitted to apply on Form I-212.

(b) *Applicant for nonimmigrant visa under section 101(a) (15) (K) of the Act.* Notwithstanding the provisions of paragraph (a) of this section, an applicant for a nonimmigrant visa under section 101(a) (15) (K) of the Act who is the beneficiary of a valid visa petition approved by the Service to accord classification under that section shall apply for permission to reapply for admission to the United States after deportation or removal by submitting Form I-212 to the consular officer. The consular officer will forward the Form I-212 to the Service officer having jurisdiction over the area within which the consular officer is located. If the alien is ineligible on grounds which may be waived under section 212 (g), (h), or (i) of the Act upon the applicant's marriage to the U.S. citizen petitioner, the consular officer will also forward his recommendation whether the benefits of section 212(d) (3) (A) of the Act shall be accorded to authorize the applicant's temporary admission to the United States despite those grounds.

(c) *Applicant for immigrant visa.* An applicant for an immigrant visa applying for permission to reapply shall file Form I-212 with the district director having jurisdiction over the place where the deportation or removal proceedings were held, except that when Form I-212 is filed in conjunction with a request for a waiver under section 212 (g), (h), or (i) of the Act, the Form I-212 and the application for the waiver shall be filed simultaneously with the American consul who will forward it to the appropriate Service officer abroad having jurisdiction over the area within which the consul is located.

(d) *Applicant for adjustment of status.* An applicant for adjustment of status under section 245 of the Act and Part 245 of this chapter applying for permission to reapply in conjunction with his application for adjustment of status shall file Form I-212 with the district director having jurisdiction over the place where the alien resides. If the application under section 245 of the Act has been initiated, renewed, or is pending in a proceeding before a special inquiry officer, the district director shall refer the Form I-212 to the special inquiry officer for adjudication.

(e) *Applicant for admission at port of entry.* Permission to reapply for admis-

sion to the United States after deportation or removal for an alien seeking admission at a port of entry shall be requested by such alien by filing Form I-192 with the district director having jurisdiction over the port of entry if the alien is seeking temporary admission, or Form I-212 if the alien is seeking lawful admission for permanent residence. However, the district director may in his discretion authorize an alien seeking temporary admission at a port of entry to apply on Form I-212 for permission to reapply after deportation or removal.

(f) *Other applicants.* An applicant for permission to reapply for admission under circumstances other than those described in paragraphs (a), (b), (c), (d), or (e) of this section shall file Form I-212 with the district director having jurisdiction over the place where the deportation or removal proceedings were held.

(g) *Decision.* An applicant who has submitted Form I-212 shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter. Denial of the application, except in the case of an applicant seeking to be granted advance permission to reapply for admission prior to his departure from the United States, shall be without prejudice to the renewal of the application in the course of proceedings before a special inquiry officer under section 242 of the Act and this chapter.

(h) *Retroactive approval.* The approval of a Form I-212 application filed by an alien seeking admission to the United States at a port of entry, or by an alien in conjunction with an application for adjustment of status under section 245 of the Act, shall be considered as retroactive to the date on which the alien embarked or reembarked at a place outside the United States or attempted to be admitted from foreign contiguous territory.

(i) *Advance approval.* The approval of an application filed by an alien whose departure will execute an order of deportation shall be conditioned upon his departure from the United States; otherwise, the approval shall not be conditioned or limited. However, the grant of permission to reapply does not waive inadmissibility under section 212(a) (16) or (17) of the Act resulting from exclusion, deportation, or removal proceedings which are instituted subsequent to the date permission to reapply is granted.

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Amended]

1. Paragraph (k) *Fiancées and fiancés of U.S. citizens of § 214.2. Special requirements for admission, extension, and maintenance of status* is amended by adding the following sentence at the end thereof reading as follows: "The approval of any petition is automatically terminated when the petitioner dies or

files a written withdrawal of the petition before the beneficiary arrives in the United States."

§ 214.3 [Amended]

2. The sixth sentence of paragraph (b) *Supporting documents of § 214.3 Petitions for approval of schools* is amended to read as follows: "Except in connection with a petition submitted by a school or school system owned and operated as a public educational institution or system by the United States or a State or political subdivision thereof, or by a school listed in the current U.S. Office of Education publication, 'Education Directory, Higher Education,' or by a secondary school operated by or as part of a school so listed, a school catalogue, if one is issued, shall also be submitted with each petition."

3. The first sentence of paragraph (c) *Consultation with U.S. Office of Education of § 214.3 Petitions for approval of schools* is amended to read as follows: "The U.S. Office of Education has been consulted by the Service and has advised that each of the following is considered an established institution of learning or other recognized place of study, is operating a bona fide school, and has the necessary facilities, personnel, and finances to instruct in recognized courses: (1) A school (or school system) owned or operated as a public educational institution by the United States or a State or political subdivision thereof; (2) a school listed in the current U.S. Office of Education publication, 'Education Directory, Higher Education,' or (3) a secondary school operated by or as part of an institution of higher learning listed in the current U.S. Office of Education publication, 'Education Directory, Higher Education.'"

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

1. The listing of transportation lines in paragraph (b) *Signatory lines of § 238.3 Aliens in immediate and continuous transit* is amended by adding the following transportation lines in alphabetical sequence: "Dan-Air Services Limited and 'Hapag/Lloyd A.G./North German Lloyd Passenger Agency, Inc.'"

2. The name of the transportation line "North German Lloyd Passenger Agency, Inc." listed in paragraph (b) *Signatory lines of § 238.3 Aliens in immediate and continuous transit* is amended to read as follows: "North German Lloyd Passenger Agency, Inc. (see Hapag/Lloyd A.G./North German Lloyd Passenger Agency, Inc.)."

3. The listing of transportation lines in paragraph (b) *Signatory lines of § 238.3 Aliens in immediate and continuous transit* is amended by deleting the transportation line "Air Canada."

§ 238.4 [Amended]

4. The listing of transportation lines under "At Bermuda" of § 238.4 *Preinspection outside the United States* is

amended by adding the following transportation line in alphabetical sequence: "American Airlines, Inc. (Charter Flights only)."

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

§ 242.1 [Amended]

The last sentence of paragraph (a) *Commencement of § 242.1 Order to show cause and notice of hearing* is amended to read as follows: "Orders to show cause may be issued by district directors, acting district directors, deputy district directors, and officers in charge at Albany, N.Y.; Cincinnati, Ohio; Dallas, Tex.; Hammond, Ind.; Houston, Tex.; Milwaukee, Wis.; Pittsburgh, Pa.; Providence, R.I.; San Diego, Calif.; Salt Lake City, Utah; St. Louis, Mo.; Spokane, Wash."

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

§ 245.1 [Amended]

The fourth sentence of paragraph (g) *Availability of immigrant visas under section 245 of § 245.1 Eligibility* is amended to read as follows: "The priority date of an applicant who is seeking the allotment of a nonpreference immigrant visa number shall be fixed by the following factors, whichever is the earliest: (1) The priority date accorded the applicant by the consular officer as a nonpreference immigrant; (2) the date on which Form I-485 is filed if the applicant establishes that he is a member of a profession or a person with exceptional ability in the sciences or arts not included in Schedule A (29 CFR Part 60) provided a certification is issued on that basis, or that he is within the Department of Labor's Schedule A (29 CFR Part 60), or that the provisions of section 212(a)(14) of the Act do not apply to him; or (3) the date on which an approved valid third or sixth preference visa petition in his behalf was filed; or (4) the date an application for certification based on a job offer was accepted for processing by any office within the employment service system of the Department of Labor, provided the certification applied for was issued."

PART 299—IMMIGRATION FORMS

The introductory material to § 299.1 is amended to read as follows:

§ 299.1 Prescribed forms.

The forms listed below are hereby prescribed for use in compliance with the provisions of Subchapter A of this chapter and this Subchapter B. To the maximum extent feasible the forms used should bear the edition date shown or a subsequent edition date.

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

§ 316a.2 [Amended]

1. The American institution of research "Department of French, and Department of Scandinavian Languages of the University of California, Berkeley, Calif." of § 316a.2 *American institutions of research* is amended to read as follows: "Department of French, Department of Scandinavian Languages, and Department of Near Eastern Languages of the University of California, Berkeley, Calif."

2. The listing of American institutions of research of § 316a.2 *American institutions of research* is amended by adding the following institution of research in alphabetical sequence reading as follows: "Pierce College (in relationship to research by an instructor, Department of Psychology), Athens, Greece."

§ 316a.4 [Amended]

3. The listing of public international organizations in § 316a.4 *International Organizations Immunities Act designations* is amended by adding the following organization in alphabetical sequence: "Customs Cooperation Council (E.O. 11596, June 5, 1971)."

PART 336—PROCEEDINGS BEFORE NATURALIZATION COURT

Section 336.16a is amended to read as follows:

§ 336.16a Final hearing; execution of questionnaire.

Immediately prior to the commencement of the final hearing, each person filing a petition for naturalization in his own behalf shall execute the questionnaire on Form N-445; or, if such person is filing a petition for naturalization in behalf of a child pursuant to section 322 or 323 of the Immigration and Nationality Act, said child being 13 years of age or older on the date of the final hearing, such person shall execute the questionnaire on Form N-445B.

PART 343b—SPECIAL CERTIFICATE OF NATURALIZATION FOR RECOGNITION BY A FOREIGN STATE

§ 343b.11 [Amended]

The last sentence of paragraph (a) *Issuance of certificate of § 343b.11 Disposition of application* is amended to read as follows: "The district director shall forward the original certificate by letter, in triplicate, to the Secretary of State, Attention: Foreign Operations Division, Passport Office, Department of State, Washington, D.C. 20520; forward the application and the duplicate certificate to the official Service file, and send Form N-568 to the applicant."

PART 499—NATIONALITY FORMS

§ 499.1 [Amended]

1. The introductory material to § 499.1 *Prescribed forms* is amended to read as follows:

The forms listed below are hereby prescribed for use in compliance with the provisions of this Subchapter C. To the maximum extent feasible the forms used should bear the edition date shown or a subsequent edition date.

2. The listing of forms in § 499.1 *Prescribed forms* is amended by adding the following form and reference thereto in alphabetical and numerical sequence:

Form No.	Title and description
N-445B (3-1-71)	Notice to Petitioner To Appear in Court for Final Hearing of Petition for Naturalization Filed in Behalf of His Natural or Adopted Child, and Questionnaire To Be Submitted by Petitioner at the Final Hearing.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER (6-17-71). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments to §§ 103.1(g), 212.2, 214.2(k), 299.1, 336.16a, and 499.1 relate to agency procedure; the amendment to § 204.4(c) is clarifying in nature; the amendments to §§ 214.3 (b) and (c), 242.1(a), and 343b.11(a) are editorial in nature; the amendments to §§ 238.3(b) and 238.4 add transportation lines to the listings, amend a listing, and delete a listing; the amendment to § 245.1(g) confer benefits upon persons affected thereby; the amendments to § 316a.2 add American institutions of research to the listing; and the amendment to § 316a.4 adds an international organization to the listing.

Dated: June 11, 1971.

RAYMOND F. FARRELL,
Commissioner of
Immigration and Naturalization.
[FR Doc. 71-8514 Filed 6-16-71; 8:50 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY [Docket No. 71-574]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act

of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, paragraph (e) (5) relating to the State of Texas is amended to read:

(5) *Texas.* (i) All of Eastland, Galveston, Harris, Parker and Tom Green Counties.

(ii) The adjacent portions of Tarrant and Johnson Counties bounded by a line beginning at the junction of the Tarrant-Johnson County line and Interstate Highway 35W; thence, following Interstate Highway 35W in a northerly direction to State Highway 121; thence, following State Highway 121 in a northeasterly direction to the junction of the Tarrant-Denton-Dallas County lines; thence, following the Tarrant-Dallas County line in a southerly direction to the junction of the Tarrant-Dallas-Ellis County lines; thence, following the Tarrant-Ellis County line in a westerly direction to the junction of the Tarrant-Johnson-Ellis County lines; thence, following the Johnson-Ellis County line in a southerly direction to U.S. Highway 67 in Johnson County; thence, following U.S. Highway 67 in a southwesterly direction to Interstate Highway 35W; thence, following Interstate Highway 35W in a northwesterly direction to its junction with the Tarrant-Johnson County line.

(iii) That portion of the State of Texas comprised of all of Williamson and Bell Counties and the adjacent portion of Coryell County, and bounded by a line beginning at the junction of the Bell-Falls-Milam County lines; thence, following the Bell-Milam County line in a southwesterly direction to the junction of the Bell-Milam-Williamson County lines; thence, following the Milam-Williamson County line in a southeasterly direction to the junction of the Milam-Williamson-Lee County lines; thence, following the Williamson-Lee County line in a southwesterly direction to the junction of the Williamson-Lee-Bastrop County lines; thence, following the William-Bastrop County line in a northwesterly direction to the junction of the Williamson-Bastrop-Travis County lines; thence, following the Williamson-Travis County line in a generally northwesterly direction to the junction of the Williamson-Travis-Burnet County lines; thence, following the Williamson-Burnet County line in a northeasterly direction to the junction of the Williamson-Burnet-Bell County lines; thence, following the Burnet-Bell County line in a northwesterly direction to the junction of the Burnet-Bell-Lampasas County lines; thence, following the Bell-Lampasas County line in a northerly direction to the junction of the Bell-Lampasas-Coryell County lines; thence, following the Bell-Coryell County line in a northeasterly direction to State Highway 36 in Coryell County; thence,

following State Highway 36 in a northwesterly direction to U.S. Highway 84; thence, following U.S. Highway 84 in a westerly direction to the Coryell-Hamilton County line; thence, following the Coryell-Hamilton County line in a northwesterly direction to the junction of the Coryell-Hamilton-Bosque County lines; thence, following the Coryell-Bosque County line in a northeasterly and then southeasterly direction to the junction of the Coryell-Bosque-McLennan County lines; thence, following the Coryell-McLennan County line in a southeasterly direction to the junction of the Coryell-McLennan-Bell County lines; thence, following the McLennan-Bell County line in a southeasterly and then northwesterly direction to the junction of the McLennan-Bell-Falls County lines; thence, following the Bell-Falls County line in a southeasterly direction to the junction of the Bell-Falls-Milam County lines.

(iv) That portion of Potter County bounded by a line beginning at the junction of the Potter-Oldham County line and the south bank of the Canadian River; thence, following the south bank of the Canadian River in a generally northeasterly direction to the south bank of Lake Meredith; thence, following the south bank of Lake Meredith in a generally northeasterly direction to the Potter-Moore County line; thence, following the Potter-Moore County line in an easterly direction to the junction of the Potter-Moore-Carson County lines; thence, following the Potter-Carson County line in a southerly direction to the junction of the Potter-Carson-Armstrong-Randall County lines; thence, following the Potter-Randall County line in a westerly direction to the junction of the Potter-Randall-Oldham County lines; thence, following the Potter-Oldham County line in a northerly direction to its junction with the south bank of the Canadian River.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes all of Callahan, Montgomery, Bosque, Ellis, Hill, and McLennan Counties and a portion of Johnson County in Texas from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas. No areas in Callahan, Montgomery, Bosque, Ellis, Hill, or

McLennan Counties in Texas remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-3542 Filed 6-16-71; 8:52 am]

[Docket No. 71-575]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act 120, 121, 123-126, 134b, 134f, Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, the introductory portion of paragraph (e) is amended by adding thereto the name of the State of Illinois; paragraph (f) is amended by deleting the name of the State of Illinois; and a new paragraph (e) (8) relating to the State of Illinois is added to read:

(8) Illinois. (i) That portion of Mercer County comprised of North Henderson township.

(ii) That portion of Warren County comprised of Kelly township.

(iii) That portion of Knox County comprised of Henderson and Rio townships.

2. In § 76.2, in paragraph (e) (4) relating to the State of North Carolina, subdivision (ii) relating to Bladen and Pender Counties is deleted.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Mercer, Warren, and Knox Counties in Illinois because of the existence of hog cholera. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portions of such Counties.

The amendments exclude portions of Bladen and Pender Counties in North Carolina from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine. No areas in Bladen or Pender Counties in North Carolina remain under the quarantine.

The amendments delete Illinois from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are no longer applicable to Illinois.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-3540 Filed 6-16-71; 8:52 am]

Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

LIVESTOCK LUNGS

Statement of considerations. On December 31, 1969, there was published in the FEDERAL REGISTER (34 F.R. 20433; F.R. Doc. 69-15411) a proposal concerning inspection and disposal of lungs of

livestock at federally inspected livestock slaughtering establishments and the distribution of livestock lungs under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.). It was proposed to amend § 310.17 of the Federal meat inspection regulations (9 CFR Part 310), and to add a new § 325.18 to Part 325 of said regulations (9 CFR Part 325).

A majority of comments received concerning the proposal consisted of requests for language clarification and for a provision to allow saving and distribution of undenatured lungs for pharmaceutical purposes. These requests are deemed valid and the necessary changes have been made in the amendments hereinafter adopted.

The proposal was based on a study made by the Department of Agriculture indicating that lungs of livestock were not fit for human food. Certain interested parties expressed doubt that the original lung study contained sufficient evidence to warrant declaring calf and sheep lungs as unfit for human food. Since the original study was, in fact, conducted primarily on cattle lungs, a special study was completed on calf and sheep lungs before this document was prepared for final publication. The special study substantiated the findings of the original study and warrants the conclusion that lungs from all livestock should not be used for human food purposes.

After consideration of all relevant comments presented by interested persons, and all other relevant matters, including the considerations set forth in the notice of December 31, 1969, the amendments as proposed in said notice are hereby adopted, subject to the following changes:

1. In order to conform to the pattern of numbering of sections in the revised Federal meat inspection regulations (35 F.R. 15552), proposed § 310.17 is adopted, with changes noted below, as § 310.16, and proposed § 325.18 is adopted, with changes noted below, as § 325.8; in renumbered §§ 310.16 and 325.8, references to "§ 314.4" are changed to refer to "§ 314.3"; in renumbered § 310.16, the reference to "§ 325.18" is changed to refer to "§ 325.8"; and in renumbered § 325.8, the references to "§ 310.17(b)" are changed to refer to "§ 310.16(b)".

2. In renumbered § 325.8, the word "Specie" is changed to "Species" in paragraph (a) (i) (iii) and the word "Official" is changed to "official" in paragraph (a) (3) (ii), to correct typographical errors.

3. In renumbered § 310.16, the phrase "chemical, biological, or other extraneous material" is deleted and the phrase "chemical or biological residue" is substituted therefor, to clarify the intent.

4. In renumbered § 310.16, paragraph (c) is changed to read as hereinafter set forth, in order to provide for the saving and distribution of undenatured lungs and lung lobes for pharmaceutical purposes.

5. In renumbered § 325.8, clarifying language is added to limit distribution

of lungs thereunder to distribution for nonhuman food purposes.

6. The proposed amendments of renumbered §§ 310.16 and 325.8, with the changes hereinbefore noted, are supplemented by amendments to §§ 318.1 (b) and 318.12(a), as hereinafter set forth, to clarify the status of livestock lungs under these sections, and by the amendment of § 314.11 to exclude detached lungs from authorization for movement under that section.

Therefore, under the authority of section 21 of the Federal Meat Inspection Act (21 U.S.C. 621), § 310.16 of the Federal meat inspection regulations (35 F.R. 15568) is amended and a new § 325.8 is added to said regulations to read, respectively, as hereinafter set forth. Further, supplemental amendments are made in Parts 318 and 314 of the regulations.

PART 310—POST-MORTEM INSPECTION

1. Section 310.16 is amended to read as follows:

§ 310.16 Disposition of lungs.

(a) Livestock lungs shall not be saved for use as human food.

(b) Lungs found to be affected with disease or pathology and lungs found to be adulterated with chemical or biological residue shall be condemned and identified as "U.S. Inspected and Condemned." Condemned lungs may not be saved for pet food or other nonhuman food purposes. They shall be maintained under inspectional control and disposed of in accordance with §§ 314.1 and 314.3 of this subchapter.

(c) Lungs not condemned under paragraph (b) of this section may be used in the preparation of pet food or for other nonhuman food purposes at the official establishment, provided they are handled in the manner prescribed in § 318.12 of this subchapter, or they may be distributed from the establishment in commerce, or otherwise, in accordance with the conditions prescribed in § 325.8 of this subchapter for nonhuman food purposes or they may be so distributed to pharmaceutical manufacturers for pharmaceutical use in accordance with §§ 314.9 and 325.19(b) of this subchapter, if they are labeled as "Inedible (SPECIES) Lungs—For Pharmaceutical Use Only." Otherwise, they shall be disposed of at the official establishment, in accordance with §§ 314.1 and 314.3 of this subchapter.

PART 314—HANDLING AND DISPOSAL OF CONDEMNED OR OTHER INEDIBLE PRODUCTS AT OFFICIAL ESTABLISHMENTS

2. The second sentence of § 314.11 is amended to read as follows:

§ 314.11 Handling of certain condemned products for purposes other than human food.

* * * This provision also applies to unborn calves and to products such as

paunches and udders when they have not been handled as required under this subchapter for products for human food purposes; provided, such articles have not been condemned for other pathological reasons. * * *

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

3. The following sentence is added at the end of § 318.1(g):

§ 318.1 Products and other articles entering official establishments.

(g) * * * Lungs and lung lobes derived from livestock slaughtered in any establishment may not be brought into any official establishment except as provided in § 318.12(a).

4. The seventh sentence of § 318.12(a) is amended to read as follows:

§ 318.12 Manufacture of dog food or similar uninspected article at official establishments.

(a) * * * Products within § 314.11 of this subchapter or parts of carcasses of kinds not permitted under the regulations in this subchapter to be prepared for human food (e.g., lungs or intestines), which are produced at any official establishment, may be brought into the inedible products department of any official establishment for use in uninspected articles under this section. * * *

PART 325—TRANSPORTATION

5. A new § 325.8 is added to read as follows:

§ 325.8 Transportation of certain undenatured lungs or lung lobes from official establishments or in commerce; provisions and restrictions.

(a) (1) Lungs or lung lobes, other than those condemned under § 310.16(b) of this subchapter, that are prepared at any official establishment may be transported from the establishment, in "commerce" or otherwise, without denaturing as prescribed in § 314.1 or § 314.3 of this subchapter, provided:

(i) The lungs or lung lobes are transported under permit from the appropriate Officer in Charge, as prescribed in subparagraph (2) of this paragraph, directly to a manufacturer of animal food, for use in manufacturing animal food, or directly to a zoo, mink farm, or other establishment for use as animal food without further manufacturing, or directly to a warehouse in the United States for storage for subsequent movement, as prescribed in paragraph (b) of this section, directly to such a manufacturer or establishment in the United States, or for export, for nonhuman food purposes:

(ii) A shipper's certificate as prescribed in subparagraph (3) (i) of this paragraph is executed, in quadruplicate, by the operator of the official establish-

ment, for each shipment of undenatured lungs or lung lobes from the establishment, and the original of the certificate is delivered to the Program inspector at the official establishment before the shipment is made, and the copies of the certificate are distributed as prescribed in subparagraph (3) (ii) of this paragraph;

(iii) The boxes or other containers used for shipping the undenatured lungs or lung lobes are closed and taped with nylon filament tape or strapped with metal straps and the containers are permanently identified in 2-inch lettering with the statement "[SPECIES] Lungs—Not for Human Consumption." In addition, the number of the permit prescribed in subdivision (i) of this subparagraph must appear on each container.

(2) A permit to ship undenatured lungs or lung lobes, as required by subparagraph (1) of this paragraph, will be issued upon application by the operator of an official establishment if the Officer in Charge determines that the application satisfies the requirements of this section, and that such lungs will be handled in a sanitary manner at the official establishment. Any such permit shall be canceled by the Officer in Charge whenever he determines, after notice and opportunity to present views is afforded to the permittee, that the permittee has shipped any undenatured lungs or lung lobes without compliance with the restrictions of this section or that such articles shipped from the official establishment in accordance with such restrictions were subsequently not handled in accordance therewith, and that such cancellation is necessary to prevent further violations.

(3) (i) The shipper's certificate required by subparagraph (1) of this paragraph shall be in the following form:

SHIPMENT FROM AN OFFICIAL ESTABLISHMENT OF UNDENATURED LUNGS OR LUNG LOBES FOR ANIMAL FOOD

I hereby certify that the undenatured lungs or lung lobes described below were prepared at _____

(Name of Official Establishment) (Establishment No.) _____ and are consigned to _____

(Address) _____ signed to the animal food manufacturer, other person, or warehouse identified below, for use as, or in the manufacture of, animal food, or for storage for subsequent movement to such a manufacturer or person or for export, for use as, or in the manufacture of, animal food and are not intended for human food.

Consignee's Name and Address: _____

Permit No. _____

Quantity: _____

(a) Number and kind of containers _____

(b) Total weight _____

(Signature and name and title of representative of operator of official establishment) _____

(Date) _____

I hereby acknowledge receipt on _____ of the described articles.

(Signature and name and title of representative of consignee) _____

(ii) One copy of the certificate shall be retained by the operator of the official establishment in accordance with this subchapter and two copies shall be sent to the consignee of the shipment. The consignee shall, on both copies, execute his acknowledgment of receipt of the shipment and state the date such shipment was received; send one copy of the signed certificate to the Program inspector in charge of the official establishment from which shipment was made, and retain one copy in his records in accordance with this subchapter. The Program inspector in charge shall retain the copy of the signed receipt of shipment in the official establishment Program file.

(b) (1) Lungs or lung lobes not within § 310.16(b) of this subchapter, that are prepared at an official establishment and are not denatured as prescribed in § 314.1 or § 314.3 of this subchapter, may be transported from the warehouse in which they have been stored, as provided in paragraph (a) (1) (i) of this section, provided:

(i) Such lungs or lung lobes are transported, under permit from the appropriate Officer in Charge, as prescribed in paragraph (a) (2) of this section, from a warehouse where they were stored as provided in paragraph (a) of this section, directly to an animal food manufacturer for use in manufacturing animal food; or directly to a zoo, mink farm, or other establishment for use as animal food without further manufacturing; or in the course of direct exportation to a foreign country for use as, or in the manufacture of, animal feed;

(ii) A shipper's certificate as prescribed in subparagraph (2) of this paragraph is executed by the warehouse operator for each lot so transported;

(iii) The boxes or other containers of such products are closed, taped and identified as required in paragraph (a) (3) (ii) of this section.

(2) (i) The shipper's certificate required by subparagraph (1) (ii) of this paragraph shall be in the following form:

SHIPMENT FROM WAREHOUSE OF UNDENATURED LUNGS OR LUNG LOBES FOR ANIMAL FOOD

I hereby certify that the undenatured lungs or lung lobes described below were stored at _____, at _____

(Name of warehouse) and are consigned to _____

(Address) the animal food manufacturer, other persons, or warehouse identified below, for use as, or in the manufacture of, animal food, or for storage for subsequent movement to such a manufacturer or person or for export, for use as, or in the manufacture of, animal food and are not intended for human food.

Consignee's Name and Address: _____

Permit No. _____

Quantity: _____

(a) Number and kind of containers: _____

(b) Total weight: _____

(Signature and name and title of representative of operator of warehouse)

(Date) I hereby acknowledge receipt on _____

(Date) of the above described articles.

(Signature and name and title of representative of consignee)

(ii) One copy of the shipper's certificate shall be retained by the operator of the warehouse in accordance with this subchapter; one copy shall be forwarded by the warehouse operator to the Program inspector in charge of the official establishment in which the lungs or lung lobes were originally prepared; and two copies shall be sent by the warehouse operator to the consignee of the shipment. The consignee shall, on both copies, execute his acknowledgment of receipt of the shipment and state the date such shipment was received. The consignee shall send one copy of the receipted certificate to the Program inspector in charge of the official establishment in which the shipment was originally prepared and shall retain one copy in his records in accordance with this subchapter. The Program inspector in charge of the originating official establishment shall file the receipted copy as an attachment with the original copy received when the original shipment was shipped to the warehouse for storage.

The changes reflected in the foregoing amendments from the provisions set forth in the notice of rulemaking were made pursuant to comments received from interested persons in connection with the rulemaking proceeding or are made for clarity and consistency in the regulations. It does not appear that further public participation in this rulemaking proceeding with respect to the changes would make additional information available to the Department.

Insofar as the amendment relieves restrictions, it should be made effective as soon as possible in order to be of maximum benefit to affected persons. Insofar as it imposes restrictions, it should be made effective promptly to effectuate the purposes of the Federal Meat Inspection Act.

Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such further rulemaking procedures are impracticable and unnecessary and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER. The amendments shall become effective upon their publication in the FEDERAL REGISTER (6-17-71).

Done at Washington, D.C., on June 9, 1971.

CLAYTON YEUTTER,
Administrator,
Consumer and Marketing Service.

[FR Doc.71-8515 Filed 6-16-71;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-11-AD; Amdt. 39-1214]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 18 Airplanes Correction

In F.R. Doc. 71-7058 appearing on page 9241 in the issue of Friday, May 21, 1971, the last two lines of paragraph (B) in the third column should appear as the third and fourth lines of paragraph (A) at the bottom of the center column.

[Airspace Docket No. 71-CE-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND RE- PORTING POINTS

Designation of Federal Airway Segment

On March 31, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 5918) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a south alternate for VOR Federal Airway No. 88 via the Forney (AAF), Mo., VOR.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

Section 71.123 (36 F.R. 2010) is amended as follows: In V-88, all after "261° radials;" is deleted and "Springfield; Vichy, Mo., including a south alternate from INT Springfield 058° and Forney (AAF), Mo., 266° radials; Forney (AAF), INT Forney (AAF) 046° and Vichy 216° radials; INT Vichy 091° and St. Louis, Mo., 171° radials;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on June 11, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8497 Filed 6-16-71;8:48 am]

[Airspace Docket No. 71-EA-41]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND RE- PORTING POINTS

Alteration of Federal Airway Segment

On April 14, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7072) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an east alternate to VOR Federal Airway No. 1 between Kinston, N.C., and Norfolk, Va.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.123 (36 F.R. 2010) V-1 is amended by deleting "Norfolk, Va.;" and substituting "Norfolk, Va., including an east alternate segment from Kinston to Norfolk via the intersection of Kinston 050° and Norfolk 209° radials;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on June 11, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8498 Filed 6-16-71;8:48 am]

[Airspace Docket No. 71-CE-47]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND RE- PORTING POINTS

Alteration of Federal Airway Segments

On April 14, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7072) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter V-233 and V-420.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No adverse comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

Section 71.123 (36 F.R. 2010) is amended as follows:

1. In V-233 "to Traverse City, Mich." is deleted and "INT Mount Pleasant 351° and Gaylord, Mich., 206° radials; Gay-

lord; Pellston, Mich." is substituted therefor.

2. V-420 is amended to read:

V-420 From Green Bay, Wis.; Traverse City, Mich.; Mount Pleasant, Mich.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on June 10, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8499 Filed 6-16-71;8:48 am]

[Airspace Docket No. 71-EA-52]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND RE- PORTING POINTS

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to publish a rule which will alter the Syracuse, N.Y., control zone (36 F.R. 2130) and transition area (36 F.R. 2281).

The Clarence E. Hancock Airport, Syracuse, N.Y., was recently renamed the Syracuse Hancock International Airport. The Syracuse, N.Y., control zone and transition area are described, in part, by reference to the Clarence E. Hancock Airport. This amendment reflects the change of name.

Since this rule is editorial in nature and no additional burden is imposed on any person, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Newburgh, N.Y., the amendment is herewith made effective upon publication in the FEDERAL REGISTER (6-17-71) as follows:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Newburgh, N.Y., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center (41°30'05" N., 74°05'45" W.) of Stewart Airport, Newburgh, N.Y., and within 2.5 miles each side of the 079° bearing from the Stewart RBN (41°29'09" N., 74°13'44" W.) extending from the 5-mile-radius zone to the RBN. This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.

[FR Doc.71-8501 Filed 6-16-71;8:48 am]

[Airspace Docket No. 71-EA-72]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND RE- PORTING POINTS

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to publish a rule which will alter the Syracuse, N.Y., control zone (36 F.R. 2130) and transition area (36 F.R. 2281).

The Clarence E. Hancock Airport, Syracuse, N.Y., was recently renamed the Syracuse Hancock International Airport. The Syracuse, N.Y., control zone and transition area are described, in part, by reference to the Clarence E. Hancock Airport. This amendment reflects the change of name.

Since this rule is editorial in nature and no additional burden is imposed on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Syracuse, N.Y., the amendment is herewith made effective upon publication in the FEDERAL REGISTER (6-17-71) as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Syracuse, N.Y., control zone by substituting, "Syracuse Hancock International Airport" wherever "Clarence E. Hancock Airport" appears in the text.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Syracuse, N.Y., 700-foot-floor transition area by substituting, "Syracuse Hancock International Airport" wherever "Clarence E. Hancock Airport" appears in the text.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.

[FR Doc.71-8500 Filed 6-16-71;8:48 am]

[Airspace Docket No. 71-SO-56]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND RE- PORTING POINTS

Designation of Control Zone and Alteration of Transition Area

On April 27, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7864), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that

would designate the McComb, Miss., control zone and alter the McComb, Miss., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the following control zone is added:

McComb, Miss.

Within a 5-mile radius of McComb-Pike County Airport (lat. 31°10'35" N., long. 90°28'08" W.); within 2 miles each side of McComb VORTAC 234° radial, extending from the 5-mile-radius zone to the VORTAC.

In § 71.181 (36 F.R. 2140), the McComb, Miss., transition area is amended to read:

McComb, Miss.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of McComb-Pike County Airport (lat. 31°10'35" N., long. 90°28'08" W.).

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 9, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc.71-8502 Filed 6-16-71; 8:48 am]

[Airspace Docket No. 71-SO-50]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On April 27, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7864), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Tullahoma, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the final approach radial for VOR-RWY-32 Instrument Approach Procedure was refined to the 136° radial. It is necessary to alter the transition area description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Tullahoma, Tenn., transition area is amended as follows: " * * * southwest of

the VOR." is deleted and " * * * southwest of the VOR; within a 7-mile radius of William Northern Field (lat 35°23'00" N., long. 86°14'30" W.); within 3 miles each side of Shelbyville VOR 136° radial, extending from the 7-mile-radius area to 8.5 miles southeast of Arnold VOR 226° radial; excluding the portion within Shelbyville transition area." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 9, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc.71-8503 Filed 6-16-71; 8:49 am]

[Airspace Docket No. 71-SO-112]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Starkville, Miss., transition area.

The Starkville transition area is described in § 71.181 (36 F.R. 2140). In the description, an extension predicated on the Columbus VORTAC 260° radial has a designated width of 14 miles and extends to 42 miles west of the VORTAC. The procedure turn altitude of VOR DME-A Instrument Approach Procedure has been raised to 2,800 feet MSL, which permits a reduction to this extension of 4 miles in width and 9 miles in length. It is necessary to alter the description to reflect this change. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Starkville, Miss., transition area is amended to read:

STARKVILLE, MISS.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of George M. Bryan Field (lat. 33°26'00" N., long. 88°50'45" W.); within 5 miles each side of Columbus VORTAC 260° radial extending from the 6.5-mile-radius area to 32.5 miles west of the VORTAC; excluding the portion within Columbus, Miss., transition area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 9, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8504 Filed 6-16-71; 8:49 am]

[Docket No. 11135; Amdt. 761]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF (NDB)-VOR SIAP's, effective July 15, 1971:

Ellensburg, Wash.—Bowers Field; VOR-1, Amdt. 4; Canceled.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective July 15, 1971:

Ellensburg, Wash.—Bowers Field; VOR-A, Original; Established.

Klamath Falls, Ore.—Kingsley Field; VOR Runway 32, Amdt. 3; Revised.

Melbourne, Fla.—Cape Kennedy Regional Airport; VOR Runway 27, Amdt. 4; Revised.

New Orleans, La.—New Orleans International (Molsant) Airport; VOR-A, Amdt. 8; Revised.

New York, N.Y.—John F. Kennedy International Airport; VOR-A, Amdt. 5; Revised.

New York, N.Y.—John F. Kennedy International Airport; VOR Runway 4L/R, Amdt. 10; Revised.

New York, N.Y.—John F. Kennedy International Airport; VOR Runway 13L/R, Amdt. 8; Revised.

New York, N.Y.—John F. Kennedy International Airport; VOR Runway 22L, Amdt. 14; Revised.

New York, N.Y.—John F. Kennedy International Airport; VOR Runway 31L, Amdt. 7; Revised.

Portland, Ore.—Portland International Airport; VOR-A, Amdt. 4; Revised.

Klamath Falls, Ore.—Kingsley Field; VORTAC Runway 14, Original; Established.

Klamath Falls, Ore.—Kingsley Field; VORTAC Runway 32, Original; Established.

Klamath Falls, Ore.—Kingsley Field; VOR/DME Runway 32, Amdt. 2; Canceled.

Opelousas, La.—St. Landry Parish Airport; VOR/DME-A, Amdt. 1; Revised.

Patterson, La.—Harry P. Williams Memorial Airport VOR/DME-A, Amdt. 4; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective June 24, 1971:

Gulfport, Miss.—Gulfport Municipal Airport; LOC Runway 13, Original; Established.

4. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective July 15, 1971:

Klamath Falls, Ore.—Kingsley Field; LOC/DME Runway 32, Original; Established.

New Orleans, La.—New Orleans International (Molsant) Airport; LOC Runway 28, Amdt. 4; Revised.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective July 15, 1971:

Forrest City, Ark.—Forrest City Municipal Airport; NDB Runway 35, Amdt. 1; Revised.

Klamath Falls, Ore.—Kingsley Field; NDB (ADF) Runway 32, Amdt. 6; Canceled.

Klamath Falls, Ore.—Kingsley Field; NDB-A, Original; Established.

Mobile, Ala.—Bates Field; NDB Runway 14, Amdt. 20; Revised.

New Orleans, La.—New Orleans International (Molsant) Airport; NDB Runway 10, Amdt. 17; Revised.

Parsons, Kans.—Tri-City Airport; NDB Runway 17, Amdt. 1; Revised.

Patterson, La.—Harry P. Williams Memorial Airport; NDB Runway 5, Amdt. 3; Revised.

6. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective June 24, 1971:

Gulfport, Miss.—Gulfport Municipal Airport; ILS Runway 13, Amdt. 2; Canceled.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective July 15, 1971:

Charlotte, N.C.—Douglas Municipal Airport; ILS Runway 5, Amdt. 25; Revised.

Klamath Falls, Ore.—Kingsley Field; ILS Runway 32, Amdt. 11; Revised.

Mobile, Ala.—Bates Field; ILS Runway 14, Amdt. 21; Revised.

New Orleans, La.—New Orleans International (Molsant) Airport; ILS Runway 10, Amdt. 23; Revised.

New York, N.Y.—John F. Kennedy International Airport; ILS Runway 4R, Amdt. 17; Revised.

New York, N.Y.—John F. Kennedy International Airport; ILS Runway 13L, Amdt. 4; Revised.

New York, N.Y.—John F. Kennedy International Airport; ILS Runway 22L, Amdt. 15; Revised.

New York, N.Y.—John F. Kennedy International Airport; ILS Runway 22R, Original; Established.

New York, N.Y.—John F. Kennedy International Airport; ILS Runway 31R, Amdt. 6; Revised.

8. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective July 15, 1971:

Portland, Ore.—Portland International Airport; Radar-1, Amdt. 17; Revised.

9. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAPs, effective July 15, 1971:

New Orleans, La.—New Orleans International (Molsant) Airport; RNAV Runway 1, Amdt. 1; Revised.

Tulsa, Okla.—Tulsa International Airport; RNAV Runway 12, Original; Canceled.

Tulsa, Okla.—Tulsa International Airport; RNAV Runway 30, Original; Canceled.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a) (1))

Issued in Washington, D.C., on June 8, 1971.

R. S. SLIFF,
Acting Director,

Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.71-8402 Filed 6-16-71; 8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. Part-120; Amdt. 5]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Service on Affected Commuter Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of June 1971.

In a notice of rule making, PDR-30, SPDR-21¹ the Board proposed amendments to Part 302 of the Procedural Regulations and Part 376 of the special regulations to require service of applications for exemption and applications for amendment of flight patterns of certificated helicopter carriers on affected commuter air carriers as defined in Part 298 of the Board's economic regulations. Pursuant to the notice, comments on the proposed rules were received from Delta Air Lines, Inc., Eastern Air Lines, Inc., New York Airways, Inc. (NYA),²

However, we are not persuaded that the service requirements in Parts 302 and 376 should be limited to commuter air carriers serving a "pair of points" affected by the application as urged by NYA and TXI. The modification requested would be patently inequitable to commuter air carriers which serve only a single point named in the application. Furthermore, since the notice provisions in the proposed rules will apply only to commuter air carriers which provide service to a point on a regularly scheduled basis (i.e., a minimum of five round trips per week pursuant to published

¹ Dec. 8, 1970 (35 F.R. 18877).

² Los Angeles Airways, Inc., filed a comment in which it supports the views expressed in the comments of NYA.

³ The NATC also supports this modification.

Texas International Airlines, Inc. (TXI), the National Air Transportation Conference (NATC), an air taxi trade association, and the State of California and the California State Public Utilities Commission (the California parties). The NATC, whose petition initiated this rule making, supports the proposed rule. NYA and TIA oppose, in toto, the proposed amendments to Parts 376 and 302, respectively.³ The remaining comments generally support the proposed rule but request certain modifications of the provisions therein.

Upon consideration of the relevant matter contained in the comments filed, we have determined to adopt the rule as proposed with one modification: we shall limit the service requirements in §§ 302.403 and 376.4 to commuter air carriers who publish schedules in the "Official Airline Guide." Therefore, except as modified herein, the tentative findings made in PDR-30, SPDR-21, are incorporated herein by reference and made final.

The proponents of this modification argue, and we agree, that requiring service to be made on commuter air carriers which publish schedules filed with the Board pursuant to Part 298, might impose an unwarranted burden upon air carriers seeking relief under the provisions of Part 302 or 376. For example, since air taxi schedules are filed by more than 100 carriers and there is no index listing all carriers serving a point, it would be very difficult for the applicant to ascertain, from the schedules filed with the Board, which air taxi serves a particular point. Therefore, as most major air taxis publish their schedules in the "Official Airline Guide," and the OAG is a widely held and distributed publication, it will serve as a readily accessible means of determining which commuter air carrier serves a point involved in the application. And, as pointed out by NYA, "if a carrier has not taken the trouble to publish its schedules in the 'Official Airline Guide,' there is no reason why the burden should be placed on other parties to serve it with copies of documents."⁴

However, we are not persuaded that the service requirements in Parts 302 and 376 should be limited to commuter air carriers serving a "pair of points" affected by the application as urged by NYA and TXI. The modification requested would be patently inequitable to commuter air carriers which serve only a single point named in the application. Furthermore, since the notice provisions in the proposed rules will apply only to commuter air carriers which provide service to a point on a regularly scheduled basis (i.e., a minimum of five round trips per week pursuant to published

³ NYA restates several of the objections it made to the petition of NATC for rule making, on policy grounds. These arguments were noted and rejected by the Board in the explanatory statement to the proposed rules and will not be further discussed herein.

⁴ The NATC also supports this modification.

schedules), they are no more burdensome on applicants than existing notice provisions.

One other matter deserves comment here: TXI opposes the amendment to Part 302 on the ground that the proposed rule would provide a "new concept of route protection for air taxi operators not now contemplated by the Board's regulations or the Federal Aviation Act." It asserts that there is no reason to serve an exemption application upon an air taxi operator unless the air taxi operator's response is to be given some weight in the evaluation of the application. Therefore TXI concludes that the proposed rule would be a major change in the Board's regulation of air taxi operators, and ought not to be effected through the amendments proposed herein.

We find no merit in this contention. The service requirements are designed to assure that those persons whose interests may be affected by exemption applications may have an opportunity to respond. That the air taxi operators who are to be served may have such an interest is clear and undisputed. In addition to being a matter of elementary fairness, it is important from the Board's standpoint to have the views of interested persons, other than the applicant, before it in order to consider, inter alia, the public interest criteria of sections 102 and 416 (a) of the Act.

Accordingly, in consideration of the foregoing the Civil Aeronautics Board hereby amends Part 302 of the Procedural Regulations (14 CFR Part 302) effective July 19, 1971, as follows:

1. Amend paragraph (b) of § 302.403 to read as follows:

§ 302.403 Service of application.

(b) Persons to be served. Except in the case of an application for an exemption from sections 403 and 404 of the Act or an application for exemption which will permit the applicant to render irregular services only other than between specified points, a copy of an application shall be served on the following parties who shall be presumed to have an interest in the subject matter of the application: (1) Any air carrier which is authorized to render regular service to any point involved in the application; (2) any person whose application for a certificate of public convenience and necessity, or for an exemption, authorizing regular service to or from any such point has been filed with, and which has not been finally disposed of by, the Board; (3) the chief executive of any State, territory, or possession of the United States

*The California parties request that the proposed rule be amended to provide for service of applications directly on the state regulatory body affected. In view of the provision for service on state regulatory agencies and commissions contained in other parts of the Board's regulations (e.g., § 376.4(a)) the California parties' request will be granted and an appropriate amendment made to Part 302.

in which any such point is located; *Provided, however*, That if there be a state commission or agency having jurisdiction over transportation by air, service shall be made on such commission or agency, rather than the chief executive of the State; (4) the chief executive of the city, town, or other unit of local government at any such point located in the United States or any territory or possession thereof; (5) the board, commission, manager, or other body or individual having direct supervision over and responsibility for the management of the airport located in the United States and which is being used to serve such point at the time the application is filed; and (6) any commuter air carrier which operates pursuant to Part 298 of this chapter or other exemption authority which provides at least five round trips per week between two or more points one of which is involved in such application and which publishes schedules in the "Official Airline Guide" which include service to the point involved in the application.

(Secs. 204, 1001, Federal Aviation Act of 1958, as amended (72 Stat. 743, 788; 49 U.S.C. 1324, 1481))

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-8547 Filed 6-16-71; 8:52 am]

SUBCHAPTER D—SPECIAL REGULATIONS
[Reg. SPR-50; Amdt. 4]

PART 376—AMENDMENT OF FLIGHT PATTERNS OF HELICOPTER OPERATORS

Service on Affected Commuter Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of June 1971.

In a notice of rule making, PDR-30, SPDR-21,¹ the Board gave notice that it had under consideration amendments to Part 302 of the procedural regulations and Part 376 of the special regulations to require service of applications for exemption and applications for amendment of flight patterns of certificated helicopter carriers on affected commuter air carriers as defined in Part 298 of the Board's economic regulations. For the reasons set forth in PR-120, issued simultaneously herewith, the Board has decided to adopt the amendments to Parts 302 and 376 as proposed with one modification: the service requirements in §§ 302.403 and 376.4 shall be limited to commuter air carriers who publish schedules in the "Official Airline Guide."

Accordingly, the Civil Aeronautics Board hereby amends Part 376 of the Special Regulations (14 CFR Part 376) effective July 19, 1971, as follows:

1. Amend § 376.4 to read as follows:

¹ Dec. 8, 1971 (35 F.R. 18877).

§ 376.4 Filing and service.

Applications for flight pattern amendments shall be filed with the Docket Section of the Board not later than 20 days prior to the desired effective date. Prior to or coincident with the filing of an amended flight pattern application, the carrier shall serve notice of such filing together with a copy of the proposed amended flight pattern in the manner indicated below:

(a) If the application proposes suspension of passenger service to any point, service shall be made upon:

(1) The chief executive of any State, territory, or possession of the United States in which is located any point which is regularly receiving passenger service, at which suspension of such service is proposed; *Provided, however*, That if there be a State commission or agency having jurisdiction over transportation by air, service shall be made on such commission or agency, rather than the chief executive of the State;

(2) The chief executive of the city, town, or other unit of local government at each such point;

(3) The board, commission, manager, or other body or individual having direct supervision over and responsibility for the management of the airport or heliport being used to serve such point.

(b) If the application proposes termination, suspension or inauguration of passenger service to any point, service shall be made upon:

(1) Any local service air carrier which serves any point at which it is proposed to terminate, suspend or inaugurate passenger service; and

(2) Any commuter air carrier (as defined in Part 298 of this chapter) which operates pursuant to Part 298 of this chapter or other exemption authority, and which (i) provides at least five round trips per week between two or more points at one of which points it is proposed to terminate, suspend or inaugurate passenger service and which publishes flight schedules in the "Official Airline Guide" which include service to such a point or (ii) operates to the terminal airports of Los Angeles, San Francisco, Chicago, or New York/Newark, as the case may be, and which publishes flight schedules in the "Official Airline Guide" which include service to such a point.

(c) If proposed flight patterns involve property and mail carriage, such service shall be made upon the Postmaster General, marked for the attention of the Deputy Assistant Postmaster General for Logistics, Bureau of Operations.

Any person entitled to service under the provisions of this part may, within 10 days after such service, file with the Board, and serve upon the carrier, a statement of position with respect to the proposed service pattern: *Provided*, That any such person may, in writing, waive such notice and recommend that the Board approve the amended flight pattern as proposed.

(Secs. 204, 1001, Federal Aviation Act of 1958, as amended (72 Stat. 743, 788; 49 U.S.C. 1324, 1481))

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-8548 Filed 6-16-71; 8:53 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. IC-6559]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Contractual Plans for Mutual Fund Shares and Variable Annuities

On April 29, 1971, the Securities and Exchange Commission published notice (Investment Company Act Release No. 6493) (36 F.R. 8319) that it had under consideration, among other things, the amendment of Rules 27a-1, 27a-2, 27a-3, and 27c-1 under the Investment Company Act of 1940 (Act) (17 CFR 270.27a-1, 270.27a-2, 270.27a-3, and 270.27c-1) and invited all interested persons to comment upon the proposals. On May 28, 1971, a Public Conference was held before the Commission, pursuant to notice (Investment Company Act Release No. 6527, May 17, 1971) (36 F.R. 9143), at which time interested persons were heard by the Commission. The Commission has considered all the comments and suggestions received with respect to Rules 27a-1, 27a-2, 27a-3, and 27c-1 and has determined to adopt the amendments proposed in the form set forth below. Adoption of the amendments is made pursuant to the authority granted the Commission in sections 6(c) and 38(a) of the Act (15 U.S.C. 80a-6c, 80a-37(a)).

Rules 27a-1, 27a-2, and 27a-3 provide for certain conditions for compliance with and exemption from section 27(a) of the Act (15 U.S.C. 80a-27(a)) for certain registered separate accounts. Section 27(h) of the Act, added by the Investment Company Amendments Act of 1970 (Public Law 91-547; 84 Stat. 1425), provides an alternative method to section 27(a) for the regulation of the sale of securities by such registered separate accounts. The amendment of Rules 27a-1, 27a-2, and 27a-3 requires the same conditions for compliance and extends the same exemptions to securities sold subject to section 27(h) as previously existed for those sold subject to section 27(a).

Rule 27c-1 exempts variable annuity contracts from the requirement of section 27(c)(1) of the Act that they be redeemable during the annuity payout period. The amendment to Rule 27c-1 will, during the annuity payout period, exempt such contracts from the 18 month refund requirement of section 27(d) of the Act (84 Stat. 1424), added by the In-

vestment Company Amendments Act of 1970.

Section 6(c) of the Act provides that the Commission, by rule, regulation or order, may exempt any person or transaction, or any class of persons or transactions, from any provision of the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 38(a) of the Act authorizes the Commission to issue and amend such rules as are necessary or appropriate to the exercise of the powers conferred upon the Commission in the Act.

Commission action. Sections 270.27a-1, 270.27a-2, 270.27a-3, and 270.27c-1 of Chapter II of Title 17 of the Code of Federal Regulations are amended to read as follows:

§ 270.27a-1 Conditions for compliance with and exemptions from certain provisions of section 27(a)(1) and section 27(h)(1) of the Act for certain registered separate accounts.

(a) A registered separate account, and any depositor of or underwriter for such account, shall with respect to any variable annuity contract participating in such account, be deemed to satisfy the requirements of section 27(a)(1) and section 27(h)(1) of the Act if such contract provides for a sales load which will not exceed 9 per centum of the total payments to be made thereon as of a date not later than the end of the 12th year of such payments: *Provided*, That if a contract be issued for any stipulated shorter payment period the sales load under such contract shall not exceed 9 per centum of the total payments thereunder for such period.

§ 270.27a-2 Exemption from section 27(a)(3) and section 27(h)(3) of the Act for certain registered separate accounts.

(a) A registered separate account, and any depositor of or underwriter for such account, shall be exempt from paragraph (3) of section 27(a) and paragraph (3) of section 27(h) of the Act: *Provided*, That with respect to any variable annuity contract participating in such account the proportionate amount of sales load deducted from any payment during the contract period shall not exceed the proportionate amount deducted from any prior payment during the contract period.

§ 270.27a-3 Exemption from section 27(a)(4) and section 27(f)(5) of the Act for certain registered separate accounts.

(a) A registered separate account, and any depositor of or underwriter for such account, shall be exempt from paragraph (4) of section 27(a) of the Act and paragraph (5) of section 27(h) of the Act as to payments under any variable annuity contract participating in such account which (1) is purchased in connection with a plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, as amended (Code), or the requirements for

deduction of the employer's contributions under section 404(a)(2) of the Code, or (2) meets the requirements of section 403(b) of the Code, but such exemptions shall apply only to contributions or payments within the exclusion allowance for any employee under section 403(b) except as clause (3) hereof applies, or (3) permits no sales load deduction from any payment in excess of 9 per centum of such payment.

§ 270.27c-1 Exemption from section 27(c)(1) and section 27(d) of the Act during annuity payment period of variable annuity contracts participating in certain registered separate accounts.

(a) A registered separate account, and any depositor of or underwriter for such account, shall, during the annuity payment period of variable annuity contracts participating in such account, be exempt from the requirement of paragraph (1) of section 27(c) of the Act that a periodic payment plan certificate be a redeemable security and from section 27(d) of the Act with respect to such contracts under which payments are being made based upon life contingencies.

The Commission finds that since the foregoing rules grant exemptions from certain provisions of the Act and said amendments have been adopted to conform to changes made by the provisions of the Investment Company Amendments Act of 1970 (Public Law 91-547) which take effect on June 14, 1971, notice and procedures specified under 5 U.S.C. 553 are unnecessary and impracticable. Accordingly, the foregoing amendments are declared to become effective on June 14, 1971.

(Secs. 6(c), 38(a); 54 Stat. 800, 841; 15 U.S.C. 80a-6(c), 80a-37(a); sec. 16, 84 Stat. 1424, 15 U.S.C. 80a-27(h))

By the Commission, June 10, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc. 71-8490 Filed 6-16-71; 8:47 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart C—Listing of Color Additives for Food Use Subject to Certification

Subpart E—Listing of Color Additives for Drug Use Subject to Certification

FD&C Red No. 40

In the matter of listing FD&C Red No. 40 as a color additive, subject to certification, for food use and drugs use:

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c)(1), (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c)(1), (d)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter

published in the **FEDERAL REGISTER** of April 10, 1971 (36 F.R. 6892). Accordingly, the regulations promulgated thereby (§§ 8.244 and 8.4104) will become effective June 9, 1971.

Dated: June 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8472 Filed 6-16-71; 8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS
PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

AMPROLIUM, ETHOPABATE, CHLORTETRACYCLINE, SODIUM SULFATE

The Commissioner of Food and Drugs has evaluated a new animal drug appli-

cation (36-361V) filed by American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, proposing the safe and effective use in chicken feed of a combination drug containing amprolium, ethopabate, chlortetracycline, and sodium sulfate. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517 (21 CFR 3.517), and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended, as follows:

1. Section 121.208 is amended in paragraph (d), table 1, by adding a new item 15 and a new subitem a thereunder, as follows:

§ 121.208 Chlortetracycline.

(d)

TABLE 1—CHLORTETRACYCLINE IN COMPLETE CHICKEN AND TURKEY FEEDS

Principal Ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
14. . . . .	. . .	. . .	. . .	. . .	. . .
15. Chlortetracycline..	200			For broiler chickens; in low calcium feed containing 0.8 percent dietary calcium and 1.5 percent sodium sulfate; feed continuously as sole ration for not more than the first 3 weeks of life.	Treatment of chronic respiratory disease caused by strains of <i>Mycoplasma gallisepticum</i> susceptible to chlortetracycline.
a. Chlortetracycline..	200	Amprolium+ethopabate.	227 3.6	do.	Prevention of coccidiosis.

2. Section 121.210 is amended in paragraph (c), table 1, by adding a new subitem u under item 2.11, as follows:

§ 121.210 Amprolium.

(c)

TABLE 1—AMPROLIUM IN COMPLETE CHICKEN AND TURKEY FEED

Principal Ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
2.11
u. 2.2		Chlortetracycline.	200	For broiler chickens; in low calcium feed containing 0.8 percent dietary calcium and 1.5 percent sodium sulfate; feed continuously as sole ration for not more than the first 3 weeks of life.	Treatment of chronic respiratory disease caused by strains of <i>Mycoplasma gallisepticum</i> susceptible to chlortetracycline.

Effective date. This order shall be effective upon publication in the **FEDERAL REGISTER** (6-17-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: June 8, 1971.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc. 71-8473 Filed 6-16-71; 8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-1—GENERAL

Subpart 9-1.3—General Policies

PART 9-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 9-5.52—Procurement of Special Items

MISCELLANEOUS AMENDMENTS

The revision in § 9-5.5206-5, "Steel filing cabinets," is made in order to conform to FPMR 101-26.308.

1. In Subpart 9-1.3, General Policies, § 9-1.351, *Distribution of Federal Specifications and Standards*, paragraph (a) is revised to read as follows:

§ 9-1.351 *Distribution of Federal Specifications and Standards.*

(a) AEC does not maintain a central distribution point for specifications and standards. Index of Federal Specifications, Standards, and Handbooks may be obtained by submission of an order from field offices to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of Federal Specifications and Standards may be obtained in the same manner. Single copies of product specifications required for bidding purposes are available without charge at the Business Service Centers of the General Services Administration Regional Offices. Non-government activities should obtain copies of the Index and of Federal Specifications and Standards from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

2. In Subpart 9-5.52, *Procurement of Special Items*, under § 9-5.5206, *Miscellaneous items*, § 9-5.5206-5, *Steel filing cabinets*, paragraph (b) is revised to read as follows:

§ 9-5.5206 *Miscellaneous items.*

§ 9-5.5206-5 *Steel filing cabinets.*

(b) Direct AEC procurements of steel filing cabinets are subject to the approval requirements of FPMR 101-26.308. These requirements do not apply to grantees or contractors authorized to use GSA supply sources. However, such filing cabinets shall not be procured by AEC cost-type contractors unless approved by the Manager of the cognizant

Field Office, on the bases that AEC utilization requirements have been met and the actions prescribed by FPMR 101-26.302-2 have been taken. A copy of the Field Office approval shall be retained in the appropriate purchasing office files.

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949; as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments are effective upon publication in the **FEDERAL REGISTER** (6-17-71).

Dated at Germantown, Md., this 11th day of June 1971.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[FR Doc. 71-8465 Filed 6-16-71; 8:45 am]

Chapter 29—Department of Labor

PART 29-3—PROCUREMENT BY NEGOTIATION

Pursuant to the authorities contained in 5 U.S.C. 301, Reorganization Plan No. 6 of 1950 (64 Stat. 1263), I hereby amend Chapter 29 of Subtitle A of Title 41 of the Code of Federal Regulations by adding a new Part 29-3 to read as set forth below. As these regulations relate solely to grants and public contracts and rules of agency procedure, the requirement of 5 U.S.C. 553 as to notice of proposed rule making, opportunity for public participation, and delay in effective date are not applicable. I do not believe such procedure will serve a useful purpose here. Accordingly, these regulations shall become effective upon publication in the **FEDERAL REGISTER** (6-17-71).

Subpart 29-3.1—Use of Negotiation

Sec.	
29-3.100	Scope of subpart.
29-3.100-50	Other procedures applicable to negotiated procurements.
29-3.101	General requirements for negotiation.
29-3.101-50	Late proposals.
29-3.101-51	Limitations on use of requests for quotations.
29-3.103	Dissemination of procurement information.

Subpart 29-3.2—Circumstances Permitting Negotiation

29-3.202	Public exigency.
29-3.203	Purchases not in excess of \$2,500.
29-3.204	Personal or professional services.
29-3.204-50	Criteria for determining whether services are personal.
29-3.211	Experimental, developmental or research work.

Subpart 29-3.3—Determinations, Findings, and Authorities

29-3.302	Determinations and findings required.
29-3.305	Form and requirements of determinations and findings.

Sec.
29-3.305-50 Class determinations and findings for negotiating authority.

Subpart 29-3.4—Types of Contracts

29-3.403	Selection of contract type.
29-3.404	Fixed-price contracts.
29-3.404-3	Fixed-price contract with escalation.
29-3.404-4	Fixed-price incentive contract.
29-3.404-7	Retroactive price redetermination after completion.
29-3.405	Cost-reimbursement type contracts.
29-3.405-3	Cost-sharing contract.
29-3.405-4	Cost-plus-incentive-fee contract.
29-3.405-5	Cost-plus-a-fixed-fee contract.
29-3.405-50	Cost-plus-award-fee contract.
29-3.406	Other types of contracts.
29-3.406-1	Time and materials contract.
29-3.407	Additional incentives.
29-3.407-2	Contracts with performance incentives.
29-3.408	Letter contract.
29-3.409	Indefinite delivery type contracts.

Subpart 29-3.6—Small Purchases

29-3.602	Policy.
29-3.602-50	Purchasing authority.
29-3.603	Competition.
29-3.603-1	Solicitation.
29-3.603-2	Data to support small purchases.
29-3.604	Imprest funds (petty cash) method.
29-3.604-3	Agency responsibilities.
29-3.604-4	Use of imprest funds.
29-3.604-6	Procurement and payment.
29-3.604-50	Designation of cashiers.
29-3.604-51	Instructions for cashiers.
29-3.604-52	Accountability of imprest funds.
29-3.605	Purchase order forms.
29-3.605-3	Agency order forms.
29-3.605-50	Cancellation of purchase orders.
29-3.605-51	Duplicate purchase orders.
29-3.606	Blanket purchase arrangements.
29-3.606-1	General.
29-3.606-3	Establishment of account.
29-3.606-4	Documentation.

Subpart 29-3.7—Negotiated Overhead Rates

29-3.705	Procedure.
29-3.707	Cost-sharing rates and limitation on overhead cost.
29-3.707-50	Overhead cost ceiling.

Subpart 29-3.8—Price Negotiation Policies and Techniques

29-3.802	Preparation for negotiation.
29-3.809	Contract audit as a pricing aid.
29-3.809-50	Procedures.

Subpart 29-3.9—Subcontracting Policies and Procedures

29-3.903	Review and approval of contractor's purchasing system and subcontracts.
29-3.903-2	Review and approval of subcontracts.
29-3.950	Subcontracting by cost-type prime contractors.

AUTHORITY: The provisions of this Part 29-3 issued under 80 Stat. 379, 5 U.S.C. 301, 63 Stat. 389, 40 U.S.C. 486(c).

Subpart 29-3.1—Use of Negotiation

§ 29-3.100 *Scope of subpart.*

§ 29-3.100-50 *Other procedures applicable to negotiated procurements.*

Generally, except where sections of Subparts 1-2.2 and 1-2.3 of this title and

Subparts 29-2.2 and 29-2.3 of this chapter deal with aspects of bid solicitation and submission peculiar to formal advertising only (e.g., (a) the public bid opening, (b) the "formal offer" status of the bid as opposed to a proposal, and (c) the specificity with which the item being procured can be described) those subparts shall be applicable to the solicitation and submission of proposals for contracts to be effected by negotiation. In addition, within the above guidelines, the following sections shall also be applicable:

Sec.	
29-2.105	Solicitation for informational or planning purposes.
29-2.401	Receipt and safeguarding of bids.
29-2.406-4	Disclosure of mistakes after award.
1-2.407-2	Responsible bidder.
1-2.407-6	Equal low bids.
29-2.407-8	Protests against award.
1-2.407-8	

It should be noted that deviation from the requirements in Part 1-3 of this title and this Part 29-3 may be made for contracts on a class or individual case basis with the prior written consent of the head of the agency for reasons of program or other considerations, e.g., financial assistance programs. Such deviation shall be obtained in accordance with the procedures in § 29-1.009 of this chapter.

§ 29-3.101 *General requirements for negotiation.*

§ 29-3.101-50 *Late proposals.*

Late proposals shall be treated as late bids in accordance with § 29-2.303 of this chapter and § 1-2.303 of this title. For purposes of applying the late bid rules to late proposals, unless a specified time for receipt of proposal is stated in the request for proposals, the time for such receipt shall be deemed to be the time for close of business of the office designated for receipt of proposals on the date stated in the request for proposals. An exception to the rule excluding late proposals shall be accorded to late proposals when no timely proposals were received.

§ 29-3.101-51 *Limitations on use of requests for quotations.*

Standard Form 18, "Request for Quotations," illustrated in § 1-16.901-18, of this title, shall not be used by the contracting officer to solicit, from prospective suppliers, formal legal offers which could be accepted by the Government for purposes of creating binding contracts. The limitations on the use of Standard Form 18 are set out in § 1-16.201 of this title.

§ 29-3.103 *Dissemination of procurement information.*

(a) During the interval between the initiation of request for proposals and the making of an award, the limitations on communication between DOL representatives, procurement and otherwise, and prospective suppliers shall be the same as those provided in § 29-2.202-52

of this chapter for formally advertised solicitations. Moreover no prospective supplier shall be given an advantage over competitors of advance knowledge that proposals are to be requested.

(b) The disclosure requirements of the Public Information Act, 5 U.S.C. 552, do not operate to qualify this § 29-3.103 nor the § 1-3.103(b) bar against the disclosure of information. See Part 70 of Title 29 of the Code of Federal Regulations.

Subpart 29-3.2—Circumstances Permitting Negotiation

§ 29-3.202 Public exigency.

When DOL requests GSA to procure an item for DOL under this exception, the DOL procuring activity must comply with the documentation requirements of § 5-3.202 of this title.

§ 29-3.203 Purchases not in excess of \$2,500.

When determining whether or not the amount involved in any one transaction exceeds \$2,500, the full or gross purchase price is controlling. Any prompt payment discount or the trade-in value of any article (to be offered to the vendor in exchange) is not to be deducted to qualify a procurement for the exception in § 1-3.203 of this title.

§ 29-3.204 Personal or professional services.

Where statutory authority exists for both (a) the procurement of personal services and (b) the authorized deviation from advertising requirements for such procurement, § 1-3.215 of this title shall be the exception cited and not § 1-3.204 of this title. The statutory authority must be separate and apart from the Federal Property and Administrative Services Act of 1949, as amended, which authorizes the FPR and the DOLPR.

§ 29-3.205-50 Criteria for determining whether services are personal.

For purposes of applying the prohibition against personal services, the contracting officer shall make his determinations on a case-by-case basis. In so doing, he shall apply the circumstances of a particular case to the general criteria in this § 29-3.205-50. In determining whether services being procured are "personal" in nature, not all the criteria need be present in a particular case to justify the barring of a proposed procurement as being in violation of the proscription against personal services procurement.

(a) *Government supervision.* Based on decisions of the Comptroller General and standards published by the Civil Service Commission, the following criteria constitute some of the general standards against which to measure a proposed procurement when "Government supervision" is a factor in order to determine whether the procurement requires special statutory authority to bring it within § 29-3.204. To determine the extent of Government supervision the contracting officer should look to all of the provisions of the entire contract, not merely the work statement, schedule, or specifica-

tion. Some elements of Government supervision to consider, although they need not be answerable in the affirmative in a particular situation to warrant the conclusion that Government supervision exists, are:

(1) Will the work be performed at a Government site or in close proximity to the Government's authorized representative responsible for accepting or rejecting the work to be performed?

(2) Will Government-furnished tools and facilities be used in performing the work?

(3) Will the services be applied directly in furtherance of assigned functions or missions of DOL or one of its subparts, i.e., as opposed to supporting services or services of professional or staff assistants?

(4) Are identical or substantially comparable services meeting similar needs being performed in DOL and/or other Federal agencies by Civil Service personnel?

(5) Can the need for the particular services be said to be recurring or extending beyond 1 year, regardless of the term of the proposed procurement which, for appropriation purposes, might be limited to a year or less?

(6) Does a Government official or employee have full personal responsibility for the successful performance of the services?

(7) Does the Government control not only what services will be performed but also the full particulars of how the services will be performed?

(8) Does the contract provide payment for inputs, e.g., labor hours, as opposed to outputs, e.g., reports?

(b) *Examples of nonpersonal services.* Contracts requiring the collection of data, the delivery of lectures, services by artists, physicians, dentists, and public stenographers are usually nonpersonal. Temporary services performed by those in mechanical trades such as plumbers, electricians, etc., for the performance of a particular job whether on a time or job basis are usually considered nonpersonal.

§ 29-3.211 Experimental, developmental, or research work.

The determination referred to in § 1-3.211 of this title shall be made by the head of the procuring activity for requirements of \$25,000 or less. Otherwise the head of the procuring activity shall forward the matter together with his recommendations to the head of the agency for his determination.

Subpart 29-3.3—Determinations, Findings, and Authorities

§ 20-3.302 Determinations and findings required.

The head of the procuring activity shall make the determinations required by § 1-3.302(d) of this title. The contracting officer shall make the determinations required by § 1-3.302 (a), (b), and (c) of this title. The head of the agency shall make the determinations

required by § 1-3.302 (e) and (f) of this title.

§ 29-3.305 Form and requirements of determinations and findings.

There is no particular form of determinations and findings prescribed for DOL-wide use. Each procuring activity may prescribe its own forms, provided they meet the requirements enumerated in § 1-2.305 of this title and illustrated in § 1-3.213 of this title.

§ 29-3.305-50 Class determinations and findings for negotiating authority.

Class determinations and findings, when justified, shall be prepared by the contracting officer and will be approved in writing by the head of the agency. Such approval will only be granted to avoid the repetitive preparation and approval of individual determinations and findings.

Class determinations and findings may only be used for a finite group of prospective procurements with a common background, purpose and identical justification for exemption from the statutory requirement to procure by formal advertising. The group of procurements must be described in detail, including the nature of the program, the approximate number of contract actions, the cumulative dollar value of the procurements covered, the type of contracts to be let, the similarity in performance requirements and objectives and the general identity of contractors (the specific identity, if known). The class determinations and findings should also contain any other information supporting the conclusion that authority to negotiate should be extended to all of the procurements in the group or class being described.

A class determinations and findings shall not extend the authority to negotiate or award the procurements that are part of the class after the expiration of the fiscal year for which the class determinations and findings were approved. Class determinations and findings may be renewed from year to year. A particular procurement, identified in a prior year's class determinations and findings, if covered by the renewal, is authorized for negotiation. However, renewal of a class determinations and findings is not a renewal of expired appropriations, regardless of whether such funds had been set-aside previously for the particular procurements whose negotiation was covered by a previous class determinations and whose negotiation authority is now being renewed.

Subpart 29-3.4—Types of Contracts

§ 29-3.403 Selection of contract type.

In preparing its negotiation position, the Government must include as one of its negotiation goals the type of contract that it prefers to consummate the particular transaction. The contract type selected as a goal requires consideration of all the circumstances of the transaction, not merely the deliverable end item. Such circumstances include the anticipated terms of the contract, product reliability of the item, the relationship between the cost risk to the Government

and contractor's performance risk, the urgency of the Government's needs and the availability and/or acceptability of substitute items. The availability of competition from prospective suppliers for the item is an important factor to consider, in addition to those in § 1-3.403 of this title, in selecting a contract type.

§ 29-3.404 Fixed-price contracts.

§ 29-3.404-3 Fixed-price contract with escalation.

(a) *Description.* The purpose of using an escalation clause in a fixed-price contract is to avoid the inequitable impact on either party of a known, identifiable and extraordinary contingency that can be isolated from the usual, less severe risks of performance. Frequently, the less desirable cost-reimbursement type contract is the only alternative to an escalation clause to protect the interest of the parties against performance or cost risk in a contract that would otherwise lend itself to a fixed-price contract. Fixed-price contracts with escalation shall not be awarded without maximum limitations on the upward and/or downward price adjustment. Such limitations shall not exceed 10 percent of the contract price without the express written approval of the head of the agency. An attempt shall be made, where applicable, to make the escalation factor reciprocal where the contingency factor shows both an upward and downward vacillation from a base or index. Care shall be taken in using this type of contract that no ambiguity surrounds the terms or amount of the escalation. Each source of bases or indices used shall be of such a caliber as to be generally considered authentic by specialists in the field and published in trade journals or other business-type publications available to the public. Moreover, the base or index shall have as much correlation as possible to the variation in price of the contingency covered by the escalation clause. Where the contingency can be anticipated in advance, it may be spelled out in an appropriate escalation clause in the invitation for bid, as set out in § 1-2.104-3 of this title, or request for proposal, with no provision for deviation from the clause in the bid or proposal. Providing an escalation clause without deviation in the solicitation eliminates the problem of considering variations in this factor when evaluating competing bids or proposals.

(b) *Application.* Where escalation provisions are incorporated in the terms of a negotiated procurement, the parties shall give due recognition of the downward impact on the contractor's risk resulting from the elimination of the contingency. Since the amount of risk and who bears it are two of the dominant factors in determining a fair level of profit, reduction in risk shall be reflected in the lower level of profit negotiated. Fixed-price contracts with escalation provision shall not be used unless the overall price of the item being procured on a fixed-price basis would have been higher than the base price under the fixed-price with escalation contract.

§ 29-3.404-4 Fixed-price incentive contract.

(a) *Description.*—(1) *General.* Next to firm fixed-price contracting, the fixed-price incentive contract imposes the maximum risk and motivation on the contractor. It is especially valuable for use in a procurement where the parties would otherwise have not been able to agree on an equitable price. Cost-plus-incentive-fee contracts as described in § 29-3.405-4 similarly also provides for a reward and penalty. A cost-plus-incentive-fee contract can focus on many different nonprice performance factors and can even achieve an order of priority among those factors. The fixed-price incentive contract is designed to motivate the contractor to hold his costs down while at the same time limit the risk to the Government if costs are not controlled. The fixed-price incentive contract requires for its application the delivery of an end product which can be precisely described and which will, at contract completion, be accepted or rejected on the basis of objective standards. Where various measurable levels of quality can be anticipated and the Government wants the contractor to be motivated toward the highest quality, then the fixed-price incentive contract, which motivates a contractor to be only cost conscious, should not be used. In such a case, a cost-plus-incentive-fee contract would be desirable.

§ 29-3.404-7 Retroactive price redetermination after completion.

This type of contract has narrowly limited application. Its distinctive characteristic is the combination of a ceiling price and a provision for a postperformance "downward-only" price redetermination. This fixed-price contract type offers an advantage over others where negotiation between the parties is impeded by their disagreement over the relationship between risk and price in a prospective contract of relatively short duration and low dollar value. Thus, typically, it would be applicable where a contractor will accept a fixed price contract together with the risks associated with that type of contract and yet insists on adding unrealistically (in the Department's view) high contingency factors into the fixed price he is willing to negotiate. In using this type of contract, care should be taken that the ceiling price represents some contractor risk, otherwise the contract takes on some of the characteristics of a cost-plus-a-percentage-of-cost-type contract prohibited in § 1-3.401(b) of this title.

§ 29-3.405 Cost-reimbursement type contracts.

§ 29-3.405-3 Cost-sharing contract.

Caution in the use of this type of contract is required to prevent the costs agreed to be assumed by the contractor from being recirculated in the contractor's accounting system and recharged against the cost-sharing contract or other Government contracts, directly or indirectly. When used, this type of contract shall contain a clause specifically

prohibiting the recharge of any part of the contractor's "share." A cost-sharing contract providing for the contractor to share cost overruns as well as costs less than the contract ceiling will not obligate the Department to add additional funds. The contractor in such a contract is only obligated to continue to share costs if the Department elects to extend the contract with additional funds. Contracts containing a requirement that the parties share in overruns shall contain a maximum limit beyond which neither party assumes any liability for further participation in overruns. Where the mutuality of interest of both the Department and prospective suppliers is present, requests for proposals may include language recognizing the prospective joint benefits and stating that the willingness of contractors to share costs will be a factor in determining award. In no event, however, shall a lack of willingness to share costs by a prospective supplier, in and of itself, justify the rejection of a proposal as nonresponsive. To do otherwise could operate to exclude technologically superior suppliers who may not wish to share costs.

§ 29-3.405-4 Cost-plus-incentive-fee contract.

This type of contract embodying a large negative fee or loss factor in conjunction with delivery or other element of performance shall not be used to overcome the limitations on the use of the liquidated damages provisions as set forth in § 29-1.315 of this chapter.

§ 29-3.405-5 Cost-plus-a-fixed-fee contract.

(a) *Limitations.* There is no Department-wide fixed fee ceiling schedule other than the limitations imposed in § 1-3.405-5(c)(2) of this title. Within those limitations, the head of each procuring activity may establish a fee ceiling for the activity.

(b) *Contractors' investment in work-in-process.* The head of each procuring activity has been delegated the authority to make the determination described in § 1-3.405-(d)(1)(ix) of this title.

§ 29-3.405-50 Cost-plus-award-fee contract.

(a) *Description.* The use of this type of cost reimbursement contract is relatively new and stems from the desire on the part of the Government to introduce incentives into cost reimbursement contracting situations where finite measures of performance necessary for cost-plus-incentive-fee contracts are absent. The use of this type of contract requires a willingness on the part of the contractor to accept a unilateral Government determination of a suitable level of fee for the performance of the contract. By terms of the contract, this determination by the Government of the fee is excluded from the scope of the Disputes clause. The contractor's performance itself is measured against criteria included in the contract. The contractor's performance relative to these criteria is a subject for discussion between the parties at various intervals during the period of contract.

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The mechanics of the fee determination is unusual in that it involves two fee elements. First, there is a fee in a fixed amount or "base" fee. Second, there is a fee that is variable or "award" fee. Maximizing the second part of the fee is the basis of the contractor's motivation to be responsive to the results of progress discussions at the periodic reviews of the contractor's performance.

(b) *Application.* The cost-plus-award-fee contract shall not be used where it is clear that a cost-plus-a-fixed-fee or cost-plus-incentive-fee contract is more appropriate.

(c) *Limitations.* The base fee shall not exceed 3 percent of the estimated cost of the contract exclusive of the fee. The maximum fee (base fee plus award fee) shall not exceed the limits in § 1-3.405-5 (c) (2) of this title.

§ 29-3.406 Other types of contracts.

§ 29-3.406-1 Time and materials contract.

Although this type of contract provides for payment of a fixed price for each unit of time supplied by the contractor, the total amount of a contractor's profit and the amount of a contractor's indirect costs absorbed under the contract is increased proportionately as the number of hours worked by the contractor is increased. In order to reduce the reverse incentive inherent in this contract form, it is desirable to limit the number of hours to which the rate including profit will be applicable and to reimburse the contractor at a rate which does not include profit (and, if possible, with reduced indirect costs) for all hours worked in excess of such limit.

§ 29-3.407 Additional incentives.

§ 29-3.407-2 Contracts with performance incentives.

See § 29-3.405-50.

§ 29-3.408 Letter contract.

(a) A letter contract constitutes an emergency measure and can only be justified in the absence of applicability of any other contract type authorized in Subpart 1-3.4 of this title. A letter contract cannot be justified on either the need to obligate annual funds (or other funds on whose use there is a deadline) prior to the expiration of the time in which the funds can be legally obligated or the need to contract where the parties have been unable to resolve substantive disagreements. The policy of DOL is not to issue letter contracts. Exceptions to this policy can only be authorized by the head of the agency. Such policy exceptions will be permitted only in those cases where the parties are in agreement on nearly all matters of a substantive nature and are willing to document such agreement in the letter contract. In addition to those requirements in § 1-3.408(d) of this title, such substantive matters include:

(1) The location of where the work is to be performed;

(2) The parties' agreement that the letter contract will be superseded by a

definitive contract within 3 months of the effective date of the letter contract or completion of 25 percent of the work, whichever occurs first;

(3) A statement of the work to be performed by the contractor;

(4) A performance or delivery schedule;

(5) The ceiling price of the contract to be definitized;

(6) An agreement as to the required clauses to be contained in the definitized contract;

(7) Limitation on contractor for failure of the parties to execute a definitized contract within the time specified in the contract, by a clause limiting reimbursement to the contractor of the lesser of either the Department's maximum liability under the letter contract or the costs incurred under the contract terms through the date specified for definitizing the contract.

(b) *Limitations:* Requests for authority to award a letter contract shall be addressed to the head of the agency. The request shall recite the circumstances of the particular procurement, explain its urgency, and why no other type of contract is suitable. The request shall also state to what extent there was agreement on the factors listed in paragraph (a) of this section and whether that agreement will be reflected in the terms of the letter contract. While every effort shall be made to make the letter contract as specific as circumstances permit, specific agreement on all of the seven factors specifically listed in paragraph (a) of this section is not a prerequisite for use of a letter contract.

However, approval to enter a letter contract will be withheld unless there is agreement on a substantial number of the factors in paragraph (a) of this section, with the minimum number of these factors varying on a case-by-case basis. In the event that the parties have not agreed on a particular factor, then the parties shall attempt to agree on a reasonable range or narrow series of alternatives for that factor. Based on adequate justification the head of the agency, upon request, may during the period covered by the letter contract authorize in writing an extension of the life of the letter contract or an increase in the Department's liability. The maximum liability of the Department stated in the letter contract shall not exceed an amount necessary to provide for the completion of that portion of the estimated cost of the work required consistent with the policy of the letter contract being superseded by a definitive contract within 3 months or completion of 25 percent of the work, whichever occurs first. In instances where a contractor is required to make extensive initial outlays or commitments for material and equipment at the contract's inception, the Department's maximum liability may be increased up to 50 percent of the total estimated cost of the procurement consistent with § 1-3.408 of this title. In the unusual case and where adequate justification is presented, this 50 percent

limitation may be exceeded at the contract's inception, with prior written approval of the head of the agency. Request for such authority, if applicable, shall be included in the initial request for approval of the letter contract.

§ 29-3.409 Indefinite delivery type contracts.

To qualify as an indefinite delivery contract, the instrument must contain language clearly associated with that general type. Moreover, such a contract shall also contain language distinguishing between the three different kinds of commitment by the Department to procure under indefinite delivery contracts, namely, that the quantity it is agreed to procure is: A definite quantity within a stated period (§ 1-3.409(a) of this title); all requirements for the stated period (§ 1-3.409(b) of this title); or an unknown amount within a prescribed known range for a stated period (§ 1-3.409(c) of this title). Failure to describe the quantities the Department is obligated to purchase at least as specifically as is provided above for one of the three type of contracts illustrated in § 1-3.409 of this title, could result in a basic ordering agreement that may not be enforceable because of a lack of mutuality of consideration.

(a) *Definite quantity contract—(1) Description.* This is sometimes referred to as a "term-type" contract and is ideally suited for the procurement of items for which there exists recurrent needs. Without this type of contract the Department would be required to issue a series of contracts, resoliciting bids on each occasion when the predictable need arose. Subject to authority within a particular appropriation or in the case of special authority (e.g., the authority to subscribe to periodicals for periods in excess of 1 fiscal year while obligating annual funds as provided in 31 U.S.C. 530a) such term contracts may not be extended beyond a fiscal year.

(2) *Application.* When all of the quantities specified in a definite-quantity term contract have been delivered, the contract shall be considered complete and additional orders shall not be placed under the contract on the basis of the contractor's prior low bid for identical items. Instead, each such additional quantity shall be considered on a case-by-case basis to determine whether to advertise it or to otherwise solicit competition from available suppliers. When used, this contract obligates funds for the full quantity to be delivered over the contract period upon award and not at the time of placing individual orders designating time and place of delivery or performance.

(b) *Requirements contract—(1) Description.* This is another form of term contract wherein, for the full duration of the specific contract period all the needs for a particular item or services are placed with a contractor by a simple order. Each order incorporates the terms and conditions of the basic requirements contract under which the order is placed.

Procuring activities using this contract form shall stipulate a maximum quantity beyond which the contractor is not obligated to deliver the items that may be ordered under the contract. In addition, where possible, such contracts shall obligate the Department by guarantee or otherwise, to order some stated minimum amount of the item in question, thus converting it to an indefinite quantity contract as defined in § 1-3.409(c) of this title. This will thereby protect the Department in the event of drastic changes in the demand or supply of the item or in the event of a technological breakthrough. In the absence of an obligation on the Department to procure a minimum quantity, funds are only obligated when a particular order is placed. The order therefore becomes the obligating document and must contain appropriation symbols and dollar amounts.

(c) *Indefinite-quantity contract—(1) Application.* When used, this contract can only obligate funds covering the low (i.e., the minimum or guaranteed) end of the range of quantities the Department can purchase. Where there is no obligation on the Department to procure a minimum quantity and where payment is to be made from a central revolving fund (e.g., "Working Capital Fund") the basic contract award shall state that the appropriation data cited is not for the purpose of indicating the obligation, but rather that the money reserved for the purpose of paying invoices under the contract is being identified.

Subpart 29-3.6—Small Purchases

§ 29-3.602 Policy.

It is essential that authority to make small purchases be at the lowest practical operating level.

§ 29-3.602-50 Purchasing authority.

(a) *Definition.* "Purchasing authority" is an authority by which the designated purchasing officer is authorized to issue purchase orders or requisitions which do not involve the solicitation and acceptance of bids or signing of agreements or contracts.

(b) *Delegations.* See §§ 29-1.401(b) (4) and 29-1.451 of this chapter.

§ 29-3.603 Competition.

§ 29-3.603-1 Solicitation.

(a) Quotations or offers may be solicited by use of written request, telegrams, telephone or "in-person" contact, whichever is considered by the purchasing officer to be the most appropriate for the particular transaction.

(b) When it is desirable to request quotations from outside the local trade area and time does not permit the use of written solicitations, telegraphic solicitations may be used. Telegraphic solicitations shall not ordinarily be used to solicit prices from local suppliers nor shall they be used if written requests for quotations can be timely made.

(c) In the absence of urgency, and where the estimated dollar amount of the purchase is between \$250 and \$2,500 quotations shall be obtained from at least

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three sources of supply. Where there are more than three names on the source list for an item, the suppliers solicited for a particular procurement should include, where practical, the supplier who received the previous award.

§ 29-3.603-2 Data to support small purchases.

When other than the lowest responsive quotation from a responsible supplier is used as the basis for the purchase, documentation of the reason(s) for rejecting any lower quotation and the name of the individual responsible for making the determination to reject such quotation shall be made a part of the purchase file.

§ 29-3.604 Imprest funds (petty cash) method.

§ 29-3.604-3 Agency responsibilities.

The Deputy Assistant Secretary for Administration is responsible for the review and action prescribed by § 1-3.604-3 of this title and for requesting exceptions and additions in accordance with § 1-3.604-5 of this title.

§ 29-3.604-4 Use of imprest funds.

Purchases made from imprest funds shall follow the policy of purchasing satisfactory merchandise at fair prices without favoritism to any vendor. The item to be purchased, its price, and the quantity involved generally govern the action to be taken. If a special item costing only a few dollars is required, a minimum amount of time and expense should be devoted to consummating the transaction. However, where feasible, purchases should be made from firms offering prices most advantageous to the Department. A vendor may be reimbursed by a payment from imprest funds for the cost of the supplies and the parcel post or other delivery charges which he has already prepaid. Payments to common carriers for line haul transportation are not authorized.

§ 29-3.604-6 Procurement and payment.

Purchases through use of imprest funds shall be accomplished as follows:

(a) Administrations and Offices shall submit a requisition, DOL Form D/L 1-1 to the Department's imprest fund cashier showing necessary information such as estimated cost, unit of issue, quantity, description, delivery requirements and appropriation chargeable.

(b) The imprest fund cashier prepares D/L Form 1-110 showing appropriate information.

(c) If the method of purchase is cash upon delivery of merchandise, the vendor's representative shall sign D/L Form 1-110 indicating receipt of cash and will be furnished a copy of the form. One copy shall be forwarded to the requisitioning Administration or Office and the original and two copies retained by the imprest fund cashier.

(d) If the method of purchase requires pick up of the merchandise, Form D/L 1-110 is to be signed by the DOL representative authorized to make the actual purchase upon his receipt of the

cash. One copy is retained by the imprest fund cashier. The original and three copies are submitted to the vendor who signs the four copies upon supplying the merchandise and receiving the cash. The vendor may retain one copy. The DOL representative shall return the original and two copies to the imprest fund cashier as well as cash register receipt, sales slip, or invoice, which ever shall be furnished by the vendor. Any excess funds are returned to cashier at this time. The requisitioning Administration or Office shall be forwarded one copy of Form D/L 1-110 and the imprest fund cashier retains the original and two copies.

(e) A purchase for which cash is advanced must be confirmed and the receipt returned not later than the fifth working day following the date of the advance, otherwise the cashier shall take immediate action to recover the cash advanced.

(f) The imprest fund cashier may reimburse Department employees for amounts paid by them for approved purchases. The employee being reimbursed shall furnish the cashier with a vendor's receipt, or its equivalent as described in paragraph (d) of this section, except as otherwise provided. In addition to the vendor's receipt, the appropriation, allotment, and other identifying symbols shall be furnished to the imprest fund cashier on a Form D/L 1-1. Procedures outlined in paragraph (d) of this section will apply except that the vendor's signature on the D/L Form 1-110 will not be necessary.

(g) The cost of cash purchases must be reasonable and controlled by ordinary shopping procedures involving price comparison (competition) and the purchaser shall take advantage of any discounts obtainable.

§ 29-3.604-50 Designation of cashiers.

(a) The Director, Office of Administrative Services, OASA, designates employees as cashiers or alternate cashiers. Upon receipt of the designation and notice of assignment to a position covered by a position schedule fidelity bond, employee is authorized to perform the duties of cashier or alternate.

(b) An alternate cashier functions in the capacity of a cashier during the absence of the cashier and/or where the volume of work requires the cashier to have alternates, in which case funds will be advanced on the following basis: The cashier and the alternate cashier will count the funds advanced in each others presence and shall immediately verify it with each other. A signed receipt for all funds advanced or returned shall be exchanged between the alternate cashier and cashier.

§ 29-3.604-51 Instructions for cashiers.

Prescribed procedures for operating an imprest fund are contained in the Treasury Department "Manual of Procedures and Instructions for Cashiers operating under Executive Order No. 6166." This manual is furnished by the Treasury Department for use by each cashier upon his designation as such.

§ 29-3.604-52 Accountability of imprest funds.

(a) *Custody and safeguarding of funds.* Cashiers shall at all times be able to account for the full amount of the fund, by way of cash on hand, uncashed Government checks, sales slips, invoices, unpaid reimbursement vouchers, or interim receipts for cash. Employees designated to serve as cashiers will act as agents of the disbursing officers who advance them the necessary funds. Since cashiers are personally accountable and responsible for the custody of and payments made from the fund, employees upon whom authority is conferred shall be fully informed of their responsibility. They are required to utilize, to the fullest extent available, means of safeguarding cash advanced to them, and be supplied with suitable facilities for that purpose including locked storage space. Imprest funds shall neither be deposited in any bank, regardless of in whose name or account it is established nor commingled with personal or other funds. Each imprest fund shall be maintained separately.

(b) *Regular transactions.* The cashier shall verify the signature of each DOL representative receiving cash with the signature on the DOL representative's DOL Identification (ID) Card. The ID Card number shall be recorded alongside the DOL representative's signature on the cashier's cash transaction record.

(c) *Doubtful transactions.* When the propriety of any disbursement is doubtful, the cashier may require written acceptance of responsibility from the official authorizing the disbursement. Such written acceptance of responsibility provides the cashier recourse to the official if the disbursement is later disallowed. The cashier may also request an advance written opinion with respect to a doubtful transaction.

(d) *Review of transactions.* Cashiers, including alternates shall periodically test vouchers submitted for payment by verifying the approving officer signature against a specimen signature maintained on file. In addition, the cashier, on selected vouchers, shall contact the approving officer and make a direct verification of the propriety of the vouchers and the amount claimed.

§ 29-3.605 Purchase order forms.

§ 29-3.605-3 Agency order forms.

Department of Labor Form 90, entitled "Purchase Order," is the form prescribed for use by DOL.

§ 29-3.605-50 Cancellation of purchase orders.

Where it is in the Government's best interest, a purchase order may be canceled. Ordinarily, orders should be canceled in writing. In order to maintain good business relations, the vendor should be advised, wherever feasible, of the necessity for cancellation in advance of formal cancellation and his concurrence obtained. The determination as to whether the public interest requires the cancellation of an order should include consideration of any Government liability resulting from the cancellation. Cancellation is generally acceptable to a vendor except where the vendor has already incurred expense in conjunction with the purchase order. In cases where the vendor will not concur in the cancellation and where in effect a contractual relationship exists, the order shall be terminated as prescribed in Subpart 1-8.2 of this title.

§ 29-3.605-51 Duplicate purchase orders.

If the vendor reports non-receipt, loss or other inability to locate an original purchase order and requests another copy, the purchasing officer may issue to the vendor a duplicate copy as his basis of performance. This second issue should be conspicuously marked "Duplicate Copy." To avoid the possibility of a duplicate shipment, a letter of transmittal or a notation on the purchase order should read somewhat as follows:

This is a duplicate copy of the lost original purchase order, furnished in accordance with your request of _____ The Government (Date)

§ 29-3.606 Blanket purchase arrangements.

§ 29-3.606-1 General.

The use of blanket purchase arrangements creates a vendor-agency relationship akin to an open account which has as its objectives the simplification of the ordering and billing in the purchase of small requirements of readily available supplies or services of the same general category. It essentially differs from other small purchase techniques in that purchase orders are not written for each purchase, billing for many items are submitted at preagreed intervals of not less than a month, and many purchases are processed with a single payment. Blanket purchase arrangements may be

terminated by either party upon the delivery of written notice to the other.

§ 29-3.606-3 Establishment of account.

Once the requirements of § 1-3.606-3 of this title have been met, the arrangement should be formalized by the issue of a purchase order or other written memorandum.

§ 29-3.606-4 Documentation.

(a) It is the responsibility of the vendor to determine that a purchase chargeable to the Department is made by one who is authorized to purchase from him in the name of the Department. Vendors are generally accustomed to receiving Government purchase orders which they honor even though the signer may not be known to them. This they do somewhat at their own risk. To protect the Department against criticism and the vendor against loss due to unauthorized purchases, any arrangement with the vendor for making purchases without the use of a formal purchase order must be carefully worked out. While no standard documentation of the arrangement is required, it is desirable to have a record of the vendor having been informed.

(1) Who is authorized to make individual purchases;

(2) How purchases will be placed, i.e., by phone, by certain designated persons ordering and picking up supplies from the vendor, etc.;

(3) What the vendor must do to assure that only authorized purchases are made to obtain payment, i.e., prepare an itemized sales slip showing order number, if one is given, and whether it must be signed by an authorized person; send invoice with shipment; give invoice to person picking up supplies; payment to be made once a month, or quarterly, etc.;

(4) What discounts will be given (particularly on repair parts and labor); how time discounts will be handled;

(5) Limitations by class of item, time, or dollar amount.

(b) Because of the possible need for terminating the arrangement, term contracts on prescribed contract forms should be used where contractual agreement is desired and the parties are to be bound.

(c) Each blanket purchase arrangement shall be numbered or otherwise identified in an appropriate manner and shall include reference to the authority of "41 U.S.C. 252(c)(3)."

Subpart 29-3.7—Negotiated Overhead Rates

§ 29-3.705 Procedure.

(a) If the contracting officer has not received an advisory audit report on a proposed contractor, he shall request the cognizant audit office to perform or otherwise obtain an advisory audit if the proposed contract is estimated to be \$100,000 or more, and the proposed contract includes reimbursement for overhead costs. The contracting officer shall establish provisional or fixed overhead rates not to exceed the rates as set forth in the advisory audit report. The contracting officer shall also insure that the Government receives the benefit of "off-site" overhead rates. The procedures stated herein shall be applicable to grants if required by the Government program plan.

§ 29-3.707 Cost-sharing rates and limitation on overhead cost.

§ 29-3.707-50 Overhead cost ceiling.

(a) The decision for or against the use of overhead ceiling shall be governed by the contracting officer's determination of the Government's best interests, program and cost considered.

(b) A newly organized, "for profit" contractor may have an unusually high rate of overhead type costs incident to starting a business which is usually manifested in an inordinately high ratio of indirect to direct contract costs. Typically, the first contract of a newly formed contractor will absorb as indirect costs, unless the contracting officer imposes a ceiling, the cost of consumable and other supplies for which outlays are made by the contractor at an extraordinarily high rate consistent with his "start-up" needs.

(c) In those instances where the proposed contractor is a not-for-profit or nonprofit organization and has no alternate source of income to absorb increases in overhead costs after the contract has been negotiated, the contracting officer may consider, in lieu of an overhead ceiling, review-type administrative devices designed to curb extravagant use of indirect costs.

Subpart 29-3.8—Price Negotiation Policies and Techniques

§ 29-3.802 Preparation for negotiation.

(a) *Requests for proposals.* At no time shall a prospective offeror be advised in the RFP or otherwise furnished the Department's cost estimate or the amount of funds it has available to effect a particular procurement. In addition, RFP's shall avoid any statement which while not indicating a specific sum, indicates a range within which that sum may be determined. Exceptions to the above policy shall be limited to the extremely unusual circumstance wherein the parameters of a study proposal are necessarily vague. In such case, the Deputy Assistant Secretary for Administration may authorize the publication in the RFP, or otherwise, an indication of what

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGFR 71-21a]

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

PART 11—LICENSES IN TEMPORARY GRADES OR SPECIAL ENDORSEMENTS ON LICENSES TO PERMIT TEMPORARY SERVICE

Cancellation of Temporary Licenses or Special Endorsements

The purpose of these amendments to the merchant marine officers and seamen regulation is to terminate the special endorsements on regular licenses that allow service in the next higher grade and the special endorsements on steam engineer licenses that allow service aboard motor vessels. The amendments are based on a notice of proposed rule making (CGFR 71-21) issued on April 1, 1971 (36 F.R. 6014).

That notice described the present requirements and the reasons for the amendment. One comment was received in support of the proposal. None opposed it. The amendment is hereby adopted without change and is set forth below.

Effective date. These regulations shall become effective on July 19, 1971.

Dated: June 9, 1971.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

Part 11 is amended as follows:

1. By revising paragraphs (a)(1) and (2) and (b) of § 11.01-1 to read as follows:

§ 11.01-1 Application.

(a) The regulations in this part apply to—

(1) "Temporary Third Mate" and "Temporary Third Assistant Engineer" licenses;

(2) Special endorsements on regular licenses as Second and Third Mates and Second and Third Assistant Engineers.

(b) The applicable regulations in Part 10 of this subchapter apply to all licenses except to the extent that certain requirements in §§ 10.05-1 to 10.10-29 of this subchapter are modified by this part to permit issuance of licenses as "Temporary Third Mate" or "Temporary Third Assistant Engineer".

§ 11.01-3 [Amended]

2. By revoking § 11.01-3(b).

3. In § 11.01-10 by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 11.01-10 Duration of licenses in temporary grades or special endorsements issued pursuant to this part.

(b) Special endorsements (placed on regular licenses under the provisions of

the Department considers an estimate of either the range in costs or professional labor time (e.g., 2 to 3 man-years) which the contractor will be required to expend to perform the work contemplated. Such range will never be narrowed to the point where the maximum is less than 50 percent more than the minimum. This exception, when authorized, shall be accompanied by suitable language in the form of a disclaimer as to any guarantee of the accuracy of the Department's estimate and inviting proposals, even if they contradict the Department's estimate, with the concomitant assurance that proposals outside the estimated range of the Government's estimate will not be rejected solely for that reason.

§ 29-3.809 Contract audit as a pricing aid.

§ 29-3.809-50 Procedures.

The Assistant Secretary for Administration shall perform or obtain reviews of indirect cost data in the establishment of provisional and fixed overhead rates and the performance of audits as a pricing aid, upon request of a head of a procuring activity. All such requests shall be in writing and directed to the Associate Assistant Secretary for Administration and shall (a) describe the problem; (b) specify the purpose to be served by the audit; and (c) indicate that audit scope and depth desired.

Subpart 29-3.9—Subcontracting Policies and Procedures

§ 29-3.903 Review and approval of contractor's purchasing system and subcontracts.

§ 29-3.903-2 Review and approval of subcontracts.

All cost-reimbursement type contracts shall:

(a) Provide for advance notification and prior approval by the contracting officer of any subcontract thereunder on a cost-reimbursement, time and material, or labor hour basis, and of any fixed-price subcontract or purchase order which exceeds in dollar amount either \$25,000 or 5 percent of the total estimated cost of the prime contract.

(b) Contain a provision that any authorized representative of the Secretary of Labor shall have the right to inspect the contract worksite and to audit the books and records of the prime contractor or any subcontractor of any tier thereunder that is not on a firm fixed-price basis.

§ 29-3.950 Subcontracting by cost-type prime contractors.

Services performed under cost-type prime contracts shall be performed to the fullest extent possible under fixed unit price or fixed-price subcontracts.

Signed at Washington, D.C., this 11th day of June 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-8484 Filed 6-16-71; 8:47 am]

RULES AND REGULATIONS

§ 11.15-1 that were in effect before July 19, 1971) held by second and third mates and second and third assistant engineers that allow service in the next higher grade expire on July 19, 1971.

(c) The special endorsement (placed on regular licenses under the provisions of § 11.15-1 that were in effect before July 19, 1971) that allows a first, second, or third assistant engineer of steam vessels to serve on motor vessels is valid for the period of the regular license. The special endorsement may be continued upon the first renewal of the regular license subsequent to obtaining the special endorsement unless sooner canceled or suspended by proper authority as published in the FEDERAL REGISTER. Except as provided in this paragraph, special endorsements shall not be renewed.

§ 11.05-5 [Amended]

4. By revoking § 11.05-5(a).

5. By revising § 11.10-1(a) to read as follows:

§ 11.10-1 Temporary Third Mate.

(a) Any person who meets the requirements in § 10.02-5 of this chapter for an original license but does not have the minimum service or training required for a license as Third Mate in § 10.05-33 or § 10.05-35 of this chapter may apply for a license as "Temporary Third Mate" if—

(1) He has successfully completed a Coast Guard approved maritime training program; and

(2) He is enrolled in that program before July 19, 1971.

6. By revising § 11.10-50(a) to read as follows:

§ 11.10-50 Temporary Third Assistant Engineer.

(a) Any person who meets the requirements in § 10.02-5 of this chapter for an

original license but does not have the minimum service or training required for a license as Third Assistant Engineer in § 10.10-21 or § 10.10-23 of this chapter may apply for a license as "Temporary Third Assistant Engineer", if—

(1) He has successfully completed a Coast Guard approved maritime training program; and

(2) He is enrolled in that program before July 19, 1971.

§ 11.15-1 [Amended]

7. By revoking paragraphs (a), (b), (c), and (d) of § 11.15-1.

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); section 6(b)(1), Department of Transportation Act (49 U.S.C. 1655(b)(1)); 49 CFR 146(b))

[FR Doc.8512 Filed 6-16-71;8:49 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 53, 143]

FOUNDATION EXCISE TAXES

Taxes on Taxable Expenditures; Notice of Hearing

Proposed regulations under section 4945 of the Internal Revenue Code of 1954, relating to taxes on taxable expenditures of private foundations, appear in the FEDERAL REGISTER for March 20, 1971 (36 F.R. 5357).

A public hearing on the provisions of these proposed regulations will be held on Tuesday, August 3, 1971, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by July 19, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by July 26, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents (\$0.25) per page, subject to a minimum charge of \$1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-8644 Filed 6-16-71;10:36 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 911]

LIMES GROWN IN FLORIDA

Limitation of Handling

Consideration is being given to the following proposal, which would limit the

Proposed Rule Making

handling of limes grown in Florida by establishing grades and sizes recommended by the Florida Lime Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the seventh day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations by the Florida Lime Administrative Committee reflect its appraisal of the Florida lime crop and the current and prospective market conditions. Shipments of limes are currently being made subject to grade and size limitations which became effective June 7, 1971 (36 F.R. 10721). The grade and size requirements specified herein are the same as those in effect during the period June 7-30, 1971, and are necessary to prevent the handling, on and after July 1, 1971, of limes that are of a lower grade or smaller size so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to the producers pursuant to the declared policy of the act.

Such proposal reads as follows:

§ 911.333 Lime Regulation 31.

(a) Order: During the period July 1, 1971, through April 30, 1972, no handler shall handle:

(1) Any limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(2) Any limes of the group known as large-fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which do not grade at least 85 percent U.S. No. 1 quality, except as to color: *Provided*, That not less than an aggregate area of three-fourths of the surface of each fruit shall meet the minimum color requirement for "mixed color": *And provided further*, That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet color requirements set forth in U.S. Standards for Persian (Tahiti) Limes shall apply; or

(3) Any limes of the group known as large-fruited or Persian limes (including

Tahiti, Bearss, and similar varieties) which are of a size smaller than 1 7/8 inches in diameter.

(b) Notwithstanding the provisions of paragraph (a)(3) of this section, not more than 10 percent, by count, of the limes in any lot of containers, other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided*, That no individual container of limes having a net weight of more than 4 pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirement.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Persian (Tahiti) Limes (§§ 51.1000-51.1016 of the title).

Dated: June 14, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8538 Filed 6-16-71;8:52 am]

[7 CFR Part 1125]

[Docket No. AO-226-A23]

MILK IN PUGET SOUND MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Puget Sound Marketing Area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Seattle, Wash., on February 9-11, 1971, pursuant to notice thereof issued on January 27, 1971 (36 F.R. 1478).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on May 6, 1971 (36 F.R. 8678; F.R. Doc. 71-6557), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under Issue No. 2(e), following the heading "Updating production history bases", a new sentence is added at the end of the sixth paragraph.

2. Under Issue No. 2(f), following the heading "New producers", paragraph 4 is revised.

3. Under Issue No. 3, "Base rules", a new paragraph is added after the 15th paragraph, two new paragraphs are added following the 16th paragraph, and paragraphs 17 and 21 are revised.

4. Under Issue No. 5, "Administrative provisions", a new paragraph is added following the fifth paragraph.

The material issues on the record of the hearing relate to:

1. Adoption of a revised Class I base plan.

2. Determination of Class I bases for existing producers and new producers.

3. Base rules with respect to (a) transfers; (b) forfeitures; and (c) general application.

4. Provisions for treatment of hardship cases and inequities.

5. Administrative provisions.

6. Continuing provisions in the event of lack of approval by producers or expiration of statutory authority for the Class I base plan.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

(1) *The adoption of a revised Class I base plan.* Producers supplying plants regulated by the Puget Sound order should have the opportunity to decide whether returns from the sale of their milk should be apportioned among them by means of a Class I base plan issued in conformity with the Agricultural Act of 1970.

At the present time, producers in the Puget Sound order are paid in accordance with the terms of a Class I base plan originally issued under the authority of the Food and Agricultural Act of 1965. The authority for this plan expires December 31, 1971. The order contains no alternative provisions for distributing returns to producers. It is imperative, therefore, that the order be amended prior to such expiration date to provide some other means of distributing returns among producers.

The purpose of a Class I base plan is to provide machinery for producers in a marketing area to adjust their production to the Class I utilization of the market. While representatives of a majority of producers testified in favor of some form of Class I base plan, there were a variety of views as to the particular provisions that should be incorporated in such a plan.

The present plan during its effective period has presented certain difficulties which could not be remedied because of the limitations of the legislative authority under which it was issued. With its fixed representative period for establishing bases and no mechanism for the entry of new producers, it does not afford

the flexibility necessary to meet the changing conditions in the market. Presently, the only means open to a new producer to acquire base, or to an established producer to increase his base, is through purchase of base from another producer. The result is that the Class I bases, which reflect the relationship of Class I sales to production in the market during the years 1964, 1965, and 1966, have not kept pace with the supply-demand situation in the market. The present plan also provides, in accordance with the statute, that any Class I sales in excess of those during the base period and any base which has been forfeited or underdelivered by baseholding producers be reserved for new producers and hardship cases. This has prevented baseholding producers from sharing in the increased Class I sales in the market or benefiting from forfeiture or underdelivery of base. Similarly, the recent decline in Class I sales, resulting from the sagging economy in the Puget Sound area, has affected adversely the returns of nonbaseholding producers whose share of the Class I market is limited to Class I utilization in excess of that during the base period.

Under the Agricultural Act of 1970 greater flexibility is permitted in a Class I base plan. The new plan is designed to adapt to changing supply-demand conditions. Under it new producers coming on the market will be able to earn, over a reasonable period of time, bases comparable to those of other producers. Similarly, it will provide a means whereby any producer desiring to increase his production and thus earn additional base may do so.

Under the plan proposed herein producer bases will be adjusted annually to reflect changing marketing conditions. While the plan provides a means whereby new producers may earn bases and established producers may increase their bases, it also provides that baseholding producers who reduce their marketings will not be adversely affected. This will be accomplished by providing that a producer's production history will not be reduced as long as he markets a volume of milk at least equal to his Class I base.

It is necessary, in accordance with the intent of Congress, that the new plan, in providing for transition from the present base plan, protect those producers who reduced their marketings under the present plan. This is accomplished by providing that a producer whose production history under the present plan is greater than that during the representative period under the new plan will carry forward his former production history.

A number of producers who purchased base under the present plan testified that the production history associated with purchased base should be assigned to them under the new plan. There is no basis, however, for such a transfer of production history. While bases are transferable under the present plan, production history is not. There is nothing in the Agricultural Act of 1970 that would provide a producer credit for production

history associated with Class I base purchased prior to the effective date of the new Class I base plan.

Some producers who purchased base testified that they would be deprived of a property right if they were not to receive credit for the production history associated with purchased base. However, in purchasing base producers did so with full knowledge that the Act authorizing the current Class I base plan would expire not later than December 31, 1970.¹ Thus, such producers are not prejudiced by the failure of the Agricultural Act of 1970 to allow them credit with production history associated with Class I base purchased prior to the effective date of a new plan issued under the new statute.

Holders of purchased base generally took the position that, even though the present Class I base plan has had an expected termination date, the Internal Revenue Service has ruled that Class I bases under the Puget Sound milk order "have an indeterminate useful life and are not subject to depreciation" (Rev. Rul. 70-644). That the Internal Revenue Service has held that a purchaser of a Class I base may not depreciate such base for tax purposes, has no bearing on the fact that all bases issued under the present plan must terminate on the effective date of a revised plan. Neither does it alter the fact that production history associated with Class I bases earned under the present plan may not be transferred.

(2) *Determination of Class I bases for existing producers and new producers—(a) Description of plan to be adopted.* The new Class I base plan adopted herein generally follows the form of base plan proposed by producer representatives.

Class I bases would be assigned to eligible producers to be effective on the effective date of the new provisions and would be updated on February 1 of each year thereafter. The representative period to be used on each of these dates for assignment of base would be the 3 years (January-December) preceding such date. Each dairy farmer's production during such period credited towards base assignment would be (with certain exceptions) his milk deliveries during the 4 months of lowest daily production for the market in each of 3 years. These months, for the initial computation would be: In 1968, January, February, November, and December; in 1969, January, February, March, and November; and in 1970, January, February, March, and November. The 3-year period would be moved forward 1 year for each updating of producer bases on February 1 of each year.

The production history base of a producer on the market for the full 3 years, subject to rules described subsequently

¹ The Agricultural Act of 1970 permitted Class I base plans issued under the prior Act to be extended through 1971. Accordingly, the current Class I base plan was extended pending the hearing on the new plan.

herein, would be in terms of average daily deliveries. The average daily deliveries would be computed for the 4 months in each year, and then the three resulting amounts would be averaged.

Production history would also be calculated similarly for producers with a 1-year or 2-year period of association with the market, subject to percentage reductions related to their time on the market.

The total of Class I bases to be assigned would equal 120 percent of the total market Class I disposition of producer milk in the previous year, subject to adjustment for new plants entering the market during the year. For the purpose of allocating Class I bases to producers, such quantity would be prorated to the production history base of each producer.

New producers coming on the market would be assigned Class I bases or base milk at a time and in an amount depending on the circumstances of their entry into the market. The various categories of new producers and the manner in which their base assignments would be made are specified in subsequent findings and conclusions.

(b) *Representative period.* With respect to the representative period and computation of production history, the Agricultural Act of 1970 provides:

and (f) a further adjustment, equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk, which may be adjusted to reflect the utilization of producer milk by all handlers in any use classification or classifications, during a representative period of 1 to 3 years, which will be automatically updated each year.

The representative period used in the plan, as noted above, is a 3-year period.

It was claimed in testimony of producer representatives that using the 4 lowest production months in each year would have advantages over using each full year or certain named months in each year. When producers know in advance the months in which they will earn base, a strong incentive exists to increase production in these months over market needs even if such period historically has been the low production period of the year. Producers contended that under the proposed arrangement, the individual producer, not knowing in which months he will earn base, will have an incentive to level his production throughout the year as well as to hold down his excess milk.

The need for leveling of production seasonally in this market is evident. Production has characteristically varied seasonally in this market. In 1970, the highest level was 4,179,000 pounds of milk per day in May; the lowest level was 3,460,000 pounds per day in January.

More even production would facilitate efficient use of handling facilities since it would be more nearly suited to the relatively steady requirements of the fluid market. It is appropriate to give producers the opportunity to try such method as an aid to the leveling of milk production throughout the year.

In the case of a producer who in the first year of his production was not delivering milk in the specified production history months, a modification of such representative period would be established to give him credit for his deliveries in the September-December period of such year. His September-December deliveries would be subject to adjustment, however, to reflect the change in market level of production in these months compared to the regularly specified months for production history. With this provision, most producers who were on the market in 1968 would have a complete 3-year production history at the beginning of the program. This modification was endorsed by several producer groups.

(c) *Production history periods.* While the base plan would use a 3-year representative period for assigning base to a producer who had been on the market for the entire period, the plan also would allocate Class I bases in lesser amounts to producers who had made milk deliveries for certain periods less than 3 years. The order must prescribe the specific periods which will be used for determining production histories. For convenience in terminology, the periods are designated in the order as 1-year, 2-year and 3-year production history periods.

The "production history period" for a producer who has been on the market for the full 3 years (January-December) preceding the date of base assignment would be the 4 lowest production months on a daily average basis in each year for the entire market. As mentioned previously, the September-December period could be substituted in the first year for the 4 short production months if a producer came on the market later than the first of the 4 low production months. His September-December deliveries would be seasonally adjusted as heretofore described.

The 1- and 2-year production history periods would similarly allow substitution of the September-December period for the producer coming on the market after the first low production month of the year.

A special production history period, for use only at the beginning of the new program, would apply to the producer who began deliveries on the market after September 1, 1970, and who was on the market for at least the 7 months preceding the effective date. This producer would have a production history calculated from his first full 4 months of milk deliveries. It would be necessary to adjust the producer's average deliveries during such months by the percentage relationship of market receipts in the 4 low production months of 1970 to the market receipts in the months used for this producer. Such a special production history period was endorsed by producer groups as an aid in transition from the old plan to the new plan.

(d) *Initial production history bases.* Production history bases at the beginning of the plan would be calculated from the average daily deliveries of each producer during the specified months of each of

the years included in his production history period.

The computation of the average daily deliveries for a producer with a 3-year production history period would be made as follows: In each year his milk deliveries in the months specified for production history would be divided by the number of days in such months subject to allowance of not more than 4 days of nondelivery when storm conditions prevent delivery. The daily delivery figures for the 3 years would then be averaged by dividing the sum of them by three and rounding the result to the nearest whole pound.

A limited allowance should be made for interruptions of delivery beyond the control of the producer. For instance, severe storm conditions in December 1968 and January and February 1969 prevented normal delivery of milk in certain supply areas of this market. It is not expected, however, that delivery of milk by a producer of milk will be prevented for more than a day or two at a time because of such natural causes. A provision is included in the order whereby failure of a producer to deliver for as many as 4 days because storms have made the highways impassable will not reduce his daily average of deliveries for such year. Thus, in arriving at the producer's average daily milk deliveries, the total pounds delivered in the production history months of a year would be divided by the number of days in such months but never by fewer than the number of calendar days in these months less four.

If, however, the producer ceased his deliveries for an extended period (60 days or more), he would then forfeit all production history as well as his Class I base.

For assignment of Class I base and production history at the beginning of the new program, a producer will be entitled to the production history base assigned to him under the old plan effective on September 1, 1967, provided he has continued on the market as a producer since that date. Such production history base shall be reduced by the amount specified in § 1125.123(f) of the provisions effective prior to the new plan in the case of a producer who transferred Class I base. If, however, his milk deliveries in 1968, 1969, and 1970 result in a larger production history base, the latter would apply.

Only in the case of intrafamily transfers of Class I bases during the period from September 1, 1967, to the beginning of the new plan, will the production history base associated with the transferred Class I base be credited to the transferee producer.

Under the Class I base plan a method is provided for each producer to share in the Class I milk of the market in relation to his marketings in a representative period of 3 years. Provision must be made, however, for the assignment of bases to producers with a production history of less than 3 years.

A producer's production history base is determined by dividing his deliveries

during specified months in a 3-year representative period by the total number of days in such months. Were this method applied to producers with less than a 3-year production history, the production history base of a producer with a 1-year production history would be equal to one-third of his average deliveries during the months used in computing his production history base. Similarly, a producer with a 2-year production history would have a production history base equal to two-thirds of his average daily deliveries during the applicable months of the 2-year period. Were this method adopted, it would permit a new producer to acquire production history base at the same rate that an established producer with a 3-year production history base may increase his production history base.

Representatives of all producer groups, however, generally supported a proposal which would assign substantially greater production history bases to producers having less than a 3-year production history. Permitting new dairy farmers coming on the market to earn base at an accelerated rate will reduce the incentive to such producers to acquire base by transfer and thus will tend to prevent bases from taking on an unreasonable value.

Nevertheless, in view of the current and anticipated supply-demand situation on the market, the bases assigned new dairy farmers should not be so great as to provide an incentive for substantial numbers of new dairy farmers to become producers on the market. The credit given to partial production history under the plan adopted herein, will contribute to orderly and efficient marketing conditions in that it will give reasonable opportunity for the establishment of new production units, yet will not disrupt the market for established producers.

Under this plan, a producer with a 1-year production history would receive a production history base equal to 60 percent of his average daily deliveries during the applicable months of his first year of production. A producer with a 2-year production history would receive a production history base equal to 80 percent of his average daily deliveries during the applicable months. Bases assigned to new dairy farmers who begin production after the effective date of the new plan will be subject to the further reduction of 20 percent allowed under the provisions of the Agricultural Act of 1970.

The assignment described above will relate each producer's production history base to the portion of the representative period in which he has been engaged in marketing milk as well as the volume of milk marketed. The purpose of the Class I base plan is to allow each producer to share in the Class I milk of the market in proportion to his marketings in a representative period. Thus, a new producer coming on the market should not enjoy the full benefits of the Class I base plan until he has established a full 3-year production history.

(e) *Updating production history bases.* The basic factors to be considered in updating the producer's production history base on February 1, 1972, may be divided into two categories. These are: (1) The production history base previously assigned to him on the effective date of the new plan, subject to adjustments for transfers, underdelivery, and hardship and inequity, and (2) his production during the most recent production history period.

The Act of 1970 provides that a producer may retain his previously assigned production history base although he reduces his marketings, unless the marketings fall below the level of his Class I base. In this case the production history base of a producer would be reduced in the same proportion as the amount of underdelivery bears to his Class I base.

A producer may also modify his previously assigned production history base through transfers. Thus, when under the plan herein adopted a producer disposes of Class I base by transfer, he automatically transfers a proportionate amount of the production history base associated with such Class I base. Accordingly, this amount of production history base will be subtracted from his previously assigned base in arriving at the updated production history base. Similarly, production history base associated with the acquisition of Class I base will be added to his previously assigned production history base. Also, any adjustment for hardship or inequity would be accounted for in terms of the proportionate amount of production history base.

The effect of these three factors, namely, transfers, underdelivery, and adjustment for hardship will determine how much of his previously assigned production base a producer can retain.

The additional computation which must be made for updating a producer's Class I base on February 1, 1972, will be based on his average daily deliveries of milk in the new production history period. This new period will include the months of 1971 specified for calculation of production history base and will exclude the months of 1968 which had been in the previous production history period. If the producer's average daily milk deliveries have increased over the level from which his previous Class I base had been computed, then this increased level will be credited towards an increase in production history base.

With respect to his earlier production, however, not all of it will be creditable towards new production history base if, between the effective date of the new plan and February 1, 1972, the producer has disposed of part of his Class I base by transfer. He will not receive credit in his production history for the milk deliveries from which such transferred base had been computed. The quantity of milk deliveries to be deleted (average daily basis) would be the same percentage of such deliveries as the quantity of transferred Class I base is of the Class I base held before transfer. For subsequent base computations, his average daily deliveries in the year in which

the transfer was made also shall be reduced by an amount equivalent to the production history from which the transferred base was computed.

Similarly, if the producer underdelivered his Class I base during any year, the amount of the underdelivery will be converted by the same method to a corresponding amount of average daily deliveries which would be eliminated from his earlier production history. Because the new plan would be effective for only part of 1971, adjustments for underdelivery in 1971 would not apply.

A producer's underdelivery will be calculated by comparing his average daily deliveries during his 4 base-earning months of the year with the average Class I base effective for him on the first day of each such month. This computation recognizes that his effective Class I base may change during the year due to transfers.

After taking into account the various adjustments in the producer's production history, whether due to a change in his production level or elimination of credit for earlier milk deliveries, a new average of daily deliveries during his production history period will be computed. This will determine his new production history base only if it is larger than the alternative computation using his previously assigned production history base adjusted for transfers, underdelivery and hardships as described in earlier findings. The larger of the two will apply.

A producer who previously had been assigned a 2-year production history base would be eligible, after the additional year, for computation of a 3-year production history base. The updating of his production history base would, therefore, give him a Class I base computed in the same manner as for any other producer with a 3-year production history. He would be allowed to retain at least his previous production history base as adjusted for transfers, underdelivery, and hardship. As an alternative, his average deliveries during his new production history period (subject to any loss of credit for deliveries for reasons previously described), if larger, would be his production history base.

For producers who have advanced from a 1-year to a 2-year production history, it will be necessary to treat separately those who have acquired additional base by transfer. For those whose previously assigned Class I base has not been modified by transfers or other adjustments, the computation of the new production history base will be in the same manner as on the effective date of the program, except that the resulting figure would be reduced 20 percent if the production history period began after the effective date of the new plan.

For producers who have acquired Class I base by transfer before completing 2 years of production history, the computation of their production history base will be modified. One example is that of a producer who acquired a Class I base by transfer before being assigned a production history base. By this means

he acquires the production history associated with such Class I base. The acquired production history base of this producer will be updated on the date when the bases of all other producers are updated. Assuming he has gone through a 1-year production history period, he would be credited with one-third of his average daily deliveries during the base earning months. His updated production history base would then be the larger of such resulting figure or the acquired production history base.

Another example is that of a producer who acquired Class I base by transfer after he had been assigned Class I base from a 1-year production history. For such producer, the previously assigned production history base and the production history base associated with the Class I base acquired would be combined.

It is also necessary to determine whether this producer's deliveries on the market since the previous base assignment entitle him to a larger production history base. If his average daily deliveries in the latest year exceeded his previously assigned production history base, as adjusted for transfers, underdelivery or hardship, he would be credited with one-third of the excess.

(f) *New producers.* The new law also requires that a base be assigned to a new producer who comes on the market because the plant to which he has been delivering milk becomes a fully regulated plant under this order. His production history base and Class I base would be determined in the same manner as for a producer who had been on the market, depending on his average milk deliveries and his production history period. Such Class I base would be assigned to him effective on the date on which he becomes a producer as described.

A Class I base will also be assigned to a producer who in previous periods had been a producer-handler. His production history base and Class I base would be computed as if the milk of his production received at his plant had been delivered to a pool plant.

It is required under the new law that a new producer who previously delivered to a nonpool plant and comes on the market as an individual (rather than because the plant to which he had been delivering becomes regulated) shall be assigned a base within 90 days after his first delivery under the order. Such a base shall be assigned only to a producer marketing milk from the same production facilities from which he marketed milk during the representative period. Under the proposed Class I base plan, such a producer will be assigned a Class I base on the first day of the third month after the month in which he began milk deliveries under the order. He would then be assigned a production history base and a Class I base computed from his deliveries to nonpool plants and to pool plants as if all such deliveries had been to a pool plant. Producer milk delivered in the period prior to assignment of base would receive only the Class III price.

There will be some producers who enter the market without any prior production history. For such dairy farmers the law also requires that a base assignment be made within 90 days after the first regular delivery of milk. Such a producer, under the plan adopted herein, will receive the Class III price until the first day of the third month following that in which he begins deliveries of producer milk. After this he will have a Class I base assignment computed as a percentage of his deliveries each month. In this computation the producer's current production should be adjusted for normal seasonal change compared to the last 4 low-production months used in regular base computations. The comparison will be made on a daily average basis. For convenience in computing the adjustment factor, the daily average of market production in the month of the year preceding this calculation corresponding to the current month for which Class I base assignment is being made would be compared to production in the 4 low-production months previously indicated. He would then be given a Class I base assignment for each month which would be 40 percent of such adjusted average daily deliveries, subject to a reduction of 20 percent, and multiplied by the Class I base percentage most recently determined by the market administrator. Such method of assignment would continue until he has a 1-year production history.

Some producers who have been assigned Class I bases may leave the market and return at a later time. If a dairy farmer ceases deliveries for more than 60 consecutive days, his previously assigned Class I base and production history base would be forfeited. Under the proposed Class I base plan, such a dairy farmer upon becoming a producer again on the market, would receive only the Class III price for his milk at least until the first day of the seventh month after leaving the market. Upon returning to the market he would be treated as a new producer to whom Class I base assignment would be made beginning on the first day of the third month following that in which he resumes deliveries, if such date is later than the first day of the seventh month after ceasing delivery. Similar treatment would apply to a producer who disposes of all of his Class I base by transfer.

Obviously, a dairy farmer who disposes of his entire Class I base by transfer does so with the knowledge that he is thereby disposing of his privilege to receive returns for his milk at either the base or excess prices under the order. He would be aware that under these circumstances he will be eligible to receive only the Class III price as long as he has no base.

He would receive, normally, a value in return for the sale of his base. If the value so obtainable by sale is substantial, and the producer could get a new base assignment without delay, there would be a strong incentive for many producers to engage in milk production solely for the returns to be obtained by the sale of

Class I base. Such a situation clearly would be contrary to the purpose expressed in the Act of 1970 that bases should not take on an unreasonable value.

A similar situation exists with respect to a producer who ceases deliveries on the market for 60 days and thereby forfeits his base. Except for situations beyond his control (which are covered by the rules applicable to hardship) such cessation of deliveries may be presumed as deliberate and done for the advantage of the dairy farmer.

The Class I base plan should operate to encourage a steady and reliable supply for the market. It would not serve this purpose if a producer could, of his own free will, cease deliveries to the market for an extended period, and then return to the market with the privilege of receiving payment under the plan for Class I base milk in the same amount as before he left the market.

(g) *Allocation of Class I bases.* On the effective date of the new plan and for each February 1 thereafter Class I bases will be assigned to eligible producers. Experience in this market has demonstrated that a 20 percent reserve is necessary to assure an adequate supply for the market. The plan accordingly provides that the total of Class I bases to be assigned will be 120 percent of the Class I milk volume of handlers in the market in the preceding year. The quantity of Class I milk used in this computation would include for 1970:

(1) Total producer milk disposed of as Class I by all regulated handlers during 1970;

(2) Class I disposition of plants which were nonpool plants during part of 1970 and which were pool plants in the second month preceding the effective date of the new plan; and

(3) The Class I disposition of persons who were producer-handlers during 1970 and, in the second month preceding the effective date of the new plan, have producer status.

The total of such Class I disposition during 1970 would be multiplied by 120 percent and averaged on a daily basis. The resulting quantity would be prorated to the production history bases of individual producers. The quantity prorated to each producer will be his Class I base.

For purposes of this proration and for use in production history adjustments when needed, the relationship between Class I base and production history base will be expressed as a percentage called the "Class I base percentage." The Class I base percentage will be computed by dividing the sum of the production history bases into the total Class I base to be assigned, with the resulting ratio converted to a percentage by multiplying by 100 and rounding to the third decimal place.

Each year producers' Class I bases will be updated to reflect changes in Class I sales and production history bases. The Class I milk quantity to be used for the updating would be that disposed of by

handlers in the preceding year including the Class I milk specified in the preceding findings, together with the Class I milk of any former nonpool plant which became a pool plant and held pool status in December preceding the February 1 on which the new bases are to be computed. The Class I sales of former producer-handlers would likewise be included if such person were a producer in December preceding the February 1 date.

(3) *Base rules.* The transfer of production history and Class I base is provided for in the Agricultural Act of 1970. Considered by proponents to be an integral part of the base plan as adopted herein, the transfer provisions should be included in this order for several reasons.

By providing an alternative to going through the steps of base building, transfers allow new producers to obtain base quickly and in a manner which will not dilute the base pool. As will become clear later, by acquiring a base by transfer a new producer actually improves the Class I base allocation of existing base holders by strengthening the Class I base percentage. Moreover, he can plan his production in accordance with his Class I base right from the beginning of his operation. A producer building base from his own production must develop a production history which will be in excess of his allotted Class I base. To reduce his production to his Class I base, such a producer would have to reduce his operation, which, after possibly investing in expensive equipment, he may be reluctant to do. Acquiring a base by transfer, therefore, will help a producer adjust his production to his share of the market in a way which can be beneficial to him as well as to existing baseholders.

Transfer of base can also help established producers to adjust the scale of their operations. An established producer can purchase Class I base to cover an increase in his milk production, thus avoiding the necessity of establishing a greater production history himself which will dilute the market's Class I base percentage. A producer desiring to decrease the scale of his operation, perhaps as a result of health or a shortage of labor, will have an incentive to do so. In the absence of transfers, such a producer may have reluctantly continued production at the same level.

While transfers are permitted, bases should not take on an "unreasonable value." Several features of the plan adopted herein should keep bases from taking on an unreasonable value. Unlike the present plan, the new plan allows a new dairy farmer to establish a production history for himself and earn a full base over a 3-year period. The present plan does not provide bases for new producers, but instead, prices a certain portion of the monthly milk of new producers at the base price. New producers share in the Class I sales of the market only if such sales exceed those of the comparable month of 1966. In avoiding the uncertainty of such monthly pricing, the new plan provides a measure of sta-

bility for new producers. A new producer is currently forced to buy a base to assure a base price for a portion of his milk production, but will be able to earn a base for himself under the plan adopted herein. Thus, there will be less incentive for a new producer to buy base when he can earn one himself.

Similarly, an established producer may increase his Class I base by building up a greater production history through his own production. Under the existing plan a producer has no recourse but to purchase base if he wishes to increase his base. With the option of earning base himself, such producer will have less incentive to buy additional base under the new plan.

The adopted base transfer provisions also differ from those in the present order in other respects. First, not only the Class I base but also the production history base will be transferable in the adopted base plan, since the Class I base is simply a percentage of the production history base. Unlike the present base plan, Class I bases will be updated annually.

A second important aspect of transfers is that one-third of the Class I base and the production history base associated with it will lapse on each transfer, except intrafamily transfers. The amount of production history base associated with Class I base will be determined by multiplying the total production history base held at the time of transfer by the percent of Class I base transferred. To illustrate, suppose a producer with a Class I base of 300 pounds and a production history base of 500 pounds transfers 150 pounds of his Class I base. The corresponding amount of production history base transferred will be 250 pounds. With a one-third lapse of base, however, the transferee producer will receive only 100 pounds of Class I base and 166 2/3 pounds of production history base.

This lapse of base should mitigate any abuse of the transfer privileges and curb some of the transferring arrangements which have been common under the present plan. For example, a producer presently may decrease his production below his base and transfer all or a portion of his Class I base to another producer with the understanding that the base will be transferred back to him once his production has come up to his base. Such transfers will be discouraged in the plan adopted herein by the one-third lapse of base on each transfer.

The one-third lapse of base will be to the advantage of base-holding producers since each transfer will leave less production history to be apportioned to Class I sales in the market. On each transfer of 100 pounds of base, 33 1/3 pounds will lapse, thereby strengthening the Class I base percentage used each February 1 to determine the reallocation of Class I base.

The present base plan allows transfer of Class I base in amounts of not less than 100 pounds or the entire base, whichever is smaller. This should be changed to 150 pounds or the entire base, whichever is less. With a one-third lapse

of base, a transferor will then transfer 150 pounds of Class I base, but the transferee will only receive 100 pounds of it.

A time limitation on transferring base is another significant part of this new base plan. With the exception of intrafamily transfers, bases which have been computed from a less than 3-year production history period may not be transferred. Thus, a producer who has not yet completed a 3-year base-earning period, but who has received base by transfer, may not transfer base in excess of that which he has received by transfer, except if he transfers the base intrafamily.

This provision will require a producer to demonstrate his ability and willingness to supply the market's needs in a reliable fashion before he may transfer base. It will also prevent dilution of base by producers who don't intend to remain on the market.

A time limitation on transfer of base is also needed for other types of producers. In the absence of some limitation, a producer-handler can easily switch to producer status, be assigned a full Class I base, and then sell it. A 3-year time limitation on the transfer of base by a producer-handler will avert such an unwarranted sale of base. This 3-year period begins from the time the base is first allotted to the producer-handler and applies to any family member who receives this base via the intrafamily transfer provision.

The provision of the present Class I base plan which requires that a producer who desires to become a producer-handler must forfeit the maximum amount of Class I base and production history base held at any time during the preceding 12-month period before he can be designated a producer-handler, is retained in the new Class I base plan. This provision is necessary to assure that such persons do not receive a windfall by having a Class I base available for transfer and simultaneously having exemption as producer-handlers. This forfeiture should also be required if producer-handler designation is to be issued to any member of such a producer's family, any affiliate of such a producer, or any business unit of which such a producer is a part. This is necessary in order to avoid windfall benefits by subterfuge.

A producer may receive a base in this market when the plant he has been shipping to becomes a pool plant. Such a producer should have to wait 1 full year before he is allowed to transfer a base computed from a 3-year production history period. Otherwise, a plant could get a short-term contract in this market and lose it 6 months later. The producers shipping to that plant would naturally sell their allotted base, thereby receiving a windfall gain—clearly not the purpose of this base plan.

A producer who is assigned a Class I base computed from a 3-year production history including deliveries to nonpool plants or of manufacturing grade milk shall not be permitted to transfer such base for a period of 1 year from the date

of assignment except as an intrafamily transfer.

In addition to these restrictions on transferring base, certain restrictions are necessary to discourage producers from selling their bases and earning new bases. A producer who transfers his entire Class I base, therefore, should receive only the Class III price for his milk until the later of the following dates: (1) The first day of the seventh month following the month in which he transfers his base; or (2) the first day of the third month following the month in which he resumes deliveries of producer milk.

It is necessary to insure that a producer who transfers his entire base shall not evade the prescribed waiting period. It is provided, therefore, that the restrictions set forth above shall apply to a person using the same production facilities as had been used by the transferor-producer if such person is a member of the immediate family of the transferor-producer (or is the transferor-producer under a different name). In such case, production of milk using such facilities would be considered as a continuation of the operation by the transferor-producer. This restriction shall apply also to the use of any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the transferor-producer has a financial interest, if such facility commences production after the effective date of the transfer or if the transferor-producer acquired his financial interest in such person later than 3 months prior to the effective date of the transfer.

The same restrictions shall apply to a producer who has forfeited his base and resumes production either as an individual or as a financially interested party in the new business unit. These restrictions, however, would not apply to a separate production facility in which the producer who transferred or forfeited his base held a financial interest more than 3 months prior to the effective date of the base transfer or forfeiture.

The person who forfeits his base or who sells his entire base and resumes production at a subsequent date, or who continues in production, is not a new producer in the same sense as other non-baseholding dairy farmers. Therefore, he need not be assigned a base in the same manner or in the same time period as other dairy farmers becoming producers.

An intrafamily transfer involves the transfer of base from the baseholder to a member of his immediate family (including transfers to an estate and from an estate to a member of the family), provided that the transfer implements a continuous operation on the same farm with the same herd. The one-third lapse of base should not apply to an intrafamily transfer.

Intrafamily transfers of Class I base which have occurred under the present base plan maintained a continuous operation and the production history of that operation should, therefore, be considered representative in determining Class I base under the new plan. In addition,

any production delivered by the transferor-producer during the base-earning period and prior to the effective date of the new plan shall be assumed to have been delivered by the transferee for use in computing a production history base under the new plan; and all restrictions on transferring base applicable to the transferor-producer shall also apply to the transferee.

Another special category of transfers concerns corporations. If a corporation holds base, a change in ownership of the stock which transfers control to a new person or persons will require a transfer of base in compliance with the transfer provisions. Moreover, since corporations may control other corporations, every time controlling interest is transferred to another corporation, there will be a corresponding transfer of base in compliance with the transfer provisions. If a baseholder is the sole holder of the stock of his incorporated farm, however, and passes that stock to a member of his immediate family who continues the operation on the same farm, there will be no lapse of base involved.

Under the present base plan, a producer must notify the market administrator of his intention to transfer Class I base on or before the last day of the month in which the transfer is to be effective. To facilitate administration of the adopted plan, a base transfer request must be filed with the market administrator prior to the first day of the month in which it is to be effective. Even when a farm and herd are transferred with the base, the base transfer request must still be made prior to the first day of the month of transfer.

(4) *Provisions for alleviation of hardship and inequity.* The Agricultural Act of 1970 continues the requirement of the Food and Agriculture Act of 1965 that provision be made for the alleviation of hardship and inequity among producers.

The provisions of the present Class I base plan relating to this matter have operated satisfactorily and should be continued in their present form in the new Class I base plan.

Specifically, provision is made for the establishment of a "Producer Base Committee" to be appointed by the market administrator. This committee shall review the petitions for relief from hardship or inequity referred to it by the market administrator. Detailed guidelines to be followed by the committee are set out. These define the circumstances under which a producer may apply for relief. They represent conditions which are beyond the control of the producer such as acts of God, disease, pesticide residue or condemnation of milk. Conditions over which the producer could have exercised control through prudent precautionary measures are not a grounds for relief. These include such factors as mechanical failure of equipment, inability to obtain adequate labor and similar conditions.

Provision is also made that a producer whose application for relief is rejected may appeal the ruling of the Producer

Base Committee to the Director of the Dairy Division.

Because of the modification in the computation of production history bases described above, whereby a producer's base is not reduced if his days of non-delivery in the base period of any year do not exceed 4 days' production, it is expected that there will be fewer requests for relief under the new plan.

(5) *Administrative provisions.* The present Class I base plan contains a provision whereby a base holding producer who delivers a portion of his milk to a nonpool plant shall have his base milk reduced by an amount equal to his Class I base for each day that milk was delivered to the nonpool plant.

This provision was nullified by an amendment to the definition of "producer" effective May 1, 1968 (38 F.R. 6230). As a result of this amendment a producer whose milk is delivered to a nonpool plant, except by diversion, loses his producer status for the entire month. All milk delivered to pool plants by such producer during the month is "other source milk" and not subject to pricing under the order.

The record evidence supports the continuation of the producer definition in its present form. There is no reason, therefore, to include in the base rules a method for dealing with a producer who delivers part of his milk to a nonpool plant.

Under the new plan certain categories of new producers, as described above, receive payment for their milk at the Class III price, rather than at the uniform prices for base and excess milk. The provision of the order relating to the computation of the uniform price and payments to producers are revised to reflect this.

The Agricultural Act of 1970 provides that Class I base plans issued prior to its expiration date, December 31, 1973, may be extended beyond that date but not past December 31, 1976. Such limitation accordingly applies to the proposed plan.

Except as noted above, any changes made in the language of the proposed amendments pursuant to this decision are for the purpose of clarification and do not otherwise affect the essential application of the provisions previously set forth in the recommended decision.

(6) *Continuing provisions in the event of lack of approval by producers or expiration of statutory authority for the Class I base plan.* The order should include provisions for the computation of a uniform price for all producer milk to be used in distributing returns to producers in the event producers, voting individually in a separate referendum, fail to approve the Class I base plan. Such provisions also would be necessary in the event that the statutory authority for Class I base plans should expire while the Class I base plan is in effect if incorporated in the order.

The Class I base plan contained in the current order cannot be continued in effect should the proposed Class I base plan fail to be approved in the referen-

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dum. Statutory authority for such a plan no longer exists. Authority for the plan expired on December 31, 1970. However, Congress provided that the plan could be extended for a period of not more than a year to prevent disruption of the market pending amendment of the order, and to provide for an orderly transition from the present Class I base plan to one authorized under the Agricultural Act of 1970.

Some producer witnesses, at the hearing and in their briefs, indicated their opposition to the adoption of a new Class I base plan. They urged that the order provide for payment to all producers of a uniform price for milk, regardless of the production history of the individual producers. Producer witnesses who supported the adoption of the Class I base plan testified that the order should be continued in effect even though the proposed Class I base plan should not be approved by producers voting in a separate referendum. It was the position of the latter group that, in such event, returns should be distributed to producers by means of a uniform price applicable to all producer milk.

For the reasons set forth above, it has been concluded that producers should have the opportunity to decide whether returns from the sale of their milk should be apportioned among producers through a Class I base plan. Incorporation in the order of provisions, either to effectuate a Class I base plan, or to provide for the computation of a uniform price applicable to all producer milk, will afford producers the opportunity to decide which pricing mechanism will be included in the order. It will also provide for the continued functioning of the order in the event statutory authority for the plan should expire while the plan is in effect.

RULINGS ON MOTIONS

At the beginning of the hearing, one interested party requested the Presiding Officer to postpone the hearing for an additional 60 days. This request was denied by the Presiding Officer. During the course of the hearing the same party requested the Presiding Officer to recess the hearing for a period of 60 days. This motion was likewise denied. After reviewing the record, it is concluded that the Presiding Officer ruled correctly in rejecting the motions to postpone or recess the hearing.

The same parties in their brief requested a reopening of the hearing and a further 60-day extension of time to consider further proposals. Inasmuch as such parties were afforded full opportunity at the hearing to present testimony and because of the urgency of this amendatory action, the further request is denied.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the sug-

gested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto, and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Puget Sound marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the

attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL OF THE ORDER; REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL OF THE CLASS I BASE PLAN; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

April 1971 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Puget Sound marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

It is hereby directed that a separate referendum, in which each individual producer has one vote, be conducted to determine whether the proposed Class I base plan of payment to producers, as specified in the attached order, regulating the handling of milk in the Puget Sound marketing area is separately approved or favored by the producers, as defined under the terms of the order, and who during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The agent of the Secretary to conduct such referendum is hereby designated to be Nicholas L. Keyock.

Signed at Washington, D.C., on June 14, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order Amending the Order, Regulating the Handling of Milk in the Puget Sound Marketing Area

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings. A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Puget Sound marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Puget Sound marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on May 6, 1971, and published in the FEDERAL REGISTER on May 11, 1971 (36 F.R. 8678; F.R. Doc. 71-6557), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modifications:

1. A revision of § 1125.71 (b), (c), and (g) is added.

2. Amendments 1 and 1a are renumbered.

3. In § 1125.120(a), subparagraph (2) revised.

4. In § 1125.120(a), subparagraph (3) is revised.

5. In § 1125.120 paragraph (c) is revised.

6. In § 1125.120(c)(1) (ii) and (iii) and (2)(iii) new language is added.

7. In § 1125.120(c), subparagraph (3) is revised.

8. In § 1125.120, paragraph (c) is revised.

9. In § 1125.121(c), subparagraphs (1) and (2) revised and new language is added following paragraph (d).

10. In § 1125.122(b) new language is added, and paragraphs (i) and (j) are revised.

11. In § 1125.123, paragraph (a) is revised.

12. In § 1125.124(c)(3), subdivisions (i) and (ii) are revised.

1. In § 1125.71, the heading and paragraphs (b), (c), and (g) are revised to read as follows:

PROPOSED RULE MAKING

§ 1125.71 Computation of weighted average price and uniform price for producer milk.

(b) Add or subtract the aggregate of the location adjustments computed pursuant to § 1125.81(a),

(c) Add the aggregate of the values on nonpool milk computed pursuant to § 1125.81(c).

(g) Subtract not less than 4 cents but less than 5 cents from the price computed pursuant to paragraph (f) of this section. The result shall be known as the uniform price for producer milk and the weighted average price for all milk.

1a. In § 1125.72, paragraph (a) is revised as follows:

§ 1125.72 Computation of uniform prices for base milk and excess milk.

(a) . . .

(1) The amount computed by multiplying the hundredweight of milk specified in § 1125.71(f)(2) by the weighted average price for all milk;

(2) The amount obtained by multiplying by the Class III price the total hundredweight of milk delivered by all producers described in § 1125.121 (c) and (d) for whom no base milk has been computed; and

(3) The amount computed by multiplying the hundredweight of excess milk by the Class III price for 3.5 percent milk, rounded to the nearest one-tenth cent; *Provided*, That if such result is greater than an amount computed by multiplying the hundredweight of base milk by the Class I price (for 3.5 percent milk) plus 4 cents, such amount in excess thereof shall be subtracted from the result obtained prior to this proviso;

1b. In § 1125.72(c), in both instances, change the reference "(a)(2)" to read "(a)(3)".

2. In § 1125.80, paragraph (a) is revised as follows:

§ 1125.80 Time and method of payment to producers and to cooperative associations.

(a) . . .

(1) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 1125.82 and by any location adjustment applicable under § 1125.81;

(2) At not less than the Class III price adjusted by the butterfat differential computed pursuant to § 1125.82 for the quantity of milk received from producers described in § 1125.121 (c) and (d) for whom no base milk has been computed; and

(3) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1125.82 and by any location adjustment applicable under § 1125.81: *Provided*, If

by such date such handler has not received full payment for such month pursuant to § 1125.85, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

CLASS I BASE PLAN PROVISIONS

§ 1125.110 Production history base and Class I base.

For purposes of determination and assignment of Class I base of each producer:

(a) "Production history base" means a quantity of milk in pounds per day as computed pursuant to § 1125.120 (b) or (c).

(b) "Class I base" means a quantity of milk in pounds per day as computed pursuant to § 1125.121 for which a producer may receive the base milk price.

(c) "Average daily producer milk deliveries" of a producer in any specified period used for computing production history bases means the total pounds of producer milk delivered by the producer divided by the number of days in the period rounded to the nearest whole pound; *Provided*, That if a producer is prevented from delivering milk during the production history period because of storm conditions, the number of days of nondelivery due to such cause not to exceed 4 days in any year may be deducted from the total number of calendar days in the period.

§ 1125.111 Base milk and excess milk.

(a) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of days in the month except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(2) Milk received from a producer to whom no Class I base has been issued, in the amount determined pursuant to § 1125.121 (c) or (d).

(b) "Excess milk" means milk in excess of base milk received during any designated period from a producer who during such period is delivering base milk.

§ 1125.120 Computation of production history base for each producer.

A "production history base" as defined in paragraph (b) or (c) of this section shall be determined by the market administrator for each producer eligible

for such base on the effective date of this provision and on February 1 of each year thereafter. The computation of production history base shall be subject to adjustments described in paragraph (c) (1) of this section due to acquisition or disposition by transfer of Class I base or other modifications of Class I base due to hardship or loss of base. For purposes of computation of his production history base, a producer shall be considered as having been on the market during any specified period if: As a producer he delivered milk of his production during the designated period without interruption sufficient to cause forfeiture of base pursuant to § 1125.123(a); during such period (after the effective date of this provision) did not dispose of all his Class I base by transfer; and during no year of his production history period were his average daily producer milk deliveries subject to negative adjustments pursuant to paragraph (c) (1) of this section resulting in a zero quantity. If such adjustment results in a zero quantity of average daily deliveries, the producer shall have a 1 year production history period and a corresponding production history base, not subject, however, to the 20 percent reduction provided in paragraph (c) (3) of this section.

(a) "Production history period" means the period to be used for the computation of production history base for a producer. Production history periods for this purpose are as follows:

(1) The production history period for a producer who has been on the market during the 3 years (January-December) preceding the determination of his production history base shall be the 4 months of each such year during which the average daily receipts of total producer milk in the market were lowest for the year. The period described in this subparagraph shall be known as a 3-year production history period.

(2) The production history period for a producer who has been on the market for a lesser period than specified in subparagraph (1) of this paragraph but beginning on a date not later than September 1 of one of the three preceding years (January-December) shall be:

(i) In the first year, the months specified in subparagraph (1) of this paragraph if the producer were on the market during the first full month so specified, otherwise the months of September through December, of such year; and

(ii) In any other years preceding the determination of his production history base, the 4 months of each year specified in subparagraph (1) of this paragraph;

(iii) Periods described in this subparagraph shall be known as 1-year, 2-year or 3-year production history periods depending on whether deliveries began in the first, second, or third year, respectively, preceding determination of production history base;

(3) The production history period for a producer who has been on the market during a period beginning after September 1, 1970, and who delivered pro-

ducer milk in each of the 7 months preceding the effective date of this provision shall be the first 4 full months of delivery on the market. Such period shall be known as a 1-year production history period. For any such producer, the milk deliveries of the same 4 months shall be used in subsequent updating of production history bases to represent the milk deliveries of such producer in 1970. When a producer has acquired the herd and farm of a member of his immediate family (either before or after the effective date of this provision) and has continued to operate that farm and herd as a continuous operation, the deliveries made by the previous producer during the base earning period shall be assumed to have been delivered by the current producer for use in computing a production history base.

(b) The production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(1) If the production history period of any producer includes in any year months other than those specified pursuant to paragraph (a) (1) of this section, the average daily producer milk deliveries of such producer in the months used in his production history period shall be adjusted as follows: Multiply the producer's average daily producer milk deliveries by the ratio of average daily total producer milk in the market in the 4 months of the year specified in paragraph (a) (1) of this section to the average daily total producer milk in the market in the months used for such producer; except that for a producer described pursuant to paragraph (a) (3) of this section, the 4-month period specified in paragraph (a) (1) of this section shall be the applicable months in 1970.

(2) For a producer who was issued a Class I base pursuant to the provisions which became effective on September 1, 1967, and thus had a "production history base" which he had earned pursuant to the provisions then effective, and who has continued on the market as a producer since the issuance of such base, the production history base pursuant to this subparagraph shall be the larger of (i) the "production history base" assigned pursuant to the provisions effective September 1, 1967, reduced by the amount specified in the provision made effective September 1, 1967, in § 1125.123(f) with respect to reduction of production history base in proportion to transfer of Class I base, or (ii) such producer's production history base determined pursuant to subparagraph (3) of this paragraph. This provision shall apply also to the production history base of a Class I base effective September 1, 1967, if now held by a producer who received it from the original holder by intrafamily transfer, or through a succession of intrafamily transfers.

(3) For a producer with a 3-year production history period, the production history base shall be the sum of his average daily producer milk deliveries each year in the specified months for produc-

tion history (subject to adjustment of deliveries in any year pursuant to subparagraph (1) of this paragraph if applicable) divided by 3.

(4) For a producer with a 1-year or 2-year production history period, the production history base shall be the sum of his average daily producer milk deliveries in each year in the specified months for production history (subject to adjustment of deliveries in any year pursuant to subparagraph (1) of this paragraph, if applicable) divided by the number of years in the production history period and multiplied by 60 percent for a 1-year production history period or by 80 percent for a 2-year production history period.

(5) A production history base shall be assigned to producers on the effective date of this provision who qualify for such base pursuant to paragraphs (d), (e), and (f) of this section.

(c) The production history base for each producer who has not disposed of his entire base by transfer, or who after disposing of his entire base by transfer has met the delivery requirements described in § 1125.121(d), shall be determined by the market administrator on February 1 of each year as follows:

(1) In updating a production history base as described in this paragraph, adjustments to a producer's previously assigned production history base and/or average daily producer milk deliveries in prior years shall be made as follows:

(i) If a producer's average daily producer milk deliveries in the combined period of the four production history months of the preceding year is less than the average of such producer's Class I base effective on the first day of each such month, the amount of such difference shall represent a reduction in Class I base. Such reduction shall not apply, however, in the updating of bases on February 1, 1972.

(ii) The prior production history base assigned to such producer shall be adjusted in proportion to the net change in Class I base due to acquiring or disposing of Class I base by transfer, adjustment of Class I base for hardship, or because of underdelivery of Class I base. The adjustment factor shall be determined by dividing the Class I base last held by the producer in the preceding January (after any adjustment pursuant to subdivision (i) of this subparagraph), by the amount of Class I base issued on the preceding February 1 or effective date of this provision.

(iii) The average daily producer milk deliveries for which a producer will receive credit in his production history in the current year and in years prior to any net disposal of Class I base by transfer or reduction due to underdelivery shall be adjusted in proportion to the net change in Class I base. The adjustment factor shall be the Class I base issued on the previous February 1 (or effective date of this provision) less the net amount of Class I base disposed of by transfer since such date and the amount of reduction of Class I base pursuant to subdivision

(i) of this subparagraph, divided by the amount of Class I base issued on the preceding February 1 (or effective date of this provision).

(iv) If the combined effect of such adjustments is a reduction greater than the respective production history base or average daily producer milk deliveries subject to such adjustments, then the resulting amount after adjustment shall be zero and any year for which a zero amount is determined shall not be regarded as a production history period.

(2) For a producer with a 3-year production history period, the production history base shall be one-third of the sum of the amounts pursuant to subdivisions (i), (ii), and (iii) of this subparagraph, or the amount pursuant to subdivision (iv) of this subparagraph, whichever is larger:

(i) His average daily producer milk deliveries in the specified months for production history in the first year (adjusted pursuant to paragraph (b) (1) of this section, if applicable) reduced by any adjustments pursuant to subparagraph (1) (iii) of this paragraph;

(ii) His average daily producer milk deliveries in the specified months for production history in the second year of his production history period, reduced by any adjustments pursuant to subparagraph (1) (iii) of this paragraph;

(iii) His average daily producer milk deliveries in the specified months for production history in the most recent year of his production history period reduced by any adjustments pursuant to subdivision (1) (iii) of this subparagraph which are applicable to a net disposal of Class I base by transfer;

(iv) The production history base assigned to such producer on the preceding February 1 (or effective date of this provision) subject to any adjustments pursuant to subparagraph (1) of this paragraph.

(3) For a producer with a 1- or 2-year production history period who did not acquire Class I base by transfer from another producer, the production history base shall be the sum of his average daily producer milk deliveries for each year (calculated in the same manner and subject to the same type of reductions as described in subparagraph (2) (i) of this paragraph) divided by the number of years in his production history period and multiplied by 60 percent if the producer has a 1-year production history period or by 80 percent if he has a 2-year production history period. The resulting quantity shall be subject to a further reduction of 20 percent in the case of any producer who began deliveries after the effective date of this provision or who is a producer described in § 1125.121(d).

(4) For a producer who has acquired a Class I base by transfer from another producer prior to assignment of a production history base computed from deliveries of his own milk production, the production history base to be assigned

on the February 1 following a 1-year production history period of such producer shall be the larger of the amounts computed pursuant to subdivision (i) or (ii) of this subparagraph, and on the February 1 following a 2-year production history period shall be the amount computed pursuant to subdivision (iii) of this subparagraph.

(i) The production history base associated with the Class I base acquired, adjusted pursuant to subparagraph (1) of this paragraph.

(ii) One-third of his average daily producer milk deliveries in the specified production history months of the preceding year (adjusted pursuant to paragraph (b) (1) of this section, if applicable).

(iii) The production history base last assigned on a February 1 adjusted pursuant to subparagraph (1) of this paragraph plus one-third of the excess of the producer's average daily producer milk deliveries in the four production history months of the preceding year over such adjusted production history base.

(5) For a producer who has been assigned a production history base calculated only from deliveries of his own milk production during a one-year production history period and who since such assignment has acquired Class I base by transfer from another producer, the production history base of such producer on February 1 following such acquisition of Class I base shall be the production history base last assigned to such producer on the effective date of this provision or on the latest preceding February 1 adjusted pursuant to subparagraph (1) of this paragraph plus one-third of the excess of the producer's average daily producer milk deliveries in the four production history months of the preceding year over such adjusted production history base.

(d) For each producer not subject to § 1125.121(d) who became a producer for this market after January 1, 1968, because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible, pursuant to paragraph (b) or (c) of this section based on his deliveries of milk as if the nonpool plant to which he delivered were a pool plant during the 3 preceding years.

(e) A producer not described pursuant to paragraph (d) of this section who delivered milk to a nonpool plant or who delivered manufacturing grade milk to a pool plant prior to becoming a producer, and who is not subject to the provisions of § 1125.121(d), shall have a production history base effective on the first day of the third month after the month in which he began deliveries of producer milk to a pool plant if a production history base can be computed pursuant to paragraph (b) or (c) of this section based on deliveries of milk from the same farm on which he is now a producer as if the plant(s) to which he delivered had

been a pool plant(s) during the 3 preceding years.

(f) For a producer who held producer-handler status during any part of the production history periods specified in paragraph (a) of this section, a production history base shall be calculated as prescribed in paragraph (b) or (c) of this section as though the milk of his own production received at his producer-handler plant had been received at a pool plant.

(g) With respect to computation of production history bases pursuant to this section the following rules shall apply:

(1) If a producer operated more than one farm at the same time during any specified production period, a separate computation shall be made with respect to producer milk delivered from each such farm for such period, except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler specified in § 1125.14(b) (1).

(2) Only one production history base shall be allotted with respect to milk produced by one or more persons where the land, buildings, and equipment are jointly used, owned, or operated.

§ 1125.121 Computation of Class I base or base milk for each producer.

On the effective date of this provision and on February 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in paragraphs (d), (e), and (f) of § 1125.120 when they are issued production history bases. Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding calendar year from the following:

(i) Class I producer milk pursuant to § 1125.46(c),

(ii) The Class I disposition of plants during the period when they were non-pool plants, if such plants were pool plants in the preceding December, and

(iii) The Class I disposition of his own production of a person who was a producer-handler during a portion of the year and who held producer status in the preceding December.

Multiply the sum by 1.20 and divide the result by the number of days in such year: *Provided*, That on the effective date of this provision, comparable Class I disposition for the year 1970 will be determined, including that of former nonpool plants and producer-handlers which in the second month preceding the effective date were, respectively, pool plants and producers.

(2) Divide the quantity computed pursuant to subparagraph (1) of this paragraph by a quantity which is the total of production history bases computed pursuant to § 1125.120. The result shall be converted to a percentage by

multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage."

(c) A producer, other than a producer pursuant to paragraph (d) of this section, who has no production history base shall be assigned base milk each month effective on the first day of the third month after the month in which he began deliveries of producer milk. Such base milk for each month prior to the first February 1 on which he is eligible for a Class I base shall be computed as follows:

(1) Multiply the quantity of producer milk delivered by the producer during the month by the ratio of average daily total producer milk in the market in the last 4 months described in § 1125.120(a) (1) used in the computation of production history base for assignment on the effective date hereof or on the February 1 preceding this computation to the average daily total producer milk in the market in the month of the year preceding this calculation which corresponds to the current month for which Class I base assignment is being computed.

(2) Multiply the quantity resulting from the computation pursuant to subparagraph (1) of this paragraph by 40 percent and by the Class I base percentage, and if such producer began production after the effective date of this provision, or is a producer described in paragraph (d) of this section, subtract from the resulting quantity 20 percent of such quantity, rounding in either event to the nearest whole number.

(d) A producer who, after having forfeited or disposed of all of his Class I base, either continues as a producer on the market or discontinues deliveries to the market and returns to the market as a producer, shall be assigned base milk computed in the manner specified in paragraph (c) (1) and (2) of this section, such assignment to be effective on the later of the following dates: the first day of the third month after the month in which he recommences deliveries of producer milk on the market, or the first day of the seventh month after the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. The production history period of such producer shall begin on the later of the following dates: the date on which he first received payment for base milk or the first day of the first month eligible for use in a production history period pursuant to § 1125.120(a). In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. It shall

be applied also to any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture.

§ 1125.122 Transfer of bases.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both the production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of the Class I base prior to the first day of the month of transfer of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer and the amount of base to be transferred if less than the entire Class I base held by the transferor.

(c) It must be established to the satisfaction of the market administrator that the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section.

(d) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(e) A transfer of Class I base may be made in amounts of not less than 150 pounds or the entire base, whichever is smaller. The amount of base credited to the transferee shall be two-thirds of the Class I base disposed of by the transferor producer.

(f) A transfer of a portion of a Class I base shall be a partial transfer and shall be effective only on the first day of a month. A transfer where the transferee producer will combine the Class I base received with Class I base already held shall be considered a partial transfer.

(g) A transfer of a complete Class I base of a producer to a person who does not hold a Class I base will be effective on the date of transfer of herd and farm, or on the first day of the month if no herd and farm is transferred, provided in either case that a base transfer request was made to the market administrator on or before the first day of the month of transfer.

(h) An intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) will not be subject to a one-third lapse of base, provided that the transfer implements a continuous operation on

the same farm with the same herd. All restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

(i) A producer who receives a base pursuant to § 1125.120 (d) or (e) may not transfer such base, other than pursuant to paragraph (h) of this section, for 1 year from the date of receipt or such later date as provided in paragraph (k) of this section.

(j) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 3 years from the date of receipt, except to a member of the immediate family pursuant to paragraph (h) of this section.

(k) A base which has been computed from a less than 3-year production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (h) of this section.

(l) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons will require a transfer of bases and compliance with all base rules therein.

§ 1125.123 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases:

(a) A person who discontinues delivery of producer milk for a period of 60 consecutive days after a Class I base is issued to him shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain them until 1 year after being released from active military service.

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(c) As a condition for designation as a producer-handler pursuant to § 1125.14, any person (including any member of the immediate family of such a person, any affiliate of such a person, or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period.

§ 1125.124 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1125.120 through 1125.123 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on

each succeeding February 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;
(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of buildings, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1125.123 (a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1125.120 (c) (1);

(5) Inability to transfer base due to the provisions of § 1125.122 (i), (j), or (k);

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1125.123 (b) with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to requests pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a) (2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment.

In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(a) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(b) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director, Dairy Division within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmittal.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1125.88 for their services at \$20 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

COMPUTATION OF UNIFORM PRICE FOR PRODUCER MILK

The following provisions are necessary to effectuate the continued operation of the order in the event producers voting individually in a separate referendum fail to approve the Class I base plan or if the statutory authority for such a plan is terminated while it is in effect after its incorporation in the order. In such event, the preceding order provisions shall be modified as specified below.

1. In § 1125.22, paragraphs (j) (1) (iii) and (k) (2) are revised to read as follows:

§ 1125.22 Duties.

(j)

(1)

(iii) Uniform price for producer milk.

.

(k)

(2) On or before the 13th day of each month the uniform price for producer milk computed pursuant to § 1125.71 and the butterfat differential computed pursuant to § 1125.82, each applicable to milk received during the preceding month.

2. In § 1125.35, paragraph (a) (2) is revised by deleting the words "the pounds of base and excess milk."

3. In § 1125.71, the subheading is changed to read: "Computation of weighted average price and uniform

price for producer milk." The second sentence of paragraph (g) is revised to read as follows: "The result shall be known as the uniform price for producer milk and the weighted average price for all milk."

4. Section 1125.72 is revoked.

5. In § 1125.80, paragraph (a) is revised to read as follows:

§ 1125.80 Time and method of payment to producers and to cooperative associations.

(a) On or before the 19th day after the end of each month each handler shall make payment to each producer for the milk received from such producer during such month at not less than the uniform price for producer milk adjusted by the butterfat differential computed to § 1125.82 and by any location adjustment applicable under § 1125.81: *Provided*, If by such date such handler has not received full payment for such month pursuant to § 1125.85, he should not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payments uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

6. In § 1125.81, paragraph (a) is revised to read as follows:

§ 1125.81 Location adjustments to producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1125.80(a), subject to the application of § 1125.12(c), deductions may be made per hundredweight of milk received from producers at the respective plant locations at the same rate per hundredweight as is specified for Class I milk in the table set forth in § 1125.53.

7. In § 1125.82, the words "for base milk and for excess milk" are deleted.

8. The centerhead "Class I Base Plan Provisions" following § 1125.101, and §§ 1125.110, 1125.111, 1125.120, 1125.121, 1125.122, 1125.123, and 1125.124 are revoked.

[FR Doc. 71-8539 Filed 6-16-71; 8:52 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 71-56]

FOX RIVER, WIS.

Drawbridge Operation

The Coast Guard is considering revising the regulations for the State of Wisconsin highway (George Street) bridge

across the Fox River, mile 7.2, De Pere, Wis., to require that the draw open on signal from 8 a.m. to 6 p.m. The draw is presently required to open on signal from 10 a.m. to 8 p.m. This change is being considered because vessel movements occur most frequently between 8 a.m. and 6 p.m. and the De Pere dock located immediately north of the bridge begins operations at 8 a.m.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Ninth Coast Guard District (oan), 1240 East Ninth Street, Cleveland, OH 44199. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander Ninth Coast Guard District.

The Commander, Ninth Coast Guard District, will forward any comments received before July 20, 1971, and his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.643(b)(3) to read as follows:

§ 117.643 Fox River and Portage Canal, Wis.

(3) The draw shall open promptly on signal from 8 a.m. to 6 p.m. during the regular navigation season upon 3 blasts of a whistle or horn. If the draw cannot be opened promptly a red flag or ball by day, or a red light at night shall be conspicuously displayed.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937, 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4) (35 F.R. 15922))

Dated: June 11, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.
[FR Doc. 71-8513 Filed 6-16-71; 8:50 am]

Federal Aviation Administration
[14 CFR Part 71]
[Airspace Docket No. 71-SO-114]

CONTROL ZONE

Proposed Redesignation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would redesignate the Winston-Salem, N.C., control zone.

Interested persons may submit such written data, views, or arguments as they

PROPOSED RULE MAKING

may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Winston-Salem control zone described in § 71.171 (36 F.R. 2055) would be redesignated as:

Within a 5-mile radius of Smith Reynolds Airport (lat. 36°08'01" N., long. 80°13'22" W.); within 2 miles each side of Winston-Salem ILS localizer southeast course, extending from the 5-mile-radius zone to the LOM.

This proposed redesignation is required to permit change from a part-time to a full-time control zone. The Greensboro ATC Tower now has the required communications capabilities at Smith Reynolds Airport and the U.S. Weather Bureau provides the required weather observation and dissemination service.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 9, 1971.

JAMES G. ROGERS,
Director, Southern Region.
[FR Doc. 71-8505 Filed 6-16-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-108]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Bardstown and Elizabethtown, Ky., transition areas.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No

hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Bardstown and Elizabethtown transition areas, described in § 71.181 (36 F.R. 2140), would be redesignated as follows:

BARDSTOWN, KY.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Samuels Field (lat. 37°48'55" N., long. 85°29'58" W.); within 3 miles each side of the 022° bearing from Bardstown RBN (lat. 37°50'52" N., long. 85°29'00" W.), extending from the 5.5-mile-radius area to 8.5 miles north of the RBN.

ELIZABETHTOWN, KY.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elizabethtown-Hardin County Airport (lat. 37°45'13" N., long. 85°53'09" W.); within 2 miles each side of New Hope VOR 306° radial, extending from the 5-mile-radius area to 9 miles northwest of the VOR; excluding the portion within Louisville transition area.

The proposed alterations are required to provide controlled airspace protection for IFR operations in the Bardstown and Elizabethtown terminals in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 8, 1971.

JAMES G. ROGERS,
Director, Southern Region.
[FR Doc. 71-8506 Filed 6-16-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-109]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Ashland, Ky., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the

PROPOSED RULE MAKING

FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Ashland transition area, described in § 71.181 (36 F.R. 2140), would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Ashland-Boyd County Airport (lat. 38°33'00" N., long. 82°44'15" W.); within 2.5 miles each side of York VORTAC 116° radial, extending from the 8-mile-radius area to 0.5 mile east of the VORTAC; excluding the portion within Huntington, W. Va., transition area.

The proposed alteration is required to provide controlled airspace protection for IFR operations in the Ashland terminal in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 8, 1971.

JAMES G. ROGERS,
Director, Southern Region.
[FR Doc. 71-8507 Filed 6-16-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-48]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate an Oxford, Conn., transition area.

A new NDB instrument approach procedure for Waterbury-Oxford Airport, Oxford, Conn., will require designation of a 700-foot-floor transition area to provide protection for aircraft executing this procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Oxford, Conn., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate the Oxford, Conn., 700-foot-floor transition area as follows:

OXFORD, CONN.

That airspace extending upward from 700 feet above the surface within a 7-mile-radius area of the center of 41°28'45" N., 73°08'10" W. of Waterbury-Oxford Airport, Oxford, Conn., and within 4 miles each side of the Oxford, Conn., RBN (41°31'45" N., 73°08'36" W.) 354° bearing extending from the 7-mile-radius area to the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 2, 1971.

GEORGE M. GARY,
Director, Eastern Region.
[FR Doc. 71-8508 Filed 6-16-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-59]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Tiffin, Ohio, transition area over Seneca County Airport, Tiffin, Ohio.

The VOR instrument approach procedure for Seneca County Airport requires designation of a 700-foot-floor transition area to provide controlled airspace protection for aircraft executing the instrument approach procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Re-

gion, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Tiffin, Ohio, proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Tiffin, Ohio, 700-foot-floor transition area as follows:

TIFFIN, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 41°05'38" N., 83°12'45" W. of Seneca County Airport, Tiffin, Ohio.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.
[FR Doc. 71-8509 Filed 6-16-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-56]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Pittsboro, N.J., transition area over Sky Manor Airport, Pittsboro, N.J.

A new VOR-6 instrument approach procedure for Sky Manor Airport will require designation of a 700-foot-floor transition area to provide protection for aircraft executing this procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in

triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Pittstown, N.J., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate the Pittstown, N.J., 700-foot-floor transition area as follows:

Pittstown, N.J.

That airspace extending upward from 700 feet above the surface within a 7-mile-radius area of the center of 40°33'59" N., 74°58'43" W. of Sky Manor Airport, Pittstown, N.J., and within 3 miles each side of the Solberg, N.J., VORTAC 265° radial extending from the 7-mile-radius area to 22 miles west of the VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.
[FR Doc.71-8510 Filed 6-16-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-55]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Elkins, W. Va., control zone (36 F.R. 2077) and transition area (36 F.R. 2181).

A review of the airspace requirements for the Elkins, W. Va., terminal area in-

dicates that we will require alteration of the control zone and 700-foot-floor transition area to protect aircraft executing the revised VOR and new NDB instrument approach procedures for Elkins-Randolph County Airport.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Elkins, W. Va., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Elkins, W. Va., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 38°53'20" N., 79°51'24" W. of Elkins-Randolph County Airport, Elkins, W. Va., and within 3 miles each side of the 011° bearing from the Randolph County RBN, extending from the 5-mile-radius zone to 8.5 miles north of the RBN. This control zone is effective from sunrise to sunset, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Elkins, W. Va., 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6.5-mile-radius of the center, 38°53'20" N., 79°51'24" W. of Elkins-Randolph County Airport, Elkins, W. Va., within 4 miles each side of the Elkins VORTAC 098° radial extending from the 6.5-mile-radius area to 1.5 miles east of the VORTAC and within 4.5 miles east and 9.5 miles west of the 011° bearing from the Randolph County RBN, extending from the RBN to 18.5 miles north of the RBN. This transition area is effective from sunrise to sunset, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act

of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.
[FR Doc.71-8511 Filed 6-16-71; 8:49 am]

[14 CFR Part 93]

[Docket No. 9974; Notice No. 71-15A]

HIGH DENSITY TRAFFIC AIRPORTS

Extension of Comment Period

The Federal Aviation Administration proposed in NOTICE 71-15, published in the FEDERAL REGISTER on May 18, 1971 (36 F.R. 9029), to amend Part 93 of the Federal Aviation Regulations to extend for 1 year the special air traffic rule for High Density Traffic Airports, and to suspend the allocation and reservation requirements for operation into and out of Kennedy International and O'Hare International Airports, in addition to the present suspension of those requirements at Newark Airport.

The Air Transport Association has requested an extension of time for submission of comments to July 1, 1971, in order to assess all related implications raised by the notice, in particular the desirability of maintaining appropriate scheduling committee functions in view of the proposed suspensions of requirements.

I find that the petitioner has shown a substantive interest in the proposed rule, that good cause exists for the extension and that the extension is consistent with the public interest.

Therefore, the time within which comments on NOTICE 71-15 will be received is extended to July 1, 1971.

Issued in Washington, D.C., on June 15, 1971.

WILLIAM M. FLENER,
Director, Air Traffic Service, AT-1.
[FR Doc.71-8646 Filed 6-16-71; 10:02 am]

Hazardous Materials Regulations Board

[49 CFR Parts 173, 178]

[Docket No. HM-74; Notice No. 71-16]

TRANSPORTATION OF HAZARDOUS MATERIALS

Cylinders Manufactured Outside United States

Correction

In F.R. Doc. 71-8101 appearing at page 11224 in the issue for Thursday, June 10, 1971, the date reading "September 9, 1971" in the fifth line of the first column on page 11225 should read "September 14, 1971".

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1056]

[Ex Parte No. MC-19 (Sub-No. 15)]

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

Reservation of Vehicle Space by Shippers

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 7th day of June 1971.

This rulemaking proceeding is being instituted here on our own motion in order to study the extent to which certain provisions of the Interstate Commerce Act, and the letter and spirit of the regulations of this Commission specifically applicable to motor common carriers of household goods, are or may be violated or in any way circumvented by such motor carriers through the misapplication, deliberately or otherwise, of rules published in their tariffs or by any other means which are purported to provide the opportunity for shippers to reserve in advance space on a carrier's vehicle for the transportation of shipment of household goods. This proceeding is also being initiated to consider the need for requiring all motor common carriers of household goods (a) to obtain from a shipper of household goods a separately executed order for the reservation of a portion of the capacity of a vehicle; and (b) to maintain a separate written record of the manner in which such space reservation orders are obtained and shipments thereunder are handled by the carriers.

Section 216(b) of the Act requires every motor common carrier of property to provide safe and adequate service, equipment, and facilities for the transportation of property in interstate or foreign commerce, and every certificate of public convenience and necessity issued contains a condition that the holder thereof shall render reasonably continuous and adequate service to the public. Section 217(b) of the Act requires that the provisions of the carriers' tariffs filed with this Commission be strictly observed and that no carrier shall charge, demand, collect, or receive a greater or less or different compensation for transportation service than the applicable charges specified in its tariff. From time to time this Commission has received complaints from shippers and receivers of freight that, in their judgment at least, the services provided by motor carriers have been less than adequate or that their charges have been inappropriate. Given the range of demands for service that are placed upon motor carriers, the occasional receipt of reports of justifiable dissatisfaction by the customers of motor carriers is, in itself, not surprising. As we have indicated on a number of occasions in the past, however, no segment of the motor carrier industry has generated a greater volume

of service complaints filed with this Commission than have the motor common carriers of household goods. The failure in many instances of these carriers equally and fairly to provide service to the public has given rise to the need for constant surveillance and examination of carrier practices by this Commission in order to insure that, during the time of stress that is often a concomitant part of the move by a family from one residence to another, carrier duties are fully met. Moreover, the usual lack of familiarity of the members of the average family with their rights and responsibilities and those of the carriers transporting most of their worldly possessions has led to the gradual development by this Commission of what is now a set of comprehensive regulations applicable to the motor transportation of household goods.

In two recently completed proceedings¹ those regulations were exhaustively revised and soon thereafter completely reviewed and analyzed. There are now pending at least three other proceedings² in which certain portions of those rules are being reexamined and specific carrier practices or requests are being given particular attention. It has been this Commission's consistent belief that if the shipper and carrier are fully informed as to the needs, desires, abilities, and intentions of each other, the likelihood that the contemplated transportation service will be properly performed is greatly enhanced. Despite our recent extensive efforts and our abiding belief in both the good intentions and competence of most certificated carriers of household goods, this Commission recognizes, too, that there is a need for our continuous oversight of carrier practices and our constant review of applicable regulations so that the latter are both viable and responsive to the ever-changing needs and desires of the public. It is in this latter sense, therefore, that we believe it is now appropriate that we review the circumstances surrounding the use by carriers of certain rules published in their tariffs which conceivably could be violative of the Act and do much to circumvent the letter and spirit of our revised regulations.

Set forth in Appendix A hereto³ are examples of three similar rules published by carriers in their tariffs which purportedly provide shippers of household goods with the opportunity to reserve in advance a portion of the capacity of a carrier's vehicle. Set forth in Appendix B to this notice⁴ is an excerpt from a

¹ Ex Parte No. MC-19 (Sub-Nos. 8 and 11), Practices of Motor Common Carriers of Household Goods, 111 M.C.C. 427 and 112 M.C.C. 485, respectively.

² Ex Parte No. MC-19 (Sub-No. 12), Practices of Motor Common Carriers of Household Goods (request for modification of certain rules), (Sub-No. 13), Petition for Declaratory Order (pertaining to applicability of household goods freight charges); and (Sub-No. 14), Practices of Motor Common Carriers of Household Goods (Rerouting of Shipments).

³ Appendices A and B filed as part of original document.

letter in which a carrier agent, in response to an inquiry made on behalf of a shipper, stated that it had employed its principal's tariff rule (the rule appears as item No. 3 in Appendix A) for reservation of vehicle space in order to provide the carrier with greater revenue than otherwise would have been derived on the transportation from Washington, D.C., to Richmond, Va., of a small shipment of household goods. In these circumstances, it seems that an opportunity clearly exists for carriers to persuade uninformed shippers to reserve a portion of the capacity of a vehicle and under that guise improperly charge a higher effective rate for their services.

One advantage of the type of tariff rule here involved is that shippers may, under certain circumstances, be assured that their goods will be transported together in the same vehicle at the same time. Perhaps this is the only advantage of such rules to shippers. An unsophisticated shipper of household goods may well believe, however, especially after carrier persuasion, that he must reserve vehicle space in advance of the day on which his shipment is to be picked up. Moreover, there does not appear now to be available any means by which a shipper or this Commission may determine if that which the shipper has requested and paid for has been provided by the carrier.

It is, therefore, both desirable and necessary at this time that we investigate the nature and scope of carrier rules and practices with respect to the reservation by shippers of household goods of a specific portion of the capacity of a carrier's vehicle, as well as the need to require carriers to maintain adequate or additional records of their handling of such shipments. Our investigation, among other things, should include a determination whether the proposed regulations set forth in Appendix C to this notice should be adopted, as well as whether this Commission should take such other and further action as the facts developed in this proceeding may justify or require.

It is for these purposes that the instant rulemaking proceeding is instituted. Upon consideration of the above-described matters and good cause appearing therefor:

It is ordered, That a proceeding be, and it is hereby, instituted under the authority of part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) including 204(b), 208(a), 212(a), 216(b), (d), and (i), 217, 220(a), and 222(g), thereof, and pursuant to 5 U.S.C. 553 and 559 (the Administrative Procedure Act), to determine whether the facts and circumstances require or warrant the adoption of the proposed regulations set forth in Appendix C to this notice, or other regulations of similar purport applicable to motor common carriers of household goods operating in interstate or foreign commerce subject to the Interstate Commerce Act, and for the purpose of taking such other and further action as the facts and circumstances may justify or require.

It is further ordered, That all motor common carriers of household goods op-

PROPOSED RULE MAKING

erating in interstate or foreign commerce within the United States and subject to the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding.

It is further ordered, That the Bureau of Enforcement of this Commission be, and it is hereby, authorized and directed to participate in this proceeding.

It is further ordered, That no oral hearings be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any person intending to participate in this proceeding by submitting initial statements or reply statements shall notify the Commission by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before July 21, 1971, the original and one copy of a statement of his intention to participate; that this Commission then shall prepare and make available to all such persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be filed; and that at the time of the service list this Commission will fix the time within which initial statements and reply statements must be filed.

And it is further ordered, That statutory notice of the institution of this proceeding be given to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

NOTE: Written material or suggestion submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, DC, during regular business hours.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

APPENDIX C

Proposed modifications of regulations in 49 CFR Part 1056:

1. Insert the following in lieu of present paragraph (b) of § 1056.8; present paragraphs (b), (c), (d), and (e) will be redesignated as paragraphs (c), (d), (e), and (f), respectively, and other references to these paragraphs elsewhere in the regulations will be modified accordingly.

§ 1056.8 Estimates of charges.

(b) Estimates based on space reservation prohibited. Carrier estimates made in compliance with this paragraph

shall not be based upon the specific reservation by a shipper of a portion of the capacity of a vehicle as provided in § 1056.9(c).

2. In § 1056.9, insert in lieu of present subparagraph (7) of paragraph (a) the following new subparagraph (7) and insert after present paragraph (b) the following new paragraph (c):

§ 1056.9 Order for service.

(a) Order for service required. . . .
(7) Except as provided in paragraph (c) of this section, a complete description of special services ordered.

(c) Reservation of vehicle space by shipper; separate order and record of handling. Whenever a shipper shall request a carrier to reserve a portion of the capacity of a vehicle for the transportation of a shipment of household goods, the carrier (1) shall cause to be prepared, at least in duplicate and in the form prescribed below, a separate additional service order therefor signed by the shipper and carrier, or their agents or representatives; (2) shall deliver a legible copy thereof signed by the carrier or its representative to the shipper at the time such document is signed by the shipper; and (3) shall maintain a separate written record for a period of at least 120 days following delivery of each such shipment of the manner in which each shipment on which vehicle space was reserved was handled sufficient in detail to establish factually that the service ordered by the shipper was actually provided by the carrier.

NOTICE TO SHIPPER

1. You are entitled to a copy of this document at the time you sign it.
2. All spaces hereon must be filled in before you sign your name, and this order shall be void if executed with any blank spaces.
3. You are not obliged to reserve space on a moving van in order to obtain transportation service for your shipment of household goods.
4. Under the space reservation order set forth below, and in accordance with the provisions of Rule . . . in Tariff No. . . . MF-ICC No. . . . you may be required to pay a higher charge for the transportation of your goods than you would be obligated to pay if vehicle space is not reserved by you.

Based on the above our estimate of your transportation charges is \$
If you execute the order below we will reserve for your shipment vehicle space of cubic feet.
Based on the space reservation order your transportation charges will be no less than \$
If our estimate is correct, your execution of the space reservation order below will cost you an additional sum of \$

(Signature of carrier's representative)

CARRIER'S STATEMENT OF COMPARATIVE CHARGES

We have estimated your shipment will require an actual vehicle space of cubic feet.
Based on the above our estimate of your transportation charges is \$
If you execute the order below we will reserve for your shipment vehicle space of cubic feet.
Based on the space reservation order your transportation charges will be no less than \$
If our estimate is correct, your execution of the space reservation order below will cost you an additional sum of \$

(Signature of carrier's representative)

FEDERAL REGISTER, VOL. 36, NO. 117—THURSDAY, JUNE 17, 1971

VEHICLE SPACE RESERVATION ORDER

To: ICC-M.C. No.
(Name of carrier)

(Address of carrier) (Telephone number)

I hereby voluntarily order cubic feet of vehicle space be reserved for my shipment of household goods. I understand that by signing this document I may be obligated to pay a higher charge than otherwise would be applicable for the transportation of my shipment. I also understand that I am under no obligation to reserve vehicle space for my shipment and that this order may be canceled by me provided I notify the above-named carrier of such intention to cancel at least 24 hours prior to the date or first day of the period of time during which my shipment is to be picked up.

(Date) (Signature of shipper)
I acknowledge receipt of a copy of this order.

(Date) (Signature of shipper)
[FR Doc.71-8527 Filed 6-16-71;8:51 am]

NATIONAL CREDIT UNION
ADMINISTRATION

[12 CFR Part 703]

CERTIFICATES OF DEPOSIT

Basic Requirements

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, proposes to revise paragraph (a) of § 703.1 (12 CFR 703.1(a)) as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456, to be received not later than July 16, 1971.

HERMAN NICKERSON, JR.,
Administrator.

JUNE 11, 1971.

§ 703.1 Certificates of deposit.

(a) Basic requirements: A deposit evidenced by a time certificate of deposit is within the deposit power of a Federal credit union under section 107(9) of the Federal Credit Union Act: *Provided*, (1) that such credit union itself makes the deposit for which the certificate is issued; (2) that no consideration is received from a third party in connection with the making of the deposit; and (3) that the certificate contains a provision which will authorize the bank to pay a time deposit or a portion thereof before maturity in those instances where the depositor-credit union indicates a need of the money represented by such time deposit. The model wording of this provision is indicated in paragraph (b) of this section. This paragraph does not apply to the investment power authorized in section 107(8) (D) of the Federal Credit Union Act.

(Signature of carrier's representative)
[FR Doc.71-8485 Filed 6-16-71;8:47 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. Idaho-4350]

IDAHO

Notice of Proposed Withdrawal and
Reservation of Lands

JUNE 10, 1971.

The Atomic Energy Commission has filed an application, Serial No. I-4350, for the withdrawal of the lands described below from all forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for public purposes for a base station for a nationwide courier communications system to be known as Security Communications System (SECOM). There will be no known contamination of the lands due to the proposed project. Grazing outside of fenced areas could be permitted. Grazing administration will remain under the jurisdiction of the Bureau of Land Management.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 334 Federal Building, 550 West Fort Street, Boise, ID 83702.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Atomic Energy Commission.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

T. 2 N., R. 39 E.,
Sec. 6, lot 1.

The area described contains 40.26 acres in Bonneville County.

E. D. BARNES,

Acting Chief,

Division of Technical Services.

[FR Doc.71-8483 Filed 6-16-71;8:47 am]

Bureau of Mines

PROCUREMENT, CONTRACTING,
AND GRANTS

Delegations of Authority

The following is an excerpt from the Bureau of Mines Manual and the numbering system is that of the manual: 205.11.1 Contracts—A. Delegation. The Director may enter into contracts and amendments or modifications thereof, by formal advertising or by negotiation. Further redelegations of the Director's authority are contained in Part 206 MBM.

B. Exercise of authority. All contracts may be entered into under this delegation unless specifically prohibited by statute, by the provisions of Title 41 of the Code of Federal Regulations. The authority delegated herein shall be exercised in accordance with Subpart 1-1.4 of the Federal Procurement Regulations, and all other applicable policies, procedures, and controls prescribed by the General Services Administration, the Department of the Interior, and the Bureau of Mines. Each redelegation shall be published in the FEDERAL REGISTER.

2. Requisitioning—A. Delegation. Contracting authority may be exercised upon receipt of approved requisitions for supplies, equipment and services. Officials delegated the authority to initiate, approve, and forward requisitions to contracting officials are listed below:

	Monetary limit, each contract
Assistant Director—Planning	\$100,000
Deputy Director—Health and Safety	500,000
District Managers	2,500
Subdistrict Managers	500
Deputy Director—Mineral Resources and Environmental Development	500,000
Assistant Director—Energy	25,000
General Manager, Helium Operations	100,000
Research Directors:	
Pittsburgh Energy Research Center	25,000
Morgantown Energy Research Center	25,000
Bartlesville Energy Research Center	25,000

	Monetary limit, each contract
Laramie Energy Research Center	25,000
Chief, Grand Forks Energy Research Lab	25,000
Chief, San Francisco, Energy Research Lab	500
Buildings and Grounds Manager, Rifle, Colo.	250
Assistant Director—Metallurgy	25,000
Research Directors:	
College Park Metallurgical Research Center	25,000
Twin Cities Metallurgical Research Center	25,000
Rolla Metallurgical Research Center	25,000
Salt Lake City Metallurgical Research Center	25,000
Reno Metallurgical Research Center	25,000
Albany Metallurgical Research Center	25,000
Chief, Tuscaloosa Metallurgical Research Lab	25,000
Chief, Boulder City Metallurgical Research Lab	1,000
Assistant Director—Mining	25,000
Chief, Environment Field Office	100,000
Research Directors:	
Twin Cities Mining Research Center	25,000
Spokane Mining Research Center	25,000
Assistant Director—Mineral Supply	25,000
Chief, Division of Field Operations	25,000
Chief, Western Field Operation Center	25,000
Chief, Alaska Field Operation Center	25,000
Chief, Mineral Supply Field Office	250
State Liaison Officers	250
Assistant Director—Administration	Unlimited
Chief, Division of Procurement and Property Management	Unlimited
Chief, Branch of Contracts and Grants	500,000
Chief, Eastern Administrative Office	500,000
Chief, Branch of Procurement and Property Management, Eastern Administrative Office	500,000
Chief, Western Administrative Office	500,000
Chief, Branch of Procurement and Property Operations, Western Administrative Office	500,000
Chief, Section of Procurement Operations, Western Administrative Office	25,000
Supervisory Purchasing Agent, Western Administrative Office	2,500
Purchasing Agents, Western Administrative Office	2,500

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NOTICES

RESEARCH CONTRACTS AND GRANTS

215.2.1 *Research contracts.* The Director of the Bureau of Mines may enter into scientific and technological research contracts pursuant to Public Law 89-672 and, with respect to any such contract involving \$25,000 or less, may make the determinations specified in paragraph (11), subsection (c), of section 302 of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. sec. 252c(11)).

215.2.5 *Grants.* With respect to problems related to the programs of the Bureau authorized by statute, the Director of the Bureau of Mines may make grants for the support of basic scientific research to nonprofit institutions of higher education or to nonprofit organizations whose primary purpose is the conduct of scientific research pursuant to 42 U.S.C. secs. 1891 and 1892.

215.2.6 *Redelegation.* The authorities granted in 215 MBM 2.1 and 2.5 above are redelegated to the following officials: Deputy Director—Mineral Resources and Environmental Development; Deputy Director—Health and Safety; Assistant Director—Administration; Chief, Division of Procurement and Property Management.

SOLID WASTE DISPOSAL

215.6.1 *Delegation of authority.* The Director, Bureau of Mines, is authorized except as provided in 200 MBM 2.1, to exercise the authority conferred upon the Secretary of the Interior by the Solid Waste Disposal Act of October 20, 1965, 70 Stat. 997.

Section 204(b)(3). To make grants-in-aid to public or private agencies and institutions and to individuals for research, training projects, surveys, and demonstrations (including construction of facilities), and provide for the conduct of research, training, surveys, and demonstrations by contract with public or private agencies and institutions and with individuals. Redelegation of authority under this section of the above Act is granted to:

Assistant Director—Administration; Chief, Division of Procurement and Property Management.

This authority may not be redelegated.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

215.9.1 *Delegation of authority.* Except as provided in 200 DM 1 and 215 DM 9.2, the Director, Bureau of Mines, is authorized to exercise the authority of the Secretary of the Interior under the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173), with respect to the following sections of such Act only, and the regulations issued pursuant thereto:

215.9.1R. Section 501(c). To enter into contracts with and make grants to

public and private agencies, organizations, and individuals in order to carry out the provisions of the Act.

215.9.3 *Redelegation of authority.* Authority under the provisions of R. above is redelegated to the officials indicated below:

Section 501(c). Deputy Director—Health and Safety; Assistant Director—Administration; Chief, Division of Procurement and Property Management.

Dated: June 10, 1971.

ELBURT F. OSBORN,
Director, Bureau of Mines.

[FR Doc.71-8482 Filed 6-16-71; 8:46 am]

Office of the Secretary

ELMER S. HALL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of May 26, 1971.

Dated: May 26, 1971.

E. S. HALL.

[FR Doc.71-8480 Filed 6-16-71; 8:46 am]

D. N. KEATON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) None.
- (2) None.
- (3) None.
- (4) None.

This statement is made as of May 27, 1971.

Dated: May 27, 1971.

D. N. KEATON.

[FR Doc.71-8478 Filed 6-16-71; 8:46 am]

HAROLD M. McCURE, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken

place in my financial interests during the past 6 months:

- (1) None.
- (2) None.
- (3) None.
- (4) None.

This statement is made as of May 27, 1971.

Dated: May 27, 1971.

HAROLD M. McCURE, JR.

[FR Doc.71-8479 Filed 6-16-71; 8:46 am]

HUGH C. VAN HORN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of June 3, 1971.

Dated: June 3, 1971.

HUGH C. VAN HORN.

[FR Doc.71-8481 Filed 6-16-71; 8:46 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

FULTON COUNTY AUCTION CO. ET AL.
Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard and date of posting

Fulton County Auction Company, Canton, Ill., Apr. 27, 1960.
Clinton Livestock Auction, Clinton, Ill., Nov. 18, 1959.
Colchester Sales Association, Colchester, Ill., Dec. 3, 1959.
Mendota Livestock Auction, Mendota, Ill., Nov. 27, 1959.
Shannon Stockyards, Shannon, Ill., Dec. 11, 1962.
Green Valley Pig Market, Inc., Glasgow, Ky., Jan. 12, 1971.
Boscobel Sales Barn, Boscobel, Wis., May 11, 1959.
Frederic Livestock Sales, Inc., Frederic, Wis., Oct. 19, 1960.
Equity Co-operative Livestock Sales Assn., Milwaukee, Wis., May 15, 1959.

NOTICES

[DESI 6151]

CERTAIN PREPARATIONS CONTAINING DIHYPRYLONE OR PIPAZETHATE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Sedulon Syrup containing dihyprylone and extract of thyme; Roche Laboratories, Division Hoffmann-LaRoche, Inc., Roche Park, 340 Kingsland Street, Nutley, New Jersey 07110 (NDA 6-151).
2. Theratuss Tablets containing pipazethate hydrochloride; E. R. Squibb and Sons, 909 Third Avenue, New York, New York 10022 (NDA 12-820).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are possibly effective for the labeled indications relating to the relief of coughs.

B. *Marketing status.* Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6151, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat.

1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 20, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8475 Filed 6-16-71; 8:46 am]

[DESI 8884]

ERYTHROMYCIN TOPICAL OINTMENTS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations of erythromycin ointment for topical use:

1. Erythrocin 1 Percent Ointment, containing erythromycin; Abbott Laboratories, 14th and Sheridan Road, North Chicago, Illinois 60064 (NDA 50-184).
2. Ilotycin Ointment, containing erythromycin; Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 60-646).

The Food and Drug Administration concludes that the above listed drugs are possibly effective for their labeled indications.

Preparations containing erythromycin are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act.

To allow applicants time to obtain and submit data to provide substantial evidence of the effectiveness of the drugs in those conditions for which they have been evaluated as possibly effective, batches of these drugs which bear labeling with those indications will be accepted for release or certification by the Food and Drug Administration for a period of 6 months after publication of this announcement in the FEDERAL REGISTER.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously submitted, well organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of the claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of

effectiveness for such uses. After that evaluation, the conclusions concerning the drugs will be published in the FEDERAL REGISTER. If no studies have been undertaken, or if the studies do not provide substantial evidence of effectiveness, such drugs will not be eligible for release or certification.

A copy of the Academy's report has been furnished to the firms referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8884, directed to the attention of the following appropriate office, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Amendments (Identify with NDA number if known): Division of Anti-Infective Drug Products (BD-140), Office of Scientific Evaluation, Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 20, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8476 Filed 6-16-71; 8:46 am]

[DESI 12374]

SPARTEINE SULFATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following oxytocic drug for intramuscular injection:

Tocosamine Sterile Solution, containing sparteine sulfate; Trent Pharmaceuticals, Inc., 233 Broadway, New York, New York 10007 (NDA 12-374).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is effective for induction of labor and treatment of hypotonic uterine contractions.

B. *Conditions for approval and marketing.* The Food and Drug Administra-

tion is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Sparteine sulfate preparations are sterile aqueous solutions suitable for intramuscular injection.

2. *Labeling conditions.* a. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" and "Warnings" section are as follows:

INDICATIONS

Induction of labor and treatment of hypotonic uterine contractions.

WARNINGS

The action of this preparation is quite unpredictable.

It should not be given concomitantly with oxytocin. At least 2 hours should pass before a change is made from one drug to another. An occasional case of rupture of the uterus has been reported with the use of sparteine sulfate.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 12773), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

A copy of the Academy's report has been furnished to the firm referred to above. Any interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12374, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 20, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8477 Filed 6-16-71; 8:46 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

TIRE CODE MARKS ASSIGNED RETREADED TIRE MANUFACTURERS

Availability for Inspection

The purpose of this notice is to announce that the code numbers assigned to manufacturers of retreaded tires under the Tire Identification and Recordkeeping Regulation, 49 CFR Part 574 (36 F.R. 1196) are available for inspection.

The Tire Identification and Recordkeeping Regulation requires that retreaded tires made after May 22, 1971, be marked with a three-symbol retreaders' code. The retreaders' code is the first grouping within the tire identification number, after the letter "R". The codes assigned to retreaders are now available for inspection in the Docket Section, Room 5221, 400 Seventh Street SW., Washington, DC 20591.

This notice is issued under the authority of sections 103, 119, 201, and 206 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407, 1421, 1426); and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on June 11, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71-8521 Filed 6-16-71; 8:50 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-237]

COMMONWEALTH EDISON CO.

Order Extending Provisional Operating License Expiration Date

Commonwealth Edison Co. having filed requests, dated May 21, 1971, and May 25,

1971, for an extension of the expiration date of Provisional Operating License No. DPR-19 which authorizes the possession and operation of the Dresden Nuclear Power Station Unit 2, a single cycle, boiling, light water reactor, at thermal power levels not to exceed 2,527 megawatts located on Commonwealth Edison's site in Grundy County, Ill., and good cause having been shown in the application for this extension pursuant to paragraph 5 of said license and Part 50 of the Commission's regulations: *It is hereby ordered*, That the expiration date of Provisional Operating License No. DPR-19 is extended from June 22, 1971, to December 22, 1972.

Dated at Bethesda, Md., this 10th day of June 1971.

For the Atomic Energy Commission,

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-8466 Filed 6-16-71; 8:45 am]

[Docket No. 50-254]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Order Extending Provisional Construction Permit Completion Date

Commonwealth Edison Co., acting for itself and on behalf of Iowa-Illinois Gas and Electric Co., having filed a request dated May 21, 1971, for an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-23 which authorizes construction of the Quad-Cities Station Unit No. 1 in Rock Island County, Ill., about 3 miles north of Cordova, Ill., and good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.55(b) of the Commission's regulations: *It is hereby ordered*, That the latest completion date of Provisional Construction Permit No. CPPR-23 is extended from July 1, 1971 to October 1, 1971.

Dated at Bethesda, Md., this 9th day of June 1971.

For the Atomic Energy Commission,

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-8468 Filed 6-16-71; 8:45 am]

[Docket No. 50-336]

CONNECTICUT LIGHT AND POWER CO. ET AL.

Notice of Amendment of Construction Permit

The Connecticut Light and Power Co., the Hartford Electric Light Co., Western Massachusetts Electric Co., and the Millstone Point Co. (Millstone Nuclear Power Station, Unit 2).

Notice is hereby given that, pursuant to the Memorandum and Order of the Atomic Safety and Licensing Appeals Board, dated January 22, 1971, the Director of the Division of Reactor Licensing has issued Amendment No. 1 to Construction Permit No. CPPR-76 amending paragraph 2D to read as follows:

D. The applicants shall observe such standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility covered by this construction permit. This condition does not apply to (a) radiological effects since such effects are dealt with in other provisions of this construction permit or (b) matters of water quality covered by section 21(b) of the Federal Water Pollution Control Act.

A copy of the Memorandum and Order is on file in the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of Amendment No. 1 to Construction Permit No. CPPR-76 are also on file in the Commission's Public Document Room or may be obtained upon request addressed to Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 11th day of June 1971.

For the Atomic Energy Commission,

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-8467 Filed 6-16-71; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21884 etc.]

EASTERN AIR LINES, INC.

Notice of Prehearing Conference Regarding Vero Beach and Ocala Service

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 7, 1971, at 10 a.m. (local time), in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Greer M. Murphy.

In order to facilitate the conduct of the conference parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before June 23, 1971, and the other parties on or before June 30, 1971. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., June 14, 1971.

[SEAL] RALPH L. WISER,
Acting Chief Examiner.
[FR Doc.71-8546 Filed 6-16-71; 8:52 am]

ENVIRONMENTAL PROTECTION AGENCY

THOMPSON-HAYWARD CHEMICAL CO.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 420.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 420.8), Thompson-Hayward Chemical Co., Post Office Box 2383, Kansas City, KS 66110, has withdrawn its petition (1F1055), notice of which was published in the FEDERAL REGISTER of December 5, 1970 (35 F.R. 18555), proposing a tolerance for residues of the fungicide 5,10-dihydro-5,10-dioxonaphtho-(2,3-b)-p-dithiin-2,3-dicarbonitrile in or on the raw agricultural commodity applies at 7 parts per million.

Dated: June 10, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.71-8518 Filed 6-16-71; 8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19256; FCC 71-601]

RCA GLOBAL COMMUNICATIONS, INC.

Memorandum Opinion and Order Instituting Investigation

In the matter of RCA Global Communications, Inc., proposed revisions of Tariff FCC No. 53 establishing an optional deferred connection telex capability, Transmittal No. 3626.

1. The Commission has before it for consideration the following items:

(a) Proposed tariff revisions filed by RCA Global Communication, Inc. (RCA Globcom), on April 29, 1971, to become effective on June 8, 1971, which would revise pages 1 and 7 of RCA Globcom's Tariff FCC No. 59 (offering overseas telex service) to reflect the availability of an optional capability which RCA Globcom considers an "enhancement" to its existing telex service;

¹ Originally to become effective on May 30, 1971.

(b) Western Union International, Inc.'s (WUI), initial petition for rejection of May 14, 1971;

(c) Tropical Radio Telegraph Co.'s (TRT) petition joining WUI in petitioning for rejection;

(d) ITT World Communications Inc.'s (ITT Worldcom), petition for suspension of May 24, 1971;

(e) WUI's petition for suspension or rejection of May 24, 1971; and,

(f) Reply of RCA Globcom to petitions for suspension, received May 28, 1971.

2. RCA Globcom's proposed revisions would offer its telex subscribers in gateway cities, and Western Union Telegraph Co. telex subscribers, when an overseas telex connection cannot be established because the overseas telex station is busy or because overseas lines are fully occupied. This alternative would be the option of transmitting the call to RCA Globcom's telex computerized switching system which would temporarily store the call and later automatically retransmit it when conditions permit. Chargeable time would be computed "on the same basis as for other fully automatic calls between the same points".

3. In its letter of transmittal accompanying the tariff revisions RCA Globcom stated that the proposed option served the public interest by minimizing customer inconvenience when telex connections cannot be immediately established, and by effecting economies for both it and the customer. Thus, it believes the option permits the customer to save time, and allows RCA Globcom to more effectively use switching and circuit facilities, counteracting increased costs and delays in telex service arising because connections may not be immediately established, during peak periods and at the end of the customer's business day. According to the transmittal letter, charges would be based on the time taken by the customer in transmitting to the RCA Globcom computer, although this is not clearly so indicated in the tariff.

4. The staff, on May 4, 1971, requested that RCA Globcom furnish additional supporting data under § 61.38 of the Commission's rules and regulations. RCA Globcom replied by letter of May 17 (and although arguing further justification was not required by § 61.38 on the grounds it was not offering a new service) gave costs for the option and estimated savings and revenue gains, over a 3-year period. Under its analysis, the added costs would result in an additional annual revenue requirements of about \$470,000, which would be offset by annual cost savings and revenue gains (from fewer ineffective calls) of about the same magnitude on an averaging of the 3-year period.

Discussion. 5. There is no doubt that the general concept underlying the RCA Globcom proposal, as were the general concepts of the TIMETRAN and Deferred Datel service formerly proposed by RCA Globcom's competition, is one beneficial to the public interest. There

appears to be general accord on this; however, the RCA Globcom proposed offering, as did the formerly proposed services, raises fundamental questions as to the appropriate practices, regulations, classifications, and charges, which should apply to it and similar offerings.

6. Among the questions which should be resolved is the relationship of such a service to the telex service, on the one hand, and the message service, on the other. The former service is basically one under which the carrier offers its facilities for customer-to-customer communication, and the latter is essentially a service under which a message is turned over to a carrier for onward transmission and delivery to the addressee. The carrier has different responsibilities and functions under each service, and the charges for each service are constructed to reflect the difference in functions of the carriers.

7. The proposed RCA Globcom option, whether it be denominated store and forward service, or described by another name, raises general issues which had been previously raised by the TIMETRAN and Deferred Datel offerings. These have been set for hearing, but withdrawn before a culmination of such hearing. At this time, the RCA Globcom offering offers a vehicle for resolving, in an orderly manner, questions as to the terms and conditions under which such services should be offered. Such resolution should be arrived at expeditiously, and be designed to realize the benefit of such innovation as quickly as possible in a manner most consistent with the public interest. We will therefore, order a hearing into these matters, and join all interested carriers as respondents, so that all relevant views and information can be before us.

8. Competitors of RCA Globcom have requested that the RCA Globcom tariff revision be suspended for the 3-month statutory period. While there are possible deficiencies in the proposed tariff, and possible discrimination may result from its application, such deficiencies and discrimination do not appear to be of sufficient magnitude to warrant suspension, in view of both the potential benefit to the public, and actual experience which can be gained by RCA Globcom, and made available during the hearing, from operations under the proposal. The same rationale applies to the requests for rejection of the proposed revisions.

9. As noted above, a determination as to the lawfulness of proposed tariff revisions should be made as promptly as possible. Toward this goal, we shall order, and do hereby find that the due and timely execution of our functions require, that the hearing record in the proceeding be certified to the Commission by the hearing examiner without making either an initial or recommended decision, and that, in lieu of the examiner's decision, the Chief, Common Carrier Bureau, shall expeditiously prepare a recommended decision upon which exceptions may be filed by the parties.

Wherefore, it is ordered, That pursuant to sections 4(i), 201, 202, 204, 205, and 403 of the Communications Act of 1934, an investigation is hereby instituted into the lawfulness of the 307th Revised Page No. 1 and Seventh Revised Page No. 7 to RCA Globcom Tariff FCC No. 59.

It is further ordered, That the following general issues are to be considered:

(1) Whether the proposed tariff revisions are just and reasonable under section 201(b) of the Communications Act of 1934;

(2) Whether the proposed tariff revisions result in an unjust or unreasonable discrimination, or undue or unreasonable preference, within the contemplation of section 202(a) of the Communications Act of 1934, with respect to e.g., message service users; telex customers desiring to communicate with points with which the proposed revisions do not apply, and TWX customers using the RCA Globcom telex service;

(3) Whether the Commission should prescribe, pursuant to Section 205 of the Communications Act of 1934, just and reasonable charges, or just, fair, and reasonable classifications, regulations, or practices with respect to the proposed tariff revisions, to the extent that such revisions are in violation of the Communications Act of 1934, and the nature of any such charges, classifications, regulations, or practices which should be prescribed; and

(4) The extent to which the proposed tariff revisions fail to comply with the requirements of § 61.55(f) of the Commission's rules and regulations.

It is further ordered, That the following specific issues, in addition to such other specific issues as may bear upon the foregoing general issues, shall be considered:

(1) The terms and conditions (including the liabilities, responsibilities, and functions of the carrier) under which the proposed offering, or any offering generally similar in concept should be offered; and a description in detail of the manner in which it will operate;

(2) Plans, in detail, of respondents, for such offering within the next 3 years;

(3) The relationship of such type of offering to the telex and message services; and the effect on the costs, revenues, and charges for such services;

(4) The extent to which users of any existing service should be able to use such offering;

(5) The additional investment and other costs and revenue requirements, which will be associated with the proposed revisions, or similar offerings, over a 3-year period;

(6) The additional revenues which can reasonably be anticipated from such revisions or similar offerings, over a 3-year period;

(7) The savings in costs which can reasonably be anticipated from such revisions or similar offerings, over a 3-year period;

(8) The arrangements which would be made with foreign correspondents (e.g.,

technical and financial) to implement the proposed revisions, or any offering similar in concept;

It is further ordered, That RCA Globcom, ITT Worldcom, WUI, and Tropical are hereby made parties respondent to this proceeding; and that such parties shall participate fully herein; that they shall submit a statement of their position or views on the above-specified issues prior to the prehearing conference herein, but not later than 30 days after the release of this memorandum opinion and order; and that they shall submit briefs at the close of the hearing on such issues as the examiner may direct;

It is further ordered, That no changes shall be made in the tariff revisions under investigation herein without approval of the Commission, pending a final decision herein;

It is further ordered, That the petitions of ITT World, WUI, and Tropical to suspend or reject RCA Globcom's tariff revisions are dismissed.

Adopted: June 8, 1971.

Released: June 9, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,²

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8536 Filed 6-16-71;8:52 am]

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on July 22, 1971, the applications for increased daytime power of Class IV standard broadcast stations listed below, will be considered as ready and available for processing.

The purpose of this notice is not to invite applications which may conflict with the listed applications, but to apprise any party in interest who desires to file pleadings concerning any of the applications pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, of the necessity of complying with § 1.580(i) of the Commission's rules governing the time of filing and other requirements relating to such pleadings.

Adopted: June 11, 1971.

Released: June 11, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

BP-18812 WOHI, East Liverpool, Ohio, Constrander Corp.
Has: 1490 kc., 250 w., 500 w.-LS, DA-D, U.
Req: 1490 kc., 250 w., 1 kw.-LS, U.
BP-18998 KAIR, Tucson, Ariz. Number One Radio.
Has: 1490 kc., 250 w., U.
Req: 1490 kc., 250 w., 1 kw.-LS, U.

²Commissioners Burch, Chairman; Robert E. Lee and Houser absent.

BP-19000 KSFE, Needles, Calif. James Parr and Darwin Parr.
Has: 1340 kc., 250 w., S.H.
Req: 1340 kc., 250 w., 1 kw.-LS, S.H.
BP-19001 KXO, El Centro, Calif. KXO, Inc.
Has: 1230 kc., 250 w., U.
Req: 1230 kc., 250 w., 1 kw.-LS, U.
BP-19006 KOLE, Port Arthur, Tex. Radio Southwest, Inc.
Has: 1340 kc., 250 w., U.
Req: 1340 kc., 250 w., 1 kw.-LS, U.
BP-19015 KMEL, Wenatchee, Wash. Frontier Broadcasting Co.
Has: 1340 kc., 250 w., U.
Req: 1340 kc., 250 w., 1 kw.-LS, U.
[FR Doc.71-8533 Filed 6-16-71;8:51 am]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on July 22, 1971, the following standard broadcast application will be considered as ready and available for processing:

BMP-13220 KYUK, Bethel, Alaska. Bethel Broadcasting, Inc.
Has: 580 kc., 5 kw., Day.
Req: 580 kc., 5 kw., U.

Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with this application or with any other application on file by the close of business July 21, 1971, which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business July 21, 1971.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: June 11, 1971.

Released: June 11, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8534 Filed 6-16-71;8:52 am]

FEDERAL MARITIME COMMISSION CALCUTTA, EAST COAST OF INDIA AND EAST PAKISTAN/U.S.A. CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearings, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, General Secretary, Calcutta, East Coast of India and East Pakistan U.S.A. Conference, 25 Broadway, New York, NY 10004

Agreement No. 6850-7, between the member lines of the Calcutta, East Coast of India and East Pakistan/U.S.A. Conference, modifies the self-policing system of the conference to conform to the requirements of the Commission's General Order 7 (revised).

Dated: June 14, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8531 Filed 6-16-71;8:51 am]

CEYLON/U.S.A. CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearings, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing

on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, Secretary, Ceylon/U.S.A. Conference, 25 Broadway, New York, NY 10004.

Agreement No. 8050-7, between the member lines of the Ceylon/U.S.A. Conference, modifies the self-policing system of the conference to conform to the requirements of the Commission's General Order 7 (revised).

Dated: June 14, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8530 Filed 6-16-71; 8:51 am]

PACIFIC WESTBOUND CONFERENCE AND SHIPPING CORPORATION OF INDIA, LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. William C. Galloway, Chairman, Pacific Westbound Conference, 635 Sacramento Street, San Francisco, CA 94111.

Agreement No. 57-93 would permit the Shipping Corporation of India, Ltd., to join the Pacific Westbound Conference as an associate member rather than as a full member pursuant to the terms and conditions of the agreement.

Dated: June 14, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8532 Filed 6-16-71; 8:51 am]

WEST COAST OF INDIA AND PAKISTAN/U.S.A. CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, General Secretary, West Coast of India and Pakistan/U.S.A. Conference, 25 Broadway, New York, NY 10004.

Agreement No. 8040-9, between the member lines of the West Coast of India and Pakistan/U.S.A. Conference, modifies the self-policing system of the

conference to conform to the requirements of the Commission's General Order 7 (revised).

Dated: June 14, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8529 Filed 6-16-71; 8:51 am]

FEDERAL RESERVE SYSTEM

ELLIS BANKING CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Ellis Banking Corp., Bradenton, Fla., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of each of the following Florida banks: Sarasota Bank & Trust Co., Sarasota; First National Bank of Bradenton; First National Bank of New Port Richey; First National Bank in Tarpon Springs; Northeast National Bank of St. Petersburg; Ellis National Bank of Tampa; American Bank of Sarasota; Springs State Bank, Tarpon Springs; American Security Bank, New Port Richey; Commercial Bank of Dade City; Manasota Bank, Sarasota; Bank of Jay; Bank of Blountstown; Harbor State Bank, Safety Harbor; and Longboat Key Bank, Longboat Key.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding

the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors,
June 10, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8469 Filed 6-16-71; 8:45 am]

GREAT LAKES HOLDING CO.

Order Approving Action To Become Bank Holding Company

In the matter of the application of Great Lakes Holding Co., Kalamazoo, Mich., for approval of action to become a bank holding company through the acquisition of not less than 89 percent, nor more than 92 percent, of the voting shares of Industrial State Bank & Trust Co., Kalamazoo, Mich.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Great Lakes Holding Co., Kalamazoo, Mich., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of not less than 89 percent, nor more than 92 percent, of the voting shares of Industrial State Bank & Trust Co., Kalamazoo, Mich.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Michigan Commissioner of Financial Institutions and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on June 2, 1971 (36 F.R. 10756), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a nonoperating Michigan corporation recently formed for the purpose of acquiring bank with deposits of \$106 million as of December 31, 1970. As applicant has no present operations or subsidiaries, consummation of the pro-

posal would eliminate neither existing nor potential competition, and there would be no adverse effects on competing banks.

The acquisition proposed herein would result in bank's becoming a stronger and more viable banking institution, and a more effective competitor in the relevant area. Banking factors involved weigh heavily in favor of approval of the application since applicant will provide bank with an additional \$2 million of needed capital and has formulated plans to improve bank's present operating procedures. The Michigan Commissioner of Financial Institutions has recommended approval of the application based on the proposed improvement of bank's capital position and management under applicant's control. Whereas there is no indication that present banking needs of the area are not being adequately served at the present time, it is apparent that consummation of the proposal would strengthen the bank and enable it to serve better the banking needs of its area. Therefore, considerations relating to the convenience and needs of the communities to be served also lend weight in favor of approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

It is hereby ordered, For the reasons set forth above, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order; or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,
June 11, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8470 Filed 6-16-71; 8:45 am]

WYOMING BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Wyoming Bancorporation, which is a bank holding company located in Cheyenne, Wyo., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent (less directors' qualifying shares) of the voting shares of First National Bank of Jackson Hole, Jackson, Wyo.

¹ Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Daane.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

By order of the Board of Governors,
June 10, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8471 Filed 6-16-71; 8:45 am]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

PROPOSED CHANNEL RELOCATION PROJECT ON RIO GRANDE

Notice of Completion of and Availability of Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that this agency has completed a final statement which discusses environmental considerations relating to a proposed channel relocation project on the Rio Grande upstream from Hidalgo, Hidalgo County, Tex. A copy of the final statement, along with copies of comments received from other agencies and interested groups, is being placed in the Office of the Country Director for Mexico, Room 3906-A, Department of State.

21st Street and Virginia Avenue NW., Washington, DC, in the office of the Project Superintendent, U.S. Section, International Boundary and Water Commission, 208 South F Street, Harlingen, TX, and in the office of the U.S. Section, Chief of Planning and Reports, 809 Southwest Center, El Paso, TX. The environmental analysis statement was prepared as a part of the study of a channel relocation to accomplish the objectives of the Boundary Treaty between the United States and Mexico signed November 23, 1970.

Copies of the final statement, dated May 26, 1971, along with copies of comments received from other agencies and interested groups, will be supplied upon request addressed to the Commissioner, U.S. Section, International Boundary and Water Commission, Post Office Box 1859, El Paso, TX 79950.

Dated at El Paso, Tex., this 8th day of June 1971.

FRANK P. FULLERTON,
Executive Assistant.

[FR Doc.71-8495 Filed 6-16-71; 8:48 am]

PROPOSED INTERNATIONAL RETAMAL DIVERSION DAM ON RIO GRANDE

Notice of Availability of Environmental Statement and Request for Comments From State and Local Agencies and Private Interests

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that this agency has prepared a draft statement which discusses environmental considerations relating to the proposed International Retamal Diversion Dam on the Rio Grande about 9 miles south of Donna, Hidalgo County, Tex. A copy of the statement is being placed in the Office of the Country Director for Mexico, Room 3906-A, Department of State, 21st Street and Virginia Avenue NW., Washington, DC, in the office of the Project Superintendent, U.S. Section, International Boundary and Water Commission, 208 South F Street, Harlingen, TX, and in the office of the U.S. Section, Chief of Planning and Reports, 809 Southwest Center, El Paso, TX. The environmental analysis statement was prepared as a part of the study of the necessary improvements to the existing flood control project being undertaken by the United States and Mexico.

Comments are particularly invited from State and local agencies or groups which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved, from which comments have not been specifically requested.

Copies of the draft environmental statement have been sent to the Environmental Protection Agency; Health, Education, and Welfare; Department of Agriculture, Soil Conservation Service;

NOTICES

Department of the Interior, Bureau of Sport Fisheries and Wildlife, National Park Service, Bureau of Outdoor Recreation; Department of the Army, Corps of Engineers; Division of Planning Coordination, Office of the Governor, State of Texas; Lower Rio Grande Development Council; and various conservation associations in Texas.

Comments are requested within 60 days of publication of this notice in the FEDERAL REGISTER. If any such State, local, or Federal agency which has not received a specific request for comments fails to provide the U.S. Section with comments within 60 days of publication of this notice in the FEDERAL REGISTER, it will be presumed the agency has no comments to make.

Comments are also requested from any interested individual or association within 60 days of publication of this notice in the FEDERAL REGISTER.

Comments concerning the environmental effect of the construction proposed should be addressed to D. D. McNealy, Principal Engineer, Projects, U.S. Section, International Boundary and Water Commission, Post Office Box 1859, El Paso, TX 79950.

Copies of the draft statement, dated June 4, 1971, and the comment thereon of Federal and State agencies (whose comments are being separately requested by the U.S. Section) will be supplied to such local agencies, individuals or associations upon request addressed to the Commissioner, U.S. Section, International Boundary and Water Commission, Post Office Box 1859, El Paso, TX 79950.

Dated at El Paso, Tex., this 9th day of June 1971.

FRANK P. FULLERTON,
Executive Assistant.

[FR Doc.71-8496 Filed 6-16-71; 8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

JUNE 11, 1971.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15 (c) (5) and 19(a) (4) of the Securities

Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 14, 1971, through June 23, 1971.

By the Commission.

THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8486 Filed 6-16-71; 8:47 am]

[811-2063]

HOLLYWOOD SECURITIES CORP.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JUNE 11, 1971.

Notice is hereby given that Hollywood Securities Corp. (Applicant), 2901 Simms Street, Hollywood, FL 33020, a Florida corporation registered as a closed-end nondiversified management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations as set forth therein which are summarized below.

Applicant is a dissolved Florida corporation formerly known as Dukane Press, Inc. For more than 10 years prior to acquiring investment company status Applicant was actively engaged in business as printer and lithographer. On May 11, 1970, Applicant sold all of its assets pursuant to a plan of complete liquidation. Upon investment of the sale proceeds Applicant became an investment company as that term is defined in the Act. As required by the Act, Applicant filed its notification of registration with the Commission on Form N-8A on May 11, 1970.

Pursuant to a plan of complete liquidation adopted by Applicant's stockholders at a meeting held on April 8, 1970, and amended at another meeting held on February 11, 1971, Applicant has distributed all of its assets to its stockholders. Liquidation distributions were made as follows: (1) A first liquidating distribution of \$4.25 per share in cash was made on or about September 4, 1970, to stockholders of record at the close of business on August 7, 1970; (2) a second liquidating distribution of \$3.20 per share in cash was made on or about December 8, 1970, to stockholders of record at the close of business on November 20, 1970; and (3) a final liquidating distribution was made on March 1, 1971, by distributing to Pan American Bank of Miami, as trustee for the stockholders of record at the close of business on March 1, 1971, all of Applicant's remaining assets. The trustee holds the assets so distributed

NOTICES

[70-5041]

OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Notice of Proposed Sale of Assets

JUNE 11, 1971.

Notice is hereby given that Ohio Edison Co. (Ohio Edison), 47 North Main Street, Akron, OH 44308, a registered holding company and a public-utility company, and its electric utility subsidiary Pennsylvania Power Co. (Pennsylvania), 1 East Washington Street, New Castle, PA 16103, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 9(a), 10, and 12(d) of the Act and Rules 43 and 44 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application declaration, which is summarized below, for a complete statement of the proposed transactions.

Pursuant to a contract dated April 25, 1969, entered into by Ohio Edison, Pennsylvania, and Duquesne Light Co. (Duquesne), a nonaffiliated company, Ohio Edison is constructing a 625,000-kw. electric generating unit (Sammis Unit #7) at its Sammis Power Plant site on the Ohio River. Sammis Unit #7 is scheduled for initial startup on July 1, 1971, and is scheduled to go into commercial operation on October 1, 1971. The Sammis Unit #7 is to be owned by the companies as tenants in common.

Certain facilities to be used for the Sammis Unit #7 will also be used for some or all of the other six units on the site. The contract calls for appropriate allocation of such common facilities to the Sammis Unit #7 and conveyance by Ohio Edison to Pennsylvania and Duquesne, respectively, of an undivided interest in such facilities equal to the agreed ownership interest of each in the Sammis Unit #7. Ohio Edison 48 percent, Pennsylvania 20.8 percent, and Duquesne 31.2 percent. Any conveyance will be free and clear of the lien of Ohio Edison's mortgage. The undivided interests in the existing common facilities (facilities in place on the date of the contract) are to be conveyed, to the extent possible, prior to the date of initial startup of the Sammis Unit #7.

The application-declaration states that the existing common facilities have been identified, the depreciated book costs of such facilities allocable to Sammis Unit #7 has been determined to be \$4,273,547, and the agreed-upon ownership interest of each of the companies has been applied to such cost to fix the consideration to be paid to Ohio Edison by Pennsylvania at \$888,897 and Duquesne at \$1,333,349, for their respective undivided interests in such facilities. The undivided interest in the remainder of such facilities will be retained by Ohio Edison.

for the benefit of and for ultimate pro rata distribution to Applicant's former stockholders in accordance with the terms and conditions of a trust agreement approved by Applicant's stockholders at the aforementioned meeting held on February 11, 1971.

Applicant has had no assets since March 1, 1971, has no known liabilities or obligations other than the relatively minor liabilities related to its liquidation and the possible contingent liabilities for which provision has been made in the aforesaid trust agreement, is not engaged in business as an investment company or otherwise, does not intend to engage in business as an investment company or otherwise, has canceled its outstanding stock, and has been legally dissolved under Florida law.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 7, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8487 Filed 6-16-71; 8:47 am]

The fees and expenses in connection with the proposed transactions are estimated at \$1,200, including legal fees of \$1,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 29, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8489 Filed 6-16-71; 8:47 am]

[811-1773]

REMSEN FUND

Notice of Application Declaring That Company Has Ceased To Be an Investment Company

JUNE 11, 1971.

Notice is hereby given that Remsen Fund (Applicant), 1 Chase Manhattan Plaza, New York, NY 10005, registered under the Investment Company Act of 1940 (Act) as a closed-end, nondiversified, management investment company, has filed an application pursuant to section 8(f) of the Act for an order declaring that the Applicant has ceased to be an investment company. All interested persons are referred to the application

on file with the Commission for a statement of the representations made therein, which are summarized below.

The Applicant was organized under the laws of New York as a partnership on November 25, 1968, and filed notification of registration with the Commission pursuant to section 8(a) of the Act on November 26, 1968.

The Applicant represents that by reason of business considerations it now has abandoned any intention of offering its securities to other persons and has abandoned its plan to engage in investing and reinvesting in securities. The Applicant further represents that it has no securities or other assets, no liabilities outstanding and at no time since its organization have any persons had any interest in the Registrant other than its two original partners, nor has any offer or sale of its securities been made to any person.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 12, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by a certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8488 Filed 6-16-71; 8:47 am]

NOTICES

SMALL BUSINESS
ADMINISTRATION

[Declaration of Disaster Loan Area 833
(Class B)]

ALASKA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1971, because of the effects of certain disasters damage resulted to residences and business property located in the State of Alaska;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the village of Galena, Alaska, and adjacent areas, suffered damage or destruction resulting from floods beginning on May 20, 1971, and continuing.

OFFICE

Small Business Administration District Office, Suite 200, Anchorage Legal Center, 1016 West Sixth Avenue, Anchorage, AK 99501.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to December 31, 1971.

Dated: June 8, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-8494 Filed 6-16-71; 8:48 am]

[Declaration of Disaster Loan Area 832
(Class B)]

NEW YORK

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1971, because of the effects of certain disasters damage resulted to residences and business property located in the State of New York;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Franklin and Essex Counties, N.Y., and adjacent areas, suffered damage or destruction resulting from floods on or about May 20, 1971.

OFFICE

Small Business Administration District Office, Fayette and Salina Streets, Syracuse, NY 13202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to December 31, 1971.

Dated: June 4, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-8493 Filed 6-16-71; 8:48 am]

[Delegation of Authority No. 4-4-1 (Region V) for Disaster No. 820]

MANAGER, SPRINGFIELD, ILL.,
BRANCH OFFICE

Delegation of Authority

I. Pursuant to the authority delegated to the regional director by Delegation of Authority No. 4.4 (Revision 1) (36 F.R. 7291) the following authority is hereby redelegated to the position as indicated herein to be exercised in connection with providing disaster loan assistance in Thompsonville, Franklin County, Ill. (Disaster Declaration No. 820).

A. Manager, Springfield, Ill., Branch Office. 1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (a) \$50,000 per household for repairs or replacement of the home and/or not to exceed an additional \$10,000 allowable for household goods and personal items, but in no event may the money loaned exceed \$55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to \$50,000; and (b) \$350,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan.

2. To approve disaster guaranteed loans up to an SBA guarantee of \$350,000, and to decline such loans in any amount.

3. To execute loan authorizations for Central, regional and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By _____
Manager,
Springfield, Ill., Branch Office.

4. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

5. To disburse unsecured disaster loans.

6. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: April 30, 1971.

ROBERT A. DWYER,
Regional Director,
Region V, Chicago, Ill.

[FR Doc.71-8491 Filed 6-16-71; 8:47 am]

[License No. 03/04-5111]

MINORITY INVESTMENTS, INC.

Notice of Issuance of License To Operate as Minority Enterprise Small Business Investment Company

On May 13, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 8834) stating that Minority Investments, Inc., 1200 U Street SE., Washington, DC 20020, had filed an application with the Small Business Administration, pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1968)) for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business May 23, 1971, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 03/04-5111 to Minority Investments, Inc., pursuant to section 301 (c) of the Small Business Investment Act of 1958, as amended.

Dated: June 8, 1971.

A. H. SINGER,
Associate Administrator for
Operations and Investment.

[FR Doc.71-8492 Filed 6-16-71; 8:47 am]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AND STUDENT WORKERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of

the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Albain Shirt Co., Inc., Winston, N.C.; 4-12-71 to 4-11-72 (men's shirts).

Bland Sportswear, Inc., Bland, Va.; 4-15-71 to 4-14-72; 10 learners (children's polo shirts and ladies' dresses and blouses).

Blue Bell, Inc., Ada, Okla.; 5-10-71 to 5-9-72 (men's and boys' jeans).

Blue Bell, Inc., Coalgate, Okla.; 5-7-71 to 5-6-72 (women's, misses', and children's jeans).

Capitol City Manufacturing Co., Inc., West Columbia, S.C.; 3-29-71 to 3-28-72 (women's dresses).

Charleston Manufacturing Co., Inc., Charleston Heights, S.C.; 4-6-71 to 4-5-72 (ladies' dresses).

College Casuals Co., Shepton, Pa.; 4-13-71 to 4-12-72; 10 learners (ladies' shorts and slacks).

Curtis Manufacturing Co., Inc., Orlando, Fla.; 5-3-71 to 5-2-72; 10 learners (men's and boys' trousers).

Custom Sportswear, Inc., Reading, Pa.; 4-7-71 to 4-6-72 (children's, girls', and men's polo shirts).

Danville Manufacturing Co., Inc., Danville, Pa.; 3-26-71 to 3-25-72 (ladies' sleepwear).

Dee-Mure Brassiere Co., Inc., Hamlin, W.Va.; 4-24-71 to 4-23-72 (women's brassieres).

Dickson Manufacturing Co., Plant No. 2, Dickson, Tenn.; 4-30-71 to 4-29-72 (work jackets).

E & W of Ilmo, Inc., Ilmo, Mo.; 4-30-71 to 4-29-72 (men's and boys' dungarees).

Elder Manufacturing Co., Carl Junction, Co.; 6-5-71 to 5-4-72 (boys' shirts and pajamas).

Fawn Grove Manufacturing Co., Inc., Fawn Grove, Pa.; 3-23-71 to 3-22-72 (men's and boys' pants).

Federal Corset Co., Inc., Douglas, Ga.; 4-21-71 to 4-20-72 (ladies' girdles and brassieres).

G B Manufacturers, Inc., Chetopa, Kans.; 4-29-71 to 4-28-72; 10 learners (men's dungarees).

Georgetown Dress Corp., Georgetown, S.C.; 4-26-71 to 4-25-72 (children's sportswear).

Glen of Michigan, Manistee, Mich.; 4-3-71 to 4-2-72 (women's shorts, jackets, dresses, and blouses).

Granite Dress Corp., Fall River, Mass.; 4-15-71 to 4-14-72; 10 learners (women's and misses' dresses).

Greer Shirt Corp., Greer, S.C.; 4-13-71 to 4-12-72 (men's and boys' shirts).

H & W of Heber Springs, Inc., Heber Springs, Ark.; 4-23-71 to 4-22-72 (men's and boys' shirts).

Hagale Garment Manufacturing Co., Republic, Mo.; 4-6-71 to 4-5-72 (men's and boys' trousers).

Henry I. Siegel Co., Inc., Whiteville, Tenn.; 4-1-71 to 3-31-72 (dungarees).

Henson Garment Co., Athens, Ga.; 3-23-71 to 3-22-72 (men's and boys' dungarees).

Hicks Ponder Co., Del Rio, Tex.; 3-21-71 to 3-20-72 (men's and boys' jeans).

Jonhill Manufacturing Co., Inc., Chase City, Va.; 3-25-71 to 3-24-72 (men's and boys' jeans).

Key Manufacturing Co., Inc., Tompkinsville, Ky.; 4-25-71 to 4-24-72 (men's and boys' dungarees, coveralls, and pants).

Levi Strauss & Co., Harrison, Ark.; 3-30-71 to 3-29-72 (men's and boys' pants).

Linn Manufacturing Co., Linn, Mo.; 5-1-71 to 4-30-72 (men's trousers).

Lowenstein Dress Corp., Fall River, Mass.; 4-2-71 to 4-1-72 (women's dresses).

Madill Manufacturing Co., Madill, Okla.; 4-7-71 to 4-6-72 (men's slacks).

Michael Berkowitz Co., Inc., Frostburg, Md.; 3-29-71 to 3-28-72 (men's pajamas).

Mode O'Day Co., Plant No. 3, Logan, Utah; 5-1-71 to 4-30-72 (women's and children's dresses).

Pajama-Craft of North Carolina, Middlesex, N.C.; 5-6-71 to 5-5-72; 10 learners (men's and boys' pajamas).

Pass Christian Industries, Inc., Pass Christian, Miss.; 3-22-71 to 3-21-72 (ladies' shorts, shifts, and jeans).

Portland Manufacturing Corp., Portland, Tenn.; 5-1-71 to 4-30-72 (women's and girls' blouses).

Prepsheet Manufacturing Corp., Greenville, N.C.; 4-15-71 to 4-14-72 (boys' shirts).

Primo Pants Co., Versailles, Mo.; 4-1-71 to 3-31-72 (men's pants).

Reidbord Brothers Co., Apollo, Pa.; 3-29-71 to 3-28-72; 10 learners (men's and boys' trousers).

Reidbord Brothers Co., Buckhannon, W. Va.; 4-8-71 to 4-7-72 (men's trousers).

J. H. Rutter Rex Manufacturing Co., Inc., Franklinton, La.; 4-24-71 to 4-23-72 (men's and boys' work pants).

J. H. Rutter Rex Manufacturing Co., Inc., Columbia, Miss.; 3-30-71 to 3-29-72 (men's and boys' shirts and men's jeans).

S & S Manufacturing Co., Inc., Spartanburg, S.C.; 4-8-71 to 4-7-72 (ladies' dresses and blouses and children's blouses).

Saf-T-Bak, Inc., Altoona, Pa.; 5-11-71 to 5-10-72 (men's, women's, and children's sportswear).

The Salant Co., Obion, Tenn.; 3-28-71 to 3-27-72 (men's, boys', misses', juveniles', and girls' jeans and misses' slacks).

The Salant Co., Union City, Tenn.; 4-13-71 to 4-12-72 (men's and boys' pants).

Sancar Corp., Harrisonburg, Va.; 3-30-71 to 3-29-72 (ladies' underwear).

Shane Manufacturing Co., Inc., Evansville, Ind.; 4-1-71 to 3-31-72 (men's work clothing).

Sherman Manufacturing Co., Darlington, S.C.; 5-7-71 to 5-6-72; 10 learners (ladies' dresses).

Southland Manufacturing Co., Inc., Benson, N.C.; 3-31-71 to 3-30-72 (men's and boys' shirts).

Sportee Corp. of North Carolina, Clarkton, N.C.; 3-30-71 to 3-29-72 (ladies' blouses, slacks, capris, and jamaicas).

Tom and Huck Togs, Inc., Columbus, Miss.; 4-2-71 to 4-1-72 (men's, boys', and ladies' slacks).

Whitakers Garment Co., Inc., Whitakers, N.C.; 3-26-71 to 3-25-72 (children's dresses).

Wilgree Manufacturing Co., Inc., Camilla, Ga.; 3-26-71 to 3-25-72 (men's shirts).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Arizona Slack Corp., San Diego, Calif.; 4-15-71 to 10-14-71; 35 learners (men's jeans).

Bled & Co., Rolla, Mo.; 5-12-71 to 11-

11-71; 40 learners (ladies' sleepwear).
Central Apparel Corp., Danville, Va.; 4-12-71 to 10-11-71; 50 learners (children's pants).

Creedmoor Sportswear Co., Creedmoor, N.C.; 4-15-71 to 10-14-71; 20 learners (men's and boys' shirts).

Glamorise Foundations, Inc., Dermott, Ark.; 4-26-71 to 10-25-71; 35 learners (ladies' brassieres).

H & W Heber Springs, Inc., Heber Springs, Ark.; 4-23-71 to 10-22-71; 15 learners (men's and boys' shirts).

Hagale Industries, Inc., Ozark, Mo.; 4-23-71 to 10-22-71; 30 learners (boys' trousers).

Williamston Manufacturing Co., Williamston, S.C.; 3-22-71 to 9-21-71; 43 learners (ladies' blouses and dresses).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Brookville Glove Manufacturing Co., Inc., Brookville, Pa.; 4-26-71 to 4-25-72; 10 learners for normal labor turnover purposes (work gloves).

Galena Glove & Mitten Co., Dubuque, Iowa; 4-7-71 to 4-6-72; 10 learners for normal labor turnover purposes (work gloves).

Indianapolis Glove Co., Inc., Glenwood, Ark.; 5-11-71 to 5-10-72; 10 percent of the total number of machine stitchers for normal labor turnover purposes (flannel and leather work gloves).

Indianapolis Glove Co., Inc., Vardaman, Miss.; 5-4-71 to 5-3-72; 10 learners for normal labor turnover purposes (work gloves).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Ashland Knitting Mills, Inc., Ashland, Pa.; 3-31-71 to 3-30-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants', boys', misses', and ladies' underwear).

Ellwood Knitting Mills, Inc., Ellwood City, Pa.; 3-31-71 to 3-30-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' sweaters, sweatshirts, and swim suits).

Louis Gallet, Inc., Uniontown, Pa.; 5-3-71 to 5-2-72; 5 learners for normal labor turnover purposes (men's shirts and sweaters).

Spotlight Co., Inc., Ashdown, Ark.; 4-26-71 to 4-25-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' lingerie and sleepwear).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods and the number of learners authorized to be employed, are indicated.

General Cigar de Utuado, S.A., Utuado, P.R.; 3-30-71 to 3-29-72; 51 learners for normal labor turnover purposes in the occupations of cigar machine operating and packing, each for a learning period of 320 hours at the rates of \$1.32 an hour for the first 160 hours and \$1.42 an hour for the remaining 160 hours (cigars).

P. L. Manufacturing Co., Inc., Rio Grande, P.R.; 3-22-71 to 3-21-72; 10 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of \$1.08 an hour (men's cotton shirts).

The following student-worker certificate was issued pursuant to the regu-

lations applicable to the employment of student-workers (29 CFR 527.1 to 527.9). The effective and expiration date, occupations, wage rates, number of student-workers, and learning periods for the certificate issued under Part 527 are as indicated below.

Sandia View Academy, Corrales, N. Mex.; 4-12-71 to 8-31-71; authorizing the employment of 25 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, off-bearer, assembler, finisher, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of \$1.40 an hour for the first 300 hours and \$1.45 an hour for the remaining 300 hours.

The student-worker certificate was issued upon the applicant's representations and supporting materials fulfilling the statutory requirements for the issuance of such certificates, as interpreted and applied by Part 527.

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 9th day of June 1971.

ROBERT G. GRONEWALD,
Authorized Representative
of the Administrator.

[FR Doc. 71-8519 Filed 6-16-71; 8:50 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 49]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FOR- WARDER APPLICATIONS

JUNE 11, 1971.

The following applications are governed by Special Rule 1000.247¹ of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

of the application is published in FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the Rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 151 (Sub-No. 45), filed May 25, 1971. Applicant: LOVELACE TRUCK SERVICE, INC., 2225 Wabash Avenue, Terre Haute, IN 47807. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those

of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Connersville, Greensburg, Hagerstown, Laurel, Milroy, Rushville, and Shelbyville, Ind., and Eaton, Ohio, as off-route points in connection with applicant's authorized regular route authority, and serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Louisville, Ky.

No. MC 11722 (Sub-No. 24), filed May 21, 1971. Applicant: BRADER HAULING SERVICE, INC., Post Office Box 655, Zillah, WA 98953. Applicant's representative: Ronald R. Brader (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Hides, green or salted, from points in Washington to Vancouver, Seattle, and Tacoma, Wash.; Portland, Oreg.; and points in Napa, San Francisco, and San Mateo Counties, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 124658 and Subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Yakima, Wash.

No. MC 29910 (Sub-No. 101), filed May 27, 1971. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Thomas Harper or Don A. Smith, Kelley Building, Post Office Box 43, Fort Smith, AR 72901. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paper and paper products, from the plantsites and warehouse facilities of International Paper Co. at Mobile, Ala., and Moss Point, Miss., to points in Illinois, Indiana, and Ohio. NOTE: Applicant states it would tack the requested authority with its existing authority in Illinois, Indiana, and Ohio, to provide through service to present certificated points in Missouri, Iowa, Wisconsin, New York, and Pennsylvania. Applicant further states no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Washington, D.C.

No. MC 30374 (Sub-No. 19), filed May 13, 1971. Applicant: TRI-STATE TRANSPORTATION CO., INC., West and Railroad Avenues, Vineland, NJ 08360. Applicant's representative: A. David Millner, 744 Broad Street, Newark, NJ 07012. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Clothing, in containers and on hangers, materials and supplies (other than in bulk), used in the manufacture of clothing, and department store merchandise when moving in the same vehicle with clothing on hangers, between New York, N.Y., Seaucus, N.J., and Philadelphia, Pa., on the one hand, and, on the other, Balti-

more and Frederick, Md., Washington, D.C., Woodbridge and Manassas, Va., and points in Baltimore, Howard, Montgomery, Anne Arundel, and Prince Georges Counties, Md., and points in Fairfax County, Va. NOTE: Applicant states that the authority requested can be tacked at Philadelphia, Pa., New York, N.Y., and authorized New Jersey points. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., Washington, D.C., or Philadelphia, Pa.

No. MC 30844 (Sub-No. 360), filed May 19, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representatives: Paul Rhodes (same address as applicant) and Truman A. Stockton, Jr., 1650 Grant Street, Building, Denver, Colo. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Glass rods and glass tubing, from the plantsite and facilities used by Becton, Dickinson & Co. at or near Sumter, S.C., to Broken Bow, Columbus, and Holdrege, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Kansas City, Mo.

No. MC 30844 (Sub-No. 361), filed May 25, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representatives: Paul Rhodes (same address as applicant) and Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Waterloo, Iowa, to points in Missouri on and north of U.S. Highway 40 and points in Oklahoma (except Henryette, Muskogee, Oklahoma City, Okmulgee, and Tulsa, Okla.). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Kansas City, Mo.

No. MC 32882 (Sub-No. 58), filed May 24, 1971. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Boulevard, Portland, OR 97217. Applicant's representatives: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205, also Ellis Chartier, Post Office Box 17039, Portland, OR 97217. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Antipollution systems, air and water control systems, equipment and

parts; liquid cooling and vapor condensing systems, equipment and parts; environmental control protective systems, equipment and parts; and (2) equipment, materials, and supplies used in the construction, installation, or maintenance of antipollution, liquid cooling and vapor condensing and environmental control and protective systems, between points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or San Francisco, Calif.

No. MC 35442 (Sub-No. 6), filed May 24, 1971. Applicant: W. CLARENCE OWENS AND HALLET W. OWENS, a partnership, doing business as W. W. OWENS AND SONS TRANSFER & STORAGE CO., 501 Ward Street, Elizabeth City, NC 27909. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Used household goods between points in Camden, Currituck, Dare, Tyrell, Perquimans, Pasquotank, Chowan, Gates, Hertford, Northampton, Washington, Berties, and Martin Counties, N.C., restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points referred to above and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at Elizabeth City or Raleigh, N.C.

No. MC 38170 (Sub-No. 26), filed May 24, 1971. Applicant: WHITE STAR TRUCKING, INC., 1750 Southfield Road, Lincoln Park, MI 48146. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of GMC Truck & Coach Division of General Motors Corp. on Ecorse Road, one-half mile west of Denton Road, in Van Buren Township, Wayne County, Mich. (near Willow Run), as an off-route point in connection with otherwise authorized operations to and from Detroit and Willow Run, Mich., and serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich., or Washington, D.C.

No. MC 42487 (Sub-No. 773), filed May 21, 1971. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, a corporation, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: Robert M. Bowden, Post Office Box 3062, Portland, OR 97208.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats and greases*, in bulk, in tank trucks, from points in Washington and Oregon to points in California. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 42487 (Sub-No. 774), filed May 24, 1971. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, a corporation, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representatives: V. R. Oldenburg, Post Office Box 5138, Chicago, IL 60680, and E. T. Lilipfert, Suite 1100, 1660 L Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Dallas, Pa., and points in Wright Township, Luzerne County, Pa., as off-route points in connection with applicant's presently authorized regular-route operations. Common control may be involved. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Scranton, Pa., or Washington, D.C.

No. MC 44639 (Sub-No. 37), filed May 18, 1971. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and material and supplies*, used in the manufacture of wearing apparel (except commodities in bulk), between Crewe, Va., on the one hand, and, on the other, Miami and New Smyrna Beach, Fla. **NOTE:** Applicant states that it intends to tack with existing authority at Crewe, Va., however, it does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 46281 (Sub-No. 1), filed May 20, 1971. Applicant: H M E MOTOR EXPRESS CO., INC., 2122 Tonnelle Avenue, North Bergen, NJ 07047. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, MA 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass and plastic containers*, from points in Bergen, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, Hunterdon, and Warren Counties, N.J., to points in Orange, Rockland,

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and Nassau Counties, N.Y., and points in Fairfield County, Conn.; and (2) *cullet, and scrap glass and plastic*, from the destination points named in (1) above, to the origin points named in (1) above. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 50069 (Sub-No. 444), filed May 24, 1971. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon (Toledo), OH 43616. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, in tank vehicles, from Cairo, Ohio, to points in Indiana. **NOTE:** Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. No duplicate authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 51146 (Sub-No. 221), filed May 20, 1971. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, WI 54306. Applicant's representatives: D. F. Martin (same address as above) and Charles Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, products produced or distributed by manufacturers or converters of paper and paper products, and equipment, materials, and supplies*, between Columbus, Dayton, Urbana, Troy, and Franklin, Ohio, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. **NOTE:** Applicant states that it could tack with various subs in MC 51146 and where feasible in lead docket. Applicant further states that no duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 51146 (Sub-No. 222), filed May 20, 1971. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, WI 54306. Applicant's representatives: D. F. Martin (same address as applicant) and Charles Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are manufactured or distributed by manufacturers of toys*, from the township of Mosel and Sheboygan, Wis., to points in the United States (excluding Hawaii and Alaska); and (2) *equipment, materials, and supplies*, from the destination States named

above to the township of Mosel and Sheboygan, Wis. **NOTE:** Applicant states that it could tack with various subs in MC 51146 and where feasible in lead docket. Applicant further states that no duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 51146 (Sub-No. 223), filed May 26, 1971. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, WI 54306. Applicant's representatives: D. F. Martin, Post Office Box 2298, Green Bay, WI 54306, and Charles Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and products produced or distributed by manufacturers and converters of paper and paper products*; (1) from Plymouth, N.C., to points in the United States (except Alaska, Hawaii, Illinois, Indiana, Iowa, Minnesota, and Wisconsin); (2) from points in Craven, Pamlico, and Jones Counties, N.C., to points in the United States (except Alaska and Hawaii); and *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named above, from points in the United States (except Alaska and Hawaii) to the origins named in (1) and (2) above. **NOTE:** Applicant states that it could tack with various subs in MC 51146 and where feasible in lead docket. Applicant further states that no duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 66121 (Sub-No. 19), filed May 17, 1971. Applicant: INDIAN BOW TRUCK LINES, LTD., 103 Harvard Avenue, Smithtown, NY 11787. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refuse containers*, from Copiague and Deer Park, N.Y., to points in Minnesota, Wisconsin, Iowa, Missouri, Arkansas, Mississippi, Alabama, Tennessee, Kentucky, Georgia, South Carolina, North Carolina, West Virginia, Texas, and Kansas and (2) *Refuse compactor systems and commodities* used in the manufacture and distribution of refuse compactor systems and refuse containers, between Copiague and Deer Park, N.Y., on the one hand, and, on the other, points in and east of Minnesota, Iowa, Missouri, Kansas, Oklahoma, and Texas. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 66121 (Sub-No. 21), filed May 24, 1971. Applicant: INDIAN BOW TRUCK LINE, LTD., 103 Harvard Avenue, Smithtown, NY 11787. Applicant's

representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl and nylon impregnated forms, shapes and panels, and electrostatic coating equipment*, from Amityville, N.Y., to points in Louisiana, Alabama, Mississippi, Florida, Georgia, South Carolina, North Carolina, Kentucky, West Virginia, Tennessee, District of Columbia, Maryland, Delaware, Virginia, Pennsylvania, New Jersey, New York, Ohio, Illinois, Indiana, Connecticut, Massachusetts, and Rhode Island. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 69116 (Sub-No. 137), filed May 24, 1971. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, IL 60606. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from Ann Arbor, Mich., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 73165 (Sub-No. 293), filed May 20, 1971. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles; pipe and tubing, electrical conduit, plastic pipe and tubing, fittings and accessories*, from Contra Costa and Los Angeles Counties, Calif., to points in Arizona, Colorado, Idaho, Louisiana, Mississippi, Montana, New Mexico, Nevada, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Washington, and Wyoming. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 73165 (Sub-No. 294), filed May 20, 1971. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor

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vehicle, over irregular routes, transporting: (1) *Material handling equipment*, and (2) *parts, attachments, and accessories* for the commodities described in (1) above, between points in Magoffin County, Ky., on the one hand, and on the other, points in the United States (except Alaska and Hawaii). **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 73165 (Sub-No. 295), filed May 21, 1971. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle board and accessories and supplies* used in the installation thereof, from the plantsite of Temple Industries, Inc., at or near Diboll, Tex., to points in the United States (including Alaska and Hawaii). **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 73165 (Sub-No. 296), filed May 21, 1971. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard*, from Diboll, Tex., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, Wisconsin, West Virginia, and the District of Columbia. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 82492 (Sub-No. 53), filed May 21, 1971. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Kalamazoo, MI 49003. Applicant's representative: William C. Harris, Post Office Box 2853, Kalamazoo, MI 49003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Plymouth, Ind., and points in the Lower Peninsula of Michigan to points in Kansas and Missouri. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.

No. MC 82492 (Sub-No. 54), filed May 21, 1971. Applicant: MICHIGAN &

NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Post Office Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris, Post Office Box 2853, Kalamazoo, MI 49003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as defined in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities, in bulk, and except hides), from the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., to points in Indiana, Michigan, and Ohio, restricted to traffic originating at the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 82492 (Sub-No. 55), filed May 21, 1971. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Post Office Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris, Post Office Box 2853, Kalamazoo, MI 49003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities utilized by Wilson-Sinclair Co., at Monmouth, Ill., to points in Indiana, Michigan, and Ohio, restricted to traffic originating at the above-specified origins and destined to the named destination States. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 89104 (Sub-No. 3), filed April 15, 1971. Applicant: LAVERNE D. WARTHAN, JR., doing business as WARTHAN TRUCKING, 137 Third Avenue SE., Oelwein, IA 50662. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, empty containers for malt beverages, under contract with Oelwein Bottling Work, Oelwein, Iowa; (1) between Oelwein, Iowa, and Omaha, Nebr.; (2) between Decorah, Iowa, and Omaha, Nebr.; and (3) between Decorah, Iowa, and St. Paul, Minn. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Oelwein, West Union, or Waterloo, Iowa.

No. MC 94350 (Sub-No. 290), filed May 17, 1971. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Greenville, SC 29602. Applicant's representative:

Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, mounted on wheeled undercarriages, from points of manufacture in Moore County, N.C., to points in the United States east of the Mississippi River, including Louisiana and Minnesota. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 99623 (Sub-No. 2), filed May 24, 1971. Applicant: JAMES E. GRIF-FIN & SONS, INC., 275 Circuit Street, Hanover, MA 02380. Applicant's representative: Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baby carriages, baby strollers, baby bouncers, baby walkers, portable cribs, portable play pens, and new furniture*, from points in Worcester County, Mass., to points in West Virginia; and points in Pennsylvania on and west of U.S. Highway 15, including Harrisburg, Pa. **NOTE:** Applicant states that the requested authority can be tacked with its presently held authority at Worcester County, Mass. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 103993 (Sub-No. 637), filed May 20, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghe-san (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and sections of buildings*, from points in Hampshire County, Mass., to points in the United States (except Alaska and Hawaii). **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 105157 (Sub-No. 72), filed May 20, 1971. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Post Office Box 10638, Charlotte, NC 28201. Applicant's representative: Everett Hutchinson, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Synthetic fiber; synthetic fiber yarn; synthetic yarn; or yarn, made of synthetic fiber mixed with cotton, and textile warp beams*, between Front Royal, Va., and Knoxville, Tenn.: From Front Royal over Virginia Highway 55 to junction Interstate Highway 81, thence over Interstate Highway 81 and/or U.S. Highway 11 to 11W to Knoxville, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. **NOTE:** Common control may be involved.

Applicant states it holds authority to operate between Front Royal, Va., and all points in Tennessee via Charlotte, N.C., in MC 105457 Subs 19 and 44. The purpose of this application is to remove the gateway point of Charlotte, N.C. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Charlotte, N.C.

No. MC 106398 (Sub-No. 546), filed May 26, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from Rockingham County, N.H., to points in the United States (except Alaska and Hawaii). **NOTE:** Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Manchester or Portsmouth, N.H.

No. MC 107295 (Sub-No. 516), filed May 21, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox, and Mack Stephenson, Post Office Box 146, Farmer City, IL 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile, facing, flooring, clay, or earthenware*, glazed or not glazed, with or without backing, from Franklin County, Ohio, to points in Illinois, Indiana, Michigan, Wisconsin, Arkansas, Iowa, Kentucky, Missouri, and Tennessee. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 107295 (Sub-No. 517), filed May 21, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane, urethane products, roofing and roofing materials, insulating materials, composition board and gypsum products, and materials* used in the installation thereof, except the transportation of the foregoing commodities in bulk, from the plantsite and warehouse facilities of The Celotex Corp. at Charleston, Ill., to points in the United States in and east of the States of Montana, Wyoming, Colorado, and New Mexico. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 107295 (Sub-No. 518), filed May 21, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood moulding*, from Bowling Green, Va., to points in Pennsylvania and Ohio. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 519), filed May 24, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flakeboard or particle board, plywood or lauan, hardboard* and when shipped therewith *moldings and accessories*, from the plant and warehouse sites of Pan American Gyrotex Co., at Franklin Park and Chicago, Ill., to points in Georgia, Illinois, Michigan, Minnesota, Nebraska, North Carolina, North Dakota, South Carolina, South Dakota, Texas, Wisconsin and that part of Ohio on and west of Interstate Highway 71, and that part of Virginia on and south of U.S. Highway 460, and on and east of U.S. Highway 301, and Richmond, Va., commercial zone as defined by the Commission. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 520), filed May 24, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-finished and unfinished plywood panels*, from North Stratford, N.H., and Charlestown, Mass., to points in the United States (except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming). **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 521), filed May 26, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bituminous fiber pipe, conduit and fittings, attachments, and accessories* (except in bulk), from Jefferson County, Ala., to

points in Florida, Georgia, South Carolina, North Carolina, Mississippi, Tennessee, Kentucky, Ohio, Indiana, New Jersey, Virginia, West Virginia, and Illinois. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 107295 (Sub-No. 522), filed May 26, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets*, from Winchester, Va., to points in Illinois, Indiana, North Dakota, South Dakota, and Minnesota. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107515 (Sub-No. 754), filed May 17, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Perishable chemicals*, in packages, in vehicles equipped with mechanical refrigeration, from Atlanta, Ga., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Virginia. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or New York, N.Y.

No. MC 107515 (Sub-No. 755), filed May 17, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Traverse City, Mich., to points in Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Missouri, and Colorado. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 108053 (Sub-No. 106), filed May 21, 1971. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., Post Office Box 129, Freemont, NE 68025. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as de-

scribed in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Emporia, Kans., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, restricted to traffic originating at the plantsites and storage facilities of Iowa Beef Processors. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 108207 (Sub-No. 317), filed May 20, 1971. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, Dallas, TX 75202. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Gustine, Calif., to points in Arkansas, Louisiana, Oklahoma, Mississippi, and Memphis, Tenn. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Dallas, Tex.

No. MC 108722 (Sub-No. 5), filed May 12, 1971. Applicant: THEODORE MARABELLI AND JOSEPH M. MARABELLI, a partnership, Rural Delivery No. 2, Tunkhannock, PA 18657. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*; (1) from points in Schuylkill County, Pa., to points in Chautauqua, Cattaraugus, Columbia, Erie, Greene, Wyoming, Genesee, Orleans, and Niagara Counties, N.Y.; and (2) from points in Lackawanna and Luzerne Counties, Pa., to Buffalo and Syracuse, N.Y., and other points in New York east of a line extending from the New York-Pennsylvania State line over New York Highway 12 to junction New York Highway 26, thence over New York Highway 26 to Antwerp, N.Y., thence over U.S. Highway 11 to junction New York Highway 87 to Ogdensburg, N.Y. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Scranton, Pa.

No. MC 111375 (Sub-No. 49) (Correction), filed April 19, 1971, published in the FEDERAL REGISTER issue of May 13, 1971, and republished in part as corrected this issue. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., 3567 East Barnard Avenue, Cudahy, WI 53110. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL. **NOTE:** The sole purpose of this partial republication is to correct origin to Fort Madison, Iowa in lieu of Mount Madison, Iowa, which

was erroneously shown in the previous publication. The rest of the application remains as previously published.

No. MC 111545 (Sub-No. 159), filed May 26, 1971. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., Marietta, GA 30060. Applicant's representative: Robert E. Born, Post Office Box 6426, Station A, Marietta, GA 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Antipollution systems and equipment*; (2) *liquid cooling and vapor condensing systems and equipment*; (3) *environmental control and protective systems and equipment*; (4) *parts, equipment, materials, and supplies* for the commodities named in (1), (2), and (3) above; and (5) *machinery, equipment, and materials, and supplies* used in the construction, installation, operations and maintenance of the items named in (1), (2), and (3), between points in the United States (except Hawaii). **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.; Tulsa, Okla.; Kansas City, Mo.; or Denver, Colo.

No. MC 112822 (Sub-No. 199), filed May 20, 1971. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Thos. Lee Allman, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in containers; (a) from Houston, Tex., to points in Arkansas, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Wisconsin, and New Mexico; and (b) from Beaumont, Tex., to points in Arkansas, Kansas, Oklahoma, and New Mexico; and (2) *fertilizer and fertilizer materials, dry, insecticides, fungicides, and herbicides*, from points on the Arkansas-Verdigris River in Oklahoma to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Wisconsin, and Texas. **NOTE:** Applicant states that the requested authority can be tacked with its MC 112822, Sub Nos. 26, 42, 83-112 in the States of California, Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, Louisiana, Arkansas, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, New Mexico, Colorado, Montana, and Wyoming. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Houston, Tex.

No. MC 112822 (Sub-No. 200), filed May 26, 1971. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Thos. Lee Allman, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: (1) *Paper and paper products*, from the plantsite and shipping facilities of U.S. Plywood-Champion Papers, Inc., at or near Asheville, Waynesville, and Canton, N.C.; Piqua and Hamilton, Ohio; Courtland, Ala.; and Houston, Tex.; to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture of paper and paper products from points in the United States (except Alaska and Hawaii), to named origin points in part (1), restricted against traffic moving as bulk commodities. **NOTE:** Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore, does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 112822 (Sub-No. 201), filed May 26, 1971. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, OK 74023. Applicant's representative: Thos. Lee Allman, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, potatoes and potato products*; (1) from points in Idaho, to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Minnesota, Mississippi, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, and Wisconsin; and (2) from points in Oregon and Washington, to points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Minnesota, New Mexico, North Dakota, Ohio, South Dakota, and Wisconsin. **NOTE:** Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and, therefore, does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 113362 (Sub-No. 215), filed May 25, 1971. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Raymond W. Ellsworth, Post Office Box 227, Seneca, PA 16346. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, vehicle body sealer, and sound deadening compounds*, in packages or containers, except in bulk in tank vehicles, from Hancock County, W. Va., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana,

Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113362 (Sub-No. 216), filed May 26, 1971. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: James Ellsworth, 4500 North State Line Road, Texarkana, AR 72501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles*, from Pine Bluff, Ark., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Pittsburgh, Pa. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla., Jacksonville, Fla., or Atlanta, Ga.

No. MC 114917 (Sub-No. 3), filed February 1, 1971. Applicant: DART TRANSPORTATION SERVICE, a corporation, 1430 South Eastman Avenue, Los Angeles, CA 90023. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* as is dealt in by mail order and chain retail department business houses, from points in the Los Angeles Harbor commercial zone and the Los Angeles Harbor commercial zone, as these zones are defined in Los Angeles, Calif., commercial zones, 3 M.C.C. 248, to Antioch, Bakersfield, Berkeley, Concord, Emeryville, Eureka, Fresno, Hanford, Hayward, Marysville, Modesto, Mountain View, Oakland, Sacramento, Salinas, San Francisco, San Jose, San Mateo, San Leandro, Santa Rosa, Stockton, Vallejo, Visalia, Walnut Creek, Wilcox, and Yuba City, Calif., which applicant is presently authorized to serve and the additional points of Merced, San Bruno, San Rafael, and Santa Cruz, Calif., under contract with Sears, Roebuck & Co. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 115162 (Sub-No. 230), filed May 24, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane, urethane products, roofing and roofing materials, insulating materials, composition board, and gypsum products*, and materials used in the installation thereof, from the plantsite and warehouse facilities of the Celotex Corp., at Charleston, Ill., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Birmingham, Ala.

No. MC 115840 (Sub-No. 66), filed May 18, 1971. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 West Bankhead Highway, Post Office Box 10327, Birmingham, AL 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, cast iron and brass valves and components thereof, cast iron fire hydrants, truck bodies, highway semitrailers, and can ends* (except in bulk) between points in Alabama, on the one hand, and, on the other, points in Texas. **NOTE:** Common control may be involved. Applicant states tacking is intended over Alabama, to points in Georgia, Florida, North Carolina, South Carolina, and Tennessee. If a hearing is deemed necessary, applicant does not specify time and place.

No. MC 116073 (Sub-No. 170), filed May 21, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Kegel Plaza, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, and buildings, complete or in sections, from Schuylkill County, Pa., to points in the United States (except Alaska and Hawaii). **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 117380 (Sub-No. 2), filed April 16, 1971. Applicant: ROBERT W. EWING AND REX C. EWING, JR., a partnership, doing business as EWING BROS. AUTO BODY, 1200 North A Street, Las Vegas, NE 89106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Replacement tractors and buses* to the scene of disabled vehicles, between points in Mojave County, Ariz., on the one hand, and, on the other, points in that part of Nevada on and south of U.S. Highway 6; points in that part of Utah on U.S. Highway 89 between Salt Lake City, Utah, and junction U.S. Highway 6, near Spanish Ford, Utah, and, on west, and south of a line beginning at the Utah-Arizona State line and extending along U.S. Highway 89 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Utah-Nevada State line; and points in that part of California on, east, and south of a line beginning at the California-Nevada State line and extending along U.S. Highway 6 to junction U.S. Highway 395, thence along U.S.

Highway 395 to Mojave, Calif., thence along U.S. Highway 466 to Bakersfield, Calif., and thence along U.S. Highway 99 to Los Angeles, Calif., and on and south of a line beginning at the California-Arizona State line and extending along U.S. Highway 60 to Riverside, Calif., and thence along U.S. Highway 91 to the Pacific Ocean. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Las Vegas, Nev., or Los Angeles, Calif.

No. MC 117574 (Sub-No. 204), filed May 20, 1971. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, PA 17013. Applicant's representatives: E. S. Moore, Jr. (same address as applicant) and James W. Hagar, 100 Pine Street, Post Office Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, between Hicksville, Ohio, and Blairsville, Pa., on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. **NOTE:** Applicant states that the authority requested herein can be tacked with applicant's existing authority. It is not however, applicant's present intention to tack, therefore the tacking authorities are not identified herein. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117698 (Sub-No. 10), filed April 14, 1971. Applicant: LEO H. SEARLES, doing business as L. H. SEARLES, South Worcester, N.Y. 12197. Applicant's representative: Harold C. Vrooman, 140 Main Street, Oneonta, NY 13820. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream and ice cream products*, in refrigerated vehicles, except commodities in bulk and in tank vehicles, from Scranton and Philadelphia, Pa., Laurel, Md., Newark, N.J., and Suffield, Conn., to points in those portions of Connecticut, Massachusetts, Vermont, New York, Pennsylvania, and New Jersey, bounded as follows: on the east, by a line beginning at New Milford, Conn., and extending northerly along U.S. Highway 7 to Bennington, Vt., thence along Vermont Highway 9 to the Vermont-New York State line, thence northerly along the Vermont-New York State line to its intersection with New York Highway 149; on the north, by a line beginning at the New York-Vermont State line and extending westerly along New York Highway 149 to junction New York Highway 196, thence along New York Highway 196 to Glen Falls, N.Y., thence along

Interstate Highway 87 to junction New York Highway 8, thence along New York Highway 8 through Chestertown, N.Y., to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 12 at or near Alder Creek, N.Y., thence along New York Highway 12 to Lowville, N.Y., thence along New York Highway 177 to junction New York Highway 178, thence along New York Highway 178 to junction Interstate Highway 81 at or near Adams, N.Y., thence along Interstate Highway 81 to junction U.S. Highway 104 at or near Maple View, N.Y., thence along New York Highway 104 through Wolcott, N.Y., to junction New York Highway 14 at or near Alton, N.Y.

On the west, by a line beginning at the said junction of New York Highways 104 and 14 and extending southerly along New York Highway 14 to Watkins Glen, N.Y., thence along New York Highway 414 to Corning, N.Y., thence along New York Highway 17 to Elmira, N.Y., thence along New York Highway 14 to the New York-Pennsylvania State line, and thence along Pennsylvania Highway 14 to Troy, Pa.; on the south, by a line beginning at Troy, Pa., and extending easterly along U.S. Highway 6 to Scranton, Pa., thence along Interstate Highway 81 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 202 (also along Interstate Highway 287) to the New Jersey-New York State line, thence continue along U.S. Highway 202 to Peekskill, N.Y., thence along U.S. Highway 6 to Brewster, N.Y., and thence along Interstate Highway 84 to the point of beginning at New Milford, Conn.; including points on the indicated portions of the highways specified; under contract with Simonson Bros. Ice Cream, Inc. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Albany, Binghamton, Utica, or Syracuse, N.Y.

No. MC 117940 (Sub-No. 45), filed April 9, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas*; and (2) *agricultural commodities*, the transportation of which would be otherwise exempt from economic regulations pursuant to section 203(b) (6) of the Interstate Commerce Act, when transported at the same time and in the same vehicle with commodities subject to economic regulations, from New Orleans, La., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Wisconsin, and Shreveport, La. **NOTE:** Applicant also holds contract carrier authority under its No. MC 114789 Sub-1 and other subs, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is

deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 117940 (Sub-No. 48), filed May 14, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mattresses, box springs, hide-a-beds, studio couches, bed frames, headboards, and roll-a-way cots*, from the plantsite or storage facilities of Simmons Co. at Kansas City, Kans., to St. Louis, Mo.; Omaha, Nebr.; Des Moines, Iowa, and Minneapolis and St. Paul, Minn. **NOTE:** Applicant holds contract carrier authority under MC 114789 and subs thereunder, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 118142 (Sub-No. 37), filed May 17, 1971. Applicant: M. BRUENGER CO., INC., 6330 North Broadway, Wichita, KS 67219. Applicant's representative: M. Bruenger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Emporia, Kans., to points in California, restricted to traffic originating at the plantsite and storage facilities of Iowa Beef Processors, Inc. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans.

No. MC 118904 (Sub-No. 24), filed May 24, 1971. Applicant: MOBILE HOME EXPRESS, LTD., a corporation, 1915 F Avenue, Lawton, OK. Applicant's representative: David D. Brunson, 419 Northwest Sixth, Oklahoma City, OK 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobiles in initial movements, and (2) *building*, complete, knocked down, or in sections when moving from origins which are points of manufacture, from points in Logan County, Okla., to points in the United States (except Alaska and Hawaii). **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 119118 (Sub-No. 31), filed May 13, 1971. Applicant: LEWIS W. McCURDY, doing business as McCURDY'S TRUCKING CO., Post Office Box

388, Latrobe, PA 15650. Applicant's representative: Paul E. Sullivan, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by hardware stores, drug stores, and supermarkets, between points in Allegheny County, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to shipments originating at or destined to plantsites or shipping facilities of Action Industries and its affiliates or subsidiaries. NOTE: Applicant holds contract carrier authority under MC 116564 and Subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119493 (Sub-No. 67) (Amendment), filed March 1, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, and republished as amended this issue. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt, Post Office Box 1196, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, building materials, and supplies* manufactured by or distributed by roofing manufacturers or dealers (except liquefied commodities, in bulk, in tank vehicles, and except articles because of size or weight requiring special equipment), from Kansas City, Mo., to points in Iowa, Nebraska, Kansas, Oklahoma, and Arkansas; (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except liquid commodities, in bulk, in tank vehicles, and except articles because of size or weight requiring special equipment), from points in Iowa, Nebraska, Kansas, Oklahoma, and Arkansas to Kansas City, Mo.; and (3) *roofing asphalt*, in containers (except liquid, in bulk, in tank vehicles), from Kansas City, Mo., to points in Iowa, Nebraska, Kansas, Oklahoma, and Arkansas, and empty containers on return. NOTE: Applicant states that the request authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 124073 (Sub-No. 5), filed May 20, 1971. Applicant: ROY S. SARGEANT, INC., Post Office Box 95, Vienna, NJ 07880. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Fish*, breaded and unbreaded, cooked and uncooked, when transported in the

same vehicle with frozen or fresh meats or frozen poultry, prepared and unprepared, or frozen hors d'oeuvres, frozen prepared dough, frozen bakery products, or frozen whipped topping; (b) *frozen whipped topping*, from the plantsite of the Glidden-Durkee Division of SCM Corp. at or near Moosic, Pa., to Bridgeport, Danbury, Hamden, Hartford, Meriden, New Haven, Norwich, Stamford, Wallingford, Waterbury, Conn.; Boston, Fall River, Ludlow, Pittsfield, Southboro, Springfield, Worcester, Mass.; Hoboken, Newark, Paterson, N.J.; Manchester, Nashua, N.H.; Albany, Buffalo, Farmingdale, Floral Park, Huntington, Ithaca, Jamestown, Kingston, Milton, Mineola, Monticello, Newark, Newburgh, New York, Norwich, Olean, Rochester, Rome, Schenectady, Syracuse, Troy, Utica, N.Y.; Pawtucket, Providence, Woonsocket, R.I.; and Burlington, Vt.; (2) (a) *fish*, breaded and unbreaded, cooked and uncooked, when transported in the same vehicle with frozen or fresh meats, frozen poultry, prepared or unprepared, frozen hors d'oeuvres, frozen prepared dough or frozen bakery products or frozen whipped topping;

(b) *Frozen or fresh meat*, frozen poultry, prepared or unprepared, and frozen hors d'oeuvres, frozen prepared dough, frozen bakery products or frozen whipped topping, from the plantsite of Glidden-Durkee Division of SCM Corp. at or near Moosic, Pa., to Wethersfield, Conn.; Brighton, Brockton, Chicopee, Everett, Medford, Norton, Raynham, Watertown, Mass.; Poughkeepsie, N.Y.; and Tiverton, R.I.; (3) *frozen hors d'oeuvres*, frozen prepared dough, and frozen bakery products, from the plantsite of Glidden-Durkee Division of SCM Corp. at Maplewood, N.J., to Boston, Mass.; (4) *char-broiled hamburger patties*, from Buffalo, N.Y., to the plantsite of Glidden-Durkee Division of SCM Corp. at Moosic, Pa., and its warehouse at Pittston, Pa.; (5) *frozen bread, frozen macaroni, and fish, frozen vegetables, chow mein*, from Boston, Mass., to the plantsite of the Glidden-Durkee Division of SCM Corp. at Moosic, Pa., and its warehouse at Pittston, Pa., under contract with Glidden-Durkee Division of SCM Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 124078 (Sub-No. 487), filed May 24, 1971. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and fertilizer solution*, in bulk, from points in Sumter County, Ga., to points in Alabama and Florida. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore

does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Atlanta, Ga.

No. MC 125521 (Sub-No. 15), filed May 24, 1971. Applicant: FUNK MOTOR TRANSPORTATION, INC., Box 75, Bridge Street, Grand Rapids, OH 43522. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*; (1) from Milwaukee, Wis., to Sidney, Ohio; and (2) from Latrobe, Pa., to Sidney, Ohio, empty containers or other such incidental facilities used in transporting such commodities on return, under contract with Ace Wholesale Beverage Sales, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Lansing or Detroit, Mich.

No. MC 127042 (Sub-No. 85), filed May 19, 1971. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City, IA 51008. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts and articles distributed by meat packing-houses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except hides and commodities in bulk, from points in Illinois, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin to Fort Madison, Iowa; and (2) *meats*, cooked, cured, or preserved, with or without vegetable, milk, or fruit ingredients, other than frozen, from Fort Madison, Iowa, to points in Missouri and Minnesota. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr., or Minneapolis, Minn.

No. MC 127158 (Sub-No. 6), filed May 21, 1971. Applicant: LIQUID FOOD CARRIER, INC., 624 Knox Road, Post Office Box 10521, New Orleans, LA 70121. Applicant's representative: Harold D. Miller, Jr., 700 Petroleum Building, Post Office Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Molasses*, in bulk, in tank vehicles, from Harvey, La., to Baerfield, Ind. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 127219 (Sub-No. 4), filed May 20, 1971. Applicant: KEREK AIR FREIGHT CORPORATION, Box 213, Route 230 Bypass and Glory Mill Road, Lancaster, PA 17604. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), having a prior or subsequent movement by air; (a) between points in Lancaster, Lebanon, Dauphin, Cumberland, Berks, Northumberland, Schuylkill, and Montour Counties, Pa., on the one hand, and, on the other, Friendship International Airport, Anne Arundel County, Md., Washington National Airport, Gravelly Point, Va.; Dulles International Airport, Fairfax and Loudoun Counties, Va.; John F. Kennedy International Airport, New York, N.Y.; LaGuardia Airport, New York, N.Y.; and Newark Airport, Newark, N.J.; and

(2) Between the following airports: Friendship International Airport, Anne Arundel County, Md.; Washington National Airport, Gravelly Point, Va.; Dulles International Airport, Fairfax and Loudoun Counties, Va.; John F. Kennedy International Airport, New York, N.Y.; LaGuardia Airport, New York, N.Y.; Newark Airport, Newark, N.J.; Philadelphia International Airport, Philadelphia, Pa.; Lancaster Airport, Manheim Township, Lancaster County, Pa.; and Olmsted State Airport, Dauphin County, Pa. NOTE: Applicant states tacking possibilities with its authority in MC 127219 at any point in the counties of Lancaster, Dauphin, Cumberland, and Lebanon, Pa., so as to permit service from the John F. Kennedy International Airport, LaGuardia Airport, Newark Airport, Friendship International Airport, and Dulles International Airport to Philadelphia International Airport, which is also requested here as a separate grant and, accordingly, tacking would not be necessary. Tacking would also be possible at Dauphin County, Pa., so as to provide service to the additional Pennsylvania counties of York, Franklin, Adams, Centre, Clinton, Lackawanna, Lycoming, Mifflin, Perry, and Snyder. By virtue of tacking at Middletown in Dauphin County, service from the above-specified counties would be possible to all of the airports indicated. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 127361 (Sub-No. 7), filed May 24, 1971. Applicant: FAIRCHILD GENERAL FREIGHT, INC., 19 West Washington Avenue, Yakima, WA 98902. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiber-board containers and packing forms*, from Portland, Ore., to points in Idaho, under contract with Container Corp. of America. NOTE: Applicant holds common carrier authority under MC 33919, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Ore., or Seattle, Wash.

No. MC 127483 (Sub-No. 2), filed May 20, 1971. Applicant: ROEHM TRUCKING CO., a corporation, Rural Route No. 1, Willshire, OH. Applicant's representatives: James R. Stiverson, 50 West Broad Street, Columbus, OH 43215, and Edwin H. Van Deusen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, and fertilizer materials*, in bulk, in dump trucks, and in bags, from Piqua and Toledo, Ohio, to points in Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 128575 (Sub-No. 4), filed May 20, 1971. Applicant: GOLDEN WEST TRUCKING CO., a corporation, 12780 Southwest Prince Albert Street, Tigard, OR 97223. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Cowlitz, Clark, Skamania, and Klickitat Counties, Wash., to Portland, Ore., under contract with Timber Structures, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Ore.

No. MC 128940 (Sub-No. 14), filed May 19, 1971. Applicant: RICHARD A. CRAWFORD, doing business as R. A. CRAWFORD TRUCKING SERVICE, Post Office Box 722, Adelphi, MD 20783. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products and preparations, advertising media, materials, equipment and supplies*, used or useful in the preparation and serving of foods in restaurants of commissaries, between Washington, D.C., on the one hand, and, on the other, points in Maryland, Pennsylvania, Delaware, New Jersey, New York, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Ohio, Indiana, Michigan, Illinois,

Wisconsin, Minnesota, Iowa, Nebraska, Missouri, Kansas, Louisiana, Texas, Tennessee, Alabama, Mississippi, Arkansas, and Oklahoma, under contract with Fairfield Farm Kitchens, Washington, D.C. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128988 (Sub-No. 14), filed May 20, 1971. Applicant: JO/KEL, INC., Post Office Box 22265, Los Angeles, CA 90022. Applicant's representatives: Louis C. Currier (same address as applicant) and J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning units*, from the plantsites and warehouse facilities of Fraser & Johnston Co., at San Lorenzo, Calif., to points in Arkansas, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and returned, refused or rejected shipments and materials, equipment, and supplies used in the manufacture and distribution of heating and air conditioning units, from points in the above-named States to the plantsites and warehouse facilities of Fraser & Johnston Co., at San Lorenzo, Calif. Restriction: The operations are restricted against the transportation of commodities in bulk and of those commodities which because of their size or weight require the use of special equipment. All operations are limited to a transportation service to be performed under a continuing contract, or contracts, with Fraser & Johnston Co., or San Lorenzo, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Washington, D.C.

No. MC 129445 (Sub-No. 9), filed May 17, 1971. Applicant: DIXIE TRANSPORT CO. OF TEXAS, a corporation, Post Office Box 5447 (3840 I.S. 10, S), Beaumont, TX 77706. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer, dry fertilizer materials, and urea*, in bags, from Liberty, Tex., to points in Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 133977 (Sub-No. 6), filed May 17, 1971. Applicant: GENE'S, INC., 302 Maple Lane, Arcanum, OH 45304. Applicant's representative: David L. Pemberton, 88 East Broad Street, Columbus,

OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, between Washington Court House, Ohio, on the one hand, and, on the other, points in Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus or Cleveland, Ohio.

No. MC 133848 (Sub-No. 2), filed May 19, 1971. Applicant: MITCHELL TRANSPORTATION, INC., 304 East Elm Street, Warren, AR 71671. Applicant's representative: J. G. Dial, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plantsite and storage facilities of Durafake South, Inc., at or near Simsboro, La., to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico. Restricted to traffic originating at the named origin and destined to the named destination territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Memphis, Tenn.

No. MC 134426 (Sub. No. 1) (Correction), filed April 23, 1971, published in the FEDERAL REGISTER issue of May 27, 1971, and republished as corrected this issue. Applicant: ROBERT E. MCCORT, doing business as MCCORT DRIVE-AWAY, 7032 Barkwood Drive, Jacksonville, FL 32211. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobiles and trailers*, other than new (used), between points in the United States on the one hand, and, on the other, points on and south of U.S. Highway 60 in Virginia, West Virginia, and Kentucky, and points east of the Mississippi River; and (2) *boat trailers*, from Jacksonville, Fla., to points in Florida, Georgia, Alabama, Mississippi, Louisiana, Tennessee, North Carolina, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the commodity description. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 134906 (Sub-No. 2), filed May 5, 1971. Applicant: CAPE AIR FREIGHT, INC., Post Office Box 905, Cape Girardeau, MO 63701. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),

between Outlaw Field, near Clarksville, Tenn., and points in Missouri, East St. Louis and Cairo, Ill., restricted to traffic having a prior or subsequent movement by air. NOTE: Applicant states that it will tack the requested authority with MC 134906 where possible. If a hearing is deemed necessary, applicant requests it be held at St. Louis or Kansas City, Mo.

No. MC 135070 (Sub-No. 1), filed May 20, 1971. Applicant: JAY LINES, INC., Box 1644, 720 North Grand Avenue, Amarillo, TX 79105. Applicant's representative: Duane Acklie, 521 South 14th Street, Box 806, Lincoln, NE. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and warehouse facilities of Missouri Beef Packers, Inc., at or near Plainview, Tex., to Amarillo, Tex., on traffic having a subsequent movement by rail, in service auxiliary to and supplemental of rail service. NOTE: Applicant holds contract carrier authority under MC 134323 Sub 2, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Amarillo or Dallas, Tex.

No. MC 135332, filed February 10, 1971. Applicant: A-1 ASSOCIATES, 1818 Westlake North, Seattle, WA 98109. Applicant's representative: Donald H. Landis, 22821-107th Place SE., Kent, WA 98031. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, by the driveaway method, between Seattle, Wash., on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 135406 (Sub-No. 1), filed May 19, 1971. Applicant: LAMAR TRUCKING, INC., 19 Driscoll Street, Rockville, Centre, NY. Applicant's representative: Samuel B. Zinder, Station Plaza East, Great Neck, N.Y. 11201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, minerals, mineral ores, pigments, and materials and supplies* used in the manufacture of paints, except commodities in bulk, between points within the commercial zone of the city of New York as defined by the Interstate Commerce Commission on the one hand, and, on the other, points in New York, New Jersey, and the city of Philadelphia, under contract with Smith Chemical & Color Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135457 (Sub-No. 2), filed May 24, 1971. Applicant: COMMERCIAL CARTAGE CO., a corporation, 3900 Reavis Barracks Road, St. Louis, MO 63125. Applicant's representative: Stanley M. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the plantsites of Williams Bros. Pipe Line Co. at or near Palmyra, Columbia, and St. Charles, Mo., to Kansas City, Kans. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.; Tulsa, Okla.; or Washington, D.C.

No. MC 135530 (Correction), filed April 15, 1971, published in the FEDERAL REGISTER issue of May 13, 1971, at page 8846, and republished in part as corrected, this issue. Applicant: LAKE CENTER INDUSTRIES TRANSPORTATION, INC., 111 Market Street, Winona, MN 55987. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. NOTE: The purpose of this partial republication is to reflect changes under the following: (1) Reflect electrical and electronic appliances, in lieu of electrical and electrical appliances: (1a) add the word "traversing" before the State of Kansas; (2a) reword to read: From points in the 18 destination States and traversing the traversal States and district named in (1a) above, on return; and amend said application to include a restriction against the transportation of commodities in bulk in tank vehicles. The rest of the application remains the same.

No. MC 135574, filed May 3, 1971. Applicant: PARKHURST MOTOR FREIGHT COMPANY, a corporation, Gallatin, Tenn. 37066. Applicant's representative: J. C. McMurtry, Guthrie Building, Gallatin, Tenn. 37066. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, and the commodities requiring special equipment and refrigerated equipment), between Gallatin, Tenn., and Louisville, Ky., from Gallatin over Tennessee Highway 109-N to Tennessee-Kentucky State line, thence over Interstate Highway 65 (also over Tennessee Highway 31W) on those points not completed and converted into Interstate Highway 65, to Louisville, Ky., and return over the same routes serving the intermediate points of Portland and Mitchellville, Tenn., and serving Hartsville and Castalian Springs, Tenn., as off-route points on Tennessee Highway 25 from Gallatin, Tenn., to Hartsville, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., Louisville or Bowling Green, Ky.

No. MC 135592 (Sub-No. 2), filed May 24, 1971. Applicant: U & R EXPRESS, INC., Post Office Box 2369, White City, OR. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals*, from points in Siskiyou County, Calif.,

to points in Josephine, Jackson, Klamath, and Douglas Counties, Oreg. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 135625 (Sub-No. 1), filed May 20, 1971. Applicant: LOUIS OFSHINSKY, 894 Boulevard, Bayonne, NJ 07002. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ships stores, equipment, and supplies* (except commodities in bulk), for the account of L. F. Gaubert & Co., Inc., from Avenel, Bayonne, and Hamburg, N.J.; Albany, Chester, New York, and Rome, N.Y.; and Mechanicsburg, Pa., to Mobile and Montgomery, Ala., New Orleans, La., and Houston, Tex., under contract with L. F. Gaubert & Co., Inc., of New Orleans, La. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 135626, filed May 17, 1971. Applicant: J. B. MEYERS, East Highway 190, Post Office Box 536, Copperas Cove, TX 76522. Applicant's representative: Charles W. Lynch, Post Office Drawer 31, Lampasas, TX 76550. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, between Copperas Cove, Tex., on the one hand, and, on the other, points in Coryell, Lampasas, Burnet, Williamson, Bell, Falls, and McLennan Counties, Tex. Restriction: The authority sought above is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points applied for, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at Austin, Waco, or Fort Worth, Tex.

No. MC 135628, filed May 20, 1971. Applicant: WILLIAM KAUTZ, doing business as KAUTZ AIR FREIGHT CO., Post Office Box 516, Geneva, IL 60134. Applicant's representative: Robert M. Kaske, 2017 Wisteria Road, Rockford, IL 61107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and requiring special equipment) having prior or subsequent transportation by air, between points located on and bounded by Illinois Highway 47 on the west, Illinois Highway 120 on the north, U.S. Highway 80 on the south, and Lake Michigan on the east. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135630, filed May 21, 1971. Applicant: EGGLESTON TOWING COMPANY, INC., 525 Third Avenue, Anchorage, AK 99501. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives), between Iliamna, Newhalen, New Iliamna, Nondalton, and all points on and within 10 miles of unnumbered State Road running between Newhalen and Nondalton, in the State of Alaska. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Anchorage, Alaska.

No. MC 135644, filed May 17, 1971. Applicant: SUNDERMAN TRANSFER, INC., Post Office Box 63, Windom, MN 56101. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hides* (except in tank vehicles), from Redwood Falls, Minn., to St. Louis, Mo.; Chicago, Ill.; and Detroit, Mich.; and (2) *animal and poultry feeds and feed ingredients* (except in tank vehicles), from St. Louis, Mo.; Chicago, Ill., and Milwaukee, Wis., to Redwood Falls and Minneapolis, Minn. NOTE: Applicant holds contract carrier authority under MC 125103 (Sub 1), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

MOTOR CARRIER OF PASSENGERS

No. MC 107 (Sub-No. 9), filed May 19, 1971. Applicant: BORO BUSSES COMPANY, 445 Shrewsbury Avenue, Shrewsbury, NJ 07701. Applicant's representative: William L. Russell, Jr., 73 Broad Street, Red Bank, NJ 07701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special operations, beginning and ending at points in Northampton and Lehigh Counties, Pa., and extending to Bowie, Laurel, and Pimlico Race Tracks, Md., and Delaware Race Track and Dover Race Track, Del., during racing seasons at the respective tracks. NOTE: If a hearing is deemed necessary, applicant requests it be held at Allentown, Pa.

APPLICATION FOR BROKAGE LICENSE

No. MC 130147, filed May 19, 1971. Applicant: JOSEPH CAPAK, 17201 Miles Avenue, Cleveland, OH 44128. For a license (BMC-4) to engage in operations as a *broker* at Cleveland, Ohio, in arranging for the transportation in interstate or foreign commerce of *foodstuffs and food products*, from points in Ohio to points in the United States (except Hawaii and Alaska).

APPLICATION OF WATER CARRIER

No. W-1258 (T. L. HERBERT & SONS, INC., Common Carrier Application) filed

June 2, 1971. Applicant: T. L. HERBERT & SONS, INC., 1136 Second Avenue North, Nashville, TN. Applicant's representative: Alan F. Wohlsetter, 1 Faragut Square Street, Washington, DC 20006. By application filed June 2, 1971, applicant seeks a Certificate as a *common carrier* by water in the transportation of *property generally*, serving all ports and points along the Cumberland River and Ohio River between Paducah, Ky., and Carthage, Tenn., which includes the principal ports as follows: Paducah, Grand Rivers, and Kuttawa, Ky.; Cumberland City, Clarksville, Ashland City, Nashville, Old Hickory, Gallatin, and Carthage, Tenn.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8440 Filed 6-16-71; 8:45 am]

ALTERMAN TRANSPORT LINES, INC., ET AL.

Assignment of Hearings

JUNE 14, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-107107 Sub 407, Alterman Transport Lines, Inc., assigned July 26, 1971, in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

MC-133805 Sub 3, Lone Star Carriers, Inc., now assigned June 23, 1971, at Dallas, Tex., is postponed to July 7, 1971, at Dallas, Tex., same time and place.

MC 133777 Sub 4, Metal Carriers, Inc., assigned June 24, 1971, Dallas, Tex., canceled and reassigned to July 8, 1971, in Room 5A-15, 1100 Commerce Street, Dallas, TX. MC 69512 Sub 8, Thunderbird Freight Lines, Inc., assigned for continued hearing July 12, 1971, in the New Mexico Motor Carriers Association Building, 1500 Han-nett, NE., Albuquerque, NM.

MC 82080 Sub 4, Blvin Transfer Co., Inc., as signed July 26, 1971, in Room 903, Indiana Public Service Commission, State Office Building, Indianapolis, Ind.

MC 117765 Sub 115, Hahn Truck Line, Inc., now assigned July 13, 1971, at St. Louis, Mo., postponed indefinitely.

MC-F-10880, Reliable Truck Lines, Inc.—Purchase—Robert F. Coates, doing business as Coates Motor Express, and MC-128944 Sub 7, directly related, assigned July 19, 1971, in U.S. District Courtroom, Post Office Building, Huntsville, Ala.

MC 123048 Sub 149, Diamond Transportation System, Inc., dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8523 Filed 6-16-71; 8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 14, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42227—*Liquid caustic soda to Graniteville, S.C.* Filed by O. W. South, Jr., agent (No. A6262), for interested rail carriers. Rates on sodium (soda), caustic (sodium hydroxide), in tank carloads, as described in the application, from specified points in West Virginia, to Graniteville, S.C.

Grounds for relief—Market competition.

Tariff—Supplement 127 to Traffic Executive Association—Eastern Railroads, Agent, tariff ICC C-611. Rates are published to become effective on July 10, 1971.

FSA No. 42228—*Chlorine to New Johnsonville, Tenn.* Filed by O. W. South, Jr., agent (No. A6263), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Brunswick, Ga., and Acme, N.C., to New Johnsonville, Tenn.

Grounds for relief—Market competition.

Tariffs—Supplements 39 and 209 to Southern Freight Association, Agent, tariffs ICC S-938 and S-517, respectively. Rates are published to become effective on July 22, 1971.

FSA No. 42229—*Ethylene glycols and diethylene glycol from Doe Run, Ky.* Filed by O. W. South, Jr., agent (No. A6264), for interested rail carriers. Rates on ethylene glycols and diethylene glycol, in tank carloads, as described in the application, from Doe Run, Ky., to Atlanta and Hapeville, Ga.

Grounds for relief—Market competition.

Tariff—Supplement 60 to Southern Freight Association, agent, tariff ICC S-832. Rates are published to become effective on July 22, 1971.

FSA No. 42230—*Iron or steel articles from Trenton, Mich.* Filed by Southwestern Freight Bureau, agent (No. B-245), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from Trenton, Mich., to points in Louisiana and Texas.

Grounds for relief—Market competition.

Tariff—Supplement 222 to Southwestern Freight Bureau, agent, tariff ICC 4753. Rates are published to become effective on July 12, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8524 Filed 6-16-71; 8:51 am]

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[No. 35203 (Sub-No. 6)]

INTRASTATE FREIGHT RATES AND CHARGES IN SOUTHERN STATES, 1969

Mississippi

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 7th day of June 1971.

It appearing, that by order dated December 24, 1969, in docket No. 35203, Intrastate Freight Rates and Charges, 1969, the Commission, Division 2, granted the petition filed December 12, 1969, of common carriers by railroad operating in the South, for an investigation pursuant to section 13 of the Interstate Commerce Act, into the matter of applying the general increases in intrastate rates authorized by Ex Parte No. 262, Increased Freight Rates, 1969, 337 I.C.C. 436, to the intrastate rates in certain States, and instituted an investigation;

It further appearing, that by order of April 15, 1970, in docket No. 35203 (Sub-No. 6), the proceeding relating to the intrastate rates within the State of Mississippi was referred to a hearing examiner for the submission of evidence under special procedure, and for oral hearing for cross-examination for evidence in opposition to cross-examination, and for other pertinent evidence the examiner might deem necessary; and that by order dated April 29, 1970, the order of April 15, 1970, designating special procedure was canceled, and hearing was indefinitely postponed;

It further appearing, that by an amendment to the petition filed April 26, 1971, under sections 13(3), 13(4), and 15a(2) of the act, the petitioning railroads in the State of Mississippi seek a prompt order removing alleged discrimination against and undue burden upon interstate commerce by authorizing an increase in intrastate rates and charges within Mississippi of the same amount as authorized by this Commission in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, in addition to those authorized in Ex Parte No. 262, Increased Freight Rates, 1969, supra, averring that unreasonable delays are being encountered by the petitioners in obtaining the increases in rates and charges on intrastate commerce, which this Commission authorized in rates and charges on interstate commerce in Ex Parte No. 259, Increased Freight Rates, 1968, 332 I.C.C. 714 (under consideration by this Commission in Docket No. 35120, Mississippi Intrastate Rail Freight Rates and Charges, 1969), and in Ex Parte No. 262, Increased Freight Rates, 1969, supra, and that it would be unfair to expect either the petitioners or their patrons to seek the increases in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, supra, by applying to the State;

It further appearing, that by motion filed April 26, 1971, the petitioners move

to have the proceeding assigned for an immediate investigation, hearing, and order removing the alleged discriminations against and undue burden upon interstate commerce caused by the failure of existing intrastate rates to include the increases sought in the amended petition;

It further appearing, that petitioners allege that increased expenses and expected revenue relied upon in the above cited and prior increase proceedings reflected both interstate and intrastate traffic; that the interstate rates and charges, as increased, on shipments between points in Mississippi and points in other States are just and reasonable; that the conditions incident to the intrastate transportation of rail traffic in the State of Mississippi are not more favorable than those incident to interstate transportation from, to, or through the State of Mississippi; that the establishment of the increases in the intrastate rates and charges will not result in unreasonable rates and charges, or in rates and charges that are unreasonable in relation to interstate rates and charges; and that the present Mississippi intrastate rates and charges are below cost, fail to produce earnings sufficient to enable petitioners to obtain earnings sufficient to meet increased costs, avoid deterioration, and enable the railroads to provide adequate and efficient service;

It further appearing, that it is alleged that a burden is thus cast upon interstate commerce, causing unjust discrimination against interstate commerce, and that undue and unreasonable advantage and preference is given to intrastate shippers, and that interstate shippers of the same commodities are subjected to undue and unreasonable prejudice and disadvantage;

And it further appearing, that the amended petition sets forth matters sufficient to institute an investigation into the intrastate freight rates and charges made or imposed by the State of Mississippi; that under the proviso of section 13(4) of the act this Commission must forthwith institute an investigation into the lawfulness of such rates and charges (whether or not theretofore considered by any State agency or authority and without regard to the pendency before such State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein;

Wherefore, and good cause appearing therefor:

It is ordered, That the amended petition and motion be, and they are hereby, granted to the extent that the investigation instituted by order of the Commission, Division 2, on December 24, 1969, be, and it is hereby broadened to investigate whether the said rates and charges of the carriers by railroad, or any of them, operating in the State of Mississippi for the intrastate transportation

of property, made or imposed by authority of the State of Mississippi, cause or will cause, by reason of the failure of said rates and charges to include increases corresponding to those permitted by this Commission for interstate transportation in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, supra, in addition to that authorized in Ex Parte No. 262, Increased Freight Rates, 1969, supra, any undue or unreasonable advantage, preference, or prejudice, as between persons or locations in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable, or unjust discrimination against or undue burden upon interstate or foreign commerce; and to determine what rates and charges, if any, or what maximum, or minimum, or maximum and minimum rates and charges shall be prescribed to remove the unlawful advantage, preference, discrimination, or undue burden, if any, that may be found to exist.

It is further ordered, That disposition of requests for other action sought in the amended petition and motion be held in abeyance pending further order of the Commission.

It is further ordered, That notice of the pendency of the broadened issues included in the investigation be given to the general public by depositing a copy of this order in the office of the Commission's Secretary in Washington, D.C., by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER, and by serving a copy upon each of the said petitioners, and the additional parties shown in Appendix C to the order of April 15, 1970, and that the State of Mississippi be notified by sending copies of this order and of the amended petition and motion by certified mail to the Governor of Mississippi at Jackson, Miss., and to the Mississippi Public Service Commission at Jackson, Miss.

It is further ordered, That all persons, other than those who have already notified the Commission, who wish actively to participate in this proceeding, and to file and receive copies of pleadings, shall make known that fact by notifying the Commission on or before July 8, 1971. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentation to the greatest extent possible. The Commission desires participation only of those who intend to take an active part in the proceeding.

It is further ordered, That, as soon as practicable after the date for indicating a desire to participate in the proceeding has passed, the Commission's Office of Proceedings will serve a list of the names and addresses of all persons (as supplemented by those parties who give notice of their desire to participate under the provisions of this order) upon whom service must be made. It is not contemplated that there will be any further

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general public notification published in the FEDERAL REGISTER of the succeeding handling of this proceeding. Subsequent notices and orders entered herein will be served solely on persons responding to this order or who had previously indicated a desire to participate.

And it is further ordered, That this proceeding be assigned for hearing at a time and place to be hereafter fixed.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8528 Filed 6-16-71; 8:51 am]

[Notice 313]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 14, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30092 (Sub-No. 20 TA), filed June 4, 1971. Applicant: HERRETT TRUCKING COMPANY, INC., Post Office Box 539, Highway 12 and Factory Road, Sunnyside, WA 98944. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, 806 Southwest Broadway, Portland, OR 97205. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, packinghouse products and commodities used by packinghouses as set forth in sections A, B, and C of appendix 1 to the Commission's decision in Descriptions in Motor Carrier Certificates Ex Parte No. MC-45, between ports of entry on the boundary between the United States and Canada in Washington, Idaho, Montana, North Dakota, and Minnesota, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ore-

gon, South Dakota, Texas, Utah, Washington, and Wisconsin, for 180 days. Note: The applicant proposes to use the authority sought above to provide through-trailer service to and from actual origins and destinations in the Dominion of Canada. Supporting shipper: Burns Foods Ltd., Post Office Box 1300, Calgary 2, AB, Canada. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 73165 (Sub-No. 297 TA), filed June 6, 1971. Applicant: EAGLE MOTOR LINES, INC., Post Office Box 11086, 830 North 33d Street, Birmingham, AL 35202. Applicant's representative: R. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Aluminum tubing, from the plantsite of Gay Products, Inc., Nacogdoches, Tex., to Largo, Fla., and Louisville, N.C., for 180 days. Supporting shipper: Gay Products, Inc., Post Office Box 899, Clearwater, FL 33157. Attention: Jay D. Browder, Purchasing Agent. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 107575 (Sub-No. 756 TA), filed June 7, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 1600, First Federal Building, Atlanta, GA 30309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products and articles distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Madison, Wis., to points in Virginia and West Virginia, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, WI 53701. Send protests to: William L. Scrogges, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 112520 (Sub-No. 243 TA), filed June 4, 1971. Applicant: McKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Hydrofluosilicic acid, in bulk, in tank vehicles, from points in Crisp and Effingham Counties, Ga., to points in North Carolina, South Carolina, Virginia, and Tennessee east of U.S. Highway-27, for 180 days. Supporting shipper: Thomason-Hayward Chemical Co., 5200 Speaker Road, Kansas City, KS 66110 (Post Office Box 2383). Send protests to: District

Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 112822 (Sub-No. 203 TA), filed June 4, 1971. Applicant: BRAY LINES CORPORATION, 1401 North Little Street, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Joe W. Ballard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*; (1) from points in Umatilla County, Oreg., and Grant, Benton, Franklin, and Walla Walla Counties, Wash., to points in Alabama, Florida, and Georgia; (2) from points in Ada and Power Counties, Idaho, to points in Alabama, Arkansas, Florida, Georgia, Mississippi, Oklahoma, and Tennessee, for 180 days. Supporting shipper: D. J. Osbjornson, Director Physical Distribution, Lamb-Weston, Inc. 6600 Southwest Hampton Street, Post Office Box 23507, Portland, OR 97223. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 113908 (Sub-No. 214 TA), filed June 4, 1971. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Post Office Box 3180, Springfield, MO 65804. Applicant's representative: Le Roy Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Neutralsprits*, in bulk, in tank vehicles, from Louisville and Bardstown, Ky., and Atchison, Kans., to Helena, Mont., for 180 days. Supporting shipper: Alpha Industries, Inc., 740 Front Street, Helena, MT 59601. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 115331 (Sub-No. 313 TA), filed June 7, 1971. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tetrabromobisphenol-A* dry, in bulk, from the facilities of Great Lakes Chemical Corp., at or near El Dorado, Ark., to the facilities of General Electric Co. at or near Mount Vernon, Ind., for 180 days. Supporting shipper: General Electric Co., Highway 69 South, Mount Vernon, IN 47620. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

No. MC 116077 (Sub-No. 312 TA), filed June 7, 1971. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, TX 77023. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

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transporting: *Liquid chemicals*, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, Ohio, South Carolina, and Texas. Restriction: Restricted to traffic originating at the above-described origin and destined to the above-described destinations, for 180 days. Note: Applicant does not intend to tack with existing authority. Supporting shipper: Georgia-Pacific Corp. (Mr. Roger M. Feig, Traffic Manager), Post Office Box 629, Plaquemine, LA 70784. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, TX 77061.

No. MC 116763 (Sub-No. 194 TA), filed June 6, 1971. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and flavored beverages*, except in bulk, in tank vehicles, from and originating at the plantsite and storage facilities of Kraft Foods, Division of Kraftco Corp. at or near Champaign, Ill., to Akron, Ashtabula, Bedford Heights, Bellfontaine, Canton, Cincinnati, Cleveland, Columbus, Dayton, Dennison, Maple Heights, Massillon, Solon, Warrensville Heights, West Carrollton, Woodlawn, Xenia, and Youngstown, Ohio; and Huntington, W. Va., for 180 days. Supporting shipper: Kraft Foods, Division of Kraftco Corp., 505 North Sacramento Boulevard, Chicago, IL 60612. Send protests to: Emil P. Schwab, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 117799 (Sub-No. 13 TA), filed June 6, 1971. Applicant: BEST WAY FROZEN EXPRESS, INC., 3033 Excelsior Boulevard, Room 210, Minneapolis, MN 55416. Applicant's representative: Patrick M. Porritt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, fresh canned and frozen (except commodities in bulk), from Kennett Square, Pa., to points in California and Colorado, for 150 days. Supporting shipper: Kennett Canning Co., Kennett Square, Pa. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 123156 (Sub-No. 3 TA), filed June 3, 1971. Applicant: RAND'S TRANSPORT, INC., Post Office Box 96, Linthicum, MD 21090. Applicant's representative: Walter T. Evans, 615 Perpetual Building, Washington, DC 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*,

kerosene, and *medium fuel*, in bulk, in tank vehicles, from the pipeline terminal of B. P. Oil Co. at Finksburg, Md., to Gettysburg, Pa., and points within the Gettysburg commercial zone, restricted to transportation service to be performed, under a continuing contract or contracts with Langdon Oil Co., Inc., for 180 days. Supporting shippers: Mr. Toby Thomas, B. P. Oil Co., 1073 Guild Hall Building, Cleveland, Ohio; James R. Langdon, Langdon Oil Co., 6 East George Street, Westminster, MD 21157. Send protests to: William L. Hughes, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1125 Federal Building, Baltimore, Md. 21201.

No. MC 124069 (Sub-No. 12 TA), filed June 6, 1971. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steela-wanna Avenue, Lackawanna, NY 14218. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from ports of entry on the international boundary line between the United States and Canada located on the St. Lawrence River, to points in Albany, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Rensselaer, Saratoga, Schenectady, Washington, Warren, and St. Lawrence Counties, N.Y., and refused, rejected, and returned shipments in the reverse direction, for 150 days. Supporting shipper: Lake Ontario Cement Corp., Picton, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, Buffalo, N.Y. 14203.

No. MC 129397 (Sub-No. 2 TA), filed June 6, 1971. Applicant: WILLIAM E. SWIFT, doing business as SWIFT TRANSPORTATION CO., Post Office Box 6173, 4833 Lower Buckeye Road, Phoenix, AZ 85005. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat product, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plantsite and storage facility of Swift Fresh Meats Co. at Tolleson, Ariz., to points in Arkansas, Louisiana, Mississippi, and Texas, for 180 days. Supporting shipper: Swift Fresh Meats Co., a division of Swift & Co., 115 Jackson Boulevard, Chicago, IL 60604. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 133966 (Sub-No. 9 TA), filed June 4, 1971. Applicant: NORTH EAST EXPRESS, INC., Post Office Box 61,

Mountaintop, PA 18707. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Modular housing units* on shipper-owned, flat-bed semitrailers equipped with pintel hood-type connecting devices, and *component parts thereof*, from the plantsite of Hercoform Inc., subsidiary of Hercules Inc., Columbia County, Pa., to Macon, Ga., and Kalamazoo, Mich., for 150 days. Supporting shipper: Hercules Inc., Wilmington, Del. 19899. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 134610 (Sub-No. 3 TA), filed June 4, 1971. Applicant: JACK R. CLARK, doing business as CLARK TRUCKING SERVICE, Post Office Box 118, Niota, TN 37826. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, AL 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint and groundwood paper*, from plantsite of Bowaters Southern Paper Corp., at Calhoun, Tenn., to points in Georgia, for 180 days. Supporting shipper: Bowaters Southern Paper Corp., Calhoun, Tenn. 37309. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803-1808 West End Building, Nashville, Tenn. 37203.

No. MC 135152 (Sub-No. 3 TA), filed June 7, 1971. Applicant: CASKET DISTRIBUTORS, INC., Mailing, Rural Route No. 2, Office, West Harrison, IN 45030. Applicant's representative: Jack B. Josselson, Atlas Bank Building, Cincinnati, Ohio 45020. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated caskets, casket displays, funeral supplies, and crated caskets in mixed loads with uncanted caskets*; (1) from points in Calhoun County, Ala., to points in South Carolina, Georgia, Tennessee, Arizona, California, Utah, Wisconsin, and Mississippi; (2) from points in Columbus, Ohio, and Falls City, Nebr., to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Utah, Washington, and Wyoming; and (3) from points in Burlington, N.C., and Syracuse, N.Y., to points in Chattanooga, and Memphis, Tenn.; Little Rock, Ark.; Fort Worth and Dallas, Tex.; Oklahoma City, Okla.; Omaha, Nebr.; Denver, Colo.; and Everett, Wash.; for 180 days. Supporting shippers: Wallace Metal Products, Inc., Richmond, Ind.; The Belmont Casket Manufacturing Co., Columbus, Ohio; Marsellus Casket Co., Syracuse, N.Y. Send protests to: District Supervisor James W. Habermehl, Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 135381 (Sub-No. 1 TA), filed June 4, 1971. Applicant: DRUM TRANS-

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PORTATION COMPANY, Rural Delivery No. 1, Montgomery, PA 17752. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden poles, posts, pilings, timbers, ties, and cross arms, and laminated wooden beams*, between the plantsites of Southern Wood Piedmont Co., at or near Baldwin, Fla.; Augusta, Macon, East Point, and Waycross, Ga.; Spartansburg, S.C.; Wilmington and Gulf, N.C.; and Chattanooga, Tenn., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Georgia, Kentucky, Massachusetts, Maine, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, and West Virginia, for 180 days. Supporting shipper: Southern Wood Piedmont Co., Post Office Box 90908, Atlanta, GA 30344. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 135658 TA, filed June 4, 1971. Applicant: ROBERT W. DOBRINSKE, doing business as DOBRINSKE TRUCK SERVICE, 513 13th Avenue, Rock Falls, IL 61071. Applicant's representative: Robert T. Lawley, 300 Reich Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural and industrial chains and auger fighting*, from Fulton, Ill., to points in Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, Ohio, Pennsylvania, and Wisconsin, for the account of Drives, Inc., Fulton, Ill., for 180 days. Supporting shipper: Vernon Paul, Production Manager, Drives, Inc., 901 19th Avenue, Fulton, IL 61252. Send protests to: Andrew J. Montgomery, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 135660 TA, filed June 4, 1971. Applicant: BROWNSBERGER ENTERPRISES, INC., R.F.D. 1, Box 111, Butler, MO 64730. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic tubing, plastic conduit, plastic molding, valves, fittings, compounds, joint sealers, bonding cement, thinner, vinyl, and accessories used in the installation of such products*, from Linn Creek, Mo., to points in Texas, Kansas, Oklahoma, Arkansas, Illinois, Minnesota, Iowa, Nebraska, Tennessee, Louisiana, and Mississippi; (2) *materials and supplies*, used in the manufacture of (1) above, from Ottawa, Ill., Parkersburg, W. Va., and Kansas City, Kans., Mo., to Linn Creek, Mo., for 180 days. Supporting shipper: Central Missouri Pipe Co., Post Office Box 75, Linn Creek,

MO 65052. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

MOTOR CARRIER OF PASSENGERS

No. MC 82007 (Sub-No. 4 TA), filed June 4, 1971. Applicant: SAMUEL COOPER GREEG, Yorklyn, Del. 19736. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passenger and their baggage*, in charter service, from West Chester, Pa., to points in New Jersey, Delaware, Maryland, Virginia, New York, and Washington, D.C., and return, for 180 days. Supported by: Aero Club of Chester County, West Chester, Pa.; Daily Local News Co., West Chester, Pa.; Johnson Tours, West Chester, Pa.; Rice's Temple A.I.M.P. Church, West Chester, Pa.; Athletic Department, West Chester State College, West Chester, Pa. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Old Post Office Building, Salisbury, Md. 21801.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8522 Filed 6-16-71; 8:50 am]

[Notice 702]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 14, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72438. By order of June 8, 1971, the Motor Carrier Board approved the transfer to Frontier Distribution Line, Inc., Buffalo, N.Y., of the operating rights in certificate No. MC-119449 issued October 11, 1966, to Anthony H. Santiago, doing business as Bison City Cartage Co., Buffalo, N.Y., authorizing the transportation of specified commodities from Buffalo, N.Y. to specified points and areas in New York and Pennsylvania. Robert D. Gunderman, 43 Niagara Street, Buffalo, NY 14202, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8525 Filed 6-16-71; 8:51 am]

[Notice 702-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 14, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in

that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72693. By order of June 8, 1971, Division 3, acting as an Appellate Division, approved the transfer to Leysyl Transport, Inc., Kettering, Ohio, of that portion of the operating rights in permit No. MC-87720 (Sub-No. 83) and the operating rights in permit No. MC-87720 (Sub-No. 66) issued August 24, 1970, and January 14, 1969, respectively to Bass Transportation Co., Inc., Flemington, N.J., authorizing the transportation of specified commodities between specified points in Ohio, on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, and the Dis-

trict of Columbia; and between points in Essex, Union, Hudson, Bergen, Passaic, and Middlesex Counties, N.J., on the one hand, and, on the other, points in Maryland, a described area of Pennsylvania, and the District of Columbia; and between points in Bergen, Passaic, Essex, Hudson, Union, Middlesex, Monmouth, Morris, Somerset, Mercer, Hunterdon, Warren, and Sussex Counties, N.J., and New York, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, and New York, for the account of A. Schulman, Inc. Bert Collins, 140 Cedar Street, New York, NY 10006, representative for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-8526 Filed 6-16-71; 8:51 am]

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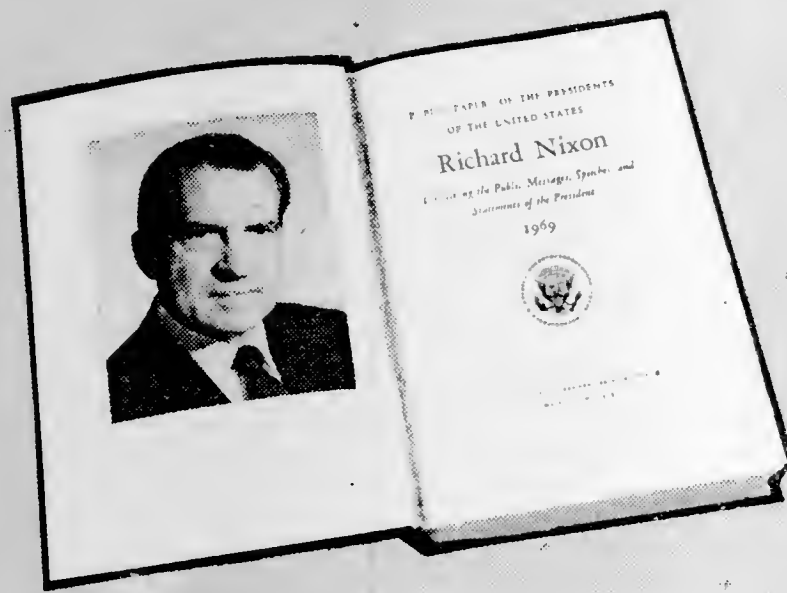
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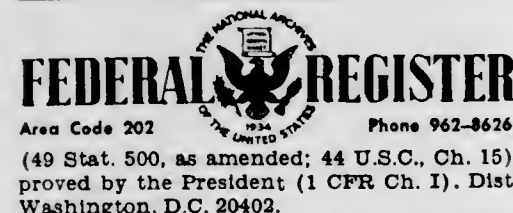
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Title 3—The President

EXECUTIVE ORDER 11598

To Provide for the Listing of Certain Job Vacancies by Federal Agencies and Government Contractors and Subcontractors

Large numbers of veterans are now leaving the Nation's armed forces, and many of them have been encountering severe difficulties in making the transition to civilian life—in particular, many have found it difficult to locate and secure a job.

The Nation owes these veterans not only its deepest thanks for their sacrifice and their service, but also its assistance in their efforts to resume normal civilian activities.

In order to provide such assistance, the Federal Government has established a policy of helping veterans obtain employment, including the provision of special programs of job counseling and placement. It also is the policy of the Federal Government to require that veterans be given a preference in job referrals through the employment service system.

It would facilitate the employment of returning veterans—and thereby further the Federal policy of aiding their transition to civilian life—to require that Federal agencies and Federal contractors and their subcontractors list certain employment openings with the employment service system.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Labor shall issue rules and regulations requiring each department and agency of the Executive Branch of the Federal Government to list suitable employment openings with the appropriate office of the State Employment Service or the United States Employment Service. This section shall not be construed as requiring the employment of individuals referred by such office or as superseding any requirements of the Civil Service laws.

SEC. 2 (a). Those rules and regulations shall also require Government contracts, above a specified dollar amount and providing specified employment potential, to contain assurances that the contractor, and any subcontractor holding a contract directly under that contractor, shall, to the maximum extent feasible, list all of its suitable employment openings with the appropriate office of the State employment service system: *Provided*, That this section shall not be deemed to apply to openings which the employer proposes to fill from within such employer's agency or organization; and *Provided further*, That listing of employment openings

with the employment service system pursuant to this Order shall involve only the normal obligations which attach to such listings.

(b) The rules and regulations of the Secretary with respect to this section shall not be retroactive in effect.

SEC. 3. The Secretary of Labor shall gather information on the effectiveness of the program established under this Order and the extent to which the employment service system is fulfilling the employment needs of veterans. The Secretary of Labor shall, from time to time, report to the President concerning his evaluation of the effectiveness of this Order along with his recommendations for further action which the Secretary believes to be appropriate.

SEC. 4. Except as otherwise provided by law, all executive departments and agencies are directed to cooperate with the Secretary of Labor, to furnish the Secretary of Labor with such information and assistance as he may require in the performance of his functions under this Order, and to comply with rules, regulations, and orders of the Secretary.

SEC. 5. Rules, regulations, and orders to implement section 1 shall be developed in consultation with the Civil Service Commission. Appropriate departments and agencies shall, in consultation with the Secretary of Labor, issue appropriate amendments or additions to procurement rules and regulations as may be necessary to carry out the purposes of this Order.

Richard Nixon

THE WHITE HOUSE,
June 16, 1971.

[FR Doc.71-8696 Filed 6-17-71;8:57 am]

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission PART 213—EXCEPTED SERVICE

Veterans Administration

Section 213.3127 is amended to show that up to 200 positions of Rehabilitation Counselors, GS-3 through GS-11, in Veterans Administration drug and alcoholic treatment units are excepted under Schedule A when filled by former patients.

Effective on publication in the FEDERAL REGISTER (6-18-71), paragraph (b) is added to § 213.3127 as set out below.

§ 213.3127 Veterans Administration.

(b) Not to exceed 200 positions of Rehabilitation Counselors, GS-3 through GS-11, in drug and alcoholic treatment units when filled by former patients.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION.

[SEAL] JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.71-8603 Filed 6-17-71;8:50 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Apricot Reg. 11]

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

Notice was published in the FEDERAL REGISTER on May 29, 1971 (36 F.R. 9873), that consideration was being given to proposals relative to limitation of shipments of apricots recommended by the Washington Apricot Marketing Committee, established under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded 7 days for interested persons to submit written data, views, or arguments in connection with said proposals. None were received. How-

ever, during this period the committee advised that an error had apparently occurred in the transmission of its recommendation with respect to the maturity requirement, as reflected by the ground color requirement. As transmitted and as published in the notice not less than 90 percent of the individual apricots in any lot would be required to manifest a yellow ground color over 40 percent of the surface area equal to Shade 4 on the U.S. Standard Ground Color Chart for Apples and Pears in the Western States. The committee advised that its recommendation specified Shade 3 color instead of Shade 4. Shade 3 is a less restrictive ground color requirement than Shade 4. Such requirement is hereby corrected in the regulation, as hereinafter set forth.

After consideration of all relevant matters presented, including that in the notice and other available information, it is hereby found that the regulation, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The recommendations by the Washington Apricot Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of apricots from the production area are expected to begin on or about June 21, 1971. The grade, maturity, and size requirements provided herein are necessary to prevent the handling, on and after June 21, 1971, of any apricots of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall size and quality of the crop and (2) maximizing returns to the producers pursuant to the declared policy of the act.

Apricots of the Moorpark variety shipped in open containers are required to be generally well matured. Provision is made for apricots of the Blenheim, Blenril, and Tilton varieties to be of a smaller size when packed in unlidded containers. These three varieties are of a somewhat smaller size than other varieties at comparable stages of maturity. There is a demand for fruit meeting the foregoing specifications in local markets. Due to the nearness to the source of supply, shipments of more mature fruit and fruit of the specified varieties of smaller sizes in less expensive unlidded containers is feasible and the disposition of such fruit in such markets tends to improve the overall returns to growers. Individual shipments, not exceeding 500 pounds of apricots sold for home use and not for resale are exempted from regulation in that such shipments do not materially affect the demand in commercial channels. Certain safeguards respecting such shipments are imposed, consistent with the order, to prevent such apricots from entering into regulated channels of trade.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given of the proposed regulation, to become effective June 21, 1971, through publicity in the production area and by publication in the May 29, 1971, issue of the FEDERAL REGISTER; (2) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto; and (3) this regulation was unanimously recommended by members of the Washington Apricot Marketing Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views.

§ 922.311 Apricot Regulation 11.

(a) Order: Apricot Regulation 10 (35 F.R. 8916), is hereby terminated on June 21, 1971.

(b) During the period June 21, 1971, through June 30, 1972, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) Minimum grade and maturity requirements. Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided*, That if such apricots are the Moorpark variety in open containers they are generally well matured; and

(2) Minimum size requirements. Such apricots measure not less than 1½ inches in diameter except that apricots of the Blenheim, Blenril, and Tilton varieties when packed in unlidded containers may measure not less than 1¼ inches: *Provided*, That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement.

(3) Notwithstanding any other provision of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 (Assessments), and of § 922.55 (Inspection and Certification):

(i) The shipment consists of apricots sold for home use and not for resale.

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when

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used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1968; "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that, with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent, by count, of such apricots in any container in such lot, at least 40 percent of the surface area of the fruit is at least as yellow as Shade 3 on the U.S. Standard Ground Color Chart for Apples and Pears in the Western States.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 14, 1971, to become effective June 21, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-8597 Filed 6-17-71; 8:49 am]

[Apricot Reg. 6, Amdt. 2]

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Container Regulation

Notice was published in the FEDERAL REGISTER on May 29, 1971 (38 F.R. 9873), that consideration was being given to a proposed amendment of the container regulation for fresh shipments of apricots as recommended by the Washington Apricot Marketing Committee, established under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded 7 days for interested persons to submit written data, views, or arguments in connection with said amendment. None were received.

After consideration of all relevant matters presented, including that in the notice, and other available information, it is hereby found that the amendment, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The telescope fiberboard carton with inside dimensions of 7 x 11 1/2 x 18 inches has been successfully employed as an experimental container for shipping apricots and has furnished a satisfactory alternative to the wooden box which is reported to be in short supply in the specified dimensions. Presently, containers with inside dimensions of 7 x 11 1/2 x 18 inches must be unaltered. Additional authorization is needed to permit the use of the telescope fiberboard carton because in the closed position the telescope fiberboard carton is lidded al-

though not securely fastened. Apricots shipped in such carton cannot be less than 28 pounds, net weight.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given of the proposed amendment to the container regulation, to become effective June 21, 1971, through publicity in the production area and by publication in the May 29, 1971, issue of the FEDERAL REGISTER; (2) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto; and (3) this amendment was unanimously recommended by members of the Washington Apricot Marketing Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views.

Therefore, paragraph (a) (1) of § 922.306 is amended to read as follows:

§ 922.306 Apricot Regulation 6.

(a) (1) In open containers or telescope fiberboard cartons with inside dimensions of 7 x 11 1/2 x 18 inches and the net weight of the apricots is not less than 28 pounds;

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 14, 1971, to become effective June 21, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-8598 Filed 6-17-71; 8:49 am]

[Amdt. No. 1]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Amendment to Limitation of Shipments

Section 946.325, Limitation of shipments paragraph (h), published in the FEDERAL REGISTER, July 15, 1970 (35 F.R. 11291) is hereby amended.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the paragraph that is amended is informative in nature and subordinate to § 980.1 of this chapter which requires that during the months of July and August that limitation of shipments applicable to red skinned round type potatoes under Order No. 946 (Part 946 of this chapter) shall be likewise applicable to imports of the same type potatoes, and this amendment merely conforms the information conveyed by said paragraph (h) to that which is correct.

The paragraph as amended reads:

§ 946.325 Limitation of shipments.

(h) *Applicability to imports.* Pursuant to section 608e-1 of the act and § 980.1, Import regulations (980.1 of this chapter), Irish potatoes of the red skinned round type imported during the period of July 16, 1970, to August 31, 1970, and the period of July 1, 1971, to July 15, 1971, shall meet the minimum grade, size, quality, and maturity requirements specified for round varieties in paragraphs (a) and (b) of this section.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated June 16, 1971, to become effective immediately.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-8694 Filed 6-17-71; 8:53 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1971 Crop Wheat Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1971 Crop Wheat Loan and Purchase Program

The General Regulations Governing Price Support for the 1970 and Subsequent Crops, published at 35 F.R. 7363 and any amendments thereto and the 1970 and Subsequent Crops Wheat Loan and Purchase Program regulations published at 35 F.R. 8204 and any amendments to such regulations, are further supplemented for the 1971 crop of wheat by adding §§ 1421.485-1421.489 to read as follows:

Sec. 1421.485 Availability.
1421.486 Compliance requirements.
1421.487 Warehouse charges.
1421.488 Maturity of loans.
1421.489 Support rates, premiums, and discounts.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 107, 401, 63 Stat. 1051, 1054; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421.

§ 1421.485 Availability.

A producer desiring a price support loan must request a loan on his eligible wheat on or before April 30, 1972, on wheat stored in Idaho, Minnesota, Montana, North Dakota, Oregon, Washington, and Wyoming, and on or before March 31, 1972, on wheat stored in all other States. To obtain price support through sales, a producer must execute and deliver to the appropriate county ASCS office a Purchase Agreement (Form CCC-614), indicating the approximate quantity of 1971 crop wheat he will sell to CCC, on or before May 31, 1972, for

wheat stored in the States named in this section and on or before April 30, 1972, for wheat stored in all other States. To obtain a price support loan on his wheat or to sell his wheat to CCC, a producer must execute a Form CCC-680, 1971 Crop Wheat Varieties Certification.

§ 1421.486 Compliance requirements.

A producer shall be eligible for a loan or purchase with respect to the wheat being tendered if the producer complies with the 1971 set-aside program appearing in regulations published in Part 728 of this title pertaining to Farm Marketing Quotas and Acreage Allotments and Wheat Set-aside Programs for Crop Years 1971-73, and any amendments thereto, on the farm on which such wheat was produced.

§ 1421.487 Warehouse charges.

Subject to the provisions of § 1421.466, the schedule of deductions set forth in this section shall apply to wheat stored in an approved warehouse operating under the Uniform Grain Storage Agreement.

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES BY MATURITY DATES

Maturity date of Apr. 30, 1972	Deduction (cents per bushel)	Maturity date of May 31, 1972
(i) Prior to May 25, 1971.	14	(i) Prior to June 29, 1971.
May 25-June 21.....	13	June 29-July 23.....
June 22-July 17.....	12	July 24-Aug. 17.....
July 18-Aug. 11.....	11	Aug. 18-Sept. 11.....
Aug. 12-Sept. 5.....	10	Sept. 12-Oct. 6.....
Sept. 6-Sept. 30.....	9	Oct. 7-Oct. 31.....
Oct. 1-Oct. 25.....	8	Nov. 1-Nov. 25.....
Oct. 26-Nov. 19.....	7	Nov. 26-Dec. 20.....
Nov. 20-Dec. 14.....	6	Dec. 21, 1971-Jan. 14, 1972.....
Dec. 15, 1971-Jan. 8, 1972.....	5	Jan. 15-Feb. 8.....
Jan. 9-Feb. 2.....	4	Feb. 9-Mar. 4.....
Feb. 3-Feb. 27.....	3	Mar. 5-Mar. 29.....
Feb. 28-Mar. 23.....	2	Mar. 30-Apr. 23.....
Mar. 24-Apr. 30, 1972.....	1	Apr. 24-May 31, 1972.....

1 Date storage charges start, all dates inclusive

§ 1421.488 Maturity of loans.

Loans mature on demand but not later than: May 31, 1972, on wheat stored in the States of Idaho, Minnesota, Montana, North Dakota, Oregon, Washington, and Wyoming; April 30, 1972, on wheat stored in all other States.

§ 1421.489 Support rates, premiums, and discounts.

(a) *Basic support rates (counties).* Basic county support rates per bushel for loan and settlement purposes for wheat are established for wheat grading U.S. No. 1 and are as follows:

ALABAMA		ARIZONA	
County	Rate per bushel	County	Rate per bushel
Mobile	\$1.43	All other counties	\$1.27
Apache	1.10	Mohave	1.21
Cochise	1.24	Navajo	1.12
Cocconino	1.14	Pima	1.26
Gila	1.22	Pinal	1.30
Graham	1.23	Santa Cruz	1.25
Greenlee	1.17	Yavapai	1.22
Maricopa	1.32	Yuma	1.37

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County	Rate per bushel	County	Rate per bushel
Arkansas	\$1.32	La Plata	\$1.00
Ashley	1.32	Larimer	1.12
Baxter	1.27	Las Animas	1.19
Benton	1.25	Lincoln	1.12
Boone	1.25	Logan	1.13
Bradley	1.32	Mesa	1.00
Calhoun	1.32	Moffat	1.09
Carroll	1.24	Montezuma	1.00
Chicot	1.32	Montrose	1.00
Clark	1.30	Morgan	1.12
Clay	1.32	Otero	1.12
Cleburne	1.30	Ouray	1.00
Cleveland	1.32	Phillips	1.15
Columbia	1.32	Pitkin	1.00
Conway	1.27	CONNECTICUT	
Craighead	1.32	All counties	\$1.33
Crawford	1.27	DELAWARE	
Crittenden	1.32	Kent	1.38
Cross	1.32	New Castle	1.38
Dallas	1.32	FLORIDA	
Desha	1.32	All counties	\$1.29
Drew	1.32	GEORGIA	
Faulkner	1.28	All counties	\$1.29
Franklin	1.27	IDAHO	
Fulton	1.28	Ada	1.18
Garland	1.28	Adams	1.16
Grant	1.31	Bannock	1.16
Greene	1.32	Bear Lake	1.13
Hempstead	1.32	Benewah	1.24
Hot Spring	1.29	Bingham	1.14
Howard	1.29	Blaine	1.16
Independence	1.31	Boise	1.15
Izard	1.28	Bonner	1.18
Jackson	1.32	Bonneville	1.13
Jefferson	1.31	Boundary	1.16
Johnson	1.27	Butte	1.14
Lafayette	1.32	Camas	1.16
Lawrence	1.31	Canyon	1.16
CALIFORNIA		Caribou	1.15
Alameda	1.47	Cassia	1.18
Alpine	1.31	Clark	1.11
Amador	1.44	Cleanwater	1.22
Butte	1.36	Custer	1.14
Calaveras	1.44	Elmore	1.16
Colusa	1.41	Franklin	1.17
Contra Costa	1.44	Fremont	1.11
El Dorado	1.44	ILLINOIS	
Fresno	1.38	Adams	1.23
Glenn	1.37	Alexander	1.30
Humboldt	1.28	Bond	1.27
Imperial	1.42	Boone	1.29
Inyo	1.38	Brown	1.23
Kern	1.44	Bureau	1.28
Kings	1.41	Calhoun	1.27
Lake	1.35	Carroll	1.27
Lassen	1.25	Cass	1.23
Los Angeles	1.47	Champaign	1.25
Madera	1.40	Christian	1.25
Marin	1.39	Clark	1.23
Mariposa	1.40	Clay	1.25
Mendocino	1.32	Clinton	1.26
Merced	1.41	Coles	1.23
Modoc	1.24	Cook	1.29
Monterey	1.38	Crawford	1.23
Napa	1.41	Cumberland	1.23
Orange	1.47	De Kalb	1.29
Placer	1.41	De Witt	1.23
Plumas	1.26	Douglas	1.23
COLORADO		DuPage	1.20
Adams	1.12	Edgar	1.23
Alamosa	1.09	Edwards	1.23
Arapahoe	1.12	Emingham	1.23
Archuleta	1.04	Fayette	1.28
Baca	1.19	Ford	1.27
Bent	1.13	Franklin	1.26
Boulder	1.12	Fulton	1.25
Chaffee	1.04	Gallatin	1.23
Cheyenne	1.14	Greene	1.27
Conjoes	1.04	Grundy	1.29
Costilla	1.09	Hamilton	1.23
Crowley	1.12	Hancock	1.23
Custer	1.09	Hardin	1.23
Delta	1.00	Henderson	1.24
		Henry	1.26
		Iroquois	1.27
		Jackson	1.28
		Jasper	1.23
		Jefferson	1.26
		Jersey	1.28
		Jo Daviess	1.27
		Johnson	1.25
		Kane	1.29
		Kankakee	1.29
		Kendall	1.29
		Knox	1.25
		Lake	1.29
		La Salle	1.29
		Lawrence	1.23
		Lee	1.29
		Livingston	1.27
		Logan	1.24
		McDonough	1.23
		McHenry	1.29
		McLean	1.25
		Macon	1.23
		Macoupin	1.28
		Madison	1.30

MARYLAND—Continued				MINNESOTA—Continued				MONTANA—Continued			
County	Rate per bushel	County	Rate per bushel	County	Rate per bushel	County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
Talbot	\$1.38	Wicomico	\$1.38	St. Louis	\$1.46	Wadena	\$1.43	Granite	\$1.04	Powder River	\$1.12
Washington	1.34	Worcester	1.38	Scott	1.43	Wadena	1.40	Hill	1.08	Powell	1.06
MASSACHUSETTS				Sherburne	1.43	Wasca	1.43	Jefferson	1.05	Prairie	1.13
All counties				Sibley	1.43	Washington	1.43	Judith Basin	1.08	Ravalli	1.04
MICHIGAN				Stearns	1.43	Watsonwan	1.42	Lake	1.07	Richland	1.13
Alcona	1.10	Keweenaw	1.28	Steele	1.43	Wilkin	1.37	Lewis and Clark	1.08	Rosevelt	1.12
Alger	1.25	Lake	1.14	Stevens	1.40	Winona	1.41	Clark	1.08	Rosebud	1.10
Allegan	1.17	Lapeer	1.15	Swift	1.42	Wright	1.43	Liberty	1.08	Sanders	1.07
Alpena	1.09	Leelanau	1.12	Todd	1.41	Yellow		Lincoln	1.10	Sheridan	1.13
Antrim	1.11	Lenawee	1.22	Traverse	1.38	Medicine	1.41	McConne	1.12	Silver Bow	1.06
Arenac	1.12	Livingston	1.17	MISSISSIPPI				Madison	1.06	Stillwater	1.08
Baraga	1.28	Luce	1.12	Harrison	1.43	All other counties	1.27	Meagher	1.08	Sweet Grass	1.08
Barry	1.18	Mackinac	1.12	Jackson	1.43	MISSOURI				Mineral	1.07
Bay	1.14	Macomb	1.19	Missouri				Missoula	1.07	Toole	1.08
Benzie	1.14	Manistee	1.14	Adair	1.26	Linn	1.29	Musselshell	1.08	Treasure	1.10
Berrien	1.27	Marquette	1.27	Andrew	1.31	Livingston	1.30	Park	1.06	Valley	1.10
Branch	1.20	Mason	1.14	Atchison	1.31	McDonald	1.27	Petroleum	1.08	Wheatland	1.08
Calhoun	1.21	Mecosta	1.14	Audrain	1.26	Macon	1.28	Phillips	1.08	Wibaux	1.16
Cass	1.21	Menominee	1.27	Barry	1.26	Madison	1.28	Pondera	1.08	Yellowstone	1.08
Charlevoix	1.10	Midland	1.14	Barton	1.29	Marion	1.26	NEBRASKA			
Cheboygan	1.09	Missaukee	1.14	Bates	1.31	Marion	1.25	Adams	1.25	Jefferson	1.28
Chippewa	1.12	Monroe	1.23	Benton	1.29	Mercer	1.28	Antelope	1.28	Johnson	1.29
Clare	1.14	Montcalm	1.14	Bollinger	1.30	Miller	1.25	Arthur	1.17	Kearney	1.24
Clinton	1.15	Montmorency	1.10	Boone	1.27	Mississippi	1.32	Banner	1.12	Keith	1.17
Crawford	1.11	Muskegon	1.15	Buchanan	1.31	Montiteau	1.26	Blaine	1.21	Keya Paha	1.22
Delta	1.25	Newaygo	1.14	Butler	1.31	Monroe	1.27	Boone	1.29	Kimball	1.12
Dickinson	1.29	Oakland	1.17	Caldwell	1.31	Montgomery	1.27	Box Butte	1.15	Knox	1.28
Eaton	1.18	Ocean	1.14	Callaway	1.25	Morgan	1.27	Boyd	1.26	Lancaster	1.31
Emmet	1.09	Ogemaw	1.12	Camden	1.26	New Madrid	1.32	Brown	1.22	Lincoln	1.19
Genesee	1.15	Ontonagon	1.30	Cape Girardeau	1.30	Newton	1.27	Buffalo	1.25	Logan	1.21
Gladwin	1.13	Oscoda	1.11	Carroll	1.31	Nodaway	1.31	Burt	1.31	Loup	1.23
Gogebic	1.34	Oscoda	1.11	Carter	1.28	Oregon	1.28	Butler	1.31	McPherson	1.20
Grand Traverse	1.12	Otsego	1.10	Cass	1.31	Osage	1.25	Cass	1.31	Madison	1.30
Gratiot	1.15	Ottawa	1.16	Cass	1.31	Ozark	1.25	Cedar	1.28	Merrick	1.28
Hillsdale	1.21	Presque Isle	1.08	Cedar	1.30	Pemiscot	1.32	Chase	1.16	Morrill	1.13
Houghton	1.28	Roscommon	1.13	Chariton	1.30	Perry	1.29	Cherry	1.19	Nance	1.29
Huron	1.15	Saginaw	1.16	Christian	1.26	Pettis	1.29	Cheyenne	1.13	Nemaha	1.30
Ingham	1.18	St. Clair	1.18	Clark	1.24	Phelps	1.25	Clay	1.26	Nuckolls	1.26
Ionia	1.18	St. Joseph	1.20	Clark	1.31	Pike	1.26	Colfax	1.31	Otoe	1.31
Iosco	1.11	Sanilac	1.15	Clinton	1.31	Platte	1.31	Cuming	1.31	Pawnee	1.29
Iron	1.29	Schoolcraft	1.22	Cole	1.25	Polk	1.28	Custer	1.23	Perkins	1.17
Isabella	1.14	Shiawassee	1.15	Cooper	1.28	Pulaski	1.24	Dakota	1.30	Phelps	1.23
Jackson	1.21	Tuscola	1.18	Crawford	1.26	Putnam	1.26	Dawes	1.14	Pierce	1.29
Kalamazoo	1.20	Van Buren	1.18	Dade	1.26	Ralls	1.26	Dawson	1.23	Platte	1.30
Kalkaska	1.12	Washtenaw	1.20	Dallas	1.28	Randolph	1.28	Deuel	1.15	Polk	1.30
Kent	1.15	Wayne	1.20	DeWass	1.30	Ray	1.31	Dixon	1.29	Red Willow	1.20
MINNESOTA				De Kaib	1.31	Reynolds	1.26	Dodge	1.31	Richardson	1.29
Aitkin	1.44	Koochiching	1.40	Dent	1.25	Ripley	1.30	Douglas	1.31	Rock	1.23
Anoka	1.43	Lac qui		Douglas	1.24	St. Charles	1.29	Dundy	1.16	Saline	1.29
Becker	1.37	Parle	1.40	Dunklin	1.32	St. Clair	1.30	Fillmore	1.28	Sarpy	1.31
Beltrami	1.39	Lake of the		Franklin	1.28	Ste.		Franklin	1.23	Saunders	1.31
Benton	1.43	Woods	1.34	Gasconade	1.27	Genevieve	1.29	Frontier	1.20	Scotts Bluff	1.12
Big Stone	1.39	Le Sueur	1.43	Gentry	1.31	St. Francois	1.27	Furnas	1.22	Seward	1.31
Blue Earth	1.43	Lincoln	1.38	Greene	1.26	St. Louis	1.30	Gage	1.29	Sheridan	1.16
Brown	1.43	Lyon	1.40	Grundy	1.29	Saline	1.30	Garden	1.15	Sherman	1.25
Carlton	1.46	McLeod	1.43	Harrison	1.29	Schuyler	1.25	Garfield	1.25	Sioux	1.13
Carver	1.43	Mahnomen	1.36	Henry	1.31	Scotland	1.25	Gosper	1.22	Stanton	1.31
Cass	1.41	Marshall	1.33	Hickory	1.28	Scott	1.30	Grant	1.17	Thayer	1.27
Chippewa	1.42	Martin	1.41	Holt	1.31	Shannon	1.25	Greeley	1.27	Thomas	1.20
Chisago	1.43	Meeker	1.43	Howard	1.28	Shelby	1.27	Hall	1.27	Thurston	1.30
Clay	1.35	Millie Lacs	1.43	Howell	1.28	Stoddard	1.31	Hamilton	1.28	Valley	1.25
Clearwater	1.38	Morrison	1.43	Iron	1.27	Stone	1.35	Harlan	1.23	Washington	1.31
Cottonwood	1.41	Mower	1.41	Jackson	1.31	Sullivan	1.28	Hayes	1.18	Wayne	1.29
Crow Wing	1.43	Murray	1.39	Jasper	1.28	Taney	1.25	Hitchcock	1.18	Webster	1.25
Dakota	1.43	Nicollet	1.43	Jefferson	1.29	Texas	1.25	Hooker	1.18	Wheeler	1.28
Dodge	1.43	Nobles	1.36	Johnson	1.31	Vernon	1.30	Howard	1.27	York	1.29
Douglas	1.41	Norman	1.34	Knox	1.24	Warren	1.28	NEVADA			
Faribault	1.41	Olmsted	1.34	Lacide	1.24	Washington	1.28	All counties			\$1.22
Fillmore	1.40	Otter Tail	1.39	Lafayette	1.31	Wayne	1.29	NEW HAMPSHIRE			
Freeborn	1.41	Pennington	1.34	Lawrence	1.26	Webster	1.24	All counties			\$1.31
Goodhue	1.43	Pine	1.44	Lewis	1.24	Worth	1.31	NEW JERSEY			
Grant	1.39	Pipestone	1.36	Lincoln	1.28	Wright	1.24	Atlantic	1.38	Hunterdon	1.38
Hennepin	1.43	Polk	1.35	MONTANA				Bergen	1.42	Mercer	1.40
Houston	1.38	Pope	1.41	Beaverhead	1.09	Dawson	1.13	Burlington	1.40	Middlesex	1.40
Hubbard	1.38	Ramsey	1.43	Big Horn	1.08	Deer Lodge	1.08	Camden	1.42	Monmouth	1.40
Isanti	1.43	Red Lake	1.36	Biahe	1.08	Fallon	1.16	Cape May	1.35	Morris	1.38
Itasca	1.44	Redwood	1.42	Broadwater	1.06	Fergus	1.08	Cumberland	1.38	Ocean	1.38
Jackson	1.40	Renville	1.43	Carbon	1.08	Flathead	1.10	Essex	1.38	Passaic	1.38
Kanabec	1.43	Rice	1.43	Carter	1.14	Gallatin	1.06	Gloucester	1.42	Salem	1.38
Kandiyohi	1.43	Rock	1.34	Cascade	1.08	Garfield	1.10				
Kitson	1.30	Roseau	1.31	Chouteau	1.08	Glacier	1.08				
				Custer	1.12	Golden					
				Daniels	1.11	Valley	1.08				

RULES AND REGULATIONS

New Jersey—Continued				OHIO			
County	Rate per bushel	County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
Somerset	\$1.38	Union	\$1.39	Adams	\$1.18	Licking	\$1.20
Sussex	1.38	Warren	1.38	Allen	1.22	Logan	1.20
New Mexico				Ashland	1.22	Lorain	1.22
Bernalillo	1.13	Mora	1.20	Ashtabula	1.24	Lucas	1.28
Catron	1.14	Otero	1.18	Athens	1.20	Madison	1.19
Chaves	1.22	Quay	1.27	Auglaize	1.21	Mahoning	1.24
Colfax	1.19	Rio Arriba	1.08	Belmont	1.21	Marion	1.22
Curry	1.27	Roosevelt	1.26	Brown	1.18	Medina	1.21
De Baca	1.23	Sandoval	1.11	Butler	1.18	Meigs	1.18
Dona Ana	1.18	San Juan	1.02	Carroll	1.21	Mercer	1.27
Eddy	1.22	San Miguel	1.21	Champaign	1.19	Miami	1.19
Grant	1.18	Santa Fe	1.16	Clark	1.18	Monroe	1.21
Guadalupe	1.24	Sierra	1.17	Clermont	1.18	Montgomery	1.18
Harding	1.26	Socorro	1.16	Clinton	1.18	Morgan	1.21
Hidalgo	1.22	Taos	1.14	Columbiana	1.23	Morrow	1.21
Lea	1.26	Torrance	1.18	Coshocton	1.21	Muskingum	1.21
Lincoln	1.19	Union	1.24	Crawford	1.23	Noble	1.21
Lunar	1.20	Valencia	1.10	Cuyahoga	1.21	Ottawa	1.25
McKinley	1.06			Darke	1.20	Paulding	1.22
New York				Defiance	1.22	Perry	1.20
Albany	1.46	Oneida	1.34	Delaware	1.20	Pickaway	1.19
Allegany	1.32	Onondaga	1.34	Erle	1.24	Pike	1.18
Broome	1.36	Franklin	1.34	Fairfield	1.20	Portage	1.21
Cattaraugus	1.28	Orange	1.38	Fayette	1.18	Preble	1.18
Cayuga	1.34	Orleans	1.32	Franklin	1.20	Putnam	1.22
Chautauqua	1.24	Oswego	1.34	Fulton	1.23	Richland	1.22
Chemung	1.34	Otsego	1.38	Gaillard	1.18	Ross	1.19
Chenango	1.36	Putnam	1.38	Geauga	1.24	Sandusky	1.25
Clinton	1.31	Rensselaer	1.42	Greene	1.18	Schlot	1.18
Columbia	1.42	Rockland	1.38	Guernsey	1.21	Seneca	1.24
Contra Costa	1.34	St. Lawrence	1.29	Hamilton	1.18	Shelby	1.21
Delaware	1.38	Saratoga	1.38	Hancock	1.24	Stark	1.21
Dutchess	1.38	Schoharie	1.42	Hardin	1.22	Summit	1.21
Essex	1.34	Schoharie	1.42	Harrison	1.21	Trumbull	1.24
Franklin	1.28	Seneca	1.34	Henry	1.23	Tuscarawas	1.21
Fulton	1.34	St. Lawrence	1.29	Hocking	1.18	Union	1.20
Genesee	1.34	Suffolk	1.38	Holmes	1.21	Van Wert	1.22
Greene	1.42	Sullivan	1.38	Huron	1.23	Vinton	1.20
Herkimer	1.34	Tioga	1.34	Jackson	1.18	Washington	1.21
Jefferson	1.31	Tompkins	1.34	Jefferson	1.23	Wayne	1.21
Lewis	1.32	Ulster	1.38	Knox	1.21	Williams	1.22
Livingston	1.34	Warren	1.37	Lake	1.23	Wood	1.25
Madison	1.34	Washington	1.38	Lawrence	1.18	Wyandot	1.23
Monroe	1.34	Wayne	1.34	OKLAHOMA			
Montgomery	1.38	Westchester	1.42	Adair	1.27	Kingfisher	1.29
Nassau	1.42	Wyoming	1.34	Alfalfa	1.27	Kiowa	1.30
Niagara	1.46	Yates	1.34	Atoka	1.31	Latimer	1.29
North Carolina				Beaver	1.23	Le Flore	1.29
All counties	\$1.31			Beckham	1.29	Lincoln	1.29
North Dakota				Blaine	1.29	Logan	1.28
Adams	1.20	McLean	1.19	Bryan	1.32	Love	1.32
Barnes	1.30	Mercer	1.19	Caddo	1.30	McClain	1.30
Benson	1.22	Morton	1.22	Canadian	1.29	McCurtain	1.30
Billings	1.18	Mountrail	1.15	Carter	1.32	McIntosh	1.29
Bottineau	1.18	Nelson	1.28	Cherokee	1.28	Major	1.28
Bowman	1.19	Oliver	1.20	Choctaw	1.32	Marshall	1.32
Burke	1.15	Pembina	1.28	Cimarron	1.23	Mayes	1.23
Burleigh	1.23	Pierce	1.20	Cleveland	1.30	Murray	1.31
Cass	1.32	Ramsey	1.25	Coal	1.31	Muskogee	1.29
Cavalier	1.25	Ransom	1.32	Comanche	1.31	Noble	1.28
Dickey	1.31	Renville	1.15	Cotton	1.31	Nowata	1.28
Divide	1.13	Richland	1.35	Craig	1.28	Okfuskee	1.29
Dunn	1.18	Rolette	1.19	Creek	1.29	Oklahoma	1.29
Eddy	1.25	Sargent	1.32	Custer	1.28	Oklmulgee	1.29
Emmons	1.25	Sheridan	1.21	Delaware	1.27	Osage	1.27
Foster	1.26	Sioux	1.22	Ellis	1.25	Ottawa	1.27
Golden Valley	1.17	Slope	1.20	Garfield	1.28	Payne	1.28
Grand Forks	1.31	Stark	1.30	Grant	1.31	Pittsburg	1.29
Grant	1.21	Steele	1.30	Grady	1.30	Pontotoc	1.30
Griggs	1.29	Stutsman	1.27	Grant	1.27	Pottawatomie	1.29
Hettinger	1.20	Towner	1.22	Greer	1.30	Pushmataha	1.31
Kidder	1.24	Trail	1.31	Harmon	1.30	Roger Mills	1.28
La Moure	1.29	Walsh	1.29	Harper	1.24	Rogers	1.28
Logan	1.26	Ward	1.16	Haskell	1.29	Seminole	1.29
McHenry	1.18	Wells	1.24	Hughes	1.29	Sequoyah	1.29
McIntosh	1.26	Williams	1.14	Jackson	1.30	Stephens	1.31
McKenzie	1.16			Jefferson	1.32	Texas	1.23
				Johnston	1.32	Tillman	1.30
				Kay	1.27		

RULES AND REGULATIONS

SOUTH DAKOTA—Continued				TEXAS—Continued			
County	Rate per bushel	County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
Gregory	\$1.25	Mellette	\$1.22	Chambers	\$1.49	Kinney	\$1.29
Haakon	1.24	Miner	1.32	Cherokee	1.35	Knox	1.30
Hamlin	1.36	Minnehaha	1.33	Childress	1.30	Lamar	1.32
Hand	1.30	Moody	1.36	Clay	1.33	Lamb	1.27
Hanson	1.31	Pennington	1.18	Cochran	1.27	Lampasas	1.34
Harding	1.19	Perkins	1.20	Coke	1.30	Limestone	1.37
Hughes	1.27	Potter	1.27	Coleman	1.31	Lipscomb	1.25
Hutchinson	1.30	Roberts	1.37	Collins	1.34	Live Oak	1.45
Hyde	1.28	Sanborn	1.31	Collingsworth	1.30	Llano	1.34
Jackson	1.24	Shannon	1.16	Comal	1.35	Loving	1.21
Jerauld	1.30	Spink	1.32	Comanche	1.32	Lubbock	1.27
Jones	1.25	Stanley	1.26	Concho	1.32	Lynn	1.27
Kingsbury	1.34	Sully	1.27	Cooke	1.34	McCulloch	1.32
Lake	1.34	Todd	1.22	Coryell	1.35	McLennan	1.35
Lawrence	1.18	Tripp	1.24	Cottle	1.28	Martin	1.27
Lincoln	1.32	Turner	1.31	Crosby	1.27	Mason	1.33
Lyman	1.26	Union	1.32	Culberson	1.18	Maverick	1.26
McCook	1.31	Walworth	1.27	Dallam	1.25	Medina	1.35
McPherson	1.29	Washburn	1.22	Dallas	1.35	Menard	1.32
Marshall	1.35	Yankton	1.29	Deaf Smith	1.27	Midland	1.26
Meade	1.20	Ziebach	1.22	Delta	1.32	Miller	1.39
TENNESSEE				Denton	1.34	Mills	1.34
Anderson	1.28	Lauderdale	1.28	De Witt	1.39	Mitchell	1.28
Bedford	1.27	Lawrence	1.26	Dickens	1.28	Montague	1.34
Benton	1.25	Lewis	1.26	Dimmit	1.26	Moore	1.25
Bledsoe	1.27	Lincoln	1.28	Donley	1.28	Motley	1.28
Blount	1.29	Loudon	1.28	Eastland	1.32	Navarro	1.35
Bradley	1.29	McMinn	1.29	Edwards	1.29	Nolan	1.29
Campbell	1.28	McNairy	1.26	Ellis	1.35	Nueces	1.49
Cannon	1.26	Macon	1.25	El Paso	1.14	Ochiltree	1.25
Carroll	1.35	Madison	1.26	Erath	1.33	Oldham	1.27
Carter	1.20	Marion	1.28	Falls	1.37	Palo Pinto	1.33
Cheatham	1.25	Marshall	1.27	Fannin	1.34	Parmer	1.27
Chester	1.26	Mary	1.26	Fisher	1.30	Pecos	1.27
Chilborne	1.29	Meigs	1.29	Floyd	1.27	Potter	1.27
Clay	1.26	Monroe	1.29	Foard	1.30	Presidio	1.14
Coke	1.29	Montgomery	1.24	Frio	1.36	Randall	1.27
Coffee	1.27	Morgan	1.27	Galveston	1.27	Real	1.32
Crockett	1.25	Obion	1.28	Garza	1.27	Reeves	1.22
Cumberland	1.27	Overton	1.27	Gillespie	1.34	Refugio	1.45
Davidson	1.25	Perry	1.25	Glasscock	1.27	Roberts	1.25
Decatur	1.25	Pickett	1.27	Goliad	1.42	Robertson	1.39
De Kalb	1.26	Polk	1.29	Gray	1.27	Rockwall	1.34
Dickson	1.25	Putnam	1.27	Grayson	1.34	Runkles	1.30
Dyer	1.28	Rhea	1.28	Guadalupe	1.37	San Patricio	1.49
Fayette	1.30	Roane	1.28	Hale	1.27	San Saba	1.34
Fentress	1.27	Robertson	1.24	Hall	1.28	Schleicher	1.28
Franklin	1.28	Rutherford	1.26	Hamilton	1.33	Scurry	1.28
Gibson	1.25	Scott	1.29	Hansford	1.25	Shackelford	1.31
Giles	1.27	Sevier	1.29	Hardeman	1.30	Sherman	1.24
Granger	1.29	Shelby	1.32	Harris	1.49	Somervell	1.34
Greene	1.30	Smith	1.26	Hartley	1.25	Stephens	1.33
Grundy	1.27	Stewart	1.25	Haskell	1.30	Sterling	1.27
Hamblen	1.29	Sullivan	1.30	Hockley	1.27	Stonewall	1.29
Hamilton	1.29	Sumner	1.24	Hood	1.34	Sutton	1.29
Hancock	1.30	Tipton	1.30	Howard	1.27	Swisher	1.27
Hardeman	1.28	Trousdale	1.25	Hudspeth	1.14	Tarrant	1.35
Hardin	1.28	Union	1.29	Hunt	1.32	Taylor	1.30
Hawkins	1.30	Van Buren	1.27	Hutchinson	1.25	Terry	1.27
Haywood	1.28	Warren	1.27	Irion	1.27	Throckmorton	1.31
Henderson	1.25	Washington	1.30	Jack	1.33	Tom Green	1.30
Henry	1.25	Wayne	1.25	Jackson	1.42	Travis	1.35
Hickman	1.25	Weakley	1.25	Jeff Davis	1.18	Uvalde	1.32
Houston	1.25	White	1.27	Jefferson	1.49	Van Zandt	1.34
Humphreys	1.25	Williamson	1.26	Johnson	1.35	Victoria	1.42
Jackson	1.26	Wilson	1.25	Jones	1.30	Waller	1.45
Jefferson	1.29			Karnes	1.39	Ward	1.26
Johnson	1.30			Kaufman	1.34	Wharton	1.42
Knox	1.29			Kendall	1.35	Wheeler	1.28
Lake	1.28			Kerr	1.28	Wichita	1.30
TEXAS				Kimble	1.32	Wilbarger	1.30
Andrews	1.27	Borden	1.27	King	1.29	Williamson	1.37
Archer	1.30	Bosque	1.34			Wilson	1.37
Armstrong	1.27	Bowie	1.31			Wise	1.37
Atascosa	1.39	Briscoe	1.28			Yoakum	1.27
Bailey	1.27	Brown	1.32			Young	1.33
Bandera	1.35	Burleson	1.42			Zavala	1.29
Bandera	1.37	Burnet	1.35				
Baylor	1.30	Caldwell	1.37				
Bee	1.46	Callahan	1.42				
Bell	1.37	Callahan	1.31				
Bexar	1.37	Carson	1.27				
Blanco	1.36	Castro	1.27				

WASHINGTON—Continued			
Rate per bushel		Rate per bushel	
County		County	
Klickitat	1.33	Skamania	1.37
Lewis	1.37	Snohomish	1.37
Lincoln	1.26	Spokane	1.25
Mason	1.31	Stevens	1.20
Okanogan	1.26	Thurston	1.37
Pacific	1.34	Wahkiakum	1.37
Pend Oreille	1.18	Walla Walla	1.28
Pierce	1.40	Whatcom	1.31
San Juan	1.26	Whitman	1.26
Skagit	1.34	Yakima	1.30

WEST VIRGINIA			
Barbour	1.26	Mineral	1.28
Berkeley	1.30	Mingo	1.25
Boone	1.25	Monongalia	1.24
Braxton	1.25	Monroe	1.28
Brooke	1.23	Morgan	1.29
Cabell	1.23	Nicholas	1.27
Calhoun	1.24	Ohio	1.23
Clay	1.25	Pendleton	1.29
Doddridge	1.23	Pleasants	1.22
Fayette	1.27	Pocahontas	1.29
Gilmer	1.24	Preston	1.26
Grant	1.28	Putnam	1.23
Greenbrier	1.29	Raleigh	1.26
Hampshire	1.29	Randolph	1.28
Hancock	1.23	Ritchie	1.23
Hardy	1.29	Roane	1.23
Harrison	1.25	Summers	1.29
Jackson	1.22	Taylor	1.26
Jefferson	1.31	Tucker	1.28
Kanawha	1.24	Tyler	1.22
Lewis	1.25	Upshur	1.26
Lincoln	1.24	Wayne	1.24
Logan	1.25	Webster	1.27
McDowell	1.27	Wetzel	1.23
Marion	1.24	Wirt	1.23
Marshall	1.23	Wood	1.22
Mason	1.23	Wyoming	1.26
Mercer	1.28		

WISCONSIN			
Adams	1.30	Marathon	1.36
Ashland	1.40	Marquette	1.30
Barron	1.41	Marquette	1.29
Bayfield	1.43	Menominee	1.32
Brown	1.25	Milwaukee	1.29
Buffalo	1.41	Monroe	1.32
Burnett	1.44	Oconto	1.30
Calumet	1.25	Oneida	1.35
Chippewa	1.41	Outagamie	1.28
Clark	1.38	Ozaukee	1.27
Columbia	1.27	Peplin	1.41
Crawford	1.32	Pierce	1.42
Dane	1.26	Polk	1.42
Dodge	1.26	Portage	1.35
Door	1.20	Price	1.37
Douglas	1.46	Racine	1.29
Dunn	1.41	Richland	1.31
Eau Claire	1.38	Rock	1.28
Florence	1.31	Rusk	1.39
Fond du Lac	1.25	St. Croix	1.42
Forest	1.33	Sauk	1.28
Grant	1.29	Sawyer	1.41
Green	1.26	Shawano	1.32
Green Lake	1.27	Sheboygan	1.25
Iowa	1.28	Taylor	1.39
Iron	1.38	Trempleau	1.38
Jackson	1.35	Vernon	1.34
Jefferson	1.27	Vilas	1.34
Juneau	1.31	Walworth	1.28
Kenosha	1.29	Washburn	1.43
Kewaunee	1.22	Washington	1.27
La Crosse	1.35	Waukesha	1.28
Lafayette	1.26	Waupaca	1.30
Langlade	1.34	Waushara	1.27
Lincoln	1.37	Winnebago	1.27
Manitowoc	1.24	Wood	1.33

WYOMING			
Albany	1.09	Goshen	1.12
Big Horn	1.04	Hot Springs	1.04
Campbell	1.09	Johnson	1.06
Carbon	1.06	Laramie	1.12
Converse	1.09	Lincoln	1.13
Crook	1.12	Natrona	1.04
Fremont	1.04	Niobrara	1.12

WYOMING—Continued			
County	Rate per bushel	County	Rate per bushel
Park -----	1.04	Teton -----	1.11
Platte -----	1.12	Uinta -----	1.13
Sheridan -----	1.08	Washakie -----	1.04
Sublette -----	1.09	Weston -----	1.12
Sweetwater -----	1.09		

(b) *Premiums and discounts.* The basic support rate shall be adjusted as applicable by premiums and discounts as follows (all footnotes at end of paragraph):

Class	Premiums and discounts	Cents per bushel
(1) Class premiums and discounts.		
(i) Premiums:		
Hard Amber Durum (U.S. No. 3 or better) ¹	+5	
(ii) Discounts:		
Durum	-5	
Red Durum	-20	
Mixed Wheat (mixtures of classes other than contrasting classes)	-2	
Mixed Wheat (mixtures of contrasting classes)	-10	
(2) Grade premiums and discounts.		
(i) Premium:		
Heavy, U.S. No. 3 or better (Hard Red Spring only) ¹	+2	
(ii) Discounts:		
U.S. No. 2	-1	
U.S. No. 3	-3	
U.S. No. 4	-6	
U.S. No. 5	-9	
Sample on one or more of the factors test weight, total damage (with not more than 3 percent heat damage), foreign material, and total defects (with not more than 3 percent heat damage), apply a discount of 14 cents. Add 1 cent for each pound or fraction thereof that test weight is below 50 pounds (49 pounds for Hard Red Spring and White Club) through 40 pounds and add 1 cent for each percent or fraction thereof that total defects are in excess of 21 percent. Total discount on these factors shall not exceed 30 cents per bushel if total defects are not in excess of 50 percent, or 45 cents per bushel if total defects are in excess of 50 percent.		

Smut—degree basis:	
Light Smutty	-2
Smutty	-6
Garlic—degree basis:	
Light Garlicy	-5
Garlicky	-10
(3) Protein premiums. Applicable to grade U.S. No. 5 or better, Hard Red Winter, Hard Red Spring, and Hard White Wheat of the varieties Baart, Bluestem, and Burt. ¹	

Protein content (percent):	Cents per bushel
12.0-12.4	+ 1½
12.5-12.9	+ 3
13.0-13.4	+ 4½
13.5-13.9	+ 6
14.0-14.4	+ 7½
14.5-14.9	+ 9
15.0-15.4	+ 10½
15.5-15.9	+ 12
16.0-16.4	+ 13½
16.5-16.9	+ 15
17.0-17.4	+ 16½
17.5 and above	+ 18

(4) Variety discount. -20

¹ Not applicable to the undesirable varieties listed in subparagraph (4).

The following varieties referred to in these regulations as "undesirable varieties" are subject to the discount:

Hard Red Winter:	Pitic 62.
Blue Jacket.	Spinkcota.
Cache. ²	Red River 68. ⁵
Purkof.	White:
Red chief. ³	Florence.
Stafford.	Gaines. ⁴
Yogo.	Rex.
Hard Red Spring:	Siete Cerros 66. ⁷
Henry. ⁶	Soft Red Winter:
Kinney.	Nured.
Nalnari 60.	Durum:
Penjamo 62.	Oviachic.

(5) Weed control discount (where required by § 1421.25) -10

(6) Other factors. Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of wheat, such as (but not limited to) moisture, weevil, ergot, stones, musty, sour and heating. Such discounts will be established not later than the time delivery of wheat to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices.

NOTE: Premiums and discounts are cumulative except only one grade discount shall be applied.

Effective date: Upon publication in the FEDERAL REGISTER (6-18-71).

Signed at Washington, D.C., on June 11, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.71-8541 Filed 6-17-71; 8:45 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Notice of Termination of Designation of Massachusetts Under the Federal Meat Inspection Act

On May 18, 1971, there was published in the FEDERAL REGISTER (§ 331.2, 36 F.R.

² Except in Idaho and Utah.
³ Including white seeded Red Chief.
⁴ When grown east of Continental Divide or in Arizona and New Mexico.
⁵ When grown in Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.
⁶ Except in Washington.
⁷ When grown in Arizona.

9003) a notice of designation of the State of Massachusetts under section 301(c) (1) of the Federal Meat Inspection Act (21 U.S.C. 661(c) (1)). This designation was based on information that the State of Massachusetts had not developed and activated and was not enforcing State meat inspection requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State. However, the State of Massachusetts requested the Secretary of Agriculture to resurvey the State program to determine if the State is now in a position to enforce such requirements. Upon a subsequent review by this Department of the meat inspection program of the State of Massachusetts, it has been determined that the State has developed and will enforce State meat inspection requirements at least equal to those imposed under titles I and IV of the Act, with respect to operations and transactions within the State which would be regulated under section 301(c) (1) of the Act.

Accordingly, pursuant to the authority in section 301(c) (3) of the Act (21 U.S.C. 661(c) (3)), the designation of the State of Massachusetts under section 301(c) of the Act is hereby terminated, effective upon publication of this notice in the FEDERAL REGISTER (6-18-71).

Done at Washington, D.C., on June 14, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-8635 Filed 6-17-71; 8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

PART 39—AIRWORTHINESS DIRECTIVES

Dornier Model Do-28D-1 Airplanes

There have been reports of cracks in the landing gear wheel forks on Dornier Model Do-28D-1 airplanes that could result in failure of the wheel fork. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require periodic inspections of the wheel forks and replacement of forks found to be cracked on Dornier Model Do-28D-1 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

DORNIER, G.m.b.H. Applies to Model Do-28D-1, Serials Nos. 4002 through 4049.

Within the next 50 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 100 hours' time in service from the last inspection, inspect the landing gear wheel forks for cracks in accordance with Dornier Service Bulletin No. 1039-1501 or an FAA-approved equivalent. If cracks are found during any inspection, before further flight replace the work with a serviceable part of the same part number.

This amendment becomes effective June 23, 1971.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on June 11, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-8585 Filed 6-17-71; 8:48 am]

[Docket No. 71-SO-113; Amdt. 39-1232]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Airplanes

Amendment 39-1134, F.R. Doc. 70-17351, AD 70-26-4, as amended by Amendment 39-1196, F.R. Doc. 71-5978, requires initial and repetitive inspections of the stabilizer balance weight support tube installed on Piper PA-28, PA-28R, PA-28S, PA-32, and PA-32S airplanes. The purpose of the inspection is to determine if tubes are cracked. Certain replacement tubes installed in accordance with Piper Service Letter No. 576 are exempt from the inspection requirement. After issuing Amendment 39-1196, the Agency determined it necessary to revise the list of applicable serial numbers and to clarify the necessity for initial and repetitive inspections after a new balance weight support tube has been installed in accordance with Piper Service Letter No. 576. Therefore, the AD is being further amended to revise the list of applicable serial numbers and to clarify the necessity for initial and repetitive inspections of the stabilizer balance weight support tube.

Since this amendment both relieves a restriction and provides a clarification, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1134, F.R. Doc. 70-17351, AD 70-26-4, as amended by Amendment 39-1196, F.R. Doc. 71-5978, is further amended as follows:

1. By amending the applicable serial numbers to read:

PA-28-140, Serial Nos. 28-20000 through 28-26946 and 28-7125000 through 28-7125334.
PA-28-150-160-180 and PA-28S-180, Serial Nos. 28-1 through 28-5859 and 28-7105001 through 28-7105126.
PA-28-235, Serial Nos. 28-10001 through 28-11378 and 28-7110001 through 28-7110011.
PA-28R-180, Serial Nos. 28R-30001 through 28R-31270 and 28R-7130001 through 28R-7130005.
PA-28R-200, Serial Nos. 28R-30482, 28R-35001 through 28R-35820, and 28R-7135001 through 28R-7135104.
PA-32-260, Serial Nos. 32-04, 32-1 through 32-1297, and 32-7100001 through 32-7100016.
PA-32-300 and PA-32S-300, Serial Nos. 32-15, 32-21, 32-40000 through 32-40974, and 32-7140001 through 32-7140050.

2. By amending the note at the end of paragraph 7 to read:

NOTE: When a new balance weight tube assembly, Part No. 63578-00V, 65310-00V, or 68432-00V is installed, an initial inspection after 500 hours' time in service on the assembly and repetitive inspections at 200-hour intervals will still be required.

3. By amending the last paragraph to read:

The installation of a new stabilizer balance weight support tube, Part No. 69623-04V, 69623-02V, or 69624-02V, in accordance with Piper Service Letter No. 576 will eliminate the necessity for the initial and repetitive inspections required in Paragraphs I, II, and III.

NOTE: The above referenced new tubes may be identified by the presence of green paint on the cable attachment lugs.

Amendment 39-1134 became effective December 28, 1970.

Amendment 39-1196 became effective April 30, 1971.

This amendment becomes effective June 24, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 8, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8584 Filed 6-17-71; 8:48 am]

[Airspace Docket No. 71-SW-25]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Transition Area

The purpose of this amendment is to revoke controlled airspace in the Durant, Okla., terminal area.

At Durant, Okla., there exists a 700-foot transition area which was designated on July 23, 1970. This controlled airspace was to accommodate a special approach procedure to serve Eaker Field, Durant, Okla. The instrument approach procedure for Eaker Field was based on utilization of the Perrin AFB VOR, Sherman, Tex., which is owned, operated, and maintained by the U.S. Air Force.

The Federal Aviation Administration has been informed that no later than

June 30, 1971, all military flight operations, associated military activities and services previously conducted or provided by Perrin AFB will cease. This will include decommissioning of the Perrin AFB VOR navigational facility which is tentatively scheduled for decommissioning on June 7, 1971.

As there is not another navigational aid within suitable proximity to Eaker Field, Durant, Okla., which can afford alternate instrument approach capability for Eaker Field, the previously designated Durant, Okla., controlled airspace necessary to accommodate the instrument approach procedure, i.e., the 700-foot transition area, must be revoked.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective August 19, 1971, as herein set forth.

In § 71.181 (36 F.R. 2140), the Durant, Okla., transition area is revoked.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on June 8, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.
[FR Doc.71-8586 Filed 6-17-71; 8:48 am]

[Airspace Docket No. 71-WE-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway Segment

On April 15, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7143) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a south alternate to VOR Federal airway No. 230 between Salinas, Calif., and Los Banos, Calif.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.123 (36 F.R. 2010), V-230 is amended by deleting "Los Banos, Calif.;" and substituting "Los Banos, Calif., including a south alternate via INT Salinas, Calif., 100° and Los Banos, Calif., 245° radials;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 14, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.
[FR Doc.71-8587 Filed 6-17-71; 8:48 am]

[Airspace Docket No. 71-WE-26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On April 27, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7865) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Tucson, Ariz. (Tucson International Airport), control zone.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., August 19, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on June 10, 1971.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.181 (36 F.R. 2140) the description of the Tucson, Ariz. (Tucson International Airport), control zone is amended as follows:

After the geographical coordinates of the Tucson International Airport, delete " * * * within 2 miles each side of the Tucson VORTAC 273° radial extending from the 5-mile-radius zone to 14 miles west of the VORTAC; * * * " and substitute therefor " * * * within 3 miles each side of the Tucson VORTAC 273° radial extending from the 5-mile-radius zone to 15 miles west of the VORTAC; * * * "

[FR Doc.71-8588 Filed 6-17-71; 8:48 am]

[Airspace Docket No. 71-WE-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On April 29, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8051) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would eliminate the control zone at Siskiyou County Airport, Calif.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., August 19, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on June 10, 1971.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (36 F.R. 2055) the description of the Montague, Calif., control zone is deleted.

[FR Doc.71-8589 Filed 6-17-71; 8:48 am]

[Airspace Docket No. 71-WE-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On May 7, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8525) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Fresno, Calif., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., August 19, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on June 10, 1971.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.181 (36 F.R. 2140) the description of the Fresno, CA, transition area is amended as follows: Delete all after " * * * ; that airspace extending upward from 1,200 feet above the surface * * * " and substitute therefor " * * * bounded by a line beginning at latitude 37°29'00" N., longitude 119°15'00" W., to latitude 36°49'00" N., longitude 118°46'00" W., to latitude 36°39'00" N., longitude 118°46'00" W., to latitude 36°39'00" N., longitude 119°09'00" W., to latitude 36°00'00" N., longitude 118°45'00" W., thence west via latitude 36°00'00" N., to longitude 119°30'00" W., thence north via longitude 119°30'00" W., to the west edge of V-23, thence north via the west edge of V-23 to latitude 36°37'00" N., to latitude 36°37'00" N., longitude 119°56'00" W., to latitude 37°02'00" N., longitude 120°18'00" W., to point of beginning * * * "

[FR Doc.71-8590 Filed 6-17-71; 8:49 am]

[Airspace Docket No. 71-SO-72]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On May 5, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8405), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Dillon, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

DILLON, S.C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Dillon County Airport (lat. 34°27'00" N., long. 79°22'00" W.); within 2.5 miles each side of Florence VORTAC 046° radial, extending from the 5-mile radius area to 16 miles northeast of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 11, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8593 Filed 6-17-71; 8:49 am]

[Airspace Docket No. 71-SO-66]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to alter Restricted Area R-5302 by lowering the designated altitude.

Albemarle Sound, N.C., Restricted Area R-5302 is presently designated from the surface to FL 200. The latest utilization report submitted by the Department of the Navy for R-5302 indicates retention of the portion of the area above 14,000 feet MSL is not justified. The Navy has also indicated there is no current requirement for use of the altitude above 14,000 feet MSL and requested the designated altitude be altered. Accordingly, action is being taken herein to lower the designated altitude of R-5302 from FL 200 to 14,000 feet MSL.

Since this amendment restores airspace to the public use and relieves a restriction, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is

amended, effective upon publication in the FEDERAL REGISTER (6-18-71), as hereinafter set forth.

In § 73.153 (36 F.R. 2353) R-5302 Albemarle Sound, N.C., is amended by deleting "Designated altitude: Surface to FL 200," and substituting "Designated altitude: Surface to 14,000 feet MSL," therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 14, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8591 Filed 6-17-71; 8:49 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

PART 130—NEW DRUGS

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

Disclosure of NAS-NRC Drug Efficacy Study Group Evaluations in Drug Labeling and Advertising; Correction

F.R. Doc. 71-7915 appearing at page 11022 in the FEDERAL REGISTER of June 8, 1971, is corrected:

1. By changing the statutory citations preceding the first amendment and fol-

List of substances	Limitations
...	...
Diallyldimethylammonium chloride polymer with acrylamide, reaction product with glyoxal, produced by copolymerizing not less than 90 weight percent of acrylamide and not more than 10 weight percent of diallyldimethylammonium chloride, which is then cross-linked with not more than 30 weight percent of glyoxal, such that a 10 percent aqueous solution has a minimum viscosity of 25 centipoises at 25° C. as determined by Brookfield viscometer Model RVP, using a No. 1 spindle at 100 r.p.m.	For use only as a dry and wet strength agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard in such an amount that the finished paper and paperboard will contain the additive at a level not in excess of 2 percent by weight of the dry fibers in the finished paper and paperboard.
...	...

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in duplicate. Objections shall show wherein

lowing the effective date to read "(secs. 201(n), 502, 505, 507, 701(a), 52 Stat. 1041, 1050-53, as amended, 1055, 59 Stat. 463, as amended; 21 U.S.C. 321(n), 352, 355, 357, 371(a))."

2. By deleting "(21 U.S.C. 201(n), 502(a), (n))" from § 3.81(b)(1).

Dated: June 11, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8561 Filed 6-17-71; 8:46 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PAPER AND PAPERBOARD

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0B2543) filed by the American Cyanamid Co., Wayne, N.J. 07470, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of diallyldimethylammonium chloride polymer with acrylamide, reaction product with glyoxal, as a dry and wet strength agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard intended for use in contact with foods. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(a) (5) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

(a) * * *

(5) * * *

For use only as a dry and wet strength agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard in such an amount that the finished paper and paperboard will contain the additive at a level not in excess of 2 percent by weight of the dry fibers in the finished paper and paperboard.

...

the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief

sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the *FEDERAL REGISTER* (6-18-71).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: June 9, 1971.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[FR Doc.71-8562 Filed 6-17-71; 8:46 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PLASTICIZERS POLYMERIC SUBSTANCES
The Commissioner of Food and Drugs, having evaluated the data in a petition

(FAP 0B2529) filed by Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of 1,3-butylene glycol-adipic acid polyester as a plasticizer in polyvinyl chloride homopolymers used in the manufacture of food-contact articles. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2511(b) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2511 Plasticizers in polymeric substances.

(b) List of substances.

Limitations

1,3-Butylene glycol-adipic acid polyester (1,700-2,200 molecular weight) terminated with a 16 percent by weight mixture of myristic, palmitic, and stearic acids.

For use at levels not exceeding 33 percent by weight of polyvinyl chloride homopolymers used in contact with food (except foods that contain more than 8 percent of alcohol) at temperatures not to exceed room temperature. The average thickness of such homopolymers in the form in which they contact food shall not exceed 0.004 inch.

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Chloramphenicol-Prednisolone Ophthalmic Ointment Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (65-259V) filed by EVSCO Pharmaceutical Corp., 3345 Royal Avenue, Oceanside, N.Y. 11572, proposing the safe and effective use of chloramphenicol-prednisolone ophthalmic ointment in dogs and cats. The application is approved.

To facilitate referencing, EVSCO Pharmaceutical Corp. is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135a are being amended, as follows:

1. Part 135 is amended in § 135.501 by adding a new code No. 053 to paragraph (c), as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

Code No.	Firm name and address
053	EVSCO Pharmaceutical Corp., 3345 Royal Avenue, Oceanside, N.Y. 11572.

2. Part 135a is amended by adding the following new section:

§ 135a.15 Chloramphenicol-prednisolone ophthalmic ointment veterinary.

(a) **Specifications.** The product conforms to the specification requirements in § 146d.303 of this chapter and is subject to the tests and methods of assay prescribed in § 141d.303 of this chapter. Each gram of the product contains the following active ingredients: 10 milligrams of chloramphenicol and 2 milligrams of prednisolone.

(b) **Sponsor.** See code No. 053 in § 135.501(c) of this chapter.

(c) **Conditions of use.** (1) It is used in dogs and cats for the treatment of bacterial conjunctivitis and ocular inflammation caused by organisms susceptible to chloramphenicol.

(2) It is applied to the affected eye 4 to 6 times daily for the first 72 hours depending upon the severity of the condition. Continue treatment for 48 hours after an apparent cure has been attained.

(3) Therapy for cats should not exceed 7 days, prolonged use in cats may produce blood dyscrasia. As with other antibiotics, prolonged use may result in overgrowth of nonsusceptible organisms. If superinfection occurs or if clinical improvement is not noted within a reasonable period, discontinue use and institute appropriate therapy. All topical ophthalmic preparations containing corticosteroids, with or without an antimicrobial agent, are contraindicated in the initial treatment of corneal ulcers. They should not be used until the infection is under control and corneal regeneration is well under way. This chloramphenicol product must not be used in meat-, egg-, or milk-producing animals. The length of time that residues persist in milk or tissues has not been determined.

(4) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the *FEDERAL REGISTER* (6-18-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1))

Dated: June 8, 1971.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.
[FR Doc.71-8565 Filed 6-17-71; 8:46 am]

PART 141b—STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

Streptomycin-Dihydrostreptomycin Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (65-175V) filed by Pfizer Agricultural Division, Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017, proposing that the specifications for streptomycin-dihydrostreptomycin veterinary injectable solutions be changed to relax the limit for acceptance for streptomycin content in the combination drug. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(n), 82 Stat. 350-51; 21 U.S.C. 360b(n)) and under authority delegated to the Commissioner (21 CFR 2.120), § 141b.122 is revised to read as follows:

§ 141b.122 Dihydrostreptomycin-streptomycin sulfates solution veterinary.

(a) **Potency.** Proceed as directed in § 141b.108(a). Its total potency is satisfactory if it contains not less than 90 percent of the combined number of milligrams of dihydrostreptomycin and streptomycin than it is represented to contain.

(b) **Content of streptomycin sulfate.** Proceed as directed in § 141b.108(b), making appropriate dilutions so that the aliquot used for the colorimetric measurement contains 5.0 milligrams of streptomycin (estimated), and modify the calculations in accordance with the dilutions made. Its content of streptomycin is satisfactory if it contains not less than 40 percent and not more than 60 percent of the total potency as determined under paragraph (a) of this section.

(c) **Sterility, toxicity, pyrogens, histamine.** Proceed as directed in §§ 141b.102, 141b.103, 141b.104, and 141b.105.

(d) **pH.** Using the undiluted solution, proceed as directed in § 141a.5(b) of this chapter.

This change in specifications for the subject drug does not affect the drug's safety or efficacy and is nonrestrictive and noncontroversial in nature; therefore, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the *FEDERAL REGISTER* (6-18-71).

(Sec. 512(n), 82 Stat. 350-51; 21 U.S.C. 360b(n))

Dated: June 10, 1971.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.
[FR Doc.71-8566 Filed 6-17-71; 8:47 am]

PART 141b—STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

Revocations

In the *FEDERAL REGISTER* of August 22, 1970 (35 F.R. 13487), the Commissioner of Food and Drugs announced (DESI 0095NV) the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following articles:

1. Poul-Strep Dust; Poultry Health Service, 1445 Miami Road, Jacksonville, Fla. 32207.

2. Dihydrostreptomycin Sulfate Veterinary Dust; Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

3. Vetstrep Superdust; Animal Health Products, Merck Chemical Division, Merck & Co., Inc., Rahway, N.J. 07065.

The Academy concluded that these products are probably not effective for inhalation treatment of chronic respiratory disease or air sac infections in chickens. The Food and Drug Administration concurred with the Academy's evaluation.

The announcement allowed the above-named firms 6 months to provide adequate documentation in support of the labeling used for their listed drugs, and made provision for written comments or requests for an informal conference from interested persons.

In response, Chas. Pfizer & Co., Inc., stated they do not intend to pursue the requested revisions and updates suggested by the announcement and requested that approval for Dihydrostreptomycin Sulfate Veterinary Dust be withdrawn. No other comments or requests for a conference were received.

Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended to revoke provisions regarding use of dihydrostreptomycin sulfate for veterinary inhalation therapy due to a lack of substantial evidence that it will have the effectiveness it purports or is represented to have in

the treatment of chronic respiratory disease or air sac infections in chickens. The Commissioner further concludes that certificates of safety and effectiveness heretofore issued for such articles should be revoked on the basis of an unwarranted hazard.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-51; 21 U.S.C. 357, 360b) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 141b and 146b are amended by revoking the following sections and certificates of safety and effectiveness issued under these sections are also revoked:

Sec.
141b.130 Streptomycin-dihydrostreptomycin for inhalation therapy.
141b.135 Streptomycin and para-aminobenzoic acid powder for inhalation therapy; dihydrostreptomycin and para-aminobenzoic acid powder for inhalation therapy.
141b.137 Streptomycin-neomycin for inhalation therapy veterinary; dihydrostreptomycin-neomycin for inhalation therapy veterinary.
146b.112 Streptomycin for inhalation therapy; dihydrostreptomycin for inhalation therapy.
146b.125 Streptomycin-dihydrostreptomycin for inhalation therapy veterinary.
146b.130 Streptomycin and para-aminobenzoic acid powder for inhalation therapy; dihydrostreptomycin and para-aminobenzoic acid powder for inhalation therapy.
146b.132 Streptomycin-neomycin for inhalation therapy veterinary; dihydrostreptomycin-neomycin for inhalation therapy veterinary.

Any person who will be adversely affected by removal of any such drug from the market may file, within 30 days after publication hereof in the *FEDERAL REGISTER*, objections to this order stating reasonable grounds and requesting a hearing on such objections. A statement of reasonable grounds for a hearing must identify the claimed errors in the NAS-NRC evaluation and identify any adequate and well-controlled investigations on the basis of which it could reasonably be concluded that the drugs would have the effectiveness claimed for their intended uses.

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852.

Effective date. This order shall become effective 40 days after its date of publication in the *FEDERAL REGISTER* (6-18-71). If objections are filed, the effective date will be extended for ruling thereon.

(Secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-51; 21 U.S.C. 357, 360b)

Dated: June 8, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8567 Filed 6-17-71; 8:47 am]

PART 146d — CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS

Drugs for Veterinary Use; Chloramphenicol Labeling Requirements

In the FEDERAL REGISTER of February 18, 1971 (36 F.R. 3144), the Commissioner of Food and Drugs announced (DESI 0084NV) the conclusion of the Food and Drug Administration regarding certain chloramphenicol preparations for veterinary use following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group.

The announcement stated that for their safe use the chloramphenicol products named must be labeled for prescription use and comply with 21 CFR 1.106 (c). This requirement applies equally to all other chloramphenicol products for veterinary use and has previously been a requirement in their labeling to be eligible for certification.

Accordingly, the regulations providing for the certification of such drugs are amended below to reflect existing policy regarding the prescription requirements for such preparations.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512(n), 52 Stat. 1050-51, as amended, 82 Stat. 343-51; 21 U.S.C. 352, 360b(n)) and under authority delegated to the Commissioner (21 CFR 2.120), §§ 146d.302(c)(2), 146d.303(c)(2), 146d.304(c)(2), 146d.306(c)(2), and 146d.308(c)(2) are revised to read as follows:

§ 146d.302 *Chloramphenicol capsules.

(c)
(2) If it is intended solely for veterinary use. Its label and labeling shall comply with all the requirements of subparagraph (1) of this paragraph, except subdivisions (i) (a) and (ii), and except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," it shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter (regulations issued under section 502(f) of the act).

§ 146d.303 Chloramphenicol ointment (chloramphenicol cream).

(c)
(2) If it is intended solely for veterinary use. Its label and labeling shall comply with all the requirements of subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," it shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter (regulations issued under section 502(f) of the act).

§ 146d.304 Chloramphenicol ophthalmic.

(c)
(2) If it is intended solely for veterinary use. Its label and labeling shall com-

ply with all the requirements of subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," it shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter (regulations issued under section 502(f) of the act).

§ 146d.306 Chloramphenicol palmitate oral suspension.

(c)
(2) If it is intended solely for veterinary use. Its label and labeling shall comply with all the requirements of subparagraph (1) of this paragraph, except subdivisions (i) (a) and (ii), and except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," it shall be labeled in accordance with the requirements of § 1.106(c) of this chapter (regulations issued under section 502(f) of the act).

§ 146d.308 Chloramphenicol otic; chloramphenicol topical.

(c)
(2) If it is intended solely for veterinary use. Its label and labeling shall comply with all the requirements of subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," it shall be labeled in accordance with the requirements of § 1.106(c) of this chapter (regulations issued under section 502(f) of the act).

This order updates the subject regulations to reflect existing policy regarding the prescription requirements for these veterinary antibiotic drugs and thereby adds no new requirements; therefore, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-18-71).

(Secs. 502, 512(n), 52 Stat. 1050-51, as amended, 82 Stat. 343-51; 21 U.S.C. 352, 360b(n))

Dated: June 8, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8568 Filed 6-17-71;8:47 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl O-2-Pyrazinyl Phosphorothioate

A petition (PP 0F0914) was filed by the American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of the

insecticides and nematocide O,O-diethyl O-2-pyrazinyl phosphorothioate in or on the raw agricultural commodities snap beans and vines, corn, cottonseed, and sugar beets (roots and tops) at 0.1 part per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established, and the Fish and Wildlife Service of the Department of the Interior advised that it has no objection to these tolerances.

Part 120 of Chapter I of Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the insecticide and nematocide in meat, milk, poultry, and eggs. The uses are classified in the category specified in § 420.6(a)(3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.264 is revised to read as follows:

§ 420.264 O,O-Diethyl O-2-pyrazinyl phosphorothioate and its oxygen analog; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the insecticide and nematocide O,O-diethyl O-2-pyrazinyl phosphorothioate and its oxygen analog diethyl 2-pyrazinyl phosphate in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, cauliflower, corn forage or fodder (including sweet corn, field corn, popcorn), corn grain, fresh corn including sweet corn (kernels plus cob with husks removed), cottonseed, mint, snap beans, snap bean vines, strawberries, and sugar beets (roots and tops).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-18-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: June 11, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.71-8604 Filed 6-17-71;8:50 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Parathion and/or Its Methyl Homolog

A petition (PP 0F0878) was filed by the National Agricultural Chemicals Association Industry Task Force for Parathion and Methyl Parathion, 1155 15th Street NW., Washington, DC 20005, proposing the establishment of tolerances for residues of the insecticide parathion and its methyl homolog in or on the raw agricultural commodities soybean hay at 1 part per million, cottonseed at 0.75 part per million, and soybeans at 0.1 part per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established, and the Fish and Wildlife Service of the Department of the Interior advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21, was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given the data submitted in the petition and other relevant material it is concluded that:

1. The proposed uses fall under § 420.6(a)(3) regarding residues in meat, milk, eggs, and poultry. Therefore, tolerances are not needed for these commodities.

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.121 Parathion or its methyl homolog; tolerances for residues is amended by:

1. Inserting alphabetically the words "soybean hay" in the second paragraph "1 part per million . . .",

2. Inserting the new paragraph "0.75 part per million in or on cottonseed" before the paragraph "0.2 part per million . . .", and

3. Inserting the new paragraph "0.1 part per million in or on soybeans" after the paragraph "0.2 part per million . . .".

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-18-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: June 11, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.71-8605 Filed 6-17-71;8:50 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2,3,6-Trichlorophenylacetic Acid

A petition (PP 1F1054) was filed by Amchem Products, Inc., Ambler, Pa. 19002, proposing that § 420.283 be amended to provide for use of the dimethylamine salt of the herbicide 2,3,6-trichlorophenylacetic acid as well as the presently regulated sodium salt on sugarcane.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerance is being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to the tolerance.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the herbicide in meat, milk, poultry, and eggs. The use is classified in the category specified in § 420.6(a)(3).

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.283 is revised to read as follows:

§ 420.283 2,3,6-Trichlorophenylacetic acid; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide 2, 3, 6-trichlorophenylacetic acid in or on sugarcane, such residues resulting from application of its dimethylamine or sodium salts.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-18-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: June 11, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.71-8606 Filed 6-17-71;8:50 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Colorado	Pueblo	Pueblo	11 12 103 0000 04	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, Fla. 32301.	Pineles County Department of Planning, 315 Haven St., Clearwater, FL 33516.	June 18, 1971.
Florida	Pineles	Unincorporated areas.	11 12 103 0000 06	State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.		Do.
Do.	Volusia	South Daytona	11 22 051 0950 03	State Department of Public Works, Post Office Box 44155, Capitol Station, Baton Rouge, LA 70804.	City Hall, Huey P. Long Ave., and 2d St., Gretna, LA 70653.	Do.
Louisiana	Jefferson	Gretna	11 22 051 0950 04	Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, LA 70804.		Do.
Maryland	Worcester	Ocean City	11 24 047 1150 03	Department of Water Resources, State Office Bldg., Annapolis, Md. 21404.	Office of the City Engineer, Town of Ocean City, Ocean City, Md. 21842.	Do.
Massachusetts	Plymouth	Mattapoisett	11 34 001 0000 03	Maryland Insurance Department, 301 West Preston St., Baltimore, MD 21201.		Do.
Nevada	Clark	Las Vegas	11 34 001 0000 03	Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.		Do.
New Jersey	Atlantic	Atlantic City	11 34 001 0000 04	New Jersey Department of Environmental Protection, Division of Water Resources, Box 1390, Trenton, N.J. 08625.	Office of the City Engineer, Room 603, City Hall, Atlantic City, N.J. 08401.	Do.
Do.	do.	Brigantine	11 34 001 0440 02	Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Office of the City Clerk, 1417 West Brigantine Ave., Brigantine, NJ 08203.	Do.
Do.	do.	Longport	11 34 001 1770 03	do.	Borough Clerk's Office, Borough Hall, 2301 Atlantic Ave., Longport, NJ 08403.	Do.
Do.	do.	Margate City	11 34 001 1830 02	do.	Office of the City Clerk, Washington and Ventnor Aves., Margate City, NJ 08402.	Do.
Do.	do.	Ventnor City	11 34 001 3440 02	do.	Office of the City Engineer, City Hall, Ventnor City, NJ 08406.	Do.
North Dakota	Pembina	Pembina	11 38 067 2500 02	State Water Commission, Bismarck, N. Dak., 58501.	City Hall, City of Pembina, Pembina, N. Dak., 58271.	Do.
Do.	Ransom	Enderlin	11 38 073 0970 04	North Dakota Insurance Department, State Capitol, Bismarck, ND 58501.		Do.
Oregon	Lane	Springfield	11 38 073 0970 06	do.	Office of the City Auditor, Enderlin, N. Dak., 58027.	Do.
Do.	do.	do.	11 41 039 1960 04	Executive Department, State of Oregon, Salem, Ore. 97310.	Office of the City Manager, 223 North A, Springfield, OR 97477.	Do.
Do.	do.	do.	11 41 039 1960 06	Oregon Department of Commerce, Insurance Division, 158 12th St. N.E., Salem, OR 97310.		Do.
Pennsylvania	Northampton	Easton	11 47 013 1240 03	Office of Federal and Urban Affairs, 321 7th Ave., North, Nashville, TN 37219.	Office of the Mayor, City of Jellico, Jellico, Tenn. 37662.	Do.
Tennessee	Campbell	Jellico	11 47 013 1240 03	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219, and Upper East Tennessee Office, 323 West Walnut St., Johnson City, TN 37601.		Do.
Do.	do.	do.	11 47 013 1240 03	State Insurance Commission, R-114, State Office Bldg., Nashville, Tenn. 37219.		Do.
Texas	Guadalupe	Seguin	11 48 187 6290 03	Texas Water Development Board, 301 West 2d St., Austin, TX 78711.	Municipal Bldg., 205 North River St., Seguin, TX 78155.	Do.
Do.	do.	do.	11 48 187 6290 04	Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.		Do.
Do.	Live Oak	Three Rivers	11 48 297 6920 02	do.	City Hall, City Square, Three Rivers, Tex. 78071.	Do.
Washington	Cowlitz	Unincorporated areas.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: June 18, 1971.

[FR Doc.71-8544 Filed 6-17-71; 8:45 am]

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Colorado	Pueblo	Pueblo	11 12 103 0000 04	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, Fla. 32301.	Pineles County Department of Planning, 315 Haven St., Clearwater, FL 33516.	June 18, 1971.
Florida	Pineles	Unincorporated areas.	11 12 103 0000 06	State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.		June 17, 1970.
Do.	Volusia	South Daytona	11 22 051 0950 03	State Department of Public Works, Post Office Box 44155, Capitol Station, Baton Rouge, LA 70804.	City Hall, Huey P. Long Ave., and 2d St., Gretna, LA 70653.	June 18, 1971.
Louisiana	Jefferson	Gretna	11 22 051 0950 04	Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, LA 70804.		Aug. 14, 1970.
Maryland	Worcester	Ocean City	11 24 047 1150 03	Department of Water Resources, State Office Bldg., Annapolis, Md. 21404.	Office of the City Engineer, Town of Ocean City, Ocean City, Md. 21842.	July 1, 1970.
Massachusetts	Plymouth	Mattapoisett	11 34 001 0000 03	Maryland Insurance Department, 301 West Preston St., Baltimore, MD 21201.		Do.
Nevada	Clark	Las Vegas	11 34 001 0000 03	Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.		Do.
New Jersey	Atlantic	Atlantic City	11 34 001 0000 04	New Jersey Department of Environmental Protection, Division of Water Resources, Box 1390, Trenton, N.J. 08625.	Office of the City Engineer, Room 603, City Hall, Atlantic City, N.J. 08401.	July 1, 1970.
Do.	do.	Brigantine	11 34 001 0440 02	Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Office of the City Clerk, 1417 West Brigantine Ave., Brigantine, NJ 08203.	May 15, 1970.
Do.	do.	Longport	11 34 001 1770 03	do.	Borough Clerk's Office, Borough Hall, 2301 Atlantic Ave., Longport, NJ 08403.	July 10, 1970.
Do.	do.	Margate City	11 34 001 1830 02	do.	Office of the City Clerk, Washington and Ventnor Aves., Margate City, NJ 08402.	July 11, 1970.
Do.	do.	Ventnor City	11 34 001 3440 02	do.	Office of the City Engineer, City Hall, Ventnor City, NJ 08406.	Aug. 12, 1970.
North Dakota	Pembina	Pembina	11 38 067 2500 02	State Water Commission, Bismarck, N. Dak., 58501.	City Hall, City of Pembina, Pembina, N. Dak., 58271.	June 19, 1970.
Do.	Ransom	Enderlin	11 38 073 0970 04	North Dakota Insurance Department, State Capitol, Bismarck, ND 58501.		Oct. 13, 1970.
Oregon	Lane	Springfield	11 38 073 0970 06	do.	Office of the City Auditor, Enderlin, N. Dak., 58027.	Do.
Do.	do.	do.	11 41 039 1960 04	Executive Department, State of Oregon, Salem, Ore. 97310.	Office of the City Manager, 223 North A, Springfield, OR 97477.	Jan. 8, 1971.
Do.	do.	do.	11 41 039 1960 06	Oregon Department of Commerce, Insurance Division, 158 12th St. N.E., Salem, OR 97310.		Do.
Pennsylvania	Northampton	Easton	11 47 013 1240 03	Office of Federal and Urban Affairs, 321 7th Ave., North, Nashville, TN 37219.	Office of the Mayor, City of Jellico, Jellico, Tenn. 37662.	June 18, 1971.
Tennessee	Campbell	Jellico	11 47 013 1240 03	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219, and Upper East Tennessee Office, 323 West Walnut St., Johnson City, TN 37601.		Nov. 28, 1970.
Do.	do.	do.	11 47 013 1240 03	State Insurance Commission, R-114, State Office Bldg., Nashville, Tenn. 37219.		Do.
Texas	Guadalupe	Seguin	11 48 187 6290 03	Texas Water Development Board, 301 West 2d St., Austin, TX 78711.	Municipal Bldg., 205 North River St., Seguin, TX 78155.	Oct. 13, 1970.
Do.	do.	do.	11 48 187 6290 04	Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.		Do.
Do.	Live Oak	Three Rivers	11 48 297 6920 02	do.	City Hall, City Square, Three Rivers, Tex. 78071.	July 1, 1970.
Washington	Cowlitz	Unincorporated areas.				June 18, 1971.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: June 18, 1971.

[FR Doc.71-8545 Filed 6-17-71; 8:45 am]

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7125]

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Extension of Transitional Period for Pooled Income Funds

Correction

In F.R. Doc. 71-8064 appearing on page 11032 in the issue of Tuesday, June 8, 1971, the citation in the third and fourth lines of the introductory text reading "section 6422(c)(5)" should read "section 6422(c)(5)".

[T.D. 7122]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—PROCEDURE AND ADMINISTRATION

Returns and Annual Reports of Exempt Organizations; Correction

On June 8, 1971, T.D. 7122 was published in the FEDERAL REGISTER (36 F.R. 11025). The 25th line of subdivision (g) of § 1.6033-2(a)(2)(ii) of the Income Tax Regulations (26 CFR Part I), as prescribed by T.D. 7122 should have read "corporation) and who received the greatest amount of compensation in excess". Accordingly, replace the language of such line as printed at 36 F.R. 11027 with the language set forth above.

JAMES F. DRING,
Director, Legislation and
Regulations Division.

[FR Doc. 71-8617 Filed 6-17-71; 8:51 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Manage- ment, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5069]

[Sacramento 080012]

CALIFORNIA

Powersite Cancellation No. 207; Can- cellation of Powersite Classification No. 138 in Part, and No. 273 in Its Entirety

By virtue of the authority contained in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. § 818 (1964), and pursuant to the determina-

RULES AND REGULATIONS

tion of the Federal Power Commission in DA-1089-California, it is ordered as follows:

1. The departmental order of April 7, 1926, creating Powersite Classification No. 138, as modified November 30, 1926, and departmental order of May 22, 1933, creating Powersite Classification No. 273, respectively, are hereby cancelled so far as they affect the following described national forest lands:

SIERRA NATIONAL FOREST

MOUNT DIABLO MERIDIAN

Powersite Classification No. 138

T. 9 S., R. 23 E.,
Sec. 18, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 6 S., R. 24 E.,
Sec. 25, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 35, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 36, W $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 7 S., R. 24 E.,
Sec. 1, lots 2, 3, and 4;
Sec. 2, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ (partly unsurveyed);
Sec. 11, N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 23, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 26, W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 35, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 8 S., R. 24 E.,
Sec. 2, lots 2, 3, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 14, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 23, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 9 S., R. 24 E.,
Sec. 8, W $\frac{1}{2}$ SE $\frac{1}{4}$ (unsurveyed);
Sec. 10, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 6 S., R. 25 E.,
Sec. 30, lot 3, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 8 S., R. 25 E.,
Sec. 11, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 12, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
Sec. 13, N $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 14, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 16, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 28, E $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 31, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 9 S., R. 25 E.,
Sec. 6, N $\frac{1}{2}$ NW $\frac{1}{4}$ (unsurveyed).
T. 8 S., R. 26 E.,
Sec. 7, lots 1 to 4, incl., E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 8, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 17, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 18, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$.
Powersite Classification No. 273

T. 9 S., R. 23 E.,
Sec. 11, S $\frac{1}{2}$ SE $\frac{1}{4}$;
T. 9 S., R. 23 E.,
Sec. 16, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 9 S., R. 23 E.,
Sec. 17, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
T. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
T. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
T. 29, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$;
T. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
All land in the following described tracts within 50 feet of the marginal limits of the transmission lines of the Pacific Light and Power Corp.:
Powersite Classification No. 138

Sec. 16, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
T. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
T. 29, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$;
T. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
All land in the following described tracts within 50 feet of the marginal limits of the transmission lines of the Pacific Light and Power Corp.:
Powersite Classification No. 138

T. 9 S., R. 23 E.,
Sec. 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 10, SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 13, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 14, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 15, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 16, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
T. 17, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 8 S., R. 24 E.,
Sec. 34, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 9 S., R. 24 E.,
Sec. 2, lots 3 and 4;
Sec. 9, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 16, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 18, lot 1;
Sec. 21, N $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 28, W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 32, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 33, W $\frac{1}{2}$ W $\frac{1}{2}$.

The areas described aggregate approximately 9,743 acres in Fresno and Madera Counties.

2. Much of the lands described in paragraph 1 are either patented, included in other withdrawals for water-power purposes or for other purposes, or have been subject to the general determination of the Federal Power Commission issued April 17, 1922. The effect of this restoration shall not affect the withdrawals so reserving the lands. Some of it remains withdrawn subject to valid and existing rights-of-way in Power Projects 67, 120, 1354, 2017, 2174, and 2175 under the Act of June 10, 1920, supra. Some of the lands have been heretofore restored subject to the provisions of section 24 of the Federal Power Act, supra. As to the lands so restored, the effect of this order is to relieve the lands of the limitations prescribed by the said section 24.

The State of California has waived its preference right of application for highway rights-of-way and material sites as provided by section 24 of the Act of June 10, 1920, supra.

3. At 10 a.m., on July 16, 1971, the national forest lands, not otherwise withdrawn or appropriated, shall be open to such forms of disposition as may by law be made of such lands. These lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the Manager, Land

Office, Bureau of Land Management,
Sacramento, Calif.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc. 71-8611 Filed 6-17-71; 8:50 am]

[Public Land Order 5070]

[Arizona 4488]

ARIZONA

Withdrawal From Mineral Entry

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of the Interior:

GILA AND SALT RIVER MERIDIAN

T. 1 N., R. 8 E.,
Sec. 1, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, including part of lot 9;
Sec. 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 3, lot 216;
Sec. 10, N $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 11, W $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 14, W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate 940.98 acres in Pinal County.

2. The lands are embraced in a first form reclamation withdrawal made by the Secretary's Order of August 21, 1909, but were opened to mining location, entry and patent, pursuant to the Act of April 23, 1932, 47 Stat. 136, by departmental order of September 16, 1939. The lands are also embraced in Stock Driveway Withdrawal No. 164 (Arizona 6) of June 6, 1923. The withdrawal made by this order does not change the status of the lands, other than to segregate them from location and entry under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc. 71-8612 Filed 6-17-71; 8:50 am]

[Public Land Order 5071]

[Oregon 3346]

OREGON

Correction of Public Land Order No. 5045

The land description in Public Land Order No. 5045 of April 14, 1971, appearing in 36 F.R. 7416 of the issue of April 20, 1971, revoking Powersite Reserve No. 581, Waterpower Designation No. 3, so far as it refers to T. 38 S., R. 15 E., is corrected to read "T. 38 S., R. 5 E."

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc. 71-8613 Filed 6-17-71; 8:51 am]

RULES AND REGULATIONS

[Public Land Order 5072]

[Fairbanks 031001]

ALASKA

Partial Revocation of Air Navigation Site Withdrawal

By virtue of the authority contained in section 4 of the Act of May 24, 1928, 43 Stat. 729, 49 U.S.C. section 214 (1964), it is ordered as follows:

1. The departmental order of July 2, 1941, withdrawing public lands as Air Navigation Site Withdrawal No. 161, as enlarged by departmental order of July 22, 1942, are hereby revoked so far as they affect the following described lands:

TANANA AIRPORT

Beginning at Corner No. 1, Air Navigation Site Withdrawal No. 161 of July 2, 1941, on the north side of the Yukon River about one-fourth mile west of the town of Tanana in latitude 65°11' N., longitude 152°05' W., from which a U.S. Coast and Geodetic Bench Mark and Magnetic Station, being a brass plug in a concrete block, bears N. 22°11' E., 443.4 feet.

From the point of beginning by metes and bounds: Thence N. 0°41' W., 750 feet; thence N. 89°19' E., 1,300 feet; thence N. 0°41' W., 600 feet; thence S. 89°19' W., 200 feet; thence N. 0°41' W., 4,200 feet; thence S. 89°19' W., 900 feet; thence S. 47°32' W., 2,276.7 feet; thence west 6,000 feet; thence S. 0°41' E., 2,250 feet more or less, to a point on the right bank of the Yukon River; thence meandering upstream along the right bank of the Yukon River from which the point of beginning bears N. 0°41' W., 80 feet; thence N. 0°41' W., 80 feet to Corner No. 1 and the point of beginning, containing 735 acres, more or less.

PARCEL No. 1

Commencing at the northwest corner of Air Navigation Site Withdrawal No. 161 of July 2, 1941, proceed east 10,500 feet to the true point of beginning of this description; thence continue east 3,066 feet to a point; thence south 2,250 feet more or less to a point on the north bank of the Yukon River; thence meandering westerly 3,300 feet more or less along said bank to a point; thence north 1,800 feet more or less to the point of beginning, containing 142.5 acres more or less.

PARCEL No. 2

Commencing at the northwest corner of ANSW 161, being the true point of beginning of this description, proceed east 6,500 feet to a point; thence south 3,000 feet more or less to a point on the north bank of the Yukon River; thence meandering west along said river bank 2,100 feet more or less to a point; thence west 800 feet to a point; thence south 1,250 feet more or less to a point on said river bank; thence meandering west along said river bank 3,700 feet more or less to the southwest corner of ANSW 161; thence north 4,400 feet more or less to the point of beginning, containing 531.9 acres more or less.

2. The lands described in paragraph 1 above as Tanana Airport have been quitclaimed to the State of Alaska for airport purposes by the Bureau of the Budget, effective October 1, 1965, pursuant to the Alaska Omnibus Act of June 25, 1959, 73 Stat. 152.

3. The lands in Parcels No. 1 and No. 2 in paragraph 1 above are withdrawn by Public Land Order No. 4,582 of January 17, 1969, as amended by Public Land Order No. 4,962 of December 8, 1970, for the determination and protection of the rights of the Native Aleuts, Eskimos, and Indians of Alaska. They will be open to

location for metalliferous minerals at 10 a.m. on July 16, 1971.

Inquiries concerning the land should be addressed to the Manager, Fairbanks District and Land Office, Fairbanks, Alaska 99701.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc. 71-8573 Filed 6-17-71; 8:47 am]

[Public Land Order 5073]

[Nevada 4592]

NEVADA

Withdrawal for National Forest Geological Area Campground Sites and Petroglyph Cave

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

The areas described aggregate approximately 2,755 acres in Nye, Lander, and Douglas Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc.71-8634 Filed 6-17-71;8:52 am]

[Public Land Order 5074]

[Anchorage 5898]

ALASKA

Transfer of Lands From Department of the Air Force to Federal Aviation Administration; Public Land Order No. 639 Amended in Part

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority contained in section 4 of the Act of May 24, 1928, 45 Stat. 729, 49 U.S.C. section 214 (1964), it is ordered as follows:

1. Subject to valid existing rights, the following described lands, which were withdrawn for use of the Department of the Air Force by Public Land Order No. 639 of April 26, 1950, as amended by Public Land Order No. 3920 of January 20, 1966, are hereby transferred to the jurisdiction of the Federal Aviation Administration, Department of Transportation for use as an administrative site:

COOK INLET, ALASKA

Fire Island, located approximately in latitude 61°10' N., longitude 150°15' W., near the head of Cook Inlet approximately 12 miles southwest of Anchorage.

Containing approximately 4,240 acres.

2. The transfer of jurisdiction made by this order shall be subject to Executive Order No. 3406 of February 13, 1921, which withdrew two areas totaling approximately 130 acres of the island for use of the Coast Guard for lighthouse purposes.

This order does not otherwise serve to change the provisions of Public Land Order No. 639, as amended by Public Land Order No. 3920.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc.71-8574 Filed 6-17-71;8:47 am]

[Public Land Order 5075]

[Nevada 051062]

NEVADA

Revocation of Public Land Order No. 2052

By virtue of the authority vested in the President and pursuant to Executive Or-

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der 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Public Land Order No. 2052 of February 18, 1960, which withdrew the following described land for use of the Bureau of Land Management as an administrative site is hereby revoked:

MOUNT DIABLO MERIDIAN

T. 20 N., R. 19 E.,
Sec. 21, S½NE¼NE¼NE¼.

The area described contains 5 acres in Washoe County.

The land has been patented to the city of Reno under the Recreation and Public Purposes Act of June 14, 1926, 44 Stat. 471, as amended, 43 U.S.C. § 869 et seq. (1964).

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc.71-8575 Filed 6-17-71;8:47 am]

[Public Land Order 5076]

[Sacramento 2258]

CALIFORNIA

Withdrawal for the Martis Creek Reservoir Project

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), and from mineral leasing under the mineral leasing laws, for construction, operation, and maintenance of the Martis Creek Reservoir by the Corps of Engineers, Department of the Army:

TAHOE NATIONAL FOREST

MOUNT DIABLO MERIDIAN

T. 17 N., R. 17 E.,
Sec. 18, a portion of SE¼ described as follows: Beginning at the corner common to secs. 17, 18, 19, and 20, thence S. 88°26'42" W., 725.63 feet along the south line of said sec. 18 to the westerly line of a proposed access road; thence N. 9°25'46" W., 1,333.78 feet along said westerly line to the east-west centerline of the SE¼ of sec. 18; thence N. 88°06'48" E., 917.57 feet along said east-west centerline to the east line of sec. 18, the south ½ corner between secs. 17 and 18; thence S. 1°09'29" E., 1,326.54 feet along said east line to the point of beginning and containing 24.97 acres, more or less. The coordinates used are based on California Zone 2.

The areas described aggregate 64.97 acres in Nevada and Placer Counties.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws and mineral leasing laws, nor does it alter the

jurisdiction of the Secretary of Agriculture over the lands for purposes other than water resource development in connection with the Martis Creek Reservoir Project. The terms and conditions for utilization of the national forest lands for the construction and maintenance of the project facilities by the Corps of Engineers will be governed by the memorandum of agreement entered into by the Department of Agriculture and the Department of the Army, dated August 13, 1964, as may be amended and supplemented.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc.71-8614 Filed 6-17-71;8:51 am]

[Public Land Order 5077]

[Oregon 7602]

OREGON

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest land is hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

WHITMAN NATIONAL FOREST

WILLAMETTE MERIDIAN

Phillips Lake Recreation Area

T. 10 S., R. 38 E.,
Sec. 28, NW¼NE¼, S½NE¼, NW¼;
Sec. 27, NE¼, NE¼NW¼, S½NW¼;
Sec. 28, S½NE¼, SE¼NW¼.
T. 10 S., R. 39 E.,
Sec. 30, lots 1 and 2, S½NE¼, E½NW¼.

The area described aggregates approximately 921 acres in Baker County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc.71-8576 Filed 6-17-71;8:47 am]

[Public Land Order 5078]

[Montana 3843-ND]

NORTH DAKOTA

Withdrawal of Lands for Oahe Dam and Reservoir Project

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Subject to valid existing rights, the following described public lands are

hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), and from leasing under the mineral leasing laws, except for oil and gas, and reserved for use by the Corps of Engineers, Department of the Army, in connection with the Oahe Dam and Reservoir Project:

FIFTH PRINCIPAL MERIDIAN

T. 129 N., R. 79 W.,
Sec. 4, lots 4, 5, 6;
Sec. 5, lots 1, 2, 3.
T. 130 N., R. 79 W.,
Sec. 18, lot 1;
Sec. 33, lot 4.
T. 133 N., R. 79 W.,
Sec. 12, lots 1, 2, 3, 4.
T. 134 N., R. 79 W.,
Sec. 3, lot 7, E½SE¼.
T. 136 N., R. 79 W.,
Sec. 23, NE¼NE¼.
T. 137 N., R. 79 W.,
Sec. 19, lots 6 and 8;
Sec. 30, lot 1, NW¼NE¼, NE¼NW¼.
T. 137 N., R. 80 W.,
Sec. 9, lots 7, 8, SE¼SE¼;
Sec. 10, lots 2, 4, 5, 6, 7.

The areas described aggregate 928.91 acres in Emmons, Burleigh, and Morton Counties.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc.71-8577 Filed 6-17-71;8:48 am]

[Public Land Order 5079]

[Oregon 7331 (Wash.)]

WASHINGTON

Revocation of Executive Order No. 6704

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Executive Order No. 6704 of May 8, 1934, which withdrew the following described public domain land for use by the Department of Agriculture as a fire lookout site in connection with the administration of the Colville National Forest, is hereby revoked:

WILLAMETTE MERIDIAN

SWEDEN PASS LOOKOUT

T. 38 N., R. 39 E.,
Sec. 18, W½ of lot 1.

The area described contains 20 acres in Stevens County.

2. At 10 a.m. on July 16, 1971, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 16, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land shall be open to location for nonmetalliferous minerals at 10 a.m.

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on July 16, 1971. The land has been and continues to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws for metalliferous minerals.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Ore.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc.71-8615 Filed 6-17-71;8:51 am]

[Public Land Order 5080]

[Oregon 6138 (Wash.)]

WASHINGTON

Correction of Public Land Order No. 5010

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 5010 of January 26, 1971, withdrawing lands for a national forest campground, electronic administrative site, and rock pits, appearing in 36 F.R. 1895-6 of the issue of February 3, 1971, so far as it described the name as Boulder Rock Pit No. 1, and the land under sec. 7, T. 24 N., R. 4 W., as the SW¼SE¼, is hereby corrected to read "Boulder Creek Rock Pit No. 1" and "NW¼SE¼", and under Lake Cushman Rock Pit No. 2, sec. 9, T. 23 N., R. 5 W., line 5, the number 2347 is hereby corrected to read "2357".

2. The lands are national forest lands within the Olympic National Forest. At 10 a.m. on July 16, 1971, the land described as the SW¼SE¼ sec. 7, shall be open to such forms of disposition as may by law be made of such lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 10, 1971.

[FR Doc.71-8616 Filed 6-17-71;8:51 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER N—DANGEROUS CARGOES

[CGFR 71-15(a)]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Hypochlorite Solution Containers

The purpose of this amendment is to allow carriage by water of hypochlorite solutions, not over 16 percent strength, in Department of Transportation specifications 6D (49 CFR 178.102) and 37M (49 CFR 178.134) overpacks with either DOT specifications 2S (49 CFR 178.35)

or 2SL (34 CFR 178.35a) inside polyethylene liners. The amendment was proposed in a notice of proposed rule making (CGFR 71-15) issued on February 18, 1971 (36 F.R. 3128). Interested persons were invited to attend an informal hearing on March 30, 1971, and to submit written data, views, or comments on the proposal.

No oral comments were made at the public hearing. One written comment was received. This comment was also received by the Hazardous Materials Regulation Board regarding the proposed amendment for the same article in 49 CFR 173.277, which appeared in a notice of proposed rule making (Docket No. HM-78; Notice 71-5) issued on February 18, 1971 (36 F.R. 3130).

By a separate document published at page 11734 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board, in response to the written comment, has changed the expression of the oxidizing power from 11 percent to 16 percent. For the reasons given in that document, and the necessity for standardization, the Coast Guard has also made this change.

In addition, in response to the written comment, the proposed amendment has been changed by not designating specification DOT-6D as a nonreusable container, and specification DOT-6J steel barrel or drum, which appears in the present § 146.23-100, has been corrected to a specification DOT-6D.

In consideration of the foregoing, the article "Hypochlorite solutions containing more than 7 percent available chlorine by weight" in 46 CFR 146.23-100 is amended by revising in the fourth column, the outside containers "steel barrels or drums" for sodium hypochlorite solutions not over 16 percent strength to read as follows:

§ 146.23-100 Table F—Classification: Corrosive liquids.

• • • Required conditions for transportation • • • Cargo vessel.

• • • Outside containers:

• • •

Authorized only for sodium hypochlorite solution not over 16% strength:

• • •

Steel barrels or drums:
(DOT 6D or 37M (NRC) WIC (DOT 2S, 2SL polyethylene) not over 55 gal. cap.

(R.S. 4405, as amended, R.S. 4417a, as amended, R.S. 4462, as amended, R.S. 4472, as amended, sec. 6(b)(1), 80 Stat. 937; 48 U.S.C. 375, 391a, 416, 170, 49 U.S.C. 1655 (b)(1); 49 CFR 146(b))

Effective date. This amendment becomes effective on September 20, 1971.

Dated: June 11, 1971.

W. M. BENKERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71-8583 Filed 6-17-71;8:53 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

Docket No. HM-78; Amdt. No. 173-48]

PART 173—SHIPPERS

Hypochlorite Solutions in Specification 37M Steel Overpack With 2S or 2SL Inner Container

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to authorize the shipment of sodium hypochlorite, of not over 16 percent strength, in a specification 37M steel overpack with a specification 2S or 2SL inner container.

On February 18, 1971, the Hazardous Materials Regulations Board published a notice of proposed rule making. Docket No. HM-78; Notice 71-5 (36 F.R. 3130), proposing to amend the regulations as stated above.

Interested parties were invited to give their views on this proposal. All commenters objected to what was interpreted as a proposed reduction in the strength of the sodium hypochlorite solutions now authorized to be shipped in DOT 6D composite packaging. The Board interpreted the current limitation of 16 percent strength sodium hypochlorite solution as being equivalent to 7.6 percent available chlorine by weight, based on the theoretical assumption that all the chlorine in the sodium hypochlorite would eventu-

ally become available. On such a basis, increasing the percent available chlorine to 11 percent for all hypochlorite solutions would be relaxing the restrictions on strength of solutions.

Research into this matter revealed that the term "available chlorine" commonly refers to the oxidizing power of the OCl radical which is equivalent to the oxidizing power of Cl₂. Thus, by calculation, the Board finds that according to industry terminology it proposed reduction of the strength of hypochlorite solutions authorized to be shipped in the subject packaging. This was not the intent of the Board.

During this rule-making action it became apparent that interest no longer exists for shipment of the chlorine dioxide solutions. In view of this and the difficulty in expressing oxidizing power with the term "available chlorine", the Board has reverted to the expression "authorized for not over 16 percent sodium hypochlorite solution only", now used in the regulations. The rule change does authorize use of the 37M/2S or 2SL composite packaging limited to not over 16 percent sodium hypochlorite solutions on the basis of satisfactory experience with the use of specification 37M steel overpacks for shipment of materials of equivalent hazard.

Accordingly, 49 CFR Part 173 is amended as follows:

In § 173.277, subparagraph (a) (4) is amended to read as follows:

§ 173.277 Hypochlorite solutions.

(a) . . .
(4) Specification 6D or 37M (nonreusable container) (§§ 178.102, 178.134 of

this chapter). Cylindrical steel overpacks with inside specification 2S or 2SL (§§ 178.35, 178.35a of this chapter) polyethylene liners. Authorized for not over 16 percent sodium hypochlorite solution only.

This amendment is effective August 31, 1971; however, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831-835 of Title 18, United States Code, sec. 9, Department of Transportation Act, 49 U.S.C. 1657, and title VI and sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421-1430 and 1472(h))

Issued in Washington, D.C., on June 11, 1971.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard,
by direction of Commandant,
U.S. Coast Guard.

CARL V. LYON,
Acting Administrator,
Federal Railroad Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Car-
rier Safety, Federal Highway
Administration.

SAM SCHNEIDER,
Board Member, for the
Federal Aviation Administration.

[FR Doc.71-8582 Filed 6-17-71; 8:53 am]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 235, 299]

CITIZEN IDENTIFICATION CARDS

Notice of Proposed Rule Making

Pursuant to section 553 of title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to U.S. Citizen Identification Cards. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, DC 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

Section 235.10 is amended to read as follows:

§ 235.10 U.S. Citizen Identification Card.

(a) *General.* To facilitate identification in the United States by immigration officers and entry over land borders from foreign contiguous territory, a U.S. citizen who is physically present in the United States may apply at any district office in the United States for a U.S. Citizen Identification Card, Form I-197.

(b) *Eligibility.* No citizen shall be eligible for an identification card unless he is physically present in the United States at the time of application therefor and at the time of issuance of the card and, if other than a native-born citizen, has been issued a certificate of naturalization or citizenship.

(c) *Application.* An application for an identification card shall be made on Form I-196, accompanied by the fee required under § 103.7 of this chapter and one photograph 1½ inches by 1½ inches, and evidence of his birth in the United States or, in the case of a U.S. citizen who was not born in the United States, a certificate of naturalization or citizenship. The applicant, when notified to do so, and his parent or guardian if one is acting in his behalf, shall appear in person before an immigration officer in the United States for examination under oath or affirmation upon the application.

(d) *Denial of application.* If the decision of the district director is that the application shall be denied, notification thereof and the reasons therefor

shall be furnished the applicant. No appeal shall lie from the denial of an application by the district director.

(e) *Issuance of identification card.* If the applicant establishes his citizenship and eligibility to the satisfaction of the district director, the identification card shall be issued to the applicant. The delivery of such card shall be made only in the United States.

(f) *Replacement.* An identification card which is in poor condition due to improper lamination or any other cause shall be surrendered to an immigration officer upon his demand. In such a case, a replacement card may be issued on submission of a properly executed Form I-196, without fee, subject to the eligibility requirements of paragraph (b) of this section. In all other cases an application for a replacement card shall be accompanied by the required fee.

(g) *Voidance.* An identification card may be declared void, without notice, by an immigration officer for proper cause. Possession of the card by other than the rightful holder, loss of citizenship by the person to whom the card was issued, or a determination that the card was obtained by fraud shall be grounds, though not exclusive, for voidance. A person to whom the card was issued shall be notified of the action taken and the reasons therefor. The card shall be surrendered immediately upon voidance. No appeal shall lie from a decision voiding an identification card.

PART 299—IMMIGRATION FORMS

§ 299.1 [Amended]

The listing of forms in § 299.1 *Prescribed forms* is amended by deleting the Form I-179 and reference thereto.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: June 14, 1971.

RAYMOND F. FARRELL,
Commissioner of
Immigration and Naturalization.
[FR Doc.71-8627 Filed 6-17-71; 8:52 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 911, 915]

[Dockets Nos. AO-267-A5; AO-254-A6]

HANDLING OF LIMES AND AVOCADOS

Decision and Referendum Order With Respect to Proposed Further Amendment of the Marketing Agreements and Orders

Pursuant to the rules of practice and procedure governing proceedings to for-

mulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Homestead, Fla., on January 27, 1971, after notice thereof published in the FEDERAL REGISTER (35 F.R. 19362), on proposed further amendment of the respective marketing agreements and orders (7 CFR Parts 911; 35 F.R. 16626 and 915; 35 F.R. 16627) regulating the handling of Florida limes and avocados, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

On the basis of the evidence adduced at the hearing, and the record thereof, the recommended decisions in this proceeding were filed on May 3, 1971, with the Hearing Clerk, U.S. Department of Agriculture. The notice of the filing of such recommended decisions, affording opportunity to file written exceptions thereto, were published in the FEDERAL REGISTER (F.R. Doc. 71-6400; 36 F.R. 8520, and F.R. Doc. 71-6401; 36 F.R. 8522) on May 7, 1971. No exception was filed.

The material issues, findings and conclusions, and the general findings of the recommended decisions set forth in the FEDERAL REGISTER (F.R. Doc. 71-6400; 36 F.R. 8520, and F.R. Doc. 71-6401; 36 F.R. 8522) are hereby approved and adopted as the material issues, findings and conclusions, and the general findings of this decision as if set forth in full herein.

Further amendment of the marketing agreements and orders. Annexed hereto and made a part hereof are documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Limes Grown in Florida," "Order Amending the Order, as Amended, Regulating the Handling of Limes Grown in Florida," "Marketing Agreement, as Amended, Regulating the Handling of Avocados Grown in South Florida," and "Order Amending the Order, as Amended, Regulating the Handling of Avocados Grown in South Florida" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless the until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that referenda be conducted:

(1) Among the producers who, during the period April 1, 1970, through March 31, 1971 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, within the production area

(as defined in 7 CFR part 911), in the production of limes for market to ascertain whether such producers favor the issuance of the said annexed order amending the order, as amended, regulating the handling of such limes; and

(2) Among the producers who, during the period April 1, 1970, through March 31, 1971 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, within the production area, (as defined in 7 CFR part 915), in the production of avocados for market to ascertain whether such producers favor the issuance of the said annexed order amending the order, as amended, regulating the handling of such avocados.

Minard F. Miller, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Post Office Box 9, Lakeland, FL 33802, is hereby designated referendum agent to conduct said referenda.

The procedure applicable to each referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended," (7 CFR 900.400 et seq.).

The ballots used in each referendum shall contain a summary describing the terms and conditions of the applicable proposed amendatory order.

Copies of the aforesaid annexed orders, of the aforesaid referendum procedure, and of this order may be examined in the office of the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250.

Ballots to be cast in each referendum, and other necessary forms and instructions, may be obtained from any referendum agent or appointee.

It is hereby ordered. That all of this decision and referendum order, except the annexed marketing agreements, as amended, be published in the FEDERAL REGISTER. The respective regulatory provisions of the said marketing agreements are identical with those contained in the said orders as further amended by the annexed orders which will be published with this decision.

Dated: June 14, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order¹ Amending the Order, As Amended, Regulating the Handling of Limes Grown in Florida

§ 911.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and of the previously issued amendments thereto; and all of

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Homestead, Fla., on January 27, 1971, upon proposed amendments to the amended marketing agreement and Order No. 911, as amended (7 CFR Part 911; 35 F.R. 16626) regulating the handling of limes grown in Florida. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby amended, regulates the handling of limes grown in the designated production area in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The said order, as amended and as hereby amended, is limited in application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of such production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of limes grown in the production area covered by the said order, as amended and as hereby amended, that makes necessary different terms and provisions applicable to different parts of such area;

(5) All handling of limes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered. That, on and after the effective date hereof, all handling of limes grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended and as hereby amended, as follows:

Paragraph (a) of § 911.52 *Issuance of regulations* is revised by adding thereto a new subparagraph (5) reading as follows:

§ 911.52 Issuance of regulations.

(a) . . .

(5) Provide that any or all requirements effective pursuant to subparagraphs (1), (3), and (4) of this paragraph applicable to the handling of limes shall be different for the handling of limes within the production area and for the handling of limes between the pro-

duction area and any point outside thereof.

Order¹ Amending the Order, As Amended, Regulating the Handling of Avocados Grown in South Florida

§ 915.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Homestead, Fla., on January 27, 1971, upon proposed amendments to the amended marketing agreement and Order No. 915, as amended (7 CFR Part 915; 35 F.R. 16627), regulating the handling of avocados grown in south Florida. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby amended, regulates the handling of avocados grown in the designated production area in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The said order, as amended and as hereby amended, is limited in application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of such production area would not effectively carry out the declared policy of the act;

(4) The said order, as amended and as hereby amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area covered thereby as are necessary to give due recognition to the differences in production and marketing of avocados covered thereby; and

(5) All handling of avocados grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

It is, therefore, ordered. That, on and after the effective date hereof, all handling of avocados grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended and as hereby amended, as follows:

Paragraph (a) of § 915.51 *Issuance of regulations* is revised by adding thereto a new subparagraph (5) reading as follows:

§ 915.51 Issuance of regulations.

(a) . . .

(5) Provide that any or all requirements effective pursuant to subparagraphs (1), (2), (3), and (4) of this paragraph applicable to the handling of avocados shall be different for the handling of avocados within the production area and for the handling of avocados between the production area and any point outside thereof.

[PR Doc. 71-8600 Filed 6-17-71; 8:50 am]

[7 CFR Part 917]

[Docket No. AO-90-A5]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Decision (Partial) and Referendum Order With Respect to Proposed Amendment of the Amended Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Fresno, Calif., on January 13, 1971, after notice thereof published in the FEDERAL REGISTER (35 F.R. 19579), on proposed further amendment of the marketing agreement and Order No. 917 (7 CFR Part 917; 36 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in California, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

On the basis of the evidence adduced at the hearing and the record thereof, the Deputy Administrator, Consumer and Marketing Service, on May 7, 1971, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F.R. Doc. 71-6612; 36 F.R. 8735). No exception was filed.

The material issues, findings and conclusions, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 71-6612; 36 F.R. 8735) are hereby approved and adopted as the material issues, findings and conclusions, and the general findings of this decision as if set forth in full herein.

Further amendment of the marketing agreement and order. Annexed hereto

and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Fresh Pears, Plums, and Peaches Grown in California" and "Amended Order Regulating the Handling of Fresh Pears, Plums, and Peaches Grown in California," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among the producers who, during the period March 1, 1970, through October 31, 1970 (which period is hereby determined to be a representation period for the purpose of such referendum), were engaged, in the State of California in the production of pears or plums for shipment in fresh form to ascertain whether such producers favor the issuance of the said annexed order amending Order No. 917, as amended (7 CFR Part 917; 36 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in California.

W. B. Blackburn and G. P. Muck, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated agents of the Secretary of Agriculture to conduct said referendum.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Tree Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.).

The ballots used in such referendum shall contain a summary describing the terms and conditions of the proposed amendment of the order.

Copies of the aforesaid annexed order and of the aforesaid referendum procedure may be examined in the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum, and other necessary forms and instructions, may be obtained from any referendum agent or any appointee.

It is hereby ordered. That all of this decision and referendum order, except the annexed amended marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement are identical with these contained in the annexed order which will be published with this decision.

Dated: June 14, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order¹ Amending the Order, as amended, Regulating Handling of Fresh Pears, Plums, and Peaches Grown in California

§ 917.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations which were made in connection with the issuance of the order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such previous findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Fresno, Calif., on January 13, 1971, upon a proposed further amendment of the marketing agreement and order (7 CFR Part 917; 36 F.R. 7510) regulating the handling of fresh pears, plums, and peaches grown in California. On the basis of the evidence adduced at the hearing, and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of pears, plums, and peaches grown in the State of California in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity, specified in the marketing agreement upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of such regional production area would not effectively carry out the declared policy of the act;

(4) The said order, as amended and as hereby further amended, prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in production and marketing of the fruit covered thereby; and

(5) All handling of plums grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered. That, on and after the effective time hereof, all han-

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

dling of fresh pears, plums, and peaches grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

1. Section 917.4 *Fruit* is revised to read as follows:

§ 917.4 Fruit.

"Fruit" means the edible product of the following three kinds of trees (a) all varieties of plums, (b) all varieties of peaches, and (c) all varieties of pears except Beurre Hardy, Beurre D'Anjou, Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau.

4. Paragraphs (k), (q), and (r) of § 917.14 *District* are amended to read as follows:

§ 917.14 District.

(k) "South Coast District" includes and consists of San Luis Obispo County, Santa Barbara County, and Ventura County.

(q) "Tehachapi District" includes and consists of that portion of Kern County not included in Kern District, and Inyo County.

(r) "Southern California District" includes and consists of San Bernardino County, Orange County, San Diego County, Imperial County, Riverside County, and Los Angeles County.

5. Paragraph (b) of § 917.18 *Nomination of grower members of the Control Committee* is revised to read as follows:

§ 917.18 Nomination of grower members of the Control Committee.

(b) A person nominated by any commodity committee for membership on the Control Committee shall be an individual person who produced fruit during the previous season, and who is a member or alternate member of the commodity committee which nominates him. Such persons shall have the qualifications specified in § 917.24(c). Each member of each commodity committee shall have only one vote in the selection of nominees for membership on the Control Committee.

7. Section 917.20 *Designation of members of commodity committees* is amended to read as follows:

§ 917.20 Designation of members of commodity committees.

There are hereby established a Pear Commodity Committee and a Plum Commodity Committee each consisting of 12 members, and a Peach Commodity Committee consisting of 13 members. The members of each said committees shall be selected biennially for a term ending on the last day of February of odd numbered years, and such members shall

serve until their respective successors are selected and have qualified. The members of each commodity committee shall be selected in accordance with the provisions of § 917.25.

12. The introductory language and paragraph (a) of § 917.35 *Powers and duties of each commodity committee* are amended to read as follows:

§ 917.35 Powers and duties of each commodity committee.

Each commodity committee shall have the following powers and duties.

(a) With regard to the respective fruit for which it was established, to establish production research and marketing research and development projects as authorized under § 917.39, to recommend to the Secretary regulation of shipments pursuant to the provisions of this part, and to possess such other powers and exercise such other duties as will properly effectuate the purpose of this part: *Provided, however*, That the Pear and Plum Commodity Committees shall each approve actions under § 917.39 and make said recommendation pursuant to § 917.40 through § 917.43 only upon the affirmative vote of not less than 8 members of each said committee: *Provided further*, That the Peach Commodity Committee shall approve such actions pursuant to § 917.39 or make said recommendations pursuant to § 917.40 through § 917.43 only upon the affirmative vote of not less than 9 members of said committee.

12a. Section 917.39 *Market research and development* is amended to read as follows:

§ 917.39 Market research and development.

The committees, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fruit. Such projects, with respect to plums may provide for any form of marketing promotion including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to § 917.37.

14. Paragraph (e) of § 917.61 *Termination* is revised to read as follows:

§ 917.61 Termination.

(e) The Secretary shall conduct a referendum within the period beginning December 1, 1974, and ending February 15, 1975, to ascertain whether continuance of this part as to any fruit included in this part is favored by the growers. The Secretary shall conduct such a referendum within the same period of every fourth fiscal period thereafter.

[FR Doc. 71-8601 Filed 6-17-71; 8:50 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1902]

DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS

Procedures for Approval of State Plans

Pursuant to sections 8(g) and 18 of the Williams-Steiger Occupational Safety and Health Act of 1970, it is hereby proposed to issue rules setting forth the procedures and requirements for carrying out the provisions of section 18 of the Act relating to State plans for the development and enforcement of State occupational safety and health standards. Under section 18(b), any State desiring to assume responsibility for the development and enforcement of occupational safety and health standards relating to any occupational safety and health issue with respect to which a Federal standard has been issued under section 6 of the Act may submit a plan for assuming this responsibility of the Secretary of Labor. The Secretary shall approve any such plan which in his judgment, meets the requirements of section 18(c) of the Act.

Within 20 days following publication of this proposal in the *FEDERAL REGISTER* interested persons may submit written data, views, and arguments concerning the proposal to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

The proposal reads as follows:

PART 1902—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS

Subpart A—General

Sec.	Purpose and scope.
1902.1	General policies.
Subpart B—Criteria for State Plans	
1902.3	Specific criteria.
1902.4	Indices of equal effectiveness.
1902.5	Delegation of authority.
1902.6	Intergovernmental Cooperation Act of 1968.

Subpart C—Procedure for Submission and Approval of State Plans

1902.10	Submission.
1902.11	Proposed approval procedure.
1902.12	Proposed rejection procedure.

AUTHORITY: The provisions of this Part 1902 issued under secs. 8(g), 18, 84 Stat. 1600, 1608.

Subpart A—General

§ 1902.1 Purpose and scope.

(a) This part applies the provisions of section 18 of the Williams Steiger Occupational Safety and Health Act of 1970 (hereinafter, the "Act") relating to

State plans for the development and enforcement of State occupational safety and health standards. The provisions of this part set forth the procedures for approving or rejecting State plans submitted to the Secretary. In the Act, Congress declared its purpose and policy to be "encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws." Section 18(b) provides that any State which desires to assume responsibility for the development and enforcement thereof of occupational safety and health standards relating to issues covered by corresponding standards promulgated by the Secretary of Labor under section 6 of the Act shall submit a State plan to the Secretary.

(b) Section 18(c) of the Act sets out the criteria which the plan shall meet either initially or upon modification if it is to be approved. Foremost among these criteria is the requirement that the plan must provide for the development of State standards and the enforcement of such standards which will be at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 of the Act which relate to the same issues.

(c) (1) After the Secretary approves a State plan submitted under section 18(b), he may but is not required to exercise his enforcement authority with respect to Federal standards corresponding to standards approved under the plan until he determines, in accordance with section 18(e) of the Act, on the basis of actual operations under the plan that the State is applying the criteria of section 18(c) of the Act. The Secretary shall not make this determination (i) for at least 3 years after approval of the plan, and (ii) until the State has completed all the steps specified in its plan which are designed to make it equally effective with the Federal program and the Secretary has had at least 1 year in which to evaluate the program on the basis of actual operations. After the determination, the Secretary's enforcement authority shall not apply with respect to any occupational safety or health issue covered by the plan. Notwithstanding plan approval and a determination under section 18(e) that the section 18(c) criteria are being followed, the Secretary shall make a continuing evaluation of the manner in which the State is carrying out the plan.

(2) Whenever the Secretary determines, after giving notice and affording the State an opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the plan or any assurance contained therein, he shall withdraw approval of such plan in whole or in part and upon notice the State shall cease operations under any disapproved plan or part thereof, except that it will be permitted to retain jurisdiction as to any case commenced before withdrawal of approval.

(3) A determination of approval of a State plan under section 18(e) does not affect the authority of the Secretary to enforce Federal standards covering issues not included under the State plan.

(d) It is the policy of the Secretary to encourage the assumption by the States of the fullest responsibility for the development and enforcement of their own occupational safety and health standards. Similarly, this assumption of responsibility includes State development and enforcement of standards on as many occupational safety and health issues as possible. To these ends, the Secretary, through the Assistant Secretary for Occupational Safety and Health, intends to cooperate with the States so that they can obtain approval of plans for the development and enforcement of State standards, which will be at least as effective as the Federal standards and enforcement.

(e) After the Secretary has approved a plan, he may approve one or more grants under section 23(g) of the Act to assist the State in administering and enforcing its program for occupational safety and health in accordance with appropriate instructions or procedures to be promulgated by the Secretary.

§ 1902.2 General policies.

(a) *Policy.* (1) The Secretary will approve a State plan which provides for an occupational safety and health program with respect to covered issues that in his judgment meets the criteria set forth in section 18(c).

(2) That section requires a State plan to meet certain specific criteria which set forth in § 1902.3. Among these is the requirement that the State plan provide for the development and enforcement of standards which will be at least as effective in providing safe and healthful employment and places of employment as standards promulgated and enforced under section 6 of the Act. In determining whether a State plan satisfies this requirement, the Secretary will measure the plan against the indices of equal effectiveness set forth in § 1902.4.

(b) *Determinations of equal effectiveness.* (1) A State plan will be deemed at least as effective as the Federal program if, when measured against the indices set forth in § 1902.4, it is found to contain provisions which are in all relevant respects identical to corresponding Federal provisions, or if it is different in relevant respects but the State can show by means of factual or other data that despite such variations the State's plan for development and enforcement of standards will be at least as effective as the Federal program.

(2) A State plan may be approved although the State standards, procedures for development of standards, or its enforcement program, upon submission, are not at least as effective as the corresponding Federal program when measured against the indices set forth in § 1902.4, provided the State undertakes the necessary steps to make them so. In such case the State plan shall include

the specific actions the State proposes to take and set forth a time schedule, not to exceed 3 years, within which the State program will meet the requirements of equal effectiveness, including the date or dates within which intermediate and final action will be accomplished. If necessary program changes require legislative action, a copy of a bill or a draft of legislation that will be or has been proposed for enactment, with a statement of the Governor's support of the legislation, shall be submitted. On the basis of the State's submission the Secretary will approve the plan if he finds that there is a reasonable expectation that the requirements of equal effectiveness will be met within the proposed schedule. In such case, the Secretary shall not make a determination under section 18(e) that a State is applying the criteria of section 18(c) until the State has completed all the steps specified in its plan which are designed to make it at least as effective as the Federal program, and the Secretary has had at least 1 year to evaluate the plan on the basis of actual operations.

(c) *Scope of State plan.* (1) The State plan shall include standards which are as broad in coverage as one or more subparts of Part 1910 of this chapter dealing with the same industrial, occupational, or hazard grouping, except that for good reason shown the Secretary may approve a plan with a different coverage if he finds it to be administratively practicable. An example of different coverage which might be administratively practicable would be a plan covering one or more major subject categories in Subpart G, Occupational Health and Environment, or Subpart R, Special Industries. The plan should describe the occupational safety and health issue or issues and the State standard or standards applicable to each such issue or issues over which it desires to assume enforcement responsibility in terms of the corresponding Federal industrial, occupational or hazard groupings, and set forth the reasons, supported with appropriate data, for any variations the State proposes from the coverage of Federal standards.

(2) The State plan shall apply to all employers and employees within the affected industry, occupational or hazard grouping unless the Secretary finds that the State has shown good cause why any group or groups of employers or employees should be excluded.

Subpart B—Criteria for State Plans

§ 1902.3 Specific criteria.

(a) An acceptable State plan must meet the specific criteria set forth in this section.

(b) *Description of State Agency:*

(1) The State plan shall designate a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State.

(2) The plan shall also describe the authority and responsibilities vested in such agency or agencies.

(3) A State agency or agencies must be designated with overall responsibility for administering the plan throughout the State. However, the State may delegate responsibility and authority for the development or enforcement of standards to agencies of political subdivisions of the State, provided the State agency or agencies is given adequate authority by statute, regulation, or agreement, to ensure that local agencies of political subdivisions will fulfill the commitments of the State under the plan.

(c) Standards:

(1) The State plan shall include or provide for the development of, and contain assurances that the State will continue to develop, standards which are at least as effective as those promulgated under section 6 of the Act. Indices of the effectiveness of standards and standards setting procedures against which the Secretary will measure the State plan in determining whether it is approvable are set forth in § 1902.4(b).

(2) The State plan may not include standards which require products distributed and used in interstate commerce (such as products used by persons employed in manufacturing or construction in the course of their employment) to be made according to specifications different from those generally used except when required by compelling local conditions, and when application of such specifications does not place an undue burden on interstate commerce. This provision, reflecting section 18(c)(2) of the Act, is interpreted to apply to those products that are normally used or distributed in interstate commerce. It is not interpreted as being applicable to products designed solely for use on or in a particular local situation; i.e., customized products not normally available in the open market and differing substantially from such products.

(d) Enforcement:

(1) The State plan shall provide a program for the enforcement of the State standards which is at least as effective as that provided in the Act, and provide assurances that the State's enforcement program will continue to be at least as effective as the Federal program. Indices of the effectiveness of a State's enforcement plan against which the Secretary will measure the State plan in determining whether it is approvable are set forth in § 1902.4(c).

(2) The State plan shall require employers to comply with all applicable State occupational standards covered by the plan and all applicable rules and regulations issued thereunder, and employees to comply with all standards, rules, regulations, and orders applicable to their conduct.

(e) Right of entry and inspection: The State plan shall contain adequate assurance that inspectors will have a right to enter and inspect covered workplaces which is at least as effective as that provided in section 8 of the Act. Where such entry or inspection is refused, the State agency or agencies shall have the authority, through appropriate legal process, to compel such entry and inspection.

(f) Prohibition against advance notice: The State plan shall contain a prohibition against advance notice of inspections unless expressly authorized by the head of the designated agency or agencies or his representative under circumstances similar to those authorized under the Act.

(g) Legal authority: The State plan shall contain satisfactory assurances that the designated agency or agencies have or will have the legal authority necessary for the enforcement of its standards.

(h) Personnel: The State plan shall provide assurances that the designated agency or agencies have or will have qualified personnel necessary for the enforcement of the standards. For this purpose qualified personnel means persons employed on a merit basis. Compliance with the standards for a Merit System of Personnel Administration, 45 CFR Part 70, issued by the Secretary of Labor, Secretary of Health, Education, and Welfare, and the Secretary of Defense, will be deemed to meet this requirement.

(i) Resources: The State plan shall contain satisfactory assurances through the use of budget, organizational description, and any other means that the State will devote adequate funds for the administration and enforcement of the program. The Assistant Secretary will make periodic evaluations of the adequacy of the State resources devoted to the plan.

(j) State and local government employees: The State plan shall include, to the extent permitted by State law, an effective and comprehensive occupational safety and health program covering all employees of public agencies of the State and its political subdivisions. Such program shall be as effective as the standards contained in the plan which are applicable to employees covered by the plan.

(k) Employer records and reports: The State plan shall provide assurances that employers covered by the plan will maintain records and make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect.

(l) State agency reports to the Secretary: The State plan shall provide assurances that the designated agency or agencies shall make such reports to the Secretary in such form and containing such information as he may from time to time require. The agency or agencies shall establish specific goals, including measures of performance, output and results which will determine the efficiency and effectiveness of the State program, and shall make periodic reports to the Secretary on the extent to which the State, in implementation of its plan, has attained these goals. Reports will also include data and information on the implementation of the specific inspection and voluntary compliance activities included within the State plan. Further, these reports shall contain such statistical information pertaining to work related deaths, injuries, and illnesses in employments and places of employment covered by the plan as the Secretary may from time to time require.

§ 1902.4 Indices of equal effectiveness.

(a) In determining whether a State plan provides for the development and enforcement of standards at least as effective as Federal standards and enforcement, the Secretary will, as provided in § 1902.2(b), measure the State plan against the indices listed herein. Any State may, if it wishes, meet these indices by establishing the same procedures, criteria, rules, etc., as have been established by the Secretary under the Act for purposes of Federal enforcement. A State plan may be deemed to provide for at least equally effective standards and enforcement if it sustains a lack of need for any of the indices listed herein.

(b) Standards: The indices for evaluation of a State's plan with regard to standards follow. The Secretary will consider whether the State plan:

(1) Provides for standards with respect to specific issues which are or will be at least equally effective as the standards promulgated under section 6 of the Act relating to the same issues. In the case of any standards dealing with toxic materials or harmful physical agents, these standards should, to the extent feasible, assure that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.

(2) Provides an adequate method to assure that its standards will continue to be at least equally effective with Federal standards.

(3) Provides a procedure for the promulgation of standards which affords interested persons an opportunity to be heard, and which includes procedures for consideration of expert technical knowledge. The State may, if it wishes, satisfy this index by relying on the opportunity for a hearing and consideration of expert technical knowledge which is provided at the Federal level before adoption of Federal standards under section 6.

(4) Provides for the granting of variances from State standards where the petitioning employer (or employers) shows that the practices, means, methods, or processes used or proposed to be used will provide employment and places of employment to affected employees as safe and as healthful as would be provided if he complied with State standards. The State plan may provide for other variances which correspond to variances authorized under the Act. The Secretary will also consider whether the plan provides for affected employees and employers to be given an opportunity to participate in hearings on the granting of such variances.

(5) Provides for prompt issuance of temporary standards in case of emergency.

(6) Contains provision to enable employees to protect and care for themselves; such as, by means of providing them with information regarding hazards, suitable precautions, relevant symptoms and emergency treatment in case of exposure. The Secretary will also consider whether the plan provides, where

appropriate, for medical examinations or tests of exposed employees at employer cost.

(7) Contains appropriate provision for protective equipment and technological monitoring of hazards.

(8) Identifies where appropriate the specific characteristics and needs within the State that will determine or affect the nature and scope of an effective occupational safety and health program. The Secretary will also consider whether the State plan contains adequate assurance that occupational safety and health issues to be covered by the plan will be related to such needs and whether in developing standards the State will give appropriate consideration to such needs and priority to issues involving recognized hazards that are causing or likely to cause death or serious physical harm to employees or in places of employment with the State.

(c) Enforcement: The indices for measurement of a State plan with regard to enforcement follow. The Secretary will consider whether the plan:

(1) Provides for prompt inspection in response to complaints where there are reasonable grounds to believe that a hazardous condition exists, and for regular compliance inspections of covered workplaces. To demonstrate the adequacy of its provision for regular compliance inspections of workplaces, the submittal should include a schedule of inspections, including the number and type of workplaces to be inspected, and a description of how inspection sites will be selected.

(2) Provides for an opportunity for workers and their designated representatives before, during, and after inspections to bring possible violations of the standards to the attention of the representative of the agency with enforcement authority.

(3) Provides for employees and their representatives to be informed when the designated agency or agencies decide not to initiate enforcement proceedings on the basis of information furnished by such employees or their representatives. The Secretary will also consider whether the plan gives employees and their representatives an opportunity for informal review when a decision not to initiate enforcement proceedings is made.

(4) Provides that employees will be informed of their rights and responsibilities under State law, and will be given access to full information about specific standards.

(5) Provides necessary and appropriate protection to an employee against discharge or discrimination in terms and conditions of employment because he has filed a complaint, testified, or otherwise acted to exercise rights under the act for himself or others.

(6) Requires notice to be given to any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by applicable safety and health standards or provides some other effective means of allowing employees to protect them-

Subpart C—Procedure for Submission and Approval of State Plans

§ 1902.10 Submission.

(a) An authorized representative of the State agency or agencies responsible for administering the plan shall submit the plan (with 10 copies) to the nearest Regional Administrator of the Occupational Safety and Health Administration, U.S. Department of Labor. The State plan shall be accompanied by any supporting papers (and 10 copies) relating to the requirements specified in Subpart B of this part. In addition, the plan shall be accompanied by an original and 10 copies of any State occupational safety and health standards which are covered by the plan, including copies of any enabling or specific State laws and regulations relating to such standards. Whenever any of the representations of a State concerning the requirements of Subpart B of this part are dependent upon any judicial or administrative interpretations of the pertinent State standards or their enforcement, citations to any pertinent judicial decisions shall be furnished and copies of any pertinent administrative decisions shall be furnished (10 copies).

(b) Upon receipt of State plan the Regional Administrator shall make forthwith a preliminary examination of the plan. In the event his examination reveals any apparent defect or defects in the plan, the Regional Administrator shall promptly offer technical assistance to the State agency for the curing of such defect or defects. After his preliminary examination, and after the State has had an opportunity to cure any apparent defects, the Regional Administrator shall promptly submit the plan to the Assistant Secretary for Occupational Safety and Health, hereinafter referred to as the Assistant Secretary.

(c) When the Assistant Secretary receives a plan from a Regional Administrator he shall promptly examine the plan and any supporting materials. Whenever the examination discloses no cause for rejecting the plan, the Assistant Secretary shall follow the procedure prescribed in § 1902.11. Whenever the examination discloses cause for rejection of the plan, the Assistant Secretary shall follow the procedure prescribed in § 1902.12.

§ 1902.11 Proposed approval procedure.

(a) The Assistant Secretary shall publish in the FEDERAL REGISTER a notice which shall:

(1) Describe briefly the contents of the plan;

(2) Announce the proposed approval of the plan;

(3) Announce that the plan or copies thereof may be inspected at the national office of the Occupational Safety and Health Administration and the office of the Regional Administrator involved; and

(4) Afford interested persons an opportunity to submit data, views, and arguments in writing, orally, or both, on the proposed approval of the plan and

selves. The Secretary will also consider whether the plan provides for the keeping of records of any employee exposure to toxic materials and harmful physical agents, and for such records to be available to employees.

(7) Provides procedures for the prompt restraining or elimination of any conditions or practices in employment or any place of employment that are subject to the plan and which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided for in the plan.

(8) Provides adequate safeguards to assure that any trade secrets obtained in the course of an inspection or proceeding for enforcement will be kept confidential.

(9) Gives the State agency (or agencies) access to compulsory process or some effective procedure to enable it to obtain necessary evidence or testimony in connection with inspection and enforcement proceedings.

(10) Provides for prompt notice to employers and employees when a possible serious violation of standards has occurred.

(11) Provides effective sanctions against employers who violate standards and orders.

(12) Provides for an employer to have the right to administrative or judicial review of notices of alleged violation and proposed penalties. The Secretary will consider whether the employer will be afforded an opportunity for a full hearing on the issues in the proceeding, with the right to be heard and represented by counsel, and whether representatives of employees will be afforded the right to participate in administrative or judicial review proceedings.

(13) Provides that the State intends to undertake programs to increase voluntary compliance by employers. For this purpose, the State submittal should include the schedule it plans for training and professional consultations with employers and employees.

(d) Modified or additional indices: Upon his own motion or after consideration of data, views and arguments received in any proceeding held under Subpart C of this part, the Assistant Secretary may prescribe modified or additional indices for any State plan. Any modifications or additions to indices shall be in furtherance of the purpose of this part, as expressed in § 1902.1.

§ 1902.5 Delegation of authority.

The powers of the Secretary under this part shall be exercised by the Assistant Secretary of Labor for Occupational Safety and Health who is empowered to subdelegate such powers.

§ 1902.6 Intergovernmental Cooperation Act of 1968.

This part shall be construed in a manner consistent with the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4233), and any regulations pursuant thereto.

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any related subjects and issues which may be specified. The time permitted for such comments shall be specified in such notice but shall not exceed 30 days from the date of publication.

(b) After consideration of all relevant matter presented the Assistant Secretary shall either approve or propose to reject the plan. In the event of approval of the plan, a notice to that effect shall be published in the FEDERAL REGISTER. In the event of a proposed rejection of a plan, the Assistant Secretary shall follow the procedures prescribed in § 1902.12.

§ 1902.12 Proposed rejection procedure.

(a) *General.* Whenever as a result of an initial examination of a plan or following the procedure prescribed in § 1902.11, the Assistant Secretary proposes to reject a State plan, he shall follow the procedures prescribed in the remaining paragraphs of this section.

(b) *Notice.* The Assistant Secretary shall publish a notice in the FEDERAL REGISTER which shall:

(1) Describe briefly the contents of the State plan;

(2) Announce his proposed rejection of the plan and state the reasons therefor;

(3) Announce that the plan or copies thereof may be inspected at the national office of the Occupational Safety and Health Administration and the office of the Regional Administrator involved;

(4) Afford interested persons an opportunity to submit written evidence in question-and-answer form (original and four copies) on the proposed rejection of the plan and any subjects or issues relating to the reasons for proposed rejection, together with any proposed findings and conclusions concerning the disposition of such issues and supporting arguments;

(5) Afford interested persons under 5 U.S.C. 556 an opportunity to show that they would be prejudiced by submitting in writing all, or part of the, evidence relating to the proposal or any subsidiary subjects or issues involved; and

(6) Specify a reasonable time, not to exceed 30 days, for the submission of written evidence and any possible showing of prejudice.

(c) *Oral hearing.* In the event the Assistant Secretary finds that the rights of any interested persons under 5 U.S.C. 556 would be prejudiced by the disposition of the proposal and any subsidiary subjects or issues based only on the submission of written evidence, he shall provide an opportunity for hearing affording to such interested persons the rights specified in 5 U.S.C. 556. The Assistant Secretary shall, in such event, publish a notice of hearing. The rules of procedure for such a hearing shall be specified in the notice.

(d) *Tentative decision.* (1) On the basis of the whole record, the Assistant Secretary shall issue a tentative decision either approving or rejecting the State plan. The tentative decision shall include a statement of the findings and conclusions and reasons or bases therefor on all material issues of fact, law, or

discretion which have been presented. The tentative decision shall be published in the FEDERAL REGISTER.

(2) The State agency and other interested persons filing written evidence in response to the notice prescribed under paragraph (b) of this section may waive the tentative decision. In such event the Assistant Secretary shall issue a final decision.

(e) *Exceptions to tentative decisions; final decision.* (1) Interested persons shall have an opportunity to file exceptions to a tentative decision and objections to such exceptions within periods of time to be specified in the tentative decision. An original and four copies of any exception or objections shall be filed.

(2) Thereafter the Assistant Secretary shall issue a final decision ruling upon each exception filed. The final decision shall be published in the FEDERAL REGISTER.

Signed at Washington, D.C., this 14th day of June 1971.

J. D. HONGSON,
Secretary of Labor.

[FR Doc.71-8630 Filed 6-17-71; 8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 121, 135g, 141a, 146a, 146c, 146e]

INTRAMAMMARY INFUSION PRODUCTS FOR TREATING MASTITIS Proposed Revocation of Food Additive Regulations and Antibiotic Certification Provisions; Interim Procedure

In the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6602), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration and the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, following evaluation of reports received from the Academy on certain intramammary infusion products containing certifiable antibiotics intended for use in treating mastitis in milk-producing animals.

The announcement invited the manufacturers of the drugs and any other interested persons to submit pertinent data on the drugs' effectiveness.

No adequate data were received in response to the announcement, and available information fails to provide substantial evidence of effectiveness of the drugs containing certifiable antibiotics named in said announcement for their recommended use in treating mastitis in milk-producing animals.

Having considered the available information, the Commission finds that all intramammary infusion products containing certifiable antibiotics must meet the standards set by the Academy.

In response to the announcement, certain firms have made commitments to

conduct controlled studies to comply with said announcement. Based on these commitments and the length of time required to generate adequate information under conditions of use, the Commissioner concludes that as an interim procedure, firms now marketing intramammary infusion products containing certain certifiable antibiotics shall be permitted 1 year in which to submit new animal drug applications and complete data to comply with said announcement. Products that will be permitted during this time must comply with the regulations as amended by this order.

Accordingly, based on the foregoing and a review of certain other drug products covered by present regulations, the Commissioner proposes to revoke certain food additive regulations providing for intramammary infusion products (21 CFR Part 121); to revoke corresponding tolerances for residues of such preparations in food (21 CFR Part 135g); and to delete from the antibiotic drug regulations provisions for certification of certain intramammary infusion products (21 CFR Parts 146a, 146c, 146e).

If the amendments proposed herein are adopted, intramammary infusion products certified under §§ 146a.9, 146a.10, 146a.20, 146a.22, 146a.23, 146a.24, 146a.25, 146a.26, 146a.47, 146a.50, 146a.52, 146a.54, 146a.56, 146a.66, 146a.70, 146a.87, 146a.89, 146a.108, 146a.111, 146a.112, 146c.223, 146c.268, and 146e.429 will no longer be eligible for certification nor shall any products covered by § 146a.45 be eligible for certification if they contain nitrofurazone.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 507, 512, 59 Stat. 463, as amended, 72 Stat. 1785-88, as amended, 82 Stat. 343-51; 21 U.S.C. 348, 357, 360b) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Parts 121, 135g, 141a, 146a, 146c, and 146e be amended:

1. In § 121.249(a), by revoking subparagraphs (1), (3), (6), and (7).

2. By revoking §§ 121.314, 121.315, 121.316, and 121.317.

3. By revoking §§ 135g.3, 135g.66, 146a.9, 146a.10, 146a.20, 146a.23, and 146a.25.

4. In § 146a.26(a), by deleting all of the second sentence and by deleting from the fourth sentence, "except if it is packaged and labeled solely for udder instillations of cattle, its potency is not less than 2,000 units per gram."

5. By revising § 146a.45(a) and (d) (2) (i) and (ii) and (3) (iii) to read as follows:

§ 146a.45 Procaine penicillin G in oil.

(a) *Standards of identity, strength, quality, and purity.* Procaine penicillin G in oil is a suspension of procaine penicillin G in a refined vegetable oil, with or without the addition of one or more suitable and harmless dispersing agents and with or without the addition of a hardening agent. If it is intended solely for veterinary use and is conspicuously so labeled, it may contain furaltadone in accordance with § 121.249(a) (5) of this chapter.

Its potency is 300,000 units per milliliter, except if it is packaged and labeled solely for veterinary use and is conspicuously so labeled.

Its moisture content is not more than 1.4 percent. It is sterile, unless it is packaged and labeled solely for udder instillations of cattle, except that it is sterile if it is packaged and labeled solely for udder instillations of cattle and it contains furaltadone. The procaine penicillin G used conforms to the requirements of § 146a.44(a), except if the procaine penicillin G in oil is packaged and labeled solely for udder instillations of cattle and is not required to be sterile, the penicillin used is exempt from the requirements of paragraph (a) (2), (3), and (4) of that section. Each other ingredient used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium. If the hardening agent is a hydrogenated and deodorized peanut oil, it is free from rancidity; it has an iodine value of not more than 10; its free fatty acid content as oleic acid is not more than one-tenth of 1 percent; and its melting point is 64±2° C.

(d)

(2)

(i) The batch; potency, sterility (unless it is intended solely for udder instillations of cattle and is not required to be sterile), and moisture.

(ii) The procaine penicillin G used in making the batch; potency, moisture, pH, crystallinity, penicillin K content (unless it is crystalline penicillin G), procaine penicillin G content, and, unless the batch of procaine penicillin G in oil is intended solely for udder instillations of cattle and is not required to be sterile, toxicity, sterility, and pyrogens.

(3)

(iii) In case of an initial request for certification, the vegetable oil and each dispersing and hardening agent or other ingredient used in making the batch; One package of each containing, respectively, approximately 250 grams and 5 grams.

6. In § 146a.52(a):

a. Subparagraph (1), second sentence, by deleting "except if the batch of procaine penicillin and crystalline penicillin in oil is intended solely for udder instillations of cattle, the crystalline penicillin used is exempt from the requirements of paragraph (a) (2), (3), and (4) of that section."

b. Subparagraph (3), first sentence, by deleting "(unless it is intended for udder instillations of cattle)" and "and, unless the batch of procaine penicillin and crystalline penicillin in oil is intended solely for udder instillations of cattle."

7. In § 146a.54(a) (3), first sentence, by deleting "if it is packaged and labeled

solely for udder instillations of cattle it may contain papain;"

8. By revoking § 146a.56.

9. By revising § 146a.57(a) (1) and (2) to read as follows:

§ 146a.57 Procaine penicillin and streptomycin in oil veterinary; procaine penicillin and dihydrostreptomycin in oil veterinary.

(a)

(1) It contains not less than 2.0 milligrams of streptomycin or dihydrostreptomycin per milliliter. The streptomycin or dihydrostreptomycin used conforms to the standards prescribed by § 146b.101(a) or § 146b.103 of this chapter, except the standards for sterility, pyrogens, and histamine, or by § 146b.114(a) of this chapter, except that if it is intended for udder instillations of cattle the dihydrostreptomycin used conforms to the standards prescribed by § 146b.103 of this chapter, except the standards for sterility, toxicity, pyrogens, and histamine, or by § 146b.114(a) of this chapter, except the standard for toxicity.

(2) It may contain cortisone or a suitable derivative of cortisone, and/or one suitable sulfonamide, if it is intended solely for udder instillations of cattle, which ingredient, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium. If it is intended solely for udder instillations of cattle, it may be packaged in containers with one or more suitable inert gases.

10a. By revising the heading of § 141a.93 to read as follows:

§ 141a.93 Procaine penicillin G-neomycin in oil, veterinary.

b. By revising § 146a.62 to read as follows:

§ 146a.62 Procaine penicillin G-neomycin in oil, veterinary.

Procaine penicillin G-neomycin in oil conforms to all requirements and is subject to all procedures prescribed by § 146a.45 for procaine penicillin G in oil, except that:

(a) It contains neomycin sulfate. The neomycin sulfate used in making the batch conforms to the standards prescribed by § 146a.410 of this chapter, except the standard for toxicity.

(b) It may contain cortisone or a suitable derivative of cortisone and/or one suitable sulfonamide.

(c) In addition to the labeling requirements prescribed by § 146a.45(c), each package shall bear on the outside wrapper or container and the immediate container the statement "For udder instillation of cattle only." If it contains cortisone or a derivative of cortisone and/or a sulfonamide, each package shall bear on its label and labeling, after the name "procaine penicillin G-neomycin in oil," wherever it appears, the words "with -----," the blank being filled in with the

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established names of such other ingredients, in juxtaposition with such name.

(d) In addition to complying with the requirements of § 146a.45(d), a person who requests certification of a batch shall submit with his request a statement showing the batch mark and (unless it was previously submitted) the results and the date of the latest tests and assays of the neomycin used in making the batch for potency, moisture, and pH; and the number of units of procaine penicillin G and the number of milligrams of neomycin in each gram or milliliter of the batch. He shall also submit in connection with his request a sample consisting of not less than 6 immediate containers of the batch and (unless it was previously submitted) a sample consisting of 5 packages containing approximately equal portions of not less than 0.5 gram each of the neomycin used in making the batch.

11. By revoking §§ 146a.70 and 146a.87.

12. By adding to § 146a.89(a) a new subparagraph, as follows:

§ 146a.89 Penicillin-streptomycin-neomycin in oil; penicillin-dihydrostreptomycin-neomycin in oil; penicillin-streptomycin-neomycin ointment; penicillin-dihydrostreptomycin-neomycin ointment.

(a)

(4) If it is intended solely for veterinary use, it is packaged and labeled either for subcutaneous injection in fowl or for use in the eyes and ears of animals.

13. By revoking § 146a.108.

14. In § 146a.111(a), fifth sentence, by deleting "except that if the drug is intended for use by udder instillation, each single dose as recommended in its labeling contains not more than 100,000 units of penicillin."

15. By revoking §§ 146a.112, 146c.223, 146c.268, and 146e.429.

16. In § 146a.24(c) (2) (ii), by deleting "§ 121.314 or".

17. In § 146a.47(c) (2) (iii), by deleting "§ 121.315 or".

18. In § 146a.50(e), by deleting "§ 121.316 or".

19. In § 146a.66(c) (2) (ii), by deleting "§ 121.317 or".

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in triplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: June 10, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8570 Filed 6-17-71; 8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[24 CFR Part 76]

[Docket No. R-71-100]

EMPLOYMENT OPPORTUNITIES FOR LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS

Notice of Proposed Rule Making

The Department of Housing and Urban Development is considering amending Title 24 of the Code of Federal Regulations to include a new Part 76 entitled "Employment Opportunities for Lower Income Persons in Connection with Assisted Projects." The proposed amendment, issued pursuant to section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, would establish procedures to encourage the employment on assisted projects of lower income persons residing in the project locale, and the award of project-related contracts to businesses similarly located.

The proposed regulations, the purpose of which is more fully set forth under § 76.1, relate to public property, loans, grants, benefits, or contracts, and are not subject to the rule making requirements of 5 U.S.C. 553. However, recently announced Department policy provides that rules and regulations, as broadly defined by the promulgating notice, 36 F.R. 4291, will be published for proposed rule making. Accordingly, interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should identify the proposed rule by the above docket number and title and should be filed in triplicate with the Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before July 19, 1971, will be considered by the Assistant Secretary before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

The proposed rule is issued pursuant to section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

The proposed Part 76 reads as follows:

PART 76—EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS WITHIN THE PROJECT LOCALE

Subpart A—General

- Sec. 76.1 Purpose and scope of part.
76.5 Definitions.
76.10 Delegation to Assistant Secretary for Equal Opportunity.
76.15 Determination of the area of a section 3 covered project.

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- Sec. 76.20 Assurance of compliance with regulations.
76.25 Bidding and negotiation requirements.
76.30 Other applicant and recipient obligations.
76.35 Effectuation of applicant obligations in direct and indirect relationships.

Subpart B—Utilization of Lower Income Area Residents as Trainees

- 76.40 General.
76.45 Establishing number of trainees.
76.50 Good faith effort.

Subpart C—Utilization of Lower Income Area Residents as Employees

- 76.55 General.
76.60 Good faith effort.

Subpart D—Utilization of Business Located in or Owned in Substantial Part by Persons Residing in the Area

- 76.65 General.
76.70 Development of an affirmative action plan.

Subpart E—Participation in Approved Programs

- 76.75 Participation as evidence of compliance with section 3 requirements.

Subpart F—Grievance and Compliance Review

- 76.80 Who may file grievance.
76.85 Content of grievance filings.
76.90 Form of grievance filings.
76.95 Place of filing.
76.100 Time of filing.
76.105 Processing of grievance filings.
76.110 Hearings.
76.115 Compliance reviews and procedures.

Subpart G—Miscellaneous

- 76.120 Reporting and recordkeeping.
76.125 Implementing procedures and instructions.
76.130 Labor standards.
76.135 Effective date.

AUTHORITY: The provisions of this Part 76 are issued under section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Subpart A—General

§ 76.1 Purpose and scope of part.

(a) The regulations set forth in this part contain the procedures established by the Secretary of Housing and Urban Development for carrying out his responsibilities under section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u. That section requires that:

In the administration by the Secretary of Housing and Urban Development of programs providing direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, the Secretary shall—

(1) Require, in consultation with the Secretary of Labor, that to the greatest extent feasible opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any such program be given to lower income persons residing in the area of such project; and

(2) Require, in consultation with the Administrator of the Small Business Administration, that to the greatest extent feasible contracts for work to be performed in connection with any such project be awarded to business concerns, including but not limited to individuals or firms doing business in the field of planning, consulting, design, architecture, building construction, rehabilitation, maintenance, or repair, which are located in or owned in substantial part by persons residing in the area of such project.

(b) In the development of these regulations the Secretary has consulted with the Secretary of Labor and the Administrator of the Small Business Administration and mutual agreement has been reached with respect to the coordination of employment and training efforts and contracts awards under these regulations by the Department of Housing and Urban Development, the Department of Labor, and the Small Business Administration.

(c) The Secretary will issue such further regulations in connection with his responsibilities under section 3 of the Housing and Urban Development Act of 1968, as he finds appropriate and may, as needed, amplify any regulations issued pursuant to section 3, through guidelines, handbooks, circulars, or other means.

§ 76.5 Definitions.

As used in this part—

(a) "Applicant" means any entity seeking assistance for a section 3 covered project including, but not limited to, mortgagors, developers, local public bodies, nonprofit or limited dividend sponsors, builders, or property managers.

(b) "Business concerns located within the section 3 covered project area" means those individuals or firms located within the relevant section 3 covered project area as determined pursuant to § 76.15 which are small and owned by persons considered by the Small Business Administration to be socially or economically disadvantaged.

(c) "Business concerns owned in substantial part by persons residing in the section 3 covered project area" means those business concerns which are 51 percent or more owned by persons residing within the relevant section 3 covered project as determined pursuant to § 76.15 and which are small and owned by persons considered by the Small Business Administration to be socially or economically disadvantaged.

(d) "Contracting party" means any entity which contracts with a contractor for the performance of work in connection with a section 3 covered project.

(e) "Contractor" means any entity which performs work in connection with a section 3 covered project.

(f) "Department" means the Department of Housing and Urban Development.

(g) "Lower income resident of the area" means any individual who resides within the area of a section 3 covered project and whose family income does not exceed 80 percent of the median income in the Standard Metropolitan Statistical Area (or the county, if not within an SMSA) in which the section 3 covered project is located.

(h) "Political jurisdiction" means a politically organized community with a governing body having general governmental powers.

(i) "Recipient" means any entity who received assistance for a section 3 covered project including, but not limited to, mortgagors, developers, local public bodies, nonprofit or limited dividend sponsors, builders or property managers.

(j) "Secretary" means the Secretary of Housing and Urban Development.

(k) "Section 3" means section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u.

(l) "Section 3 clause" means the contract provisions set forth in § 76.20(b).

(m) "Section 3 covered project" means any project assisted by any program administered by the Secretary in which loans, grants, subsidies, or other financial assistance are provided in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development (except where the financial assistance available under such program is solely in the form of insurance or guaranty).

(n) "Subcontractor" means any entity (other than a person who is an employee of the contractor) which has agreed or arranged with a contractor to undertake a portion of the contractor's obligation or the performance of work in connection with a section 3 covered project.

§ 76.10 Delegation to Assistant Secretary for Equal Opportunity.

Except as otherwise provided in this part, the functions of the Secretary referred to herein will be delegated to the Assistant Secretary for Equal Opportunity.

§ 76.15 Determination of the area of a section 3 covered project.

(a) The area of a section 3 covered project shall be determined as follows:

(1) The boundaries of a section 3 covered project located within a geographic area designated pursuant to the provisions of title I of the Housing Act of 1949, 42 U.S.C. 1450, or pursuant to the provisions of title I of the Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3301, shall be coextensive with the boundaries of that geographic area.

(2) The boundaries of a section 3 covered project not located within a geographic area designated pursuant to title I of the Housing Act of 1949, or title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall be coextensive with the boundaries of the smallest political jurisdiction in which the project is located.

(3) To the extent that goals (established pursuant to Subparts B, C, and D of this part) cannot be met within a section 3 covered project area as determined pursuant to subparagraph (1) of this paragraph, the boundaries of the smallest political jurisdiction in which the section 3 covered project is located shall be designated as the relevant section 3 covered project area.

(b) The Department's Regional Administrator, Area Office Director, or FHA Insuring Office Director, as appropriate,

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shall determine the boundaries of each section 3 covered project; develop a "Project Area Map" if the project area is determined pursuant to paragraph (a) (1) of this section, showing the section 3 covered project area, and the smallest political jurisdiction in which it is located, except where the project area is a Model Cities area which is coextensive with the city itself; and publish the "Project Area Map" in a newspaper serving the community in which the section 3 covered project area is located.

§ 76.20 Assurance of compliance with regulations.

(a) Every contract or agreement for a grant, loan, subsidy, or other direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, entered into by the Department of Housing and Urban Development shall contain provisions requiring the applicant or recipient to carry out the provisions of section 3, the regulations set forth in this part, and any applicable rules and orders of the Department issued thereunder prior to approval of its application for assistance for a section 3 covered project.

(b) Every applicant, recipient, contracting party, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a section 3 covered project, the following clause (referred to as a section 3 clause):

A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

B. The parties to this contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR -----, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation

of regulations issued by the Secretary of Housing and Urban Development, 24 CFR ----- The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR ----- and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR -----, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by rules, regulations, or applicable policy of the Department of Housing and Urban Development governing the program under which Federal assistance to the project is provided.

§ 76.25 Bidding and negotiation requirements.

(a) Every applicant and recipient shall require prospective contractors for work in connection with section 3 covered projects to provide, prior to the signing of the contract, a preliminary statement of work force needs (skilled, semiskilled, unskilled labor and trainees by category) where known; where not known, such information shall be supplied prior to the signing of any contract between contractors and their subcontractors.

(b) When a bidding procedure is used to let the contract, the invitation or solicitation for bids shall advise prospective contractors of the requirements of these regulations. When the contract is let pursuant to negotiation or methods other than formal bidding procedures, prospective contractors shall be advised by the contracting party of the requirements of these regulations as part of the contract specifications.

§ 76.30 Other applicant and recipient obligations.

Every applicant and recipient shall assist and actively cooperate with the Secretary in obtaining the compliance of their contractors and subcontractors with the requirements of these regulations, including cooperation and assistance in distributing and collecting forms and information, and in notifying contracting parties and contractors of violations of these regulations, and shall refrain from entering into any contract with any contractor after notification by the Department that the contractor has been found in violation of these regulations pursuant to § 76.110(j).

§ 76.35 Effectuation of applicant obligations in direct and indirect relationships.

(a) Where the applicant for assistance under a section 3 covered project and the recipient of such assistance are not one and the same, the recipient shall be regarded as the successor in interest of

the applicant and shall have the same obligations as the applicant with respect to compliance with these regulations. These obligations shall be incorporated specifically or by reference in the loan or grant agreement or other contract or agreement through which the assistance is provided to the recipient.

(b) Where the applicant or recipient itself will perform all or part of the work in connection with a section 3 covered project within the meaning of these regulations, with either permanent or temporary staff by force account, it will provide the Department with all forms and assurances required of a contractor or subcontractor by these regulations prior to the execution of any loan or grant agreement or other contract or agreement through which assistance is provided.

(c) Where the applicant, recipient or contractor sells, leases, transfers or otherwise conveys land upon which work in connection with a section 3 covered project within the meaning of these regulations is to be performed (for example, under the Urban Renewal or Neighborhood Development program), it shall include in each contract or subcontract for work on such land a clause requiring the purchaser, lessee, or redeveloper to assume the same obligations as a contractor for work under section 3 of these regulations (including the incorporation of the Assurance of Compliance language specified in § 76.20).

(d) Each such purchaser, lessee, or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

Subpart B—Utilization of Lower Income Area Residents as Trainees

§ 76.40 General.

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to utilize lower income project area residents as trainees to the greatest extent feasible by:

(a) Utilizing the maximum number of persons in the various training categories in all phases of the work to be performed under the section 3 covered project; and

(b) Filling all vacant training positions with lower income project area residents except for those training positions which remain unfilled after a good faith effort has been made to fill them with eligible lower income project area residents.

§ 76.45 Establishing number of trainees.

(a) For the building construction occupations, the number of trainees or apprentices for each occupation shall be determined pursuant to regulations issued by the Secretary of Labor.

(b) For nonconstruction occupations or for any building construction occupations for which ratios are not determined pursuant to regulations of the Secretary of Labor, the number of trainees for each occupation shall be that

number which can reasonably be utilized in each occupation on each phase of a section 3 covered project. The applicant, recipient, contractor, or subcontractor shall initially determine the maximum number of trainees for each occupation and submit that determination along with its justification to the Department.

§ 76.50 Good faith effort.

(a) Each applicant, recipient, contractor, or subcontractor seeking to establish that a good faith effort as required by § 76.40 has been made to fill all training positions with lower income area residents shall, as a minimum, set forth evidence acceptable to the Secretary that it has:

(1) Obtained from the Department's Regional Administrator, Area Office Director, or FHA Insuring Office Director having jurisdiction over the section 3 covered project, the "Section 3 Project Area Map," if available; and

(2) Attempted to recruit from the appropriate areas the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service.

(3) Maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and employ such persons, if otherwise eligible and if a trainee vacancy exists. If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy.

(b) Any applicant, recipient, contractor, or subcontractor which fills vacant apprentice or trainee positions in its organization from sources other than those specified in paragraph (a), subparagraph (2) of this section immediately prior to undertaking work pursuant to a section 3 covered project shall set forth evidence acceptable to the Secretary that its actions were not an attempt to circumvent these regulations.

Subpart C—Utilization of Lower Income Area Residents as Employees

§ 76.55 General.

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to utilize lower income project area residents as employees to the greatest extent feasible by:

(a) Identifying the number of positions in the various occupational categories including skilled, semiskilled, and unskilled labor, needed to perform each phase of the section 3 covered project;

(b) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;

(c) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are not currently occupied by regular, permanent employees;

(d) Establishing, of the positions identified in paragraph (c) of this section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower income residents of the section 3 covered project area; and

(e) Making a good faith effort to fill all of the positions identified in paragraph (d) of this section with lower income project area residents.

§ 76.60 Good faith effort.

(a) Each applicant, recipient, contractor, or subcontractor seeking to establish that a good faith effort as required by paragraph (e) of § 76.55 has been made to fill all employment positions identified in paragraph (d) of § 76.55 with lower income project area residents shall, as a minimum, set forth evidence acceptable to the Secretary that it has:

(1) Obtained from the Department's Regional Administrator, Area Office Director, or FHA Insuring Office Director having jurisdiction over the section 3 covered project, the "Section 3 Project Area Map," if available; and

(2) Attempted to recruit from the appropriate areas the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Project Area Committees (PAC) in urban renewal areas, Model Cities citizen advisory boards, Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service.

(b) Any applicant, recipient, contractor, or subcontractor which fills vacant § 76.55(d) employment positions in its organization immediately prior to undertaking work pursuant to a section 3 covered contract shall set forth evidence acceptable to the Secretary that its actions were not an attempt to circumvent these regulations.

(c) When lower income resident workers apply, either on their own initiative or on referral from any source, the recipient, contractor, or subcontractor shall determine the qualifications of such persons and shall employ such persons if their qualifications are satisfactory and the contractor has openings. If the recipient, contractor, or subcontractor is unable to employ the workers, such persons shall be listed for the first available opening.

Subpart D—Utilization of Business Located in or Owned in Substantial Part by Persons Residing in the Area

§ 76.65 General.

Each applicant, recipient, contractor, or subcontractor undertaking work on a

section 3 covered project to the greatest extent feasible for work to be performed with the project area residents concerns located in the section 3 covered project area owned in substantial part by persons residing in the section 3 covered project area. The Department shall establish for the section 3 covered project area a registry which meet the requirements of § 76.5 (b) and (c). Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to business concerns located in substantial part in the section 3 covered project area developing and implementing an affirmative action plan.

§ 76.70 Develop affirmative action plan.

In developing an affirmative action plan, each applicant, recipient, contractor, and subcontractor undertaking work pursuant to a section 3 covered contract shall:

(a) Set forth the number and dollar value of work to be awarded to each category (type) of business in the project area, the duration of the project in question.

(b) Analyze the business in paragraph (a) in terms of the availability of business within the project area identified as needed for this section, a target number of contracts, the amount of contracts, the eligible business within each category, of the section 3 covered project.

(c) Outline the steps to be used to achieve the business and/or identified. This plan shall not be limited to the following actions:

(1) Insertion in any, of the affirmative action plan, the applicant, recipient, contractor or subcontractor let.

(2) Identification of business in the project area.

(d) Indicate the steps and steps which will be taken to fill the positions of contractors, unions in meeting out the affirmative action plan pursuant to this section.

(e) Take steps to encourage appropriate business in the section 3 covered project area pending contracts personally or through the media.

section 3 covered project shall assure that to the greatest extent feasible, contracts for work to be performed in connection with the project are awarded to business concerns located within the section 3 covered project area or business concerns owned in substantial part by persons residing in the section 3 covered area. The Department, in consultation with the Small Business Administration will establish for the section 3 covered project area a registry of business concerns which meet the definition contained in § 76.5 (b) and (c) of these regulations. Each applicant, recipient, contractor, or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligations to utilize business concerns located within or owned in substantial part by persons residing in the section 3 covered project area by developing and implementing an affirmative action plan.

§ 76.70 Development of an affirmative action plan.

In developing an affirmative action plan, each applicant, recipient, contractor, and subcontractor preparing to undertake work pursuant to a section 3 covered contract shall:

(a) Set forth the approximate number and dollar value of all contracts proposed to be awarded to all businesses within each category (type or profession) over the duration of the section 3 covered project in question.

(b) Analyze the information set forth in paragraph (a) of this section and the availability of eligible business concerns within the project area doing business in professions or occupations identified as needed in paragraph (a), of this section, and set forth a goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the section 3 covered project.

(c) Outline the anticipated program to be used to achieve the goals for each business and/or professional category identified. This program should include but not be limited to the following actions:

(1) Insertion in the bid documents, if any, of the affirmative action plan of the applicant, recipient, contractor, or subcontractor letting the contract; and

(2) Identification within the bid document, if any, of the applicable section 3 project area.

(d) Indicate the anticipated process and steps which have been taken and/or will be taken to secure the cooperation of contractors, subcontractors, and unions in meeting the goals and carrying out the affirmative action plan developed pursuant to this subpart.

(e) Take steps to insure that the appropriate business concerns included in the Department's registry for the section 3 covered project area are notified of pending contractual opportunities either personally or through locally utilized media.

(f) Take steps to insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a section 3 covered project area.

(g) Where competitive bids are solicited, require the bidders to submit their utilization goals, and their affirmative action plans for accomplishing their goals, and in evaluating each bid, to determine its responsiveness, carefully evaluate the bidders' submission to determine whether the affirmative action plan proposed will accomplish the stated goals.

(h) Where advantageous, seek the assistance of local officials of the Department in preparing and implementing the affirmative action plan.

Subpart E—Participation in Approved Programs

§ 76.75 Participation as evidence of compliance with section 3 requirements.

Any applicant, recipient, contractor, or subcontractor may fulfill his obligations under Subparts B, C, and D of this part, respectively, to utilize lower income project area residents as trainees or employees on section 3 covered projects, and to award contracts to business concerns located in, or owned in substantial part by residents of, section 3 covered project areas by presenting evidence satisfactory to the Secretary that he is a cooperating participant in a federally assisted or other public program approved by the Department of Housing and Urban Development which provides training, employment, and/or business opportunities to lower income persons and business concerns which meet the definition in § 76.5 (b) and (c). The Secretary shall, from time to time, make public a list of those training, employment, and/or business opportunity programs approved by the Department.

Subpart F—Grievance and Compliance Review

§ 76.80 Who may file grievance.

Any lower income resident of the project area, for himself or as a representative of persons similarly situated, seeking employment or training opportunities with an applicant, recipient, contractor, or subcontractor, or any business concern located in, or owned in substantial part by persons residing within a project area seeking contract opportunities from any applicant, recipient, contractor, or subcontractor, for itself or as a representative of persons or firms similarly situated, may personally or by an authorized representative file a grievance alleging noncompliance with section 3, these regulations, or obligations undertaken pursuant thereto.

§ 76.85 Content of grievance filings.

(a) The grievance should include: (1) The name and address of the grievant,

(2) the name and address of the grievant's business, if applicable, (3) the name and address of the applicant, recipient, contractor, or subcontractor (in this subpart called "respondent"), (4) a description of the acts or omissions giving rise to the grievance, and (5) the corrective action sought.

(b) Where a grievance contains incomplete information, the Secretary shall seek promptly the needed information from the grievant. In the event such information is not furnished to the Secretary within sixty (60) days of the date of such request, the grievance may be closed.

§ 76.90 Form of grievance filings.

Each grievance shall be in writing and signed.

§ 76.95 Place of filing.

A grievance may be filed by mailing it to the Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410, or by presenting it at any Regional Office, Area Office, or FHA Insuring Office of the Department. Any employee of the Department receiving a grievance shall forward the same directly to the Assistant Secretary for Equal Opportunity.

§ 76.100 Time of filing.

A grievance must be filed not later than ninety (90) days from the date of the action (or omission) upon which the grievance is based, unless the time for filing is extended by the Secretary upon good cause shown.

§ 76.105 Processing of grievance filings.

(a) Upon receipt of a grievance a copy thereof shall be furnished the respondent by certified mail or through personal service.

(b) The Secretary shall conduct an investigation of each grievance filed, and shall give notice in writing to the grievant and the respondent as to whether he intends to resolve it.

(c) Notwithstanding paragraphs (a) and (b) of this section, where the allegations of a grievance on their face, or as amplified by the statements of the grievant, disclose that the grievance is not timely filed or otherwise fails to state a valid claim for relief under these regulations or any other authority within the jurisdiction of the Department, the Secretary may dismiss the grievance without further action. To the extent that Executive Order 11246 relating to Equal Opportunity in Employment applies to the subject matter of the grievance, the procedures required by applicable regulations implementing that order shall be followed.

(d) If the Secretary decides not to resolve a grievance, or to dismiss it under paragraph (c) of this section, he shall advise the grievant of the disposition of his grievance. Respondent shall also be notified in any case where he has been served with a copy of the grievance.

(e) Any party adversely affected by a determination under paragraph (b) or

(c) of this section may, within 5 days of receipt of a notice of determination, request that the Secretary reconsider his action. Such request for reconsideration will be granted only on the basis of additional material evidence not previously available to the party requesting reconsideration or for other good cause shown.

(f) If the Secretary decides to resolve a grievance, he shall endeavor to eliminate or correct the matters complained of in the grievance by informal methods of conference, conciliation, and persuasion.

(g) In conciliating a grievance, the Secretary shall attempt to achieve a just resolution of the grievance including (1) specific relief for the grievant, (2) affirmative actions by the respondent to relieve the effects of past violation and preclude the occurrence of future violation, and (3) appropriate reporting requirements. Notice of a proposed disposition of a grievance and of the terms of a proposed settlement, if any, shall be given to the parties, or their representatives, by the Secretary, in writing. If satisfactory, the proposed settlement shall be signed by the grievant and the respondent, or their representatives, and approved by the Secretary. The Secretary may, from time to time, review compliance with the terms of any settlement agreement and may, upon a finding of noncompliance, reopen the grievance or take such enforcement action as is provided for under the settlement agreement or as may otherwise be appropriate.

(h) Should a respondent fail or refuse to confer with the Secretary or fail or refuse to make a good faith effort to resolve the grievance, or should the Secretary find for any other reason that voluntary agreement is not likely to result, the Secretary may terminate his efforts to conciliate the dispute. In the latter event the parties shall be notified promptly, in writing, that such efforts have been unsuccessful.

(i) If the Department is unable to obtain voluntary compliance, the Secretary shall advise the parties in writing of his proposed resolution of the grievance. Such resolution shall become final and binding on the parties, unless within 15 days after the receipt of notification, either party files with the Secretary a written request for a hearing on the matter.

§ 76.110 Hearings.

(a) Whenever a hearing is requested, reasonable notice shall be given by registered or certified mail, return receipt requested, to the parties. This notice shall advise the parties of the action proposed to be taken, the specific provision under which the proposed action is to be taken, and the matters of fact or law asserted as the basis for this action. In addition, it shall either (1) fix a date not less than 20 days after the date of such notice within which the parties may request of the Secretary that the matter be scheduled for hearing or (2) advise the parties that the matter in question has been set down for hearing at a stated time and place. The time and

place so fixed shall be subject to change for cause. The requesting party may waive a hearing and in lieu thereof submit written information and argument for the record. The failure of the requesting party to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and consent to the making of a decision on the basis of such information as is available.

(b) Hearings shall be held in or near the section 3 covered project area in question, or at such other location as will serve the convenience of parties and witnesses, at a time fixed by the Secretary. Hearings shall be held before the Secretary or, at his discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344.

(c) In all proceedings under this section, the respondent and grievant, if any, shall have the right to be represented by counsel.

(d) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557, and in accordance with such rules of procedure issued by HUD as are proper relating to the conduct of the hearing, the issuance of notice except that provided in paragraph (a) of this section, the taking of testimony, exhibits, arguments, and briefs, requests for findings, and other related matters. HUD, the respondent, and the grievant, if any, shall be entitled to introduce all relevant evidence on the issues as stated in the notice of hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(e) Technical rules of evidence shall not apply to hearings conducted pursuant to this paragraph but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where deemed reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the Department of Housing and Urban Development, the respondent, and the grievant, if any, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(f) If the hearing is held by a hearing examiner, he shall either render an initial decision, if so authorized, or certify the entire record, including his recommended findings and proposed decision to the Secretary for a final decision. A copy of such initial decision or certification shall be mailed to the respondent and the grievant, or their representative, by certified or registered mail, return receipt requested. Where the initial decision is made by the hearing examiner, the re-

spondent or grievant may within 30 days of the mailing of such notice of initial decision file with the Secretary exceptions to the initial decision, with reasons therefor. In the absence of exception, the Secretary may on his own motion, within 45 days after the initial decision, serve on the respondent and grievant, a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. If no exception is taken or notice of review issued, the initial decision shall constitute the final decision of the Secretary.

(g) Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing examiner pursuant to paragraph (f) of this section, or whenever the Secretary conducts the hearing, the respondent and grievant shall be given reasonable opportunity to file briefs or other written statements of their contentions, and a copy of the final decision of the Secretary shall be given in writing to the respondent, and to the grievant by certified or registered mail, return receipt requested.

(h) Whenever a hearing is waived pursuant to paragraph (a) of this section, a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the respondent, and to the grievant, by certified or registered mail, return receipt requested.

(i) Each decision of a hearing examiner or the Secretary shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements of section 3 of the Housing and Urban Development Act of 1968 or the regulations which the respondent has not complied with.

(j) The final decision may contain such terms, conditions, and other provisions as are consistent with, and will effectuate the purposes of section 3 and these regulations. The decision may also include provisions designed to assure that no contract will thereafter be entered into with a respondent determined by such decision to be in default in its performance of its contractual obligations or to have otherwise failed to comply with these regulations, unless the respondent corrects its noncompliance and satisfies the Secretary that it will fully comply with section 3 and these regulations.

(k) The General Counsel shall represent the Department at all hearings and shall receive copies of all notices, decisions and other documents which are forwarded to the parties.

(l) The applicant or recipient, if not a party, shall be invited to participate in the hearing and shall receive copies of all notices, decisions, and other documents which are forwarded to the parties.

§ 76.115 Compliance reviews and procedures.

In order to determine whether the responsibilities imposed upon him by section 3 and these regulations are being properly carried out, the Secretary shall periodically conduct section 3 compliance

reviews of selected applicants, recipients, contractors, and subcontractors. A compliance review shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned section 3 policies, and conditions resulting therefrom. Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through the conciliation process set forth in § 76.105(g). Compliance reviews may be conducted prior to award of contracts in any case where the Secretary has reasonable grounds, based on a substantiated grievance, the Department's own investigation, or other substantial evidence, to believe that the applicant, recipient, contractor, or subcontractor or will be unable or unwilling to comply with section 3 and the provisions of this part.

Subpart G—Miscellaneous

§ 76.120 Reporting and recordkeeping.

In order to insure that the Secretary is kept informed of the progress being made by the applicant, recipient, contractor, and subcontractor in meeting their obligations under these regulations, each applicant, recipient, contractor, and subcontractor is required to:

(a) Maintain such records and accounts and furnish such information and reports as are required by the Secretary under these regulations or pursuant thereto and permit the Secretary access to books, records and premises for purposes of investigation in connection with a grievance or to ascertain compliance with these regulations or the rules and orders of the Department issued thereunder.

(b) Advise the Secretary within 15 days of the award of any contract under a section 3 covered project of the steps which have been and will be taken to comply with the requirements of Subparts B, C, and D of this part.

§ 76.125 Implementing procedures and instructions.

Assistant Secretaries of the Department administering programs subject to this regulation may issue such procedures and instructions as are necessary to implement the provisions of section 3 and this part. A copy of such procedures and instructions shall be forwarded to the Secretary for approval prior to issuance.

§ 76.130 Labor standards.

All labor standards applicable by statute, regulations, or other administrative issuance shall apply to section 3 covered projects.

§ 76.135 Effective date.

This part shall become effective on [] 1971 for all applications for assistance under section 3 covered by projects which are made after such date within the meaning of the program in question. However, nothing in this part shall effect requirements already imposed on applicants, recipients, and con-

tractors, and subcontractors pursuant to section 3.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-8618 Filed 6-17-71; 8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SO-104]

CONTROL ZONES AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Covington, Ky., and Cincinnati, Ohio, control zones and the Cincinnati, Ohio, transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Covington and Cincinnati control zones, described in § 71.171 (36 F.R. 2055), would be redesignated as follows:

COVINGTON, KY.

Within a 5-mile radius of Greater Cincinnati Airport (lat. 39°02'56" N., long. 84°39'41" W.); within 1.5 miles each side of Runway 36 ILS localizer south course, extending from the 5-mile-radius zone to the LOM; within 3 miles each side of Cincinnati VORTAC 223° radial, extending from the 5-mile-radius zone to 8.5 miles southwest of the VORTAC; within 1.5 miles each side of Runway 18 ILS localizer north course, extending from the 5-mile-radius zone to Addyston LOM.

CINCINNATI, OHIO

Within a 5-mile radius of Cincinnati Municipal-Lunken Field Airport (lat. 39°06'14"

N., long. 84°25'18" W.); within 2 miles each side of Runway 20L ILS localizer northeast course, extending from the 5-mile-radius zone to Madeira RBN; within 1.5 miles each side of the 227° bearing from Lunken RBN, extending from the 5-mile-radius zone to the RBN.

The Cincinnati 700-foot transition area, described in § 71.181 (36 F.R. 2140), would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Greater Cincinnati Airport (lat. 39°02'56" N., long. 84°39'41" W.); within 9.5 miles east and 4.5 miles west of Runway 36 ILS localizer south course, extending from the 11.5-mile-radius area to 18.5 miles south of the LOM; within 3 miles each side of Runway 9R ILS localizer west course, extending from the 11.5-mile-radius area to 8.5 miles west of Burlington RBN; within 9.5 miles west and 4.5 miles east of Runway 18 ILS localizer north course, extending from the 11.5-mile-radius area to 18.5 miles north of the LOM; within a 12-mile radius of Cincinnati Municipal-Lunken Field Airport (lat. 39°06'14" N., long. 84°25'18" W.); within 3 miles each side of the 044° bearing from Lunken RBN, extending from the 12-mile-radius area to 8.5 miles northeast of the RBN.

The proposed alterations are required to provide controlled airspace protection for IFR operations in the Covington/Cincinnati terminal area in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 10, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8592 Filed 6-17-71; 8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-110]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Paducah, Ky., control zone and transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Paducah control zone, described in § 71.171 (36 F.R. 2055 and 3518), would be redesignated as:

Within a 5-mile radius of Barkley Field (lat. 37°03'45" N., long. 88°46'23" W.); within 3 miles each side of the 234° bearing from Paducah RBN, extending from the 5-mile-radius zone to 8.5 miles southwest of the RBN; within 3 miles each side of Cunningham VORTAC 045° radial, extending from the 5-mile-radius zone to 11 miles northeast of the VORTAC.

The Paducah transition area, described in § 71.181 (36 F.R. 2055 and 3518) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Barkley Field (lat. 37°03'45" N., long. 88°46'23" W.); within 5 miles each side of Cunningham VORTAC 225° radial, extending from the 10-mile-radius area to 11.5 miles southwest of the VORTAC.

The proposed alterations are required to provide controlled airspace protection for IFR operations in Paducah terminal in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 10, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8594 Filed 6-17-71;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-111]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the London, Ky., control zone and transition area and the Somerset, Ky., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but

arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The London control zone, described in § 71.171 (36 F.R. 2055), would be redesignated as:

Within a 5-mile radius of Corbin-London War Memorial Airport (lat. 37°05'15" N., long. 84°04'38" W.); within 3 miles each side of London VOR 202° radial, extending from the 5-mile-radius zone to 8.5 miles south of the VOR.

The London and Somerset transition areas, described in § 71.181 (36 F.R. 2140), would be redesignated as follows:

LONDON, KY.

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of Corbin-London War Memorial Airport (lat. 37°05'15" N., long. 84°04'38" W.).

SOMERSET, KY.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Somerset-Pulaski County Airport (lat. 37°03'24" N., long. 84°36'45" W.); within 3 miles each side of the 230° bearing from Somerset RBN (lat. 37°03'19" N., long. 84°36'58" W.), extending from the 8.5-mile-radius area to 8.5 miles southwest of the RBN.

The proposed alterations are required to provide controlled airspace protection for IFR operations in the London and Somerset terminals in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 10, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8595 Filed 6-17-71;8:49 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 1-11; Notice 8]

REAR UNDERRIDE PROTECTION

Termination of Notice of Proposed Rule Making

Notices proposing a motor vehicle safety standard on rear underride protection, applicable to trucks and trailers, were published October 14, 1967 (32 F.R. 14278), March 19, 1969 (34 F.R. 5383),

and August 14, 1970 (35 F.R. 12956). Based upon the information received in response to the notices and evaluations of cost and accident data, the Administration has concluded that, at the present time, the safety benefits achievable in terms of lives and injuries saved would not be commensurate with the cost of implementing the proposed requirements. For the information of all interested persons, notice is hereby given that the rulemaking action is terminated, and that no final rule will be issued on this subject without further notice of proposed rulemaking.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on June 15, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71-8643 Filed 6-17-71;8:53 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Docket No. 22952]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Modification of Schedule and Reports

JUNE 14, 1971.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 241 of its Economic Regulations (14 CFR Part 241) to modify Schedule T-41 Charter and Special Services Revenue Aircraft Miles Flown of Form 41 reports required to be filed by certificated combination carriers and all-cargo carriers.

The principal features of the proposed amendments are described in the explanatory statement below and the proposed amendments are set forth in the proposed rule. The amendments are proposed under the authority of sections 204(a), 401(e) (6), and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 82 Stat. 867), 766; 49 U.S.C. 1324, 1371, 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before July 19, 1971, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room

712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

The member carriers of the National Air Carrier Association (NACA) have petitioned the Board to institute a rule making proceeding to amend Parts 207 (Charter Trips and Special Services) and 241 (Uniform System of Accounts and Reports for Certificated Air Carriers) with respect to the reporting of off-route charter data by certificated route carriers. The purpose of the rule, according to the NACA carriers, is to enable the Board to ascertain whether the certificated route carriers are complying with the volume and frequency/regularity restrictions of Part 207 of the Board's Economic Regulations. They would have the Board require a new schedule to be filed quarterly comprising data as to charters performed by certificated route carriers in addition to the annual report on Schedule T-41, Charter and Special Services Revenue Aircraft Miles of Form 41 reports. Further, the NACA carriers would require the certificated route carriers to set forth on a schedule their "base revenue plane miles" as defined in Part 207 rather than the present complicated method of ascertaining such figure from existing schedules of Form 41 reports.² Finally, they ask for a provision in Part 207 requiring that certificated route carriers file reports in accordance with Part 241, that the Board add items on Form 41 reports showing total off-route charter trips during the quarter and the year to the date of the quarterly report on a revenue plane-mile basis, and that it require the dates and points of origin and destination of each off-route Hawaiian, transatlantic and transpacific charter trip³ performed during the quarter.

Existing Part 207 provides that a route carrier "shall not during any calendar year perform off-route charter trips which in the aggregate on a revenue plane-mile basis exceed two percent of the base revenue plane miles flown by it during the preceding calendar year." In addition, the part imposes frequency and regularity restrictions on all off-route charters including Hawaiian, transatlantic and transpacific charter trips as defined therein. According to the NACA carriers, the purpose of these restrictions is to emphasize the primary role

¹ Section 207.1 defines "base revenue plane miles" as revenue mileage operated by an air carrier in scheduled services, extra sections, and on-route charter trips or special services.

² Adding miles of "scheduled services" as set forth on existing Schedule T-1(a), Monthly Statement of Traffic and Capacity Statistics by Component Operations, to on-route charter miles as reported on existing annual Schedule T-41, supra.

³ As defined in Part 207.

of the route carriers to provide scheduled services and to contribute to the financial strength and success of the supplementals in their role as charter specialists. They maintain that the existing reporting requirements are deficient in that the NACA carriers are not able to ascertain whether the volume and frequency/regularity limitations on off-route charters in the part have been complied with. According to the NACA carriers, the changes in Parts 207 and 241 which they propose would accomplish the intended purpose of making it easier to monitor compliance with the Part 207 limitations.

The Board is not convinced that there is a need for all the proposals advanced by the NACA carriers. We are not prepared to presume that the route carriers would deliberately violate the off-route charter restrictions. Indeed, there is very little history of such violations on the part of the scheduled carriers in the past. In those cases where quotas were nearing exhaustion toward the end of the year, carriers appear to have been quite conscientious in requesting exemptions.

We shall propose modification of the filing frequency for Schedule T-41 of Form 41 by requiring an additional report covering the 9 months ending September 30 of each calendar year. The existing reporting requirement for an annual report for the calendar year will be retained. In addition, we shall add to Schedule T-41 of Form 41 a new section at the bottom entitled "Calculation of Limitation of Charter Trips" which will include the following items: (1) Base revenue plane miles; (2) off-route charter mileage and (3) the percentage item 2 is of item 1.⁴ Except for these modifications, the other proposals of the NACA carriers are rejected for the reasons hereinafter set forth. Therefore, except to the extent granted herein, the petition for rule making of the NACA carriers is denied.

In our view the submission of an additional report covering the 9 months ending September 30 would be desirable for it would apprise the Board and the affected carriers of the amount of off-route charter authority already used and the possibility that the quota of a given carrier might be exceeded before the end of the year. Reports for the first and second calendar quarters, however, as also requested by the NACA carriers, would be unduly burdensome and in our view are unnecessary.

The inclusion on Schedule T-41 of Form 41 of items for base revenue plane miles and off-route charter mileage will be useful since these figures are not readily obtainable from existing reports. Base revenue plane miles are presently ascertained only by adding amounts shown on annual Schedule T-41 on line 5 (total charter miles between certificated points for combination carriers) or line 18 (total

⁴ These items will be required for both reporting periods.

charter mileage between certificated points for all-cargo carriers), as the case may be, and item K-410 of Schedule T-1(a)—total revenue aircraft miles flown in scheduled services—covering the calendar year. Likewise, the off-route charter mileage can presently be computed only by adding mileage for charters not under exemption authority in Schedule T-41 and passenger, cargo and mixed charter mileage not between certificated points in such schedule in the case of combination carriers with additional modifications required in the case of all-cargo carriers.

Since the only modifications in the reporting requirements are the addition of one reporting period and the inclusion of three new items at the end of the schedule, these modifications can easily be made in existing Schedule T-41 without requiring a new schedule to deal solely with data to ascertain compliance with the volume restrictions on off-route charters under Part 207.

A proposed Schedule T-41 of Form 41 is attached as an appendix.⁵

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend section 22(a) by revising the title and frequency for filing Schedule T-41 to read:

Section 22 General Reporting Instructions.

Schedule No.	Frequency	Filing	
		Postmark	Interval (days)
T-41	Charter and special services revenue aircraft miles flown; calculation of limitation of charter trips.	(1 ^a)	30

^{1a} For the first 9 months and for the 12 months of each calendar year.

² Interval relates to receipt by the Board in Washington, D.C., rather than postmark for these schedules.

2. Amend section 25 Schedule T-41 Charter and Special Services Revenue Aircraft Miles Flown as follows:

A. Revise the title of Schedule T-41 to read: Charter and Special Services Revenue Aircraft Miles Flown; Calculation of Limitation of Charter Trips.

B. Amend paragraph (b) to read:

(b) Separate schedules shall be filed on an overall or system basis covering the 9 months ending September 30 and the 12 months ending December 31 of each year. Check the appropriate box provided on the form.

C. Amend paragraph (c) to read:

(c) The following instructions relate to the reporting of "charter and special services revenue aircraft miles flown."

(1) Total charter and special services revenue aircraft miles flown during the 9 months or the 12 months of the calendar year shall be reflected in this schedule by combination carriers and all-cargo

⁵ Form filed as part of the original document.

carriers in the respective sections provided therefor. Such data shall be broken down to reflect revenue aircraft miles flown for (i) the Department of Defense; and (ii) all other customers subdivided into (a) operations performed under special exemption authority, (b) operations performed without such special exemptions, (c) operations performed in overseas or foreign air transportation on the reverse legs of one-way military charters.

D. Redesignate paragraph (d) as (c) (2).

E. Add new paragraph (d) to read:

(d) The following instructions relate to the reporting of "Calculation of Limitation of Charter Trips," pursuant to §§ 207.5 and 207.6 of Part 207 of the Board's economic regulations.

(1) Combination carriers, for both the September and December reports, shall

reflect in item 1, "Base revenue plane-miles" the sum of amounts reported in items 1, 2, and 3 under the "Total" column on the December Schedule T-41 for the previous year plus the figure called for in item K-410 of Form 41 Schedule T-1(a) covering the 12 months of the preceding calendar year.

(2) All-cargo carriers, for both the September and December reports, shall reflect in item 1, "Base revenue plane-miles" the sum of amounts reported in items 14 and 16 under the "Department of Defense" column and item 15 under the "Total" column on the December Schedule T-41 for the previous year plus the figure called for in item K-410 of Form 41 Schedule T-1(a) covering the 12 months of the preceding calendar year.

(3) Combination carriers, for the September report, shall reflect in item 2,

"Off-route charter mileage" the sum of amounts reported in items 6, 7, and 8 under the "Not under Exemption Authority" column on the current December Schedule T-41. For the December report, item 2 shall reflect the sum of amounts reported in items 6, 7, and 8 under the "Not Under Exemption Authority" column on the current December Schedule T-41.

(4) All-cargo carriers, for the September report, shall reflect in item 2, "Off-route charter mileage" the sum of amounts reported in items 13, 19, 21, and 23 under the "Not under Exemption Authority" column on the current September Schedule T-41. For the December report, item 2 shall reflect the sum of amounts reported in items 13, 19, 21, and 23 under the "Not under Exemption Authority" column on the current December Schedule T-41.

[FR Doc.71-8636 Filed 6-17-71; 8:53 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

USE OF "LIGHTER-ABOARD-SHIP" (LASH) BARGES

Request From Customs Cooperation Council, Brussels, Belgium, for Comments by Bureau of Customs on Customs Procedures Governing Use of Lash-Type Barges in United States

Notice is hereby given that the Bureau of Customs has been requested by the Customs Cooperation Council (CCC) to furnish its comments on the Customs treatment which ought to be given to the operations of the type barges which are often referred to as LASH barges. This material will be considered by the Council as a part of its future work program with a view to standardizing and simplifying customs procedures and formalities by preparing practical means of achieving the highest degree possible of harmony and uniformity.

The Council is specifically interested in the Customs treatment of LASH barges and their cargo at the first port of arrival in the United States and at subsequent ports of arrival with residue cargo. Involved also is the question of Customs control over port-to-port movements of the LASH mother vessel and its barges, including movements of the LASH barges in point-to-point local traffic in the United States and whether reciprocity will be a consideration. Consideration will be given to the applicability to LASH barges of procedures adopted to implement the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (see Treasury Decision 71-70, dated Feb. 26, 1971, 36 F.R. 4484). The Council is now drafting a Convention entitled the Customs Convention on the International Transport of Goods (ITI Convention) and its applicability to LASH vessels and barges will also be considered.

In the course of the preparation of a reply to the CCC, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Bureau of Customs, Washington, D.C., 20226, Attention: Office of Regulations and Rulings, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-8642 Filed 6-17-71; 8:53 am]

Notices

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

DESIGNATION OF BANDS OF PIT RIVER INDIANS AS BENEFICIARIES OF LANDS HELD IN TRUST

Notice of Prehearing Conference

Notice is hereby given that a conference on prehearing requirements associated with determining the beneficiaries of the XL Ranch (Modoc County, Calif.) will be held beginning at 9:30 a.m. on August 26, 1971, in Room 3410, Federal Building and U.S. Courthouse, 650 Capitol Mall, Sacramento, CA.

The XL Ranch was purchased in the late 1930s under the Indian Reorganization Act, 48 Stat. 984 (June 18, 1934). Title to the lands comprising the ranch was taken in the name of the United States of America "in trust for such Bands of Pit River Indians of the State of California as shall be designated by the Secretary of the Interior."

The Assistant Secretary—Public Land Management, in his request for the assignment of a hearing examiner, observed that the Secretary has the discretionary authority to determine the beneficiaries of the XL Ranch, indicated that interested parties should be given the opportunity to present their views on the determination which is to be made, and requested that a recommended decision be furnished to his office by the examiner.

At the prehearing conference counsel (or other authorized representatives of parties having a proper interest in the determination of the beneficiaries) shall file notices of appearance in this proceeding. In addition, preliminary consideration shall be given to the factual and legal considerations involved, and a time will be specified within which the parties shall (i) exchange written statements of the issues as contended by each party, (ii) exchange lists of witnesses, together with a synopsis of the testimony expected of each witness, and (iii) exchange lists of exhibits, and if requested by a party, produce exhibits for inspection or copying.

On or before July 26, 1971, the Bureau of Indian Affairs should file with the hearing examiner the original and 10 copies of a summary statement of facts concerning the history of organizations which are (or during the last 40 years have been) considered by said Bureau as Bands of Pit River Indians of the State of California. Attached to that summary statement shall be a listing of all memoranda, reports, letters, or other documents which are contained in the files

of said Bureau and are pertinent to the issues involved in designating the Pit River Indian beneficiaries of the XL Ranch, or may be considered material to a fair and complete public hearing on such issues. The only document of that type presently in the case file is a memorandum dated April 7, 1971, from the Commissioner, Bureau of Indian Affairs to the Assistant Secretary—Public Land Management, expressing a conclusion as to the Pit River Indian organization which should be designated as the sole beneficiary of the Ranch and the only group entitled to occupy the land as a reservation. A copy of, or an opportunity to review, the summary and listing furnished by the Bureau of Indian Affairs will be provided by the hearing examiner prior to the prehearing conference to individuals who attest that they represent a party having a serious interest in furnishing information or views at the hearing.

The Hearing and Appeals Procedures for the Department of the Interior, contained in 43 CFR Part 4 (published in 36 F.R. 7185-7208, April 15, 1971) shall govern, to the extent practicable, prehearing conferences held herein for the settlement or simplification of the issues, and the hearing.

Documents to be filed in this proceeding, or communications directed to the hearing examiner, should be sent to Dean F. Ratzman, Hearing Examiner, Hearings Division, Room W-2426, 2800 Cottage Way, Sacramento, CA 95825.

JAMES M. DAY,

Director.

Office of Hearings and Appeals.

JUNE 10, 1971.

[FR Doc.71-8580 Filed 6-17-71; 8:48 am]

Office of the Secretary

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Amendment of Interim Regulations and Procedures for Implementation

The Interim regulations and procedures of this Department for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894, were published in the FEDERAL REGISTER on April 16, 1971, 36 F.R. 7265. The following amendments are made to these procedures in order to clarify the appeal procedure from the decisions of a head of a Bureau or Office and to have appeals considered in accordance with the Departmental regulations for hear-

ings and appeals contained in 43 CFR, Part 4. These Amendments shall become effective upon publication in the FEDERAL REGISTER (6-18-71).

Although it is the policy of the Department of the Interior to give notice of proposed rule making and to invite the public to participate in the rule making process (See Statement of Policy, 36 F.R. 8336), public participation in this notice would be unnecessary and contrary to the public interest because the proposed amendment to the notice covers minor technical matters.

Section 6D(1) is amended as follows: Any dispute concerning a question arising under the act which is not disposed of by agreement shall be decided by the head of the Bureau or Office who shall reduce his decision to writing and mail a copy thereto to the displaced person. This decision shall be final and conclusive unless, within 30 days from date of mailing of such copy, the displaced person mails a written appeal addressed to the Director, Office of Hearings and Appeals, Department of the Interior, Washington, D.C. in accordance with the regulations in 43 CFR Subpart G. The decision of the Office of Hearings and Appeals shall be final and conclusive. In connection with any appeal to the Office of Hearings and Appeals, the displaced person may be afforded an opportunity to be heard and to offer evidence in support of his appeal, as provided for in 43 CFR Subpart G.

Section 21A(3) is amended as follows: In the case of a program or project receiving Federal financial assistance, any person aggrieved by a determination as to eligibility for a payment authorized by the act or the amount of a payment, may have his application reviewed by the head of the State Agency.

RICHARD R. HITE,
Deputy Assistant Secretary
for Administration.

JUNE 14, 1971.

[FR Doc. 71-8581 Filed 6-17-71; 8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 3265; Docket No. FDC-D-303;
NDA 3-265 et al.]

CERTAIN ANTICHOLINERGIC DRUGS Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following anticholinergic drugs for oral or injectable use:

1. Bentyl Capsules, containing dicyclomine hydrochloride; The Wm. S. Merrell Co., Division of Richardson-Merrell, Inc., 110 Amity Road, Cincinnati, Ohio 45215 (NDA 7-409).

2. Bentyl Injection, containing dicyclomine hydrochloride; The Wm. S. Merrell Co. (NDA 8-370).

3. Bentyl Syrup, containing dicyclomine hydrochloride; The Wm. S. Merrell Co. (NDA 7-961).

4. Dactil Tablets, containing piperidolate hydrochloride; Lakeside Laboratories, Division of Colgate-Palmolive Co., 1707 East North Avenue, Milwaukee, Wis. 53201 (NDA 8-907).

5. Centrine Tablets, containing aminopentamide sulfate; Bristol Laboratories, Inc., Post Office Box 657, Syracuse, N.Y. 13201 (NDA 8-885).

6. Centrine Elixir, containing aminopentamide sulfate; Bristol Laboratories, Inc. (NDA 8-885).

7. Robinul Tablets and Robinul Forte Tablets, both containing glycopyrrolate; A. H. Robbins Co., 1407 Cummings Drive, Richmond, Va. 23220 (NDA 12-827).

8. Antrenyl Bromide Tablets, containing oxyphenonium bromide; Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 8-492).

9. Piptal Tablets, containing pipenzolate bromide; Lakeside Laboratories, Inc. (NDA 9-427).

10. Tricoloid Tablets, containing tricyclamol chloride; Burroughs Wellcome and Co., 3030 Cornwallis Road, Research Triangle Park, N.C. 27709 (NDA 8-910).

11. Prantal Injection, containing diphenamil methylsulfate; Schering Corp., 60 Orange Street, Bloomfield, N.J. 07003 (NDA 8-398).

12. Nacton Tablets, containing poldine Methylsulfate; McNeil Laboratories, Inc., Camp Hill Road, Fort Washington, Pa. 19034 (NDA 12-459).

13. Profenil Tablets containing alverine citrate; Smith, Miller & Patch, Inc., 401 Joyce Kilmer Avenue, New Brunswick, N.J. 08902 (NDA 5-695).

14. Octin Tablets, containing isometheptene muccate and Octin Solution for Injection, containing isometheptene hydrochloride; Knoll Pharmaceutical Co., 377 Crane Street, Orange, N.J. 07051 (NDA 6-420).

15. Monodral Bromide Caplets, containing penthiolate bromide; Winthrop Laboratories, Division of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016 (NDA 9-032).

16. Metropine Tablets, containing methylatropine nitrate; Strassenburgh Laboratories, Division of Wallace & Tiernan, Inc., 755 Jefferson Road, Rochester, N.Y. 14623 (NDA 3-265).

17. Trocinate Tablets, containing thi-phenamil hydrochloride; Wm. P. Poythress & Co., Inc., 16 North 22d Street, Richmond, Va. 23217 (NDA 6-098).

18. Pamine Sterile Solution, containing methscopolamine bromide; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49001 (NDA 9-958).

19. Pamine Tablets, containing methscopolamine bromide; The Upjohn Co. (NDA 8-848).

20. Pamine Syrup, containing methscopolamine bromide; The Upjohn Co. (NDA 9-262).

21. Cantil Tablets, containing mepenzolate bromide; Lakeside Laboratories (NDA 10-679).

22. Valpin Tablets, containing anisotropine methylbromide; Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, N.Y. 11533 (NDA 13-428).

23. Valpin Elixir, containing anisotropine methylbromide; Endo Laboratories, Inc. (NDA 13-429).

24. Banthine Powder for Injection, containing methantheline bromide; G. D. Searle and Co., Post Office Box 5110, Chicago, Ill. 60680 (NDA 8-091).

25. Banthine Tablets, containing methantheline bromide; G. D. Searle and Co. (NDA 7-390).

26. Pro-Banthine Tablets, containing propantheline bromide; G. D. Searle and Co. (NDA 8-732).

27. Pro-Banthine Powder for Injection, containing propantheline bromide; G. D. Searle and Co. (NDA 8-843).

28. Tral Drops, containing hexocyclium methylsulfate; Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 11-687).

29. Tral Tablets, containing hexocyclium methylsulfate; Abbott Laboratories (NDA 10-599).

30. Tral Gradumet Tablets, containing hexocyclium methylsulfate; Abbott Laboratories (NDA 11-200).

31. Darbid Tablets, containing isopropamide iodide; Smith Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101 (NDA 10-744).

32. Daricon Tablets, containing oxyphenylmethyl hydrochloride; Charles Pfizer and Co., Inc., 235 East 42d Street, New York, N.Y. 10017 (NDA 11-612).

33. Elorine Chloride Pulvules, capsules containing tricyclamol chloride; Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 8-868).

34. Dibulin Sulfate Injection, containing dibutoline sulfate; Merck Sharp and Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486 (NDA 6-856).

35. Pathilon Sustained Release Capsules, containing tridihexethyl chloride; Lederle Laboratories, Division of American Cyanamid Co., Post Office Box 500, Pearl River, N.Y. 10965 (NDA 11-889).

36. Pathilon Parenteral, containing tridihexethyl chloride; Lederle Laboratories (NDA 9-729).

37. Pathilon Tablets, containing tridihexethyl chloride; Lederle Laboratories (NDA 9-489).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. (a) Except for the drugs in delayed or prolonged action or release dosage form (hexocyclium methylsulfate and

tridihexethyl chloride), these drugs in the dosage forms described above are effective for use as adjunctive therapy in the treatment of peptic ulcer.

(b) In addition, methantheline bromide preparations (oral and parenteral) are effective for use for uninhibited, hypertonic neurogenic bladder. The parenteral form is also effective for use as pre-anesthetic medication.

2. (a) All the drugs in the dosage forms described above are probably effective for use as adjunctive therapy in the irritable bowel syndrome (irritable colon, spastic colon, mucous colitis, acute enterocolitis, and functional gastrointestinal disorders); and for use as adjunctive therapy in neurogenic bowel disturbances (including the splenic flexure syndrome and neurogenic colon).

(b) Hexocyclium methylsulfate and tridihexethyl chloride in delayed or prolonged action or sustained release dosage form are probably effective for use as adjunctive therapy in the treatment of peptic ulcer.

(c) The pediatric preparations are probably effective for use in the treatment of infant colic.

3. (a) The drugs are possibly effective for their labeling indications for the treatment of hyperhidrosis and excessive salivation; adjunctive therapy in the treatment of hiatus hernia; treatment of urinary bladder spasm and urethral spasm (i.e., smooth muscle spasm); use as an adjunct in the treatment of esophagitis, diverticulitis, aerospasm, pancreatitis, ulcerative colitis, and regional enteritis; use as an adjunct in the treatment of constipation, i.e., chronic constipation, irregular bowel habits, functional constipation, and spastic constipation; use as an adjunct in the treatment of diarrhea, i.e., loose stools, functional diarrhea, post-gastrectomy diarrhea (post-gastrectomy syndrome, dumping syndrome), drug-induced diarrhea, acute enteritis, intestinal viral infection, colitis, ileocolitis, and diarrhea with ileostomies and ileoanal anastomoses; use as an adjunct in the treatment of premenstrual cramps and dysmenorrhea; and in the treatment of migraine headaches.

(b) The drugs in injectable dosage form are possibly effective for use in the treatment of hyperemesis gravidarum.

4. These anticholinergic drugs lack substantial evidence of effectiveness for the treatment of chronic hypertrophic gastritis; treatment of pylorospasm, duodenitis, cardiospasm, and pyloroduodenal irritability; treatment of biliary dyskinesias, cholelithiasis, cholecystitis, and biliary spasm; pyrosis; use in pre-operative preparation for gastrectomy; treatment of psychogenic enuresis; and for the treatment of the following vague conditions: gastrointestinal spasm, intestinal colic, nonspecific gastroenteritis, indigestion, and "other upper gastrointestinal tract disorders."

B. *Conditions for approval and marketing of drugs having an effective classification.* The Food and Drug

Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These anticholinergic drug preparations are in conventional tablet, capsule, or liquid form suitable for oral administration. Alverine hydrochloride, dicyclomine hydrochloride, diphenamil methylsulfate, dibutoline sulfate, isometheptene hydrochloride, methantheline bromide, methscopolamine bromide, propantheline bromide, or tridihexethyl chloride may be in a form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For use as adjunctive therapy in the treatment of peptic ulcer. May also be useful in the irritable bowel syndrome (irritable colon, spastic colon, mucous colitis, acute enterocolitis, and functional gastrointestinal disorders); and in neurogenic bowel disturbances (including the splenic flexure syndrome and neurogenic colon). To be effective the dosage must be titrated to the individual patient's needs.

Pediatric preparations are indicated for use in the treatment of infant colic.

Add for methantheline bromide: for use for uninhibited, hypertonic neurogenic bladder. The parenteral form of the drug is also indicated for use as preanesthetic medication. (The possibly effective indications may also be included for 6 months.)

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed for administration other than by the intravenous route, as described in paragraphs (a) (1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of a drug in the formulation which is marketed or is intended to be marketed for administration other than by the intravenous route, as described in paragraph (a) (3) (ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (not included in the "Indications" section above), continued use as described in paragraphs (c), (d), (e), and (f) of that notice.

C. *Conditions for marketing drugs having no effective indication.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new drug application for a drug which is classified in paragraph A above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking and which contains an "Indications" section in accord with that described below. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised to delete all claims for which substantial evidence of effectiveness is lacking as described in paragraph A above and to be in accord with this notice. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Labeling revised pursuant to this notice should take into account the comments of the Academy; furnish adequate information for safe and effective use of the drug; be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74); and recommended use of the drug for the probably effective indications as follows: (The possibly effective indications may also be included for six months.)

INDICATIONS

(The Indications should be the same as those in paragraph B.2.)

4. The notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), described in paragraphs (c), (d), (e), and (f) the marketing status of the drug

labeled with those indications for which it is regarded as probably effective and possibly effective.

D. Opportunity for a hearing. 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order may cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 3265, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Request for a hearing (Identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-62, Parklawn Building.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 20, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8619 Filed 6-17-71; 8:51 am]

[DESI 1941]

DIPERODON AND OXYQUINOLINE BENZOATE TOPICAL OINTMENT

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Diothane Ointment containing diperodon and oxyquinoline benzoate; The Wm. S. Merrell Co., Division of Richardson-Merrell, Inc., 110 East Amity Road, Cincinnati, Ohio 45215 (NDA 1-941).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is possibly effective for the temporary relief of anorectal pain and itching and for providing anesthetic and mild antiseptic action.

B. Marketing status. Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 1941, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 20, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8551 Filed 6-17-71; 8:45 am]

[DESI 5595]

SODIUM PENTOBARBITAL AND CARBROMAL FOR ORAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

Carbital Kapseals, Carbital Half-Strength Kapseals, and Carbital Elixir, all containing sodium pentobarbital and carbromal, Parke, Davis and Co., Joseph Campau at the River, Detroit, Mich. 48232 (NDA 5-595).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that sodium pentobarbital with carbromal, a drug used as a sedative and hypnotic, is possibly effective for all labeled indications.

B. Marketing status. Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for six months as described in paragraphs (d), (e), and (f) of the notice "Conditions for

Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 5595, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 20, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8552 Filed 6-17-71; 8:45 am]

[DESI 5668]

CERTAIN COMBINATION GASTROINTESTINAL DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Malign Tablets and Malign Compound Magma containing phenobarbital, belladonna alkaloids, and dihydroxyaluminum aminoacetate; Brayton Pharmaceutical Co., 1715 West 38th Street, Chattanooga, Tennessee 37409 (NDA 5-668).

2. Barbitaine Solution containing pentobarbital, phenobarbital, and procaine hydrochloride; Cutter Laboratories, Inc., 4th and Parker Streets, Berkeley, California 94710 (NDA 10-725).

3. Aludrox SA Suspension containing ambutoxium bromide, butabarbital, aluminum hydroxide gel, and magnesium hydroxide; Wyeth Laboratories Div., American Home Products Corp., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 11-183).

4. Aludrox SA Tablets containing ambutoxium bromide, butabarbital, dried aluminum hydroxide gel, and magnesium

hydroxide; Wyeth Laboratories (NDA 11-391).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that

1. Pentobarbital in combination with phenobarbital and procaine hydrochloride lacks substantial evidence of effectiveness for use as an adjunct in the treatment of organic diseases when accompanied by nausea and vomiting.

2. Aluminum hydroxide gel (or dried aluminum hydroxide gel) in combination with butabarbital, ambutoxium bromide, and magnesium hydroxide lacks substantial evidence of effectiveness for use in the treatment of hypertrophic gastritis, diverticulitis of the colon, and postcholecystectomy syndrome.

3. The drugs listed in this announcement are possibly effective for their labeled indications other than those indications evaluated above.

B. Marketing status. 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any approved new drug application for a drug classified in paragraph A above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking. Such a supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to do so may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised if it includes those claims for which substantial evidence of effectiveness is lacking as described in paragraph A above. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. The notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), describes in paragraphs (d), (e), and (f) the marketing status of a drug labeled with those indications for which it is regarded as possibly effective.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 5668, directed to the attention of the appropriate office listed below and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 24, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8553 Filed 6-17-71; 8:45 am]

[DESI 8303]

HYDRALAZINE HYDROCHLORIDE Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following antihypertensive drugs:

Apresoline Hydrochloride Injection and Tablets containing hydralazine hydrochloride; Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 8-303).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in, and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. Hydralazine hydrochloride injection is (a) effective for the treatment of severe essential hypertension when the drug cannot be given orally or when there is an urgent need to lower blood pressure; and (b) probably effective for the treatment of hypertension associated with pre-eclampsic and eclampsic toxemia of pregnancy to prevent acute convulsant toxemia, and for the treatment of hypertension associated with acute glomerulonephritis when oral administration is inadvisable.

2. Hydralazine hydrochloride in tablet form is (a) effective for the treatment of essential hypertension; (b) probably

effective for the treatment of hypertension associated with acute glomerulonephritis; and (c) possibly effective for the treatment of hypertension associated with preeclampsia to prevent acute convulsant toxemia.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Hydralazine hydrochloride preparations are in sterile aqueous solution form suitable for intramuscular or intravenous injection and in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" sections are as follows:

INDICATIONS

Hydralazine Hydrochloride Injection

For the treatment of severe essential hypertension when the drug cannot be given orally or when there is an urgent need to lower blood pressure.

For the treatment of hypertension associated with preeclamptic and eclamptic toxemia of pregnancy to prevent convulsant toxemia.

For the treatment of hypertension associated with acute glomerulonephritis when oral administration is inadvisable.

Hydralazine Hydrochloride Tablets

For the oral treatment of essential hypertension; may be used alone or as an adjunct.

For the treatment of hypertension associated with acute glomerulonephritis.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and except for intravenous administration, adequate data to show the biologic availability of the drug in the formulation which is marketed, as described in paragraphs (a) (1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be

marketed, as described in paragraph (a) (3) (ii) of that notice, except that bioavailability data are not required for intravenous administration of the drug.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not included in the "Indications" section), continued use as described in (c), (d), (e), and (f) of that notice.

Copies of the Academy's reports have been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8303, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100), Bureau of Drugs. Original abbreviated new drug applications: (Identify as such):
Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 21, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8554 Filed 6-17-71; 8:45 am]

[DESI 6290; Docket No. FDC-D-324; NDA 5-845, etc.]

CERTAIN ANTIHISTAMINIC PREPARATIONS FOR ORAL OR RECTAL ADMINISTRATION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following antihistaminic preparations for oral or rectal administration:

1. *Preparations containing bromodiphenhydramine hydrochloride.* a. Ambodryl Kapsels (NDA 7-984); and

b. Ambodryl Elixir (NDA 8-476); and
c. Ambodryl Syrup (NDA 8-745); Parke, Davis & Co., Joseph Campau at the River, Detroit, Mich. 48232.

2. *Preparations containing chlorpheniramine maleate.* a. Chlor-Trimeton Tablets and Syrup (NDA 6-921); and
b. Chlor-Trimeton Repetabs Tablets (NDA 7-638); Schering Corp., 60 Orange Street, Bloomfield, N.J. 07003.

3. *Preparations containing cyproheptadine hydrochloride.* a. Periactin HCl Tablets (NDA 12-649); and

b. Periactin HCl Syrup (NDA 13-220); Merck Sharp & Dohme, Division Merck & Co., Inc., West Point, Pa. 19486.

4. *Preparations containing diphenhydramine hydrochloride.* a. Benadryl Syrup, Kapsels (capsules), Elixir, Emphlets (enteric coated tablets), and Powder (for pharmaceutical dispensing purposes) (NDA 5-845); Parke, Davis & Co.

5. *Preparations containing diphenylpyraline hydrochloride.* a. Diafen Tablets (NDA 9-970); Riker Laboratories, 19901 Nordhoff Street, Northridge, Calif. 91326.

6. *Preparations containing promethazine hydrochloride.* a. Phenergan Tablets (NDA 7-935); and

b. Phenergan Syrup (NDA 8-381); and
c. Phenergan Rectal Suppositories (NDA 10-926 and NDA 11-689); Wyeth Laboratories Division, American Home Products Corp., Post Office Box 8299, Philadelphia, Pa. 19101.

7. *Preparation containing pheniramine maleate.* a. Trimeton Tablets (NDA 6-461); Schering Corp.

8. *Preparations containing pyrilamine maleate.* a. Neo-Antergan Maleate Tablets (NDA 6-290 and 7-119); Merck Sharp & Dohme.

9. *Preparations containing triphenlenamine hydrochloride or triphenlenamine citrate.* a. Pyribenzamine Tablets (NDA 5-914); Ciba Pharmaceuticals Co., Division of Ciba Corp., 556 Morris Avenue, Summit, N.J. 07901; and

b. Pyribenzamine Lontabs (sustained release tablet) (NDA 10-533); Ciba Pharmaceutical Co., Division of Ciba Corp.

c. Pyribenzamine Elixir (NDA 5-914); Ciba Pharmaceutical Co., Division of Ciba Corp.

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. Bromodiphenhydramine Hydrochloride in conventional oral dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: Mild, allergic reactions to insect bites; physical

allergy; minor drug and serum reactions characterized by pruritus.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis; neurodermatitis circumscripita; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and (other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; motion sickness; use in desensitization procedures and when essential to use therapy known to be sensitizing.

c. Lacking substantial evidence of effectiveness for migraine headache including allergic migraine; "histamine headache;" tissue preservative action; prevention or reduction of severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage); potentiation of the action of central nervous system depressants with resultant reduction of dosage of narcotic analgesics; prevention of allergic reactions to insect bites; antileptic effect in postoperative patients; and "other conditions of a similar nature" (considered too broad to allow meaningful evaluation).

2. Chlorpheniramine Maleate in conventional oral dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: mild, local allergic reactions to insect bites; physical allergy; minor drug and serum reactions characterized by pruritus.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis; neurodermatitis circumscripita; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and (other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; use in desensitization procedures and when essential to use therapy known to be sensitizing.

c. Lacking substantial evidence of effectiveness for migraine headache including allergic migraine; "histamine headache;" tissue preservative action; prevention or reduction in severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage); potentiation of the action of central nervous system depressants with resultant reduction of dosage of narcotic analgesics; prevention of allergic reactions to insect bites; antileptic effect in postoperative patients.

3. Cyproheptadine Hydrochloride in conventional oral dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: Mild, local allergic reactions to insect bites; physical allergy; minor drug and serum reactions characterized by pruritus.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis; neurodermatitis circumscripita; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and (other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; pruritus of chicken pox; use in desensitization procedures and when essential to use therapy known to be sensitizing.

c. Lacking substantial evidence of effectiveness for: migraine headache including allergic migraine; "histamine headache;" tissue preservation action; prevention or reduction in severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage); potentiation of the action of central nervous system depressants with resultant reduction of dosage of narcotic analgesics; prevention of allergic reactions to insect bites; antileptic effect in postoperative patients.

4. Diphenhydramine Hydrochloride in conventional oral dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: Mild, local allergic reactions to insect bites; physical allergy; minor drug and serum reactions characterized by pruritus; intractable insomnia and insomnia predominant in certain medical disorders.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis; neurodermatitis circumscripita; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and (other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; use of desensitization procedures and when essential to use therapy known to be sensitizing; quieting the hyperactive emotionally disturbed child; prevention of postoperative nausea and vomiting; maintenance of normal sinus rhythm following recent conversion from atrial fibrillation; nausea and vomiting of early pregnancy; spasmolysis in gastrointestinal and other allergies characterized by smooth muscle spasm.

c. Lacking substantial evidence of effectiveness for migraine headache including allergic migraine, "histamine headache," tissue preservation action,

prevention or reduction of severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage), potentiation of the action of central nervous system depressants with resultant reduction of dosage of narcotic analgesics, prevention of allergic reactions to injection of allergenic substances, antiemetic effect in postoperative patients, antitussive action; Meniere's disease, nocturnal leg cramps, leg cramps of pregnancy, functional dysmenorrhea.

5. Diphenylpyraline Hydrochloride in conventional oral dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: Mild, local allergic reactions to insect bites; physical allergy; minor drug and serum reactions characterized by pruritus.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis; neurodermatitis circumscripita; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and (other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; use in desensitization procedures and when essential to use therapy known to be sensitizing.

c. Lacking substantial evidence of effectiveness for: migraine headache including allergic migraine; "histamine headache;" tissue preservative action; prevention or reduction in severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage); potentiation of the action of central nervous system depressants with resultant reduction of dosage of narcotic analgesics; prevention of allergic reactions to insect bites; antileptic effect in postoperative patients; nausea and vomiting of pregnancy.

6. Promethazine hydrochloride in conventional oral or rectal dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: Mild, local allergic reactions to insect bites; physical allergy; minor drug and serum reactions characterized by pruritus; intractable insomnia and insomnia predominant in certain medical disorders; prevention and control of the more severe, hazardous nausea and vomiting of pregnancy.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis; neurodermatitis circumscripita; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and

(other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; use in desensitization procedures and when essential to use therapy known to be sensitizing.

c. Lacking substantial evidence of effectiveness for: migraine headache including allergic migraine; "histamine headache;" tissue preservative action; prevention or reduction in severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage); potentiation of the action of central nervous system depressants with resultant reduction of dosage of narcotic analgesics; nausea and vomiting of reflex origin; shortening of labor; prevention of allergic reactions to injection of allergenic substances; and "allergic conditions amenable to antihistamine therapy" (considered too broad to allow meaningful evaluation).

7. Pheniramine maleate in conventional oral dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: Mild, local allergic reactions to insect bites; physical allergy; minor drug and serum reactions characterized by pruritus; prevention or relief of motion sickness.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis; neurodermatitis circumscripta; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and (other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; use in desensitization procedures and when essential to use therapy known to be sensitizing.

c. Lacking substantial evidence of effectiveness for: migraine headache including allergic migraine; "histamine headache;" tissue preservative action; prevention or reduction in severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage); potentiation of the action of the central nervous system depressants with resultant reduction of dosage of narcotic analgesics; prevention of allergic reactions to injection of allergenic substances; antiemetic effect in postoperative patients; and "pheniramine maleate is of value clinically in the prevention and relief of many allergic manifestations" (considered too broad to allow meaningful evaluation).

8. Pyrilamine maleate in conventional oral dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: Mild, local allergic reactions to insect bites; physical allergy; minor drug and serum reactions characterized by pruritus.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis; neurodermatitis circumscripta; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and (other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; use in desensitization procedures and when essential to use therapy known to be sensitizing.

c. Lacking substantial evidence of effectiveness for: migraine headache including allergic migraine; "histamine headache;" tissue preservative action; prevention or reduction in severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage); potentiation of the action of central nervous system depressants with resultant reduction of dosage of narcotic analgesics; prevention of allergic reactions to injection of allergenic substances; antiemetic effect in postoperative patients.

9. Tripeleminamine Hydrochloride or Citrate in conventional oral dosage form is:

a. Effective or probably effective for the indications described in the "Indications" section which follows. The probably effective indications are: Mild, local allergic reactions to insect bites; physical allergy; minor drug and serum reactions characterized by pruritus.

b. Possibly effective for bronchial asthma; spasmodic bronchial cough; atopic dermatitis; neurodermatitis circumscripta; eczematoid dermatitis; allergic eczema; allergic dermatitis; contact dermatitis (including dermatitis venenata or poison ivy); chemotoxic dermatitis; generalized pruritus; pruritus ani and vulvae; secretory otitis media; prophylaxis of allergic reactions to contrast media; pruritus of jaundice; prophylaxis of penicillin and (other) drug reactions; pruritus of allergic dermatoses including contact dermatitis; relief of insect stings; use in desensitization procedures and when essential to use therapy known to be sensitizing.

c. Lacking substantial evidence of effectiveness for: migraine headache including allergic migraine; "histamine headache;" tissue preservative action; prevention or reduction in severity of sequelae of oral surgery (pain, trismus, edema, and hemorrhage); potentiation of the action of central nervous system depressants with resultant reduction of dosage of narcotic analgesics; prevention of allergic reactions to injection of allergenic substances; antiemetic effect in postoperative patients. The indication "many other 'allergic conditions'" is considered too broad to allow meaningful evaluation.

10. Chlorpheniramine Maleate and Tripeleminamine Hydrochloride in sustained action dosage forms for oral administration are:

a. Probably effective for indications evaluated as effective and probably effective for conventional oral dosage forms of these drugs. (See paragraphs 2 and 9 above.)

b. Possibly effective and lacking substantial evidence of effectiveness for the same indications listed in these categories for the conventional oral dosage forms of these drugs in paragraphs 2 and 9 above.

B. Conditions for approval and marketing of drugs having an effective classification. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. Form of drug. a. These preparations are in a conventional dosage form suitable for oral administration.

b. Diphenhydramine hydrochloride may also be in a powder form suitable for prescription compounding.

c. Promethazine hydrochloride may also be in a suppository form suitable for rectal administration.

2. Labeling conditions. a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. Each drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

I. Bromodiphenhydramine Hydrochloride. Perennial and seasonal allergic rhinitis. Vasomotor rhinitis. Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema. Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

Dermographism. As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Mild, local allergic reactions to insect bites. Physical allergy. Minor drug serum reactions characterized by pruritus.

II. Chlorpheniramine Maleate. Perennial and seasonal allergic rhinitis. Vasomotor rhinitis. Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema. Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

Dermographism. As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Mild, local allergic reactions to insect bites. Physical allergy. Minor drug and serum reactions characterized by pruritus.

III. Cyproheptadine Hydrochloride. Perennial and seasonal allergic rhinitis. Vasomotor rhinitis. Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.

Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

Dermographism. As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Mild, local allergic reactions to insect bites. Physical allergy.

Minor drug and serum reactions characterized by pruritus.

IV. Diphenhydramine Hydrochloride. Perennial and seasonal allergic rhinitis. Vasomotor rhinitis.

Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.

Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

Dermographism.

As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Parkinsonism. (Including drug-induced) in the elderly unable to tolerate more potent agents.

Mild cases of parkinsonism (including drug-induced) in other age groups.

In other cases of parkinsonism (including drug-induced) in combination with centrally acting anticholinergic agents.

Active and prophylactic treatment of motion sickness.

Mild, local allergic reactions to insect bites. Physical allergy.

Minor drug and serum reactions characterized by pruritus.

Intractable insomnia and insomnia predominant in certain medical disorders.

V. Diphenylpyraline Hydrochloride. Perennial and seasonal allergic rhinitis. Vasomotor rhinitis.

Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.

Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

Dermographism.

As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Mild, local allergic reactions to insect bites. Physical allergy.

Minor drug and serum reactions characterized by pruritus.

VI. Promethazine Hydrochloride. Perennial and seasonal allergic rhinitis. Vasomotor rhinitis.

Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.

Amelioration and prevention of allergic reactions to blood plasma in patients with a known history of such reactions.

Dermographism.

As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Preoperative, postoperative, or obstetric sedation.

Prevention and control of nausea and vomiting associated with certain types of anesthesia and surgery.

Therapy adjunctive to meperidine or other analgesics for control of postoperative pain.

Sedation in both children and adults as well as relief of apprehension and production of light sleep from which the patient can be easily aroused.

Active and prophylactic treatment of motion sickness.

Antiemetic effect in postoperative patients. Mild, local allergic reactions to insect bites.

Physical allergy. Minor drug and serum reactions characterized by pruritus.

Intractable insomnia and insomnia predominant in certain medical disorders.

Prevention and control of severe, hazardous nausea and vomiting of pregnancy.

VII. Pheniramine Maleate. Perennial and seasonal allergic rhinitis. Vasomotor rhinitis.

Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.

Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

Dermographism.

As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Mild, local allergic reactions to insect bites. Physical allergy.

Minor drug and serum reactions characterized by pruritus.

Prevention and relief of motion sickness.

VIII. Pyrilamine maleate. Perennial and seasonal allergic rhinitis.

Vasomotor rhinitis. Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.

Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

Dermographism.

As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Mild allergic reactions to insect bites. Physical allergy.

Minor drug and serum reactions characterized by pruritus.

IX. Tripeleminamine Hydrochloride and citrate. Perennial and seasonal allergic rhinitis.

Vasomotor rhinitis. Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.

Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

Dermographism.

As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

Mild, local allergic reactions to insect bites. Physical allergy.

Minor drug and serum reactions characterized by pruritus.

3. Marketing status. Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an applica-

tion which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a) (1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a) (3) (ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not included in the "Indications" section), continued use as described in (c), (d), (e), and (f) of that notice.

C. Conditions for marketing drugs having no indication classified as effective.

1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new drug application for a drug which is classified in paragraph A above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking and which contains an "Indications" section in accord with that described below. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised to delete all claims for which substantial evidence of effectiveness is lacking as described in paragraph A above and to be in accord with this notice. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Indications for which the drug is regarded as probably effective or possibly effective may continue to be used for 12 months or 6 months, respectively, following the date of this publication, to allow additional time within which holders of

previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness, including evidence that the drug has the sustained action or prolonged effect claimed.

4. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

5. At the end of the 6-month and 12-month periods, any such data will be evaluated to determine whether there is substantial evidence of effectiveness of the drug for such uses. The conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new drug application for the drug, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the application will cause any such drug on the market to be a new drug for which an approval is not in effect.

6. Labeling revised pursuant to this notice should take into account the comments of the Academy, furnish adequate information for safe and effective use of the drug, be in accord with the guidelines for uniform labeling (§ 3.74) published in the FEDERAL REGISTER of February 6, 1970, and recommend use of the drug (for the probably effective indications) as follows: (The possibly effective indications may also be included for 6 months).

INDICATIONS

(The "Indications" sections are the same as those listed for the conventional dosage forms of chlorpheniramine maleate and tripeleminamine hydrochloride in paragraph B2 above.)

D. Opportunity for a hearing. 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any re-

lated drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well organized and full factual analysis of the clinical and other investigation data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6290, directed to the attention of the following appropriate office, and addressed (unless otherwise specified), to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug application (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Request for hearing (Identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-62, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Requests for NAS-NRC report: Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 17, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8557 Filed 6-17-71; 8:46 am]

[DESI 8682]

THYROTROPIN FOR INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following thyroid stimulating hormone drug for injectable use: Thytropar (thyrotropin) Sterile Lyophilized Powder; Armour Pharmaceutical Co., Box 1022, Chicago, Ill. 60690 (NDA 8-682).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that:

1. Thyrotropin is effective for use in determining subclinical hypothyroidism or low thyroid reserve; to differentiate primary and secondary hypothyroidism; to evaluate the need for thyroid medication in patients already receiving thyroid therapy; for treatment of functioning thyroid carcinoma; and to aid in detection of remnants and metastases of thyroid carcinoma.

2. Thyrotropin is probably effective in differentiating diagnosis of Hashimoto's thyroiditis or struma lymphomatosa (primary thyroid failure with compensatory enlargement) from nontoxic adenomatous goiter.

3. Thyrotropin is possibly effective in the treatment of toxic adenomatous goiters and in counteracting the effects of Lugol's solution.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. Form of drug. Thyrotropin preparations are in sterile lyophilized powder

form suitable for reconstitution for intramuscular or subcutaneous administration.

2. Labeling conditions. a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (Labeling guidelines for the drug are available from the Administration on request):

INDICATIONS

A. Diagnostic application of thyrotropin. 1. To determine subclinical (borderline to obscure) hypothyroidism or low thyroid reserve.

2. To differentiate between primary and secondary hypothyroidism.

3. In the differential diagnosis of Hashimoto's thyroiditis or struma lymphomatosa (primary thyroid failure with compensatory enlargement) from nontoxic adenomatous goiter.

4. To evaluate the need for thyroid medication in patients already receiving thyroid therapy.

5. To aid in detection of remnants and metastases of thyroid carcinoma.

B. Therapeutic application of thyrotropin. 1. In the management of certain types of thyroid carcinoma and resulting metastases. (The possibly effective indications may also be included for 6 months.)

3. Marketing status. Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, and an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not included in the "Indications" section above), continued use as described in

paragraphs (c), (d), (e), and (f) of that notice.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8682, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 21, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8556 Filed 6-17-71; 8:46 am]

[Docket No. FDC-D-123; NDA No. 8-986 and 10-144]

HYNISON, WESTCOTT & DUNNING, INC.

Notice of Withdrawal of Approval of New-Drug Applications

On March 22, 1969, there was published in the FEDERAL REGISTER (34 F.R. 5556) a notice of opportunity for hearing in which the Commissioner of Food and Drugs proposed to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug applications for drugs containing lututrin on the ground that there is a lack of substantial evidence that lututrin has the effect or contributes to the effect which the drugs purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Hynison, Westcott & Dunning, Inc., Charles and Chase Streets, Baltimore, Md. 21201, holder of NDA No. 8-986, Lutrexin tablets and NDA No. 10-144, Trexine tablets by the October 16, 1970 letter of its counsel, has requested a hearing on the following issues:

(1) Whether its lututrin drugs are exempt from the efficacy requirements of 21 U.S.C. 355 under section 107(c) of Public Law 87-781; (2) whether its lu-

tutrin drugs are "new drugs" within the meaning of 21 U.S.C. 321(p)(1); and (3) whether there is a lack of substantial evidence of effectiveness to support the claims made for Lutrexin.

In support of its request for a hearing on the issue of substantial evidence of effectiveness, Hynison, Westcott, and Dunning, Inc. (hereinafter referred to as "HW&D") has submitted a list of its medical documentation previously filed with the Agency, including all data submitted in connection with NDA No. 10-144, correspondence between HW&D officials and the Agency or other persons, labeling for the lututrin drugs, literature articles submitted to the National Academy of Science-National Research Council, and the HW&D letter of August 18, 1969, in which the company first elected to avail itself of the opportunity for hearing.

To support its hearing request on the contentions that HW&D's lututrin drugs are exempt from the efficacy requirements of 21 U.S.C. 355, the company has submitted copies of its pleadings, legal memorandum, exhibits, and affidavits, as well as the transcript and order in Hynison, Westcott and Dunning, Inc. v. Finch (C.A. No. 21112, D. Md., decided Sept. 11, 1970).

The Commissioner of Food and Drugs has reviewed HW&D's request for hearing and the medical documentation submitted, and makes the following findings:

I. The drugs, their rationale and claims. a. Lutrexin is labeled as containing 3,000 units of lututrin per tablet. Lututrin is claimed to be a pig uterine relaxing hormone effective in the treatment of functional dysmenorrhea, selected cases of premature labor and threatened and habitual abortion. The package insert claims the drug has demonstrated activity on the living animal uterus, that it relaxes the contracted uterine muscle by direct action thereon, or by blocking pituitary action.

b. Trexine is labeled as containing 500 units of lututrin and 1.0 milligrams of estrogen, in the form of sodium estrone sulfate, per tablet. Trexine is recommended for the treatment of menopausal disorders. The package insert claims that the combination is more effective than lututrin or estrogen alone and points to lututrin as the responsible agent in the drug's effectiveness.

II. The applicable regulations. HW&D's contention that it has an unconditional right to a hearing is denied. The hearing regulations, 21 CFR 130.14, require that a person seeking a hearing set forth specific facts showing the existence of genuine and substantial fact issues which requires a hearing. The order of May 8, 1970 (35 F.R. 7250) granted persons involved in notices of hearing, including HW&D, 30 days in which to amend their requests for hearing to comply with the new regulations. The company was given actual notice on May 19, 1970, that it was required to comply with these regulations in order to properly avail itself of an opportunity for hearing. Applications of the regulations have been upheld by the courts.

Pfizer, Inc. v. Richardson, 434 F. 2d 536 (C.A. 2, 1970); Upjohn Co. v. Finch, 422 F. 2d 944 (C.A. 6, 1970); Pharmaceutical Manufacturers Association v. Richardson, 318 F. Supp. 301 (D. Del., 1970). HW&D is bound by the judgment in the last case cited.

III. *The Request for a Hearing*—a. *The issues of exemption under section 107(c) of Public Law 87-781 and under 21 U.S.C. 321(p)(1)*. The request for a hearing on these issues is denied. The new-drug applications involved had not been withdrawn prior to enactment of Public Law 87-781. They were "deemed approved" under the 1962 amendments to the Act and are subject to withdrawal on the basis of the effectiveness requirements of the amendments.

b. *Lutrexin and Trexinest are new drugs within the meaning of 21 U.S.C. 321(p)(1)*. The conclusions of HW&D's affiants that these drugs are not new drugs cannot be accepted. No adequate and well-controlled clinical investigations published in the medical literature have been identified. Therefore, there is no data base upon which experts can fairly and responsibly conclude that the safety and effectiveness of the drugs has been proven and is so well established that the drugs can be generally recognized among such experts as safe and effective for their intended uses.

The affiants identify 11 studies as establishing the claims made for the drugs. None purports to be an adequate and well-controlled clinical investigation. They may be summarized as follows:

(1) Majewski and Jennings: Uterine Relaxing Factor for Premature Labor, Ob. & Gyn. 5:649-652 (May 1955); and Further Experiences with a Uterine Relaxing Hormone in Premature Labor, Ob. & Gyn. 9:322-325 (March 1957) by the same authors are one study. The first paper is a preliminary study on 20 patients and the latter is the report on enlarged group of 88 patients. The authors acknowledge that results in the total group are less favorable than in the preliminary study, but conclude that the results are encouraging. Concomitant medication was given an unstated number of patients. There is no way to determine the percentage of patients on concurrent medication or whether the results of the study were thereby influenced. Nine patients out of 88 in whom the drug proved ineffective were excluded from the report for "statistical reasons". Six patients received the drug for less than 3 hours, which the authors without explanation considered too short a time for a true test of effectiveness. There is no summary or explanation of the statistical methods used in analysis of the data to show that results were not biased or due to chance.

(2) Majewski: Statistical Evaluation in The Reduction of the Incidence of Prematurity (1968) is unpublished. The author claims successful treatment in 86 percent of cases treated in his practice over a 10-year period. Substantiating documentation to establish an historical control and percentage of patients with

medical or surgical complications of pregnancy is not provided. The author acknowledges that some patients with medical complications such as placenta praevia were included in the study. Lutrexin is not claimed to have value in the medical or obstetrical complications of pregnancy which occur in a significant percentage of premature births.

The pairing of live birth percentages by number of pregnancies before and after Lutrexin treatment such as in Table I are all inappropriate. For example, of the 24 cases with one previous pregnancy, 11 live births before treatment and 18 live births after treatment are compared. However, for each of the 18 live births after treatment, an additional pregnancy had elapsed so that the number of previous pregnancies associated with the number 18 is two, not one; as such, the number 18 should be compared with the number 16, the total live births for two previous pregnancies.

The data in Table I does not admit of statistical evaluation by the chi-square test since the test is based on the assumption that each number in the columns of Table I is the sum of independent yes or no responses, e.g., for the one patient with seven previous pregnancies, four live births are correlated, thus ignoring the sample size of one and using an erroneous sample size of four.

(3) Rezek: The Effect of a New Potent Uterine Relaxing Factor of the Corpus Luterum in the Treatment of Dysmenorrhea, Am. J. Ob. & Gyn. 66:396-402 (August 1953). The report does not state the method of patient selection, nor does it indicate comparability of pertinent variables such as severity or duration of diseases. Concomitant medication is not excluded. No explanations of the methods of observation, the recording of results, and steps taken to minimize patient and investigator bias are provided. The historical controls employed are inappropriate.

(4) Rezek: Lutrexin in the Treatment of Premature Labor, Ann. N.Y. Acad. Sci. 75:995-997 (January 1959). The method of selection of the patients does not show progressive dilation of the cervix, which is necessary to accurately diagnose premature labor. The methods of observation and the recording of results are not explained. No statistical evaluation was presented to show that results claimed are significant in terms of the patient population.

(5) Gratton: The Treatment of Infertility and Prematurity Pregnancy Problems (1968) is unpublished. Patients received numerous concomitant therapies until the fifth month of pregnancy which prevents scientific attribution of results to lututrin therapy. The method of patient selection is unexplained.

Statistically the study lacks adequate design and evaluation. There is no showing that the cases studied are representative of the population to which inferences are made. The pairings of live births percentages in Table II cannot be compared since the number of previous

pregnancies differs between the pair percentages and there is no data on possible etiologic factors of previous abortions and premature labor.

(6) Gray: Lutrexin in the Management of Premature Labor and Habitual Abortion. A Description of Fifteen Representative Cases (undated) is an unpublished report on 15 selected cases the author has treated. No plan or protocol is provided to allow determination of the objectives of the study, the method of patient selection, diagnostic criteria of the condition to be treated, laboratory tests to be made, the methods of observation and recording of results. The author's review of his records does not constitute an adequate and well-controlled investigation.

(7) Four papers by Dr. Trythall were listed in the attachment to his affidavit. In only one article is lutrexin ever mentioned. The three sentences devoted to the drug provide no information whatsoever except that the author claims to have found it effective in his practice.

The affiants state that double blind investigations of lututrin are unethical because the drug is effective and complications of pregnancy may be life-threatening. The Commissioner does not reach that issue, since none of the historically controlled studies relied upon were adequate and well-controlled investigations.

There are other reasons why HW&D's medical data lack merit, but in view of the above finding their delineation is unnecessary.

c. *The issue of substantial evidence of effectiveness*. The request for a hearing on this ground is denied. The regulations, 21 CFR 130.14, require HW&D to submit a well organized and full factual analysis of the clinical and other investigational data it is prepared to prove at a hearing. The request must set forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing. HW&D has not attempted compliance with these requirements.

Rather than identify and discuss the efficacy data relied upon to support the claims made for its drugs, the company has merely provided a list, extending to four pages, of practically all materials ever submitted to the Agency and the NAS-NRC. The materials are described, for the most part, in general terms (e.g., "data submitted in connection with New Drug Application for Lutrexin tablets * * * Lutrexin bibliography * * * Trexinest bibliography * * * reprints and abstracts * * *"). What the Commissioner is required to do is determine from this material, what HW&D may or may not consider relevant and, therefore, relies upon. In the case bibliographies, the Commissioner would be required to research each article and then determine if it is relevant, or whether HW&D might consider it relevant. Because such a procedure is not contemplated by the regulation, the request for hearing is denied

for failure to comply with applicable regulations.

Apart from the refusal of HW&D to comply with 21 CFR 130.14, the most basic material in the Lutrexin new-drug application reveals a lack of adequate and well-controlled investigations showing that lututrin will have the effect HW&D claims for it.

The only evidence submitted that lututrin may have biological activity in humans when taken orally is a test on nine women by Jones and Smith in which positive results were reported to have been obtained in six subjects. No plan or protocol was stated. No data on the participating patients was provided. No explanation of procedures for patient selection, or criteria for inclusion in the study, or appropriate laboratory tests before and after administration of lututrin was provided. No statistical analysis showing the test population was of significant size or that results obtained were significant is shown. Moreover, there is no evidence that results claimed have ever been reproduced in humans by other investigators.

Therefore, the Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)), and under the authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to each of said drugs, evaluated together with the evidence available to him when each application was approved, there is a lack of substantial evidence that each of the drugs will have the effects it is purported or is represented to have under the conditions of use prescribed, recommended or suggested in the labeling thereof.

Pursuant to the foregoing findings, approvals of the above new-drug applications, and all amendments and supplements thereto, are withdrawn effective on the date of the signature of this document.

Dated: May 31, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc. 71-8557 Filed 6-17-71; 8:46 am]

[DESI 763; Docket No. FDC-D-272; NDAs 763 etc.]

CERTAIN ANESTHETIC DRUGS FOR PARENTERAL OR TOPICAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Correction

In F.R. Doc. 71-5014 appearing at page 6909 in the issue of the FEDERAL REGISTER dated April 10, 1971, the following corrections are made:

1. In the listed drugs "IV. Metabuthamine Hydrochloride" is changed to read "IV. Metabutethamine Hydrochloride with Epinephrine".

2. Under VII, item 2, "(NDA 8-952)" is changed to read "(NDA 8-592)".

3. In A4, "Mebutethamine" is changed to "Metabutethamine".

4. In A10, "and epinephrine" is deleted.

Dated: June 8, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8558 Filed 6-17-71; 8:46 am]

[Docket No. FDC-D-199; NDA 12 341]

MERCK SHARP AND DOHME

Notice of Withdrawal of Approval of New Drug Application

A notice was published in the FEDERAL REGISTER of July 22, 1970 (35 F.R. 11718) (DESI 9947), extending to Merck Sharp and Dohme, Division of Merck & Co., Inc., Rahway, New Jersey 07065, and to any interested person who may be adversely affected, an opportunity for hearing on the proposal of the Commissioner of Food and Drugs to issue an order withdrawing approval of new-drug application No. 12-341, and all amendments and supplements thereto, for Cyclex Tablets, a combination drug containing 200 milligrams meprobamate and 25 milligrams hydrochlorothiazide per tablet, on the grounds that new information before the Commissioner with respect to the drug, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. Neither the holder of the application nor any other person filed a written appearance of election within the 30 days provided by said notice. The failure to file such an appearance is construed as an election by such persons not to avail themselves of an opportunity for hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing findings, approval of the above new-drug application, and all amendments and supplements thereto, is withdrawn effective on the date of the signature of this document.

Dated: June 4, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.
[FR Doc. 71-8559 Filed 6-17-71; 8:46 am]

[DESI 5319]

[Docket No. FDC-D-310; NDA 9-561 et al.]

CERTAIN RADIOPAQUE MEDIA

Evaluated Reports

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Preparations marketed by E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903:

a. Oragrafin Sodium Capsules containing sodium ipodate (NDA 12-967).

b. Oragrafin Calcium Granules containing calcium ipodate (NDA 12-968).

c. Cholografin Sodium Injection containing sodium iodipamide (NDA 9-321).

d. Cholografin Meglumine Injection containing meglumine iodipamide (NDA 9-321).

e. Renografin-30, Renografin-60, and Renografin-76 Injections containing meglumine diatrizoate 30, 60, or 76 percent (NDA 10-040).

f. Renovist Injection containing sodium diatrizoate and meglumine diatrizoate (NDA 10-040).

g. Gastrografin Oral Solution containing meglumine diatrizoate (NDA 11-245).

h. Cardiografin Injection containing meglumine diatrizoate (NDA 11-620).

i. Sinografin Solution for Injection containing meglumine diatrizoate and meglumine iodipamide (NDA 11-324).

2. Preparations marketed by Mallinckrodt Chemical Works, 3600 North Second Street, St. Louis, Missouri 63147:

a. Cystokon Sterile Solution containing sodium acetrizate (NDA 6-990).

b. Thixokon Sterile Solution containing sodium acetrizate (NDA 10-642).

c. Ditrakon Sterile Solution containing sodium diatrizoate and sodium diatrizoate (NDA 12-260).

d. Miokon Sodium 50-percent Sterile Solution containing sodium diatrizoate (NDA 10-107).

3. Preparations marketed by Winthrop Laboratories or Winthrop Products, 90 Park Avenue, New York, N.Y. 10016:

a. Telepaque Tablets containing iopanoic acid (NDA 8-032).

b. Oral Hypaque Sodium Liquid and Powder containing sodium diatrizoate (NDA 11-386).

c. Hypaque Sodium 50-percent Sterile Aqueous Solution and Injection containing sodium diatrizoate (NDA 9-992 and 9-561).

d. Hypaque Sodium 20-percent Sterile Aqueous Solution containing sodium diatrizoate (NDA 9-561).

e. Hypaque-M 75 percent and 90 percent containing sodium diatrizoate and meglumine diatrizoate (NDA 10-220).

4. Preparations marketed by E. Fougera and Co., Inc., Cantic Road, Post Office Box 73, Hicksville, New York 11803:

a. Hytrast containing ioppydone and ioppydol (NDA 13-106).

b. Ethiodol containing ethiodized oil (NDA 9-190).

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5. Preparation marketed by Ortho Pharmaceutical Corp., Route 202, Raritan, New Jersey 08869:

a. Salpix Contrast Medium containing sodium acetrizate and povidone (NDA 9-008).

6. Preparation marketed by Lafayette Pharmacal, Inc., 522-26 North Earl Ave., Lafayette, Indiana 47904:

a. Pantopaque containing iophendylate, (NDA 5-319).

The drugs are regarded as new drugs (21 U.S.C. 321 (p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. These radiopaque agents are effective for the indications listed in the "Indications" section of this announcement.

2. Radiopaque media containing ethiodized oil are possibly effective for use in sialography and sinus and fistulous tract visualization.

3. Radiopaque media containing sodium acetrizate and povidone are possibly effective for the mechanical release of tubal obstruction.

4. Radiopaque agents containing 50 percent sodium diatrizoate lack substantial evidence of effectiveness for use in retrograde pyelography.

B. *Form of drug.* These drugs are in tablet, capsule, liquid, powder, sterile solution, or suspension forms as described above, suitable for oral, rectal, intracavitary, instillation, or intravascular administration.

C. *Labeling conditions.* 1. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drugs are labeled to comply with all requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drugs and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" sections are as follows:

a. Sodium Iodate Capsules.

INDICATIONS

This drug is indicated for oral cholecystography. It may also be used for oral cholangiography, although it is not considered the method of choice.

b. Calcium Iodate Granules.

INDICATIONS

This drug is indicated for oral cholecystography. It may also be used for oral cholangiography, although it is not considered the method of choice.

c. Sodium Iodipamide Injection or Meglumine Iodipamide Injection.

INDICATIONS

These drugs are indicated in intravenous cholangiography and cholecystography.

d. Meglumine Diatrizoate Injection—30 Percent.

INDICATIONS

This drug is indicated for retrograde pyelography.

e. Meglumine Diatrizoate Injection—60 Percent.

INDICATIONS

This drug is indicated in excretory urography; cerebral angiography; peripheral arteriography; venography; operative T-tube or percutaneous transhepatic cholangiography; splenoportography; arthrography; and diskography.

f. Meglumine Diatrizoate Injection—76 Percent.

INDICATIONS

This drug is indicated in excretory urography; aortography; pediatric angiocardiology; and peripheral arteriography.

g. Sodium Diatrizoate 35 Percent and Meglumine Diatrizoate 34.5 Percent Injection.

INDICATIONS

This drug is indicated in excretory urography; aortography; pediatric angiocardiology; and peripheral arteriography.

h. Meglumine Diatrizoate Injection—85 Percent.

INDICATIONS

This drug is indicated in angiocardiology and thoracic aortography.

i. Meglumine Diatrizoate 40 Percent and Meglumine Iodipamide 20 Percent.

INDICATIONS

This drug is indicated in hysterosalpingography.

j. Sodium Acetrizate Sterile Solution—30 Percent.

INDICATIONS

This drug is indicated in retrograde pyelography and cystography.

k. Sodium Acetrizate Sterile Solution—50 Percent.

INDICATIONS

This drug is indicated for urethrography.

l. Sodium Diatrizoate 37 Percent and Sodium Diprotizate 31 Percent Injection.

INDICATIONS

This drug is indicated in angiocardiology.

m. Sodium Diprotizate Injection—50 Percent.

INDICATIONS

This drug is indicated for excretory urography.

n. Iopanoic Acid Tablets.

INDICATIONS

This drug is indicated for use in oral cholecystography. It may also be used for oral cholangiography, although it is not considered the method of choice.

o. Meglumine Diatrizoate Oral Solution or Sodium Diatrizoate Oral Solution and Powder.

INDICATIONS

This drug is indicated for radiographic examination of the gastrointestinal tract following oral or rectal administration.

p. Sodium Diatrizoate Injection—50 Percent.

INDICATIONS

This drug is indicated in excretory urography; cerebral and peripheral angiography; aortography; intracerebral venography; direct cholangiography; hysterosalpingography; and splenoportography.

q. Sodium Diatrizoate Injection—20 Percent.

INDICATIONS

This drug is indicated for use in retrograde pyelography.

r. Sodium Diatrizoate and Meglumine Diatrizoate—75 Percent or 90 Percent.

INDICATIONS

These drugs are indicated in angiocardiology; aortography; angiography; and urography.

For 90 percent add: Hysterosalpingography.

s. Iopidone and Iopidol Suspension.

INDICATIONS

This drug is indicated for bronchography.

t. Ethiodized Oil.

INDICATIONS

This drug is indicated in hysterosalpingography.

u. Sodium Acetrizate and Povidone.

INDICATIONS

This drug is indicated for hysterosalpingography.

v. Iophendylate Injection.

INDICATIONS

This drug is indicated for use in myelography.

D. *Indications permitted during extended period for obtaining substantial evidence.* Those indications for which a drug is described in paragraph A above as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

E. *Marketing status.* Marketing of the drugs may continue under the conditions described in paragraphs F and G of this announcement except that those indications referenced in paragraph D may continue to be used as described therein.

F. *Previously approved applications.* 1. Each holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to October 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform with the labeling conditions described herein for the drug and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current.

2. Such supplements should be submitted within the following time periods after the date of publication of this announcement in the FEDERAL REGISTER:

a. 60 days revised labeling—the supplement should be submitted under the provisions of section 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of this preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in paragraph D for the period stated.)

G. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under paragraph A above, should submit a new drug application containing full information required by the new drug application form FD-356H (21 CFR 130.4(c)). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in paragraph D for the period stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 180 days from the date of this publication, a new drug application to the Food and Drug Administration.

c. The applicant submits within a reasonable time additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

H. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any drug for human use containing the same components and offered for the indications for which substantial evidence of effectiveness is lacking, to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

I. *Unapproved use or form of drug.* 1. If the article is marketed in any other form or is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such form or use is approved in a new drug application, or is otherwise in accord with this announcement.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number

NOTICES

DESI 5319, directed to the attention of the following appropriate office, and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland, 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Request for Hearing (Identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-62, Parklawn.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Requests for NAS-NRC report: Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 21, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8560 Filed 6-17-71; 8:46 am]

[Docket No. FDC-D-268; NADA No. 4-914V etc.]

BEEBE LABORATORIES ET AL. Certain Intramammary Infusion Products; Notice of Opportunity for Hearing

In the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6602), the Commissioner of Food and Drugs announced the conclusion of the Food and Drug Administration and the National Academy of Science-National Research Council, Drug Efficacy Study Group, following evaluation by the Administration of reports received from the Academy on the following intramammary infusion products for use in treating mastitis in milk producing animals:

1. G-Lac; NADA (new animal drug application) No. 4-914V; Beebe Laboratories, Inc., 2035 East Larpentur Avenue, St. Paul, Minn. 55109;

2. Gargon and Neothion; NADA 11-204V; E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903; and

3. Terramycin with Polymyxin B Sulfate Animal Formula For Mastitis; NADA 9-168V; Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

The announcement invited the above named holders of said new animal drug applications and any other interested persons to submit pertinent data on the drugs' effectiveness.

No data were received in response to the announcement; and available information fails to provide substantial evidence of effectiveness of the drugs for their recommended use in treating mastitis in milk producing animals.

The efficacy data covering the below listed products have also been reviewed by the Administration. These products are similar in composition to G-Lac, but were not furnished to be reviewed by the Academy as requested in the notice regarding drug effectiveness which was published in the FEDERAL REGISTER of July 9, 1966 (31 F.R. 9426), and, therefore, were not evaluated by the Academy. The above-mentioned findings of the Administration regarding drug effectiveness apply equally to the following products:

1. Tyrothricin Veterinary: NADA No. 4-793V; Merck Sharp & Dohme, Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065;
2. Tyrothricin Emulsion Veterinary: NADA No. 5-322V; American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540;
3. Ty-Sin; NADA No. 4-538V; Jensen-Salsbery Laboratories, Division of Richardson-Merrell Inc., 520 West 21st Street, Kansas City, Mo. 64141;
4. Tyrothricin; NADA No. 5-026V; Parke, Davis & Co., 3900 East Jefferson Avenue, Detroit, Mich. 48232;
5. Tyro-Brev Emulsion; NADA No. 5-178V; Pitman-Moore, Inc., Camp Hill Road, Fort Washington, Pa. 19034; and
6. Mam-O-Lac; NADA No. 6-210V; Kansas City Vaccine Co., 1627 Genesee, Kansas City, Mo. 64102;

Therefore, notice is given to the above named firms and to any interested persons who may be adversely affected that the Commissioner proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of the new animal drug applications listed above and all amendments and supplements thereto. This action is proposed on the grounds that:

When information before the Commissioner with respect to the drugs was evaluated together with the evidence available to him when the applications were approved, this data did not provide substantial evidence that the drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicants and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the above-named new animal drug applications should not be withdrawn. Promulgation of the order will cause any drug similar in composition to the above-listed drugs and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-62, 5600 Fishers

Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or
2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing the approval of the new animal drug applications.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting a hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he will issue a written notice of the time and place at which the hearing will commence. The time shall be not more than 90 days after said 30 days unless the hearing examiner and the applicant otherwise agree.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 10, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8571 Filed 6-17-71; 8:47 am]

PHILIPS ROXANE, INC.

Intramammary Infusion Products for Treating Mastitis; Notice of Drugs Deemed Adulterated

An announcement in the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6602),

concerned the products Dry Cow Treatment and Dry-Mast manufactured by Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502. The announcement set forth the findings of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, and the Food and Drug Administration stating that the available information did not establish that the drugs are effective for their intended use in the treatment of bovine mastitis. Said announcement provided the manufacturer and all interested parties a 6-month period in which to submit new animal drug applications.

Neither Philips Roxane, Inc., nor any other manufacturers submitted new animal drug applications for their products within the 6-month period provided.

Based on the foregoing and information before him, the Commissioner of Food and Drugs concludes that the above-named drugs and all other intramammary infusion products which are for the treatment of mastitis in milk-producing animals and are not now the subject of approved new animal drug applications are adulterated within the meaning of section 501(a)(5) of the Federal Food, Drug, and Cosmetic Act, in that they are not the subject of an approved new animal drug application pursuant to section 512 of the act. Therefore, notice is given to Philips Roxane, Inc., and all interested persons that all stocks of said drugs within the jurisdiction of the act are deemed adulterated within the meaning of the act and are subject to appropriate regulatory action.

This notice is issued pursuant to the provisions of the Federal Food, Drug and Cosmetic Act (secs. 501(a)(5) and 512, 52 Stat. 1049, as amended, 82 Stat. 343-351; 21 U.S.C. 351(a)(5) and 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 10, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-8572 Filed 6-17-71; 8:47 am]

National Institutes of Health

[File No. 4208]

NIH COPYRIGHT POLICY

Proposed Implementation

The NIH policy, as published in 35 F.R. 5470, states that:

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a research project supported by a grant under this part, subject, however, to a royalty-free, nonexclusive license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

It is proposed to implement that portion of the above policy which reads "and to authorize others to do so," by adding to the policy statement:

Communications in primary scientific journals reporting results of research supported in whole or in part by the National Institutes of Health may be copyrighted consistent with the copyright policy of the publication, with the understanding, however, that individuals are authorized to make, or have made by any means available to them, a single copy of any such article for their own use.

Anyone wishing to comment on this proposed policy change should contact Dr. Ronald Lamont-Havers before July 15, 1971, addressed as follows:

Dr. Ronald W. Lamont-Havers, Associate Director for Extramural Research and Training, National Institutes of Health, 9000 Rockville Pike, Building 1, Room 118, Bethesda, MD 20014.

Dated: June 11, 1971.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

[FR Doc.71-8550 Filed 6-17-71; 8:45 am]

Office for Civil Rights NONDISCRIMINATION IN ELEMENTARY AND SECONDARY SCHOOLS School Staffing Practices

The following memorandum by the Director, Office for Civil Rights, dated January 14, 1971, has been addressed to all chief State school officers and school superintendents:

NONDISCRIMINATION IN ELEMENTARY AND SECONDARY SCHOOL STAFFING PRACTICES

Title VI of the Civil Rights Act of 1964 requires that students in a school district receiving Federal financial assistance be afforded educational services free from discrimination on the ground of race, color, or national origin. Since the Bradley and Rogers decisions of the Supreme Court in 1965 it has become clear that this provision precludes the assignment of teachers to public schools within the school system on a racially segregated basis. From more recent decisions of the courts of appeal, it has become equally clear that title VI also precludes discrimination in the hiring, promotion, demotion, dismissal or other treatment of faculty or staff serving the students. This memorandum describes HEW policies reflecting more recent court decisions in each of these two areas.

The goal of HEW in rendering assistance to educational programs is to help school officials to achieve the highest possible quality of education for everyone. The elimination of discrimination in these programs is not only required by the law, but is consistent with this goal. Indeed, racial or ethnic discrimination in staffing actually deters the achievement of high quality educational opportunities.

School districts have for the past several years reported to HEW's Office for Civil Rights on the racial and ethnic composition of their staffs. It will now be HEW's policy to make further inquiry into staffing practices whenever it appears from this or other information either that a school district may be making its assignment of teachers or staff to particular schools on a basis that tends to segregate, or that the racial or ethnic composition of its staff throughout the system may be affected by discriminatory hiring, firing, promotion, dismissal, or other employee practices.

ASSIGNMENT OF STAFF TO SCHOOLS

School districts that have in the past had a dual school system are required by current law to assign staff so that the ratio of minority group to majority group teachers in each school is substantially the same as the ratio throughout the school district. This is the so-called Singleton rule, enunciated by the Court of Appeals for the Fifth Circuit in January 1970. The same rule applies to non-teaching staff who work with children.

Even though a school district has not in the past operated an official dual system of schools, its statistical reports may nonetheless indicate a pattern of assigning staff of a particular race or ethnic group to particular schools. Where this appears to be true, the Office for Civil Rights will seek more detailed information regarding assignment policies and practices. If it is determined that assignments have been discriminatory, the school district will be requested to assign teachers so as to correct the discriminatory pattern.

HIRING, PROMOTION, DEMOTION, DISMISSAL, AND OTHER TREATMENT OF STAFF

The reports presently being submitted to the Office for Civil Rights by local educational agencies reflect not only the assignment by race of teachers and other staff to particular schools but also reflect the total composition by race of the staff throughout the reporting school system and the hiring of teachers by race each year. With respect to the employment practices of each district it will be HEW's policy to make further inquiry into such matters when it appears (1) that there has been an abrupt and significant change in the racial or ethnic composition of the teaching or any other category of staff serving a particular school district, or (2) that the presence of members of racial or ethnic groups among newly employed staff members in any category differs significantly from their presence among qualified persons reasonably available for employment by the school district. HEW's Office for Civil Rights will ask school districts so identified to furnish more specific information concerning these practices in the following categories of staff:

1. Principals.
2. Assistant Superintendents and other central office professional staff.
3. Deputy, associate, and assistant principals.
4. Classroom teachers.
5. Other professional staff for whom certification is generally expected, such as counselors, librarians, and special education teachers.
6. Other staff who work with children, such as teacher-aides and bus drivers.

In each of these categories we will request information as to the identity of staff members who have been released or demoted, the reasons for release or demotion, the criteria used in selecting teachers for employment, promotion, release, or demotion, and the comparative professional, educational and personal qualifications of the applicants and staff members involved.

This information will be analyzed, and, where necessary, additional investigation conducted to determine whether discrimination has been practiced. It is, of course, not possible to catalog all forms which such discrimination might take. Several of the more obvious methods of discrimination are:

1. Hiring.—A school district which focuses its recruitment efforts on teacher training institutions attended predominantly by members of one race while ignoring institutions attended predominantly by members of another race is discriminating in its hiring practices.

Similarly, the imposition of different hiring procedures, such as the requirement of additional personal interviews for members of one race as contrasted with others, is discriminatory. Discrimination in other features of the employment process may also be found in salaries offered, working conditions promised, training provided and tests or other qualifications imposed.

2. Promotions.—The selection of teachers or other staff for promotion may be subject to racial discrimination just as the selection of teachers for employment. Any form of such discrimination would be a violation of law.

3. Demotions.—The demotion of a staff member, whether involving a cut in pay or simply a change in duty, is discriminatory if it reflects a racial decision by the school administrators. Thus, if the consolidation of two schools necessarily results in the demotion of some staff members, such as department heads, counselors, and coaches, the selection of the staff members to be demoted may not be based upon race. The courts have also held that persons demoted as an incident to the desegregation process are to be given preference in future promotions.

4. Dismissals.—Dismissal of a teacher for failure to meet certain standards or qualifications would, of course, be racially discriminatory if the same standards or qualifications were not applied to teachers of another race. A teacher who has been assigned to a particular school for racial reasons may not thereafter be dismissed if a reduction of force results in the closing of that school unless his qualifications for teaching are compared with all other teachers throughout the system and he has been found, under reasonable and objective criteria, to be less qualified than all teachers retained in the system.

If it is determined from the information furnished by the school district and from any other investigation that discrimination has been practiced, the school district will be requested to develop a plan for prompt corrective action. The types of corrective action required will depend upon the nature and results of the discrimination that has been practiced.

A discriminatory dismissal and its effect may be adequately corrected by reinstatement of the dismissed staff member together with the payment of any lost pay. Discriminatory hiring practices may be sufficiently corrected by adopting objective criteria and standards for future recruitment and hiring and by promptly offering positions to qualified persons who have been rejected or overlooked. In each case, however, the school district will be asked to develop and submit a specific plan for correcting the effects of the discriminatory practice and assuring against the repetition of such discrimination.

When it is clear that the effect of the discrimination cannot otherwise be corrected and the discrimination has in fact resulted in a significant distortion in the racial or ethnic composition of the staff, the school district may be asked to develop a plan designed to achieve a racial and ethnic composition of its total staff which will correct the distortion. In determining what that composition should be, consideration will be given to the past composition of the staff in each category and to information bearing on the reasonable availability of qualified teachers and other categories of staff from racial and ethnic minorities.

I have been assured by the Office of Education that it will give priority attention to requests for consultation and assistance in the development of realistic and educationally sound plans.

We in the Office for Civil Rights will be pleased to do everything possible to assist school officials to meet their title VI responsibilities.

Dated: June 8, 1971.

J. STANLEY POTTINGER,
Director, Office for Civil Rights.
[FR Doc.71-8579 Filed 6-17-71;8:48 am]

Office of the Secretary
ASSISTANT SECRETARY FOR HEALTH AND SCIENTIFIC AFFAIRS AND COMMISSIONER OF FOOD AND DRUGS

Authority Under the Poison Prevention Packaging Act of 1970

Notice is hereby given that the following delegations of authority have been made under the Poison Prevention Packaging Act of 1970 (Public Law 91-601).

1. Delegation from the Secretary, DHEW to the Assistant Secretary for Health and Scientific Affairs to exercise all authorities vested in the Secretary under sections 3, 4, 5, 7, 8, and 9 of the Act. The delegated authority may be re-delegated.

2. Delegation from the Assistant Secretary for Health and Scientific Affairs to the Commissioner of Food and Drugs to exercise all authorities delegated to the Assistant Secretary for Health and Scientific Affairs by the Secretary under the Poison Prevention Packaging Act of 1970. The delegated authority may be re-delegated.

Dated: June 8, 1971.

RONALD BRAND,
Deputy Assistant Secretary
for Management.
[FR Doc.71-8578 Filed 6-17-71;8:48 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-227]

GULF OIL CORP.

Notice of Issuance of Amendment to Facility License

No request for hearing or petition to intervene having been filed following publication of a notice of proposed action in the FEDERAL REGISTER on May 20, 1971, at 36 F.R. 9147, the Atomic Energy Commission (the Commission) has issued Amendment No. 5 to Facility License No. R-100. The amendment authorizes Gulf Oil Corp. to (1) use an improved type of fuel element; (2) increase the steady-state power level from 1.5 megawatts (thermal) to 2 megawatts (thermal); (3) increase the amount of uranium 235 from 10 kilograms to 30 kilograms that the licensee may receive, possess, and use; and (4) irradiate simultaneously up to 10 direct conversion devices in the TRIGA Mark III reactor located at Torrey Pines Mesa near San Diego, Calif.

The Commission has found that the application for the amendment, as amended, complies with the requirements

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of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations as published in 10 CFR Chapter I, and the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Copies of the amendment to the facility license will be available at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, or upon request sent to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 5th day of June 1971.

For the Atomic Energy Commission.

ROBERT J. SCHEMEL,
Acting Assistant Director for
Reactor Operations, Division
of Reactor Licensing.
[FR Doc.71-8549 Filed 6-17-71;8:45 am]

[Docket No. 50-250]

FLORIDA POWER & LIGHT CO.

Order Extending Provisional Construction Permit Completion Date

By application dated June 1, 1971, Florida Power & Light Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-27. The permit authorizes the construction of a pressurized water nuclear reactor designated as the Turkey Point Nuclear Generating Unit No. 3 at Turkey Point, Dade County, Fla.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-27 is extended from July 1, 1971 to January 1, 1972.

Dated at Bethesda, Md., this 12th day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.
[FR Doc.71-8596 Filed 6-17-71;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23446; Order 71-6-68]

EUREKA AERO INDUSTRIES, INC.

Order To Show Cause Regarding Service Mail Rate

Issued under delegated authority June 11, 1971.

The Postmaster General filed a notice of intent May 27, 1971, pursuant to 14 CFR Part 298, petitioning the Board to

establish for the above captioned air taxi operator, a final service mail rate of 43.45 cents per great circle aircraft mile for the transportation of mail by aircraft between Amarillo and Dallas, Tex., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Eureka Aero Industries, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 43.45 cents per great circle aircraft mile between Amarillo and Dallas, Tex., based on five round trips per week flown with Beechcraft 18 aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Eureka Aero Industries, Inc., the Postmaster General, Braniff Airways, Inc., Continental Air Lines, Inc., Texas International Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Eureka Aero Industries, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

¹ As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

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[Docket No. 22982]

TRANSPORTE AEREO RIOPLATENSE, S.A.C. e I.

Notice of Reopened Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a reopened hearing in the above-entitled proceeding is assigned to be held on June 29, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C. before the undersigned examiner.

Dated at Washington, D.C., June 14, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.
[FR Doc.71-8641 Filed 6-17-71;8:53 am]

[Docket No. 23361; Order 71-6-65]

WRIGHT AIR LINES, INC.

Order To Show Cause Regarding Service Mail Rates

Issued under delegated authority June 11, 1971.

The Postmaster General filed a notice of intent May 4, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 84 cents per great circle aircraft mile for the transportation of mail by aircraft from Akron/Canton, Ohio, to Cleveland, Ohio, and Chicago, Ill., and return to Cleveland, based on five trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 99 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Wright Air Lines, Inc., in its entirety by the Postmaster General pursuant to section 406 of the

¹ As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 84 cents per great circle aircraft mile from Akron/Canton, Ohio, to Cleveland, Ohio, and Chicago, Ill., and return to Cleveland, based on five trips per week flown with Beechcraft 99 aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Wright Air Lines, Inc., the Postmaster General, Eastern Air Lines, Inc., North Central Airlines, Inc., Northeast Airlines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Wright Air Lines, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Wright Air Lines, Inc., the Postmaster General, Eastern Air Lines, Inc., North Central Airlines, Inc., Northeast Airlines, Inc., Northwest Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.
[FR Doc.71-8639 Filed 6-17-71;8:53 am]

ENVIRONMENTAL PROTECTION AGENCY

FMC CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 1F1088) has been filed by the Niagara Chemical Division, FMC Corp., 100 Niagara Street, Middleport, NY 14105, proposing establishment of interim tolerances (21 CFR Part 420) for negligible residues of the fungicide that is a mixture of 5.2 parts by weight of ammoniates of [ethylenebis(dithiocarbamate)] zinc with 1 part by weight ethylenebis(dithiocarbamic acid) bi-molecular and trimolecular cyclic anhydrosulfides and disulfides, calculated as zinc ethylenebis(dithiocarbamate), in or on the raw agricultural commodities peanuts, sugar beet roots, and sweet corn (kernels plus cob with husks removed) at 0.5 part per million.

The petition was found to be deficient in the absence of adequate data on the metabolism of the fungicide. However, the petitioner requested that the petition be filed as submitted, as provided in § 420.7(d) (21 CFR Part 420).

The analytical method proposed in the petition for determining residues of the fungicide is the method of T. E. Cullen, "Analytical Chemistry," Vol. 36, pages 221-4 (1964).

Dated: June 11, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc. 71-8607 Filed 6-17-71; 8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 548]

COMMON CARRIER SERVICES INFORMATION

Domestic Public Radio Services Applications Accepted for Filing

JUNE 14, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with

¹ All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

² The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

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any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the

application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign, and nature of application

- 6410-C2-P-71—Orange County Radiotelephone Service, Inc. (KMB304), C.P. to change antenna location for 152.21 MHz base facilities at location No. 2: Panorama Point, El Modeno, Calif., to location No. 3: Signal Peak, 2.5 miles west of Newport Beach, Calif.
- 6665-C2-ML-71—Sidney C. Childers and Shirley Childers, doing business as Communications Equipment & Service Co. (KWA632), Modification of license to change frequency from 459.15 MHz to 459.175 MHz (repeater) at location No. 1: Ester Dome, Alaska, and change control from 454.15 MHz to 454.175 MHz at location No. 2: 1010 College Road, Fairbanks, AK.
- 6671-C2-ML-71—Kidd's Communications, Inc. (KMA257), Modification of license to change repeater frequency from 75.66 MHz to 72.06 MHz at location No. 4: Paletto Hill, Calif.
- 6893-C2-P-(8)-71—Southern Bell Telephone & Telegraph Co. (KIA959), C.P. to add 152.54, 152.66, and 152.81 MHz base facilities; change to IMTS on existing frequencies 152.51, 152.60, 152.63, 152.69, and 152.75 MHz and add test frequencies 157.80, 157.92, and 158.07 MHz at existing site 51 Ivy Street NE, Atlanta, GA.
- 6894-C2-P-71—Phone Depots, Inc., doing business as Mobilphone Radio System (KEA254), C.P. to replace base transmitter operating on 454.35 MHz at location No. 2: Chemical Bank Building, Park Avenue at 47th Street, New York, NY.
- 6904-C2-P-71—Phenix Communications Co. of Ga., Inc. (New), C.P. for a new station. Base frequency 152.03 MHz to be located at approximately 3.5 miles west of Phenix City, Ala.
- 6905-C2-P-(3)-71—William G. Bowles, Jr., doing business as Mid-Missouri Mobilphone, (New), C.P. for a new station. Base frequency 152.18 MHz; Repeater frequency 459.175 MHz to be located at location No. 1: Highway 66, 3 miles east of Waynesville, Mo., and control frequency 454.175 MHz to be located at location No. 2: 109½ Highway 63 South, Rolla, Mo.
- 6906-C2-AL-(2)-71—Alrcall Co. (KIY776), (KIY779), Consent to assignment of license from Alrcall Co., Assignor, to Alrcall, Inc., Assignee, 2-way and 1-way stations at Asheville, N.C.
- 6907-C2-P-71—Mobile Dispatch Service (KQZ705), C.P. to change antenna location from 504 14th Avenue North, Seattle, WA, to 525 14th Avenue East, Seattle, WA, operating on 158.70 MHz.
- 6908-C2-P-71—Mobile Dispatch Service (KOA734), Same as above, except: operating on 152.15 MHz.
- 6909-C2-P-71—Radio Communications, Inc. (KGI277), C.P. to add a transmitter at a new site identified as location No. 2: 3 miles west-southwest of Upper Marlboro, Md., to operate on 43.22 MHz.
- 6911-C2-P-71—Navajo Communications Co. (New), C.P. for a new 2-way station. Base frequency: 152.60 MHz. Location: Deza Bluff, 5.5 km. northwest of Tohatchi, N. Mex.
- 6912-C2-P-71—Navajo Communications Co. (New), C.P. for a new 2-way station. Base frequency: 152.54 MHz. Location: Yale Point, 34 km. north of Chinle, Ariz.
- 6913-C2-P-71—Robert W. Forsythe, Jr., doing business as Springs Communications Co. (New), C.P. for a new 1-way signaling station. Frequency: 158.70 MHz. Location: 1912 Eastlake Boulevard, Colorado Springs, CO.
- 6914-C2-P-71—Mrs. Mildred H. Rogers, doing business as Telephone Answering Service of Taunton (New), C.P. for a new 2-way station. Base frequency: 454.150 MHz. Location: 101 Crane Avenue, Taunton, MA.
- 6915-C2-P-71—J. B. Bacon, doing business as Telephone Message Exchange (KRS678), C.P. to change antenna location from West Riverside and Old National Bank Building, North Stevens, Spokane, Wash., to Baldy Hill, seven-eighths mile north-northwest of Felts Field, Spokane Municipal Airport, Washington, and replace transmitter operating on 158.70 MHz.
- 6919-C2-P-71—William A. Houser (New), C.P. for a new 1-way signaling station. Frequency: 152.24 MHz. Location: WMCB-FM site, Springland Avenue, 1,000 feet east of city limits, Michigan City, Ind.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

- 6920-C2-P-(2)-71—New England Telephone & Telegraph Co. (KCB889), C.P. to change base frequency from 152.63 MHz to 152.81 MHz and change test from 157.89 to 158.07 MHz at Lithgow Hill, 3 miles west of city of Augusta, Maine (Manchester), for base station and 139 State Street, Augusta, Maine, for test location.
- 7019-C2-P-(2)-71—Southwestern Bell Telephone Co. (KKE966), C.P. to add additional channels to operate on 454.375 and 454.400 MHz at its existing location 1.9 miles west and 0.2 mile north of junction of U.S. Highway No. 66 with West 51st Street, Tulsa, Okla.
- Information:** It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.
- Louisiana**
- Industrial Communications, Inc., doing business as Morgan City Mobilephone (KFJ896), 1703-C2-P-71.
- AAA Telephone Answering Service and Medical Exchange, Inc. (KLB781), 2780-C2-P-71.
- Texas**
- Alrcall New York Corp. (New), 3619-C2-P-(2)-71.
- Arsignal International, Inc. (KKG561), 5080-C2-P-(2)-71.
- Houston Radiophone Service (New), 5062-C2-P-(2)-71.
- Morrison Radio Relay (New), 5074-C2-P-(2)-71.
- Oregon**
- Empire Communications Co. (New), 570-C2-P-(3)-71.
- Cascade Mobile Service, Inc. (New), 1877-C2-P-(3)-71.

RURAL RADIO SERVICE

- 6879-C1-ML-71—Southern Bell Telephone & Telegraph Co. (KIO33), Modification of license to add frequencies 157.86 and 157.98 MHz. Subscriber and location: Ragged Key No. 3, in Biscayne Bay approximately 17.5 miles south of Miami, Fla.
- 6880-C1-ML-71—Southern Bell Telephone & Telegraph Co. (KIY32), Same as above, except: Subscriber and location: William G. Lantaf, 9.9 miles southeast of Miami, Fla.
- 6881-C1-ML-71—Southern Bell Telephone & Telegraph Co. (KJA61), Same, except: Subscriber and location: Elliot Key (Island), approximately 23 miles south of Miami, Fla.
- 6882-C1-ML-71—Southern Bell Telephone & Telegraph Co. (KYN55), Same, except: Frequencies: 157.86, 157.89, 157.92, 157.98, and 158.01 MHz. Subscriber and location: David Woodlin & Sons, Inc., approximately 9.5 miles southeast of Miami, Fla.
- 6883-C1-ML-71—Southern Bell Telephone & Telegraph Co. (KYN92), Same, except: Frequencies: 157.86 and 157.89 MHz. Subscriber and location: Thompson Park, approximately 5 miles northwest of Pensacola, Fla.
- 6884-C1-ML-71—Southern Bell Telephone & Telegraph Co. (WBO91), Same, except: Subscriber and location: Broadcast Station WRIZ, approximately 2 miles south side of Biscayne Channel, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

- 5695-C1-P-71—Pacific Northwest Bell Telephone Co. (KOC65), C.P. to add frequencies 11,345 and 11,585 MHz toward Boring, Ore. Station location: 819 Southwest Oak Street, Portland, OR.
- 5696-C1-P-71—Pacific Northwest Bell Telephone Co. (KPZ27), C.P. to add frequencies 10,755 and 10,995 MHz toward Escadada, Ore., a new point of communication and 10,935 and 11,175 MHz toward Portland, Ore. Station location: 1.6 miles north-northwest of Boring, Ore.
- 6885-C1-P-71—American Telephone & Telegraph Co. (KAP26), C.P. to add frequency 3990 MHz toward Blue Grass, Iowa. Station location: 528 Main Street, Davenport, IA.
- 6886-C1-P-71—American Telephone & Telegraph Co. (KAX39), C.P. to add frequencies 3810 and 3890 MHz toward Davenport, Iowa, and 3950 MHz toward Princeton, Iowa. Station location: 4 miles east of Blue Grass, Iowa.
- 6897-C1-P-71—American Telephone & Telegraph Co. (KAA62), C.P. to add frequencies 3850 and 3930 MHz toward Blue Grass, Iowa. Station location: 3 miles northwest of Princeton, Iowa.

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POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

- 6898-C1-P-71—American Telephone & Telegraph Co. (KJM79), C.P. to add frequency 4198 MHz toward Marianna, Fla. Station location: 205 West Railroad Avenue, Chipley, FL.
- 6899-C1-P-71—American Telephone & Telegraph Co. (KJM78), C.P. to add frequency 4190 MHz toward Chipley and Pleasant Hill, Fla. Station location: 1 mile west of Marianna, Fla.
- 6900-C1-P-71—American Telephone & Telegraph Co. (KJM77), C.P. to add frequency 4198 MHz toward Marianna and Oak Grove, Fla. Station location: 1.8 miles south-southwest of Grand Ridge, Fla. (Pleasant Hill, Fla.).
- 6901-C1-P-71—American Telephone & Telegraph Co. (KJM76), C.P. to add frequency 4190 MHz toward Pleasant Hill, Fla. and toward Climax-Whigham, Ga. Station location: Oak Grove, 6 miles east of Chattahoochee, Fla.
- 6902-C1-P-71—American Telephone & Telegraph Co. (KJM75), C.P. to add frequency 4198 MHz toward Oak Grove, Fla. and toward Thomasville, Ga. Station location: Climax-Whigham, 9 miles west of Cairo, Ga.
- 6903-C1-P-71—American Telephone & Telegraph Co. (KJM74), C.P. to add frequency 4190 MHz toward Climax-Whigham, Ga. Station location: 122 Remington Avenue, Thomasville, Ga.
- 6910-C1-P-71—The Chesapeake & Potomac Telephone Co. of Virginia (KIR29), C.P. to change frequencies to 6256.5 and 6375.2 MHz toward King William, Va. Station location: 708 East Grace Street, Richmond, VA.
- 6921-C1-P-71—Michigan Bell Telephone Co. (KQE80), C.P. to add frequency 11,365 and change frequency 5997.1 MHz to 6056.4 and 11,525 MHz toward Forsyth, Mich. Station location: 200 North Third Street, Marquette, MI.
- 6922-C1-P-71—Michigan Bell Telephone Co. (KQI65), C.P. to add frequency 10,915 MHz and change 5249.1 MHz to 6308.4 and 11,075 MHz toward Marquette, Mich. Station location: 2 miles northeast of Forsyth, Mich.
- 6923-C1-P-71—American Telephone & Telegraph Co. (KOD65), C.P. to add frequency 4039 MHz toward Francetown, N.H. Station location: 3.5 miles northeast of Ashburnham, Mass.
- 6924-C1-P-71—American Telephone & Telegraph Co. (KCL73), C.P. to add frequency 4070 MHz toward Ashburnham, Mass., and 4150 MHz toward Tilton, N.H. Station location: 2 miles north-northeast of Francetown, N.H.
- 6925-C1-P-71—American Telephone & Telegraph Co. (KCL98), C.P. to add frequency 4110 MHz toward Francetown and Water Village, N.H. Station location: Tilton, 2.3 miles west of Franklin, N.H.
- 6926-C1-P-71—American Telephone & Telegraph Co. (KCL99), C.P. to add frequency 4150 MHz toward Tilton, N.H., and toward Cornish, Maine. Station location: Water Village, 5.2 miles northeast of Wolfeboro, N.H.
- 6927-C1-P-71—American Telephone & Telegraph Co. (KCK61), C.P. to add frequency 4110 MHz toward Water Village, N.H., and 4130 MHz toward Portland, Maine. Station location: 2.5 miles northwest of Cornish, Maine.
- 6928-C1-P-71—American Telephone & Telegraph Co. (KCB81), C.P. to add frequency 4170 MHz toward Cornish, Maine. Station location: 45 Forest Avenue, Portland, ME.
- 6983-C1-P-71—The Pacific Telephone & Telegraph Co. (KMA38), C.P. to add frequency 4010 MHz toward Topanga Ridge, Calif. Station location: 434 South Grand Avenue, Los Angeles, CA.
- 6984-C1-P-71—The Pacific Telephone & Telegraph Co. (KMX55), C.P. to add frequency 4010 MHz toward Topanga Ridge, Calif. Station location: Hall Canyon Hill, 1.5 miles northeast of Ventura, Calif.
- 6985-C1-P-71—The Pacific Telephone & Telegraph Co. (New), C.P. for a new station to be located at Topanga Ridge, 2.3 miles west of Fernwood, Calif. Frequency 3970 MHz toward Los Angeles and toward Hall Canyon Hill, Calif.
- 6986-C1-P-71—Tidewater Telephone Co. (KIK23), C.P. to replace transmitter to GTE Lenkurt, 778A2. Frequencies: 6189.8 and 6308.4 MHz toward King William, Va. Station location: Warsaw, Va.
- 6987-C1-P-71—Tidewater Telephone Co. (KIV61), C.P. to replace transmitter to GTE Lenkurt, 778A2. Frequencies: 5952.6, 6071.2, 6004.5, and 6123.1 MHz. Station location: King William, Va.
- 7020-C1-P-71—The Mountain States Telephone & Telegraph Co. (KBF20), C.P. to add frequencies 6388.1 and 11,405 MHz toward Hayden, Colo., a new point of communication. Station location: 0.5 mile northwest of Craig, Colo.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

- 7021-C1-P-71—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 4.8 miles south-southeast of Harden, Colo. Frequencies: 6086.0 and 10,955 MHz toward Craig Junction, Colo., and 6071.2 and 10,755 MHz toward Mount Werner, Colo.
- 7022-C1-P-71—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 5.1 miles east of Steamboat Springs, Colo. (Mount Werner). Frequency 2178.0 MHz toward Owl Ridge, Colo., and 6323.3 and 11,685 MHz toward Hayden, Colo., and 6382.6 and 11,445 MHz toward Steamboat Springs, Colo.
- 7023-C1-P-71—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 139 Seventh Street, Steamboat Springs, Colo. Frequencies: 6130.5 and 10,995 MHz toward Mount Werner, Colo.
- 7024-C1-P-71—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 11.1 miles south-southwest of Walden, Colo. (Owl Ridge). Frequencies: 2128.0 MHz toward Mount Werner, Colo., and 2115.2 MHz toward Walden, Colo.
- 7025-C1-P-71—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 563 McKinley Street, Walden, CO. Frequency: 2165.2 MHz toward Owl Ridge, Colo.
- 7026-C1-P-71—The Pacific Telephone & Telegraph Co. (KNB53). C.P. to add frequencies 3730, 3810, and 3890 MHz toward Sierra Morena, Calif. Station location: 99 Moultrie Street, San Francisco, CA.
- 7027-C1-P-71—The Pacific Telephone & Telegraph Co. (KKU52). C.P. to add frequencies 3770, 3850, and 3930 MHz toward San Francisco, Calif., and toward Loma Prieta Mountain, Calif. Station location: Sierra Morena, 3 miles southwest of Woodside, Calif.
- 7028-C1-P-71—The Pacific Telephone & Telegraph Co. (KMA38). C.P. to add frequencies 3830 and 4090 MHz toward Topanga Ridge, Calif. Station location: 434 South Grand Avenue, Los Angeles, CA.
- 7029-C1-P-71—The Pacific Telephone & Telegraph Co. (KMJ93). C.P. to add frequencies 3730, 3810, and 3890 MHz toward Sierra Morena, Calif., and 3730, 3810, and 4190 MHz toward Chualar, Calif., a new point of communication. Station location: Loma Prieta Mountain, Calif.
- 7030-C1-P-71—The Pacific Telephone & Telegraph Co. (KMX55). C.P. to add frequencies 3770, 3850, and 3890 MHz toward Santa Ynez Peak, Calif., and 3930 and 4090 MHz toward Topanga Ridge, Calif. Station location: Hall Canyon Hill, 1.5 miles northeast of Ventura, Calif.
- 7031-C1-P-71—The Pacific Telephone & Telegraph Co. (KMX58). C.P. to add frequencies 3730, 3810, 3890 MHz toward Hall Canyon Hill, Calif., and 3730, 3810, and 3890 MHz toward Santa Maria, Calif. Station location: Santa Ynez Peak, 5 miles northeast of Captain, Calif.
- 7032-C1-P-71—The Pacific Telephone & Telegraph Co. (KMX57). C.P. to add frequencies 3930, 3990, and 4070 MHz toward Tassajara, Calif., and 3770, 3850, and 3930 MHz toward Santa Ynez, Calif. Station location: 308 West Cypress Street, Santa Maria, CA.
- 7033-C1-P-71—The Pacific Telephone & Telegraph Co. (KMZ71). C.P. to add frequencies 3730, 3810, 3890, and 4190 MHz toward San Ardo, Calif., a new point of communication and add 3890, 3950, and 4030 MHz toward Santa Maria, Calif., and change frequencies 3950 and 4030 MHz to 10,895 and 10,915 MHz toward San Luis Obispo, Calif. Location: Tassajara, 5.5 miles west of Santa Margarita, Calif.
- 7034-C1-P-71—The Pacific Telephone & Telegraph Co. (KMZ72). C.P. to replace frequencies 3990 and 4070 MHz with frequencies 11,285 and 11,365 MHz toward Tassajara, Calif., and add 4198 MHz toward Tassajara, Calif. Location: 872 Morro Street, San Luis Obispo, CA.
- 7035-C1-P-71—The Pacific Telephone & Telegraph Co. (KNJ90). C.P. to change polarization from horizontal to vertical for frequencies 3710, 3790, 3870, and 3950 MHz toward Hall Canyon Hill, Calif. Station location: 1050 South C Street, Oxnard, CA.
- 7036-C1-P-71—The Pacific Telephone & Telegraph Co. (New), C.P. for a new station to be located at Topanga Ridge, 2.3 miles west of Fernwood, Calif. Frequencies: 3890 and 4050 MHz toward Los Angeles and toward Hall Canyon, Calif.
- 7037-C1-P-71—The Pacific Telephone & Telegraph Co. (New), C.P. for a new station to be located at 6.8 miles north of Chualar (Monterey) Calif. Frequencies: 3770, 3850, 3930, and 4198 MHz toward Loma Prieta Mountain, Calif., and toward Greenfield, Calif.

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POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

7038-C1-P-71—The Pacific Telephone & Telegraph Co. (New), C.P. for a new station to be located at 7.6 miles south-southwest of Greenfield (Monterey), Calif. Frequencies: 3730, 3810, 3890, and 4190 MHz toward Chualar, Calif., and 3730, 3810, and 3890 MHz toward San Ardo, Calif.

7039-C1-P-71—The Pacific Telephone & Telegraph Co. (New), C.P. for a new station to be located at 8.7 miles southwest of San Ardo, Calif. Frequencies: 3770, 3850, and 3930 MHz toward Greenfield, Calif., and 3770, 3850, 3930, and 4198 MHz toward Tassajara, Calif.

Major Amendment

3077-C1-P-71—American Telephone & Telegraph Co. (KJM72). Major amendment: Change coordinates to latitude 30°28'11" N., longitude 83°25'11" W. for the Madison, Fla., site.

3078-C1-P-71—American Telephone & Telegraph Co. (KJM71). Change coordinates to latitude 30°26'17" N., longitude 82°56'17" W. for the Jasper, Fla., site. All other particulars same as reported in Public Notice dated Dec. 14, 1970.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTTELEPHONE)

6954-C1-P-71—Mountain Microwave Corp. (New), C.P. for a new station 1 mile northwest of Kinsley, Kans., at latitude 37°55'35" N., longitude 99°25'01" W. Frequency 10,875 MHz on azimuth 233°34'.

6955-C1-P-71—Mountain Microwave Corp. (New), C.P. for a new station 3 miles northwest of Dodge City, Kans., at latitude 37°46'40" N., longitude 100°03'41" W. Frequency 6123.1 MHz on azimuth 279°40'.

6956-C1-P-71—Mountain Microwave Corp. (KZ139). C.P. for a new station 6 miles south-southeast of Garden City, Kans., at latitude 37°52'49" N., longitude 100°50'25" W. Frequency 6197.2 MHz on azimuth 352°58'.

(INFORMATIVE: Applicant proposes to provide the television signal of Station KCIJ-TV of Kansas City, Mo., to Telecommunications, Inc., in Dodge City, Kans., and to Community Telecommunications, Inc., in Garden City, Kans. Applicant requests waiver of section 21.701(i) of the rules.)

6957-C1-P-71—Mountain Microwave Corp. (New), C.P. for a new station 2 miles east of Larned, Kans., at latitude 38°10'57" N., longitude 99°04'09" W. Frequency 11,565 MHz on azimuth 228°29'.

6958-C1-P-71—Mountain Microwave Corp. (New), C.P. for a new station 3 miles northwest of Dodge City, Kans., at latitude 37°46'40" N., longitude 100°03'41" W. Frequency 11,325 MHz on azimuth 73°11'.

6959-C1-P-71—Mountain Microwave Corp. (New), C.P. for a new station 1 mile northwest of Kinsley, Kans., at latitude 37°55'35" N., longitude 99°28'01" W. Frequencies 10,875 and 11,115 MHz on azimuth 118°16'.

(INFORMATIVE: Applicant proposes to provide the television signals of Stations KWGN-TV and KCIJ-TV of Kansas City, Mo., to Cable T.V. Systems, Inc., in Kinsley, Kans., and to Salina Cable T.V. System, Inc., in Pratt, Kans.)

6960-C1-P-71—Telecommunications, Inc. (New), C.P. for a new fixed station, Portland TOC at latitude 45°31'18" N., longitude 122°40'48" W. Frequency 11,985 on azimuth 78°38', frequencies 5989.7H, 6049.0H, 6108.3H, 6078.6V, 6137.9V, and 11,445 on azimuth 319°26'.

6961-C1-P-71—Telecommunications, Inc. (New), C.P. for a new fixed station, 2153 Northeast Sandy Boulevard, Portland, OR, at latitude 45°31'37" N., longitude 122°38'34" W. Frequency 10,795 on azimuth 258°37'.

6962-C1-MP-71—Telecommunications, Inc. (WHA 88). Modification of C.P. File No. 1399—C1-P-71 to add new point of communication and frequency 6390.0H and 6212.0 on azimuth 139°13'. Frequencies 6360.3V, 6330.7H, and 6182.4H on azimuths 12°24' and 98°00'. Location: 6 miles west-northwest of Scappoose, Ore.

6963-C1-MP-71—Telecommunications, Inc. (WHA 89). Modification of C.P. File No. 1400—C1-P-71 to add new point of communication and frequencies 6108.3, 6078.6, and 6137.9 on azimuth 344°37'. Frequency 6019.3 on azimuth 192°30'. Location: Silver Lake, Wash.

6964-C1-MP-71—Telecommunications, Inc. (KPR28). Modification of C.P. File No. 1401—C1-P-71 to add new point of communication and frequency 6271.4V on azimuth 165°25' and frequencies 6390.0H, 6330.7H, and 6182.4V on azimuth 38°23'. Location: Capitol Peak, near Olympia, Wash.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTTELEPHONE)—continued

- 6965-C1-MP-71—Telecommunications, Inc. (WHA 90). Modification of C.P. File No. 1402—C1-P-71 to add new points of communication and frequency 6019.3V on azimuth 218°57', frequency 11,585H and 11,545V on azimuths 140°20', 126°48', and 137°22', frequency 11,425H on azimuth 137°22'. Location: 621 West Galer, Seattle, WA.
- 6966-C1-P-71—Telecommunications, Inc. (New), C.P. for a new fixed station, 1530 Queen Anne Avenue North, Seattle, WA, at latitude 47°37'03" N., longitude 122°20'49" W. Frequency 10,895V on azimuth 320°21'.
- 6967-C1-P-71—Telecommunications, Inc. (New), C.P. for a new fixed station, 320 Aurora Avenue North, Seattle, WA, at latitude 47°37'14" N., longitude 122°20'31" W. Frequency 11,135V on azimuth 306°49'.
- 6968-C1-P-71—Telecommunications, Inc. (New), C.P. for a new fixed station, 100 Fourth Avenue North, Seattle, WA, at latitude 47°37'09" N., longitude 122°20'50" W. Frequency 10,815V on azimuth 317°22'.
- 6969-C1-MP-71—Telecommunications, Inc. (WHA 91). Modification of C.P. File No. 1403—C1-P-71 to add new point of communication and frequency 5960.0V on azimuth 278°55'. Frequencies 6108.3V, 6078.6H, and 6137.9H on azimuth 47°39'. Location: Mount Defiance, near Hood River, Ore.
- 6970-C1-MP-71—Telecommunications, Inc. (WHA 92). Modification of C.P. File No. 1404—C1-P-71 to add new point of communication and frequency 6212.0H on azimuth 228°20'. Frequencies 6360.3V, 6271.4V, and 6390.0V azimuth 66°15'. Location: Satus Peak, near Yakima, Wash.
- 6971-C1-MP-71—Telecommunications, Inc. (WHA 93). Modification of C.P. File No. 1405—C1-P-71 to add new points of communication and one frequency 5960.0 on azimuth 290°37' and 122°17'. Add frequencies 5989.7 and 6137.9 on azimuths 290°37', 283°38', 287°00', and 122°17'. Add frequency 5989.7 on azimuth 246°48', and add frequency 6078.6 on azimuth 287°00'. Location: Rattlesnake Hills, Wash.
- 6972-C1-P-71—Telecommunications, Inc. (New), C.P. for a new fixed station, Radio & Television Center, Yakima, Wash., at latitude 46°36'27" N., longitude 120°27'43" W. Frequency 6212.0V on azimuth 110°16'.
- 6973-C1-MP-71—Telecommunications, Inc. (WHA 94). Modification of C.P. File No. 1406—C1-P-71 to add new point of communication and frequency 6241.7 on azimuth 302°55'. Frequencies 6212.0, 6301.0, and 6390.0, on azimuth 76°44'. Location: Jump Off Joe Butte, 8 miles south of Kennewick, Wash.
- 6974-C1-MP-71—Telecommunications, Inc. (WHA 95). Modification of C.P. File No. 1407—C1-P-71 to add new point of communication and frequency 6019.3 on azimuth 257°39'. Frequencies 6108.3, 6019.3, and 6137.9 on azimuth 22°22'. Location: 5 miles east of Dayton, Wash.
- 6975-C1-MP-71—Telecommunications, Inc. (WHA 96). Modification of C.P. File No. 1408—C1-P-71 to add new point of communication and frequency 6212.0 on azimuth 202°45'. Frequencies 6360.3, 6271.4, and 6390.0 on azimuth 02°00'. Location: 5 miles south of Rosalia, Wash.
- 6976-C1-MP-71—Telecommunications, Inc. (WHA 97). Modification of C.P. File No. 1409—C1-P-71 to add new points of communication and change frequencies. Frequency 5989.7 changed to 11,625. Frequency 6040.0 changed to 11,305. Frequencies 5960.0 on azimuth 182°01', 11,385, 11,625, and 11,225 on azimuth 318°39', 11,385, 11,305, and 11,225 on azimuth 298°34', 11,385, 11,545, and 11,225 on azimuth 301°52'. Location: Browne Mountain, Wash.
- 6977-C1-P-71—Telecommunications, Inc. (New), C.P. for a new fixed station, West 500 Boone Avenue, Spokane, WA. Latitude 47°40'07" N., longitude 117°25'00" W. Frequency 11,015 on azimuth 138°35'.

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POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTTELEPHONE)—continued

(INFORMATIVE: In addition to facilities granted on C.P. Files Nos. 1397 through 1400—C1-P-71, applicant proposes to provide network service to ABC, NBC, and CBS in Portland, Ore., and ABC in Seattle, Yakima, and Spokane, Wash.)

6980-C1-P-71—Mountain Microwave Corp. (KZ151). C.P. to power split frequency 6004.5 MHz on azimuth 128°25'. Location: Medicine Butte, 6 miles north of Reliance, S. Dak., at latitude 43°57'55" N., longitude 99°36'11" W.

(INFORMATIVE: Applicant proposes to provide the television signal of Station WTCN-TV of Minneapolis, Minn., to Missouri Valley T.V. Co. in Chamberlain, S. Dak.)

6981-C1-P-71—American Television Relay, Inc. (KVH73). C.P. to power split frequencies 6212.0, 6271.3, 6330.7, and 6390.0 MHz on azimuth 22°27' and 190°12'. Location: 0.9 miles northwest of El Paso, Tex., at latitude 31°47'31" N., longitude 106°28'48" W.

(INFORMATIVE: Applicant proposes to provide the television signals of Stations KCOP-TV, KTTV, KTLA-TV, and KHJ-TV of Los Angeles, Calif., to TV Cable of Space City, Inc., in Alamogordo, N. Mex.)

6982-C1-P-71—Telephone Utilities Services Corp. (New), C.P. for a new station at north city limits of Taylor, Tex., latitude 30°34'51" N., longitude 97°23'46" W. Frequency 5937.8 MHz on azimuth 228°35'.

(INFORMATIVE: Applicant proposes to provide the television signal of Station KTVI-TV of Fort Worth to Capital Cable Co. Inc., in Austin, Tex., and Bergstrom Air Force Base. Applicant requests a waiver of 21.701(i) of the rules.)

7041-C1-P-71—Southwest Texas Transmission Co. (KKY46). C.P. to add frequency 6049.0 MHz on azimuth 344°33'. Location: Las Moras, 3 miles northeast of Bracketville, Tex., at latitude 29°21'33" N., longitude 100°23'11" W.

7042-C1-P-71—Southwest Texas Transmission Co. (KLP99). C.P. to add frequency 6390.0 MHz on azimuth 1°56'. Location: Wardlow Ranch, 10.5 miles northeast of Caria Valley, Tex., at latitude 29°51'28" N., longitude 100°32'40" W.

7043-C1-P-71—Southwest Texas Transmission Co. (KLR 36). C.P. to add frequency 5960.0 MHz on azimuth 347°34'. Location: Mayfield Ranch, 25 miles northwest of Rock Springs at latitude 30°11'12" N., longitude 100°31'54" W.

7044-C1-P-71—Southwest Texas Transmission Co. (KLR37). C.P. to add frequency 6390.0 MHz on azimuth 6°36'. Location: 0.5 miles east of Sonora, Tex., at latitude 30°34'25" N., longitude 100°37'49" W.

7045-C1-P-71—Southwest Texas Transmission Co. (New), C.P. for a new station 0.5 miles southeast of Eldorado, Tex., at latitude 30°51'11" N., longitude 100°35'34" W. Frequency 6049.0 MHz on azimuth 350°52'.

7046-C1-P-71—Southwest Texas Transmission Co. (New), C.P. for a new station 1.9 miles south of Christoval, Tex., at latitude 31°10'03" N., longitude 100°35'37" W. Frequency 6390.0 MHz on azimuth 39°57'.

7047-C1-P-71—Southwest Texas Transmission Co. (New), C.P. for a new station at south edge of Miles, Tex., at latitude 31°55'19" N., longitude 100°10'51" W. Frequency 6049.0 MHz on azimuth 40°03'.

7048-C1-P-71—Southwest Texas Transmission Co. (New), C.P. for a new station 21 miles north of Ballinger at latitude 32°00'28" N., longitude 99°46'00" W. Frequency 6301.0 MHz on azimuth 00°03'.

(INFORMATIVE: Applicant proposes to provide the television signal of Station KWEX-TV of San Antonio to Texas Cablevision in San Angelo, Tex., and Ballinger, Tex., and to LVO Cable, Inc., in Abilene, Tex. Applicant requests a waiver of section 21.701(i) of the rules.)

[PR Doc.71-8535 Filed 6-17-71;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP71-129]

CITIES SERVICE GAS CO.

Notice of Existing and Newly Proposed Curtailment Procedures

JUNE 14, 1971.

Take notice that on May 17, 1971, Cities Service Gas Co. (Cities) filed a written report, pursuant to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, stating that it " * * * plans to implement the Commission's statement of policy by (1) filling its storage fields to capacities sufficient to meet the anticipated 1971-72 heating season demands; (2) limiting storage withdrawals to meet 1971-72 peak day firm gas requirements; and (3) curtailing interruptible deliveries during the 1971-72 heating season."

While Cities does not anticipate making curtailments below contract demand, it states that the anticipated normal curtailments of interruptible deliveries during the 1971-72 heating season will be allocated in accordance with article 13 of the general terms and conditions of its FPC gas tariff (or the provisions relating to priority of service reflected on proposed Fifth Revised Tariff Sheets Nos. 32 and 33 in Exhibit 9 of Cities' rate filing of Apr. 22, 1971, in Docket No. RP71-106) and the service interruption provisions in its gas sales contract.

Article 13 of Cities' presently effective tariff sets forth the priorities of service which will govern when gas deliveries must be curtailed in order to meet firm service requirements or to replenish underground storage reservoirs. At such times the order of curtailment will be: (1) Interruptible deliveries under Rate Schedule LVS-2 (Large Volumes Special Industrial Service) for use in electric generating units having a maximum general nameplate rating of 450 megawatts or more; (2) interruptible deliveries made under Rate Schedule LVS-2 for use in electric generating units of less than 450 megawatts; (3) direct interruptible consumers and utilities receiving interruptible deliveries directly or indirectly under all rate schedules and contracts for industrial consumers and remaining deliveries under Rate Schedule LVS-2 to the maximum extent practicable, then interruptible deliveries for commercial consumers to the maximum extent practicable; and (4) simultaneous and equitable curtailment of firm deliveries.

In its rate filing of April 22, 1971, in Docket No. RP71-106, Cities has proposed new language to replace that presently contained in Article 13 discussed above. Cities tendered tariff sheets in Docket No. RP71-106, Fifth Revised Sheets Nos. 32 and 33, proposing the following order of priority of service: (1) Interruptible deliveries under Rate Schedule LVS-2 shall be curtailed first; (2) direct interruptible consumers and all utilities receiving interruptible deliveries directly or indirectly under all rate

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schedules and contracts for industrial consumers shall be first curtailed to the maximum extent practicable, and then interruptible deliveries for commercial consumers shall be curtailed to the maximum extent practicable; and (3) simultaneous and equitable curtailment of deliveries for firm consumers.

Both the presently effective tariff sheets and the tendered superseding tariff sheets in Docket No. RP71-106 provide that the utility customer of Cities shall report to Cities for each point of delivery as soon after the 22d day of the month as is practical, the amount of curtailment of natural gas deliveries sustained by each consumer receiving gas on an interruptible basis during each day curtailment is ordered by Cities.

As indicated above, Cities' existing curtailment policy is on file with the Commission and its proposed new curtailment policy is contained in tariff sheets presently under suspension pursuant to the Commission's order issued May 21, 1971, in Docket No. RP71-106. Although neither the existing nor the proposed curtailment policy is expected to be implemented within the foreseeable future, except to curtail interruptible deliveries during the 1971-72 heating season, any person desiring to be heard or to make any protest with respect to Cities' existing or proposed tariff provisions governing curtailments of service should on or before July 6, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules of practice and procedure. Cities' report, submitted pursuant to Commission Order No. 431, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8620 Filed 6-17-71;8:51 am]

[Docket No. CP71-286]

CITIES SERVICE GAS CO.

Notice of Application

JUNE 14, 1971.

Take notice that on June 1, 1971, Cities Service Gas Co. (applicant), Post Office Box 25128, Oklahoma City, OK 73125, filed in Docket No. CP71-286, an application pursuant to section 7(b) of the Natural Gas Act for an order of the Commission permitting and approving the abandonment of certain pipeline facilities, and pursuant to section 7(c) of the Natural Gas Act for a certificate of pub-

lic convenience and necessity authorizing the construction and operation of certain replacement facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks authorization to:

(1) Abandon in place approximately 2 miles of 5-inch pipeline and replace it with approximately 2 miles of 2-inch pipeline in the Lorraine Fuel System, Rice County, Kans.

(2) Reclaim approximately 4.3 miles of 16-inch pipeline and replace it with approximately 4.6 miles of 20-inch pipeline in the Kansas City 16-inch pipeline, Johnson County, Kans.

(3) Abandon in place approximately 1.6 miles of 10-inch pipeline and replace it with approximately 1.6 miles of 6-inch pipeline in the Purcell 10-inch pipeline, Jasper County, Mo.

(4) Abandon in place approximately 1.82 miles of 2-inch pipeline and replace it with approximately 1.82 miles of 3-inch gas pipeline in the Thayer 2-inch pipeline, Wilson County, Kans.; and

(5) Abandon in place approximately 0.07 mile of 8-inch pipeline and 3.2 miles of 6-inch pipeline and abandon by reclaim approximately 0.04 mile of 3-inch pipeline in the Rainbow Lateral, Cowley County, Kans.

Applicant states that the facilities to be abandoned are obsolete and the facilities proposed as replacements will be more efficient and economical. The total estimated cost of the facilities to be constructed as proposed herein is \$529,590, which cost applicant states will be financed from cash on hand. The estimated cost of the proposed abandonment is \$27,651.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience

and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8621 Filed 6-17-71;8:51 am]

[Docket No. CP71-190 (Phase I)]

COLORADO INTERSTATE GAS CO.

Notice of Petition To Amend

JUNE 14, 1971.

Take notice that on June 3, 1971, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (petitioner), Post Office Box 1087, Colorado Springs, CO 80901, filed in Docket No. CP71-190 (Phase I) a petition to amend the order of the Commission issued in Phase I of said docket on May 19, 1971, granting a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act by authorizing the construction and operation of certain additional natural gas storage and sales facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order heretofore issued in Phase I of Docket No. CP71-190 authorized the construction and operation of natural gas storage and pipeline facilities to increase the peak day design capacity of petitioner's transmission system by 90,000 Mcf per day. Petitioner states that its customers have now submitted their estimated natural gas requirements for the 1971-72 heating season and that these estimates exceed the authorized increased capacity by 46,000 Mcf per day. Therefore, petitioner proposes to increase further the peak day capacity of its Fort Morgan storage system. The facilities proposed herein are:

Fort Morgan storage facilities:
(1) Various additional gathering pipelines consisting primarily of approximately 0.5 mile of 10-inch pipeline.
(2) A fourth contactor, with a normal capacity of 65,000 Mcf per day, in the central dehydration plant.

(3) An additional scrubber and large meter runs at Watkins Junction.
(4) Approximately 9 miles of 10-inch pipeline loop between the Fort Morgan Storage Dehydration Plant and Union Oil Co.'s Adena Gasoline Plant.

Transmission and sales facilities:
(1) A total of 6,000 compressor horsepower at the Wamsutter Compressor Station in Wyoming in lieu of the 4,000-horsepower unit originally authorized.
(2) Approximately 6 miles of 8-inch pipeline loop on the North Pueblo Sales Lateral serving Pueblo, Colo.

(3) New meter runs at the Ault Meter Station north of Greeley, Colo., to increase the peak day capacity of that station.

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(4) A line tap on the 20-inch Wyoming line approximately 24 miles north of Denver for emergency deliveries to Western Slope Gas Co.

Petitioner also requests that the authorization for gathering pipeline, heater separator, and other facilities to connect Well No. 6 in the south reservoir of the storage field be deleted. And, pursuant to section 7(b) of the Natural Gas Act, petitioner seeks permission and approval to abandon an obsolete 385-horsepower compressor unit formerly used to inject natural gas into the Fort Morgan Storage Reservoir.

Applicant states that the total estimated cost of the additional facilities is \$786,863. The increased compressor horsepower at the Wamsutter station results from the selection of turbine-driven centrifugal compressor units, which are estimated to be less expensive to install than the units proposed in the initial application. Therefore, the net increase in the total cost of this project is \$434,548.

Any person desiring to be heard or to make any protest with reference to said petition to amend should, on or before July 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8622 Filed 6-17-71;8:51 am]

[Project No. 2406]

DUKE POWER CO.

Notice of Application for Approval of Recreational Use Plan for Constructed Project

JUNE 14, 1971.

Public notice is hereby given that application for approval of Exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a-825r) by Duke Power Co. (correspondence to: Carl Horn, Jr., Vice President, Duke Power Co., 422 South Church Street, Charlotte, NC 28201) as part of the license for the Saluda Project No. 2406, located on the Saluda River in Greenville and Pickens Counties, S.C.

According to the Exhibit R, the reservoir shoreline is extensively developed by private homeowners. Very little land is available for recreational development and heavy siltation of the reservoir also limits recreation potential.

Two commercial recreation areas are located partially within the project boundary and both are open to the public. Facilities at these areas include a marina and three boat launching ramps.

Licensee proposes to develop a 5-acre tract for picnicking and bank fishing near the dam. Facilities would include an access road, parking area for 35 cars, a picnic shelter, and 12 picnic tables. Existing trails would serve as access to the reservoir from the picnic area. Restroom facilities are available nearby.

Licensee states that it will continue to cooperate with appropriate agencies in providing additional facilities if future needs should so dictate.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8623 Filed 6-17-71;8:51 am]

[Docket No. CP71-283]

EL PASO NATURAL GAS CO.

Notice of Application

JUNE 14, 1971.

Take notice that on May 28, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79999, filed in Docket No. CP71-283 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain pipeline facilities located in El Paso County, Tex., and Pima County, Ariz., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to abandon by sale to Southern Union Gas Co. approximately 18 miles of 16-inch pipeline, with appurtenances, commencing at the point of connection with the outlet of applicant's Clint Junction Meter Station and terminating at a point located within the city limits of El Paso, all in El Paso County, Tex. Applicant also proposes to transfer without cost to American Smelting & Refining Co. approximately 870.6 feet of 8 $\frac{3}{4}$ -inch pipeline, with appurtenances, commencing at a point of connection with the outlet of applicant's American Smelting & Refining Co. Meter Station located downstream of milepost 8.6 on appli-

cant's 16-inch main transmission pipeline and terminating at a point within the boundary of American Smelting & Refining Co.'s smelter located within the city limits of El Paso, Tex.; and to Tucson Gas & Electric Co. approximately 0.54 mile of 6 $\frac{3}{4}$ -inch pipeline, with appurtenances, commencing at a point of connection with applicant's 10 $\frac{3}{4}$ -inch Tucson-Phoenix mainline at milepost 107.9 and terminating at a point of connection with the distribution system of Tucson Gas & Electric Co., located within the city limits of Tucson, Pima County, Ariz.

The application states that the pipelines proposed to be abandoned herein now serve the function of distribution facilities rather than transmission facilities and that the proposed abandonment will eliminate applicant's need to own, maintain, and operate transmission facilities within congested areas.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8624 Filed 6-17-71; 8:51 am]

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[Docket No. E-7512, etc.]

ILLINOIS MUNICIPAL UTILITIES ASSOCIATION, ET AL.

Notice of Postponement of Prehearing Conference

JUNE 14, 1971.

Illinois Municipal Utilities Association v. Illinois Power Co., Central Illinois Public Service Co., and Union Electric Co., Docket No. E-7512; Municipalities of Peru et al. v. Illinois Power Co., Central Illinois Public Service Co., and Union Electric Co., Docket No. E-7514.

On June 1, 1971, Illinois Power Co. filed a motion requesting a postponement of the prehearing conference set for June 22, 1971, by order issued May 19, 1971, in the above-designated matter, to any date after June 30, 1971. The motion states that counsel for complainants, the other respondents and the Commission Staff have no objection to the requested postponement.

Upon consideration, notice is hereby given that the prehearing conference in the above-designated proceeding is postponed to July 13, 1971, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

KENNETH F. PLUMB,
Acting Secretary.
[FR Doc. 71-8625 Filed 6-17-71; 8:51 am]

[Docket No. CP67-35]

TENNESSEE GAS PIPELINE CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

JUNE 14, 1971.

Take notice that on June 7, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), Post Office Box 2511, Houston, TX 77001, and Transcontinental Gas Pipe Line Corp. (Transco), Post Office Box 1396, Houston, TX 77001, jointly filed in Docket No. CP67-35 a petition to amend the orders of the Commission issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket by authorizing the exchange of natural gas between the parties at an additional point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of October 11, 1966 (36 FPC 740), as amended by order issued February 17, 1970 (43 FPC 190), in said docket, authorized the exchange of natural gas between petitioners, by the use of existing facilities, at various points on their respective systems. Petitioners propose herein to expand this exchange service by the inclusion of an additional delivery point at a common source of supply, the Amoco Production Co.'s Luby

Gasoline Plant in Nueces County, Tex. Petitioners state that the addition of this new delivery point will expand the ability of either pipeline to assist the other in the event of operating problems or emergencies on either of the systems.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8626 Filed 6-17-71; 8:52 am]

[Docket No. RP71-22, etc.]

OHIO FUEL GAS CO.

Order Accepting Revised Tariff Sheets for Filing Subject to Refund and Suspending Revised Tariff Sheets Subject to Hearing and Refund

JUNE 11, 1971.

The Ohio Fuel Gas Co. (Ohio Fuel) on May 6, 1971, and on May 11, 1971, tendered for filing revised tariff sheets which would increase jurisdictional rates over and above those which became effective April 16, 1971, subject to refund in Docket No. RP71-22.¹

The increased rates thus tendered on May 6 in Docket No. RP71-132 are proposed to become effective as of June 1, 1971. Ohio Fuel states they are intended solely to recover increases in cost of gas purchased from two of its suppliers, namely Texas Eastern Transmission Corp. in Docket No. RP71-93, and Texas Gas Transmission Corp. (Texas Gas) in Docket No. RP70-14, et al. which increases became effective June 1, 1971.

The increased rates thus tendered on May 11, in Docket No. RP71-133 are proposed to become effective as of June 12, 1971. Ohio Fuel states that they are intended solely to recover an increase in cost of gas purchased from its supplier, Panhandle Eastern Pipe Line Co. (Panhandle) in Docket No. RP71-108, proposed by Panhandle to become effective May 27, 1971. However, by order

¹ The revised tariff sheets tendered for filing on May 6 and May 11 are listed in Appendix A hereto.

issued May 26, the Commission suspended the Panhandle increase until October 27, 1971.

Ohio Fuel states that both rate filings will be subject to reduction or refund in accordance with provisions of the Commission's orders in Docket No. RP71-22 and the increased rates will be subject to its agreement and undertaking filed therein to comply with such orders in the event any portion of the increased rates and charges may be found by the Commission to be unjustified. In support of each of its rate filings, Ohio Fuel submitted reports showing its sales for the 12-month period ended June 30, 1970, as adjusted in Docket No. RP71-22, and its cost of gas supply calculated so as to reflect the increased supplier rates specified above as the basis for rate filings on May 6 and May 11, respectively. In view of the nature of the filings, Ohio Fuel requests waiver of the data and notice requirements of § 154.63 of the Commission's regulations under the Natural Gas Act.

A review of Ohio Fuel's rate filing of May 6, and May 11, indicates that although the company does not currently have an authorization to track its suppliers' rate changes, the filings do indicate that the requirements of § 154.63 are met insofar as they propose to incrementally increase their rates to reflect solely increases in gas supplier rates over and above those reflected in a pending rate proceeding. Any issues or problems arising therefrom may be dealt with in such proceeding.

The May 11 rate filing to reflect Panhandle's proposed increased rates, however, should be suspended coextensively with the suspension of the Panhandle rate filing discussed above. Moreover, in view of the fact that both rate filings depend upon and include by reference the supporting data and cost support for Ohio Fuel's increased rates in Docket No. RP71-22, they should be consolidated with that proceeding for purposes of hearing and decision.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that Ohio Fuel's increased rate filing on May 6, 1971, be accepted for filing subject to refund and all orders of the Commission heretofore issued or to be issued in Docket No. RP71-22, and should be consolidated with the proceedings in that docket for purposes of hearing and decision.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that Ohio Fuel's increased rate filing on May 11, 1971, be suspended and its use deferred as herein provided and that it be consolidated for hearing and decision with its rate filing now subject to hearing and decision in Docket No. RP71-22.

(3) Good cause has been shown for granting the waiver of the data and notice requirements of section 154.63 of the Commission's regulations under the

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Natural Gas Act as requested by Ohio Fuel.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), Ohio Fuel's increased rate filings on May 6 and May 11, 1971, are hereby consolidated for purposes of hearing and decision with the proceedings in Docket No. RP71-22, and are subject to all orders heretofore or hereafter issued by the Commission in that docket.

(B) The revised tariff sheets filed by Ohio Fuel on May 6, 1971, are hereby accepted for filing, subject to refund and orders of the Commission as provided herein.

(C) Pending such hearing and decision thereon, Ohio Fuel's revised tariff sheets filed on May 11, 1971, listed in appendix A hereto, are suspended and the use thereof deferred until October 27, 1971, and until such further time as Panhandle's proposed increased rates are made effective as provided by the Commission in Docket No. RP71-108.

(D) Ohio Fuel's requests for the waiver of the data and notice requirements of § 154.63 of the Commission's regulations under the Natural Gas Act are granted.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A—THE OHIO FUEL GAS CO., FPC GAS TARIFF, FOURTH REVISED VOLUME NO. 1

Revised tariff sheets filed May 6, 1971:

Fourteenth Revised Sheet No. 6, Superseding Substitute 13th Revised Sheet No. 6.
Fourteenth Revised Sheet No. 7, Superseding Substitute 13th Revised Sheet No. 7.
Fourteenth Revised Sheet No. 8, Superseding Substitute 13th Revised Sheet No. 8.
Thirteenth Revised Sheet No. 10, Superseding Substitute 12th Revised Sheet No. 10.
Fourteenth Revised Sheet No. 11, Superseding Substitute 13th Revised Sheet No. 11.
Fourteenth Revised Sheet No. 12, Superseding Substitute 13th Revised Sheet No. 12.
Fourteenth Revised Sheet No. 13, Superseding Substitute 13th Revised Sheet No. 13.
Fifteenth Revised Sheet No. 15, Superseding Substitute 14th Revised Sheet No. 15.
Fourteenth Revised Sheet No. 16, Superseding Substitute 13th Revised Sheet No. 16.
Fourteenth Revised Sheet No. 17, Superseding Substitute 13th Revised Sheet No. 17.
Fifteenth Revised Sheet No. 20, Superseding Substitute 14th Revised Sheet No. 20.
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[FR Doc. 71-8608 Filed 6-17-71; 8:50 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

NOTICE OF STATE AGREEMENTS

Availability for Inspection

In accordance with 29 CFR 1901.4 (36 F.R. 7007, April 13, 1971), notice is hereby given that pursuant to section 18(h) of the Williams-Steiger Occupational Safety and Health Act (84 Stat. 1609) and 29 CFR Part 1901 (36 F.R. 7006), the Secretary of Labor has entered into agreements, to expire on or before December 28, 1972, with the following States:

Alaska.	Missouri.
Arizona.	Nebraska.
California.	New Hampshire.
Colorado.	New Jersey.
Delaware.	New York.
District of Columbia.	North Carolina.
Hawaii.	North Dakota.
Idaho.	Oregon.
Illinois.	Pennsylvania.
Iowa.	South Carolina.
Maine.	Texas.
Maryland.	Virginia.
Michigan.	Washington.
Minnesota.	Wisconsin.

The agreements permit the States to continue to enforce their occupational safety and health standards under the conditions specified therein.

Copies of all the agreements are available for public inspection and copying, during normal business hours, at the National Office of the Occupational Safety and Health Administration, 14th Street and Constitution Avenue NW., Washington, DC 20310. In addition, each of the following regional offices of the Administration will make available for

public inspection and copying, during normal business hours, copies of the agreement with each of the States, named in the opposite column.

Regional Office and Address	State
Region I—Boston: John F. Kennedy Federal Bldg., Government Center, 17th Floor, Room 1700-C, Boston, MA 02203.	Maine, New Hampshire.
Region II—New York: 341 9th Ave., Room 920, New York, NY 10001---	New Jersey, New York.
Region III—Philadelphia: Penn Square Bldg., Room 410, Juniper and Filbert Sts., Philadelphia, PA 19107.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia.
Region IV—Atlanta: Room 311, 1371 Peachtree St. NE., Atlanta, GA 30309.	North Carolina, South Carolina.
Region V—Chicago: 848 Federal Office Bldg., 219 South Dearborn St., Chicago, IL 60604.	Illinois, Michigan, Minnesota, Wisconsin.
Region VI—Dallas: Room 730 C, Mayflower Bldg., 411 North Akard St., Dallas, TX 75201.	Texas.
Region VII—Kansas City: 1906 Federal Office Bldg., 911 Walnut St., Kansas City, MO 64106.	Iowa, Missouri, Nebraska.
Region VIII—Denver: Denver Federal Center, Room 21-S, Bldg. 53, Kipling and 6th Ave., Denver, CO 80225.	Colorado, North Dakota.
Region IX—San Francisco: 10353 Federal Bldg., 450 Golden Gate Ave., Box 36017, San Francisco, CA 94102.	Arizona, California, Hawaii.
Region X—Seattle: 1804 Smith Tower Bldg., 506 2d Ave., Seattle, WA 98104.	Alaska, Idaho, Oregon, Washington.

Signed at Washington, D.C., this 15th day of May 1971.

GEORGE C. GUENTHER,
Assistant Secretary of Labor
for Occupational Safety and Health.

[FR Doc.71-8629 Filed 6-17-71; 8:52 am]

Office of the Secretary ALABAMA

Notice of Availability of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, title II of Public Law 91-373, establishes a program of extended unemployment compensation payable when unemployment is high (according to indicators set forth in the law) to unemployed workers who have received all of the regular compensation to which they are entitled. Pursuant to section 203(b) (2) of the Act, notice is hereby given that Tom J. Ventress, Director of the Department of Industrial Relations, has determined that there was a State "on" indicator in Alabama for the week beginning March 21, 1971, and that an extended benefit period began in the State with the week beginning April 11, 1971.

Signed at Washington, D.C., this 14th day of June 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-8628 Filed 6-17-71; 8:52 am]

INTERSTATE COMMERCE COMMISSION

COOPER TRANSFER CO., INC., ET AL.

Assignment of Hearings

JUNE 15, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-55889 Sub 37, Cooper Transfer Co., Inc., application dismissed.
FD 26208, Chicago & North Western Railway Co. Abandonment between Pine Island and Rochester, Minn., assigned July 14, 1971, postponed to July 26, 1971, in Probate Hearing Room, Olmstead County Court-house, 515 Southwest Second Street, Rochester, MN.
MC-F-10960, Briggs Transportation Co.—Purchase (Portion)—Ringsby Truck Lines, Inc., and MC 52709 Sub 313, Ringsby Truck Lines, Inc., assigned July 19, 1971, at Denver, Colo., postponed indefinitely.

MC 134861 Sub 2, Dickenson Lines, Inc., assigned July 14, 1971, at St. Paul, Minn., in Room 767, 316 Roberts Street.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71-8631 Filed 6-17-71; 8:52 am]

[Notice 703]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 15, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72905. By order of June 8, 1971, the Motor Carrier Board approved the transfer to Inter-Island Garment Carriers, Inc., Jersey City, N.J., of certificate No. MC-74134 (Sub No. 1), issued to Roxy Garment Del., Inc., Jersey City, N.J., authorizing the transportation of: Clothing bags, furniture, chair pads, hangers, plastic articles, and advertising materials and supplies, between plantsite of Protex Products Co., Inc., Kearny, N.J., and New York, N.Y. George A. Olsen, Practitioner, 69 Tonnele Avenue, Jersey City, NJ 07306.

No. MC-FC-72912. By order of June 8, 1971, the Motor Carrier Board approved the transfer to Hamman Stage Lines, Inc., Salem, Oreg., of certificates Nos. MC-31296, MC-31296 (Sub No. 1), MC-31296 (Sub No. 2), and MC-31296 (Sub No. 5), issued to Floyd Hamman, doing business as Hamman Stage Lines, Salem, Oreg., authorizing the transportation of: Passenger and their baggage, and express, in the same vehicle, between specified points in Oregon. John G. McLaughlin, Attorney, 726 Blue Cross Building, Portland, Oreg. 97201.

No. MC-FC-72922. By order of June 11, 1971, the Motor Carrier Board approved the transfer of Del Transport, Inc., Providence, R.I., of certificate No. MC-26639, issued to Fine Bros. of Rehobeth, Inc., doing business as Rollins Express, Rehobeth, Mass., authorizing the transportation of general commodities, with the usual exceptions, but including certain specified commodities, between specified points in Massachusetts and Rhode Island. Frank J. Weiner, Attorney, 6 Beacon Street, Boston, MA 02108.

No. MC-FC-72929. By order of June 9, 1971, the Motor Carrier Board approved the transfer to Arlie King and Laverne King, doing business as King Fuel Co., Box 27, Route No. 3, Marion, Ill. 62959, of the operating rights in permit No. MC-117545, issued December 17, 1959, to J. L. Stroud, doing business as J. L. Stroud Transport, Post Office Box 411, Marion, IL 62959, authorizing the transportation of petroleum and petroleum products, in bulk, in tank vehicles, as defined by the Commission, from the site of the storage facilities of Phillips Petroleum Co. at Texas-Eastern Pipeline Terminal, near Ulmo, Mo., to Marion, Herrin, Murphysboro, and Carbondale, Ill.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71-8632 Filed 6-17-71; 8:52 am]

[SPECIAL PERMISSION NO. 71-5600]

RETURNED SHIPMENTS; WAIVE RULE

At a session of the Interstate Commerce Commission, Special Permission Board, held at its office in Washington, D.C., on the 4th day of June 1971.

It appearing, that from time to time shipments moved by rail carriers are rejected or refused in whole or in part at destination and returned to original shipping point;

It further appearing, that rail carriers and their tariff publishing agents publishing and filing tariffs under the Commission's Tariff Circular No. 20, as amended, from time to time find it necessary for economic, competitive, or other valid reasons to provide that the rate applicable in the reverse direction will apply on the return movement of a shipment, or part thereof, rejected or refused by a consignee at a destination for reasons other than the carrier's error and returned to the original shipping point;

It further appearing, that to specifically publish rates applicable on rejected or returned shipments from and to each point from and to which such a shipment may be tendered for movement in the manner required by this Commission's Tariff Circular No. 20, as amended, would result in voluminous publication, serve no useful purpose, and would add to tariff complications:

It further appearing, that the publication of a rule providing for the application of rates on returned movements in a governing rules tariff or in the rate tariff would be a reasonable method of providing such rate application, and that relief from Rule 4(i) of Tariff Circular No. 20, as amended, is necessary to publish such a rule;

And it further appearing, that the general public would not be adversely affected by the issuance of such general special permission.

And for good cause shown;

It is ordered, That:

1. Rail carriers and their tariff publishing agents, be, and they are hereby, authorized to depart from the terms of Rule 4(i) of Tariff Circular No. 20, as amended, to publish rules upon not less than thirty (30) days' or other lawful notice providing that the rate applicable in the reverse direction will apply on the return movement of a whole or partial shipment rejected or refused at a destination and returned to original shipping point.

2. Rules published hereunder may provide that a refused or rejected shipment can be tendered for return to original shipping point either before or after being partially or completely unloaded. Where such rules provide for the return of a shipment after it is unloaded, the rule must also provide that such freight must be tendered for return within a specified period of time (not to exceed ninety (90) days) from the date it was delivered.

3. Rules published hereunder must provide that the rate to apply on the return movement will be the rate applicable in the reverse direction (specifying either that it is the rate in effect on the date of the initial movement or the rate in effect on the date the shipment is tendered for return) or the rate otherwise applicable for such return movement, if resulting in lower charges. If the published minimum or other governing provision attached to the rate is not to be applied, the rule must be clear as to what applies.

4. Routing for the return movement must be the reverse of the route over which the original shipment moved, except where emergency routing orders require otherwise.

5. Provisions for the return of a whole shipment and those for the return of a partial shipment must be published in separate rules or in separate sections of the same rule.

6. The rule relief granted herein expires with June 4, 1976.

7. Publications issued and filed hereunder shall bear the following notation: "Rule 4(i) of the tariff circular waived; I.C.C. permission No. 71-5600."

8. This permission does not modify any outstanding formal orders of the Commission, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

And it is further ordered, That notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C.

By the Commission, Special Permission Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8633 Filed 6-17-71; 8:52 am]

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Title 3—The President

PROCLAMATION 4060

World Law Day, 1971

By the President of the United States of America

A Proclamation

From the time more than 25 centuries ago when a Hebrew prophet wrote, "The Lord is our judge . . . our lawgiver . . . our king; he will save us," Western civilization's sense of salvation has been intimately related to its vision of the universal rule of law in the affairs of men. We in the United States have special reason to cherish this vision, for the freedom, the order, and the abundance which we enjoy are fruits of its application. The great principle that the people are sovereign, and that the law they make is supreme, has operated with such signal success in our country's history that Americans are turning increasingly to the compelling logic of putting it to work in the world community as well. People of many other nations and cultures are doing likewise.

At the same time technology is shrinking the globe so that the sense of common destiny and common danger, the sense that "my country is the world; and my countrymen are mankind," is no longer fancy but compelling fact for the whole human race. More and more, it becomes a matter of prime importance that principle and not mere power should govern in this country called Earth.

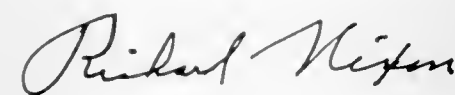
We can see many heartening evidences that law is becoming stronger and more just around the world under the pressures which reason and necessity exert. Within the nations, human rights and ecological wisdom continue to gain stature in the law. Among the nations, security and cooperation—on every front from space to the seabeds—are being enhanced through negotiations, treaties, and conventions. The United Nations is entering its second quarter of a century, and many other international organizations are working effectively through and for world law.

Also playing a constructive role are those organizations which are made up not of countries but of individual men and women, joined together in the interest of the law as citizens of their countries and of the world. One of the most important of these is the World Peace Through Law Center, founded in 1963, which this summer will hold its Fifth World Conference on World Peace Through Law at Belgrade, Yugoslavia. July 21, the date when thousands of lawyers and jurists from

around the world will convene for this conference, will be observed in many nations as World Law Day—an observance in which I know the American people, a people who love the law, will want to join.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim July 21, 1971, as World Law Day. I call on every American to reflect that day on the sacredness of the law in American tradition. And I urge each American to join with millions of his fellow men around the world in heightened recognition of the importance of the rule of law in international affairs to our goal of a stable peace.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.



[FR Doc. 71-8723 Filed 6-17-71; 1:38 pm]

EXECUTIVE ORDER 11599

Establishing a Special Action Office for Drug Abuse Prevention

Drug abuse has assumed alarming proportions in recent times and its spread must be reversed forthwith. I have sent a special message to the Congress urging the prompt enactment of legislation creating a new Special Action Office for Drug Abuse Prevention within the Executive Office of the President. This office will mobilize and concentrate the comprehensive resources of the Federal Government in an all out campaign to meet this threat. However, immediate action must be taken to place the leadership of our drug abuse effort under a single official who will coordinate existing Federal drug abuse programs and activities, and develop plans for increasing our future efforts.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

ESTABLISHMENT OF THE OFFICE

SECTION 1. There is hereby established in the Executive Office of the President a Special Action Office for Drug Abuse Prevention. The Office shall be under the immediate supervision and direction of a Director, who shall be designated by the President.

FUNCTIONS OF THE DIRECTOR

SEC. 2 (a) The Director shall be the special representative of the President with respect to all Federal drug abuse training, education, rehabilitation, research, treatment, and prevention programs and activities (exclusive of law enforcement activities and legal proceedings).

(b) The Director shall prescribe policies, guidelines, standards, and criteria for the maximum achievement of the goals and objectives for those programs and activities. To the maximum extent permitted by law, Federal officers and Federal departments and agencies shall cooperate with the Director in carrying out his functions under this Order and shall comply with the policies, guidelines, standards, and procedures prescribed by the Director pursuant to this subsection.

(c) In addition, the Director shall—

- (1) develop comprehensive plans and programs to combat drug abuse including goals and objectives therefor;
- (2) assure that all Federal drug abuse programs and activities are properly coordinated;
- (3) evaluate all such programs;
- (4) advise the heads of departments and agencies of his findings and recommendations, when appropriate;
- (5) make recommendations to the Director of the Office of Management and Budget concerning proposed funding of drug abuse programs;
- (6) establish a clearing house for the prompt consideration of drug abuse problems brought to his attention by Federal departments and

agencies and by other public and private entities, organizations, agencies, or individuals; and

(7) report to the President, from time to time, concerning the foregoing.

ADMINISTRATION

SEC. 3 (a) Expenses of the Special Office for Drug Abuse Prevention shall be paid from the appropriation under the heading "Special Projects," in the Executive Office Appropriation Act, 1971, or any corresponding appropriations which may be made for subsequent fiscal years or from such other appropriated funds as may be available therefor.

(b) The General Services Administration shall provide, on a reimbursable basis, such administrative services and facilities for the Director and the Special Action Office for Drug Abuse Prevention as the Director may request.

Richard Nixon

THE WHITE HOUSE,
June 17, 1971.

[FR Doc. 71-8778 Filed 6-18-71; 12:05 pm]

NOTE: For the text of the President's Message to the Congress requesting legislative authority and funds, and related remarks, see Weekly Comp. of Pres. Docs., Vol. 7, No. 25, issue of June 21, 1971.

Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS

Notice is hereby given that the U.S. Department of Agriculture is issuing revised and recodified Regulations Governing the Voluntary Inspection and Grading of Egg Products (7 CFR Part 55) under the authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627).

Statement of considerations. On May 22, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9307-9314) in accordance with the requirements of 5 U.S.C., section 553, that the Department was considering revising, recodifying and changing the title of the Regulations Governing the Inspection of Eggs and Egg Products (7 CFR Part 55).

All interested persons were requested to file their data, views, or arguments with the Hearing Clerk by June 1, 1971. No comments were received.

The revised regulations are being issued as proposed, with minor editorial changes for the sake of clarity.

The portion of the Egg Products Inspection Act (21 U.S.C. 1031-1056) and the regulations issued pursuant thereto pertaining to mandatory inspection of egg products (7 CFR Part 59) will become effective July 1, 1971. The Act and those regulations will cover nearly all the inspection activities which have been covered by the present voluntary regulations (7 CFR Part 55). However, there will be a need for a voluntary program for certain types of inspections and for the use of official USDA inspection identification for some products containing eggs as an ingredient. Some of these types of inspections are:

1. The use of Department personnel or laboratories for certain laboratory tests and analyses;

2. Sampling or inspection functions which are requested outside the official egg products plant;

3. Inspections, certifications, examinations, or specification-type gradings, and other inspections which may be requested by an egg products plant, which are in addition to the normal inspection requirements for the processing or production of a wholesome egg product;

4. A voluntary inspection program and official identification of certain cate-

gories of foods containing eggs which are exempted as an egg product requiring inspection under the Egg Products Inspection Act;

5. Test weighing or organoleptic examination of products outside the official plant when requested by interested persons.

The revised Regulations Governing the Voluntary Inspection of Egg Products (7 CFR Part 55) are as follows:

Subpart A—Inspection and Grading of Egg Products

DEFINITIONS

Sec. 55.1 Meaning of words.
55.2 Terms defined.
55.5 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

ADMINISTRATION

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55.22 Where service is offered.
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55.30 Licensed graders and inspectors.
55.40 Suspension of license; revocation.
55.50 Cancellation of license.
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55.70 Identification.
55.80 Political activity.
55.90 Authority and duties of inspectors performing service on a resident basis.
55.95 Facilities to be furnished for use of graders and inspectors in performing service on a resident inspection basis.

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55.100 Who may obtain service.
55.120 Authority of applicant.
55.130 How application for service may be made; conditions of resident service.
55.140 Application for inspection in official plants; approval.
55.150 When application may be rejected.
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55.170 Order of service.
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55.240 Report of violations.
55.260 Reuse of containers bearing official identification prohibited.

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55.310 Form of official identification symbol and inspection mark.
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55.330 Unauthorized use or disposition of approved labels.
55.340 Supervision of marking and packaging.
55.350 Accessibility of product.
55.360 Certificates.

Sec. 55.370 Certificate issuance.
55.380 Disposition of certificates.
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APPEALS

55.400 Who may request an appeal grading or inspection or review of a grader's or inspector's decision.
55.410 Where to file an appeal.
55.420 How to file an appeal.
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55.440 Who shall perform the appeal.
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FEES AND CHARGES

55.500 Payment of fees and charges.
55.510 Fees and charges for service other than on a continuous resident basis.
55.520 Fees for additional copies of certificates.
55.530 Travel expenses and other charges.
55.550 Laboratory analysis fees.
55.560 Charges for continuous inspection and grading service on a resident basis.
55.570 Fees for service performed under cooperative agreement.

SANITARY AND PROCESSING REQUIREMENTS

55.600 General.
55.650 Inspection and grading.

Subpart B—Official U.S. Standards for Palatability Scores for Dried Whole Eggs

55.800 Preparation of samples for palatability test.
55.820 Palatability scores for dried whole eggs.

Authority: The provisions of this Part 55 issued under Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627).

Subpart A—Inspection and Grading of Egg Products

DEFINITIONS

§ 55.1 Meaning of words.

Under the regulations in this part, words in the singular shall be deemed to import the plural and vice versa, as the case may demand.

§ 55.2 Terms defined.

For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively:

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.), or any other Act of Congress conferring like authority.

"Administrator" means the Administrator of the Consumer and Marketing Service (C&MS) of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may

hereafter be delegated the authority to act in his stead.

"Applicant" means any interested party who requests any grading or inspection service, or appeal grading or appeal inspection, with respect to any product.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, species, or method or processing.

"Condition" means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability; or any condition, including, but not being limited to, the processing, handling, or packaging which affects such product.

"Department" means the U.S. Department of Agriculture.

"Inspection/grading" means (1) the act of determining, according to the regulations, the class, quality, quantity, or condition of any product by examining each unit thereof or a representative sample drawn by a grader; (2) the act of issuing a certificate; or (3) the act of identifying, when requested by the applicant, any product by means of official identification pursuant to the Act and this part.

"Inspection and grading certificate" or "certificate" means a statement, either written or printed, issued by a grader or inspector pursuant to the Act and this part, relative to the class, quality, quantity, and condition of products.

"Inspector/grader" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the Act and this part, to shippers of products and other interested parties the class, quality, quantity, and condition of such products.

"Interested party" means any person financially interested in a transaction involving any grading, inspection, or appeal grading or inspection of any product.

"National Supervisor" means (1) the officer in charge of the service of C&MS, and (2) such other employee of C&MS as may be designated by him.

"Office of grading" means the office of any grader or inspector.

"Official plant" means any plant in which the facilities and methods of operation therein have been found by the Administrator to be suitable and adequate for grading service or inspection in accordance with this part and in which such service is carried on.

"Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

"Product" or "products" means eggs (whether liquid, frozen, or dried), egg products and any food product which is prepared or manufactured and contains eggs as an ingredient.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Regional Director" means any employee of the Department in charge of the service in a designated geographical area.

"Regulations" means the provisions in this part.

"Sampling" means the act of taking samples of any product for grading or inspection.

"Secretary" means the Secretary of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"Service" means (1) any grading or inspection, in accordance with the Act and the regulations in this part, of any product, (2) supervision, in any official plant, of the preparation or packaging of any product, or (3) any appeal grading or appeal inspection of any previously graded or inspected product.

"Shell eggs" means the shell eggs of the domesticated chicken, turkey, duck, goose, and guinea.

§ 55.5 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the sampling, inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part and any report made by an authorized person prescribed therefor by § 148q.1a(a)(1), person of services performed pursuant to this part.

(c) "Official mark" means the grade mark, inspection mark, and any other mark or symbol formulated pursuant to the regulations in this part, stating that the product was graded or inspected, or for the purpose of maintaining the identity of the product.

(d) "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a printed label, or other method as approved by the Administrator for the purpose of applying any official mark or other identification to any product of the packaging material thereof.

ADMINISTRATION

§ 55.10 Authority.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act and this part. The Administrator is authorized to waive for a limited period any particular provisions of the regulations in this part to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations in this part.

GENERAL

§ 55.20 Kinds of services available.

The regulations in this part provide for the following kinds of services:

(a) Inspection of the processing of products containing eggs in official plants.

(b) Sampling and laboratory analysis of products.

(c) Quantity and condition inspection of products.

(d) Laboratory analysis of samples (with or without added ingredients) of products which are submitted to the laboratory by the applicant.

§ 55.22 Where service is offered.

Any product may be graded or inspected wherever a grader or inspector is available and the facilities and the conditions are satisfactory for the conduct of the service.

§ 55.24 Basis of service.

(a) Products shall be graded or inspected in accordance with such standards, methods, and instructions as may be issued or approved by the Administrator. All service shall be subject to supervision at all times by the applicable State supervisor, egg products supervisor, Regional Director, and National Supervisor. Whenever the supervisor of a grader or inspector has evidence that such grader or inspector incorrectly graded or inspected a product, such supervisor shall take such action as is necessary to correct the grading or inspection and to

cause any improper official identification which appears on the product or containers thereof to be corrected prior to shipment of the product from the place of the initial grading or inspection.

(b) Whenever service is performed on a sample basis, such sample shall be drawn in accordance with the instructions as issued by the Administrator.

PERFORMANCE OF SERVICES

§ 55.30 Licensed graders and inspectors.

(a) Any person who is a Federal or State employee or the employee of a local jurisdiction possessing proper qualifications as determined by an examination for competency and who is to perform services pursuant to this part, may be licensed by the Secretary as a grader or inspector.

(b) All licenses issued by the Secretary are to be countersigned by the officer-in-charge of the service of the Consumer and Marketing Service or by any other official of C&MS designated by such officer.

(c) No person may be licensed to grade or inspect any product in which he is financially interested.

§ 55.40 Suspension of license; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform service may, whenever he deems such action necessary to assure that any grading or inspection services are properly performed, suspend any license to perform grading or inspection service issued pursuant to this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons, the licensee may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform grading or inspection service is revoked.

§ 55.50 Cancellation of license.

Upon termination of his services as a grader or inspector, each licensee shall surrender his license immediately for cancellation.

§ 55.60 Surrender of license.

Each license which is canceled, suspended, or revoked shall immediately be surrendered by the licensee to the office of the service in the region in which he is located.

§ 55.70 Identification.

All graders, inspectors, and supervisors shall have in their possession at all times while on duty and present upon request

the means of identification furnished by the Department to such person.

§ 55.80 Political activity.

All graders and inspectors are forbidden during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns, political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate is prohibited, except as authorized by law or regulation of the Department. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 55.90 Authority and duties of inspectors performing service on a resident inspection basis.

(a) Each inspector is authorized:

(1) To make such observations and inspections as he deems necessary to enable him to certify that products have been prepared, processed, stored, and otherwise handled in conformity with the regulations in this part;

(2) To supervise the marking of packages containing products which are eligible to be identified with official identification;

(3) To retain in his custody, or under his supervision, labels with officials identification, marking devices, samples, certificates, seals, and reports of inspectors;

(4) To deface or remove, or cause to be defaced or removed under his personal supervision, any official identification from any package containing products whenever he determines that such products were not processed in accordance with the regulations in this part or are not fit for human food;

(5) To issue a certificate upon request on any product processed in the official plant; and

(6) To use retention tags or other devices and methods as may be approved by the Administrator for the identification and control of products which are not in compliance with the regulations in this part or are held for further examination, and any equipment, utensils, rooms or compartments which are found to be unclean or otherwise in violation of any of the regulations in this part. No product, equipment, utensil, room or compartment shall be released for use until it has been made acceptable. Such identification shall not be removed by anyone other than inspector or grader.

(b) Each inspector shall prepare such reports and records as may be prescribed by the officer-in-charge of the service.

§ 55.95 Facilities to be furnished for use of graders and inspectors in performing service on a resident inspection basis.

(a) Facilities for proper sampling, weighing, and examination of products

shall be furnished by the official plant for use by inspectors and graders. Such facilities shall include a candling light, a heavy duty, high speed (not less than 1,000 r.p.m. under load) drill with a eleven-sixteenths inch or larger bit of sufficient length to reach the bottom of a 30-pound can of frozen product, a non-breakable thermometer, and a satisfactory test kit for determining the bactericidal strength.

(b) Furnished office space and equipment, including but not being limited to, a desk (equipped with a satisfactory locking device), lockers or cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors and graders to change clothing. Such space and equipment must meet the approval of the State supervisor.

APPLICATION FOR SERVICE

§ 55.100 Who may obtain service.

(a) An application for service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

(b) Where service is offered: Any product may be graded or inspected, wherever a grader or inspector is available and the facilities and the conditions are satisfactory for the conduct of the service.

§ 55.120 Authority of applicant.

Proof of the authority of any person applying for any service may be required at the discretion of the Administrator.

§ 55.130 How application for service may be made: conditions of resident service.

(a) *On a fee basis.* An application for any service may be made in any office of grading, or with any grader or inspector at or nearest the place where the service is desired. Such application for service may be made orally (in person or by telephone), in writing or by telegraph. If an application for grading service is made orally, the office of grading, grader or inspector with whom such application is made, or the Administrator may require that the application be confirmed in writing.

(b) *On a resident inspection basis.* An application for inspection on a resident inspection basis to be rendered in an official plant must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply with the terms and conditions of the regulations in this part (including, but not being limited to, such instructions governing grading and inspection of products as may be issued from time to time by the Administrator). No member of or delegate to Congress or Resident Commissioner, shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

(c) *Form of application.* Each application for grading or inspecting a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or inspected.

§ 55.140 Application for inspection in official plants; approval.

Any person desiring to process and pack products under inspection service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for inspection service to be rendered in an official plant shall be approved according to the following procedure:

(a) *Initial survey:* When an application for inspection in a plant has been filed, the Regional Director or his assistant serving the region in which the plant is located will make a survey and inspection of the premises and plant to determine whether the facilities and methods of operation therein are suitable and adequate for service in accordance with (1) the regulations in this part and (2) such other administrative instructions as may be issued, from time to time, by C&MS and which are in effect at the time of the aforesaid survey and inspection.

(b) *Drawings and specifications to be furnished:* Three copies of drawings properly drawn to scale shall be submitted to the National Supervisor. The drawings shall consist of floor plans of space to be included in the official plant, the locations of such features as the principal pieces of equipment, floor drains, hand washing facilities, hose connections for clean-up purposes, the cardinal points of the compass, and the name and address (specific location) of the plant.

(1) The official plant shall include product processing rooms and areas, storage rooms, toilet and dressing rooms, store rooms for supplies used in the operation under this service, and all other rooms, compartments, or passageways where products or any ingredients to be used in the preparation of products under this service will be handled or kept and may include other rooms located in the buildings comprising the official plant.

(2) Specifications covering the height of ceilings, types of principal pieces of equipment, character of walls, floors, and ceilings, lighting, ventilation including intake and exhaust facilities, water supply and drainage, and such other notations as may be required shall accompany the drawings. Upon approval of the drawings and specifications the application for service may be approved.

(c) *Final survey and plant approval:* Prior to the inauguration of inspection service, a final survey of the plant and premises shall be made by the Regional Director or his assistant to determine if the plant is constructed and facilities are installed in accordance with the approved drawings and the regulations in this part. The plant may be approved only when these requirements have been met.

(d) *Surveys and approvals made pursuant to the regulations (Part 59 of this chapter) under the Egg Products Inspection Act will be accepted for the purposes of this section.*

§ 55.150 When application may be rejected.

Any application for service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations in this part prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the Act; (c) where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain service; (e) whenever the applicant, after an initial survey has been made in accordance with § 55.140 (a), fails to bring the plant, facilities, and operating procedures into compliance with the regulations in this part within a reasonable period of time; (f) notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service; (g) when it appears that to perform the services specified in this part would not be to the best interests of the public welfare or of the Government; or (h) when it appears to the Administrator that prior commitments of the Department necessitate rejection of the application.

Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 55.160 When application may be withdrawn.

An application for service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by C&MS in connection with such application.

§ 55.170 Order of service.

Service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any application for an appeal. The Department shall not be liable in damages accruing

through acts of commission or omission in the administration of this part.

§ 55.180 Suspension of plant approval.

(a) Any plant approval pursuant to the regulations in this part may be suspended for (1) failure to maintain plant and equipment in a satisfactory state of repairs; (2) the use of operating procedures which are not in accordance with the regulations in this part; or (3) alterations of buildings, facilities, or equipment which cannot be approved in accordance with the regulations in this part.

(b) During such period of suspension, inspection service shall not be rendered. However, the other provisions of the regulations in this part pertaining to providing service on a resident basis will remain in effect unless service is terminated in accordance with the terms thereof. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time to be specified by the Administrator, the application and service shall be terminated. Upon termination of service in an official plant pursuant to the regulations in this part, the plant approval shall also become terminated and all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the Administrator, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

DENIAL OF SERVICE

§ 55.200 Debarment.

(a) The following acts or practices or the causing thereof may be deemed sufficient cause for the debarment by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of inspection and grading services set forth in Part 50 of this chapter shall be applicable to such a debarment action:

(1) *Misrepresentation, deceptive, or fraudulent act or practice.* Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(i) The making or filing of an application for any service or appeal;

(ii) The making of the product accessible for sampling, grading or inspection;

(iii) The making, issuing or using or attempting to issue or use any certificate, symbol, stamp, label, seal, or identification authorized pursuant to the regulations in this part;

(iv) The use of the terms "United States," "U.S.," "Government Graded," "Federal-State Graded," "U.S. Inspected," "Government Inspected," or terms of similar import in the labeling or advertising of any product;

(v) The use of any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product.

(2) *Use of facsimile forms.* Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal, or identification authorized to be issued or used under the regulations in this part.

(3) *Willful violation of the regulations.* Any willful violation of the regulations in this part or the Act.

(4) *Interfering with a grader, inspector, or employee of C&MS.* Any interference with or obstruction or any attempted interference or obstruction of or assault upon any grader, licensee, inspector or employee of C&MS in the performance of his duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of C&MS, or the making or offering of any contribution to or in any way supplementing the salary, compensation or expenses of an employee of C&MS, or the offering or entering into a private contract or agreement with an employee of C&MS for any services to be rendered while employed by C&MS.

(5) *Miscellaneous.* The existence of any of the conditions set forth in § 55.150 constituting the basis for the rejection of an application for grading or inspection service.

§ 55.220 Other applicable regulations.

Compliance with the regulations in this part shall not excuse failure to comply with any other Federal or any State or municipal applicable laws or regulations.

§ 55.240 Report of violations.

Each grader and inspector shall report, in the manner prescribed by the Administrator, all violations and non-compliance under the Act and this part of which such grader or inspector has knowledge.

§ 55.260 Reuse of containers bearing official identification prohibited.

The reuse, by any person, of containers bearing official identification is prohibited unless such identification is applicable in all respects to product being packed therein. In such instances, the container and label may be used provided the packaging is accomplished under the supervision of an inspector or grader and the container is in clean, sound condition and lined with a suitable inner liner.

IDENTIFYING AND MARKING PRODUCTS

§ 55.300 Approval of official identification.

(a) Any label, container, or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label, container, or packaging material bearing official identification may be used unless finished copies or samples thereof have been approved by the Administrator. No label, container, or packaging material bearing official identification shall be printed or prepared for use until the printer's or other final proof has been approved by the Administrator. No label, container, or packaging material

which bears official identification shall bear any statement that is false or misleading. If the label is printed on or otherwise applied directly to the container or packaging material, the principal display panel thereof shall be considered as the label.

(b) Containers of product bearing official identification shall display the following information:

(1) The common or usual name, if any there be, and if the product is comprised to two or more ingredients, such ingredients shall be listed in the order of descending proportions;

(2) The name and address of the packer or distributor. When the distributor is shown, it shall be qualified by such terms as "packed for," "distributed by," or "distributors";

(3) The lot number or production code number;

(4) The net contents;

(5) Official identification and plant number;

(6) Products produced from edible shell eggs of the turkey, duck, goose, or guinea, or from other egg products which were produced from edible shell eggs of the turkey, duck, goose, or guinea shall be clearly and distinctly labeled as to the common or usual name of the product including the type of eggs or egg products used in the product, e.g., "Containing turkey eggs," "Containing chicken and turkey eggs." Egg products labeled without qualifying words as to type of shell egg used in the products, shall be produced only from the edible shell egg of the domesticated chicken, or the product of such eggs.

§ 55.310 Form of official identification symbol and inspection mark.

(a) The shield set forth in Figure 1 shall be the official identification symbol for purposes of this part and when used, imitated, or simulated in any manner in connection with a product shall be deemed to constitute a representation that the product has been officially inspected for the purposes of § 55.5.

(b) The inspection marks which are permitted to be used on products shall be contained within the outline of a shield and with the wording and design set forth in Figure 2 of this section, except the plant number may be omitted from the official identification if applied elsewhere on the container.

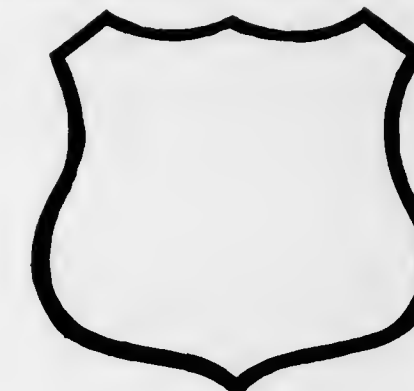


FIGURE 1.



FIGURE 2.

§ 55.320 Products that may bear the inspection mark.

Products which are permitted to bear the inspection mark shall be processed in an official plant from edible shell eggs or other edible egg products eligible to bear the inspection mark and may contain other edible ingredients. The official mark, when used, shall be printed or lithographed and applied as a part of the principal display panel of the container, but shall not be applied to a detachable cover.

§ 55.330 Unauthorized use or disposition of approved labels.

(a) Containers or labels which bear an official identification approved for use pursuant to § 55.300 shall be used only for the purpose for which approved and shall not otherwise be disposed of from the plant for which approved except with written approval of the Administrator. Any unauthorized use or disposition of approved containers or labels which bear any official identification may result in cancellation of the approval and denial of the use of containers or labels bearing official identification or denial of the benefits of the Act pursuant to the provisions of § 55.200;

(b) The use of simultaneous or imitations of any official identification by any person is prohibited;

(c) Once a year or more often, if requested, each applicant shall submit to the Administrator a list of approved labels which bear any official identification that have become obsolete, accompanied with a statement that such approvals are no longer desired. The approvals shall be identified by the date of approval and the name of the product;

(d) Upon termination of inspection service in an official plant pursuant to the regulations in this part, all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the Regional Director, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

§ 55.340 Supervision of marking and packaging.

(a) *Evidence of label approval.* No grader or inspector shall authorize the use of official identification on any inspected product unless he has on file

evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of § 55.300.

(b) *Affixing of official identification.* No official identification may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by a grader or inspector or under the supervision of a grader or inspector or other person authorized by the Administrator. All such products shall have been inspected in accordance with the regulations in this part. The grader or inspector shall have supervision over the use and handling of all material bearing any official identification.

(c) *Labels for products sold under Government contract.* The grader or inspector-in-charge may approve labels for containers of product sold under a contract specification to governmental agencies when such product is not offered for resale to the general public: *Provided*, That the contract specifications include complete specific requirements with respect to labeling, and are made available to the grader or inspector.

§ 55.350 Accessibility of product.

Each product for which service is requested shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

§ 55.360 Certificates.

Certificates (including appeal certificates) shall be issued on forms approved by the Administrator.

§ 55.370 Certificate issuance.

(a) *Resident service.* Certificates will be issued only upon a request therefor by the applicant or C&MS. When requested, an inspector shall issue a certificate covering product inspected by him. In addition, an inspector may issue a certificate covering product inspected in whole or in part by another inspector when the inspector has knowledge that the product is eligible for certification based on personal examination of the product or official inspection records.

(b) *Other than resident service.* Each inspector shall, in person or by his authorized agent, issue a certificate covering each product inspected by him. An inspector's name may be signed on a certificate by a person other than the inspector, if such person has been designated as the authorized agent of such inspector by the National Supervisor: *Provided*, That the certificate is prepared from an official memorandum of inspection signed by the inspector: *And provided further*, That a notarized power of attorney authorizing such signature has been issued to such person by the inspector and is on file in the office of the service. In such case, the authorized agent shall sign both his own and the inspector's name, e.g., "John Doe by Richard Roe."

§ 55.380 Disposition of certificates.

The original and a copy of each certificate, issued pursuant to § 55.370 and

not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for inspection program records. Additional copies of any such certificate may be supplied to any interested party as provided in § 55.520.

§ 55.390 Advance information.

Upon request of an applicant, all or part of the contents of any certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

APPEALS

§ 55.400 Who may request an appeal grading or inspection or review of a grader's or inspector's decision.

An appeal grading or inspection may be requested by any interested party who is dissatisfied with the determination by a grader or inspector of the class, quality, quantity, or condition of any product, as evidenced by the USDA inspection mark and accompanying label, or as stated on a certificate and a review may be requested by the operator of an official plant with respect to a grader's or inspector's decision or on any other matter related to grading or inspection in the official plant.

§ 55.410 Where to file an appeal.

(a) *Appeal from resident grader's or inspector's grading or decision in an official plant.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which was graded or inspected by a grader or inspector in an official plant and has not left such plant, and the operator of any official plant who is not satisfied with a decision by a grader or inspector on any other matter relating to grading or inspection in such plant may request an appeal grading or inspection or review of the decision by the grader or inspector by filing such request with the grader's or inspector's immediate supervisor.

(b) *All other appeal requests.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which has left the official plant where it was graded or inspected or which was graded or inspected other than in an official plant may request an appeal grading or inspection by filing such request in the regional office where the product is located or with the Change of the Grading Branch.

§ 55.420 How to file an appeal.

Any request for an appeal grading or inspection or review of a grader's or inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be returned to the appeal grader or inspector assigned to make the appeal grading or inspection.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the condition of the product has undergone a material change since the original grading or inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal grading or inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 55.430 When an application for an appeal grading or inspection may be refused.

(a) An appeal grading or inspection or review of a decision requested under § 55.410(a) shall be made by the grader's or inspector's immediate supervisor or by a licensed grader or inspector assigned by the immediate supervisor other than the grader or inspector whose grading or inspection or decision is being appealed.

§ 55.440 Who shall perform the appeal.

(a) An appeal grading or inspection or review of a decision requested under § 55.410(a) shall be made by the grader's or inspector's immediate supervisor or by a licensed grader or inspector assigned by the immediate supervisor other than the grader or inspector whose grading or inspection or decision is being appealed.

(b) Appeal gradings or inspections requested under § 55.410(b) shall be performed by a grader or inspector other than the grader or inspector who originally graded or inspected the product.

(c) Whenever practical, an appeal grading or inspection shall be conducted jointly by two graders or inspectors. The assignment of the grader(s) or inspector(s) who will make the appeal grading or inspection under § 55.410(b) shall be made by the Regional Director or the Chief of the Grading Branch.

§ 55.450 Procedures for selecting appeal samples.

(a) *Laboratory analyses.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. When the original sample containers cannot be located, the appeal sample shall consist of product taken at random from double the number of original sample containers.

(b) *Condition inspection.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

§ 55.460 Appeal certificates.

Immediately after an appeal grading or inspection is completed, an appeal certificate shall be issued to show that the original grading or inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate

may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal grader or inspector assigns a different class or quantity designation to the lot, the labeling shall be corrected.

FEES AND CHARGES

§ 55.500 Payment of fees and charges.

(a) Fees and charges for any service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of this section and §§ 55.510 to 55.560, both inclusive. If so required by the grader, inspector, or sampler, such fees and charges shall be paid in advance.

(b) Fees and charges for any service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Consumer and Marketing Service and remitted promptly to C&MS.

(c) Fees and charges for any service under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

§ 55.510 Fees and charges for services other than on a continuous resident basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service (other than for an appeal) performed, in accordance with this part on a fee basis shall be based on the applicable rates specified in §§ 55.510 to 55.560, both inclusive.

(b) Fees for product inspection and sampling for laboratory analysis and appeals will be based on the time required to perform the services. The hourly charge shall be \$9.20 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or Government authorized holidays shall be charged for at the rate of \$11.40 per hour. Information on Government authorized holidays is available from the Supervisor.

(d) The fee to be charged for an appeal grading, inspection, or laboratory analysis appeal, shall be based on the hourly rates as specified in paragraph (b) or (c) of this section. If the result of an appeal condition inspection discloses that a material error was made in the original inspection, no fee will be charged.

(e) A fee shall be charged for the appeal under § 55.410(a) of a grader's or inspector's decision when (1) special travel was necessary to perform the appeal review, and (2) the grader's or inspector's decision was upheld on the appeal. In such cases, the fee shall be based on the hourly rates as specified in paragraph (b) or (c) of this section.

§ 55.520 Fees for additional copies of certificates.

Additional copies of any certificates, other than those provided for in § 55.380,

may be supplied to any interested party upon payment of a fee of \$2 for each set of five or fewer copies.

§ 55.530 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the Department in connection with rendering grading service. Such charges shall include the costs of transportation, per diem, shipping containers, postage, and any other expenses. Expenses are to be charged on an appeal certificate regardless of the grading results. Ten percent of the total expenses shall be added to cover administrative costs of the Department. The minimum expense charge shall be \$0.50 per certificate.

§ 55.550 Laboratory analysis fees.

(a) The fees listed for the following laboratory analyses are applicable except as otherwise stated in paragraph (b) or (c) of this section:

	Fee
Solids	\$4.60
Fat	6.90
Bacteriological plate count	4.60
Bacteriological direct count	4.60
Coliforms	4.60
E. Coll (presumptive)	6.90
Yeast and mold count	4.60
Sugar	11.50
Salt	11.50
Color:	
NEPA	5.75
B-Carotene	9.20
Whipping test	4.60
Whipping test plus bleeding	5.75
Fat film test	11.50
Oxygen	5.75
Glucose:	
Quantitative	9.75
Qualitative	6.90
Palatability and odor:	
First sample	4.60
Each additional sample	2.30
Staphylococcus	13.80
Salmonella:	
Step 1	9.20
Step 2	4.60
Step 3	9.20

(b) Other fees for specified individual tests and services: The fees listed for the following laboratory analyses are applicable for individual tests for one factor only, on a particular product sample:

	Fee
Solids	\$5.00
Bacteriological plate count	5.50
Bacteriological direct count	5.50
Coliforms	5.50
E. Coll (presumptive)	7.75
Yeast and mold count	5.50

(c) The fee charge for an analysis for any laboratory test which is not shown in this section or for other services rendered in the laboratory will be based on the time required to perform the analysis or render the service. The hourly rate will be \$11.40.

¹ Salmonella test may be in three steps as follows: Step 1—growth through differential agar; Step 2—growth and testing through triple-sugar-iron agar; Step 3—confirmatory test through biochemicals.

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

Fees to be charged and collected for service on a resident basis shall be those provided in this section. The fees to be charged for any appeal grading or inspection shall be as provided in § 55.510.

(a) *Charges.* The charges for the service shall be paid by the applicant and shall include items listed in this section as are applicable. Payment for the full cost of the service rendered to the applicant shall be made by the applicant to the Consumer and Marketing Service, U.S. Department of Agriculture. Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading and inspection service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt. A charge will be made by C&MS in the amount of two (2) percent of any amounts remaining unpaid after 30 days from the date of billing. Such charge shall not be less than \$5.

(1) An inauguration charge of \$200 will be made at the time an application for service is signed except when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader(s) or inspector(s) for a period of 6 months, the application will be considered terminated, but a new application may be filed at any time. In addition, there will be a charge of \$300 if the application is terminated at the request of the applicant for reasons other than for a change in location, within 12 months from the date of the inauguration of service.

(2) A charge to cover the actual cost to C&MS for the travel (including the cost of movement of household goods and dependents) and per diem with respect to each grader or inspector who is transferred from an official station to the designated headquarters when service is inaugurated.

(3) A charge for the salary and other costs, as specified in this subparagraph, for each grader or inspector while assigned except that no charge will be made when the assigned grader or inspector is temporarily reassigned by C&MS to perform service for other than the applicant. The base salary rate used for billing will be that of the grader(s) or inspector(s) assigned to the plant. The regular rate charge will be determined by adding an established factor to the base salary rate to cover costs for items such as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, health benefits, severance pay, sick leave, annual leave, travel costs for relief grading and inspection service, and

related servicing costs. The overtime rate charge is 150 percent of the grader's salary. The added holiday rate charge is the same as the grader's salary when the grader or inspector works on a holiday.

(4) A charge of 10 percent of (i) the premium pay, and (ii) any expenses incurred (including travel and per diem costs) by each grader or inspector assigned while performing service at the applicant's request.

(5) An administrative service charge equal to 25 percent of the grader's or inspector's salary costs. A minimum charge of \$50 will be made each billing period.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader or inspector with such information as may be necessary for the performance of the service.

(2) C&MS will provide, as available, an adequate number of graders or inspectors to perform the service. The number of graders or inspectors required will be determined by C&MS based on the expected demand for service.

(3) The service shall be provided at designated locations and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;
(ii) Thirty (30) days' written notice, by either the applicant or C&MS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by C&MS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading and inspection service; or

(iv) Termination of the service pursuant to the provisions of subdivision (v) of this subparagraph;

(v) Grading and inspection service shall be terminated by C&MS, acting pursuant to any applicable laws, rules, and regulations, debar the applicant from receiving any further benefits of the service.

(4) Graders or inspectors will be required to confine their activities to those duties necessary in the rendering of service and such closely related activities as may be approved by the Administrator.

(5) When similar services are furnished to the same applicant under Part 56 or Part 70 of this chapter, the charges listed in this section shall not be repeated.

§ 55.570 Fees for service performed under cooperative agreement.

The fees to be charged and collected for any service performed under cooperative agreement shall be those provided for by such agreement.

SANITARY AND PROCESSING REQUIREMENTS

§ 55.600 General.

Except as otherwise approved by the Administrator, the sanitary, processing, and facility requirements, as applicable, shall be the same for the product processed under this part as for egg products

processed under §§ 59.500 through 59.580 (c) of this chapter and § 55.650.

§ 55.650 Inspection and grading.

Examinations of the ingredients, processing, and the product shall be made to assure the production of a wholesome, unadulterated, and properly labeled product. Such examinations include, but are not being limited to:

(a) Sanitation checks of plant premises, facilities, equipment, and processing operations.

(b) Checks on ingredients and additives used in products to assure that they are not adulterated, are fit for use as human food, and are stored, handled, and used in a sanitary manner.

(c) Examination of the eggs or egg products used in the products to assure they are wholesome, not adulterated, and comply with the temperature, pasteurization, or other applicable requirements.

(d) Inspection during the processing and production of the product to determine compliance with any applicable standard or specification for such product.

(e) Examination during processing of the product to assure compliance with approved formulas and labeling.

(f) Test weighing and organoleptic examinations of finished product.

Subpart B—Official U.S. Standards for Palatability Scores for Dried Whole Eggs

§ 55.800 Preparation of samples for palatability test.

Reconstitute 33 grams of dried whole egg powder as completely as possible with 90 grams of distilled water in a suitable, clean container. Add the water and mix until the mixture is smooth and free from lumps. Place the container in gently boiling water and stir the mixture while coagulation takes place. When coagulated to the consistency of scrambled eggs, the sample is ready for the palatability test.

§ 55.820 Palatability scores for dried whole eggs.

The palatability score of the prepared sample shall be determined by a panel of officially qualified graders of dried eggs of the Consumer and Marketing Service, and shall be rated in accordance with the following table:

DESCRIPTION OF QUALITY	
Score:	
8	No detectable off flavor, comparable to high quality fresh shell eggs.
7½	Very slight off flavor.
7	Slight but not unpleasant off flavor.
6½	Definite but not unpleasant off flavor.
6	Pronounced off flavor (slightly unpleasant).
5	Unpleasant off flavor.
4	Definite unpleasant off flavor.
3	Pronounced unpleasant off flavor.
2	Repulsive flavor.
1	Definite repulsive flavor.
0	Pronounced repulsive flavor.

NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and

Budget in accordance with the Federal Reports Act of 1942.

The mandatory egg and egg products inspection regulations (7 CFR Part 59) were issued in the FEDERAL REGISTER on May 28, 1971 (36 F.R. 9814-9834), to become effective July 1, 1971. These revised voluntary regulations (7 CFR Part 55) reference certain sections and provisions contained in the mandatory inspection regulations. Therefore, it was necessary to have the mandatory inspection regulations in final form before these voluntary inspection regulations could be issued. Some of the inspection activities not covered by the mandatory inspection regulations (7 CFR Part 59), are covered by these revised voluntary inspection regulations (7 CFR Part 55) and will be performed in the same processing plant. Services offered outside official plants will also be under the voluntary program. Therefore, in order to maintain an orderly transition in the respective inspection programs, it is essential that the effective date be the same for both the mandatory and voluntary inspection programs. Accordingly, pursuant to 5 U.S.C. 553, good cause is found for making these revised voluntary regulations effective less than 30 days after publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 14th day of June 1971, to become effective July 1, 1971.

G. R. GRANGE,

Deputy Administrator,

Marketing Services.

[FR Doc.71-8599 Filed 6-18-71; 8:45 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 719—RECONSTITUTION OF FARMS, ALLOTMENTS, AND BASES

Correction

In F.R. Doc. 71-8200 appearing at page 11271 in the issue for Friday, June 11, 1971, the following changes should be made:

1. In the second line of § 719.2(f) (5), the reference to "§ 710.10" should read "§ 719.10".

2. The third line of § 719.11(g) (4), now reading "a farm and the cropland on the farm so", should read "a farm and the cropland on the land so".

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 485]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.785 Lemon Regulation 485.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 15, 1971.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period June 20, 1971, through June 26, 1971, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: 300,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 17, 1971.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8713 Filed 6-18-71; 8:50 am]

[Peach Reg. 1, Amdt. 2]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

Notice was published in the FEDERAL REGISTER issue of June 5, 1971 (36 F.R. 10979), that the Department was giving consideration to a proposal to amend § 917.421 (Peach Reg. 1; 36 F.R. 8671 and 9765) pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 917, as amended (7 CFR 917; 36 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal was submitted by the Peach Commodity Committee, established pursuant to said amended marketing agreement and order. Such recommendation by said committee reflects its appraisal of the 1971 California peach crop and the current and prospective market conditions. Said amendment would specify minimum sizes by name, for additional varieties of peaches and raise the minimum size requirements for varieties not specifically named in the regulation, shipped on and after the dates specified in the amendment, in recognition of the fact that the later varieties are larger in size at maturity than the earlier varieties.

The amendment reflects the prevailing supply and market situation and is consistent with the objectives of the act in that it will tend to assure desirable peaches to consumers and fair returns to producers.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Peach Commodity Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the specified varieties of such peaches are expected to begin on or about the effective date hereof and this amendment

should be applicable to all such shipments in order to effectuate the declared policy of the act; (2) notice of proposed rule making concerning this amendment, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (36 F.R. 10979), and no objection to this amendment or such effective date was received; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. Section 917.421 (Peach Reg. 1; 36 F.R. 8671 and 9765) is hereby amended to read as follows:

§ 917.421 Peach Regulation 1.

(a) *Order:* During the period June 21, 1971, through October 31, 1971, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade;

(2) Any package or container of Arm Gold, Pat's Pride, Springtime, or Royal Gold variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the lug box; or

(ii) Such peaches when packed in any container, other than a No. 22D standard lug box, measure not less than 2¼ inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent by count of peaches in any container may fail to meet such diameter requirement.

(3) Any package or container of Robin, Babcock, Blazing Gold, Cardinal, Dixired, Gold Dust, Merrill Gemfree, Royal May, or Early Coronet variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 75 peaches in the box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box, or a No. 12B standard peach box measure not less than 2¼ inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(4) Any package or container of Coronet, Redhaven, Regina, Red Top, Merrill Gem, or Galey variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the

requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2 3/8 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(5) Any package or container of Alamar, Carnival, July Elberta (Early Elberta, Kim Elberta, and Socala), Fay Elberta, Regular Elberta, Fayette, Fiesta, Fortyniner, John Gee, J. H. Hale, Hal-loween, Pacifica, Pageant, Summerset, Suncrest, Red Globe, or Rio Oso Gem variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the peach box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2 3/8 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(b) During the period June 21, 1971, through June 30, 1971, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraph (2), (3), (4), or (5) of paragraph (a) of this section unless:

(1) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the lug box; or

(2) Such peaches when packed in any container, other than a No. 22D standard lug box, measure not less than 2 3/8 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(c) During the period July 1, 1971, through October 31, 1971, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraph (2), (3), (4), or (5) of paragraph (a) of this section unless:

(1) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the lug box;

(2) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the peach box; or

(3) Such peaches when packed in any container, other than a No. 22D stand-

ard lug box or a No. 12B standard peach box, measure not less than 2 3/8 inches in diameter as measured by a rigid ring: *Provided*, That more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

(d) Terms used in the amended marketing agreement and order shall, when used herein have the same meaning as given to the respective term in said amended marketing agreement and order; "U.S. No. 1," and "standard pack," and shall have the same meaning as when used in the U.S. Standards for Peaches (§§ 51.1210-51.1223 of this title); "No. 22D standard lug box" and "No. 12B standard peach box" shall have the same meaning as set forth in section 43601 of the Agricultural Code of California; and "diameter" shall mean the distance through the widest portion of the cross section of a peach at right angles to a line running from the stem to the blossom end.

Dated, June 16, 1971, to become effective June 21, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-8695 Filed 6-18-71; 8:50 am]

[Avocado Reg. 19]

PART 944—FRUIT; IMPORT REGULATIONS

Avocados

On June 2, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 10740) that consideration was being given to a proposed regulation, which would limit the importation of avocados into the United States, pursuant to Part 944—Fruit; Import Regulations (7 CFR Part 944). This import regulation sets forth size, quality, and maturity requirements which are comparable to the domestic requirements which became effective June 14, 1971, for avocados grown in South Florida. The import regulation is effective pursuant to section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

It is hereby found that good cause exists for not postponing the effective time of the regulatory provisions of this regulation, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such requirements mandatory; (b) such provisions contain size, quality, and maturity requirements comparable to the domestic requirements for avocados grown in South Florida under Avocado Regulation 13, which became effective June 14, 1971; (c) notice that such action was being considered, except

for a slight modification of certain permissible shipment dates for certain weights or diameters of the Pollock, Catalina, and Trapp varieties, and for a later effective date of this regulation, was published in the June 2, 1971, issue of the FEDERAL REGISTER (36 F.R. 10740), and no objection to this regulation was received; (d) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof; (e) notice hereof in excess of 3 days, the minimum prescribed by said section 8e, is given with respect to this import regulation; and (f) such notice is hereby determined, under the circumstances, to be reasonable.

§ 944.11 Avocado Regulation 19.

(a) On and after the effective time of this section, the importation into the United States of any avocados is prohibited unless such avocados are inspected and meet the following requirements:

(1) All avocados imported during the period June 23, 1971, through April 30, 1972, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 5, 1971; (ii) from July 5, 1971, to July 12, 1971; unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least 3 1/8 inches in diameter; and (iii) from July 12, 1971, to July 26, 1971, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least 3 1/8 inches in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to September 13, 1971; (ii) from September 13, 1971, to September 20, 1971, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 20, 1971, to October 4, 1971, unless the individual fruit in each lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to August 9, 1971; (ii) from August 9, 1971, to August 23, 1971, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 1/8 inches in diameter; and (iii) from August 23, 1971, to September 6, 1971, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 1/8 inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian type including unidentified West Indian varieties, and West Indian varieties not listed elsewhere in this section, shall not be imported (i) prior to July 5, 1971; (ii) from July 5, 1971, through July 11, 1971, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from July 12, 1971, through August 1, 1971, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from August 2, 1971, through August 29, 1971, unless the

individual fruit in each lot of such avocados weighs at least 14 ounces; and (v) from August 30, 1971, through September 19, 1971, unless the individual fruit in each lot of such avocados weighs at least 12 ounces: *Provided*, That any lot of such avocados may be imported without regard to the minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in this section shall not be imported (i) prior to September 20, 1971; (ii) from September 20, 1971, through October 17, 1971, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 18, 1971, through December 19, 1971, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit, contained in each lot may weigh less than the minimum specified and be less than the minimum specified diameter: *Provided*, That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports of avocados. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the avocados will be imported:

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Ports	Office	Advance notice
All Texas points.	L. M. Denbo, 506 South Nebraska St., San Juan, TX 78889 (Phone—612-787-4091)	1 day.
	A. D. Mitchell, Room 616, U.S. Courthouse, El Paso, Tex. 79901 (Phone—915-533-9351, Ex. 5340)	Do.
All New York points.	Edward J. Beller, Room 28A Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-591-7668 and 7469)	Do.
	Charles D. Renick, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14206 (Phone—716-834-1585)	Do.
All Arizona points.	B. O. Morgan, 225 Terrace Ave., Nogales, AZ 85621 (Phone—602-287-2021)	Do.
All Florida points.	Lloyd W. Boney, 1350 Northwest 12th Ave., Room 538, Miami, FL 33136 (Phone—305-371-2571)	Do.
	Hubert S. Flynt, 775 Warner Lane, Orlando, FL 32812 (Phone—305-841-2141)	Do.
	Kenneth C. McCourt, Unit 46, 335 Bright Ave., Jacksonville, FL 32205 (Phone—904-593-5933)	Do.
All California points.	Daniel P. Thompson, 784 South Central Ave., Room 24, Los Angeles, CA 90012 (Phone—213-622-8769)	3 days.
All Louisiana points.	Pascal J. Lamarcia, 6027 Federal Office Bldg., 701 Loyola Ave., New Orleans, LA 70013 (Phone—504-527-6741 and 6742)	1 day.
All other points.	D. S. Matheson, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (Phone—202-386-8870)	3 days.

(c) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any avocados to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement, if the facts warrant: "Meets U.S. import requirements under section 8e of the Agri-

cultural Marketing Agreement Act of 1937, as amended."

(f) Notwithstanding any other provisions of this section, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(g) It is hereby determined, on the basis of the information currently available, that the maturity requirements set forth in this section are comparable to the maturity regulations applicable, during the effective time hereof, to shipments of avocados grown in south Florida.

(h) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(i) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(j) The terms relating to grade and diameter, as used herein, shall have the same meaning as when used in the U.S. Standards for Florida Avocados (§§ 51.3050-51.3069 of this title). Importation means release from custody of the U.S. Bureau of Customs.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 16, 1971, to become effective June 23, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-8714 Filed 6-18-71; 8:50 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 222—BANK HOLDING COMPANIES

Nonbanking Activities of Bank Holding Companies

By notice of proposed rule making published in the FEDERAL REGISTER on January 29, 1971 (36 F.R. 1430), the Board of Governors proposed to implement its regulatory authority under section 4(c) (8) of the Bank Holding Company Act to permit holding companies to engage directly or through a subsidiary in "providing bookkeeping or data processing services for (i) the holding company and its subsidiaries, (ii) other financial institutions or (iii) others: *Provided*, That the value of services performed by the company for such persons is not a principal portion of the total value of all such services performed".

A hearing was held before members of the Board on April 16, 1971, on the

question of the extent to which data processing services are "so closely related to banking or managing or controlling banks as to be a proper incident thereto" within the meaning of section 4(c) (8) of the Act. The notice of hearing set forth several alternatives to the proposal announced in January that had been suggested in written comments on the proposal for consideration by the Board in describing data processing services that are closely related to banking (36 F.R. 5622).

Following consideration of the comments received and the record of the hearing, the Board has abandoned the quantitative approach of its proposal in favor of a qualitative description of services the Board has determined are closely related to banking. Accordingly, it has amended § 222.4(a) by changing the period at the end of the introductory text thereof to a semicolon and adding subparagraph (8) as set forth below, effective July 1, 1971. To clarify the Board's views on this matter, it has added a paragraph to § 222.123, its recently adopted interpretation on activities closely related to banking. That paragraph is also set forth below:

§ 222.4 Nonbanking activities.

(a) Activities closely related to banking or managing or controlling banks. . . . The following activities have been determined by the Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto:

(8) (i) Providing bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries and (ii) storing and processing other banking, financial, or related economic data, such as performing payroll, accounts receivable or payable, or billing services.

§ 222.123 Activities closely related to banking.

(g) Data processing: The authority of holding companies under § 222.4(a) to engage in data processing activities is intended to permit holding companies to process, by means of a computer or otherwise, data for others of the kinds banks have processed, by one means or another, in conducting their internal operations and accommodating their customers. It is not intended to permit holding companies to engage in automated data processing activities by developing programs either upon their own initiative or upon request, unless the data involved are financially oriented. The Board regards as incidental activities necessary to carry on the permissible activities in this area the following: (1) Making excess computer time available to anyone so long as the only involvement by the holding company system is furnishing the facility and necessary operating personnel; (2) selling a byproduct of the development of a program for a

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permissible data processing activity; and (3) furnishing any data processing service upon request of a customer if such data processing service is not otherwise reasonably available in the relevant market area.

Effective date: July 1, 1971.

By order of the Board of Governors,
June 10, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-8647 Filed 6-18-71; 8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-NE-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Continental Control Area; Correction

On May 19, 1971, F.R. Doc. 71-6931 was published in the FEDERAL REGISTER (36 F.R. 9067) and was effective May 19, 1971.

This document amended Part 71 of the Federal Aviation Regulations in part by revoking R-4105 from the Continental Control Area, whereas R-4105 should have been retained within this control area. Accordingly, action is taken herein to reinstate R-4105 in the Continental Control Area.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (6-19-71), F.R. Doc. 71-6931 is amended as hereinafter set forth.

Item No. 1 is revoked.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 16, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8669 Filed 6-18-71; 8:47 am]

[Airspace Docket No. 71-SO-61]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Areas Correction

In F.R. Doc. 71-8083 appearing on page 11188 in the issue of Thursday, June 10,

1971, the penultimate line of the Waycross, Ga., transition area description reading "Airport (lat. 31°11'06" N., long. 32°16'25" W.)" should read "Airport (lat. 31°11'06" N., long. 82°16'25" W.)."

[Airspace Docket No. 71-SW-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Change of Names of Federal Airway and Jet Route Segments and Domestic Low Altitude Reporting Points

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations is to effect editorial changes to VOR Federal airway Nos. 9, 15, 16, 17, 18, and 163; Jet Route Nos. 23 and 86; and Domestic Low Altitude Reporting Point "Mineral Wells, Tex."

In order to eliminate duplication of location names, the names of three VORTAC facilities in the Southwest Region are being changed as follows:

Present Name	Future Name
Mineral Wells, Tex.	Millsap, Tex.
Galveston, Tex.	Scholes, Tex.
Grand Isle, La.	Leeville, La.

Since these amendments are editorial in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

Section 71.123 (36 F.R. 494, 2010, 3892, 4043) is amended as follows:

1. In V-9 delete "From Grand Isle, La., via INT Grand Isle," and substitute therefor "From Leeville, La., via INT Leeville."

2. In V-15 delete "From Galveston, Tex.," and substitute therefor "From Scholes, Tex."

3. In V-16 delete all references to "Mineral Wells, Tex." and substitute therefor "Millsap, Tex."

4. In V-17 delete all references to "Mineral Wells, Tex." and substitute therefor "Millsap, Tex."

5. In V-18 delete "From Mineral Wells, Tex.," and substitute therefor "From Millsap, Tex."

6. In V-70 delete all references to "Galveston, Tex." and substitute therefor "Scholes, Tex."

7. In V-76 delete all references to "Galveston, Tex." and substitute therefor "Scholes, Tex."

RULES AND REGULATIONS

amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	Location N. lat./W. long.	Reference facility
J807R		
Belle Terre, Conn.	41°02'17"/73°08'51"	Hampton, N.Y.
Cherry Plain, N.Y.	42°40'52"/73°18'11"	Albany, N.Y.
Holland, Vt.	44°59'29"/71°59'58"	Plattsburgh, N.Y.
J808R		
Squid, N.Y.	40°31'19"/72°47'56"	Kennedy, N.Y.
Mary Ann, Mass.	41°29'31"/70°09'06"	Nantucket, Mass.
Whaler, Mass.	42°11'49"/67°00'28"	Do.
J809R		
Squid, N.Y.	40°31'19"/72°47'56"	Kennedy, N.Y.
Mary Ann, Mass.	41°29'31"/70°09'06"	Nantucket, Mass.
Davey, Maine.	42°55'46"/67°29'55"	Do.
J810R		
Bremen, Ga.	33°39'32"/85°12'55"	Montgomery, Ala.
Montgomery, Ala., VOR-TAC	33°13'20"/86°19'11"	Do.
Monroeville, Ala.	31°27'37"/87°21'10"	Do.
New Orleans, La., VOR-TAC	30°01'47"/90°10'20"	New Orleans, La.
J814R		
New Orleans, La., VOR-TAC	30°01'47"/90°10'20"	Do.
Monroeville, Ala.	31°27'37"/87°21'10"	Montgomery, Ala.
Texas, Ga.	33°02'38"/85°12'27"	Do.
J816R		
Social Circle, Ga.	33°37'10"/83°36'42"	Spartanburg, S.C.
Lincolnton, N.C.	35°12'11"/80°55'57"	Do.
Richmond, Va.	37°30'08"/77°19'14"	Flat Rock, Va.
Marburg, Va.	38°30'27"/77°07'05"	Do.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 15, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8675 Filed 6-18-71; 8:48 am]

[Airspace Docket No. 70-EA-86]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On March 6, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4510) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate 10 area high routes, J811R through J820R, as a part of the overall program to establish an area navigation jet route structure.

Three of the proposed routes—J813R, J814R, and J816R—have been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No adverse comments were received to these three routes.

Reference facilities for two waypoints in J816R have been changed to provide more precise route guidance. These changes are minor in nature and are made herein without changing the route alignment.

Subsequent to issuance of the notice, it was determined that due to an impending revision to the traffic flow in the Washington ARTCC area known as the Capital Complex Plan, J817R (Boston, Mass., to Washington, D.C.) and J818R (Washington, D.C., to Boston, Mass.), should be withdrawn and they will be reissued in another notice at a later date.

The remaining routes in Airspace Docket No. 70-WA-42 will be issued in a final rule as soon as certain objections are reconciled and flight inspection is performed.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is

Waypoint name	Location N. lat./W. long.	Reference facility
J807R		
Belle Terre, Conn.	41°02'17"/73°08'51"	Hampton, N.Y.
Cherry Plain, N.Y.	42°40'52"/73°18'11"	Albany, N.Y.
Holland, Vt.	44°59'29"/71°59'58"	Plattsburgh, N.Y.
J808R		
Squid, N.Y.	40°31'19"/72°47'56"	Kennedy, N.Y.
Mary Ann, Mass.	41°29'31"/70°09'06"	Nantucket, Mass.
Whaler, Mass.	42°11'49"/67°00'28"	Do.
J809R		
Squid, N.Y.	40°31'19"/72°47'56"	Kennedy, N.Y.
Mary Ann, Mass.	41°29'31"/70°09'06"	Nantucket, Mass.
Davey, Maine.	42°55'46"/67°29'55"	Do.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 15, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8657 Filed 6-18-71; 8:46 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-51; Amdt. 1]

PART 374—IMPLEMENTATION OF THE CONSUMER CREDIT PROTECTION ACT (OTHERWISE KNOWN AS THE TRUTH IN LENDING ACT AND THE FAIR CREDIT REPORTING ACT) WITH RESPECT TO AIR CARRIERS AND FOREIGN AIR CARRIERS

Purpose

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of June 1971.

By SPR-49 adopted June 7, 1971, and effective June 10, 1971, and published at 36 F.R. 11189, the Board amended Part 374 of the Special Regulations to call attention to the recent amendments to the Consumer Credit Protection Act and the regulations of the Federal Reserve Board relating thereto insofar as they relate to air carriers and foreign air carriers. By SPR-49 the Board also reissued the part. The rule contains an incorrect citation to Regulation Z of the Board of Governors of the Federal Reserve System. This amendment corrects the citation.

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on July 9, 1971. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

The title of Part 374 has been modified to incorporate the formal name of the statute which is "Consumer Credit Protection Act." Title I of the Act is the Truth in Lending Act and title VI thereof is the Fair Credit Reporting Act.

Accordingly, the Board hereby amends Part 374 of the Special Regulations (14 CFR Part 374) effective July 9, 1971, as follows:

Amend § 374.1(c) to read as follows:
§ 374.1 Purpose.

(c) The Board of Governors of the Federal Reserve System has the statutory responsibility for prescribing regulations to carry out the purposes of the Truth in Lending Act. It has promulgated Regulation Z (12 CFR Part 226) to implement the provisions of this Act. Regulation Z has been amended to prescribe rules to implement the credit card provisions of the Truth in Lending Act (36 F.R. 1040, January 22, 1971).

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] O. D. OZMENT,
Acting General Counsel.

[FR Doc.71-8682 Filed 6-18-71;8:48 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev. of the Export Regs. (Amdt. 24)]

PART 371—GENERAL LICENSES

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

People's Republic of China and Eastern Europe

Parts 371 and 376 of the Code of Federal Regulations are amended as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 28 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.)

Effective date: June 11, 1971.

RAUER H. MEYER,
Director, Office of Export Control.

1. In § 371.3, a new paragraph (c) is added to read as follows:

§ 371.3 General License G—DEST; shipments of commodities to destinations not requiring a validated license.

(c) Exceptions to validated license requirement for People's Republic of China. The commodities listed in Supplement No. 1 to Part 371 are exportable to the People's Republic of China under this general license regardless of the symbol "Z" shown in the column entitled "Validated License Required for Country Groups Shown Below" on the Commodity Control List.

2. The following Supplement No. 1 is added to Part 371:

Supplement No. 1—Exceptions to Country Group Z Validated License Requirement

The following commodities are exportable to the People's Republic of China under General License G—DEST even though such commodities are identified on the Commodity Control List by the symbol "Z" in the column entitled "Validated License Required for Country Groups Shown Below":

EXPORT CONTROL COMMODITY NUMBER¹ AND COMMODITY DESCRIPTION

0(1) and (2) Food and live animals, except inbred cereal grain seed.

1(1) Beverages, tobacco, and tobacco manufactures.

21(1) Hides, skins, and fur skins, undressed.

22(1) Oil seeds, oil nuts, oil kernels, and flour and meal thereof.

23(5) Crude natural rubber and similar natural gum; neoprene (polymers of chloroprene); alkyl polysulfide liquid rubber, n.e.c.; styrene-butadiene rubber and butyl rubber, and reclaimed rubber, waste, and scrap, thereof.

24(3) Wood, lumber, and cork.

25(2) Pulp and waste paper.

26(5) Textile fibers, not manufactured into yarn, thread, or fabrics, and their waste, except staple, not carded or combed, and continuous filament tow, wholly made of fluorocarbon polymers or copolymers; and used, obsolete, and reject materials bearing the design of any version of the flag of the United States of America.

27(5) Crude fertilizers and crude minerals (excluding coal, petroleum, and precious stones), except natural graphite; natural quartz; lithium ores and concentrates; celestite; gallium sesquioxide; lutetium oxide; strontium sulfate; strontianite; strontium carbonate; cerium ores; and other rare earths.

28(21) Terne plated scrap; tin-plated scrap which has not been detinned.

28(21) Metalliferous ores and concentrates, as follows: Antimony, bauxite and aluminum concentrates, chromium, cobalt, iron, lead, manganese containing over 10 percent manganese, platinum and platinum group, silver, tin, tungsten, vanadium, and zinc.

28(21) Nonferrous base ash and residues, as follows: aluminum, lead, tin, and zinc.

28(21) Nonferrous metal waste and scrap as follows: aluminum, lead, magnesium except as listed in entry No. 28(19), platinum and platinum group, silver, tin, and zinc (including zinc dust).

29(3) Crude animal and vegetable materials, n.e.c., except inbred forage sorghum seed; cinchona bark; pyrethrum; and rotenone-bearing roots, crude, ground, or powdered.

3(15) Coal, charcoal, and coke and briquets, except gilsonite coke or other coke derived from gilsonite; and petroleum coke.

4(2) Animal and vegetable oils and fats, except oils, boiled, oxidized, dehydrated, blown, or polymerized; and hydrogenated, fats and oils, other than fish and fish liver oils, including unmixed and those that have not been further prepared for food purposes.

¹ The italicized number in parentheses represents the sequence of the entry in which the commodity is shown on the Commodity Control List under that Export Control Commodity Number.

512(29) Coal tar and other cyclic chemical intermediates listed in § 399.2, Interpretation 24(a), except resorcinol and toluene.

512(29) Synthetic organic medicinal chemicals, in bulk, listed in § 399.2, Interpretation 24(a).

512(29) Rubber compounding chemicals listed in § 399.2, Interpretation 24(a).

512(29) Plasticizers listed in § 399.2, Interpretation 24(a).

512(29) Synthetic organic chemicals listed in § 399.2, Interpretation 24(a).

512(29) Miscellaneous industrial and other organic chemicals listed in § 399.2, Interpretation 24(a), except boric acid esters, bromomonochlorodifluoromethane, bromotrifluoromethane, chloropentafluoroethane, chlorotrifluoroethane, difluoroethane, diorgano siloxanes capable of being polymerized to rubbery products, monochlorodifluoroethane, monochlorodifluoromethane, tetrachlorodifluoroethane, tetrafluoromethane, and trichlorodifluoromethane.

513(28) Inorganic chemical elements, oxides, hydroxides, peroxides, and halogen salts listed in § 399.2, Interpretation 24(a), except pyrographite (deposited carbon), mercury (quick-silver); oxygen, nitrogen, hydrogen, argon, and neon; chlorosulfonic acid; other zinc oxides, n.e.c.; and other iron, lead, manganese, and titanium oxides, n.e.c.

514(32) Inorganic chemicals listed in § 399.2, Interpretation 24(a), except refined borates, boron compounds and mixtures, niobium compounds, silicon carbide, tantalum compounds, tantalum-niobium compounds, titanium carbide, titanium tetrachloride, and titanium trichloride.

52(2) Mineral tar; ammoniacal gas liquors and spent oxide produced in coal gas purification; crude benzene, or pyridine; creosote; creosote oil distillates; dead oil; and resinous oil X-1.

53(7) Dyeing, tanning, and coloring materials, natural, and synthetic; and pigments, paints, varnishes, and related materials, except those listed in entries No. 43 (1) through (6).

54(5) Medicinal and pharmaceutical products, except those listed in entries No. 54 (1) through (4).

55(2) Essential oils and perfume materials; and toilet, polishing, and cleansing preparations, except those listed in entry No. 55 (1).

56(2) Manufactured fertilizers, except nitrogenous chemical fertilizers, n.e.c.; basic slag; potassium chloride, all grades, and those listed in entry No. 56 (1).

57(7) Commodities classified under Schedule B Nos. 571.1100 through 571.4030, except hunting and sporting ammunition, n.e.c.; and parts, n.e.c.; and those listed in entries No. 57 (1) through (6).

581(18) Polymers, copolymers, and other products, unfinished or semifinished, listed in § 399.2, Interpretation 24(a), except polycarbonate resins, molding and extrusion forms; polyethylene terephthalate film; and polypropylene film.

59(21) Chemical materials and products, n.e.c., listed in § 399.2, Interpretation 24(a), except artificial and colloidal graphite, n.e.c.

61(1) Leather, leather manufactures, n.e.c., and dressed fur skins.

62(11) Rubber manufactures, n.e.c., except those listed in entries No. 62 (1) through (10).

63(2) Wood and cork manufactures, excluding furniture.

64(1) Paper, paperboard, and manufactures thereof.

651(7) Textile yarn, roving, strand, thread, tire cord and tire cord fabric, except those listed in entries Nos. 651 (1) through (6).

652(2) Fabrics, woven, except used or reject fabric bearing the design of any version of the flag of the United States of America.

653(8) Broad and narrow woven fabrics, except those listed in entries Nos. 653 (1) through (7).

654(3) Narrow woven fabric, trimming, embroideries, and lace machine fabrics, except wholly made of fluorocarbon polymers or copolymers.

655(13) Felts and felt articles; bonded fiber and articles; coated or impregnated fabrics; elastic fabric; cordage, cable, rope, and twine and manufactures thereof; hat bodies; wadding and articles thereof; textile fabrics and articles used in machinery or plant; wicks; gas mantles except those containing thorium; and textile belts, belting, tubing, and hose; except those listed in entries Nos. 655 (1) through (12).

656(7) Textile bags, sacks, made-up canvas goods, blankets, linens and other furnishing articles, and other made-up textile articles, n.e.c., except those listed in entries Nos. 656 (1) through (6).

657(1) Carpets, rugs, linoleum and other floor coverings, and tapestries.

661(1) Lime, cement, building and monumental stone, asphalt and tar roofing, siding, and similar materials, building materials of vegetable substances agglomerated with mineral binding substances, and asbestos-cement or fiber-cement articles.

662(2) Heat insulating bricks, blocks, tiles, and other heat insulating goods of infusorial earths, kieselguhr, siliceous fossil meal, or similar siliceous earths; and other refractory and nonrefractory construction materials, except those listed in entry No. 622 (1).

663(17) Grinding and polishing wheels and stones, coated abrasives, worked mica and articles thereof, mineral insulating materials, articles of plaster, concrete, cement stone, carbon or graphite, refractory products other than construction; asbestos manufactures, friction materials, articles of ceramic materials, except carbon or graphite refractory products, n.e.c., and those listed in entries No. 663 (1) through (16).

664(15) Glass and glassware classified under Schedule B Nos. 664.1300 through 664.9450, except other nonflexible fused fiber-optic plates or bundles in which the fiber pitch (center to center spacing) is less than 30 microns, laminated or toughened safety glass for aircraft, and those listed in entries No. 664 (1) through (14).

665(1) Articles of glass, n.e.c., classified under Schedule B Nos. 665.1110 through 665.8500.

666(1) Household ware, ornaments, and furnishing goods of porcelain, china, or ceramic materials classified under Schedule B Nos. 666.4000 through 666.6000.

667(5) Pearls, diamonds, quartz crystals, and other precious and semiprecious stones classified under Schedule B Nos. 667.1000 through 667.4020, except those listed in entries Nos. 667 (1) through (4).

671(7) Spiegeleisen; pig iron, including cast iron; iron or steel shot, angular grit and wire pellets; iron or steel powders; sponge iron or steel; and ferroalloys, except those listed in entries Nos. 671 (1) through (6).

672(5) Ingots and other primary forms, iron or steel, except those containing 6 percent or more cobalt, AISI type 309-S-Cb-Ta, or containing a total of 35 percent or more of alloying elements, other alloy steel coils for rerolling, and those listed in entries No. 672 (1) through (4).

673(4) Bars, rods, angles, shapes, and sections, iron or steel, except those containing 6 percent or more cobalt, AISI type 309-S-Cb-Ta, or containing a total of 35 percent or more of alloying elements, and those listed in entries No. 673 (1) through (3).

674(4) Uncoated plates and sheets, iron or steel, except those listed in entries No. 674 (1) through (3), and (5); and tin mill products.

675(6) Carbon or alloy steel hoop, strip, and skelp, except AISI type 309-S-Cb-Ta, or containing a total of 35 percent or more of alloying elements; and those listed in entries No. 675 (1) through (5).

677(3) Carbon or alloy steel wire, coated or uncoated, except glass to metal sealing alloy containing 6 percent or more cobalt, AISI type 309-S-Cb-Ta, or containing a total of 35 percent or more of alloying elements; and those listed in entries No. 677 (1) and (2).

678(8) Cast iron pressure and soil pipe; welded, clinched, or riveted steel tubes and pipes; electrical and high pressure hydroelectric conduits, all steel grades; and iron or steel tube and pipe fittings; except tubes and pipes, nickel-bearing stainless steel, AISI type 309-S-Cb-Ta, or containing a total of 35 percent or more of alloying elements; forged steel pipe fittings having a pipe size connection greater than 19 inches o.d. and designed for a working pressure of over 300 p.s.i. as determined by American Petroleum Institute test; and those listed in entries No. 678 (1) through (7).

679(3) Carbon and alloy steel or grey iron and malleable iron castings and forgings in the rough state, except AISI type 309-S-Cb-Ta, or containing a total of 35 percent or more of alloying elements; and those listed in entries No. 679 (1) and (2).

680(1) United States and foreign coins, all metals other than gold.

681(4) Silver-copper brazing alloy and silver leaf.

685(1) Lead or lead alloys, unwrought or wrought.

686(1) Zinc or zinc alloys, unwrought or wrought.

687(1) Tin or tin alloys, unwrought or wrought.

6894(7) Tungsten or tungsten alloys, wrought or unwrought, and waste and scrap, except those listed in entry No. 6894 (1).

6895(19) Base metals and alloys, wrought or unwrought, and waste and scrap, of antimony, chromium, germanium, manganese, thermo bimetal, thermometal, thermostatic metal, and titanium, except those listed in entries No. 6895 (1) through (18), and (20).

691(6) Finished structures and structural parts classified under Schedule B Nos. 691.1015 through 691.3040, except those listed in entries No. 691 (2) and (3).

692(2) Metal containers for storage and transport, except those listed in entry No. 692 (1).

693(5) Wire products other than insulated electric, except wire cable, rope, strand, and cord, stainless steel, suitable for aircraft.

694(1) Nails, screws, nuts, bolts, rivets, and similar articles of iron, steel, or copper.

695(5) Hand tools, cutting tools, dies, and machine knives and blades; and parts thereof; except those listed in entries Nos. 695 (1) through (4).

696(1) Commodities classified under Schedule B Nos. 696.0310 through 696.0935.

697(1) Household equipment of base metals classified under Schedule B Nos. 697.1010 through 697.9300.

6981(1) Padlocks, door locks, hinges and other hardware of base metals, and parts thereof, classified under Schedule B Nos. 698.1110 through 698.1280.

6982(1) Insulated safes, vault doors, interior equipment for vaults, strong rooms and fittings, and strong boxes; and parts, thereof.

6983(1) Chains, iron or steel, and parts classified under Schedule B Nos. 698.3010 through 698.3040.

6984(1) Anchors, grapnels, and parts thereof.

6985(1) Commodities classified under Schedule B Nos. 698.5100 through 698.5300.

6986(2) Springs and leaves for springs, except those listed in entry No. 6986 (1).

6988(16) Chains, copper or copper alloy, and parts; crown and canning closures; and metal plates, signs, and tags.

6989(29) Articles of iron, steel, and nonferrous metals listed in § 399.2, Interpretation 32(a), except castings and forgings of niobium, and electrical steel punchings.

711(24) Outboard motors, 15 horsepower and under; and internal combustion engines, 50 horsepower and under, except diesel, and engines for watercraft and automotive vehicles; water turbines and engines, except those listed in entries No. 711 (23) and (23a); and parts and accessories, thereof.

712(8) Agricultural machines and appliances, except those with automatic transmissions; farm and industrial dairy machines; presses and crushers, beverage making; logging skidders; and wheel tractors under 125 power takeoff horsepower, except military; and parts and accessories, n.e.c.

714(12) Typewriters, checkwriting, calculating, statistical, duplicating, and other office machines, n.e.c.; and parts thereof; except those listed in entries No. 714 (1) through (6) and (9) through (11).

71510(15) Portable pipe bending machines; and metal-polishing and buffing machines; manually operated bench and floor types.

7152(3) Ingot molds for heavy steel ingots.

717(1) Machines for: Extruding fibers; preparing and processing fibers into yarn; winding; weaving; knitting; producing trimmings, braids, net and similar articles; washing, cleaning, drying, bleaching, dyeing, dressing, or finishing textiles; commercial laundry, dry cleaning, pressing, and related equipment; household laundry equipment; shoe making and repairing; preparing, tanning, or working hides, skins, or leather; sewing machines and needles; and parts, n.e.c.

718(13) Machinery for making or finishing cellulosic pulp, paper, or paperboard; papercutting machines and other machines for the manufacture of articles of pulp, paper, or paperboard; book-binding machines; type making and typesetting machines; printing machines; food processing machines; self-propelled road rollers; self-propelled ditchers and trenchers incorporating engines rated 60 horsepower or less; asphalt cutters; clay spades; dredging machines; dirt tampers; farm-type snow

- plows; briquetting presses; buggies; cutting machines; grout, plaster, or mortar mixers; and brick, tile, household ceramic, and concrete products manufacturing machines; standard equipment for the assembly of entertainment type receiver tubes or television tubes; glass-working machinery, except those listed in entries No. 718 (10) through (12); and parts, n.e.c.
- 7191(31) Acetylene gas generating apparatus; unitized; oil and gas furnace burners; mechanical stokers and grates; ash dischargers; bakery ovens; carbon black furnaces; ice-making machines; soda fountain and beer dispensing equipment; air-conditioning and refrigerating equipment, n.e.c.; commercial type cooking and food warming equipment; dental, medical, surgical, and laboratory sterilizers and autoclaves; asphalt heating kettles; bituminous heaters; machines and equipment for processing by means of a change in temperature for paper, rubber, or food products industries; and parts, n.e.c.; except those listed in entries No. 7191 (1) through (30).
- 7192(26) Pumps, compressors, blowers, and fans listed in § 399.2, Interpretation 29(a), except centrifugal and axial flow compressors, horizontal balanced opposed reciprocating compressors, and gas engine driven integral angle reciprocating compressors; and parts and attachments, n.e.c.
- 7192(38) Centrifuges, separators, and filtering and purifying machines listed in § 399.2, Interpretation 29(a).
- 7193(6) Construction jacks; drill jacks; pendant type overhead hoists; casket lowering devices; elevators and moving stairways; fishing boat winches; self-propelled logging vehicles; logging skidders and arches; nonmilitary type industrial tractors and lift trucks; industrial trucks, tractors, and portable elevators of a kind used for moving goods in plants, docks, and similar installations; automobile lifts; automotive and aircraft jacks; hand-operated mechanical or hydraulic jacks; farm elevators; and conveying equipment other than automated, the following only: Gravity, overhead trolley pneumatic tube, portable, underground mine, loaders, and vibrators; and parts, n.e.c.
- 7194(1) Domestic food-processing appliances, refrigerators, freezers, and water heaters, nonelectric; and parts.
- 7195(11) Machines for working asbestos-cement, ceramics, concrete, stone and similar mineral materials, wood, cork, bone, ebonite, hard plastics, and other hard carving materials; and parts, n.e.c.; and parts for manually operated bench and floor type metal-polishing and buffing machines.
- 7196(4) Calendaring machines and similar rolling machines; dishwashing, bottling, canning, packaging, wrapping, filling, and sealing machines; weighing machines and scales; sprayers and spraying equipment; automatic merchandising machines; railway track fixtures and fittings, n.e.c.; signalling and controlling equipment, mechanical, not electrically powered, for road, rail, water, or airfield traffic; and parts, n.e.c.
- 7198(29) Machines and mechanical appliances listed in § 399.2, Interpretation 29(a).
- 7199(21) Molding boxes and molds other than ingot molds, except for artillery molding or casting; taps, cocks, valves, and similar appliances, except those listed in entries No. 7199 (1) through (14); gaskets (joints), laminated metal

- and nonmetal material, or set of gaskets of two or more materials, except those listed in entries No. 7199 (17) through (19); oil seal rings; and paddle wheels for watercraft; and parts, n.e.c.
- 722(30) Motors; generators; generating sets; rotating equipment; transformers; fluorescent ballasts; regulators; rectifiers; coils; reactors; chokes; power supplies; electrical apparatus for making, breaking, or protecting electrical circuits; industrial controls; connectors; resistors; potentiometers; current carrying devices; electrical control equipment for motors and generators for railway equipment; and parts, n.e.c., except those listed in entries No. 722 (1) through (29).
- 723(16) Ignition harness and cable sets, automotive type; appliance cord sets and other flexible cord sets; electrical insulators, fittings, and conduit tubing and joints of base metal, with insulating materials, except fluorocarbon polymers or copolymers; and insulating nickel wire of alloys composed of 50 percent or more copper, and alloys of chief weight copper, irrespective of nickel content, except fluorocarbon polymer or copolymer insulation.
- 724(23) Television broadcast receivers, whether or not combined with radio or phonograph, and parts, n.e.c.; television or radio tuners, chassis, and unassembled kits; household type radios including radiophonograph combinations, and parts, n.e.c.; automobile radios other than two-way radios, and parts, n.e.c.; telephone repeater equipment; microphones; audiofrequency sound amplifiers; public address systems; loudspeakers; and untuned amplifiers having a bandwidth of less than 30 MHz and a power output not exceeding 5 watts; except those listed in entries No. 724 (1) through (20).
- 725(1) Household type refrigerators, freezers, and washing machines; electro-mechanical household and commercial type appliances, n.e.c.; electric shavers and hair clippers; and electric household type cooking equipment and electro-thermic appliances, n.e.c.; and parts, n.e.c.
- 726(6) Electromedical and electrotherapeutic apparatus, medical and dental X-ray and gamma ray equipment, and medical and dental apparatus based on the use of radiation from radioactive substances, except those listed in entries No. 726 (1) through (5); and parts, n.e.c.
- 7291(2) Primary and storage batteries and cells, except electrochemical and radio-active devices listed in entry No. 7291 (1); and parts, n.e.c.
- 7292(6) Filament lamps (bulbs and tubes) up to and including 3/4-inch base; single coil tungsten filaments; filament bulbs over three-fourths inch, the following only: carbon, clear, frosted, incandescent, metal, photofood, or projection; and parts, n.e.c.
- 7293(25) Electron tubes, solid state semiconductor devices, and piezoelectric crystals; and parts, n.e.c., except those listed in entries No. 7293 (1) through (24).
- 7294(3) Electrical starting and ignition equipment, except those listed in entries No. 7294 (1) and (2); and motor vehicle lighting and signalling equipment, including wipers, horns, and defrosters; and parts, n.e.c.
- 7295(3) Other cathode ray oscilloscopes; and other electronic devices for stroboscopic analysis designed to be used in conjunction with an oscilloscope; except those listed in entries No. 7295 (1) and (2).

- 7295(89) Electricity supply meters; and instruments, n.e.c. for measuring, analyzing, indicating, recording, or testing electric or electronic quantities or characteristics, except instruments, n.e.c., operating at frequencies of 300 MHz or less; and those listed in entries No. 7295 (1), (2), and (4) through (88).
- 7296(1) Electromechanical hand tools; and parts.
- 7299(17) Electromagnetic and permanent magnetic chucks, clamps, vises, and similar work holders for metalworking machines and machine tools, except those listed in entry No. 7299 (3); electric dental furnaces; infrared and high frequency industrial ovens for biscuit baking; and parts, n.e.c.
- 7299(43) Capacitor for electronic applications, except those listed in entries No. 7299 (29), (29a), and (30); other capacitors, except for aircraft; brush plates, electrical carbon brushes, and lighting carbons, except electrodes and electrical carbons, and those listed in entries No. 7299 (19) through (25); resistor-capacitor assemblies and subassemblies, except those listed in entries No. 7299 (30) through (32); and electric windshield wipers; and parts, n.e.c.
- 731(3) Parts for locomotives, except axles and wheels.
- 732(25) Passenger cars, except those having front and rear axle drive; motorcycles; motor bikes; and motor scooters; and parts and accessories, n.e.c.
- 732(25) Parts and accessories, n.e.c., for (a) logging skidders, and (b) wheel tractors under 125 power takeoff horsepower, except military.
- 733(4) Commodities classified under Schedule B Nos. 733.1100 through 733.4000, except those listed in entries No. 733 (1) through (3).
- 734(14) Nonmilitary gliders, sailplanes, and other nonpowered aircraft, n.e.c., and balloons, except balloons listed in entry No. 734 (8); and parts and accessories, n.e.c.
- 735(2) Buoy, all metals; pontoons for pipe lines, iron or steel; and fiber glass swimming pools, floating.
- 81(2) Commodities classified under Schedule B Nos. 812.1010 through 812.4320, except those listed in entry No. 81 (1).
- 82(1) Commodities classified under Schedule B Nos. 821.0200 through 821.0885.
- 83(1) Commodities classified under Schedule B Nos. 831.0010 through 831.0050.
- 84(1) Commodities classified under Schedule B Nos. 841.1102 through 842.0200.
- 85(1) Commodities classified under Schedule B Nos. 851.0010 through 851.0090.
- 8611(9) Lenses and other optical elements for X-ray powder cameras; half-tone glass screens; projection lenses; and optical elements, mounted, except non-flexible fused fiber optic plates and or bundles, optically worked, in which the fiber pitch (center to center spacing) is less than 30 microns; and those listed in entries No. 8611 (1) through (8).
- 8612(1) Spectacles and goggles; and parts.
- 8613(4) Optical appliances, n.e.c., except those listed in entries No. 8613 (1) through (3).
- 8614(8) Hand type still cameras, fixed focus; microfilming cameras; still camera stands; tripods; flash synchronizers; and X-ray powder cameras; and parts and accessories.
- 8616(2) Still picture photographic projectors, enlargers, and reducers, and parts, n.e.c.; photoscales (enlarger parts); microfilming equipment, n.e.c.; photocopying equipment, as follows: Office and

- document-copying machines, including but not limited to equipment employing the silver process, transfer process, thermographic process, and the electro-photographic or electrostatic process; and still picture equipment, as follows: Analyzers, cutting boards, developing equipment, dry mounting presses, hangers, glass photo baths, print rollers, printing frames and masks, and shading machines; and parts therefor.
- 8617(4) Medical, dental, surgical, ophthalmic, and veterinary instruments and apparatus, other than electromedical; and mechanical physical therapy appliances and respiratory equipment; and parts therefor; except those listed in entries No. 8617 (1) through (3).
- 8618(1) Gas or liquid supply meters.
- 8618(4) Revolution counters, production counters, speedometers, and similar counting devices, not electric or electronic, except those listed in entries No. 8618 (2) and (3).
- 8619(60) Parts and accessories, n.e.c., for meters, instruments, appliances, and devices included on this list under entry Nos. 7295 (3) and (89), and 8618 (1) and (4).
- 8619(62) Instruments, appliances, or machines, not electric or electronic, as follows: surveying, hydrographic, navigational, meteorological, hydrological, geophysical, compasses, rangefinders, laboratory balances, drawing, marking-out, calculating, drafting, measuring, checking, hydrometers and similar instruments, thermometers, pyrometers, barometers, hygrometers, and psychrometers; and parts therefor; except those listed in entries No. 8619 (1) through (59) and parts therefor in entry No. 8619(60).
- 862(6) Prepared photographic chemicals, the following only: developers, except those listed in entry No. (1), fixers, intensifiers, reducers, toners, clearing agents, and flashlight materials; except photoresist formulations based on naturally occurring glues, gums, gelatins, albumens, shellacs, or lacquers.
- 864(1) Watches and clocks; and parts, n.e.c.
- 891(9) Magnetic recording and or reproducing equipment designed for voice and music only; dictating machines; phonographs; record players; magnetic recording media designed for voice and music only; phonograph records and record blanks; musical instruments; and parts and accessories, n.e.c.
- 892(5) Commodities classified under Schedule B Nos. 892.1110 through 892.9850.
- 89300(14) Finished articles (other than laminates and unsupported film, sheet, and other shapes) of artificial plastic materials, n.e.c., except nonflexible fused fiber optic plates or bundles, and those listed in entries No. 89300 (1) through (13).
- 894(3) Commodities classified under Schedule B Nos. 894.1010 through 894.5000, except those listed in entry 894(1).
- 895(1) Office and stationery supplies, n.e.c.
- 896(1) Works of art, collectors' pieces, and antiques.
- 897(3) Jewelry and goldsmiths' and silver-smiths' wares, except platinum-clad molybdenum tubing.
- 899(6) Manufactured articles, n.e.c., except those listed in entries No. 899 (1) through (5), and (7).
- 9(10) Live animals, n.e.c., including zoo animals, dogs, cats, insects, and birds; and coins, other than gold coins, not being legal tender.

§ 376.3 [Deleted]

3. Section 376.3 is deleted.
[FR Doc.71-8520 Filed 6-18-71; 8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

SUBCHAPTER C—DRUGS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Erythromycin Thiocyanate

The Commissioner of Food and Drugs has evaluated a new animal drug application (41-955V) filed by Amdal Co., Division of Abbott Laboratories, 14th

Street and Sheridan Road, North Chicago, Ill. 60064, proposing the safe and effective use of erythromycin when administered in swine feed for the purposes set forth below. The application is approved.

Based upon an evaluation of the data before him, the Commissioner concludes that a tolerance is required to assure that edible tissues of swine treated with erythromycin are safe for human consumption.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517 (21 CFR 3.517), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121 and 135g are amended as follows:

1. Section 121.292 is amended in the table in paragraph (d) by adding a new item 6.1 as follows:

§ 121.292 Erythromycin thiocyanate.

(d)

ERYTHROMYCIN IN ANIMAL FEED

Principal Ingredient	Grams per ton	Combined with —	Grams per ton	Limitations	Indications for use
5.1 . . .	. . .	. . .	. . .	. . .	. . .
6.1 Erythromycin	10.70	—	—	For swine: feed from 10 to 70 grams per ton to starter pigs up to 35 pounds of body weight, and 10 grams per ton to grower-finishing pigs.	For increase in rate of weight gain and improved feed efficiency in starter and grower-finishing pigs.

2. Section 135g.34 is revised to read as follows:

§ 135g.34 Erythromycin.

Tolerances for residues of erythromycin in food are established as follows:

- (a) 0.1 part per million (negligible residue) in uncooked edible tissues of swine.
- (b) Zero in uncooked edible tissues of chickens, turkeys, and beef cattle; in uncooked eggs; and in milk.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-19-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1))

Dated: June 8, 1971.

FRED J. KINGMA,

Acting Director,

Bureau of Veterinary Medicine.

[FR Doc.71-8564 Filed 6-18-71; 8:45 am]

PART 148q—GENTAMICIN

Effective on publication in the FEDERAL REGISTER (6-19-71), Part 148q is republished as follows to incorporate editorial and nonrestrictive technical changes. This order revokes all prior publications.

Sec.	
148q.1	Sterile gentamicin sulfate.
148q.1a	Nonsterile gentamicin sulfate.
148q.2	Gentamicin sulfate ointment.
148q.3	Gentamicin sulfate cream.
148q.4	Gentamicin sulfate injection.
148q.5	Gentamicin sulfate ophthalmic solution.

Sec. 148q.6 Gentamicin sulfate ophthalmic ointment.

Authority: The provisions of this Part 148q issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 148q.1 Sterile gentamicin sulfate.

(a) *Requirements for certification—* (1) *Standards of identity, strength, quality, and purity.* Sterile gentamicin sulfate is the sulfate salt of a kind of gentamicin or a mixture of two or more such salts. It is a powder, white to buff in color. It is readily soluble in water but insoluble in ethanol. It is so purified and dried that: (i) Its potency is not less than 590 micrograms of gentamicin per milligram on an anhydrous basis.

- (ii) It is sterile.
- (iii) It passes the safety test.
- (iv) It is nonpyrogenic.
- (v) Its loss on drying is not more than 18.0 percent.

(vi) Its pH in an aqueous solution containing 40 milligrams per milliliter is not less than 3.5 and not more than 5.5.

(vii) Its specific rotation in an aqueous solution containing 10 milligrams per milliliter at 25° C. is not less than +107° and not more than +121°.

(viii) Its content of gentamicin C₁ is not less than 25 nor more than 50 percent; of gentamicin C₂, not less than 15 nor more than 40 percent; and of gentamicin C₃, not less than 20 nor more than 50 percent.

(ix) It gives a positive identity test for gentamicin sulfate.

(2) **Labeling.** It shall be labeled in accordance with the requirements of § 148.3(b) of this chapter.

(3) **Requests for certification; samples.** In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, safety, pyrogens, loss on drying, pH, specific rotation, content of gentamicins C₁, C_{1a}, and C₂, and identity.

(ii) Samples required:

(a) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(b) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) **Tests and methods of assay—(1) Potency.** Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with sufficient solution 3 to give a reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) **Sterility.** Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) **Safety.** Proceed as directed in § 141.5 of this chapter.

(4) **Pyrogens.** Proceed as directed in § 141.4(a) of this chapter, using a solution containing 10.0 milligrams of gentamicin per milliliter.

(5) **Loss on drying.** Proceed as directed in § 141.501(c) of this chapter.

(6) **pH.** Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 40 milligrams of gentamicin per milliliter.

(7) **Specific rotation.** Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 10 milligrams per milliliter. Proceed as directed in § 141.520 of this chapter, using a 1-decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(8) **Content of gentamicins C₁, C_{1a}, and C₂—(i) Equipment—(a) Chamber (chromatographic).** Use a suitable chromatography jar with a tightly fitting, ground glass contact top for descending chromatography.

(b) **Sheets (chromatographic).** Cut a 57 x 46-centimeter sheet of Whatman No. 2 filter paper, or chromatographic paper that will produce similar results, into four strips of about 14.25 x 46 centimeters. Draw a starting line 9 centimeters from one end and mark two dots on this line, each 4 centimeters from each edge.

(ii) **Reagents.** Use reagent grade solvents and chemicals.

(iii) **Solvent system.** In each of two separators, equilibrate 200 milliliters of chloroform and 100 milliliters of methanol with 100 milliliters of 17 percent (9

molar) ammonium hydroxide. Without allowing the phases of one to separate, add the entire mixture to the chromatography jar and allow 24 hours for saturation. Allow the second separator to stand until the phases separate and use the lower phase only as the chromatographic solvent.

(iv) **Ninhydrin reagent.** To 1 gram of ninhydrin and 0.1 gram of cadmium acetate, add 3 milliliters of water and 1.5 milliliters of glacial acetic acid and shake. Add 100 milliliters of *n*-propanol and shake until solution is complete. Keep this solution in a brown bottle under refrigeration.

(v) **Procedure.** Prepare an aqueous solution containing 40 milligrams of the sample per milliliter. Apply 5 microliters of this solution to each dot on the sheet. Prepare two such sheets and place them in the tank so that elution will take place from separate troughs. Fill the two troughs with the chromatographic solvent. Develop the sheets in a descending manner until the solvent front reaches the bottom of the paper (approximately

3½ hours at 25° C.). Remove the sheets and dry in a hood for 30 minutes. Cut each sheet in half, lengthwise. Spray one half with ninhydrin reagent and place the sprayed strip in a drying oven at 100° C. for 1 minute. The gentamicin fractions appear as reddish zones. The zone furthest from the origin is gentamicin C₁, the one closest is gentamicin C_{1a}, and the middle zone is gentamicin C₂. Cut the corresponding zones out of the other unsprayed half of the sheet. Cut each portion of the sheet thus obtained into small strips and put those from each zone into a separate 125-milliliter glass-stoppered flask. Add 50 milliliters of 0.1M potassium phosphate buffer, pH 8, to each flask and swirl the flask mechanically for 30 minutes. Decant the solution from each flask into separate test tubes and allow the paper to settle. Pipe 4 milliliters of each clear solution into a 25-milliliter volumetric flask and make to volume with the pH 8 buffer. Assay these solutions as directed in subparagraph (1) of this paragraph.

	Assay of C ₁ fraction	Assay of C ₂ fraction	Assay of C _{1a} fraction
Total gentamicins =	0.786	1.023	0.977
Percent of gentamicin C ₁ =	Assay of C ₁ fraction	100	
	0.786	total gentamicins	
Percent of gentamicin C ₂ =	Assay of C ₂ fraction	100	
	1.023	total gentamicins	
Percent of gentamicin C _{1a} =	Assay of C _{1a} fraction	100	
	0.977	total gentamicins	

Where:

The assays are expressed in terms of the microgram equivalents of gentamicin; and The factors 0.786, 1.023, and 0.977 represent the activities of gentamicins C₁, C₂, and C_{1a} relative to the gentamicin activity of the gentamicin master standard.

(9) **Identity.** Proceed as directed in § 141.521 of this chapter, using a 0.5 percent mixture of the sample in a potassium bromide disc prepared as described in paragraph (b)(2) of that section.

§ 148q.1a Nonsterile gentamicin sulfate.

(a) **Requirements for certification—**

(1) **Standards of identity, strength, quality, and purity.** Gentamicin sulfate is the sulfate salt of a kind of gentamicin or a mixture of two or more such salts. It is a powder, white to buff in color. It is readily soluble in water but insoluble in ethanol. It is so purified and dried that:

(i) Its potency is not less than 590 micrograms of gentamicin per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 18.0 percent.

(iv) Its pH in an aqueous solution containing 40 milligrams per milliliter is not less than 3.5 and not more than 5.5.

(v) Its specific rotation in an aqueous solution containing 10 milligrams per milliliter at 25° C. is not less than +107° and not more than +121°.

(vi) Its content of gentamicin C₁ is not less than 25 or more than 50 percent; of gentamicin C_{1a}, not less than 15 nor

more than 40 percent; and of gentamicin C₂, not less than 20 nor more than 50 percent.

(vii) It gives a positive identity test for gentamicin sulfate.

(2) **Labeling.** It shall be labeled in accordance with the requirements of § 148.3(b) of this chapter.

(3) **Requests for certification; samples.** In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, specific rotation, content of gentamicins C₁, C_{1a}, and C₂, and identity.

(ii) **Samples required.** 10 packages, each containing approximately 500 milligrams.

(b) **Tests and methods of assay—(1) Potency.** Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) **Sterility.** Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) **Safety.** Proceed as directed in § 141.5 of this chapter.

(4) **Pyrogens.** Proceed as directed in § 141.4(a) of this chapter, using a solution containing 10.0 milligrams of gentamicin per milliliter.

(5) **Loss on drying.** Proceed as directed in § 141.501(c) of this chapter.

(6) **pH.** Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 40 milligrams of gentamicin per milliliter.

(7) **Specific rotation.** Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 10 milligrams per milliliter. Proceed as directed in § 141.520 of this chapter, using a 1-decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(8) **Content of gentamicins C₁, C_{1a}, and C₂—(i) Equipment—(a) Chamber (chromatographic).** Use a suitable chromatography jar with a tightly fitting, ground glass contact top for descending chromatography.

(b) **Sheets (chromatographic).** Cut a 57 x 46-centimeter sheet of Whatman No. 2 filter paper, or chromatographic paper that will produce similar results, into four strips of about 14.25 x 46 centimeters. Draw a starting line 9 centimeters from one end and mark two dots on this line, each 4 centimeters from each edge.

(ii) **Reagents.** Use reagent grade solvents and chemicals.

(iii) **Solvent system.** In each of two separators, equilibrate 200 milliliters of chloroform and 100 milliliters of methanol with 100 milliliters of 17 percent (9

(2) **Safety.** Proceed as directed in § 141.5 of this chapter.

(3) **Loss on drying.** Proceed as directed in § 141.501(c) of this chapter.

(4) **pH.** Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 40 milligrams of gentamicin per milliliter.

(5) **Specific rotation.** Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 10 milligrams per milliliter. Proceed as directed in § 141.520 of this chapter, using a 1.0-decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(6) **Content of gentamicins C₁, C_{1a}, and C₂.** Proceed as directed in § 148q.1(b)(8).

(7) **Identity.** Proceed as directed in § 141.521 of this chapter, using a 0.5 percent mixture of the sample in a potassium bromide disc prepared as described in paragraph (b)(1) of that section.

§ 148q.2 Gentamicin sulfate ointment.

(a) **Requirements for certification—**

(1) **Standards of identity, strength, quality, and purity.** Gentamicin sulfate ointment is gentamicin sulfate with suitable preservatives in a white petrolatum base. Each gram contains gentamicin sulfate equivalent to 1.0 milligram of gentamicin. Its potency is satisfactory if it is not less than 90 percent and not more than 135 percent of the number of milligrams of gentamicin that it is represented to contain. Its moisture content is not more than 1.0 percent. The gentamicin sulfate used conforms to the standards prescribed therefor by § 148q.1a(a)(1), except safety.

(2) **Packaging.** In addition to the requirements of § 148.2 of this chapter, it may be dispensed from a pressurized container wherein it is maintained in a compartment separate from the gas used to supply the pressure.

(3) **Labeling.** It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(4) **Requests for certification; samples.** In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on: (a) The gentamicin sulfate used in making the batch for potency, loss on drying, pH, specific rotation, content of gentamicins C₁, C_{1a}, and C₂, and identity.

(b) The batch for gentamicin potency, sterility, safety, pyrogens, and pH.

(ii) **Samples required:** 10 packages, each containing approximately 500 milligrams.

(b) **Tests and methods of assay—(1) Potency.** Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) **Sterility.** Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) **Safety.** Proceed as directed in § 141.5 of this chapter.

(4) **Pyrogens.** Proceed as directed in § 141.4(a) of this chapter, using a solution containing 10.0 milliliters of gentamicin per milliliter.

(5) **Loss on drying.** Proceed as directed in § 141.501(c) of this chapter.

(6) **pH.** Proceed as directed in § 141.503 of this chapter, using the undiluted solution.

(7) **Specific rotation.** Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 10 milligrams per milliliter. Proceed as directed in § 141.520 of this chapter, using a 1-decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(8) **Content of gentamicins C₁, C_{1a}, and C₂—(i) Equipment—(a) Chamber (chromatographic).** Use a suitable chromatography jar with a tightly fitting, ground glass contact top for descending chromatography.

(b) **Sheets (chromatographic).** Cut a 57 x 46-centimeter sheet of Whatman No. 2 filter paper, or chromatographic paper that will produce similar results, into four strips of about 14.25 x 46 centimeters. Draw a starting line 9 centimeters from one end and mark two dots on this line, each 4 centimeters from each edge.

(ii) **Reagents.** Use reagent grade solvents and chemicals.

(iii) **Solvent system.** In each of two separators, equilibrate 200 milliliters of chloroform and 100 milliliters of methanol with 100 milliliters of 17 percent (9

homogeneous, add 20-25 milliliters of 0.1M potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction with new portions of the buffer and repeat any additional times necessary to insure complete extraction of the antibiotic. Combine the extracts and adjust to an appropriate volume to give a stock solution of convenient concentration. Further dilute with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) **Moisture.** Proceed as directed in § 141.502 of this chapter.

(3) **Labeling.** It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(4) **Requests for certification; samples.** In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on: (a) The gentamicin sulfate used in making the batch for potency, loss on drying, pH, specific rotation, content of gentamicins C₁, C_{1a}, and C₂, and identity.

(b) The batch for gentamicin potency, sterility, safety, pyrogens, and pH.

(ii) **Samples required:** 10 packages, each containing approximately 500 milligrams.

(b) **Tests and methods of assay—(1) Potency.** Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) **Sterility.** Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) **Safety.** Proceed as directed in § 141.5 of this chapter.

(4) **Pyrogens.** Proceed as directed in § 141.4(a) of this chapter, using a solution containing 10.0 milliliters of gentamicin per milliliter.

(5) **Loss on drying.** Proceed as directed in § 141.501(c) of this chapter.

(6) **pH.** Proceed as directed in § 141.503 of this chapter, using the undiluted solution.

(7) **Specific rotation.** Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 10 milligrams per milliliter. Proceed as directed in § 141.520 of this chapter, using a 1-decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(8) **Content of gentamicins C₁, C_{1a}, and C₂—(i) Equipment—(a) Chamber (chromatographic).** Use a suitable chromatography jar with a tightly fitting, ground glass contact top for descending chromatography.

(b) **Sheets (chromatographic).** Cut a 57 x 46-centimeter sheet of Whatman No. 2 filter paper, or chromatographic paper that will produce similar results, into four strips of about 14.25 x 46 centimeters. Draw a starting line 9 centimeters from one end and mark two dots on this line, each 4 centimeters from each edge.

(ii) **Reagents.** Use reagent grade solvents and chemicals.

(iii) **Solvent system.** In each of two separators, equilibrate 200 milliliters of chloroform and 100 milliliters of methanol with 100 milliliters of 17 percent (9

homogeneous, add 20-25 milliliters of 0.1M potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction with new portions of the buffer and repeat any additional times necessary to insure complete extraction of the antibiotic. Combine the extracts and adjust to an appropriate volume to give a stock solution of convenient concentration. Further dilute with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) **Moisture.** Proceed as directed in § 141.502 of this chapter.

(3) **Labeling.** It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(4) **Requests for certification; samples.** In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on: (a) The gentamicin sulfate used in making the batch for potency, loss on drying, pH, specific rotation, content of gentamicins C₁, C_{1a}, and C₂, and identity.

(b) The batch for gentamicin potency, sterility, safety, pyrogens, and pH.

(ii) **Samples required:** 10 packages, each containing approximately 500 milligrams.

(b) **Tests and methods of assay—(1) Potency.** Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) **Sterility.** Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) **Safety.** Proceed as directed in § 141.5 of this chapter.

(4) **Pyrogens.** Proceed as directed in § 141.4(a) of this chapter, using a solution containing 10.0 milliliters of gentamicin per milliliter.

(5) **Loss on drying.** Proceed as directed in § 141.501(c) of this chapter.

(6) **pH.** Proceed as directed in § 141.503 of this chapter, using the undiluted solution.

(7) **Specific rotation.** Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 10 milligrams per milliliter. Proceed as directed in § 141.520 of this chapter, using a 1-decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(8) **Content of gentamicins C₁, C_{1a}, and C₂—(i) Equipment—(a) Chamber (chromatographic).** Use a suitable chromatography jar with a tightly fitting, ground glass contact top for descending chromatography.

(b) **Sheets (chromatographic).** Cut a 57 x 46-centimeter sheet of Whatman No. 2 filter paper, or chromatographic paper that will produce similar results, into four strips of about 14.25 x 46 centimeters. Draw a starting line 9 centimeters from one end and mark two dots on this line, each 4 centimeters from each edge.

(ii) **Reagents.** Use reagent grade solvents and chemicals.

(iii) **Solvent system.** In each of two separators, equilibrate 200 milliliters of chloroform and 100 milliliters of methanol with 100 milliliters of 17 percent (9

ity, and purity. Gentamicin sulfate injection is an aqueous solution of gentamicin sulfate and one or more suitable buffers, sequestering agents, and preservatives. Each milliliter contains gentamicin sulfate equivalent to 40 milligrams of gentamicin. Its potency is satisfactory if it contains not less than 90 percent nor more than 125 percent of the number of milligrams of gentamicin that it is represented to contain. It is sterile. It passes the safety test. It is nonpyrogenic. Its pH is not less than 3.0 nor more than 5.5. The gentamicin sulfate used conforms to the standards prescribed therefor by § 148q.1(a)(1).

(2) **Labeling.** It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) **Requests for certification; samples.** In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on: (a) The gentamicin sulfate used in making the batch for potency, loss on drying, pH, specific rotation, content of gentamicins C₁, C_{1a}, and C₂, and identity.

(b) The batch for gentamicin potency, sterility, safety, pyrogens, and pH.

(ii) **Samples required:** 10 packages, each containing approximately 500 milligrams.

(b) **Tests and methods of assay—(1) Potency.** Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) **Sterility.** Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) **Safety.** Proceed as directed in § 141.5 of this chapter.

(4) **Pyrogens.** Proceed as directed in § 141.4(a) of this chapter, using a solution containing 10.0 milliliters of gentamicin per milliliter.

(5) **Loss on drying.** Proceed as directed in § 141.501(c) of this chapter.

(6) **pH.** Proceed as directed in § 141.503 of this chapter, using the undiluted solution.

(7) **Specific rotation.** Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 10 milligrams per milliliter. Proceed as directed in § 141.520 of this chapter, using a 1-decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(8) **Content of gentamicins C₁, C_{1a}, and C₂—(i) Equipment—(a) Chamber (chromatographic).** Use a suitable chromatography jar with a tightly fitting, ground glass contact top for descending chromatography.

(b) **Sheets (chromatographic).** Cut a 57 x 46-centimeter sheet of Whatman No. 2 filter paper, or chromatographic paper that will produce similar results, into four strips of about 14.25 x 46 centimeters. Draw a starting line 9 centimeters from one end and mark two dots on this line, each 4 centimeters from each edge.

(ii) **Reagents.** Use reagent grade solvents and chemicals.

(iii) **Solvent system.** In each of two separators, equilibrate 200 milliliters of chloroform and 100 milliliters of methanol with 100 milliliters of 17 percent (9

than 6.5 nor more than 7.5. The gentamicin sulfate conforms to the standards prescribed by § 148q.1a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The gentamicin sulfate used in making the batch for potency, safety, loss on drying, pH, specific rotation, content of gentamicins C₁, C_{1a}, and C₂, and identity.

(b) The batch for potency, sterility, and pH.

(ii) Samples required:

(a) The gentamicin sulfate used in making the batch: 10 packages, each containing not less than 500 milligrams.

(b) The batch:

(1) For all tests except sterility: A minimum of five immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the product with 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method

described in paragraph (e)(1) of that section.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted sample.

§ 148q.6 Gentamicin sulfate ophthalmic ointment.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Gentamicin sulfate ointment contains in each gram the equivalent of 3.0 milligrams of gentamicin with suitable preservatives in a white petrolatum base. Its potency is satisfactory if it is not less than 90 percent and not more than 135 percent of the number of milligrams of gentamicin that it is represented to contain. Its moisture content is not more than 1.0 percent. It passes the test for particulate contamination. The gentamicin sulfate used conforms to the standards prescribed therefor by § 148q.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The gentamicin sulfate used in making the batch for potency, safety, loss on drying, pH, specific rotation, content of gentamicins C₁, C_{1a}, and C₂, and identity.

(b) The batch for gentamicin potency, moisture, and particulate contamination.

(ii) Samples required:

(a) The gentamicin sulfate used in making the batch: 10 packages, each containing not less than 500 milligrams.

(b) The batch: A minimum of 15 immediate containers.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 141.110 of this chapter, except prepare the sample as follows: Place an accurately weighed representative portion of the ointment into a separatory funnel containing 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1M potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction with new portions of solution 3. Repeat any additional times necessary to insure complete extraction of the antibiotic. Combine the extracts and adjust to an appropriate volume to give a stock solution of convenient concentration. Further dilute with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(3) *Particulate contamination.* Proceed as directed in § 141.508 of this chapter.

(Sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357)

Dated: June 1, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.

[FR Doc.71-8569 Filed 6-18-71; 8:45 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 231]

OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT AND PRODUCTION

Notice of Extension of Time for Comments

In the FEDERAL REGISTER of March 24, 1971 (36 F.R. 5510-5515), there were published proposed regulations governing operations conducted under mineral permits and leases on public and acquired lands of the United States and on Indian lands administered by the Department of the Interior. Public comment on the proposed regulations was invited within a period of 60 days from March 24, 1971.

Notice is hereby given that the period for submitting written comments, suggestions, or objections with respect to the proposed regulations to the Director, U.S. Geological Survey, Washington, D.C. 20242, is extended to July 22, 1971.

Dated: June 14, 1971.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.71-8565 Filed 6-18-71; 8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration

[24 CFR Part 241]

[Docket No. R-71-117]

SUPPLEMENTARY FINANCING FOR FHA PROJECT MORTGAGES

Eligibility Requirements; Secretary-Held Mortgages

Pursuant to sections 211 and 241 of the National Housing Act (the Act) (12 U.S.C. 1715b, 1715z-6) and the Secretary's delegation of authority (36 F.R. 5006), it is proposed to amend Part 241 of the regulations governing supplementary financing for FHA project mortgages. The proposal would implement section 111 of the Housing and Urban Development Act of 1970 (84 Stat. 1772), which amended section 241 of the Act to authorize the Secretary to insure supplementary loans for projects on which he holds the mortgage.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal, on or before July 19, 1971, addressed to the Assistant Secretary for Housing Production and Mortgage Credit, Depart-

ment of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20411. A copy of each communication will be available for public inspection during regular business hours in the HUD Information Center, Room 1202 at the above address.

The proposed amendments are set out in full below.

1. In § 241.1 paragraph (i) is amended, amended, and a new paragraph (j) is added, to read:

§ 241.1 Definitions.

(i) "Borrower" means the owner of a project covered by an insured mortgage or a mortgage held by the Secretary, which owner receives and becomes primarily obligated for the payment of a supplementary loan.

(j) "Secretary" means the Secretary of Housing and Urban Development or his authorized representatives.

2. Section 241.70 is amended to read:

§ 241.70 Maximum loan amount.

(a) Where the project is covered by an insured mortgage, the principal amount of the loan shall not exceed the lesser of the following:

(1) Ninety percent of the Commissioner's estimate of the value of the improvements, additions, or equipment.

(2) An amount which, when added to any outstanding indebtedness relating to the property, does not exceed the maximum mortgage amount insurable under the section or title pursuant to which the mortgage covering such project or facility is insured.

(b) Where the project is covered by a mortgage held by the Secretary, the principal amount of the loan shall be in an amount acceptable to the Secretary.

3. In § 241.100 paragraph (a)(1)(ii) is amended to read:

§ 241.100 Prepayment privilege and charge.

(a) *Prepayment privilege.* (1) . . .

(ii) A provision requiring full prepayment of the loan in the event the insured mortgage or the mortgage held by the Secretary is paid in full prior to maturity, unless the borrower submits to such regulation or restriction as the Commissioner may require.

4. In § 241.110 paragraph (b) is amended to read:

§ 241.110 Certificate of use for transient or hotel purposes.

(b) . . .

(1) In connection with a housing for the elderly project covered by a mortgage insured under the provisions of §§ 231.1 et seq. of this chapter or by a mortgage held by the Secretary.

(2) In connection with a nursing home covered by a mortgage insured under the provisions of §§ 232.1 et seq. of this chapter or by a mortgage held by the Secretary.

(3) In connection with a group practice facility covered by a mortgage insured under the provisions of §§ 1100.1 et seq. of this chapter or by a mortgage held by the Secretary.

5. Section 241.125 is amended to read: § 241.125 Use of loan proceeds.

The proceeds of the loan shall be used only to finance improvements or additions to a multifamily project or group practice facility which is subject to a mortgage insured under any section or title of the Act or covered by a mortgage held by the Secretary. The proceeds of a loan involving a nursing home or a group practice facility may also be used to purchase equipment to be used in the operation of such nursing home or facility.

6. Section 241.145 is amended to read:

§ 241.145 Labor requirements.

All of the labor standards and prevailing wage requirements which were applicable to the insurance of the existing project mortgage, or pursuant to which the original project mortgage was insured, shall also be complied with in connection with the loan insured under this section.

Issued at Washington, D.C., June 21, 1971.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[FR Doc.71-8660 Filed 6-18-71; 8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-CE-65]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter VOR Federal airway No. 127 by extending it from Bradford, Ill., to Capital, Ill., via the Mora Intersection.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention:

Chief, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The airspace action proposed in this docket would extend V-127 from the Bradford, Ill., VORTAC to the Capital, Ill., VORTAC via the Broadford 159° T (155° M) and the Capital 013° T (009° M) radials.

This proposed airway extension would resolve an IFR traffic congestion situation at Peoria, Ill. It will provide for segregation of en route traffic from arrival and departure traffic, and in some situations provide for straight-in approaches to the ILS front course.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 14, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8668 Filed 6-18-71; 8:47 am]

[14 CFR Part 73]

[Airspace Docket No. 71-WA-23]

RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a restricted area at Amchitka, Alaska.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. All communications received within 30 days after publication of this notice will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in

the Rules Docket for examination by interested persons.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its standards and recommended practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace action proposed in this docket would designate a restricted area extending from the surface to and including 18,000 feet MSL within the boundary of Amchitka Island including the airspace within 3 nautical miles from and parallel to the shoreline of Amchitka Island.

Coincident with the designation of the Amchitka restricted area, a warning area would be established within a 50 nautical mile radius of lat. 51°30'20" N., long.

179°02'30" E., extending from the surface to and including 18,000 feet MSL.

The proposed restricted area and warning area are needed to provide protected airspace for a nuclear test to be conducted during the fall of 1971 by the Atomic Energy Commission. The area would be established as a joint-use restricted area to be activated by NOTAM at least 24 hours in advance. It would be activated 7 days prior to the test date and deactivated not later than 15 days after the test.

This amendment is proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510); Executive Order 10854 (24 F.R. 9565); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 15, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8656 Filed 6-18-71; 8:46 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 296, 297]

[Docket No. 23287; EDR-198A]

CHARTERS BY AIR FREIGHT FORWARDERS

Supplemental Advance Notice of Proposed Rule Making

JUNE 16, 1971.

The Board by advance notice of proposed rule making EDR-198 dated April 14, 1971, and published at 36 F.R. 7467, gave notice that it was considering issuing a notice of proposed rule making which would include amendment of Parts 296 and 297 of its economic regulations to limit the chartering of aircraft by air freight forwarders. Interested persons were invited to participate by the submission of twelve (12) copies of written data, views or arguments pertaining thereto to the Docket Section of the Board on or before June 21, 1971. Subsequent to the issuance of the advance notice, counsel for one air freight forwarder requested an extension of time for filing comments to July 2, 1971. He stated that such additional time is needed to assemble economic data and other facts for inclusion in the comments to be filed. Also, counsel for two other air freight forwarders requested a similar extension of 14 days for the reason that the issues raised in the proceeding are involved and complex and warrant the grant of such additional time for the preparation of comments.

The undersigned finds that good cause has been shown for additional time for filing comments to the extent herein-after granted. Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's organization regulations,

the undersigned hereby extends the time for submitting comments to July 2, 1971.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

[SEAL] CHARLES A. HASKINS,
Acting Associate General Counsel,
Rules and Rates.

[FR Doc.71-8683 Filed 6-18-71; 8:49 am]

CIVIL SERVICE COMMISSION

[5 CFR Parts 300, 772]

EXAMINING, TESTING, STANDARDS AND EMPLOYMENT PRACTICES

Notice of Proposed Rule Making

Notice is hereby given that under authority of sections 3301 and 3302 of title 5, United States Code, and E.O. 10577, 3 CFR 1954-58 Comp., p. 218, the Civil Service Commission proposes to issue regulations to insure that examining, testing, standards and employment practices are not affected by discrimination on account of race, color, religion, sex, national origin, partisan political affiliation, or other nonmerit factors. These regulations will govern recruitment, measurement, ranking and selection of individuals for appointment and promotion in the competitive service, and in positions required to be filled in the same manner as positions in the competitive service.

Interested persons may submit written comments, objections and suggestions to the Bureau of Policies and Standards, U.S. Civil Service Commission, Washington, D.C. 20415, within 30 days after the date of publication of this notice in the Federal Register. All writings received in response to this notice will be available for examination by the public. The proposed regulations are set out below:

PART 300—EMPLOYMENT (GENERAL)

Subpart A—Employment Practices

§ 300.101 Purpose.

The purpose of this subpart is to establish principles to govern, as nearly as is administratively feasible and practical, the employment practices of the Federal Government generally and of individual agencies, that affect the recruitment, measurement, ranking, and selection of individuals for initial appointment and competitive promotion in the competitive service or in positions required to be filled in the same manner as positions in the competitive service are filled. For the purpose of this subpart the term "employment practices" includes the development and use of examinations, qualification standards, tests, and other measurement instruments.

§ 300.102 Policy.

This subpart is directed to implementation of the policy that competitive employment practices:

(a) Be practical in character and as far as possible relate to matters that fairly test the relative capacity and fitness of candidates for the jobs to be filled;

(b) Result in selection from among the best qualified candidates;

(c) Be developed and used without discrimination because of race, color, religion, sex, national origin, partisan political affiliation, or other nonmerit grounds; and

(d) Insure to the candidate opportunity for appeal or administrative review, as appropriate.

§ 300.103 Basic requirements.

(a) *Job analysis.* Each employment practice shall be based on a job analysis to identify

(1) The basic duties and responsibilities;

(2) The knowledges, skills, and abilities required to perform the duties and responsibilities; and

(3) The factors that are important in evaluating candidates.

The job analysis may cover a single job or group of jobs, or an occupation or group of occupations, having common characteristics.

(b) *Relevance.* (1) There shall be a rational relationship between the job to be filled (or the target position, in the case of an entry position), and the employment practice used. This relationship shall be demonstrable under guidelines published by the Commission in the Federal Personnel Manual. A minimum educational requirement may not be established except as authorized under section 3308 of title 5, United States Code.

(2) In the case of an entry position the required relevance may be based upon the target position when—

(i) The entry level job is a training position or the first of a progressive series of established training and development jobs leading to a target position at a higher level; and

(ii) New employees, within a reasonable period of time and in the great majority of cases, progress to that higher level.

(c) *Equal employment opportunity.* An employment practice shall not discriminate on the basis of race, color, religion, sex, national origin, partisan political affiliation, or other nonmerit factor. This requirement is generally met when an employment practice is relevant.

§ 300.104 Appeals, grievances, and complaints.

(a) *Employment practices.* (1) A candidate who believes that an employment practice which was applied to him and which is administered or required by the Commission violates a basic requirement set forth in § 300.103 is entitled to appeal to the Commission.

(2) An appeal shall be in writing and shall set forth the basis for the appellant's belief that a violation occurred.

(3) An appeal shall be filed with the office of the Commission having initial jurisdiction over the appeal. This office shall be an office or appellate body which is separate from the office that has jurisdiction over the employment practice which is the subject of the appeal. The time limit for filing an appeal is 1 year from the date the employment practice was applied to the applicant.

(b) *Examination ratings.* A candidate may file an appeal with the Commission from his examination rating or the rejection of his application. The appeal shall be filed and processed in accordance with instructions in chapter 337 of the Federal Personnel Manual.

(c) *Grievances and complaints to the agency.* (1) A candidate may file a complaint with an agency when he believes that an employment practice which was applied to him and which is administered or required by the agency discriminates against him on the basis of race, color, religion, sex, or national origin. The complaint shall be filed and processed in accordance with Subpart B of Part 713 of this chapter.

(2) Except as provided in subparagraph (1) of this paragraph, an employee may file a grievance with an agency when he believes that an employment practice which was applied to him and which is administered or required by the agency violates a basic requirement set forth in § 300.103. The grievance shall be filed and processed under the agency grievance system, or a negotiated grievance system, established in accordance with Subpart C of Part 771 of this chapter.

PART 772—APPEALS TO THE COMMISSION

Subpart D—Commission's Appellate Review of Employment Services

§ 772.101 Coverage.

This subpart applies to appeals to the Commission under Subpart A of Part 300 of this chapter.

§ 772.102 Action on initial appeal.

(a) *Right to a hearing.* An appellant is entitled to a hearing before the office of the Commission having initial jurisdiction of the appeal. That office shall inform the appellant of his right to a hearing. If the appellant does not desire a hearing, he shall so advise that office in writing.

(b) *Hearing procedures.* The hearing shall be conducted and recorded under § 772.305(c).

(c) *Initial decision.* Except as provided in paragraph (d) of this section, the Office of the Commission having initial jurisdiction of the appeal, after making such investigation as it considers necessary and holding a hearing if the appellant so requests, shall issue a written decision and send copies thereof to the appellant and his representative. If the appeal is sustained, the decision shall inform the appellant of the corrective action taken by the Commission. If

the appeal is denied, the decision shall inform the appellant of his right to further appeal without a hearing, and of the time limit for filing a further appeal.

(d) *Rejection of appeal.* (1) Except as provided by subparagraph (2) of this section, an appeal shall be rejected when the particular test, examination, standard, or employment practice being appealed has been the subject of a previous appeal on which a hearing was held and in which the final administrative decision of the Commission denied the appeal.

(2) An appeal on a particular test, examination, standard, or employment practice which was the subject of a previous appeal, hearing, and final administrative decision to deny the appeal, may be accepted when the appellant offers new and material evidence which was not available, or could not be located after reasonably diligent efforts to find the evidence at the time of the previous appeal.

§ 772.403 Further appeal.

(a) *Right of further appeal.* (1) The appellant is entitled to appeal the initial decision issued under § 772.402(c) to the Commissioners, U.S. Civil Service Commission, Washington, D.C. 20415.

(2) The appellant is entitled to appeal the decision issued under § 772.402(d) to the Commissioners.

(3) An appeal to the Commissioners shall be in writing, set forth the reasons for the appeal, and be filed with the Commissioners within 15 calendar days after receipt of the decision issued under § 772.402(c) or (d), whichever is applicable. The Commissioners may extend the time limit in this subparagraph upon a showing that circumstances beyond the control of the appellant prevented the filing of the appeal within the time limit.

(b) The Commissioners shall act on the appeal and issue a decision under the principles set forth in § 772.307 (b) and (c).

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-8721 Filed 6-18-71; 8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 73, 74]

[Dockets Nos. 18110, 18891; FCC 71-622]

MULTIPLE OWNERSHIP OF BROADCAST STATIONS AND DIVERSIFICATION OF CONTROL OF CATV SYSTEMS

Order Extending Time for Filing Reply Comments

In the matters of amendment of §§ 73.35, 73.240, and 73.636 of the Commission's rules relating to multiple own-

ership of standard, FM and television broadcast stations, Docket No. 18110; and amendment of Part 74, Subpart K, of the Commission's rules and regulations relative to diversification of control of community antenna television systems; and inquiry with respect thereto to formulate regulatory policy and rule making and/or legislative proposals, Docket No. 18891.

1. Reply comments in Docket No. 18110 and in so much of Docket No. 18891 as pertains to cross-ownership of CATV systems and local newspapers are presently due on June 18, 1971.

2. The American Newspaper Publishers Association (ANPA), on June 3, 1971, filed a motion to extend this filing date by a period of 2 months. As grounds for the motion, the ANPA states that its membership includes more than 90 percent of the total daily newspaper circulation in the United States and that ANPA and its members thus have a vital stake in the proposals in these proceedings; that extensive comments have been submitted by various parties; that a period of at least 1 month beyond the present due date of June 18, will be required for ANPA to prepare a reasoned and helpful analysis of and response to the opening comments; that ANPA has received numerous requests from counsel for newspapers and broadcasting stations which filed comments herein asking for an opportunity to coordinate in advance with ANPA for the purpose of eliminating as many individual reply comments as possible, thereby shortening and simplifying the record herein; and that considering normal problems caused by summer vacation plans of attorneys representing many parties to this proceeding, it is estimated that an additional month will be needed after completion of the ANPA reply comments to coordinate with the National Association of Broadcasters and other parties.

3. Statements in support of the ANPA motion were filed by the National Association of Broadcasters, and jointly by 10 other parties to the proceeding.

4. McClatchy Newspapers, on June 9, 1971, also filed a motion for extension of time in which to file reply comments. That pleading avers that coordination in advance of a single filing deadline, as requested by ANPA, may help to avoid repetitious reply comments but will not assure it; that the ANPA has demonstrated the need for a substantial extension of time and will probably use all of it; and that whatever new date may be granted in response to the ANPA motion, the Commission would be benefited by establishing a further deadline for parties other than ANPA.

5. We are of the view that ANPA has shown good cause in support of its motion. It appears that the coordination procedure which it suggests should be effective in shortening and simplifying the record herein, and that a period of 2 months is ample for carrying it out. Accordingly, the additional time requested by McClatchy Newspapers is not warranted.

6. In view of the foregoing: *It is ordered*, That the "Motion of McClatchy Newspapers for Extension of Time," filed June 9, 1971, is denied: *And it is further ordered*, That the "Motion to Extend Time for Submission of Reply Comments," filed by the American Newspaper Publishers Association on June 3, 1971, is granted, and that the date for filing reply comments in Docket No. 18110 and in that part of Docket No. 18891 that pertains to cross ownership of CATV systems and local newspapers is extended from June 18, 1971, to and including August 18, 1971.

Adopted: June 9, 1971.

Released: June 15, 1971.

FEDERAL COMMUNICATIONS COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8666 Filed 6-18-71; 8:47 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 71-571]

FEDERAL SAVINGS AND LOAN SYSTEM

Land Acquisition and Development Loans

JUNE 10, 1971.

Resolved that the Federal Home Loan bank board considers it advisable to amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purpose of revising the regulations governing loans by Federal savings and loan associations for land acquisition and development. Accordingly, the Federal Home Loan Bank Board hereby proposes to amend said Part 545 by revising § 545.6-14 thereof to read as follows:

§ 545.6-14 Loans to finance acquisition and development of land.

(a) *General provisions.* Subject to the provisions of this section, a Federal association which has a charter in the form of Charter N or Charter K (rev.) may invest in loans to finance the acquisition and development of land for primarily residential usage. An association shall not invest in a loan under this section unless it appears to the association that the purpose of the loan is to enable the borrower to undertake prompt development of land previously acquired or of land which will be acquired at the time the loan is made. The association shall fix the term of the loan, within the maximum term permitted by this section, on the basis of its determination as to a reasonable period of time necessary

¹ Commissioners Burch, Chairman; Robert E. Lee and Houser absent; Commissioner Johnson dissenting; Commissioner H. Rex Lee concurring in the result.

for the borrower to complete development and for disposition of the completed lots and improvements to be constructed thereon.

(b) *Basic limitations.* A Federal association may make loans under this section only when: (1) The aggregate amount of its general reserves, surplus, and undivided profits is equal to more than 5 percent of the amount of its withdrawable accounts; (2) the resulting aggregate amount of its investments in loans under this section would not exceed 5 percent of the amount of its withdrawable accounts; (3) the loans are loans on the security of first liens; and (4) the real estate security for each such loan is located within the association's regular lending area.

(c) *Limitations on specific loans.* No loan shall be made under this section in an amount equal to more than 75 percent of the value of the real estate security therefor as of the completion of the development thereof into building lots or sites ready for construction thereon. Each loan shall be repayable within a period of not more than 5 years and the interest thereon shall be payable at least semiannually. No disbursement of any of the proceeds of any loan made under this section shall be made at any time if such disbursement, together with the aggregate amount of such proceeds previously disbursed by the association and not repaid to it, would exceed an amount equal to 75 percent of the value at such time of (1) that portion of the security property which is building lots or sites the development of which is in progress or completed and (2) the remaining security property.

(d) *Releases; loan extensions.* Upon the release from the lien of any portion of the security property, the principal balance of any such loan shall be reduced by an amount at least equal to 110 percent of that portion of the outstanding principal loan balance which is

attributable to the value of the property to be released; "value" for such purpose is to be the value fixed at the time the loan was made or the loan amount was determined. An association may not extend a loan beyond the maximum 5-year term except with the prior approval of a Supervisory Agent of the Board, designated under § 501.11 of this chapter. A Supervisory Agent, at the request of the association, may approve an extension up to 1 year beyond the maximum 5-year term if he is of the opinion that economic conditions applicable to the project have prevented the disposition by the borrower of a sufficient number of completed lots or improvements thereon within the 5-year term to permit repayment of the loan.

(e) *Loans made prior to completion of planning.* If a loan is made under this section to a borrower who acquires the land before completion of plans for development thereof, a Federal association may leave for its later determination, based on appraisal after completion of such plans, the total amount of the loan. However, a Federal association shall not make such a loan unless the borrower has submitted a preliminary plan which, in the opinion of the association, is a feasible plan for development of the land for primarily residential usage. Where determination of the total amount of the loan is deferred under this paragraph, the loan agreement or other suitable instrument shall provide for acceleration of maturity of the loan to a fixed date (which shall be not more than 12 months after the date of the first disbursement of any of the proceeds of the loan) if by such fixed date the borrower has not furnished to the Federal association complete plans, satisfactory to the association, for development of the land.

(f) *Limitations on loans on a single project or to one borrower.* No association shall invest an amount in excess of 2 percent of its withdrawable accounts

in loans on any one land development project or in any such loan or loans to one borrower, including the balance of all outstanding loans made under this section to any partnership, corporation, or syndicate of which any partner, stockholder, owner, participant, or officer is the borrower, or is a partner, stockholder, owner, participant, or officer of the borrower.

(g) *Definitions.* The term "development" as used in this section means the installations and improvements necessary to produce from the land building sites so completed, in keeping with the applicable governmental requirements and with general practice in the community, that they are ready for the construction of buildings thereon.

(h) *Relation to § 545.6-7.* Loans made under this section shall not be counted toward the 20-percent-of-assets limitation of § 545.6-7.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW, Washington, DC 20552, by July 19, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71-8670 Filed 6-18-71; 8:47 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-156]

SWISS FRANC

Rates of Exchange

JUNE 7, 1971.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Swiss franc between June 1 and June 4, 1971.

Treasury Decision 71-101 published as the rate of exchange for the Swiss franc for use during the calendar quarter beginning April 1 through June 30, 1971, \$0.232800, as certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)).

For the dates listed below, the Federal Reserve Bank of New York certified rates for the Swiss franc which vary by 5 per centum or more from the rate \$0.232800. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert Swiss currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published:

Swiss franc:	
June 1, 1971 ¹	\$0.232800
June 2, 1971 ¹	.232800
June 3, 1971 ¹	.244512
June 4, 1971 ¹	.232800

Rates of exchange certified for the Swiss franc which vary by 5 per centum or more from the rate of \$0.232800 during the balance of the calendar quarter ending June 30, 1971, will be published in a Treasury Decision for dates subsequent to June 4, 1971, and before July 1, 1971.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.
[FR Doc.71-8664 Filed 6-18-71;8:47 am]

Office of the Secretary

[Dept. Circular Public Debt Series—No. 5-71]

6 PERCENT TREASURY NOTES OF SERIES F-1972

Offering of Notes

JUNE 17, 1971.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.76 percent of their face value

¹ Rate did not vary by 5 per centum or more from the rate of exchange published in T.D. 71-101 for use during calendar quarter beginning Apr. 1, 1971.

for \$2,250,000,000, or thereabouts, of notes of the United States, designated 6 percent Treasury Notes of Series F-1972. Tenders will be received up to 1:30 p.m., e.d.s.t., Tuesday, June 22, 1971. The notes will be issued under competitive and noncompetitive bidding, as set forth in section III hereof.

II. *Description of notes.* 1. The notes will be dated June 29, 1971, and will bear interest from that date at the rate of 6 percent per annum, payable on a semi-annual basis on November 15, 1971, and May 15 and November 15, 1972. They will mature November 15, 1972, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing U.S. notes.

III. *Tenders and allotments.* 1. Tenders will be received at Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220, up to the closing hour, 1:30 p.m., e.d.s.t., Tuesday, June 22, 1971. Each tender must state the face amount of notes bid for, which must be \$1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.76 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed \$200,000. It is urged that tenders be made on the printed forms and forwarded in the special envelopes marked "Tender for Treasury Notes", which will be supplied by Federal Reserve Banks on application therefor.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks, and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, the highest prices offered will be accepted in full down to the amount required, and if the same price appears in two or more tenders, and it is necessary to accept only a part of the amount offered at such price, the amount accepted at such price will be prorated in accordance with the respective amounts applied for. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for \$200,000 or less without stated price from any one bidder will be accepted in full at the average price¹ (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., e.d.s.t., Tuesday, June 22, 1971.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

¹ Average price may be at, or more or less than 100.00.

NOTICES

IV. *Payment.* 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before June 29, 1971, at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220, in cash or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depository will be permitted to make settlement by credit in its Treasury Tax and Loan Account for notes allotted to it for itself and its customers.

V. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] JOHN B. CONNALLY,
Secretary of the Treasury.
[FR Doc.71-8724 Filed 6-18-71; 8:50 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 18451]

MONTANA

Order Providing for Opening of Public Lands

JUNE 10, 1971.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 11 N., R. 38 E.,
Sec. 13, all.
T. 11 N., R. 39 E.,
Sec. 19, lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 20, E½.

The areas described aggregate 1,591.52 acres.

2. The lands are situated in the north portion of Rosebud County. The lands were acquired to further Federal programs of management. The lands have good potential for antelope and sage grouse habitat and when considered with adjoining public lands make an excellent public hunting area.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location and selection. All valid applications received at or prior to 10 a.m., July 15, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged and their status is not affected by this order.

5. Inquiries concerning the lands should be addressed to the Bureau of Land Management, 316 North 26th Street, Billings, MT 59101.

ARTHUR R. GREGORY,
Acting Chief,
Division of Technical Services.
[FR Doc.71-8654 Filed 6-18-71;8:46 am]

[N-74, N-598, N-3849]

NEVADA

Notice of Termination of Scrip and Sale Land Classifications

JUNE 14, 1971.

1. F.R. Doc. 66-10862, which appeared at pages 13007 through 13010 in the issue dated October 6, 1966, and F.R. Doc. 66-12635, published in the issue dated November 23, 1966, proposed to classify (1) certain Federal lands in the State of Nevada for selection in satisfaction of valid Valentine, Sioux Halfbreed, Wyandotte, Porterfield, Gerard, McKee, and Railroad Lieu Selection Claims, and (2) certain lands for selection in satisfaction of valid Soldiers' Additional Homestead, Isaac Crow, Merritt Blair, and Forest Lieu Claims. To the extent that the lands described in the above documents were not subsequently classified for selection in satisfaction of valid Soldiers' Additional Homestead claims, the proposal to so classify the land is by this notice terminated.

2. F.R. Docs. 66-12634, 66-13598, and 67-1126, which were published respectively in the issues dated November 23, 1966, December 21, 1966, and February 1, 1967, classified certain federally owned lands in Nevada for disposal in satisfaction of valid Valentine, Sioux Halfbreed, Wyandotte, Porterfield, Gerard, McKee, and Railroad Lieu Selection Claims. The Act of August 31, 1964 (78 Stat. 751), provides that all claims and holdings recorded under the Act of August 5, 1955 (69 Stat. 534, 535), which are not satisfied by methods provided by the act shall become null and void January 1, 1970, except for soldiers' additional homestead claims which shall become null and void on January 1, 1975. In pertinent

part the governing regulation (43 CFR 2612.1) states: "... any classification, pursuant to section 3 of the Act of August 31, 1964 will terminate on December 31, 1969 ...". Consistent with this regulation, the classifications effected by the FEDERAL REGISTER documents listed next above are by this notice revoked.

3. F.R. Doc. 70-3427, appearing at page 4974 in the issue for Saturday, March 21, 1970, classified the lands described below for disposal under the Public Land Sale Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1421-1427):

MOUNT DIABLO MERIDIAN, NEVADA
WASHOE COUNTY

T. 19 N., R. 18 E.,
Sec. 10, N½, W½SW¼, N½SE¼.

DOUGLAS COUNTY

T. 14 N., R. 20 E.,
Sec. 7, lot 2 of SW¼ (W½SW¼).

The authority to classify and sell land under the cited statutes expired December 23, 1970, without the notice required by section 7 of the law (43 U.S.C. 1423) having been given. The classification for sale is no longer proper and is by this notice revoked.

ROLLA E. CHANDLER,
Chief,
Division of Technical Services.
[FR Doc.71-8671 Filed 6-18-71;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-110]

ASSISTANT REGIONAL ADMINISTRATOR FOR EQUAL OPPORTUNITY, REGION VIII (DENVER)

Redelegation of Authority With Respect to Fair Housing

SECTION A. *Authority with respect to fair housing.* The Assistant Regional Administrator for Equal Opportunity is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under Title VIII (Fair Housing) of the Civil Rights Act of 1968, Public Law 90-284 (42 U.S.C. 3601-3619), except the authority to:

1. Issue a subpoena or an interrogatory under section 811 of the Act (42 U.S.C. 3611).

2. Make studies and publish reports under section 808(e) of the Act (42 U.S.C. 3608(d)).

3. Issue rules and regulations.

SEC. B. *Authority to redelegate.* The Assistant Regional Administrator for Equal Opportunity is further authorized to redelegate to subordinate employees the authority of the Secretary to administer oaths under section 811(a) of the Act (42 U.S.C. 3611(a)).

(Redelegation of authority by Assistant Secretary for Equal Opportunity effective Apr. 30, 1970, 35 F.R. 6877, Apr. 30, 1970)

Effective date. This redelegation of authority shall be effective as of January 22, 1971.

ROBERT C. ROSENHEIM,
Regional Administrator.

[FR Doc.71-8659 Filed 6-18-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-57]

SAN FRANCISCO BAY

Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), section 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to Chief, Office of Operations, U.S. Coast Guard, as contained in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8279), I hereby affirm for publication in the FEDERAL REGISTER the order of Mark A. Whalen, Rear Admiral, U.S. Coast Guard, Commander, Twelfth Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

SAN FRANCISCO BAY

SECURITY ZONE

Under the present authority of section I of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173, as amended, I declare that from 1200 Pacific daylight time on Wednesday June 16, 1971, until further notice, the following area is a security zone and I order it to be closed to any person or vessel.

The waters of San Francisco Bay within 100 yards of Alcatraz Island measured out from the low water mark of Alcatraz Island.

No person or vessel shall remain in or enter this security zone without the permission of the Captain of the Port.

The Captain of the Port, San Francisco, Calif., shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel, and facilities of any other Federal agency, or of any State or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws, and the person guilty of such failure, obstruction, or interference, shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than \$10,000."

"(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than \$10,000."

Dated: June 17, 1971.

D. H. LUZIUS,
Captain, U.S. Coast Guard,
Acting Chief, Office of Operations.

[FR Doc.71-8722 Filed 6-18-71;8:50 am]

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

HIGHLIGHTS LISTING

Notice of Exceptions

Under § 16.25(b) of Title 1 of the Code of Federal Regulations, the Director of the Federal Register is authorized to grant exceptions from the highlights listing requirement of that section. Section 16.25(b) exempts documents which make nonsubstantive changes that are corrective or editorial in nature. For additional exceptions granted by the Director, § 16.25(b) requires publication in the FEDERAL REGISTER of a list of the classes of documents exempted. This is the second such publication. For the convenience of the reader a cumulative list has been set forth below.

As previously stated (36 F.R. 7757), requests from Federal agencies for exceptions are evaluated by attempting to balance the advantage of listing a document or class of documents in the highlights listing against the disadvantages of having each daily highlights listing so long

as to seriously diminish its usefulness. It appears that the public interest would be served best by excluding listings for documents which do not have broad public interest or at least do not affect a significant segment of the public. It thus appears that all documents involving the rights or obligations of one or more named individuals or companies should be excepted unless a particular document concerns issues of broad public interest. Similarly, it appears that the daily listing will be more meaningful if it excludes other documents of limited applicability such as those relating to internal agency organization.

After the highlights listing has been in existence for a reasonable period of time all of the exceptions will be reviewed and modifications will be made where warranted. In this connection public and official comments are invited. Such comments should be addressed to: Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408. A public docket is maintained containing all correspondence concerning exceptions from the highlights requirement. This docket is available for public inspection at the Office of the Federal Register, 633 Indiana Avenue NW., Washington, DC, Monday through Friday, 8:45 a.m. to 5:15 p.m.

The list below sets forth the classes of documents by agency that have been exempted under § 16.25(b) to date. If a class of documents for which an agency has requested and received an individual exception falls within one of the general categories, it has not been listed separately. One exception (71-105) announced in the previous listing has been deleted. Upon reconsideration, it has been determined that Federal Communications Commission documents pertaining to FM and television tables of assignments are of sufficient public interest to warrant preparation of a highlight item.

Exemption No.	Agency	Class of documents
The exceptions listed below do not apply to any individual document that involves issues of broad public interest.		
GENERAL EXCEPTIONS		
71-1.....	All agencies.....	Documents that involve the rights or obligations of one or more named persons or companies.
71-2.....	do.....	Documents relating to internal organization, such as delegations of authority.
71-3.....	do.....	Documents relating to employee standards of conduct.
71-4.....	do.....	Documents relating to uniform systems of accounts.
71-5.....	do.....	Financial interest statements.
SPECIFIC AGENCY EXCEPTIONS		
71-100.....	Civil Service Commission.....	The following notice documents: Grants or revocations of authority to make noncareer executive assignment. Manpower shortage listings. Establishments or adjustments of minimum rates and rate ranges. Removal of termination dates for special salary rates. Establishment or revision of prescribed minimum educational requirements.
71-101.....	do.....	All Schedule A, B, and C amendments, additions or revocations in 5 CFR Part 213.
71-102.....	Small Business Administration.....	Notices of declaration of disaster loan areas.
71-103.....	Bureau of Land Management, Department of the Interior.	Documents which classify lands for disposal or special use, and Public Land Orders (43 CFR Ch. II App.).

NOTICES

NOTICES

CIVIL AERONAUTICS BOARD

[Docket No. 23509; Order 71-6-86]

AIRBORNE FREIGHT CORP.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of June 1971.

By tariff revisions¹ filed May 20, marked to become effective June 20, 1971, Airborne Freight Corp. (Airborne), an air freight forwarder, proposes revisions in its specific commodity rates applicable from Los Angeles and San Francisco to Chicago, New York, and Newark. These filings would (1) reduce, at most or all weight breaks, all of its numerous specific commodity rates, and (2) add, in one or more of the above markets, specific commodity rates on (a) fresh fruits and berries, and (b) machines and machine parts; hand tools; surface vehicles and parts thereof; aerospace vehicle parts and aircraft parts.

For several commodities, reductions are proposed at all weight breaks, from 100 to 10,000 pounds. For most commodities, however, no change is proposed for shipments of 100-199 pounds, but a 200-pound weight break would be introduced involving decreases for shipments of 200-999 pounds, as well as reductions at higher weights.

Complaints requesting investigation and suspension of the proposal, as contained in previously rejected tariff pages, have been filed by American Airlines, Inc. (American), The Flying Tiger Line Inc. (Tiger), Trans World Airlines, Inc. (TWA), and United Air Lines, Inc. (United). The complaints variously assert, inter alia, that the proposed rates would result in significant diversion from scheduled air transportation and would seriously jeopardize the existence of such transportation, now operating unprofitably.

In its tariff justification and answer to the complaints,² Airborne asserts, among other things, that its proposals are based upon the use of chartered aircraft which will permit significant economies, both in terminal and line-haul costs and through higher load factors, and that the lower rates are needed to expand the use of air freight.

Upon consideration of all relevant factors, the Board finds that Airborne's proposed reductions may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that

¹Revisions to Airborne Freight Corporation's Tariff CAB No. 9 (Pacific Air Freight, Inc., Series).

²The complaints (except United's), as well as the answer, were also directed to the specific commodity reductions proposed in the Chicago-New York-Newark market which were suspended by Order 71-6-6, dated June 1, 1971. United's complaint was not considered in that order but is now being dismissed, except to the extent granted herein.

Exemption No.	Agency	Class of documents
71-104.....	General Services Administration.....	Temporary interagency delegations of authority. Property management regulations (41 CFR Ch. 101-end).
71-105.....	Rescinded:	
71-106.....	Federal Aviation Administration, Department of Transportation.	Standard Instrument Approach Procedures (14 CFR Part 97). Minimum IFR altitudes (14 CFR Part 95). Airspace docket (enroute and terminal) (14 CFR Parts 71, 73, 75). Regulations governing the handling of certain fruits, vegetables and nuts in designated areas (7 CFR Ch. IX). Milk marketing agreements and orders in designated areas (7 CFR Ch. X). Animal quarantines for limited geographic areas (9 CFR Ch. I).
71-107.....	Consumer and Marketing Service, Department of Agriculture.	Car service regulations (49 CFR Part 1033). Special regulations respecting wildlife refuges and wildlife research areas (50 CFR 28.28, 32.11, 32.12, 32.21, 32.22, 32.31, 32.32, 33.4, 33.5, 60.11).
71-108.....	Agricultural Research Service, Department of Agriculture.	Interpretative releases and rules relating to forms (17 CFR Ch. II).
71-109.....	Interstate Commerce Commission.....	Documents pertaining to specified reservations and irrigation projects (25 CFR Ch. I).
71-110.....	Fish and Wildlife Service Department of the Interior.	Documents concerning named parks (including special regulations in 36 CFR Part 7).
71-111.....	Securities and Exchange Commission..	
71-112.....	Bureau of Indian Affairs, Department of the Interior.	
71-113.....	National Park Service, Department of the Interior.	

Dated: June 16, 1971.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc.71-8729 Filed 6-18-71;8:50 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

Arkansas Power & Light Co., Ninth and Louisiana Streets, Post Office Box 551, Little Rock, AR 72203, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated September 17, 1970, for authorization to construct and operate a pressurized water nuclear reactor designated as Arkansas Nuclear One, Unit 2, adjacent to Arkansas Nuclear One, Unit 1, on a peninsula in the Dardanelle Reservoir on the Arkansas River in Pope County, Ark. The site is located about 2 miles southeast of the village of London, Ark.

The proposed reactor will be designed for operation at approximately 2,760 megawatts (thermal) with an electrical output of approximately 950 megawatts (electrical).

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after June 19, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and a copy has been sent to the Arkansas River Valley Regional Library, Dardanelle, Ark. 72834, Mrs. Robert Keathly, Librarian.

Dated at Bethesda, Md., this 7th day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,

Division of Reactor Licensing.

[FR Doc.71-8285 Filed 6-18-71;8:45 am]

FLORIDA POWER AND LIGHT CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

The Florida Power and Light Co., 4200 Flagler Place, Post Office Box 3100, Miami, FL 33101, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, dated April 30, 1971, for authorization to construct and operate a pressurized water nuclear reactor, designated as the Hutchinson Island Nuclear Power Plant, Unit No. 2, on Hutchinson Island in St. Lucie County, Fla. The 1,132-acre site is located about 10 miles from Fort Pierce and 10 miles from Stuart on the east coast of Florida.

The proposed facility is designed for initial operation at approximately 2,440 thermal megawatts with a net electrical output of approximately 890 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after June 12, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, FL 33450.

Dated at Bethesda, Md., this 1st day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,

Division of Reactor Licensing.

[FR Doc.71-7833 Filed 6-11-71;8:45 am]

the rates should be suspended pending investigation.

The proposed rates would effect reductions of up to 66 percent below its currently effective rates from Los Angeles and San Francisco to Chicago, New York, and Newark. The reductions would undercut similar specific commodity rates of the direct carriers as much as 49 percent.³ The proposals may have a serious impact on these carriers through traffic diversion to chartered aircraft or from the necessity of reducing their rates significantly.

Airborne, however, does not present factual data indicating the volume of traffic that it hopes to obtain by its proposal, nor does it make any factual showing that its proposed rates would be economic.

In view of the above circumstances, the Board will not permit the sharp reductions proposed in prime markets to become effective without investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the rates, charges, and provisions described in Appendix A hereto,⁴ and rules, regulations, or practices affecting such rates, charges, and provisions are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges, and provisions, and rules, regulations, or practices affecting such rates, charges, and provisions;

2. Pending hearing and decision by the Board, the rates, charges, and provisions described in Appendix A hereto⁴ are suspended and their use deferred to and including September 17, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein, designated Docket 23509, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated;

4. The complaint of United Air Lines, Inc., in Docket 23309, is dismissed, except to the extent granted herein; and

³ There is some variation among the rates in effect for the several direct carriers, Air-lift International, Inc., American Airlines, Inc., Continental Air Lines, Inc., The Flying Tiger Line Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc. With a few exceptions, Airborne's reduced rates would be below all of the direct carriers' rates at all weight breaks. For a number of commodities at selected weight breaks, however, the forwarder's rates would be equal to or above those in effect for one or more carriers.

⁴ Appendix A filed as part of the original document.

5. Copies of this order shall be filed with the tariff and served upon Airborne Freight Corp., American Airlines, Inc., The Flying Tiger Line Inc., Trans World Airlines, Inc., and United Air Lines, Inc., which are hereby made parties to Docket 23509.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.⁵

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8685 Filed 6-18-71; 8:49 am]

[Docket No. 22628; Order 71-6-73]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 14, 1971.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 3 and Joint Conference 3-1 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated CAB agreement number.

The agreement specifies first-class and economy fares between Jogjakarta and Surabaya on the one hand and points in Southeast Asia including Okinawa on the other hand. Further, the agreement common-rates Jogjakarta and Surabaya with Djakarta as regards air fares to and from the United States.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Agreement CAB 22474, 300(Mail 356) 053, 300(Mail 356) 063, JT31(Mail 200) 056, and JT31(Mail 200) 066, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 22474 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8684 Filed 6-18-71; 8:49 am]

⁵ Partial dissenting statement of Member Minetti filed as part of the original document.

ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLE POLLUTION CONTROL

Notice of Additional Public Hearing

On April 30, 1971, the Administrator, Environmental Protection Agency, by notice published in the FEDERAL REGISTER (36 F.R. 8172) denied waiver of the application of section 209(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-6a(a)), 81 Stat. 501, Public Law 90-148 as amended by Public Law 91-604) to the State of California, with respect to the following standards:

(1) Section 2110, Title 13, California Administrative Code (as amended February 17, 1971) insofar as applicable to 1973 and subsequent model year motor vehicles.

(2) Part I, Division 26, Health and Safety Code, West Annotated California Codes, as amended by Chapter 1585, California Laws 1970, Assembly Bill No. 1174 approved September 20, 1970, to the extent that Bill No. 1174 prohibits sale and registration of motor vehicles manufactured during the 1972 model year and requires the use of 91 research octane number fuel in testing such vehicles.

Subsequent to the determination of the Administrator, the State of California, by letter dated May 25, 1971, requested that the decision of the Administrator, insofar as it denied the waiver, in such respects, be reconsidered. As part of the request, the State of California indicates that it wishes to present additional information which it believes is relevant to this matter.

On the basis of this request, the Administrator has determined that in order to insure that all pertinent data have been made available for consideration, the State of California and other interested persons should be given a further opportunity to present such data. Accordingly, notice is hereby given that the public hearing held in Los Angeles, Calif., on January 26 and January 27, 1971, pursuant to notice published in the FEDERAL REGISTER (35 F.R. 19598, Dec. 24, 1970) will be reconvened at 10 a.m., P.M. on July 13, 1971, at the Customs Courtroom, 300 North Los Angeles Street. The issues to be considered and the procedures to be followed are those set forth in the December 24, 1970, notice of public hearing, except that presentations by the participants should be addressed to the two standards set forth in this notice.

Mr. William H. Megonnell of the Environmental Protection Agency is hereby designated as Presiding Officer to conduct the hearing.

Dated: June 15, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.71-8662 Filed 6-18-71; 8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19260; FCC 71-623]

FAIRNESS DOCTRINE AND PUBLIC INTEREST STANDARDS

Notice of Inquiry Regarding Handling of Public Issues

I. *Introduction.* 1. The purpose of this notice is to institute a broad-ranging inquiry into the efficacy of the fairness doctrine and other Commission public interest policies, in the light of current demands for access to the broadcast media to consider issues of public concern. It is important to stress that we are not hereby disparaging any of the ad hoc rulings that we have made in these areas. Rather, we feel the time has come for an overview to determine whether the policies derived largely from these rulings should be retained intact or, in lesser or greater degree, modified. We have divided the inquiry into four parts: (i) The fairness doctrine generally; (ii) access to broadcast media as a result of the presentation of product commercials; (iii) access generally for discussion of public issues; and (iv) application of the fairness doctrine to political broadcasts. Obviously, these parts overlap. Indeed, each is an aspect of the underlying problem of access. Interested parties may address any or all these aspects, or they may structure their comments in accordance with their own definition of the problem.

2. Several issues to which we direct particular attention have been the subject of recent Commission decisions in which both the legal and policy considerations have been treated in depth. We will not here repeat the extensive majority and minority opinions. Rather, we refer interested parties to the cited cases where they will find full treatment of the pertinent policy matters here under review.

3. We stress that we are interested in fundamental policy—not in a reshuffle of legal considerations nor in recommendations of statutory revision. Thus, this Commission cannot abandon the fairness doctrine or treat broadcasters as common carriers who must accept all material offered by any and all comers. The Communications Act is explicit in these respects (see section 315(a) and section 3(h)) and we take the Act as a "given" from which this inquiry necessarily proceeds. Furthermore, there are court appeals pending on several disputed legal issues and such decisions will, of course, be appropriately taken into account in the course of this proceeding.

4. This notice thus deals with Commission-made policy—derived from the Act and from the standards set down therein. But, in view of the broad nature of these standards, there can and must be considerable leeway in both policy formulation and application in specific cases. The goal is clear: to foster "un-

inhibited, robust, wide-open" debate on public issues (New York Times Co. v. Sullivan, 376 U.S. 254, 270). That is the profound, unquestioned national commitment embodied in the First Amendment. The basic issue we pose here is whether Commission-made policies indeed promote that goal to the maximum extent. Or, are there revisions or even entirely new policies that would serve it more effectively?

5. Finally, by way of introduction, we note that promotion of the goal cited above must be consistent with the "public interest in the larger and more effective use of radio" (section 303(g)). It is most important to note in this connection that, to a major extent, ours is a commercially based broadcast system and that this system renders a vital service to the Nation. Any policies adopted by this Commission in the areas covered in the present inquiry should be consistent with the maintenance and growth of that system and should, among other appropriate standards, be so measured. We urge all interested parties to keep this pragmatic standard centrally in mind in forwarding specific comments and proposals. Proposals that in the short run might afford great insight into public issues but in the long run might tend to undermine the existing broadcast system—e.g., nothing but informational programming in a debate format—would not, in this view, serve the public interest.

II. *The fairness doctrine generally.* 6. The fairness doctrine has evolved over some 40 years as the guiding principle in assuring to the public an opportunity to hear contrasting views on controversial issues of public importance. Enunciated as early as 1929 by the Federal Radio Commission,¹ the fairness doctrine was most fully fleshed out in the Report on Editorializing by Broadcast Licensees, 13 FCC 1246 (1949), and has been sustained by the Supreme Court as within the Commission's statutory authority (section 315(a)) and in full accord with the First Amendment. Red Lion Broadcasting Co., Inc. v. F.C.C. 395 U.S. 367 (1969).

7. The fairness doctrine is grounded in the recognition that the airways are inherently not available to all who would use them. It requires that those given the privilege of access hold their licenses and use their facilities as trustees for the public at large, with a duty to present discussion of public issues and to do so fairly by affording reasonable opportunity for the presentation of conflicting views by appropriate spokesmen. The individual licensee has the discretion, and indeed the responsibility, to determine what issues should be covered, how much time should be allocated, which spokesmen should appear, and in what format. Only in the case of personal attacks or an editorial taking sides among competing candidates is there a specific requirement

as to the person to whom the station must make time available. And even this exception rests not upon an individual's right to be heard but, rather, upon the proposition that the public's right to be informed will be best served if the person attacked or the candidate opposed presents the contrasting viewpoint. The guiding premise, as the Supreme Court put it, is not "an unbridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish" but rather "the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences" Red Lion Broadcasting Co., supra, at p. 390. Indeed, it is this right that goes far to explain the amount of spectrum space devoted to broadcasting.

8. With the exception of the personal attack and political editorializing rules, it has not been found necessary to formulate detailed and definitive guidelines for licensees applying the fairness doctrine in their day-to-day operations. Rather, the doctrine has been refined case-by-case in particular and concrete situations. See Applicability of the Fairness Doctrine to Broadcast Licensees (Fairness Primer), 29 F.R. 10415 (1964).² We by no means denigrate this manner of proceeding. It has in its broad effect served the Nation well, and Commission rulings have been realistically and thus, we believe, soundly based. But, at the same time, it does seem to us desirable to take the longer view that an overall inquiry affords—thus permitting all interested parties to be heard and not just those involved in specific complaints. It has been about 22 years since we issued our 1949 Report on Editorializing, supra, and we think it is time for another overview. If our policies are sound, they should have stood the test of time and application. If they are not sound—if they unreasonably restrict the journalistic functions of broadcasters or permit broadcasters unreasonably to restrict access—then corrective action is called for. Indeed, in the personal attack and political editorializing fields, we pledged that we would act promptly if we were shown that in actual operation our policies did not promote the fundamental purposes of the First Amendment. 22 F.R. 11531, 11532; 33 F.R. 5363, 5364. This also is the thrust of the Supreme Court's opinion in Red Lion (395 U.S. at pp. 392-93).

9. This part of the inquiry thus gives broadcasters and all other interested parties the opportunity to advance their ideas, concerning the fairness doctrine generally, for improving, refining, or even drastically revising Commission policies. They may direct their attention to any aspect of the policies set out in the Fairness Primer or in more recent cases. We cite the following as just a few examples of important issues in this area:

² We have outstanding one notice of proposed rulemaking in the fairness area. See Docket No. 18859. That notice deals with a specific proposal, however, and not the broad overview here contemplated.

¹ See Great Lakes Broadcasting Co., 3 F.R.C. Annual Rep. 32 (1929), reversed on other grounds 37 F. 2d 993 (C.A.D.C.), certiorari dismissed, 281 U.S. 706.

(i) How have the personal attack and political editorializing rules worked in actual practice? Should they be revised in any way to achieve their stated goals?

(ii) Has the fairness doctrine in fact promoted the "more effective use of radio" in the discussion of controversial public issues, or has it served to inhibit wide-open debate? (In this connection, we also direct attention to our processing policies—see Fairness Primer, 29 F.R. at p. 10416; Letter to Hon. Oren Harris, FCC 63-851; and Letter to Mr. Allen Phelps, 21 FCC 2d 12 (1969)).

(iii) Should the Cullman rule, 40 FCC 576 (1963), which lays down the principle that the right of the public to hear contrasting views on significant public issues is so important that licensees must make time available without charge if necessary—be expanded or restricted, or otherwise refined?

10. We repeat—These are examples only. All interested parties are invited to frame their own questions in addressing the strengths and shortcomings of the fairness doctrine generally.

III. Access to the broadcast media as a result of carriage of product commercials. 11. This aspect of the inquiry is prompted by a recent court decision and several complaints in which very broad-ranging policy questions appeared to be raised—questions that reach beyond the concrete situations involved. Thus, we deal first with the policy questions raised in the opinion of the Court of Appeals for the District of Columbia Circuit in *Retail Store Employees Union v. F.C.C.*, Case No. 22, 605, decided October 27, 1970. We refer specifically to the issues raised in Part III of the opinion.³ The factual setting is simply stated: A department store (Hill's) had access to a station's facilities (WREO) to present frequent advertisements of the standard commercial nature ("... extolling the virtues of Hill's stocks, bargains, and services and on that basis urging listeners to patronize the various Hill's outlets"—pp. 2-3, Sl. Op.). The employee union at the store decided on a strike and boycott to gain its bargaining objectives. It sought to support the boycott by purchasing time for 1-minute announcements stating that there was a strike at Hill's and urging listeners to respect the picket lines. These bare facts are sufficient to pose the basic issue: Namely, does the union have a right to purchase time for its spots in these circumstances?

12. In view of its holding on another matter not relevant here, the Court did not resolve the above issue. But it did indicate that the issue "... deserves fuller analysis than the Commission has

seen fit to give it" (part A, p. 20, Sl. Op.). The court then noted (part B, p. 20, Sl. Op.):

We also note that the Amalgamated Meat Cutters case, 25 FCC 2d 279 (1970), raises the same basic issue, and for that reason we requested its remand from the court. The parties to the two above proceedings should accordingly address themselves in this proceeding to the questions raised by the court in *Retail Store*.

Central to the Union's argument on this point is the proposition that, in urging listeners to patronize Hill's Ashtabula Department Store, Hill's advertisements presented one side of a controversial issue of public importance. Hill's copy, of course, made no mention of the strike or boycott, or of the unresolved issues between the Union and the store. But the advertisements did urge the listening public to take one of the two competing sides on the boycott question—they urged the public to patronize the store, i.e., not to boycott. It seems to us an inadequate answer to this argument merely to point out that Hill's copy made no specific mention of the boycott. In dealing with cigarette advertising, the Commission has recognized that a position represented by an advertisement may be implicit rather than explicit ...

The court noted a further analogy to the Cigarette Advertising ruling—that here also there is an established Congressional policy involved. In this instance, the policy is even-handedness in labor-management relations in which both Union publicity and Hill's commercials might be viewed as weapons of "economic warfare." In the court's words (part C, pp. 21-22):

If viewed in this light, it could well be argued that the traditional purposes of the fairness doctrine are not substantially served by presentation of advertisements intended less to inform than to serve merely as a weapon in a labor-management dispute. But the fairness doctrine, as we have pointed out, is only one aspect of the FCC's implementation of the statutory requirement that broadcast stations operate to serve the public interest. [Footnote omitted.] The public policy of the United States has been declared by Congress as favoring the equalization of economic bargaining power between workers and their employers. [Footnote omitted.] It is at the very least a fair question whether a radio station properly serves the public interest by making available to an employer broadcast time for the purpose of urging the public to patronize his store, while denying the employees any remotely comparable opportunity to urge the public to join their side of the strike and boycott the employer. If the Union's claim is to be rejected, we believe this question should be dealt with by the Commission.

13. The court noted that it had not attempted a full canvass of all the issues involved but had merely indicated some of the principal questions to be answered. In the circumstances, we believe that an overall inquiry is the best way to proceed, thus allowing for maximum participation and maximum opportunity for sound policy formulation. The issue has been posed here in terms of *Retail Store* but, clearly, it has wider ramifications. The issue really is the right of

access, if any, to the broadcast media to respond to product commercials.

14. Two of the court's basic considerations—that product commercials can carry implicit messages and that pertinent national policies should be taken into account—have very wide applications indeed. For example, we might consider the national policy of avoiding environmental pollution (see National Environmental Policy Act of 1969, 83 Stat. 852, section 101(a)). As we indicated in our Letter to Mr. Soucie, 24 FCC 2d 743 (1970), appeal pending sub nom. *Friends of the Earth v. F.C.C.*, Case No. 24556, C.A.D.C., a great number of products commonly advertised over the broadcast media have pollution consequences: cars because of their gasoline engines; gasoline itself; airplanes; detergents; and, indeed, every product that is normally packaged in a non-biodegradable container. Commercials urging use of these products or services thus can be argued to raise implicit ecological questions. Other product commercials, similarly, could be argued to raise significant national policy questions: Commercials promoting the use of aspirin, tranquilizers, soporifics, etc., on the ground that they indirectly promote overuse of drugs generally and thus might lead to harmful, illegal drug use; commercials depicting women in a manner charged to be offensive to the national policy of equal rights and equal treatment of the sexes; etc. It is not necessary to list more examples. The contention is that, almost without exception, product commercials can be argued to raise some significant, controversial issue—and as public awareness grows, so, too, does the occasion for making such arguments. On the other hand, the Court notes in *Retail Store* (Sl. Op., pp. 21-22, n. 67) that the "... Commission repeatedly emphasized that its holding in [Cigarette Advertising]—that stations broadcasting cigarette advertisements must regularly provide free time if necessary for the presentation of arguments opposing cigarette smoking—was limited to cigarette advertising ...". The court further stated that this holding was based on the ground that "the implicit and explicit messages normally carried by advertising do not concern controversial issues of public importance." (Sl. Op., p. 21). In this connection, we also note that the Court in *Banzhaf v. F.C.C.*, 405 F. 2d 1082 (C.A.D.C., 1968), certiorari denied, 396 U.S. 842 (1969), pointed out that cigarettes were "... in fact the product singled out for special treatment which justifies the action taken" and emphasized that "... (its) cautious approval

There is also the issue raised by armed forces recruiting announcements, both commercial and of a public service nature. See, e.g., the policy issues considered in such recent rulings as Letter to Mr. Albert A. Kramer, FCC 70-598, and Letter to Mr. Donald A. Jellinek, FCC 70-595.

of this particular decision does not license the Commission to scan the airwaves for offensive material with no more discriminating a lens than the public interest or even the public health."

15. Free time: On the important issue of extending the Cigarette Advertising ruling to cover all product commercials,⁴ we set out our position in Letter to Mr. Soucie, supra, and in Complaint of Alan F. Neckritz and Lawrence B. Ordower, FCC 71-526, released May 13, 1971. We specified in those rulings and will not here repeat our reasons for believing (i) that most product commercials are distinguishable from cigarette advertising and (ii) that, in any event, it would not serve the public interest to hold that for nearly every product commercial the licensee must make free time available—on a virtually daily basis, in a set ratio, in part during prime viewing hours—for countercommercials informing the public why they should not purchase the product or services in question. In Neckritz, the Commission majority indicated its view that the advertisements for Chevron advanced a claim for product efficacy, that this is not the same as arguing a position on a controversial issue of public importance, and that it "would ill suit the purposes of the fairness doctrine, designed to illumine significant controversial issues, to apply it to claims of a product's efficacy or social utility. We indicated in Neckritz the desirability of an overview of the policy issues involved, and we here invite interested parties to address such issues as the following:

(i) Ought there be some public interest responsibility beyond that of fairness to carry material opposing or arguing the substance of product commercials? If so, should time be afforded free or only on a paid basis?

(ii) What account should be taken of the Court's observation (in *Retail Store*) that spot announcements may not add substantially to public knowledge and, on the other hand, that repetition is a significant factor to be considered?

(iii) What should or must be the licensee's area of discretion in this entire matter—and is there some workable standard for distinguishing various categories or commercials, some of which would give rise to fairness or public interest duties and some of which would not?

(iv) Finally, what would be the predictable effect of any new policy adopted here in the carriage of product advertisements and thus on the continued growth and health of the commercial broadcasting system?

16. Paid time: This brings us to the heart of the inquiry posed by the *Retail Store* decision—namely, the right of paid

⁴ In Letter to Mr. Soucie and the Neckritz ruling, we pointed out that there can be product commercials that do deal directly with controversial issues of public importance. In such cases of course the fairness doctrine, including the Cullman principle, is clearly applicable.

access to inform the public why a product or service advertised over the station's facilities should not be purchased. The court in *Retail Store* posed the issue in terms of a national policy for equalizing economic bargaining power between workers and employers, and we have noted that other national policies might be pertinent in other circumstances. The broad issue posed is whether fairness and/or the public interest standard imposes a kind of "equal opportunities" obligation on the broadcaster—that is, if he sells time for the promotion of products and services, must he also sell time to others, to consumer and public interest groups for example, who wish to argue against public use of these products or services? We call for comment, pro and con, on the policy implications and the pragmatic effects of this equation.

17. Alleged false and misleading advertising: We direct the attention of interested parties to Commission policy in the area of advertising that is alleged to be false and misleading—as, for example, in the recent *Chevron* case, Complaint of Alan F. Neckritz and Lawrence B. Ordower, FCC 71-526, released May 13, 1971. The Commission majority held that the Letter to Mr. Soucie was applicable and that to prohibit such advertising in advance of a pending Federal Trade Commission ruling would be a case of "sentence first, verdict later." It also stated that the issues raised were of such broad-ranging importance as to warrant an overall inquiry; and the present proceeding is in part responsive to that finding. We thus specifically raise the question whether the public interest calls for any revision or refinements in existing Commission policy with respect to false and misleading advertising, or allegations thereof, and whether we might lay down new policy guidelines for the benefit of broadcasters and the public alike.

18. The foregoing by no means exhausts the possible issues that are involved in the area of product commercials. We have simply raised those that appear to us to be of the greatest current importance. We stress again that we hope to evolve or reaffirm policies that are fair to all concerned, that promote the commercial broadcasting system, and above all that serve "the public interest in the larger and more effective use" of the broadcast media.

IV. Access generally to the broadcast media for the discussion of public issues. 19. It has also been urged that, quite aside from the fairness obligation of broadcasters, there is a right of access—

⁵ In *Retail Store*, the Court noted that the purposes of the fairness doctrine might not be advanced by presentation of the boycott advertisements but nevertheless raised the question whether the public interest did not require such presentation. See also *Banzhaf v. F.C.C.*, supra, where the court, in affirming our Cigarette Advertising ruling, held that the Commission's action was based in fact on the public interest standard. The issue posed here is thus not one of trying to fit concepts into the fairness mold but, rather, what the public interest calls for.

at least on a paid basis—for all those wishing to express a viewpoint on a controversial public issue. The Commission has rejected this blanket claim on the ground that there is neither constitutional nor statutory right for any individual or group to present their views, and that as a matter of policy it would not serve the public interest to act as if there were. See, e.g., the Democratic National Committee ruling, 25 FCC 2d 216 (1970), appeal pending, Democratic National Committee v. F.C.C., Case No. 24,537, C.A.D.C.; *Business Executives' Move for Vietnam Peace v. F.C.C.*, Case No. 24,942, C.A.D.C. The legal issues are thus before the Court, and the policy issues are sharply pointed up in the majority and minority opinions of the Commission. We request comment on the question whether there is any feasible method of providing access for discussion of public issues outside the requirements of the fairness doctrine. More specifically, we ask that comment be addressed to the differing problems raised by paid and free time; the specific standards that should be followed for determining the basis on which time is to be provided, if such a course is recommended; the effect of any such new procedure on the licensee's general responsibility to the public; and the impact of such procedure on the licensee's duties under the fairness doctrine. The essential purpose of this part of the inquiry is to ascertain, if possible, the general patterns of licensee practice as to access on a paid or sustaining basis (e.g., for discussion of controversial issues generally or of ballot issues; for fund solicitation generally or for parties or committees organized around ballot issues), and whether it would be appropriate for this Commission to lay down criteria or guidelines for these purposes. If so, what would they be? Or, are the problems in this area so varied that decisions should be left to the judgment of thousands of licensees and, in cases of complaint, to the adjudicatory process? In other words: Should we reaffirm present Commission policy and practice?

V. Application of the fairness doctrine to political broadcasts. 20. The Fairness Primer contains a number of rulings concerning the application of the doctrine to political broadcasts. There have been a number of important recent rulings in this area. As examples, we point to such rulings as the Letter to Mr. Nicholas Zapple, 23 FCC 2d 708 (1970); the Republican National Committee ruling, 25 FCC 2d 283, 299-301, 739 (1970), appeal pending, CBS v. F.C.C., Case No. 24,655, C.A.D.C.; Complaint of Committee for the Fair Broadcasting of Controversial Issues, 25 FCC 2d 283, 294-298 (1970). The first two set forth a quasi-equal opportunities approach—namely, that if a licensee sells or gives time to one political party, it should sell or give comparable time to the rival party, but that the Cullman principle is inapplicable here. The last cited case declined to extend the equal opportunities concept to such appearances by public officials as

Presidential Reports to the Nation—although it did hold, on the particular facts, that time for one uninterrupted presentation should be afforded to opposition spokesmen. We request comment on such relevant questions as the following: Whether the quasi-equal opportunities approach should be restricted, expanded, or left alone, with a specific description of the feasibility and effect of any proposed revision on the underlying policies of the statute (see section 315(a)). We recognize, of course, that actions by the Congress will be decisive in this area and that many statutory amendments are presently under consideration. If Congress does act, Commission policies will be appropriately revised.

VI. *Conclusion.* 21. We have gone at some considerable length into the ranges of problems that have led us to propose this comprehensive overview. But interested parties will doubtless be able to suggest additional questions and variations on those we have raised. We welcome every approach. In view of the considerations discussed above (in paragraph 5), however, we urge that every comment be specific with reference to the

practical effect of any proposals put forward.

22. It may also turn out that a further inquiry, narrowing the focus of consideration, would be useful. If we determine that new rules are appropriate, there will of course be a further opportunity to comment. It is also possible that the material submitted in response to this notice will permit the adoption of a new policy statement without further proceedings, just as it is possible that no changes in present policy will be found to have merit. The response to this notice will be largely determinative of our future course of action. In any event, we intend to employ special procedures and perhaps a select staff in this highly important inquiry.

23. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before September 10, 1971, and reply comments on or before October 25, 1971. Comments may be filed as to any or all parts of the inquiry and should clearly delineate the focus of consideration. In accordance with the provisions of § 1.419 of the rules,

an original and 14 copies of all comments, replies, briefs, and other documents shall be furnished the Commission. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

24. Authority for this inquiry is contained in sections 4(i), 303, 307, 309, 315(a), and 403 of the Communications Act of 1934, as amended.

Adopted: June 9, 1971.

Released: June 11, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,⁷

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8665 Filed 6-18-71;8:47 am]

⁷ Commissioner Robert E. Lee absent; concurring statements of Commissioners Johnson and Wells filed as part of the original document.

[Canadian List No. 279]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

JUNE 3, 1971.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power kw.	Antenna	Schedule	Class	Antenna height (feet)	Ground system	Proposed date of commencement of operation
							Number of radials	Length (feet)
CJCI (now in operation)	Prince George, British Columbia, N. 53°51'03", W. 122°43'10".	10.	DA-N ND-D 180	U	III			
CJET (this notification concerns only a change in the tower feed system).	Smith Falls, Ontario, N. 44°50'31", W. 75°58'50".	10.	DA 2	U	III			
CHFI (now in operation with increase in daytime power—PO: 680 kHz, 10 kw, DA-2).	Toronto, Ontario, N. 43°34'48", W. 79°38'30".	10D/25N	DA-2	U	II			
CPEK (assignment of call letters and now in operation).	Ferrie, British Columbia, N. 49°31'36", W. 115°02'40".	1D/0.25N	ND 183	U	IV	149.5	120	317
(New)	Wabush, Labrador, Newfoundland, N. 52°53'51", W. 66°52'24".	0.25	ND-190	U	IV	122.5	120	250-364 6-3-72
(New)	Hope, British Columbia N., 49°23'16", W. 121°25'42".	0.25	ND-186	U	IV	150	120	264(AVE) 6-3-72

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Assistant Chief, Broadcast Bureau.

[FR Doc.71-8667 Filed 6-18-71;8:47 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder
License 4]

BARR SHIPPING CO., INC.

Order of Revocation

On June 7, 1971, the Commission received notification that Barr Shipping Co., Inc., wished to surrender its Independent Ocean Freight Forwarder License No. 4 for cancellation effective immediately.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(g) (dated Sept. 19, 1971):

It is ordered, That the Independent Ocean Freight Forwarder License No. 4 of Barr Shipping Co., Inc., be and is hereby revoked effective June 7, 1971, without prejudice to reapplication for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Barr Shipping Co., Inc., 21 West Street, New York, NY 10006.

AARON W. REESE,
Managing Director.

[FR Doc.71-8686 Filed 6-18-71;8:49 am]

LAURO LINES

Notice of Issuance of Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Achille Lauro (Flotta Lauro)—Lauro Lines, Via Crist. Colombo 45, Naples, Italy.

Dated: June 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8692 Filed 6-18-71;8:49 am]

LAURO LINES

Notice of Issuance of Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Mari-

time Commission General Order 20, as amended (46 CFR Part 540):

Achille Lauro, (Flotta Lauro)—Lauro Lines, Via Crist. Colombo 45, Naples, Italy.

Dated: June 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8693 Filed 6-18-71;8:50 am]

MEDITERRANEAN-NORTH PACIFIC COAST FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. G. Ravera, Secretary, Mediterranean-North Pacific Coast Freight Conference, Post Office Box 1070, 16100 Genoa, Italy.

Agreement No. 8090-10, between the member lines of the Mediterranean-North Pacific Coast Freight Conference, changes the voting requirement for making decisions under the agreement from "unanimity-less-one" to "two-thirds of active members present."

Dated: June 15, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8688 Filed 6-18-71;8:49 am]

NOR COTE, INC., AND INTERNATIONAL GREAT LAKES SHIPPING CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the

Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Thomas D. Wilcox, Attorney at Law, 919 18th Street NW., Washington, DC 20006.

Agreement No. T-2533, between Nor Cote, Inc. (Nor Cote), and International Great Lakes Shipping Co. (Ingla), is a purchase and sales agreement whereby Nor Cote agrees to sell to Ingla its stevedoring and marine terminal business known as Detroit Processing Terminal. The parties agree that the closing will take place July 12, 1971.

Dated: June 16, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8687 Filed 6-18-71;8:49 am]

STATE OF HAWAII AND SEATRAN LINES, CALIFORNIA

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary,

Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the **FEDERAL REGISTER**. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Fujio Matsuda, Director, Department of Transportation, State of Hawaii, 869 Punchbowl Street, Honolulu, HI 96813.

Agreement No. T-2523, between the State of Hawaii (State) and Seatrain Lines, California (Seatrain), provides for the 20-year lease of certain terminal facilities at Sand Island, Honolulu Harbor, Hawaii, for use as a container facility and purposes related thereto. As compensation for the above, Seatrain will pay the State a total of \$49,291 annually for the facilities plus all tariff charges derived from the operation of the facility, subject to a minimum of \$250,000 for the first 2 years of operations, \$200,000 for the third year, \$250,000 for the fourth year, and \$300,000 per year for the fifth through 15 years. Seatrain is required by the agreement to make certain improvements to portions of the facility. Seatrain is also required to allow use of its container cranes at the facility by the State or other common carriers when circumstances allow at rates, terms, and conditions set by Seatrain, subject to approval by the State.

Dated: June 15, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8689 Filed 6-18-71; 8:49 am]

U.S. GREAT LAKES-BORDEAUX/ HAMBURG RANGE EASTBOUND CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Mar-

time Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with 20 days after publication of this notice in the **FEDERAL REGISTER**. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

David F. Graham, Manager-Secretary, U.S. Great Lakes-Bordeaux, Hamburg Range Eastbound Conference, 108 North State Street, Chicago, IL 60602.

Agreement No. 7820-13 changes the method for determining how Conference expenses shall be apportioned among the members.

Dated: June 16, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8690 Filed 6-18-71; 8:49 am]

[No. 71-17]

NONASSESSMENT OF FUEL SUR- CHARGES ON MILITARY SEALIFT COMMAND RATES

Rescheduling of Filing Dates

JUNE 16, 1971.

Violations of sections 14 fourth, 16 first and 17, Shipping Act, 1916, in the nonassessment of fuel surcharges on Military Sealift Command (MSC) rates under the MSC request for rate proposals (RFP) bidding system.

Filing dates in this proceeding were postponed by order of April 28, 1971, to enable the Commission to consider Hearing Counsel's motion to discontinue. The Commission has now denied Hearing Counsel's motion. Accordingly, filing dates in this proceeding will be reestablished as follows:

1. Affidavits of fact, memoranda of law, and requests for hearing shall be filed on or before June 23, 1971.

2. Replies thereto shall be filed on or before June 30, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8691 Filed 6-18-71; 8:49 am]

FEDERAL POWER COMMISSION

[Docket No. RI71-1103]

MURPHY OIL CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

JUNE 11, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

¹ Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf ²	Rate in effect subject to refund in docket Nos.
RI71-1103	Murphy Oil Corp. et al.	1	22	Texas Eastern Transmission Corp. (Delhi Gasoline Plant, Richland, Franklin, and Madison Parishes, Northern Louisiana).		5-13-71	6-13-71	³ Accepted		
	do.		23	do.	\$14,016	5-13-71		7-14-71	17.10	20.75
	do.	2	23	Texas Eastern Transmission Corp. (Delhi Gas Wells, Richland Parish, Northern Louisiana).		5-13-71	6-13-71	³ Accepted		
	do.		24	do.	336	5-13-71		7-14-71	17.10	20.75

² Unless otherwise stated, the pressure base is 15.025 p.s.i.a.

³ Includes 1.75-cent tax reimbursement. Buyer deducts 1.35 cents from rate shown for handling charge.

² Amendment dated May 1, 1971, provides for increased rate and extends term of contract to Nov. 1, 1978.

³ Accepted, to be effective as of June 13, 1971, 30 days after date of filing.

The proposed rate increases of Murphy Oil Co. are suspended until July 14, 1971, 61 days after date of filing, since they do not exceed the corresponding rate filing limitations imposed in Southern Louisiana.

Murphy's proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[FR Doc. 71-8609 Filed 6-18-71; 8:45 am]

FEDERAL RESERVE SYSTEM

CHARTER NEW YORK CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Charter New York Corp., New York, N.Y., for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of a new national bank into which will be merged The Union National Bank of Troy, Troy, N.Y.

There has come before the Board of Governors, pursuant to section 3(a) (3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Charter New York Corp., New York, N.Y. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of a new national bank (Albany Bank) into which will be merged The Union National Bank of Troy, Troy, N.Y. (Troy Bank). The successor bank would be headquartered in Albany, with the existing offices of Troy Bank serving as branches thereof.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Acting Comptroller recommended approval of the application.

Pursuant to provisions of New York Banking Law, the New York State Banking Board, acting upon the recommendation of the New York Superintendent of Banks, approved an application with respect to the pending proposal.

Notice of receipt of the application was published in the **FEDERAL REGISTER** on April 29, 1971 (36 F.R. 8082), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the eighth largest banking organization and the third largest multi-bank holding company in the State, has eight subsidiary banks with aggregate deposits of \$4.5 billion, representing 5.1 percent of the total commercial bank deposits in the State. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board to date.) Applicant's position in relation to the State's other banking organizations would be unchanged as a result of the consummation of the proposal herein.

Troy Bank (\$65.3 million deposits), the smaller of two banks headquartered in Troy, is the ninth largest of the 36 banks located in New York's Fourth Banking District. Upon consummation of the proposal herein, Albany Bank would assume Troy Bank's present position as the District's ninth ranking banking organization, and it would become the fourth largest of the six banks headquartered in the city of Albany. The three larger Albany banks hold, respectively, \$743 million, \$704 million, and \$181 million in deposits, and each is a viable and aggressive competitor in the Albany banking market. Although Applicant has one subsidiary bank in the Fourth Banking District, neither it nor any of Applicant's other subsidiaries compete to any significant extent in the projected service area of Albany Bank; moreover, based on the facts of record, the development of meaningful competition appears remote. The overall effect of the proposal should

be to promote competition by opening up the City of Troy to branching since home office protection would be removed, and by introducing an established banking organization into the Albany banking market, an area which is dominated by the two largest banks. It does not appear that existing competition would be eliminated, or significant potential competition foreclosed, by consummation of Applicant's proposal, or that there would be undue adverse effects on any bank in the area involved.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Albany Bank are regarded as consistent with approval of the application. The major banking needs of the Albany area are presently being met by existing institutions. The introduction of an alternative source of large banking services should benefit the convenience and needs of the area's residents, and thus, this factor lends some weight in favor of approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order; and provided further that (c) Albany Bank shall be opened for business not later than 6 months after the date of this order. The time periods described in (b) and (c) above may be extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,¹ June 15, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc. 71-8648 Filed 6-18-71; 8:45 am]

¹ Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisei, Brimmer, and Sherrill.

MID-OHIO BANC-SHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Mid-Ohio Banc-Shares, Inc., Mansfield, Ohio, for approval of acquisition of 80 percent or more of the voting shares of The Farmers and Savings Bank, Loudonville, Ohio, Loudonville, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Mid-Ohio Banc-Shares, Inc., Mansfield, Ohio (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The Farmers and Savings Bank, Loudonville, Ohio, Loudonville, Ohio (Farmers Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks of the State of Ohio and requested his views and recommendation. The Superintendent did not object to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 22, 1971 (36 F.R. 7622), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration the Board finds that:

Applicant, one of the smallest bank holding companies in Ohio, controls two banks with deposits of approximately \$64 million, representing less than 0.3 percent of total commercial bank deposits in the State. (All banking data are as of June 30, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through April 30, 1971.) The acquisition of Farmers Bank, with deposits of approximately \$11 million, would not increase significantly Applicant's share of area deposits, nor would it change its present ranking among banking organizations in the State.

Farmers Bank operates its main office in Loudonville and a branch approximately 5 miles northwest in the town of Perrysville, both of which are located in Ashland County. There are 13 banking organizations serving the two-county area of Richland and Ashland Counties, the largest of which holds approximately

35 percent of total deposits. Applicant's lead bank in Mansfield, the second largest banking organization, controls approximately 18 percent of the two-county total deposits and Farmers Bank, as the ninth largest, holds about 4 percent of such deposits.

The nearest offices of Applicant's subsidiaries and Farmers Bank are located 9 miles apart. The areas they serve overlap slightly, but the two offices are separated by a lake and a State park. The proposed acquisition would eliminate only an insignificant amount of present competition between these offices and none between Applicant's other subsidiary and Farmers Bank. It appears that competing banks would not be adversely affected by consummation of the proposal and that no substantial amount of potential competition would be eliminated because of restrictions placed on branching by State laws and inasmuch as Applicant is not likely to enter this area through de novo means.

Based upon the foregoing and the record before it, the Board concludes that consummation of the proposed acquisition would have only a slightly adverse effect on competition in the relevant area, which would be outweighed in the public interest. The banking factors as regards Applicant, its subsidiaries, and Farmers Bank are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the area involved lend some weight toward approval. Although the more important banking needs of the area are being served at the present time, Applicant plans to establish trust and data processing services at Farmers Bank and to enable it to provide larger agricultural loans. These innovations and improvements in Bank's services would serve the convenience and needs of the communities and outweigh the slightly adverse effect consummation of the proposal would have on existing competition. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,
June 15, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8649 Filed 6-18-71; 8:46 am]

¹ Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Malsel, Brimmer, and Sherrill.

NEWPORT SAVINGS AND LOAN ASSOCIATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Newport Savings and Loan Association, Newport, R.I., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares of The Island Trust Co., Newport, R.I., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Boston.

By order of the Board of Governors,
June 14, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8650 Filed 6-18-71; 8:46 am]

SOUTHEAST BANKING CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Southeast Banking Corp., Miami, Fla., for approval of acquisition of 80 percent or more of the voting shares of Caladesi National Bank at Dunedin, Dunedin, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of

1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Southeast Banking Corp. (formerly Southeast Bancorporation, Inc.), Miami, Fla. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Caladesi National Bank at Dunedin, Dunedin, Fla. (Caladesi Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 29, 1971 (36 F.R. 8082), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the second largest banking organization in Florida, controls 12 banks with aggregate deposits of approximately \$1.03 billion, representing 7.4 percent of commercial bank deposits in the State. (All banking data are as of December 31, 1970, and reflect holding company acquisitions approved through May 31, 1971.) Upon acquisition of Caladesi Bank (\$17 million of deposits), Applicant's share of State-wide deposits would increase by only 0.12 percentage points.

Caladesi Bank is the smaller of two banks in Dunedin (Pinellas County); it has only about one-third as many deposits as the larger bank. Other banks in the area include seven banks in Clearwater, four in Largo, and one in Safety Harbor. Caladesi Bank controls 4.2 percent of market deposits, and ranks seventh in size among these 14 banking organizations.

No existing competition would be eliminated between Caladesi Bank and any of Applicant's subsidiary banks, the nearest of which to Dunedin is in Tampa, about 34 miles away. Nor is it likely that significant competition between such banks would develop in the future in view of, among other things, the distances involved, the number of intervening banks, and the prohibition against branch banking in Florida. It appears that a principal effect of the proposal is that Caladesi Bank will be able to compete more effectively with the larger banks located in its market. Therefore, the Board concludes that consummation

of the proposal would not have adverse effects on competition in any relevant area.

The financial condition, managements, and prospects of Applicant, its subsidiary banks, and Caladesi Bank are regarded as generally satisfactory and consistent with approval of the application. The banking needs of the area involved are being adequately met. However, with Applicant's assistance as proposed, Caladesi Bank would become a convenient, alternative source of trust and international services and would be able to handle larger local real estate financing needs. Therefore, considerations regarding the convenience and needs of the communities involved are consistent with approval of the application. On the basis of all the facts of record, it is the Board's judgment that the proposed transaction would be in the public interest and that, therefore, the application should be approved.

It is hereby ordered, For the reasons summarized above, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,
June 15, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8651 Filed 6-18-71; 8:46 am]

SUNCOOK BANK

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by The Suncook Bank, Suncook, N.H., a state chartered bank which is not a member of the Federal Reserve System, for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 48 percent of the voting shares of The Hooksett Bank, Hooksett, N.H., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen com-

¹ Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Malsel, Brimmer, and Sherrill.

petition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Boston.

By order of the Board of Governors,
June 14, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8652 Filed 6-18-71; 8:46 am]

VIRGINIA COMMONWEALTH BANKSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Virginia Commonwealth Bankshares, Inc., Richmond, Va., for approval of acquisition of 100 percent of the voting shares of The American Bank of Loudoun, Loudoun County, Va., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of Virginia Commonwealth Bankshares, Inc., Richmond, Va. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of The American Bank of Loudoun, Loudoun County, Va. (Bank), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banking for the State of Virginia and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 29, 1971 (36 F.R. 8083), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired

SECURITIES AND EXCHANGE COMMISSION

[70-5038]

OHIO POWER CO.

Notice of Proposed Amendments of Articles of Association, Increase in Permitted Short-Term Unsecured In- debtedness, and Solicitation of Proxies in Connection Therewith

JUNE 15, 1971.

Notice is hereby given that Ohio Power Co. (Ohio), 301 Cleveland Avenue SW., Canton, OH 44701, a public-utility subsidiary company of American Electric Power Co., Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) (2), 7, and 12(c) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio proposes to amend its Articles of Association (Articles) to increase the number of authorized shares of its cumulative preferred stock. As of July 9, 1971, of the 700,000 authorized shares of Ohio's cumulative preferred stock, 202,403 shares of its 4½ percent series, 100,000 shares of its 4.40 percent series, 50,000 shares of its 4.08 percent series, 67,000 shares of its 4.20 percent series, 150,000 shares of its 8.04 percent series, and 100,000 shares of its 7.72 percent series were issued and outstanding. Ohio now proposes to provide funds with which to finance its expenditures for construction and other corporate purposes, to amend its Articles so as to increase its authorized cumulative preferred stock to 1,700,000 shares. The cost of Ohio's construction program for the year 1971 is estimated, on the basis of presently existing conditions, to be approximately \$179 million.

Ohio proposes to obtain the consent and approval of the holders of the outstanding cumulative preferred stock to an increase in the amount of unsecured short-term debt, which the company is authorized to incur, to exceed 10 percent, but provided that combined short-term and long-term unsecured indebtedness would be not more than 20 percent, of its total capitalization for a period ending on April 1, 1975, but with no maturity later than October 1, 1975, except as otherwise provided by Ohio's Articles. Authorization from the Commission for such an increase in the permissible amount of short-term debt, as required by Ohio's debenture agreement is requested. The actual issue and sale of securities related to such proposed increase in short-term indebtedness will be subject to further authorization by this Commission.

Ohio intends to submit the proposed amendments of its Articles and the pro-

posed consent to its shareholders for their approval at a special meeting of shareholders to be held on August 23, 1971. In connection therewith, Ohio proposes to solicit proxies from the holders of its preferred stock through the use of solicitation material which sets forth the proposals in detail. The declaration states that the proposed amendments require the affirmative vote of the holders of two-thirds of the outstanding shares of Ohio's common stock and of the holders of two-thirds of the outstanding shares of cumulative preferred stock, voting separately as a class. Consent of the holders of a majority of the outstanding cumulative preferred stock, voting as a class, is needed to increase the amount of short-term unsecured indebtedness. American Electric Power Co., Inc., holder of all of the outstanding shares of Ohio's common stock, has indicated that all such shares will be voted in favor of the proposed amendments.

The fees and expenses incurred and to be incurred in connection with the proposed transactions are estimated not to exceed \$8,000. The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than July 6, 1971, request in writing that a hearing be held with respect to the proposed transactions, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8661 Filed 6-18-71; 8:47 am]

and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant is the fourth largest banking organization and the second largest bank holding company in Virginia, controlling 14 banks with aggregate deposits of \$582.1 million. This represents approximately 8 percent of total banking deposits in the State. (All banking data are as of June 30, 1970, adjusted to reflect holding company acquisitions and formations approved by the Board through April 30, 1971.) Since Bank is a proposed new bank, consummation of the proposal would not increase concentration in any market.

Bank will be located in Loudoun County at the Dulles International Airport complex, which is presently served by a branch of a \$704 million Richmond bank. None of Applicant's present offices are located in Loudoun County and under Virginia law, no present banking subsidiary of Applicant may establish a branch in Bank's primary service area.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area and will have a procompetitive effect through the introduction of an additional banking alternative at the Dulles Airport complex. The banking factors, as they relate to Applicant, its subsidiaries, and Bank, and considerations relating to the convenience and needs of the communities to be served, are regarded as consistent with approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order; *And provided further*, That (c) The American Bank of Loudoun, Loudoun County, Va., shall be opened for business not later than 6 months after the date of this order. The time periods described in (b) and (c) above may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,¹ June 15, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8653 Filed 6-18-71; 8:46 am]

¹ Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

TARIFF COMMISSION

[AA1921-72/74]

PIG IRON FROM CANADA, FINLAND, AND WEST GERMANY

Determinations of Injury

On March 15, 1971, the Tariff Commission received advice from the Treasury Department that pig iron from Canada, Finland, and West Germany is being, and is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended.¹ In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Commission on the same date instituted investigations No. AA1921-72 (with respect to imports from Canada), No. AA1921-73 (Finland), and No. AA1921-74 (West Germany), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of importation of such merchandise into the United States.

Notice of the institution of the investigations and of a joint hearing to be held in connection therewith was published in the *FEDERAL REGISTER* (36 F.R. 5317). The hearing was held on May 11 and 12, 1971.

In arriving at its determinations the Commission gave due consideration to all written submissions from interested parties, all testimony adduced at the hearing, and all information obtained by the Commission's staff.

On the basis of the joint investigations, the Commission has determined that an industry in the United States is being and is likely to be injured by reason of the importation of pig iron from Canada, Finland, and West Germany sold, or likely to be sold, at less than fair value within the meaning of the Antidumping Act, 1921, as amended.²

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATIONS OF COMMISSIONERS SUTTON AND MOORE

In our opinion an industry in the United States is being injured by reason of the importation of pig iron from Canada, West Germany, and Finland sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. Moreover there is the likelihood of further injury to the

¹ Treasury published a separate determination of sales at less than fair value for each country in the *FEDERAL REGISTER* (36 F.R. 5145-5146).

² The Commission's determinations in investigations No. AA1921-72 (Canada) and No. AA1921-74 (West Germany) were made by unanimous vote of the participating Commissioners. With respect to investigation No. AA1921-73 (Finland), Commissioners Sutton and Moore made an affirmative determination and Commissioners Leonard and Young made a negative determination. Pursuant to section 201(a), the Commission is deemed to have made an affirmative determination if the Commissioners voting are evenly divided. Commissioner Clubb did not participate in the determinations.

industry should such sales continue without the price discrimination being offset by special dumping duties. In arriving at this conclusion we have considered the injured industry to be those facilities of domestic producers devoted to the production of cold pig iron (hereinafter referred to as the cold pig iron industry), and have taken into account the combined impact on such industry of LTFV imports from all three countries.

Combined impact of LTFV imports governs. In the cases at hand, the jurisdiction of the Tariff Commission arose under the Antidumping Act upon receipt of Treasury's determination of LTFV sales of pig iron from each of the three countries. In our opinion, however, the collective impact of the LTFV imports from the three countries governs in the disposition of the case.

On several occasions since 1954 the Tariff Commission has received from the Treasury Department separate determinations of LTFV sales covering the same product from different countries. A recent case was that of pig iron from East Germany, Czechoslovakia, Romania, and the U.S.S.R.³ In his statement of reasons in that case, then Vice Chairman Sutton pointed out that "the purposes and language of the statute require that the Commission's determination take into account the combined impact of LTFV imports of cold pig iron from all of the countries in question." This analysis of the statutory requirements remains valid today. Hence, we have considered the combined impact of LTFV imports of pig iron from Canada, Finland, and West Germany in the instant case.

Description and uses. The pig iron from Canada, West Germany, and Finland on which the Treasury Department found sales at less than fair value included pig iron in virtually all major grades—that is, in basic, foundry, malleable, and low-phosphorous grades. In addition to iron, pig iron contains such elements as carbon, sulphur, phosphorus, manganese, and silicon in varying but small quantities. The relative quantities of each element in the pig iron determine the grade in which pig iron is classified and also determine, more or less, the end use of the pig iron. Occasionally, however, one grade of pig iron may be used in an application for which another is more ideally suited, but the user incurs the further expense of increasing or reducing one or more of the elements named above.

Pig iron is used in the production of steel and cast iron articles. Virtually all basic pig iron consumed in the United States is used to make steel; the other grades are used in foundries to make iron castings. Hot pig iron can be used immediately in steel furnaces or foundries; cold pig iron must be remelted when used. Scrap, whether of steel or cast iron, is often substituted for pig iron if its availability and price in relation to that of pig iron is such that it is advantageous to make the substitution.

The U.S. industry. As stated previously, we have considered the industry for pur-

³ TC Publication 265, September 1968.

poses of these investigations to be the facilities in the United States for the production of cold pig iron. Significant distinctions exist in the production, handling, distribution, and sale of molten and cold pig iron. Molten pig iron, whether for sale or for use by the producer, is generally produced to a constant specification, is delivered in large bulk quantities on a reasonably continuous basis, can be shipped only very limited distances, does not involve casting into pigs (with attendant handling problems), and must be used promptly; when sold—and only a small percentage is—it is marketed on a long-term contract basis. On the other hand, cold pig iron is generally produced in a wide range of specifications to meet the needs of various users. Such production necessitates frequent, costly, and time consuming adjustments in the blast furnace; it is necessary, moreover, to stockpile each specification of pig iron so that supplies are available. The frequent changes in specifications for cold pig iron to be sold to others generate off-specification pig iron which is difficult to sell at regular cold pig iron prices. As compared with purchasers of molten pig iron, buyers of cold pig iron are less consistent in the quantities purchased and the frequency of their orders; they demand various specifications in small lots, and tend to make short-term purchase contracts. All imports of pig iron, whether at LTFV or not, are of cold pig iron.

The competitive impact of LTFV imports. In recent years the domestic consumption of cold pig iron has declined, both absolutely and relative to aggregate U.S. consumption of all pig iron. Technological changes in the steel industry and in foundry operations have had the effect of reducing domestic consumption of cold pig iron. Low prices for scrap have acted to accentuate the effects of these technological changes. Under such market conditions, consumers of cold pig iron are particularly sensitive not only to the price of pig iron relative to that of scrap, but to the price of imported pig iron relative to that of domestically produced pig iron.

The great bulk of the pig iron imported at LTFV from Canada, Finland, and West Germany was sold at prices significantly lower than those of comparable grades of domestically produced cold pig iron. Overall, the LTFV imports of pig iron were sold at a weighted average price 17 percent below that of the comparable domestic products. On individual shipments, LTFV margins were often equivalent to a substantial part of the margins of underselling, and in some instances the LTFV margin exceeded them. In the face of a declining market highly sensitive to differences in price between imported and domestic cold pig iron, the effect of the LTFV imports was to displace some of the domestically produced cold pig iron that would have been sold in the absence of such LTFV imports.

In earlier investigations the Commission has pointed out that it is not necessary to show that imports were the sole

cause nor even the major cause of injury as long as the facts show that LTFV imports were more than a de minimis factor in contributing to the injury. In the instant investigation, domestic producers of cold pig iron have been appreciably undersold by importers of LTFV pig iron from Canada, Finland, and West Germany. This practice has caused a significant loss of sales by domestic producers of cold pig iron. Such injury to the domestic cold pig iron industry is clearly more than de minimis.

STATEMENT OF REASONS FOR DETERMINATIONS OF COMMISSIONERS LEONARD AND YOUNG

We generally concur in the statement of reasons for affirmative determinations of Commissioners Sutton and Moore insofar as it pertains to less-than-fair-value (LTFV) sales of pig iron imported from Canada and West Germany.

In our view, taking into consideration both the LTFV imports and other major factors influencing the sales of cold pig iron in the U.S. market (including production and imports of cold pig iron not sold at less than fair value, the price of such pig iron and cast iron scrap, and production of iron and steel castings), LTFV imports have been shown to have displaced U.S. shipments of cold pig iron and thus to have injured the domestic cold pig iron industry.

Moreover, in the absence of dumping duties, the evidence obtained by the Commission indicates that sales of LTFV pig iron from Canada are likely to increase and sales of such pig iron from West Germany are likely to resume. Therefore, we determine also that the cold pig iron industry in the United States is likely to be injured by reason of the importation into this country of LTFV pig iron from Canada and from West Germany. However, we determine in the negative with respect to LTFV pig iron imported from Finland. The LTFV imports of pig iron from Finland occurred on only one occasion, and this was under peculiar circumstances not likely to be repeated. Whether considered individually or collectively with the LTFV imports from Canada and West Germany, we do not believe that the LTFV imports from Finland are of consequence. In view of the circumstances surrounding the importation of LTFV pig iron from Finland, we have determined that an industry is not being and is not likely to be injured, or prevented from being established, by reason of the importation of pig iron from Finland sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

By direction of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-8645 Filed 6-18-71; 8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TEA-W-39]

FOOT FLAIRS, INC.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of February 8, 1971, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-39) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by Foot Flairs, Inc., Manchester, N.H. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the women's footwear produced by Foot Flairs, Inc., are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at such plant. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In that recommendation he noted that significant lay-offs caused by imports began to occur on or about October 3, 1969 at Foot Flairs, Inc., which ceased production in November 1969. After due consideration, I make the following certification:

All workers (hourly, piecework, and salaried), of the Foot Flairs, Inc., plant located at Manchester, N.H., who became unemployed or underemployed after October 2, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 14th day of June 1971.

GEORGE H. HILDEBRAND,
Deputy Under Secretary,
International Affairs.

[FR Doc.71-8672 Filed 6-18-71; 8:48 am]

[TEA-W-71, etc.]

ORNSTEEN SHOE CO., INC., ET AL.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of March 29, 1971, the U.S. Tariff Commission made a report of the results of investigations (TEA-W-71, TEA-W-72, and TEA-W-75) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to petitions for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the Ornsteen Shoe Co., Inc., Haverhill, Mass., Kleven Shoe Sales Co., Inc., North Brookfield, Mass., and Sinclair Shoe Co., Haverhill, Mass. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the footwear produced by the 3 plants are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plants concerned. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's decision, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted investigations. Following this, the Director made recommendations to me relating to the matter of certifications (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 8420; 29 CFR Part 90). In those recommendations he noted that significant lay-offs caused by imports began to occur in early October, 1970 at the Ornsteen Shoe Co., Inc., which ceased production in November, 1970; that Kleven Shoe Sales Co., Inc., began to lay off workers the week of August 9, 1970 and ceased production on November 30, 1970; and that employment began to drop at Sinclair Shoe Co., in early November, 1970 and continued until the plant closed on November 23, 1970. After due consideration, I make the following certifications:

All workers (hourly, piecework, and salaried), of the Ornsteen Shoe Co., Inc., plant located in Haverhill, Mass., who became unemployed or underemployed after October 4, 1970, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

All workers (hourly, salaried, and piecework) of the Kleven Shoe Sales Co., Inc., plant located at North Brookfield, Mass., who became, or will become, unemployed or

underemployed after August 9, 1970, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

All workers (hourly, salaried, and piecework) of the Sinclair Shoe Co., plant located at Haverhill, Mass., who became, or will become, unemployed or underemployed after November 5, 1970, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 14th day of June 1971.

GEORGE H. HILDEBRAND,
Deputy Under Secretary,
International Affairs.

[FR Doc.71-8673 Filed 6-18-71; 8:48 am]

[TEA-W-70]

RCA CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of March 23, 1971, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-70) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the RCA Corp., Memphis, Tenn. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with television receivers produced at the RCA plant in Memphis, Tenn. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plant concerned. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to accept the findings of those Commissioners who found injury as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 9154; 29 CFR Part 90). In that recommendation he noted that layoffs resulting from increased imports started in September 1969. After due consideration, I make the following certification:

All workers (hourly and salaried) of the RCA Corp. plant Memphis, Tenn., who became or will become unemployed or underemployed after September 1, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 11th day of June 1971.

GEORGE H. HILDEBRAND,
Deputy Under Secretary,
International Affairs.

[FR Doc.71-8674 Filed 6-18-71; 8:48 am]

INTERSTATE COMMERCE COMMISSION

GOSSELIN EXPRESS, LTD., ET AL.

Assignment of Hearings

JUNE 16, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-134872 Sub 1, Gosselin Express, Ltd., now assigned June 23, 1971, at Albany, N.Y., canceled and reassigned to September 8, 1971, in U.S. Courtroom, Fourth Floor, U.S. Post Office and Courthouse Building, Albany, N.Y.

MC-F-10914, Jones Transfer Co.—Purchase—W & W Express, Inc., and MC-4966, Subs 17 and 18, directly related, assigned hearing on July 19, 1971, at Detroit, Mich., in the Oxford Room, Howard Johnson's Downtown Motor Lodge, Washington Boulevard, at Michigan Avenue.

MC 30844 Sub 326 et al., Krobin Refrigerated Express, Inc., now assigned July 7, 1971, at St. Paul, Minn., will be held in Courtroom No. 4, instead of Room 767.

MC 107839 Sub 135, Denver-Albuquerque Motor Transport, Inc., assigned July 19, 1971, in Room 571, Federal Building and Courthouse, Denver, Colo.

MC 114290, Sub 52, Exley Express, Inc., assigned July 28, 1971, at Seattle, Wash., in Room 1155, Federal Office Building, 909 First Avenue.

MC-28090 Sub 19, Willers, Inc., doing business as Willers Truck Service, assigned July 13, 1971, will be held in Courtroom No. 4, 316 Roberts Street, St. Paul, MN, instead of Room 767.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8679 Filed 6-18-71; 8:48 am]

[Notice 314]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 15, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the

new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field office named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies. A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY
No. MC 8535 (Sub-No. 36 TA), filed June 6, 1971. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, 2700 Broening Highway, Post Office Box 3969, Baltimore, MD 21222. Applicant's representative: James B. Nestor (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Activated carbon, from Catlettsburg, Ky., and Covington, Va., to points in Washtenaw County, Mich., for 150 days. Supporting shippers: Mr. R. L. Hillard, Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230; Mr. Herbert L. Barrett, Westvaco Corp., 299 Park Avenue, New York, NY 10017. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 1125 Federal Building, Baltimore, Md. 21201.

No. MC 30837 (Sub-No. 438 TA), filed June 7, 1971. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Post Office Box 160 (53141), Kenosha, WI 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Folding tent campers, designed to be drawn by passenger automobiles, in truckaway service, from San Jose, Calif., to points in Washington, Oregon, Nevada, Idaho, Arizona, Colorado, Montana, Wyoming, Utah, New Mexico, and Texas, for 150 days. Supporting shipper: Sports-liner, Inc., 1720 South First Street, San Jose, CA 95112 (B. Gordon Mills, General Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operation, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 44639 (Sub-No. 38 TA), filed June 3, 1971. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place,

Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies used in the manufacture of wearing apparel*, between Narrows, Va., and New York, N.Y., for 150 days. NOTE: Applicant states it intends to tack at New York, N.Y., to New Jersey points authorized. Supporting shipper: New River Dress Co., Box 394, Narrows, VA 24124. Send protests to: District Supervisor Joel Morrums, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 111401 (Sub-No. 338 TA), filed June 6, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Hoyt Gabbard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, from Tulsa, Okla., to Fremont, Valley, Beatrice, and Pickrell, Nebr., for 180 days. Supporting shipper: R. V. McElhany, President, Saunders Petroleum Co., Post Office Box 129, Greeley, CO 80631. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 116073 (Sub-No. 171 TA) (Correction), filed May 27, 1971, and published FEDERAL REGISTER issue June 9, 1971, and corrected and republished in part as corrected this issue. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Maine Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tassar, (same address as above). NOTE: The purpose of this partial republication is to include Virginia as a destination State, which was inadvertently omitted in previous publication. The rest of the publication remains the same.

No. MC 116947 (Sub-No. 17 TA), filed June 7, 1971. Applicant: HUGH H. SCOTT, doing business as SCOTT TRANSFER CO., 920 Ashby Street SW., Atlanta, GA 30310. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, metal container ends, parts accessories, and equipment* used in connection with the distribution of metal containers, from Edison, N.J., to Collier-ville and Memphis, Tenn., for 150 days. Supporting shipper: National Can Corp., 5959 South Cicero Avenue, Chicago, IL 60638. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 118570 (Sub-No. 3 TA) (Correction), filed May 26, 1971, published FEDERAL REGISTER issue June 5, 1971, and corrected and republished in part as cor-

rected this issue. Applicant: DEFAZIO EXPRESS, INC., 1028 Springbrook Avenue, Moosic, PA 18507. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. NOTE: The purpose of this partial republication is to set forth the correct commodity description to read as follows: (1) "*Stearine*" in lieu of *stearing*, which was shown erroneously in previous publication and (2) to add *soap products*, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 124328 (Sub-No. 47 TA) (Correction), filed April 27, 1971, published FEDERAL REGISTER issue May 7, 1971, corrected and republished in part as corrected this issue. Applicant: BRINK'S INCORPORATED, 234 East 24th Street, Chicago, IL 60616. Applicant's representative: F. D. Partlan (same address as above). NOTE: The purpose of this partial republication is to include Nashville, Tenn., as a destination point, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 127304 (Sub-No. 10 TA), filed June 7, 1971. Applicant: CLEAR WATER TRUCK COMPANY, INC., 9101 Northwest Street, Valley Center, KS 67147. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, finished and raw materials, furniture, and office equipment, and related plant equipment and supplies*, from Scottsburg, Ind., to Colwich, Kans., for 180 days. Supporting shipper: International Plastics, Inc., Post Office Box 278, Colwich, KS 67030. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 128205 (Sub-No. 15 TA), filed June 7, 1971. Applicant: BULK MATIC TRANSPORT COMPANY, 4141 George Street, Schiller Park, IL 60176. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and limestone products*, in tank and/or hopper type vehicles, from Chicago and Thornton, Ill., to points in Indiana, Michigan, and Ohio, for 150 days. Supporting shipper: H. F. Batchelor, Traffic Manager, Marblehead Lime Co., a subsidiary of General Dynamics Corp., 300 West Washington Street, Chicago, IL 60606. Send protests to: Andrew J. Montgomery, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 133436 (Sub-No. 7 TA), filed June 7, 1971. Applicant: DUDDEN ELVATOR, INC., Post Office Box 60, Ogallala, NE 69153. Applicant's representative: Richard A. Dudden, 121 East

Second Street, Ogallala, NE 69153. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal switches, tails, and hide trimmings*, in bags, bales, or in bulk, and *products manufactured by, used by, or dealt in by Eagle Hair Co., Inc.*, restricted to the account of Eagle Hair Co., Inc., from points in Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, and Texas to Clovis, N. Mex., and Chicago, Ill., and from Chicago, Ill., and Clovis, N. Mex., to Houston, Tex., for 180 days. Supporting shipper: Robert A. Michael, Eagle Hair Co., Inc., 901 East McDonald Avenue, Clovis, NM 88101. Send protests to: Max H. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 320 Federal Building and U.S. Courthouse, Lincoln, Nebr. 68508.

No. MC 134922 (Sub-No. 12 TA), filed June 6, 1971. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes*, in bags, from Cotter, Ark., to points in Oklahoma, Tennessee, Illinois, Missouri, Kansas, Nebraska, Iowa, Colorado, Arizona, Mississippi, Louisiana, Texas, and California, for 180 days. Supporting shipper: Twin Lakes Charcoal Co., Cotter, Ark. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135569 (Sub-No. 1 TA), filed June 6, 1971. Applicant: CORNELIUS WIELINK, Rural 1, Hannon, ON Canada. Applicant's representative: Robert D. Gunderman, Suite 1708, Statler Hilton, Buffalo, N.Y. 14020. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete units*, from ports of entry on the international boundary line between the United States and Canada on the Niagara River to points in the counties of Cattaraugus, Cayuga, Chautauqua, Chemung, Cortland, Erie, Genesee, Monroe, Niagara, Onondaga, Ontario, Orleans, Steuben, Thompsons, and Wayne, N.Y., and Erie, Pa., for 150 days. Supporting shipper: Decor Precast Co., Ltd., Box 249, Stoney Creek, ON Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 135659 TA, filed June 3, 1971. Applicant: ROCKET MOTOR FREIGHT LINES, INC., 1026 North Elmwood, Peoria, IL 61601. Applicant's representative: Melvin N. Routman, 300 Reich Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, from Chillicothe, Ill., to Davenport, Iowa, for 180 days. Supporting shipper: Star Service & Petroleum Co., 800 North

Skinker Boulevard, St. Louis, MO 63130. Send protests to: District Supervisor Raymond E. Mauk, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 135662 TA, filed June 6, 1971. Applicant: VANCE BUTTOL, doing business as RO-VAN COMPANY, Box 125-0, Route 2, Savanna, IL 61074. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used portable building chassis*, from points in Missouri, Iowa, Illinois, Wisconsin, and Minnesota to points in Guttenburg, Iowa, for 150 days. Supporting shipper: Hilton Homes, Inc., Guttenburg, Iowa. Send protests to: Andrew J. Montgomery, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

MOTOR CARRIER OF PASSENGERS

No. MC 59238 (Sub-No. 64 TA), filed June 4, 1971. Applicant: VIRGINIA STAGE LINES, INCORPORATED, 114 Fourth Street SE., Charlottesville, VA 22901. Applicant's representative: Richard A. Trice (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle, serving Dale City, Va., as an intermediate point in conjunction with applicant's regular route authority, between Washington, D.C., and Richmond, Va., for 180 days. Supporting shippers: Donald D. Rat-terree, 14812 Dixon Court, Woodbridge, VA 22191; George L. G?, 14815 Downey Court, Dale City, VA; Mr. Harold L. Johnson, 14813 Dixon Court, Woodbridge, VA 22191; Mrs. Charlotte C. Braxton, 14340 North Fullerton Road, Woodbridge, VA 22191; Jandie G. Grisham, 14808 Dyer Drive, Woodbridge, VA 22191. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, VA 23240.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-8680 Filed 6-18-71; 8:48 am]

[Notice 704]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 16, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72800. By order of June 14, 1971, the Motor Carrier Board, on reconsideration, approved the transfer to Paul W. Ressler, Robeson, Pa., of the operating rights in certificates Nos. MC-13233 and MC-13233 (Sub-No. 1), issued May 20, 1941, and July 17, 1950, respectively, to Oliver S. Showalter, Reinholds, Pa., authorizing the transportation of hatters' waste, from points in Berks and Lancaster Counties, Pa., to Camden, N.J., and Philadelphia, Pa.; wool, from Camden, N.J., to points in Lancaster and Berks Counties, Pa., and from Philadelphia, Pa., to Berks and Lancaster Counties, Pa., carbonized wool, from Adamstown, Pa., to Garfield, N.J., and Philadelphia, Pa., and fertilizer, from Paulsboro, N.J., to points in Lancaster County, Pa. John E. Ruth, Post Office Box 1459, American Bank Building, Sixth and Washington Streets, Reading, PA 19603, attorney for applicants.

No. MC-FC-72885. By order of June 14, 1971, the Motor Carrier Board approved the transfer to Amendola Trucking & Rigging, Inc., Hamden, Conn., of the operating rights in certificate No. MC-102081 issued January 31, 1950, to Ignazio Aiardo, New Haven, Conn., authorizing the transportation of used machinery and parts thereof, not boxed, crated, or skidded, restricted to weight of not less than 1,000 pounds or more than 10,000 pounds, between New Haven and Meridian, Conn., on the one hand, and, on the other, Albany and Schenectady, N.Y., Boston, Worcester, and Springfield, Mass., and points within 10 miles of Boston, Worcester, and Springfield, and points in the New York, N.Y., commercial zone, as defined by the Commission. Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117, attorney for applicants.

No. MC-FC-72909. By order of June 14, 1971, the Motor Carrier Board approved the transfer to Guerin Drayage Co., Inc., San Francisco, Calif., of the certificate of registration in No. MC-125491 (Sub-No. 1) issued July 3, 1969, to Marine Trucking Corp., San Francisco, Calif., evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in Decision No. 51313 dated April 12, 1955, issued by the Public Utilities Commission of California.

J. Donald Kenny, 601 California Street, San Francisco, CA 94108, attorney for applicants.

No. MC-FC-72920. By order of June 9, 1971, the Motor Carrier Board approved the transfer to Tan Lines, Inc., Huntington Station, N.Y., of certificate No. MC-127653 (Sub No. 1), issued to United Services & Projects, Inc., Rosendale, N.Y., authorizing the transportation of: Luggage and such personal property usually carried by airline passengers, and aircraft parts, equipment and accessories, between various airports; Kennedy, La Guardia, Newark, Teterboro, and unnamed airports located at various cities, as well as statewide authority in New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and Pennsylvania, Delaware, and Washington, D.C. George A. Olsen, practitioner, 69 Tonnele Avenue, Jersey City, NJ 07306.

No. MC-FC-72930. By order of June 14, 1971, the Motor Carrier Board approved the transfer to Ace Motor Freight, Inc., Summerville, Pa., of the operating rights in certificates Nos. MC-124802, MC-124802 (Sub-No. 1), MC-124802 (Sub-No. 2), MC-124802 (Sub-No. 4), MC-124802 (Sub-No. 6), MC-124802 (Sub-No. 7), and MC-124802 (Sub-No. 8) issued April 25, 1966, July 25, 1963, February 17, 1964, August 23, 1966, October 18, 1966, October 6, 1967, and October 4, 1968, respectively, to Curtis Womeldorf, doing business as Ace Motor Freight, Summerville, Pa., authorizing the transportation of brick, firebrick, refractory products, ground fire clay, structural tile, dry raw materials (except fly ash) used in the manufacture of clay products, in bulk, and in bags or packages, and clay products, from, to, and between points as specified in Pennsylvania, Ohio, Maryland, Delaware, New Jersey, New York, Massachusetts, Connecticut, Rhode Island, West Virginia, Virginia, and the District of Columbia; paper and paper cartons, from Canton, Ohio, to Summerville, Pa., and cast iron soil pipe and fittings, except those which because of size or weight require special handling or special equipment, from Bridgeton, N.J., to points in those parts of New York and Pennsylvania on and west of U.S. Highway 11, Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005, attorney for applicants.

No. MC-FC-72931. By order of June 11, 1971, the Motor Carrier Board approved the transfer to A C Express, Inc., Raleigh, N.C., of the certificate of registration in No. MC-99791 (Sub-No. 1) issued June 11, 1964, to Waco Trucking, Inc., Hickory, N.C., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of North Carolina, corresponding in scope to certificate No. C-14 issued by the North Carolina Utilities Commission. Lawrence E. Lindeman, Wilson, Woods and Villalon, Suite 1032, Pennsylvania Building, Washington, DC 20004, attorney for applicants.

NOTICES

No. MC-FC-72933. By order of June 11, 1971, the Motor Carrier Board approved the transfer to Charles R. Daughenbaugh, doing business as Baughman's Van Service, Harrisburg, Pa., of certificate No. MC-38159 issued to Reba Baugh-

man, doing business as Baughman's Van Service, Harrisburg, Pa., authorizing the transportation of: Household goods, between Harrisburg, Pa., and 50 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, Delaware, Maryland, Ohio, and the

District of Columbia. Anthony J. Gianforti, attorney, Post Office Box 1121, Harrisburg, PA 17101.

[SEAL] ROBERT L. OSWALD,
Secretary

[FR Doc.71-8681 Filed 6-18-71;8:48 am]

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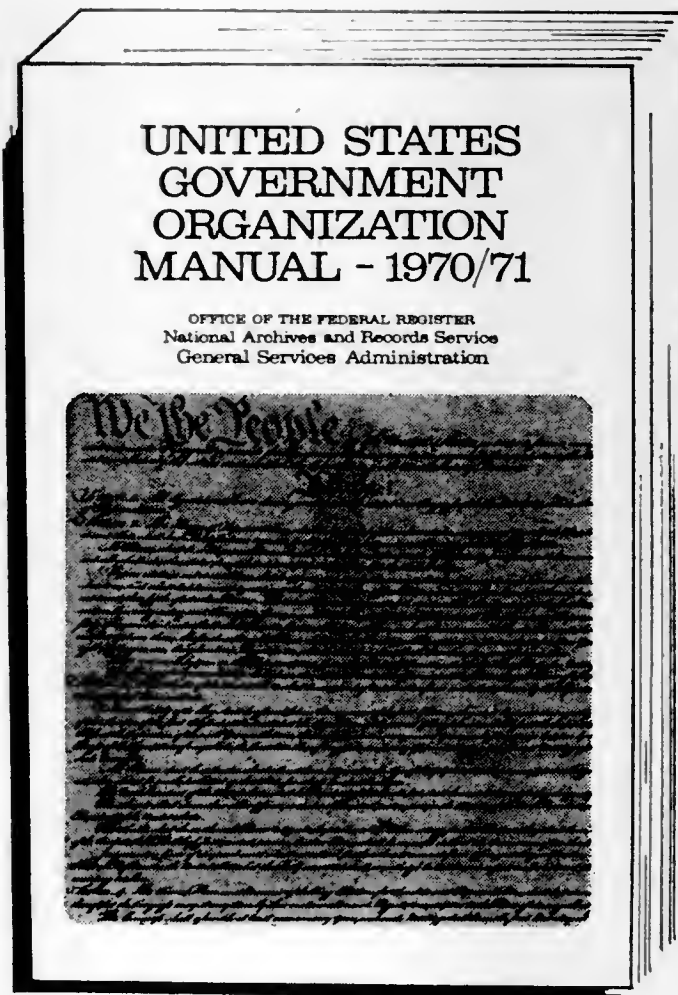
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PROCLAMATION 4061

National Postal Service Day*By the President of the United States of America***A Proclamation**

For nearly two hundred years the people of this country have been served by a national post office. When America was growing, and our people were pushing the frontier out across the land, the United States Post Office helped bind our people together in one nation.

As the nation has grown and its needs have changed, the Post Office has grown and changed to meet those new needs. The Postal Reorganization Act of 1970 is a part of this change, heralding a new United States Postal Service. The new Service will provide management and methods appropriate to a great and vital communications system in the twentieth century. Behind the new Service, as from the beginning, the high ideals of public service and fidelity to the public well-being, which for so long has distinguished the Post Office, will continue.

On July 1, 1971, the United States Postal Service will begin operation as an independent establishment of the executive branch of the United States Government. It is appropriate to set aside that day to give recognition to the contributions made through the years by the men and women of the Post Office who have served the Nation so faithfully and to mark the inauguration of the United States Postal Service.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Thursday, July 1, 1971, as National Postal Service Day.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of June, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.



[FR Doc. 71-8846 Filed 6-21-71; 10:03 am]

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 8]

PART 730—RICE

Subpart—Regulations for Determination of Acreage Allotments for 1969 and Subsequent Crops of Rice

MISCELLANEOUS AMENDMENTS

On pages 8261 and 8262 of FEDERAL REGISTER of May 1, 1971 (36 F.R. 8261) was published a notice of proposed rule making to issue amendments to the regulations for determination of acreage allotments for 1969 and subsequent crops of rice.

Interested persons were given 30 days after publication of the notice in which to submit written data, views, or recommendations with respect to the proposed amendments.

After consideration of the views and recommendations received, the proposed amendments, as issued in the notice, are adopted with the following additions:

1. A basis and purpose paragraph is added preceding the amendments.
2. An authority clause is added immediately following the amendments.
3. An effective date provision is added immediately following the authority clause.

Signed at Washington, D.C., on June 15, 1971.

CARROLL G. BRUNTHAVER,

Acting Administrator, Agricultural Stabilization and Conservation Service.

Basis and purpose. The amendments herein are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended.

The purpose of these amendments is to (1) remove the reference to the adjustment in allotment to meet cropland limitations, (2) clarify the planting requirements with respect to allotment acreage acquired by a producer who is not a member of the transferor's family, and (3) provide that a producer who has withdrawn from the production of rice in favor of a producer other than a family member may acquire allotment and related history acreage from a partnership in which he is a partner when such partnership is dissolved.

The Subpart—Regulation for determination of Acreage Allotments for 1969 and Subsequent Crops of Rice (33 F.R. 14520), as amended, is amended as follows:

1. Section 730.62 is amended by revising paragraph (b) (13) thereof to read as follows:

§ 730.62 Definitions.

(b)
(13) "Rice acreage planted and considered planted on a farm" means the sum of the farm rice acreage and any allotment acreage which is (i) preserved under the provisions of part 719 of this chapter, Reconstitution of Farms, Allotments, and Bases, and (ii) underplanted in the current year to deplete stored excess rice produced in a prior year as provided in § 730.30(h).

2. Section 730.67 is amended by revising paragraph (b) (3) thereof to read as follows:

§ 730.67 Establishment of preliminary allotments for old producers.

(b)
(3) For a farm to which subparagraph (1) of this paragraph is not applicable, if less than 75 percent of the farm allotment (before reapportionment) is planted in the year for which the rice history acreage is being determined and in each of the 2 immediately preceding years, the rice history acreage will be the smaller of the farm allotment before reapportionment or the sum of:
(i) Rice acreage determined for the farm.
(ii) Acreage preserved under the provisions of Part 719 of this chapter.
(iii) Acreage underplanted in the current year to deplete stored excess rice produced in a prior year.

3. Section 730.76 is amended by revising the second and third sentences of paragraph (b) (3) (ii) thereof and changing the period at the end of paragraph (c) to a colon and adding a proviso to read as follows:

§ 730.76 Succession of interest in producer allotments.

(b)
(3)
(ii) If the transferee fails to comply with this minimum planting provision, the transfer shall become invalid and the county committee shall reduce the transferee's allotment, for the crop year immediately following the year of such failure, by the percentage that the acquired acreage is of the allotment, including the acquired acreage for which there is failure to comply, established for the producer for the year of acquisition. The rice history acreages credited to the transferee for each year of the period the transfer was in effect shall be reduced

by the same percentage that the allotment is reduced.

(c) *Provided, further,* That a producer who has withdrawn from the production of rice under the provisions of paragraph (b) (3) of this section may acquire allotment and related history acreage from a partnership in which he is a partner when such partnership is dissolved as provided in paragraph (b) (4) of this section.

4. Section 730.78 is amended by revising paragraph (b) (3) thereof to read as follows:

§ 730.78 Establishment of preliminary allotments for old farms.

(b)
(3) For a farm to which subparagraph (1) of this paragraph is not applicable if less than 75 percent of the farm allotment (after release and before reapportionment) is planted in the year for which the rice history acreage is being determined and in each of the 2 immediately preceding years, the rice history acreage will be the smaller of the farm allotment before release and before reapportionment or the sum of:
(i) Acreage released for reapportionment.
(ii) Rice acreage determined for the farm.
(iii) Acreage preserved under the provisions of Part 719 of this chapter.
(iv) Acreage underplanted in the current year to deplete stored excess rice produced in a prior year.

§ 730.79 [Amended]

5. Section 730.79 is amended by deleting paragraph (e) thereof.
(Secs. 353, 375, 52 Stat. 61, as amended, 66, as amended; 7 U.S.C. 1353, 1375)

Effective date. Thirty days after publication in the FEDERAL REGISTER.

[FR Doc. 71-8735 Filed 6-21-71; 8:47 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-157]

PART I—GENERAL PROVISIONS

Changes in Customs District of Cleveland, Ohio (Region IX)

JUNE 11, 1971.

An increase in Customs activities at the airports servicing the Toledo, Ohio, area, as well as the dispersion of trucking company terminals, has made it desirable and necessary to extend the existing port limits of Toledo, Ohio.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President in Executive Order No. 10289, September 17, 1951 (3 CFR Ch. 11), and pursuant to authorization provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), the geographical limits of the Customs port of Toledo, Ohio, in the Cleveland, Ohio, Customs district (Region IX), as described in T.D. 54137, are extended to include additional townships in the counties of Lucas and Wood, State of Ohio. The limits of the port of Toledo as extended are described as follows:

The Customs port of entry of Toledo, Ohio, in the Customs district of Cleveland, Ohio (Region IX), shall include all the territory within the corporate limits of the cities of Toledo, Ottawa Hills, Maumee, and Oregon, and the townships of Springfield, Swanton, and Monclova, all located in Lucas County, Ohio; also included shall be the territory within the towns of Rossford and Northwood, and the townships of Perrysburg and Lake, all located in Wood County, Ohio.

Section 1.2(c) of the Customs Regulations is amended by deleting "(including the territory described in T.D. 54137)" in the column headed "Ports of Entry" and inserting in lieu thereof "(including the territory described in T.D. 71-157)."

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 1, 2, 66, 1624)

This Treasury Decision shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.
[FR Doc.71-8745 Filed 6-21-71; 8:48 am]

PART 9—IMPORTATIONS BY MAIL

Sealed Letters of Foreign Origin Suspected of Containing Merchandise

On February 3, 1970, notice of proposed rule making regarding amendment of the regulations relating to sealed letters of foreign origin suspected of containing merchandise was published in the FEDERAL REGISTER (35 F.R. 2410).

All data, views, or arguments received in response to that notice have been duly considered, and a new section prohibiting Customs officers or employees from reading correspondence without a search warrant has been added.

The amendments as proposed and the new section are hereby adopted as follows:

In Part 9, a new § 9.0 is added to read as follows:

§ 9.0 Definition.

As used in this part, "package," "parcel post shipment," "mail parcel," "parcel post," "parcel," "mail shipments," and "mail" shall include envelopes, sealed or unsealed, arriving in the international mail.

RULES AND REGULATIONS

In § 9.2(b) the last sentence is amended to read as follows:

§ 9.2 Treatment of mail importations at offices of first receipt and at offices of examination.

(b) . . . Upon receipts at the distribution post offices, the dispatches shall be opened and the mail given customs treatment.

Section 9.5 is amended to read as follows:

§ 9.5 Dutiable merchandise, prohibited merchandise, merchandise imported contrary to law arriving in international mail.

When, upon customs examination, a parcel or envelope from abroad is found to contain merchandise subject to duty or internal-revenue tax, and the parcel or envelope is not accompanied by an appropriate customs declaration and commercial invoice or statement of value required by § 9.1, or is found to contain material prohibited importation or imported contrary to law, the merchandise is subject to seizure and forfeiture. Under the authority contained in section 618, Tariff Act of 1930, any forfeiture of merchandise subject to duty or internal-revenue tax (other than material prohibited importation) so incurred is hereby mitigated to an amount equal to 10 percent of the loss of revenue which was or might have been sustained, provided there is no evidence indicating to the district director of customs that failure to properly declare the merchandise was due to willful negligence or an intent to defraud the revenue. If there is any such evidence, or if for any other reason the district director believes that it would not be in the interest of the United States to grant this relief, the matter shall be reported to the Bureau of Customs for instructions. When the shipment does not exceed \$250 in value, Customs Form 3419 or 5119 shall be used for the entry of the merchandise and the duty, any internal-revenue tax, and the amount of the mitigated forfeiture shall be entered as separate items thereon. If a parcel or envelope for which a mail fine entry has been issued in accordance with the foregoing provision is undeliverable, it will be returned to the district director of customs at the port where the mail entry was issued, for disposition in accordance with § 9.12(d) relating to articles subject to seizure. The addressee or sender may file a petition with the district director at the port where the mail fine entry was issued for relief from the forfeiture incurred and for release of the seized merchandise to the addressee or sender.

(Sec. 1, 62 Stat. 718, sec. 618, 46 Stat. 757; 18 U.S.C. 545, 19 U.S.C. 1618)

§ 9.12 [Amended]

In § 9.12(d), the first sentence is amended to read as set forth below and the last two sentences of paragraph (c) are deleted:

Except for lottery matter, all mail shipments containing articles which are prohibited importation, and all mail shipments containing articles subject to seizure as being imported contrary to law, shall be immediately taken and held by customs officers for appropriate treatment under the customs laws.

A new § 9.13 is added to Part 9 to read as follows:

§ 9.13 Reading of correspondence prohibited.

No customs officer or employee may read or authorize or allow any other person to read any correspondence contained in sealed letter mail of foreign origin (Universal Postal Union mail) unless a search warrant has been obtained in advance from an appropriate judge or U.S. magistrate which authorizes such action.

(80 Stat. 379, R.S. 3061, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 482, 1624)

Effective date. These amendments shall become effective 30 days after their date of publication in the FEDERAL REGISTER.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: June 3, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.
[FR Doc.71-8743 Filed 6-21-71; 8:48 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 61—CUSTOMS

PART 62—SEALED LETTERS BELIEVED TO CONTAIN PROHIBITED MATTER

Sealed Articles Believed To Contain Dutiable or Prohibited Matter

By notice of proposed rule making published in the FEDERAL REGISTER on February 3, 1970 (35 F.R. 2410), the Post Office Department invited public comments concerning proposed amendments to its regulations governing the customs treatment of sealed articles, including letters and letter packages, originating outside the customs territory of the United States, which are believed to contain prohibited or dutiable matter. Simultaneously with the publication of this notice, the Bureau of Customs, Department of the Treasury, published a notice of proposed rule making (35 F.R. 2410-11), proposing complementary amendments to Customs Regulations.

Existing regulations provide that, before sealed articles of foreign origin which are believed to contain prohibited or dutiable matter may be opened, the consent of the addressee must be obtained, unless the article is endorsed by the sender to permit opening. If the consent is not given, the article is returned to its sender if known. The administration of these regulations with respect to

articles believed to contain matter prohibited because obscene, has been suspended since January 21, 1971, because of doubts as to validity of their enforcement in the light of the decision of the Supreme Court in *Blount v. Rizzi*, 400 U.S. 410 (1971). The Commissioner of Customs, moreover, has stated that the long recognized authority of the Bureau of Customs to open sealed letters arriving in the international mail has been inhibited by the presence of these regulations.

In lieu of the current procedures, the proposed amendments provide for the submission directly to customs officials for customs treatment, including examination, of all articles of mail originating outside the customs territory of the United States which are believed to contain prohibited or dutiable matter. The proposed amendments do not authorize the opening of any sealed article by a postal officer or employee.

Comments on the Post Office Department's proposed amendments have been received. After careful consideration of these comments, the Department has determined to adopt the amendments as proposed subject to the minor changes. These changes are: (1) Certain mail addressed to international organizations which are entitled by statute to privileges and immunities is added as an additional category of mail exempt from customs examination, (2) the extent of the exemption from examination for mail addressed to foreign diplomats is clarified and restated, and (3) the categories of mail exempt from examination are designated by number. In addition the section and part numbers of the regulations affected vary from those shown in the Notice of Proposed Rulemaking as a result of the recodification of the international mail regulations (36 F.R. 4117).

Accordingly, the following amendments are made to Title 39 CFR: 1. Section 61.1 *What is subject to examination* is amended to read as follows:

§ 61.1 What is subject to examination.

All mail originating outside the customs territory of the United States is subject to customs examination, except (a) mail addressed to Ambassadors and Ministers (Chiefs of Diplomatic Missions) of foreign countries, (b) letter mail known or believed to contain only correspondence or documents addressed to diplomatic missions or the officers thereof, or international organizations designated by the President as public international organizations pursuant to the International Organizations Immunities Act, and other mail addressed to such international organizations pursuant to instructions issued by the Department of the Treasury, and (c) mail known or believed to contain only official documents addressed to officials of the U.S. Government.

2. Section 61.2 *Separation points* is amended to read as follows:

§ 61.2 Separation points.

(a) *Exchange offices.* Mail believed to contain matter liable to customs duty or

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believed to contain prohibited matter is submitted immediately to local customs officers, except when exchange offices are authorized to redispach such mail to designated distribution offices for customs treatment thereat. Exchange offices which redispach matter to be submitted to customs officers will attach Label 81, a reusable pink slotted tag, bearing the words, "This sack contains mail Supposed Liable to Customs Duty," to the label holders or hasps of sacks or pouches.

(b) *Distribution offices.* Distribution offices will submit such mail to customs officers as soon as possible after receipt. The reusable tags, Label 81, removed from sacks containing this mail will be returned periodically to the postmasters at New York, New Orleans, San Francisco, Seattle, or Miami, as may be appropriate from a geographical standpoint.

(c) *Priority treatment of airmail.* Airmail articles receive preferential customs treatment and are submitted to customs separately from surface mail. Upon return from Customs, dispatch will be by air if it will expedite delivery.

3. In § 61.3 *Examination*, delete present paragraphs (a), (b), and (c) and insert in lieu thereof the following:

§ 61.3 Examination.

(a) *Registered mail.* The postmaster or other designated postal employee must be present when registered articles and registered parcels are opened by customs officers for examination. After customs treatment, the customs officer will repack and reseal the articles and parcels.

(b) *Extraction of samples for advisory information.* Should a customs officer wish to obtain advisory information from a local trade expert or the Customs Information Exchange, U.S. Customs House, Bowling Green, New York, N.Y. 10004, permit him to extract a sample of the contents. The customs officer will furnish the postal official with two copies of Customs Form 6423, one for enclosure in the importation and the other for the post office files. If the sample is to be forwarded to New York, dispatch it under official registration to the New York Postmaster for delivery to the Customs Information Exchange.

4. Section 61.4. *Repacking*, is amended to read as follows:

§ 61.4 Repacking.

(a) *Responsibility of customs and postal employees.* Customs employees have responsibility for resealing or repacking mail of foreign origin following customs examinations. Postal employees accepting mail which has been in customs custody for examination must determine from external inspection whether it can safely bear further handling and transportation. Customs employees are responsible for restoring mail that is not in satisfactory condition. Employees may be held responsible when damage occurs as a result of negligence or improper handling.

(b) *Customs shipments in bad order.* Shipments found to be in bad order in transit or at the delivery office must be reconditioned by postal employees. Note bad order and evidence of rifling or damage on the address side of the wrapper over the signature of the employee.

5. Part 62—"Sealed Letters Believed to Contain Prohibited Matter" is revoked.

Effective date. These amendments shall become effective on the 30th day following publication in the FEDERAL REGISTER.

(R.S. 3061; sec. 305, 46 Stat. 688, as amended; 5 U.S.C. 301; 19 U.S.C. 482, 1305(a); 39 U.S.C. 501)

DAVID A. NELSON,
General Counsel.

[FR Doc.71-8744 Filed 6-21-71; 8:48 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER H—TRAINING

[General Order 87, Rev., Amdt. 5]

PART 310—MERCHANT MARINE TRAINING

Subpart A—Regulations and Minimum Standards for State Maritime Academies and Colleges

ENTRANCE, ENROLLMENT, AND ALLOWANCES

Effective upon the date of publication in the FEDERAL REGISTER (6-22-71) Subpart A of this part is amended as follows:

1. Amend subparagraph (4) of § 310.6 (a) to read as follows:

§ 310.6 Entrance requirements.

(a) . . .
(4) Be not less than 17 years of age and not have reached his 22d birthday in the year appointed to the school. The schools may admit students outside these age limits but such students will not be entitled to consideration for the Federal subsistence, uniform, and textbook allowance.

2. Revise § 310.7 to read as follows:

§ 310.7 Enrollment and uniform, textbook, and subsistence allowance.

(a) For classes entering the academies located in Maine, Massachusetts, New York, Texas, and California in fiscal year 1972, and each fiscal year thereafter, the number of students to be selected on entry to receive allowances for uniforms, textbooks, and subsistence shall be specified from time to time in writing by the Maritime Administration. Students selected to be paid allowances as aforesaid on entry will continue to be paid allowances subject to the terms of this Subpart A during their attendance but there will be no substitution for students removed or dropped from the list of those originally selected for receiving allowances. Such notification shall be given by the Maritime Administration on or prior to January 1 of each calendar year

with regard to the new class to enter during that class year. The rate to be paid will be under the conditions stated in Public Law 85-672 (section (6) of the Maritime Academy Act of 1958 (46 U.S.C. 1385)). All outstanding agreements with the schools listed above shall be considered as modified in accordance with the provision of this paragraph. The selection of those entering students as aforesaid will be in accordance with the criteria established by the academies individually with the prior approval of the Maritime Administration. The Great Lakes Maritime Academy will come within these procedures beginning with the class entering in fiscal year 1973.

(b) Each cadet who has been admitted to a school, who has met the requirements set forth in § 310.6, and who has applied for and has been enrolled in the U.S. Maritime Service shall be entitled to consideration for a uniform, textbook, and subsistence allowance at a rate and under the conditions stated in Public Law 85-672. (Section (6) of the Maritime Academy Act of 1958 (46 U.S.C. 1385)): *Provided*, That Congress has appropriated necessary funds for this purpose. Upon enrollment in the U.S. Maritime Service each cadet shall be required to take an oath of affirmation of allegiance to the United States of America and execute a Nonsubversive Activities and No-Strike Affidavit, Form MA-527.

(c) The uniform, textbook, and subsistence allowance will be paid monthly and will be paid directly to the school concerned, upon the presentation of a statement containing the names of each cadet selected by the Academy (within the quotas furnished pursuant to paragraph (a) of this section) to be paid the allowance and showing the number of days each was present during the month, or absent, under the provisions of § 310.8. For new cadets admitted to the schools the statement supporting the first voucher for payment shall certify that the cadets have met the entrance requirements in § 310.6. The statement shall also contain such other information as may be required by the Administrator. The voucher submitted for the payments of this allowance shall contain a certification by the Superintendent of the respective school that payment of the voucher will be used to assist in defraying the cost of the uniform, textbook, and subsistence of each cadet on the basis of the amount entitled to him as reflected by attached Daily Attendance Report. No cadet will be granted a uniform, textbook, and subsistence allowance for any time during which he is absent without leave or for absence due to a condition not in line of duty.

(d) For the fiscal year commencing on July 1, 1966, and each fiscal year thereafter, if it appears that the amount of money appropriated by Congress under 6(a) of the Act for said year shall not be sufficient to make payments at the maximum rate, not in excess of \$600 per academic year per cadet, then the Administrator, after consultation with

the schools, may determine the exact rate to be paid at each school for the remainder of the fiscal year.

(e) For the fiscal year commencing on July 1, 1971, and each fiscal year thereafter, the uniform, textbook, and subsistence allowance will be provided in accordance with the conditions of this § 310.7 and the existing agreements with the schools are modified to conform thereto, as provided in article 11 of said agreements relating to renewal of agreement.

(Sec. 101, 49 Stat. 1985, 46 U.S.C. 1101; Public Law 85-672, 72 Stat. 622, 46 U.S.C. 1381)

Dated: June 17, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.

[FR Doc. 71-8749 Filed 6-21-71; 8:48 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Dockets Nos. 1-9, 1-10; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Exterior Protection on Passenger Cars

The purpose of this notice is to respond to petitions requesting reconsideration of Motor Vehicle Safety Standard No. 215, Exterior Protection, issued April 9, 1971 (35 F.R. 7218). The petitions are denied in part and granted in part. To the extent that changes to the standard in response to petitions have been found to add to the performance requirements, they are included in a notice of proposed rule making published in this issue of the FEDERAL REGISTER (36 F.R. 11868).

Subsequent to issuance of the standard, petitions for reconsideration were submitted by Chrysler, American Motors, Fiat, Japanese Automobile Manufacturer's Association, Peugeot, Ford, General Motors, Center for Auto Safety, Volkswagen, DeTomaso, and Mr. Jack R. Fenton, a member of the California State Assembly. In issuing this notice, the NHTSA has reviewed each of the issues raised in the petitions.

Few petitioners took issue with the fixed barrier impact requirement effective January 1, 1972. Two European manufacturers requested that the frontal speed be lowered to 2½ m.p.h. No supporting data were submitted, however. The NHTSA continues to regard a 5-m.p.h. impact as an appropriate measure of frontal protection and the petitions are denied. Among the domestic manufacturers, American Motors requested that the license plate lamps be exempted from the protective criteria of S5.3.1, on the grounds that the best location for the license plate lamps is in a bumper insert that is difficult to insulate from

shock. Since the license plate lamps have little bearing on operational safety, and their protection would in some cases require a disproportionate degree of design alteration, the request appears reasonable and the license plate lamps are exempted from the protection criteria.

The pendulum impact test requirements, effective September 1, 1973, were the subject of a divergent group of comments. With its multiple impacts at varying heights at 5 m.p.h. in the front and 4 m.p.h. in the rear, the pendulum test imposes two basic requirements: The management of the total energy of the pendulum, and the configuration of the front and rear surfaces in order to accommodate the pendulum's impact ridge.

Because of the limited width of the pendulum, as compared to a fixed collision barrier, the energy imparted by the pendulum to the portion of the vehicle it strikes is roughly equivalent to the energy transmitted to that portion during a barrier test at the same speed. The rear 4-m.p.h. pendulum test therefore approximates the energy level of a 4-m.p.h. barrier test and represents an appreciable increase over the 2½ m.p.h. rear barrier test required in 1972. General Motors requested a postponement of the 4-m.p.h. requirement to 1975 to minimize the costs of retooling necessary to meet the increased requirements. It has been determined that early adoption of the 4-m.p.h. pendulum test is desirable, and the requested postponement is therefore denied. In light of the responses to the rulemaking, the NHTSA is considering additional rulemaking to increase the pendulum speed, as well as the barrier speed, to 5 m.p.h. for rear impacts. This course of action is advocated in petitions by the Ford Motor Co., The Center for Auto Safety, and Mr. Fenton, and is proposed in a notice published in this issue of the FEDERAL REGISTER (36 F.R. 11868).

A number of petitions stated that the width and aggressiveness of bumpers that can withstand 5-m.p.h. corner impacts will create safety problems in various types of impact situations, and that the overall balance of vehicle protection and crash-worthiness would be better served by setting the impact requirements for the vehicle corners at a somewhat lower level. Review of the available information indicates that this position has merit, and an adjustment is therefore made in the speed of corner impacts, from 5 m.p.h. in the front and 4 m.p.h. in the rear, to 3 m.p.h. at both front and rear.

The impact ridge on the pendulum test device performs the vital functions of assuring basic uniformity in bumper height and of limiting the surface angularity that contributes to underride and override. The NHTSA adheres to its finding that the impact ridge is a reasonable and practicable means of assuring the desired protection. It appears, however, that the shape of the ridge as the standard was issued—its cross section an

equilateral triangle with a rounded apex—could produce some undesirable side effects. Petitioners argued that this relatively narrow and sharp ridge unjustifiably restricts the use of resilient materials and energy-absorbing designs that represent the most effective methods of meeting the objectives of the standard. Petitioners variously requested that contact with the plane behind the ridge be permitted, or that the impact ridge be broadened, thereby reducing its tendency to indent the vehicle's surface.

Upon review, it has been determined that a broadening of the ridge is desirable, both because of the greater latitude allowed in the selection of resilient materials, and because of other effects on the size and shape of the bumper. Several petitions argued that the present standard requires a manufacturer to design an excessively wide bumper in order to meet the protective criteria under the full range of vehicle weights and manufacturing tolerances. A broader impact ridge would alleviate this problem, and should also reduce the penetration of the license plate opening that was seen as a problem by some manufacturers. The NHTSA has determined that most of the meritorious requests in the petitions can be satisfied by the adoption of a broader impact ridge. The pendulum design suggested by the Ford Motor Co. has been found to have considerable merit, and the standard is therefore amended to incorporate impact ridge dimensions similar to those requested by Ford. To the extent that the remaining petitions relating to bumper height and shape are not satisfied by this amendment, they are denied. The Chrysler request to limit corner testing to 20-inch height is premised on difficulties that are partially alleviated by the modification of the ridge, and the petition in that respect is accordingly denied.

General Motors requested that the height range for the pendulum test be changed to 18 to 22 inches, from the present 16-to-20-inch specification. On review of all available information, NHTSA has determined that such a change would not be desirable, and the petition is denied. It should be noted, however, that the amended design of the impact face retains the 3-inch separation between the upper edge of the ridge and Plane B, so that manufacturers may design bumpers extending some distance above the 20-inch level.

In response to requests to clarify the sequence of testing in effect September 1, 1973, S5.2 is amended to make it clear that the pendulum tests are to precede the barrier tests. Other minor adjustments have been made in the protective criteria to make it clear that the vehicle's

hood, trunk, and doors—and not just their latching systems—must be operable in the normal manner (S5.3.2), and to substitute the more general term "leaks" in S5.3.4 in place of the term "open joints."

The petition from the Center for Auto Safety suggested the addition of further protective criteria to ensure substantially complete vehicle protection. A notice proposing such additional criteria is published in today's issue of the FEDERAL REGISTER (36 F.R. 11868). The Center also requested the addition of requirements limiting the acceleration imparted to occupants during impacts. The Ford Motor Co. also suggested that the NHTSA consider rulemaking relating to limits on occupant acceleration, and indicated that it intended to submit data on the subject in September of 1971. Although review of the available information does not indicate that occupant accelerations will be significantly increased in vehicles conforming to the standard, the NHTSA is aware of the issue and will consider further rulemaking on the subject if subsequent data reveals a problem.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 215, Exterior Protection, in § 571.21 of Title 49, Code of Federal Regulations, is amended as follows:

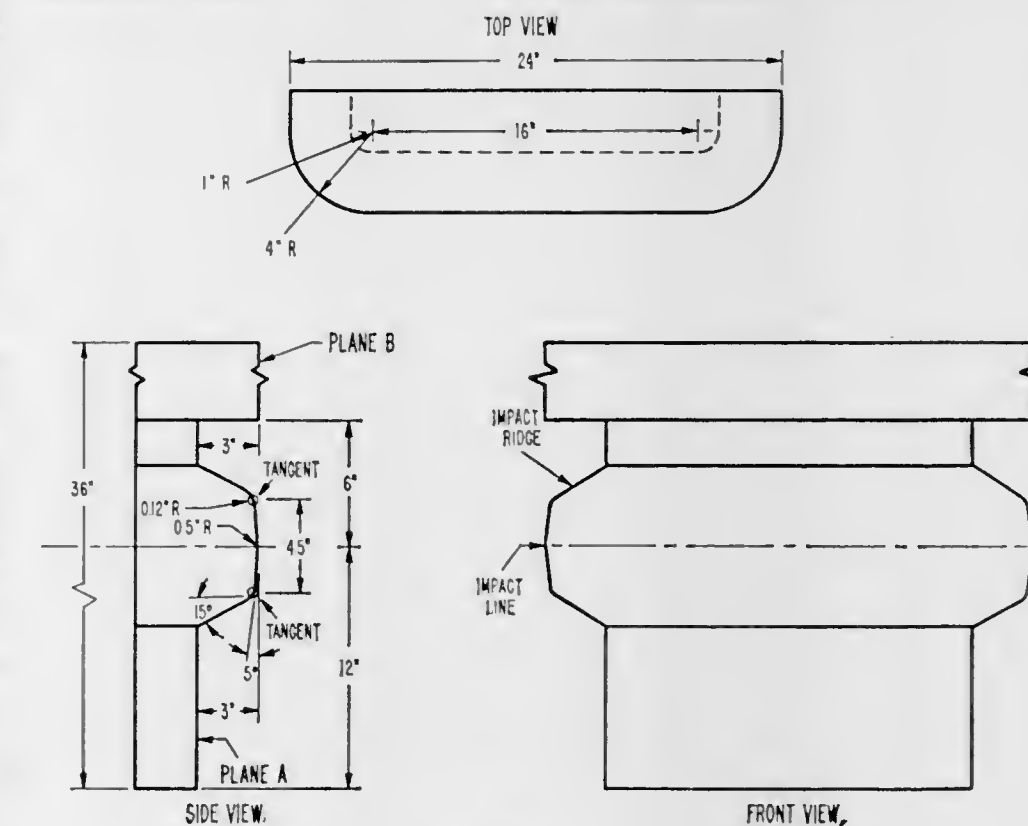


FIGURE 1

1. S5.2 is amended to read:

S5.2 Vehicles Manufactured on or after September 1, 1973. Each vehicle manufactured on or after September 1, 1973, shall meet the protective criteria of S5.3.1 through S5.3.5, under the conditions of S6., during and after impacts by a pendulum-type test device in accordance with the procedures of S7.1 and S7.2 followed by impacts into a fixed collision barrier in accordance with S5.1.

2. S5.3.1 is amended to read:

S5.3.1 Each lamp or reflective device, except license plate lamps, shall be free of cracks and shall comply with the applicable visibility requirements of section S4.3.1.1 of Motor Vehicle Safety Standard No. 108. The aim of each headlamp shall be adjustable in accordance with the applicable requirements of Standard No. 108.

3. S5.3.2 is amended to read:

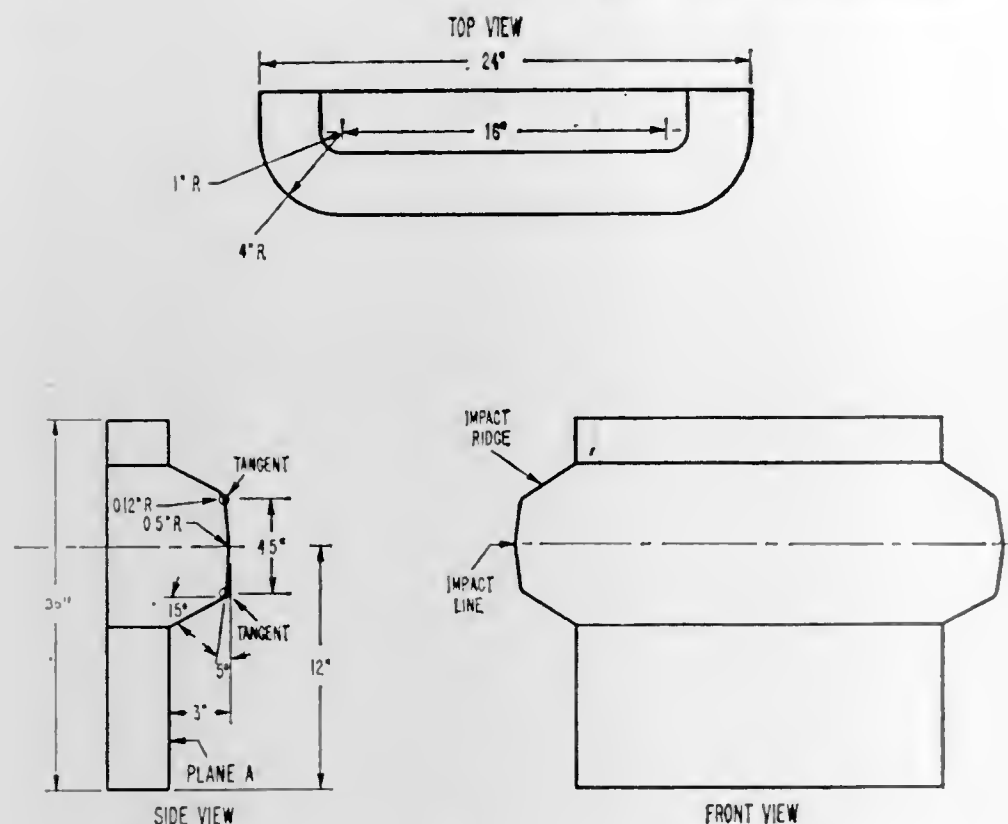
S5.3.2 The vehicle's hood, trunk, and doors shall be operable in the normal manner.

4. S5.3.4 is amended to read:

S5.3.4 The vehicle's exhaust system shall have no leaks or constrictions.

5. S7.2.5 is amended to read:

S7.2.5 Impact each corner at 3 m.p.h. 6. Figures 1 and 2 are amended as set forth below and on p. 11854.



§ 747.4 Answer.

(a) *When required.* In any notice of hearing issued by the Administrator, the Administrator may direct the party or parties afforded the hearing to file an answer to the allegations contained in the notice, and any party to any proceeding may file an answer. Except where a different period of not less than 10 days after service of a notice of hearing is specified by the Administrator, a party directed to file an answer, or a party who elects to file an answer, shall file the same with the Administrator within 20 days after service upon him of the notice of hearing.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the notice of hearing. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) *Admitted allegation.* If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the notice of hearing, his answer shall consist of a statement that he admits all of the allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record basis on which the trial examiner shall file with the Administrator his recommended decision containing his findings of fact, conclusions of law, and proposed order. Any such party may, however, upon service of the recommended decision, findings, conclusions, and proposed order of the trial examiner, file exceptions thereto within the time provided in § 747.11(a).

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the notice of hearing and to authorize the trial examiner, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Administrator a recommended decision containing such findings and appropriate conclusions. The Administrator or the trial examiner may, for cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

(e) *Opportunity for informal settlement.* Any interested party may at any time submit to the Administrator, for consideration, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No such offer or proposal, or counter-offer or proposal, shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular

adjudicatory process by the filing of an answer as provided in this section, or by submission of the case to the trial examiner on a stipulation of facts and an agreed order.

§ 747.5 Failure to appear.

Where an answer is not required and the credit union fails to appear at the hearing by a duly authorized representative, the credit union shall be deemed to have admitted to the facts as alleged and consented to the relief sought.

§ 747.6 Conduct of hearings.

(a) *Selection of trial examiner.* Any hearing shall be held before the Administrator or a trial examiner selected by the Civil Service Commission and designated by the Administrator and, unless otherwise provided in the notice of hearing, shall be conducted as hereinafter provided.

(b) *Authority of trial examiner.* All hearings governed by this part shall be conducted in accordance with the provisions of chapter 5 of Title 5 of the United States Code. The trial examiner designated by the Administrator to preside at any such hearing shall have complete charge of the hearing, and he shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. Such examiner shall have all powers necessary to that end, including the following:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas and subpoenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpoena;
- (3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;
- (4) To take or cause depositions to be taken;
- (5) To regulate the course of the hearing and the conduct of the parties and their counsel;
- (6) To hold conferences for the settlement or simplification of issues or for any other proper purpose; and
- (7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding, except that a trial examiner shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings.

Without limitation on the foregoing provisions of this paragraph, the trial examiner shall, subject to the provisions of this part, have all the authority of section 556(c) of Title 5 of the United States Code.

(c) *Prehearing conference.* The trial examiner may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time and place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

- (1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact and of the contents, and authenticity of documents;

(3) Matters of which official notice will be taken; and

(4) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

Such conferences shall, at the request of any party, be recorded and at the conclusion thereof the trial examiner shall enter in the record an order which recites the results of the conference. Such order shall include the examiner's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any; and such order shall control the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice. Except as authorized by law, the trial examiner shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate, nor be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the trial examiner except as a witness or counsel in the proceedings.

(d) *Attendance at hearings.* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That on written request by a party or representatives of the Administrator, or on the Administrator's own motion, the Administrator, in his discretion and to the extent permitted by law, may permit other persons to attend or may order the hearing to be public.

(e) *Transcript of testimony.* Hearings shall be recorded and transcripts will be available to any party upon payment of the cost thereof, and, in the event the hearing is public, shall be furnished on similar payment to the other interested persons. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits, all papers and requests filed in the proceedings, and any briefs or memoranda of law theretofore filed in the proceeding, shall be filed with the Administrator, who shall transmit the same to the trial examiner. The Administrator shall promptly serve notice upon each of the parties of such filing and transmittal. The trial examiner shall have authority to rule upon motions to correct the record.

(f) *Order of procedure.* The counsel for the Administration shall open and close.

(g) *Continuances and changes or extension of time and changes of place of hearing.* Except as otherwise expressly

provided by law, the Administrator may, by the notice of hearing or subsequent order, provide time limits different from those specified in this part, and the Administrator may, on his own initiative or for good cause shown, change or extend any time limit prescribed by these rules or, with the consent of the party afforded the hearing, change the time and place for beginning any hearing hereunder. The trial examiner may continue or adjourn a hearing from time to time and, as permitted by law or agreed to by parties, from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a proceeding may be granted by the trial examiner for good cause shown.

(h) *Call for further evidence, oral argument, briefs, reopening of hearing.* The trial examiner may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification of his recommended decision to the Administrator. The Administrator shall render his decision within 90 days after the parties have been notified pursuant to § 747.14 that the case has been submitted to the Administrator for final decision, unless within such 90-day period the Administrator shall order that such notice be set aside and the case reopened for further proceedings.

§ 747.7 Subpoenas.

(a) *Issuance.* The trial examiner, or in the event he is unavailable, the Administrator, shall issue subpoenas at the request of any party, requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing; except that where it appears to the trial examiner or the Administrator that the subpoena may be unreasonable, oppressive, excessive in scope, or unduly burdensome, the party seeking the subpoena may be required, as a condition precedent to the issuance of the subpoena, to show general relevance and reasonable scope of the testimony or other evidence sought. In the event the trial examiner or the Administrator, after consideration of all the circumstances, determines that the subpoena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, he may refuse to issue the subpoena, or issue it only upon such conditions as fairness requires.

(b) *Motion to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for compliance but in no event more than 5 days after the date of service of such subpoena, with notice to the party requesting the subpoena, apply to the trial examiner, or if he is unavailable, to the Administrator, to revoke, quash, or modify such subpoena, accompanying such application with a statement of the reasons therefor.

(c) *Service of subpoena.* Service of a subpoena upon a person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for 1 day's attendance and

the mileage as specified in paragraph (d) of this section, except that when a subpoena is issued at the instance of the Administrator fees and mileage need not be tendered at the time of service of the subpoena. If service is made by a U.S. marshal, or his deputy, or an employee of the Administration, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpoena. In case of failure to make service, reasons for the failure shall be stated on the original subpoena. The original subpoena, bearing or accompanied by the required return, affidavit or statement, shall be returned without delay to the trial examiner.

(d) *Attendance of witnesses.* The attendance of witnesses and the production of documents pursuant to a subpoena, issued in connection with a hearing provided for in this part, may be required from any State or in any territory at any designated place where the hearing is being conducted. Witnesses subpoenaed in any proceeding under this part shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(e) *Depositions.* The Administrator or trial examiner, by subpoena or subpoena duces tecum, may order evidence to be taken by deposition in any proceeding at any stage thereof. Such depositions may be taken by the trial examiner or before any person designated by the Administrator or trial examiner and having power to administer oaths. Unless notice is waived, no deposition shall be taken except after at least 5 days' notice to the parties to the proceeding.

(f) *Application and order to take oral deposition.* Any party desiring to take the oral deposition of a witness, in connection with any hearing provided for in this part, shall make application in writing to the trial examiner or, in the event he is unavailable, to the Administrator, setting forth the reasons why such depositions should be taken, the name and address of the witness, the matters concerning which the witness is expected to testify, its relevance, and the time when, the place where, and the name and address of the person before whom, it is desired the deposition be taken. A copy of such application shall be served upon every other party to the proceeding by the party making such application. Upon showing that (1) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age, sickness, or infirmity, or will otherwise be unavailable at the hearing, (2) his testimony will be material, and (3) the taking of the deposition will not result in any undue burden to any other party or in undue delay of the proceeding, the trial examiner or the Administrator may, in his discretion, by such subpoena or subpoena duces tecum, order the oral deposition to be taken. Such subpoena will name the witness whose deposition is to be taken and specify the time when, the place where and

the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is ordered to be taken, may or may not be the same as those named in the application. Notice of the issuance of such subpoena shall be served upon each of the parties a reasonable time, and in no event less than 5 days, in advance of the time fixed for the taking of the deposition.

(g) *Procedure on deposition; objections.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or evidence shall be in short form, stating the grounds of objection relied upon; but the person taking the deposition shall not have the power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver except where the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by the person taking the deposition, or under his direction. The deposition shall be subscribed by the witness, unless the parties by stipulation waived the signing or the witness is ill or cannot be found or refused to sign, and certified as a true and complete transcript thereof by the person taking the deposition. If the deposition is not subscribed to by the witness, the person taking the deposition shall state this fact on the record and the reason therefor. Such person shall promptly send the original and two copies of such deposition, together with the original and two copies of all exhibits, by registered mail to the Administrator unless otherwise directed in the order authorizing the taking of the deposition. Interested parties shall make their own arrangements with the person taking the deposition for copies of the testimony and the exhibits.

(h) *Introduction as evidence.* Subject to appropriate rulings on such objections to questions of evidence as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying (except objections waived under paragraph (g) of this section), the deposition or any part thereof may be read in evidence by any party to the proceeding. Only such part or the whole of a deposition as is received in evidence shall constitute a part of the record of the proceeding upon which a decision may be based.

(i) *Payment of fees.* Witnesses whose oral depositions are taken shall be entitled to the same fees as are paid for like services in the district courts of the United States. Fees of persons taking such depositions and the fees of the reporter shall be paid by the person upon whose application the deposition was taken.

(j) *Judicial enforcement.* Any party to proceedings under this part may apply to the United States District Court for

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the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this part, and such courts shall have jurisdiction and power to order and require compliance therewith.

§ 747.8 Rules of evidence.

(a) *Evidence.* Every party shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds relied upon, and the transcript shall not include argument thereon except as ordered, allowed, or requested by the trial examiner. Rulings on objections and on any other matters shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection.

(c) *Official notice.* All matters officially noticed by the trial examiner shall appear on the record.

§ 747.9 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this part shall be made by motion. After a trial examiner has been designated and before the filing with the Administrator of his recommended decision, such applications or requests shall be addressed to and filed with the trial examiner. At all other times motions shall be addressed to and filed with the Administrator. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the trial examiner directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Objections.* Within 5 days after service of any written motion, or within such other period as may be fixed by the trial examiner or the Administrator, any party may file a written answer or objection to such motion. The moving party shall have no right to reply, except as permitted by the trial examiner or the Administrator. As a matter of discretion, the trial examiner or the Administrator may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the trial examiner or the Administrator. Written memoranda or briefs may be filed with motions or answers or objections thereto, stat-

ing the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the trial examiner shall rule upon all motions properly addressed to him and upon such other motions as the Administrator directs, except that if the trial examiner finds that a prompt decision by the Administrator on a motion is essential to the proper conduct of the proceeding, he may refer that motion to the Administrator for decision. The Administrator shall rule upon all motions properly submitted to him for decision.

(e) *Appeal from rulings on motions.* All motions and answers or objections thereto and rulings thereon shall become a part of the record. Rulings of a trial examiner on any motion may not be appealed to the Administrator prior to his consideration of the trial examiner's recommended decision, findings, and conclusions except by special permission of the Administrator; but they shall be considered by the Administrator in reviewing the record. Requests to the Administrator for special permission to appeal from such rulings of the trial examiner shall be filed promptly, in writing, and shall briefly state the grounds relied upon. The moving party shall immediately serve a copy thereof on every other party to the proceeding.

(f) *Continuation of hearing.* Unless otherwise ordered by the trial examiner or the Administrator, the hearing shall be continued pending the determination of any motion by the Administrator.

§ 747.10 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* Each party to a hearing shall have a period of 15 days after service of the Administrator's notice of the filing and transmittal of the record as provided in § 747.6(e), or such further time as the trial examiner for good cause shall determine, to file with the trial examiner proposed findings of fact, conclusions of law, and orders which may be accompanied by a brief or memorandum in support thereof. Such proposals shall be supported by citation of those statutes, decisions, and other authorities which may be relevant and by page references to appropriate parts of the record. All such proposals, briefs, and memoranda shall become a part of the record.

(b) *Recommended decision and filing of record.* The trial examiner shall, within 30 days after the expiration of the time allowed for the filing of proposed findings, conclusions, and order, or within such further time as the Administrator for good cause shall determine, file with and certify to the Administrator for decision the entire record of the hearing, which shall include his recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing

the Administrator shall serve upon each party to the proceeding a copy of the trial examiner's recommended decision, findings, conclusion and proposed order. The provisions of this paragraph and § 747.11 shall not apply, however, in any case where the hearing was held before the Administrator.

§ 747.11 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision, findings, conclusions, and proposed order of the trial examiner, or such further time as the Administrator for good cause shall determine, any party (other than a party who has not filed an answer in accordance with paragraphs (a) and (d) of § 747.4, unless no answer was required of such party by the Administrator) may file with the Administrator exceptions thereto or any part thereof, or to the failure of the trial examiner to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other ruling of the trial examiner, supported by such brief as may appear advisable.

(b) *Waiver.* Failure of a party to file exceptions to the recommended decision, findings, conclusions, and proposed order of the trial examiner or any portion thereof, or to his failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or other ruling of the trial examiner, within the time prescribed in paragraph (a) of this section, shall be deemed a waiver of objection thereto.

§ 747.12 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions or other authorities and by page references to such portions of the record or recommended decision of the trial examiner as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the Administrator within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Further briefs may be filed only with the permission of the Administrator.

(c) *Delays.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Administrator.

§ 747.13 Oral argument before the Administrator.

Upon its own initiative, or upon the written request of any party made within the time prescribed for the filing of exceptions, a brief in support thereof, or a reply brief, if any, for oral argument on the findings, conclusions, and recommended decision of the trial examiner, the Administrator, if he considers that

justice will best be served, may order the matter to be set down for oral argument before him. Oral argument before the Administrator shall be recorded unless otherwise ordered by the Administrator.

§ 747.14 Notice of submission to the Administrator.

Upon the filing of the record with the Administrator, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any further briefs permitted by the Administrator and upon the hearing of oral argument by the Administrator, the Administrator shall notify the parties that the case has been submitted to him for final decision.

§ 747.15 Decision of the Administrator.

Appropriate members of the staff of the National Credit Union Administration, who are not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Administrator in the consideration of the case and in the preparation of appropriate documents for its disposition. Copies of the decision and order of the Administrator shall be furnished to the parties to the proceedings, the credit union involved, and to the appropriate State supervisory authority, in the case of a State-chartered credit union.

§ 747.16 Filing papers.

Recommended decisions, exceptions, briefs and other papers required to be filed with the Administrator in any proceedings shall be filed with the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456. Any such papers may be sent to the Administrator by mail but must be received in the office of the Administrator in Washington, D.C., or post marked by a post office, within the time limit for such filing.

§ 747.17 Service.

(a) *By the Administrator.* All documents or papers required to be served by the Administrator upon any party afforded a hearing shall be served by him or his duly authorized representative. Such service, except for service upon counsel for the Administration, shall be made by personal service or by registered mail, addressed to the last known address as shown on the records of the Administration, on the attorney or representative of record of such party, provided that if there is no attorney or representative of record, such service shall be made upon such party at the last known address as shown on the records of the Administration. Such service may also be made in such other manner reasonably calculated to give actual notice as the Administrator may by regulation or otherwise provide.

(b) *By the parties.* Except as otherwise expressly provided in this part, all documents or papers filed in a proceeding under this part shall be served by the party filing the same upon the at-

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torneys or representatives of record of all other parties to the proceeding, or, if any party is not so represented, then upon such party. Such service may be made by personal service or by registered or certified mail addressed to the last known address of such parties, or their attorneys or representatives of record. All such documents or papers shall, when tendered to the Administrator or trial examiner for filing, show that such service has been made.

(c) Copies of any notice or order served by the Administrator upon any State-chartered credit union or any director, officer, or committee member thereof or other person participating in the conduct of its affairs, pursuant to the provisions of this part, shall also be sent to the appropriate State supervisory authority having supervision of such credit union.

§ 747.18 Copies.

Unless otherwise specifically provided in the notice of hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Administrator under this part, except the transcript of testimony and exhibits, shall be furnished to the Administrator.

§ 747.19 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday or legal holiday in the District of Columbia, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor such legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation unless the time within which the act is to be performed is 10 days or less in which event Saturdays, Sundays, and legal holidays shall not be included.

(b) *Service by mail.* Whenever any party has the right or is required to do some act or take some proceeding, within a period of time prescribed in this part, after the service upon him of any document or other paper of any kind, and such service is made by mail, 3 days shall be added to the prescribed period from the date when the matter served is deposited in the U.S. mail.

§ 747.20 Documents in proceedings confidential.

Unless and until otherwise ordered by the Administrator, the notice of hearing, the transcript, the recommended decision of the trial examiner, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Administrator and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Administrator, the trial examiner, the parties and appropriate authorities.

§ 747.21 Formal requirements as to papers filed.

(a) *Form.* All papers filed under this subpart shall be printed, typewritten, or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* The original of all papers filed by a credit union shall be signed by an officer thereof, and if filed by another party shall be signed by said party, or by the duly authorized agent or attorney of the credit union or other party, and in all such cases shall show the signer's address. Counsel for the Administration shall sign the original of all papers filed by him.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Administration, the name of the party, and the subject of the particular paper.

Subpart B—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

§ 747.22 Scope.

Under the authority of section 206 of the Federal Credit Union Act, the Administrator of the National Credit Union Administration may terminate the insured status of an insured credit union upon the grounds set forth therein and enumerated in § 747.23. The procedure for terminating the insured status of an insured credit union as therein prescribed will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 747.23 Grounds for termination of insurance.

Whenever the Administrator determines that an insured credit union is engaging or has engaged in unsafe or unsound practices in conducting the business of that credit union, or is in an unsafe or unsound condition to continue operations as an insured credit union, or in violating or has violated an applicable law, rule, regulation, order, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union, or is violating or has violated any written agreement entered into with the Administrator, the Administrator shall serve upon the insured credit union a statement with respect to such practices or conditions or violations for the purpose of securing the correction thereof. In the case of an insured State-chartered credit union, the Administrator shall send a copy of such statement to the appropriate State supervisory authority, if any, having supervision of such credit union.

§ 747.24 Notice of intention to terminate insured status.

Unless correction of the practices, condition, or violations set forth in the statement prescribed in § 747.23 is made within 120 days after service of such

statement or within such shorter period of not less than 20 days after such service as the Administrator shall require in any case where he determines that the insurance risk with respect to such credit union could be unduly jeopardized by further delay or as the appropriate State supervisory authority shall require in the case of an insured State-chartered credit union, the Administrator, if he determines to proceed further, shall give to the credit union not less than 30 days written notice of his intention to terminate the status of the credit union as an insured credit union. Such notice shall contain a statement of the facts constituting the alleged unsafe or unsound practices or conditions or violations and shall fix a time and place for a hearing thereon which shall be a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or later date is set by the Administrator at the request of the credit union.

§ 747.25 Order terminating insured status.

If, upon the record of the hearing held pursuant to § 747.24, the Administrator shall find that any unsafe or unsound practice or condition or violation specified in the notice has been established and has not been corrected within the time prescribed under § 747.24 in which to make such corrections, the Administrator may issue and serve upon the credit union an order terminating its status as an insured credit union on a date subsequent to the date of such finding and subsequent to the expiration of the time specified in the notice.

§ 747.26 Consent to termination of insured status.

Unless the credit union appears at the hearing designated in the notice of hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured credit union. In the event the credit union fails to so appear at such hearing, the trial examiner shall forthwith report the matter to the Administrator and the Administrator may thereupon issue an order terminating the credit union's insured status.

§ 747.27 Notice of termination of insured status.

Prior to the effective date of the termination of the insured status of an insured credit union under sections 206(a) or 206(b) of the Federal Credit Union Act and at such time as the Administrator shall specify, the credit union shall mail to each member at his last address of record on the books of the credit union and publish in not less than two issues of a local newspaper of general circulation and shall furnish the Administration with proof of publication of notice of such termination of insured status. The notice shall be as follows:

Notice

(Date)

1. The status of the -----
as an insured credit union under the provisions of the Federal Credit Union Act, will

terminate as of the close of business on the -- day of -----;

2. Any deposits made by you after that date, either new deposits or additions to existing accounts, will not be insured by the National Credit Union Administration;

3. Accounts in the credit union on the -- day of -----, up to a maximum of \$20,000 for each member, will continue to be insured, as provided by the Federal Credit Union Act, for one (1) year after the close of business on the -- day of -----; Provided, however, That any withdrawals after the close of business on the -- day of -----, will reduce the insurance coverage by the amount of such withdrawals.

(Name of Credit Union)

(Address)

§ 747.28 Duties after termination.

(a) After the termination of the insured status of any credit union under sections 206(a) or 206(b) of the Federal Credit Union Act, insurance of its member accounts to the extent they were insured on the effective date of such termination, less any amounts thereafter withdrawn which reduce the accounts below the amount covered by insurance on the effective date of such termination, shall continue for a period of one (1) year but no shares issued by the credit union or deposits made after the date of such termination shall be insured by the National Credit Union Administration.

(b) The credit union shall continue to pay premiums to the Administrator during such period and the Administrator shall have the right to examine such credit union from time to time during such period. Such credit union shall, in all other respects, be subject to the duties and obligations of an insured credit union during such one (1) year period. If such credit union is closed for liquidation within such one (1) year period, the Administrator shall have the same powers and rights with respect to such credit union as in the case of an insured credit union.

Subpart C—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

§ 747.29 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Administrator with a view to ordering an insured credit union or any credit union any of the member accounts of which are insured to cease and desist from practices and violations described in section 206 of the Federal Credit Union Act and enumerated in § 747.30. The procedures for issuing such orders prescribed in section 206 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 747.30 Grounds for Cease-and-Desist Orders.

If, in the opinion of the Administrator, any insured credit union or any credit union any of the member accounts of which are insured, is engaging or has en-

gaged, or the Administrator has reasonable cause to believe that such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by such credit union, or any written agreement entered into with the Administrator, the Administrator may issue and serve upon such credit union a notice of charges in respect thereof.

§ 747.31 Notice of charges and hearing.

The notice referred to in § 747.30 will contain a statement of the facts constituting the alleged unsafe or unsound practices or violation or violations and will fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Administrator at the request of the credit union. Unless the credit union shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order.

§ 747.32 Issuance of order.

In the event of such consent referred to in § 747.31, or if upon the record made at any such hearing, the Administrator finds that any unsafe or unsound practice or violation specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union an order to cease and desist from any such practice or violation. Such order may, by provisions which may be mandatory or otherwise require the credit union and its directors, officers, committee members, employees, and agents to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such practice or violation.

§ 747.33 Effective date.

A cease-and-desist order will become effective at the expiration of 30 days after service of such order upon the credit union concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and will remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

§ 747.34 Temporary cease-and-desist order.

Whenever the Administrator determines that the unsafe or unsound practices or violations or threatened violations specified in the notice of charges served upon the credit union pursuant to § 747.30, or the continuation thereof,

is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union or otherwise seriously prejudice the interests of its insured members, the Administrator may issue a temporary order requiring such credit union to cease and desist from any such practice or violation.

§ 747.35 Effective date of temporary order.

Such order will become effective upon service upon the credit union and, unless set aside, limited, or suspended by a court in proceedings authorized under section 206(f) (2) and § 747.36, shall remain effective and enforceable pending the completion of the administrative proceedings held pursuant to such notice and until such time as the Administrator dismisses the charges specified in such notice, or if a cease-and-desist order is issued against the credit union pursuant to § 747.30, until the effective date of any such order.

§ 747.36 Injunctive procedure.

(a) *By the credit union.* Within 10 days after the credit union concerned has been served with a temporary cease-and-desist order pursuant to § 747.34, such credit union may apply to the U.S. district court for the judicial district wherein the principal office of the credit union is located, or to the U.S. District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union under § 747.30 and such court shall have jurisdiction to issue such injunction.

(b) *By the Administrator.* In the case of a violation or threatened violation of, or failure to obey, a temporary cease-and-desist order, the Administrator may apply to the U.S. district court, or the U.S. court of any territory, within the jurisdiction of which the principal office of the credit union is located for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Suspension and Removal Orders

§ 747.37 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Administrator to suspend or remove directors, officers, committee members of an insured credit union, or any other person participating in the affairs of such credit union, and/or prohibit such person from further participation in the conduct of the affairs of such credit union, upon the grounds set forth in section 206 of the Federal Credit Union Act and enumerated in this subpart. The procedures for issuing such orders prescribed in section 206 of said Act will

be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 747.38 Grounds for removal order.

(a) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, officer, or committee member and the Administrator determines that the credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation, practice or breach of fiduciary duty and that such violation, practice, or breach of fiduciary duty is one involving personal dishonesty on the part of such director, officer, or committee member, the Administrator may serve upon such director, officer, or committee member a written notice of his intention to remove him from office.

(b) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director, officer, or committee member, and, whenever, in the opinion of the Administrator, any other person participating in the conduct of the affairs of an insured credit union, by conduct or practice with respect to such credit union or other insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such insured credit union, the Administrator may serve upon such director, officer, committee member, or other person a written notice of his intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of such credit union.

§ 747.39 Grounds for suspension order.

In respect to any director, officer, or committee member of an insured credit union or any other person referred to in § 747.38 (a) or (b), the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its insured members, by written notice to such effect served upon such director, officer, committee member, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union.

§ 747.40 Effective date of suspension order.

Such suspension and/or prohibition which is subject to the notice prescribed in § 747.39 of this subpart, shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by § 747.43 of this subpart, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under § 747.38 (a) or (b) of this subpart and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director, officer, committee member, or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, officer, or committee member or in the conduct of whose affairs he has participated.

§ 747.41 Notice of intention to remove and hearing.

A notice of intention to remove a director, officer, committee member, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured credit union will contain a statement of the facts constituting the grounds therefor and will fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice unless an earlier or a later date is set by the Administrator at the request of (a) such director, officer, committee member, or other person, and for good cause shown or (b) the Attorney General of the United States. Unless such director, officer, committee member, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition.

§ 747.42 Issuance of removal order and effective date.

(a) In the event of such consent referred to in § 747.41, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice has been established, the Administrator may issue such orders of suspension or removal from office and/or prohibition from participation in the conduct of the affairs of the credit union as he may deem appropriate.

(b) Any such order shall become effective at the expiration of 30 days after service upon such credit union and the director, officer, committee member, or other person concerned (except in the case of an order issued upon consent which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

§ 747.43 Stay of suspension or prohibition.

Within 10 days after any director, officer, committee member, or other person

has been suspended from office and/or prohibited from participation in the conduct of the affairs of an insured credit union under section 206 of the Federal Credit Union Act and as set forth in this subpart, such director, officer, committee member or other person may apply to the U.S. district court for the judicial district in which the principal office of the credit union is located, or the U.S. District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, committee member, or other person under section 206 of said Act and as set forth in this subpart, and such court shall have jurisdiction to stay such suspension and/or prohibition.

§ 747.44 Suspension and removal where felony involved.

(a) *Suspension.* Whenever any director, officer, or committee member of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any complaint authorized by a U.S. attorney or in any information or indictment, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon such director, officer, committee member, or other person suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such a suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator.

(b) *Removal.* In the event that a judgment of conviction with respect to such offense is entered against such director, officer, committee member, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may issue and serve upon such director, officer, committee member, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, officer, or committee member shall cease to be a director, officer, or committee member of such institution.

(c) A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, officer, committee member, or other person from participation in the affairs of the credit union pursuant to section 206 of the Federal Credit Union Act and as set forth in this subpart.

§ 747.45 Remainder of board of directors.

(a) If at any time, because of the suspension of one or more directors pursuant to this subpart, there shall be on the board of directors of a Federal credit

union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors.

(b) In the event all of the directors of a Federal credit union are suspended pursuant to this subpart, the Administrator shall appoint persons to serve temporarily as directors in their place pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office.

(c) Directors appointed temporarily by the Administrator pursuant to paragraph (b) of this section, shall, within 30 days following their appointment, call a special meeting for the election of new directors, unless during such 30 day period (1) the regular annual meeting is convened, or (2) the suspensions giving rise to the appointment of temporary directors are terminated.

Subpart E—Judicial Review; Penalty; Definitions

§ 747.46 Judicial review.

(a) Judicial review of any order issued by the Administrator in accordance with his decision after any hearing under this part shall be as provided in this subpart. Unless a petition for review is timely filed in a court of appeals of the United States as provided in paragraph (b) of this section, and thereafter until the record in the proceeding has been filed as so provided in said subparagraph, the Administrator may at any time, upon such notice and in such manner as he may deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Administrator may modify, terminate, or set aside any such order with permission of the court.

(b) Any party to such proceeding, or any person required by an order issued under this part to cease and desist from any of the practices or violations stated in such order, may obtain a review of any order served pursuant to the final decision of the Administrator (other than an order issued with the consent of the credit union or the director, officer, committee member, or other person concerned or an order issued under § 747.44) by filing in the court of appeals of the United States for the circuit in which the principal office of the credit union is located or in the U.S. Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside.

(c) A copy of such petition shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file

in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(d) Upon the filing of such petition, such court shall have jurisdiction. Such jurisdiction shall, upon the filing of the record, be exclusive to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator, except as provided in the last sentence of paragraph (a) of this section. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

(e) The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator.

§ 747.47 Judicial enforcement.

The Administrator may, in his discretion, apply to the U.S. district court, or the U.S. court of any territory within the jurisdiction of which the principal office of the credit union is located, for the enforcement of any effective and outstanding notice or order issued under this part, and such courts shall have jurisdiction and power to order and require compliance therewith. However, except as otherwise provided in this part, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this part or to review, modify, suspend, terminate, or set aside any such notice or order.

§ 747.48 Penalty.

Any director, officer, or committee member, of an insured credit union or of a credit union any of the member accounts of which are insured, or any other person against whom there is outstanding and effective any notice or order (which has become final) served upon such director, officer, committee member, or other person under Subpart D of this part and who (a) participates in any manner in the conduct of the affairs of the credit union involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such credit union, or (b) without the prior written approval of the Administrator votes for a director, serves or acts as a director, officer, committee member, or employee of any credit union, shall, upon conviction, be fined not more than \$5,000 or imprisoned for not more than 1 year, or both.

§ 747.49 Expenses and attorney's fees.

Any court having jurisdiction of any proceeding instituted under this part by any insured credit union or a director, officer, or committee member thereof, may allow to any such party such reasonable expenses and attorney's fees as

it deems just and proper, and such expenses and fees shall be paid by the credit union or from its assets.

§ 747.50 Definitions.

(a) *Final.* As used in this part, the terms "cease-and-desist order which has become final" and "order which has become final" means a cease-and-desist order, or an order issued by the Administrator with the consent of the credit union or the director, officer, committee member, or other person concerned, or

with respect to which no petition for review of the action of the Administrator has been filed and perfected in a court of appeals pursuant to § 747.46, or with respect to which the action of the court in which said petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in § 747.46, or an order issued under § 747.44.

(b) *Violation.* As used in this part, the term "violation" includes, without lim-

itation, any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(c) *Place of hearing.* Any hearing provided for in this part shall be held in the Federal judicial district or in the territory in which the principal office of the credit union is located, unless the party afforded the hearing consents to another place.

[FR Doc. 71-8741 Filed 6-21-71; 8:48 am]

§ 61.17a Pilot-in-command proficiency check: operation of aircraft requiring more than one required pilot.

(a) Except as provided in paragraph (e) of this section (12 months after the effective date of this section), no person may act as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember unless he has satisfactorily completed the proficiency checks or flight checks prescribed in paragraphs (b) and (c) of this section.

(b) Except as provided in paragraph (d) of this section, since the beginning of the 12th calendar month before the month in which a person acts as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember he must have—

(1) Completed one of the following proficiency or flight checks in an aircraft that is type certificated for more than one required pilot crewmember:

(i) A proficiency check given to him by an FAA inspector or a designated pilot examiner which includes the maneuvers, procedures, and standards required for the original issuance of a type rating for the aircraft used in the check;

(ii) A pilot in command proficiency check given to him in accordance with the provisions for that check under Part 121, 123, or 135 of this chapter. However, in the case of a person acting as pilot in command of a helicopter he may also complete a proficiency check given to him in accordance with Part 127 of this chapter;

(iii) A flight test required for an aircraft type rating;

(iv) An initial or periodic flight check required for a pilot examiner or check pilot; or

(2) Completed a military proficiency check required for pilot in command and instrument privileges in an aircraft which the military requires to be operated by more than one pilot.

(c) Except as provided in paragraph (d) of this section, since the beginning of the 24th calendar month before the month in which a person acts as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember he must have completed one of the proficiency checks or flight checks prescribed in paragraph (b) of this section in the particular type aircraft in which he is to serve as pilot in command.

(d) The maneuvers and procedures required for the checks and test prescribed in paragraphs (b) (1) (i), (ii), and (iv) of this section, paragraph (b) (1) (iii) of this section in the case of type ratings obtained in conjunction with a Part 121 of this chapter training program, paragraph (b) (2), of this section and paragraph (c) of this section, may be performed in a simulator or training device if—

(1) The maneuver or procedure is authorized by Appendix F to Part 121 of this chapter to be performed in a simulator or training device; and

(2) The simulator or training device has been approved for the particular maneuver or procedure.

(e) This section does not apply to persons conducting operations subject to Parts 121, 123, 127, 133, 135, and 137 of this chapter.

(f) For the purpose of meeting the proficiency check requirements of paragraphs (b) and (c) of this section, a person may act as pilot in command of a flight under day VFR or day IFR if no persons or property, other than as necessary for his compliance thereunder, are carried.

(g) If a pilot takes the proficiency check required by paragraph (a) of this section in the calendar month before, or the calendar month after, the month in which it is due, he is considered to have taken it in the month it is due.

§ 61.17b Second-in-command qualifications: operation of aircraft requiring more than one required pilot.

(a) Except as provided in paragraph (d) of this section (90 days after the effective date of this section), no person may act as second in command of an aircraft type certificated for more than one required pilot flight crewmember, unless he holds—

(1) At least a current private pilot certificate with appropriate category and class ratings; and

(2) An appropriate instrument rating in the case of flight under IFR.

(b) Except as provided in paragraph (d) of this section (90 days after the effective date of this section), no person may serve as second in command of an aircraft type certificated for more than one required pilot flight crewmember unless, since the beginning of the 12th calendar month before the month in which he serves, he has, with respect to that type aircraft:

(1) Familiarized himself with all information concerning the aircraft's powerplant, major components and systems, major appliances, performance and limitations, standard and emergency operating procedures, and the contents of the approved airplane flight manual.

(2) Performed and logged—

(i) Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls; and

(ii) Engine-out procedures and maneuvering with an engine out while executing the duties of a pilot in command. This requirement may be satisfied in an aircraft simulator acceptable to the Administrator.

For the purpose of meeting the requirements of subparagraph (2) of this paragraph, a person may act as second in command of a flight under day VFR or day IFR, if no persons or property, other than as necessary for his compliance thereunder, are carried.

(c) If a pilot complies with the requirements in paragraph (b) of this section in the calendar month before, or the calendar month after, the month in which compliance with those require-

ments is due, he is considered to have complied with them in the month they are due.

(d) This section does not apply to a pilot who meets the pilot-in-command proficiency check requirements of § 61.17a nor to operations conducted under Parts 121, 123, 127, 133, 135, and 137 of this chapter.

These amendments are proposed under the authority of sections 313(a), 314, and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355, and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 16, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-8704 Filed 6-21-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SW-28]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Bartlesville, Okla., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

A new VOR/DME instrument approach procedure to serve Runway 35 has been developed for Phillips Airport, Bartlesville, Okla. Alterations are also being made to the Bartlesville, Okla., control zone and transition areas to conform to Standard Terminal Instrument Procedures (TERPs) criteria.

It is proposed to amend Part 71 of the Federal Aviation Regulations as herein-after set forth.

In § 71.171 (36 F.R. 2055), the Bartlesville, Okla., control zone is amended to read:

BARTLESVILLE, OKLA.

Within a 5-mile radius of the Phillips Airport (latitude 36°45'46" N., longitude 96°00'38" W.), excluding the area north of latitude 36°46'00" N. and east of longitude 95°58'30" W. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

In § 71.181 (36 F.R. 2140), the Bartlesville, Okla., transition area is amended to read:

BARTLESVILLE, OKLA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Phillips Airport (latitude 36°45'46" N., longitude 96°00'38" W.); within 5 miles each side of the Bartlesville VORTAC 176° radial extending from the 9-mile radius to 21½ miles south of the VORTAC; and within 3½ miles each side of the Bartlesville VORTAC 354° radial extending from the 9-mile radius to 12 miles north of the VORTAC; that airspace which lies within the State of Kansas extending upward from 1,200 feet above the surface within 9½ miles west and 4½ miles east of the 354° radial of the Bartlesville VORTAC extending from the VORTAC to 18½ miles north of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655).

Issued in Fort Worth, Tex., on June 8, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-8705 Filed 6-21-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-RM-2]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Shelby, Mont., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal con-

[14 CFR Part 71]

[Airspace Docket No. 71-RM-1]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the description of Lewis-town, Mont., control zone and transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The airspace requirements for Lewis-town, Montana, have been reviewed in accordance with the U.S. Standard for Terminal Instrument Procedures (TERPs). As a result of the review, it has been determined that minor changes in the descriptions of the control zone and transition area are required.

The control zone and 700-foot portion of the transition area are required to provide controlled airspace protection for aircraft executing those portions of prescribed instrument procedures below 1,500 feet above the surface. The 1,200-foot portion of the transition area is required for aircraft executing the procedure turn and holding procedures.

In consideration of the foregoing, the FAA proposes the following airspace actions.

In § 71.171 (36 F.R. 2055) the description of the Lewiston, Mont., control zone is amended to read as follows:

LEWISTOWN, MONT.

Within a 5-mile radius of the Lewistown Municipal Airport (latitude 47°02'39" N., longitude 109°28'15" W.) and within 1.5 miles each side of the Lewistown VORTAC 090° radial, extending from the 5-mile-radius zone to the VORTAC.

In § 71.181 (36 F.R. 2140) the description of the Lewistown, Mont., transition area is amended to read as follows:

LEWISTOWN, MONT.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Lewistown, Mont., Municipal Airport (latitude 47°02'39" N., longitude 109°28'15" W.) and within 4 miles each side of the Lewistown VORTAC 289° radial, extending from the 7-mile-radius area to 10.5 miles west of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 4.5 miles north and 9.5 miles south of the Lewistown VORTAC 289° radial, extending from the VORTAC to 18.5 miles west of the VORTAC, and within 5 miles north and 8 miles south of the Lewistown VORTAC 109° radial, extending from the VORTAC to 7 miles east of the VORTAC.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Denver, Colorado, on June 11, 1971.

M. M. MARTIN,

Director, Rocky Mountain Region.

[FR Doc.71-8707 Filed 6-21-71;8:46 am]

National Highway Traffic Safety Administration

[49 CFR Part 567]

[Docket 71-14; Notice 1]

CERTIFICATION LABEL

Proposed Vehicle Identification Number

This notice proposes the addition of a vehicle identification number to the certification label required for vehicles manufactured in two or more stages.

A revision of 49 CFR Part 567, the regulation governing certification of motor vehicles under the National Traffic and Motor Vehicle Safety Act, was published on April 14, 1971 (36 F.R. 7054), to be effective January 1, 1972. As published, this regulation did not include a requirement for a vehicle identification number on the label specified for vehicles manufactured in two or more stages (§ 567.5). It has been suggested by some final-stage manufacturers that such a number would be useful for identification of the vehicles that they complete. Such a requirement would make the labeling requirements for multistage vehicles more consistent with those for other vehicles contained in § 567.4.

Accordingly, it is proposed that the existing subparagraph (8) in paragraph (a) of 49 CFR 567.5 be renumbered (9), and that a new subparagraph be inserted: "(8) Vehicle identification number."

Proposed effective date: January 1, 1972.

Interested persons are invited to submit written data, views, and arguments concerning the proposed standard. Com-

ments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on July 22, 1971, will be considered, and will be available for examination in the docket room at the above address both before and after the closing date. To the extent possible, comments filed after the closing date will be considered by the Administration. However, the rulemaking action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice of proposed rulemaking is issued under the authority of sections 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1402, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

JUNE 16, 1971.

[FR Doc.71-8733 Filed 6-21-71;8:47 am]

[49 CFR Part 571]

[Dockets Nos. 1-9, 1-10; Notice 8]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Exterior Protection—Passenger Cars

The purpose of this notice is to propose that Motor Vehicle Safety Standard No. 215, Exterior Protection, revised and republished in this issue of the FEDERAL REGISTER (36 F.R. 11852), be amended to require 5-m.p.h. barrier and pendulum impacts for rear surfaces, to require the vehicle's engine to be operating during barrier testing, and to require that there be no damage to any portion of the vehicle such that any safety-related aspect of performance is adversely affected.

The standard as published on April 16, 1971, requires a barrier test at 5 m.p.h. for the front of a vehicle and 2½ for the rear, effective September 1, 1972, and an additional pendulum test at 5 m.p.h. for the front and 4 m.p.h. for the rear, effective September 1, 1973. As indicated upon issuance of the standard, the September 1, 1973, requirements have been under review to determine whether refinements or additions would be appropriate. This review, and information contained in the petitions for reconsideration of the standard, have indicated the desirability and feasibility of upgrading the requirements for the rear surfaces of passenger cars. Accord-

ingly, it is proposed that the longitudinal pendulum and barrier tests on rear surfaces be at 5 m.p.h. effective September 1, 1973.

The test conditions specified in the standard do not require the vehicle's engine to be operating. To more accurately represent the conditions under which a moving vehicle is likely to crash, and to detect possible hazards inherent under these conditions, it is proposed that a new section S6.3 be added to § 571.21 reading as follows:

S6.3 *Barrier test condition.* During a barrier impact, the vehicle's engine is operating at idling speed.

The standard as issued contains requirements for protection from damage of particular vehicle systems, viz., the lighting, latching, fuel, cooling, and exhaust systems. It appears that other safety-related vehicle systems, such as the suspension, steering, or braking systems, could be adversely affected by a low-speed impact. It is intended that the vehicle "bumper" systems be required to protect the vehicle, in these low-speed impacts, from all damage that affects safe operation; purely cosmetic damage would be excepted. It is therefore proposed that another requirement be added to § 571.21 in the form of a new section S5.3.5, reading as follows:

S5.3.5 There shall be no damage to any other portion of the vehicle such that any aspect of performance that relates to motor vehicle safety is adversely affected.

The present section S5.3.5 would be renumbered S5.3.6, and the references in section S5.1 and S5.2 would be changed to "S5.3.1 through S5.3.5" and "S5.3.1 through S5.3.6," respectively.

Proposed effective date: September 1, 1973.

Interested persons are invited to submit written data, views, and arguments concerning the proposed standard. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on August 1, 1971, will be considered, and will be available for examination in the docket room at the above address both before and after the closing date. To the extent possible, comments filed after the closing date will be considered by the Administration. However, the rulemaking action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on June 15, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71-8678 Filed 6-21-71;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration

[24 CFR Part 200]

[Docket No. R-71-118]

AFFIRMATIVE MARKETING GUIDELINES

Notice of Proposed Rule Making

In accordance with the President's Statement on Federal Policies Relative to Equal Housing Opportunity, issued June 11, 1971, the Department proposes to amend Chapter II of Title 24 of the Code of Federal Regulations to add a new Subpart M entitled "Affirmative Marketing Guidelines." This proposed subpart, issued pursuant to title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1; title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608; and Executive Order 11063, 27 F.R. 11527, is intended to promote a condition in which individuals of similar income levels in the same housing market area have available to them a similar range of choices in housing, regardless of the individuals' race, color, religion, or national origin.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should be filed in triplicate with the above docket number and title and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material received on or before July 22,

1971, will be considered by the Secretary before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

The proposed Subpart M reads as follows:

Subpart M—Affirmative Marketing Guidelines

§ 200.600 Purpose.

The purpose of this subpart is to set forth the Department's equal opportunity guidelines for affirmative marketing under FHA subsidized and unsubsidized housing programs.

§ 200.605 Authority.

The regulations in this subpart are issued pursuant to Executive Order 11063, 27 F.R. 11527; title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1; and title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608.

§ 200.610 Policy.

It is the policy of the Department to administer its FHA housing programs affirmatively, so as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, or national origin. Each sponsor of a proposed project or subdivision shall pursue affirmative fair housing marketing policies in the solicitation of eligible buyers and tenants.

§ 200.615 Requirements.

Each sponsor shall meet the following requirements:

(a) Carry out an affirmative program to attract applicants of all races. Such a program shall typically involve publicizing the availability of housing opportunities, including advertising in minority media if minority publications or other media are available in the area from which the market potential will be drawn. All advertising shall include either the Department-approved Equal Housing Opportunity logo or slogan and all advertising depicting persons shall depict persons of majority and minority races.

(b) Maintain a nondiscriminatory hiring policy in recruiting from both minority and majority races for staff engaged in the sale or rental of properties.

(c) Instruct all employees and agents in the policy of nondiscrimination and fair housing.

(d) Specifically inform local housing authorities and relocation agencies of the development of projects and subdivisions and data pertinent thereto.

(e) Specifically solicit eligible buyers or tenants reported to the sponsor by the Area or Insuring Office.

(f) Prominently display in the sales or rental office of the project or subdivision, and include in any printed material used in connection with sales or rentals, information concerning its nondiscriminatory fair housing policy.

The affirmative fair housing marketing requirements, as set forth in subparagraphs (a) through (f) of this section, shall apply, as of the effective date of this policy, to all subdivisions, multi-family projects and mobile home parks of 25 or more lots, units, or spaces, hereafter developed under FHA subsidized and unsubsidized housing programs.

§ 200.620 Affirmative fair housing marketing plan.

Each sponsor of a project of subdivision shall provide on a form to be supplied by the Department information indicating his affirmative fair housing marketing plan to comply with the requirements set forth above.

§ 200.625 Notice of housing opportunities.

Upon request, the Director of each Area or Insuring Office shall provide monthly a list of all projects or subdivisions covered by this subpart on which commitments have been issued during the preceding 30 days to all interested individuals and groups.

§ 200.630 Compliance.

Sponsors failing to comply with the requirements of this subpart will make themselves liable to sanctions authorized by statute or regulation.

GEORGE W. ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-8728 Filed 6-21-71;8:47 am]

Notices

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 25-5B; Amdt. 1]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

The following amendment to the order was issued by the Secretary of Commerce, effective April 14, 1971. This material amends the material appearing at 36 F.R. 5922 of March 31, 1971.

Department Organization Order 25-5B of March 5, 1971 is hereby amended as follows:

1. Sec. 4. Assistant Administrator for Administration and Technical Services. The following is added to the end of paragraph .01: "and special reproduction and distribution services for administrative and technical data."

2. Sec. 5. Assistant Administrator for Plans and Programs. a. The listing in paragraph .01 is changed to read:

Oceanic Division.
Solid Earth Division.
Atmospheric and Space Division.

b. A new paragraph .03 is added to read:

.03 The Programs Division shall provide guidance and direction to NOAA Primary Organization Elements in the development, implementation, and maintenance of effective performance planning and programing throughout NOAA and shall afford the Administrator, Deputy, and Associates a primary source of program review, advice, and assistance in establishing the future direction, goals, and objectives of NOAA programs. It shall be responsible for the development of realistic integrated 5-year programs and compatible financial plans, and for the continuing evaluation of NOAA program performance against the developed program plans, goals, and objectives. This division shall be responsible for implementation of the NOAA Management Improvement Program and shall develop instructions, review inputs from program managers, and prepare reports on performance effectiveness, cost reductions, and reprograming. It shall also be responsible for monitoring program impacts of NOAA manpower ceilings and allocations and for developing and maintaining sets of comprehensive illustrated briefings covering NOAA programs, for use by the Administrator, Deputy, and Associates in presentations in and out of the Government.

c. Paragraph .03 is renumbered .04 and changed to read:

.04 The Office of Special Studies shall provide policy guidance for NOAA's major program areas, applying such planning factors as forecasts of technological

advances, technological assessment, user needs, and NOAA resource capacity and availability. The Office shall conduct technical and socio-economic studies required in developing the policy framework within which the programs of NOAA are carried out.

3. Sec. 14. National Ocean Survey. a. In paragraph .02 the title Office of Geodesy and Photogrammetry is changed to "Office of National Geodetic Survey."

b. The following is deleted from the end of paragraph .05: "and provide printing, reproduction, and distribution services for all components of NOAA."

Effective: April 14, 1971.

LAWRENCE E. IMHOFF,
Acting Assistant Secretary
for Administration.

[FR Doc.71-8698 Filed 6-21-71; 8:45 am]

[Dept. Organization Order 45-1; Amdt. 1]

ECONOMIC DEVELOPMENT ADMINISTRATION

Organization and Functions

This material amends the material appearing at 35 F.R. 14472 of September 15, 1970.

Department Organization Order 45-1, dated August 31, 1970, is hereby amended as follows:

1. Sec. 5. Deputy Assistant Secretary for Economic Development Planning. This section is revised to read:

.01 The Deputy Assistant Secretary for Economic Development Planning is the principal adviser to the Assistant Secretary on matters of development planning. Through the offices reporting to him, he shall:

a. Coordinate and direct EDA economic development planning activities relating to regions, districts (including economic development centers), redevelopment areas, and other areas of substantial need;

b. Formulate and recommend to the Assistant Secretary standards and criteria for administration of economic development planning by Regional Offices;

c. Inform the Deputy Assistant Secretary for Policy Coordination of significant developments and problems affecting interagency and intergovernmental development planning for districts and areas;

d. Recommend designation of economic development districts, economic development centers, redevelopment areas, and title I areas which fulfill the statutory criteria;

e. Conduct an annual review of the areas and districts designated for assistance under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121) (the "Act"),

and recommend such modifications or terminations of eligibility as may be appropriate;

f. Provide economic data, analyses and studies, and planning grants to development districts and areas; and

g. Recommend technical assistance proposals for areas and districts.

.02 The Deputy Assistant Secretary for Economic Development Planning shall direct and supervise the following organization elements:

a. The Office of Planning and Program Support which shall:

1. Have prime responsibility for coordinating the preparation, review and approval of EDA-developed planning documents;

2. Develop analyses and recommended strategies of economic development, including a system of priorities for EDA's financial assistance, for areas and districts;

3. Develop economic development planning systems that reflect EDA objectives and respond to local and regional problems and potentials;

4. Develop the methods and techniques needed to evaluate established planning systems including the ability of local representatives to understand and utilize the planning system as well as the compatibility of locally developed plans with annual agency objectives;

5. Participate in the development of budgetary requirements and coordinate with the Office of Administration and Program Analysis in the allocation of resources among Regional Offices as well as among EDA programs;

6. Provide information and special services on domestic and international regional development planning;

7. Provide guidance to Regional Offices on the application of economic development planning techniques and systems to the specific problems of the region;

8. Advise and assist Regional Offices in implementing economic planning activities after the formal designation of economic development districts and areas;

9. Guide Regional Offices in assisting development organizations to prepare Overall Economic Development Programs (OEDPs);

10. In coordination with Regional Offices, provide guidance to economic development district and area organizations on the techniques and methods of economic analysis;

11. Formulate planning and development policies and procedures for guiding the preparation and submission of district and area OEDPs, including the establishment of policies and standards for their review by Regional Offices;

12. Initiate suspension of the receipt and processing of all applications for assistance from areas and districts which

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fail to submit acceptable OEDP progress reports;

13. Evaluate services, efficient existing capacity, and competitive producers for use in making determinations on excess capacity, pursuant to section 702 of the Act; and

14. Identify industries which have demonstrated growth trends for the purpose of relating those industries to agency plans.

b. The Office of Economic Research which shall:

1. Direct and conduct a program of internal and external economic research designed to meet both planning and operating needs and concerned with economic development problems and opportunities for geographical subdivisions (e.g., regions, development districts, redevelopment areas, etc.);

2. Arrange for and monitor EDA-sponsored research conducted by other elements of the Department, other Government agencies, or private organizations;

3. Encourage and stimulate research and data collection on economic development, both in and out of Government;

4. Review, evaluate, integrate, and disseminate (a) the results of research sponsored by EDA, and (b) current methodological and other research findings wherever generated that are relevant to EDA's objectives and programs;

5. Maintain a central reference collection of economic development materials; and

6. Study and evaluate the effects of Government policies on subnational economic development.

c. The Office of Development Organizations which shall:

1. Design and direct a program to establish multicounty development districts in consultation and with the assistance and cooperation of EDA Regional Offices, and with the concurrence of the States affected;

2. Initiate policy guidelines and criteria concerning the development district and area organizations for use by other elements of EDA, and by appropriate State and local agencies;

3. Evaluate and approve proposed area and district economic development organizations;

4. Assist Regional Office efforts to organize economic development districts, including the recruitment of staff;

5. Development and recommended model administrative budgets, reporting procedures, and job specifications for use by area and district economic development organizations;

6. Establish policies and standards for the review of progress reports by Regional Offices in cooperation with the Office of Planning Program Support;

7. Design a system of records to indicate progress as compared to planned objectives on all grants made under section 301(b) of the Act and assist Regional Offices in implementing system;

8. Provide guidelines to Regional Offices in order to administer planning grants made under the Act to State, district, and area agencies;

9. Evaluate and recommend candidates for appointments to professional

staff positions in economic development districts in cooperation with the Regional Offices;

10. Review Regional Office recommendations for the designation and/or termination of economic development districts and economic development centers;

11. Promptly advise interested Federal, State, and local agencies of all changes affecting the eligibility status of existing or proposed economic development districts;

12. Prepare and distribute maps and related materials showing organizational and designation status of economic development districts;

13. Determine whether an area meets the statistical criteria to qualify as a redevelopment area or a title I area;

14. Recommend changes in the qualification status of redevelopment areas and title I areas;

15. Recommend designation or change in the designation status of redevelopment or title I areas;

16. Conduct an annual review of area eligibility and recommend termination of areas no longer eligible for designation; and

17. Recommend minor adjustments to boundaries of redevelopment areas.

2. Sec. 13. Economic Development Regional Offices. Paragraph .02 is revised to read:

.02 Each Regional Director for the EDA programs in his region, shall:

a. Assist designated areas and districts in organizing, staffing, and funding for economic planning through the development of (OEDPs);

b. Assist local communities in the development of applications for financial assistance to meet the needs of areas and districts serviced by the Regional Office; and

c. Process applications for economic development assistance, monitor and service approved projects, including appropriate public works construction projects and, when appropriate, liquidate projects.

Effective: June 1, 1971.

LAWRENCE E. IMHOFF,
Acting Assistant Secretary
for Administration.

[FR Doc.71-8699 Filed 6-21-71; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 6146; Docket No. FDC-D-308; NDA 5-914 etc.]

CERTAIN ANTIHISTAMINES FOR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study

Group, on the following injectable antihistamine drugs:

1. Dimetane-Ten Injectable and Dimetane-100 Injectable containing brompheniramine maleate, marketed by A. H. Robins Co., Inc., 1407 Cummings Drive, Richmond, Virginia 23220 (NDA 11-418).

2. Chlor-Trimeton Maleate Injection containing chlorpheniramine maleate, marketed by Schering Corp., 1011 Morris Avenue, Union, New Jersey 07083 (NDA 8-794 and NDA 8-826).

3. Ambodryl Hydrochloride Steri-Vial containing bromodiphenhydramine hydrochloride, marketed by Parke, Davis and Co., Joseph Campau Avenue at the River, Detroit, Mich. 48232 (NDA 9-304).

4. Benadryl Ampoules and Steri-Vials containing diphenhydramine hydrochloride, marketed by Parke, Davis and Co. (NDA 9-486 and NDA 6-146).

5. Pyribenzamine Hydrochloride Injectable solution containing tripeleminamine hydrochloride, marketed by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, New Jersey 07901 (NDA 5-914).

6. Histadyl Injection containing methapyrilene hydrochloride, marketed by Eli Lilly and Co., Post Office Box 618, Indianapolis, Indiana 46206 (NDA 6-340).

7. Phenergan Injection containing promethazine hydrochloride, marketed by Wyeth Laboratories, Division American Home Products Corp., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 8-857).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

Brompheniramine Maleate; Chlorpheniramine Maleate; Bromodiphenhydramine Hydrochloride, Diphenhydramine Hydrochloride, Tripeleminamine Hydrochloride, Methapyrilene Hydrochloride, Promethazine Hydrochloride.

A. Effectiveness classification. 1. The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

a. These drugs are effective or probably effective for the indications described in the labeling conditions below. The indications for which they are regarded as probably effective are: local edema and pruritis associated with non-poisonous insect bites; severe uncomplicated urticaria resistant to oral antihistamines; and for the control of local reactions resulting from a fixed maintenance dose of an antigen in allergic hyposensitization therapy.

b. These drugs lack substantial evidence of effectiveness when labeled for: The prevention or reduction in severity of

the sequelae of oral surgery; the potentiation of CNS depressants to allow dosage reduction; histamine headache and migraine including allergic migraine; Meniere's disease; nocturnal leg cramps or leg cramps of pregnancy; allergic or other conditions not specifically stated; tissue preservation; functional dysmenorrhea; and as an antitussive.

2. The Food and Drug Administration further concludes that:

a. *Diphenhydramine hydrochloride injection* is:

(1) Effective for the active treatment of motion sickness; and in parkinsonism (including drug-induced) when oral therapy is impossible or contraindicated in the elderly unable to tolerate more potent agents, in mild cases in other age groups or in combination with centrally acting anticholinergic agents; and

(2) Probably effective in intractable insomnia and insomnia predominant in certain medical disorders when oral therapy is impossible.

b. *Promethazine hydrochloride injection* is:

(1) Effective for the active treatment of motion sickness; preoperative, postoperative and obstetric (during labor) sedation; the prevention and control of nausea and vomiting associated with certain types of anesthesia and surgery; sedation and relief of apprehension and to produce light sleep from which the patient can be easily aroused; as an adjunct to anesthesia and analgesia when given intravenously along with meperidine in special surgical situations (e.g., repeated bronchoscopy, ophthalmic surgery and poor risk patients); and as an adjunct to analgesics for the control of postoperative pain; and

(2) Probably effective in intractable insomnia and insomnia predominant in certain medical disorders when oral therapy is impossible; and for the control of the more severe or hazardous nausea and vomiting of pregnancy.

3. Except for the indications described or referenced above, all of these drugs are regarded as possibly effective for their other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These preparations are in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drugs and is in accord with the effectiveness classifications, the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970, and, where applicable the Academy comments.

The "Indications" sections are as follows:

INDICATIONS

The injectable form of this drug is indicated for the following conditions when use of the oral form of the drug is impractical:

Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

In anaphylaxis as an adjunct to epinephrine and other standard measures after the acute symptoms have been controlled.

For other uncomplicated allergic conditions of the immediate type when oral therapy is impossible or contraindicated.

Control of local reactions resulting from a fixed maintenance dose of an antigen in allergic hyposensitization therapy.

Severe uncomplicated urticaria resistant to oral antihistamines.

Local edema and pruritus associated with nonpoisonous insect bites.

Add For Diphenhydramine Hydrochloride Only:

Active treatment of motion sickness.

For use in parkinsonism (including drug-induced), when oral therapy is impossible or contraindicated, as follows:

Parkinsonism in the elderly who are unable to tolerate more potent agents.

Mild cases of parkinsonism in other age groups.

In other cases of parkinsonism in combination with centrally acting anticholinergic agents.

Intractable insomnia and insomnia predominant in certain medical disorders when oral therapy is impossible.

Add For Promethazine Hydrochloride Only:

Active treatment of motion sickness.

Preoperative, postoperative and obstetric (during labor) sedation.

Prevention and control of nausea and vomiting associated with certain types of anesthesia and surgery.

As an adjunct to analgesics for the control of postoperative pain.

For sedation and relief of apprehension and to produce light sleep from which the patient can be easily aroused.

Intravenously in special surgical situations, such as repeated bronchoscopy, ophthalmic surgery, and poor risk patients, with reduced amounts of meperidine as an adjunct to anesthesia and analgesia.

Intractable insomnia and insomnia predominant in certain medical disorders when oral therapy is impossible.

Control of the more severe or hazardous nausea and vomiting of pregnancy.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970. Biologic availability data for a drug administered by the intravenous route are not required.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is intended to be marketed, as described in paragraph (a)(3)(ii) of that notice. Biologic availability data for a drug administered by the intravenous route are not required.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not included in the "Indications" section), continued use as described in paragraphs (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under

uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

D. *Unapproved use or form of drug.* 1. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such recommended use is approved in a new drug application, or is otherwise in accord with this announcement.

2. If the article is proposed for marketing in another form or for a use other than the use provided for in this announcement, appropriate additional information as described in § 130.4 or § 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including results of animal and clinical tests intended to show whether the drug is safe and effective.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6146, directed to the attention of the following appropriate office, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Requests for Hearing (Identify with Docket No.): Hearing Clerk, Office of General Counsel (GC-1) Room 6-62, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 25, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8717 Filed 6-21-71; 8:46 am]

INDICATIONS

For the management of moderately severe or severe essential hypertension and in uncomplicated cases of malignant hypertension.

II. PENTOLINUM TARTRATE FOR INJECTION

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence and concludes that this drug is:

1. Effective in the short term (acute) management of moderately severe, or severe essential hypertension, and in uncomplicated cases of malignant hypertension in which adequate response has not been obtained by oral administration.

2. Lacking in substantial evidence of effectiveness for posttraumatic and postoperative urinary retention and for use intravenously in hypertensive emergencies.

B. *Form of drug.* Trimethidinium methosulfate preparations are in tablet form suitable for oral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For the management of moderately severe or severe essential hypertension and in uncomplicated cases of malignant hypertension.

IV. MECAMYLAMINE HYDROCHLORIDE TABLETS

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence and concludes that this drug is effective in treatment of moderately severe to severe essential hypertension and uncomplicated cases of malignant hypertension.

B. *Form of drug.* Mecamylamine hydrochloride preparations are in tablet form suitable for oral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For the management of moderately severe or severe essential hypertension and in uncomplicated cases of malignant hypertension.

[DESI 8983; Docket No. FDC-D-299; NDA's 9-372, 9-373]

CERTAIN GANGLIONIC BLOCKING AGENTS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following ganglionic blocking drugs:

1. Ansolysen Tablets containing pentolinum tartrate; Wyeth Laboratories, Inc., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 9-373).

2. Ansolysen Injection containing pentolinum tartrate; Wyeth Laboratories, Inc. (NDA 9-372).

3. Ostensin Tablets containing trimethidinium methosulfate; Wyeth Laboratories, Inc. (NDA 11-489).

4. Inversine Hydrochloride Tablets containing mecamlamine hydrochloride; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486 (NDA 10-251).

5. Arfonad for Intravenous Infusion containing trimethaphan camsylate; Hoffmann-LaRoche, Inc., 340 Kingsland Avenue, Nutley, N.J. 07110 (NDA 8-893).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described in this announcement.

I. PENTOLINUM TARTRATE TABLETS

A. *Effective classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is:

1. Effective for the management of moderately severe or severe essential hypertension, and in uncomplicated cases of malignant hypertension.

2. Lacking in substantial evidence of effectiveness for posttraumatic and postoperative urinary retention.

B. *Form of drug.* Pentolinum tartrate preparations are in tablet form suitable for oral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

V. TRIMETHAPHAN CAMSYLATE FOR INTRAVENOUS INFUSION

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is effective for the production of controlled hypertension during surgery; for the short term (acute) control of blood pressure in hypertensive emergencies; in the emergency treatment of pulmonary edema in patients with pulmonary hypertension associated with systemic hypertension.

B. *Form of drug.* Trimethaphan camsylate preparations are in sterile aqueous solution form, when diluted, for intravenous infusion.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For the production of controlled hypotension during surgery. For the short term (acute) control of blood pressure in hypertensive emergencies. In the emergency treatment of pulmonary edema in patients with pulmonary hypertension associated with systemic hypertension.

VI. MARKETING STATUS

Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER, July 14, 1970 (35 F.R. 11273), as follows:

A. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug, when administered other than by the intravenous route, in the formulation which is marketed, as described in paragraphs (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970.

B. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed for administration other than by the intravenous route, as described in paragraph (a)(3)(ii) of that notice.

C. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

VII. OPPORTUNITY FOR A HEARING

A. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in Paragraph I.A., and II.A. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

B. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

C. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

D. A hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be

identified with the reference number DESI 8983, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new drug applications (Identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 25, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8718 Filed 6-21-71; 8:46 am]

[DESI 60105]

PENICILLIN FOR INHALATION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Penicillin G Potassium Aerohalor, containing potassium penicillin G; Abbott Laboratories, Inc., 14th and Sheridan Road, North Chicago, Illinois 60064 (NDA 60-105).

Preparations containing penicillin are subject to the antibiotic procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act.

The Academy commented that penicillin may, in some instances, be effective in treating a variety of pulmonary infections; however, penicillin is a sensitizing drug and since inhalation therapy has been accompanied by severe allergic reactions, there is little reason to keep the drug in the therapeutic armamentarium.

The Food and Drug Administration has considered the Academy's report, as well as other available information, and concludes that there is a lack of substantial evidence that the effectiveness of penicillin for inhalation therapy is sufficient to justify its use in view of the known serious hazards associated with such use.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to amend the antibiotic drug regulations (21 CFR Part 146) in order to delete from the list of drugs acceptable for certification or release the above listed drug and any similar drug for inhalation therapy in man.

Prior to initiating such action, however, the Commissioner invites all in-

terested persons who might be adversely affected by removal of these drugs from the market to submit pertinent data bearing on the proposal within 30 days following the date of publication of this announcement in the FEDERAL REGISTER. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the Academy's report for this drug is made to give notice to persons who might be adversely affected by removal of this or similar drugs from the market.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 60105 and be directed to the attention of the Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 5, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71-8719 Filed 6-21-71; 8:46 am]

MORTON INTERNATIONAL, INC.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1A2688) has been filed by Morton International, Inc., 110 North Wacker Drive, Chicago, Ill. 60606, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of glycine as a flavor-masking agent for saccharin in sugar substitutes for table use.

Dated: June 16, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc. 71-8716 Filed 6-21-71; 8:46 am]

MONSANTO CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2685) has been filed by Monsanto Co., 1101 17th Street NW., Washington, D.C. 20036, proposing that § 121.2502 *Nylon resins* (21 CFR 121.2502) be amended to provide for the safe use in food-contact articles of a new nylon resin manufactured from nylon 66 resins and resins obtained by the condensation of hexamethylene diamine and terephthalic acid.

Dated: June 16, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc. 71-8700 Filed 6-21-71; 8:45 am]

[DESI 10761]

CERTAIN ANTISEBORRHEIC DRUGS CONTAINING CADMIUM SULFIDE FOR TOPICAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Capsebion Suspension containing cadmium sulfide, marketed by The Dow Chemical Co., Box 10, Zionsville, Indiana 46077 (NDA 10-761).

The drug is regarded as a new drug. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that cadmium sulfide is probably effective for the treatment of seborrheic dermatitis of the scalp.

B. *Marketing status.* 1. The indication for which the drug is described in paragraph A above as probably effective may continue to be used for 12 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing such drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness. In addition, data including adequate toxicity studies on cadmium sulfide should be presented, because cadmium poisoning can be subtle.

2. At the end of the 12-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness of the drug for such uses. The conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new drug application for

the drug, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the application will cause any such drug on the market to be a new drug for which an approval is not in effect.

3. Within 60 days from publication hereof in the FEDERAL REGISTER, the holder of any approved new drug application for such drug is requested to submit a supplement to his application to provide for revised labeling as needed, which, taking into account the comments of the Academy, furnishes adequate information for safe and effective use of the drug, is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74), and recommends use of the drug for the probably effective indication as follows:

INDICATIONS

For the treatment of seborrheic dermatitis of the scalp.

The above named holder of the new-drug application for this drug has been mailed a copy of the NAS-NRC report. Any interested person may obtain a copy of this report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 10761 and be directed to the attention of the appropriate office named below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new-drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Requests for NAS-NRC reports: Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 6, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 71 8701 Filed 6-21-71; 8:45 am]

[DESI 10837]

CERTAIN ANTICHOLINERGIC DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation

Certain anticholinergic drugs containing prochlorperazine maleate and isopropamide iodide; oxyphenycyclimine

hydrochloride and meprobamate; oxyphenycyclimine hydrochloride and hydroxyzine hydrochloride; tridihexethyl chloride and meprobamate; and propantheline bromide and thiopropazate hydrochloride.

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following anticholinergic and tranquilizing drugs for oral use:

1. Combud Spansule Capsules, containing prochlorperazine maleate and isopropamide iodide; Smith, Kline, and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101 (NDA 11-162).

2. Daritran Tablets, containing oxyphenycyclimine hydrochloride and meprobamate; Chas. Pfizer and Co., 235 East 42d Street, New York, N.Y. 10017 (NDA 12-070).

3. Enarax 5 Tablets and Enarax 10 Tablets, containing oxyphenycyclimine hydrochloride and hydroxyzine hydrochloride; Chas. Pfizer and Co. (NDA 11-784).

4. Milpath-200 Tablets and Milpath-400 Tablets, containing meprobamate and tridihexethyl chloride; Wallace Laboratories, Half Acre Road, Cranbury, N.J. 08512 (NDA 11-043).

5. Pathibamate-200 Tablets and Pathibamate-400 Tablets, containing tridihexethyl chloride and meprobamate; Lederle Laboratories Division, American Cyanamid Co., Pearl River, N.Y. 10965 (NDA 10-837).

6. Pro-Banthine with Dartal Tablets, containing propantheline bromide and thiopropazate hydrochloride; G. D. Searle and Co., Post Office Box 5110, Chicago, Ill. 60680 (NDA 11-368).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are possibly effective as adjunctive therapy in peptic ulcer and in the irritable bowel syndrome (irritable colon, spastic colon, mucous colitis, functional gastrointestinal disorders); functional diarrhea; drug induced diarrhea; ulcerative colitis, and urinary bladder spasm and urethral spasm (i.e., smooth muscle spasm). In addition, oxyphenycyclimine and meprobamate preparations are possibly effective for dysmenorrhea.

These drugs lack substantial evidence of effectiveness for their other labeled indications.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the Federal Register, the holder of any approved new drug application for which a drug is classified in paragraph A above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking. Such a supplement

should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (e) and (d)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to do so may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised if it includes those claims for which substantial evidence of effectiveness is lacking as described in paragraph A above. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the Federal Register may cause the drug to be subject to regulatory proceedings.

3. The notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the Federal Register July 14, 1970 (35 F.R. 11273) describes in paragraphs (d), (e), and (f) the marketing status of a drug labeled with those indications for which it is regarded as possibly effective.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 10837, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (Identify with NDA number):
Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 3, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-8702 Filed 6-21-71; 8:45 am]

[DESI 12329]

GUANETHIDINE SULFATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study

Group, on Ismelin Sulfate Tablets containing guanethidine sulfate; marketed by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, New Jersey 07901 (NDA 12-329).

The drug is regarded as a new drug (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drug. A new drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that guanethidine sulfate is effective for:

a. The treatment of severe hypertension either alone or as an adjunct.

b. The treatment of renal hypertension, including that secondary to pyelonephritis, renal amyloidosis, and renal artery stenosis.

B. *Form of drug.* Guanethidine sulfate preparations are in tablet form suitable for oral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the Federal Register of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

1. For the treatment of severe hypertension either alone or as an adjunct.

2. For the treatment of renal hypertension, including that secondary to pyelonephritis, renal amyloidosis, and renal artery stenosis.

D. *Previously approved applications.*

1. Each holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to October 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform with the labeling conditions described herein for the drug and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current.

2. Such supplements should be submitted within the following time periods after the date of publication of this announcement in the Federal Register.

a. 60 days for revised labeling—the supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

mentation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 5, 1971.

SAM D. FINE,
Associated Commissioner
for Compliance.

[FR Doc.71-8703 Filed 6-21-71; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-111]

ACTING AREA DIRECTOR, SAN FRANCISCO AREA OFFICE, REGION IX (SAN FRANCISCO)

Designation

The officials appointed to the following listed positions in the San Francisco Area Office, Region IX (San Francisco), are hereby designated to serve as Acting Area Director, San Francisco Area Office, Region IX (San Francisco) during the absence of the Area Director, with all powers, functions, and duties redelegated or assigned to the Area Director: *Provided*, That no official is authorized to serve as Acting Area Director unless all other officials whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Area Director;
2. Director, Production Division;
3. Director, Housing Services and Property Management Division;
4. Area Counsel.

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

ATOMIC ENERGY COMMISSION

URANIUM HEXAFLUORIDE

Charges, Enriching Services, Specifications, and Packaging; Revisions

The U.S. Atomic Energy Commission (AEC) hereby announces revisions to the notice entitled, "Uranium Hexafluoride: Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specifications, and Packaging", as published in the Federal Register on November 29, 1967 (32 F.R. 16289), and as amended in 35 F.R. 13547, August 25, 1970, and in 36 F.R. 4563, March 9, 1971 (referred to herein as the notice).

1. Table 4 of the notice is revised to read as follows:

TABLE 4—CHARACTERISTICS OF AEC UF₆ CONTAINERS

Container	Material of construction	Nominal length ¹ (ins.)	Nominal diameter (ins.)	Approximate tare weight (lbs.)	Capacity (lbs. UF ₆)	Minimum loading (lbs. UF ₆)
Type	Model No.					
14-ton	48F	Steel	150	48	5,200	27,030
10-ton	48A	do.	121	48	4,500	21,030
2.5-ton	30A	do.	82	30	1,400	4,950
2.5-ton	30B	do.	82	30	1,400	5,020
12-inch (MD)	12A	Monel or nickel	54	12	185	460
8-inch	8A	do.	57	8	120	255
5-inch	5A	do.	36	5	65	65
Harshaw	2S	do.	11	3.5	4	4.9
1.5-inch	1S	do.	12	1.3	2	1
Hoke tube	HT	Nickel	8	0.3	1	15 grams

¹ Overall length with valve cap (if any) in place.
² Minimum quantity which permits safe handling with UF₆ in liquid state.
³ For receipts by AEC—Upon request lesser quantities of product may be put in cylinders.

2. Table 5 of the notice is revised to read as follows:

TABLE 5—LOADING LIMITS ON UF₆ CONTAINERS¹

Assay ² (Wt. % U ²³⁵)	Maximum quantity per container, pounds UF ₆					
	48F	48A	30A	30B	12A	5A
1 or less	27,630	21,630	4,950	5,030	460	255
Above 1 to 5	Not used	Not used	4,550	5,030	460	255
Above 5 to 12.5	Not used	Not used	Not used	Not used	Not used	255
Above 12.5	Not used	Not used	Not used	Not used	Not used	55

¹ The loading limits for cylinders 5A through 48F have been established at 95 percent of the UF₆ required to fill the container at 250° F. (maximum permissible operating temperature for cylinders in UF₆ service). The loading limit on containers Model Nos. 28, 18, and 10ke Tube, as shown in Table No. 4, is the rated capacity of each without U²³⁵ assay limitation. Containers loaded to these limits may require special precautions in storage and shipment to avoid the possibility of nuclear interaction with adjacent containers or with neutron moderators and reflectors.

² Indicated maximum assays for these containers are those currently approved by the AEC and Department of Transportation in accordance with the terms of a specific license or DOT permit. Higher assays may be loaded if the container and shipping procedure are specifically approved for such higher assays by the AEC and the DOT.

3. Table 6 of the notice is revised to read as follows:

TABLE 6—UF₆ PACKAGING AND HANDLING CHARGES

Container model No.	Assay range (Wt. % U ²³⁵)	Maximum lot size per composite (number cylinders) ¹	Charges (dollars) ²			
			Routine variation		Special variation	
			First cylinder	Each additional cylinder	First cylinder	Each additional cylinder
48F, 48A	1 and less ³	1	650	NA	706	NA
30A, 30B	4.5 and less	4	665	410	715	425
30A, 30B	Above 4.5 to 5	1	665	NA	715	NA
12A	5 and less	10	325	165	490	NA
8A	12.5 and less	6	250	140	345	NA
5A	All enrichments	6	250	140	345	NA
28, 18, 10ke	do.	1	145	NA	235	NA

¹ Samples representing a number of containers up to the maximum listed are combined in a composite sample for analysis. Unless specifically requested otherwise, the AEC will composite to the maximum extent possible.

² Charges shown for routine variation from requested assay are based on compositing of containers for analytical measurement where applicable. This is indicated by a cost in the column "Each additional cylinder." Charges shown for special variation from requested assay are based on single container measurements except withdrawals into 48A containers not exceeding 4.5 percent may be transferred into 30A or 30B containers for shipment, and withdrawals into 48A and 30A or 30B containers not exceeding 4.5 percent and 5 percent, respectively, may be transferred into 12A containers for shipment. If certification of minor isotopes (U²³⁴ and U²³⁶) is required, an additional charge will be imposed for each composite group or individual container depending upon which is applicable.

Charges for depleted UF₆ of unspecified assay, furnished in 30A or 30B and larger containers, are: 48A and 48F containers, \$530 each; and 30A or 30B containers, \$195 each. These charges will also apply to other cylinders of similar capacity. These charges apply only to routine measurement precision and do not include cleaning or pressure testing the containers. If special analytical precision is requested, the charge will be the same as for enriched material.

Cleaning and pressure testing of customer-furnished cylinders are the customer's responsibilities. In the event the AEC determines that customer-furnished cylinders received for filling require cleaning and pressure testing and the AEC agrees to perform such services additional charges will be imposed.

Packaging and handling charges do not include costs for any necessary palletizing, shoring, or securing of containers on the transporting vehicle, replacement of valves, or container modifications. When these services are provided at an AEC installation, additional costs will be imposed.

³ If weight percent of U²³⁵ is increased, costs will remain as indicated.

NA—Not applicable.

Effective date. This notice is effective upon publication in the FEDERAL REGISTER (6-22-71).

Dated at Washington, D.C., this 15th day of June, 1971.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. McCool,
Secretary of the Commission.

[FR Doc. 71-8658 Filed 6-21-71; 8:45 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Notice of Availability of Draft Detailed Statement and Applicant's Environmental Report and Request for Comments From State and Local Agencies

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the Public Service Company of Colorado has submitted an environmental report, dated December 1970, which discusses environmental considerations relating to the proposed operation of the Fort St. Vrain Nuclear Gen-

erating Station and that the Commission's regulatory staff has prepared a draft detailed statement on such environmental considerations dated June 7, 1971. Copies of both the report and draft statement have been placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Greeley Public Library, City Complex Building, Greeley, Colo. 80631.

The Commission hereby requests comments on the proposed action, the draft statement and the applicant's report from State and local agencies of any affected State (with respect to matters within their jurisdiction), which are authorized to develop and enforce environmental standards. If the Commission is not provided with comments by any State or local agency within 60 days

of the publication of this notice in the FEDERAL REGISTER, the Commission will presume that the agency has no comments to make.

Copies of the applicant's report dated December 1970, the draft statement dated June 7, 1971, and available comments thereon of Federal agencies (whose comments are being separately requested by the Commission) will be supplied to such State and local agencies upon request addressed to the Director, Division of Radiological and Environmental Protection, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 12th day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc. 71-8715 Filed 6-21-71; 8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22628; Order 71-6-87]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 16, 1971.

By Order 71-6-20, action was deferred, with a view toward eventual approval, on an agreement adopted by Traffic Conference 1 of the International Air Transport Association (IATA). The agreement would establish 7/30-day round-trip excursion fares from Ciudad Juarez/Monterrey (Mexico) to Los Angeles.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-6-20 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22444 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-8734 Filed 6-21-71; 8:47 am]

[Docket No. 22162]

COUNTY OF SULLIVAN, STATE OF NEW YORK AND SULLIVAN COUNTY AIRPORT COMMISSION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 7, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for

information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before June 25, 1971, and the other parties on or before July 2, 1971. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., June 16, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc. 71-8736 Filed 6-21-71; 8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19004, 19005; FCC 71R-194]

LAFOURCHE VALLEY ENTERPRISES, INC. AND SOUL BROADCASTERS

Memorandum Opinion and Order Enlarging Issues

In regard applications of Lafourche Valley Enterprises, Inc., Donaldsonville, La., Docket No. 19004, File No. BPH-6801; Soul Broadcasters, Donaldsonville, La., Docket No. 19005, File No. BPH-6954; for construction permits.

1. This proceeding, designated for hearing by Commission order, FCC 70-996, 35 F.R. 14742, published September 22, 1970, involves the mutually exclusive applications of Lafourche Valley Enterprises, Inc. (Lafourche) and Soul Broadcasters (Soul) for authority to construct a new Class A FM broadcast facility at Donaldsonville, La. Presently before the Review Board for consideration is a petition to enlarge issues, filed October 7, 1970, by Soul, seeking addition of the following issue: To determine whether the estimates of construction and operating costs submitted by Lafourche Valley are realistic and, if not, whether in light of realistic estimates Lafourche Valley has demonstrated the availability of sufficient funds to defray cash requirements for construction and first year of operation.¹

¹ Other related pleadings before the Board are: (a) Comments, filed Oct. 21, 1970, by the Broadcast Bureau; (b) opposition, filed Oct. 30, 1970, by Lafourche; and (c) reply, filed Nov. 12, 1970, by Soul. On Jan. 12, 1971, Lafourche filed a motion to hold petition to enlarge in abeyance until an amendment to its application could be submitted to the Hearing Examiner. The amendment was tendered on Jan. 27, 1971, at which date, Lafourche sought leave to withdraw the aforementioned motion. On Jan. 27, 1971, Lafourche also filed a motion for leave to file an attached supplement to its Oct. 30, 1970, opposition pleading. The motion is not opposed by the parties herein and the supplementary material is relevant to the matters in question. Accordingly, the Review Board will accept and consider the additional material, including Soul's comments on the Lafourche supplement, which pleading was filed on Feb. 26, 1971. In light of our action herein, the Board will also dismiss as moot the motion for expedited consideration, filed Mar. 25, 1971, by Lafourche.

2. Based upon "[A]dvise of people in the business, consultations with experienced professionals—quotation from [equipment] manufacturer", Lafourche, in its application as filed July 18, 1969, indicated construction costs of \$22,110² and first-year operating costs of \$25,000,³ totalling \$47,110. To meet these expenditures, the Lafourche application reflected the availability of \$48,300, comprised of \$3,300 in existing capital and \$45,000 in stockholder subscriptions. Soul challenges the applicant's financial proposal, contending that an increase in either the price of the broadcast equipment to be purchased by Lafourche or the interest rate to be applied under the equipment credit proposal, both of which are assertedly subject to change, would dissipate Lafourche's apparent financial cushion. Petitioner also alleges that Lafourche has failed to provide for such necessary construction costs as legal and engineering fees, freight charges and sales taxes, and that the applicant's estimate for first-year operating costs has been understated by \$3,240 to \$7,400.⁴ In support of its latter contention, Soul submits an affidavit of its majority partner, Roth E. Hook, in which the affiant sets forth his extensive standard and FM radio broadcast experience in the region, including that derived from the ownership and supervision of daytime-only Station WSLG in Donaldsonville, La. Based upon his experience, Hook projects an annual salary expense of \$24,000 for the five-man staff proposed by Lafourche,⁵ details a number of operating expenses, which he contends are necessary and essential to Lafourche's proposed operation, and states that a realistic estimate of the applicant's first-year

² Included in this sum are: (a) Land building lease expenses of \$1,200; (b) equipment installation charges (the only cost item specified under "other items") of \$1,000; (c) downpayment under a proposed credit arrangement with Lafourche's equipment supplier of \$8,500; and (d) 14 monthly principal and interest payments under the equipment credit proposal of \$11,410.

³ On Sept. 18, 1969, the Commission revised the financial qualifications section (section III) of FCC Form 301. See Public Notice, No. 8472. Effective Oct. 15, 1969, applicants filing FCC Form 301 were required to use the revised section III, which, at paragraph 1(b), calls for a complete itemization of the applicant's cost of operation for the first year. The Lafourche application, however, does not contain a breakdown of the individual cost items comprising the \$25,000 budgeted for the first year's operation, since the application was filed prior to the revision of section III and since such specificity was not required by the provisions of the former section III.

⁴ Soul's estimate includes a \$1,200 operational expense for first-year land and building rental; however, this expense has apparently been provided for in the applicant's construction cost estimates. See note 2, supra. Accordingly, the Board has appropriately adjusted petitioner's projections.

⁵ Hook avers that the minimum monthly salary expense for the various daytime only stations, with which he has been associated, has averaged \$1,800 and that Lafourche's full-time operation (126 hours per week) will modestly require an additional \$200 per month expenditure.

operating costs would total \$32,400, rather than the \$25,000 figure proffered by Lafourche. Finally, petitioner attacks the availability of the applicant's stated resources, arguing that the \$3,300 in existing capital, which is reflected on the Lafourche June 1, 1969, balance sheet, cannot be relied upon without as showing as to liquidity of this asset.

3. The Broadcast Bureau supports the addition of a financial issue, contending that Lafourche has not demonstrated the availability of sufficient funds to meet its costs of construction and initial operation. Of the \$3,300 identified as existing capital, the Bureau regards only \$600—the amount specified in section III, paragraph 3(a), of the Lafourche application as cash on deposit in the Citizens Bank and Trust Company of Thibodaux, La.—as an available asset upon which the applicant can readily rely. The Bureau thus points out that Lafourche's available resources fall more than \$1,500 below the applicant's stated costs, even if the professional fees, for which Lafourche has not budgeted, are not added to its cost estimates.⁶ In addition, the Bureau contends that the financial statements of several Lafourche stockholders, who have subscribed for \$30,000 of the \$45,000 in stock subscriptions which the applicant claims is available, do not reflect sufficient net liquid assets to enable the stockholders to satisfy their respective subscription agreements.⁷

4. In opposition, Lafourche maintains that the Soul petition is based purely on speculation and conjecture. Petitioner's contentions concerning the reasonableness of the applicant's cost estimates for the first year of operation are discounted by Lafourche since the Hook affidavit is not supported by a factual showing that the claimed increases are either required or necessary. Lafourche also contends that the interest rate under its equipment credit proposal has been negotiated and is as specified in the letter from its equipment supplier, which was submitted with its application; that the legal and engineering fees incident to the prosecution of its application have been discussed and that payment of such fees will not alter its financial position; and that its account in the Citizens Bank and Trust Co. reflects a cash balance of \$4,000 on deposit.⁸ Lafourche further al-

⁶ Without a specific, documentary showing that the operating costs described by the affiant, Roth E. Hook, represent either absolute minimum costs in the Donaldsonville market or expenses to be necessarily incurred by Lafourche, the Broadcast Bureau does not view the applicant's estimate of \$25,000 for first-year operating costs as unreasonable.

⁷ Specifically, the Bureau refers to Warren L. Authement, who has entered into a \$10,000 subscription agreement, and Joseph R. Brock, Vernon E. Toups, Donald Peltier, and Paul LaBlanc, who have individually agreed to purchase 50 shares of stock (\$5,000) in the corporate applicant. As also noted by the Bureau, none of these stockholders' financial statements, except for that of Paul LaBlanc, is dated.

⁸ A letter from an officer of the bank is submitted in support of the latter contention.

leges that the balance sheets of its stockholders, which were submitted with its application, cannot now be contested since the Commission, at the time of designation, must have considered and found them to be adequate.¹⁰

5. Subsequent to the filing of Soul's reply pleading, Lafourche tendered with the Hearing Examiner an amendment to the financial portion of its application.¹¹ The amendment, which was accepted by the Hearing Examiner (FCC 71M-470, released Mar. 30, 1971), disclosed that Lafourche has obtained a \$15,000 line-of-credit from the Citizens Bank and Trust Co.;¹² that the \$4,000 on deposit with that bank was derived from the January 11, 1971, distribution of 40 shares of stock pursuant to the subscription agreements with several Lafourche stockholders; and that an additional 20 shares of the corporate applicant's stock (\$2,000) had been similarly distributed between July 28, 1969 and May 19, 1970.¹³ Under the applicant's revised plan of financing, the funds obtained from the above distributions have and will continue to be used solely to defray the cost of prosecuting the Lafourche application and, thus, will not be available to meet the applicant's expected costs of construction and initial operation. It is the contention of the applicant, however, that the availability of the \$15,000 bank line-of-credit answers all the questions heretofore raised concerning its financial ability to construct and operate the proposed facility. On the other hand, petitioner states that the \$54,000 apparently available to Lafourche, i.e., \$39,000 in stockholder subscriptions (\$45,000 less \$6,000 from the prior stock calls) and a \$15,000 bank line-of-credit, is not sufficient to meet

the total cost estimate of \$54,510 (\$22,110 for the stations' construction and \$32,400 for its operation during the first year), which was realistically projected by Soul.¹⁴ See paragraph 2, supra. On February 20, 1971, Lafourche and Soul entered into an agreement whereby the Soul application would be dismissed in return for reimbursement of up to \$4,500 for the reasonable and prudent expenses incurred by Soul in the preparation and prosecution of its application.¹⁵ Under the terms of the proposed agreement, Lafourche will pay Soul \$2,000 at the time the Soul application is dismissed and \$2,500 at the time a grant of the Lafourche application becomes final.

6. The Review Board believes that an inquiry pertaining to the financial qualifications of Lafourche is warranted. Soul, through the affidavit of Roth E. Hook, an experienced broadcaster in the region, who has peculiar knowledge of the Donaldsonville market, has raised serious questions concerning the reasonableness of Lafourche's \$25,000 for first-year operating costs.¹⁶ In the affiant's opinion, \$7,400 more than the applicant has budgeted may be required to operate the proposed station during the first year. No satisfactory answer to the questions raised by Soul has been proffered by the applicant, which neither particularized its operating cost estimate nor adequately rebutted petitioner's showing.¹⁷ See James B. Francis, 17 FCC 2d 596, 16 RR 2d 55 (1969). Nor did Lafourche attempt to identify those experienced individuals with whom it allegedly consulted concerning its cost estimates. Compare Lester H. Allen, 17 FCC 2d 439, 16 RR 2d 19 (1969). Assuming that the applicant's first-year operating costs will be the amount alleged by petitioner (see Cen-

tury Broadcasting Co., Inc., 4 FCC 2d 332, 8 RR 2d 76 (1966)), it appears that, as noted by Soul, the amended Lafourche application does not reflect sufficient available funds to meet the applicant's expected cost of construction and initial operation. See paragraph 5, supra. This deficiency is even more apparent when the \$4,500, which Lafourche would pay to Soul for the dismissal of its application, is added to Lafourche's expected costs. See Sandern of Iowa, Inc., 26 FCC 2d 136, 20 RR 2d 495 (1970). In addition, any interest payments during the station's first year of operation which may be required under the \$15,000 bank loan (see note 11, supra), would further increase the deficit between Lafourche's available resources and its expected costs. The Review Board will, therefore, add appropriate financial issues concerning the basis of Lafourche's estimated cost of initial operation and the availability of sufficient additional funds to enable the applicant to construct and operate the proposed station for 1 year.

7. An issue will also be specified by the Board to determine whether Warren L. Authement, Donald Peltier, Joseph R. Brock, Vernon E. Toups, and Paul LaBlanc can meet their respective stock subscription agreements with Lafourche.¹⁸ See note 7, supra. Since there is no identification or itemization of the stocks and bonds listed on the balance sheets of Toups and LaBlanc, these assets cannot be regarded as liquid (see Lamar Life Broadcasting Company, supra), and the remaining liquid asset (\$1,000 cash) is not sufficient to enable them to meet their respective subscription commitments. Viewing Brock's "home loan" liability as a wholly current obligation, since his balance sheet does not specify whether any part of the \$25,000 liability is long-term (see Cowles Florida Broadcasting, Inc. (WESH-TV), FCC 71-237, 36 F.R. 4901, released Mar. 10, 1971), this subscriber's only readily identifiable liquid asset (\$1,000 bank cash) does not exceed his current liabilities. The balance sheets of Authement and Peltier, which have not been updated with respect to partial execution of their subscription agreements (see paragraph 5, supra), reflect deficiencies similar to those discussed above and do not indicate the availability of sufficient net liquid assets to satisfy their revised commitments. See Cowles Florida Broadcasting, Inc. (WESH-TV), supra; Vista Broadcasting Company, Inc., 18 FCC 2d 636, 16 RR 2d 838 (1969).

8. In the Report and Order adopting § 1.65, the Commission stated that an applicant is required to report "a change of circumstance . . . sufficiently altering

"The mere fact that the balance sheets of these subscribers were before the Commission at the time of designation does not preclude the Board from now considering the ability of each subscriber to meet his respective stock subscription commitment, since there was no "thorough consideration" of this matter in the designation order. See Lamar Life Broadcasting Company, 26 FCC 2d 112, 20 RR 2d 509 (1970).

[its] financial status . . . as to be pertinent to [its] financial qualifications." FCC 64-1037, 3 RR 2d 1622, 1625 (1964).

That Lafourche has repeatedly been remiss in this regard is conceded. Between July 28, 1969, and January 22, 1970, 12 shares of the corporate applicant's stock were issued pursuant to the outstanding subscription agreements and \$1,200 was derived therefrom. These funds, however, were not applied to satisfy costs for which Lafourche had initially budgeted in its application; rather the \$1,200—and, apparently, the \$3,300 in existing capital which was reflected on Lafourche's balance sheet submitted with its application (see paragraph 2 and 3, supra)—was used to meet the expenses incident to the prosecution of the Lafourche application. The applicant's partial depletion of the funds to be derived from the stock subscriptions without a corresponding reduction in its estimated expenses was a change of circumstance highly pertinent to its financial qualifications, since it placed Lafourche's total available resources at a figure below its stated costs. Compare Mace Broadcasting Co., 25 FCC 2d 621, 19 RR 2d 1135 (1970). Thus, Lafourche's failure to promptly apprise the Commission of the material change in its financial status,¹⁹ as well as the applicant's continued silence with respect to the additional stock calls which occurred on May 19, 1970, and January 11, 1971, assume particular significance and raise serious questions concerning the applicant's character qualifications, which can best be resolved in hearing. See Virginia Broadcasters, 15 FCC 2d 1004, 15 RR 2d 487 (1969); Vernon Broadcasting Co., 12 FCC 2d 946, 13 RR 2d 245 (1968). Therefore, the Review Board will, on its own motion, add an appropriate issue to this proceeding. We will also include, sua sponte, an issue to determine whether all of the corporate applicant's stockholders are willing, as apparently required by the lending bank (see note 11, supra), to personally endorse the applicant's proposed \$15,000 loan. See Seaborn Rudolph Hubbard, 15 FCC 2d 690, 14 RR 2d 1039 (1968); Vernon Broadcasting Co., supra.

9. Accordingly, it is ordered, That the motion for expedited consideration, filed March 25, 1971, by Lafourche Valley Enterprises, Inc., is dismissed as moot; and 10. It is further ordered, That the motion for leave to withdraw "motion to hold petition to enlarge issues in abeyance", filed January 27, 1971, by Lafourche Valley Enterprises, Inc., is granted, and the aforementioned motion, filed January 12, 1971, is dismissed; and 11. It is further ordered, That the motion for leave to file supplement to opposition to petition to enlarge issues,

"While the corporate applicant, through the statement of its president, claims a lack of knowledge of its responsibility, under § 1.65, to notify the Commission of these stock calls and their effect upon its financial status, it appears to have been sufficiently aware of the change in its financial condition to have secured additional financing for its proposal on Jan. 22, 1970.

filed January 27, 1971, by Lafourche Valley Enterprises, Inc., is granted, and the attached supplement is accepted; and

12. It is further ordered, That the petition to enlarge issues, filed October 7, 1970, by Soul Broadcasters, is granted to the extent indicated below, and is denied in all other respects; and

13. It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine with respect to Lafourche Valley Enterprises, Inc., the basis of its estimated costs of operation during the first year and whether such estimates are reasonable;

(b) To determine whether the following stockholders of Lafourche Valley Enterprises, Inc., Warren L. Authement, Donald Peltier, Joseph R. Brock, Vernon E. Toups, and Paul LaBlanc, have available sufficient net liquid assets to enable them to meet their respective stock subscription agreements with the applicant;

(c) To determine whether all of the stockholders of Lafourche Valley Enterprises, Inc., are willing to personally endorse the applicant's proposed bank loan and, if not, the effect thereof upon the availability of the proposed loan;

(d) To determine whether Lafourche Valley Enterprises, Inc., has available sufficient additional funds, without reliance on revenue, to construct and operate its proposed station for 1 year;

(e) To determine, in light of the foregoing subissues, whether Lafourche Valley Enterprises, Inc., is financially qualified;

(f) To determine if Lafourche Valley Enterprises, Inc., has failed to comply with the requirements of § 1.65 of the Commission's rules and, if so, the effect thereof upon the applicant's basic or comparative qualifications to be a Commission licensee.

14. It is further ordered, That the burden of proceeding and proof under the issues added herein shall be on Lafourche Valley Enterprises, Inc.

Adopted: June 16, 1971.

Released: June 18, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-8725 Filed 6-21-71; 8:47 am]

[Dockets Nos. 19258, 19259]

GARRETT BROADCASTING SERVICE AND WRBN, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Leroy Garrett, trading as Garrett Broadcasting Service (WEUP) Huntsville, Ala., has: 1600 kc., 5 kw., Day, requests: 1600 kc., 500 w., 5 kw.-LS, DA-N, U, Docket No. 19258, File No. BP-18295; WRBN, INC. (WRBN), Warner Robins, Ga., has: 1600 kc., 1 kw., Day, requests: 1600 kc., 500 w.,

1 kw.-LS, DA-N, U, Docket No. 19259, File No. BP-18409; for construction permits.

1. The Commission has before it for consideration (i) the above-captioned applications for unlimited time operation; (ii) a petition to dismiss the WRBN proposal filed by Leroy Garrett; (iii) a petition for waiver of the Commission's multiple-ownership rules filed June 8, 1970, by WRBN; and (iv) pleadings in opposition and reply to the petition for waiver. The applications are mutually exclusive in that a grant of the Garrett application would raise WRBN's RSS nighttime limitation (above that received from existing stations) to such an extent that it would fail to cover a substantial portion of Warner Robins.

2. The petition to dismiss is predicated on the fact that addition of nighttime service to WRBN's daytime operation would result in that licensee operating two full-time stations in the same market (WRBN, Inc., also being the licensee of a companion FM station). On February 26, 1971, however, the Commission adopted its Memorandum Opinion and Order, 28 FCC 2d 662, modifying the multiple-ownership rules. As a result, ownership of two full-time aural facilities in the same market is no longer prohibited. Thus, the aforementioned petitions are now moot.

3. Examination of Leroy Garrett's engineering exhibits indicates that the proposed 5 mv/m contour would not encompass the entire city of Huntsville and the 25 mv/m contour may not cover the business district as required by §§ 73.30 (c) and 73.188(b) (1) of the rules. Garrett has requested a waiver of those rules but since the deficiencies appear substantial, the Commission believes that the matter should be explored further in hearing. Accordingly, appropriate issues will be included.

4. WRBN has also requested a waiver of § 73.30 (c) because its nighttime limitation contour does not quite cover the entire city of Warner Robins due to interference from existing stations. Examination of the applicant's data, however, indicates that the contour will provide 99.5 percent of the requisite coverage. In light of the minimal nature of this deficiency, the proposal appears to be in substantial compliance with the rule. Thus, a waiver is warranted.

5. The financial portion of WRBN's application shows that \$16,660 will be needed to finance the proposed changes. This total consists of: lease payments on equipment \$8,560; miscellaneous expense \$5,550; and interest on loan \$2,550. To meet this requirement, the applicant relies on a \$30,000 bank loan. Since the bank loan commitment letter is no longer current, however, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the proposals and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(2) To determine whether the proposed operation of station WEUP would provide 5 mv/m coverage to the entire city of Huntsville, Ala., as required by § 73.30(c) of the rules, and, if not, whether circumstances exist which warrant a waiver of said section.

(3) To determine whether the proposed operation of station WEUP would provide 25 mv/m coverage to the main business district of Huntsville, Ala., as required by § 73.188(b) (1) of the rules, and, if not, whether circumstances exist which warrant a waiver of said section.

(4) To determine with respect to the application of WRBN, Inc., whether its proposed \$30,000 bank loan is still available, the terms and conditions of the loan, and, in light thereof, whether the applicant is financially qualified.

(5) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(6) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

8. It is further ordered, That the request for waiver of the city coverage requirements by WRBN is granted to the extent indicated in paragraph 4, above.

9. It is further ordered, That the petition to dismiss, filed by Leroy Garrett and the petition for waiver of the multiple-ownership rules filed by WRBN, Inc., are dismissed as moot.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

11. It is further ordered, That the applicants herein shall, pursuant to section 311(a) (2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publica-

tion of such notice as required by § 1.594 (g) of the rules.

Adopted: June 9, 1971.

Released: June 17, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,¹
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-8726 Filed 6-21-71; 8:47 am]

[Dockets Nos. 19100, 19101]

LOS ANGELES UNIFIED SCHOOL DISTRICT AND VIEWER SPONSORED TELEVISION FOUNDATION

Memorandum Opinion and Order Enlarging Issues

In regard applications of Los Angeles Unified School District, Los Angeles, Calif., Docket No. 19100, File No. BPET-306; Viewer Sponsored Television Foundation, Los Angeles, Calif., Docket No. 19101, File No. BPET-325; for construction permit for new noncommercial educational television broadcast station (Channel 58).

1. This proceeding, involving the mutually exclusive applications of Los Angeles Unified School District (School District) and Viewer Sponsored Television Foundation (Viewer), for a new noncommercial educational television broadcast station to operate on reserved Channel 58 at Los Angeles, Calif., was designated for hearing by Commission order, FCC 70-1241, 26 FCC 2d 566, released December 4, 1970, 35 F.R. 18693, published December 9, 1970. A third application designated herein, that of Community Television of Southern California (Community), was dismissed with prejudice by the Hearing Examiner by order, FCC 71M-164, released January 29, 1971. Presently before the Review Board is a motion to enlarge issues, filed December 28, 1970, by Community seeking the addition of issues to determine whether School District will have available sufficient funds to construct and operate the proposed station and whether it will have available funds for the production or broadcast of "non-instructional" programs.²

2. In support of its request for an availability of funds issue, Community avers that the source of funds for School District's first-year of operation, estimated by School District as not to exceed \$500,000, is a commitment from the Board of Education of the Los An-

geles Unified School District (hereinafter referred to as the Board of Education).³ However, insists movant, this "commitment" cannot be considered an appropriation because no funds have yet been set aside; and while the Board of Education has at one time spent nearly \$500,000 a year for instructional television (ITV), it now spends almost nothing.⁴ Thus, maintains Community, the Board of Education's commitment to provide operational funds can no longer be met by the continuation of an existing appropriation, but must come from funds diverted from other uses at a time when the Board of Education does not have adequate resources to continue its regular programs at the desired levels. Therefore, concludes Community, an issue is warranted to determine whether the Board of Education can supply annual funds to operate the television station. As a basis for its second requested issue, Community argues that even if the Board of Education were able to demonstrate that it had sufficient financial resources to operate the proposed station, such funds are restricted by California statute to the operation of television facilities " . . . for use in providing instructional services, which the governing Board [of Education] . . . is otherwise authorized to provide, and . . . necessary services in connection therewith"⁵ Thus, movant maintains, such educational television facilities (ETV) can be used for transmitting community educational programs only when such use does not require the expenditures of any additional public funds. Therefore, since public funds may not be used for programs intended for viewing by the general public, Community asserts that an inquiry is necessary to determine whether School District has sufficient sources of funds for general public programming.

3. According to School District's application, the Board of Education is the governing body of the School District, which is an independent school district deriving its funds from its taxing authority.

4. The latter statement is supported by the affidavit of Maynard E. Orme, Director of Educational Services of Community Television of Southern California, wherein he avers that the Board of Education no longer provides funds for the broadcast of instructional programs and that the staff for television program production has been reduced to two individuals.

5. Section 892.6, California Education Code. The remainder of the section, a copy of which is attached to Community's motion, reads as follows:

When television transmitting facilities owned, leased or operated by the governing board of a school district . . . or a non-profit corporation operating an educational television station, are not in use for providing instructional services or teachers-in-service educational services, such facilities may be used for transmitting community educational television programs if such use does not require the expenditure of any additional public funds of a school district or a county superintendent of schools.

6. Commissioners Burch, chairman; Robert E. Lee and Houser absent.

7. Also before the Board for consideration are: (a) Opposition, filed Feb. 1, 1971, by Los Angeles; (b) opposition, filed Feb. 1, 1971, by the Broadcast Bureau; and (c) comments, filed Feb. 11, 1971, by Viewer. On Feb. 5, 1971, School District filed a petition for leave to file a supplement to its opposition; since there is no objection to this request and since good cause for such filing has been shown, the petition will be granted and the supplement will be accepted.

3. The School District opposes Community's motion. In regard to the first-year operating expenses, respondent submits the affidavits of L. Curtis Washington, clerk of the Board of Education, and George E. McMullen, Budget Director, which reaffirm the \$500,000 commitment. Washington states that a resolution has been passed by the Board of Education which directs its staff to include the money "in the 1970-1971 Budget year or appropriate budget year thereafter." McMullen avers that the Board of Education has \$436,169,524 a year for general operating expenses and explains that in view of pressing financial problems, the Board cannot tie up the money while School District's application is being considered. School District therefore asserts that it will have available the necessary funds to operate its educational station for 1 year. As to Community's argument that School District lacks statutory authority to use any of the \$500,000 for noninstructional programs, School District contends that since its application has been on file with the Commission, no one has questioned or challenged its authority to make such expenditures, and that this is a matter of state law which the Commission has always been reluctant to decide, citing Home Service Broadcasting Company, 21 FCC 2d 168, 18 RR 2d 63 (1970). Respondent then submits the affidavits of two persons which support its position. Jerry E. Halverson, legal advisor to the Board of Education, states that the programs proposed in the School District application may be funded from monies derived from the Board of Education's taxing authority. This opinion is supported, continues Halverson, by the fact that three existing California educational television stations,⁶ which are also subject to § 892.6, broadcast programs other than "instructional services or teachers-in-service educational services." In his affidavit, John D. Maharg, counsel for the county of Los Angeles, states that, in his opinion, the funds derived from the Board's taxing authority may be used for programs proposed by School District.

4. The Broadcast Bureau opposes the addition of the first requested issue, arguing that Community's allegation is based on conjecture and that it has not been shown that the Board of Education will not have the \$500,000 available or that it has withdrawn its commitment. Nevertheless, the Bureau believes that the California law does raise a serious question as to whether School District is empowered to use any part of the \$500,000 for noninstructional programs. The Bureau does not, therefore, "oppose" the addition of the requested issue "whether School District will have available funds for the production or broadcast of noninstructional programs." The Bureau, however, suggests that this inquiry could be included under the already

specified comparative issue which was designated to determine "whether other factors in the record demonstrate that one applicant will provide a superior educational television broadcast service" or under issues 3 and 4 which involve consideration of a share-time arrangement among qualified applicants.

5. In its comments, Viewer does not address itself to the requested availability of funds issue. Instead, Viewer refers (a) to the California statute permitting the use of a television station operated by a school district for transmitting "community educational television programs if such use does not require the expenditure of any additional public funds of a school district or a county superintendent of schools" (note 4); and (b) to the legal opinions offered by School District indicating that state funds may be used for the programs proposed by School District in its application. Without challenging these legal opinions, it is Viewer's position that they do not meet the crucial question, viz., the ability of the School District to provide programming for the entire Los Angeles community. In this connection, Viewer points out that the legal opinions relied upon by the School District do not set forth what restrictions would be imposed upon the School District's publicly financed program services by the applicable statute. In conclusion, it is Viewer's position that the hearing issues in this case should definitely be enlarged to enable the Commission to make a determination as to (a) whether under the applicable California code there will be any restrictions upon the program service which the School District can provide to the entire Los Angeles community, if it relies solely on tax support; (b) whether the School District's proposed program service is consonant with the restrictions set forth in the applicable section of the California code; (c) whether, if the School District's proposed program schedule cannot be supported by taxes, the School District will have available funds for the production of those programs which do not meet the restrictions of the applicable California code; and (d) how the School District will meet the educational and cultural needs of the entire Los Angeles community if it operates pursuant to the restrictions placed upon it by the applicable section of the California code.

6. We will deny the subject motion insofar as it attempts to challenge the School District's financial qualifications, per se. In short, it is our view that movant has not seriously challenged the availability of state funds in the approximate amount of \$500,000 to the School District for its first year's operational expenses. In this connection, we note that funds have actually been set aside for the construction costs of this proposed station,⁷ and that the Board of Education has also made a commitment of the availability of not more than

\$500,000 for operational first year costs. Where funds have been actually set aside for construction, it would appear inconsistent and illogical for a state authority to waste such an expensive facility by not subsequently effectuating whatever budgetary adjustments may be required in order to appropriate needed funds for its operation. Hence, we believe that School District's "commitment" constitutes a reasonable showing of the availability of State funds for its first year operational costs. The Commission has consistently held that the financial standard to be met by noncommercial educational broadcast applicants is less stringent than the standard applicable to commercial applicants—all that is required is a reasonable showing of financial qualifications. NTA Television Broadcasting Corp., 22 RR 273, 291 (1961); SRC, Inc., 21 FCC 2d 901, 18 RR 2d 714, 749 (1970).

7. We turn now to the unique and novel questions concerning the provision of the California Code as posed by the Broadcast Bureau (paragraph 4) and by Viewer (paragraph 6). Simply stated, these questions resolve themselves into the following issue: Whether School District is interdicted by § 892.6 of the California Code (note 4) from producing and/or financing and/or telecasting community educational programs with public funds (i.e., State or any subdivision). In this connection, we have noted School District's objectives, goals, and proposed program service as set forth in its application and amendments thereto. And it appears clear from its objectives, goals, and proposals that School District is essentially proposing specialized ETV/ITV programming. On the basis of the "title" of its programs which are described as "Diversified programs for adults," it cannot be determined from the information in its application whether these programs include the vital local public affairs area, or whether they are of a different type or scope. We have further noted that although School District does not rely upon the availability of Federal funds for construction or first year operational costs, it has, nevertheless, applied for a Federal grant under title III of the Elementary and Secondary Education Act, Public Law 80-10, known as PACE. See, SRC, supra, note 10, for a discussion of PACE. It has also applied to the Department of Health, Education, and Welfare (HEW) for a matching Federal grant under section 392 (ETV Act) of the Communications Act of 1934, as amended. See, SRC, supra, note 9, for a discussion of the ETV Act, and of pertinent HEW's regulations implementing that Act.

8. Briefly described, the ETV Act, which is administered by the HEW, provides for financial assistance of matching grants for construction to qualified noncommercial applicants. Sec-

¹ These stations are educational television Stations KCSM, San Mateo, Calif.; KTEH, San Jose, Calif.; and KVCR, San Bernardino, Calif.

² See page 2 of Amendment of School District's application filed on Dec. 19, 1969, with the Commission.

³ HEW regulations prescribe the eligibility or qualification requirements. See, SRC, supra, note 9.

tions 396-399 of the Communications Act (Public Broadcasting Act) provides for additional and other types of Federal financial assistance to noncommercial educational broadcasting stations through the Corporation for Public Broadcasting; its legislative history makes clear that Congress in providing for such financial assistance did so in significant part because of the contribution which noncommercial educational stations can make in serving local needs, particularly in the public affairs area. Indeed, the Congress specifically declared in providing for such financing assistance that one of the purposes is "to encourage noncommercial educational radio and television broadcast programming which will be responsive to the interests of people both in particular localities and throughout the United States" (Section 396(a)(4) of the Communications Act of 1934, as amended.) The House Report, in commenting on the initial financial assistance states (H. Rept. No. 572, 90th Cong., first sess., p. 10 (1967)):

" . . . the rewards which are reasonably to be expected from this seed program cannot be measured in money alone. Who can estimate the value to a democracy of a citizenry that is kept fully and fairly informed as to the important issues of our times and whose children have access to programs which make learning a pleasure.

The Senate Report in the next year also points up the consideration that " . . . public broadcasting can be . . . a vital public affairs medium—bringing in depth many aspects of community and political life; . . . a means of examining and solving the social and economic problems of American life today." (Sen. Rept. No. 91-167, 91st Cong., first session, p. 7 (1969)).

9. Similarly, we believe Commission statements in its Fifth Report on Fostering Expanded Use of UHF Television Channels, 2 FCC 2d 527, 6 RR 2d 1643 (1966), demonstrate the relevancy and materiality of the question presented here (paragraph 7) in the comparative context of this proceeding. There, the Commission stated:

"We are aware that many educational broadcast stations in operation today do engage in such nonbroadcast [instructional] activity and by so doing secure the economic support needed to permit even limited cultural and educational broadcasting. We permit this because we are vitally interested in the ultimate development of educational television into a true broadcasting service. We look forward to the day when educational broadcasting stations will not have to rely largely upon revenue obtained in payment for classroom instruction. (paragraph 43)

" . . . It is obvious that there are not a sufficient number of channels either reserved or unreserved to provide every college, university, and public or parochial school system with a private broadcasting channel. The channels reserved for educational use are intended to serve the educational and cultural broadcast needs of the entire community to which they are assigned. All parts of the educational community can contribute something to that goal. If educational broadcasting is to take its rightful place in the overall broadcasting system, some form of cooperative use of educational channels must be worked out. (Paragraph 41)

NAEB argues that only two reserved channels in the larger cities are insufficient to meet the requirements of educational interests for providing instructional, training, and broadcasting service. We agree. It is our purpose in this proceeding to provide to the extent possible for the broadcasting needs of educational interests. Private radio services such as the Instructional Television Fixed Service and the Business Radio Service, along with wired distribution systems, are expected to take care of many of the needs of these interests Television broadcast stations are intended to serve the general public. The transmission of classroom instruction, course material to enrolled students, training material for persons engaged in business or professional occupations, and similar subject material contributes little to the choice of programs available to the general public, and the diversion of broadcast channels to such uses deprives the general public of cultural and educational broadcasting (Paragraph 43)

10. On the basis of the foregoing authorities and principles, it is evident that in the comparative context of this proceeding, as well as with respect to the "share-time issue," a significant comparative distinction between the two noncommercial applicants here may relate (a) to the extent to which each has the ability to use this proposed facility as an outlet for community local expression, including the vital public affairs area; and (b) to the extent to which

"We have noted with interest the Hearing Examiner's Memorandum Opinion and Order (FCC 71M-428), released Mar. 18, 1971, setting forth his views with respect to the share-time issue. As we indicated above, we believe that the question presented (paragraph 7) is relevant to the share-time issue, as well as to the comparative issue, and we have imposed (paragraph 12, infra) the burden of proof and burden of proceeding with appropriate evidence on the School District.

"The memorandum of the Commission as Amicus Curiae, filed by its General Counsel, in case No. 989, in the Supreme Judicial Court of the State of Maine, in State of Maine v. University of Maine, 266 A2d 863 (1970), sets forth a full discussion of the scheme of the Communications Act for the regulation of political and public affairs broadcasting, the Supreme Court's decision in Red Lion Broadcasting Co. v. F.C.C., 395 U.S. 367, Report on Editorializing by Broadcast Licensees, 13 F.C.C. 1246, Farmers Union v. WDAY, 360 U.S. 525, and the Congressional intent with respect to section 396(a)(4) of the Communications Act (Public Broadcasting Act). After such discussion, the Memorandum reads, in pertinent part as follows: "In sum, it is clear from the Communications Act, the rules, policies and decisions of the Commission; the words of the Congress; and the decisions of the Supreme Court that there is a twofold duty laid down by the (Commission) for its broadcasters: The broadcaster must give adequate coverage to public issues . . . and coverage must be fair in that it accurately reflects the opposing views It is equally clear that the same twofold duty applies to all broadcasters without regard to whether theirs are commercial stations or noncommercial educational stations. In only one relevant respect are noncommercial educational broadcasters subjected to a different requirement of statute or policy: Section 399 of the Communications Act, 47 U.S.C. 399, prohibits such licensees from expressing their own personal views on controversial issue or political candidates."

each proposes to do so during its first year and thereafter. For there can be no doubt that every State is, of course, free either to support or refuse to support community educational broadcasting by a school district. Cf. State of Maine, supra.

11. For all of the reasons detailed above, we believe that the issue posed in paragraph 7, supra, in the comparative context of this proceeding, must be resolved on a complete and proper record. Obviously, the Board cannot dispose of these questions raised by the instant petition by means of the responsive pleadings filed by the School District which ignore the patent ambiguities on the face of the Code provision (note 4). Moreover, there is no merit to School District's position that since its application has been on file with the Commission, no one has questioned or challenged its authority to make such expenditures for noninstructional programming, and that this is a matter of State law which the Commission has always been reluctant to decide. As the Board stated in SRC, supra:

"We need not, and do not, detail the enormous unexplained gaps between these state laws and applicant's arresting theory, because we would prefer to abstain from interpreting state law. Nevertheless, to ignore state law requirements which are clear and unequivocal . . . [or patently ambiguous] provides no sound basis for decision.

" . . . this Commission is not a court to determine the local laws of 50 States, and is indeed ill-equipped without the enormous expenditure of time and effort expended in the instant case, to investigate such State law. Nor, in the nature of things, can an adversary be presumed to have the intimate knowledge of these State statutes.

12. Similarly, we find that School District's legal opinions and references to the programming of other noncommercial educational stations beg the issue raised (paragraph 7) in the comparative context of this proceeding. As pointed out (paragraph 9) by the excerpts of the Commission's statements in its Fifth Report, supra, there is no doubt that the Commission (a) is aware that many educational broadcast stations in operation today engage in what may be termed as predominantly institutional instructional activity and by so doing secure the economic support needed to permit even limited cultural and educational broadcasting; and (b) permits such limited use because it is vitally interested in the ultimate development of educational television into a true broadcasting service, and hopes that such limited instructional use will be expanded to include programming aimed at a broad spectrum of com-

munity interests and problems.¹⁰ However, we are not here dealing with the issue raised (paragraph 7) in relationship to School District's basic threshold qualifications or to the Commission's permissive sanction of the use of some existing noncommercial educational stations on a limited basis. Instead, we are here involved in a proceeding requiring comparative consideration of two competing noncommercial educational applicants where this issue (paragraph 7) is relevant and material to a determination of the comparative issue as to which applicant will provide a "superior educational television broadcast service," as well as to the share-time issue, and must be faced and resolved on the basis of a competent and complete record. For these reasons, the comparative and share-time issues in this proceeding are enlarged to include the following issues:

(a) Whether School District is interdicted by § 892.6 of the California Code from producing and/or financing and/or telecasting community educational programs with the use of State funds, with particular regard to:

(1) The meaning of the language "additional public funds" in the Code provision as construed by State authorities of appropriate jurisdiction;¹¹ and

(2) The definition of the term "community educational" programming, as used in the Code provision, by State authorities of appropriate jurisdiction, including the type and nature of programs within this definition; and

(b) In the event certain types of community educational programs are restricted from being produced and/or financed and/or telecast with the use of State funds.

(1) The effect, if any, of such restrictions or limitations on School District's

"The Memorandum of the Commission as Amicus Curiae filed by its General Counsel in State of Maine, supra, in this respect reads, as follows: "Noncommercial broadcasters have responded to the Congressional mandate. Significantly, the Report of the Educational Television Stations Conference on Programming Goals for 1970, p. 1, noted that 'expanded TV presentation of local government affairs and local issues coupled with active citizen participation relating to these issues, tops the list of 1970 program priorities expressed by managers of America's public TV stations.' It is thus manifest that the mandate of the Act that the noncommercial educational broadcaster render full service to the public 'in the larger and more effective use of radio' (47 U.S.C. 303(g)) is significant not simply because the same affirmative burdens of political and other controversial issue coverage are placed on noncommercial educational broadcasters as on commercial licensees, but also because the noncommercial educational stations have already shown themselves to be a most appropriate vehicle for this area of communications."

"For example, is the School District interdicted from using any part of the \$500,000 of State funds now committed for first year's operating expenses for the production and/or financing and/or telecasting of community educational programs, or may the School District, in its discretion, use any part, or all, of this \$500,000 for community educational programming.

proposed programming for its first year, and its future programming thereafter; and

(2) Whether School District has reasonable assurance of the availability of other funds.

Since the evidence required to be adduced with respect to these issues is peculiarly within the knowledge of the School District, or at the least, more readily within its grasp, the burden of proof and the burden of proceeding with the evidence is placed upon the School District.

13. Accordingly, it is ordered, That the petition for leave to file supplement to the "opposition" pleading of the Los Angeles Unified School District, filed February 5, 1971, by Los Angeles Unified School District, is granted and the supplement is accepted; and that the motion to enlarge issues, filed December 28, 1970, by Community Television of Southern California, is granted to the extent indicated by the enlargement of the comparative and share-time issues in this proceeding as indicated at paragraph 12, above, and is denied in all other respects.

Adopted: June 15, 1971.

Released: June 17, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,¹²
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8727 Filed 6-21-71; 8:47 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-299, etc.]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Applications

JUNE 18, 1971.

Take notice that on June 15, 1971, Great Lakes Gas Transmission Co. (applicant), 1 Woodward Avenue, Detroit, MI 48226, filed concurrently in Docket No. CP71-299 an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing the construction and operations of facilities and the transportation of natural gas for and on behalf of Northern Natural Gas Co. (Northern), in Docket No. CP71-300 an application for authorization to import natural gas from Canada pursuant to section 3 of the Natural Gas Act, and in Docket No. CP71-301 an application for a permit pursuant to Executive Order No. 10485 authorizing the construction, operation, maintenance, and connection of natural gas facilities to be constructed on the international boundary between Canada and the United States, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct facilities to connect its existing pipeline system with the facilities of Con-

¹²Review Board Members Berkemeyer and Pincock concurring in result.

solidated Pipe Lines Co. at the international boundary near Emerson, Manitoba; to use these facilities to import up to 390,000 Mcf of natural gas per day, purchased by Northern from one of its Canadian affiliates, Consolidated Natural Gas Co.; and to construct certain pipeline and compression facilities to transport initially up to 331,800 Mcf of natural gas per day for Northern to a point of interconnection between the facilities of applicant and Northern near Carlton, Minn. The pipeline and compression facilities necessary to enable applicant to perform this transportation service for Northern include:

(1) Approximately 168.7 miles of 36-inch loop line;

(2) A 12,500-horsepower compressor unit at applicant's St. Vincent Compressor Station, Kittson County, Minn.;

(3) Certain modifications to existing compressor units at Stations 2, 3, 4, and 5, all of which are located in Minnesota;

(4) Certain measurement and interconnection facilities to be located near Carlton, Minn.; and

(5) Certain connection facilities to be constructed at the international boundary near Emerson, Manitoba.

Applicant states that the estimated cost of the facilities proposed herein is \$44,285,000, which cost will be financed by the use of bank loans, internally generated funds and the issuance of common stock. Applicant also states that these applications are submitted as an alternative to a proposal by Northern which is pending before the Commission in Docket No. CP70-69, et al.

In support of these applications, Great Lakes states that the alternative proposed herein would enable Northern to realize substantial cost savings while providing greater volumes of natural gas. The estimated savings in the cost of facilities employed before 1979 is approximately \$11 million, while the costs of the additional facilities necessary after 1979 will reduce this amount to approximately \$7 million. The estimated unit saving per Mcf for the first 3 years of operation will range from 2.38 cents per Mcf to 2.71 cents per Mcf. The estimated annual saving which should be realized by Northern ranges from \$2,628,000 to \$2,993,000. Applicant also states that because its system is already installed and the right-of-way has been prepared for pipeline construction, the construction proposed herein will have a minimal effect on the national environment as compared to the effect of clearing and grading a new pipeline right-of-way, as proposed by Northern.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before June 28, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of

practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on the application in Docket No. CP71-299 if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8831 Filed 6-21-71; 8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4692]

FAS INTERNATIONAL, INC.

Order Suspending Trading

JUNE 15, 1971.

The common stock, 2 cents par value and the 5 percent convertible subordinated debentures due 1989 of FAS International, Inc., being traded on the New York Stock Exchange, Inc., pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of FAS International, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities is required in the public interest and for protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be sum-

marily suspended, this order to be effective for the period June 16, 1971, through June 25, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8708 Filed 6-21-71; 8:45 am]

TARIFF COMMISSION

[TEA-W-96]

WARWICK ELECTRONICS, INC.

Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of the Zion, Ill., manufacturing plant of the Warwick Electronics, Inc., the U.S. Tariff Commission, on June 16, 1971, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with phonographs and radio-phonograph and radio-phonograph-tape player combinations produced by said plant are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number of proportion of the workers or such manufacturing plant.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: June 17, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-8742 Filed 6-21-71; 8:48 am]

[TEA-W-96]

WORKERS' PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Hearing

The U.S. Tariff Commission has ordered a hearing in connection with the investigation instituted on June 16, 1971 under section 301(c)(2) of the Trade Expansion Act of 1962 on petition filed on behalf of the workers of the Zion, Ill., manufacturing plant of the

Warwick Electronics, Inc. The hearing will be held at 10 a.m., e.d.s.t., on July 7, 1971, in the Hearing Room, Tariff Commission Building, Eighth and E Street NW., Washington, DC. Appearances at the hearing should be entered in accordance with section 201.13 of the Tariff Commission's rules of practice and procedure (19 CFR 201.13).

Issued: June 18, 1971.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc.71-8845 Filed 6-21-71; 9:35 am]

INTERSTATE COMMERCE COMMISSION

[Notice 315]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 16, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2310 (Sub-No. 5 TA), filed June 9, 1971. Applicant: SIGNAL TRANSPORT, INC., Post Office Box 681, 620 Boston Street, La Porte, IN 46350. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs (except in bulk), from the plant and warehouse sites of Kraftco Corp. and its division, Kraft Foods, at or near Champaign, Ill., to Cleveland, Akron, Ashtabula, Canton, Dennison, Massillon, Maple Heights, Solon, Warrensville Heights, Bedford Heights, Evendale, Woodlawn, and West Carroll-

ton, Ohio, and Covington, Ky., for 150 days. Supporting shipper: Kraft Foods, Division of Kraftco Corp. 505 Sacramento Boulevard, Chicago, IL. Send protests to: Acting District Supervisor John Ryden, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 18121 (Sub-No. 13 TA) (Correction), filed April 29, 1971, published FEDERAL REGISTER issue of May 15, 1971, corrected and republished as corrected this issue. Applicant: ADVANCE TRANSPORTATION COMPANY, 2115 South First Street, Milwaukee, WI 53207. Applicant's representative: Robert M. Kaske, 2017 Wisteria Road, Rockford, IL 61107. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between points in Chicago, Ill., and the commercial zone, and points in Racine and Kenosha Counties, Wis., for 180 days. Note: Applicant states it intends to tack the authority in MC 18121. Supporting shippers: Rubber Rollers Mfg., Union Grove, Wis.; Keystone, Ferrule & Nut Corp., Burlington, Wis.; Lavelle Rubber Manufacturing Corp., Burlington, Wis.; Bardon Rubber Products Co., Inc., Union Grove, Wis.; and Grave Gear Corp., Union Grove, Wis. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203. The purpose of this republication is to include the tacking, which was inadvertently omitted in previous publication.

No. MC 30867 (Sub-No. 178 TA), filed June 10, 1971. Applicant: CENTRAL FREIGHT LINES, INC., Post Office Box 238, 303 South 12th Street, Waco, TX 76703. Applicant's representative: Phillip Robinson, 904 Lavaca, Austin, TX. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, household goods as defined by the Commission in 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), (1) between Dallas, Marshall, Longview, and Tyler, Tex., as follows: From Dallas, over interstate Highway 20 to Marshall, over U.S. Highway 80 to Longview and from junction Interstate Highway 20 and U.S. Highway 69, to Tyler, Tex., thence over U.S. Highway 271 to junction U.S. Highway 271 and Interstate Highway 20 and return over the same routes, serving all intermediate points except intermediate points between Dallas and Terrell, including Terrell, Tex., and the off route point of Canton, Tex.; (2) between Tyler and Beaumont, Tex., over U.S. Highway 69 and return over the same route serving all intermediate points; (3) between Marshall, Tex., over U.S. Highway 59 to Tenaha, Tex., thence from Tenaha, over U.S. Highway 96, via Center, St. August-

ine and Jasper, Tex., to Beaumont and return over the same route, serving all intermediate points; (4) between Houston and Longview, Tex., as follows: From Houston, over U.S. Highway 59 to Nacogdoches, Tex., thence over U.S. Highway 259 to Longview and return over the same route, serving all intermediate points and the off-route point of Kilgore; (5) between Bryan and Caldwell, Tex., as follows: From Bryan, over Texas Highway 21 to Caldwell and return over the same route, serving all intermediate points; (6) between Byran and San Augustine, Tex., as follows: From Byran, over Texas Highway 21 to Alto, Tex., thence over Texas Highway 21 to Nacogdoches, Tex., thence over Texas Highway 21 to San Augustine and return over the same route serving no intermediate points except Alto and Nacogdoches, Tex., and serving the termini and Alto and Nacogdoches, Tex., for the purpose of performing a joinder of said proposed routes with other routes; (7) between Corsicana and Tyler, Tex., as follows: From Corsicana, over Texas Highway 31 to Tyler and return over the same route, serving no intermediate points, and (8) between Dallas and Jacksonville, Tex., as follows: From Dallas, over U.S. Highway 175 to Jacksonville and return over the same route serving no intermediate points. The applicant proposes to tack and coordinate the proposed additional services, with all services now authorized in intrastate commerce under certificates No. 2627, 2054, 4337, and 4336 and with all services authorized in interstate and foreign commerce under Docket No. MC 30867 and all subs thereunder. Note: Applicant does propose to tack and coordinate with the above with all presently held authority. Supported by: There are approximately 233 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 21445 (Sub-No. 22), filed June 10, 1971. Applicant: GENE MITCHELL CO., 1106 Division Street, West Liberty, IA 52776. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in sections A and C, appendix I, to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Swift & Co. located at Marshalltown, IA, to points in Boone, Cook, De Kalb, Du Page, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties, Ill., and Lake and Porter Counties, Ind. for 180

days. Restricted to traffic originating at and destined to the points named above. Supporting shipper: Swift Fresh Meats Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Fourth and Perry Streets, Davenport, IA 52801.

No. MC 29910 (Sub-No. 103 TA), filed June 9, 1971. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Thomas Harper, Sr., Post Office Box 43, Fort Smith, AR. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Composition roofing shingles, asbestos siding, and asphalt cement, from the plantsite of Bird Roofing Co., Shreveport, La., to points in Missouri, for 180 days. Supporting shipper: Bird & Son, Post Office Box 72, Shreveport, LA 71102. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 31600 (Sub-No. 651 TA), filed June 10, 1971. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, MA 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Animal feed ingredients, dry, in bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada at or near Ivy Lea, Messena, Niagara Falls, and Ogdensburg, N.Y., Baldwinsville, N.Y.; and Decatur, Ill., to Woburn, Mass., and return of refused or rejected shipments, for 180 days. Supporting shipper: Litpon Pet Foods, Inc., 209 New Boston Street, Woburn, MA 01801. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 52657 (Sub-No. 683 TA), filed June 9, 1971. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, IL 60620. Applicant's representative: S. J. Zangri (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Trailers (other than those designed to be drawn by passenger automobiles), in initial truckaway service, from Delta, Ohio, to Barksdale AFB, La.; Hamilton AFB, Calif.; Duluth International Airport, Minn.; Kingsley Field, Oreg.; Otis AFB, Mass.; Ent AFB, Colo.; Wright Patterson AFB, Ohio; Hill AFB, Utah; Kelly AFB, Tex.; Columbus AFB, Miss.; Lackland AFB, Tex.; Mather AFB, Calif.; Sheppard AFB, Tex.; McCornell AFB, Kans.; George AFB, Calif.; Cannon AFB, N. Mex.; Bergstrom AFB, Tex.; Myrtle Beach AFB, S.C.; England AFB, La.; McChord AFB, Wash.; Norton AFB,

Calif.; Travis AFB, Calif.; Aberdeen, Md.; Rock Island, Ill.; Joliet, Ill.; Baraboo, Wis.; Shreveport, La.; Anniston, Ala.; Chambersburg, Pa.; Flagstaff, Ariz.; Texarkana, Tex.; Savanna, Ill.; Romulus, N.Y.; Herlong, Calif.; and Tooele, Utah, for 180 days. Supporting shipper: Edward Swaney, Vice President and General Manager, Rogers Brothers Corp., 100 Orchard Street, Albion, PA 16401. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 210 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 103993 (Sub-No. 639 TA), filed June 7, 1971. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections on undercarriages, from Marshville, N.C., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Festival Homes of North Carolina, Inc., Marshville (Union County), N.C. Send protests to: Acting District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, Room 240, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 117167 (Sub-No. 3 TA), filed June 9, 1971. Applicant: WHEELER'S TOWING & SERVICE, INC., 5050 L Street, Omaha, NE 68117. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked, disabled, inoperative, stolen, abandoned, and repossessed motor vehicles and cargo trailers*, by use of wrecker equipment only, between Omaha, Nebr., and Council Bluffs, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (2) *wrecked, disabled, inoperative, stolen, abandoned, and repossessed motor vehicles* (except automobiles), in truck-away service, between Omaha, Nebr., and Council Bluffs, Iowa, on the one hand, and, on the other, all points in the United States (except Alaska and Hawaii), for 180 days. Supported by: There are approximately 13 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 117940 (Sub-No. 50 TA), filed June 9, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: M. James Levitus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats and pack-*

NOTICES

inghouse products, from the plantsite and storage facilities of Robel Beef Packers, Inc., in St. Cloud and South St. Paul, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, for 180 days. Supporting shipper: Robel Beef Packers, Inc., St. Cloud, Minn. 56301. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 128196 (Sub-No. 6 TA), filed June 10, 1971. Applicant: KARL ARTHUR WEBER, Phoenix, Ariz. 85009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood building materials*, from California, Oregon, and Washington, on the one hand, and, on the other, points in New Mexico, Texas, Oklahoma, Arkansas, and Louisiana, and on return *gypsum board and gypsum products*, from Texas, New Mexico, and Utah, to points in Arizona, California, Nevada, and Oregon, for 180 days. Supporting shippers: Mid-Sierra Lumber Sales, 375 West Hazelton, Stockton, CA; American Forest Products, Post Office Box 1, Hurst, TX; 76053; Lee R. Slaughter Lumber Co., Post Office Box 20038, Dallas, TX 75220. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 128273 (Sub-No. 98 TA), filed June 9, 1971. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys and recreational equipment*, from Bossier City, La., to points in California, Arizona, Nevada, Utah, Colorado, Idaho, Montana, Washington, Oregon, and Florida, for 180 days. Supporting shipper: Gym Dandy, Inc., 415 Hamilton Road, Bossier City, LA 71010. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 129695 (Sub-No. 2 TA), filed June 9, 1971. Applicant: HAWKEYE TRUCKING COMPANY, Rural Route No. 4, Northwest 66th and Toni Drive, Des Moines, IA 50313. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Explosives, nitro-carbonate, and blasting caps*, from Falling Water, W. Va., to points in Iowa, for 150 days. Supporting shipper: Quick Supply Co., 6620 Northwest Tonia Drive, Des Moines, IA 50313. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 134426 (Sub-No. 2 TA), filed June 9, 1971. Applicant: ROBERT E. McCORT, 7032 Barkwood Drive, Jacksonville, FL 32211. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boat trailers, and accessories*, designed to be pulled by passenger automobiles, from Jacksonville, Fla., to points in Georgia, Alabama, South Carolina, North Carolina, and Tennessee, for 180 days. Supporting shipper: Gator Trailers Corp., 1925 East Beaver Street, Post Office Box 51, Station G, Jacksonville, FL 32206. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 135145 (Sub-No. 1 TA), filed June 10, 1971. Applicant: LUTHER TRANSFER & WAREHOUSE CO., INC., 1841 Industrial Avenue, Post Office Box 1009, San Angelo, TX 76901. Applicant's representative: Robert L. Strickland, 715 Frost Bank Building, San Antonio, Tex. 78205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and unaccompanied baggage*, between points and areas between Del Rio, Tex., on the one hand, and, on the other, places in the counties of Val Verde, Edwards, Kinney, and Maverick Counties, Tex., which are within 25-mile radius of Del Rio, Tex., and points and areas between Coke, Coleman, Concho, Crane, Crockett, Irion, Kimble, Menard, Reagan, Runnels, Schleicher, Sutton, Tom Green, Upton Counties, Tex., restricted to transportation of traffic having a prior or subsequent movement in containers beyond points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic for the U.S. Government, for 180 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 135224 (Sub-No. 2 TA), filed June 9, 1971. Applicant: ALPCO TRANSPORTATION COMPANY, INC., 4910 West Knollwood, Tampa, FL 33614. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, AL 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wooden lowered doors and blinds*, from the plantsite of American Louvered Product Co. at Tampa, Fla., to points in that part of Minnesota on and east of a line beginning at the United States-Canadian boundary line and extending south along the western boundary of Itasca and Koochiching Counties, to the point where the western boundary of

Itasca County is intersected by the Mississippi River, thence along the Mississippi River to the eastern boundary of Minnesota and all points in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi; (2) *materials and supplies*, used in the manufacture of wooden louvered doors and blinds, from all points in that part of Minnesota on and east of a line beginning at the United States-Canadian boundary line and extending south along the western boundaries of Koochiching and Itasca Counties to the point where the western boundary of Itasca County is intersected by the Mississippi River, thence along the Mississippi River to the eastern boundary of Minnesota and all points in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi to the plantsite of American Louvered Products Co. at Tampa, Fla., for 180 days. Supporting shipper: American Louvered Products Co., 4910 West Knollwood, Tampa, FL 33614. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 135379 (Sub-No. 4 TA) (Correction), filed May 28, 1971, published FEDERAL REGISTER June 7, 1971, corrected and republished in part as corrected this issue. Applicant: EASTERN TRANSPORT, INC., 320 Stiles Street, Linden, NJ 07036. Applicant's representative: George A. Olsen, Traffic Consultant, 69 Tonnele Avenue, Jersey City, NJ 07306. Note: The purpose of this partial republication is to include the (Sub-No. 4 TA), which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 135634 (Sub-No. 1 TA), filed June 7, 1971. Applicant: JOSEPH M. HANEY, Sr., doing business as J. H. HANEY TRUCKING CO., 4754 Mahoning Avenue, Youngstown, OH 44515. Applicant's representative: C. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tail and exhaust pipes, tail and exhaust hangers and clamps; brake parts; and mufflers*, from the plantsite of Midas-International Corp., Chicago, Ill., to points in the Lower Peninsula of Michigan, Ohio, and Erie, Pittsburgh, New Castle, and Beaver Falls, Pa., for 150 days. Supporting shipper: Midas-International Corp., 4101 West 42d Place, Chicago, IL 60632. Send protests to: G. H. Baccel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 135667 TA, filed June 10, 1971. Applicant: JIM McAVOY, doing business as JIM McAVOY & SONS WRECKER & TOWING SERVICE, Box 38, St. Michaels, AR 86511. Applicant's representative: Lynn W. Mitton, Box 10, Window Rock, AZ 86515. Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Wrecked, damaged, disabled, abandoned, seized, repossessed, stolen, and replacement motor vehicles, including automobiles, trucks, busses, trailers, mobile homes, campers, and sports trailers*; between points in Apache, Navajo, and Concho Counties, Ariz.; Kane and San Juan Counties, Utah; and McKinley and San Juan Counties, N. Mex., for 180 days. Supporting shippers: Ted Radcliffe, Manager, Fed Mart T.B.A., Window Rock, Ariz. 86515; Laffie Bennett, Chief of Police, Navajo Police Department, Window Rock, Ariz. 86515; Paul Yogerst, Kayenta, Ariz. 86033; George Condry, Greasewood T.P., Ganado, Ariz. 86505; Alvin W. Jack, Tolso Trading Post, Lukachukai, Ariz. 86507; William L. Damon, doing business as Damon Freight Lines, Window Rock, Ariz. 87515. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 135668 TA, filed June 10, 1971. Applicant: OSCAR T. SIMPKINS, JR., doing business as SIMPKINS TRUCKING COMPANY, 2109 Simpkins Road, Raleigh, NC 27603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint*, from Catawba, S.C., and Augusta, Ga., to Raleigh, N.C., for 180 days. Supporting shipper: The News and Observer-The Raleigh Times, Raleigh, N.C. 27601. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, NC 27611.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71-8737 Filed 6-21-71;8:47 am]

[Notice 316]

MOTOR CARRIER TEMPORARY
AUTHORITY APPLICATIONS

JUNE 17, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must

consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 31600 (Sub-No. 650 TA), filed June 9, 1971. Applicant: P. B. MURIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portland cement* from Providence, R.I., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, for 180 days. Supporting shipper: Marquette Cement Manufacturing Co., 20 North Wacker Drive, Chicago, IL 60606. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

No. MC 114533 (Sub-No. 227 TA) (Amendment), filed May 10, 1971, published FEDERAL REGISTER issue May 25, 1971, amended and republished as amended, this issue. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Note: The purpose of this partial republication is to add the restriction against service between Rockford, Ill., and Monroe, Wis., the rest of the application remains the same.

No. MC 113670 (Sub-No. 4 TA), filed June 9, 1971. Applicant: LEWIS PRICE, 4200 75th Street, Des Moines, IA 50322. Applicant's representative: Larry D. Knox, 4044 Southeast 14th Street, Des Moines, IA 50320. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay pipe and fittings*, from Des Moines, Iowa, to points in Kansas, for 180 days. Supporting shipper: Can-Tex Industries, Post Office Box 3510, Des Moines, IA 50322. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 128616 (Sub-No. 2 TA) (Correction), filed May 26, 1971, published FEDERAL REGISTER, issue of June 5, 1971, in No. MC 114533 Sub-No. 228 TA, and republished as corrected this issue. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency, and

negotiable securities) as are used in the conduct and operations of Banks and Banking institutions, between Joplin, Mo., on the one hand, and, on the other, (1) points in Benton, Washington, and Carroll Counties, Ark., (2) points in Labette, Crawford, Montgomery, Cherokee, Neosho, and Bourbon Counties, Kans., and (3) points in Ottawa, Delaware, and Tulsa Counties, Okla., for 180 days. Supporting shipper: First National Bank & Trust Co. of Joplin, Joplin, Mo. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604. NOTE: The purpose of this correction is to show that applicant now seeks to conduct operations as a Contract carrier, rather than as a common carrier. The Application has also been reassigned No. MC 128616 (Sub. No. 2).

No. MC 117565 (Sub-No. 41 TA), filed June 10, 1971. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Post Office Box 417, Coshoc-ton, OH 43812. Applicant's representative: John R. Hafer (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Motor homes*, in truckaway service, from Kent, Ohio, to points within the United States (except Hawaii), for 180 days. Supporting shipper: Cortez Corp., 777 Stow Avenue, Kent, OH 44240. Send protests to: Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 118142 (Sub-No. 38 TA), filed June 9, 1971. Applicant: M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, KS 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, dry acids, and chemicals, in bulk, and liquid commodities) in bulk, in tank vehicles, from Holton, Kans., to points in Louisiana, Mississippi, Alabama, Florida, Georgia, and Tennessee, for 180 days. Supporting shipper: Aristo Kansas Meat Packers, a division of Aristo Foods, Inc., Holton, Kans. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 126276 (Sub-No. 50 TA), filed June 10, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a contract carrier, by motor vehicle, over irregular

routes, transporting: *Metal containers and metal container ends*, from Edison, N.J., and Rockford, Ill., to Collierville, and Memphis, Tenn., for 150 days. Supporting shipper: National Can Corp., 5959 South Cicero Avenue, Chicago, IL 60638. Send protests to: District Supervisor Robert G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 135553 (Sub-No. 2 TA), filed June 10, 1971. Applicant: ANDERSEN, INC., Post Office Box 3427, 1618 College Avenue, Fredericksburg, VA 22401. Applicant's representative: William H. Andersen (same address as above). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Fresh or frozen bacon*, from Dogue, Va., to Baltimore, Md.; Landover, Md.; Philadelphia, Pa.; Washington, D.C.; White River Junction, Vt.; to points in Bergen, Burlington, Essex, Hudson, Middlesex, Suffolk, and Union Counties, N.J.; and New York; (2) *frozen pork skins*, from Dogue, Va., to Winchester, Mass.; and (3) *fresh or frozen pork bellies*, from Jersey City, N.J.; Philadelphia, Pa.; and Buffalo, N.Y.; Dogue, Va.; for 150 days. NOTE: Applicant states it does intend to tack the authority in MC 135553. Supporting shipper: White Packing Co., Inc., 2011 Eighth Street, North Bergen, NJ 07047. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 135582 (Sub-No. 1 TA) (Correction), filed May 31, 1971, published FEDERAL REGISTER issue June 15, 1971, corrected and republished in part as corrected this issue. Applicant: JAMES BOND TRUCKING COMPANY, INC., 12 East Hidalgo Street, Phoenix, AZ 85040. Applicant's representative: Earl Carroll, 363 North First Avenue, Phoenix, AZ 85003. NOTE: The purpose of this partial republication is to include the (Sub-No. 1 TA) which was inadvertently omitted in previous publication. The rest of the application remains the same.

MOTOR CARRIER OF PASSENGERS

No. MC 82007 (Sub-No. 5 TA), filed June 8, 1971. Applicant: SAMUEL COOPER GREGG, Yorklyn, Del. 19736. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter service, from points in Pennsylvania, on and south of U.S. Highway 1 Bypass, U.S. Highway 1, the junction of U.S. Highway 1 and Pennsylvania Highway 52, and Pennsylvania Highway 52 points in Maryland, New Jersey, New York, Virginia, Delaware, and the District of Columbia and return, for 180 days. NOTE: Applicant states it does intend to tack the authority in MC-82007. Supporting shipper: Automobile Club of Chester County,

West Chester, Pa.; Wm. W. Fahey, Post No. 491, American Legion, Kennett Square, Pa.; K. A. U. Little League, Kennett, Pa.; Thomas Kelly & Sons, Inc., Kennett Square, Pa.; Kennett Optimist Club, Kennett Square, Pa.; Lincoln University, Lincoln University, Pa.; John F. Lynch, Inc., Kennett Square, Pa.; Robert H. Marke, Avondale, Pa.; West Grove-Avondale Rotary Club, Avondale, Pa.; Avondale Fire Co., Auxiliary, Avondale, Pa. Send protest to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 227 Old Post Office Building, Salisbury, Md. 21801.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8738 Filed 6-21-71;8:47 am]

[Notice 705]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 17, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72906. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Pack Transport, Inc., Salt Lake City, Utah 84117, of the portion of the operating rights in certificate No. MC-32038 issued October 18, 1955, to Smith Bros. Moving Service, Inc., Baker, Oreg., authorizing the transportation of building materials, between Baker, Oreg., on the one hand, and, on the other, points in Idaho. Max D. Eliason, Post Office Box 2602, Salt Lake City, UT 84110, attorney for applicants.

No. MC-FC-72937. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Ross Trucking, Inc., Amherst, S. Dak., of certificates Nos. MC-123538 and MC-123538 (Sub-No. 1), issued to Clayton Ross, doing business as Ross Trucking, Amherst, S. Dak., authorizing the transportation of: Feed and fertilizer, between specified points and areas in Minnesota and South Dakota. L. R. Gustafson, attorney, Britton, S. Dak.

No. MC-FC-72941. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Eschenbach & Rodgers Trucking, Inc., Scranton, Pa., of permits No. MC-1, MC-1 (Sub-No. 1), MC-1

(Sub-No. 3), and MC-1 (Sub-No. 4), issued to Eschenbach & Rodgers, Inc., authorizing the transportation of: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials, and supplies, in connection therewith, and certain specified paper and products, between specified points in New York, New Jersey, Delaware, and Pennsylvania. Joseph T. McDonald, attorney, Connell Building, Scranton, Pa. 18503.

No. MC-FC-72943. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Dubrey's Express, Inc., Cohoes, N.Y., of certificate of registration No. MC-120007 (Sub-No. 1), issued November 22, 1963, to M & R Trucking, Inc., Albany, N.Y., evidencing a right to engage in transportation in interstate commerce as described in certificate No. 1793 dated September 29, 1959, issued by the New York Public Service Commission. John J. Brady, 75 State Street, Albany, NY 12207, attorney for applicants.

No. MC-FC-72945. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Leonard Jackson, doing business as L. M. Jackson and Sons, Daleville, Ind., of certificate No. MC-119522 (Sub-No. 3), issued to McLain Trucking, Inc., Muncie, Ind., authorizing the transportation of: Marble and granite monuments, from Muncie, Ind., to points in Indiana, specified counties in Illinois, and Ohio, and designated points in Kentucky.

Donald W. Smith, attorney, 900 Circle Tower, Indianapolis, IN 46204.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8739 Filed 6-21-71;8:47 am]

SKYLINE EXPRESS, INC., ET AL Assignment of Hearings

JUNE 17, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 125285 Sub 7. Skyline Express, Inc., now assigned July 12, 1971, at St. Paul, Minn., will be held in Court Room No. 4, 316 Roberts Street, instead of Room 767.

MC 114211 Sub. 131, Warren Transport, Inc., application dismissed.

MC 125808 Sub 5, Aaaron Auto Transport, Inc., assigned July 12, 1971, at New York, N.Y., canceled and application dismissed.

MC 14321 Sub 7, Engle Brothers, Inc. Extension—40 States, assigned August 10, 1971, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 2962 Sub 43, A. & H. Truck Line, Inc., assigned September 13, 1971, on the Fourth

Floor, West End, State Office Building, Clinton and High Streets, Frankfort, Ky. MC 14624 Sub 1, Cecil O'Nan, doing business as Tri-State Express, assigned September 28, 1971, on the Fourth Floor, West End, State Office Building, Clinton and High Streets, Frankfort, Ky.

MC 134817 Sub 1, Owenton Express, Inc., now assigned September 21, 1971, on the Fourth Floor, West End, State Office Building, Clinton and High Streets, Frankfort, Ky. MC 118959 Sub 95, Jerry Lipps, Inc., assigned June 22, 1971, at Washington, D.C., canceled and application dismissed.

MC 107295 Sub 473, Pre-Fab Transit Co., assigned July 26, 1971, at Columbus, Ohio, in Room 4, State Office Building, 65 South Front Street.

MC 107295 Sub 475, Pre-Fab Transit Co., assigned July 28, 1971, at Columbus, Ohio, in Room 4, State Office Building, 65 South Front Street.

MC 107295 Sub 478, Pre-Fab Transit Co., assigned July 29, 1971, at Columbus, Ohio, in Room 4, State Office Building, 65 South Front Street.

MC 47126 Sub 5, Suburban Transit, Inc., assigned July 26, 1971, at Cleveland, Ohio, postponed indefinitely.

MC 134546, William Koch, now assigned June 21, 1971, at Phoenix, Ariz., canceled and application dismissed.

MC-F-11051, Denver Midwest Motor Freight, Inc.—Control & Merger—Premier Trucking Service Co., now assigned July 12, 1971, at Sioux City, Ia., canceled and reassigned for hearing on July 12, 1971, in the Continental Room, Continental Tower Motor Hotel, 2121 Douglas Street, Omaha, Nebr.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8740 Filed 6-21-71;8:48 am]

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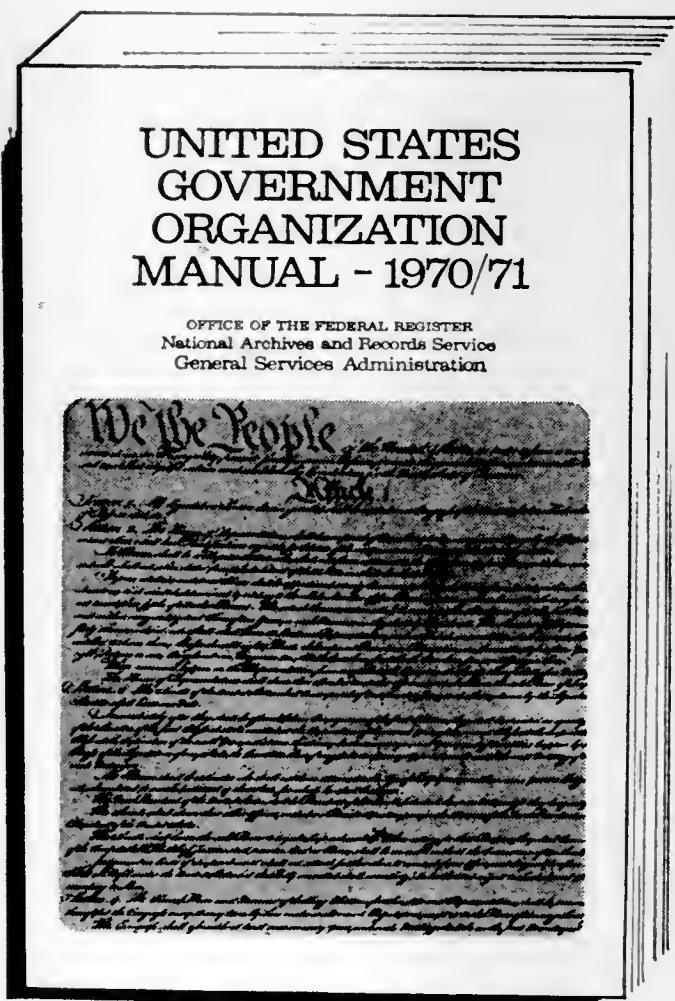
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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 294—AVAILABILITY OF OFFICIAL INFORMATION

Miscellaneous Amendments

Part 294 is amended in several respects, i.e., (1) § 294.105(b) is clarified to specify the procedure for handling a disclosure complaint relative to information controlled by the Commission in the custody of another agency, (2) § 294.601 (a) and (b) and § 294.801(a) are corrected to align them to revised Part 713 and clarify the disclosure procedures relative to an Official Personnel Folder, and (3) § 294.703(a) is amended to require the removal of certificates and lists of eligibles from an Official Personnel Folder before disclosing it to an employee.

Subpart A—General Provisions

§ 294.105 Places where information may be obtained.

(b) In the event of a difference concerning the availability of disclosure of information under this part between a member of the public and either an employee of the Commission or an employee of any other agency having custody of information controlled by the Commission, the matter shall be referred by the head of the bureau or staff office concerned, through the Director, Office of Public Affairs, to the Executive Director. The decision of the Executive Director shall be in writing and shall state the reasons for the decision. That decision is the only administrative appeal within the Commission and the obtaining of that decision constitutes the exhaustion of the administrative remedy within the Commission.

Subpart F—Investigations

§ 294.601 Investigative reports.

(a) The Commission or other Government agency will disclose to the parties concerned any report of investigation under its control, or an extract of the report, to the extent the report is involved in a proceeding under Parts 352, 353, 771, or 772 of this chapter and the report of investigation in a proceeding under Part 713 of this chapter, except when the disclosure would violate the proscription against the disclosure of medical information in § 294.401. For the purposes of this paragraph, the parties concerned means the Government employee or former Government employee involved in the proceeding, his representative designated in writing, and the representative of the agency involved in the proceeding.

Subpart G—Official Personnel Folder

§ 294.703 Access to folder.

(a) The Official Personnel Folder of a Government employee or former Government employee shall be disclosed to him, or to his representative designated in writing, or to any other person who has the written consent of the employee or former employee or the written consent of the person who has this right under § 294.109. However, the disclosure must be in the presence of a representative of the agency having physical custody of the folder, and before disclosure the following information shall be removed from the folder:

- (1) Medical information the disclosure of which is proscribed by § 294.401;
- (2) Test material and copies of certificates and other lists of eligibles the disclosure of which is proscribed by § 294.501; and
- (3) Investigative reports the disclosure of which is proscribed by § 294.601.

(b) On official request, an Official Personnel Folder may be disclosed to a Member of Congress, a representative of a Congressional committee or subcommittee, or an official of the legislative or judicial branch or of the government of the District of Columbia. However, before disclosure all material that relates to loyalty or security under Executive Order 9835 or 10450 or any other authority, and all information covered under paragraph (a) (1) through (3) of this section, shall be removed from the folder. If a specific request for loyalty or security information is made by a Congressional committee or subcommittee, or any source outside the executive branch, the request shall be forwarded to the General Counsel, U.S. Civil Service Commission, Washington, D.C. 20415, for consultation with the Department of Justice pursuant to the President's Memorandum of March 24, 1969.

Subpart H—Appeals

§ 294.801 Agency administrative appeals.

(a) An appeal file established under § 771.208 of this chapter or a complaint file established under § 713.222 of this chapter shall be disclosed to the parties concerned, subject to the proscription against the disclosure of medical information in § 294.401. For the purpose of this section, "the parties concerned" means the Government employee or former Government employee involved in the proceeding, his representative designated in writing, and the representatives of the agency or the Commission involved in the proceeding.

(5 U.S.C. secs. 552, 1105)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.
[FR Doc.71-8881 Filed 6-22-71;8:53 am]

PART 550—PAY ADMINISTRATION (GENERAL)

Exception for Part-Time or Intermittent Employment at Naval Air Station, Bermuda

Section 550.505 of the regulations relative to pay from more than one position has been amended by adding a new paragraph (w) authorizing an exception to the dual pay prohibition for the additional part-time or intermittent employment of noncitizens at the Naval Air Station, Bermuda, who are already employed by the Station.

§ 550.505 Specific exceptions.

When appropriate authority in the department or agency concerned, or in the government of the District of Columbia determines that personal services otherwise cannot be readily obtained, section 5533(a) of title 5, United States Code, does not apply to:

(w) Pay for part-time or intermittent employment by the Naval Air Station, Bermuda, of persons who are not U.S. citizens and who are already employed by the Station.

(5 U.S.C. sec. 5533)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.
[FR Doc.71-8880 Filed 6-22-71;8:53 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS [Amdt. 9]

PART 729—PEANUTS

Subpart—Regulations for Determination of Acreage Allotments and Marketing Quotas for 1969 and Subsequent Crops of Peanuts

AGREEMENT BY OPERATOR OF OVERPLANTED FARM

This amendment of the allotment and marketing quota regulations for peanuts

of the 1969 and subsequent crops is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purpose of this amendment is to discontinue use of the "agreement by operator of overplanted peanut farm," (Form MQ-92 Peanuts) because certification of compliance with the peanut marketing quota program is now accomplished under Part 718 of this chapter.

Peanut producers are now making plans for marketing in 1971 crop year and it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall become effective upon filing of this document with the Director, Office of the Federal Register.

The regulations for determination of acreage allotments and marketing quotas for 1969 and subsequent crops of peanuts (33 F.R. 18351, 18981, 34 F.R. 14201, 19809, 35 F.R. 2860, 4391, 5031, 14299, 36 F.R. 1464, 8045) are amended as follows:

§ 729.2 [Amended]

- Section 729.2(g) is revoked.
- Section 729.33(c) is revised to read as follows:

§ 729.33 Issuance of marketing cards.

(c) *Within quota card.* A farm is eligible for a within quota card where the final acreage is not in excess of the effective farm allotment and, in the case of federally owned land, is not in excess of the smaller of the effective farm allotment or the acreage permitted by the lease or operating agreement.

§ 729.34 [Revoked]

- Section 729.34 is revoked.
- Section 729.47(b) is revised to read as follows:

§ 729.17 Payment of penalty.

(b) Two weeks before the date of written notice to the producer, or buyer, of the amount of any penalty owed, including but not limited to penalties, determined on the basis of normal yield.

- Section 729.51(b) is revised to read as follows:

§ 729.51 Refund of penalties.

(b) The county executive director shall review each case where the minimum converted penalty rate (one-tenth of a cent) was used on an excess penalty card to determine those cases where the computed converted penalty rate was less than one-tenth of a cent but was rounded upward because of the rule of fractions. For such cases, the county executive director shall recompute the amount of penalty for the farm by multiplying the total pounds of peanuts marketed from the farm by the percent excess by the basic penalty rate. If the

penalty for the farm has already been collected and such amount exceeds the revised amount of penalty computed for the farm, a refund may be made to the producer in accordance with this section.

§ 729.56 [Amended]

- Section 729.56(a) (5) is revoked.

(Secs. 358, 358a, 359, 375, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 66, as amended, 7 U.S.C. 1358, 1358a, 1359, 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on June 17, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-8835 Filed 6-22-71; 8:53 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 484, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (ii) of § 910.784 (Lemon Reg. 484, 36 F.R. 11421) during the period June 13, through June 19, 1971, are hereby amended to read as follows:

§ 910.784 Lemon Regulation 484.

- (b) *Order.* (1)
- (ii) District 2: 350,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 17, 1971.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8770 Filed 6-22-71; 8:46 am]

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments; Termination

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the production area, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments regulation, § 966.308, should be terminated. Since the marketing season for Florida production area tomatoes is almost over, and supplies in competing States are increasing, continuation of this regulation beyond the date specified herein would no longer tend to effectuate the declared policy of the Act.

(b) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for not postponing the effective date of this termination until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This termination relieves restrictions on the handling of tomatoes grown in the production area; (2) information regarding the committee's recommendation has been made available to producers and handlers in the production area; and (3) this termination will not require any special preparation by handlers which cannot be completed by the effective date.

Termination of regulation. The provisions of § 966.308 as amended (35 F.R. 16628; 36 F.R. 5285, 9290) are hereby terminated as of June 19, 1971.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated June 18, 1971, to become effective June 19, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8836 Filed 6-22-71; 8:53 am]

PART 980—VEGETABLES; IMPORT REGULATIONS

Tomato Import Regulation; Termination

Pursuant to the requirements of section 8e-1 of the Agricultural Marketing

Agreement Act of 1937, as amended (7 U.S.C. 608e-1), Tomato Import Regulation § 980.205 (36 F.R. 9291), is hereby terminated.

It is hereby found that good cause exists for not postponing the effective date of this termination beyond that herein specified (5 U.S.C. 553) in that (1) the requirements of section 8e-1 of the Act make such termination mandatory upon termination of the corresponding regulation applicable to shipments of domestic tomatoes; (2) this termination corresponds with the termination of regulations on shipments of domestic tomatoes under Marketing Order No. 966, as amended (7 CFR Part 966); and (3) this termination relieves restrictions on the importation of tomatoes.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated June 18, 1971, to become effective June 19, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8837 Filed 6-22-71; 8:53 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

§ 103.2 [Amended]

The fourth sentence of subparagraph (1) *Requirements of paragraph (b) Evidence of § 103.2 Applications, petitions, and other documents* is amended to read as follows: "Except as provided in §§ 204.2(f) and 214.2 (h) (5) and (1) (2) of this chapter, a copy unaccompanied by an original will be accepted only if the accuracy of the copy has been certified by an immigration or consular officer who has examined the original."

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERRED IMMIGRANT

Section 204.2 is amended by adding new paragraph (f) to read as follows:

§ 204.2 Documents.

(f) *Certification of documents by attorneys.* A copy of a document submitted in support of a visa petition filed pursuant to section 204 of the Act and this part

may be accepted, though unaccompanied by the original, if the copy bears a certification by an attorney typed or rubber-stamped in the following language:

I certify that I have compared this copy with its original and it is a true and complete copy.
Signed: _____ Date: _____
Name: _____, Attorney at Law
Address: _____
Admitted to Practice in State of _____

However, the original document shall be submitted if submittal is requested by the Service.

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Amended]

- Paragraph (h) of § 214.2 is amended by adding a new subparagraph (5) to read as follows:

(5) *Certification of documents by attorneys.* A copy of a document submitted in support of a visa petition filed pursuant to section 214(c) of the Act and this paragraph may be accepted, though unaccompanied by the original, if the copy bears a certification by an attorney, typed or rubber-stamped in the language set forth in § 204.2(f) of this chapter. However, the original document shall be submitted, if submittal is requested by the Service.

2. Subparagraph (2) *Supporting evidence of paragraph (1) Intracompany transferees of § 214.2 Special requirements for admission, extension, and maintenance of status* is amended by adding the following sentences at the end thereof to read as follows: "A copy of a document submitted in support of a visa petition filed pursuant to section 214(c) of the Act and this paragraph may be accepted, though unaccompanied by the original, if the copy bears a certification by an attorney, typed or rubber-stamped in the language set forth in § 204.2(f) of this chapter. However, the original document shall be submitted, if submittal is requested by the Service."

PART 292—REPRESENTATION AND APPEARANCES

§ 292.3 [Amended]

Paragraph (a) *Grounds of § 292.3 Suspension of disbarment* is amended in the following respects:

- Subparagraph (12) is amended by deleting the word "or" at the end thereof.

2. Subparagraph (13) is amended by deleting the period and inserting a semicolon in lieu thereof and the word "or".

- A new subparagraph (14) is added to read as follows:

(14) Who has falsely certified a copy of a document as being a true and complete copy of an original.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER (6-23-71). Compliance with the

provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments to §§ 103.2(b) (1), 204.2, 214.2 (h), (1) (2), and 292.3(a) relate to agency procedure.

Dated: June 17, 1971.

RAYMOND F. FARRELL,
Commissioner of
Immigration and Naturalization.
[FR Doc.71-8769 Filed 6-22-71; 8:46 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

REVISION PURSUANT TO WHOLESOME MEAT ACT

Correction

In F.R. Doc 70-13052 appearing at page 15552 in the issue for Saturday, October 3, 1970, the following changes should be made:

1. On page 15552, second column, third paragraph, line 6, the sentence should read "Furthermore, the effect of this \$10,000 limitation is that larger supermarkets with total meat product sales of a million dollars or more annually will be eligible for the exemption only if their sales of meat products to consumers other than household consumers are limited to 1 percent or less of their total meat product sales."

2. On page 15553, third column, fourth paragraph, line 8, the word "of" should be "or" after "interpretations".

3. In § 310.9(e) (1) (iii), line 4, "clear" should be "clean".

4. In § 311.26, line 3, "serious" should be "serous".

5. In § 314.11, line 10, "osinophilic" should be "eosinophilic".

6. In § 317.2(1) (3), line 3 should read "tion legend on cartons used as outer con-".

7. In § 318.2(d), line 36, "tax" should read "tag".

8. In § 318.5(b), line 1, "tenderlions" should read "tenderloins".

9. In § 318.7(c) (4), under "Synergists" in the "Amount" column the amount should be "0.02 percent" instead of "do" with respect to "monoisopropyl citrate".

10. In § 318.8(a), line 2, delete "are".

11. In § 319.100, line 4, "curling" should be "curling".

12. In § 319.311, line 2 "Vegetables" should be "Vegetables".

13. In § 322.1(c), line 6, "rubber band" should be "rubber brand".

14. In § 327.6(b), line 6, "statoned" should be "stationed".

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Notice of Termination of Designation of Kentucky

On May 18, 1971, there was published in the FEDERAL REGISTER (§ 331.2, 36 F.R. 9003) a Notice of Designation of the State of Kentucky under section 301(c)(1) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(1)). This designation was based on information that the State of Kentucky had not developed and activated and was not enforcing State meat inspection requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State. However, the State of Kentucky requested the Secretary of Agriculture to resurvey the State program to determine if the State is now in a position to enforce such requirements. Upon a subsequent review by this Department of the meat inspection program of the State of Kentucky, it has been determined that the State has developed and will enforce State meat inspection requirements at least equal to those imposed under titles I and IV of the Act, with respect to operations and transactions within the State which would be regulated under section 301(c)(1) of the Act.

Accordingly, pursuant to the authority in section 301(c)(3) of the Act (21 U.S.C. 661(c)(3)), the designation of the State of Kentucky under section 301(c) of the Act is hereby terminated, effective upon issuance of this notice.

Done at Washington, D.C., on June 17, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc. 71-8838 Filed 6-22-71; 8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-CE-42]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway Segments

On April 9, 1971, a notice of proposed rule making was published in the FED-

ERAL REGISTER (36 F.R. 6836) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulation that would alter VOR Federal airway No. 429.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

Section 71.123 (36 F.R. 2010) is amended as follows: In V-429 "INT Naperville 340" and Milwaukee, Wis., 198° radials; Milwaukee, Wis., 198° radials; Milwaukee 340" and Oshkosh, Wis., 187° radials; Oshkosh." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8759 Filed 6-22-71; 8:45 am]

[Airspace Docket No. 71-EA-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 7072 of the FEDERAL REGISTER for April 14, 1971, the Federal Aviation Administration published a proposed rule which would designate a Cellna, Ohio, transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. August 19, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Cellna, Ohio, 700-foot floor transition area as follows:

CELINA, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 40°29'00" N., 84°33'59" W., of Lakefield Airport, Cellna, Ohio; within 3.5 miles each side of the 262° bearing from the Cellna, RBN, 40°28'35" N., 84°38'06" W., extending from the 7-mile radius area to 11.5 miles west of the RBN; and within 3.5 miles each side of the 282° bearing from the Cellna RBN, extending from the 7-mile radius area to 8.5 miles west of the RBN.

[FR Doc. 71-8760 Filed 6-22-71; 8:45 am]

[Airspace Docket No. 71-EA-32]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Administration published the subject rule in the FEDERAL REGISTER on April 14, 1971, 36 F.R. 7049. Due to inadvertence, the coordinates in the description were not characterized as those of the North Philadelphia Airport. This amendment will insert the airport name.

Since the foregoing is editorial in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective May 27, 1971, as follows:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to insert before "Philadelphia, Pa.," the words "North Philadelphia Airport."

(Sec. 307(a), Federal Aviation Act of 1958 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 7, 1971.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 71-8761 Filed 6-22-71; 8:45 am]

[Airspace Docket No. 71-EA-95]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Blackstone, Va., control zone (36 F.R. 2063).

Commencing on or about July 1, 1971, the hours of operation of the Flight Service Station will be reduced from the present 0600 to 2200 hours to 0800 to 1600 hours, local time, daily.

The control zone is presently designated from 0600 to 2200 hours. Since the weather reporting services and communications required for control zone designation will be available only during the new hours of operation of the Blackstone Flight Service Station, a corresponding reduction will be required in the hours of the control zone designation.

Since the foregoing is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

In view of the foregoing, the Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Blackstone, Va., the

amendment, as follows, will be effective upon publication in the FEDERAL REGISTER (6-23-71).

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Blackstone, Va., control zone; "effective from 0600 to 2200 hours, local time", and insert the following in lieu thereof; "effective from 0800 to 1600 hours, local time, daily".

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.

[FR Doc. 71-8762 Filed 6-22-71; 8:46 am]

[Airspace Docket No. 71-SO-26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On April 14, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7073) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter VOR Federal airway No. 296 by extending it from Fayetteville, N.C., to Wilmington, N.C.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

Section 71.123 (36 F.R. 2010) is amended as follows: In V-296 all after "267° radials;" is deleted and "27 MSL Fayetteville; Wilmington, N.C. The airspace at and above 5,000 feet MSL is excluded from Fayetteville to Wilmington." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8763 Filed 6-22-71; 8:46 am]

[Airspace Docket No. 71-SO-34]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Federal Airway Segment

On April 27, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7863) stating that the

Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR Federal airway segment from Norcross, Ga., via Athens, Ga., to Columbia, S.C.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.123 (36 F.R. 2010) V-325 is amended by deleting "From Gadsden, Ala.," and substituting "From Columbia, S.C.; Athens, Ga.; Norcross, Ga. From Gadsden, Ala.," therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8764 Filed 6-22-71; 8:46 am]

[Airspace Docket No. 71-SW-22]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE Designation of Restricted Airspace

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations is to redesignate portions of Restricted Areas R-5109A, R-5111A, and R-5111B, White Sands Proving Grounds, N. Mex., as Restricted Areas R-5107F and R-5107G, joint-use airspace.

The Department of the Air Force has concurred in the designation of these two restricted areas as joint-use airspace for a test period of 6 months. Consonant with the designation, jet routes through these areas will also be designated.

Since these amendments will relieve a burden on the public by making portions of existing sole use restricted airspace available on a joint-use basis, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

1. In § 73.51 (36 F.R. 2349) the following restricted areas are added:

R-5107F WHITE SANDS PROVING GROUNDS, N. MEX.

Boundaries: Beginning at lat. 33°10'10" N., long. 107°10'55" W.; to lat. 33°20'30" N., long. 107°08'20" W.; to lat. 33°16'10" N., long. 106°51'40" W.; to lat. 33°05'30" N., long.

106°04'00" W.; to lat. 33°00'00" N., long. 105°27'00" W.; to lat. 32°45'00" N., long. 105°27'00" W.; to lat. 32°45'00" N., long. 105°49'00" W.; to lat. 32°50'30" N., long. 106°04'00" W.; to lat. 33°05'00" N., long. 106°50'20" W.; to point of beginning.

Designated altitude: From FL 240 to FL 450.

Time of designation: Continuous from August 19, 1971, to February 19, 1972.

Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.

Using agency: Commander, Air Force Special Weapons Center, Kirtland AFB, N. Mex.

R-5107G WHITE SANDS PROVING GROUNDS, N. MEX.

Boundaries: Beginning at lat. 33°11'40" N., long. 107°10'25" W.; to lat. 33°21'00" N., long. 107°06'00" W.; to lat. 33°22'55" N., long. 107°05'50" W.; to lat. 33°25'20" N., long. 105°27'00" W.; to lat. 33°14'00" N., long. 105°27'00" W.; to point of beginning.

Designated altitude: From FL 240 to FL 450.

Time of designation: Continuous from August 19, 1971, to February 19, 1972.

Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.

Using agency: Commander, Air Force Special Weapons Center, Kirtland AFB, N. Mex.

2. Section 71.151 (36 F.R. 2045) is amended by adding:

a. R-5107F White Sands Proving Grounds, N. Mex.

b. R-5107G White Sands Proving Grounds, N. Mex.

3. In § 73.51 (36 F.R. 2349) Restricted Areas R-5109A, R-5111A, and R-5111B are amended as follows:

a. In R-5109A after the phrase "to the point of beginning," add "excluding the airspace in Restricted Areas R-5107F and R-5107G."

b. In R-5111A after the phrase "to the point of beginning," add "excluding the airspace in Restricted Areas R-5107F and R-5107G."

c. In R-5111B after the phrase "to the point of beginning," add "excluding the airspace in Restricted Areas R-5107F and R-5107G."

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 18, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 71-8789 Filed 6-22-71; 8:48 am]

[Airspace Docket No. 70-AL-5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Restricted Area, Alteration of Federal Airway and Continental Control Area, and Establishment of Jet Route

On March 13, 1971, a notice of proposed rule making was published in the FEDERAL

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REGISTER (36 F.R. 4881) stating that the Federal Aviation Administration was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate a restricted area at Chatanika, Alaska; add a west alternate to V-438 between Fairbanks, Alaska, and Fort Yukon, Alaska; and alter the continental control area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Two letters of objection were received in response to the notice. The objections are categorized generally as follows:

1. This comes at a time when flying activities are greatly increasing to the north.

2. The proposed restricted area covers airways V-438, V-438E, and B-26.

3. The proposed restricted area covers numerous flyways to villages north and northeast. It will affect hundreds of pilots in this area not counting mail runs to Fort Yukon, Birch Creek Village, Central and Circle City.

4. The scope of the proposed operation is so large that general aviation pilots are bound to have navigation problems, especially those who come in from the bush country with no radio and do not know of the operation.

5. This proposal is dangerous to the flying public.

6. There are adequate areas for this type of operation without cutting off major airways and normal VFR flyways.

7. Fairbanks is surrounded by restricted areas now which are a hazard and are not utilized to their fullest capacity.

8. Put the proposed operation in R-2205A, R-2205B, or down near Delta in R-2202A or R-2202B.

9. Flying out of Fairbanks to the north, east, or southeast is like flying through the eye of a needle.

10. This restricted area proposal is completely unnecessary at this time, is not in the public interest and will put an undue burden on all aircraft operators in this area.

As a result of our study and analysis of the aforementioned objections we offer the following comments:

Item 1. We have considered the potential increase in flying activity which will be generated, in part, by the recent oil finds on the north slope. Therefore, we have limited the proposed designation of the restricted area to a 2-year period.

Item 2. The designation of V-438W and an overlying jet route would bypass the restricted area. V-438W would actually improve the route structure between Fairbanks and Fort Yukon by providing a lower minimum en route altitude than is currently available.

Item 3. The boundaries of the proposed restricted area are aligned so as to clear the primary VFR flyways (overlying the Steese and Chena Hot Springs Highways except in the immediate vicinity of Chatanika. The restricted areas, joint-use designation and the short daily effective period provide reasonable alternatives for random flyways.

Item 4. The restricted area would be depicted on aeronautical charts showing the designated periods of use. Radio contact and approval is not necessary when transiting the area at times other than the designated periods of use.

Items 5 and 7. The provisions of a restricted area are designated to enhance aeronautical safety. We do not foresee any hazard to pilots operating in a prudent manner. Additionally, a safety control officer is required at the launch site to defer firings should an aircraft inadvertently stray into the launch area.

Item 6. The joint-use provision of the restricted area will minimize any adverse effect on aircraft traffic. We anticipate normal operation in the restricted area (without FAA coordination) on the airways and VFR flyways at least 95 percent of the time.

Item 8. We are considering other sites. Our efforts will be directed toward further reducing the occasional limitations affecting aircraft pilots while still meeting the joint requirements of the FAA and the proponent. As previously stated, the Chatanika Restricted Area is temporary.

Item 9. All the restricted areas near Fairbanks are designated as joint-use and, with coordination, can be transited when inactive. With the exception of this proposal (Chatanika) all are located off airways and major flyways.

Item 10. It is our analysis that the meteorological rocket soundings will provide increased benefits to the public through more reliable weather forecasts. The restricted area will be effective from 9:30 a.m. to 10:30 a.m., local time Monday through Friday. Rocket firings will take place a maximum of three times per week, scheduled on Mondays, Wednesdays, and Fridays. The alternate days, Tuesdays and Thursdays, are for unforeseen contingencies which could preclude firing on scheduled days. Additionally, since the 1-hour period per day is also designated as joint-use, pilots may request and be given authorization to transit the area, if rocket firings are completed or have been rescheduled. A rocket firing lasts 7 minutes from launch to impact. We feel that the benefits to be derived will more than compensate for the occasional minor change in pilot operating procedures.

Although not mentioned in the notice, a jet route would be established between the Fairbanks VORTAC and the Fort Yukon VOR to overlie the proposed V-438W.

In consideration of the foregoing, Parts 71, 73, and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

1. Section 71.125 (36 F.R. 2042) is amended as follows: In V-438 all after "Fort Yukon, Alaska," is deleted and "including an east alternate from Fairbanks 54 miles, 34 miles, 65 MSL, to Fort Yukon and a west alternate," is substituted therefor.

2. Section 73.22 (36 F.R. 2323) is amended by adding the following restricted area:

R-2208 CHATANIKA, ALASKA

Boundaries: Within a 1½-mile-radius circle centered at lat. 65°07'45" N., long. 147°29'30" W., and within a line drawn from the northerly tangent of the 1½-mile-radius circle to lat. 65°15'00" N., long. 146°19'00" W., thence to lat. 64°59'40" N., long. 146°19'00" W., thence to the southerly tangent of the 1½-mile-radius circle.

Designated altitudes: Surface to unlimited. Time of designation: From 9:30 a.m. to 10:30 a.m., local time, Monday through Friday for a period of 2 years beginning August 19, 1971.

Controlling agency: Federal Aviation Administration, Fairbanks ARTC Center.

Using agency: U.S. Army Electronics Command, Fort Huachuca, Ariz.

3. Section 75.100 (36 F.R. 2371) is amended by adding the following jet route:

JET ROUTE NO. 160 (FAIRBANKS, ALASKA, TO FORT YUKON, ALASKA)

From Fairbanks, Alaska, via INT Fairbanks 016° and Fort Yukon, Alaska, 229° radials to Fort Yukon.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 13, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 71-8787 Filed 6-22-71; 8:48 am]

[Airspace Docket No. 71-SW-21]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Airspace

The purpose of these amendments to Part 73 of the Federal Aviation Regulations is to modify Restricted Areas R-5107B and R-5107D, White Sands Proving Grounds, N. Mex.

Through coordination between the Federal Aviation Administration and the U.S. Air Force, it has been determined that a portion of Restricted Area R-5107B is no longer needed by the using agency to fulfill its operational requirement on a full-time basis. There is a requirement for use of this airspace at certain times, however, and it will be absorbed as part of Restricted Area R-5107D.

Since these amendments restore airspace to the public use and relieve a restriction, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 73.51 (36 F.R. 2349) the White Sands Proving Grounds, N. Mex., Restricted Areas R-5107B and R-5107D are amended as follows:

1. In R-5107B, after the phrase "excluding the airspace in R-5107D," add "R-5107F and R-5107G". All other data remains the same.

2. In R-5107D, delete the boundary description and substitute the following therefor:

Beginning at lat. 33°34'00" N., long. 106°04'00" W.; to lat. 33°04'00" N., long. 106°21'00" W.; to lat. 32°34'00" N., long. 106°15'00" W.; to lat. 32°34'00" N., long. 106°06'00" W.; to lat. 32°36'00" N., long. 106°06'00" W.; to lat. 32°50'00" N., long. 106°04'00" W.; to point of beginning.

All other data remains the same.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 18, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 71-8788 Filed 6-22-71; 8:48 am]

[Airspace Docket No. 71-WA-11]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On April 9, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 6837) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate three area high routes in the south and southwestern United States.

Two of the three routes, J-949R and J-950R, have been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received. The remaining route in Airspace Docket No. 71-WA-11 will be issued in a final rule as soon as a successful flight inspection is performed.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	Lat./Long.	Reference facility
J-950R HOUSTON, TEX., TO OKLAHOMA CITY, OKLA.		
Huffman, Tex.... 30°03'21"/95°09'16"		Humble, Tex.
Scurry, Tex.... 32°27'52"/96°20'14"		Greater South-west, Tex.
Cole, Okla..... 35°10'02"/97°31'55"		Oklahoma City, Okla.
J-949R OKLAHOMA CITY, OKLA., TO HOUSTON, TEX.		
Kay, Okla..... 35°16'32"/97°46'21"		Oklahoma City, Okla.
Greater South-west, Tex.	32°49'10"/97°02'28"	Greater South-west, Tex.
Magnolia, Tex.. 30°09'17"/95°46'07"		VORTAC, Humble, Tex.

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(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8765 Filed 6-22-71; 8:46 am]

[Airspace Docket No. 70-WA-43]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On February 3, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 1912) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate ten area high routes in the western United States as part of the overall program to establish an area navigation route structure.

Five of the proposed routes, J-851R, J-852R, J-855R, J-858R, and J-859R, have been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. The Air Transport Association objected to the alignment between the Wichita Falls, Tex., 121.5° M/107.4 NM waypoint and the Texico, Tex., VORTAC stating that the route segment avoids the Sheppard Air Force Base Intensive Student Jet Training Areas and the overlying military special operating areas, therefore, offers no improvement to current traffic handling. Military aircraft operating within the training area use all altitudes to flight level 450 in afterburner climb configuration. These rapid altitude changes are not compatible with a transiting civil aircraft.

Subsequent to issuance of the notice it was determined the segment between the Greater Southwest, Tex., VORTAC and Wichita Falls, Tex., VORTAC suited neither the departures nor arrivals, and the segment if charted would only contribute to chart clutter. The determination was made in anticipation of implementation of new terminal procedures in the Dallas/Fort Worth, Tex., area effective April 29, 1971. As this change is minor in nature, and does not alter the alignment of the route nor change the operational procedures for the control of air traffic, notice and public procedure are deemed unnecessary and the change is incorporated in this rule.

Reference facilities and geographical coordinates in several routes have been changed to provide more precise route definition and guidance. These changes are minor in nature and are made herein without change to the route alignment as proposed in the notice. The remaining routes in Airspace Docket No. 70-WA-43 will be issued in a final rule as soon as certain objections are reconciled and flight inspection is performed.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

(North latitude/West longitude in degrees, minutes, and seconds)

Waypoint name	N. lat./W. long.	Reference facility
J-851R SAN FRANCISCO, CALIF., TO LOS ANGELES, CALIF.		
Logan, Calif.... 36°58'59"/121°43'26"		Fresno, Calif.
Virginia, Calif.. 34°13'24"/118°49'11"		Los Angeles, Calif.
J-852R LAS VEGAS, NEV., TO SAN FRANCISCO, CALIF.		
Lucky, Nev.... 36°02'22"/115°50'08"		Beatty, Nev.
Ceres, Calif.... 37°37'39"/120°57'25"		Fresno, Calif.
J-855R DALLAS, TEX., TO SAN FRANCISCO, CALIF.		
Wichita Falls, Tex. 33°59'14"/98°35'35"		Wichita Falls, Tex.
Texico, N. Mex. 34°29'42"/102°50'21"		VORTAC, Texico, N. Mex.
Volcano, N. Mex. 35°06'22"/106°30'29"		VORTAC, Socorro, N. Mex.
Defiance, N. Mex. 35°24'51"/108°57'44"		St. Johns, Ariz.
Peak, Ariz..... 35°41'03"/111°20'14"		Tuba City, Ariz.
Boulder City, Nev. 35°59'45"/114°31'46"		Boulder City, Nev.
Lucky, Nev.... 36°02'22"/115°50'08"		VORTAC, Beatty, Nev.
Crestview, Calif. 37°37'39"/120°57'25"		Fresno, Calif.
J-858R DENVER, COLO., TO KANSAS CITY, MO.		
Bonny, Colo.... 39°29'41"/102°12'42"		Hill City, Kans.
Lenora, Kans... 39°29'03"/100°13'37"		Do.
Potter, Kans... 39°18'03"/94°59'53"		Kansas City, Mo.
J-859R KANSAS CITY, MO., TO DENVER, COLO.		
Walcott, Kans.. 39°13'03"/94°59'28"		Salina, Kans.
Enterprise, Kans. 38°58'04"/96°59'46"		Do.
Bonny, Colo.... 39°29'41"/102°12'42"		Hill City, Kans.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8766 Filed 6-22-71; 8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1922]

PART 13—PROHIBITED TRADE PRACTICES

City Stores Co.

Subpart—Misrepresenting oneself and goods—Business status, advantages or

[Docket No. C-1925]

PART 13—PROHIBITED TRADE PRACTICES**Faberge, Inc., and Tone-O-Matic Products, Inc.**

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service*: 13.170-52 Medicinal, therapeutic, healthful, etc.; 13.170-74 Reducing, nonfattening, low calorie, etc.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Faberge, Inc., et al., New York, N.Y., Docket No. C-1925, May 18, 1971]

In the Matter of City Stores Co., a Corporation

Consent order requiring a New York City chainstore corporation to cease using collection documents which simulate official documents and falsely representing that an independent attorney will imminently file suit against the alleged debtor.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondent City Stores Co., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate device, in connection with the collection of delinquent accounts by its Franklin Simon division, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any document, form or envelope which simulates an official document, form or envelope authorized, issued or approved by any governmental authority.

2. Falsely representing or causing to be falsely represented that respondent corporation intends to imminently file suit against the debtor unless the alleged debt is immediately paid in full.

3. Falsely representing or causing to be falsely represented that respondent has instructed an independent attorney to file suit against an alleged debtor unless the alleged debt is immediately paid in full.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: May 18, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8819 Filed 6-22-71; 8:51 am]

directly, the purchase of respondents' devices, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in paragraph 1 hereof.

4. Disseminating, or causing the dissemination of, any advertisement, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondents' devices, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains statements which are inconsistent with, negate or contradict the affirmative disclosure required by paragraph 2 of this order, or which in any way obscures the meaning of such disclosure.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents submit to the Commission within sixty (60) days after the order becomes final all advertising for products covered by this order to show the manner of compliance therewith, and thereafter will submit samples of all such advertising each 6 months to show continued compliance.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

Issued: May 18, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8821 Filed 6-22-71; 8:51 am]

[Docket No. C-1917]

PART 13—PROHIBITED TRADE PRACTICES**Green Brook Corp. et al.**

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods*: 13.30-75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements*: 13.73-90 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition*: 13.1185-80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements*: 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition*: 13.1845-70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72

Stat. 1717, 15 U.S.C. 45, 70) [Cease and desist order, Green Brook Corp. et al., Hialeah, Fla., Docket No. C-1917, May 10, 1971]

In the Matter of Green Brook Corp. and Jomar Realty, Inc., Corporations, and Robert Solovei and Edward Solovei, Individually and as Officers of Said Corporations, and Fontaine Modes, Inc., a Corporation, and Joseph Germano, Individually and as an Officer of Jomar Realty, Inc., and Fontaine Modes, Inc.

Consent order requiring a Hialeah, Fla., manufacturer and seller of ladies' dresses and sportswear to cease misbranding and deceptively advertising its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Green Brook Corp. and Jomar Realty, Inc., corporations, and their officers, and Robert Solovei and Edward Solovei, individually and as officers of said corporations, and Fontaine Modes, Inc., a corporation, and its officers, and Joseph Germano, individually and as an officer of Jomar Realty, Inc., and Fontaine Modes, Inc., and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein.
2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.
3. Failing to make a disclosure on the required label on or affixed to textile fiber products composed of two or more sections of different fiber composition, in such a manner as to show the fiber composition of each section in all instances where such disclosure is necessary to avoid deception.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label or other means of identification under section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

It is further ordered, That respondents notify the Commission at least 30 days prior thereto of any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8822 Filed 6-22-71; 8:51 am]

[Docket No. C-1915]

PART 13—PROHIBITED TRADE PRACTICES**Johnson & Johnson et al.**

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling or transporting flammable wear*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Johnson & Johnson et al., New Brunswick, N.J., Docket No. C-1915, May 10, 1971]

In the Matter of Johnson & Johnson, a Corporation, Doing Business as Chicopee Manufacturing Co. and Under Its Own Name or Any Other Name or Names, and Chicopee Mills, Inc., a corporation

Consent order requiring a New Brunswick, N.J., manufacturer of industrial and hospital items, including nurses' caps, to cease violating the Flammable Fabrics Act by importing and distributing any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents Johnson & Johnson, a corporation, doing business as Chicopee Manufacturing Co. and under its own name or any other name or names, and its officers, and Chicopee Mills, Inc., a corporation, and its officers, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any wearing apparel, or fabric or related material, which fabric or related material may reasonably be expected to be used in such wearing apparel; or manufacturing for sale, selling, or offering for sale any wearing apparel made of fabric or related material which has been shipped or received in commerce, as "commerce", "fabric", "related material" and "wearing apparel" are defined in the Flammable Fabrics Act, as amended, which wearing apparel, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents, if they have not done so heretofore, notify all of their customers who have purchased or to whom have been delivered the fabrics or wearing apparel made from said fabrics, which gave rise to this complaint of the flammable nature of such fabrics or wearing apparel and effect recall of such fabrics or wearing apparel from said customers.

It is further ordered, That the respondents herein, if they have not done so heretofore, either process the fabrics which gave rise to this complaint and any wearing apparel made from said fabrics so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said fabrics or any wearing apparel made therefrom.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission an interim special report in writing setting forth the respondents' intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the fabrics which gave rise to the complaint and any wearing apparel made from said fabrics, (1) the number of such fabrics or articles of wearing apparel in inventory, (2) any

[Docket No. C-1920]

PART 13—PROHIBITED TRADE PRACTICES**Everett Eugene Miller and Midwest Construction and Supply Co.**

action taken and any further actions proposed to be taken to notify customers of the flammability of such fabrics or articles of wearing apparel and of the results of such actions, (3) any disposition of such fabrics or articles of wearing apparel since December 1969 and (4) any action taken or proposed to be taken to flameproof or destroy such fabrics or articles of wearing apparel and the results of such action. Such report shall further inform the Commission whether respondents have in inventory any fabric, product or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or combinations thereof in a weight of 2 ounces or less per square yard, or having a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than 1 square yard of material.

It is further ordered, That respondents Johnson & Johnson, a corporation, doing business as Chicopee Manufacturing Co., and under its own name or any other name or names, and its officers, and Chicopee Mills Inc., a corporation, and its officers, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a guaranty under the Flammable Fabrics Act, as amended, with respect to any product, fabric or related material which guaranty is false and when respondents have reason to believe that such product, fabric or related material may be introduced, sold, or transported in commerce.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8823 Filed 6-22-71; 8:51 am]

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*; 13.15-30 *Connections or arrangements with others*; § 13.70 *Fictitious or misleading guarantees*; § 13.71 *Financing*; 13.71-10 *Truth in Lending Act*; § 13.73 *Formal regulatory and statutory requirements*; 13.73-92 *Truth in Lending Act*; § 13.105 *Individual's special selection or situation*; § 13.155 *Prices*; 13.155-33 *Demonstration reduction*; 13.155-95 *Terms and conditions*; 13.155-95(a) *Truth in Lending Act*; 13.155-100 *Usual as reduced, special, etc.*; § 13.260 *Terms and conditions*. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1395 *Connections or arrangements with others*; Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*; 13.1623-95 *Truth in Lending Act*; § 13.1647 *Guarantees*; § 13.1663 *Individual's special selection or situation*; § 13.1760 *Terms and conditions*; 13.1760-50 *Sales contract*; Misrepresenting oneself and goods—Prices: § 13.1800 *Demonstration reductions*; § 13.1823 *Terms and conditions*; 13.1823-20 *Truth in Lending Act*; § 13.1825 *Usual as reduced or to be increased*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*; 13.1852-75 *Truth in Lending Act*; § 13.1905 *Terms and conditions*; 13.1905-50 *Sales contract*; 13.1905-60 *Truth in Lending Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Everett Eugene Miller et al., Tulsa, Okla., Docket No. 1920, May 13, 1971]

In the Matter of Everett Eugene Miller, an Individual Trading as Midwestern Construction and Supply Co.

Consent order requiring a Tulsa, Okla., individual engaged in the sale and distribution of residential aluminum siding to cease misrepresenting that the price of his products is special or reduced, failing to disclose the details of his guarantees, misrepresenting certain of his customers' homes as model homes, failing to disclose to purchasers that their notes may be negotiated to third parties, and failing to make certain disclosures required by Regulation Z of the Truth in Lending Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered*, That Everett Eugene Miller, an individual trading as Midwestern Construction and Supply Co., or un-

der any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, distribution or installation of residential aluminum siding or other home improvement products or services or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any price for respondent's products and/or installations is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products and/or installations have been sold in substantial quantities by respondent in the recent regular course of his business; or misrepresenting, in any manner, the savings available to purchasers.

2. Representing, directly or by implication, that any of respondent's products and/or installations are guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; or making and direct or implied representations that any of respondent's products and/or installations are guaranteed unless in each instance a written guarantee is given to the purchaser containing provisions fully equivalent to those contained in such representations.

3. Representing, directly or by implication, that the home of any of respondent's customers or prospective customers has been selected to be used or will be used as a model home, or otherwise, for advertising purposes.

4. Representing, directly or by implication, that any reduced price, allowance, discount, commission or other compensation is granted by respondent to purchasers in return for permitting or agreeing to allow the premises on which respondent's products are installed to be used for model homes or demonstration purposes.

5. Representing, directly or by implication, that respondent's salesmen or sales representatives are connected or affiliated with the manufacturer of respondent's products, or misrepresenting the business connections or affiliations of respondent or his salesmen or sales representatives.

6. Failing to disclose prior to the time of sale in writing on any conditional sales contract or other similar instrument executed by a purchaser, and with such conspicuousness and clarity as is likely to be observed and read by such purchaser, that: "Any such instrument, at respondent's option and without notice to the purchaser, may be discounted, negotiated or assigned to a finance company or other

third party to whom the purchaser will thereafter be indebted and against whom the purchaser's claims or defenses will not be available."

II. *It is further ordered*, That respondent Everett Eugene Miller, an individual trading as Midwestern Construction and Supply Co., or trading or doing business under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the consumer credit sale of home improvement products or services, or any other products or services, as "credit sale" is defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), forthwith cease and desist from:

1. Failing to disclose the annual percentage rate, where and when required by Regulation Z to be used, to the nearest quarter of one percent, in accordance with § 226.5(b)(1) of Regulation Z.

2. Failing to disclose the date on which the finance charge begins to accrue when that date is different from the date of the transaction, as required by § 226.8(b)(1) of Regulation Z.

3. Failing to disclose to the customer the date by which the customer may give notice of cancellation of the transaction, that date being not earlier than the third business day following the date of the transaction, in accordance with § 226.9(b) of Regulation Z.

4. Representing, directly or by implication, on retail installment contracts, promissory notes, or on any written document, or orally, that customers will or may be liable for damages, penalties or any other charges for exercising their right to rescind that is provided by § 226.9 of Regulation Z.

5. Supplying any additional information, contract clause or other statement about the customer's liability or obligations in the event that the customer exercises his right to rescind except that information furnished in accordance with § 226.9 of Regulation Z.

6. Supplying any additional information, in writing or orally, that is stated, utilized or placed so as to mislead or confuse the customer or that contradicts, obscures or detracts attention from the information that is required to be disclosed by Regulation Z.

7. Engaging in any consumer credit transaction within the meaning of Regulation Z of the Truth in Lending Act without making all disclosures that are required by §§ 226.8 and 226.9 of Regulation Z in the amount, manner, and form therein specified.

III. *It is further ordered*, That respondent shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondent's products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this or-

der, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

Issued: May 13, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8820 Filed 6-22-71; 8:51 am]

[Docket No. C-1913]

PART 13—PROHIBITED TRADE PRACTICES**Murdock Acceptance Corp. and Dixiemart-Corondolet Credit Department**

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing*; 13.71-10 *Truth in Lending Act*; § 13.73 *Formal regulatory and statutory requirements*; 13.73-92 *Truth in Lending Act*; § 13.155 *Prices*; 13.155-95 *Terms and conditions*; 13.155-95(a) *Truth in Lending Act*. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*; 13.1623-95 *Truth in Lending Act*; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions*; 13.1823-20 *Truth in Lending Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*; 13.1852-75 *Truth in Lending Act*; § 13.1905 *Terms and conditions*; 13.1905-60 *Truth in Lending Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Murdock Acceptance Corp. et al., Memphis, Tenn., Docket No. C-1913, May 10, 1971]

In the Matter of Murdock Acceptance Corp., a Corporation Doing Business as Dixiemart-Corondolet Credit Department

Consent order requiring a Memphis, Tenn., money-lending corporation to cease violating the Truth in Lending Act by failing to include in the "finance charge" any charges for credit life, accident, or health insurance, failing to disclose the annual percentage rate correctly, and failing in any consumer credit transaction or advertisement to make all disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Murdock Acceptance Corp., a corporation, doing business as Dixiemart-Corondolet Credit Department or under any other name, and its officers, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with any consumer credit extension as "consumer credit" is defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601

et seq.), do forthwith cease and desist from:

1. Failing to include in the "finance charge" any charges or premiums for credit life, accident or health insurance written in connection with any credit transaction unless:

a. The insurance coverage is not required by the creditor and this fact is clearly and conspicuously disclosed in writing to the customer; and

b. Any customer desiring such insurance coverage gives specific dated and separately signed affirmative written indication of such desire after receiving written disclosure to him of the cost of such insurance, as required by § 226.4(a)(5) of Regulation Z.

2. Failing to disclose the annual percentage rate correctly, as determined in accordance with § 226.5 of Regulation Z, both on the disclosure statement made at the opening of a new account in accordance with § 226.7(a) of Regulation Z and on the periodic statement required by § 226.7(b) of Regulation Z.

3. Failing in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with § 226.4 and § 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent, and other persons engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist contained herein.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8824 Filed 6-22-71; 8:51 am]

[Docket No. C-1914]

PART 13—PROHIBITED TRADE PRACTICES**Operation Skip-Locate, Inc., et al.**

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*; 13.15-25 *Concealed subsidiary, fictitious collection*

agency, etc.; 13.15-225 Personnel or staff; § 13.85 Government approval, action, connection or standards; 13.85-35 Government endorsement; § 13.120 Legality or legitimacy. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1390 Concealed subsidiary, fictitious collection agency, etc.; § 13.1520 Personnel or staff; Misrepresenting oneself and goods—Goods: § 13.1632 Government endorsement or recommendation; § 13.1675 Law or legal requirements.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46 Interpretations or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Operation Skip-Locate, Inc., et al., Blue Bell, Pa., Docket No. C-1914, May 10, 1971]

In the Matter of Operation Skip-Locate, Inc., a Corporation, Also Trading as Interstate Credit Corp., and City Credit Control, Inc., a Corporation, Also Trading as Financial Representatives, Inc., and First State Financial Corp., a Corporation, and John W. O'Hara, and Ronald D. Steinman, Individually and as Officers of Said Corporations

Consent order requiring three Blue Bell, Pa., collection agencies to cease misrepresenting that they have offices or affiliated agencies throughout the United States, that legal actions have been or will be taken against any debtor, failing to inform debtor that the decision to take action rests with the attorney, misrepresenting that any action is being taken through any government agency, and misrepresenting the significance or effect of any legal document affecting any debtor.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Operation Skip-Locate, Inc., City Credit Control, Inc., First State Financial Corp., corporations, and John W. O'Hara and Ronald D. Steinman, individually and as officers of said corporations, and respondents' agents and employees, directly or through any corporate or other device, in connection with the solicitation of accounts for collection, the collection of, or attempt to collect accounts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents have offices throughout the United States or that respondents are affiliated with or correspond with credit bureaus, collection agencies or attorneys, provided, however, that it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that they have offices throughout the United States and/or are affiliated with or correspond with credit bureaus, collection agencies or attorneys.

2. Representing, directly or by implication, that respondents' business has employees, agents or adjusters, engaged in making personal calls on debtors.

3. Representing, directly or by implication that:

(a) Legal action has been taken against the debtor; or

(b) Legal action will be taken against the debtor; or

(c) Reports which reflect unfavorably on the credit rating or credit worthiness of the debtor have been or will be made to medical reporting agencies or credit bureaus.

Provided, however, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that they have authority and in good faith intend to take any represented action.

4. Representing, directly or by implication, that suit or other action against a debtor may be taken unless the debtor is informed that the final decision to institute suit or other action rests with an attorney to whom the debtor's account will be referred.

5. Representing, directly or by implication, that any communication with respect to an alleged delinquent account is being made by, through, under the aegis of, or in connection with any government entity or agency, whether State, Federal, or local.

6. Representing, directly or by implication, to a debtor, that an affidavit or other legal document has been received or is being processed, unless a complaint has been filed or judgment entered against the debtor; or misrepresenting in any manner the significance or effect of any legal document.

7. Misrepresenting or inaccurately stating the post judgment right of a creditor to garnish wages of a debtor, or otherwise informing a debtor of a creditor's right after judgment without disclosing at the same time that no judgment may be entered against the debtor unless the debtor has first been given notice and an opportunity to appear and defend himself in a court of law.

8. Misrepresenting, directly or by implication, the size of respondents' business.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents deliver a copy of this order to all of its present and future personnel and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the

corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondents maintain for at least a two (2) year period last past, records which fully reflect the oral and written representations made to creditors and debtors.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8825 Filed 6-22-71; 8:51 am]

[Docket No. C-1918]

PART 13—PROHIBITED TRADE PRACTICES

Perfect Film & Chemical Corp. et al.

Subpart—Enforcing dealings or payments wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1440 Identity; Misrepresenting oneself and goods—Goods: § 13.1625 Free goods or services; § 13.1663 Individual's special selection or situation; § 13.1757 Surveys; § 13.1760 Terms and conditions; 13.1760-50 Sales contracts; Misrepresenting oneself and goods—Prices: § 13.1823 Terms and conditions; § 13.1825 Usual as reduced or to be increased. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 Sales contract, right-to-cancel provision; § 13.1905 Terms and conditions; 13.1905-50 Sales contract.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46 Interpretations or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Perfect Film & Chemical Corp. et al., New York, N.Y., Docket No. C-1918, May 13, 1961]

In the Matter of Perfect Film & Chemical Corp., a Corporation, Perfect Subscription Co., a Corporation, and Keystone Readers' Service Inc., a Corporation

Consent order requiring New York City, Philadelphia, Pa., and Fort Worth, Tex., corporations engaged in using deceptive and unfair means to sell magazine subscriptions and collect accounts to cease misrepresenting that they are conducting surveys or contests, performing services for the Youth Opportunity Program, failing to reveal that their contacts are to sell magazines, harassing customers by phone and falsely threatening legal action, and failing to give all essential details on their subscription contract; the order also defers the effective date of the subscription contract for 72 hours and gives the customer the right of cancellation within this period; it also forbids respondents to use third party solicitors unless such third parties agree to be bound by the order.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

1. It is ordered, That respondents Perfect Film & Chemical Corp., a corporation, Perfect Subscription Co., a

corporation, and Keystone Readers' Service, Inc., a corporation, and respondents' officers, representatives, employees, successor or assigns, franchisees, subfranchisees, salesmen, agents or solicitors, and the men, agents or solicitors engaged by or through respondents' franchisees or subfranchisees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of magazines or any other publications or merchandise, or subscriptions to purchase any such magazines or services, or in the collection or attempted collection of any delinquent or other subscription contract or other account, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that respondents are primarily conducting or participating in any survey, quiz or contest, or are engaged in any activity other than soliciting business; or misrepresenting, in any manner, the purpose of the call or solicitation.

2. Representing, directly or indirectly that any offer to sell said products or services is being made only to specially selected persons; or misrepresenting, in any manner, the persons or class of persons afforded the opportunity of purchasing respondents' products or services.

3. Representing, or performing services for Youth Opportunity Program or any similar organization, or any individual or firm other than one engaged in soliciting business; or misrepresenting, in any manner, the identity of the solicitor or of his firm and of the business they are engaged in.

4. Representing, directly or indirectly, that any merchandise or service is free, or is provided as a gift to either the subscriber or a person designated by him, or without cost or that any merchandise or service can be obtained free or as a gift or without cost or charge, in connection with the purchase of, or agreement to purchase any merchandise, or combination or merchandise or service, unless the stated price of the merchandise or service or combination thereof required to be purchased in order to obtain such free merchandise or gift is the same or less than the customary and usual price at which such merchandise or service or combination thereof required to be purchased has been sold separately from such free or gift item, for a substantial period of time in the recent and regular course of business in the trade area in which the representation is made.

5. Representing that any price is a special or reduced price unless it constitutes a significant reduction from an established selling price at which such product or service has been sold in substantial quantities in the recent and regular course of trade; or misrepresenting, in any manner, the savings which will be accorded or made available to purchasers, or that any price for any product or service covers only the cost of mailing, handling, editing, printing, or any other element of cost, or is at or below cost.

6. Refusing or failing upon request to cancel a contract when the representation has been made, either directly or indirectly, that the contract will be cancellable.

7. Failing, clearly, and unqualifiedly to reveal initially at all contracts or solicitations of purchasers or prospective purchasers, whether directly or indirectly, or by telephone, written or printed communication, or person-to-person, that the purpose of such contact or solicitation is to sell publications, products or services, as the case may be, which purpose shall be identified with particularity at the time of each such contact or solicitation.

8. Making any reference or statement concerning "50¢ per week," "60 months," or any other statement as to a sum of money or duration or period of time in connection with a subscription contract or other purchase agreement which does not in fact provide, at the option of the purchaser, for the payment of the stated sum, at the stated interval, and over the stated duration or period of time; or misrepresenting, in any manner, the terms, conditions, method, rate or time of payment actually made available to purchasers or prospective purchasers.

9. Representing, directly or indirectly, that a subscription contract or other purchase agreement is a "preference list," "guarantee," "route slip," or any kind of document other than a contract or agreement; or misrepresenting, in any manner, the nature, kind or legal characteristics of any document.

10. Failing, clearly and unqualifiedly, to reveal orally to each purchaser or prospective purchaser before execution, and in writing on each document, the identity, and nature of any document, such as a "contract" they are requested or required to execute in connection with the purchase of any product or service; and orally that the terms of any such document are binding on the parties to the document.

11. Attempting, by the use of telephone calls or any other means, to harass or intimidate customers in order to effect payment of any account.

12. Misrepresenting, directly or indirectly, that in the event of nonpayment or delinquency of any account or alleged debt arising from any subscription contract or purchase agreement, the general or public credit rating or standing of any person may be adversely affected, unless respondents actually do refer information concerning delinquencies to a bona fide credit reporting agency.

13. Failing, clearly and unqualifiedly, to disclose to a debtor or an alleged debtor, on each contact, that the collection agency to which the delinquent account will be referred, or said collection agency which is contacting a debtor or an alleged debtor, is an operating division of the respondents, and is not an independent bona fide collection agency unless in fact said collection agency is an independent, bona fide collection agency.

14. Representing, either directly or indirectly, that legal action may be instituted unless respondents in good faith

intend to institute legal action against each delinquent debtor or alleged debtor to whom such representation is made; or misrepresenting, in any manner, the action or results of any action which may be taken to effect payment of any such account or debt or alleged debt.

15. Contracting for any sale in the form of a subscription contract or other purchase agreement which shall become binding on the purchaser prior to a period of time not less than 72 hours after the date of signing by the purchaser.

16. Failing to disclose orally prior to the time of sale, and in writing on any subscription contract or other agreement with such conspicuousness and clarity as will be likely to be observed and read by such purchaser, that the purchaser may rescind or cancel the sale by directing or mailing a notice of cancellation to respondents' address prior to 72 hours after the date of signing by the purchaser.

17. Failing to provide either on the contract or on a separate sheet a clearly understandable form which the purchaser may use as a notice of cancellation.

18. If coupon books are used, failing to include with each coupon book furnished to a subscriber:

(a) A legend, on the cover, stating "check the number of coupons in this book and their amounts against your original subscription contract: (See Page 1)."

(b) A statement, on the first separate inside page, showing the total number of coupons in the book, the dollar amount of each such coupon and the total dollar amount of all such coupons;

(c) The address, on the first separate inside page, of Keystone Readers' Service, Inc., its successors or assigns.

19. Failing to furnish to each subscriber at the time of his signing of the subscription contract a duplicate original of the contract showing the exact number and name of the magazines or other publications to which the purchaser is subscribing, the number of issues for each, and the total price for each magazine and for all such magazines; provided, however, as an alternative, the price for each magazine may be furnished on a separate schedule attached to each of said contracts.

20. Failing to furnish with each coupon book initially provided to each subscriber, a copy of the original sales contract.

21. Substituting, requesting substitution or permitting substitution, except at the request of the customer, at any time during the collection period of the contract, of any magazine or publication for any magazine or publication covered by the contract without first providing the subscriber an option in writing, as stated in the subscription contract, to reduce his future payments by the pro rata portion of the remaining payments due on the canceled magazine or other publication: Provided, That respondents may offer to those subscribers with paid-in-full contracts an option to either lengthen all ready existing subscriptions or to select

from among all of respondents' than currently offered magazines or publications, a magazine or publication as a substitute for the remaining period of the subscription.

22. Failing or refusing to cancel, at the subscriber's request, all or any portion of a subscription contract whenever respondent in good faith finds that any misrepresentation prohibited by this order has been made.

23. Failing to clearly, conspicuously, and adequately designate and disclose both orally, and in writing on the subscription contract, on the same side of the page and above or adjacent to the place for the customer's signature:

- (a) The total cash price,
- (b) The downpayment,
- (c) The unpaid balance of the cash price,
- (d) The amount financed, if any,
- (e) The rate of the finance charge, if any, expressed as the annual percentage rate, and
- (f) The number, amount, and due dates or period of payments scheduled to satisfy the payment of the contract.

24. Furnishing or otherwise placing in the hands of others the means and instrumentalities by and through which the public may be misled or deceived in the manner or by the acts and practices prohibited by this order.

II. *It is further ordered:* (a) That respondents herein deliver, or have delivered, a copy of this decision and order, or the contents of this decision and order, to each of their present and future dealers or franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, or other representatives who sell, promote or distribute the products or services included in this order.

(b) That respondents herein deliver or have delivered to each person so described in paragraph (a) above a form clearly stating his intention to be bound by and to conform his business practices to the requirements of this order which shall be forwarded to the respondents.

(c) That respondents inform or have informed all such present and future dealers or franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, or other representatives who sell, promote or distribute the products or services included in this order that the respondents shall not use any third party, or the services of any third party for the solicitation of magazine subscriptions unless such third party agrees that it will be bound by the provisions contained in this order and the respondents are so informed.

(d) If such party will not so agree and the respondents and the Commission are not so informed then the respondents shall not use such third party or the services of such third party to solicit subscriptions.

(e) That respondents so inform or have informed the persons so engaged that the respondents are obligated by this order to discontinue dealing with those persons who continue on their own the deceptive acts or practices prohibited by this order.

(f) That respondents institute a program of continuing surveillance to reveal whether the business operations of each of said persons so engaged conform to the requirements of this order; and

(g) That respondents upon receiving information or knowledge from any source concerning two or more bona fide complaints prohibited by this order against any franchise, his employees or agents during any 1-month period will be responsible for either ending said practices or securing the termination of the franchisee or the employment of the offending employee or agent.

It is further ordered, That respondents herein shall notify the Commission at least 30 days prior to any proposed change in any of the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution which may affect compliance obligations arising out of the order.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: May 13, 1971.

By the Commission:

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8826 Filed 6-22-71; 8:52 am]

[Docket No. C-1916]

PART 13—PROHIBITED TRADE PRACTICES

Siegel's Home Equipment Co., Inc., and Henry Shapiro

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing*: 13.71-10 *Truth in Lending Act*; § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 *Truth in Lending Act*; § 13.155 *Prices*: 13.155-95 *Terms and conditions*: 13.155-95(a) *Truth in Lending Act*. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 *Truth in Lending Act*; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions*: 13-1823-20 *Truth in Lending Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-75 *Truth in Lending Act*; § 13.1905 *Terms and conditions*: 13.1905-60 *Truth in Lending Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Siegel's Home Equipment Co., Inc., et al., Richmond, Va., Docket No. 1916, May 10, 1971]

¹ Chairman Kirkpatrick not participating, and Commissioner Jones dissenting.

In the Matter of Siegel's Home Equipment Co., Inc., a corporation, and Henry Shapiro, Individually and as an Officer of Said Corporation

Consent order requiring a Richmond, Va., distributor and seller of furniture, appliances, and other merchandise to cease violating the Truth in Lending Act by failing to disclose the amount of the downpayment in property, failing to disclose the difference between the "cash price" and the "total downpayment," failing to disclose accurately the "unpaid balance," the "amount financed," the "finance charge," the "deferred payment price," and failing to make other disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Siegel's Home Equipment Co., Inc., a corporation, and its officers, and Henry Shapiro, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to make all disclosures required to be made by Regulation Z clearly, conspicuously and in a meaningful sequence, as required by § 226.8(a) of Regulation Z.

2. Failing to disclose the amount of any downpayment in property or to describe that amount as the "trade-in", or failing to disclose the sum of any "cash downpayment" and the "trade-in" and to describe that sum as the "total downpayment", as required by § 226.8(c)(2) of Regulation Z.

3. Failing to disclose accurately the difference between the "cash price" and the "total downpayment", and failing to describe that difference as the "unpaid balance of cash price", as required by § 226.8(c)(3) of Regulation Z.

4. Failing to disclose all other charges, individually itemized, which are part of the amount financed but are not part of the finance charge, as required by § 226.8(c)(4) of Regulation Z.

5. Failing to disclose the amount of the "unpaid balance" accurately as the sum of the "unpaid balance of cash price" and all other charges which are part of the "amount financed" but are not part of the "finance charge", as required by § 226.8(c)(5) of Regulation Z.

6. Failing to disclose accurately the "amount financed", and failing to describe that amount as the "amount financed", as required by § 226.8(c)(7) of Regulation Z.

7. Failing to disclose accurately and to describe individually the amount of each charge required by § 226.4 of Regulation Z to be included in the finance

charge, and failing to include each such amount in the amount of the finance charge, as required by § 226.8(c)(8) (1) of Regulation Z.

8. Failing to disclose the annual percentage rate, and failing to disclose that rate accurate to the nearest quarter of one percent, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

9. Failing to print the terms "finance charge" and "annual percentage rate", where required to be used, more conspicuously than the other required terminology, as required by § 226.6(a) of Regulation Z.

10. Failing to disclose the "deferred payment price" accurately as the sum of the cash price, all other charges which are part of the amount financed but are not part of the finance charge, and the finance charge, as required by § 226.8(c)(8) (ii) of Regulation Z.

11. Failing to disclose accurately the number, amount, and due dates or periods of payments scheduled to repay the indebtedness as required by § 226.8(b)(3) of Regulation Z.

12. Failing to make all the required disclosures in any one of the following three ways, as required by § 226.8(a) of Regulation Z:

(a) Together on the contract evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or

(b) On one side of the separate statement which identifies the transaction; or

(c) On both sides of a single document containing on each side thereof the statement "Notice: See other side for important information", with the place for the customer's signature following the full content of the document.

13. Stating in any advertisement the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless they state all of the following items in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

(a) The cash price;

(b) The amount of the downpayment required or that no downpayment is required, as applicable;

(c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate; and

(e) The deferred payment price.

14. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with § 226.4 and § 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel

of respondents engaged in the offering for sale, or sale of any products or in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8827 Filed 6-22-71; 8:52 am]

[Docket No. 8760 o]

PART 13—PROHIBITED TRADE PRACTICES

Stanley Works

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets*: 13.5-20 *Federal Trade Commission Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 16) [Cease and desist order, The Stanley Works, New Britain, Conn., Docket No. 8760, May 17, 1971]

In the Matter of The Stanley Works, a Corporation

Order requiring a New Britain, Conn., manufacturer and seller of power tools and hardware products to divest itself of all assets of a Rockford, Ill., manufacturer of certain hardware products, and not to acquire for a period of ten (10) years any firm engaged in the manufacture and sale of cabinet hardware without prior approval of the Federal Trade Commission.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent, The Stanley Works (hereinafter referred to as "Stanley"), through its officers, directors, agents, representatives, employees, successors, and assigns, within two (2) years from the date this order becomes final, shall divest absolutely and in good faith, all stock, assets, properties, rights and privileges, tangible or intangible, in-

cluding but not limited to all properties, plants, machinery, equipment, trade names, contract rights, patents, trademarks, and good will, obtained by Stanley as a result of its merger with the Amerock Corp., together with all plants, machinery, buildings, land, improvements, equipment and other property of whatever description that has been added to or placed on the premises of the former Amerock Corp., so as to restore Amerock Corp. as a going concern and effective competitor in the manufacture and sale of cabinet hardware.

It is further ordered, That pending divestiture, respondent shall not make any changes in any of the plants, machinery, buildings, equipment or other property of whatever description of the former Amerock Corp. which shall impair its present capacity for the production, sale and distribution of cabinet hardware, or its market value.

It is further ordered, That by such divestiture, none of the assets, properties, rights or privileges described in the first paragraph of this order, shall be sold or transferred, directly or indirectly, to any person or persons who are not approved in advance by the Federal Trade Commission.

II. In effectuating paragraph I of this order, respondent Stanley shall complete divestiture in the following manner and subject to the following conditions:

A. Beginning promptly on the effective date of this order, and for a period of six (6) months thereafter, Stanley shall make diligent efforts in good faith to effectuate the divestiture required by paragraph I of this order.

B. If Stanley fails to effectuate such divestiture within that period, Stanley shall, within thirty (30) days thereafter, submit a plan in form and substance acceptable to the Commission, for the formation of a new and separate corporation (hereinafter "New Amerock"), to enable the restoration of Amerock Corp. as a viable competitive factor in the hardware and cabinet hardware industries in substantially the manner and form it would have attained had it not been merged with Stanley. Such plan shall contain provision for:

1. Transfer to New Amerock of all assets required to be divested by section I of this order;

2. Distribution of the capital stock of New Amerock to the public or to the stockholders of Stanley;

3. A provision that any direct or indirect holder of more than one (1) percent of the outstanding capital stock of Stanley shall divest all stock interest in New Amerock within six (6) months from the date of incorporation of New Amerock; and

4. Distribution of the capital stock of New Amerock within not more than two (2) years from the effective date of this order.

III. Within thirty (30) days from the effective date of this order, and every thirty (30) days thereafter until it has fully complied with this order, Stanley

shall submit in writing, to the Federal Trade Commission, a verified report setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with this order. All compliance reports shall include without limitation a specification of the steps taken by Stanley to make public its desire to divest the assets or stock required to be divested pursuant to paragraphs I and II of this order, including, without limitations, a list of all persons, partnerships or corporations, and brokers, bankers and management consultants to whom this notice of sale has been given; a summary of all discussions and negotiations, together with the identity of all such potential purchasers or intermediaries, and copies of all recommendations, reports, offers and counter-offers and communications concerning divestiture.

IV. For ten (10) years from the date divestiture of Amerock is effectuated, Stanley shall cease and desist from acquiring, directly or indirectly, by any device or through subsidiaries or otherwise, the whole or any part of the stock, share capital or assets of any firm engaged in the manufacture or sale of cabinet hardware products without the prior approval of the Federal Trade Commission. Within thirty (30) days following the effective date of this order, and annually thereafter, Stanley shall furnish a verified written report setting forth the manner and form in which it intends to comply, is complying, or has complied with this paragraph.

It is further ordered, That the hearing examiner's initial decision and order to cease and desist, as above modified and as modified by the accompanying opinion, be and they hereby are, adopted as the decision and order of the Commission.

Issued: May 17, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8828 Filed 6-22-71; 8:52 am]

[Docket No. C-1912]

PART 13—PROHIBITED TRADE PRACTICES

Sun-Glo Products Corp. and George J. Kotler

Subpart—Importing, selling, or transporting flammable wear: §13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Sun-Glo Products Corp., et al., Miami, Fla., Docket No. C-1912, May 5, 1971]

In the Matter of Sun-Glo Products Corp., a Corporation, and George J. Kotler, Individually and as an Officer of Said Corporation

Consent order requiring a Miami, Fla., importer and seller of men's, women's,

and children's wearing apparel, including vacation type shirts, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Sun-Glo Products Corp., a corporation, and its officers, and George J. Kotler, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment in commerce any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of said products, and effect recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since July 28, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any

product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 5, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8829 Filed 6-22-71; 8:52 am]

[Docket No. C-1919]

PART 13—PROHIBITED TRADE PRACTICES

Time, Inc., and Family Publications Service, Inc.

Subpart—Enforcing dealings or payments wrongfully: §13.1045 *Enforcing dealings or payments wrongfully.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: §13.1440 *Identity: Misrepresenting oneself and goods—Goods:* §13.1625 *Free goods or services:* §13.1663 *Individual's special selection or situation:* §13.1757 *Surveys:* §13.1760 *Terms and conditions:* §13.1760-50 *Sales contracts; Misrepresenting oneself and goods—Prices:* §13.1823 *Terms and conditions:* §13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: §13.1892 *Sales contract, right-to-cancel provision:* §13.1905 *Terms and conditions:* §13.1905-50 *Sales Contract.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Time, Inc., et al., New York, N.Y., Docket No. C-1919, May 13, 1971]

In the Matter of Time, Inc., a Corporation and Family Publications Service, Inc., a Corporation

Consent order requiring a major New York City magazine publisher and its

wholly owned subsidiary for soliciting magazine subscriptions to cease making various false representations in inducing customers to subscribe to magazines, refusing to cancel a contract on request, failing to reveal all significant details of the subscription contract, harassing customers by phone or otherwise to effect payment of accounts, making sales contracts which are binding before midnight of the third day, and failing to notify purchaser of his right to rescind contract within three days; the order also binds any third party which respondent may engage to solicit subscriptions.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Time, Inc., a corporation and its officers, Family Publications Service, Inc., a corporation and its officers, and their successors or assigns, and respondents' respective representatives, employees, salesmen, agents or solicitors, in connection with the advertising, offering for sale, sale or distribution of magazines or any other publications (hereinafter sometimes referred to as products or services) by subscriptions to purchase any such products or services through a "paid-during-service" plan, or through a "cash sale" plan (as "cash sale" is hereinafter defined) or in the collection or attempted collection of any delinquent paid-during-service or cash sale subscription account obtained through door-to-door, mail or telephone solicitation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that any employee or other person calling upon a customer or prospective customer for the purpose or with the result of inducing or securing a subscription to, order for, or the purchase or agreement to purchase any products or services:

(a) Is making such offer to specially selected persons; or misrepresenting, in any manner, the type or class of persons to whom such offers are being made.

(b) Represents, or is performing services for "Welcome Wagon" or any educational, charitable, social or other organization, or any individual or firm other than one engaged in soliciting business; or misrepresenting, in any manner, the identity of the solicitor or of his firm and of the business they are engaged in.

(c) Will give any product or service free or as a gift or without cost or charge, or that any product or service can be obtained free or as a gift or without cost or charge, in connection with the purchase of, or agreement to purchase any product or service, unless the stated price of the product or service required to be purchased in order to obtain such free product or gift is the same or less than the customary and usual price at which such product or service required to be purchased has been sold separately from such free or gift item, and in the same combination if more than one item is required to be purchased,

chased, for a substantial period of time in the recent and regular course of business in the trade area in which the representation is made.

2. Failing, clearly, emphatically and unqualifiedly to reveal, at the outset of the initial contact and all subsequent sales solicitations of purchasers or prospective purchasers, whether directly or indirectly, or by telephone, written or printed communication, or person-to-person that the purpose of such contact or solicitation is to sell products or services as the case may be, which shall be identified with particularity at the time of each such contact or solicitation.

3. Representing, directly or indirectly, that any price for any product or service covers only the cost of mailing, handling, editing, printing, or any other element of cost, or is at or below cost; or that any price is a special or reduced price unless it constitutes a significant reduction from an established selling price at which such product or service has been sold in substantial quantities by respondents in the same combination of items in the recent and regular course of their business; or misrepresenting, in any manner, the savings which will be accorded or made available to purchasers.

4. Representing, directly or indirectly that any subscription contract or other purchase agreement can be canceled at the purchaser's option, or that the right to cancel will be accorded to any purchasers, when there is no provision in such contract or agreement for cancellation on the terms and conditions represented, and unless cancellation is in fact granted on such terms and conditions.

5. Refusing or failing upon request to cancel a contract when the representation has been made directly or indirectly that the contract will be cancellable.

6. Making any reference to a sum of money or a period of time such as "45¢ a week" or "60 months" or any other similar references to the terms of a subscription contract which are not the actual terms and conditions of sale prior to notifying the customer or prospective customer clearly and precisely of the exact terms and conditions of sale, including but not limited to the actual total dollar amount of the contract involved, the dollar amount of the down payment, and of each subsequent payment and the interval and number of such payments or misrepresenting in any manner the terms, conditions, methods, rate or time of payment actually made available to purchasers or prospective purchasers.

7. Failing to clearly reveal orally prior to the time the subscription contract is signed by the customer:

(a) The name, the exact number of issues, and the exact number of months of service of each publication covered by the contract;

(b) The total price to the subscriber of all the publications covered by the contract; and

(c) The down payment required and the number, amount, and due dates of all subsequent payments.

8. Representing, directly or indirectly, that a subscription contract or other purchase agreement which is presented to the purchaser during the course of the solicitation is a "preference list", "guarantee", "route slip" or any kind of document other than a contract or agreement; or misrepresenting, in any manner, the nature, kind of characteristics of any document.

9. Failing, clearly, emphatically and unqualifiedly to disclose orally and in writing to each purchaser or prospective purchaser before execution, the identity, nature and import of any document he is requested or required to execute in connection with the purchase of any product or service.

10. Harassing customers in order to effect payment of any account by any means, including the following:

(a) Repeated telephone calls within the same day or week, abusive telephone calls, or telephone calls at unreasonable hours.

(b) The use of forms or any other items of printed or written matter purporting to be legal documents or process.

(c) Representations, direct or indirect, that in the event of nonpayment or delinquency of any account or alleged debt arising from any subscription contract or other purchase agreement, the general or public credit rating or standing of any person may be adversely affected, unless respondents refer the information concerning such delinquency to a bona fide credit reporting agency.

(d) Representing that legal action may be instituted unless it is intended in good faith that such legal action be instituted; or misrepresenting in any manner the action to be taken or results of any action which may be taken to effect payment of any such account or alleged debt.

11. Canceling a subscription contract for any reason other than a breach by the subscriber without either arranging for the delivery of publications already paid for or promptly refunding money on a pro rata basis for all undelivered issues of publications for which payment has been made in advance.

12. Contracting for any sale in the form of a subscription contract or other purchase agreement which shall become binding on the purchaser prior to midnight of the third day, excluding Sundays and legal holidays, after the date of notification of acceptance as provided in paragraph 15.

13. Failing to disclose to the purchaser in writing on any subscription contract or other purchase agreement signed by the purchaser with such conspicuousness and clarity as likely to be understood by such purchaser, that the purchaser may rescind or cancel the sale by mailing a notice of cancellation to the address specified by the agency or respondent subsidiary prior to midnight of the third day, excluding Sundays and legal holidays, after the date upon which the purchaser signed such subscription contract.

14. Failing to furnish to each subscriber at the time of his signing of the subscription contract a duplicate original of the contract showing date signed by the customer and name of salesman together with his agency's address and telephone number and showing on the same side of the page, above or adjacent to the place for the customer's signature, the exact number and name of the publications being subscribed for; the number of issues for each; the down payment required; the number, dollar amount and due dates of each subsequent payment; amount and rate of finance charge, if any; the charge, if any, for late payment and the conditions under which such charge shall be assessed and the total price to the subscriber for all such publications.

15. Failing to provide at the time the customer is notified of the acceptance of the contract a clearly understandable form showing the magazines or other publications covered by the contract, inviting specific attention to the variations therein, if any, from the purchase agreement signed by the purchaser; the price to the subscriber ascribed by the respondents for each publication for the term of the contract and the total price to the subscriber of all such publications covered by the contract, and the name and address of the agency or respondent subsidiary which the purchaser may use as a notice of cancellation at any time prior to midnight of the third day, excluding Sundays and legal holidays, after the date of receipt thereof; and such form shall advise such purchaser of his right so to cancel.

16. In the event of the discontinuance of publication, or other unavailability, of any magazines subscribed for, at any time during the life of the contract, failing to offer the subscriber the right to substitute one or more magazines or other publications, or the extension of subscription periods of magazines already selected.

17. Failing or refusing to cancel, at the subscriber's request, all or any remaining portion of a subscription contract whenever any misrepresentation prohibited by this order has been made to such subscriber.

18. Furnishing or otherwise placing in the hands of employees or other authorized representatives the means and instrumentalities, such as sales pitches, instruction sheets, collection or advertising materials by and through which the public may be misled or deceived in the manner or as to things prohibited by this order.

It is further ordered, That, Time, Inc., directly or indirectly through Family Publications Service, Inc., or any other present or future subsidiary or controlled affiliate of respondents:

(a) Deliver by registered mail or by hand a copy of this decision and order to each of their present and future dealers or franchisees, if any, representatives, licensees, employees, salesmen, agents, solicitors, independent contractors, or

other authorized representatives who, as described in the main preamble to this order, are engaged in the promotion, offering for sale, sale or distribution of the products or services included in this order by means of paid-during service or cash sale plans employing door-to-door, mail or telephone solicitation of subscription contracts: *Provided, however*, That the provisions of this paragraph (a) shall not apply to those who are merely engaged in the physical distribution of magazines or other products included in this order;

(b) Provide each person so described in paragraph (a) above with a form to be signed by such person clearly stating his intention to conform his business practices to the requirements of this order;

(c) Inform each person so described in paragraph (a) above that the respondents shall not use any third party, or the services of any third party for the solicitation of magazine subscriptions unless such third party agrees to conform to the provisions contained in this order;

(d) If any such third party will not agree to conform to the provisions of the order, the respondents shall not use such third party, or the services of such third party to solicit subscriptions;

(e) So inform each person so described in paragraph (a) above that the respondents are obligated by this order to discontinue dealing with those persons who continue on their own the deceptive acts or practices prohibited by this order;

(f) Institute a program of continuing surveillance adequate to reveal whether the business operations of each person so described in paragraph (a) above conform to the requirements of this order; and

(g) Discontinue dealing with the persons revealed by the aforesaid program of surveillance to be continuing on their own deceptive acts or practices prohibited by this order.

It is further ordered, That respondents herein shall notify the Commission at least thirty (30) days prior to any proposed change in the structure of either of the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respective corporations which may affect compliance obligations arising out of this order.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

As used in this order, the term "cash sale" shall mean the sale of products or services by a subscription contract by that category of sales personnel referred to in the trade as "field representatives" or "traveling crews" who sell subscriptions during the course of door-to-door solicitations to one or a few products in

consideration of one immediate full payment or few payments as contrasted with the more numerous products and payments involved in paid-during-service plans.

As used in this order, the phrase "door to door, mail or telephone solicitation" of subscription contracts relates only to such solicitation used to initiate or effect sales or collections pursuant to a paid-during-service plan or a cash sale plan.

Issued: May 13, 1971.

By the Commission.¹

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-8830 Filed 6-22-71; 8:52 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Releases Nos. 33-5158, 34-9210, AS-119]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS (ACCOUNTING SERIES RELEASES)

PART 231—INTERPRETATIVE RELEASES RELATING TO SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Computation of Ratio of Earnings to Fixed Charges

Certain registration forms under the Securities Act of 1933 require, where debt securities are to be registered, a statement of the ratio of earnings to fixed charges. Certain registration and report forms under the Securities Exchange Act of 1934 permit the showing of such a ratio. There have recently been filed with the Commission a number of registration statements wherein the registrants, in computing the ratio of earnings to fixed charges, have deducted from fixed charges amounts comprising (1) interest income or investment income earned on funds in excess of the requirements for working capital and (2) gains on retirement of debt at less than its principal amount. In some cases registrants have, in computing the pro forma ratio, imputed interest or investment income on amounts of funds to be obtained from the registered offering which is in excess of the immediate requirements for debt retirement or capital expenditures

¹Chairman Kirkpatrick not participating, and Commissioner Jones dissenting.

and have deducted such imputed income from the pro forma fixed charges in computing the pro forma ratio of earnings to fixed charges.

The propriety of reducing fixed charges by amounts representing interest or investment income or gains on retirement of debt has been considered in the light of the purposes for which ratios of earnings to fixed charges are used and the Commission has determined that the reduction of fixed charges by the amount of either actual or imputed interest or investment income or debt retirement gains for the purpose of computing fixed charge ratios results in incorrect ratios and is therefore inappropriate. Accordingly, such reductions will no longer be deemed acceptable in registration statements or reports filed with the Commission.

By the Commission, June 15, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8783 Filed 6-22-71; 8:47 am]

[Release No. 34-9048]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Registration and Reporting of Employee Stock Purchase Plans; Correction

In the February 3, 1971, issue of the FEDERAL REGISTER (36 F.R. 1889-1891), the Commission published its Release No. 34-9048 announcing the amendment of Form 11-K (17 CFR 249.311) and of certain rules under the Securities Exchange Act of 1934. Though the preamble of the release clearly indicated that Rules 13a-3 and 13a-4 (17 CFR 240.13a-3, 240.13a-4) were to be rescinded, the following statement was inadvertently omitted from the text of the Commission's action:

IX. Sections 240.13a-3 and 240.13a-4 are rescinded.

By the Commission, June 16, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8782 Filed 6-22-71; 8:47 am]

[Release No. IC-6561]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Election by Open-End Investment Companies To Make Only Cash Redemptions

On March 24, 1971, the Securities and Exchange Commission published notice (Investment Company Act Release No. 6401 (36 F.R. 6595)) that it had under consideration the adoption of Rule

18f-1 under the Investment Company Act of 1940 (Act) (17 CFR 270.18f-1) and Form N-18F-1 (17 CFR 274.51) and invited all interested persons to submit their views and comments upon the proposals. The Commission has considered all the comments and suggestions received and has determined to adopt Rule 18f-1 and Form N-18F-1 in the form set forth below.

Section 6(c) of the Act (15 U.S.C. 80a-6(c)) provides that the Commission by rule, regulation, or order may exempt any person or transaction or any class of persons or transactions from any provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 38(a) (15 U.S.C. 80a-37(a)) of the Act authorizes the Commission to issue such rules as are necessary or appropriate to the exercise of the powers conferred upon the Commission in the Act.

Section 22(e) of the Act (15 U.S.C. 80a-22(e)) provides in pertinent part that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than 7 days after the tender of such security to the company or its agent designated for that purpose for redemption, with certain exceptions not here relevant. Section 2(a) (32) of the Act (15 U.S.C. 80a-2(a) (32)) (formerly section 2(a) (31) as renumbered by Public Law 91-547, December 14, 1970) defines "redeemable security" as "any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer or to a person designated by the issuer, is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof." This provision has traditionally been interpreted as giving the issuer the option of redeeming its securities in cash or in kind.

Section 18(f) (1) of the Act (15 U.S.C. 80a-18(f) (1)) provides that it shall be unlawful for any registered open-end company to issue any class of senior security or to sell any senior security of which it is the issuer. Section 18(g) (15 U.S.C. 80a-18(g)) of the Act provides, as here relevant, that "senior security" means any stock of a class having priority over any other class as to distribution of assets.

The securities administrators of several States of the United States, as well as those of certain foreign countries are requiring, or considering requiring, as a condition to doing business in their respective jurisdictions, that open-end investment companies which have the right to redeem in kind file an undertaking that, as to residents within their respective jurisdictions, redemptions will be effected in cash only, or that redemptions in kind will not be effected unless

specific approval therefor is first obtained from the securities administrator. Such requirements would involve priorities as to distribution of assets and thus give rise to prohibited senior securities within the meaning of section 18 of the Act.

The Commission believes that under certain circumstances it is desirable for open-end investment companies to have available the flexibility afforded by the ability to redeem in kind. However, redemptions in kind are extremely rare. In order to avoid needless conflicts with State and foreign regulatory authorities, and to enable registered open-end investment companies to continue to make securities available to citizens and residents of foreign jurisdictions, the Commission has determined to adopt a rule which will allow any registered open-end fund to waive the right to redeem in kind, subject to certain limitations. Thus, under the rule, any registered open-end investment company which has the right to redeem in kind could file with the Commission, on Form N-18F-1, a notification of election committing itself to pay in cash all requests for redemptions by any shareholder of record, limited in amount during any 90-day period to the lesser of \$250,000 or 1 percent of the net asset value of such fund at the beginning of such period. Once the fund files the notification, no change in its practice may occur while the rule is in effect without the prior approval of the Commission. Should redemptions by a shareholder of record during any 90-day period exceed the limit described above, then the fund would have the option of redeeming the excess in cash or in kind.

After consideration of the comments and suggestions received from interested persons, the Commission has determined to adopt Rule 18f-1 and Form N-18F-1 as originally proposed, effective forthwith.

Commission action. I. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding a new § 270.18f-1 reading as follows:

§ 270.18f-1 Exemption from certain requirements of section 18(f) (1) (of the Act) for registered open-end investment companies which have the right to redeem in kind.

(a) A registered open-end investment company which has the right to redeem securities of which it is the issuer in assets other than cash may file with the Commission at any time a notification of election on Form N-18F-1 (§ 274.51 of this chapter) committing itself to pay in cash all requests for redemption by any shareholder of record, limited in amount with respect to each shareholder during any 90-day period to the lesser of

(1) \$250,000 or
(2) 1 percent of the net asset value of such company at the beginning of such period.

(b) An election pursuant to paragraph (a) of this section:

(1) Shall be described in the prospectus, and

(2) Shall be irrevocable while this § 270.18f-1 is in effect unless the Commission by order upon application permits the withdrawal of such notification of election as being appropriate in the public interest and consistent with the protection of investors.

(c) Upon making the election described in paragraph (a) of this section, an investment company shall be exempt from the requirements of section 18(f) (1) of the Act to the extent necessary for such company to effectuate redemptions in the manner set forth in such paragraph.

II. Part 274 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding a new § 274.51 as follows:

§ 274.51 Form N-18F-1, for notification of election pursuant to § 270.18f-1 of this chapter.

(a) This form shall be filed with the Commission in triplicate as the notification of election pursuant to § 270.18f-1 of this chapter by a registered open-end investment company to commit itself to pay in cash all redemptions requested by a shareholder of record as provided in said section.

NOTE: Copies of Form N-18F-1 have been filed with the Office of the Federal Register as part of Release No. IC-6561 and copies of such release may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

The Commission finds that the foregoing action grants exemptions from certain provisions of the Act and that notice and procedures specified in 5 U.S.C. 553 are not necessary. Accordingly, the foregoing rule is declared to become effective on June 14, 1971.

(Secs. 6(c), 18(f), 38(a); 54 Stat. 800, 817, 841, 15 U.S.C. 80a-6(c), 80a-18(f), 80a-37(a); sec. 10, 84 Stat. 1421, 15 U.S.C. 80a-18(f))

By the Commission, June 14, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc. 71-8784 Filed 6-22-71; 8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Tylosin

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (13-076V) filed by Elanco Products Co., a division of Eli Lilly & Co., Indianapolis, Ind. 46206, proposing the safe and effective use of tylosin as an aid in the control of chronic respiratory disease (CRD) caused by *Mycoplasma*

synoviae in broiler chickens. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120),

Part 135c is amended in the table in § 135c.4(e) by revising the text of item 1 in the "Indications for use" column, as follows:

§ 135c.4 Tylosin.

(e)

IN DRINKING WATER

	Grams per gallon	Limitations	Indications for use
1. Tylosin	Aid in the treatment of chronic respiratory disease (CRD) caused by <i>Mycoplasma gallisepticum</i> sensitive to tylosin in broiler and replacement chickens. For the control of chronic respiratory disease (CRD) caused by <i>Mycoplasma gallisepticum</i> sensitive to tylosin at time of vaccination or other stress in chickens. For the control of chronic respiratory disease (CRD) caused by <i>Mycoplasma synoviae</i> sensitive to tylosin in broiler chickens.
.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-23-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: June 15, 1971.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 71-8753 Filed 6-22-71; 8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Sulfadimethoxine and Ormetoprim

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (40-209V) filed by Hoffmann-La Roche, Inc., proposing revised labeling regarding the safe and effective use of a drug containing sulfadimethoxine and ormetoprim in chicken and turkey feed. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135e is amended in § 135e.55(e) by revising the entire text in the "Limitations" column of the table to read as follows:

§ 135e.55 Sulfadimethoxine, ormetoprim.
(e)

Principal ingredients	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1.	For broiler chickens only; withdraw 2 days before slaughter.	. . . .
2.	For broiler chickens only; withdraw 5 days before slaughter; as sole source of organic arsenic.	. . . .
3.	For growing turkeys only; withdraw 2 days before slaughter.	. . . .

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-23-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: June 15, 1971.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 71-8752 Filed 6-22-71; 8:45 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

S-Propyl Dipropylthiocarbamate

A petition (PP 1F1042) was filed by the Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804, in accordance with provisions of the Federal

Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing the establishment of a tolerance for negligible residues of the herbicide S-propyl dipropylthiocarbamate in or on the raw agricultural commodity potatoes at 0.1 part per million. Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerance is being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to this tolerance.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the herbicide in meat, milk, poultry, and eggs and is classified within the category specified in § 420.6(a)(3) for these commodities.

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority delegated to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.240 is revised to read as follows:

§ 420.240 S-Propyl dipropylthiocarbamate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide S-propyl dipropylthiocarbamate in or on the raw agricultural commodities peanuts, peanut forage, peanut hay, potatoes, soybeans, soybean forage, soybean hay, and sweetpotatoes at 0.1 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-23-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc. 71-8806 Filed 6-22-71; 8:49 am]

Title 22—FOREIGN RELATIONS

Chapter II—Agency for International Development, Department of State

[A.I.D. Reg. 1]

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY A.I.D.

Notice to Suppliers and Marking Requirements

Part 201 of Chapter II, Title 22 (A.I.D. Reg. 1), is amended as follows:

a. Section 201.21 is revised to read as follows:

§ 201.21 Notice to supplier.

The importer is responsible for providing the supplier with the following information (either through the invitation for bids or otherwise):

(a) Notice that the transaction is to be financed by A.I.D. under this Part 201;

(b) The identification number of the implementing document;

(c) All additional information prerequisite to A.I.D. financing and contained in the instructions from the borrower/grantee to the importer (for example, eligible source of commodity, periods during which deliveries must be made, shipping provisions, and documentation requirements); and, where appropriate,

(d) Notice relative to the marking requirements of § 201.31(d) that the importer is the government of the cooperating country or any of its subdivisions or instrumentalities.

b. Section 201.31 is amended as follows: The heading of paragraph (d) is revised to read "Marking of shipping containers and commodities" and paragraph (d)(1) is revised to read as follows:

§ 201.31 Suppliers of commodities.

(d) Marking of shipping containers and commodities—(1) Affixing emblems and identification numbers. The supplier shall be responsible for assuring that all export shipping containers, whether shipped from the United States or from any other source country, carry the official A.I.D. (clashed hands) emblem and, in addition, in the case of shipments to countries participating in the Alliance for Progress, the Alliance for Progress (flaming torch) emblem. Additionally, except as A.I.D. may otherwise prescribe, when the supplier is given notice by the importer that the importer is the government of a cooperating country or any of its subdivisions or instrumentalities, the

supplier shall also be responsible for assuring that all commodities carry the aforesaid emblems. Upon each export shipping container the last set of digits of the identification number of the pertinent implementing document shall be marked in characters at least equal in height to the shipper's marks.

(i) *Durability of emblems.* Emblems shall be affixed by metal plate, decalcomania, stencil, label, tag, or other means, depending upon the type of commodity or export shipping container and the nature of the surface to be marked. The emblem placed on commodities shall be as durable as the trademark, company or brand name affixed by the producer; the emblem on each export shipping container shall be affixed in a manner which assures that the emblem will remain legible until the container reaches the consignee.

(ii) *Size of emblems.* The size of an emblem may vary depending upon the size of the commodity and the size of the package or export shipping container. The emblem shall in every case be large enough to be clearly visible at a reasonable distance.

(iii) *Design and color of emblems.* Emblems shall conform in design and color to samples available from AID/W (Office of Small Business) and from the US AID.

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (6-23-71).

Dated: June 15, 1971.

MAURICE J. WILLIAMS,
Acting Administrator.

[FR Doc. 71-8842 Filed 6-22-71; 8:50 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-12; Notice No. 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires and Tire Selection and Rims for Passenger Cars

Correction

In F.R. Doc. 71-7465 appearing at page 10733 in the issue of Wednesday, June 2, 1971, the following changes should be made in § 571.21:

1. In Table I-B of Table I on page 10735, the sixth entry now reading "C70-15-----7-JJ, 7½-K, 8-JJ" should read "C70-15-----5½-JJ".

2. In Table I-M of Table I on page 10736, the 14th entry now reading "FR 78-15 ----- 4 1/2-JJ" should read "FR78-15 ----- 5 1/2-JJ" and should be transposed to follow the next entry in the table (ER78-15).

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

SUBCHAPTER F—AID TO FISHERIES

PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

JUNE 18, 1971.

On pages 9074 and 9075 of the FEDERAL REGISTER of May 19, 1971, there was published a notice to amend the Fishermen's Protective Act Procedures, 50 CFR Part 258, to reflect the provisions of Reorganization Plan No. 4 of 1970 and to provide for new fee schedules and procedures in connection therewith.

Section 7 of the Fishermen's Protective Act of 1967 and Reorganization Plan No. 4 of 1970, among other things, authorized the Secretary of Commerce to set fees to be charged for the furnishing of a guarantee agreement. The Fishermen's Protective Act Procedures, which became effective February 9, 1969, established fees, based on anticipated losses, to provide for payment of the administrative costs and at least one-third of the estimated claims to be paid from the Fishermen's Protective Fund. Experience to date in the payment of claims under this program indicates that a change in the existing fee schedule is not warranted at this time. However, to allow for (i) adjustment of fees for guarantee agreements executed on or after July 1, 1971, and (ii) credits for fees paid on guarantee agreements executed after January 1, 1971, certain revisions in the regulations are required.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed procedures. Inasmuch as no written comments, suggestions, or objections were received, the proposed procedures are hereby adopted without change and are set forth below.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (6-23-71).

PHILIP M. ROEDEL,
Director.

- Sec.
258.1 Definition of terms.
258.2 Purposes of Fishermen's Protective Fund.
258.3 Eligibility.
258.4 Applications.
258.5 Fees.
258.6 Insurance required.
258.7 Approval of applications.
258.8 Payment of claims.
258.9 Records.

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AUTHORITY: The provisions of this Part 258 issued under sec. 7 of the Fishermen's Protective Act of 1967 (Public Law 90-482; 22 U.S.C. 1977) and Reorganization Plan No. 4 of 1970.

§ 258.1 Definition of terms.

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Secretary.* The Secretary of Commerce or his authorized representative.

(b) *Owner.* The registered owner or owners of a commercial fishing vessel, or a bareboat charterer of a commercial fishing vessel.

(c) *Act.* The Fishermen's Protective Act of 1967 (22 U.S.C. 1971-1977, as amended).

(d) *Fishermen's Protective Fund.* The account established in the Treasury of the United States under the provisions of section 7(c) of the Act.

(e) *Commercial fishing vessel.* A vessel licensed or enrolled and licensed as a fishing vessel of the United States engaged in catching, or catching and processing, fish and/or shellfish.

(f) *Seized.* Placed under arrest and detained by a foreign country for alleged illegal fishing.

§ 258.2 Purposes of Fishermen's Protective Fund.

The broad objective of the Fishermen's Protective Fund is to provide for reimbursement of losses and costs (other than fines, license fees, registration fees, and other direct costs which are reimbursable through the Secretary of State) incurred as a result of the seizure of a U.S. commercial fishing vessel by a foreign country on the basis of rights or claims in territorial waters or on the high seas which are not recognized by the United States.

§ 258.3 Eligibility.

Any owner of a commercial fishing vessel documented or certified in the United States is eligible to apply for an agreement with the Secretary providing for a guarantee in accordance with section 7(a) of the Act.

§ 258.4 Applications.

Any owner desiring to enter into an agreement with the Secretary under the authority of section 7(a) of the Act shall make application to the National Marine Fisheries Service, Attention: Chief, Division of Financial Assistance (F224), 1801 North Moore Street, Arlington, VA 22209, upon application form furnished by that Service. The application shall be accompanied by a fee in the amount prescribed in the paragraph immediately below.

§ 258.5 Fees.

(a) The fees are established to provide for payment of the administrative costs and at least one-third of the estimated claims to be paid from the fund. They are set on the basis of anticipated losses and prior experience. The fees may be adjusted from time to time by amendment to this part at any time, after appropriate notice, in order to meet the requirements of the Act.

(b) Fees to be paid by an applicant for guarantee agreements terminating on June 30, 1972, shall be as follows: For each vessel \$60 plus \$1.80 per gross ton as listed on the vessel's documents. Fractions of a ton are not included.

(c) Any applicant covered by a guarantee agreement executed between January 1 and March 31, 1971, desiring to execute a new guarantee agreement, shall be entitled to a credit of \$15 for each vessel plus \$0.45 per gross ton as listed on the vessel's documents. Fractions of a ton are not included. To obtain such credit the application and balance of fee must be received as herein prescribed prior to September 1, 1971.

(d) Any applicant covered by a guarantee agreement executed between April 1 and June 30, 1971, desiring to execute a new guarantee agreement, shall be entitled to a credit of \$45 for each vessel plus \$1.35 per gross ton as listed on the vessel's documents. Fractions of a ton are not included. To obtain such credit the application and balance of fee must be received as herein prescribed prior to September 1, 1971.

(e) No return of a fee or portion of a fee will be made after a guarantee agreement is executed by the Secretary. Failure to pay increased fees within 30 days of adjustment shall constitute a basis for termination of the guarantee agreement.

(f) A guarantee agreement may, with the consent of the Secretary, be assigned to a new owner of a vessel if the ownership of the vessel is transferred during the period in which the agreement is in force.

§ 258.6 Insurance required.

In order to qualify for an agreement executed under this part, the vessel must be insured during the period of the agreement with hull and machinery insurance and protection and indemnity insurance in an amount and form satisfactory to the Secretary.

§ 258.7 Approval of application.

The approval of an application shall be evidenced by the execution of the agreement by the Secretary and the agreement shall be in effect from the time of its effective date.

§ 258.8 Payment of claims.

(a) In case of a cost or loss resulting in a claim under an agreement, the claim shall be filed in duplicate with the Director, National Marine Fisheries Service, Attention: Chief, Division of Financial Assistance (F224), 1801 North Moore Street, Arlington, VA 22209. The Director will obtain verification of certain essential facts regarding the seizure from the Department of State. Payments shall be made as promptly as practicable but may at times be delayed pending appropriation of necessary funds.

(b) The burden of proving all damages shall be upon the guaranteed party.

(c) No payment shall be made on a claim caused by negligence of the Owner, captain or crew.

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(d) No payment shall be made on a claim unless all fees due have been paid in full.

(e) Each claim filed shall contain an authorization to all International, Federal, State, or local government agencies to furnish the National Marine Fisheries Service with any data or information relating to the operation of the vessel involved in the claim which the Secretary deems necessary for adjudication of the claim.

(f) No claim shall be paid unless the vessel involved and covered by a guarantee agreement is properly documented as a vessel of the United States at the time of the seizure.

(g) No claim of any crew member who is not a citizen or an alien legally domiciled in the United States will be considered.

(h) In case of the loss or confiscation of a vessel or gear resulting in a claim, the value of the vessel or gear for the purpose of settling the claim shall be the market value as determined by the Secretary.

(i) The value used in determining claims involving the catch of the vessel will be that paid in the port and on the date of the first arrival of the vessel in the United States as determined by the Secretary. If the vessel does not return to a port of the United States, the value used will be determined by the Secretary after consideration of the circumstances involved.

(j) Original documents or certified copies of receipts and other documents required as verification of losses must be provided.

(k) All assureds shall pursue any claim under commercial insurance covering identical loss or losses as the Secretary may determine to be necessary prior to application for payment under this part.

§ 258.9 Records.

The Secretary shall have the right to inspect such books and records of the owner as the Secretary may deem necessary in processing a claim under this part.

[FR Doc.71-8871 Filed 6-22-71; 8:53 am]

SUBCHAPTER J—CONTINENTAL SHELF PART 295—LIVING ORGANISMS OF THE CONTINENTAL SHELF

The Act of May 20, 1964 (78 Stat. 194; 16 U.S.C. 1081 et seq.), prohibits foreign-flag vessels from engaging "in the fisheries within the territorial waters of the United States, its territories and possessions and the Commonwealth of Puerto Rico, or within any waters in which the United States has the same rights in respect to fisheries as it has in its territorial waters or to engage in the taking of any Continental Shelf fishery resource which appertains to the United States." Section 5(b) of the aforementioned Act (16 U.S.C. 1085(b)) further authorizes the Secretary of Commerce, in consultation with the Secretary of State, to publish in the FEDERAL REGISTER

a list of the species of living organisms which constitute "Continental Shelf fishery resource," which "includes the living organisms belonging to sedentary species; that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf."

Recommendations have been made to include additional species in the existing list of "living organisms of the Continental Shelf" as published in the FEDERAL REGISTER at 33 F.R. 16114. A finding has been made by the Secretary of Commerce in consultation with the Secretary of State that the species in § 295.2 below meet the criteria specified above.

To avoid confusion with two separate lists, the entire regulations have been re-drafted to provide interested persons with one complete list.

Effective date. These regulations shall be effective on the date of publication in the FEDERAL REGISTER (6-23-71).

Issued at Washington, D.C., and dated June 18, 1971.

PHILIP M. ROEDEL,
Director.

- Sec.
295.1 Purpose.
295.2 List of species.

AUTHORITY: The provisions of this Part 295 issued under 78 Stat. 196, 16 U.S.C. 1085, as modified by Reorganization Plan No. 4, effective Oct. 3, 1970 (35 F.R. 15627).

§ 295.1 Purpose.

The purpose of the regulations in this part is to list those species determined by the Secretary of Commerce, in consultation with the Secretary of State, to constitute a Continental Shelf fishery resource, i.e., living organisms belonging to sedentary species, which at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf.

§ 295.2 List of species.

COELENTERATA
Precious Red Corals—*Corallium* spp.
Black Coral—*Antipathes grandis*.

CAUSTACEA
Dungeness Crab—*Cancer magister*.
Tanner Crab—*Chionoecetes tanneri*.
Tanner Crab—*Chionoecetes opilio*.
Tanner Crab—*Chionoecetes angulatus*.
Tanner Crab—*Chionoecetes bairdi*.
King Crab—*Paralithodes camtschatica*.
King Crab—*Paralithodes platypus*.
King Crab—*Paralithodes brevipes*.
California King Crab—*Paralithodes rathbuni*.
California King Crab—*Paralithodes californiensis*.
Golden King Crab—*Lithodes aequispinus*.
Northern Stone Crab—*Lithodes maia*.
Stone Crab—*Menippe mercenaria*.
Deep-sea Red Crab—*Geryon quinque-dens*.

MOLLUSKS
Red Abalone—*Haliotis refescens*.
Pink Abalone—*Haliotis corrugata*.
Japanese Abalone—*Haliotis kamtschatkana*.
Queen Conch—*Strombus gigas*.

Surf Clam—*Spisula solidissima*.
Ocean Quahog—*Arctica islandica*.

SPONGES

Glove Sponge—*Hippiospongia canaliculata*.
Sheepswool Sponge—*Hippiospongia lachne*.
Grass Sponge—*Spongia graminea*.
Yellow Sponge—*Spongia barbara*.

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Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7120]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Special Rules for Determining Tax Credit for Foreign Income Taxes Paid by Controlled Foreign Corporations; Correction

On Friday, June 4, 1971, Treasury Decision 7120 was published in the FEDERAL REGISTER (36 F.R. 10851). The following corrections are made to the Income Tax Regulations (26 CFR Part 1), as prescribed by T.D. 7120:

1. Immediately preceding § 1.960-1 there should be added the following section:

§ 1.960 Statutory provisions; special rules for foreign tax credit.

Sec. 960. *Special rules for foreign tax credit—(a). Taxes paid by a foreign corporation—(1) General rule.* For purposes of subpart A of this part, if there is included, under section 951(a), in the gross income of a domestic corporation any amount attributable to earnings and profits—

(A) Of a foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation, or

(B) Of a foreign corporation at least 50 percent of the voting stock of which is owned by a foreign corporation at least 10 percent of the voting stock of which is in turn owned by such domestic corporation,

then, under regulations prescribed by the Secretary or his delegate, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in gross income of the domestic corporation bears to—

(C) If the foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation referred to in subparagraph (A) or (B) is not a less developed country corporation (as defined in section 902(d)) for such taxable year, the entire amount of the earnings and profits of such foreign corporation for such taxable year, or

(D) If the foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation referred to in subparagraph (A) or (B) is a less developed country corporation (as defined in section 902(d)) for such taxable year, the sum of

the entire amount of the earnings and profits of such foreign corporation for such taxable year and the total income, war profits, and excess profits taxes paid by such foreign corporation to foreign countries or possessions of the United States for such taxable year.

(2) *Taxes previously deemed paid by domestic corporation.* If a domestic corporation receives a distribution from a foreign corporation, any portion of which is excluded from gross income under section 959, the income, war profits, and excess profits taxes paid or deemed paid by such foreign corporation to any foreign country or to any possession of the United States in connection with the earnings and profits of such foreign corporation from which such distribution is made shall not be taken into account for purposes of section 902, to the extent such taxes were deemed paid by a domestic corporation under paragraph (1) for any prior taxable year.

(3) *Taxes paid by foreign corporation and not previously deemed paid by domestic corporation.* Any portion of a distribution from a foreign corporation received by a domestic corporation which is excluded from gross income under section 959(a) shall be treated by the domestic corporation as a dividend, solely for purposes of taking into account under section 902 any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such distribution is made, which were not deemed paid by the domestic corporation under paragraph (1) for any prior taxable year.

(b) *Special rules for foreign tax credit in year of receipt of previously taxed earnings and profits.*—(1) *Increase in section 904 limitation.* In the case of any taxpayer who—

(A) Either (i) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 951(a) to include in his gross income an amount in respect of a controlled foreign corporation, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States, and

(B) Chooses to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 959(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), and

(C) For the taxable year in which such distribution or amount is received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distribution or amount,

the applicable limitation under section 904 for the taxable year in which such distribution or amount is received shall be increased as provided in paragraph (2), but such increase shall not exceed the amount of such taxes paid, or deemed paid, or accrued with respect to such distribution or amount.

(2) *Amount of increase.* The amount of increase of the applicable limitation under section 904(a) for the taxable year in which the distribution or amount referred to in paragraph (1)(B) is received shall be an amount equal to—

(A) The amount by which the applicable limitation under section 904(a) for the taxable year referred to in paragraph (1)(A) was increased by reason of the inclusion in gross income under section 951(a) of the amount in respect of the controlled foreign corporation, reduced by

(B) The amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for the taxable year referred to in paragraph (1)(A) and which would not have been allowable but for the inclusion in gross income of the amount described in subparagraph (A).

(3) *Cases in which taxes not to be allowed as deduction.* In the case of any taxpayer who—

(A) Chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 951(a) to include in his gross income an amount in respect of a controlled foreign corporation, and

(B) Does not choose to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 959(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A),

no deduction shall be allowed under section 164 for the taxable year in which such distribution or amount is received for any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States on or with respect to such distribution or amount.

(4) *Insufficient taxable income.* If an increase in the limitation under this subsection exceeds the tax imposed by this chapter for such year, the amount of such excess shall be deemed an overpayment of tax for such year.

[Sec. 960 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1009)]

2. In example (5) of § 1.960-1(c) (4) the citation "sec. 690(a) (1) (C)" appearing in the last line of the example should read "sec. 960(a) (1) (C)".

3. In the example under § 1.960-1(h) (3) the word "for" in line 25 should be deleted.

4. In example (3) of § 1.960-2(e) the line "Dividends paid to A Corporation -----150.00" should be transposed so that it immediately precedes the line "Foreign income taxes paid on or with respect".

5. In example (4) of § 1.960-2(e) the last three lines of the fact situation which read "960(a) (1) (C), after applying section 902 for such year, are determined as follows upon the basis of the facts assumed;" should be deleted and replaced by "960(a) (1) (C) and section 902(a) (1) are determined as follows upon the basis of the facts assumed;".

6. In example (6) of § 1.960-2(e) the following sentence should be inserted after the word "profits." in line 19: "For 1965, A Corporation distributes \$225, consisting of \$135 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation, \$22.50 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to A Corporation, and \$67.50 from its other earnings and profits."

7. Also in example (6) of § 1.960-2(e), in line 9 of the calculations, the citation "sec. 902(b) (1)" should read "sec. 902 (b)", and in line 54 of the calculations

the total dividends paid to N Corporation should be "225.00" and not "202.50".

8. In § 1.78-1(b) the words "of the domestic corporation" should be inserted after the word "income" in line 12.

9. In § 1.963-3(b) (1) the word "account" in line 26 should be deleted and replaced by the word "amount".

JAMES F. DRING,
Director, Legislation and
Regulations Division.

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[T.D. 7128]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1973

Depreciation Allowances Using Asset Depreciation Range System

On March 13, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 167 of the Internal Revenue Code of 1954, relating to depreciation allowances using asset depreciation range system, was published in the FEDERAL REGISTER (36 F.R. 4385). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following amendment is hereby adopted.

PARAGRAPH 1. The following new section is added immediately after § 1.167(a)-10 to read as follows:

§ 1.167(a)-11 Depreciation based on asset depreciation ranges for property placed in service after December 31, 1970.

(a) *In general.*—(1) *Summary.* This section provides an asset depreciation range system for determining the reasonable allowance for depreciation of designated classes of assets placed in service after December 31, 1970. The system is designed to minimize disputes between taxpayers and the Internal Revenue Service as to the useful life of property, and as to salvage value, repairs, and other matters. The system is optional with the taxpayer. The taxpayer has an annual election. Generally, an election for a taxable year will apply to all additions of eligible property during the taxable year of election, but does not apply to additions of eligible property in any other taxable year. The taxpayer's election, made with the return for the taxable year, may not be revoked or modified for any property included in the election. Generally, the taxpayer must establish vintage accounts for all eligible property included in the election, must determine the allowance for depreciation of such property in the taxable year of election, and in subsequent taxable years, on the basis of the asset depreciation range (within the asset depreciation range) specified in the election, and must apply the first-year convention specified in the election to determine the allowance for depreciation of such property. This section also contains special provisions for

the treatment of salvage value, retirements, and the costs of the repair, maintenance, rehabilitation or improvement of property. In general, a taxpayer may not apply any provision of this section unless he makes an election and thereby consents to, and agrees to apply, all the provisions of this section. A taxpayer who elects to apply this section does, however, have certain options as to the application of specified provisions of this section. A taxpayer may elect to apply this section for a taxable year only if for such taxable year he complies with the reporting requirements of paragraph (f) (4) of this section.

(2) *Definitions.* For the meaning of certain terms used in this section, see paragraphs (b) (2) ("eligible property"), (b) (3) ("vintage account" and "vintage"), (b) (4) ("asset depreciation range", "asset guideline class", "asset guideline period" and "asset depreciation period"), (b) (5) (iii) (a) ("used property"), (b) (6) (i) ("public utility property"), (c) (1) (iv) ("original use"), (c) (1) (v) ("unadjusted basis" and "adjusted basis"), (c) (2) (ii) ("modified half-year convention"), (c) (2) (iii) ("half-year convention"), (d) (1) (i) ("gross salvage value"), (d) (1) (ii) ("salvage value"), (d) (2) (iii) ("repair allowance", "repair allowance percentage", and "repair allowance property"), (d) (2) (vi) ("excluded addition"), (d) (2) (vii) ("property improvement"), (d) (3) (ii) ("ordinary retirement" and "extraordinary retirement"), (d) (3) (vi) ("special basis vintage account"), and (e) (1) ("first placed in service") of this section.

(b) *Reasonable allowance using asset depreciation ranges.*—(1) *In general.* The allowance for depreciation of eligible property (as defined in subparagraph (2) of this paragraph) to which the taxpayer elects to apply this section shall be determined as provided in paragraph (c) of this section and shall constitute the reasonable allowance for depreciation of such property under section 167(a).

(2) *Definition of eligible property.* For purposes of this section, the term "eligible property" means property which is subject to the allowance for depreciation provided by section 167(a) but only if—

(i) An asset guideline class and period are in effect for such property for the taxable year of election (see subparagraph (4) of this paragraph);

(ii) The property is tangible personal property, or is other tangible property (not including a building or its structural components) which (a) is used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or (b) constitutes research or storage facilities used in connection with any of the activities described in (a) of this subdivision (but see subparagraph (6) of this paragraph for special rule for certain public utility property as defined in section 167(l) (3) (A)); and

(iii) The property is first placed in service (as described in paragraph (e) (1) of this section) by the taxpayer after December 31, 1970 (but see subparagraph (7) of this paragraph for special rule where there is a mere change in the form of conducting a trade or business); and

(iv) During the taxable year of election, the property is predominantly used (within the meaning of paragraph (g) (1) (i) and (iii) of § 1.48-1) within the United States (as defined in section 7701 (a) (9)), or meets the requirements of paragraph (g) (2) of § 1.48-1 (relating to exceptions to the requirement of predominant use). See subparagraph (5) (vi) of this paragraph for special rule in the case of change in predominant use.

The language used in subdivision (ii) of this subparagraph shall have the same meaning as when used in section 1245 (a) (3) (A) and (B). The term "eligible property" includes any property which meets the requirements of this subparagraph, whether such property is new property, "used property" (as described in subparagraph (5) (iii) (a) of this paragraph), a "property improvement" (as described in paragraph (d) (2) (vii) of this section), or an "excluded addition" (as described in paragraph (d) (2) (vi) of this section). For the treatment of expenditures for the repair, maintenance, rehabilitation or improvement of certain property, see paragraph (d) (2) of this section.

(3) *Requirement of vintage accounts.*—

(i) *In general.* For purposes of this section, a "vintage account" is a closed-end depreciation account containing eligible property to which the taxpayer elects to apply this section, first placed in service by the taxpayer during the taxable year of election. The "vintage" of an account refers to the taxable year during which the eligible property in the account is first placed in service by the taxpayer. Such an account will consist of an asset, or a group of assets, within a single asset guideline class established pursuant to subparagraph (4) of this paragraph and may contain only eligible property. Each item of eligible property to which the taxpayer elects to apply this section, first placed in service by the taxpayer during the taxable year of election, shall be placed in a vintage account of the taxable year of election. For rule regarding "special basis vintage accounts" for certain property improvements, see paragraphs (d) (2) (viii) and (3) (vi) of this section. Any number of vintage accounts of a taxable year may be established. More than one account of the same vintage may be established for different assets of the same asset guideline class.

(ii) *Special rule.* Property the original use of which does not commence with the taxpayer may not be placed in a vintage account with property the original use of which commences with the taxpayer. Property described in section 167(f) (2) may not be placed in a vintage account with property not described in section 167(f) (2). Property described in section 179(d) (1) for which

the taxpayer elects the allowance for the first taxable year in accordance with section 179(c) may not be placed in a vintage account with property not described in section 179(d) (1) or for which the taxpayer does not elect such allowance for the first taxable year. For special rule for property acquired in a transaction to which section 381(a) applies, see paragraph (e) (3) (i) of this section. For additional rules with respect to accounting for eligible property, see paragraph (e) of this section.

(4) *Asset depreciation ranges.*—(i) *Selection of asset depreciation period.* An election shall specify for each vintage account of the taxable year of election the asset depreciation period selected by the taxpayer from the asset depreciation range for the assets in such account. For purposes of this section the term "asset guideline class" means a category of assets for which a separate asset guideline period and asset depreciation range is in effect as provided in subdivision (ii) of this subparagraph. Any period within the asset depreciation range for the assets in a vintage account which is a whole number of years, or a whole number of years plus a half year, may be selected. The lower limit of the asset depreciation range for a vintage account is 80 percent of the asset guideline period established for the assets in the account, and the upper limit of such range is 120 percent of such asset guideline period, determined in each case by rounding any fractional part of a year to the nearer of the nearest whole year or the nearest half year.

(ii) *Establishment of asset guideline classes and periods.* The asset guideline classes and periods, and the asset depreciation ranges determined from such periods in effect for taxable years ending before the effective date of the first supplemental asset guideline classes and periods, and asset depreciation ranges, established pursuant to this section are set forth in Revenue Procedure 71-25. Asset guideline classes and periods, and asset depreciation ranges, will from time to time be established, supplemented and revised with express reference to this section, and will be published in the Internal Revenue Bulletin. The asset guideline classes, the asset guideline periods, and the asset depreciation ranges determined from such periods in effect on the last day of a taxable year of election year shall apply to all vintage accounts of such taxable year; except that the lower limit of the asset depreciation range for any such account shall not be longer than the lower limit of the asset depreciation range for such account in effect on the first day of such taxable year. The reasonable allowance for depreciation of property for any taxable year in a vintage account shall not be changed to reflect any supplement or revision of the asset guideline classes or periods, and asset depreciation ranges, after the end of the taxable year in which the account was established.

(iii) *Applicable guideline classes and periods in special situations.* (a) An electric or gas utility which would in accordance with Revenue Procedure 64-21

be entitled to use a composite guideline class basis for applying Revenue Procedure 62-21 may elect to apply this section on the basis of a composite asset guideline class and asset guideline period determined as provided in Revenue Procedure 64-21. The asset depreciation range for such a composite asset guideline class shall be determined by reference to the composite asset guideline period for the first taxable year to which the taxpayer elects to apply this section and shall not be changed until such time as major variations in the asset mix or the asset guideline classes or periods justify some other composite asset guideline period. For the purposes of this section, all property in the composite asset guideline class shall be treated as included in a single asset guideline class. If the taxpayer elects to apply this subdivision, the election shall be made on the tax return filed for the first taxable year for which the taxpayer elects to apply this section. An election to apply this subdivision for any taxable year shall apply to all succeeding taxable years to which the taxpayer elects to apply this section, except to the extent the election to apply this subdivision is terminated with respect to a succeeding taxable year and all taxable years thereafter.

(b) For purposes of this section, property shall be included in the asset guideline class for the activity in which the property is primarily used. See paragraph (e) (3) (iii) of this section for rule for leased property. Property shall be classified according to primary use even though the activity in which such property is primarily used is insubstantial in relation to all the taxpayer's activities. No change in the classification of property shall be made because of a change in primary use after the end of the taxable year in which property is first placed in service.

(c) An incorrect classification by the taxpayer of property for the purposes of this section (such as under (b) of this subdivision or under subparagraph (2) of this paragraph) shall not cause or permit a revocation of the election to apply this section for the taxable year in which such property was first placed in service. The classification of such property shall be corrected. All adjustments necessary to the correction shall be made, including adjustments of unadjusted basis, adjusted basis, salvage value, the reserve for depreciation of all vintage accounts affected, and the amount of depreciation allowable for all taxable years involved. If because of incorrect classification, property included in an election to apply this section was not placed in a vintage account and no asset depreciation period was selected for the property or the property was placed in a vintage account but an asset depreciation period was selected from an incorrect asset depreciation range, the taxpayer shall place the property in a vintage account and select an asset depreciation period for the account from

the correct asset depreciation range. The asset depreciation period selected shall be specified on the tax return filed for the taxable year during which the classification of the property is determined to be incorrect.

(d) If for a taxable year for which the taxpayer elects to apply this section, the taxpayer computes depreciation for eligible property first placed in service during the taxable year under a method of depreciation described in subparagraph (5) (v) (a) of this paragraph, then all eligible property in the same asset guideline class as such property shall be excluded from the election. However, if the taxpayer establishes to the satisfaction of the Commissioner that a method of depreciation described in subparagraph (5) (v) (a) of this paragraph was adopted for property in the asset guideline class on the basis of a good faith mistake as to the proper asset guideline class for the property, then the taxpayer may terminate (as of the beginning of the taxable year) such method of depreciation with respect to all eligible property in the asset guideline class which was first placed in service during the taxable year. In such event, the taxpayer's election to apply this section shall include eligible property in the asset guideline class without regard to subparagraph (5) (v) (a) of this paragraph. The provisions of (c) of this subdivision shall apply to the correction in the classification of the property.

(iv) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (1). Corporation X purchases a bulldozer for use in its construction business. The bulldozer is first placed in service in 1972. Since the bulldozer is tangible personal property, predominantly used within the United States, for which an asset guideline class and period have been established, the bulldozer is eligible property. The bulldozer is in asset guideline class 15.1 of Revenue Procedure 71-25, and the asset depreciation range is 4-6 years.

Example (2). In 1972 corporation Y first places in service a factory building. It is not eligible property, since it does not meet the requirements of subparagraph (2) (ii) of this paragraph.

Example (3). In January of 1971, corporation Y, a calendar year taxpayer, pays or incurs \$2,000 for the rehabilitation and improvement of machine A which was first placed in service in 1969. On January 1, 1971, corporation Y first placed in service machines B and C, each with an unadjusted basis of \$10,000. Machines B and C are eligible property. Machine A would be eligible property but for the fact it was first placed in service prior to January 1, 1971 (that is, machine A is eligible property determined without regard to subparagraph (2) (iii) of this paragraph). Corporation Y elects to apply this section for the taxable year, and adopts the modified half-year convention described in paragraph (c) (2) (ii) of this section, but does not elect to apply the asset guidelines class repair allowance described in paragraph (d) (2) (iii) of this section. Machines A, B, and C are in asset guideline class 24.4 under Revenue Procedure 71-25 for which the asset depreciation range is 8 to 12 years. The \$2,000 expended on machine A substantially increases its capacity and is a capital expenditure under sections 162 and 263. The \$2,000 is a property

improvement (as defined in paragraph (d) (2) (vii) (b) of this section) which is eligible property. However, corporation Y by good faith mistake treats the property improvement of \$2,000 as a deductible repair and includes machine B in asset guideline class 24.3 under Revenue Procedure 71-25 for which the asset depreciation range is 5 to 7 years. Corporation Y establishes vintage accounts for 1971 and 1972 as follows:

	Dec. 31, 1972 reserve for depreciation	Dec. 31, 1972 adjusted basis
Vintage account for machine B, with an asset depreciation period of 5 years and an unadjusted basis of \$10,000 for which corporation Y adopts the straight line method	\$4,000	\$6,000
Vintage account for machine C, with an asset depreciation period of 8 years and an unadjusted basis of \$10,000 for which corporation Y adopts the straight line method	2,500	7,500

After audit in 1973 of corporation Y's taxable years 1971 and 1972, it is determined that the \$2,000 paid in 1971 for the rehabilitation and improvement of machine A is a capital expenditure and that machine B is in asset guideline class 24.4. The incorrect classification is corrected. Corporation Y places machine B and the property improvement in a vintage account of 1971 and on its tax return filed for 1973 selects an asset depreciation period of 8 years for that account. Giving effect to the correction in classification of the property in accordance with subdivision (iii) (c) of this subparagraph, at the end of 1972 the unadjusted basis, reserve for depreciation, and adjusted basis of the vintage account for machine B and the property improvement with respect to machine A are \$12,000, \$3,000, and \$9,000, respectively. Corporation Y's deduction of the \$2,000 property improvement in 1971 as a repair expense under section 162 is disallowed. For 1971 and 1972 depreciation deductions are disallowed in the amount of \$500 each year (that is, \$750 excess annual depreciation on machine B minus \$250 annual depreciation on the property improvement).

Example (4). In 1971, corporation X, a calendar year taxpayer, first places in service machines A through M, all of which are eligible property. All the machines except machine A are in asset guideline class 24.3 under Revenue Procedure 71-25. Machine A is in asset guideline class 24.4 under Revenue Procedure 71-25. By good faith mistake as to proper classification, corporation X includes both machine A and machine B in asset guideline class 24.4. Corporation X consistently uses the machine hour method of depreciation on property in asset guideline class 24.4 and for 1971 computes depreciation for machines A and B under that method. Corporation X elects to apply this section for 1971 on the assumption that the election includes machines C through M which are in asset guideline class 24.3. In 1973, upon audit of corporation X's taxable years 1971 and 1972, it is determined that machine B is included in asset guideline class 24.3 and that since for 1971 corporation X computed depreciation on machine B under the machine hour method, in accordance with subparagraph (5) (v) (a) of this paragraph all property in asset guideline class 24.3 (machines B through M) is excluded from corporation X's election to apply this section

for 1971. Although corporation X has consistently used the machine hour method for asset guideline class 24.4, corporation X has not in the past used the machine hour method for machines of the type and function of machines C through M which are in asset guideline class 24.3. Both machine A and machine B are used in connection with the manufacture of wood products. There is reasonable basis for corporation X having assumed that machine B is in asset guideline class 24.4 along with machine A to which it is similar. Corporation X establishes to the satisfaction of the Commissioner that it used the machine hour method for machine B on the basis of a good faith mistake as to the proper classification of the machine. Corporation X can terminate the machine hour method of depreciation for machine B as of the beginning of 1971, and in that event corporation X's election to apply this section for 1971 will apply to machines B through M without regard to subparagraph (5) (v) (a) of this paragraph. The adjustments provided in subdivision (iii) (c) of this subparagraph will be made as a result of the correction in classification of property.

(5) *Requirements of election.*—(i) *In general.* Except as otherwise provided in paragraph (d) (2) of this section dealing with expenditures for the repair, maintenance, rehabilitation or improvement of certain property, no provision of this section shall apply to any property other than eligible property to which the taxpayer elects, in accordance with this section, to apply this section. For the time and manner of election, see paragraph (f) of this section. Except as otherwise provided in subdivisions (v) and (vi) of this subparagraph and in subparagraph (6) (iii) of this paragraph, a taxpayer's election to apply this section may not be revoked or modified after the last day prescribed for filing the election. Thus, for example, after such day, a taxpayer may not cease to apply this section to property included in the election, establish different vintage accounts for the taxable year of election, select a different period from the asset depreciation range for any such account, or adopt a different first-year convention for any such account.

(ii) *Property required to be included in election.* Except as otherwise provided in subdivision (iii) of this subparagraph dealing with certain "used property", in subdivision (iv) of this subparagraph dealing with "section 38 property" in subdivision (v) of this subparagraph dealing with property subject to special depreciation or amortization, and in paragraph (e) (3) (i) of this section dealing with transactions to which section 381(a) applies, if the taxpayer elects to apply this section to any eligible property first placed in service by the taxpayer during the taxable year of election, the election shall apply to all such eligible property, whether placed in service in a trade or business or held for production of income.

(iii) *Special 10 percent used property rule.* (a) If the unadjusted basis of eligible "used property" first placed in service by the taxpayer during the taxable year of election exceeds 10 percent of the unadjusted basis of all eligible property first placed in service during the taxable year of election, the taxpayer

may exclude all (but not less than all) the eligible used property from the election to apply this section. For the purposes of this section, the term "used property" means property the original use of which does not commence with the taxpayer.

(b) Solely for the purpose of determining whether the 10 percent rule of this subdivision is satisfied, (1) used property first placed in service during the taxable year and subject to special depreciation or amortization provisions described in subdivision (v) of this subparagraph and (2) property acquired during the taxable year in a transaction to which section 381(a) applies, shall all be treated as used property regardless of whether such property would be treated as new property under section 167(c) and the regulations thereunder.

(iv) *Property subject to investment tax credit.* The taxpayer may exclude from an election to apply this section all, or less than all, units of eligible property first placed in service during the taxable year which is—

(a) "Section 38 property" as defined in section 48(a) which meets the requirements of section 49, or

(b) Property described in section 47 (a) (5) (B) placed in service to replace section 38 property disposed of.

(v) *Property subject to special method of depreciation or amortization.* (a) If for the taxable year of election, the taxpayer computes depreciation under the unit of production, retirement or machine hour method or any other method not described in section 167(b) (1), (2), or (3) for any eligible property first placed in service during the taxable year, an election to apply this section for the taxable year shall not include such property or any other eligible property in the same asset guideline class as such property.

(b) An election to apply this section shall not include eligible property for which, for the taxable year of election, the taxpayer computes depreciation under section 167(k), or computes amortization under section 169, 184, 185, 187, or paragraph (b) of § 1.162-11. If the taxpayer has elected to apply this section to eligible property described in section 167(k), 169, 184, 185, or 187 and the taxpayer thereafter computes depreciation or amortization for such property for any taxable year in accordance with section 167(k), 169, 184, 185, or 187, then the election to apply this section to such property shall terminate as of the beginning of the taxable year for which depreciation or amortization is computed under such section. Application of this section to the property for any period prior to the termination date will not be affected by the termination. The unadjusted basis of the property shall be removed as of the termination date from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the property, computed in the manner prescribed in paragraph (c) (1) (v) (b) of this section for determination of the ad-

justed basis of the property. See paragraph (d) (3) (vii) (d) of this section for treatment of salvage value when property is removed from a vintage account.

(vi) *Change in predominant use of eligible property.* If eligible property in a vintage account ceases to meet the requirements of paragraph (g) (1) (i) and (iii) or (g) (2) of § 1.48-1 (relating to requirement of predominant use within the United States) for a taxable year, the election to apply this section to such property shall terminate as of the beginning of such taxable year. The application of this section to such property for a period prior to the termination date will not be affected. The unadjusted basis of the property shall be removed as of the termination date from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the property, computed in the manner prescribed in paragraph (c) (1) (v) (b) of this section for determination of the adjusted basis of the property. See paragraph (d) (3) (vii) (d) of this section for treatment of salvage value when property is removed from a vintage account.

(6) *Special rule for certain public utility property.*—(i) *Requirement of normalization in certain cases.* Under section 167(l), in the case of public utility property (as defined in section 167(l) (3) (A)), if the taxpayer—

(a) Is entitled to use a method of depreciation other than a "subsection (i) method" of depreciation (as defined in section 167(l) (3) (F)) only if it uses the "normalization method of accounting" (as defined in section 167(l) (3) (G)) with respect to such property, or

(b) Is entitled to use only a "subsection (i) method" of depreciation,

such property shall be eligible property (as defined in subparagraph (2) of this paragraph) only if the taxpayer normalizes the tax deferral resulting from the election to apply this section.

(ii) *Normalization.* The taxpayer will be considered to normalize the tax deferral resulting from the election to apply this section only if it computes its tax expense for purposes of establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account using—

(a) Either (1) the half-year convention described in paragraph (c) (2) (iii) of this section, or (2) the convention used in computing its depreciation expense for rate making purposes and for reflecting operating results in its regulated books of account, and

(b) A period for depreciation no less than the lesser of 100 percent of the asset guideline period in effect in accordance with subparagraph (4) (ii) of this paragraph for the first taxable year to which this section applies, or the period for computing its depreciation expense for rate making purposes and for reflecting operating results in its regulated books of account,

and makes adjustments to a reserve to reflect the deferral of taxes resulting

from the election to apply this section. A determination whether the taxpayer is considered to normalize (within the meaning of the preceding sentence) the tax deferral resulting from the election to apply this section shall be made in a manner consistent with the principles for determining whether a taxpayer is using the "normalization method of accounting" (within the meaning of section 167(l)(3)(G)). See § 13.13 of the temporary regulations prescribed by T.D. 7049 approved June 25, 1970.

(iii) *Failure to normalize.* If the taxpayer has elected to apply this section to any eligible public utility property as described in subdivision (i) of this subparagraph and the taxpayer thereafter fails to normalize the tax deferral resulting from the election to apply this section, the election to apply this section to such property shall terminate as of the beginning of the taxable year for which the taxpayer fails to normalize the tax deferral resulting from the election to apply this section. Application of this section to such property for any period prior to the termination date will not be affected by the termination. The unadjusted basis of the property shall be removed as of the termination date from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the property, computed in the manner prescribed in paragraph (c)(1)(v)(b) of this section for determination of the adjusted basis of the property. See paragraph (d)(3)(vii)(d) of this section for treatment of salvage value when property is removed from a vintage account.

(iv) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (1). Corporation A is a gas pipeline company, subject to the jurisdiction of the Federal Power Commission, which is entitled under section 167(l) to use a method of depreciation other than a "subsection (1) method" of depreciation (as defined in section 167(l)(3)(F)) only if it uses the "normalization method of accounting" (as defined in section 167(l)(3)(G)). Corporation A elects to apply this section for 1972 with respect to all eligible property. In 1972, corporation A places in service eligible property with an unadjusted basis of \$2 million. One hundred percent of the asset guideline period for such property is 22 years and the asset depreciation range is from 17.5 years to 26.5 years. The taxpayer uses the double declining balance method of depreciation, selects an asset depreciation period of 17.5 years and applies the modified half-year convention (described in paragraph (c)(2)(ii) of this section) by treating all such property as placed in service on the first day of the second quarter of the taxable year. The depreciation allowable under this section with respect to such property in 1972 is \$171,428. The taxpayer will be considered to normalize the tax deferral resulting from the election to apply this section and to use the "normalization method of accounting" (within the meaning of section 167(l)(3)(G)) if it computes its tax expense for purposes of determining its cost of service for rate making purposes and for reflecting operating results in its regulated books of account using a "subsection (1) method" of

depreciation, such as the straight line method, determined by using a depreciation period of 22 years (that is, 100 percent of the asset guideline period) and applying the half-year convention (described in paragraph (c)(2)(iii) of this section). A depreciation allowance computed in this manner is \$45,454. The difference in the amount determined under this section (\$171,428) and the amount used in computing its tax expense for purposes of estimating its cost of service for rate making purposes and for reflecting operating results in its regulated books of account (\$45,454) is \$125,974. Assuming a tax rate of 48 percent, the deferral of taxes resulting from an election to apply this section and using a different method of depreciation for tax purposes from that used for establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account is 48 percent of \$125,974, or \$60,467, which amount should be added to a reserve to reflect the deferral of taxes resulting from the election to apply this section and from the use of a different method of depreciation in computing the allowance for depreciation under section 167 from that used in computing its depreciation expense for purposes of establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account.

Example (2). Assume the same facts as in Example (1) except that Corporation A applies the half-year convention (described in paragraph (c)(2)(iii) of this section). In 1972, the depreciation allowance under this section with respect to property placed in service in 1972 is \$114,285. A depreciation allowance computed as in Example (1) for purposes of determining its cost of service for rate making purposes and for reflecting operating results in its regulated books of account is \$45,454. The difference in the amount determined under this section (\$114,285) and the amount used in computing its tax expense for purposes of establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account is \$68,831. Assuming a tax rate of 48 percent, the deferral of taxes resulting from an election to apply this section and using a different method of depreciation for tax purposes from that used for establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account is 48 percent of \$68,831, or \$33,039, which amount should be added to a reserve to reflect the deferral of taxes resulting from the election to apply this section and from the use of a different method of depreciation in computing the allowance for depreciation under section 167 from that used in computing its depreciation expense for purposes of estimating its cost of service for rate making purposes and for reflecting operating results in its regulated books of account.

Example (3). Corporation B, a telephone company subject to the jurisdiction of the Federal Communications Commission used a "flow-through method of accounting" (as defined in section 167(l)(3)(H)) for its "July 1969 accounting period" (as defined in section 167(l)(3)(I)) with respect to all of its pre-1970 public utility property and did not make an election under section 167(l)(4)(A). Thus, Corporation B is entitled under section 167(l) to use a method of depreciation other than a "subsection (1) method" with respect to certain property without using the "normalization method of accounting." In 1972, Corporation B makes an election to apply this section with respect to all eligible property. Corporation B is not required to normalize the tax deferral resulting from the election to apply this section

in the case of property for which it is not required to use the "normalization method of accounting" under section 167(l).

Example (4). Assume the same facts as in Example (3) except that Corporation B made a timely election under section 167(l)(4)(A) that section 167(l)(2)(C) not apply with respect to property which increases the productive or operational capacity of the taxpayer. Corporation B must normalize the tax deferral resulting from the election to apply this section with respect to such property.

(7) *Mere change in form of conducting a trade or business.* Property which was first placed in service by the transferor before January 1, 1971, shall not be eligible property if such property is first placed in service by the transferee after December 31, 1970, by reason of a mere change in the form of conducting a trade or business in which such property is used. A mere change in the form of conducting a trade or business in which such property is used will be considered to have occurred if—

(i) The transferor (or in a case where the transferor is a partnership, estate, trust, or corporation, the partners, beneficiaries, or shareholders) of such property retains a substantial interest in such trade or business, or

(ii) The basis of such property in the hands of the transferee is determined in whole or in part by reference to the basis of such property in the hands of the transferor.

This subparagraph shall not apply to a transfer of property to which paragraph (e)(3)(i) (relating to transfers to which section 381(a) applies) applies. For purposes of this subparagraph, a transferor (or in a case where the transferor is a partnership, estate, trust, or corporation, the partners, beneficiaries, or shareholders) shall be considered as having retained a substantial interest in the trade or business only if, after the change in form, his (or their) interest in such trade or business is substantial in relation to the total interest of all persons in such trade or business. This subparagraph shall apply to property first placed in service prior to January 1, 1971, held for the production of income (within the meaning of section 167(a)(2)) as well as to property held in a trade or business. The principles of this subdivision may be illustrated by the following examples.

Example (1). Corporation X and corporation Y are includible corporations in an affiliated group as defined in section 1504. In 1971 corporation X sells to corporation Y for cash property which would meet the requirements of subparagraph (2) of this paragraph for eligible property except that the property was first placed in service by corporation X in 1970. After the transfer, the property is first placed in service by corporation Y in 1971. The property is not eligible property because of the mere change in the form of conducting a trade or business.

Example (2). In 1971, in a transaction to which section 351 applies, taxpayer B transfers to corporation W property which would meet the requirements of subparagraph (2) of this paragraph for eligible property except that the property was first placed in service by B in 1969. Corporation W first places the property in service in 1971. The

property is not eligible property because of the mere change in the form of conducting a trade or business.

(c) *Manner of determining allowance.*—(1) *In general.*—(i) *Computation of allowance.* (a) The allowance for depreciation of property in a vintage account shall be determined in the manner specified in this paragraph by using the method of depreciation adopted by the taxpayer for the account and a rate based upon the asset depreciation period for the account selected by the taxpayer from the asset depreciation range. (For limitations on methods of depreciation permitted with respect to property, see section 167(c) and subdivision (iv) of this subparagraph.) In applying the method of depreciation adopted by the taxpayer, the annual allowance for depreciation of a vintage account shall be determined without adjustment for the salvage value of the property in such account except that no account may be depreciated below the reasonable salvage value of the account. (For rules regarding estimation and treatment of salvage value, see paragraph (d)(1) and (3)(vii) and (viii) of this section.) Regardless of the method of depreciation adopted by the taxpayer, the depreciation allowable for a taxable year with respect to a vintage account may not exceed the amount by which (as of the beginning of the taxable year) the unadjusted basis of the account exceeds (1) the reserve for depreciation established for the account plus (2) the salvage value of the account. The unadjusted basis of a vintage account is defined in subdivision (v) of this subparagraph. The adjustments to the depreciation reserve are described in subdivision (ii) of this subparagraph.

(b) The annual allowance for depreciation of a vintage account using the straight line method of depreciation shall be determined by dividing the unadjusted basis of the vintage account (without reduction for salvage value) by the number of years in the asset depreciation period selected for the account. See subdivision (iii) of this subparagraph for the manner of computing the depreciation allowance following a change from the declining balance method or the sum of the years-digits method to the straight line method.

(c) In the case of the sum of the years-digits method, the annual allowance for depreciation of a vintage account shall be computed by multiplying the unadjusted basis of the vintage account (without reduction for salvage value) by a fraction, the numerator of which changes each year to a number which corresponds to the years remaining in the asset depreciation period selected for the account (including the year for which the allowance is being computed) and the denominator of which is the sum of all the year's digits corresponding to the asset depreciation period selected for the account.

(d) The annual allowance for depreciation of a vintage account using a declining balance method is determined by applying a uniform rate to the excess of the unadjusted basis of the vintage

account over the depreciation reserve established for that account. The rate under the declining balance method may not exceed twice the straight line rate based upon the asset depreciation period for the vintage account.

(e) The allowance for depreciation under this paragraph (including any depreciation allowed under section 179) shall constitute the amount of depreciation allowable for all purposes of this section.

(ii) *Establishment of depreciation reserve.* The taxpayer must establish a depreciation reserve for each vintage account. The amount of the depreciation reserve for a vintage account must be stated on each income tax return on which depreciation with respect to such account is determined under this section. The depreciation reserve for a vintage account consists of the accumulated depreciation allowable with respect to the vintage account, increased by the adjustments for ordinary retirements prescribed by paragraph (d)(3)(iii), by the adjustments for reduction of the salvage value of a vintage account prescribed by paragraph (d)(3)(vii)(c) of this section, and by the adjustments for transfers to supplies or scrap prescribed by paragraph (d)(3)(viii)(b) of this section, and decreased by the adjustments for extraordinary retirements and certain special retirements as prescribed by (d)(3)(iv) and (v) of this section, by the adjustments for the amount of the reserve in excess of the unadjusted basis of a vintage account prescribed by paragraph (d)(3)(ix)(a) of this section, and by the adjustments for property removed from a vintage account prescribed by paragraph (b)(5)(v)(b) and (vi) and paragraph (b)(6)(iii) of this section. The adjustments to the depreciation reserve for ordinary retirements during the taxable year shall be made as of the beginning of the taxable year. The adjustments to the depreciation reserve for extraordinary retirements shall be made as of the date the retirement is treated as having occurred in accordance with the first-year convention (described in subparagraph (2) of this paragraph) adopted by the taxpayer for the vintage account. The adjustment to the depreciation reserve for reduction of salvage value and for transfers to supplies or scrap shall, in the case of an ordinary retirement, be made as of the beginning of the taxable year, and in the case of an extraordinary retirement the adjustment for reduction of salvage value shall be made as of the date the retirement is treated as having occurred in accordance with the first-year convention (described in subparagraph (2) of this paragraph) adopted by the taxpayer for the vintage account. The adjustment to the depreciation reserve for property removed from a vintage account in accordance with paragraph (b)(5)(v)(b) and (vi) and paragraph (b)(6)(iii) of this section shall be made as of the beginning of the taxable year. The depreciation reserve of a vintage account may not be decreased below zero.

(iii) *Consent to change in method of depreciation.* During the asset depreciation period for a vintage account, the taxpayer is permitted to change under this section from a declining balance method of depreciation to the sum of the years-digits method of depreciation and from a declining balance method of depreciation or the sum of the years-digits method of depreciation to the straight line method of depreciation with respect to such account. The provisions of § 1.167(c)-1 shall not apply to such change. The change in method applies to all property in the vintage account and must be adhered to for the entire taxable year of the change. When a change is made to the straight line method of depreciation, the annual allowance for depreciation of the vintage account shall be determined by dividing the adjusting basis of the vintage account (without reduction for salvage value) by the number of years remaining (at the time as of which the change is made) in the asset depreciation period selected for the account. However, the depreciation allowable for any taxable year following a change to the straight line method may not exceed an amount determined by dividing the unadjusted basis of the vintage account (without reduction for salvage value) by the number of years in the asset depreciation period selected for the account. The taxpayer shall furnish a statement setting forth the vintage accounts for which the change is made with the income tax return filed for the taxable year of the change.

(iv) *Limitations on methods.* The same method of depreciation must be adopted for all property in a single vintage account. Generally, the method of depreciation which may be adopted is subject to the limitations contained in section 167(c). In the case of a vintage account for which the taxpayer has selected an asset depreciation period of 3 years or more and which contains property the original use of which commences with the taxpayer, any method of depreciation described in section 167(b)(1), (2) or (3) may be adopted. If the vintage account contains property the original use of which does not commence with the taxpayer, or if the asset depreciation period for the account selected by the taxpayer is less than 3 years, a method of depreciation described in section 167(b), (2) or (3) may not be adopted for the account. However, the declining balance method using a rate not in excess of 150 percent of the straight line rate based upon the asset depreciation period for the vintage account may be adopted for the account even if the original use of the property does not commence with the taxpayer provided the asset depreciation period for the account selected by the taxpayer is at least 3 years. The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. (See § 1.167(c)-1.)

(v) *Unadjusted and adjusted basis.* (a) For purposes of this section, the

unadjusted basis of an asset (including an "excluded addition" and a "property improvement" as described, respectively, in paragraph (d) (2) (vi) and (vii) of this section) is its cost or other basis without any adjustment for depreciation or amortization but with other adjustments required under section 1016 or other applicable provisions of law. The unadjusted basis of a vintage account is the total of the unadjusted basis of all the assets in the account. The unadjusted basis of a "special basis vintage account" as described in paragraph (d) (3) (vi) of this section is the amount of the property improvement determined in paragraph (d) (2) (vii) (a) of this section.

(b) The adjusted basis of a vintage account is the amount by which the unadjusted basis of the account exceeds the reserve for depreciation for the account. The adjusted basis of an asset in a vintage account is the amount by which the unadjusted basis of the asset exceeds the amount of depreciation allowable for the asset computed by using the method of depreciation and the rate (including any depreciation allowed under section 179 for the asset) applicable to the account. For purposes of this subdivision, the depreciation allowable for an asset shall include, to the extent identifiable, the amount of proceeds previously added to the depreciation reserve in accordance with paragraph (d) (3) (iii) of this section upon the retirement of any portion of such asset. (See paragraph (d) (3) (vi) of this section for election under certain circumstances to allocate adjusted basis of an amount of property improvement determined under paragraph (d) (2) (vii) (a) of this section.)

(2) *Conventions applied to additions and retirements.*—(i) *In general.* The allowance for depreciation of a vintage account (whether an item account or a multiple asset account) shall be determined by applying one of the conventions described in subdivision (ii) and (iii) of this subparagraph. (For the manner of applying a convention in the case of taxable years beginning before and ending after December 31, 1970, see subparagraph (3) of this paragraph.) The same convention must be adopted for all vintage accounts of a taxable year, but the same convention need not be adopted for the vintage accounts of another taxable year. An election to apply this section must specify the convention adopted. (See paragraph (f) of this section for information required in making the election.) The convention adopted by the taxpayer is a method of accounting for purposes of section 446, but the consent of the Commissioner will be deemed granted to make an annual adoption of either of the conventions described in subdivision (ii) and (iii) of this subparagraph.

(ii) *Modified half-year convention.* The depreciation allowance for a vintage account for which the taxpayer adopts the "modified half-year convention" shall be determined by treating: (a) All property in such account which is placed in service during the first half of the

taxable year as placed in service on the first day of the taxable year; and (b) all property in such account which is placed in service during the second half of the taxable year as placed in service on the first day of the second half of the taxable year. The depreciation allowance for a vintage account for a taxable year in which there is an extraordinary retirement (as defined in paragraph (d) (3) (ii) of this section) is determined by treating all extraordinary retirements from such account during the first half of the taxable year as occurring on the first day of the taxable year and all extraordinary retirements from such account during the second half of the taxable year as occurring on the first day of the last half of the taxable year. This convention may also be applied by assuming, with respect to all vintage accounts of a taxable year, that all additions occur on the first day of the second quarter of the taxable year and that all extraordinary retirements occur on the first day of the second quarter of the taxable year.

(iii) *Half-year convention.* The depreciation allowance for a vintage account for which the taxpayer adopts the "half-year convention" shall be determined by treating all property in the account as placed in service on the first day of the second half of the taxable year and by treating all extraordinary retirements (as defined in paragraph (d) (3) (ii) of this section) from the account as occurring on the first day of the second half of the taxable year.

(iv) *Rules of application.* The first-year convention adopted for a vintage account must be consistently applied to all additions to and all extraordinary retirements from such account. See paragraph (d) (3) (ii) and (iii) for definition and treatment of ordinary retirements. For purposes of this subparagraph, the second half of a taxable year shall be deemed to commence on the beginning of the first day of a calendar month which is the closest such first day to the middle of the taxable year. The first half of the taxable year shall be deemed to expire at the close of the last day of a calendar month which is the closest such last day to the middle of the taxable year. Rules consistent with the preceding two sentences shall apply for purposes of determining the commencement of the second quarter of the taxable year and the expiration of the first quarter of the taxable year. If a taxable year consists of a period which includes only one calendar month, the first half of the taxable year shall be deemed to expire on the first day which is nearest to the midpoint of the month, and the second half of the taxable year shall begin the day after the expiration of the first half of the month.

(3) *Taxable years beginning before and ending after December 31, 1970.* In the case of a taxable year which begins before January 1, 1971, and ends after December 31, 1970, property first placed in service after December 31, 1970, but treated as first placed in service before

January 1, 1971, by application of a convention described in subparagraph (2) of this paragraph shall be treated as provided in this subparagraph. The depreciation allowed (or allowable) for the taxable year shall consist of the depreciation allowed (or allowable) for the period before January 1, 1971, determined without regard to this section plus the amount allowable for the period after December 31, 1970, determined under this section. However, neither the modified half-year convention described in subparagraph (2) (ii) of this paragraph, nor the half-year convention described in subparagraph (2) (iii) of this paragraph may be applied with respect to property placed in service after December 31, 1970, to allow depreciation for any period prior to January 1, 1971, unless such application is consistent with the convention applied by the taxpayer with respect to property placed in service in such taxable year prior to January 1, 1971.

(4) *Examples.* The principles of this paragraph may be illustrated by the following examples:

Example (1). Taxpayer A, a calendar year taxpayer, places new property in service in a trade or business as follows:

Asset	Placed in service	Unadjusted basis
W.....	Apr. 1, 1971	\$5,000
X.....	June 30, 1971	8,000
Y.....	July 15, 1971	12,000
Z.....	Dec. 20, 1971	60,000

(i) Taxpayer A adopts the modified half-year convention described in subparagraph (2) (ii) of this paragraph. Assets W, X, and Y are placed in a multiple asset account for which the asset depreciation range is 8 to 12 years. A selects 8 years, the minimum asset depreciation period with respect to such assets, and adopts the declining balance method of depreciation using a rate twice the straight line rate (computed without reduction for salvage). The annual rate under this method using a period of 8 years is 25 percent. The depreciation allowance for assets W and X for 1971 is \$3,250, a full year's depreciation under the modified half-year convention (that is, basis of \$13,000 (unreduced by salvage) multiplied by 25 percent). The depreciation allowance for asset Y is \$1,500, a half year's depreciation under the modified half-year convention (that is, basis of \$12,000 (unreduced by salvage) multiplied by 25 percent, then multiplied by one-half, since the property is entitled to only a half year's depreciation).

(ii) The taxpayer places asset Z in an item account and adopts the sum of the years-digits method. The asset depreciation range for such asset is 4 to 6 years and the taxpayer selects an asset depreciation period of 5 years. The depreciation allowance for asset Z in 1971 is \$10,000 (that is, basis of \$60,000 (unreduced by salvage) multiplied by five-fifteenths, the appropriate fraction using the sum of the years-digit method, then multiplied by one-half, since only one-half year's depreciation is allowable under the convention).

Example (2). The facts are the same as in example (1), except that the taxpayer adopts the half-year convention described in subparagraph (2) (iii) of this paragraph. The

depreciation allowances in example (1) with respect to assets Y and Z are not affected. However, assets W and X are entitled to a depreciation allowance for only a half year. Thus, the depreciation allowance for assets W and X for 1971 is \$1,625 (that is, one-half of the \$3,250 allowance computed in example (1)).

Example (3). The taxpayer during his taxable year which begins April 1, 1970, and ends March 31, 1971, places new property in service in a trade or business as follows:

Assets	Placed in service
A.....	Apr. 30, 1970
B.....	Dec. 15, 1970
C.....	Jan. 1, 1971

The taxpayer had used a convention with respect to assets placed in service in prior taxable years whereby assets placed in service during the first half of the year are treated as placed in service on the first day of such year and assets placed in service in the second half of the year are treated as placed in service on the first day of the following year. If the taxpayer selects the modified half-year convention, 1 year's depreciation is allowable on asset A determined without regard to this section. No depreciation is allowable for asset B. No depreciation is allowable for asset C for the period prior to January 1, 1971, but one-fourth year's depreciation is allowable on asset C determined under this section.

Example (4). Assume the same facts as in example (3) except that the taxpayer had used a convention with respect to assets placed in service in prior taxable years whereby such assets are treated as placed in service at the mid-point of the year. If the taxpayer selects the modified half-year convention, one-half year's depreciation is allowable for asset A determined without regard to this section. One-half year's depreciation is allowable for asset B determined without regard to this section. One-fourth year's depreciation is allowable for asset C determined without regard to this section and one-fourth year's depreciation is allowable for asset C determined under this section.

Example (5). The taxpayer during his taxable year which begins August 1, 1970 and ends July 31, 1971, places new property in service in a trade or business as follows:

Asset	Placed in service
A.....	Aug. 1, 1970
B.....	Jan. 15, 1971
C.....	June 30, 1971

The taxpayer had used a convention with respect to assets placed in service in prior taxable years whereby assets placed in service during the first half of the year are treated as placed in service on the first day of such year and assets placed in service in the second half of the year are treated as placed in service on the first day of the following year. If the taxpayer selects the modified half-year convention, 1 full year's depreciation is allowable for asset A determined without regard to this section. Five months depreciation is allowable for asset B determined without regard to this section and 7 months depreciation is allowable for asset B determined under this section. One-half year's depreciation is allowable for asset C determined under this section. The taxpayer may not apply the modified half-year convention by assuming all additions occurring the first day of the second quarter of the taxable year since such application is not consistent with the convention applied with respect to assets placed in service in prior taxable years.

Example (6). Assume the same facts as in example (5) except that the taxpayer applies a convention with respect to assets placed in service prior to January 1, 1971, whereby such assets are treated as placed in service at the mid-point of the year. If the taxpayer selects the modified half-year convention and applies such convention by treating all additions as occurring on the first day of the second quarter of the taxable year, one-half year's depreciation is allowable for asset A determined without regard to this section, 7 months depreciation is allowable for asset B determined under this section, and 7 months depreciation is allowable for asset C determined under this section.

Example (7). (i) Taxpayer B reports income on the basis of a taxable year ending March 31. B adopts the declining balance method of depreciation using a rate twice the straight line rate (computed without reduction for salvage) with respect to new property, which is first placed in service by B in the taxable year ending March 31, 1971, as follows:

Asset	Placed in service	Unadjusted basis
W.....	May 15, 1970	\$8,000
X.....	Nov. 1, 1970	3,000
Y.....	Jan. 20, 1971	4,000
Z.....	Mar. 10, 1971	16,000

(ii) B's depreciation deduction with respect to assets W and X for the taxable year ending March 31, 1971, will be determined without regard to this section, since assets W and X are not eligible property. Assume that B adopts for assets W and X a convention under § 1.167(a)-10 which treats assets placed in service during the first half of the year as placed in service on the first day of such year, and which treats assets placed in service during the second half of the year as placed in service on the first day of the following year. Using this convention, B computes a full year's depreciation for asset W and no depreciation for asset X. Assets W and X have a guideline life of 10 years and no salvage value. The depreciation allowance for asset W is \$1,600 (that is, 20 percent multiplied by basis of \$8,000). No depreciation is allowed for asset X in the taxable year ending March 31, 1971.

(iii) Assets Y and Z are eligible property and B makes an election under this section. B selects an asset depreciation period of 8 years from an asset depreciation range of 8 to 12 years. B adopts the modified half-year convention described in subparagraph (2) (ii) of this paragraph. Thus, assets Y and Z would be treated as placed in service on October 1, 1970 (that is, the first day of the second half of the taxable year), but for the special limitation in subparagraph (3) of this paragraph. The selection of an 8-year asset depreciation period only applies for the portion of the taxable year after December 31, 1970. Further, no depreciation is allowable for assets Y and Z for the period prior to January 1, 1971, since B selected a convention for assets W and X which treats assets placed in service during the second half of the year as placed in service on the first day of the following year. The depreciation allowance for the period from January 1, 1971, through March 31, 1971, is computed using a rate based upon the asset depreciation period of 8 years selected by the taxpayer, and the depreciation allowance for assets Y and Z for such period is \$1,250 (that is, basis of \$20,000, multiplied by 25 percent then multiplied by one-fourth, the portion of the taxable year to which the election under this section applies).

(d) *Special rules for salvage, repairs and retirements.*—(1) *Salvage value.*—(i) *Definition of gross salvage value.* "Gross salvage" value is the amount which is estimated will be realized upon a sale or other disposition of the property in the vintage account when it is no longer useful in the taxpayer's trade or business or in the production of his income and is to be retired from service, without reduction for the cost of removal, dismantling, demolition, or similar operations. If a taxpayer customarily sells or otherwise disposes of property at a time when such property is still in good operating condition, the gross salvage value of such property is the amount expected to be realized upon such sale or disposition, and under certain circumstances, as where such property is customarily sold at a time when it is still relatively new, the gross salvage value may constitute a relatively large proportion of the unadjusted basis of such property.

(ii) *Definition of salvage value.* "Salvage value" means gross salvage value less the amount, if any, by which the gross salvage value is reduced by application of section 167(f). Generally, as provided in section 167(f), a taxpayer may reduce the amount of gross salvage value of a vintage account by an amount which does not exceed 10 percent of the unadjusted basis of the personal property (as defined in section 167(f) (2)) in the account. See paragraph (b) (3) (ii) of this section for requirement of separate vintage accounts for personal property described in section 167(f) (2).

(iii) *Estimation of salvage value.* The salvage value of each vintage account of the taxable year shall be estimated by the taxpayer at the time the election to apply this section is made, upon the basis of all the facts and circumstances existing at the close of the taxable year in which the account is established. The taxpayer shall specify the amount, if any, by which gross salvage value taken into account is reduced by application of section 167(f). See paragraph (f) (2) of this section for requirement that the election specify the estimated salvage value for each vintage account of the taxable year of election. The salvage value estimated by the taxpayer will not be redetermined merely as a result of fluctuations in price levels or as a result of other facts and circumstances occurring after the close of the taxable year of election. Salvage value for a vintage account need not be established or increased as a result of a property improvement as described in subparagraph (2) (vii) of this paragraph. The taxpayer shall maintain records reasonably sufficient to determine facts and circumstances taken into account in estimating salvage value.

(iv) *Salvage as limitation on depreciation.* In no case may a vintage account be depreciated below a reasonable salvage value after taking into account any reduction in gross salvage value permitted by section 167(f).

(v) *Limitation on adjustment of reasonable salvage value.* The salvage value

established by the taxpayer for a vintage account will not be redetermined if it is reasonable. Since the determination of salvage value is a matter of estimation, minimal adjustments will not be made. The salvage value established by the taxpayer will be deemed to be reasonable unless there is sufficient basis in the facts and circumstances existing at the close of the taxable year in which the account is established for a determination of an amount of salvage value for the account which exceeds the salvage value established by the taxpayer for the account by an amount greater than 10 percent of the unadjusted basis of the account at the close of the taxable year in which the account is established. If the salvage value established by the taxpayer for the account is not within the 10 percent range, or if the taxpayer follows the practice of understating his estimates of gross salvage value to take advantage of this subdivision, and if there is a determination of an amount of salvage value for the account which exceeds the salvage value established by the taxpayer for the account, an adjustment will be made by increasing the salvage value established by the taxpayer for the account by an amount equal to the difference between the salvage value as determined and the salvage value established by the taxpayer for the account. For the purposes of this subdivision, a determination of salvage value shall include all determinations at all levels of audit and appellate proceedings, and as well as all final determinations within the meaning of section 1313(a)(1). This subdivision shall apply to each such determination. (See Example (3) of subdivision (vi) of this subparagraph.)

(vi) *Examples.* The principles of this subparagraph may be illustrated by the following examples in which it is assumed that the taxpayer has not followed a practice of understating his estimates of gross salvage value:

Example (1). Taxpayer B elects to apply this section to assets Y and Z, which are placed in a multiple asset vintage account of 1971 for which the taxpayer selects an asset depreciation period of 8 years. The unadjusted basis of asset Y is \$50,000 and the unadjusted basis of asset Z is \$30,000. B estimates a gross salvage value of \$55,000. The property qualifies under section 167(f)(2) and B reduces the amount of salvage taken into account by \$8,000 (that is, 10 percent of \$80,000 under section 167(f)). Thus, B establishes a salvage value of \$47,000 for the account. Assume that there is not sufficient basis for determining a salvage value for the account greater than \$52,000 (that is, \$60,000 minus the \$8,000 reduction under section 167(f)). Since the salvage value of \$47,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

Example (2). The facts are the same as in Example (1) except that B estimates a gross salvage value of \$50,000 and establishes a salvage value of \$42,000 for the account (that is, \$50,000 minus the \$8,000 reduction under section 167(f)). There is sufficient basis for determining an amount of salvage value greater than \$50,000 (that is, \$58,000 minus

the \$8,000 reduction under section 167(f)). The salvage value of \$42,000 established by B for the account can be redetermined without regard to the limitation in subdivision (v) of this subparagraph, since it is not within the 10 percent range. Upon audit of B's tax return for a taxable year for which the redetermination would affect the amount of depreciation allowable for the account, salvage value is determined to be \$52,000 after taking into account the reduction under section 167(f). Salvage value for the account will be adjusted to \$52,000.

Example (3). The facts are the same as in Example (1) except that upon audit of B's tax return for a taxable year the examining officer determines the salvage value to be \$58,000 (that is, \$66,000 minus the \$8,000 reduction under section 167(f)), and proposes to adjust salvage value for the vintage account to \$58,000 which will result in disallowing an amount of depreciation for the taxable year. B does not agree with the finding of the examining officer. After receipt of a "30-day letter", B waives a district conference and initiates proceedings before the Appellate Division. In consideration of the case by the Appellate Division it is concluded that there is not sufficient basis for determining an amount of salvage value for the account in excess of \$55,000 (that is, \$63,000 minus the \$8,000 reduction under section 167(f)). Since the salvage of \$47,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

(2) *Treatment of repairs.*—(i) *In general.* Sections 162, 212, and 263 provide general rules for the treatment of certain expenditures for the repair, maintenance, rehabilitation or improvement of property. In general, under those sections, expenditures which substantially prolong the life of an asset, or are made to increase its value or adapt it to a different use are capital expenditures. If an expenditure is treated as a capital expenditure under sections 162, 212 or 263, it is subject to the allowance for depreciation. On the other hand, in general, expenditures which do not substantially prolong the life of an asset or materially increase its value or adapt it for a substantially different use may be deducted as an expense in the taxable year in which paid or incurred. Expenditures, or a series of expenditures, may have characteristics both of deductible expenses and capital expenditures. Other expenditures may have the characteristics of capital expenditures, as in the case of an "excluded addition" (as defined in subdivision (vi) of this subparagraph). This subparagraph provides a simplified procedure for determining whether expenditures with respect to certain property are to be treated as deductible expenses or capital expenditures.

(ii) *Election of repair allowance.* Subject to the provisions of subdivision (v) of this subparagraph, the taxpayer may elect to apply the asset guideline class repair allowance described in subdivision (iii) of this subparagraph for any taxable year ending after December 31, 1970, for which the taxpayer elects to apply this section.

(iii) *Repair allowance for an asset guideline class.* For a taxable year for which the taxpayer elects to apply this

section, the "repair allowance" for an asset guideline class is an amount equal to—

(a) The average of (1) the unadjusted basis of all "repair allowance property" (as described in this subdivision) in the asset guideline class at the beginning of the taxable year, less in the case of such property in a vintage account the unadjusted basis of all such property retired in an ordinary retirement (as described in subparagraph (3)(ii) of this paragraph) in prior taxable years, and (2) the unadjusted basis of all "repair allowance property" in the asset guideline class at the end of the taxable year, less in the case of such property in a vintage account the unadjusted basis of all such property retired in an ordinary retirement during the taxable year, multiplied by—

(b) The repair allowance percentage in effect for the asset guideline class for the taxable year.

The "repair allowance percentages" in effect for taxable years ending before the effective date of the first supplemental repair allowance percentages established pursuant to this section are set forth in Revenue Procedure 71-25. Repair allowance percentages will from time to time be established, supplemented and revised with express reference to this section. These repair allowance percentages will be published in the Internal Revenue Bulletin. The repair allowance percentages in effect on the last day of the taxable year shall apply for the taxable year; except that the repair allowance percentage for a particular taxable year shall not be less than the repair allowance percentage in effect on the first day of such taxable year. The repair allowance percentages for a taxable year shall not be changed to reflect any supplement or revision of the repair allowance percentages after the end of such taxable year. For the purposes of this section, "repair allowance property" means eligible property determined without regard to paragraph (b)(2)(iii) of this section (that is, without regard to whether such property was first placed in service by the taxpayer before or after December 31, 1970).

(iv) *Application of asset guideline class repair allowance.* In accordance with the principles of sections 162, 212, and 263, the taxpayer pays or incurs any expenditures during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property, the taxpayer must either—

(a) If the taxpayer elects to apply the repair allowance for the asset guideline class, treat an amount of all such expenditures in such taxable year with respect to all such property in the asset guideline class which does not exceed in total the repair allowance for that asset guideline class as deductible repairs, and treat the excess of all such expenditures with respect to all such property in the asset guideline class in the manner described for a property improvement in subdivision (viii) of this subparagraph, or

(b) If the taxpayer does not elect to apply the repair allowance for the asset guideline class, treat each of such expenditures in such taxable year with respect to all such property in the asset guideline class as either a capital expenditure or as a deductible repair in accordance with the principles of sections 162, 212, and 263 (without regard to (a) of this subdivision), and treat the expenditures which are required to be capitalized under sections 162, 212, and 263 (without regard to (a) of this subdivision) in the manner described for a property improvement in subdivision (viii) of this subparagraph.

For the purposes of (a) and (b) of this subdivision, expenditures for the repair, maintenance, rehabilitation or improvement of property do not include expenditures for an excluded addition. (See subdivision (viii) of this subparagraph for treatment of an excluded addition.) The taxpayer shall elect each taxable year whether to apply the repair allowance and treat expenditures under (a) of this subdivision, or to treat expenditures under (b) of this subdivision. The treatment of expenditures under this subdivision for a taxable year for all asset guideline classes shall be specified in the tax return filed for the taxable year. The taxpayer may treat expenditures under (a) of this subdivision with respect to property in one asset guideline class and treat expenditures under (b) of this subdivision with respect to property in some other asset guideline class. In addition, the taxpayer may treat expenditures with respect to property in an asset guideline class under (a) of this subdivision in one taxable year, and treat expenditures with respect to property in that asset guideline class under (b) of this subdivision in another taxable year.

(v) *Limitations on use of repair allowance.* (a) The asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall apply only to expenditures with respect to repair allowance property (as described in subdivision (iii) of this subparagraph) in the asset guideline class. The taxpayer may apply the asset guideline class repair allowance for the taxable year only if the taxpayer maintains books and records sufficient to determine the information reasonably required for its application, including—

(1) the amount and general description of expenditures paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property in the asset guideline class, and

(2) a determination of which expenditures (and the amount of each) with respect to such property are for excluded additions (such as whether the expenditure is for an additional identifiable unit of property, or substantially increases the productivity or capacity of an existing identifiable unit of property or adapts it for a substantially different use).

In general, such books and records shall be sufficient to identify the amount and nature of expenditures with respect to specific items of repair allowance property or groups of similar properties in the same asset guideline class. However, in the case of expenditures for labor costs and supplies for general maintenance of plant and equipment part of which is repair allowance property and part is not, or part of which is in one asset guideline class and part in another, to the extent books and records are not maintained identifying such expenditures with respect to specific items of property or groups of properties and it is not practicable to do so, the total amount of such expenditures may be allocated by any reasonable method consistently applied.

(b) If for the taxable year the taxpayer claims or is allowed a deduction in accordance with section 263(e) for expenditures with respect to repair allowance property in a particular asset guideline class, the taxpayer may not use the asset guideline class repair allowance described in subdivision (iii) of this subparagraph for such asset guideline class for such taxable year.

(c) (1) If the taxpayer repairs, rehabilitates or improves property for sale or resale to customers, the asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall not apply to expenditures for the repair, maintenance, rehabilitation or improvement of such property, or (2) if a taxpayer follows the practice of acquiring for his own use used property (in need of repair, rehabilitation or improvement to be suitable for the use intended by the taxpayer) and of making expenditures to repair, rehabilitate or improve such property in order to take advantage of this subparagraph, the asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall not apply to such expenditures. In either event, such expenditures shall not be treated as expenditures for the repair, maintenance, rehabilitation or improvement of property for the purposes of this subparagraph and such property shall not be "repair allowance property" as described in subdivision (iii) of this subparagraph.

(vi) *Definition of excluded addition.* The term "excluded addition" generally means—

(a) an expenditure which substantially increases the productivity or capacity of an existing identifiable unit of property over its productivity or capacity when first acquired by the taxpayer,

(b) an expenditure which modifies an existing identifiable unit of property for a substantially different use, or

(c) an expenditure for an additional identifiable unit of property (as distinguished from an expenditure for replacement of a part in an existing identifiable unit of property which is paid or incurred in connection with the repair, maintenance, rehabilitation or improvement of such property, whether or not such part is also an identifiable unit of property).

For the purposes of (a) of this subdivision, an increase in productivity or

capacity is substantial only if the increase is more than 25 percent. Under (c) of this subdivision, in the case of a vintage account of five automobiles, each automobile constitutes an identifiable unit of property. An automobile transmission is also an identifiable unit of property. The replacement of an existing transmission in the automobile in connection with the repair, maintenance or rehabilitation of the automobile is not an excluded addition. The addition of an air conditioner to an automobile is an excluded addition. The replacement of one of the automobiles in the vintage account is an excluded addition since the automobile is not a part in an existing identifiable unit of property. The principles of this subdivision may be further illustrated by the following example:

Example. For the taxable year, B pays or incurs the following expenditures: (a) \$5,000 for general maintenance of repair allowance property (as described in subdivision (iii) of this subparagraph) such as inspection, oiling, machine adjustments, cleaning, and painting; (b) \$175 for replacement of bearings and gears in an existing lathe; (c) \$125 for replacement of an electric starter and certain electrical wiring in an automatic drill press; (d) \$300 for modification of a metal fabricating machine (including replacement of certain parts) which substantially increases its capacity; and (e) \$800 for the replacement of an existing lathe with a new lathe. Expenditures (a) through (c) are expenditures for the repair, maintenance, rehabilitation or improvement of property to which B can elect to apply the asset guideline class repair allowance described in subdivision (iii) of this subparagraph. Expenditures (d) and (e) are excluded additions.

(vii) *Definition of property improvement.* The term "property improvement" means—

(a) If the taxpayer treats expenditures for the asset guideline class under subdivision (iv) (a) of this subparagraph, the amount of all expenditures paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property in the asset guideline class, which exceeds the asset guideline class repair allowance for the taxable year; and

(b) If the taxpayer treats expenditures for the asset guideline class under subdivision (iv) (b) of this subparagraph, the amount of each expenditure paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property which is treated under sections 162, 212 and 263 as a capital expenditure.

The term "property improvement" does not include any expenditure for an excluded addition.

(viii) *Treatment of property improvements and excluded additions.* If for the taxable year there is a property improvement as described in subdivision (vii) of this subparagraph or an excluded addition as described in subdivision (vi) of this subparagraph, the following rules shall apply—

(a) The total amount of any property improvement for the asset guideline class

determined under subdivision (vii) (a) of this subparagraph shall be capitalized in a single "special basis vintage account" of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year (applied without regard to paragraph (b) (5) (v) (a) of this section). See subparagraph (3) (vi) of this paragraph for definition and treatment of a "special basis vintage account".

(b) Each property improvement determined under subdivision (vii) (b) of this subparagraph, if it is eligible property, shall be capitalized in a vintage account of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year (applied without regard to paragraph (b) (5) (v) (a) of this section).

(c) Each excluded addition, if it is eligible property, shall be capitalized in a vintage account of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year.

For rule as to date on which a property improvement or an excluded addition is first placed in service, see paragraph (e) (1) (ii) and (iv) of this section.

(ix) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (1). For the taxable year 1972, B elects to apply this section. B has repair allowance property (as described in subdivision (iii) of this subparagraph) in asset guideline class 20.2 under Revenue Procedure 71-25 with an average unadjusted basis determined as provided in subdivision (iii) (a) of this subparagraph of \$100,000 and repair allowance property in asset guideline class 24.4 with an average unadjusted basis of \$300,000. The repair allowance percentage for asset guideline class 20.2 is 4.5 percent and for asset guideline class 24.4 is 6.5 percent. The two asset guideline class repair allowances for 1972 are \$4,500 and \$19,500, respectively, determined as follows:

ASSET GUIDELINE CLASS 20.2	
\$100,000 average unadjusted basis,	
multiplied by 4.5 percent.....	\$4,500
ASSET GUIDELINE CLASS 24.4	
\$300,000 average unadjusted basis,	
multiplied by 6.5 percent.....	\$19,500

Example (2). The facts are the same as in Example (1). During the taxable year 1972, B pays or incurs the following expenditures for the repair, maintenance, rehabilitation or improvement of repair allowance property in asset guideline class 20.2.

General maintenance (including primarily labor costs).....	\$3,000
Replacement of parts in several machines (including labor costs of \$1,650)	\$4,000
	\$7,000

In addition, in connection with the rehabilitation and improvement of two other machines B pays or incurs \$6,000 (including labor costs of \$2,000) which is treated as an excluded addition because the capacity of the equipment was substantially increased. For 1972, B elects to apply this section and to apply the asset guideline class repair allowance to asset guideline class 20.2. Since the asset guideline class repair allowance is \$4,500, B can deduct \$4,500 in accordance with

subdivision (iv) (a) of this subparagraph. B must capitalize \$2,500 in a special basis vintage account in accordance with subdivisions (vi) (a) and (viii) (a) of this subparagraph. Since the excluded addition is a capital item and is eligible property, B must also capitalize \$6,000 in a vintage account in accordance with subdivision (viii) (c) of this subparagraph. B selects from the asset depreciation range an asset depreciation period of 17 years for the special basis vintage account. B includes the excluded addition in a vintage account of 1972 for which he also selects an asset depreciation period of 17 years.

(3) *Treatment of retirements.*—(i) *In general.* The rules of this subparagraph specify the treatment of all retirements from vintage accounts. The rules of § 1.167(a)-8 shall not apply to any retirement from a vintage account. In general, an asset in a vintage account is retired when such asset is permanently withdrawn from use in a trade or business or in the production of income by the taxpayer. A retirement may occur as a result of a sale or exchange, by other act of the taxpayer amounting to a permanent disposition of an asset, or by physical abandonment of an asset. A retirement may also occur by transfer of an asset to supplies or scrap. A physical abandonment occurs only if it is reasonably certain that the property will neither be restored to use in the taxpayer's trade or business or in the production of income, nor retrieved for sale, exchange, or other disposition.

(ii) *Definitions of ordinary and extraordinary retirements.* The term "ordinary retirement" means any retirement from a vintage account which is not treated as an "extraordinary retirement" under this subdivision. The retirement of an asset from a vintage account in a taxable year is an "extraordinary retirement" if—

(a) The asset is retired as the direct result of fire, storm, shipwreck, or other casualty; or

(b) (1) The asset is retired (other than by transfer to supplies or scrap) in a taxable year as the direct result of a cessation, termination, curtailment, or disposition of a business, manufacturing, or other income producing process, operation, facility or unit, and (2) the unadjusted basis (determined without regard to subdivision (vi) of this subparagraph) of all the assets so retired in such taxable year from such account as a direct result of the event described in (b) (1) of this subdivision exceeds 20 percent of the unadjusted basis of such account immediately prior to such event. For this purpose, all accounts (other than a special basis vintage account as described in subdivision (vi) of this subparagraph) of the same vintage for which the same asset depreciation period has been selected, and from which a retirement as a direct result of such event occurs within the taxable year, shall be treated as a single vintage account.

(iii) *Treatment of ordinary retirements.* No loss shall be recognized upon an ordinary retirement. Gain shall be recognized only to the extent specified in this subparagraph. All proceeds from

ordinary retirements shall be added to the depreciation reserve of the vintage account from which the retirement occurs. See subdivision (vi) of this subparagraph for allocation of basis in the case of a special basis vintage account. See subdivision (ix) of this subparagraph for recognition of gain when the depreciation reserve exceeds the unadjusted basis of the vintage account. The amount of salvage value for a vintage account shall be reduced (but not below zero) as of the beginning of the taxable year by the excess of (a) the depreciation reserve for the account, after adjustment for depreciation allowable for such taxable year and all other adjustments prescribed by this section (other than the adjustment prescribed by subdivision (ix) of this subparagraph) over (b) the unadjusted basis of the account less the amount of salvage value for the account before such reduction. Thus, in the case of a vintage account with an unadjusted basis of \$1,000 and a salvage value of \$100, to the extent that proceeds from ordinary retirements increase the depreciation reserve above \$900, the salvage value is reduced. If the proceeds increase the depreciation reserve for the account to \$1,000, the salvage value is reduced to zero. The unadjusted basis of the asset retired in an ordinary retirement is not removed from the account and the depreciation reserve for the account is not reduced by the depreciation allowable for the retired asset. The previously unrecovered basis of the retired asset will be recovered through the allowance for depreciation with respect to the vintage account. See subdivision (v) of this subparagraph for treatment of ordinary retirements on which gain or loss is not recognized in whole or in part.

(iv) *Treatment of extraordinary retirements.* Unless the transaction is governed by a special nonrecognition section of the Code such as 1031 or 337, gain or loss shall be recognized upon an extraordinary retirement in the taxable year in which such retirement occurs subject to section 1231, section 165, and all other applicable provisions of law such as section 1245. The unadjusted basis of the retired asset shall be removed from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the retired asset computed in the manner prescribed in paragraph (c) (1) (v) (b) of this section for determination of the adjusted basis of the asset. See subdivision (ix) of this subparagraph for recognition of gain when the depreciation reserve exceeds the unadjusted basis of the vintage account. See subdivision (iii) of this subparagraph for reduction of salvage value for an account when the depreciation reserve exceeds the unadjusted basis of the account minus salvage value.

(v) *Special rule for certain retirements.* In the case of an ordinary retirement on which gain or loss is in whole or in part not recognized because of a special nonrecognition section of the Code, such as 1031 or 337, the portion of

the proceeds on which gain is not recognized shall not be added to the depreciation reserve of the vintage account in accordance with subdivision (iii) of this subparagraph and the unadjusted basis of the asset shall be removed from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the retired asset computed in the manner prescribed in paragraph (c) (1) (v) (b) of this section for determination of the adjusted basis of the asset.

(vi) *Treatment of special basis vintage accounts.* A "special basis vintage account" is a vintage account for an amount of property improvement determined under subparagraph (2) (vii) (a) of this paragraph. In general, reference in this section to a "vintage account" shall include a special basis vintage account. The unadjusted basis of a special basis vintage account shall be recovered through the allowance for depreciation in accordance with this section over the asset depreciation period selected for the account. Except as provided in this subdivision, the unadjusted basis, adjusted basis and reserve for depreciation of such account shall not be allocated to any specific asset in the asset guideline class, and the provisions of this subparagraph shall not apply to such account. However, in the event of a sale, exchange or other disposition of "repair allowance property" (as described in subparagraph (2) (iii) of this paragraph) in an extraordinary retirement as described in subdivision (ii) of this subparagraph (or if the asset is not in a vintage account, in an abnormal retirement as described in § 1.167(a)-8), the taxpayer may, if consistently applied to all such retirements in the taxable year and adequately identified in the taxpayer's books and records, elect to allocate the adjusted basis (as of the end of the taxable year) of all special basis vintage accounts for the asset guideline class to each such retired asset in the proportion that the adjusted basis of the retired asset (as of the beginning of the taxable year) bears to the adjusted basis of all repair allowance property in the asset guideline class at the beginning of the taxable year. The election to allocate basis in accordance with this subdivision shall be made on the tax return filed for the taxable year. The principles of this subdivision may be illustrated by the following example:

Example. In addition to other property, the taxpayer has machines A, B, and C, all in the same asset guideline class and each with an adjusted basis on January 1, 1977 of \$10,000. The adjusted basis on January 1, 1977, of all repair allowance property (as described in subparagraph (2) (iii) of this paragraph) in the asset guideline class is \$90,000. The machines are sold in an extraordinary retirement in 1977. The taxpayer is entitled to and does elect to allocate basis in accordance with this subdivision. There is also a 1972 special basis vintage account for the asset guideline class, as follows:

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	Unadjusted basis	Reserve for depreciation	Dec. 31, 1977 adjusted basis
1972 special basis vintage account, for which the taxpayer selected an asset depreciation period of 10 years, adopted the straight line method, and used the half-year convention	\$2,000	\$1,180	\$800

By application of this subdivision, the adjusted basis of machines A, B, and C is increased to \$10,100 each (that is, \$90,000 ÷ \$900 = \$100). The unadjusted basis, reserve for depreciation and adjusted basis of the special basis vintage account are reduced, respectively, by one-third (that is, \$300 ÷ 3 = \$100).

In order to reflect the allocation of basis to the special basis vintage account.

(vii) *Reduction in the salvage value of a vintage account.* (a) A taxpayer may apply this section without reducing the salvage value for a vintage account in accordance with this subdivision or in accordance with subdivision (viii) of this subparagraph (relating to transfers to supplies or scrap). See subdivision (iii) of this subparagraph for reduction of salvage value in certain circumstances in the amount of proceeds from ordinary retirements. However, the taxpayer may in lieu thereof follow the consistent practice of reducing, as retirements occur, the salvage value for a vintage account by the amount of salvage value attributable to the retired asset, or the taxpayer may consistently follow the practice of so reducing the salvage value for a vintage account as extraordinary retirements occur while not reducing the salvage value for the account as ordinary retirements occur. If the taxpayer does not reduce the salvage value for a vintage account as retirements occur, the taxpayer may be entitled to a deduction in the taxable year in which the last asset is retired from the account in accordance with subdivision (ix) (b) of this subparagraph.

(b) For purposes of this subdivision, the portion of the salvage value for a vintage account attributable to a retired asset may be determined by multiplying the salvage value for the account by a fraction, the numerator of which is the unadjusted basis of the retired asset and the denominator of which is the unadjusted basis of the account, or by any other reasonable method which is consistently applied.

(c) If the taxpayer reduces the salvage value for a vintage account as ordinary retirements occur, in the case of an ordinary retirement the taxpayer may either: (1) follow the consistent practice of reducing the salvage value for the account by the amount of salvage value attributable to the retired asset and not adding the same amount to the depreciation reserve for the account, in which

case (if the asset is retired by transfer to supplies or scrap) the basis in the supplies or scrap account of the retired asset will be zero, or (2) follow the consistent practice of reducing the salvage value for the account by the amount of salvage value attributable to the retired asset and adding the same amount to the depreciation reserve for the account (up to an amount which does not increase the depreciation reserve to an amount in excess of the unadjusted basis of the account) in which case (if the asset is retired by transfer to supplies or scrap) the basis in the supplies or scrap account of the retired asset will be the amount added to the depreciation reserve for the account. Thus, for example, in the case of an ordinary retirement by transfer of an asset to supplies or scrap, the basis of the asset in the supplies or scrap account would either be zero or the amount added to the depreciation reserve of the vintage account from which the retirement occurred. When the depreciation reserve for the account equals the unadjusted basis of the account no further adjustment to salvage value for the account will be made. See subdivision (viii) (c) of this subparagraph for special optional rule for determining the basis of an asset transferred to supplies or scrap.

(d) In the event of a removal of property from a vintage account in accordance with paragraph (b) (5) (v) (b) or (vi) or paragraph (b) (6) (iii) of this section, the salvage value for the account may be reduced by the amount of salvage value attributable to the asset removed determined as provided in (b) of this subdivision.

(viii) *Adjustments for transfers to supplies or scrap.* If the taxpayer follows the consistent practice of reducing, as ordinary retirements occur, the salvage value for a vintage account in accordance with subdivision (vii) of this subparagraph, the taxpayer may (in lieu of the method described in subdivision (vii) (b) and (c) of this subparagraph for determining the basis of the retired asset in the supplies or scrap account) follow the consistent practice of determining the basis (in the supplies or scrap account) of assets retired in an ordinary retirement by transfer to supplies or scrap, in the following manner—

(a) The taxpayer may determine the value of the asset (not to exceed its unadjusted basis) by any reasonable method consistently applied (such as average cost, conditioned cost, or fair market value) if such method is adequately identified in the taxpayer's books and records.

(b) The salvage value attributable to the asset determined in accordance with subdivision (vii) (b) of this subparagraph shall be subtracted from the salvage value for the account (to the extent thereof) and the greater of (1) the amount subtracted from the salvage value for the vintage account or (2) the

value of the asset determined in accordance with (a) of this subdivision, shall be added to the reserve for depreciation of the vintage account.

(c) The amount added to the reserve for depreciation of the vintage account in accordance with (b) of this subdivision shall be treated as the basis of the retired asset in the supplies or scrap account.

If the taxpayer makes the adjustments in accordance with this subdivision, the reserve for depreciation of the vintage account may exceed the unadjusted basis of the account, and in that event gain will be recognized in accordance with subdivision (ix) of this subparagraph.

(ix) *Recognition of gain or loss in certain situations.* (a) If at the end of any taxable year after adjustment for depreciation allowable for such taxable year and all other adjustments prescribed by this section, the depreciation reserve established for a vintage account exceeds the unadjusted basis of the account, the entire amount of such excess shall be recognized as gain in such taxable year. Such gain shall—

(1) Constitute gain to which section 1245 applies to the extent that it does not exceed the total amount of depreciation allowances in the depreciation reserve for all years at the end of such taxable year, reduced by gain recognized pursuant to this subdivision with respect to the account previously treated as gain to which section 1245 applies, and

(2) Constitute gain to which section 1231 applies to the extent that it exceeds such total amount as so reduced.

In such event, the depreciation reserve shall be reduced by the amount of gain recognized, so that after such reduction the amount of the depreciation reserve is equal to the unadjusted basis of the account. Thus, for example, in the case of a vintage account with an unadjusted basis of \$1,000 and a depreciation reserve of \$700 (of which \$600 represents depreciation allowances), if \$500 is realized during the taxable year from ordinary retirements of assets from the account, the reserve is increased to \$1,200, gain is recognized to the extent of \$200 (the amount by which the depreciation reserve before further adjustment exceeds \$1,000) and the depreciation reserve is then decreased to \$1,000. The \$200 of gain constitutes gain to which section 1245 applies. If the amount realized from ordinary retirements during the year had been \$1,100 instead of \$500, the gain of \$800 would have consisted of \$600 of gain to which section 1245 applies and \$200 of gain to which section 1231 applies.

(b) If at the time the last asset in a particular vintage account is retired the unadjusted basis of the account exceeds the depreciation reserve for the account (after all adjustments prescribed by this section), the entire amount of such excess shall be recognized in such taxable year as a loss under section 165 or as a deduction for depreciation under section 167. If the retirement of such asset occurs by sale or exchange on which gain

or loss is recognized, the amount of such excess shall constitute a loss subject to section 1231. Upon retirement of the last asset in a vintage account, the account shall terminate and no longer be an account to which this section applies.

(x) *Dismantling cost.* The cost of dismantling, demolishing, or removing an asset in the process of a retirement from the vintage account shall be treated as an expense deductible in the year paid or incurred, and such cost shall not be subtracted from the depreciation reserve for the account.

(4) *Examples.* The principles of this paragraph may be illustrated by the following examples:

Example (1). (a) Taxpayer A has a multiple asset vintage account with an unadjusted basis of \$1,000. All the assets were first placed in service by A on January 15, 1971. This account contains all of A's assets in a single asset guideline class. A elects to apply this section for 1971 and adopts the modified half-year convention. A estimates a salvage value for the account of \$100 and this estimate is determined to be reasonable. (See subparagraph (1)(v) of this paragraph for limitation on adjustment of reasonable salvage value.) A adopts the straight line method of depreciation with respect to the account and selects a 10-year asset depreciation period. A does not follow a practice of reducing the salvage value for the account in the amount of salvage value attributable to each retired asset in accordance with subparagraph (3)(vii) of this paragraph. The depreciation allowance for each of the first 4 years is \$100, that is one-tenth multiplied by the unadjusted basis of \$1,000, without reduction for salvage.

(b) In the fifth year of the asset depreciation period, three assets are sold in an ordinary retirement for \$300. Under paragraph (c)(1)(ii) of this section and subparagraph (3)(iii) of this paragraph, the proceeds of the retirement are added to the depreciation reserve as of the beginning of the fifth year. Accordingly the reserve as of the beginning of the fifth year is \$700, that is, \$400 of depreciation as of the beginning of the year plus \$300 proceeds from ordinary retirements. The depreciation allowance for the fifth year is \$100, that is one-tenth multiplied by the unadjusted basis of \$1,000, without reduction for salvage. Accordingly, the depreciation reserve at the end of the fifth year is \$800.

(c) In the sixth year, asset X is sold in an extraordinary retirement for \$30 and gain or loss is recognized. Under the first-year convention used by the taxpayer, the unadjusted basis of X, \$300, is removed from the unadjusted basis of the vintage account as of the beginning of the sixth year and the depreciation reserve as of the beginning of such year is reduced to \$650 by removing the depreciation applicable to asset X, \$150 (see subparagraph (3)(iv) of this paragraph). Since the depreciation reserve (\$650) exceeds the unadjusted basis of the account (\$700) minus salvage value (\$100) by \$50, under subparagraph (3)(iii) of this paragraph, salvage value is reduced by \$50. No depreciation is allowable for the sixth year.

(d) In the seventh year, an asset is sold in an ordinary retirement for \$110. This would increase the reserve as of the beginning of the seventh year to \$760 and under subparagraph (3)(iii) of this paragraph the salvage value is reduced to zero. Under subparagraph (3)(ix)(a) of this paragraph the depreciation reserve is then decreased to \$700 (the unadjusted basis of the account) and \$60 is reported as gain, without regard to the adjusted basis of the asset. No depreciation

is allowable for the seventh year since the depreciation reserve (\$700) equals the unadjusted basis of the account (\$700).

(e) (1) In the eighth year, A elects to apply this section and to treat expenditures during the year for repair, maintenance, rehabilitation or improvement under subparagraph (2)(iii) and (iv)(a) of this paragraph (the "guideline class repair allowance"). This results in the treatment of \$300 as a property improvement for the asset guideline class. (See subparagraph (2)(vii) of this paragraph for definition of a property improvement.) The property improvement is capitalized in a special basis vintage account of the eighth taxable year (see subparagraph (2)(vii)(a) of this paragraph). A selects an asset depreciation period of 10 years and adopts the straight line method for the special basis vintage account. A adopts the modified half-year convention for the eighth year.

(2) In the eighth year, A sells asset Y in an ordinary retirement for \$175. Under paragraph (c)(1)(ii) of this section and subparagraph (3)(iii) of this paragraph, \$175 is added to the depreciation reserve for the account as of the beginning of the taxable year. Since the depreciation reserve for the account (\$875) exceeds the unadjusted basis of the account (\$700) by \$175, that amount of gain is recognized under subparagraph (3)(ix) of this paragraph. Upon recognition of gain in the amount of \$175, the depreciation reserve for the account is reduced to \$700.

(3) No depreciation is allowable in the eighth year for the vintage account since the depreciation reserve (\$700) equals the unadjusted basis of the account (\$700). The depreciation allowable in the eighth year for the special basis vintage account is \$30, that is, unadjusted basis of \$300, multiplied by one-tenth, the asset depreciation period selected for the special basis vintage account, but limited to \$22.50 under the modified half-year convention. (See paragraph (e)(1)(iv) of this section for treatment of \$150 of the property improvement as first placed in service in the first half of the taxable year and \$150 of the property improvement as first placed in service in the last half of the taxable year.)

Example (2). Taxpayer B has a multiple asset vintage account of 1971 with an unadjusted basis of \$100,000. B selects from the asset depreciation range an asset depreciation period of 10 years and adopts the straight line method of depreciation and the modified half-year convention. B establishes a salvage value for the account of \$10,000. All the assets in the account are first placed in service on January 15, 1971. B follows the practice of reducing salvage value for the account as ordinary retirements occur in accordance with subparagraph (3)(vii) of this paragraph, but does not follow the optional practice of determining the basis of assets transferred to supplies or scrap in accordance with subparagraph (3)(viii) of this paragraph. No retirements occur during the first 5 years. The depreciation reserve at the beginning of the sixth year is \$50,000. In the sixth year an asset with an unadjusted basis of \$20,000 is transferred to supplies in an ordinary retirement. By application of subparagraph (3)(vii)(b) of this paragraph, B determines the reduction in salvage value for the account attributable to such asset to be \$2,000 (that is, $\frac{20,000}{10} \times \$10,000 = \$2,000$). B reduces the salvage value for the account by \$2,000 and adds \$2,000 to the depreciation reserve for the account. The basis of the retired asset in the supplies account is \$2,000. The depreciation allowable for the account for the sixth year is \$10,000. The depreciation reserve

for the account at the beginning of the seventh year is \$62,000. At the mid-point of the seventh year all the remaining assets in the account are sold in an ordinary retirement for \$20,000, which is added to the depreciation reserve as of the beginning of the seventh year, thus increasing the reserve to \$82,000. The \$5,000 depreciation allowable for the account for the seventh year (one-half of a full year's depreciation of \$10,000) increases the depreciation reserve to \$87,000. Under subparagraph (3)(ix)(b) of this paragraph, a loss of \$13,000 subject to section 1231 is realized in the seventh year (that is, the excess of the unadjusted basis of \$100,000 over the depreciation reserve of \$87,000). No depreciation is allowable for the account after the mid-point of the seventh year since all the assets are retired and the account has terminated.

(e) *Accounting for eligible property—(1) Definition of first placed in service.*

(i) *In general.* The term "first placed in service" refers to the time the property is first placed in service by the taxpayer, not to the first time the property is placed in service. Property is "first placed in service" when first placed in a condition or state of readiness and availability for a specifically assigned function, whether in the taxpayer's trade or business, in the production of income, in a tax-exempt activity, or in a personal activity. The provisions of paragraph (d)(1)(ii) and (d)(2) of § 1.46-3 shall apply for the purpose of determining the date on which property is first placed in service. See subdivision (ii) of this subparagraph for special rule for certain replacement parts. The date on which depreciation begins under a convention used by the taxpayer or under a particular method of depreciation, such as the unit of production method or the retirement method, shall not determine the date on which the property is first placed in service. See paragraph (c)(2) of this section for application of a first-year convention to determine the allowance for depreciation of property in a vintage account.

(ii) *Certain replacement parts.* Property (such as replacement parts) the cost or other basis of which is deducted as a repair expense in accordance with the asset guideline repair allowance described in paragraph (d)(2)(iii) of this section shall not be treated as placed in service.

(iii) *Property improvements and excluded additions.* A property improvement determined under paragraph (d)(2)(vii)(b) of this section, and an excluded addition (other than an additional identifiable unit of property which is an excluded addition described in paragraph (d)(2)(vi)(c) of this section) is first placed in service when its cost is paid or incurred. See subdivision (i) of this subparagraph for general rule which applies to an excluded addition described in paragraph (d)(2)(vi)(c) of this section.

(iv) *Certain property improvements.* In the case of an amount of property improvement determined under paragraph (d)(2)(vii)(a) of this section, one-half of such amount is first placed in service in the first half of the taxable year in which the cost is paid or incurred and

one-half is first placed in service in the last half of such taxable year.

(v) *Special rules for clearing accounts.* In the case of public utilities which consistently account for certain property through "clearing accounts," the date on which such property is first placed in service shall be determined in accordance with rules to be prescribed by the Commissioner.

(2) *Special rules for transferred property.* If eligible property is first placed in service by the taxpayer during a taxable year of election, and the property is disposed of before the end of the taxable year, the election for such taxable year shall include such property unless such property is excluded in accordance with paragraph (b)(5)(iii), (iv), or (v) of this section.

(3) *Special rules in the case of certain transfers—(i) Transaction to which section 381(a) applies.* If the distributor or transferor corporation (including any distributor or transferor corporation of any distributor or transferor corporation) has made an election to apply this section to eligible property transferred in a transaction to which section 381(a) applies, the acquiring corporation is treated as if it were the distributor or transferor corporation with respect to such property. The acquiring corporation must segregate such eligible property (to which the distributor or transferor corporation elected to apply this section) into vintage accounts as nearly coextensive as possible with the vintage accounts created by the distributor or transferor corporation identified by reference to the year the property was first placed in service by the distributor or transferor corporation. The asset depreciation period for each vintage account selected by the distributor or transferor corporation from the asset depreciation range must be used by the acquiring corporation. The method of depreciation adopted by the distributor or transferor corporation, shall be used by the acquiring corporation unless such corporation obtains the consent of the Commissioner to use another method of depreciation in accordance with paragraph (e) of § 1.446-1 or changes the method of depreciation under paragraph (b) of § 1.167(e)-1 or under paragraph (c)(1)(iii) of this section. Thus, the acquiring corporation may apply this section to the property so acquired only if the distributor or transferor corporation elected to apply this section to such property.

(ii) *Partnerships, trusts, estates, donees, and corporations.* Except as provided in subdivision (1) of this subparagraph with respect to transactions to which section 381(a) applies, if eligible property is placed in service by an individual, trust, estate, partnership or corporation, the election to apply this section shall be made by the individual, trust, estate, partnership, or corporation placing such property in service. For example, if a partnership places in service property contributed to the partnership by a partner, the partnership may elect to apply this section to such property. If the partnership does not make

the election, this section will not apply to such property. See paragraph (b)(7) of this section for special rule for certain property where there is a mere change in the form of conducting a trade or business.

(iii) *Leased property.* The asset depreciation range and the asset depreciation period for eligible property subject to a lease shall be determined without regard to the period for which such property is leased, including any extensions or renewals of such period. See paragraph (b)(5)(v) of this section for exclusion of property amortized under paragraph (b) of § 1.162-11 from an election to apply this section. In the case of a lessor of property, unless there is an asset guideline class in effect for lessors of such property, the asset guideline class for such property shall be determined by reference to the activity in which such property is primarily used by the lessee. See paragraph (b)(4)(iii)(b) of this section for general rule for classification of property according to primary use.

(f) *Election with respect to eligible property—(1) Time and manner of election—(i) In general.* An election to apply this section to eligible property shall be made with the income tax return filed for the taxable year in which the property is first placed in service (see paragraph (e)(1) of this section) by the taxpayer. An election to compute the allowance for depreciation under this section is a method of accounting but the consent of the Commissioner will be deemed granted to make an annual election. For election by a partnership see section 703(b) and paragraph (e)(3)(ii) of this section. If the taxpayer does not file a timely return (taking into account extensions of the time for filing) for the taxable year in which the property is first placed in service, the election shall be filed at the time the taxpayer files his first return for that year. The election may be made with an amended return only if such amended return is filed no later than the later of (a) the time prescribed by law (including extensions thereof) for filing the return for the taxable year of election, or (b) (insert date 90 days after these regulations are filed with the Federal Register). If an election is not made within the time and in the manner prescribed in this paragraph, no election may be made for such taxable year (by the filing of an amended return or in any other manner) with respect to any eligible property placed in service in the taxable year.

(ii) *Other elections under the section.* All other elections under this section may be made only within the time and in the manner prescribed by subdivision (i) of this subparagraph with respect to an election to apply this section.

(2) *Information required.* The election under this section must specify:

(i) That the taxpayer makes such election and consents to, and agrees to apply, all the provisions of this section;

(ii) The asset guideline class for each vintage account of the taxable year;

(iii) The asset depreciation period selected by the taxpayer for each vintage account;

(iv) The first-year convention adopted by the taxpayer for the taxable year of election and (if the taxpayer applies the modified half-year convention by taking a full year's depreciation on property first placed in service in the first half of the taxable year), the total cost or other basis of all eligible property first placed in service in the first half of the taxable year and the total cost or other basis of all eligible property first placed in service in the last half of the taxable year;

(v) The unadjusted basis and salvage value for each vintage account, and if such salvage value has been determined by application of section 167(f), the amount by which gross salvage value was decreased under section 167(f);

(vi) Whether the special 10 percent used property rule described in paragraph (b)(5)(iii) of this section has been applied to exclude used property from the election and, if so, the unadjusted basis of the used property first placed in service during the taxable year;

(vii) Each asset guideline class for which the taxpayer elects to apply the asset guideline class repair allowance described in paragraph (d)(2)(iii) of this section, the amount of property improvement for each such class determined under paragraph (d)(2)(vii)(a) of this section, and whether or not the taxpayer elects for the taxable year to allocate the unadjusted basis of a special basis vintage account for the taxable year in accordance with paragraph (d)(3)(vi) of this section;

(viii) A reasonable description of any eligible property for which the taxpayer was not required or permitted to make an election because of the special rules of paragraph (b)(5)(v) or (6) or paragraph (e)(3)(i) of this section;

(ix) A reasonable description of all "section 38 property" excluded under paragraph (b)(5)(iv) of this section from the election to apply this section; and

(x) Such other information as may reasonably be required. (See paragraph (b)(4)(iii)(a) of this section for special election by certain public utilities.)

Forms will be provided for submission of the information required and an election to apply this section will not be rendered invalid under this subparagraph so long as there is substantial compliance with the requirements of this subparagraph.

(3) *Irrevocable election.* An election to apply this section to eligible property for any taxable year may not be revoked or changed after the time for filing the election prescribed under subparagraph (1) of this paragraph has expired. No other election under this section may be revoked or changed after such time unless expressly provided for under this section. (See paragraph (b)(5)(v)(b) of this section for special rule.)

(4) *Special condition to election to apply this section—(i) In general.* The

taxpayer may not elect to apply this section for a taxable year unless he files, within the time prescribed in subparagraph (1)(i) of this paragraph for an election to apply this section, the information required by subdivision (ii) of this subparagraph, in the form and manner prescribed by the Commissioner.

(ii) *Special information required.* The taxpayer shall file the following information with respect to each asset guideline class for the taxable year for which the taxpayer elects to apply this section—

(a) The total unadjusted basis of all assets retired during the taxable year from each vintage account of each asset guideline class and the proceeds realized during the taxable year from the retirement of such assets;

(b) A general description, in reasonable asset groupings, of all assets retired from each vintage account of each asset guideline class during the taxable year.

(c) The vintage (that is, the taxable year in which established) of each vintage account from which assets were retired during the taxable year, associated with the information required in (a) and (b) of this subdivision so as to identify the age of the assets retired;

(d) A reasonable description of the reasons for and manner of the retirement of the assets, in reasonable asset groupings in accordance with (b) of this subdivision (that is, by sale, exchange, casualty, abandonment, or transfer to scrap);

(e) Such reasonable information with respect to expenditures for the repair, maintenance, rehabilitation or improvement of assets as shall be prescribed by the Commissioner; and

(f) Such other information required by subparagraph (2) of this paragraph as may be prescribed by the Commissioner.

A retirement of an asset by transfer to a supplies account for reuse shall not be included in the information required by this subparagraph. Forms will be provided for submission of the information required and an election to apply this section will not be rendered invalid under this subparagraph so long as there is substantial compliance with the requirements of this subparagraph.

(g) *Relationship to other provisions—*

(1) *Useful life.* An election to apply this section to eligible property constitutes an agreement under section 167(d) and this section to treat the period selected by the taxpayer for each vintage account as the useful life of the property in such account for all purposes of the Code, including sections 46, 47, 48, 57, 163(d), 167(c), 167(f)(2), 179, 312(m), 514(a), and 4940(c). For example, since section 167(c) requires a useful life of at least 3 years and the asset depreciation period selected is treated as the useful life for purposes of section 167(c), the taxpayer may adopt a method of depreciation described in section 167(b)(2) or (3) for an account only if the asset depreciation period selected for the account is at least 3 years.

(2) *Section 167(d) agreements.* If the taxpayer has, prior to January 1, 1971, entered into a section 167(d) agreement which applies to any eligible property, the taxpayer will be permitted to withdraw the eligible property from the agreement provided that an election is made to apply this section to such property. The statement of intent to withdraw eligible property from such an agreement must be made in an election filed for the taxable year in which the property is first placed in service. The withdrawal, in accordance with this subparagraph, of any eligible property from a section 167(d) agreement shall not affect any other property covered by such an agreement.

(3) *Relationship to the straight line method—(i) In general.* For purposes of determining the amount of depreciation which would be allowable under the straight line method of depreciation, such amount shall be computed with respect to any property in a vintage account using the straight line method in the manner described in paragraph (c)(1)(i) of this section and a rate based upon the period for the vintage account selected from the asset depreciation range. Thus, for example, section 57(a)(3) requires a taxpayer to compute an amount using the straight line method of depreciation if the taxpayer uses an accelerated method of depreciation. For purposes of section 57(a)(3), the amount for property in a vintage account shall be computed using the asset depreciation period for the vintage account selected from the asset depreciation range. In the case of property to which the taxpayer does not elect to apply this section, such amount computed by using the straight line method shall be determined under § 1.167(b)-1 without regard to this section.

(ii) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (1). (a) Corporation X places a new asset in service to which it elects to apply this section. The cost of the asset is \$200,000 and the estimated salvage value is zero. The taxpayer selects 9 years from the applicable asset depreciation range of 8 to 12 years. Corporation X adopts the double declining balance method of depreciation and thus the rate of depreciation is 22.2 percent (twice the applicable straight line rate). The depreciation allowance in the first year would be \$44,400, that is, 22.2 percent of \$200,000.

(b) Assume that the provisions of section 57(a)(3) apply to the property. The amount of the tax preference would be \$22,200, that is, the excess of the depreciation allowed under this section (\$44,400) over the depreciation which would have been allowable if the taxpayer had used the period selected from the asset depreciation range and the straight line rate (\$22,200).

Example (2). (a) The facts are the same as in example (1) except that corporation X does not elect to apply this section. The depreciation allowance is based on a guideline life of 10 years and thus the rate under the double declining balance method is 20 percent. The depreciation allowance is \$40,000, that is, \$200,000 multiplied by 20 percent.

(b) Assume that the provisions of section 57(a)(3) apply to the property. The amount

of the tax preference under that section would be \$20,000, that is, the excess of the amount allowed under the double declining balance method, as determined in (a) of this example, \$40,000, over the amount which would have been allowable if the taxpayer had used the straight line method, \$20,000.

PAR. 2. The following new section is added immediately after § 1.167(l)-4, to read as follows:

§ 1.167(l)-5 *Public utility property; election to use asset depreciation range system.*

(a) *Application of section 167(l) to certain property subject to asset depreciation range system.* If the taxpayer elects to compute depreciation under the asset depreciation range system described in § 1.167(a)-11 with respect to certain public utility property placed in service after December 31, 1970, see § 1.167(a)-11(b)(6).

(Sec. 167 of the Internal Revenue Code of 1954 (26 U.S.C. 167) and sec. 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 7805))

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: June 21, 1971.

EDWIN S. COHEN,
Assistant Secretary
of the Treasury.

[FR Doc. 71-8981 Filed 6-22-71; 11:00 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Industrial Development Bonds

Correction

In F.R. Doc. 71-7734 appearing at page 10953 in the issue of Saturday, June 5, 1971, the following changes should be made in § 1.103-7:

1. In paragraph (c), the phrase "large facilities, City I, which operates its" should be inserted after the fifth line of paragraph (a) of example (14).

2. The eighth line of example (2) in paragraph (d)(3) should be deleted and a line reading "nue bonds in order to retire the outstanding" should be inserted.

[26 CFR Part 53]

FAILURE TO DISTRIBUTE INCOME

Notice of Hearing

Proposed regulations under section 4942, except subsection (j)(3), of the Internal Revenue Code of 1954, relating to taxes on failure to distribute income of private foundations, appear in the FEDERAL REGISTER for June 8, 1971 (36 F.R. 11034).

A public hearing on the provisions of these proposed regulations will be held on Thursday, August 5, 1971, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by July 22, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above

address by July 29, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents (\$0.25) per page, subject to a minimum charge of \$1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-8936 Filed 6-22-71;8:53 am]

[26 CFR Parts 53, 143]

FOUNDATION EXCISE TAXES

Taxes on Self-Dealing; Notice of Hearing

Proposed regulations under section 4941 of the Internal Revenue Code of 1954, relating to taxes on self-dealing between a disqualified person and a private foundation, appear in the FEDERAL REGISTER for June 5, 1971 (36 F.R. 10968).

A public hearing on the provisions of these proposed regulations will be held on Wednesday, August 4, 1971, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by July 21, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by July 28, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents (\$0.25) per page, subject to a minimum charge of \$1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-8920 Filed 6-22-71;8:53 am]

[26 CFR Parts 250, 251] IMPORTED ALCOHOLIC BEVERAGES Overprinting and Reporting of Strip Stamps, and Case Markings

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol, Tobacco and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol, Tobacco and Firearms Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to (1) simplify requirements for the overprinting of red strip stamps to be affixed to bottles of distilled spirits for importation, including distilled spirits to be brought into the United States from the Virgin Islands, and eliminate similar requirements for strip stamps affixed to Puerto Rican spirits to be brought into the United States; (2) eliminate the requirement for marking cases of such spirits to show that red strip stamps have been affixed to the enclosed bottles; (3) provide that the report of bottle strip stamps, Form 2260, shall be filed quarterly instead of monthly by revenue agents in Puerto Rico; and (4) eliminate the reference to internal revenue stamps on cases of distilled spirits, the regulations in 26 CFR Parts 250 and 251 are amended as follows:

PARAGRAPH A. Title 26 CFR Part 250 is amended as follows:

1. Section 250.84 is amended to delete the requirement for the overprinting of

red strip stamps. As amended, § 250.84 reads as follows:

§ 250.84 **Stamping bottles.**

Every bottle of distilled spirits of Puerto Rican manufacture to be shipped to the United States must have affixed thereto a red strip stamp of proper size. Red strip stamps will be procured and used as provided in Subpart G of this part.

(72 Stat. 1358; 26 U.S.C. 5205)

2. The heading and text of § 250.143 are amended to include provisions for the custody of red strip stamps by revenue agents. As amended, § 250.143 reads as follows:

§ 250.143 **Procurement and custody of red strip stamps.**

The distiller, rectifier, or bottler, or his duly authorized agent, shall submit the original and two copies of the approved Form 428 to the U.S. Internal Revenue Service office, which office will issue the number of stamps covered by the approved requisition, enter the serial numbers of the stamps issued, and stamp the date of issue on all copies of Form 428. The issuing office will retain the original for its files, send one copy with the strip stamps to the revenue agent at the bottling plant, and one copy to the Secretary. The revenue agent will issue stamps to the bottler for affixing to bottles of taxpaid distilled spirits as desired upon application from the proprietor.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.144, 250.145 [Revoked]

3. Sections 250.144 and 250.145 are revoked.

4. Section 250.146 is amended to provide that the report of bottle strip stamps be filed quarterly instead of monthly. As amended, § 250.146 reads as follows:

§ 250.146 **Record and report of red strip stamps.**

Revenue agents having custody of red strip stamps shall maintain for each day a transaction in red strip stamps occurs a daily record of such stamps by size (small or standard), showing the number received, used, lost, mutilated, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show the number and size of bottles to which the stamps were affixed, except that bottles of less than ½-pint capacity shall be recorded as one item. No form is prescribed for the daily records but such records shall be retained to support the quarterly report. Within 10 days following the close of business March 31, June 30, September 30, and December 31, of each year, the revenue agent will prepare a report, in triplicate, of the strip stamps received and used during the period on Form 2260, properly modified. The agent will retain one copy and forward two copies to the Secretary; the Secretary will retain one copy and forward one copy to the assistant regional commissioner.

(72 Stat. 1358; 26 U.S.C. 5205)

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5. Section 250.185 is amended to eliminate the reference to the overprinting of red strip stamps. As amended, § 250.185 reads as follows:

§ 250.185 **Stamps.**

U.S. Internal Revenue red strip stamps which are to be affixed to containers of spirits intended for shipment to the United States shall be procured from the U.S. Internal Revenue Service office. Where the tax is to be paid in accordance with the provisions of this subpart, the stamps may be affixed to the containers prior to taxpayment. The provisions of §§ 250.135 through 250.143 and § 250.146 shall govern the procurement, affixing, reporting, etc., of red strip stamps procured and used under this subpart. Where taxpaid distilled spirits intended for shipment to the United States are in containers of more than 1 gallon, distilled spirits stamps shall be procured and affixed, and the containers released, as provided in §§ 250.88 through 250.91.

(72 Stat. 1358; 26 U.S.C. 5205)

6. Section 250.208 is amended to eliminate the reference to internal revenue stamps on cases of distilled spirits. As amended, § 250.208 reads as follows:

§ 250.208 **Destruction of stamps.**

All stamps must remain on packages until the contents are emptied. When a package of distilled spirits is emptied, all internal revenue stamps thereon must be completely effaced and obliterated.

(72 Stat. 1358; 26 U.S.C. 5205)

7. Section 250.242 is amended to simplify the requirements for information to be overprinted on strip stamps. As amended, § 250.242 reads as follows:

§ 250.242 **Overprinting of red strip stamps.**

The importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have the red strip stamps indelibly and legibly overprinted, at his own expense, with the permit number of the importer in whose name the stamps were requisitioned: *Provided*, That if the importer is an agency of a State or a political subdivision thereof, or the District of Columbia, the stamps will be overprinted with the name of the State or with "District of Columbia," or with a recognized abbreviation thereof. He shall submit the stamps to the collector of customs, who will verify the overprinting and make an endorsement showing the verification on Form 428 or on the retained original of Form 1627 where such form is submitted: *Provided*, That the collector of customs may so endorse the Form 428 or Form 1627 on presentation of other evidence satisfactory to him that the stamps have been properly overprinted when, in his opinion, physical submission of the stamps is impractical. The collector of customs will then authorize the importer or his duly authorized agent to send the stamps to the bottler or exporter in the Virgin Islands.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.243, 250.259 [Revoked]

8. Sections 250.243 and 250.259 are revoked.

PAR. B. Title 26 CFR Part 251 is amended as follows:

1. Section 251.68 is amended to simplify the requirements for information to be overprinted on strip stamps. As amended, § 251.68 reads as follows:

§ 251.68 **Overprinting of red strip stamps.**

The importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have the red strip stamps indelibly and legibly overprinted, at his own expense, with the permit number of the importer in whose name the stamps were requisitioned: *Provided*, That if the importer is an agency of a State or a political subdivision thereof, or the District of Columbia, the stamps will be overprinted with the name of the State or with "District of Columbia," or with a recognized abbreviation thereof. He shall submit the stamps to the collector of customs who will verify the overprinting and make an endorsement showing the verification on Form 428, or on the retained original of Form 1627 where such form is submitted: *Provided*, That the collector of customs may so endorse the Form 428 or Form 1627 on presentation of other evidence satisfactory to him that the stamps have been properly overprinted when, in his opinion, physical submission of the stamps is impractical. The collector of customs will then authorize the importer or his duly authorized agent to send the stamps to the bottler or exporter abroad, as provided in Subpart F of this part; or authorize the importer or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, to affix the stamps to containers under customs supervision, as prescribed in Subparts G and H of this part.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 251.84, 251.113 [Revoked]

2. Sections 251.84 and 251.113 are revoked.

3. Section 251.122 is amended to eliminate the description of the overprinting of red strip stamps. As amended, § 251.122 reads as follows:

§ 251.122 **Red strip stamps.**

Red strip stamps overprinted as prescribed by § 251.68 or stamps without any overprinting prescribed for domestic use (Part 201 of this subchapter), may be affixed to containers of imported distilled spirits bottled in a class 8 customs bonded warehouse. Stamps without any overprinting prescribed for domestic use (Part 201 of this subchapter) shall be affixed by the bottler to containers of imported distilled spirits bottled after withdrawal from customs custody.

(72 Stat. 1358; 26 U.S.C. 5205)

[FR Doc.71-8790 Filed 6-22-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 982]

[Docket No. AO-205-A3]

FILBERTS GROWN IN OREGON AND WASHINGTON

Notice of Hearing With Respect to Proposed Amendment of Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Conference Room, Washington Building, 1218 Southwest Washington Street, Portland, OR, beginning at 9 a.m., local time, July 8, 1971, with respect to proposed amendment to the marketing agreement and order, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The proposed amendment has not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic, marketing, and other conditions which relate to the proposed amendment, hereinafter set forth, and to any appropriate modifications thereof.

The Filbert Control Board, the administrative agency established pursuant to the marketing agreement and order, proposed the following amendment and requested a hearing thereon:

1. Sections 982.45(a) and 982.51 are each revised by deleting "(as defined in the Oregon Grades and Standards for Walnuts and Filberts)" and substituting therefor "(as defined in the Oregon Grade Standards for Filberts in Shell)".

2. Section 982.61 is revised by adding a new sentence after the last sentence to read as follows: "If a handler does not pay his assessment within the time prescribed by the Board, the assessment may be increased by a late payment or interest charge at rates prescribed by the Board, with the approval of the Secretary".

3. In connection with the following proposal, evidence will be received as to the need for, and establishment of, credits for a handler that are referable to that quantity of certified merchantable filberts disposed of by him in the manner provided in current § 982.52 for restricted filberts in excess of that needed to satisfy a restricted obligation:

A new paragraph (d) is added to § 982.52 to read as follows:

(d) *Restricted credits.* Upon a handler's written request to the Board during a marketing year, the Board shall transfer any or all of a handler's restricted credits in excess of his restricted obligations to such other handler as he may designate. The Board, with the ap-

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proval of the Secretary, shall establish rules and regulations for handling the transfer of excess restricted credits.

The following amendment is proposed by the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture:

4. Section 982.69 is revised (a) by inserting in the first sentence in lieu of "the Board," the words "the Secretary, and the Board" and (b) by inserting in the second sentence immediately prior to "the Board" the words "the Secretary or".

5. Make such other changes in the amended marketing agreement and order as may be necessary to make the entire marketing agreement and order conform to the amendments which may result from this hearing.

Copies of this notice may be obtained from the Portland Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, 1218 Southwest Washington Street, Portland, OR 97205, or from the Filbert Control Board, 12295 Southwest Main Street, Tigard, OR 97223.

Dated: June 18, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-8771 Filed 6-22-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-EA-60]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Boston, Mass., transition area (36 F.R. 2157).

The VOR instrument approach procedure for Lawrence Municipal Airport, Lawrence, Mass., has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures.

The revised procedure will require alteration of the 700-foot floor transition area to provide controlled airspace protection for aircraft executing the procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on

the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Boston, Mass., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Boston, Mass., 700-foot-floor transition area by inserting after the phrase, "from 700 feet above the surface bounded by a line beginning at: Latitude 42°53'00" N., longitude 71°05'00" W.", the following: "to latitude 42°52'00" N., longitude 71°02'45" W. to latitude 42°54'00" N., longitude 71°00'15" W. to latitude 42°49'45" N., longitude 70°54'00" W. to latitude 42°48'15" N., longitude 70°55'30" W."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.

[FR Doc.71-8767 Filed 6-22-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-86]

CONTROL AREAS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter Control Area 1226 and the State of Florida Transition Area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice

may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. The purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The FAA proposes the following airspace actions:

1. Alter Control Area 1226 to include the airspace bounded by the following coordinates:

Beginning at lat. 28°36'00" N., long. 88°00'00" W.; to lat. 28°11'45" N., long. 86°28'45" W.; to lat. 27°43'00" N., long. 83°45'30" W.; to lat. 27°35'00" N., long. 83°45'00" W.; to lat. 27°47'00" N., long. 85°00'00" W.; to lat. 28°08'30" N., long. 88°00'00" W.; to point of beginning, excluding the airspace below 2,000 feet MSL.

2. Alter the State of Florida transition area to include the airspace extend-

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ing upward from 2,000 feet above the surface bounded by the following coordinates:

Beginning at lat. 27°19'00" N., long. 82°47'00" W.; to lat. 26°04'30" N., long. 82°14'30" W.; to lat. 26°10'00" N., long. 82°58'00" W.; to lat. 26°10'00" N., long. 83°30'00" W.; to lat. 27°19'00" N., long. 83°42'00" W.; to point of beginning.

These proposed actions would provide additional controlled airspace to be utilized for radar vectoring aircraft during periods of moderate to heavy IFR traffic flow and when thunderstorm activity exists on routes and airways within the Gulf offshore area adjacent to the western Florida coast.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-8768 Filed 6-22-71;8:46 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 512]

[Docket No. 71-63]

VESSEL OPERATING COMMON CARRIERS IN DOMESTIC OFFSHORE TRADES

Reports of Rate Base and Income Account; Enlargement of Time for Filing Comments

JUNE 17, 1971.

Notice of proposed rule making in this proceeding was published in the FEDERAL REGISTER June 5, 1971 (36 F.R. 10985). Upon request of interested parties and good cause appearing, time for filing comments in response to the notice of proposed rule making is enlarged to and including August 2, 1971. Comments should be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with an original and 15 copies.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8815 Filed 6-22-71;8:51 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 141, 260]

[Docket No. R-423]

NONUTILITY DIVERSIFIED BUSINESS ACTIVITIES

Annual Report Forms

JUNE 15, 1971.

Amendments to certain schedule pages of FPC Annual Report Forms No. 1 and

No. 2 to obtain additional information on nonutility diversified business activities; Docket No. R-423.

Pursuant to 5 U.S.C. 553, the Commission gives notice it proposes to amend, effective for the reporting year 1971:

A. Schedule pages 102 and 103 of FPC Form No. 1, Annual Report for Class A and Class B Electric Utilities, Licensees and Others, prescribed by § 141.1, Chapter I, Title 18, CFR.

B. Schedule pages 102 and 103 of FPC Form No. 2, Annual Report for Class A and Class B Natural Gas Companies, prescribed by § 260.1, Chapter I, Title 18, CFR.

The amendments as proposed herein are for the purpose of acquiring additional information where regulated utilities are engaged in other diversified business activities. The information which is presently available to the Commission through the annual report forms medium is considered inadequate for present day surveillance and informational purposes.

The Commission now finds itself regulating an increasing number of electric and gas utilities which have diversified their operations outside the sphere of regulatory jurisdiction. In amending the referenced schedules, the Commission is seeking to obtain more valid and comprehensive information about these diversifications so as to perform adequate financial analysis and to evaluate the actual and potential impact that such diversifications might have on the regulated activities. This information should also be available to other interested persons for similar evaluations and investment purposes.

The proposed amendments to schedule pages 102 and 103 of the Commission's Annual Report Form No. 1 would be issued under authority granted the Federal Power Commission by the Federal Power Act, particularly sections 301, 304, and 309 (49 Stat. 854, 855, 858; 16 U.S.C. 825, 825c, 825h).

The proposed amendments to schedule pages 102 and 103 of the Commission's Annual Report Form No. 2 would be issued under authority granted the Federal Power Commission by the Natural Gas Act, particularly sections 8, 10, and 16 (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o).

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than July 29, 1971, data, views, comments, or suggestions in writing concerning all or part of the amendments proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions in the report forms

pursuant to 44 U.S.C. 3501-3511 may, at the same time, submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Policy, Office of Management and Budget, Washington, D.C. 20503. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed amendments. The staff, in its discretion, may grant or deny requests for conference.

(A) Effective for the reporting year 1971, it is proposed to amend schedule pages 102 and 103 of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by § 141.1, Chapter I, Title 18 of the Code of Federal Regulations, all as set forth in Attachment A hereto.¹

(B) Effective for the reporting year 1971, it is proposed to revise schedule pages 102 and 103 of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachment B hereto.¹

The Acting Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8834 Filed 6-22-71; 8:52 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 222]

[Reg. Y]

BANK HOLDING COMPANIES

Nonbanking Activities and Interests

By Act of Congress approved December 31, 1970 (Public Law 91-607) the Bank Holding Company Act was expanded to cover companies that control only one bank. In conjunction with that expansion Congress amended section 4(c)(9) and added section 4(c)(13) of that Act to authorize the Board to exempt activities and investments of foreign bank holding companies and foreign investments of domestic bank holding companies "if the Board by regulation or order determines that, under the circumstances and subject to the conditions set forth in the regulation or order, the exemption would not be substantially at variance with the purposes of this Act and would be in the public interest."

The Board proposes to add a new paragraph (f) to § 222.4 of Regulation Y to implement its authority under section 4(c)(9). Under the proposal a foreign-

based bank holding company could (1) engage directly in nonbanking activities outside the United States, (2) engage directly in nonbanking activities in the United States that are merely incidental to its activities outside the United States, (3) invest in companies that do no business in the United States except as an incident to their international or foreign business, and (4) own noncontrolling interests in foreign companies more than 80 percent of whose consolidated assets and revenue are located and derived outside the United States, other than companies engaged in the business of underwriting, selling, or distributing securities in the United States. A foreign-based bank holding company may seek the Board's determination whether other activities or investments not enumerated in the regulation might, under the circumstances of a particular application and subject to appropriate conditions, be eligible for exemption under the standards prescribed in section 4(c)(9).

This proposal reflects the Board's view that the purposes of the Act can be achieved without undue interference with foreign banking operations in other countries that are likely to have only incidental effects in the United States. The Board considers it unlikely that the foreign banking activities that it proposes to exempt will have adverse consequences in the United States of the type that Congress intended to prevent through section 4 of the Act.

The Board also proposes to add a new paragraph (g) to § 222.4 of Regulation Y to implement its authority under section 4(c)(13). Under this proposal a domestic bank holding company could, with prior consent of the Board, invest in any company in which an Edge Act corporation may invest. The procedures under which the Board will grant its consent would be the same as those set forth in § 211.8 of Regulation K. The Board believes that it is both consistent with the purposes of the Act and in the public interest that the foreign operations of domestic bank holding companies be subject to the Board's surveillance in the same manner as the foreign operations of member banks and edge corporations.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 23, 1971. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(h) of the Board's rules regarding availability of information.

The proposed new paragraphs of Regulation Y read as follows:

§ 222.4 Nonbanking activities and interests.

• • • • •

(f) Foreign bank holding companies.

(1) A bank holding company, organized under the laws of a foreign country, more than half of whose consolidated assets

and revenues are located and derived outside the United States may:

(i) Engage in direct activities of any kind outside the United States,

(ii) Engage in direct activities in the United States that are incidental to its activities outside the United States,

(iii) Own or control voting shares of any company (other than a bank holding company) that is not engaged, directly or indirectly, in any activities in the United States except as shall be incidental to the international or foreign business of such company, and

(iv) Own or control voting shares of any company organized under the laws of a foreign country (other than a bank holding company) if (a) more than 80 percent of such company's consolidated assets and revenues are located and derived outside the United States, (b) such company is not a subsidiary of such bank holding company, and (c) such company does not engage in the business of underwriting, selling, or distributing securities in the United States.

(2) A bank holding company, organized under the laws of a foreign country, that is of the opinion that other activities or investments may, in particular circumstances, meet the conditions for an exemption under section 4(c)(9) of the Act may apply to the Board for such a determination by submitting to the Reserve Bank of the district in which its banking operations in the United States are principally conducted a letter setting forth the basis for that opinion.

(3) A bank holding company shall inform the Board through such Reserve Bank within 30 days after the close of each quarter with respect to the acquisition during that quarter pursuant to an exemption under this paragraph (f) of voting shares of any companies that do any business whatsoever in the United States, including the following information concerning any company whose voting shares it acquired for the first time (unless previously furnished): (i) Recent balance sheet and income statement, (ii) brief descriptions of the company's business (including full information concerning any business transacted in the United States) and the shares acquired, (iii) lists of directors and principal officers (with address and principal business affiliation of each) and of all shareholders (known to the issuing company) holding 10 percent or more of any class of the company's voting shares (and the amount held by each).

(g) Foreign activities of domestic bank holding companies. Any bank holding company may own or control voting shares of any company in which a company organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611-631) may invest: *Provided*, That it acquires ownership or control of such shares with prior consent of the Board in accordance with the procedures of § 211.8 of this chapter (§ 211.8 of Regulation K). A bank holding company shall comply with such conditions as the Board may prescribe with respect to any such

acquisition. It shall also comply with the conditions in § 211.8 of this chapter regarding disposition of shares so acquired and shall report on any acquisition or disposition of shares as therein provided.

By order of the Board of Governors,
June 15, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8751 Filed 6-22-71; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-30 (Sub-No. 1)]

CINCINNATI, OHIO, COMMERCIAL ZONE

Proposed Redefinition of Limits

JUNE 18, 1971.

Petitioner: Land Investment Corporation; Petitioner's representative: Gordon W. Moss, 304 Security Trust Build-

ing, Lexington, Ky. 40507. By petition filed May 13, 1971, petitioner requests the Commission to institute a proceeding for the purpose of specifically redefining the limits of the zone adjacent to and commercially, a part of Cincinnati, Ohio, which are now prescribed by the specific definition promulgated in "Cincinnati, Ohio, Commercial Zone," 113 M.C.C. (49 CFR 1048.7).

The instant petition requests a redefinition of the Cincinnati commercial zone so as to include all of the area which is presently included within the zone and, in addition, that part of Boone County, Ky., beginning at the intersection of U.S. Highway 42 and Interstate Highway 75, just south of Florence, Ky., and continuing in a southwesterly direction along U.S. Highway 42 to its intersection with Gunpowder Road; thence along Gunpowder Road in a southeasterly direction to its intersection with Sunnybrook Road; thence in an easterly direction along Sunnybrook Road to its intersection with Interstate 75; thence along Interstate 75 in a northerly direction to the point of beginning.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the above-proposed specific redefinition of the limits of the Cincinnati, Ohio, commercial zone, may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before August 9, 1971. Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8791 Filed 6-22-71; 8:48 am]

Notices

DEPARTMENT OF THE TREASURY Internal Revenue Service OFFICE OF INDUSTRIAL ECONOMICS Functions

This material amends functional statement 1113.8 and adds new functional statement 1113.85 to the statement on organization and functions published at 36 F.R. 849-890. This amendment establishes the Office of Industrial Economics in the Office of the Assistant Commissioner (Planning and Research).

Dated: June 21, 1971.

RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

1113.8 *Office of Assistant Commissioner (Planning and Research)*. The Assistant Commissioner (Planning and Research) acts as the principal assistant to the Commissioner and the Deputy Commissioner in the development and administration of the program and financial plan, related objectives and policies, and in the analysis of all Service programs for the purpose of promoting maximum effectiveness in the administration of the Internal Revenue Code with the most efficient and economical expenditure resources; and is responsible for research, statistics, and systems development. The Assistant Commissioner (Planning and Research) represents the Commissioner on these matters in relations with the Treasury Department, the Congress, other Government agencies and outside organizations. He discharges these primary responsibilities in cooperation with the appropriate Assistant Commissioners (or other principal officials), each of whom exercises related responsibilities within his own functional area. The Assistant Commissioner (Planning and Research) is responsible for and supervises the activities of the Planning and Analysis Division, Research Division, Statistics Division, Systems Development Division, and the Office of Industrial Economics.

1113.85 *Office of Industrial Economics*. Provides taxpayers and the Government with timely and up-to-date asset classes, forecasts of useful economic lives for such classes, and current repair allowances as part of the Asset Depreciation Range system by accomplishing the following functions: Collects and

analyzes data on various asset classes, periods of use and factors of obsolescence and repair and maintenance practices in accordance with the vintage account procedure under the ADR system. Utilizing a variety of data gathering methods, such as economic reports, econometric models, and statistical sampling, compiles information on industrial experience on utilization of depreciable plant and equipment, salvage value, and replacement practices. Receives data and proposed changes in asset classes, depreciation periods, and repair allowances submitted by taxpayers and other knowledgeable sources. Analyzes and evaluates these data as a basis for recommending changes in the ADR system. Analyses are performed by a specialized staff of economists and engineers and involve rather complex issues, including things such as forecasting new technological developments and modes of operation in the various technological fields in the future. Effective liaison is maintained with the Commerce Department's Bureau of the Census and Office of Business Economics and similar offices in other industrialized nations. Closely monitors the operation of the ADR system in tax administration and recommends changes based on its staff observations, as well as reports from field revenue agents. Recommendations are of an administrative, regulatory, or legislative nature. Analyses of data and resultant recommendations are also made available for other elements of IRS for better and more efficient tax administration.

[FR Doc.71-8980 Filed 6-22-71;11:00 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary LINDSAY F. JOHNSON

Report of Appointment and Statement of Financial Interests

JUNE 16, 1971.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

Name of appointee: Lindsay F. Johnson.

Name of employing agency: Department of the Interior.

The title of the appointee's position: Consultant.

The name of the appointee's private employer or employers: None.

The statement of "financial interests" for the above appointee is set forth below.

W. T. PECORA,

Acting Secretary of the Interior.

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on June 10, 1971, as Consultant, Office of Minerals and Solid Fuels, an officer or director:

None.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Name and kind of organization.	Address	Position in organization	Nature of financial interest
The New Jersey Zinc Co. (Corporation).....	Bethlehem, Pa.	Retired.....	Pension.
American Smelting and Refining Co. (Corporation).....	New York, N.Y.	.....	Stock.
American Telephone & Telegraph Co. (Corporation).....	.....	.....	Stock debentures warrants.
Amoco Co. (Corporation).....	.....	.....	Stock.
Bethlehem Steel Corp. (Corporation).....	Bethlehem, Pa.	.....	Stock debentures.
General Motors Corp. (Corporation).....	Detroit, Mich.	.....	Stock.
Gulf & Western Industries Inc. (Corporation).....	New York, N.Y.	.....	Do.
Kennecott Copper Corp. (Corporation).....	.....	.....	Do.
Lippitt & Meyers Corp. (Corporation).....	.....	.....	Do.
Pan American World Airways Inc. (Corporation).....	.....	.....	Do.
Phelps Dodge Copper Co. (Corporation).....	.....	.....	Do.
Standard Brands, Inc. (Corporation).....	.....	.....	Do.
Standard Oil Co. of New Jersey (Corporation).....	.....	.....	Do.
Transnational Land & Development Corp. (Corporation).....	.....	.....	Do.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

LINDSAY F. JOHNSON.

MAY 26, 1971.

[FR Doc.71-8773 Filed 6-22-71;8:47 am]

WILLIAM R. REMALIA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) None.
- (2) None.
- (3) None.
- (4) None.

This statement is made as of June 8, 1971.

Dated: June 8, 1971.

WILLIAM R. REMALIA.

[FR Doc.71-8774 Filed 6-22-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Dockets Nos. SH-295, SH-296]

SUGARCANE IN LOUISIANA AND FLORIDA

Notice of Hearings on Wages and Prices and Designation of Presiding Officers

Pursuant to the authority contained in section 301(c) (1) and (2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to wage and price proceedings (7 CFR 802.1 et seq.), notice is hereby given that public hearings will be held as follows:

At Houma, La., on July 9, 1971, in the Municipal Auditorium, 880 Verret Street, beginning at 9:30 a.m.;

At Belle Glade, Fla., on July 13, 1971, in the Glades Auditorium, Palm Beach County Annex Building, U.S. 441, beginning at 9:30 a.m.

The purpose of these hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining (1) pursuant to the provisions of section 301(c) (1) of the act, whether the wage rates established for Louisiana sugarcane fieldworkers in the wage determination which became effective October 12, 1970 (35 F.R. 15741), and for Florida sugarcane fieldworkers in the wage determination which became effective

October 26, 1970 (35 F.R. 16235), continue to be fair and reasonable under existing circumstances, or whether such determination(s) should be amended; and (2) pursuant to the provisions of section 301(c) (2) of the act, fair and reasonable prices to be paid for the 1971 crops of sugarcane in Louisiana and Florida, under either purchase or toll agreements, by producers who process sugarcane grown by other producers and who apply for payment under the act.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearings to express their views and present appropriate data in regard to wages and prices.

While testimony on all pertinent points is desired, it is especially requested that witnesses be prepared to offer information and recommendations on the following matters regarding fair wages for fieldworkers and fair prices for sugarcane:

I. *Louisiana*—(a) *Wages*. (1) Need for changes in number of worker classifications and elimination of differential in wage rates for harvest and nonharvest workers.

(2) Wage rate differentials among unskilled, semiskilled, and skilled workers.

(b) *Prices*. (1) Periods to be used to determine the season's average prices of raw sugar and blackstrap molasses.

(2) Recommendations on matters pertaining to other pricing bases, such as the delivered average price.

II. *Florida*—(a) *Wages*. (1) Need for additional worker classifications such as workers employed in mechanical harvesting operations.

(2) Wage rate differentials among different classifications of workers.

(3) Statement of total tons of cane cut by hand, total amount of wages paid cane cutters, total hours worked, and average earnings per worker per hour, by months, for the 1970-71 crop.

(b) *Prices*. (1) Methods of determining for each producer the quantity of trash delivered with sugarcane which has been harvested mechanically.

The hearings after being called to order at the times and places mentioned herein may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearings by the presiding officer(s).

T. O. Murphy, R. R. Stansberry, C. F. Denny, J. E. Agnew, and T. M. Popp, are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Signed at Washington, D.C. on June 18, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-8875 Filed 6-22-71;8:53 am]

Packers and Stockyards Administration HODGES' CAPITAL STOCKYARDS ET AL.

Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard and date of posting

Hodges' Capital Stockyards, Camden, Ala., May 18, 1958.
Ramsey & Sons, Inc., Dothan, Ala., May 14, 1959.
Union Stock Yards, Eufula, Ala., May 25, 1959.
Hartford Livestock Company, Hartford, Ala., May 14, 1959.
Mobile County Stockyards, Inc., Mobile, Ala., Nov. 19, 1970.
Monroe Livestock Market, Inc., Monroeville, Ala., May 1, 1961.
Montgomery Livestock Commission Co., Montgomery, Ala., Nov. 1, 1921.
White Livestock Comm. Co., Inc., Moulton, Ala., May 18, 1959.
Blount County Sales Barn, Oneonta, Ala., June 9, 1959.
East Alabama Livestock Company, Opelika, Ala., July 8, 1959.
Samson Livestock Auction, Samson, Ala., May 15, 1959.
Tuscaloosa Stock Yard, Tuscaloosa, Ala., Aug. 12, 1963.
Fort Collins Sales Yard, Fort Collins, Colo., Apr. 25, 1957.
Otis Livestock, Inc., Otis, Colo., Mar. 19, 1962.
Bonifay State Livestock Market, Bonifay, Fla., Feb. 29, 1960.
A & J Livestock Auction, Orlando, Fla., Sept. 12, 1969.
Augusta Livestock Market, Augusta, Ga., Sept. 24, 1959.
Bearden's Livestock Commission, Calhoun, Ga., Mar. 4, 1969.
Bleckley Livestock Sales Company, Cochran, Ga., July 13, 1959.
Candler Livestock Market, Metter, Ga., May 1, 1959.
G. N. Byram Auction Co., Newman, Ga., June 15, 1959.
Mitchell County Livestock Market, Inc., Pelham, Ga., May 13, 1959.
Ragsdale Long Commission Co., Quitman, Ga., Sept. 4, 1959.
Reidsville Livestock Company, Reidsville, Ga., Aug. 11, 1962.
Emanuel County Livestock Market, Inc., Swainsboro, Ga., Aug. 30, 1959.
Toccoa Livestock Auction, Toccoa, Ga., May 14, 1959.
Burke County Stockyard, Waynesboro, Ga., Nov. 9, 1961.
Clovis Stock Yards, Clovis, N. Mex., Nov. 15, 1938.
Valley Livestock Auction, Inc., Roswell, N. Mex., Feb. 13, 1958.
Triangle Livestock Auction, Vado, N. Mex., July 25, 1963.
Farmers Livestock Auction Market, Inc., Bennettsville, S.C., Aug. 2, 1967.
Homewood Livestock Auction, Conway, S.C., Apr. 5, 1961.
Herndon Stock Yard, Inc., Fairfax, S.C., Feb. 8, 1961.
Piedmont Saddle Horse and Pony Sales, Greer, S.C., Sept. 18, 1963.

Lake City Auction Company, Inc., Lake City, S.C., Apr. 27, 1960.
Neeses Stockyard, Inc., Neeses, S.C., Feb. 5, 1960.

Rock Hill Sale Barn, Rock Hill, S.C., Dec. 8, 1960.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposing promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER (6-23-71). (42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C. this 16th day of June 1971.

EDWARD L. THOMPSON,
Acting Chief, Registrations,
Bonds, and Reports Branch,
Livestock Marketing Division.

[FR Doc. 71-8772 Filed 6-22-71; 8:47 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23-991]

CHINA RESOURCES CO.

Order Terminating Indefinite Denial Order

In the matter of China Resources Co., Bank of China Building, Queens Road, Hong Kong, B.C.C., respondent.

On October 5, 1964 (29 F.R. 14082, Oct. 13, 1964), an order was entered against the above respondent denying it for an indefinite period, all privileges of participating in transactions involving commodities or technical data exported or to be exported from the United States because it failed to answer interrogatories duly served in accordance with § 388.15 of the Export Control Regulations (formerly § 382.15 of the Export Regulations) without showing good cause for such failure. The above respondent was also known as Wah Yun Co. and Hua Jun Co. and the order was also effective against said named companies. The order was also made effective against Ng Fung Hong, also known as Wu Feng Hong as a related party to the respondent.

A request has been received for termination of the indefinite denial order. It is found that there is good cause for such termination.

Accordingly, it is ordered, The above mentioned order of October 5, 1964, be and the same hereby is terminated

NOTICES

against the respondent and the other companies named herein.

Dated: June 11, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc. 71-8843 Filed 6-22-71; 8:53 am]

Office of the Secretary

DIRECTOR AND CHIEF, MARINE MAPPING AND CHARTING DIVISION, LAKE SURVEY CENTER, NATIONAL OCEAN SURVEY

Delegation of Authority to Certify Records

Pursuant to this authority delegated to the Assistant Secretary of Commerce for Administration by Department Administrative Order 201-17, the following officials of the National Oceanic and Atmospheric Administration are hereby authorized to sign as certifying officers certifications as to the official nature of copies of correspondence and records from the files, publications and other documents of the Department and to affix the seal of the Department of Commerce to such certifications or documents for all purposes, including the purposes authorized by 28 U.S.C. 1733 (b).

Director, Lake Survey Center, National Ocean Survey.
Chief, Marine Mapping and Charting Division, Lake Survey Center; Alternate.

This delegation of authority shall be effective as of the date hereof.

Dated: June 18, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.
[FR Doc. 71-8780 Filed 6-22-71; 8:47 am]

AUGUSTANA COLLEGE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71-00452-01-28600. Applicant: Augustana College, 29th and Summit, Sioux Falls, SD 57102. Article: SIRIGOR Gas Exchange Chamber and Associated Control and Measurement Components. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used to study the process of photosynthesis in plants which inhabit the extreme environments of the arctic and alpine tundra. The main properties to be investigated are the CO₂ and H₂O exchange rates from individual species and land areas as these are related to growing season, temperature, time of day, and light intensity in the Arctic. The temperature responses, light responses, water use efficiencies, diffusion resistance, energy exchange, and other properties will be examined. Application received by Commissioner of Customs: March 19, 1971.

Docket No. 71-00453-33-46040. Applicant: State University College at Geneseo, Biology Department, Geneseo, N.Y. 14454. Article: Electron microscope, Model HS-8-1. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used primarily in support of undergraduate and graduate courses in cytology, cytogenetics, microtechnic, microbiology and virology, mycology and embryology. Research uses concern investigations dealing with membrane structure; mitochondrial and golgi relationships; genetic relationships on the cellular, microbial, and viral levels; and DNA and RNA structure and distribution. Application received by Commissioner of Customs: March 19, 1971.

Docket No. 71-00454-33-46500. Applicant: Veterans Administration Hospital, 4150 Clement Street, San Francisco, CA 94121. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be utilized for the preparation of thin and thick sections of osmium tetroxide and glutaraldehyde fixed and epoxy resin embedded material. These sections, which are examined by electron and light microscopy, are a part of research in the area of liver and gut, lipid, cholesterol, drug and steroid metabolism. Application received by Commissioner of Customs: March 22, 1971.

Docket No. 71-00455-99-01200. Applicant: Institute of Logopedic, Inc., 2400 Jardine Drive, Wichita, KS 67219. Article: Pulsatone analyzers. Manufacturer: Dr. Guy Perdoncini, France. Intended use of article: The article is intended for use in the training and education of deaf and severely hard-of-hearing children. The instrument produces specified pure tones at variable intensity levels, and has provision for visual monitoring of speech. Application received by Commissioner of Customs: March 22, 1971.

received by Commissioner of Customs: March 22, 1971.

Docket No. 71-00456-33-68200. Applicant: University of Minnesota, Office of the Purchasing Agent, Administrative Services Building, 2610 University Avenue, St. Paul, MN 55455. Article: High precision fluid pump (motor-driven, for maintaining constant flow of reactant solutions through a microflow calorimeter (calorimeter manufactured by LKB Produkter, Sweden, No. 10700-1). Pumping must be uniform in rate to a noise level no greater than the intrinsic noise level of the calorimeter and must be designed to drive syringes. Flow rate to be appropriate to the calorimeter, i.e., from 1 ml./hr. to 50 ml./hr. in steps. Manufacturer: Thermochemistry Institute of the University of Lund, Sweden. Intended use of article: The article will be used to measure the quantitative behavior of hemoglobin in binding oxygen and other, more sensitive substances. The study insofar as it includes calorimetric measurements of oxygen binding and the dissociation of hemoglobin into subunits is of fundamental importance to the physiology of blood and also the pilot study in area of protein behavior for proteins which consist of dissociable subunits. Application received by Commissioner of Customs: March 24, 1971.

Docket No. 71-00457-65-46070. Applicant: The University of Michigan, Department of Chem. and Met. Engineering, East Engineering Building, East University Avenue, Ann Arbor, Michigan 48104. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for research on the structure of porous glassy carbon; research on the distribution of silicon, potassium and other metals in plant cells; research on scrapie, a transmissible, fatal chronic disease of the central nervous system of sheep; and for a program of research requiring the identification and classification of algae, diatoms, and phytoplankton found in the Great Lakes. Application received by Commissioner of Customs: March 24, 1971.

Docket No. 71-00458-75-40600. Applicant: The University of Tennessee, Department of Physics, Knoxville, TN 37916. Article: Dual on-line, off-line isotope separator custom-built to applicant's specifications. Manufacturer: Danfysik A/S, Denmark. Intended use of article: The article will be used as a research tool, making possible the study of very short-lived isotopes produced in cyclotron targets. A secondary use is the education of graduate students who will perform their graduate research on the machine. Application received by Commissioner of Customs: March 24, 1971.

Docket No. 71-00459-33-60060. Applicant: The Children's Cancer Research Foundation, 35 Binney Street, Boston, MA 02115. Article: Reflection photometer. Manufacturer: Karolinska Institute, Sweden. Intended use of article: The article will be used to produce characteristic fluorescence curves or patterns from photographic negatives of human

and other metaphase chromosomes after selecting staining with quinacrine mustard or other fluorochromes. In particular, chromosomes from cancer patients will be examined and analyzed. Application received by Commissioner of Customs: March 25, 1971.

Docket No. 71-00460-33-46040. Applicant: West Virginia University, Morgantown, W. Va. 26506. Article: Electron Microscope, Model Corinth 275. Manufacturer: AEI Scientific Apparatus Ltd., United Kingdom. Intended use of article: The article will be used for screening studies on human brain tissues in which viral infections can be suspected. The brain tissues to be studied include both biopsy and autopsy materials; and also brain tissue from experimental animals, inoculated with virus or filtrate from human brains will be studied in parallel. The division of neuropathology will use the electron microscope for educational purposes. Application received by Commissioner of Customs: March 24, 1971.

Docket No. 71-00461-33-46040. Applicant: University of Cincinnati, College of Medicine, Department of Surgery, Eden and Bethesda Avenues, Cincinnati, OH 54219. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in a research program concerned with the nature and causes of surgical infections complicating trauma, the factors related to bacterial infection which alter and impair the process of wound healing, and the diagnosis and control of cancer. The electron microscope will also be used in the research education of pre- and post-doctoral fellows, interns, and residents in the Department of Surgery. Application received by Commissioner of Customs: March 25, 1971.

Docket No. 71-00463-00-00500. Applicant: University of South Carolina, Purchasing Department, Columbia, SC 29208. Article: Step motor controller, 95/2224-1/6. Manufacturer: U.K. Atomic Energy Authority Research Group, United Kingdom. Intended use of article: The article will be used with a low energy nuclear accelerator for research on crystals. Application received by Commissioner of Customs: March 25, 1971.

Docket No. 71-00464-33-46500. Applicant: Howard University, College of Medicine, 520 W Street NW., Washington, DC 20001. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study the role of lymphatic capillaries during the normal and inflammatory states. In order to provide a true relationship of the topographical association of the lymphatics to the surrounding connective tissue areas, serial sections are needed over long distances of the vessel to establish this relationship of lymphatic vessel and connective tissue. Application received by Commissioner of Customs: March 25, 1971.

Docket No. 71-00465-33-46500. Applicant: The University of Connecticut, Storrs, Conn. 06268. Article: Three each LKB 8800A ultramicrotomes and acces-

sories. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for studies dealing with the fine structure of nervous tissue from the cerebellum of developing and adult animals, normal and operated. One of the major projects is the study of the maturation of intercellular contacts and synaptic membranes, as well as their reaction to axonal degeneration at different stages of maturation. Application received by Commissioner of Customs: March 26, 1971.

Docket No. 71-00466-65-46040. Applicant: University of Alabama, in Birmingham, 1919 Seventh Avenue South, Birmingham, AL 35233. Article: Electron microscope, Model JEM-50B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used primarily as a teaching tool to study the microstructures of solid materials such as aluminum, steel, copper, ceramics, etc. These studies will permit the student to correlate the structure with current theories. The course is entitled electron microscopy and consists of lecture and laboratory. Application received by Commissioner of Customs: March 26, 1971.

Docket No. 71-00467-75-14200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Image analysing computer, Model 720. Manufacturer: Metals Research Ltd., United Kingdom. Intended use of article: The article will be used to study the microstructural properties and parameters of materials and their relationship to temperature, mechanical stress, radiation effects, and other factors. Application received by Commissioner of Customs: March 29, 1971.

Docket No. 71-00468-33-46500. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used for ultrastructural studies of plant materials from hardwood fibers and seeds to soft embryonic cells; for animal materials from very hard tissues, such as teeth and bones, to very soft embryonic cells, blood cells and pellets of cell organelles; and for thin-section studies of metals such as copper, aluminum, and gold. Application received by Commissioner of Customs: March 20, 1971.

Docket No. 71-00469-89-44630. Applicant: University of Alaska, Geophysical Institute, College, Alaska 99701. Article: One weather station consisting of RIM CO "Sumner" Mk II long period recorder types 2/W-D, Type 2/T2, and Type 2RA/R, and two containers Type CO/S. Manufacturer: Raichfuss Instruments & Staff PTY. Ltd., Australia. Intended uses of article: The article will be used for unattended operation in a project to record meteorological parameters. Application received by Commissioner of Customs: March 30, 1971.

Docket No. 71-00470-33-46040. Applicant: Mount Sinai School of Medicine,

Fifth Avenue and 100th Street, New York, NY 10029. Article: Electron Microscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used by several investigators at the neurovirology laboratory who have recently succeeded in growing SMCA (suckling mouse cataract agent) in tissue culture. SMCA, which causes disease of the central nervous system of mice has never before been passed in tissue culture and this recent success will enable much work to be done to characterize the agent, to better understand the changes that the agent induces in the cells of the central nervous system. Application received by Commissioner of Customs: March 30, 1971.

Docket No. 71-00471-33-46040. Applicant: Department of Health, Bureau of Health, Institute of Public Health Laboratories, Psychiatry Hospital, Rio Piedras, PR 00928. Article: Electron Microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in a long-term program designed to investigate the effects of alcohol on the central nervous system and the liver. Application received by Commissioner of Customs: March 30, 1971.

Docket No. 71-00472-75-14200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Image analyzing computer, Model 720. Manufacturer: Metals Research Ltd., United Kingdom. Intended use of article: The article will be used to study radioactive ceramic materials containing Pu²³⁹ being used or being considered for use as fuels in SNAP generators. The particle sizes and size distributions contained in samples of these materials will be studied. Solid samples will be exposed to various mechanical and thermal environments and the fine particles formed during the exposures will be counted and sized. Application received by Commissioner of Customs: March 30, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc. 71-8796 Filed 6-22-71; 8:49 am]

CORNELL UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00325-33-46040. Applicant: Cornell University Medical College, 1300 York Avenue, New York, NY 10021. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics, NVD, The Netherlands.

Intended use of article: The article will be used in a number of research projects aimed at defining the secretory nature of bat thyroid follicular and parafollicular cells; determining the interrelationships between parafollicular cells, parathyroid gland, and bone secretory states; determining changes in the secretory state of these tissues at different times of the annual life cycle of the bat; and defining the nature of bat thyroid cell to cell contacts and intracellular crystalloid inclusions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 550,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4C manufactured by the Forgglo Corp. The Model EMU-4C, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4C requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 20, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 550,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc. 71-8797 Filed 6-22-71; 8:49 am]

NEW JERSEY COLLEGE OF MEDICINE AND DENTISTRY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00273-33-46500. Applicant: New Jersey College of Medicine and Dentistry, 100 Bergen Street, Newark, NJ 07103. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research on irradiated cardiac and aortic wall tissue from rabbits, and corresponding tissue from untreated rabbits, as control, for comparison. The reactions of rabbit cardiac and aortic wall tissues to X-irradiation at ultrastructural and histochemical levels will be studied.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability

for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of February 12, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the production of ultrathin sections of the softer and more difficult specimens encountered in the applicant's studies of normal and irradiated cardiac and aortic wall tissue at ultrastructural and histochemical levels. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-465000 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc. 71-8799 Filed 6-22-71; 8:49 am]

OHIO UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the

date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71-00495-91-46500. Applicant: Ohio University, Department of Purchases, Administrative Annex Building, 51 Smith Street, Athens, OH 45701. Article: Ultramicrotome, Model "OmU2". Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used in a study of eukaryotic chromosome ultrastructure in plant meiotic and mitotic cells. Chromosome structure will be studied through thin-sections to determine the arrangement and organization of the elementary chromosome fibrils during meiosis and mitosis. Application received by Commissioner of Customs: April 12, 1971.

Docket No. 71-00496-33-46500. Applicant: State University of New York, at Albany, Department of Biological Sciences, Albany, N.Y. 12203. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in a study of the reticulopodia of allogromia and cell movement systems; the ultrastructure of closely identified tips of growing pollen tubes; and the ultrastructure and physiology of the acoustic receptor of the noctuid moth. Application received by Commissioner of Customs: April 13, 1971.

Docket No. 71-00497-33-46040. Applicant: Scott and White Memorial Hospital, Temple, Tex. 76501. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for studies of kidney tissue to determine the effects of antigen-antibody reactions, the localization of these changes into specific areas, and the early and long range effects of these reactions; for the examination of small bowel biopsies in cases of intestinal malabsorption; and thyroid tissue is being studied to ascertain the effect of radioactive chemicals on the morphology and physiology of the cells and the glands. Application received by Commissioner of Customs: April 13, 1971.

Docket No. 71-00498-01-07520. Applicant: University of Kansas, Lawrence, Kans. 66044. Article: Batch microcalorimeter with gold reaction cells, No. 10700-2B. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be employed in the determination of heats of dilution, heats of reaction and heat capacity changes for aqueous and nonaqueous solutions. Studies concern the effect of temperature on the heat of dilution of tetraalkylammonium salts, salts of carboxylic acids in

water and water organic mixtures; and the heat effects associated with the interaction of toxic metal ions and nucleic acids, amino acids and polyamine acids. Application received by Commissioner of Customs: April 14, 1971.

Docket No. 71-00500-00-46500. Applicant: Washington State University, Pullman, Wash. 99163. Article: Freezing attachment for the OmU2 Ultramicrotome, Model FC 150. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used in studies in samples of sclerotic in progressive stages of drying to determine the ultrastructural changes which take place. Application received by Commissioner of Customs: April 14, 1971.

Docket No. 71-00501-33-46040. Applicant: Boston University, School of Medicine, 80 East Concord Street, Boston, MA 02118. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used by the Department of Dermatology for the training of residents and for the conduct of fine structural studies in normal and pathologic skin. Research concerns the structure and function of the epidermis and sebaceous gland. One study involves the ultrastructural details of keratohyalin granules, membrane-coating granules (MGC), and the thickened envelope of horny cells of the epidermis. Application received by Commissioner of Customs: April 16, 1971.

Docket No. 71-00502-33-46500. Applicant: University of Nebraska, College of Medicine, 42d Street and Dewey Avenue, Omaha, NE 68105. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study biological materials, primarily from mammalian experimental animals. Cell membrane alterations as they relate to tumor development will be investigated, focusing on precancerous and early cancerous cell alterations during skin and lung tumor development, including alterations of cell membranes and organelles. Application received by Commissioner of Customs: April 16, 1971.

Docket No. 71-00506-33-46040. Applicant: New York University Medical Center, 560 First Avenue, New York, NY 10016. Article: Electron microscope, Model Elmisko 101. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used for high resolution electron microscope of biologically important macromolecules to measure the size and shape (stained or unstained) by ultrathin support films. DNA studies will be made and the enzymes to be studied will include those involved in fatty acid biosynthesis and in protein biosynthesis such as ribosomal particles. Application received by Commissioner of Customs: April 20, 1971.

Docket No. 71-00508-33-46040. Applicant: University of Washington, Dental School, Department of Oral Biology, B-122-HSB-RD-50, Seattle, Wash. 98105. Article: Electron microscope, Model EM

801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used for the study of the formation of the byssus attachment apparatus in bivalves and the complex interaction of three cell types of the synthesis, secretion and polymerization of extraorganismal collagen. Another project involves the changes in mammalian exocrine glands resulting from malnutrition and undernutrition. Application received by Commissioner of Customs: April 26, 1971.

Docket No. 71-00510-75-82600. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Recording Vacuum Thermanalyzer. Manufacturer: Mettler Analytical & Precision Balances, Switzerland. Intended use of article: The article is intended for use in a continuing program of research on the thermogravimetric determination of oxygen-to-metal (O/M) atom ratios of mixed uranium plutonium oxide fast breeder reactor fuels and other oxide fuels. Application received by Commissioner of Customs: April 26, 1971.

Docket No. 71-00511-01-77030. Applicant: Thiel College, Greenville, Pa. 16125. Article: NMR Spectrometer, Model JNM-MH-60-II. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used as a research tool in two chemistry courses, Problems in Chemistry and Independent Study, and in other chemistry courses as a teaching tool. Typical materials to be studied include products of photochlorination reactions of dischlorotoluenes with tertiary-butylhypochlorite; coordination compounds of chromium (III) with various organic ligands; and deuteration and degradation products of the antibiotic citrinin. Application received by Commissioner of Customs: April 26, 1971.

Docket No. 71-00514-33-46040. Applicant: W. Alton Jones Cell Science Center Unit of Tissue Culture Association, Inc., Post Office Box 631, Lake Placid, NY 12946. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for studies of cell fine structure in the areas of cytochemistry, intercellular virus studies, chromosome structure, membrane structure and other areas of cell and molecular biology. Post-graduate students taking formal courses as well as those doing individual research will be taught the methods of cell fine structure analysis. Application received by Commissioner of Customs: April 27, 1971.

Docket No. 71-00515-33-46040. Applicant: University of Louisville, School of Medicine, Health Sciences Center, 500 South Preston Street, Louisville, KY 40200. Article: Electron microscope, model EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used for an ultrastructural investigation of animal tissues from hormone deficient animals. Diabetic rats, dogs, rabbits, and monkeys will be treated with a variety of drugs for

studies on the site of action of insulin and prostaglandins on the subcellular elements of the animal tissues. Educational use will be in a course in "Selected Topics in Molecular Endocrinology" which has approximately 25 students per semester. Application received by Commissioner of Customs: April 27, 1971.

Docket No. 71-00512-33-46500. Applicant: Iowa State University, Department of Zoology and Entomology, Ames, Iowa 50010. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for research on immunofertilization and sperm-egg interactions in *Limulus polyphemus*, and fertilization and reproductive systems in isopods and ticks. Special techniques involving cytochemistry and immunology will be used on the tissues which have a wide range of texture. Application received by Commissioner of Customs: April 27, 1971.

Docket No. 71-00517-33-46040. Applicant: U.S. Department of Agriculture, ARS Plant Science Research Division, Plant Virology Laboratory, Plant Industry Stations, Beltsville, Md. 20705. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Laboratory, Co., Ltd., Japan. Intended use of article: The article will be used for research aimed at improving the freeze-etching and related techniques of preparing biological specimens for electron microscopy and studying the molecular morphology of viruses and other pathogens, both within the infected cells and in isolated form. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71-00518-33-46500. Applicant: University of Virginia, School of Medicine, Department of Anatomy, Charlottesville, Va. 22901. Article: LKB 8800 Ultramicrotome complete with Cryo-Accessory. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study biological tissues derived from developing, normal, and regenerating animals (amphibia, avian, and mammalian). The experiments to be conducted include electron microscopic studies of normal retinal development and regeneration and studies on cell cycle kinetics. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71-00519-33-16095. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Sealed gas-filled proportional counter type CPX180M1 with built-in preamplifier. Manufacturer: Compagnie Generale de Radiologie, France. Intended use of article: The article will be used to measure the radiation of very low energy, emitted in small numbers by certain very toxic radioactive materials (such as plutonium) when deposited in the human body (especially the lung), in order to determine the amount of such material present. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71-00520-33-46040. Applicant: University of Rochester School of

Medicine and Dentistry, Department of Pathology, Rochester, N.Y. 14620. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used primarily for training purposes. Electron microscopy will be taught to house officers training for careers in pathology, medical students taking elective training in the field of pathology, graduate students in the discipline of experimental pathology, postdoctoral fellows in experimental pathology and technicians. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71-00521-33-46040. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used at the Department of Physiology and Biophysics of the Medical School for studies on cell junctions in normal and cancerous tissues. Research concerns the structural aspects of cellular communication in normal cells and the structural alterations in cancer cells. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71-00451-33-46500. Applicant: University of Massachusetts Medical School, 419 Belmont Street, Worcester, MA 01604. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for studies dealing with the in vivo and in vitro uptake of metals by cells and tissues taken from normal and from experimentally diseased animals. A primary aim is the electron microscopic study of the uptake of transferrin-bound iron. A course entitled "Ultrastructural Aspects of Diseases" will be taught to second year medical students and medical technical students. Application received by Commissioner of Customs: March 18, 1971.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc. 71-8800 Filed 6-22-71; 8:49 am]

PENNSYLVANIA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00314-33-46040. Applicant: The Pennsylvania State University, College of Medicine, Department of Microbiology, 500 University Drive, Hershey, PA 17033. Article: Electron

microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for research, teaching and training purposes. The development of viruses within cells will be monitored as an integral part of a cancer research program. A graduate course, "Electron Microscopic Techniques", will teach the basic techniques in specimen preparation for the ultrastructural approach to research.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 250 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4B manufactured by the Forgho Corp. The Model EMU-4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4B requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 26, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 250 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc. 71-8801 Filed 6-22-71; 8:49 am]

RED ACRE FARM, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00312-33-46040. Applicant: Red Acre Farm, Inc., Red Acre Road, Stow, MA 01775. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used for an investigation of pathological changes produced by deficiency of certain vitamins; an inquiry into the cause of heart failure that has been observed in rats of a certain strain produced in the applicant's laboratory; and for a project relating to the problem of human peptic ulcer disease.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 0-60,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4C manufactured by the Forgho Corp. The Model EMU-4C, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4C requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 19, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experi-

ment. Therefore, the capability of moving from 0-60,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc. 71-8802 Filed 6-22-71; 8:49 am]

SINAI HOSPITAL OF BALTIMORE, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00338-33-46040. Applicant: Sinai Hospital of Baltimore, Inc., Belvedere at Greenspring Avenue, Baltimore, MD 21215. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for the training of M.D. pathologists in the use of microscopic techniques as applicable to human tissues such as kidney biopsies, liver biopsies, cancer, and other pertinent specimens. The second use is for investigative purposes pertaining to research programs on human and experimental cancer. Research concerns carcinogenesis in the urinary bladder of the rat and the behavior of the Golgi apparatus in various tissues during carcinogenesis.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 500 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4C manufactured by the Forgho Corporation. The Model EMU-4C, with

its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4C requires a break in the vacuum of the column.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 20, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 500 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8803 Filed 6-22-71; 8:49 am]

UNIVERSITY OF LOUISVILLE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00205-33-46040. Applicant: University of Louisville, School of Dentistry, Health Sciences Center, Louisville, Ky. 40202. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for research on healing of super-

ficial wounds inflicted to the wall of the large blood vessels; and ultrastructural study on the effect of cytotoxic agents on the microcirculation; and for educational purposes in oral pathology.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4B manufactured by the Forghio Corp. The Model EMU-4C, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4B requires a break in the vacuum of the column.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 22, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic.

For these reasons, we find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8804 Filed 6-22-71; 8:49 am]

UNIVERSITY OF MINNESOTA HOSPITALS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific

article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00326-33-46500. Applicant: University of Minnesota Hospitals, Department of Obstetrics and Gynecology, Box 395, Mayo Memorial Hospital, Minneapolis, MN 55455. Article: Ultramicrotome, LKB 4800. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The purposes of the research project for which the article will be used are to clarify the histogenesis of the human ovarian neoplasms and to identify the intercellular location of steroidogenesis in the ovaries by morphological methods.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high-quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultra-thin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall

Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of March 26, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to satisfactory ultrathin sectioning of the very soft and fragile specimens encountered in the applicant's studies of human ovarian tissue biopsies to determine the site of steroidogenesis and the origin of cancer cells in tumors. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00003-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8805 Filed 6-22-71; 8:49 am]

UNIVERSITY OF SOUTHERN CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00202-33-46040. Applicant: Los Angeles County, University of Southern California Medical Center, 1200 North State Street, Los Angeles, CA 90033. Article: Electron microscope, Model HU-11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for research on the male and female reproductive tracts of experimental animals, as well as the human patient. The ultrastructural changes due to disease or medication will be studied. Also, the electron microscope will be used for educational purposes for the training of research fellows and residents in obstetrics and gynecology and pathology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 400 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4C manufactured by the Forghio Corp. The Model EMU-4C, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4C requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 22, 1971, that the applicant requires the capability of rapid shift from very low to very high magnification without opening the column in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 400 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality low magnification, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8798 Filed 6-22-71; 8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration AMERICAN HOECHST CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2691) has been filed by American Hoechst Corp., 777 Third Avenue, New York, N.Y. 10017, proposing that § 121.2566 Antioxidants and/or stabilizers for polymers (21 CFR

121.2566) be amended to provide for the safe use of poly[(1,3-dibutyldistanthi-1,3-dithio) 1,3-dithio] as a stabilizer in polyvinyl chloride materials used in the manufacture of food-contact articles.

Dated: June 17, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.
[FR Doc.71-8754 Filed 6-22-71; 8:45 am]

[Docket No. FDC-D-332; NDA Nos. 5-731, 10-354]

SMITH KLINE AND FRENCH LABORATORIES AND LEDERLE LABORATORIES

Thora-Dex Tablets and Gravidox Parenteral Solution; Notice of Withdrawal of Approval of New Drug Applications

A notice of opportunity for hearing on the proposed withdrawal of approval of new drug application No. 10-354 and all amendments and supplements thereto held by Smith Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101, for the drug Thora-Dex Tablets and No. 5-731 and all amendments and supplements thereto held by Lederle Laboratories, Division American Cyanamid Co., Pearl River, N.Y. 10965, for the drug Gravidox Parenteral Solution was published in the FEDERAL REGISTER on April 20, 1971 (36 F.R. 7472).

Subsequently, Smith Kline and French Laboratories filed a written appearance electing not to avail itself of the opportunity for a hearing. Lederle Laboratories failed to file a written appearance of election within 30 days, as required by the notice, and is therefore deemed to have elected not to avail itself of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505 (e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120) finds on the basis of new information before him with respect to said drugs evaluated together with the evidence available to him when the applications were approved, that there is a lack of substantial evidence that such drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing findings, approval of new drug application No. 10-354 and all amendments and supplements thereto applying to Thora-Dex Tablets, and application No. 5-731 and all amendments and supplements thereto applying to Gravidox Parenteral Solution, are withdrawn effective on the date of signature of this document.

Dated: June 14, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.
[FR Doc.71-8755 Filed 6-22-71; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23315]

DELTA AIR LINES, INC., AND NORTHEAST AIRLINES, INC.

Notice of Hearing Regarding Merger

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on July 19, 1971, at 10 a.m., e.d.s.t. in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 17, 1971.

[SEAL] ARTHUR S. PRESENT,
Hearing Examiner.
[FR Doc.71-8840 Filed 6-22-71;8:53 am]

ENVIRONMENTAL PROTECTION AGENCY

ANSUL CO.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with §420.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 420.8), Ansul Co., 1 Stanton Street, Marinette, WI 54143, has withdrawn its petition (PP 1F1047), notice of which was published in the FEDERAL REGISTER of November 7, 1970 (35 F.R. 17210), proposing the establishment of tolerances (21 CFR Part 420) for negligible residues of the herbicide *N,N*-bis(2-chloroethyl)-2,6-dinitro-*p*-toluidine in or on the raw agricultural commodities cottonseed, soybeans, and soybean forage at 0.05 part per million.

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8807 Filed 6-22-71;8:50 am]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec.

NOTICES

408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1162) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing establishment of a tolerance (21 CFR Part 420) for negligible residues of the insecticide methomyl (S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodity cottonseed at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a modification of the method of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry," volume 16, pages 554-7 (1968). The modified method utilizes a flame photometric detector instead of a sulfur microcoulometric detector.

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8809 Filed 6-22-71;8:50 am]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1158) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing establishment of a tolerance (21 CFR Part 420) for negligible residues of the insecticide methomyl (S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodity peanuts at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is the method of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry," volume 16, pages 554-7 (1968).

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8810 Filed 6-22-71;8:50 am]

NOR-AM AGRICULTURAL PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1160) has been filed by Nor-Am Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098, proposing establishment of a tolerance (21 CFR Part 420) for negligible residues of the herbicide phenmedipham (methyl *m*-hydroxycarbanilate *m*-methylcarbanilate)

in or on the raw agricultural commodity beets at 0.3 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a procedure in which the residue is hydrolyzed to 3-methylaniline by treatment with alkali. Bromination in aqueous acid solution yields 2,4,6-tribromo-3-methylaniline, which is determined using a gas chromatograph with an electron capture detector.

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8811 Filed 6-22-71;8:50 am]

UNION CARBIDE CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1138) has been filed by Union Carbide Corp., Post Office Box 65, Tarrytown, N.Y. 10591, proposing the establishment of an exemption from requirement of a tolerance for residues of vinyl chloride-vinyl acetate copolymers in or on raw agricultural commodities when used as an inert binding agent in pesticide formulations applied to growing crops only.

The analytical method proposed in the petition for determining residues of the inert ingredient is an infrared spectrophotometric procedure.

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8813 Filed 6-22-71;8:50 am]

WEST CHEMICAL PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1077) has been filed by West Chemical Products, Inc., 42-16 West Street, Long Island City, NY 11101, proposing the establishment of an exemption from the requirement of a tolerance for residues of the pesticide which is a complex of elemental iodine, with polyoxypropylene-polyoxyethylene block polymers (minimum average molecular weight 1900), and/or with *alpha*-(*p*-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) (maximum average molecular weight 748) in eggs and poultry when used as a sanitizer in poultry drinking water at specified concentrations.

The analytical method proposed in the petition for determining residues of the pesticide is that of J. Benotti and N.

Benotti, "Clinical Chemistry" 9, 408-416 (1963).

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8814 Filed 6-22-71;8:50 am]

BENZOYL CHLORIDE (2,4,6- TRICHLOROPHENYL) HYDRAZONE

Notice of Establishment of Temporary Tolerance

The Upjohn Co., Kalamazoo, Mich. 49001, submitted a petition requesting a temporary tolerance for residues of the insecticide benzoyl chloride (2,4,6-trichlorophenyl) hydrazone and its metabolite benzoic acid (2,4,6-trichlorophenyl) hydrazide in or on the raw agricultural commodity citrus fruit at 1 part per million.

The Fish and Wildlife Service, U.S. Department of Interior, advised that it has no objection to this temporary tolerance.

It has been determined that a temporary tolerance of 1 part per million for residues of the insecticide in or on citrus fruit is safe and will protect the public health. It is therefore established as requested on condition that the insecticide is used in accordance with the temporary permit which is being issued concurrently by the Environmental Protection Agency and which provides for distribution under the Upjohn Co. name. This temporary tolerance expires May 18, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038).

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8808 Filed 6-22-71;8:50 am]

POLYVINYLPIRROLIDONE-IODINE COMPLEX

Notice of Establishment of Temporary Exemption from Requirement of Tolerance for Pesticide Chemicals

At the request of James Huggins and Son, Inc., Malden, Mass. 02148, a temporary exemption from the requirement of a tolerance is established for residues of the fungicide polyvinylpyrrolidone-iodine complex in or on potatoes resulting from postharvest application of the fungicide.

It has been determined that this temporary exemption is safe and will protect the public health. It is therefore established as requested on condition that the

fungicide be used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the James Huggins and Son company name.

This temporary exemption will expire on June 15, 1972.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Pesticides Office of the Environmental Protection Agency (36 F.R. 9038).

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8812 Filed 6-22-71;8:50 am]

FEDERAL MARITIME COMMISSION

CALCUTTA, EAST COAST OF INDIA AND EAST PAKISTAN/U.S.A. CON- FERENCE

Notice of Agreement Filed Correction

In F.R. Doc. 71-8531 appearing at page 11679 in the issue for Thursday, June 17, 1971, the reference to "Agreement No. 6850-7" in the first line of the fifth paragraph should read "Agreement No. 6850-7".

EASTERN FORWARDING INTERNATIONAL ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a), of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Eastern Forwarding International, 105 Marsh Street, Port Newark, NJ 07114.

Officers:
S. David Goldberg, President.
Jay L. Goldberg, Vice President.
George Goldberg, Secretary/Treasurer.

Sunvan & Storage Co., Inc., 534 Westlake Avenue North, Seattle, WA 98109.

Officers:
W. E. Fallon, President.
Andre H. Michel, Executive Vice President/Controller.
Delbert V. Benedict, Vice President Domestic Sales-Services.
Joseph D. Gallina, Vice President Eastern Region.

NOTICES

Dorothy G. Fallon, Secretary.
Lloyd G. Smith, Treasurer.

Alr-Mar Shipping, Inc., El Imparcial Building, Room No. 407, 400 Comercio Street, Post Office Box 2664, Old San Juan, PR. 00903.

Officers:
Robert N. Altman, President.
Ramon Surillo, Vice President.
Martha Melendez de Altman, Secretary.
Judith Surillo, Treasurer.

C. E. Tolonen Co., Inc., 604 Olympic National Life Building, Seattle, WA 98104.

Officers:
Clarence E. Tolonen, President.
Doreen M. Tolonen, Secretary/Treasurer.
Albert L. Tokin Jr., Vice President.

Mills International Corp., 31 Fargo Street, Boston, MA 02210.

Officers:
R. J. Fenick, President/Director.
D. P. Hurley, Treasurer/Director.
A. Fenick, Director.

Orlando Gateil, Fifth and Chestnut Streets, Philadelphia, PA.
Orlando Gateil, Proprietor.

Seairland Forwarders, Inc., 1087 Old River Road, Cleveland, OH 44113.

Officers:
Albert Mars, President.
David Fraugon, Secretary/Treasurer.
S. Reza Teimouri, Executive Vice President.
Joseph Grabowski, Vice President.

Dorsey Express, Inc., Post Office Box 789, Glen Burnie, MD 21061.

Officers:
Joseph F. Cipriano, President.
Pearl V. Cipriano, Vice President.

N. J. Defonte Co., Inc., 11 Broadway, New York, NY.

Officers:
Nicholas John Defonte, President.
George Helstrom, Vice President.
Margaret Defonte, Secretary/Treasurer.
Daniel Defonte, Director.
James Plunkett, Vice President.

Hudson International, Inc., 1121 Walker, Houston, TX 77002.

Officers:
G. C. H. Osborne, Director/Vice President.
Walter McKindlay, Director.
Pleter Wadstrom, Director/President.
Sarah M. Wadstrom, Director/Secretary/Treasurer.

Foreign Trade Export Packing Co., 8109 Market Street, Houston, TX.

Officers:
Creighton M. Hatz, President and Chairman of Board.
Leona L. Hatz, Secretary/Director.
Margaret B. Hatz, Director.

Dated: June 17, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8817 Filed 6-22-71;8:51 am]

[Docket No. 71-49; Special Permission No. 5304]

GULF PUERTO RICO LINES, INC.

General Increases in Rates in U.S. Gulf/Puerto Rico Trade; Second Supplemental Order

By the original order in this proceeding served April 30, 1971, the Commission placed under investigation a general rate increase of the subject carrier,

¹ Directors.

and suspended to and including September 1, 1971 supplement No. 7 and various revised pages to Tariff FMC-F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 55 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon not less than 1 day's notice, to make changes in rates and provisions held in effect by reason of suspension in said docket, but only to the extent that such changes will result in a reduction in rates and charges on eggs.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the Order in Docket No. 71-49 to make the changes in rates and provisions as set forth in Special Permission Application No. 55, said changes to become effective on not less than 1 day's notice, is hereby granted.

2. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Intercoastal Shipping Act, 1933.

3. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of Second Supplemental Order in Docket No. 71-49 and Federal Maritime Commission Special Permission No. 5364."

4. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8816 Filed 6-22-71; 8:51 am]

AMERICAN EXPORT ISBRANDTSEN LINES, INC., AND FIRST ATOMIC SHIP TRANSPORT, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New

York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute said violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. James N. Jacobi, Kurrus and Jacobi,
2000 K Street NW., Washington, DC 20006.

Agreement No. 9451-4, between American Export Isbrandtsen Lines, Inc. (AEIL), and its wholly owned subsidiary, First Atomic Ship Transport, Inc. (FAST), amends the basic agreement to extend the agreement until June 30, 1972, or until all final audits between FAST and the Owner (AEIL) have been completed under the Bareboat Charter. Under this modification, FAST shall not pay any additional compensation to AEIL.

Dated: June 21, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8877 Filed 6-22-71; 8:53 am]

FEDERAL POWER COMMISSION

[Docket No. RP71-122]

ARKANSAS LOUISIANA GAS CO.

Order Granting Reconsideration, Amending Suspension Period, Fixing Date of Hearing, and Specifying Procedures

JUNE 15, 1971.

The Arkansas Public Service Commission on June 11, 1971, filed a notice of intervention in the above-entitled proceeding and a petition for reconsideration of the Commission's order issued therein on June 7, 1971, in which the Commission had suspended for 1 day certain proposed tariff sheets tendered for filing by Arkansas Louisiana Gas Co. (Arkla) on May 18, 1971, in response to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in

¹ Until June 16, 1971, and until such further time as the tariff sheets are made effective in the manner prescribed by the Natural Gas Act.

² Original Sheets Nos. 3A, 3B, and 3C of its FPC Gas Tariff, First Revised Volume No. 1.

Docket No. R-418. Arkla had represented in its filing that it would immediately institute a policy of conserving its existing gas supplies by extending the productive life of all connected sources for the benefit of "human needs" customers who were defined as those in the domestic and commercial classifications.

In its petition for reconsideration the Arkansas Commission states that it had assumed that this Commission would suspend the proposed tariff sheets for a longer period than 1 day. It states that it must assume that Arkla's curtailment program is directed to reducing the volumes of natural gas available for the generation of electricity by the utilities which supply electric energy to consumers in Arkansas. The Arkansas Commission further notes that the electric utilities which provide electric energy in Arkansas are members of the Southwest Power Pool which relies heavily upon steam generating plants equipped with gas-fired boilers. It alleges that its efforts to determine the impact upon users of electric energy indicate that Arkla's proposed curtailment plan will result in an electric power shortage. The Arkansas Commission states that it needs time within which (1) to accelerate its assistance to bulk power generating companies in examining all practical fuel alternatives, (2) to develop emergency load curtailment policies for electric companies, (3) to seek the cooperation of other industrial users in conserving energy, and (4) to obtain permission from environment regulatory agencies to use higher sulphur content fuels during the impending emergency which it believes will occur if Arkla's curtailment program is permitted to become effective on June 16, 1971. The Arkansas Commission, therefore, asks that the effectiveness of Arkla's proposed tariff sheets be suspended for 4 months so as to permit it to prepare for the impact which Arkla's curtailment program may have on electric utilities supplying energy for consumers in Arkansas.

Since Arkla's tariff filing does not indicate the extent that it would institute its proposed curtailment program or the exact nature of its alleged gas supply problems and does not advise the Commission as to the reduction in overall gas supplies which will result from its intention to conserve its connected sources for human needs, there is no way for the Commission, pending receipt of evidence at a hearing, to determine whether Arkla must immediately institute the curtailment program as it is set forth in the tariff sheets filed in this proceeding. Therefore, this order will hereinafter extend the suspension period for the requested 4-month period and provide for an immediate hearing on the basis of which the Commission will be able to determine whether a further modification of the suspension period is required.

The granting of the Arkansas Commission's request for extension of the suspension period is a procedural action pending receipt of evidence and should

not be construed as a determination based on the merits of any allegations made by the Arkansas Commission or contained in Arkla's proposed tariff sheets.

Other protests and petitions to intervene have been filed in this proceeding but action on them will be deferred pending expiration of the June 21, 1971, notice period which was fixed in the Commission's order issued June 7, 1971.

The Commission finds:

(1) Good cause has been shown for granting the Arkansas Commission's petition for reconsideration to the extent of provisionally extending the suspension period for 4 months, or until October 15, 1971, and for granting its request for permission to enlarge its statement of position at a future date.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) The Arkansas Commission's petition for reconsideration filed June 11, 1971, is granted to the extent of provisionally extending the suspension period for four months as hereinafter ordered and granting its request to enlarge its statement of position at a future date.

(B) Paragraph (A) of the Commission's order issued herein on June 7, 1971, is amended by substituting the date of October 15, 1971, for June 16, 1971, as the terminal suspension date of Arkla's proposed tariff sheets.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 15 and thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing July 13, 1971, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the curtailment provisions contained in Arkla's FPC Gas Tariff as proposed to be revised herein. The hearing shall begin with admission into the record of Arkla's direct case, subject to appropriate motions, followed by cross-examination of Arkla's witnesses. Except for very brief recesses which may be allowed by the Presiding Examiner upon a showing of good cause therefor, the hearing shall go forward immediately with any oral direct testimony the interveners and the Commission's staff may wish to offer followed by cross-examination thereon, and oral rebuttal if any, by Arkla with cross-examination thereon.

(D) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(E) On or before June 30, 1971, Arkla shall prepare and file with the Commission and serve on the Commission's staff and all parties to this proceeding its

direct testimony and exhibits in support of the proposed tariff sheets submitted on May 18, 1971. Arkla's presentation should include precise details concerning (1) the nature of its alleged gas shortage, (2) the extent of curtailments contemplated and the relation, if any, to refilling storage fields, and (3) market data showing its direct and resale customers' requirements, with appropriate subdivisions reflecting residential, commercial, and industrial classifications. (A service list shall be forwarded to Arkla to facilitate serving all parties upon expiration of the June 21, 1971, date for filing protests and petitions to intervene.)

(F) The Commission's order issued June 7, 1971, shall remain in full force and effect except to the extent modified and amended herein.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 71-8832 Filed 6-22-71; 8:52 am]

[Docket No. RP71-130]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Existing Curtailment Procedures

JUNE 16, 1971.

Take notice that on May 17, 1971, Texas Eastern Transmission Corp. (Texas Eastern) filed a written report, pursuant to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, stating that it "does not know at this time whether it will be necessary to curtail deliveries to its customers during the 71-72 winter heating season."

Texas Eastern states that if it becomes necessary to make any curtailment in deliveries to its customers that the curtailments will be made in accordance with section 12.3 of the General Terms and Conditions of Texas Eastern's FPC Gas Tariff, Second Revised Volume No. 1. Section 12.3, *Proration of impaired deliveries* reads as follows:

12.3 *Proration of impaired deliveries.* If due to any cause whatsoever, not limited to Force Majeure, the deliveries from Seller's transmission system are impaired so that Seller is unable to deliver to Buyer the quantity of gas which Seller is then obligated to deliver to Buyer, then Buyer shall be entitled to such proportion of the total impaired deliveries from such line as the quantity of gas which Seller is then obligated to deliver to Buyer bears to the total quantities of gas Seller is then obligated to deliver to all Buyers affected by such impairment.

Texas Eastern states in its report that it reserves the right to seek appropriate rate relief in connection with the imposition of any curtailment of deliveries made pursuant to the provisions of section 12.3. Also in its report, Texas Eastern states that all of its sales of gas are sales for resale and it does not make any direct sales, either firm or interruptible.

Although Texas Eastern's existing curtailment policy is on file with the Com-

mission and it is not known at this time whether such curtailment policy will of necessity be implemented in the foreseeable future, any person desiring to be heard or to make any protest with respect to Texas Eastern's existing tariff provisions governing curtailments of service should on or before July 9, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules of practice and procedure. Texas Eastern's report, submitted pursuant to Order No. 431, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc. 71-8833 Filed 6-22-71; 8:52 am]

FEDERAL RESERVE SYSTEM

ALAMEDA BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (1)), by Alameda Bancorporation, Inc., Alameda, Calif., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 98 percent or more of the voting shares of Alameda First National Bank, Alameda, Calif.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks

concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the *FEDERAL REGISTER*, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of San Francisco.

By order of the Board of Governors, June 17, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.
[FR Doc.71-8775 Filed 6-22-71;8:47 am]

FBT CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by FBT Corp., South Bend, Ind., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent (less directors' qualifying shares) of First Bank and Trust Company of South Bend, South Bend, Ind. (Bank). Applicant and Bank presently are 100 percent owned (less directors' qualifying shares) by Associates Corporation of North America (Associates), a subsidiary of Gulf & Western Industries, Inc. (G & W). The application is a preliminary step of a plan by which Associates and G & W will cease to be bank holding companies by divesting ownership and control of Bank and Applicant.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the *FEDERAL REGISTER*, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors, June 16, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.
[FR Doc.71-8818 Filed 6-22-71;8:51 am]

FIRST AT ORLANDO CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First at Orlando Corp., Orlando, Fla., for approval of acquisition of all of the voting shares (less directors' qualifying shares) of The Fort Pierce Bank, Fort Pierce, Fla., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First at Orlando Corp., Orlando, Fla. (Applicant), for the Board's prior approval of the acquisition of all of the voting shares (less directors' qualifying shares) of The Fort Pierce Bank, Fort Pierce, Fla. (Bank), a proposed new bank.¹

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Florida Commissioner of Banking, and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the *FEDERAL REGISTER* on April 27, 1971 (36 F.R. 7876), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the fifth largest banking organization in Florida, controls 18 banks which hold combined deposits of \$574.2 million, representing 4.1 percent of the

¹ Tentative approval has been received from the Florida Commissioner of Banking to change the name of the proposed bank to "First Peoples Bank".

total deposits held by Florida commercial banks. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved by the Board through April 30, 1971.) Since Bank is a proposed new bank, no existing competition would be eliminated, nor would concentration be increased in any relevant area.

Bank will be located in a growing commercial and residential area south of downtown Fort Pierce, 2 miles from Applicant's closest existing subsidiary, St. Lucie County Bank. Bank's proposed site is adjacent to the two largest shopping centers in St. Lucie County, both of which have been established within the last 10 years. St. Lucie County Bank (\$36.8 million in deposits), is the third largest bank in the Fort Pierce banking market, and the largest of three existing banks in the city of Fort Pierce. However, consummation of the proposal would not give Applicant a dominant position in the Fort Pierce area market or raise substantial barriers to entry. There are nine banks representing seven banking organizations located in this area. Applicant with 18 percent of deposits within the market ranks third behind organizations with 25.5 percent and 19.5 percent, respectively. The largest bank holding company within the State ranks fourth with 14.5 percent and each of the remaining three independent banks has between 6.2 percent and 8.3 percent of area deposits. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

The financial condition, management and prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Bank has no prior financial history, but will open with satisfactory capital and will be able to draw on Applicant for its management. Its future prospects are satisfactory. Although convenience and needs of the community are adequately served at present, Bank's location adjacent to two major shopping centers, which presently have no banking facilities, should provide additional convenience to residents and merchants of the area. Consequently, these factors lend some weight toward approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and the application should be approved.

It is hereby ordered, For the reasons set forth above, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order: *And provided further*, That (c) The Fort Pierce Bank shall be opened for business not later than 6 months after the date of this order. The periods described in (b) and (c) hereof may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,
June 17, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.
[FR Doc.71-8776 Filed 6-22-71;8:47 am]

SUPERIOR EQUITY CORP. AND IOWA BUSINESS INVESTMENT CORP.

Notice of Request for Determination and Order Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)), by the Superior Equity Corp. (Superior), Lincoln, Nebr., proposed successor in interest through merger to Iowa Business Investment Corp. (IBIC), a bank holding company, for a determination that with respect to a proposed sale by Superior/IBIC of the Sibley State Bank, Sibley, Iowa, to Bruce R. Lauritzen, Darrell D. Green, and Joseph J. Latoza, all of Omaha, Nebr., Superior/IBIC is not in fact capable of controlling the said transferees.

Inasmuch as section 2(g)(3) of the Act requires that any determination thereunder be made only after opportunity for hearing:

It is ordered, That, pursuant to section 2(g)(3) of the Act, an opportunity be and hereby is provided for filing a request for hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received on or before July 6, 1971. The request for hearing should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which said person wishes to give testimony at such hearing. The Board will subsequently designate a time and place for any hearing ordered, and will give notice of such hearing to the transferor, the transferees, and all persons who have requested a hearing. In the absence of a request for hearing, the Board will proceed with consideration of the requested determination on the basis of documentary evidence filed in connection with the application.

By order of the Board of Governors, June 17, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.
[FR Doc.71-8777 Filed 6-22-71;8:47 am]

² Voting for this action: Chairman Burns and Governors Robertson, Mitchell, and Sherrill. Absent and not voting: Governors Daane, Malsel, and Brimmer.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.;
Temporary Reg. F-107]

CHAIRMAN, ATOMIC ENERGY COMMISSION

Delegation of Authority

1. *Purpose*. This regulation delegates authority to the Chairman, Atomic Energy Commission, to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date*. This regulation is effective immediately.

3. *Delegation*. a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d)(40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Chairman, Atomic Energy Commission, to represent the consumer interests of the executive agencies of the Federal Government before the Pennsylvania Public Utility Commission in a proceeding involving electric service rates of the Duquesne Light Co.

b. The Chairman, Atomic Energy Commission, may redelegate this authority to any officer, official, or employee of the Atomic Energy Commission.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: June 16, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc.71-8781 Filed 6-22-71;8:47 am]

[Federal Property Management Regs.;
Temporary Reg. F-108]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose*. This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date*. This regulation is effective immediately.

3. *Delegation*. a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d)(40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government before the Georgia Public Serv-

ice Commission in a proceeding (Docket No. 2222-U) involving electric rates of the Georgia Power Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: June 18, 1971.

W. H. SANDERS,
Acting Administrator
of General Services.

[FR Doc.71-8841 Filed 6-22-71;8:53 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2105]

SCUDDER DUO-VEST EXCHANGE FUND, INC.

Notice of Filing of Application for Modification of Order of Exemption

June 17, 1971.

Notice is hereby given that Scudder Duo-Vest Exchange Fund, Inc. (Applicant), 345 Park Avenue, New York, NY 10022, a Delaware corporation registered under the Investment Company Act of 1940 (Act) as a diversified, open-end management investment company, has filed an application for modification of an order of exemption (1967 Order) issued on June 15, 1967 (Investment Company Act Release No. 4995) pursuant to sections 6(c) and 18(i) of the Act, to permit Applicant to purchase common stock purchase warrants in units with notes or other securities of the same issuer. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

As authorized by its certificate of incorporation, as amended, Applicant has two classes of stock outstanding, its income preferred shares, \$1 par value per share (Income Shares) and its capital shares, \$1.00 par value per share (Capital Shares). The two classes of stock are redeemable in units at the option of holders at net asset value. The holders of the Income Shares are entitled to receive all of Applicant's net investment income earned through January 31, 1983. In addition, if the dividend paid on the Income Shares with respect to any quarter does not equal at least 37.5 cents, the deficiency is carried forward as an arrearage to be paid, together with the then current quarterly dividend, from

future net investment income. To the extent not paid from future income, the arrearage is added to the redemption and liquidation value of the Income Shares. Applicant has paid dividends totalling \$3.72 per Income Share leaving an arrearage per Income Share for the period through December 31, 1970, of \$1.549. The redemption value of an Income Share, and also its liquidation preference, is equal to \$25 plus any accrued and unpaid dividends plus its share of undistributed net investment income. Management of Applicant has stated its intention to propose for adoption in 1982 a charter amendment reclassifying Income Shares into Capital Shares effective January 31, 1983, on the basis of the liquidation preference of the Income Shares and the net asset value of the Capital Shares as of the close of business on that date. It is also the stated intention of Applicant's management to redeem on February 1, 1983, any Income Shares outstanding on that date.

The holders of the Capital Shares benefit from any appreciation on applicant's portfolio, subject only to the cumulative \$1.50 annual dividend right of the Income Shares. The holders of the Capital Shares will not receive any dividends from net investment income through January 31, 1983, nor will they receive any dividends from long-term capital gains. With the exception of any short-term capital gains that have to be distributed in order to permit Applicant to continue to qualify as a regulated investment company under the Internal Revenue Code, all capital gains are to be reinvested. Following the reclassification or redemption of the Income Shares in 1983, each holder of Capital Shares will have the right to receive the net asset value of his shares either upon termination of Applicant on March 31, 1983, pursuant to its certificate of incorporation, or otherwise as provided in an amendment to its certificate of incorporation adopted at that time.

A condition of the 1967 Order provides that Applicant will not purchase warrants. Applicant requests modification of the 1967 Order by the deletion of this restriction in order to permit Applicant to purchase common stock purchase warrants in units with notes or other securities of the same issuer. Applicant's shareholders have approved amendments to Applicant's bylaws and fundamental policies to permit such purchases. It is Applicant's view that such units of warrants and other securities are often comparable to convertible securities and could, in some instances, be appropriate investments for Applicant.

Notice is further given that any interested person may, not later than July 7, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary,

Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

(SEAL) THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8785 Filed 6-22-71; 8:48 am]

[81-89]

SHANGHAI POWER CO.

Notice of Application and Opportunity for Hearing

JUNE 17, 1971.

Notice is hereby given that Shanghai Power Co., c/o Ebasco International Corp., 2 Rector Street, New York, NY 10006, a Delaware company, has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (Act) for an order of the Commission exempting the company from the requirements of section 12(g) of the Act.

Section 12(h) of the Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting and proxy solicitation provisions and to grant exemptions from the insider reporting and trading provisions of the Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The company's application states, in part:

The applicant is a company organized under the laws of Delaware in 1929. Its business from 1929 to 1950 was operating the electric generating, transmission, and distribution system serving the International Settlement in Shanghai, China. In 1950, the Chinese Communists took possession of all of the properties of the applicant and its subsidiary and no compensation for the properties has been offered to or received by either company.

According to the latest information available to the company, dated February 3, 1949, there were 6,733 registered owners of applicant's 6 tael preferred stock of which 55 holders had record addresses inside the United States or its possessions. Applicant's common stock is 100 percent owned by Far East Power Corp., a Delaware corporation. Over 80 percent of the common stock of Far East Power Corp. is owned by the Brazilian Electric Power Co., which, in turn, is a wholly owned subsidiary of Boise Cascade Corp., a Delaware corporation which is successor in interest to Ebasco Industries (formerly named Electric Bond and Share Co.) and American Foreign Power Co., Inc.

The applicant filed a claim in 1964 under the War Claims Act of 1948, for damage to its properties and was issued an award on February 8, 1967, in the amount of \$7,808,208.12. During 1967 payments aggregating \$4,790,301.58 were received by applicant and after payment of certain outstanding liabilities, applicant intends to conserve the cash received and to be received as a result of its war claims to meet current expenses through income generated. It is anticipated that income therefrom should cover substantially all of applicant's current expenses including pensions due former members of its foreign staff. There are no present employees of the company. At June 30, 1970, applicant's assets consisted of cash and short-term securities aggregating \$3,596,468.26. On August 2, 1970, the Foreign Claims Settlement Commission under the China Claims Act certified the applicant's loss at \$53,832,885, plus interest at 6 percent from December 28, 1950, to the date of eventual settlement. The Act provides for the certification of losses but it does not provide for the payment of compensation in respect to such losses.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, DC.

Notice is further given that any interested person may, not later than July 8, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

By the Commission.

(SEAL) THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8786 Filed 6-22-71; 8:48 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.4-1 (Region VII) for Disaster No. 824]

MANAGER, DISASTER BRANCH OFFICE, JOPLIN, MO.

Delegation of Authority

I. Pursuant to the authority delegated to the regional director by Delegation of Authority No. 4.4 (Revision 1) (36 F.R. 7291) and Delegation of Authority No. 30 (Revision 13) (36 F.R. 5881), as amended (36 F.R. 7625 and 36 F.R. 11129), the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Joplin, Mo., Disaster Branch Office.* 1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (a) \$50,000 per household for repairs or replacement of the home and/or not to exceed an additional \$10,000 allowable for household goods and personal items, but in no event may the money loaned exceed \$55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to \$50,000; and (b) \$350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan.

2. To approve disaster guaranteed loans up to an SBA guarantee of \$350,000, and to decline such loans in any amount.

3. To execute loan authorizations for Central, regional, and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By _____
Manager,
Disaster Branch Office.

4. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

5. To disburse unsecured disaster loans.

6. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: May 10, 1971.

C. I. MOYER,
Regional Director,
Region VII, Kansas City, Mo.

[FR Doc.71-8757 Filed 6-22-71; 8:45 am]

[Delegation of Authority No. 4.4-2 (Region IX) for Disaster No. 802]

MANAGER, EARTHQUAKE DISASTER BRANCH OFFICE, LOS ANGELES, CALIF.

Delegation of Authority

I. Pursuant to the authority delegated to the District Director, Los Angeles, Calif., by Delegation of Authority No. 4.4-1 (Revision 1) (36 F.R. 6929), and Delegation of Authority No. 30-A (34 F.R. 11836), as amended (34 F.R. 20076; 35 F.R. 1073; 35 F.R. 12683; 35 F.R. 15033; 35 F.R. 17156; 36 F.R. 481; and 36 F.R. 2948), the following authority is hereby redelegated to the position as indicated herein:

Manager, Earthquake Disaster Branch Office, Los Angeles, Calif. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) \$50,000 per household for repairs or replacement of the homes and/or not to exceed an additional \$10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed \$55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgage, which may be approved in addition to the foregoing limits for amounts up to \$50,000; and (2) \$350,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan.

b. To approve disaster guaranteed loans up to \$350,000, and to decline disaster guaranteed loans in any amount.

c. To execute loan authorizations for Central, regional and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By _____
Manager,
Disaster Branch Office.

d. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

e. To disburse unsecured disaster loans.

f. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by any SBA employee designated as acting in that position.

Effective date: February 9, 1971.

GILBERT MONTANO,
District Director, Los Angeles, Calif.

[FR Doc.71-8756 Filed 6-22-71; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 15]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 18, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 583) (Cancels Deviation No. 278), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed June 8, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From Henderson, N.C., over Interstate Highway 85 to Petersburg, Va., with the following access routes: (1) From junction U.S. Highway 1 and access road approximately 2 miles north of Henderson, N.C., over access road to junction Interstate Highway 85; and (2) from South Hill, Va., over U.S. Highway 58 to junction Interstate Highway 85, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Richmond, Va., over U.S. Highway 1 via Petersburg and South Hill, Va., and Henderson, N.C., to Raleigh, N.C., and return over the same routes.

No. MC 1515 (Deviation No. 584), GREYHOUND LINES, INC. (East Division), 1400 West Third Street, Cleveland, OH 44113, filed June 8, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and

newspapers in the same vehicle with passengers, over a deviation route as follows: From Henderson, Ky., over Kentucky Highway 54 to junction Penny-rile Parkway, thence over the Penny-rile Parkway to junction Audubon Parkway, thence over the Audubon Parkway to Owensboro, Ky., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Juntington, W. Va., over U.S. Highway 60 to Louisville, Ky., thence over U.S. Highway 31 via West Point, Ky., to Tip Top, Ky., thence over U.S. Highway 60 to Henderson, Ky., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8793 Filed 6-22-71;8:48 am]

[Notice 21]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 18, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-44605 (Deviation No. 7), MILNE TRUCK LINES, INC., 2200 South Third West, Salt Lake City, UT 84115, filed May 28, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Santaquin, Utah, over combined U.S. Highways 6 and 50 to junction U.S. Highway 93 approximately 27 miles south of Ely, Nev., thence over U.S. Highway 93 to junction Nevada Highway 25 at Panaca, Nev., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Salt Lake City, Utah, over U.S.

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Highway 91 to St. George, Utah, (2) from St. George, Utah, over U.S. Highway 91 to Barstow, Calif., thence over U.S. Highway 66 via San Bernardino, Calif., to Los Angeles, Calif. (also from San Bernardino over U.S. Highway 395 to junction Interstate Highway 10 (formerly portion U.S. Highway 70), thence over Interstate Highway 10 to Los Angeles; also from San Bernardino over U.S. Highway 395 to junction U.S. Highway 60, thence over U.S. Highway 60 to Los Angeles), and (3) from Los Angeles, Calif., to Barstow, Calif., as specified above (also from Los Angeles over U.S. Highway 99 to junction Interstate Highway 10, formerly portion U.S. Highway 99, thence over Interstate Highway 10 to junction U.S. Highway 395, thence over U.S. Highway 395 to San Bernardino, thence over U.S. Highway 66 to Barstow), thence to St. George as specified above, and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8794 Filed 6-22-71;8:48 am]

[Notice 49]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 18, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 85465 (Sub-No. 31) (Republication), filed October 19, 1970, published in the FEDERAL REGISTER issue of November 19, 1970, and republished this issue. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Box Drawer 350, Scottsbluff, NE 69361. Applicant's representative: John H. Lewis and Truman Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80203. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 28, 1971, and served June 8, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of meats, meat products and meat by-products and articles distributed by meat packinghouses (except commodities in

bulk, in tank vehicles) as described in sections A and C of appendix I to report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Gordon, Nebr., to Chicago, Ill.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file and appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 125844 (Sub-No. 23) (Republication), filed October 1, 1970, published in the FEDERAL REGISTER issue of October 29, 1970 and republished this issue. Applicant: BIO-MED-HU, INC., 8603 Preston Highway, Louisville, KY 40219. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, KY 40202. The modified procedure has been followed in this proceeding and a supplemental order of the Commission, Operating Rights Board, dated May 28, 1971, and served June 14, 1971, finds; that the present and future public convenience and necessity require operation by applicant, as a common carrier by motor vehicle, over irregular routes; of (1) placenta, derivatives of placenta, placenta compounds, blood, derivatives of blood, cells, tissues, organs, cellular secretions, tissue and cellular culture and media, Interferon, Enzymes, Antiserum, Immunosuppressants, Immuno Vaccine, Antigens, and Antibodies; (2) materials, equipment, and supplies used with the commodities set forth in (1) above when moving in the same vehicle and with such commodities, and at the same time between points in Utah, Texas, Oklahoma, New Mexico, Nebraska, Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Wisconsin, Michigan, West Virginia, and the District of Columbia; and (3) materials, equipment, and supplies used with the commodities set forth in (1) above, between points in Alabama, Arkansas, California, Florida, Georgia, Idaho, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, and Wyoming. The authority granted herein, and applicant's existing authority shall

be construed as conferring only a single operating right. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to intervene or other pleading setting forth in precise detail the manner in which it has been so prejudiced.

No. MC 126603 (Sub-No. 6) (Republication), filed October 16, 1970, published in the FEDERAL REGISTER issue of November 26, 1970, and republished this issue. Applicant: R. MENARD TRANSPORT LTD., a corporation, St. Philippe, County of La Prairie, Quebec, Canada. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, NY 12207. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 30, 1971, and served June 10, 1971, finds; That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes; of (1) slate, from Middle Granville, N.Y., and points in Rutland County, Vt., to those ports of entry on the United States-Canada boundary line located at or near Champlain, N.Y., Rouses Point, N.Y., Trout River, N.Y., North Burke, N.Y.; Highgate Springs, Richford, North Troy, Derby Line, Vt.; and (2) lumber; (a) from those ports of entry on the United States-Canada boundary line located at or near Champlain, Rouses Point, Trout River, Rouses Point, and Ogdensburg, N.Y.; Moses Line, Richford, North Troy, Derby Line, and Norton, Vt.; Van Buren, Houlton, Jackman, Vanceboro, and Calais, Maine, to points in Maine, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, and Delaware; and (b) from those ports of entry on the United States-Canada boundary line located at or near Champlain, subject in 2 (a) and (b) above to the coincidental cancellation, at applicant's written request, of its certificates Nos. MC-126603 (Sub-Nos. 2 and 4), issued May 2, 1969, and January 27, 1970, respectively; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding-

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ing will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 135200 (Sub-No. 2) (Republication), filed December 28, 1970, published in the FEDERAL REGISTER issue of January 28, 1971, and republished this issue. Applicant: W. H. SAPP AND HILTON SAPP, a partnership doing business as SAPP BROS. TRUCKING CO., Tifton Highway R.F.D. 1, Box 135-A, Barney, GA 31625. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 30, 1971, and served June 10, 1971, finds; That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes; of (1) animal and poultry feed ingredients derived from peanuts, from Moultrie, Ga., to points in Florida; and (2) animal and poultry feed ingredients derived from soybeans, from Valdosta, Ga., to Dothan and Enterprise, Ala., and to points in Florida; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATION FOR WATER CARRIER

No. W-1254 (RIVER LOGGING COMPANY Contract Carrier Application), (Republication) filed November 27, 1970 published in the FEDERAL REGISTER issue of January 14, 1971, and republished this issue. Applicant: RIVER LOGGING COMPANY, a corporation, Frohna, Mo. Applicant's representative: Francis Toohey, Jr., 11 North Main Street, Perryville, MO 63775. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 30, 1971, and served June 8, 1971, finds; that the transportation by applicant as a contract carrier by water, by non-self-propelled vessels with the use of separate towing vessels, in interstate or foreign commerce of logs from: (1) Points and places on the

Mississippi River, between Keokuk, Iowa, and Wittenberg, Mo.; (2) points and places on the Missouri River below and including Jefferson City, Mo.; and (3) points and places on the Illinois River below and including Peoria, Ill., to Wittenberg, Mo.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 125466 (Sub-No. 2) (Notice of Filing of Petition to Modify Permit), filed June 1, 1971. Petitioner: V & P CARRIERS, INC., Brooklyn, N.Y. Petitioners representatives: Edward M. Alfano and John L. Alfano, 2 West 45th Street, New York, NY 10036. Petitioner holds authority in No. MC 125466 (Sub-No. 2), to conduct operations as a motor contract carrier transporting: Such commodities as are dealt in by distributor of automotive parts, uncrated, and such commodities as are dealt in by distributor of automotive parts, crated, when moving in mixed loads with such commodities as are dealt in by distributor of automotive parts, uncrated, from Chicago, Ill., to Huntington Station, N.Y., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Transportation Parts Company of New York, Inc., of Huntington Station, N.Y. The purpose of this petition is to modify said permit by changing the territorial description to read as follows: Such commodities as are dealt in by distributor of automotive parts, uncrated, and such commodities as are dealt in by distributor of automotive parts, crated, when moving in mixed loads with such commodities as are dealt in by distributor of automotive parts, uncrated, between Chicago, Ill., on the one hand, and, on the other, Huntington Station, N.Y. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Transportation Parts Company of New York, Inc., of Huntington Station, N.Y. The commodity description will remain the same. The restriction to transportation service to be performed under a continuing contract, or contracts with

Transportation Parts Company of New York, Inc., of Huntington Station, N.Y., will also remain unchanged. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 11220 (Sub-No. 123), filed May 14, 1971. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38118. Applicant's representative: Warren A. Goff, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities generally*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Birmingham, Ala., and points within 15 miles thereof, on the one hand, and, on the other, Albertville, Alexander City, Boaz, Centre, Fairfax, Fort Payne, Guntersville, Oneonta, Opelika, Phenix City, Scottsboro, Sylacauga, Talladega, Tuskegee, and Wetumpka, Ala. Note: Applicant states that the requested authority can be tacked with its existing authority at Birmingham, Ala. The instant application is a matter directly related to the application in MC-F-11143 published in the FEDERAL REGISTER issue of April 21, 1971. If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, Ala., or Memphis, Tenn.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11182. (GOTTRY CORP.—Purchase—J. N. WILSON COMPANY, INC.). published June 3, 1971, issue of the FEDERAL REGISTER on page 10829. Application filed June 10, 1971, for temporary authority under section 210a(b).

No. MC-F-11185. (Correction) (TERMINAL TRANSPORT COMPANY, INC.—Purchase (Portion)—MICHIGAN EXPRESS, INC., and CUSHMAN MOTOR DELIVERY COMPANY), published in the June 3, 1971, issue of the FEDERAL REGISTER on pages 10829 and 10830. Prior notice should be modified to include the following authority. Also serving coordinately with the above described routes in regular service the territory adjacent to Chicago, including

such points as Elgin, Aurora, Joliet, and St. Charles, Ill., and more fully described as from junction of U.S. Highways 41 and 30 over U.S. Highway 30 to junction Illinois Highway 31; thence over Illinois Highway 31 to junction U.S. Highway 20; thence over U.S. Highway 20 to Chicago; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over regular routes, serving the plantsite of Hussman Refrigerator Co. at St. Charles Rock Road and Taussig Road, Bridgeton, Mo., as an off-route point in connection with carrier's presently authorized regular route authority, serving the plantsite of Montgomery Elevator Co. near the intersection of U.S. Highway 6 and Interstate Highway 80 near Green Rock (Henry County), Ill., as an off-route point in connection with carrier's presently authorized regular route operations to and from Moline, Ill.

No. MC-F-11201. Authority sought for purchase by FOSS L & T CO., 660 West Ewing Street, Seattle, WA 98119, of the operating rights of SOUTHERN ALASKA FAST FREIGHT, INC., 2440 Hemlock Avenue, Ketchikan, AK 99901, and for acquisition by DILLINGHAM CORPORATION, 1441 Kapiolani Boulevard, Honolulu, HI 96814, of control of such rights through the purchase. Applicants' attorney: Edward G. Lowry III, 14th Floor, Norton Building, Seattle, Wash. 98104. Operating rights sought to be transferred: (1) *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; and (2) agricultural commodities, as defined in section 203(b)(6) of the Interstate Commerce Act, when transported in the same vehicle at the same time as the commodities set forth in (1) above, as a *common carrier*, over irregular routes, between points in Washington (except points in Mason, Kitsap, Clallam, and Jefferson Counties, Wash.), on the one hand, and, on the other, Juneau, Alaska, and points on Revillagigedo Island, Alaska. Vendee is authorized to operate as a *common carrier* in Alaska and Washington. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11202. Authority sought for purchase by CAROLINA FREIGHT CARRIERS CORPORATION, Post Office Box 697, Cherryville, NC 28021, of a portion of the operating rights and certain property of TERMINAL TRANSFER AND STORAGE COMPANY, INC., Post Office Box 8308, Charlotte, NC, and for acquisition by C. G. BEAM, also of Cherryville, N.C. 28021, of control of such rights and property through the purchase. Applicants' attorney: James E. Wilson, 1032 Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-99521 Sub-4, covering that portion of transportation of general commodities, as a *common carrier*, in interstate commerce, within the State of

North Carolina, generally within 100 miles of Hillsboro. Vendee is authorized to operate as a *common carrier* in North Carolina, Georgia, South Carolina, Florida, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Virginia, Pennsylvania, Delaware, Alabama, West Virginia, Ohio, Illinois, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11203. Authority sought for purchase by CAROLINA FREIGHT CARRIERS CORPORATION, Post Office Box 697, Cherryville, NC 28021, of the operating rights and certain property of ARTHUR OVENS (MABEL OVENS, EXECUTRIX OF THE ESTATE), 1708 Nay Aug Avenue, Scranton, PA 18509. Applicants' attorney: James E. Wilson, 1032 Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Operating rights sought to be transferred: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Scranton and Susquehanna, Pa., between Scranton, Pa., and Endicott, N.Y. Vendee is authorized to operate as a *common carrier* in North Carolina, Georgia, South Carolina, Florida, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Virginia, Pennsylvania, Delaware, Alabama, West Virginia, Ohio, Illinois, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11204. Authority sought for purchase by INTRACOASTAL TRUCK LINE, INC., 1200 Peters Road, Post Office Box 354, Harvey, LA 70058, of the operating rights of J. C. DUKE, doing business as DUKE TRANSPORTATION, Post Office Box 149, Jena, LA 70544, and for acquisition by JOHN C. AND LEWIS E. HOOPER, both of Post Office Box 354, Harvey, LA 70058, of control of such rights through the purchase. Applicants' attorney: Daniel Lund, 806 National Bank of Commerce Building, New Orleans, La. 70112. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, as a *common carrier*, over irregular routes, between points in Texas and Louisiana. Vendee is authorized to operate as a *common carrier* in Louisiana, Mississippi, Alabama, Georgia, and Florida. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11205. Authority sought for purchase by BRANDT TRUCK LINE, INC., Routes 66 and 150, Post Office

Box 812, Bloomington, IL 61701, of the operating rights of NIMZ TRANSPORTATION, INC. (EDWARD LITAK, TRUSTEE), Post Office Box 220, Watseka, IL 60970, and for acquisition by ARTHUR BRANDT, 903 Monroe Drive, Bloomington, IL 61701 and JOHN S. BRANDT, 2013 East Taylor, Bloomington, IL 61701, of control of such rights through the purchase. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC-99441 Sub-1, covering the transportation of general commodities, as a *common carrier* in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Illinois. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11206. Authority sought for purchase by DISTRIBUTORS SERVICE CO., 2000 West 43d Street, Chicago, IL 60609, of a portion of the operating rights of CAMBEIS TRUCKING COMPANY, INC., 312 Third Avenue, Brooklyn, NY 11215, and for acquisition by D. S. CORPORATION, also of Chicago, Ill. 60609, of control of such rights through the purchase. Applicants' attorneys: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368, and Harris J. Klein, 280 Broadway, New York, NY 10007. Operating rights sought to be transferred: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between points and places in Middlesex, Union, Essex, Passaic, Hudson, and Bergen Counties, N.J., on the one hand, and, on the other, Newark, N.J., with restriction. Vendee is authorized to operate as a *common carrier* in Indiana, Illinois, Iowa, Ohio, New York, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island, Wisconsin, District of Columbia, Kentucky, Michigan, Maine, New Hampshire, Tennessee, Vermont, Virginia, West Virginia, and Minnesota. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11207. Authority sought for purchase by SARDO'S DELIVERY SERVICE, INC., 50 Kean Street, West Babylon, NY 11704 of a portion of the operating rights of CAMBEIS TRUCKING CO., INC., 312 Third Avenue, Brooklyn, NY 11215, and for acquisition by ANGELO SARDO, also of West Babylon, N.Y., of control of such rights through the purchase. Applicants' attorneys: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, NY 11432 and Harris J. Klein, 280 Broadway, New York, NY. Operating rights sought to be transferred: *General commodities*, except of those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y. Vendee is au-

thorized to operate as a *common carrier* in New York. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11208. Authority sought for purchase by LAWRENCE TRANSFER & STORAGE CORPORATION, 2727 Whiteside Avenue, Roanoke, Va., of the operating rights and certain property of BOWARD MOVING AND STORAGE, INC., Post Office Box 2366, Commerce Road, Staunton, VA 24401, and for acquisition by WELDON T. LAWRENCE, JR., also of Roanoke, Va., of control of such rights through the purchase. Applicants' attorney: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Operating rights sought to be transferred: *Household goods* as defined by the Commission, as a *common carrier*, over irregular routes, between Staunton, Va., and points in Augusta County, Va., within 50 miles of Staunton, on the one hand, and, on the other, Washington, D.C., and points in North Carolina, Maryland, Pennsylvania, and West Virginia, between points in Rockbridge and Rockingham Counties, Va., on the one hand, and, on the other, Washington, D.C., and points in North Carolina, Maryland, Pennsylvania, and West Virginia, between Waynesboro, Va., and points within 25 miles of Waynesboro, on the one hand, and, on the other, points in Delaware, the District of Columbia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, and West Virginia, between Harrisonburg, Va., and points in Virginia within 25 miles of Harrisonburg, on the one hand, and, on the other, points in Virginia, Ohio, North Carolina, Maryland, Pennsylvania, West Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Virginia, Tennessee, North Carolina, Maryland, Pennsylvania, West Virginia, Ohio, New York, Delaware, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11209. Authority sought for purchase by H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, PA 17201, of the operating rights of JOHN E. FOLEY, DISTRICT DIRECTOR, INTERNAL REVENUE SERVICE, Post Office Box 266, Niagara Square Station, Buffalo, NY 14202, and for acquisition by HAROLD C. GABLER, Montgomery Avenue Extended, Chambersburg, PA 17201, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Operating rights sought to be transferred: *General commodities*, except those of unusual value, and except dangerous explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between Rochester, N.Y., on the one hand, and, on the other, points in Monroe County, N.Y.; *household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between

Rochester, N.Y., and points in Monroe County, N.Y., on the one hand, and, on the other, points in Connecticut, New York, New Jersey, Pennsylvania, and Ohio. Vendee is authorized to operate as a *common carrier* in Pennsylvania, Maryland, New Jersey, Virginia, West Virginia, Iowa, Kentucky, Massachusetts, Michigan, Missouri, New Hampshire, Rhode Island, Vermont, Maine, Connecticut, Delaware, New York, Ohio, Indiana, Illinois, Michigan, North Carolina, Alabama, Tennessee, Mississippi, Wisconsin, South Carolina, Minnesota, Louisiana, Texas, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11210. Authority sought for purchase by PACELLI BROS. TRANSPORTATION, INC., 119 Trowel Street, Bridgeport, CT, of the operating rights and property of CENTRAL CONNECTICUT FREIGHT LINES, INC., 69 Newfield Street, Middletown, CT, and for acquisition by TORINO PACELLI, 36 Hillston Road, Trumbull, CT, of control of such rights and property through the purchase. Applicants' attorney: John E. Fay, 342 North Main Street, West Hartford, CT 06117. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121031 Sub-1, covering the transportation of general commodities, as a *common carrier*, in interstate commerce, within the State of Connecticut. Vendee is authorized to operate as a *common carrier* in Connecticut, New York, and New Jersey. Application has been filed for temporary authority under section 210a(b). Note: MC-61007 Sub-7 is a matter directly related.

No. MC-F-11211. Authority sought for purchase by MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107, of a portion of the operating rights of MID-SOUTH DELIVERY SERVICE CO., 3215 Tulane Road, Memphis, TN 38116, and for acquisition by DUNCAN McRAE, also of Shreveport, La., of control of such rights through the purchase. Applicants' attorneys: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103, and Wilburn L. Williamson, Suite 280, National Foundation Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112. Operating rights sought to be transferred: *Agricultural implements, farm machinery, and incidental component parts and attachments* thereof when moving at the same time for use thereon (except commodities the transportation of which, because of size or weight, requires the use of special equipment), as a *common carrier*, over irregular routes, from Memphis, Tenn., to points in Arkansas (except points bounded by a line commencing at Pine Bluff, Ark., and extending along the southeast bank of the Arkansas River to the west bank of the Mississippi River, thence along the west bank of the Mississippi River to the Arkansas-Louisiana State line, thence along the Arkansas-Louisiana State line to the east bank of

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PART II



DEPARTMENT OF TRANSPORTATION

**Federal Railroad
Administration**

■

TRACK SAFETY STANDARDS

Notice of Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 213]

[Docket No. RST-1; Notice 1]

TRACK SAFETY STANDARDS

Notice of Proposed Rule Making

The Federal Railroad Administration (FRA) proposes to amend Chapter II of Subtitle B of Title 49 of the Code of Federal Regulations by adding a Part 213 prescribing initial safety standards for track and track inspection as required by the Federal Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et seq.). Section 202(e) of the Act requires initial safety standards based upon existing railroad safety standards and data to be issued before October 17, 1971.

Proposed Part 213 sets forth initial safety standards for track and track inspection. Further notices of proposed rule making will be addressed to initial railroad equipment standards and operating practices.

Interested persons are invited to participate in the making of these initial track safety standards by submitting written data, views, or comments. Communications should identify the regulatory docket number and notice number, and should be submitted in triplicate to the Docket Clerk, Office of Hearings and Proceedings, Federal Railroad Administration, Attention: Docket No. RST-1, 400 Seventh Street SW., Washington, DC 20590. Communications received before July 31, 1971, will be considered by the Federal Railroad Administrator before taking final action on the proposed standards. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5100, Nassif Building, 400 Seventh Street SW., Washington, DC. The proposals contained in this notice may be changed in light of comment received.

In developing proposed initial track safety standards, FRA considered information available within FRA and information as to "existing safety data and standards" made available to it by representatives of the Association of American Railroads, railroad industry, railroad labor organizations, and State regulatory agencies. Informal meetings were held with representatives of those groups to assist FRA in the refinement of the information. Technical publications provided by foreign governments also were considered in the preparation of the proposed initial track safety standards.

The proposed initial standards are, in part, based on the railroad industry's own recommended standards. The proposed initial standards, therefore, will be similar to those recommended industry standards in several respects.

For several reasons, however, it is necessary to substantially reorganize and

PROPOSED RULE MAKING

revise the language that will be incorporated into the Federal standards. One major consideration is that the industry standards, intended to serve only as recommendations, are not written as a regulatory document, which the standard proposed in this notice must be. Violation of these regulatory standards will be subject to a penalty of at least \$250 and up to \$2,500 per day for each violation. Therefore it is important that the regulatory requirements be written in terms that clearly indicate what the minimum requirements are.

FRA intends to state the Federal requirements in performance terms rather than detailed specifications, wherever it is possible to do so without lowering the level of safety. In some cases it may not be possible to substitute performance requirements without further research. Also it may be necessary to retain some specific requirements because there is not time to develop an enforceable performance-type substitute within the period specified by the Act.

Effective date of proposed regulations. The FRA recognizes that the railroad industry will need a reasonable period of time in which to comply with some of the proposed regulations. Therefore it is proposed in § 213.3(c) that the regulations become effective October 15, 1971, with respect to newly constructed track and rebuilt track, and effective October 15, 1972, with respect to existing track. Any person who identifies a requirement that needs a longer lead time to implement should indicate specifically the problems that would arise from an early requirement of compliance, and the time needed to solve those problems.

Cost/benefit determinations. In evaluating the proposed regulations, commentators should bear in mind that every safety regulation has a cost factor, either a direct purchase and operation cost or an indirect cost resulting from operating at less than maximum efficiency. Every safety regulation also has a benefit factor—the increase in safety to the public and railroad personnel and a benefit to the railroads in reducing its casualty losses and damage claims. Although the cost of complying with a regulation may be initially borne by the railroad, it is ultimately paid by the public. Thus, the cost/benefit determination to be made by the FRA with respect to a particular safety requirement is whether the safety benefit to the public and railroad personnel justifies the ultimate monetary cost of compliance to the public. For this reason, the regulations proposed in this notice should be evaluated as to costs and benefits. When comments on the specific proposed regulations are submitted, these factors should be discussed fully. The information resulting from these cost/benefit determinations will be most helpful to the FRA in making decisions with respect to particular proposed regulations.

The time within which the initial standards must be issued does not permit full coverage of all of the areas of track construction and maintenance that would perhaps be included in a compre-

hensive set of standards. The initial regulations, therefore, relate directly to operating speeds and concentrate on those areas that the FRA believes to be the principal sources of railroad related accidents.

The proposed Part 213 applies to standard-gage track of the general railroad system of transportation, but does not apply to either (1) industrial track located more than 10 feet inside the limits of a nonrailroad installation, or (2) track used exclusively for rapid transit, commuter, or other short-haul passenger service in metropolitan or suburban areas.

Rapid transit and commuter service track, although not included in the initial proposed track standards, may be included in future rulemaking proceedings.

The proposed initial track standards are divided into several subparts covering roadbed, track geometry, track structure, and track appliances. In addition there is a subpart which prescribes the method and frequency of track inspections, including an annual inspection of rail for internal defects. Track owners would have the duty of maintaining their track in accordance with the standards and performing the required inspections. In accordance with the Act, for each violation of the regulations a track owner would be subject to a civil penalty of not less than \$250 or more than \$2,500 for each offense, subject to compromise by the Federal Railroad Administrator. Persons who are involved in or concerned with the leasing of track are requested to comment on the owner/leasee relationships as it would be affected by the proposed regulations.

This notice is issued under the authority of the Federal Railroad Safety Act of 1970 (84 Stat. 971 et seq.; 45 U.S.C. 421 et seq.) and § 1.49(n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).

Issued in Washington, D.C., on June 16, 1971.

CARL V. LYON,
Acting Administrator,
Federal Railroad Administration.

PART 213—TRACK SAFETY STANDARDS

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Appendix A—Maximum allowable operating speeds for curved track.

AUTHORITY: The provisions of this Part 213 issued under sections 202 and 209, 84 Stat. 971, 975; 45 U.S.C. 431 and 438 and § 1.49(n) of the Regulations of the Office of the Secretary of Transportation; 49 CFR 1.49(n).

Subpart A—General

§ 213.1 Scope of part.

This part prescribes initial minimum safety requirements for railroad track that is part of the general railroad system of transportation. The requirements prescribed in this part apply to specific track conditions existing in isolation. Therefore, a combination of track conditions, none of which individually amounts to a deviation from the requirements in this part, may require remedial action to provide for safe operations over that track.

§ 213.3 Application.

(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to all standard-gage track in

the general railroad system of transportation.

(b) This part does not apply to track—
(1) Located more than 10 feet inside an installation which is not part of the general railroad system of transportation; or

(2) Used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area.

(c) Until October 16, 1972, this part does not apply to track, construction of which began before October 15, 1971. However, it does apply to track, construction of which began after October 14, 1971, or which is rebuilt after that date.

§ 213.5 Responsibility of track owners.

Any owner of track to which this part applies who knows or should know that the track does not comply with the requirements of this part, shall—

(a) Bring the track into compliance;
(b) Halt operations over that track;

or
(c) Reduce operating speed over that track as required by this part.

§ 213.7 Designation of qualified persons to supervise certain renewals and inspection track.

(a) Each track owner to which this part applies shall designate qualified persons to supervise restorations and renewals of track under traffic conditions. Each person designated must have—

(1) At least 1 year of supervisory experience in railroad track maintenance; and
(2) Demonstrated to the owner that he—

(i) Knows and understands the requirements of this part;
(ii) Can detect deviations from those requirements; and
(iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations.

(b) Each track owner to which this part applies shall designate qualified persons to inspect track for defects. Each person designated must have—

(1) At least 1 year of experience in railroad track inspection; and
(2) Demonstrated to the owner that he—

(i) Knows and understands the requirements of this part;
(ii) Can detect deviations from those requirements; and
(iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations.

(c) Each designation under paragraphs (a) and (b) of this section must be made in writing and kept available for inspection and copying by the Federal Railroad Administrator or his designee.

§ 213.9 Classes of track: operating speed limits.

(a) Except as provided in paragraph (b) of this section and §§ 213.57(b), 213.59(a), 213.105(d), 213.113(a), and 213.137 (b) and (c), the following maximum allowable operating speeds apply:

Over track that meets all of the requirements prescribed in this part for—	The maximum allowable operating speed is—
Class 1 track.....	10 m.p.h.
Class 2 track.....	25 m.p.h.
Class 3 track.....	40 m.p.h.
Class 4 track.....	60 m.p.h.
Class 5 track.....	80 m.p.h.
Class 6 track.....	110 m.p.h.

(b) If a segment of track does not meet all of the requirements for its intended class, it is reclassified to the highest class of track for which it does meet all of the requirements of this part. However, if it does not at least meet the requirements for class 1 track, no operations may be conducted over that segment except as provided in § 213.11.

§ 213.11 Restoration or renewal of track under traffic conditions.

If, during a period of restoration or renewal, track is under traffic conditions and does not meet all of the requirements prescribed in this part, the work and operations on the track must be under the continuous supervision of a person designated under § 213.7(a).

§ 213.13 Measuring track not under load.

When track that is not under load is measured to determine whether or not it complies with this part and there is evidence of rail movement under load, the amount of that movement must be added to the no-load measurements.

§ 213.15 Civil penalty.

(a) Any owner of track to which this part applies that violates any requirement prescribed in this part is liable to a civil penalty of at least \$250 but not more than \$2,500.

(b) For the purpose of this section, each day a violation persists shall be treated as a separate offense.

(c) The Administrator may compromise a civil penalty for any amount, but not less than \$250.

§ 213.17 Exemptions.

(a) Any owner of track to which this part applies may petition the Federal Railroad Administrator for a permanent or temporary waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by § 211.11 of this chapter.

(c) Each petition received is processed in the manner prescribed in Part 211 of this chapter.

(d) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver. Notice of each waiver granted is published in the FEDERAL REGISTER together with a statement of the reasons therefor.

Subpart B—Roadbed

§ 213.31 Scope.

This subpart prescribes minimum requirements for roadbed and areas immediately adjacent to roadbed.

§ 213.33 Drainage.

(a) Each culvert and bridge passing under track must be kept sufficiently free

E = Actual elevation of the outside rail (inches).
 d = Degree of curvature (degrees).

Appendix A to this part is a table of maximum allowable operating speed computed in accordance with this formula for various elevations and degrees of curvature.

§ 213.59 Elevation of curved track: runoff.

(a) If a curve is elevated, the full elevation must be provided throughout the curve, unless physical conditions do not permit. If elevation runoff occurs in a curve, the actual minimum elevation must be used in computing the maximum allowable operating speed for that curve under § 213.57(b).

(b) Elevation runoff must be at a uniform rate, within the limits of track surface deviation prescribed in § 213.63, and it must extend at least the full length of the spirals. If physical conditions do not permit a spiral long enough to accommodate the minimum length of runoff, part of the runoff may be on tangent track.

§ 213.61 Classes 3 through 6 curved track; data and markings.

(a) Each owner of track to which this part applies shall maintain a record of each curve in its classes 3 through 6 track. The record must contain the following information:

- (1) Location.
- (2) Degree of curvature.
- (3) Actual elevation.
- (4) Description of elevation runoff.
- (5) Maximum allowable operating speed.

(c) Any variation in gage must be uniform and may not be more than one-quarter inch in 31 feet.

§ 213.55 Minimum.

The actual position of track in the plane established by the two rails may not deviate from uniformity more than the amount prescribed in the following table:

Class of track	Tangent track The deviation of the mid-ordinate from 62-foot line may not be more than—	Curved track The deviation of the mid-ordinate from 62-foot line may not be more than—
1	4"	4"
2	2"	2"
3	1 1/2"	1 1/2"
4	1"	1"
5	3/4"	3/4"
6	3/8"	3/8"

The ends of the line must be at points on the gage side of the rail, five-eighths of an inch below the top of the railhead. Either rail may be used as the line rail, however, the same rail must be used for the full length of that tangential segment of track. Be at points on the gage side of the outer rail, five-eighths of an inch below the top of the railhead.

§ 213.57 Curves; deviation and speed limitations.

(a) Except as provided in § 213.63, the outside rail of a curve may not be lower than the inside rail or have more than 6 inches of elevation.

(b) The maximum allowable operating speed for each curve is determined by the following formula:

$$V_{max} = \sqrt{\frac{E \times 3}{0.0007d}}$$

where
 V_{max} = Maximum allowable operating speed (miles per hour).

(d) Interfere with railroad employees performing normal trackside duties;

(e) Prevent proper functioning of signal and communication lines; or

(f) Prevent railroad employees from visually inspecting moving equipment from their normal duty stations.

§ 213.39 Removal of objects and correction of hazardous conditions.

If an object, or hazardous condition within 10 feet of the center line of track impedes the safe passage of equipment or prevents railroad employees from safely performing their duties, the owner of the track shall remove the object or correct the hazardous condition or give appropriate warning notification.

Subpart C—Track Geometry

§ 213.51 Scope.

This subpart prescribes requirements for the gage, alignment, and surface of track, and the elevation of outer rails and speed limitations for curved track.

§ 213.53 Gage.

(a) Gage is measured between the heads of the rails at right angles to the rails in a plane five-eighths of an inch below the top of the rail head. Standard gage is 4 feet 8 1/2 inches.

(b) Gage must be within the limits prescribed in the following table:

Class of track	The gage of tangent track must be—		The gage of curved track must be—		The gage of frogs and track crossing must be—	
	At least—	But not more than—	At least—	But not more than—	At least—	But not more than—
1 and 2	4' 8"	4' 9 1/2"	4' 8"	4' 9 1/2"	4' 8 1/4"	4' 9 1/4"
3	4' 8"	4' 9 1/2"	4' 8"	4' 9 1/2"	4' 8 3/4"	4' 9 3/4"
4	4' 8"	4' 9 1/2"	4' 8"	4' 9 1/2"	4' 8 3/4"	4' 9 3/4"
5	4' 8"	4' 9 1/2"	4' 8"	4' 9 1/2"	4' 8 3/4"	4' 9 3/4"
6	4' 8"	4' 9 1/2"	4' 8"	4' 9 1/2"	4' 8 3/4"	4' 9 3/4"

of obstruction to accommodate expected water flow for the area concerned.

(b) Each drainage facility running alongside a roadbed must be maintained to accommodate the expected water flow for the area concerned.

(c) If, after drainage facilities are constructed, there is a significant change in the water flow adjacent to the roadbed, each existing drainage facility must be modified or additional drainage facilities must be installed, as the case may be, to accommodate the change.

§ 213.35 Embankments and excavations.

(a) In maintaining roadbed embankments and excavations, the stability and erosion characteristics of the material used in the slope must be taken into account.

(b) Each slope subject to excessive scour, whether by water flow or wave action, must be paved, rip-rapped, or similarly protected.

§ 213.37 Vegetation.

Vegetation on and adjacent to roadbed must be controlled to ensure that it does not—

(a) Become a fire hazard to track-carrying structures;

(b) Prevent proper functioning of drainage facilities;

(c) Obstruct visibility of railroad signs and signals;

(b) Each owner of track to which this part applies shall mark, by monument, metal tag, or other permanent means, the maximum and minimum points in the elevation transition on each curve in its classes 3 through 6 track.

§ 213.63 Track surface.

Each owner of track to which this part applies shall maintain the surface of its track within the limits prescribed in the following table:

Track surface	Class of track					
	1	2	3	4	5	6
The runoff in any 31 feet of rail at the end of a raise may not be more than—	2 1/2"	2"	1 3/4"	1 1/2"	1"	3/4"
The deviation from uniform profile on either rail at the midordinate of a 62-foot chord may not be more than—	2 1/2"	2"	1 3/4"	1 1/2"	1"	3/4"
Deviation from designated elevation on spirals may not be more than—	1 1/4"	1 1/2"	1"	3/4"	3/4"	3/4"
Variation in cross level on spirals in any 31 feet may not be more than—	1 1/4"	1 1/2"	1"	3/4"	3/4"	3/4"
Deviation from zero cross level at any point on tangent or from designated elevation on curves between spirals may not be more than—	2 1/4"	1 3/4"	1 1/2"	1 1/4"	1"	3/2"
The difference in cross level between any two points less than 62 feet apart on tangents and curves between spirals may not be more than—	2 1/4"	1 3/4"	1 1/2"	1 1/4"	1"	3/2"

To determine cross level, measure the difference in elevation of the top surfaces of the two rails at right angles to the alignment of the track. The measuring instrument must be accurate to one-sixteenth inch.

Subpart D—Track Structure

§ 213.101 Scope.

This subpart prescribes minimum requirements for ballast, cross ties, track assembly fittings, and the physical condition of rails.

§ 213.103 Ballast; general.

Unless it is otherwise structurally supported, all track must be supported by material which will—

(a) Transmit and distribute the load of the track and railroad rolling equipment to the subgrade;

(b) Restrain the track laterally, longitudinally, and vertically under dynamic loads imposed by railroad rolling equipment and thermal stress exerted by the rails;

(c) Provide adequate drainage for the track; and

(d) Maintain proper track cross-level, surface, and alignment.

§ 213.105 Ballast section; crushed rock or crushed slag.

(a) When conventional jointed rails and crushed rock or crushed slag are used, the ballast section must comply with the following table:

Class of track	The average width of the ballast shoulder beyond the ends of 8-foot cross ties, measured from the bottom of the ends of the ties, over any 8 consecutive cross ties must be at least—		The average percent of total crib volume occupied by ballast over any 8 consecutive cross ties must be at least—	
	Inches			
1 and 2	6	50		
3	7	60		
4	10	70		
5	15	80		
6	19	90		

If cross ties more than 8 feet long are used, the minimum average width of the ballast shoulder may be reduced by one-half of the length over 8 feet, but the width of the ballast section may not be less than the length of the tie.

(b) When continuous welded rail and crushed rock or crushed slag ballast are used, the ballast section must have a shoulder width of at least 10 inches extending horizontally from the ends of the cross ties from a point 6 inches above the bottom of the cross ties. Cries must be filled with ballast to at least 90 percent of their volume.

(c) Regardless of the type of rail used, when crushed rock or crushed slag ballast is used the depth of ballast under the cross ties must be at least 5 inches.

(d) If track is disturbed, a person designated under § 213.7(b) shall examine the track to determine whether or not the ballast is sufficiently compacted to perform the functions described in § 213.103. If the person making the examination considers it to be necessary in the interest of safety, operating speed over the disturbed segment of track must be reduced to a speed that he considers safe.

§ 213.107 Ballast section; other than crushed rock or crushed slag.

If a material other than crushed rock or crushed slag is used for ballast, the section must be increased as necessary to meet the functional requirements of § 213.103.

§ 213.109 Cross ties.

(a) Cross ties may be made of any material to which rails can be securely fastened. The material must be capable of holding the rails to gage within the limits prescribed in § 213.53(b) and distributing the load from the rails to the ballast section.

(b) If timber cross ties are used, the number and size of cross ties required are as follows:

Class of track	The size of cross ties must be at least—	And the average number of cross ties per 30-foot length of track in any five consecutive 30-foot lengths must be—
1	6" x 8" x 8'	16
2	6" x 6" x 8'	17
3	6" x 8" x 8'	18
4	6" x 6" x 8'	19
5	6" x 8" x 8'	20
6	6" x 8" x 8'	21
7	6" x 8" x 8'	22
8	6" x 8" x 8'	23
9	6" x 8" x 8'	24

(c) The space between adjacent cross ties may not vary more than the width of one cross tie.

(d) Except in an emergency or for a temporary installation of not more than 6 months' duration, cross ties may not be interlaced to take the place of switch ties.

§ 213.111 Defective ties.

(a) A timber cross tie is considered to be defective when it is—

(1) Broken through;

(2) Split to the extent it will not hold spikes or will allow the ballast to work through;

(3) So deteriorated that the tie plate or base of rail can move laterally more than one-half inch relative to the cross tie;

(4) Cut by the tie plate through more than 40 percent of its thickness; or

(5) Not spiked as required by § 213.127.

(b) Track that meets the requirements of § 213.109(b) for a particular class is considered to continue to meet those requirements as long as the number of defective timber cross ties in any 39 feet of track does not exceed the limits prescribed in the following table:

Class of track	Type of track	Of the number of cross ties required in any 30-foot length of track by § 213.109(b), the number of defective cross ties may not be more than any of the following:		
		Total	Adjacent	Under a joint
1	Tangent	13	3	1
2, 3	Curved	13		
4, 5, 6	Tangent	10	2	1
	Curved	10		
	Tangent	8	0	0
	Curved	6		

§ 213.113 Defective rails.

(a) If an owner of track to which this part applies learns, through inspection or otherwise, that a rail in that track contains any of the defects listed in the following table, a person designated under § 213.7(b) shall determine whether or not the track may continue in use. If he determines that the track

may continue in use, operating speed over the defective rail may not be more than that prescribed in the table until the defective rail is replaced:

Defect	Operating speed over that rail may not be more than—
Transverse fissure ¹	10 m.p.h.
Compound fissure ¹	
Horizontal split head ¹	
Vertical split head ¹	
Split web ¹	
Piped rail ¹	10 m.p.h., unless fully bolted angle bars are applied to the defective rail, in which case operating speed may not be more than 50 m.p.h. or the maximum allowable operating speed otherwise prescribed in § 213.9 for the class of track concerned, whichever is lower.
Bolt hole crack.....	
Head web separation.....	
Broken base ¹	
Detail fracture ¹	10 m.p.h., unless fully bolted angle bars are applied to the defective rail, in which case operating speed may not be more than 50 m.p.h. or the maximum allowable operating speed otherwise prescribed in § 213.9 for the class of track concerned, whichever is lower.
Engine burn fracture ¹	
Ordinary break ¹	
Broken or defective weld.....	
Damaged rail ¹	

(b) If a rail evidences any of the conditions listed in the following table, the remedial action prescribed in the table must be taken:

	Remedial action	
Condition	If a person designated under § 213.7 determines that condition requires rail to be replaced	If a person designated under § 213.7(b) determines that condition does not require rail to be replaced
Shelly spots 1.....	Schedule the rail for replacement.	Inspect the rail for internal defects at intervals of not more than every 6 months.
Head checks 1.....		
Engine burn (but not fracture) 1.....		
Mill defect 1.....		
Flaking 1.....	do.	Inspect the rail as prescribed in § 213.231(c).
Slivered 1.....		
Corroded 1.....		
Corroded 1.....		

¹As defined in the American Railway Engineering Association Manual for Railway Engineering, Volume 1, Chapter 4, Part 3, page 7, document date 1962.

§ 213.115 Rail end mismatch.

Any mismatch of rails at joints may not be more than that prescribed by the following table:

Class of track	On the tread of the rail ends	On the gage side of the rail ends
1.....	1/4"	1/4"
2.....	3/16"	3/16"
3.....	1/2"	1/2"
4, 5.....	3/8"	3/8"
6.....	1/2"	1/2"

¹As defined in the American Railway Engineering Association Manual for Railway Engineering, Volume 1, Chapter 4, Part 3, page 7, document date 1962.

§ 213.117 Rail end batter.

(a) Rail end batter is the depth of depression at one-half inch from the rail end. It is measured by placing an 18-inch straight edge on the tread on the rail end, without bridging the joint, and measuring the distance between the bottom of the straight edge and the top of the rail at one-half inch from the rail end.

(b) Rail end batter may not be more than that prescribed by the following table:

Class of track	Rail end batter may not be more than— (inch)
1.....	3/8"
2.....	1/2"
3.....	3/4"
4.....	7/8"
5.....	1"
6.....	1 1/8"

§ 213.119 Continuous welded rail.

(a) When continuous welded rail is being installed, it must be installed at, or adjusted for, a rail temperature that will not result in compressive or tensile forces that may produce lateral displacement of the track or pulling apart of rail ends or welds.

(b) After continuous welded rail has been installed it should not be disturbed at rail temperatures higher than its installation or adjusted installation temperature.

§ 213.121 Rail joints.

(a) Each rail joint, insulated joint, and compromise joint must be of the proper design and dimensions for the rail on which it is applied.

(b) If a joint bar on any class of track, other than class 1, is cracked, broken, or because of wear allows vertical movement of either rail when all bolts are tight, it must be replaced.

(c) If a joint bar is cracked or broken between the middle two bolt holes it must be replaced.

(d) In the case of conventional jointed track, each rail must be bolted with at least two bolts at each joint.

(e) In the case of continuous welded rail track, each rail must be bolted with at least three bolts at each joint, unless it has been drilled for only two bolts in

which case it must be bolted with two bolts at each joint.

(f) Each joint bar must be held in position by track bolts tightened to a tension of not more than 30,000 pounds or less than 5,000 pounds per bolt, to allow the joint bar to firmly support the abutting rail ends and to allow longitudinal movement of the rail in the joint to accommodate expansion and contraction due to temperature variations. When out-of-face, no-slip, joint-to-rail contact exists by design, the requirements of this paragraph do not apply. Those locations are considered to be continuous welded rail track and must meet all the requirements for continuous welded rail track prescribed in this part.

(g) No rail or angle bar having a torch-cut or burned bolt hole may be used in track.

§ 213.123 Tie plates.

(a) Tie plates of the proper design must be used under the running rails on all timber bridge ties and switch ties.

(b) In classes 1 and 2 track, there must be tie plates under the running rails on at least eight of any 10 consecutive ties on curves in which the degree of curvature is more than 2°. In classes 3 through 6 track there must be tie plates under the running rails on at least eight of any 10 consecutive ties.

(c) Tie plates having shoulders must be placed so that no part of the shoulder is under the base of the rail.

§ 213.125 Rail anchoring.

Longitudinal rail movement caused by temperature changes must be effectively controlled. If rail anchors which bear on the sides of ties are used for this purpose, they must be on the same side of the tie on both rails.

§ 213.127 Track spikes.

(a) When conventional track is used with timber ties and cut track spikes, the rails must be spiked to the ties with at least one line-holding spike on the gage side and one line-holding spike on the field side. The total number of track spikes per rail per tie, including plate-holding spikes, must be at least the number prescribed in the following table:

Class of track	Minimum number of track spikes per rail per tie, including plate-holding spikes			
	Tangent track and curved track with not more than 2° of curvature	Curved track with more than 2° but not more than 4° of curvature	Curved track with more than 4° but not more than 6° of curvature	Curved track with more than 6° of curvature
1.....	2	2	2	2
2.....	2	2	3	3
3.....	2	3	3	4
4, 5.....	2	3	4	4
6.....	3			

(b) A tie that does not meet the requirements of paragraph (a) of this section is considered to be defective for the purposes of § 213.111.

§ 213.129 Track shims.

(a) If track does not meet the geometric standards in Subpart C of this part and working of ballast is not possible due to weather or other natural conditions, prebored track shims may be installed to correct the deficiencies. If shims are used, they must be removed and track resurfaced as soon as weather and other natural conditions permit.

(b) When shims are used they must be—

(1) At least the size of the tie plate;

(2) Inserted directly on top of the tie, beneath the rail and tie plate;

(3) Spiked directly to the tie with spikes which penetrate the tie at least 4 inches.

(c) When a rail is shimmed more than 1 inch, it must be securely braced on at least every third tie for the full length of the shimming.

(d) When a rail is shimmed more than 2 inches a combination of shims and 2-inch or 4-inch planks, as the case may be, must be used with the shims on top of the planks.

§ 213.131 Planks used in shimming.

(a) Planks used in shimming must be at least as wide as the tie plates, but in no case less than 5 1/2 inches wide. Whenever possible they must extend the full length of the tie. If a plank is shorter than the tie, it must be at least 3 feet long and its outer end must be flush with the end of the tie.

(b) When planks are used in shimming on uneven ties, or if the two rails being shimmed have unevenly, additional shims may be placed between the ties and planks under the rails to compensate for the unevenness.

(c) Planks must be nailed to the ties with at least four 8-inch wire spikes. Before spiking the rails or shim braces, planks must be bored with 5/8-inch holes.

§ 213.133 Turnouts and track crossings generally.

(a) Each bolt, nut, pin, and other fastening in turnouts and track crossings must be in place, tight, and in sound condition, and each switch, frog, and guard rail must be kept free of obstructions that may interfere with the passage of wheels.

(b) Classes 3 through 6 track must be equipped with rail anchors through and on each side of track crossings and turnouts, to restrain rail movement affecting the position of switch points and frogs.

(c) Each flangeway at turnouts and track crossings must be at least 1 1/2 inches wide.

§ 213.135 Switches.

(a) Each stock rail must be securely seated in switch plates, but care must be used to avoid canting the rail or over-tightening the rail braces.

(b) Each switch point must fit its stock rails properly, with the switch stand in either of its closed positions to allow wheels to pass the switch point. Lateral and vertical movement of a stock rail in the switch plates or of a switch plate on a tie must not adversely affect the fit of the switch point to the stock rail.

(c) Each switch must be maintained so that the outer edge of the wheel tread cannot contact the gage side of the stock rail.

(d) The heel of each switch rail must be secured by fastenings designed for that purpose and the bolts in each heel must be kept tight.

(e) Each switch stand and connecting rod must be securely fastened and operable without excessive lost motion.

Subpart E—Track Appliances and Track Related Devices

§ 213.201 Scope.

This subpart prescribes minimum requirements for track appliances and track related devices, including derails, switch point protectors, bumping posts, wheel stops, equipment defect detectors, track obstruction detectors, and expansion joints.

§ 213.203 Operation of track appliances and track related devices generally.

(a) Each track appliance and track related device must operate properly and perform its intended function.

(b) An owner of track to which this part applies who learns, through inspection or otherwise, that a derail, switch point protector, bumping post, equipment defect detector, or track obstruction detector is inoperable or does not operate properly, shall repair or replace it as soon as necessary to avoid any actual operating hazard. If the owner considers it necessary in the interest of safety, he shall reduce operating speed or stop operations over the track served by that appliance until the repair or replacement is completed.

(c) If the tread portion of a frog casting is worn down more than three-eighths inch below the original contour, operating speed over that frog may not be more than 10 miles per hour.

§ 213.139 Spring rail frogs.

(a) The outer edge of a wheel tread may not contact the gage side of a spring wing rail.

(b) The toe of each wing rail must be solidly tamped and fully and tightly bolted. Each worn thimble or shoulder bolt must be replaced.

(c) Each frog with a bolt hole defect or head-web separation must be replaced.

(d) Each spring must have a tension sufficient to hold the wing rail against the point rail.

(e) The clearance between the hold-down housing and the horn may not be more than one-quarter inch.

§ 213.141 Self-guarded frogs.

(a) The raised guard on a self-guarded frog may not be worn more than three-eighths inch.

(b) Frog points may not be worn more than three-eighths inch below either tread surface.

(c) If repairs are made to a self-guarded frog without removing it from service, the guarding face must be restored before rebuilding the point.

§ 213.143 Frog guard rails and guard faces: gage.

The guard check and guard face gages in frogs must be within the limits prescribed in the following table:

Class of track	Guard check gage	Guard face gage
	The distance between the gage line of a frog to the guard rail or guarding face, measured across the track at right angles to the gage line; may not be less than—	The distance between guard lines, measured across the track at right angles to the gage line; may not be more than—
1.....	4' 6 1/2"	4' 5 1/2"
2.....	4' 6 3/4"	4' 5 3/4"
3, 4, 5, 6.....	4' 6 1/2"	4' 5"

¹ A line along that side of the flangeway which is nearest to the center of the track and at the same elevation as the gage line.

² A line five-eighths inch below the top of the center line of the head of the running rail, or corresponding location of the tread portion of the track structure.

Subpart F—Inspection

§ 213.231 Scope.

This subpart prescribes requirements for the frequency and manner of inspecting track to detect deviations from the standards prescribed in this part.

§ 213.233 Track inspections.

(a) All track must be inspected in accordance with the schedule prescribed in paragraph (c) of this section by a person designated under § 213.7(b).

(b) Each inspection must be made on foot or by riding over the track in motor vehicle or track vehicle at a speed that allows the person making the inspection to visually inspect the track structure for compliance with this part. If a vehicle is used, the speed of the vehicle may not be more than 5 miles per hour when passing over track crossings, highway crossings, or switches.

(c) Each track inspection must be made in accordance with the following schedule:

PROPOSED RULE MAKING

Class of track	Type of track	Required frequency
1, 2, 3	Main track and sidings.	Weekly, or before use, if the track is used less than once a week, or twice weekly, if the track carries passenger trains or more than 10 million gross tons of traffic during the preceding calendar year.
1, 2, 3	Other than main track and sidings.	Monthly.
4, 5, 6		Twice weekly.
6		Three times weekly.

(d) If the person making the inspection finds a deviation from the requirements of this part, he shall immediately initiate remedial action.

§ 213.235 Switch and track crossing inspections.

(a) Except as provided in paragraph (b) of this section, each switch and track crossing must be inspected on foot at least monthly.

(b) In the case of track that is used less than once a month, each switch and track crossing must be inspected on foot before it is used.

§ 213.237 Inspection of rail.

(a) In addition to the track inspections required by § 213.233, at least once a year a continuous search for internal defects must be made of all jointed and welded rails in classes 3 through 6 track, and class 2 track over which passenger trains operate.

(b) Inspection equipment must be capable of detecting defects between joint bars, in the area enclosed by joint bars, and in welds.

(c) Each defective rail must be marked with a highly visible marking on both sides of the web and base.

§ 213.239 Special inspections.

In the event of fire, flood, severe storm, or other occurrence which might have damaged track structure, a special inspection must be made of the track involved as soon as possible after the occurrence.

§ 213.241 Inspection records.

(a) Each owner of track to which this part applies shall keep a record of each track inspection and each rail inspection required to be performed on that track under this subpart.

(b) Track inspection records must be prepared on a daily basis and signed by the person making the inspection. They must specify the track inspected, date of

inspection, location and nature of any deviation from the requirements of this part, and the remedial action taken. The owner shall retain a track inspection record at its division headquarters for at least 1 year after the inspection covered by that record.

(c) Rail inspection records must specify the location and nature of any internal rail defects found and the remedial action taken. The owner shall retain a rail inspection record for at least 2 years after the inspection.

(d) Each owner required to keep inspection records under this section shall make those records available for inspection and copying by the Federal Railroad Administrator or his designee during regular business hours.

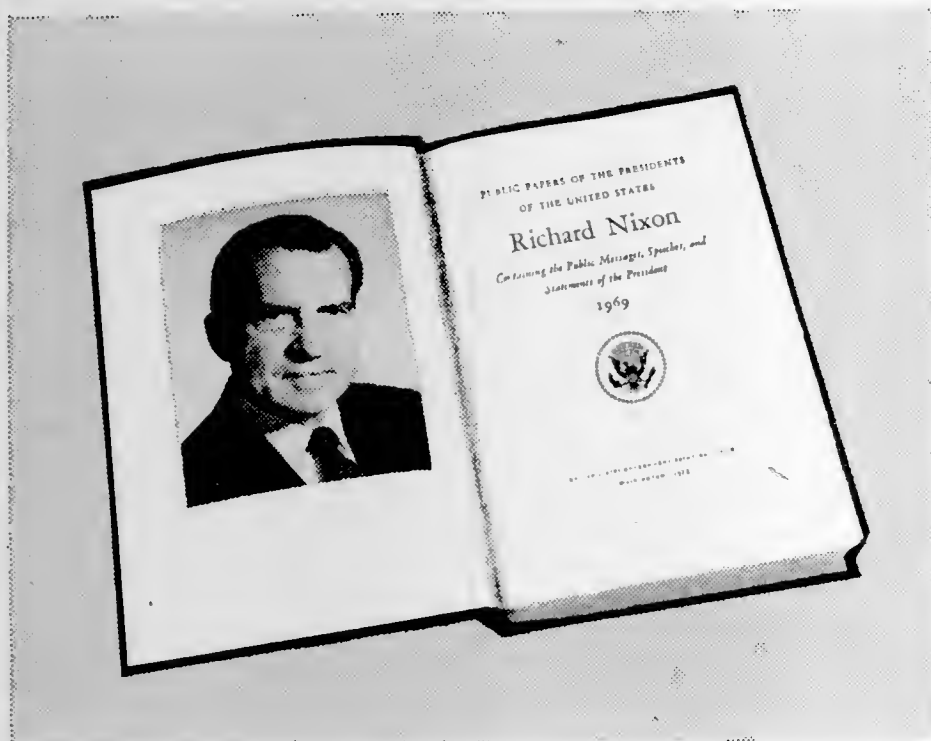
APPENDIX A MAXIMUM ALLOWABLE OPERATING SPEEDS FOR CURVED TRACK

[Elevation of outer rail (inches)]

Degree of curvature	0	1/2	1	1 1/2	2	2 1/2	3	3 1/2	4	4 1/2	5	5 1/2	6
	Maximum allowable operating speed (m.p.h.)												
0°30'	93	100	107	113	119	125	131	136	141	146	151	156	161
0°40'	80	87	93	98	103	109	114	119	124	129	134	139	144
0°50'	72	78	83	88	93	97	101	106	110	114	119	123	127
1°00'	66	71	76	80	85	89	93	96	100	104	107	110	113
1°15'	59	63	68	72	76	79	83	86	89	93	96	99	101
1°30'	54	58	62	66	69	72	76	79	82	85	87	90	93
1°45'	50	54	57	61	64	67	70	73	76	78	81	83	86
2°00'	46	50	54	57	60	63	66	68	71	73	76	78	80
2°15'	44	47	50	54	56	59	62	64	67	69	71	74	76
2°30'	41	45	48	51	54	56	59	61	63	66	68	70	72
2°45'	40	43	46	48	51	54	56	58	60	62	64	66	68
3°00'	38	41	44	46	49	51	54	56	58	60	62	64	66
3°15'	36	39	42	45	47	49	51	54	56	57	59	61	63
3°30'	35	38	40	43	45	47	50	52	54	55	57	59	61
3°45'	34	37	39	41	44	46	48	50	52	54	55	57	59
4°00'	33	35	38	40	42	44	46	48	50	52	54	55	57
4°30'	31	33	36	38	40	42	44	45	47	49	50	52	54
5°00'	29	32	34	36	38	40	41	43	45	46	48	49	51
5°30'	28	30	32	34	36	38	40	41	43	44	46	47	48
6°00'	27	29	31	33	35	36	38	39	41	42	44	45	46
6°30'	26	28	30	31	33	35	36	38	39	41	42	43	45
7°00'	25	27	29	30	32	34	35	36	38	39	40	42	43
8°00'	23	25	27	28	30	31	33	34	35	37	38	39	40
9°00'	22	24	25	27	28	30	31	32	33	35	36	37	38
10°00'	21	22	24	25	27	29	31	32	33	34	35	36	37
11°00'	20	21	23	24	26	27	29	30	31	32	33	34	35
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[FR Doc.71-8711 Filed 6-22-71; 8:45 am]

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PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Hydraulic Brake Fluids

The purpose of this notice is to amend Motor Vehicle Safety Standard No. 116, *Motor Vehicle Hydraulic Brake Fluids*, to substitute standard styrene-butadiene rubber (SBR) brake cups for natural rubber cups in certain test procedures. The amendment also sets forth a formulation for the SBR compound.

The proposal that SBR cups be used in lieu of natural rubber cups in certain test procedures was published on September 30, 1970 (Docket No. 70-23, 35 F.R. 15229), as part of the overall proposal to amend Standard No. 116. The amended Standard No. 116 published today (36 F.R. 11987), effective March 1, 1972, adopts the proposal concerning SBR cups. The current Standard No. 116 specifies the use of "rubber" cups, however, and this notice amends that standard to specify SBR cups, effective 30 days after publication of this notice.

SAE Standard J70b, *Hydraulic Brake Fluid*, partially incorporated by reference in current Standard No. 116, limits "rubber cups" to those of "natural rubber." Natural rubber cups have not been manufactured for some time and are commercially unavailable. Motor vehicles today are manufactured with rubber cups and seals made from SBR, and both the industry and the NHTSA have been conducting Standard No. 116 compliance testing using SBR cups. In order to reflect an existing condition and permit use of SBR cups prior to March 1, 1972, Standard No. 116 is being amended to specify use of SBR cups and to establish a compound formulation. References in SAE Standard J70b to "rubber" cups are thus to be read as "SBR" cups.

In consideration of the foregoing, 49 CFR 571.21, Motor Vehicle Safety Standard No. 116, *Motor Vehicle Hydraulic Brake Fluids*, is hereby amended as follows:

1. The word "rubber" appearing in paragraphs S4.1(f) (3), S4.1(l), S4.1(m) (3), S4.1(m) (4), S4.1(m) (9), S4.2(f) (3), S4.2(l) (1), S4.2(l) (2), S4.2(m) (3), S4.2(m) (4), and S4.2(m) (9) is deleted and the expression "SBR" substituted in lieu thereof.

2. The following new paragraph S4.3 is added:

S4.3 *Standard styrene-butadiene rubber (SBR) brake cups.* SBR brake cups for testing motor vehicle brake fluids shall be manufactured using the following formulation:

FORMULATION OF RUBBER COMPOUND

Ingredient	Parts by weight
SBR type 1503 ^a	100
Oil furnace black (NBS 378)	40
Zinc oxide (NBS 370)	5
Sulfur (NBS 371)	0.25
Stearic Acid (NBS 372)	1
n-tertiary butyl-2-benzothiazole sulfenamide (NBS 384)	1
Symmetrical dibetanaphthyl - p - phenylenediamine	1.5
Dicumyl peroxide (40 percent on precipitated CaCO ₃) ^b	4.5
Total	153.25

NOTE: The ingredients labeled (NBS) must have properties identical with those supplied by the National Bureau of Standards.

^a Philprene 1503 has been found suitable.
^b Use only within 90 days of manufacture and store at temperature below 27° C. (80° F.).

Compounding, vulcanization, physical properties, size of the finished cups, and other details shall be as specified in appendix B of SAE J1703a. The cups shall be used in testing brake fluids either within 6 months from date of manufacture when stored at room temperature below 30° C. (86° F.) or within 36 months from date of manufacture when stored at temperatures below minus 15° C. (+5° F.). After removal of cups from refrigeration they shall be conditioned base down on a flat surface for at least 12 hours at room temperature in order to allow cups to reach their true configuration before measurement.

Because these amendments reflect an existing practice and their immediate implementation will ensure comparative results in compliance testing by industry and the NHTSA, it is found, for good cause shown, that an effective date sooner than 180 days after issuance of this order is in the public interest.

Effective date: 30 days after publication of this notice in the FEDERAL REGISTER.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; delegation of authority from Secretary of Transportation to National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on June 16, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

[FR Doc.71-8732 Filed 6-23-71; 8:45 am]

[Docket No. 70-23; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Brake Fluids

This notice amends § 571.21 of Title 49, Code of Federal Regulations, Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids*, to establish new

performance requirements for brake fluid, and to extend its application to all motor vehicles equipped with hydraulic brake systems, and to all brake fluid for use in hydraulic brake systems of motor vehicles. The amendment also establishes requirements for brake fluid containers and labeling of containers.

A notice of proposed amendment to Federal Motor Vehicle Safety Standard No. 116 was published on September 30, 1970 (35 F.R. 15229). Interested persons have been afforded an opportunity to participate in the rulemaking process and their comments have been carefully considered.

The amendment adopts requirements that were proposed for grades DOT 3 and DOT 4 brake fluid, eliminates SAE Type 70R1 brake fluid, specifies more stringent requirements for physical and chemical properties, specifies the use of SAE SBR wheel cylinder cups in testing, and sets forth requirements for brake fluid containers and brake fluid container labeling.

Comments and available data indicated that the proposed DOT 2 type brake fluid is not a commercially available fluid but is manufactured primarily for military use in Arctic regions and that there is no current need for this additional grade of brake fluid. DOT 2 brake fluid has therefore been excluded from the amendment.

Requirements for DOT 3 and DOT 4 grade fluids are adopted as proposed, with a minor modification in the wet boiling point of the DOT 4 grade fluid. The NHTSA has determined that there is a need for two grades of brake fluid until an all-weather fluid is developed with viscosity and boiling point characteristics suitable for use in all braking systems. In order to provide an added margin of protection against vapor locking in severe braking service, some car manufacturers may wish to recommend use of a DOT 4 fluid for certain severe conditions. Such recommendations should point out that use of the DOT 4 fluid for improved resistance to vapor locking may result in poorer system performance in very cold weather.

The wet equilibrium reflux boiling point test procedure has been adopted as it represents a measure of the capability of the fluid in service. Tests have been run and data accumulated which demonstrate that this test is sufficiently repeatable to justify its inclusion. However, when sufficient data become available on methods of measuring resistance to vapor lock, this agency may consider proposing a new test procedure.

The proposed low temperature viscosity requirements for the DOT 3 and DOT 4 grade fluids have been adopted unchanged. Adequate data exist to support the need for the specified kinematic viscosities at low temperatures to assure

adequate brake system performance in cold weather. Since high boiling points are sacrificed for low viscosities at low temperatures, the differences in kinematic viscosities between DOT 3 and DOT 4 grade fluids are justifiable.

The flash point test proposal has not been adopted because comments indicated that the test is not pertinent to in-use performance characteristics. The NHTSA, however, may reexamine the potential flammability hazard posed by motor vehicle brake fluids at a later date, particularly in the event that central hydraulic systems are introduced.

Brake fluid containers with a capacity of 6 ounces or more must be provided with a resealable closure to reduce the likelihood of contamination after the initial opening.

The labeling requirements as adopted do not require, in all instances, that the manufacturer's name be placed upon the container. Many comments indicated that the manufacturer cannot be held responsible for the quality of a fluid once it has been transferred to a packager who may contaminate or alter the fluid, and the NHTSA concurs. However, the manufacturer, when he is not the packager, will be required to certify compliance to the packager. The packager will be required to state the name of the manufacturer and the distributor on the container label, either directly or in code. He will be required also to affix a number of identifying the packaged lot and date of packaging. It is expected that packagers will keep records sufficient to provide the NHTSA with all identifying information when such is requested. The safety warnings have been reworded to avoid misinterpretations.

Several comments indicated that the proposed effective date of October 1, 1971, would place a hardship on packagers who deal solely in the aftermarket, alleging that lithographed cans must be purchased in quantity. Accordingly, an effective date of March 1, 1972, has been adopted to offer sufficient lead time to insure that all motor vehicle brake fluids manufactured on and after that date will be packaged in containers which meet requirements also effective March 1, 1972.

Petroleum-based fluids are no longer exempted from meeting the requirement of this standard. However, the NHTSA realizes that some manufacturers wish to use these fluids in central power systems and is issuing today an advance notice of proposed rulemaking requesting comments for a suitable performance standard for petroleum-based fluids (Docket No. 71-13; 36 F.R. 12032).

Test procedures adopted are, in general, similar to current ASTM Methods, with SAE Standards J1702b and J1703b as reference sources. ASTM Methods consulted in developing the test procedures include: E 298-68 "Assay of Organic Peroxides," D 1126-65 "Boiling Point of Engine Antifreezes," D 1121-67 "Reserve Alkalinity of Engine Antifreezes and Antirusts," D 2240-68 "Indentation Hardness of Rubber and Plastics by Means of

a Durometer," D 344-39 "Relative Dry Hiding Power of Paints," D 97-66 "Pour Point," D 1415-68 "International Hardness of Vulcanized Natural and Synthetic Rubbers," E 1-68 "ASM Thermometers," E 77-66 "Verification and Calibration of Liquid-In-Glass Thermometers," D 2515-66 "Kinematic Glass Viscometers," E 70-68 "pH of Aqueous Solutions with the Glass Electrode," E 29-67 "Indicating Which Places of Figures are to be Considered Significant in Specified Limiting Values," D 1123-59 "Water in Concentrated Engine Antifreezes by the Iodine Reagent Method," D 445-65 "Viscosity of Transparent and Opaque Liquids (Kinematic and Dynamic Viscosities)," D 91-61 "Precipitation Number of Lubricating Oils," and E 98-66 "Water Vapor Transmission of Materials in Sheet Form." SAE Referee Materials (SAE RM) used in testing may be obtained from the Society of Automotive Engineers, Inc., Two Pennsylvania Plaza, New York, N.Y. 10001.

Effective date: March 1, 1972.

In consideration of the foregoing, 49 CFR 571.21, Federal Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids*, is amended to read as set forth below.

(Secs. 103, 112, 114, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority from Secretary of Transportation to National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on June 16, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

§ 571.21 Federal Motor Vehicle Safety Standards.

FEDERAL MOTOR VEHICLE SAFETY STANDARD No. 116

MOTOR VEHICLE BRAKE FLUIDS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, AND MOTORCYCLES, AND BRAKE FLUID AND BRAKE FLUID CONTAINERS

S1. *Scope*. This standard specifies requirements for brake fluids for use in hydraulic brake systems of motor vehicles, brake fluid containers, and brake fluid container labeling.

S2. *Purpose*. The purpose of this standard is to reduce failures in the hydraulic braking systems of motor vehicles which may occur because of the manufacture or use of improper or contaminated brake fluid.

S3. *Application*. This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles with hydraulic service brake systems, and to all brake fluid for use in hydraulic brake systems of motor vehicles.

S4. Definitions.

"Blister" means a cavity or sac on the surface of a brake cup.

"Chipping" means a condition in which small pieces are missing from the outer surface of a brake cup.

"Duplicate samples" means two samples of brake fluid taken from a single packaged lot and tested simultaneously.

"Packager" means any person who fills containers with brake fluid that are subsequently distributed for retail sale.

"Packaged lot" is that quantity of brake fluid shipped by the manufacturer to the packager in a single container, or that quantity of brake fluid manufactured by a single plant run of 24 hours or less, through the same processing equipment and with no change in ingredients.

"Scuffing" means a visible erosion of a portion of the outer surface of a brake cup.

"Sloughing" means degradation of a brake cup as evidenced by the presence of carbon black loosely held on the brake cup surface, such that a visible black streak is produced when the cup, with a 500±10 gram deadweight on it, is drawn base down over a sheet of white bond paper placed on a firm flat surface.

"Stickiness" means a condition on the surface of a brake cup such that fibers will be pulled from a wad of U.S.P. absorbent cotton when it is drawn across the surface.

S5. *Requirements*. This section specifies requirements for DOT brake fluids (grades DOT 3 and DOT 4), brake fluid containers, and brake fluid container labeling. Where a range of tolerances is specified, the brake fluid must be capable of meeting the requirements at all points within the range.

S5.1 *Motor vehicle brake fluids*. When tested in accordance with S6, motor vehicle brake fluids shall meet the following requirements.

S5.1.1 *Equilibrium reflux boiling point (ERBP)*. When brake fluid is tested according to S6.1, the ERBP shall not be less than the following value for the grade indicated:

- (a) DOT 3: 205° C. (401° F.).
- (b) DOT 4: 230° C. (446° F.).

S5.1.2 *Wet ERBP*. When brake fluid is tested according to S6.2, the wet ERBP shall not be less than the following value for the grade indicated:

- (a) DOT 3: 140° C. (284° F.).
- (b) DOT 4: 155° C. (311° F.).

S5.1.3 *Kinematic viscosities*. When brake fluid is tested according to S6.3, the kinematic viscosities in centistokes (cSt.) at stated temperatures shall be neither less than 1.5 cSt. at 100° C. (212° F.) nor more than the following maximum value for the grade indicated:

- (a) DOT 3: 1,500 cSt. at minus 40° C. (minus 40° F.).
- (b) DOT 4: 1,800 cSt. at minus 40° C. (minus 40° F.).

S5.1.4 *pH value*. When brake fluid is tested according to S6.4, the pH value shall not be less than 7 nor more than 11.5.

S5.1.5 Brake fluid stability.

S5.1.5.1 High-temperature stability.

When brake fluid is tested according to S6.5.3 the ERBP shall not change by more than 3° C. (5.4° F.) plus 0.05° for

each degree that the ERBP of the fluid exceeds 225° C. (437° F.).

S5.1.5.2 *Chemical stability*. When brake fluid is tested according to S6.5.4, the change in temperature of the refluxing fluid mixture shall not exceed 3° C. (5.4° F.) plus 0.05° for each degree that the ERBP of the fluid exceeds 225° C. (437° F.).

S5.1.6 *Corrosion*. When brake fluid is tested according to S6.6—

(a) The metal test strips shall not show weight changes exceeding the limits stated in Table I.

TABLE I

Test strip material:	Max. permissible weight change, mg./sq. cm. of surface
Steel, tinned iron, cast iron	0.2
Aluminum	0.1
Brass, copper	0.4

(b) Excluding the area of contact (13±1 mm. (½±½ inch) measured from the bolt hole end of the test strip), the metal test strips shall not show pitting or etching to an extent discernible without magnification;

(c) The brake fluid-water mixture at the end of the test shall show no jelling at 23±5° C. (73.4±9° F.);

(d) No crystalline deposit shall form and adhere to either the glass jar walls or the surface of the metal strips;

(e) At the end of the tests, sedimentation of the fluid-water mixture shall not exceed 0.10 percent by volume;

(f) The pH value of the fluid-water mixture at the end of the test shall not be less than 7 nor more than 11.5;

(g) The cups at the end of the test shall show no disintegration, as evidenced by blisters or sloughing;

(h) The hardness of the cup shall not decrease by more than 15 International Rubber Hardness Degrees (IRHD); and

(i) The base diameter of the cups shall not increase by more than 1.4 mm. (0.005 inch).

S5.1.7 *Fluidity and appearance at low temperature*. When brake fluid is tested according to S6.7, at the storage temperature and for the storage times given in Table II—

(a) The black contrast lines on the hiding power chart shall be clearly discernible when viewed through every part of the fluid in the sample bottle;

(b) The fluid shall show no stratification or sedimentation; and

(c) Upon inversion of the sample bottle, the time required for the air bubble to travel to the top of the fluid shall not exceed the bubble flow times shown in Table II.

TABLE II—FLUIDITY AND APPEARANCE AT LOW TEMPERATURES

Storage temperature	Storage time (hours)	Maximum bubble flow time (seconds)
Minus 40±2° C. (minus 40±3.6° F.)	144±4.0	10
minus 50±2° C. (minus 58±3.6° F.)	6±0.2	30

S5.1.8 *Evaporation*. When brake fluid is tested according to S6.8—

(a) The loss by evaporation shall not exceed 80 percent by weight;

(b) The residue from the brake fluid after evaporation shall contain no precipitate that remains gritty or abrasive when rubbed with the fingertip; and

(c) The residue shall have a pour point below minus 5° C. (+23° F.).

S5.1.9 *Water tolerance*.

(a) At low temperature. When brake fluid is tested according to S6.9(a)—

(1) The black contrast lines on a hiding power test chart shall be clearly discernible when viewed through every part of the fluid in the centrifuge tube;

(2) The fluid shall show no stratification or sedimentation; and

(3) Upon inversion of the centrifuge tube, the air bubble shall travel to the top of the fluid in not more than 10 seconds; and

(b) At 60° C. (140° F.). When brake fluid is tested according to S6.9(b)—

(1) The fluid shall show no stratification; and

(2) Sedimentation shall not exceed 0.15 percent by volume after centrifuging.

S5.1.10 *Compatibility*.

(a) At low temperature. When brake fluid is tested according to S6.10(a)—

(1) The black contrast lines on a hiding power test chart shall be clearly discernible when viewed through every part of the fluid in the centrifuge tube; and

(2) The fluid shall show no stratification or sedimentation.

(b) At 60° C. (140° F.). When brake fluid is tested according to S6.10(b)—

(1) The fluid shall show no stratification; and

(2) Sedimentation shall not exceed 0.05 percent by the volume after centrifuging.

S5.1.11 *Resistance to oxidation*. When brake fluid is tested according to S6.11—

(a) The metal test strips outside the areas in contact with the tin foil shall not show pitting or etching to an extent discernible without magnification;

(b) No more than a trace of gum shall be deposited on the test strips outside the areas in contact with the tin foil;

(c) The aluminum strips shall not change in weight by more than 0.05 mg./sq. cm.; and

(d) The cast iron strips shall not change in weight by more than 0.3 mg./sq. cm.

S5.1.12 *Effects on cups*. When brake cups are subjected to brake fluid in accordance with S6.12 (a) and (b)—

(a) The increase in the diameter of the base of the cups shall be not less than 0.15 mm. (0.006 inch) or more than 1.40 mm. (0.055 inch);

(b) The decrease in hardness of the cups shall be not more than 10 IRHD at 70° C. (158° F.) or more than 15 IRHD at 120° C. (248° F.), and there shall be no increase in hardness of the cups; and

(c) The cups shall show no disintegration as evidenced by stickiness, blisters, or sloughing.

S5.1.13 *Stroking properties*. When brake fluid is tested according to S6.13—

(a) Metal parts of the test system shall show no pitting or etching to an extent discernible without magnification;

(b) The change in diameter of any cylinder or piston shall not exceed 0.13 mm. (0.005 inch);

(c) The average decrease in hardness of nine of the 10 cups tested (eight-wheel cylinder and one master cylinder primary) shall not exceed 15 IRHD. Not more than one of the nine cups shall have a decrease in hardness greater than 17 IRHD;

(d) None of the 10 cups shall be in an unsatisfactory operating condition as evidenced by stickiness, scuffing, blisters, cracking, chipping, or other change in shape from its original appearance;

(e) None of the 10 cups shall show an increase in base diameter greater than 0.90 mm. (0.035 inch);

(f) The average lip diameter set of the 10 cups shall not be greater than 65 percent;

(g) During any period of 24,000 strokes, the volume loss of fluid shall not exceed 36 milliliters;

(h) The cylinder pistons shall not freeze or function improperly throughout the test;

(i) The total loss of fluid during the 100 strokes at the end of the test shall not exceed 36 milliliters;

(j) The fluid at the end of the test shall show no formation of gels;

(k) At the end of the test the amount of sediment shall not exceed 1.5 percent by volume; and

(l) Brake cylinders shall be free of deposits that are abrasive or that cannot be removed when rubbed moderately with a nonabrasive cloth wetted with ethanol.

S5.2 *Packaging and labeling requirements for motor vehicle brake fluids*.

S5.2.1 *Container sealing*. Each brake fluid container with a capacity of 6 fluid ounces or more shall be provided with a resealable closure that has an inner seal impervious to the packaged brake fluid. The container closure shall include a tamper-proof feature that will either be destroyed or substantially altered when the container closure is initially opened.

S5.2.2 *Certification, marking, and labeling*.

S5.2.2.1 Each manufacturer of motor vehicle brake fluid shall furnish to each packager, distributor, or dealer to whom he delivers brake fluid, the following information:

(a) A serial number identifying the production lot and the date of manufacture of the brake fluid.

(b) The grade (DOT 3 or DOT 4) of the brake fluid.

(c) The minimum wet boiling point in Fahrenheit of the brake fluid.

(d) Certification that the brake fluid conforms to Federal Motor Vehicle Safety Standard No. 116.

S5.2.2.2 Each packager of motor vehicle brake fluid shall furnish the following information clearly and indelibly marked on each brake fluid container.

RULES AND REGULATIONS

(a) Certification that the brake fluid conforms to Federal Motor Vehicle Safety Standard No. 116.

(b) The name of the manufacture of the brake fluid, and the name of the packager. This information may be in code form and, if coded, shall be placed beneath the distributor's name and mailing address.

(c) The name and complete mailing address of the distributor.

(d) A serial number identifying the packaged lot and date of packaging that shall be legible and stamped on the bottom of the container.

(e) Designation of the contents as "DOT Motor Vehicle Brake Fluid" (Fill in "3" or "4" as applicable).

(f) The minimum wet boiling point in Fahrenheit of the DOT 3 or DOT 4 brake fluid in the container.

(g) The following safety warnings in capital and lower case letters as indicated:

1. FOLLOW VEHICLE MANUFACTURER'S RECOMMENDATIONS WHEN ADDING BRAKE FLUID.

2. KEEP BRAKE FLUID CLEAN AND DRY. Contamination with dirt, water, petroleum products or other materials may result in brake failure or costly repairs.

3. STORE BRAKE FLUID ONLY IN ITS ORIGINAL CONTAINER. KEEP CONTAINER CLEAN AND TIGHTLY CLOSED TO PREVENT ABSORPTION OF MOISTURE.

4. CAUTION: DO NOT REFILL CONTAINER, AND DO NOT USE FOR OTHER LIQUIDS.

S6. Test procedures.

S6.1 *Equilibrium reflux boiling point.* Determine the ERBP of a brake fluid by running duplicate samples according to the following procedure and averaging the results.

S6.1.1 *Summary of procedure.* Sixty milliliters (ml.) of brake fluid are boiled under specified equilibrium conditions (reflux) at atmospheric pressure in a 100-ml. flask. The average temperature of the boiling fluid at the end of the reflux period, corrected for variations in barometric pressure if necessary, is the ERBP.

S6.1.2 *Apparatus.* (See Figure 1) The test apparatus shall consist of—

(a) *Flask.* (See Figure 2) A 100-ml. round-bottom, short-neck heat-resistant glass flask having a neck with a 19/38 standard taper, female ground-glass joint and a side-entering tube, with an outside diameter of 10 millimeters (mm.), which centers the thermometer bulb in the flask 6.5 mm. from the bottom;

(b) *Condenser.* A water-cooled, reflux, glass-tube type, condenser having a jacket 200 mm. in length, the bottom end of which has a 19/38 standard-taper, drip-tip, male ground-glass joint;

(c) *Boiling stones.* Three clean, unused silicon carbide grains (approximately 2 mm. (0.08 inch) in diameter, grit No. 8);

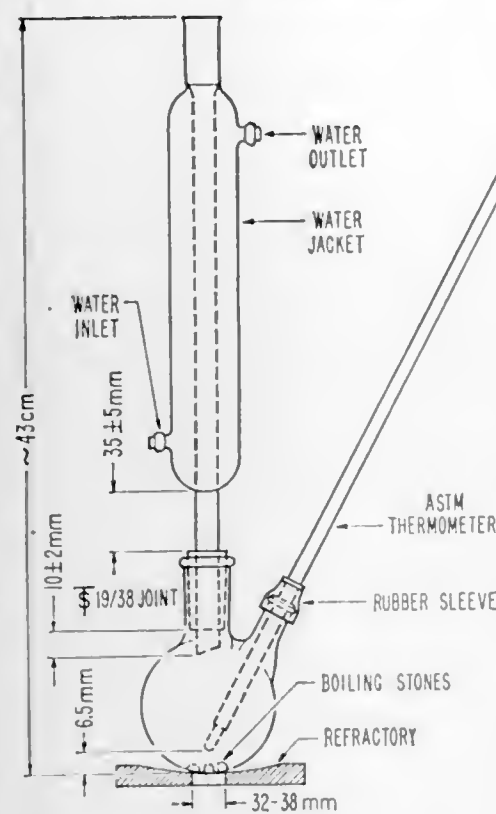


FIG. 1
BOILING POINT TEST APPARATUS

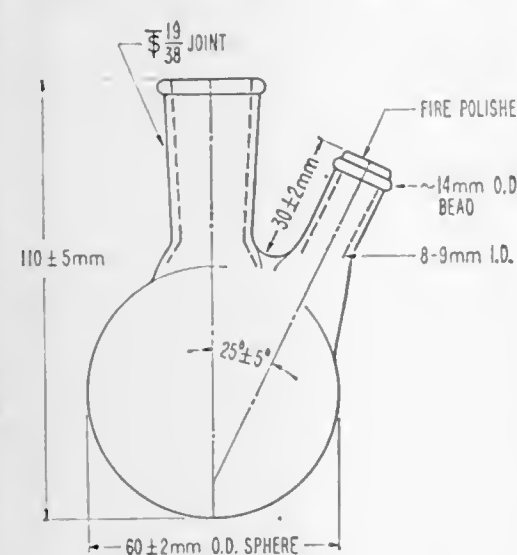


FIG. 2
DETAIL OF 100ml SHORT-NECK FLASK

(d) *Thermometer.* Standardized calibrated partial immersion (76 mm.), solid stem, thermometers conforming to the requirements for an ASTM 2C or 2F, and an ASTM 3C or 3F thermometer; and

(e) *Heat source.* Variable autotransformer-controlled heating mantle designed to fit the flask, or an electric heater with rheostat heat control.

S6.1.3 Preparation of apparatus.

(a) Thoroughly clean and dry all glassware.

(b) Insert thermometer through the side tube until the tip of the bulb is 6.5

mm. (1/4 inch) from the bottom center of the flask. Seal with a short piece of natural rubber, EPDM, SBR, or butyl tubing.

(c) Place 60±1 ml. of brake fluid and the silicon carbide grains into the flask.

(d) Attach the flask to the condenser. When using a heating mantle, place the mantle under the flask and support it with a ring-clamp and laboratory-type stand, holding the entire assembly in place by a clamp. When using a rheostat-controlled heater, center a standard porcelain or hard asbestos refractory, having a diameter opening 32 to 38 mm., over the heating element and mount the flask so that direct heat is applied only through the opening in the refractory. Place the assembly in an area free from drafts or other types of sudden temperature changes. Connect the cooling water inlet and outlet tubes to the condenser. Turn on the cooling water. The water supply temperature shall not exceed 28° C. (82.4° F.) and the temperature rise through the condenser shall not exceed 2° C. (3.6° F.).

S6.1.4 *Procedure.* Apply heat to the flask so that within 10±2 minutes the fluid is refluxing in excess of 1 drop per second. The reflux rate shall not exceed 5 drops per second at any time. Immediately adjust the heating rate to obtain an equilibrium reflux rate of 1 to 2 drops per second over the next 5±2 minutes. Maintain this rate for an additional 2 minutes, taking four temperature readings at 30-second intervals. Record the average of these as the observed ERBP.

S6.1.5 Calculation.

(a) *Thermometer inaccuracy.* Correct the observed ERBP by applying any correction factor obtained in standardizing the thermometer.

(b) *Variation from standard barometric pressure.* Apply the factor shown in Table III to calculate the barometric pressure correction to the ERBP.

TABLE III—CORRECTION FOR BAROMETRIC PRESSURE

Observed ERBP corrected for thermometer inaccuracy	Correction per 1 mm difference in pressure *	
	° C.	° F.
100° C. (212° F.) to 190° C. (374° F.)	0.039	(0.07)
Over 190° C. (374° F.)	0.04	(0.08)

* To be added in case barometric pressure is below 760 mm.; to be subtracted in case barometric pressure is above 760 mm.

(c) If the two corrected observed ERBP's agree within 2° C. (4° F.) for brake fluids having an ERBP over 230° C./446° F.) average the duplicate runs as the ERBP; otherwise, repeat the entire test, averaging the four corrected observed values to determine the original ERBP.

S6.2 *Wet ERBP.* Determine the wet ERBP of a brake fluid by running duplicate samples according to the following procedure.

S6.2.1 *Summary of the procedure.* A 100-ml. sample of the brake fluid is humidified under controlled conditions; 100 ml. of SAE RM-1 Compatibility Fluid is used to establish the end point for humidification. After humidification the water content and ERBP of the brake fluid are determined.

S6.2.2 *Apparatus for humidification.* (See Figure 3) Test apparatus shall consist of—

(a) *Glass jars.* Four SAE RM-49 corrosion test jars or equivalent screw-top, straight-sided, round glass jars each

having a capacity of about 475 ml. and approximate inner dimensions of 100 mm. in height by 75 mm. in diameter, with matching lids having new, clean inserts providing water-vapor-proof seals;

(b) *Desiccator and cover.* Four bowl-form glass desiccators, 250-mm. inside diameter, having matching tubulated covers fitted with No. 8 rubber stoppers;

(c) *Desiccator plate.* Four 230-mm. diameter, perforated porcelain desiccator plates, without feet, glazed on one side.

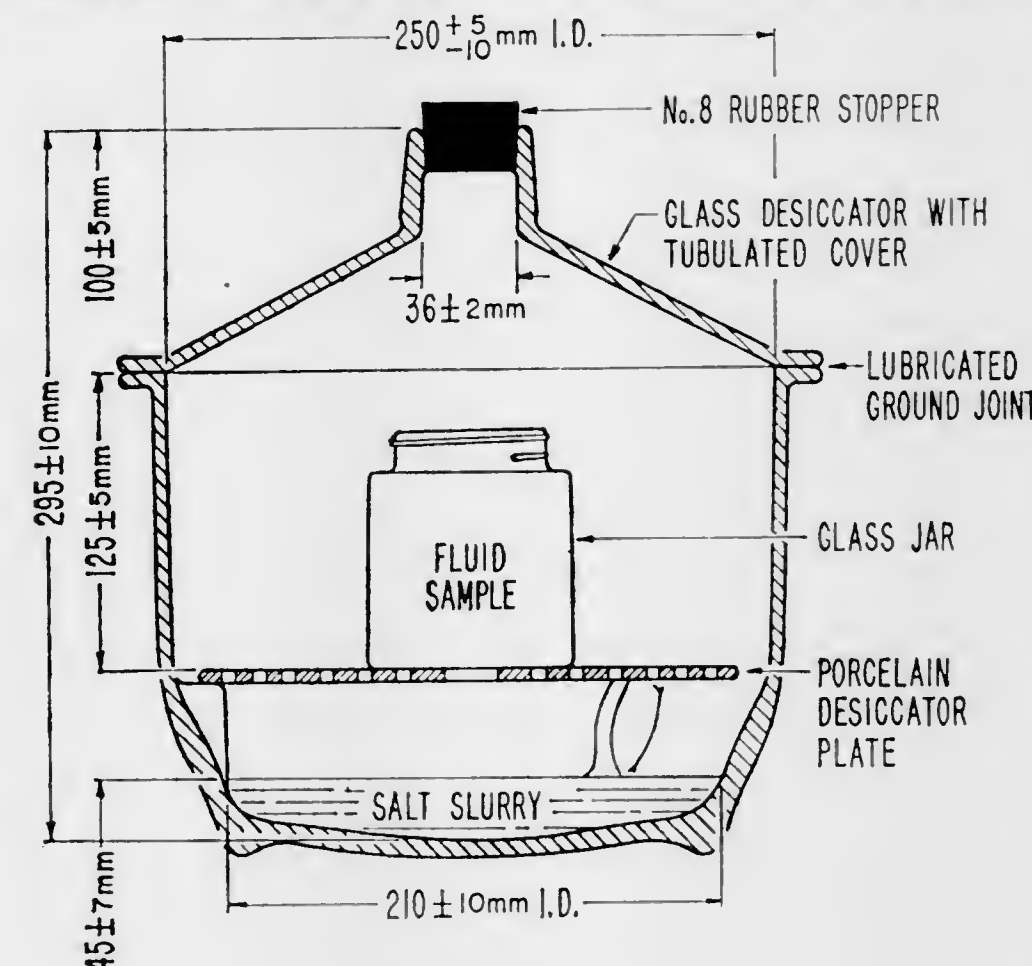


FIG. 3

HUMIDIFICATION APPARATUS

S6.2.3 Reagents and materials.

(a) Ammonium sulfate (NH₄)₂SO₄. Reagent or A.C.S. grade.

(b) Distilled water, see S7.1.

(c) SAE RM-1 compatibility fluid.

S6.2.4 *Preparation of apparatus.* Lubricate the ground-glass joint of the desiccator. Load each desiccator with 450±25 grams of the ammonium sulfate and add 125±10 ml. of distilled water. The surface of the salt slurry shall lie within 45±7 mm. of the top surface of the desiccator plate. Place the desiccators in an area with temperature controlled at 23±2° C. (73.4±3.6° F.) throughout the humidification procedure. Load the desiccators with the slurry and allow to condition with the covers on and stoppers in place at least 12

hours before use. Use a fresh charge of salt slurry for each test.

S6.2.5 *Procedure.* Pour 100±1 ml. of the brake fluid into a corrosion test jar. Promptly place the jar into a desiccator. Prepare duplicate test sample, and two duplicate specimens of the SAE RM-1 compatibility fluid. Adjust water content of the SAE RM-1 fluid to 0.50±0.05 percent by weight at the start of the test in accordance with S7.2. At intervals remove the rubber stopper in the top of each desiccator containing SAE RM-1 fluid. Using a long needed hypodermic syringe, take a sample of not more than 2 ml. from each jar and determine its water content. Remove no more than 10 ml. of fluid from each SAE RM-1 sample during the humidification procedure. When the water content of the

SAE fluid reaches 3.50±0.05 percent by weight (average of the duplicates), remove the two test fluid specimens from their desiccators and promptly cap each jar tightly. Measure the water contents of the test fluid specimens in accordance with S7.2 and determine their ERBP's in accordance with S6.1 through S6.1.5. If the two ERBP's agree within 4° C. (8° F.), average them to determine the wet ERBP; otherwise repeat and average the four individual ERBP's as the wet ERBP of the brake fluid.

S6.3 *Kinematic viscosity.* Determine the kinematic viscosity of a brake fluid in centistokes (cSt.) by the following procedure. Run duplicate samples at each of the specified temperatures, making two timed runs on each sample.

S6.3.1 *Summary of the procedure.* The time is measured for a fixed volume of the brake fluid to flow through a calibrated glass capillary viscometer under an accurately reproducible head and at a closely controlled temperature. The kinematic viscosity is then calculated from the measured flow time and the calibration constant of the viscometer.

S6.3.2 Apparatus.

(a) *Viscometers.* Calibrated glass capillary-type viscometers, ASTM D2515-66, "Standard Specification for Kinematic Glass Viscometers," measuring viscosity within the precision limits of S6.4.7. Use suspended level viscometers for viscosity measurements at low temperatures. Use Cannon-Fenske Routine or other modified Ostwald viscometers at ambient temperatures and above.

(b) *Viscometer holders and frames.* Mount a viscometer in the constant-temperature bath so that the mounting tube is held within 1° of the vertical.

(c) *Viscometer bath.* A transparent liquid bath of sufficient depth such that at no time during the measurement will any portion of the sample in the viscometer be less than 2 cm. below the surface or less than 2 cm. above the bottom. The bath shall be cylindrical in shape, with turbulent agitation sufficient to meet the temperature control requirements. For measurements within 15° to 100° C. (60° to 212° F.) the temperature of the bath medium shall not vary by more than 0.01° C. (0.02° F.) over the length of the viscometers, or between the positions of the viscometers, or at the locations of the thermometers. Outside this range, the variation shall not exceed 0.03° C. (0.05° F.).

(d) *Thermometers.* Liquid-in-Glass Kinematic Viscosity Test Thermometers, covering the range of test temperatures indicated in Table IV and conforming to ASTM E1-68, "Specifications for ASTM Thermometers," and in the IP requirements for IP Standard Thermometers. Standardize before use (see S6.3.3(b)). Use two standardized thermometers in the bath.

TABLE IV—KINEMATIC VISCOSITY THERMOMETERS

Temperature range		For tests at		Subdivisions		Thermometer number	
° C.	° F.	° C.	° F.	° C.	° F.	ASTM	IP
Minus 55.3 to minus 52.5	Minus 67.5 to minus 62.5	Minus 55.3	Minus 67.5	0.05	0.1	74° F. 60° F. or C.	
Minus 41.4 to minus 38.6	Minus 42.5 to minus 37.5	Minus 40.0	Minus 40.0	0.05	0.1	73° F. 68° F. or C.	
98.6 to 101.4	207.5 to 212.5	100.0	212.0	0.05	0.1	30° F. 32° F. or C.	

(e) **Timing device.** Stop watch or other timing device graduated in divisions representing not more than 0.2 second, with an accuracy of at least ± 0.05 percent when tested over intervals of 15 minutes. Electrical timing devices may be used when the current frequency is controlled to an accuracy of 0.01 percent or better.

S6.3.3 Standardization.

(a) **Viscometers.** Use viscometers calibrated in accordance with Appendix 1 of ASTM D445-65, "Viscosity of Transparent and Opaque Liquids (Kinematic and Dynamic Viscosities)." The calibration constant, C , is dependent upon the gravitational acceleration at the place of calibration. This must, therefore, be supplied by the standardization laboratory together with the instrument constant. Where the acceleration of gravity, g , in the two locations differs by more than 0.1 percent, correct the calibration constant as follows:

$$C_2 = \frac{g_1}{g_2 \times C_1}$$

where the subscripts 1 and 2 indicate respectively the standardization laboratory and the testing laboratory.

(b) **Thermometers.** Check liquid-in-glass thermometers to the nearest 0.01° C. (0.02° F.) by direct comparison with a standardized thermometer. Kinematic Viscosity Test Thermometers shall be standardized at "total immersion." The ice point of standardized thermometers shall be determined before use and the official corrections shall be adjusted to conform to the changes in ice points. (See ASTM E77-66, "Verification and Calibration of Liquid-in-Glass Thermometers.")

(c) **Timers.** Time signals are broadcast by the National Bureau of Standards, Station WWV, Washington, D.C. at 2.5, 5, 10, 15, 20, 25, 30, and 35 Mc/sec (MHz). Time signals are also broadcast by Station CHU from Ottawa, Canada, at 3.330, 7.335, and 14.670 Mc/sec, and Station MSF at Rugby, United Kingdom, at 2.5, 5, and 10 Mc/sec.

S6.3.4 Procedure.

(a) Set and maintain the bath at the appropriate test temperature (see S5.1.3) within the limits specified in S6.3.2(c). Apply the necessary corrections, if any, to all thermometer readings.

(b) Select a clean, dry, calibrated viscometer giving a flow time not less than its specified minimum, or 200 seconds, whichever is the greater.

(c) Charge the viscometer in the manner used when the instrument was calibrated. Do not filter or dry the brake fluid, but protect it from contamination by dirt and moisture during filling and measurements.

(1) Charge the suspended level viscometers by tilting about 30° from the vertical and pouring sufficient brake fluid through the fill tube into the lower reservoir so that when the viscometer is returned to vertical position the meniscus is between the fill marks. For measurements below 0° C. (32° F.), before placing the filled viscometer into the constant temperature bath, draw the sample into the working capillary and timing bulb and insert small rubber stoppers to suspend the fluid in this position, to prevent accumulation of water condensate on the walls of the critical portions of the viscometer. Alternatively, fit loosely packed drying tubes into the open ends of the viscometer to prevent water condensation, but do not restrict the flow of the sample under test by the pressures created in the instrument.

(2) If a Cannon-Fenske Routine viscometer is used, charge by inverting and immersing the smaller arm into the brake fluid and applying vacuum to the larger arm. Fill the tube to the upper timing mark, and return the viscometer to an upright position.

(d) Mount the viscometer in the bath in a true vertical position (see S6.3.2(b)).

(e) The viscometer shall remain in the bath until it reaches the test temperature.

(f) At temperatures below 0° C. (32° F.) conduct an untimed preliminary run by allowing the brake fluid to drain through the capillary into the lower reservoir after the test temperature has been established.

(g) Adjust the head level of the brake fluid to a position in the capillary arm about 5 mm. above the first timing mark.

(h) With brake fluid flowing freely measure to within 0.2 second the time required for the meniscus to pass from the first timing mark to the second. If this flow time is less than the minimum specified for the viscometer, or 200 seconds, whichever is greater, repeat using a viscometer with a capillary of smaller diameter.

(i) Repeat S6.3.4 (g) and (h). If the two timed runs do not agree within 0.2 percent, reject and repeat using a fresh sample of brake fluid.

S6.3.5 Cleaning the viscometers.

(a) Periodically clean the instrument with chromic acid to remove organic deposits. Rinse thoroughly with distilled water and acetone, and dry with clean dry air.

(b) Between successive samples rinse the viscometer with ethanol followed by an acetone or ether rinse. Pass a slow stream of filtered dry air through the viscometer until the last trace of solvent is removed.

S6.3.6 Calculation.

(a) The following viscometers have a fixed volume charged at ambient temperature, and as a consequence C varies with test temperature: Cannon-Fenske Routine, Pinkevitch, Cannon-Manning Semi-Micro, and Cannon Fenske Opaque. To calculate C at test temperatures other than the calibration temperature for these viscometers, see ASTM D2515-66, "Kinematic Glass Viscometers" or follow instructions given on the manufacturer's certificate of calibration.

(b) Average the four timed runs on the duplicate samples to determine the kinematic viscosities.

S6.3.7 Precision (at 95 percent confidence level).

(a) **Repeatability.** If results on duplicate samples by the same operator differ by more than 1 percent of their mean, repeat the tests.

(b) **pH value.** Determine the pH value of a brake fluid by running one sample according to the following procedure.

(c) **Summary of the procedure.** Brake fluid is diluted with an equal volume of an ethanol-water solution. The pH of the resultant mixture is measured with a prescribed pH meter assembly at 23° C. (73.4° F.).

(d) **Apparatus.** The pH assembly consists of the pH meter, glass electrode, and calomel electrode, as specified in Appendices A1.1, A1.2, and A1.3 of ASTM D1121-67, "Standard Method of Test for Reserve Alkalinity of Engine Antifreezes and Antirusts." The glass electrode is a full range type (pH 0-14), with low sodium error.

(e) **Reagents.** Reagent grade chemicals conforming to the specifications of the Committee on Analytical Reagents of the American Chemical Society.

(f) **Distilled water.** Distilled water (S7.1) shall be boiled for about 15 minutes to remove carbon dioxide, and protected with a soda-lime tube or its equivalent while cooling and in storage. (Take precautions to prevent contamination by the materials used for protection against carbon dioxide.) The pH of the boiled distilled water shall be between 6.2 and 7.2 at 25° C. (77° F.).

(g) **Standard buffer solutions.** Prepare buffer solutions for calibrating the pH meter and electrode pair from salts sold specifically for use, either singly or in combination, as pH standards. Dry salts for 1 hour at 110° C. (230° F.) before use except for borax which shall be used as the decahydrate. Store solutions with pH less than 9.5 in bottles of chemically resistant glass or polyethylene. Store the alkaline phosphate solution in a glass bottle coated inside with paraffin. Do not use a standard with an age exceeding three months.

(h) **Potassium hydrogen phthalate buffer solution** (0.05 M, pH=4.01 at 25° C. (77° F.)). Dissolve 10.21 g. of potassium hydrogen phthalate ($\text{KHC}_2\text{H}_3\text{O}_4$) in distilled water. Dilute to 1 liter.

(i) **Neutral phosphate buffer solution** (0.025 M with respect to each phosphate

salt, pH=6.86 at 25° C. (77° F.)). Dissolve 3.40 g. of potassium dihydrogen phosphate (KH_2PO_4) and 3.55 g. of anhydrous disodium hydrogen phosphate (Na_2HPO_4) in distilled water.

(j) **Borax buffer solution** (0.01 M, pH=9.18 at 25° C. (77° F.)). Dissolve 3.81 g. of disodium tetraborate decahydrate ($\text{Na}_2\text{B}_4\text{O}_7 \cdot 10\text{H}_2\text{O}$) in distilled water, and dilute to 1 liter. Stopper the bottle except when actually in use.

(k) **Alkaline phosphate buffer solution** (0.01 M trisodium phosphate, pH=11.72 at 25° C. (77° F.)). Dissolve 1.42 g. of anhydrous disodium hydrogen phosphate (Na_2HPO_4) in 100 ml. of a 0.1 M carbonate-free solution of sodium hydroxide. Dilute to 1 liter with distilled water.

(l) **Potassium chloride electrolyte.** Prepare a saturated solution of potassium chloride (KCl) in distilled water.

(m) **Ethanol-water mixture.** To 80 parts by volume of ethanol (S7.3) add 20 parts by volume of distilled water. Adjust the pH of the mixture to 7 ± 0.1 using 0.1 N sodium hydroxide (NaOH) solution. If more than 4 ml. of NaOH solution per liter of mixture is required for neutralization, discard the mixture.

S6.4.4 Preparation of electrode system.

(a) **Maintenance of electrodes.** Clean the glass electrode before using by immersing in cold chromic-acid cleaning solution. Drain the calomel electrode and fill with KCl electrolyte, keeping level above that of the mixture at all times. When not in use, immerse the lower halves of the electrodes in distilled water, and do not immerse in the mixture for any appreciable period of time between determinations.

(b) **Preparation of electrodes.** Condition new glass electrodes and those that have been stored dry as recommended by the manufacturer. Before and after using, wipe the glass electrode thoroughly with a clean cloth, or a soft absorbent tissue, and rinse with distilled water. Before each pH determination, soak the prepared electrode in distilled water for at least 2 minutes. Immediately before use, remove any excess water from the tips of the electrode.

S6.4.5 Standardization of the pH assembly and testing of the electrodes.

(a) Immediately before use, standardize the pH assembly with a standard buffer solution. Then use a second standard buffer solution to check the linearity of the response of the electrodes at different pH values, and to detect a faulty glass electrode or incorrect temperature compensation. The two buffer solutions bracket the anticipated pH value of the test brake fluid.

(b) Allow instrument to warm up, and adjust according to the manufacturer's instructions. Immerse the tips of the electrodes in a standard buffer solution and allow the temperature of the buffer solution and the electrodes to equalize.

Set the temperature knob at the temperature of the buffer solution. Adjust the standardization or asymmetry potential control until the meter registers a scale reading, in pH units, equal to the

known pH of the standardizing buffer solution.

(c) Rinse the electrodes with distilled water and remove excess water from the tips. Immerse the electrodes in a second standard buffer solution. The reading of the meter shall agree with the known pH of the second standard buffer solution within ± 0.05 unit without changing the setting of the standardization of asymmetry potential control.

(d) A faulty electrode is indicated by failure to obtain a correct value for the pH of the second standard buffer solution after the meter has been standardized with the first.

(e) **Procedure.** To 50 ± 1 ml. of the test brake fluid add 50 ± 1 ml. of the ethanol-water (S6.4.3(c)) and mix thoroughly. Immerse the electrodes in the mixture. Allow the system to come to equilibrium, readjust the temperature compensation if necessary, and take the pH reading.

(f) **Fluid stability.** Evaluate the heat and chemical stability of a brake fluid by the following procedure, running duplicate samples for each test and averaging the results.

(g) **Summary of the procedure.** The degradation of the brake fluid at elevated temperature, alone or in a mixture with a reference fluid, is evaluated by determining the change in boiling point after a period of heating under reflux conditions.

(h) **Apparatus.** Use the apparatus and preparation specified in S6.1.2 and S6.1.3.

S6.5.3 High temperature stability.

S6.5.3.1 Procedure.

(a) Heat a new 60 ± 1 ml. sample of the brake fluid to $185 \pm 2^\circ$ C. ($365 \pm 3.6^\circ$ F.). Hold at this temperature for 120 ± 5 minutes. Bring to a reflux rate in excess of 1 drop per second within 5 minutes. The reflux rate should not exceed 5 drops per second at any time. Over the next 5 ± 2 minutes adjust the heating rate to obtain an equilibrium reflux rate of 1 to 2 drops per second. Maintain this rate for an additional 2 minutes, taking four temperature readings at 30-second intervals. Average these as the observed ERBP.

(b) **Calculation.** Correct the observed ERBP for thermometer and barometric pressure factors according to S6.1.5 (a) and (b). Average the corrected ERBP's of the duplicate samples. The difference between this average and the original ERBP obtained in S6.1 is the change in ERBP of the fluid.

S6.5.4 Chemical stability.

(a) **Materials.** SAE RM-1 Compatibility Fluid, as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," April 1968.

S6.5.4.2 Procedure.

(a) Mix 30 ± 1 ml. of the brake fluid with 30 ± 1 ml. of SAE RM-1 Compatibility Fluid in a boiling point flask (S6.1.2(a)). Determine the initial ERBP of the mixture by applying heat to the flask so that the fluid is refluxing in 10 ± 2 minutes at a rate in excess of 1

drop per second, but not more than 5 drops per second. Note the maximum fluid temperature observed during the first minute after the fluid begins refluxing at a rate in excess of 1 drop per second. Over the next 15 ± 1 minutes, adjust and maintain the reflux rate at 1 to 2 drops per second. Maintain this rate for an additional 2 minutes, recording the average value of four temperature readings taken at 30-second intervals as the final ERBP.

(b) Thermometer and barometric corrections are not required.

(c) **Calculation.** The difference between the initial ERBP and the final average temperature is the change in temperature of the refluxing mixture. Average the results of the duplicates to the nearest 0.5° C. (1° F.).

(d) **Corrosion.** Evaluate the corrosiveness of a brake fluid by running duplicate samples according to the following procedure.

(e) **Summary of the procedure.** Six specified metal corrosion test strips are polished, cleaned, and weighed, then assembled as described. Assembly is placed on a standard wheel cylinder cup in a corrosion test jar, immersed in the water-wet brake fluid, capped and placed in an oven at 100° C. (212° F.) for 120 hours. Upon removal and cooling, the strips, fluid, and cups are examined and tested.

S6.6.2 Equipment.

(a) **Balance.** An analytical balance having a minimum capacity of 50 grams and capable of weighing to the nearest 0.1 mg.

(b) **Desiccators.** Desiccators containing silica gel or other suitable desiccant.

(c) **Oven.** Gravity convection oven capable of maintaining the desired set point within 2° C. (3.6° F.).

(d) **Micrometer.** A machinist's micrometer 25 to 50 mm. (1 to 2 inches) capacity, or an optical comparator, capable of measuring the diameter of the SBR wheel cylinder (WC) cups to the nearest 0.02 mm. (0.001 inch).

S6.6.3 Materials.

(a) **Corrosion test strips.** Two sets of strips from each of the metals listed in Appendix C of SAE Standard J1703b. Each strip shall be approximately 8 cm. long, 1.3 cm. wide, not more than 0.6 mm. thick, and have a surface area of 25 ± 5 sq. cm. and a hole 4 to 5 mm. (0.16 to 0.20 inch) in diameter on the centerline about 6 mm. from one end. The hole shall be clean and free from burrs. Tinned iron strips shall be unused. Other strips, if used, shall not be employed if they cannot be polished to a high finish.

(b) **SBR cups.** Two unused standard SAE SBR wheel cylinder (WC) cups, as specified in S7.6.

(c) **Corrosion test jars and lids.** Two screw-top straight-sided round glass jars, each having a capacity of approximately 475 ml. and inner dimensions of approximately 100 mm. in height and 75 mm. in diameter, and a tinned steel lid (no insert or organic coating) vented with a hole 0.8 ± 0.1 mm. (0.031 ± 0.004 inch) in diameter (No. 68 drill).

(d) **Machine screws and nuts.** Clean, rust and oil-free, uncoated mild steel round or fillister head machine screws, size 6 or 8-32 UNC-Class 2A, five-eighths or three-fourths inch long (or equivalent metric sizes), and matching uncoated nuts.

(e) **Supplies for polishing strips.** Waterproof silicon carbide paper, grit No. 320 A; grade 00 steel wool, lint-free polishing cloth.

(f) **Distilled water** as specified in S7.1.

(g) **Ethanol** as specified in S7.3.

S6.6.4 Preparation.

(a) **Corrosion test strips.** Except for the tinned iron strips, abrade corrosion test strips on all surface areas with silicon carbide paper wet with ethanol until all surface scratches, cuts and pits are removed. Use a new piece of paper for each different type of metal. Polish the strips with the 00 grade steel wool. Wash all strips, including the tinned iron and the assembly hardware, with ethanol; dry the strips and assembly hardware with a clean lint free cloth or use filtered compressed air and place the strips and hardware in a desiccator containing silica gel or other suitable desiccant and maintained at $23 \pm 5^\circ \text{C}$. ($73.4 \pm 9^\circ \text{F}$), for at least 1 hour. Handle the strips with forceps after polishing. Weigh and record the weight of each strip to the nearest 0.1 mg. Assemble the strips on a clean dry machine screw, with matching plain nut, in the order of tinned iron, steel, aluminum, cast iron, brass, and copper. Bend the strips, other than the cast iron, so that there is a separation of $3 \pm \frac{1}{2}$ mm. ($\frac{1}{16} \pm \frac{1}{64}$ inch) between adjacent strips for a distance of about 5 cm. (2 inches) from the free end of the strips. (See Figure 4.) Tighten the screw on each test strip assembly so that the strips are in electrolytic contact, and can be lifted by either of the outer strips (tinned iron or copper) without any of the strips moving relative to the others when held horizontally. Immerse the strip assemblies in 90 percent thyl alcohol. Dry with dried filtered compressed air, then desiccate at least 1 hour before use.

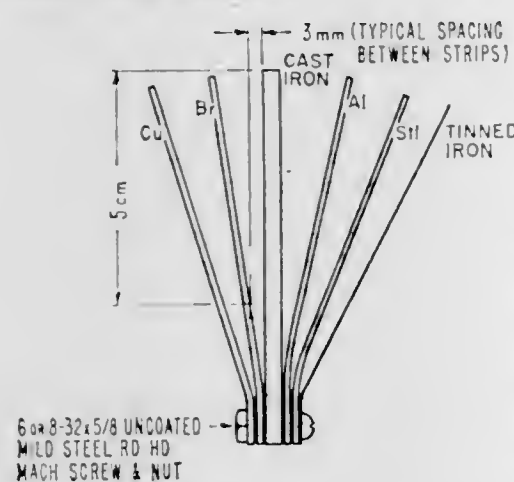


FIG. 4
CORROSION STRIP ASSEMBLY

(b) **SBR WC cups.** Measure the base diameters of the two standard SBR cups, using an optical comparator or micrometer, to the nearest 0.02 mm. (0.001 inch) along the centerline of the SAE and rubber-type identifications and at right angles to this centerline. Take the measurements at least 0.4 mm. (0.015 inch) above the bottom edge and parallel to the base of the cup. Discard any cup if the two measured diameters differ by more than 0.08 mm. (0.003 inch). Average the two readings on each cup. Determine the hardness of the cups according to S7.4.

(c) **Procedure.** Rinse the cups in ethanol for not more than 30 seconds and wipe dry with a clean lint-free cloth. Place one cup with lip edge facing up, in each jar. Insert a metal strip assembly inside each cup with the fastened end down and the free end extending upward. (See Figure 5.) Mix 760 ml. of brake fluid with 40 ml. of distilled water; using this mixture, cover each strip assembly to a depth of approximately 10 mm. above the tops of the strips. Tighten the lids and place the jars for 120 ± 2 hours in an oven maintained at $100 \pm 2^\circ \text{C}$. ($212 \pm 3.6^\circ \text{F}$). Allow the jars to cool at $23 \pm 5^\circ \text{C}$. ($73.4 \pm 9^\circ \text{F}$) for 60 to 90 minutes. Immediately remove the strips from the jars using forceps, agitating the strip assembly in the fluid to remove loose adhering sediment. Examine the test strips and jars for adhering crystalline deposits. Disassemble the metal strips, and remove adhering fluid by flushing with water; clean each strip by wiping with a clean cloth wetted with ethanol. Examine the strips for evidence of corrosion and pitting. Disregard staining or discoloration. Place the strips in a desiccator containing silica gel or other suitable desiccant, maintained at $23 \pm 5^\circ \text{C}$. ($73.4 \pm 9^\circ \text{F}$), for at least 1 hour. Weigh each strip to the nearest 0.1 mg. Determine the change in weight of each metal strip. Average the results for the two strips of each type of metal. Immediately following the cooling period, remove the cups from the jars with forceps. Remove loose adhering sediment by agitation of the cups in the mixture. Rinse the cups in ethanol and air-dry. Examine the cups for evidence of sloughing, blisters, and other forms of disintegration. Measure the base diameter and hardness of each cup within 15 minutes after removal from the mixture. Examine the mixture for gelling. Agitate the mixture to suspend and uniformly disperse sediment. From each jar, transfer a 100 ml. portion of the mixture to an ASTM cone-shaped centrifuge tube. Determine the percent sediment after centrifuging as described in S7.5. Measure the pH value of the mixture according to S6.4.6.

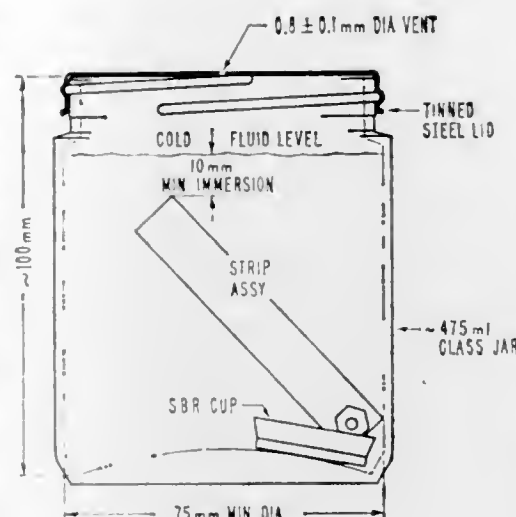


FIG. 5
CORROSION TEST
APPARATUS

S6.6.6 Calculation.

(a) Measure the area of each type of test strip to the nearest square centimeter. Divide the average change in weight for each type by the area of that type.

(b) Note other data and evaluations indicating compliance with S5.1.6. In the event of a marginal pass on inspection by attributes, or of a failure in one of the duplicates, run another set of duplicate samples. Both repeat samples shall meet all requirements of S5.1.6.

(c) **Fluidity and appearance at low temperatures.** Determine the fluidity and appearance of a sample of brake fluid at each of two selected temperatures by the following procedure.

(d) **Summary of procedure.** Brake fluid is chilled to expected minimum exposure temperatures and observed for clarity, gelation, sediment, separation of components, excessive viscosity or thixotropy.

S6.7.2 Apparatus.

(a) **Oil sample bottle.** Two clear flint glass 4-ounce bottles made especially for sampling oil and other liquids, with a capacity of approximately 125 ml., an outside diameter of 37 ± 0.05 mm. and an overall height of 165 ± 2.5 mm.

(b) **Cold chamber.** An air bath cold chamber capable of maintaining storage temperatures down to minus 55°C . (minus 67°F .) with an accuracy of $\pm 2^\circ \text{C}$. (3.6°F).

(c) **Timing device.** A timing device in accordance with S6.3.2(e).

(d) **Hiding power test chart.** (SAE RM).

S6.7.3 Procedure.

(a) Place 100 ± 2 ml. of brake fluid at room temperature in an oil sample bottle. Stopper the bottle with an unused cork and place in the cold chamber at the higher storage temperature specified in Table II (S5.1.7(c)). After 144 ± 4 hours remove the bottle from the chamber, quickly wipe it with a clean, lint-free cloth saturated with ethanol or acetone.

Place against a hiding power test chart and observe if the black contrast lines are clearly discernible when viewed through every part of the fluid. Examine the fluid for evidence of stratification or sedimentation. Invert the bottle and determine the number of seconds required for the air bubble to travel to the top of the fluid.

(b) Repeat S6.7.3(a), substituting the lower cold chamber temperature specified in Table II, and a storage period of 6 hours ± 12 minutes.

NOTE: Test specimens from either storage temperature may be used for the other only after warming up to room temperature.

(c) **Evaporation.** The evaporation residue, and pour point of the evaporation residue of brake fluid, are determined by the following procedure. Four replicate samples are run.

(d) **Summary of the procedure.** The volatile diluent portion of a brake fluid is evaporated in an oven at 100°C . (212°F .) The nonvolatile lubricant portion (evaporation residue) is measured and examined for grittiness; the residues are then combined and checked to assure fluidity at minus 5°C . (23°F).

S6.8.2 Apparatus.

(a) **Petri dishes.** Four covered glass petri dishes approximately 100 mm. in diameter and 15 mm. in height.

(b) **Oven.** A top-vented gravity-convection oven capable of maintaining a temperature of $100 \pm 2^\circ \text{C}$. ($212 \pm 3.6^\circ \text{F}$).

(c) **Balance.** A balance having a capacity of at least 100 grams, capable of weighing to the nearest 0.01 gram, and suitable for weighing the petri dishes.

(d) **Oil sample bottle.** A glass sample bottle as described in S6.7.2(a).

(e) **Cold chamber.** Air bath cold chamber capable of maintaining an oil sample bottle at minus $5 \pm 1^\circ \text{C}$. ($23 \pm 2^\circ \text{F}$).

(f) **Timing device.** A timing device as described in S6.3.2(e).

(g) **Procedure.** Obtain the tare weight of each of the four covered petri dishes to the nearest 0.01 gram. Place 25 ± 1 ml. of brake fluid in each dish, replace proper covers and reweigh. Determine the weight of each brake fluid test specimen by the difference. Place the four dishes, each inside its inverted cover, in the oven at $100 \pm 2^\circ \text{C}$. ($212 \pm 3.6^\circ \text{F}$.) for 46 ± 2 hours. (NOTE: Do not simultaneously heat more than one fluid in the same oven.) Remove the dishes from the oven, allow to cool to $23 \pm 5^\circ \text{C}$. ($73.4 \pm 9^\circ \text{F}$), and weigh. Return to the oven for an additional 24 ± 2 hours. If at the end of 72 ± 4 hours the average loss by evaporation is less than 60 percent, discontinue the evaporation procedure and proceed with examination of the residue. Otherwise, continue this procedure either until equilibrium is reached as evidenced by an incremental weight loss of less than 0.25 gram in 24 hours on all individual dishes or for a maximum of 7 days. During the heating and weighing operation, if it is necessary to remove the dishes from the oven for a period of longer than 1 hour, the dishes shall be stored in a desiccator as soon as cooled

to room temperature. Calculate the percentage of fluid evaporated from each dish. Examine the residue in the dishes at the end of 1 hour at $23 \pm 5^\circ \text{C}$. ($73.4 \pm 9^\circ \text{F}$.) Rub any sediment with the fingertip to determine grittiness or abrasiveness. Combine the residues from all four dishes in a 4-ounce oil sample bottle and store vertically in a cold chamber at minus $5 \pm 1^\circ \text{C}$. ($23 \pm 2^\circ \text{F}$.) for 60 ± 10 minutes. Quickly remove the bottle and place in the horizontal position. The residue must flow at least 5 mm. (0.2 inch) along the tube within 5 seconds.

(h) **Calculation.** The average of the percentage evaporated from all four dishes is the loss by evaporation.

(i) **Water tolerance.** Evaluate the water tolerance characteristics of a brake fluid by running one test specimen according to the following procedure.

(j) **Summary of the procedure.** Brake fluid is diluted with 3.5 percent water, then stored at minus 40°C . (minus 40°F .) for 24 hours. The cold, water-wet fluid is first examined for clarity, stratification, and sedimentation, then placed in an oven at 60°C . (140°F .) for 24 hours. On removal, it is again examined for stratification, and the volume percent of sediment determined by centrifuging.

S6.9.2 Apparatus.

(a) **Centrifuge tube.** See S7.5.1(a).

(b) **Centrifuge.** See S7.5.1(b).

(c) **Cold chamber.** See S6.7.2(b).

(d) **Oven.** Gravity or forced convection oven.

(e) **Timing device.** See S6.3.2(e).

(f) **Hiding power test chart.** (SAE RM).

S6.9.3 Procedure.

(a) **At low temperature.** Mix 3.5 ± 0.1 ml. of distilled water with 100 ± 1 ml. of brake fluid and pour into a centrifuge tube. Stopper the tube with a clean cork and place in the cold chamber maintained at minus $40 \pm 2^\circ \text{C}$. (minus $40 \pm 3.6^\circ \text{F}$.) After 24 ± 2 hours remove tube, quickly wipe with a clean lint-free cloth saturated with ethanol or acetone, and place against a hiding power test chart. Observe whether the black contrast lines are clearly discernible when viewed through every part of the fluid. Examine the fluid for evidence of stratification or sedimentation. Invert the tube and determine the number of seconds required for the air bubble to travel to the top of the fluid. (The air bubble is considered to have reached the top of the fluid when the top of the bubble reaches the 2 ml. graduation of the centrifuge tube.)

(b) **At 60°C . (140°F .)** Place tube and brake fluid from S6.9.3(a) in an oven maintained at $60 \pm 2^\circ \text{C}$. ($140 \pm 3.6^\circ \text{F}$.) for 24 ± 2 hours. Remove the tube and immediately examine the contents for evidence of stratification. Determine the percent sediment by centrifuging as described in S7.5.

(c) **Compatibility.** The compatibility of a brake fluid with other brake fluids shall be evaluated by running one test sample according to the following procedure.

(d) **Summary of the procedure.** Brake fluid is mixed with an equal vol-

ume of SAE RM-1 Compatibility Fluid, then tested in the same way as for water tolerance (S6.9.3) except that the bubble flow time is not measured. This test is an indication of the compatibility of the test fluid with other motor vehicle brake fluids at both high and low temperatures.

S6.10.2 Apparatus and materials.

(a) **Centrifuge tube.** See S7.5.1(a).

(b) **Centrifuge.** See S7.5.1(b).

(c) **Cold chamber.** See S6.7.2(b).

(d) **Oven.** See S6.9.2(d).

(e) **SAE RM-1 Compatibility Fluid.**

As described in Appendix A of SAE Standard J1703b.

(f) **Hiding power test chart.** (SAE RM)

S6.10.3 Procedure.

(a) **At low temperature.** Mix 50 ± 0.5 ml. of brake fluid with 50 ± 0.5 ml. of SAE RM-1 Compatibility Fluid. Pour this mixture into a centrifuge tube and stopper with a clean dry cork. Place tube in the cold chamber maintained at minus $40 \pm 2^\circ \text{C}$. (minus $40 \pm 3.6^\circ \text{F}$.) After 24 ± 2 hours, remove tube, quickly wipe with a clean lint-free cloth saturated with ethanol or acetone. Place tube against a hiding power test chart and observe whether the black contrast lines on the hiding power test chart are clearly discernible when viewed through every part of the fluid. Examine the fluid for evidence of stratification or sedimentation.

(b) **At 60°C . (140°F .)** Place tube and test fluid from S6.10.3(a) for 24 ± 2 hours in an oven maintained at $60 \pm 2^\circ \text{C}$. ($140 \pm 3.6^\circ \text{F}$.) Remove tube and immediately examine the contents for evidence of stratification. Determine percent sediment by centrifuging as described in S7.5.

(c) **Resistance to oxidation.** The stability of a brake fluid under oxidative conditions shall be evaluated by running duplicate samples according to the following procedure.

(d) **Summary of the procedure.** Brake fluid is activated with a mixture of approximately 0.2 percent benzoyl peroxide and 5 percent water. A corrosion test strip assembly consisting of cast iron and an aluminum strip separated by tinfoil squares at each end is then rested on a piece of SBR WC cup positioned so that the test strip is half immersed in the fluid, and oven-aged at 70°C . (158°F .) for 168 hours. At the end of this period the metal strips are examined for pitting, etching, and weight loss.

S6.11.2 Equipment.

(a) **Balance.** See S6.6.2(a).

(b) **Desiccators.** See S6.6.2(b).

(c) **Oven.** See S6.6.2(c).

(d) Three glass test tubes approximately 22 mm. outside diameter by 175 mm. in length.

S6.11.3 Reagents and materials.

(a) **Benzoyl peroxide, reagent grade, 96 percent.** (Benzoyl peroxide that is brownish, or dusty, or has less than 90 percent purity, must be discarded.) Reagent strength may be evaluated by ASTM E298-68, "Standard Methods for Assay of Organic Peroxides."

(b) *Corrosion test strips.* Two sets of cast iron and aluminum metal test strips as described in Appendix C of SAE Standard J1703b.

(c) *Tin foil.* Four unused pieces of tin foil approximately 12 mm. ($\frac{1}{2}$ inch) square and between 0.02 and 0.06 mm. (0.0008 and 0.0024 inch) in thickness. The foil shall be at least 99.9 percent tin and contain not more than 0.025 percent lead.

(d) *SBR cups.* Two unused, approximately one-eighth sections of a standard SAE SBR WC cup (as described in S7.6).

(e) *Machine screw and nut.* Two clean oil-free, No. 6 or 8-32 \times $\frac{3}{8}$ - or $\frac{1}{2}$ -inch long (or equivalent metric size), round or flister head, uncoated mild steel machine screws, with matching plain nuts.

S6.11.4 Preparation.

(a) *Corrosion test strips.* Prepare two sets of aluminum and cast iron test strips according to S6.6.4(a) except for assembly. Weigh each strip to the nearest 0.1 mg. and assemble a strip of each metal on a machine screw, separating the strips at each end with a piece of tin foil. Tighten the nut enough to hold both pieces of foil firmly in place.

(b) *Test mixture.* Place 30 \pm 1 ml. of the brake fluid under test in a 22 by 175 mm. test tube. Add 0.060 \pm 0.002 gram of benzoyl peroxide, and 1.50 \pm 0.05 ml. of distilled water. Stopper the tube loosely with a clean dry cork, shake, and place in an oven for 2 hours at 70 \pm 2 $^{\circ}$ C. (158 \pm 3.6 $^{\circ}$ F.). Shake every 15 minutes to effect solution of the peroxide, but do not wet cork. Remove the tube from the oven and allow to cool to 23 \pm 5 $^{\circ}$ C. (73.4 \pm 9 $^{\circ}$ F.).

S6.11.5 *Procedure.* Place a one-eighth SBR cup section in the bottom of each tube. Add 10 ml. of prepared test mixture to each test tube. Place a metal-strip assembly in each, the end of the strip without the screw resting on the rubber, and the solution covering about one-half the length of the strips. Stopper the tubes with clean dry corks and store upright for 70 \pm 2 hours at 23 \pm 5 $^{\circ}$ C. (73.4 \pm 9 $^{\circ}$ F.). Loosen the corks and place the tubes for 168 \pm 2 hours in an oven maintained at 70 \pm 2 $^{\circ}$ C. (158 \pm 3.6 $^{\circ}$ F.). Afterwards remove and disassemble strips. Examine the strips and note any gum deposits. Wipe the strips with a clean cloth wet with ethanol and note any pitting, etching or roughening of surface disregarding stain or discoloration. Place the strips in a desiccator over silica gel or other suitable desiccant, at 23 \pm 5 $^{\circ}$ C. (73.4 \pm 9 $^{\circ}$ F.) for at least 1 hour. Again weigh each strip to the nearest 0.1 mg.

S6.11.6 *Calculation.* Determine corrosion loss by dividing the change in weight of each metal strip by the total surface area of each strip measured in square centimeters, to the nearest square centimeter. If only one of the duplicates two strips of each type of metal, rounding to the nearest 0.05 mg. per square centimeter. If only one of the duplicates fails for any reason, run a second set of duplicate samples. Both repeat sam-

ples shall meet all requirements of S5.1.11.

S6.12 *Effect on SBR cups.* The effects of a brake fluid in swelling, softening, and otherwise affecting standard SBR WC cups shall be evaluated by the following procedure.

S6.12.1 *Summary of the procedure.* Four standard SAE SBR WC cups are measured and their hardnesses determined. The cups, two to a jar, are immersed in the test brake fluid. One jar is heated for 120 hours at 70 $^{\circ}$ C. (158 $^{\circ}$ F.), and the other for 70 hours at 120 $^{\circ}$ C. (248 $^{\circ}$ F.). Afterwards, the cups are washed, examined for disintegration, remeasured and their hardnesses redetermined.

S6.12.2 *Equipment and supplies.*

(a) *Oven.* See S6.6.2(c).

(b) *Glass jars and lids.* Two screw-top, straight-sided round glass jars, each having a capacity of approximately 250 ml. and inner dimensions of approximately 125 mm. in height and 50 mm. in diameter, and a tinned steel lid (no insert or organic coating).

(c) *SBR cups.* See S7.6.

S6.12.3 *Preparation.* Measure the base diameters of the SBR cups as described in S6.6.4(b), and the hardness of each as described in S7.4.

S6.12.4 *Procedure.* Wash the cups in 90 percent ethanol (see S7.3), for not longer than 30 seconds and quickly dry with a clean, lint-free cloth. Using forceps, place two cups into each of the two jars; add 75 ml. of brake fluid to each jar and cap tightly. Place one jar in an oven held at 70 \pm 2 $^{\circ}$ C. (158 \pm 3.6 $^{\circ}$ F.) for 120 \pm 2 hours. Place the other jar in an oven held at 120 \pm 2 $^{\circ}$ C. (248 \pm 3.6 $^{\circ}$ F.) for 70 \pm 2 hours. Allow each jar to cool for 60 to 90 minutes at 23 \pm 5 $^{\circ}$ C. (73.4 \pm 9 $^{\circ}$ F.). Remove cups, wash with ethanol for not longer than 30 seconds, and quickly dry. Examine the cups for disintegration as evidenced by stickiness, blisters, or sloughing. Measure the base diameter and hardness of each cup within 15 minutes after removal from the fluid.

S6.12.5 *Calculation.*

(a) Calculate the change in base diameter of each cup. Note the average value for each pair, to the nearest 0.02 mm. (0.001 inch).

(b) Calculate the change in hardness for each cup. The average of the two values for each pair is the change in hardness.

(c) Note disintegration as evidenced by stickiness, blisters, or sloughing.

S6.13 *Stroking properties.* Evaluate the lubricating properties, component compatibility, resistance to leakage, and related qualities of a brake fluid by running one sample according to the following procedures.

S6.13.1 *Summary of the procedure.* Brake fluid is stroked under controlled conditions at an elevated temperature in a simulated motor vehicle hydraulic braking system consisting of four slave wheel cylinders and an actuating master cylinder connected by steel tubing. Reference standard parts are used. All parts are carefully cleaned, examined, and cer-

tain measurements made immediately prior to assembly for test. During the test, temperature, rate of pressure rise, maximum pressure, and rate of stroking, are specified and controlled. The system is examined periodically during stroking to assure that excessive leakage of fluid is not occurring. Afterwards, the system is torn down. Metal parts and SBR cups are examined and remeasured. The brake fluid and any resultant sludge and debris are collected, examined, and tested.

S6.13.2 *Apparatus and equipment.* Either the drum and shoe type of stroking apparatus (see Figure 1 of SAE Standard J1703b), or the stroking fixture type (see Figure 3 of SAE J1703b) arranged as shown in Figure 2 of J1703b. The following components are required.

(a) *Brake assemblies.* With the drum and shoe apparatus: four drum and shoe assembly units (SAE RM-29a) consisting of four forward brake shoes and four reverse brake shoes with linings and four front wheel brake drum assemblies with assembly components parts. With stroking fixture type apparatus: four fixture units including appropriate adapter mounting plates to hold brake wheel cylinder assemblies.

(b) *Braking pressure actuation mechanism.* An actuating mechanism for applying a force to the master cylinder pushrod without side thrust. The amount of force applied by the actuating mechanism shall be adjustable and capable of applying sufficient thrust to the master cylinder to create a pressure of at least 70 kg./sq. cm. (1,000 p.s.i.) in the simulated brake system. A hydraulic gage or pressure recorder, having a range of at least 0 to 70 kg./sq. cm. (0 to 1,000 p.s.i.), shall be installed between the master cylinder and the brake assemblies and shall be provided with a shutoff valve and with a bleeding valve for removing air from the connecting tubing. The actuating mechanism shall be designed to permit adjustable stroking rates of approximately 1,000 strokes per hour. Use a mechanical or electrical counter to record the total number of strokes.

(c) *Heated air bath cabinet.* An insulated cabinet or oven having sufficient capacity to house the four mounted brake assemblies or stroking fixture assemblies, master cylinder, and necessary connections. A thermostatically controlled heating system is required to maintain a temperature of 70 \pm 5 $^{\circ}$ C. (158 \pm 9 $^{\circ}$ F.) or 120 \pm 5 $^{\circ}$ C. (248 \pm 9 $^{\circ}$ F.). Heaters shall be shielded to prevent direct radiation to wheel or master cylinder.

(d) *Master cylinder (MC) assembly (SAE RM-15a).* One cast iron housing hydraulic brake system cylinder having a diameter of approximately 28 mm. (1 $\frac{1}{8}$ inch) and fitted for a filler cap and standpipe (see S6.13.2(e)). The MC piston shall be made from SAE CA360 copperbase alloy (half hard). A new MC assembly is required for each test.

(e) *Filler cap and standpipe.* MC filler cap provided with a glass or uncoated steel standpipe. Standpipe must provide

adequate volume for thermal expansion, yet permit measurement and adjustment of the fluid level in the system to \pm 3 ml. Cap and standpipe may be cleaned and reused.

(f) *Wheel cylinder (WC) assemblies (SAE RM-14a).* Four unused cast iron housing straight bore hydraulic brake WC assemblies having diameters of approximately 28 mm. (1 $\frac{1}{8}$ inch) for each test. Pistons shall be made from unanodized SAE AA2024 aluminum alloy.

(g) *Micrometer.* Same as S6.6.2(d).

S6.13.3 Materials.

(a) *Standard SBR brake cups.* Eight standard SAE SBR wheel cylinder test cups, one primary MC test cup, and one secondary MC test cup, all as described in S7.6, for each test.

(b) *Steel tubing.* Double wall steel tubing meeting SAE specification J527. A complete replacement of tubing is essential when visual inspection indicates any corrosion or deposits on inner surface of tubing. Tubing from master cylinder to one wheel cylinder shall be replaced for each test (minimum length 3 feet). Uniformity in tubing size is required between master cylinder and wheel cylinder. The standard master cylinder has two outlets for tubing, both of which must be used.

S6.13.4 Preparation of test apparatus.

(a) *Wheel cylinder assemblies.* Use unused wheel cylinder assemblies. Disassemble cylinders and discard cups. Clean all metal parts with ethanol. Inspect the working surfaces of all metal parts for scoring, galling, or pitting and cylinder bore roughness, and discard all defective parts. Remove any stains on cylinder walls with crocus cloth and ethanol. If stains cannot be removed, discard the cylinder. Measure the internal diameter of each cylinder at a location approximately 19 mm. (0.75 inch) from each end of the cylinder bore, taking measurements in line with the hydraulic inlet opening and at right angles to this centerline. Discard the cylinder if any of these four readings exceeds the maximum or minimum limits of 28.66 to 28.60 mm. (1.128 to 1.126 inch). Measure the outside diameter of each piston at two points approximately 90 $^{\circ}$ apart. Discard any piston if either reading exceeds the maximum or minimum limits of 28.55 to 28.52 mm. (1.124 to 1.123 inch). Select parts to insure that the clearance between each piston and mating cylinder is within 0.08 to 0.13 mm. (0.003 to 0.005 inch). Use unused SBR cups. To remove dirt and debris, rinse the cups in 90 percent ethyl alcohol for not more than 30 seconds and wipe dry with a clean lint-free cloth. Discard any cups showing defects such as cuts, molding flaws, or blisters. Measure the lip and base diameters of all cups with an optical comparator or micrometer to the nearest 0.02 mm. (0.001 inch) along the centerline of the SAE and rubber-type identifications and at right angles to this centerline. Determine base diameter measurements at least 0.4 mm. (0.015 inch) above the bottom edge and parallel to the base of the cup. Discard any cup if the two measured

lip or base diameters differ by more than 0.08 mm. (0.003 inch). Average the lip and base diameters of each cup. Determine the hardness of all cups according to S7.4. Dip the rubber and metal parts of wheel cylinders, except housing and rubber boots, in the fluid to be tested and install them in accordance with the manufacturer's instructions. Manually stroke the cylinders to insure that they operate easily. Install cylinders in the simulated brake system.

(b) *Master cylinder assembly.* Use an unused master cylinder and unused standard SBR primary and secondary MC cups which have been inspected, measured and cleaned in the manner specified in S6.13.4(a), omitting hardness of the secondary MC cup. However, prior to determining the lip and base diameters of the secondary cup, dip the cup in test brake fluid, assemble on the MC piston, and maintain the assembly in a vertical position at 23 \pm 5 $^{\circ}$ C. (73.4 \pm 9 $^{\circ}$ F.) for at least 12 hours. Inspect the relief and supply ports of the master cylinder; discard the cylinder if ports have burrs or wire edges. Measure the internal diameter of the cylinder at two locations (approximately midway between the relief and supply ports and approximately 19 mm. (0.75 inch) beyond the relief port toward the bottom or discharge end of the bore), taking measurements at each location on the vertical and horizontal centerline of the bore. Discard the cylinder if any reading exceeds the maximum or minimum limits of 28.65 to 28.57 mm. (1.128 to 1.125 inch). Measure the outside diameter of each end of the master cylinder piston at two points approximately 90 $^{\circ}$ apart. Discard the piston if any of these four readings exceed the maximum or minimum limits of 28.55 to 28.52 mm. (1.124 to 1.123 inch). Dip the rubber and metal parts of the master cylinder, except the housing and push rod-boot assembly, in the brake fluid and install in accordance with manufacturer's instructions. Manually stroke the master cylinder to insure that it operates easily. Install the master cylinder in the simulated brake system.

(c) *Assembly and adjustment of test apparatus.* When using a shoe and drum type apparatus, adjust the brake shoe toe clearances to 1 \pm 0.1 mm. (0.040 \pm 0.004 inch). Fill the system with brake fluid, bleeding all wheel cylinders and the pressure gage to remove entrapped air. Operate the actuator manually to apply a pressure greater than the required operating pressure and inspect the system for leaks. Adjust the actuator and/or pressure relief valve to obtain a pressure of 70 \pm 3.5 kg./sq. cm. (1,000 \pm 50 p.s.i.). A smooth pressure-stroke pattern is required when using a shoe and drum type apparatus. (Figure 4 of SAE J1703b illustrates the approximate pressure buildup versus the master cylinder piston movement with the stroking fixture apparatus.) The pressure is relatively low during the first part of the stroke and then builds up smoothly to the maximum stroking pressure at the end of the

stroke. The stroke length is about 23 mm. (0.9 inch). This permits the primary cup to pass the compensating hole at a relatively low pressure. Using stroking fixtures, the WC piston travel is about 2.5 \pm 0.25 mm. (0.100 \pm 0.010 inch) when a pressure of 70 kg./sq. cm. is reached. Adjust the stroking rate to 1,000 \pm 100 strokes per hour. Record the fluid level in the master cylinder standpipe.

S6.13.5 *Procedure.* Operate the system for 16,000 \pm 1,000 cycles at 23 \pm 5 $^{\circ}$ C. (73.4 \pm 9 $^{\circ}$ F.). Repair any leakage, readjust the brake shoe clearances, and add fluid to the master cylinder standpipe to bring to the level originally recorded, if necessary. Start the test again and raise the temperature of the cabinet within 6 \pm 2 hours to 120 \pm 5 $^{\circ}$ C. (248 \pm 9 $^{\circ}$ F.). During the test observe operation of wheel cylinders for improper functioning and record the amount of fluid required to replenish any loss, at intervals of 24,000 strokes. Stop the test at the end of 85,000 total recorded strokes. These totals shall include the number of strokes during operation at 23 \pm 5 $^{\circ}$ C. (73.4 \pm 9 $^{\circ}$ F.) and the number of strokes required to bring the system to the operating temperature. Allow equipment to cool to room temperature. Examine the wheel cylinders for leakage. Stroke the assembly an additional 100 strokes, examine wheel cylinders for leakage and record volume loss of fluid. Within 16 hours after stopping the test, remove the master and wheel cylinders from the system, retaining the fluid in the cylinders by immediately capping or plugging the ports. Disassemble the cylinders, collecting the fluid from the master cylinder and wheel cylinders in a glass jar. When collecting the stroked fluid, remove all residue which has deposited on rubber and metal internal parts by rinsing and agitating such parts in the stroked fluid and using a soft brush to assure that all loose adhering sediment is collected. Clean SBR cups in ethanol and dry. Inspect the cups for stickiness, scuffing, blistering, cracking, chipping, and change in shape from original appearance. Within 1 hour after disassembly, measure the lip and base diameters of each cylinder cup by the procedures specified in S6.13.4 (a) and (b) with the exception that lip or base diameters of cups may now differ by more than 0.08 mm. (0.003 inch). Determine the hardness of each cup according to S7.4. Note any sludge or gel present in the test fluid. Within 1 hour after draining the cylinders, agitate the fluid in glass jar to suspend and uniformly disperse sediment and transfer a 100 ml. portion of this fluid to a centrifuge tube and determine percent sediment as described in S7.5. Allow the tube and fluid to stand for 24 hours, recentrifuge and record any additional sediment recovered. Inspect cylinder parts, note any gumming or any pitting on pistons and cylinder walls. Disregard staining or discoloration. Rub any deposits adhering to cylinder walls with a clean soft cloth wetted with ethanol to determine abrasiveness and removability. Clean cylinder

parts in ethanol and dry. Measure and record diameters of pistons and cylinders according to S6.13.4 (a) and (b). Repeat the test if mechanical failure occurs that may affect the evaluation of the brake fluid.

S6.13.6 Calculation.

(a) Calculate the changes in diameters of cylinders and pistons (see S5.1.13(b)).
(b) Calculate the average decrease in hardness of the nine cups tested, as well as the individual values (see S5.1.13(c)).
(c) Calculate the increases in base diameters of the ten cups (see S5.1.13(e)).
(d) Calculate the lip diameter interference set for each of the ten cups by the following formula and average the ten values (see S5.1.13(f)).

$$\frac{D_1 - D_2}{D_1 - D_3} \times 100 = \text{percentage Lip Diameter Interference Set}$$

Where:

D_1 = Original lip diameter.
 D_2 = Final lip diameter.
 D_3 = Original cylinder bore diameter.

S7. Auxiliary test methods and reagent standards.

S7.1 *Distilled water.* Nonreferee reagent water as specified in ASTM D1193-70, "Standard Specifications for Reagent Water," or water of equal purity.

S7.2 *Water content of motor vehicle brake fluids.* Use analytical methods based on ASTM D1123-59, "Standard Method of Test for Water in Concentrated Engine Antifreezes by the Iodine Reagent Method," for determining the water content of brake fluids, or other methods of analysis yielding comparable results. To be acceptable for use, such other method must measure the weight of water added to samples of the SAE RM-1 Compatibility Fluid within ± 15 percent of the water added for additions up to 0.8 percent by weight, and within ± 5 percent of the water added for additions greater than 0.8 percent by weight. The SAE RM-1 Compatibility Fluid used to prepare the samples must have an original ERBP of not less than 182° C. (360° F.) when tested in accordance with S6.1.

S7.3 *Ethanol.* 95 percent (190 proof) ethyl alcohol, USP or ACS, or Formula 3-A Specially Denatured Alcohol of the same concentration (see Part 212 of Title 26, Code of Federal Regulations—U.S. Treasury Department, I.R.S. Publication No. 368). For pretest washings of equipment use approximately 90 percent ethyl alcohol, obtained by adding 5 parts of distilled water to 95 parts of ethanol.

S7.4 *Measuring the hardness of SBR brake cups.* Hardness measurements on SBR wheel cylinder cups and master cylinder primary cups shall be made by using the following apparatus and the following procedure.

S7.4.1 Apparatus.

(a) *Anvil.* A rubber anvil having a flat circular top 20 ± 1 mm. ($1\frac{3}{16} \pm \frac{1}{16}$ inch) in diameter, a thickness of at least 9 mm. ($\frac{3}{8}$ inch) and a hardness within 5 IRHDs of the SBR test cup.

(b) *Hardness tester.* A hardness tester meeting the requirements for the stand-

ard instrument as described in ASTM D1415-68, "Standard Method of Test for International Hardness of Vulcanized Natural and Synthetic Rubbers," and graduated directly in IRHD units.

S7.4.2 *Procedure.* Make hardness measurements at 23 ± 2 ° C. (73.4 ± 3.6 ° F.). Equilibrate the tester and anvils at this temperature prior to use. Center brake cups lip side down on an anvil of appropriate hardness. Following the manufacturer's operating instructions for the hardness tester, make one measurement at each of four points one-fourth inch from the center of the cup and spaced 90° apart. Average the four values, and round off to the nearest IRHD.

S7.5 *Sediment by centrifuging.* The amount of sediment in the test fluid shall be determined by the following procedure.

S7.5.1 Apparatus.

(a) *Centrifuge tube.* Cone-shaped centrifuge tubes conforming to the dimensions given in Figure 6, and made of thoroughly annealed glass. The graduations shall be numbered as shown in Figure 6, and shall be clear and distinct. Scale-error tolerances and smallest graduations between various calibration marks are given in Table V and apply to calibrations made with air-free water at 20° C. (68° F.).

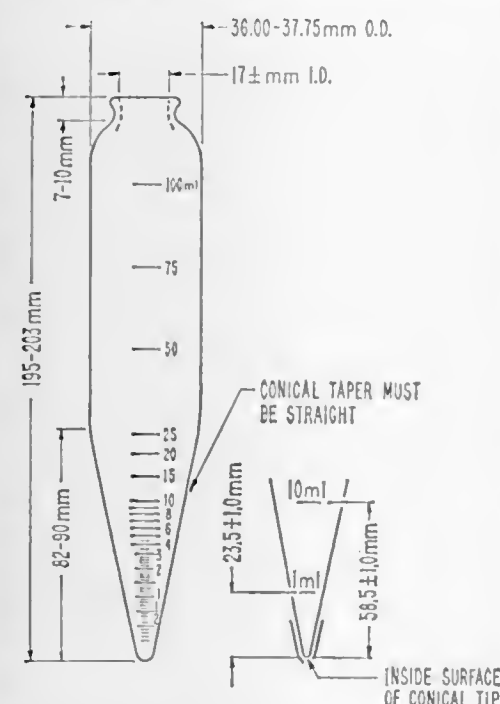


FIG. 6
ASTM 8-INCH CENTRIFUGE TUBE

TABLE V—CALIBRATION TOLERANCES FOR 8-INCH CENTRIFUGE TUBE

Range, ml	Subdivision, ml	Volume tolerance, ml
0 to 0.1	0.05	± 0.02
Above 0.1 to 0.3	0.05	± 0.03
Above 0.3 to 0.5	0.05	± 0.05
Above 0.5 to 1	0.10	± 0.05
Above 1 to 2	0.10	± 0.10
Above 2 to 3	0.20	± 0.10
Above 3 to 5	0.5	± 0.20
Above 5 to 10	1	± 0.50
Above 10 to 25	5	± 1.00
Above 25 to 100	25	± 1.00

(b) *Centrifuge.* A centrifuge capable of whirling two or more filled centrifuge tubes at a speed which can be controlled to give a relative centrifugal force (r.c.f.) between 600 and 700 at the tip of the tubes. The revolving head, trunnion rings, and trunnion cups, including the rubber cushion, shall withstand the maximum centrifugal force capable of being delivered by the power source. The trunnion cups and cushions shall firmly support the tubes when the centrifuge is in motion. Calculate the speed of the rotating head using this equation:

$$r.p.m. = 265 \sqrt{\frac{r.c.f.}{d}}$$

where:

r.c.f. = Relative centrifugal force, and
d = Diameter of swing, in inches, measured between tips of opposite tubes when in rotating position.

Table VI shows the relationship between diameter, swing, relative centrifugal force (r.c.f.), and revolutions per minute.

TABLE VI—ROTATION SPEEDS FOR CENTRIFUGES OF VARIOUS DIAMETERS

Diameter of swing, inches	R.p.m. at 600 r.c.f.	R.p.m. at 700 r.c.f.
19	1490	1610
20	1450	1570
21	1420	1530
22	1390	1500

* Measured in inches between tips of opposite tubes when in rotating position.

S7.5.2 *Procedure.* Balance the corked centrifuge tubes with their respective trunnion cups in pairs by weight on a scale, according to the centrifuge manufacturer's instructions, and place them on opposite sides of the centrifuge head. Use a dummy assembly when one sample is tested. Then whirl them for 10 minutes, at a rate sufficient to produce a r.c.f. between 600 and 700 at the tips of the whirling tubes. Repeat until the volume of sediment in each tube remains constant for three consecutive readings.

S7.5.3 *Calculation.* Read the volume of the solid sediment at the bottom of the centrifuge tube and report the percent sediment by volume. Where replicate determinations are specified, report the average value.

S7.6 *Standard styrene-butadiene rubber (SBR) brake cups.* SBR brake cups for testing motor vehicle brake fluids shall be manufactured using the following formulation:

FORMULATION OF RUBBER COMPOUND

Ingredient	Parts by weight
SBR type 1503*	100
Oil furnace black (NBS 378)	40
Zinc oxide (NBS 370)	5
Sulfur (NBS 371)	0.25
Stearic Acid (NBS 372)	1
n-tertiary butyl-2-benzothiazole sulfenamide (NBS 384)	1
Symmetrical dibutanaphthyl-p-phenylenediamine	1.5
Dicumyl peroxide (40 percent on precipitated CaCO ₃)	4.5
Total	153.25

NOTE: The ingredients labeled (NBS) must have properties identical with those Footnote on next page.

supplied by the National Bureau of Standards.

* Philprene 1503 has been found suitable.
* Use only within 90 days of manufacture and store at temperature below 27° C. (80° F.).

Compounding, vulcanization, physical properties, size of the finished cups, and other details shall be as specified in Appendix B of SAE J1703a. The cups shall be used in testing brake fluids either within 6 months from date of manufacture when stored at room temperature below 30° C. (86° F.) or within 36 months from date of manufacture when stored at temperatures below minus 15° C. (+5° F.). After removal of cups from refrigeration they shall be conditioned base down on a flat surface for at least 12 hours at room temperature in order to allow cups to reach their true configuration before measurement.

[FR Doc.71-8730 Filed 6-23-71; 8:45 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1030; Amdt. 8]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Tracks of Atchison, Topeka and Santa Fe Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of June 1971.

Upon further consideration of Service Order No. 1030 (34 F.R. 11211, 15250; 35 F.R. 5334, 10661, 15294; 36 F.R. 5798), and good cause appearing therefor:

It is ordered, That:

Section 1033.1030 *Service Order No. 1030* (Chicago, Rock Island and Pacific Railroad Co. authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1030 *Service Order No. 1030.*

(e) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2); Interprets or applies sec. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the

general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8884 Filed 6-23-71; 8:49 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Occupational Safety and Health Review Commission

Section 213.3344 is amended to show that the position of one Executive Secretary is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-24-71), paragraph (b) is added to § 213.3344 as set out below.

§ 213.3344 *Occupational Safety and Health Review Commission.*

(b) Executive Secretary

(5 U.S.C. §§ 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION.

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-8929 Filed 6-23-71; 8:53 am]

PART 713—EQUAL OPPORTUNITY

PART 735—EMPLOYEE RESPONSIBILITIES

Miscellaneous Amendments

The Postal Reorganization Act provides that regulations issued under chapters 71 and 73 of title 5, United States Code, do not apply to the U.S. Postal Service or the Postal Rate Commission "unless expressly made applicable." Executive Order No. 11570 of November 24, 1970, and Executive Order No. 11590 of April 23, 1971, made Executive Order No. 11222, "Prescribing Standards of Ethical Conduct for Government Officers and Employees," and Executive Order No. 11478, "Equal Employment Opportunity in the Federal Government" applicable to the U.S. Postal Service and the Postal Rate Commission. These are conforming amendments to the regulations.

Effective July 1, 1971, §§ 713.201(b), and 713.301(a) of Part 713 and § 735.102 (a) of Part 735 are amended as set out below:

§ 713.201 *Purpose and applicability.*

(b) *Applicability.* (1) This subpart applies (i) to military departments as

defined in section 102 of title 5, United States Code, Executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, the U.S. Postal Service, and the Postal Rate Commission, and to the employees thereof, including employees paid from nonappropriated funds, and (ii) to those portions of the legislative and judicial branches of the Federal Government and the government of the District of Columbia having positions in the competitive service and to the employees in those positions.

§ 713.301 *Applicability.*

(a) This subpart applies (1) to military departments as defined in section 102 of title 5, United States Code, Executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, the U.S. Postal Service, and the Postal Rate Commission, and to the employees thereof, including employees paid from nonappropriated funds, and (2) to those portions of the legislative and judicial branches of the Federal Government and the government of the District of Columbia having positions in the competitive service and to the employee in those positions.

(5 U.S.C. 1301, 3301, 3302, 7151-7154, 7301, E.O. 10577; 3 CFR, 1954-1958 Comp., p. 218, E.O. 11222; 3 CFR, 1964-1965 Comp., p. 306, E.O. 11478; 3 CFR, 1969 Comp.)

§ 735.102 *Definitions.*

(a) "Agency" means an Executive agency (other than the General Accounting Office) as defined by section 105 of title 5, United States Code, the Postal Service, and the Postal Rate Commission.

(Secs. 602, 701, 702, E.O. 11222; 3 CFR, 1964-1965, Comp., p. 306)

UNITED STATES CIVIL SERVICE COMMISSION.

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-8928 Filed 6-23-71; 8:53 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 354]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.654 *Valencia Orange Regulation 354.*

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable

provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 22, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 25, 1971, through July 1, 1971, are hereby fixed as follows:

- (i) District 1: 138,000 cartons;
- (ii) District 2: 462,000 cartons;
- (iii) District 3: unlimited.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-10, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 23, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-9058 Filed 6-23-71; 11:50 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 909—GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Increase in Rate of Assessment and Decrease in Expenses 1970-71 Fiscal Year

On June 9, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 11103) regarding a proposed increase in the rate of assessment and decrease in expenses for the fiscal year September 1, 1970, through August 31, 1971, pursuant to Order No. 909, as amended (7 CFR Part 909; 35 F.R. 16637), regulating the handling of grapefruit grown in Arizona and designated parts of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matters presented, including the proposal set forth in such notice which was submitted by the Grapefruit Administrative Committee (established pursuant to said amended marketing order), it is hereby found and determined that due to freeze damage in the production area the crop will not reach the previously estimated total, thus rendering necessary an increase in assessment rate and a decrease in expenses.

It is, therefore, ordered that paragraphs (a) *Expenses* and (b) *Rate of assessment* of § 909.209 (35 F.R. 17653) are hereby amended to read as follows: § 909.209 *Expenses, rate of assessment, and carryover of unexpended funds.*

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Administrative Committee during the period September 1, 1970, through August 31, 1971, will amount to \$88,200.

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at \$0.035 per carton, or equivalent quantity of grapefruit.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the said committee in the performance of its duties and functions is likely to incur obligations which

may be in excess of the income likely to be received from handlers at the current rate of assessment based on the new crop estimate, (2) the relevant provisions of said marketing agreement and this part require that the amended rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the period, and (3) such period began on September 1, 1970, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1-9, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 21, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8891 Filed 6-23-71; 8:49 am]

Chapter XXI—Foreign Economic Development Service, Department of Agriculture

PART 2101—AVAILABILITY OF INFORMATION

The chapter heading of Chapter XXI, Title 7 CFR, is hereby amended by deleting "International Agricultural Development Service" and substituting in lieu thereof, "Foreign Economic Development Service". Part 2101, dealing with availability to the public of records of the Foreign Economic Development Service, is revised entirely as set forth below. The description of the organization of the Foreign Economic Development Service is published as a notice in the FEDERAL REGISTER (currently 36 F.R. ____). The fee schedule for copies of available documents is published as a Notice in the FEDERAL REGISTER (currently 36 F.R. 6442). Part 2101 as amended reads as follows:

Subpart A—General

- Sec.
- 2101.1 General statement.
- 2101.2 Organizational description.

Subpart B—Availability of Program Information, Staff Manuals, Instructions, and Related Material

- 2101.3 Index.
- 2101.4 Records available from index.
- 2101.5 Facilities for inspection and availability of copies.

Subpart C—Availability of Identifiable Records

- 2101.6 Requests.
- 2101.7 Exempt records.
- 2101.8 Denials.
- 2101.9 Appeals.
- 2101.10 Address of office.

AUTHORITY: The provisions of this Part 2101 issued under 5 U.S.C. 301; 552(a) (2), (3) and 552(b); 5 U.S.C. 559.

Subpart A—General

§ 2101.1 General statement.

This part is issued in accordance with and subject to the regulations of the Sec-

retary of Agriculture, §§ 1.1 through 1.4 of this title, and governs the availability of records of the Foreign Economic Development Service ("FEDS") to the public upon request.

§ 2101.2 Organizational description.

The description of the organization of FEDS is published as a notice in the FEDERAL REGISTER and may be revised from time to time in like manner. Such description contains a listing of the FEDS organization units and their functions.

Subpart B—Availability of Program Information, Staff Manuals, and Related Material

§ 2101.3 Index.

The Director, Program Support Group, will maintain a current index providing identifying information with respect to records referred to in § 2101.4.

§ 2101.4 Records available from index.

Records listed in the index will include final orders, and opinions, statements of policy and interpretation, and administrative staff manuals and instructions.

§ 2101.5 Facilities for inspection and availability of copies.

(a) The Office of the Director, Program Support Group, will be the central facility for the inspection and copying of material listed in the index.

(b) The index and the materials listed therein may be inspected and copied during regular working hours or may be obtained by mail upon payment of any applicable fees.

Subpart C—Availability of Identifiable Records

§ 2101.6 Requests.

(a) Requests for FEDS records, other than those available under subpart B, shall be made in writing to the Director, Program Support Group, who will refer the request to the appropriate FEDS Program Director.

(b) Each record requested must be identified with reasonable specificity.

(c) Records so requested will be made available, except for exempt records in the categories specified in section 2101.7.

(d) Available records may be inspected and copied at the appropriate FEDS Program Director's office during regular working hours or may be obtained by mail. Copies will be provided upon payment of any applicable fees.

§ 2101.7 Exempt records.

The following records of FEDS are exempt from disclosure:

(a) Matters specifically required by Executive Order to be kept secret.

(b) Matters related solely to the internal personnel rules and practices of FEDS.

(c) Matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential. Among FEDS records in

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service, Department of Agriculture

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

MISCELLANEOUS AMENDMENTS TO CHAPTER

Statement of considerations. On October 3, 1970, a revision of the Federal meat inspection regulations was published in the FEDERAL REGISTER (35 F.R. 15552-15617) under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and other laws. On December 29, 1970, the revised regulations were supplemented by the addition of a new Part 331 to the regulations (35 F.R. 19666). The purpose of the present document is to make changes in the regulations for clarity and internal consistency and coordination with actions of the Federal Food and Drug Administration, to adopt certain amendments previously proposed in notices of rule making, and to reflect certain current interpretations and policies. This document also relieves certain labeling requirements of the regulations. The amendments hereinafter made—

1. Amend § 302.1(a) (1) and (2) to clarify the provisions for exemption from inspection for custom operations and operations in unorganized territories; amend § 302.1(a) (3) to allow plants designated under paragraph 301(c) of the Act to operate, in a sanitary manner, under a custom exemption as contemplated by the Act; and amend § 303.1 (a) (2) (i) and (b) (1) to modify the application of certain provisions of Parts 308 and 318 to exempted custom operations and make Part 319 inapplicable to products prepared under custom exemptions.

2. Amend § 303.1(d) (2) (iii) to clarify the application of the requirements of § 303.1(b) to the handling or use of exempted custom slaughtered or custom prepared products by retail stores exempted from inspection;

3. Change the provisions in § 307.6 prescribing holidays for Federal employees to reflect legislation effective January 1, 1971;

4. Change § 312.2 to correct the form of the first three official inspection legends;

5. Change the wording in § 317.2(d) (2) (ii) to clarify the definition of the term "principal display panel," to define the term "20 percent panel," and to clarify labeling requirements for a cylindrical or nearly cylindrical container, and make related changes in § 317.2 (f), (g), and (i);

6. Change the provisions in § 317.8(b) (7) to eliminate a conflict with § 317.2 (f) (1) (i) regarding label declaration of spices;

7. Amend § 317.2(h) (1) to eliminate the requirement for a statement of the

this class are information furnished voluntarily by individuals or firms, relating to their business operations, for use in assessing development adaptability abroad; records of research and analysis including tabulation sheets and other working materials derived from confidential information supplied by individuals or private and international organizations; and information received in expressed or implied confidence in connection with a contract or service, when release of information would impair the legitimate interests of the person supplying the information.

(d) Matters specifically exempted from disclosure by statute.

(e) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. Such FEDS records would include analyses, data, and other materials in draft manuscripts being prepared for release, prior to actual release; and interagency or intraagency communications applicable to the formulation of instructions, regulations, or decisions.

(f) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. See 7 CFR, Part O, Subpart B, for the policy pertaining to the lists of names of farmers, businesses, persons, organizations, and firms.

(g) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency.

§ 2101.8 Denials.

If the appropriate Program Director determines that a requested record is exempt, he shall give prompt written notice of denial, together with the reasons therefor.

§ 2101.9 Appeals.

A denial by a Program Director of any request may be appealed, by the person who made the request, to the Administrator, FEDS. The appeal shall be made in writing within 15 days of the date of receipt of the Director's notice of denial. Upon timely appeal, the Administrator shall make the final determination and give written notice thereof, together with the reasons therefor, in the case of denials.

§ 2101.10 Address of office.

(a) Requests made to FEDS shall be addressed to the Director, Program Support Group, Foreign Economic Development Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Effective date. This part shall become effective upon the date of its publication in the FEDERAL REGISTER (6-24-71).

Dated: June 15, 1971.

QUENTIN M. WEST,
Administrator.

[FR Doc.71-8893 Filed 6-23-71; 8:49 am]

quantity of contents on immediate containers of products other than those to be sold at retail intact;

8. Amend § 317.2(h) (13) to provide for an exemption from the general requirements on location of net weight statement and the declaration of net weight in both ounces and pounds for shingle packed sliced bacon products in rectangular cartons packaged at weights of other than 8 ounces, 1 pound, or 2 pounds;

9. Change § 318.4, in order to be consistent with §§ 303.1(d) and 307.4, to provide an exception (from the requirement of supervision by Program employees of all processes used in the preparation of product at official establishments) for the preparation, in any official establishment, in a designated State or territory of product for intrastate distribution under an exemption as provided in § 303.1(d) for a retail store, if such store is a part of such official establishment and the establishment is subject to Federal inspection only because of the designation of the State or territory, under paragraph 301(c) of the Act.

10. a. Amend the chart in § 318.7(c) (4) to delete the reference authorizing the use of nordihydroguaiaretic acid (NDGA) as an antioxidant and oxygen interceptor to retard rancidity in rendered animal fat, or a combination of such fat and vegetable fat, in view of the removal by the Food and Drug Administration of this substance from the list of substances generally recognized as safe (33 F.R. 5619) and the absence of a regulation or exemption permitting its use in meat food products under the food additive provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and in view of the determination of this Department that this substance is an added poisonous or added deleterious substance that may make meat food products in which it is used unfit for human food and render such products injurious to human health;

b. Amend the chart in § 318.7(c) (4) to list isolated soy protein as a binder approved for use in sausage, in order to coordinate the provisions of the chart with the provisions in the standards for sausage in Part 319 of this subchapter;

c. Amend the chart in § 318.7(c) (4), as proposed in a notice of rulemaking published on February 21, 1969 (34 F.R. 2506) to authorize the use of sodium bisulfate as a cooling and retort water treatment agent, and to authorize the use of nigrosine as a decharacterizing agent for dry sodium nitrite which is also authorized for use as a cooling and retort water treatment agent;

d. Amend the chart in § 318.7(c) (4) to correct the description of products for which the use of certain flavoring agents, protectors, and developers is approved; and further amend the chart to reinstate a prior authorization inadvertently omitted from the revised regulations for the use of citric acid as a flavoring in chili con carne, and to delete the erroneous reference to corn syrup solids and

similar substances as approved for use to flavor chili con carne;

e. Amend the chart in § 318.7(c) (4) to delete the erroneous authorization for the use of propylparaben (propyl-p-hydroxybenzoate) in oleomargarine or margarine to preserve product and to protect flavor; and to reinstate the prior authorization for use of such substance or dry sausage casing to retard mold growth;

f. Amend the chart in § 318.7(c) (4) to correct the specification of pork products for which various phosphates, or sodium hydroxide in combination with such phosphates, may be used to decrease the amount of cooked out juices;

11. Change the heading for Subpart E in Part 319 to cover provisions applicable to sausage generally as well as fresh sausage; and, in accordance with prior policies and regulations (9 CFR 317.8 (c) (40)), amend the standard in § 319.140 for sausage to permit and limit to 3 percent the use of water in fresh sausages and to permit and limit to 10 percent the amount of water in certain cooked sausages and amend the standards in §§ 319.200 and 319.881 to allow limited amounts of binders and extenders in liver sausage and braunschweiger, clarify the standard for these products, and clarify the requirement for the liver component in other liver products such as liver loaf and similar products.

12. Change § 325.15 to eliminate the requirement for evidence on waybills and similar documents of eligibility for movement of animal food not required to have a certificate under § 325.11(e).

13. Add to § 327.1, provisions clarifying the fact that compliance with Part 327 on imports does not excuse compliance with animal quarantine requirements and other applicable regulations.

14. Correct typographical errors and make other technical changes in the statement of considerations as set forth in the October 3, 1970, publication, and in various sections of the regulations, as hereinafter provided.

Accordingly, under the authority of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), and the provisions in 7 U.S.C. 394, the statement of considerations and the Federal meat inspection regulations as set forth in 35 F.R. 15552-15617, as amended, are further amended as follows:

1a. Section 302.1(a) (1) is amended by changing the phrase "§ 303.1 (a) or (b)" to read: "§ 303.1 (a) and (b), or (c)."

1b. Section 302.1(a) (2) is amended by changing the phrase "§ 303.1 (a) or (d)" to read: "§ 303.1 (a) and (b), or (d)."

1c. Section 302.1(a) (3) is amended by inserting after "establishment," a comma and the phrase "except as provided in § 303.1 (a) and (b) of this subchapter, that is".

1d. Section 303.1(a) (2) (i) is amended to read:

(i) The establishment in which the custom operations are conducted is maintained and operated in accordance with the provisions of §§ 308.4 through 308.11 308.13, 308.14, and 308.3 (except § 308.3

(d) (2) and (3), of this subchapter): *Provided*, That the provisions of said sections relating to inspection or supervision of specified activities or other action by a Program employee shall not apply to the preparation and handling of such exempted products: *Provided, further*, That the requirement of § 308.4 for separate facilities for men and women workers shall not apply to such establishments when the majority of the workers in the establishment are related by blood or marriage and this arrangement will not conflict with municipal or State requirements, and the requirement of § 308.4 for separation of toilet soil lines from house drainage lines to a point outside the buildings will not apply to such establishments when positive acting backflow devices are installed: *And provided, further*, That the requirements of § 308.13 for paved driveways, approaches, yards, pens, and alleys shall not apply to such establishments. However, if custom operations are conducted in an official establishment, all of the provisions of Part 308 shall apply to such establishment.

1e. Section 303.1(b) (1) is amended to read:

(1) The exempted custom prepared products shall be prepared and handled in accordance with the provisions of §§ 318.5, 318.6, 318.7, 318.10, and 318.11 of this subchapter and shall not be adulterated as defined in paragraph 1(m) of the Act: *Provided*, That the provisions of §§ 318.5, 318.6, 318.10, and 318.11 relating to inspection or supervision of specified activities or other action by a Program inspector, and the provisions of § 318.6 (b) (9) and (10), shall not apply to the preparation and handling of such exempted products.

2. Section 303.1(d) (2) (iii) is amended by changing the phrase "paragraph (a) (2) of this subchapter" to read "paragraphs (a) (2) and (b) of this section".

3. In § 307.6, the following is substituted for paragraph (b): (b) Effective January 1, 1971, holidays for Federal employees shall be the 1st day of January, third Monday of February, last Monday of May, fourth day of July, first Monday of September, second Monday of October, fourth Monday of October, fourth Thursday of November, 25th day of December, and any other day designated as a holiday by Federal statute or Executive order. When any of the above-listed holidays falls on a weekday, that day becomes a holiday. When a holiday falls on a Saturday, the preceding workday (Friday) will become a holiday. When a holiday falls on Sunday, the next workday (Monday) will become a holiday.

4. In § 312.2 the form of the first three official inspection legends is changed by substituting round periods for the square periods therein; and in the first of such legends, the term "INSPD & PSD" is substituted for the term "NSPD & PSD."

5. a. § 317.2(d) (2) (ii) is amended to read:

(ii) a panel, the width of which is one-third of the circumference and the height of which is as high as the container: *Provided, however*, That if there is immediately to the right or left of such principal display panel, a panel which has a width not greater than 20 percent of the circumference and a height as high as the container, and which is reserved for information prescribed in subparagraphs (c) (2), (3), and (5), such panel shall be known as the "20 percent panel" and such information may be shown on that panel in lieu of showing it on the principal display panel, as provided in subparagraphs (f) (3), (g) (2), and (i) (8) and (9).

b. § 317.2(f) is amended by adding thereto a new subparagraph (3) to read: "(3) The ingredient statement may be placed on the 20 percent panel adjacent to the principal display panel and reserved for required information, in the case of a cylindrical or nearly cylindrical container."

c. Section 317.2(g) (2) (ii) is amended to read:

(ii) On the 20 percent panel adjacent to the principal display panel and reserved for required information, in the case of a cylindrical or nearly cylindrical container, or

d. Section 317.2(i) is amended by changing subparagraph (8) and adding a new subparagraph (9) to read, respectively:

(8) The official establishment number may be omitted from the official inspection legend printed on paper labels of canned products when the official establishment number is printed on the principal display panel, or on the 20 percent panel as permitted under subparagraph (9), at the time of labeling the container; or the official establishment number may be printed on the back of the paper label when the statement "Est. No. on Back of Label" is printed contiguous to the official inspection legend, in a prominent and legible manner in a size sufficient to insure easy recognition.

(9) The official inspection legend, and the official establishment number when required under this paragraph (i), may be placed on the 20 percent panel adjacent to the principal display panel and reserved for required information, in the case of a cylindrical or nearly cylindrical container.

(6) Section 317.8(b) (7) is amended to read:

(1) No ingredient shall be designated on the label as a spice, flavoring, or coloring unless it is a spice, flavoring, or coloring, as the case may be, except that spice may be considered to be flavoring as provided in § 317.2(f) (1) (i). An ingredient that is both a spice and a coloring, or both a flavoring and a coloring, shall be designated as "spice and coloring," or "flavoring and coloring," as the case may be, unless such ingredient is designated by its specific name.

7. Section 317.2(h) (1) is amended to read:

(1) The statement of net quantity of contents shall appear on the principal

display panel of all containers to be sold at retail intact, in conspicuous and easily legible boldface print or type in distinct contrast to other matter on the package and shall be declared in accordance with the provisions of subparagraphs (2) through (10) of this paragraph.

8. Section 317.2(h) (13) is amended to read:

(13) Shingle packed sliced bacon cartons containing product weighing other than 8 ounces, 1 pound, or 2 pounds shall have the statement of the net quantity of contents shown with the same prominence as the most conspicuous feature on the label and printed in a color of ink contrasting sharply with the background and such containers of sliced bacon that are rectangular are exempt from the requirements of subparagraphs (3) and (5) of this paragraph regarding the placement of the statement of the net quantity of contents within the bottom 30 percent of the principal display panel and that the statement be expressed both in ounces and in pounds.

9. In § 318.4, paragraph (a) is amended by changing the first sentence to read: "All processes used in curing, pickling, rendering, canning, or other-

wise preparing any product in official establishments shall be supervised by Program employees unless such preparation is conducted as a custom operation exempted from inspection under § 303.1 (a) (2) of this subchapter in any official establishment or consists of operations that are exempted from inspection under § 303.1(d) of this subchapter and are conducted in a retail store in an establishment subject to inspection only because the State or Territory in which the establishment is located is designated under paragraph 301(c) of the Act.

10. In § 318.7(c) (4) the chart is amended as follows:

a. The portion of the chart dealing with the Class of Substance, "Antioxidants and oxygen interceptors," is amended by deleting, from the "Substance" column, the phrase "Nordihydroguaiaretic acid (NDGA)" and all information relating thereto in the other columns.

b. In the portion of the chart dealing with the Class of Substance, "Binders," the following information is inserted in the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount
Binders.....	Isolated soy protein....	To bind and extend product.	Sausage, as provided for in Part 319 of this subchapter.	2 percent.

c. The portion of the chart dealing with the Class of Substance, "Cooling and retort water treatment agents," is amended by deleting, from the "Substance" column, the words "sodium

nitrite," and all information relating thereto in the other columns, and inserting the following information in the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount
Cooling and retort water treatment agents.	Sodium bisulfate.....	To inhibit corrosion on exterior of canned goods.	do.....	0.001 percent.
	Sodium nitrite. (The dry nitrite must be decharacterized with 0.05 percent powdered charcoal or 0.03 percent nigrosine. Bulk decharacterized sodium nitrite when in cook room shall be held in a locked container conspicuously labeled "Decharacterized Sodium Nitrite—to be used by authorized personnel only.")	do.....	do.....	600 parts per million.

d. The portion of the chart dealing with the Class of Substance, "Flavoring agents; protectors and developers," is amended by deleting the word "Any" in the "Products" column with respect to the substances "Program approved artificial smoke flavoring", "Hydrolyzed plant protein", "Milk protein hydrolysate", and "Sugars (sucrose and dextrose)" and by deleting the word "do" in the "Products" column with respect to "Disodium guanylate" and "Disodium inosinate" and substituting in each in-

stance the term "Various"; and by adding the following as footnote 2 at the end of the chart:

²Information as to the specific products for which use of this substance is approved may be obtained upon inquiry addressed to the Director, Laboratory Services Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; and said portion of the chart is further amended by deleting, from the "Products" column, the words "Chili con carne," with respect to corn syrup solids, corn syrup, and glucose syrup and inserting the following information in the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount
Flavoring agents, protectors and developers.	Citric acid.....	Flavoring	Chili con carne.....	Sufficient for purpose.

e. The portion of the chart dealing with the Class of Substance, "Miscellaneous," is amended by deleting, from the "Substance" column, the words "Propylparaben (propyl-p-hydroxybenzoate)" and all information relating thereto in the other columns, and inserting in lieu thereof the following information in the appropriate columns:

Class of substance	Substance	Purpose	Products	Amount
Miscellaneous	Propyl paraben (propyl p-hydroxybenzoate).	To retard mold growth.	Dry sausage ..	3.5 percent in water solution may be applied to casings after stuffing, or casings may be dipped in solution prior to stuffing.

f. The portion of the chart dealing with the Class of Substance, "Miscellaneous," is amended by deleting, from the "Substance" column, the words "Sodium hyroxide," and all information relating thereto in the other columns, and the portion of the chart dealing with the

Class of substance	Substance	Purpose	Products	Amount
Miscellaneous	Sodium hydroxide....	To decrease amount of cooked out juices.	Cured hams, pork shoulder plies and loins, canned hams and pork shoulder plies, and products covered by § 319.104(d); chopped ham and bacon.	May be used only in combination with phosphates in ratio of four parts phosphate to one part sodium hydroxide; the combination shall not exceed 5 percent in pickle at 10 percent pump level; 0.5 percent of phosphate in product (only clear solution may be injected into product).

Class of substance	Substance	Purpose	Products	Amount
Phosphates.	Disodium phosphate	do	do	5 percent of phosphate in pickle at 10 percent pump level; 0.5 percent of phosphate in product (only clear solution may be injected into product).

11.a. The heading for Subpart E in Part 319 is amended to read: "Subpart E—Sausage generally: Fresh Sausage," and § 319.140 is amended by adding at the end thereof the following: "To facilitate chopping or mixing or to dissolve the usual curing ingredients, water or ice may be used in the preparation of sausage which is not cooked in an amount not to exceed 3 percent of the total ingredients in the formula. Cooked sausages such as Polish sausage, cotto salami, braunschweiger, liver sausage, and similar cooked sausage products may contain no more than 10 percent of added water in the finished product."

b. Section 319.200 is amended to read as follows:

§ 319.200 Liver sausage and braunschweiger.

"Liver Sausage" and "Braunschweiger" are cooked sausages made from fresh and/or frozen pork and pork livers and/or beef livers and may contain cured pork, beef and veal, and pork fat. Liver sausage may also contain beef and pork byproducts, pork skins, sheep livers and goat livers. These products shall contain not less than 30 percent of liver computed on the weight of the fresh liver and may contain binders and extenders as permitted in § 319.140.

c. Section 319.881 is amended to read as follows:

§ 319.881 Liver meat food products.

Meat food products characterized and labeled as liver products such as liver loaf, liver cheese, liver spread, liver mush, liver paste, and liver pudding shall contain not less than 30 percent of pork, beef, sheep, or goat livers computed on the fresh weight of the livers.

12. Section 325.15 is amended by adding thereto a new paragraph (c) to read:

(c) No statement as prescribed in this section is required for the transportation of any animal food if it is eligible for transportation in commerce without a shipper's certificate under § 325.11(e).

13. Section 327.1 is amended by adding at the end thereof the following: "Compliance with the conditions for importation of products under this part does not excuse the need for compliance with applicable requirements under other laws, including the provisions in Parts 94, 95, and 96 of Chapter I of this Title."

14. a. In § 310.2(a), the words "back tags" are changed to "backtags."

b. In the index and heading for § 311.10, the words "in sheep" following the word bluetongue are deleted.

c. In § 312.5(b), the term "(Form CP 4 of -3)" is changed to "(Form CP-408-3)."

d. In § 314.10(b), the word "not" is deleted.

e. Section 316.4(b) is amended to read:

(b) All official devices for marking products with the official inspection legend, or other official inspection marks, including self-locking seals, shall be used only under supervision of a Program employee, and, when not in use for marking shall be kept locked in properly equipped locks or compartments, the keys of which shall not leave the possession of a Program employee, or the locker or compartment shall be sealed with an official seal of the Department as prescribed in Part 312 of this subchapter.

f. In § 317.2(f)(2), the word "similarly" is changed to "similar."

g. In § 317.7(b)(13), the designation "(i)" is deleted.

h. In § 317.8(b)(15), the phrase "of connection with products" is changed to "in connection with products."

i. In § 318.7(c)(4), in the chart, the phrase "Diethyl sodium sulfosuccinate" in the "Substance" column, with respect to the class of substance, "Cooling and re-tort water treatment agents," is changed to Diethyl sodium sulfosuccinate."

j. In § 327.6(m), the term "Form MI-410" is changed to "Form MP-410."

k. In § 329.5, in the third sentence, the word "person" is added after the phrase "addressed to such."

l. In § 331.3(c), the words "toilet rooms" are changed to "facilities."

m. In § 303.1(f), "(c)(1)" is changed to "301(c)(1)" and the phrase "inspection requirements" is deleted and the phrase "requirements of titles I and IV of the Act" is substituted therefor.

n. In § 320.1(b)(1)(iii), the word "shipping" is deleted and the word "outside" is substituted therefor.

(Sec. 21, 34 Stat. 1260, as amended by 81 Stat. 584; 21 U.S.C. 621; 41 Stat. 241, 7 U.S.C. 394; 29 F.R. 16210, as amended; 33 F.R. 10750)

Most of the foregoing amendments were recommended by interested persons. Some of the amendments correct errors or make formal changes. Some reflect current policies and interpretations or relieve restrictions. The amendment of § 307.6 is required to reflect provisions of law (5 U.S.C. 6103) effective on January 1, 1971. It does not appear that further information on any of the amendments would be made available to the Department by publication of a notice and other public rulemaking procedures. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such rulemaking procedures with respect to these amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication hereof in the FEDERAL REGISTER. Accordingly, the amendment of § 307.6 is effective as of January 1, 1971, and the other amendments shall become effective upon publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., on June 15, 1971.

CLAYTON YEUTTER,
Administrator.

[FR Doc.71-8712 Filed 6-23-71;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SO-77]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Areas

On May 11, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8697), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Gainesville, Fla., control zone and the Gainesville and Lakeland, Fla., transition areas.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the Gainesville, Fla., control zone is amended to read:

GAINESVILLE, FLA.

Within a 5-mile radius of Gainesville Municipal Airport (lat. 29°41'22" N., long. 82°16'28" W.); within 1.5 miles each side of Gainesville VORTAC 034° radial, extending from the 5-mile-radius zone to the VORTAC.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

GAINESVILLE, FLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Gainesville Municipal Airport (lat. 29°41'22" N., long. 82°16'28" W.); excluding the portion within a 1-mile radius of Stengel Field Airport (lat. 29°37'30" N., long. 82°23'00" W.).

LAKELAND, FLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lakeland Municipal Airport (lat. 27°59'15" N., long. 82°00'55" W.); within 5 miles each side of Lakeland VORTAC 235° radial, extending from the 8.5-mile-radius area to 9.5 miles southwest of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1348(a)); and of sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 15, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc. 71-8866 Filed 6-23-71;8:47 am]

[Airspace Docket No. 71-SO-80]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On May 11, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8697), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Fitzgerald, Ga., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulation is amended, effective 0901 G.m.t., September 16, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

FITZGERALD, GA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fitzgerald Municipal Airport (lat. 31°41'00" N., long. 83°16'00" W.); within 3 miles each side of the 200° bearing from Fitzgerald RBN (lat. 31°41'06" N., long. 83°16'00" W.), extending from the 5-mile-radius area to 8.5 miles southwest of the RBN.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348(a)); and of sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 15, 1971.

W. B. RUCKER,
Acting Director, Southern Region.
[FR Doc.71-8867 Filed 6-23-71;8:47 am]

[Airspace Docket No. 751-SW-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Lovington, N. Mex., transition area.

On May 7, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8525) stating that the Federal Aviation Administration proposed to designate a transition area at Lovington, N. Mex.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

LOVINGTON, N. Mex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lovington, N. Mex., Lea County Airport (lat. 32°57'30" N., long. 103°24'30" W.) and within 3.5 miles each side of a 244° bearing from the Lovington, N. Mex., NDB (lat. 32°56'40" N., long. 103°24'08" W.), extending from the NDB to 11.5 miles southwest.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on June 15, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-8868 Filed 6-23-71;8:40 am]

[Airspace Docket No. 71-WA-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Positive Control Area

On April 3, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 6435) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would expand the positive control area (PCA) from Flight Level 240 to 18,000 feet MSL in the central and southwestern United States.

Interested persons were afforded an opportunity to participate in the proposed rule through the submission of comments. The adverse comments to the proposal urged that it not be adopted because it was not needed and would serve no useful purpose, that it would impose additional unnecessary restrictions; that it would generate excessive delays and that the air traffic control system does not have the capability to provide the service. Several commentators concurred with the proposal.

The Federal Aviation Administration has consistently maintained that the risk of mid-air collision is less likely in a positive control environment than anywhere else in the system. Many aircraft now operate at closure speeds in excess of 1,000 knots. The "see and avoid" type of separation is increasingly less effective as closure speeds increase, since aircraft now can be upon each other before the pilots are able to detect other aircraft and maneuver to avoid collision. Designation of this stratum as positive control area would augment the "see and avoid" concept with provision of air traffic control services including radar.

The FAA now has the capability to provide positive control service in the proposed area without undue hardship to the users. The FAA's program for increased safety necessarily involves some inconvenience to users of the airspace; however, it is evident that additional safety is attained in a positive controlled environment. The FAA believes that safety considerations require the action being taken.

The area defined in the notice was designed to encompass entire air route traffic control center areas. Since issuance of the notice, several alterations to center boundaries have been effected. As the changes are not of great significance to the user and relate primarily to the internal operation of the air traffic control system, the changes are reflected herein.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

Section 71.193 (36 F.R. 11081) is amended by deleting all after "Continental Control Area" and substituting therefor:

That airspace within the continental control area from Flight Level 240 to and including Flight Level 600 bounded by a line beginning at lat. 38°00'00" N., long. 75°11'00" W., thence to lat. 38°13'30" N., long. 75°41'00" W.; to lat. 31°42'00" N., long. 89°24'00" W.; to lat. 38°20'30" N., long. 75°36'40" W.; to lat. 38°53'40" N., long. 75°51'20" W.; to lat. 38°26'20" N., long. 77°03'15" W.; to lat. 37°01'00" N., long. 77°55'00" W.; to lat. 36°19'00" N., long. 79°16'00" W.; to lat. 37°00'00" N., long. 80°25'10" W.; to lat. 37°12'15" N., long. 80°25'45" W.; to lat. 37°18'15" N., long. 80°44'45" W.; to lat. 37°16'00" N., long. 80°53'00" W.; to lat. 37°11'30" N., long. 81°09'00" W.; to lat. 36°34'00" N., long. 84°01'00" W.; to lat. 36°30'00" N., long. 84°45'00" W.; to lat. 36°12'30" N., long. 85°10'30" W.; to lat. 36°11'00" N., long. 85°24'00" W.; to lat. 36°54'00" N., long. 85°35'00" W.; to lat. 37°18'00" N., long. 86°09'00" W.; to lat. 37°16'30" N., long. 87°23'50" W.; to lat. 37°43'30" N., long. 88°19'00" W.; to lat. 37°32'00" N., long. 88°50'00" W.; to lat. 37°09'00" N., long. 90°34'00" W.; to lat. 36°26'00" N., long. 94°41'00" W.; to lat. 36°08'00" N., long. 95°00'00" W.; to lat. 35°00'00" N., long. 95°00'00" W.; to lat. 34°53'45" N., long. 94°56'00" W.; to lat. 34°51'00" N., long. 94°12'00" W.; to lat. 34°47'30" N., long. 93°48'00" W.; to lat. 34°30'00" N., long. 93°44'00" W.; to lat. 34°00'00" N., long. 93°20'00" W.; to lat. 33°43'00" N., long. 93°00'00" W.; to lat. 33°31'00" N., long. 92°32'00" W.; to lat. 32°42'00" N., long. 91°30'00" W.; to lat. 31°57'00" N., long. 91°30'00" W.; to lat. 31°39'00" N., long. 90°20'00" W.; to lat. 31°37'00" N., long. 89°35'00" W.; to lat. 31°42'00" N., long. 89°24'00" W.; to lat. 31°34'00" N., long. 89°18'00" W.; to lat. 31°31'00" N., long. 88°20'15" W.; to lat. 31°31'15" N., long. 87°49'00" W.; to lat. 31°25'00" N., long. 87°26'00" W.; to lat. 31°16'50" N., long. 87°24'00" W.; to lat. 30°58'00" N., long. 87°39'00" W.; to lat. 30°28'00" N., long. 87°46'00" W.; to lat. 30°15'00" N., long. 87°41'30" W.; to lat. 30°14'00" N., long. 88°01'30" W.; to lat. 30°09'30" N., long. 88°01'30" W.; thence via a line 3 NM from the coastline to point 25°58'30" N., long. 97°05'30" W.; thence along the United States/Mexico boundary to is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 21, 1971.

LOUIS H. MCCAUGHEY,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 71-8979 Filed 6-23-71; 8:53 am]

Title 47—TELECOMMUNICATIONS

Chapter I—Federal Communications Commission

[Docket No. 18476; FCC 71-639]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Certain FM Broadcast Stations in Alabama

Third report and order.

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations; (Doniphan, Mo.; Princeton, W. Va.; Auburn, Nebr.; Sallisaw, Okla.; Heber Springs, Ark.; Preston, Minn.; Barnstable, Nantucket, and Falmouth, Mass.; Mineral Wells, Tex.; Fayette, Hartselle, and Talladega, Ala.; Mariposa, Calif.; Flora, Ill.; Jasper, Arab, and Demopolis, Fla.); RM-1356, RM-1359, RM-1360, RM-1364, RM-1368, RM-1373, RM-1374, RM-1377, RM-1378, RM-1379, RM-1382, RM-1383, RM-1389, RM-1391, RM-1414, RM-1417, RM-1496.

1. The Commission here considers the further notice of proposed rule making in Docket No. 18476, adopted January 6, 1971, to amend the FM Table of Assignments (§ 73.202(b) of the rules) insofar as concerns various communities in Alabama (FCC 71-22; 36 F.R. 560). As stated therein, the further notice was necessary because: (a) Basic allocation questions were raised, i.e., the addition of multiple Class A assignments at the expense of deleting a wide coverage Class C assignment at Fayette for which there is a demand; and (b) to include additional conflicting petitions filed since the original notice of proposed rule making was adopted in the original proceeding on March 5, 1969 (FCC 69-207; 34 F.R. 5120), more specifically, the petitions of Sid McDonald and Radio South, Inc. seeking assignments for Arab and Jasper, respectively (RM-1417 and RM-1496). Those filing comments and/or reply comments were: Tallabama Broadcasting Co., Inc.; Dorsey Eugene Newman, licensee of Station WHRT, Hartselle; Sid McDonald; Bankhead Broadcasting Co., Inc.; Radio South, Inc.; and J. W. Shirley, Applicant for Channel 225 at Fayette (BPH-6672).

2. The communities involved, the county in which each is located, and the 1970 populations, are as follows:

City	Population	County	Population
Talladega	17,692	Talladega	65,280
Hartselle	7,355	Morgan	77,306
Fayette	4,568	Fayette	10,232
Arab	4,399	Marshall	54,211
Jasper	10,798	Walker	56,216

The further notice pointed out these facts: All the cities have daytime AM stations; Jasper and Talladega also have full-time Class IV AM stations; only Jasper and Fayette have FM channels assigned, both Class C with the Jasper channel in use and the Fayette assignment unoccupied but now applied for by J. W. Shirley (BPH-6672). Fayette and Jasper are the county seats and each is the largest community in the county and there are no other stations or FM assignments in the county. Talladega also is the county seat and the county's largest community but there is other daytime and Class IV AM service and a Class A FM service at Sylacauga, about 20 miles away. Arab is the fourth largest city in its county; two larger communities have Class A FM assignments. Hartselle is about 12 miles from the county seat Decatur (population over 30,000), which has two Class C FM stations in operation. Our further notice also noted that Tallabama Broadcasting Co., Inc.; Radio South, Inc.; Bankhead Broadcasting Co., Inc.; and Dorsey Newman have other broadcast interests.

3. The further notice also traced some of the pertinent background. There was no demand for the Fayette assignment when the original notice was issued, but J. W. Shirley filed an application on March 19, 1969, for use of the Fayette channel, proposing 27-kw. E.R.P. and a 453 feet a.a.t. antenna height which facilities we noted were not insignificant, although far from maximum. The further notice detailed the fundamental question of allocation policies involved. Our concern here is, if and under what circumstances, the only Class B or C channel in the community should be deleted to make possible two or more meritorious Class A assignments elsewhere. The mere fact that more Class A first channel assignments could be made we

felt was not a sufficient answer, since the same argument could be used with respect to probably the bulk of the Class B and C assignments in the United States. The further notice stated that in making our determination we would consider service from Fayette to unserved (no service) and underserved (one service) areas considering a Class C station with 75-kw. E.R.P. and 500-foot height a.a.t. The further notice also pointed out to the merit of the other proposed assignments; for example, that Talladega is a city with over 17,000 population and has no FM outlet, although there is full-time AM service and an FM station in the same county with 1 mv/m signals from Birmingham and Anniston stations. We also noted that Hartselle and Arab have daytime AM outlets and received FM service from other stations in the same county.

4. Our notice also pointed out that only in one previous instance had the Commission deleted a Class C channel in the FM Table of Assignments without substituting another one. In sum, we saw the issue as a close one unless a substitute Class C channel could be made at Fayette. This is fully detailed in the further notice, and little purpose would be served by repeating all the contentions bearing on this point. The following questions, we felt, are raised by the proceeding:

(a) Whether Channel 251 can suitably be used as a Class C assignment at Fayette.

(b) Whether, if Channel 251 cannot be so used, Channel 225 should, nonetheless, be deleted from Fayette and replaced with a Class A channel; or, if left there, whether its assignment should be conditioned on use at a certain level, such as 75-kw. E.R.P. and 453 antenna height a.a.t.

(c) Assuming Channel 225 is deleted from Fayette, what assignments on Channel 224A, in addition to that at Talladega, should be made.

(d) Whether Channel 224A could be used consistent with mileage separation requirements at both Arab and Jasper, considering the mileage shortage between the reference points of these communities (58 miles).

(e) Whether Jasper merits a second FM channel.

5. Tallabama Broadcasting Co., Inc., makes three points in its comments. First, it states that Channel 251 could be substituted at Fayette without any difficulty; despite the Commission's belief that sites were unavailable, there are at least two available at reasonable land cost (see also paragraphs 7 and 10, infra). Tallabama's second point is that, nevertheless, a Class A channel should be substituted at Fayette. It views the needs of the other communities as greater: Talladega is the county seat and has no FM channel, and it is not served by Class A Station WMLS-FM, Sylacauga, as the further notice suggested. Thirdly, the change of the channel at Fayette makes possible new FM allocations at Arab, possibly Jasper, or Hartselle, and it would seem to be more important to

give these communities and Talladega a first FM channel rather than keeping a Class C channel in a community which has less population than most of the others. Tallabama also takes issue with the statements in our further notice as to the character of service at Fayette; in this respect, it is pointed out that there is a plethora of AM service which must be considered under the many recent Commission decisions considering AM and FM as a single aural service. This party also takes issue with criteria set out by the Commission for a Class C channel at Fayette:

Why areas at a considerable distance from Fayette (lying beyond the area to be served by Class A station) need FM service from Fayette is not clear. Such need cannot outweigh the need of several cities (and several "white" areas FM-wise) for their first FM station. (Comments, pages 3-4.)

Tallabama characterizes this concern about outlying areas as being speculative particularly since the application of J. W. Shirley for Channel 225 at Fayette did not employ full widearea potential, i.e., his application is only for 25 kw. E.R.P. with a 453 feet a.a.t. antenna height (BPH-6672). In sum, Tallabama Broadcasting Co., Inc., opposes a Class C channel at Fayette.

6. Dorsey E. Newman, licensee of Station WHRT, states that his only concern is that there be an assignment to Hartselle. Consequently, he directs his comments primarily to the contrast of the situation at Arab and Hartselle. Newman contends that Arab receives services from four FM stations.² Newman also states that he intends to operate the FM station as a CBS affiliate thus providing the third network service to Decatur which is now served by ABC and Mutual affiliates. Newman points out that the Arab petitioner, Sid McDonald, is not devoid of communications interests but is the owner of a TV cable system as well as the president of the Brindlee Mountain Telephone Co. Finally, he points to WHRT's operation of a 24-hour telephone service to give weather and other important bulletin information to the public and this central information could be better served by an FM station.

7. Sid McDonald points out that there are sites available for Channel 251 assignment to Fayette (see paragraphs 5 and 10), and, therefore, this party feels that the principal issue to be decided is the choice where Class A channel assignments should be made. In his view, the assignment to Talladega is rather obvious and the remaining question is whether to assign Channel 224A to both Arab and Jasper, or deny both and assign that channel to Hartselle. Sid McDonald urges that assignment of Channel 224A to both Arab and Jasper is possible with full compliance of the rules including mileage separation requirements. In this respect, Sid McDonald restates his willingness to locate an FM station at Arab to comply with spacing to Jasper (while the proponent for the Jasper assignment in his comments states that he will select a site acceptable as an assignment for both communities; see paragraph 9, infra). In this party's view, assignments to Arab and Jasper should be preferred over an assignment to Hartselle merely considering population, that is, the population of Arab and Jasper combined is more than double that of Hartselle. Further, McDonald urges that population statistics alone do not adequately reflect the need of Arab for a first FM broadcast facility as its first nighttime broadcast outlet. McDonald relies on facts previously adduced as to the central position of Arab as a trade area and population center with a continued steady and rapid growth. He states that Jasper's position is similar, while conversely Hartselle evidences a lesser need in part due to its proximity to Decatur (some 12 miles north with three full-time AM stations and two Class C FM stations). Finally, from a technical point of view, McDonald argues that an engineering study which it filed establishing that assignment of Channel 224A to Arab would have a de minimis effect on future cochannel and adjacent channel assignments while a similar study was not submitted on behalf of Hartselle (and thus the effect of an assignment in this respect is unknown); it is already known that an assignment to Hartselle would preclude assignment to both Jasper and Arab and it is believed that assignments elsewhere would be precluded.

8. We now turn to the comments of Bankhead Broadcasting Co., Inc., which is the licensee of the Fayette daytime AM station largely under common ownership with the daytime AM-FM combination at Jasper and the daytime AM at Russellville, Ala. This party relies substantially on its own commitment to apply for a Class A facility if assigned to Fayette. In this respect, based on Census data, Bankhead contends that Fayette has only a limited population and there has been little growth in the 1960-70 period.³ It recognizes that Talladega and Jasper and their respective counties—Talladega and Walker—also have experienced little growth; on the other hand, Hartselle (and Morgan County) and Arab (and Marshall County) have been somewhat more. It also relies on economic data and the fact that FM receivers are capable of receiving signals of 50 uv/m.⁴

² 1960 Census population of 4,273 and 1970 Census population of 4,568.

³ On this basis, Fayette receives "services" from Station WWWW-FM, Jasper; WRAG-FM, Carrollton; WTBC-FM, Tuscaloosa; WERH-FM, Hamilton; and WMBC-FM, Columbus, Miss.

9. Radio South, Inc., the Jasper Class IV AM licensee, makes several points. Firstly, it agrees that Channel 251 could be suitably assigned to Fayette. With respect to the Channel 224A assignments, it believes that the public interest, convenience, and necessity would be best served by assignment to Jasper and Arab because of their greater populations compared to Hartselle (see paragraph 7). It also asserts other considerations, including the fact that Jasper is the county seat and that more than 70 percent of the residents of Walker County reside within 10 miles of the city limits of Jasper, and there are no other aural facilities than the three existing stations in that city. This party believes that McDonald has amply demonstrated the need of a first FM assignment for Arab. As to Hartselle, not only would an assignment there preclude Jasper and Arab, but, additionally, Hartselle is located about 12 miles from Decatur, the county seat, with two Class C FM stations, two full-time AM stations, and a daytime AM station. Thus, together with Hartselle's own AM station, it has more than sufficient aural service. Radio South indicates that it would cooperate with McDonald in order to find mutually agreeable sites (see paragraph 7, above). As to the question of whether Jasper merits a second FM station, this party argues that it does as the county seat and largest community in Walker County, an important retail, educational, and recreational center, and of sufficient population, economic stability, and socio-economic importance.

10. We now turn to the comments of J. W. Shirley, who also filed reply comments. Shirley's approach is one of "mixed feelings". He expresses concern about the long time delay of action on his application because of the pendency of this docket. He feels that because his expenditures are dissipated whether Channel 225 is supplanted by another Class C as Channel 251—or a Class A channel, he is entitled to reimbursement. If the former, a new site must be found and new engineering prepared to comply with the Commission's rules. If a Class A channel, not only must the application be amended but the service area may be so reduced as to make a station economically unfeasible. Shirley urges that he is entitled to reimbursement in either event. He pertinently states:

If his application had been granted, the Commission would have followed its long established policy and practice of providing that the reasonable expenses incurred in shifting to another channel be met by those who obtained authorizations as the direct result of the change in channel assignments. There is no reason why the policy and practice cannot and should not be applied here. At least two of the parties to this proceeding, Sid MacDonald [sic] and Radio South, Inc., have indicated informally that they would not be opposed to application of the policy and practice in this unique situation. (Comments, page 6.)

With some reluctance, Shirley is willing to accept substitution of Channel 251

at Fayette; he has ascertained that a site in a small triangular area southwest of that community is available. Thus, Shirley supports the substitution of Channel 251 for 225 at Fayette and the concomitant change at Demopolis.⁹ Shirley is opposed to the Commission's suggestion that if Channel 225 is retained at Fayette it operate at a 75-kw. E.R.P. and 453 a.a.t., even though he would make an effort to amend his application for a higher power than now specified in his application.¹⁰ Shirley expresses no views as to how the Class A assignment might be distributed among the other communities. Therefore, he suggests that the portion of the proceeding relating to assignments at Fayette and Demopolis be severed while the Commission considers how the Class A channel should be distributed among the other communities, and, indeed, his comments are subtitled "Petition to Sever". Shirley points to the 2-year pendency of his application and the further delay because of the rule making.

11. Shirley's reply comments are directed primarily at the comments of Bankhead Broadcasting Co., as an opponent of the substitution of Channel 251 for 225 at Fayette. Shirley asserts that Bankhead's position is based on its ownership of the Fayette AM station and relation with stations at Jasper and Russellville. Shirley argues that the substitution of Channel 224A at Fayette, as urged by Bankhead, would protect Bankhead's existing FM station from competition at Jasper, since it would make impossible the addition of a second FM channel to that community. Because of the proximity of the Jasper and Fayette (33 airline miles), operation of a Class A station by Bankhead would significantly preclude improvement of the facilities of Station WWSB-FM (which operates at 27-kw. E.R.P. and an antenna height of 155 a.a.t.). Thus, it is urged, that because of the potential of running afoul of the multiple ownership rule (§ 73.240(a)) the Commission should give little weight to Bankhead's comments. In Shirley's words:

Bankhead's comments should be recognized as little more than an effort to protect its existing stations in the area from competition. It is respectfully submitted that Bankhead's comments are entitled to little or no weight. (Reply Comments, page 4.)

12. We turn first to Shirley's contention that he is entitled to reimbursement. As we recently stated, this is a doctrine applicable to only stations which are

⁹ If the site is not available, Shirley, nevertheless, is willing to support the substitution with a condition limiting radiation to the nearest short-spaced assignments i.e., Stations WMLS-FM, Channel 252A, Sylacauga, and possibly WNBX, Channel 252, Andalusia.

¹⁰ In this respect, he discusses the merits of circular polarization over horizontal polarization. He would support the adoption of such a condition if the only alternative is the substitution of a Class A channel at Fayette. A Class A station is limited to 3-kw. power and 300-foot a.a.t. antenna height.

already on the air and quite clearly does not embrace an applicant.⁷ Perhaps, as Shirley contends, the doctrine would have been applied if his application had been granted. Even if so, to apply the doctrine here we would have to make a determination that except for the rule makings there would have been no problems with his application. Our procedures do not lend themselves to making any sort of supposition of this type. Nor do we find it necessary to sever the Fayette portion of this part of the docket from the others.

13. We turn now to the issues set out in the notice of proposed rule making. It now appears that there is a suitable site for Channel 251 to serve Fayette.⁸ In the circumstances, we need not come to the difficult question of substituting the lower class channel for a Class C channel. Therefore, we find the public interest, convenience, and necessity will be best served by assigning Channel 251 in place of 225 at Fayette. In view of that community's fairly small size and the absence of demand for a second channel, we need not consider a possible Class A assignment there such as Channel 224A.

14. We now turn to the questions posed in our notice as to which of the other communities should have Channel 224A assigned to it based on the facts as we see them. As pretty well indicated by the notice, there is no question that Channel 224A should be assigned to Talladega, and we so decide.

15. The further question raised then is whether the other Channel 224A assignment(s) should be made to Hartselle, or Arab, or Arab and Jasper. In the further notice, we posed the question whether Channel 224A could be used consistently with mileage separation requirements at both Arab and Jasper and considering that only 58 miles separate the cochannel reference points. In this respect, it appears that the petitioners for the respective communities, i.e., Sid McDonald and Radio South, Inc., are willing to mutually accommodate each other to choose sites that would comply with the 65-mile cochannel mileage separation. Thus, these parties are able to argue that the total population of Arab and Jasper, twice that of Hartselle, would be served by Channel 224A assignments to the first two communities. This is an oversimplified solution which would obviate other more essential facts which are raised here.

16. Jasper is not a large city (10,798 in 1970), which has not grown since 1960 (the county has shown a small increase).

⁷ Notice of proposed rule making, Docket No. 19074, paragraph 16, p. 7 (FCC 70-1162). Shirley states that MacDonald [sic] and Radio South, Inc., have informally indicated willingness to reimburse Shirley for his expenses of reengineering his application if we are to delete the Channel 255 assignments from Fayette and substitute either Channel 251 or a Class A channel. They are free to do so, but quite clearly it is not required.

⁸ A site to meet the required mileage separations must be located at a distance from the Fayette reference point.

It has one FM channel now, as well as two AM stations, one fulltime (Class IV). Under the circumstances, we do not conclude that Channel 224A should be assigned there at this time, particularly since the assignment would conflict with either of the other two assignments mentioned above, completely precluding an assignment at Hartselle or (with a 7-mile shortage between community reference points) imposing limitations on the sites of the stations using the channels in both Jasper and Arab. The latter we do not conceive to be good practice, where neither of the locations is established. The situation, then, comes down to an evaluation of the claims of Hartselle and Arab. Hartselle has one claim as the larger of the two communities, about 7,500 compared to 4,500. Each has one daytime-only AM station; each receives outside FM signals, those in Hartselle including two from stations in Decatur, in the same county some 12 miles away and the largest city in this general area (over 38,000). Considering Hartselle's proximity to this large center in the same county, and its stations, we conclude that the assignment of a first FM channel to Arab is to be preferred under the mandate of section 307(b) of the Communications Act.

17. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

18. In accordance with the foregoing: It is ordered, That effective August 3, 1971, the FM Table of Assignments (§ 73.202(b) of the rules) is amended for the following communities in Alabama as follows:

City	Channel No.
Talladega	224A
Arab	224A
Fayette	251
Demopolis	292A

19. It is further ordered, That the petition of Radio South, Inc., RM-1496 is denied.

20. It is further ordered, That the petition of Talladega Broadcasting Co., Inc., RM-1368 is denied in part consistent with the discussion above.

21. It is further ordered, That J. W. Shirley's motion to sever is denied.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION,⁹

[SEAL] BEN F. WAPLE, Secretary.

[FRC Doc.71-8904 Filed 6-23-71;8:51 am]

⁹ Commissioners Robert E. Lee and H. Rex Lee absent.

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Television Broadcast Station, State College, Pa.

Report and order. In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (State College, Pa.); RM-1564.

1. This proceeding, begun by notice of proposed rule making issued November 13, 1971 (FCC 70-1212), involves the proposed addition of Channel 29 to the Television Table of Assignments (§ 73.606 (b) of the rules) as a first commercial channel at State College, Pa. Petitioner, TV Networks, Inc., states that it will apply for the channel if it is assigned.¹ State College now has unused ETV Channel *55 assigned. It is the largest city in Centre County, with 1970 U.S. Census populations of 33,778 and 99,267 respectively; the population of State College increased by over 50 percent between 1960 and 1970, and its population is now well over the 25,000 figure used in the preparation of the 1966 UHF Table of Assignments (Docket 14229) as the minimum for assigning channels in the absence of a specific demand. The closest commercial assignments are at Altoona, 34 miles away (VHF and UHF); the Channel 10 station puts a Grade A signal into State College and surrounding area, and there is no other Grade B or better signal (although it is stated that the Johnstown Channel 6 station, some 62 miles away, is usable).

2. The only opposition to the notice proposal was from John R. Powley, applicant for UHF Channel 38 at Altoona (BPCT-4377), who advanced the following points: (1) The proposed Channel 29 assignment at State College, at near-minimum separation with Channel 29 at Buffalo, would restrict the location of a UHF station using the latter (which could not be south of the city as the other stations are); (2) Channel *55 at State College could be dereserved—there are, assertedly, no present plans for its use for ETV—and used commercially, with complete site flexibility; (3) TV Networks, Inc., in opposing Powley's Altoona application, described its proposal as a "State College-Altoona" station, and asserted that the station sought by Powley could have a disastrous impact on the TV Networks station; since Powley proposes only very low height and power, this apparently means that TV Networks will oppose any Altoona operation, and if it really means to serve Altoona as well

¹ Petitioner's original request was for Channel 17. When it developed that (besides a short spacing problem involved in the site contemplated), the channel conflicted with land mobile use of Channels 17 and 18 in various areas, the proposal was amended in August 1970 to specify Channel 29.

as State College, it could just as well use Channel 47, which is assigned to Altoona now (in addition to Channel 38, specified in Powley's application). In reply, TV Networks asserts that: (1) There will be no impact at Buffalo, since the proposed use of Channel 29 at State College meets separations with respect to the authorized site of the Buffalo station on that channel, which is now operating, and there is no indication it plans to move; (2) Channel *55 at State College should not be dereserved, since it is one of the only three unused ETV assignments in Pennsylvania and, according to TV Networks, State educational authorities would oppose its removal at least until they have evaluated their overall State plan; (3) as to use of Channel 47, this would deprive Altoona of a channel now assigned there, would be less satisfactory than the lower channel from the standpoint of cost of operation and coverage, and would impose severe restrictions on any later use of Channel *55 in the State College area, in view of the 20-mile "taboo" separation specified in the rules between stations on channels eight channels removed from each other.

Conclusions. 3. Upon consideration of the foregoing, we conclude that the assignment of Channel 29 as a first commercial assignment at State College, Pa., would serve the public interest, and that it should be adopted as proposed. The city size and importance, as well as the relative dearth of other off-air signals in the area, indicate that the provision for a first outlet in this city and its county is of importance in fulfilling our allocations objectives. With respect to the various alternatives mentioned, we are not disposed to consider the dereservation of Channel *55, in view of the importance of preserving an appropriate number of channels for educational use which we have often emphasized, at least as long as there is a reasonably feasible alternative. As to use of Channel 47 for a State College station, we do not believe (at least where there are alternative approaches) that we should assign to the same city two channels on which stations must be 20 miles or more from each other. This practice would not be good allocation policy, and should not be considered where other approaches are possible.

4. In view of the foregoing: It is ordered, That, effective August 3, 1971, and pursuant to authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, that § 73.606(b) of the Commission's rules, the Table of Television Assignments, is amended, with respect to State College, Pa., to read as follows:

City	Channel
State College, Pa.	29, *55

5. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,¹
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8905 Filed 6-23-71; 8:51 am]

[Docket No. 18984; FCC 71-635]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Television Broadcast Stations, Pittsburg and Concord, Calif.

Report and order. In the matter of amendment of § 73.606(b) of the Commission's rules, Table of Assignments, Television Broadcast Stations, Pittsburg and Concord, Calif.; RM-1466.

1. This proceeding, begun by notice of proposed rule making issued September 4, 1970 (FCC 70-950), concerns the proposed redesignation of UHF Channel 42, in the area east of San Francisco, as a Concord, Calif., assignment rather than a Pittsburg, Calif., channel (by amendment of § 73.606(b) of the rules, the Table of Television Assignments).

2. The channel can be used in either community in any case, since they are only about 8 miles apart. The change had been sought in a petition filed by Television Communications, Inc., and Watson Communications System, Inc., doing business as TV Hill, which until May 7, 1971, was the permittee of Station KCFT-TV, Concord, using the Channel 42 Pittsburg assignment. This station had operated briefly in earlier years, under a different permittee; but was not operating at the time of the petition and notice, and the permit and call letters were deleted on May 7, 1971, at the permittee's request. Thus there is now no contemplated use of the channel, in either city, before us.

3. The reassignment was supported in brief comments filed by the petitioner (referring to the earlier petition), and in a letter from Mr. James W. Dent, the Assemblyman for the 10th District of California (Contra Costa County, in which both cities are located). The letter urges the greater and faster growing population of Concord as compared to Pittsburg, a matter mentioned in the notice. Other factors urged in the petition and mentioned in the notice are that the reassignment would correspond to the actual usage of the channel (by a Concord station), and would assist from an economic and public-relations standpoint in "market recognition" by audience-survey organizations such as American Research Bureau (ARB). In the latter connection, petitioner claims that the line between the San Francisco and Sacramento-Stockton market "areas of

¹ Commissioners Robert E. Lee and H. Rex Lee absent.

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dominant influence" (ADI) passes through Concord; and there are advantages in having the channel so assigned rather than assigned at Pittsburg, which is definitely in the Sacramento-Stockton ADI.

4. While the Concord authorization is no longer outstanding, and thus one of the factors supporting the change has been removed, it is also noted (as mentioned in the notice) that one of the reasons for the original assignment at Pittsburg—site flexibility—also no longer exists, since the pertinent San Francisco station locations have by now been determined, and the Concord reference point is more than 20 miles (actually about 24 miles) from them. It is also noted that the population disparity between Concord and Pittsburg continues to increase, with the respective populations 85,164 and 20,651 according to preliminary 1970 U.S. Census reports (in 1950 and earlier, Pittsburg was larger, and in 1960 Concord was about 36,000 and Pittsburg 19,000).

5. Accordingly, despite the demise of the former Concord permit, we conclude that the change in assignments is appropriate. Therefore, pursuant to authority contained in sections 4(i), 303(r), and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That, effective August 3, 1971, § 73.606, Table of Assignments, Television Broadcast Stations, is amended, by the addition and deletion of entries, as follows:

(a) Add the following entry:

City	Channel
Concord, Calif.	42

(b) Delete the following entry:

City	Channel
Pittsburg, Calif.	42

6. *It is further ordered*, That this proceeding, Docket No. 18984, is terminated. (Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1970.

FEDERAL COMMUNICATIONS
COMMISSION,¹
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8906 Filed 6-23-71; 8:51 am]

[Docket No. 18980; FCC 71-634]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Certain Television Broadcast Stations

Report and order. In the matter of amendment of § 73.606(b) of the Commission's rules, Table of Assignments, Television Broadcast Stations; (Coolidge, Ariz.; Chico, Calif.; Portland, Maine, and Rochester, N.Y.); RM-1575, RM-1636, RM-1638, RM-1640.

1. This proceeding, begun by notice of proposed rule making issued Au-

¹ Commissioners Robert E. Lee and H. Rex Lee absent.

gust 31, 1970 (FCC 70-928), involves the adding of five UHF assignments to the Table of Television Assignments, § 73.606 (b) of the Commission's rules. Four of those proposed were educational assignments: A first assignment at Coolidge, Ariz., a second reserved channel at Rochester, N.Y., an exchange of the reservation at Portland, Maine, from the higher to the lower of the two UHF channels assigned to that city, and an educational assignment (Channel *30) at Chico, Calif., to replace for the immediate future Channel *18, now assigned there but not presently available because of the "land mobile" decision in Docket 18261. The other proposal was assignment of Channel 24 at Chico, Calif., where it would be the second commercial channel (first commercial UHF), and the third presently available commercial channel in the Chico-Redding market, which now has two VHF stations only (Channel 16 is assigned at Redding but unavailable at present for the same reasons as Channel *18 at Chico).

2. The National Association of Educational Broadcasters (NAEB) filed comments supporting the four educational proposals as helpful in ETV development, and the Rochester Area Educational Television Association (RAETA), which was the original Rochester petitioner and is also the licensee of ETV Station WXXI there (Channel 21), supported that educational proposal. As to Portland, in reply comments the licensee of the Augusta, Maine, Channel 10 ETV station (Colby-Bates-Bowdoin Educational Telecasting Corp., licensee of WCBB), took a position somewhat opposing the Portland proposal which was based on a petition from the University of Maine, essentially on the ground that prompt activation of the UHF assignment at Portland is not necessary to bring ETV service to the Portland area and southwestern Maine. It is asserted that the university's petition was incorrect in stating that Portland receives no ETV service, since Channel 10 puts a Grade A signal into that city and surrounding area, and its UHF translator serves additional area in southwestern Maine. It is also asserted that the Augusta station has contributing supporters, including nine businesses, in the Portland area, and that it is planning shortly to apply for increased antenna height so that it will operate with maximum facilities and render even greater service. In additional comments in response, the University of Maine states that WCBB provides a Grade A signal to most but not all of the Portland area and, even with its translator, does not serve all of southern Maine, said to be the fastest growing area of the State, so that schools therein now rely on a New Hampshire station for in-school instructional service, at a cost to the State of Maine of \$7,500,000 annually. The university renews its assertion that it is under a mandate from the State legislature to develop ETV service in Maine, including some which will take the place of that from outside just mentioned, and that by using Channel 26 it

can obtain greater coverage at less cost than with Channel *51, now reserved at Portland. It asserts that it does not wish to minimize the importance of WCBB's present service or jeopardize its support, but that there is need for both operations.

3. In support of the Chico commercial proposal, the original petitioner refers to its original petition, emphasizing Chico's importance and growth, and the somewhat isolated character of the northern California area. A number of letters from officials and residents of the Chico area, expressing the need for additional service (including a third network outlet) were included.

4. Except as indicated above, the notice proposals were unopposed, and we find them to be in the public interest and they are adopted herein. The proposed assignment for Coolidge, Ariz., which will be the first educational channel in Pinal County and can be used by its only institution of higher learning, appears clearly warranted, as does the making of an educational assignment at Chico to replace Channel *18, which has been withdrawn for the present. Despite the comparatively small size of Chico (1970 census population 19,580), the provision of an additional commercial channel there, to provide additional service and the potential for a full third network outlet in this somewhat isolated area, also appears to be in the public interest. With respect to the Rochester, N.Y., proposal for a second reserved channel, we also conclude that this is warranted. As mentioned in the notice, this was proposed in 1968 in an earlier proceeding (Docket 18282), which was terminated without action (petitioner RAETA acquiescing) when a group proposed to use the channel on an unreserved basis for a station specially designed to meet "inner-city" needs. As RAETA points out, no such application has been filed, and it asserts that it has been in regular contact with inner-city representatives concerning the types of programs and services which the station can provide to meet their needs. It asserts that the station could present "additional instructional programs, supervisory management programs, and high school equivalency programs" not possible on the existing ETV station because of the shortage of prime time, and that RAETA pledges itself "to continued efforts in the future to be a programming outlet for all of its viewers, both within and without the inner city." It is also pointed out that, with one commercial UHF channel available, commercial TV development will not be seriously impaired.

5. As to the Portland matter, we recognize that ETV Station WCBB renders desirable service, including a Grade A signal to most of the Portland area; and, as indicated in the notice, we certainly do not necessarily share the university's views as to the definite superiority of

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low-UHF channels. However, we conclude that the State of Maine definitely needs an educational service from its largest city, especially one which will reach unserved areas; and if the change in the educational reservation to the lower UHF channel will assist in the prompt activation of such service, it would appear to be in the public interest. As the university points out, there appears no likelihood of UHF commercial development in this market in the near future.

8. In view of the foregoing: *It is ordered*, That, effective August 3, 1971, pursuant to authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, § 73.606(b) of the Commission's rules, the Table of Television Assignments, is amended to read as follows:

City	Channel No.
Coolidge, Ariz.	*43
Chico, Calif.	12, *18, 24, *30
Portland, Maine	6-, 13+, *26, 51
Rochester, N.Y.	8, 10+, 13-, *21, 31, *61

¹ Following the decision in Docket No. 18261, channels so indicated will not be available for television use until further action by the Commission.

7. *It is further ordered*, That, this proceeding, Docket 18980, is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1971.

[SEAL] FEDERAL COMMUNICATIONS
COMMISSION,¹
BEN F. WAPLE,
Secretary.

[FR Doc.71-8907 Filed 6-23-71; 8:51 am]

[Docket No. 19144; FCC 71-632]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Certain Television Broadcast Stations in South Carolina

Report and order. In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cayce, Columbia, and Burnetown, S.C.), RM-1376, RM-1452.

1. The Commission here considers the notice of proposed rule making in Docket No. 19144, adopted February 3, 1971 (FCC 71-110; 36 F.R. 2801) with proposed amendment of the FM Table of Assignments as concerns Cayce, Columbia, and Burnetown, S.C. (§ 73.202(b) of the Commission's rules). These proposals are:

¹ Commissioners Robert E. Lee and H. Rex Lee absent.

PLAN I			
City	Channel No.		
	Present	Proposed	
Cayce, S.C.		244A or 261A	
Columbia, S.C.	288A, 290, 284	288A, 290, 284, 244A or 261A	

PLAN II			
City	Channel No.		
	Present	Proposed	
Burnetown, S.C.		261A	
Louisville, Ga.	221A	226A	
Washington, Ga.	261A	221A	
Claxton, Ga.	226A	226A	

The two matters are related in that Channel 261A cannot be assigned both at Burnetown and in the Columbia area.

2. The Channel 244A Cayce proposal had been included in the notice of proposed rule making in Docket No. 18476, adopted March 5, 1969 (FCC 69-207; 34 F.R. 5120), but it was withdrawn from that proceeding because of intervening events. See paragraph 3, below. Those filing comments and/or reply comments are: Lexington County Broadcasters, Inc. (Lexington County), the petitioner in RM-1376; Midland Valley Investment Co., Inc. (Midland Valley), the petitioner in RM-1452; Cosmos Broadcasting Corp. (Cosmos); Congaree Broadcasting Co. (Congaree Broadcasting); Better Broadcasting, Inc. (Better Broadcasting); and Peach Broadcasting Co., Inc. (Peach Broadcasting).¹ Also filing comments and/or reply comments are Hancock Committee on Social and Economic Development (Hancock Committee); and Elberton Broadcasting Co., Inc. (Elberton Broadcasting). Hancock Committee and Elberton Broadcasting are petitioners for rule making who have filed comments because of the "cutoff" procedure (paragraph 8 of the notice, p. 4), and are interested in Sparta and Elberton, respectively (see paragraph 5, *infra*). We are not acting on either party's counter-proposal here, but we are adopting a notice of proposed rule making so they will be given appropriate consideration (Docket No. 19262, adopted this date (FCC 71-633)).

3. As explained in the notice, Lexington County, licensee of daytime AM Station WCAY, Cayce (population 9,967) sought to provide a first local full-time service to Cayce, and to serve West Columbia (population 7,838) both located in Lexington County (population

¹ This does not include all the parties who commented in Docket 18476. Those filing comments in that proceeding but not here are: World Broadcasters for Christ; Statesville Broadcasting Co., Inc.; and Palmetto Radio Corp.

89,012) and to provide a full-time service to the Columbia Urbanized Area (1960 census population 162,601), all within the 1 mv/m contour, which allegedly was possible with a Class A channel because of the geographical proximity of these places. Our notice noted that the Columbia SMSA (population 322,880) included Lexington and Richland Counties and that Cayce and West Columbia appeared to be large suburbs of Columbia, with them and their county separated from the main city by the Congaree River. Because Channel 244A allegedly would create second harmonic interference to Station WIS-TV, Channel 10, Columbia, licensed to Cosmos, Lexington County counter-proposed Channel 228A, which later was assigned to Columbia by the Second Report and Order in Docket No. 18125, adopted May 21, 1969, 17 FCC 2d 992, 955-7 (1969).²

4. The Burnetown proposal is based on the petition of Midland Valley which, as amended, is plan II referred to in paragraph 1, above. These were considered together because when Channel 228A was allocated to Columbia the Commission in the Second Report and Order in Docket No. 18125, note was made that Channel 261A could be assigned to the Cayce-Columbia area. Burnetown, population 434, is located in Aiken County, population 91,023, which constitutes part of the Augusta Standard Metropolitan Statistical Area (SMSA). The notice also pointed out that Station WLOV-FM, licensed to Better Broadcasting, operates on Channel 261A at Washington, Ga., and that Peach Broadcasting, licensee of Station WPEH, there, is now the permittee for Louisville's Channel 221A (WPEH-FM). The Commission also noted that Midland Valley "perhaps recognizing that a place with as small a population as Burnetown is not entitled to an FM channel" (notice, paragraph 8, p. 3) urged that the assignment would really be for the entire Langley Division, population 14,423, as "a single community" but we observed that this "contention does not seem very persuasive" (Ibid.).

5. The petitions of Hancock Committee (RM-1706) and Elberton Broadcasting (RM-1743), seeking first assignments at Sparta and Elberton, Ga., respectively, have been given attention in deciding the matter, to the extent they relate to it, i.e., with respect to the Burnetown proposal. Since this is denied for reasons independent of these proposals, we do not treat them further herein: in a notice

² All population figures are from the 1970 U.S. Census, unless otherwise indicated.

³ We stated that the channel could be applied for at Cayce under the "10-mile" rule (sec. 73.203(b)). Frank D. Ward was granted a CP for Columbia and Station WXYR began program test authority on Feb. 1, 1971. See paragraph 6, infra.

of proposed rule making adopted today comments upon them are invited.⁴

6. Lexington County Broadcasters, Inc., the petitioner in RM-1376, in its comments here, advised that it had taken steps with the view towards applying for Channel 228A when that channel was assigned to Columbia⁵—surveys were completed, an application was prepared—but it was learned that certain coverage problems would exist because the 1970 census was including Fort Jackson, S.C., as part of Columbia, and, accordingly, Lexington County Broadcasters sought and obtained from the FAA authorization to increase its antenna height by 83 feet (to 552 feet AMSL). However, when Frank Ward applied for that channel (see footnote 3, above), Lexington County concluded that a comparative hearing would not serve its best interests. Therefore, it proceeded with this rule making, particularly since the 1970 census showed a 46.6 percent increase of population of Lexington County between 1960 and 1970.⁶ Lexington County Broadcasters contends that on the basis of population quite clearly Cayce is deserving of a channel while Burnetown is not. In the latter respect, it is said that while Burnetown receives substantial service from six FM stations in Augusta and Aiken, Cayce only has reception from three FM stations whose programming is directed toward Columbia and Richland County. Lexington reaffirms its intention to apply for any FM assignment for Cayce or Columbia and hopefully an assignment would be made directly to Cayce. With respect to the choice of channels, Lexington County Broadcasters "reaffirms" that in the event the FCC assigns Channel 244A to Cayce or Columbia, if the successful applicant, it will install equipment at its own expense to protect Station WIS-TV from second harmonic interference. The notice stated that second harmonic interference "may not be an obstacle depending on the extent of the interference and what other steps may be taken to cure it" (footnote 6).

7. Midland Valley filed comments primarily directed at the "community" questions posed by the Commission's notice. In part, this document says:

"The standard paragraph concerning 'cut-off procedure' (paragraph 8(b) of the notice herein) states that proposals advanced in petitions for rule making, which conflict with any of the notice proposals, will be considered if filed before the date for filing initial comments. This is meant to indicate that consideration will be given to these requests contained in petitions to the extent they are pertinent in reaching a decision on the notice proposals. Since the Burnetown proposal is denied herein for other reasons, no further discussion as to the Georgia proposals is necessary at this time."

⁴ See paragraph 3, above.

⁵ Cayce's increase is 17 percent; West Columbia's is 22.3 percent, while that of Columbia and Richland County respectively are 16.8 percent and 18.9 percent.

"... Burnetown, an incorporated community, together with the neighboring towns of Bath, Gloverville, and Warrenville constitutes the Langley Civil Division. This area, in reality constitutes a single community which has seen substantial population and economic growth in recent years. The 1970 U.S. Census, in fact, reflects that the population has grown by 46.5 percent since 1960. (Comments, p. 1.)"

However, Midland Valley itself refers to "the large unincorporated status of the Valley" (Id., p. 2). The appended letter from Howard M. Jennings, Jr., Community Planner, Lower Savannah Regional Commission, clearly evidences the separateness of Burnetown from other parts of the Langley Civil Division and also other communities in Horse Creek Valley; indeed, it would seem that the Valley is completely lacking in the characteristics of a community in the sense contemplated by the Commission.

8. Cosmos Broadcasting Corp.'s comments are directed solely at the second harmonic interference question. In this respect, Cosmos suggests that, since the assignment of Channel 261A to Burnetown is not warranted, that channel may be assigned to the Cayce-Columbia area rather than Channel 244A, which would cause its Station WIS-TV, Channel 10, second harmonic interference. See paragraph 6, above. Congaree Broadcasting Co. also addresses itself to the second harmonic interference question. In this case, since Burnetown is not worthy of a channel then Channel 261A should be assigned to Cayce as a first full-time broadcast outlet.

9. We now turn to the reply comments of Lexington County Broadcasters, Inc.; Elberton Broadcasting, Inc.; and Midland Valley Investment Co., Inc. Lexington states that it now feels that the public interest would be served by assigning both Channels 244A and 261A to the Cayce-Columbia area, one to Cayce and the other to Columbia. In this respect, it is urged that the Columbia SMSA should have two Class C channels and three Class A channels, which is merited by Columbia's position as the largest metropolitan area in South Carolina and the 97th in the United States. Lexington says that the engineering data shows that the only possible assignment of Channel 244A in the area is to Columbia; it now feels that the comments previously advanced about second harmonic interference are meaningless. (Actually, the channel can be used better at Cayce.)

10. Broadcasting's reply comments, insofar as they are pertinent here, are the same as those of other parties to the effect that the population of Burnetown is not sufficient to merit a second aural service in view of the plethora of broadcast service received from stations in nearby communities. It differs sharply with Midland Valley's comments as to either Langley Civil Division or Horse Creek Valley being a single community. This party in part says:

"The area possesses none of the usual characteristics of an identifiable community,

rather it possesses the characteristics of several individual separate communities. The community planner's letter attached to Midland Valley's comments goes more toward showing the area not to be "a" single community. (Reply Comments, pages 2 and 3.)"

11. Finally, we come to the reply comments of Midland Valley Investment Co. These are directed in part against Elberton Broadcasting, stating that in effect the Elberton proposal seeks a second full-time aural service for that community, while both Midland Valley and the Cayce proposal urge the allocation of a first local nighttime transmission service in their respective areas. This party discusses the alternative proposals in our notice of allocating either Channel 244A or 261A to Cayce. It opposes the 261A proposal as conflicting with its own while the assignment of the 244A would be consistent with the assignment of Channel 261A to Burnetown. Midland Valley views the second harmonic interference problem as not being a serious one, and, therefore, Channel 261A need not be assigned to Cayce-Columbia in lieu of Channel 244A. Its position is that the proximity of Cayce to Columbia raises a real question; indeed, it says that Station WCAY, Cayce, S.C., already relies heavily on revenues from Columbia. Midland's proposal, it is contended, is for an incorporated community.

Discussion. 12. One of the basic issues herein is the assignment of Channel 261A to Burnetown, S.C. As our notice indicated, the Commission is not persuaded that a community with a population of only 434 and a plethora of broadcast service from stations in nearby communities is entitled to an assignment of its own. If anything, Midland Valley has done little except enforce the view that there is no principal community of substantial population, i.e., Burnetown, Langley Civil Division, or Horse Creek Valley, to which an allocation could be made. In our view, we must follow the result in the second report and order in Docket No. 18883 as concerns Whaleyville, Va., adopted April 8, 1971 (FCC 71-376, vol. 28 FCC 2d 641) and deny Midland Valley's request. However, another important consideration is that if assigned at Burnetown, Channel 261A could not also be assigned to the Cayce-Columbia area, which we now feel is appropriate in the circumstances. Indeed, it is our intention to assign both Channel 261A and Channel 244A to the Cayce-Columbia area, one to Cayce and the other to Columbia. As noted above, Columbia's 1970 population is 113,542, which under prevailing Commission criteria⁷ would support a fourth FM assignment to that city.

⁷ See further notice of proposed rule making, Docket No. 14185, adopted July 25, 1962 (FCC 62-867), incorporated by reference in paragraph 25 of the third report and memorandum opinion and order, adopted July 23, 1963, 23 R.R. 2d 1859, 1871.

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER D—APPROVED FORMS, FEDERAL POWER ACT

[Docket No. R-413; Order No. 422-A]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Revision of FPC Form No. 80 Licensed Projects Recreation Report

JUNE 17, 1971.

By Order No. 422, issued February 12, 1971, 45 FPC — (36 F.R. 3189, February 19, 1971), the Commission amended § 8.11 in Part 8, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations, by setting November 30 of odd-numbered years as the filing date for FPC Form No. 80 and by providing that a licensee of a project with no recreational use or potential may apply for exemption from any further filing of Form No. 80 not later than 6 months prior to the next filing date.

In that order the Commission stated that its Staff was then working on certain minor revisions to Form No. 80, whose completion was anticipated in time for use for the next reporting date.

The Commission has received comments from nine investor-owned utilities¹ that are members of the Western Utilities Recreation Conference making identical recommendations for revision of Form No. 80. The principal changes recommended therein included a requirement that each page of Form No. 80 contain space for identifying information, consisting of the project number, the development name, and the date and number of the report; limitation of Part 2, Subpart E entries by the population figure "over 10,000"; substitution of travel time for air mile distances in delimiting the zones of project influence in Part 2, Subparts F and G; and revision of Part 3, Subpart D to show maximum and minimum surface areas during the recreation season and Part 3, Subpart J to include the winter recreation season. Such proposed revisions also included deletion of the future use columns in Subparts (C), (D), (G), and (H) of Part 5 and Subparts J through P thereof as well as elimination of the columns concerning "ultimate" use data in presently numbered Part 6 "Recreation Facilities Provided or Planned" and Subpart R thereof.

We have considered carefully all of these comments, and adopt several of the

¹ Puget Sound Power & Light Co., Southern California Edison Co., Portland General Electric Co., The Washington Water Power Co., Utah Power & Light Co., Pacific Gas and Electric Co., Idaho Power Co., Public Service Company of Colorado, and Pacific Power & Light Co.

13. As to an FM assignment at Cayce, there is no doubt that a community of that size (population 9,967) normally merits a channel of its own. Our concern was rather the proximity to and relationship of Cayce to Columbia. In this respect, we are not unmindful that Lexington County also intends to program for the sizeable community of West Columbia, population 7,838. Despite the "community of interest" of Cayce and West Columbia as part of the Columbia SMSA, we note that they are in a different county from the central city, and both they and their county have had substantial growth in recent years.² In these circumstances, the assignment of a first channel to Cayce, and a fifth in the Columbia SMSA, appears warranted.

14. In sum, then, as to the proposals directly before us in this docket, it is our decision to deny the petition of Midland Valley Investment Co., Inc., to assign Channel 261A to Burnetown; and to assign Channels 244A and 261A to Cayce³ and Columbia, S.C., respectively.

15. Authority for this action is found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

16. Accordingly, it is ordered, That effective August 3, 1971, § 73.202(b), FM Table of Assignments, is amended to read as follows with respect to the cities listed:

City	Channel No.
Cayce, S.C.	244A
Columbia, S.C.	228A, 250, 261A, 284

17. It be further ordered, That the petition of Midland Valley Investment Co., Inc. (RM-1452), is denied.

18. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,⁴
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8908 Filed 6-23-71; 8:51 am]

² The percentage growths of the three cities are: 22.3 percent (West Columbia); 17 percent (Cayce); and 16.8 percent (Columbia); and 46.6 percent for Lexington County. In contrast, Burnetown had a 14.9 percent loss; its county—Aiken—had a 12.3 percent growth.

³ The flexibility for site selection is limited. The limitations are Stations WEWO-FM, Laurinburg, N.C.; WCRS-FM, Greenwood, S.C.; and WCSC-FM, Charleston, S.C.

⁴ Commissioners Robert E. Lee and H. Rex Lee absent.

changes suggested therein, along with several modifications of Form No. 80 proposed by the Commission Staff.

The project and development names and the report number have been added to pages 2 through 4 of Form No. 80 as additional identifying information. Entries in Subpart E of Part 2 will be restricted to cities having a population "over 10,000". With respect to Subparts F and G thereof, it is believed that the current method of using air mile distances is preferable because the use of specific travel time involves too many variables to obtain uniform reporting results. Moreover, the present method of showing the range in reservoir pool fluctuations in Part 3, Subpart D by means of pool elevations rather than the proposed maximum and minimum surface areas appears to be the more useful method in analyzing the seasonal or year-round effects on shoreline recreation facilities, aesthetics, fishery habitat, vectors, and year-round residential use. Subpart J of that Part has been revised to include the winter recreation season.

With regard to those portions of Form No. 80 proposed to be deleted, retention of Subparts (C), (D) and (G), (H) of currently numbered Part 5 are necessary since estimates of future recreational use are helpful in determining where additional recreational facilities are needed. Additionally, Subparts J through P of that part are necessary since recreation cost and revenue data by individual project development are not available in other reports to the Commission and are needed to assist the Commission and other agencies to arrive at a better evaluation of the cost and effectiveness of recreation programs undertaken by reporting licensees. However, licensees' recreation costs and revenues have been separated and designated Part 6, since public recreational use in Part 5 is not associated directly therewith. The columns relating to "ultimate" use in presently numbered Part 6 "Recreation Facilities Provided or Planned" and Subpart R should be retained inasmuch as these items contain information showing how the licensee and cooperating agencies plan to meet the estimates of future public needs.

The instructions and schedules of Form No. 80 have been modified in accordance with the above changes as well as several additional changes we have adopted as proposed by our Staff for purposes of clarification based upon review of two filings of this form.

The Commission finds:

(1) Since the revisions of FPC Form No. 80 herein are of a minor nature and such revisions should be helpful to licensees and license applicants, compliance with the notice, public procedure and effective date provisions of 5 U.S.C. 553 is unnecessary.

(2) The revisions of the Commission's Licensed Projects Recreation Report Form No. 80 prescribed herein are necessary and appropriate to the administration of the Federal Power Act.

RULES AND REGULATIONS

(3) Since the revisions prescribed herein are for use in FPC Form No. 80 for filing by licensees on November 30, 1971, good cause exists for making these revisions of Form No. 80 effective upon issuance.

The Commission, acting pursuant to the authority granted by the Federal Power Act, and particularly sections 4(g), 10, 304, 309, and 311 thereof (41 Stat. 1068; 49 Stat. 841, 842, 855, 858, 859; 16 U.S.C. 797, 803, 825c, 825h, 825j), orders:

(A) Effective for the reporting date November 30, 1971, and thereafter, the Instructions for Using Federal Power Commission Licensed Projects Recreation Report Form 80, pages 1-5, and schedule pages 1-4 of FPC Form No. 80, Licensed Projects Recreation Report, prescribed by section 141.14, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, are hereby amended as set forth in Attachments A and B hereto,* respectively.

(B) The amendments herein adopted are effective upon issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc 71-8918 Filed 6-23-71; 8:52 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Yellowstone National Park, Wyo.

On page 7856 of the FEDERAL REGISTER of April 27, 1971, there was published a notice and text of a proposed revision to § 7.13 of Title 36 of the Code of Federal Regulations.

The effect of the revision is to: Make minor changes in wording and format for clarification and consistency; eliminate certain provisions pertaining to the regulation of dogs and cats, travel on roads, oversnow vehicle use, and the posting of notices and orders which are adequately covered in Parts 1, 2, 3, 4, and 5 of Title 36, Code of Federal Regulations; to specify a maximum speed limit of 60 miles per hour on that portion of U.S. Highway 191 which traverses the northwest corner of Yellowstone National Park; specify conditions and measures whereby persons must safeguard foodstuffs from wildlife while camping in the park's campgrounds; apply the same protective measures to the Slough Creek cutthroat trout fishery

*Filed as part of the original document.

as exists for cutthroat trout within the Yellowstone Lake Complex; and prohibit the swimming and bathing in the waters of natural thermal features within the park.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed revision. No comments, suggestions, or objections were received. The proposed regulation is adopted with the following change: Paragraph (b) has been amended to drop the clause "when official signs specifying such limits are posted." Due to the pressing need for control during the heavy visitor season the revision shall take effect immediately upon publication in the FEDERAL REGISTER (6-24-71).

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3; 28 Stat. 73; 16 U.S.C. 26)

Section 7.13 of Title 36 of the Code of Federal Regulations is revised as follows:

§ 7.13 Yellowstone National Park.

(a) *Weight and size limits for vehicles.* The operation of a vehicle that does not conform to specified gross weight and size limitations is prohibited. Information detailing the specified gross weight and size limitations is available in the Office of the Superintendent.

(b) *Traffic control.* (1) Speed of vehicles, except vehicles on U.S. Highway 191, and except ambulances on emergency trips, shall not exceed the following prescribed limits:

(i) Fifteen miles per hour: In all campgrounds, picnic areas, parking areas, and residential areas; upon that portion of a park road which passes through or borders upon the scene of an emergency such as a forest fire, accident, or similar emergency; and the visitor use development at Old Faithful.

(ii) Twenty-five miles per hour: Upon that portion of a park road which passes through or borders on visitor use developments at Mammoth Hot Springs, Tower Falls, Canyon, Lake Area, Fishing Bridge, West Thumb, Madison, Norris, and Grant Village; and one-way drives.

(iii) Thirty-five miles per hour: Trucks whose rated gross vehicle weight is in excess of 17,000 pounds.

(iv) Forty-five miles per hour: Passenger cars, buses, and trucks whose rated gross vehicle weight is 17,000 pounds or less except when otherwise posted at a lesser speed limit.

(2) The speed limit on U.S. Highway 191 in the park is 60 miles per hour.

(3) *Employee motor vehicle permits:*

(i) A motor vehicle owned and/or operated by an employee of the U.S. Government, park concessioners and contractors, whether employed in a permanent or temporary capacity, shall be registered with the Superintendent and a permit authorizing the use of said vehicle in the park is required. This requirement also applies to members of an employee's family living in the park who own or operate a motor vehicle within the park. Such permit, issued free of charge, may be secured only when the

vehicle operator can produce a valid certificate of registration, and has in his possession a valid operator's license. No motor vehicle may be operated on park roads unless properly registered.

(ii) The permit is valid only for the calendar year of issue. Registry must be completed and permits secured by April 15 of each year or within one week after bringing a motor vehicle into the park, whichever date is later. The permit shall be affixed to the vehicle as designated by the Superintendent.

(c) *Trucking.* The park Superintendent may issue permits for the use of park roads for trucking, for which fees shall be charged. For schedule of fees, see Part 6 of this chapter.

(d) *Vessels.* (1) Permit:

(i) A general permit, issued by the Superintendent, is required for all vessels operated upon the waters of the park open to boating. In certain areas a special permit is required as specified hereinbelow. These permits must be carried within the vessel at all times when any person is aboard, and shall be exhibited upon request to any person authorized to enforce the regulations in this chapter.

(ii) A special permit shall be issued by the Superintendent to any holder of a general permit who expresses the intention to travel into either the South Arm or the Southeast Arm "Five Mile Per Hour Zones" of Yellowstone Lake, as defined in subparagraph (6) (ii) and (iii) of this paragraph, upon the completion and filing of a form statement in accordance with the provisions of subparagraph (10) of this paragraph.

(iii) Neither a general nor special permit shall be issued until the permittee has signed a statement certifying that he is familiar with the speed and all other limitations and requirements in these regulations. The applicant for a special permit shall also agree in writing to provide, in accordance with subparagraph (10) of this paragraph, information concerning the actual travel within the "Five Mile Per Hour Zones."

(2) *Removal of vessels:* All privately owned vessels, boat trailers, waterborne craft of any kind, buoys, mooring floats, and anchorage equipment will not be permitted in the park prior to May 1 and must be removed by November 1.

(3) *Restricted landing areas:*

(i) Prior to July 1 of each year, the landing of any vessel on the shore of Yellowstone Lake between Trail Creek and Beavertown Creek is prohibited, except upon written permission of the Superintendent.

(ii) The landing or beaching of any vessel on the shores of Yellowstone Lake (a) within the confines of Bridge Bay Marina and Lagoon and the connecting channel with Yellowstone Lake; and (b) within the confines of Grant Village Marina and Lagoon and the connecting channel with Yellowstone Lake is prohibited except at the piers or docks provided for the purpose.

(4) *Closed waters:*

RULES AND REGULATIONS

(i) Vessels are prohibited on Sylvan Lake, Eleanor Lake, Twin Lakes, and Beach Springs Lagoon.

(ii) Vessels are prohibited on park rivers and streams (as differentiated from lakes and lagoons), except on the channel between Lewis Lake and Shoshone Lake, which is open only to hand-propelled vessels.

(5) *Lewis Lake motorboat waters:* Motorboats are permitted on Lewis Lake.

(6) *Yellowstone Lake motorboat waters:* Motorboats are permitted on Yellowstone Lake except in Flat Mountain Arm as described in subdivision (i) of this subparagraph and as restricted within the South Arm and the Southeast Arm where operation is confined to areas known as "Five Mile Per Hour Zones" which waters are between the lines as described in subdivisions (ii) and (iii) of this subparagraph in the South Arm and Southeast Arm, but which specifically exclude the southernmost 2 miles of both Arms which are open only to hand-propelled vessels.

(i) The following portion of Flat Mountain Arm of Yellowstone Lake is restricted to hand-propelled vessels: West of a line beginning at a point marked by a monument located on the south shore of the Flat Mountain Arm and approximately 10,200 feet easterly from the southwest tip of the said arm, said point being approximately 44°22'13.2" N. latitude and 110°25'07.2" W. longitude, then running approximately 2,800 feet due north to a point marked by a monument located on the north shore of the Flat Mountain Arm, said point being approximately 44°22'40" N. latitude and 110°25'07.2" W. longitude.

(ii) In the South Arm that portion between a line from Plover Point running generally east to a point marked by a monument on the northwest tip of the peninsula common to the South and Southeast Arms; and a line from a monument located on the west shore of the South Arm approximately 2 miles north of the cairn which marks the extreme southern extremity of Yellowstone Lake in accordance with the Act of Congress establishing Yellowstone National Park; said point being approximately in latitude 44°18'22.8" N., at longitude 110°20'04.8" W., Greenwich Meridian, running due east to a point on the east shore of the South Arm marked by a monument. Operation of motorboats south of the latter line is prohibited.

(iii) In the Southeast Arm that portion between a line from a monument on the northwest tip of the peninsula common to the South and Southeast Arms which runs generally east to a monument at the mouth of Columbine Creek; and a line from a cairn which marks the extreme eastern extremity of Yellowstone Lake, in accordance with the Act of Congress establishing Yellowstone National Park; said point being approximately in latitude 44°19'42.0" N., at longitude 110°12'06.0" W., Greenwich Meridian, running westerly to a point on the west shore of the Southeast Arm, marked by a monu-

ment; said point being approximately in latitude 44°20'03.6" N., at longitude 110°16'19.2" W., Greenwich Meridian. Operation of motorboats south of the latter line is prohibited.

(7) Motorboats are prohibited on park waters except as permitted in subparagraphs (5) and (6) of this paragraph.

(8) *Hand-propelled vessel waters:* Hand-propelled vessels and sail vessels may operate in park waters except on those waters named in subparagraph (4) of this paragraph.

(9) *Five Mile Per Hour Zone motorboat restrictions:* The operation of motorboats within "Five Mile Per Hour Zones" is subject to the following restrictions:

(i) Motorboats shall satisfy the flame arrester requirements of the Motorboat Act of April 25, 1940, as amended (46 U.S.C. 5261) and the regulation at 46 CFR 25.35-1(a).

(ii) A speed of 5 miles per hour shall not be exceeded by motorboats.

(iii) Class 1 and Class 2 motorboats shall proceed no closer than one-quarter mile from the shoreline except to disembark or embark passengers, or while moored when passengers are ashore.

(10) *Permission required to operate motorboats in Five Mile Per Hour Zone:* Written authority for motorboats to enter either or both the South Arm or the Southeast Arm "Five Mile Per Hour Zones" shall be granted to an operator providing that prior to commencement of such entry the operator completes and files with the Superintendent a form statement showing:

(i) Length, make, and number of motorboat.

(ii) Type of vessel, such as inboard, inboard-outboard, turbojet, and including make and horsepower rating of motor.

(iii) Name and address of head of party.

(iv) Number of persons in party.

(v) Number of nights planned to spend in each "Five Mile Per Hour Zone."

(vi) Place where camping is planned within each "Five Mile Per Hour Zone," or if applicable, whether party will remain overnight on board.

(11) The disturbance of birds inhabiting or nesting on either of the islands designated as "Molly Islands" in the Southeast Arm of Yellowstone Lake is prohibited; nor shall any vessel approach the shoreline of said islands within one-quarter mile.

(12) *Boat racing, water pageants, and spectacular or unsafe types of recreational use of vessels are prohibited on park waters.*

(13) The restrictions of this paragraph (d) shall not apply to vessels operated for administrative purposes or in emergencies.

(e) *Fishing—(1) Open fishing season.*

(i) All rivers and creeks in the Yellowstone River drainage above the Upper Falls at Canyon, except as otherwise provided in subparagraph (2) of this paragraph, are open to fishing from 4 a.m., m.s.t., on July 15 to 9 p.m., m.s.t.,

on October 31. River and creeks will include those portions of Yellowstone Lake marked by buoys within 100 yards of the river or creek inlet.

(ii) All lakes in the Yellowstone River drainage above the Upper Falls at Canyon, except as otherwise provided in subparagraph (2) of this paragraph, are open to fishing from 4 a.m., m.s.t., on Jun. 15 to 9 p.m., m.s.t., on October 31. The marking buoys in the vicinity of the outlet of Yellowstone Lake shall define the northern limit of Yellowstone Lake.

(iii) All other waters, except as provided in subparagraph (2) of this paragraph, are open to fishing from 4 a.m., m.s.t., on May 28 to 9 p.m., m.s.t., on October 31.

(2) *Closed waters.* The following waters of the park are closed to fishing and are so designated by appropriate signs:

(i) The Yellowstone River and its tributary streams from the confluence of Alum Creek with the Yellowstone River upstream to the Sulphur Caldron.

(ii) The Yellowstone River from the top of the Upper Falls downstream to its confluence with Surface Creek.

(iii) Bridge Bay Lagoon and Marina, Grant Village Lagoon and Marina and their connecting channels with Yellowstone Lake.

(iv) Fishing is prohibited from the shores of the southern extreme of the West Thumb thermal area (posted) along the shore of Yellowstone Lake to the mouth of Little Thumb Creek.

(v) The Mammoth water supply reservoir.

(vi) Old Faithful water supply consisting of that section of the Firehole River from the Old Faithful water intake to the Shoshone Lake trail crossing above Lone Star Geyser.

(3) *Daily fishing period.* Fishing in those waters of the park that are open is permitted only between the hours of 4 a.m. and 9 p.m., m.s.t., or 5 a.m. and 10 p.m., m.d.t.

(4) *Daily limits by waters.* Daily limit shall mean the numbers, sizes, or species of fish that may be legally taken from specified waters during the legal fishing hours of a day. All fish a person does not elect to keep in possession shall be carefully and immediately returned to the water from which they were taken.

(i) The possession of grayling caught in park waters is prohibited (catch-and-release fishing only).

(ii) McBride Lake, Slough Creek, Yellowstone Lake, and the Yellowstone River outlet above the Upper Falls at Canyon (except as provided for in subparagraphs (1) and (2) of this paragraph): Three (3) fish, 14 inches or longer.

(iii) Firehole and Madison Rivers, Lower Gibbon River up to the base of Gibbon Falls: Two (2) fish, 16 inches or longer.

(iv) All other waters open to fishing: Five (5) fish, of which no more than three (3) may be cutthroat trout.

(5) *Possession limit.* Possession limit shall mean the numbers or species of fish

taken within Yellowstone National Park which may be in the possession of a person, regardless if fresh, stored in freezers or ice chests, or otherwise preserved. A person must cease fishing immediately upon filling his possession limit.

(i) The possession limit is five (5) fish of which no more than three (3) may be cutthroat trout. The possession of grayling is prohibited.

(6) *Restriction of use of lines, bait, and lures.* (i) Each person fishing in park water shall use only one rod or line held in hand.

(ii) Only artificial flies on single hook or lures with one single, double, or treble hook may be used in park waters except as specified in the following paragraphs.

(iii) Only artificial flies with no more than a single hook may be used for fishing in the Firehole River, Madison River, and that section of the Gibbon River extending from the mouth of the stream to the base of Gibbon Falls.

(iv) When in the possession of any fishing equipment and while immediately adjacent to or on waters of the park, no person shall possess any fish bait (e.g., worms, insects, minnows, fish eggs, or other organic matter, or parts thereof) or fish lures, except as provided for in subdivisions (ii), (iii), and (v) of this subparagraph.

(v) Persons 12 years of age or under may fish with worms as bait on the Gardner River, Obsidian Creek, Indian Creek, and Panther Creek.

(f) *Commercial automobiles and buses.* The prohibition against the commercial transportation of passengers by motor vehicles to Yellowstone National Park contained in § 5.4 of this chapter, shall be subject to the following exception: A motor vehicle operated on an infrequent and unscheduled tour, which tour did not originate within 500 miles of the park boundaries, carrying only round-trip passengers traveling from the point of origin of the tour, will, subject to the conditions set forth in this paragraph, be accorded admission to the park for the purpose of delivering passengers to a point of stay in the park and exit from the park. After passengers have completed their stay, such motor vehicles shall leave the park by the most convenient exit station, considering their destination. Motor vehicles admitted to the park under this paragraph shall not, while in the park, engage in general sightseeing operations. Admission will be accorded such vehicles upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such a manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the park, pursuant to contract authorization from the Secretary. The Superintendent shall have the authority to specify the route to be followed by such vehicles within the park.

(g) *Camping.* (1) Camping in Yellowstone National Park by any person, party, or organization during any calendar year during the period Labor Day through

June 30, inclusive, shall not exceed 30 days, either in a single period or combined separate periods, when such limitations are posted.

(2) The intensive public-use season for camping shall be the period July 1 to Labor Day. During this period camping by any person, party, or organization shall be limited to a total of 14 days either in a single period or combined separate periods.

(3) All food or similar organic material, must be kept completely sealed in a vehicle or camping unit that is constructed of solid, nonpliable material, or must be suspended at least 10 feet above the ground and 4 feet horizontally from any post or tree trunk. This restriction does not apply to food that is being eaten or is being prepared for eating.

(h) *Dogs and cats.* Dogs and cats on leash, crated, or otherwise under physical restraint are permitted in the park only along established roads, walks, paths, and trails, within one-quarter mile of roads or parking areas.

(i) *Alcoholic liquors.* (1) Definitions for the purposes of this section:

(i) The term "minor" means any person under 21 years of age regardless of marital status.

(ii) The term "alcoholic liquor" includes alcohol, spirits, wine, and beer and every liquid containing alcohol, spirits, wine, and beer and capable of being consumed as a beverage by a human being.

(iii) The term "person" includes any natural person, corporation, partnership, or association.

(2) The sale of alcoholic liquor within the park by any person not authorized to do so by written permit or contract issued by the Superintendent or the National Park Service is prohibited. This does not apply to employees of persons to whom permits have been issued, in carrying out their assigned duties.

(3) No person authorized to sell alcoholic liquor shall sell any alcoholic liquor between the hours of 1 a.m. Sunday and 2 p.m. Sunday. No person authorized to sell alcoholic liquor shall sell alcoholic liquor on weekdays between the hours of 1 a.m. and 6 a.m.

(4) No person authorized to sell alcoholic liquor within the park shall employ any minor to sell or dispense alcoholic liquor or permit any minor to sell or dispense any alcoholic liquor for him.

(5) No minor may sell or dispense or have in his possession or physical control any alcoholic liquor.

(6) No minor shall obtain, or attempt to obtain alcoholic liquor by misrepresentation of age, or by any other method in any place where alcoholic liquor is sold.

(7) No person authorized to sell alcoholic liquors shall engage in, allow, permit, or suffer in or upon the premises where such alcoholic liquor is sold any disorderly conduct as defined in § 2.7 of this chapter.

(j) *Travel on trails.* Foot travel in all thermal areas and within the Yellowstone Canyon between the Upper Falls and Inspiration Point must be confined to boardwalks or trails that are main-

tained for such travel and are marked by official signs.

(k) *Portable engines and motors.* The operation of motor-driven chain saws, portable motor-driven electric light plants, portable motor-driven pumps, and other implements driven by portable engines and motors is prohibited in the park, except in Mammoth Canyon, Fishing Bridge, Bridge Bay, Grant Village, and Madison Campgrounds, for park operation purposes, and for construction and maintenance projects authorized by the Superintendent. This restriction shall not apply to outboard motors on waters open to motorboating.

(l) *Skiing, sledding, tobogganing, and snowshoeing.* (1) The following activities are prohibited:

(i) Skiing, sledding, tobogganing, and snowshoeing upon park roads and parking areas, when such roads and parking areas are open to automobiles, trucks, tractors, bicycles, or motorcycles.

(ii) Skiing, sledding, tobogganing, and snowshoeing within areas closed by the posting of signs or designated as closed on a map located in the Superintendent's Office.

(iii) The towing of persons on skis, sleds, or other sliding devices behind vehicles.

(2) The Superintendent may, by the posting of appropriate signs, require persons to register or obtain a permit before attempting any oversnow travel. The Superintendent shall issue a permit upon ascertaining that suitable winter survival supplies and equipment are available for human use in the event of mechanical failure. Where a permit is required, it must be carried on the person, or within the oversnow vehicle, and shall be exhibited upon request of any authorized person.

(m) *Swimming.* The swimming or bathing in a natural, historical, or archeological thermal pool or stream that has waters originating entirely from a thermal spring or pool is prohibited.

J. LEONARD VOLZ,
Director, Midwest Region.

[FR Doc.71-8873 Filed 6-23-71; 8:47 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS [Public Land Order 5081]

ALASKA

Modification of Public Land Order No. 4582 as Amended by Public Land Order No. 4962

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847, 43 U.S.C. 141), as amended, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Paragraph 1 of Public Land Order No. 4582 of January 17, 1969, as amended

by Public Land Order No. 4962 of December 8, 1970, is modified to read as follows:

1. Subject to valid existing rights, and subject to the conditions hereinafter set forth, all public lands in Alaska which are unreserved or which would otherwise become unreserved prior to the expiration of this order, are hereby withdrawn from all forms of appropriation and disposition under the public land laws (except locations for metalliferous minerals), including selection by the State of Alaska pursuant to the Alaska Statehood Act (72 Stat. 339), and from leasing under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181, et seq.), as amended, and reserved under the jurisdiction of the Secretary of the Interior for the determination and protection of the rights of the native Aleuts, Eskimos, and Indians of Alaska. The withdrawal and reservation created by this order shall expire at 12 (midnight), prevailing Alaska time, on the day the First Session of the 92d Congress of the United States shall be officially adjourned or 12 (midnight), prevailing Alaska time, on the day legislation for the determination and protection of the rights of the native Aleuts, Eskimos, and Indians of Alaska shall become law, whichever shall occur first. Said date shall be hereinafter referred to as the "Expiration Date."

2. All prior modifications and amendments of Public Land Order No. 4582, including Public Land Order No. 4962 and all modifications and amendments thereof, are hereby continued in full force and effect until the expiration date.

3. This order shall become effective upon publication in the FEDERAL REGISTER (6-24-71).

ROGERS C. B. MORTON,
Secretary of the Interior.

JUNE 17, 1971.

[FR Doc.71-8872 Filed 6-23-71; 8:47 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Hunting Seasons for Puerto Rico

There was published in the FEDERAL REGISTER of May 11, 1971, on page 8677 (36 F.R. 8677) a notice of proposed rule making to issue regulations governing the hunting of doves, pigeons, ducks, coots, gallinules, and Wilson's snipe in Puerto Rico, and of doves in the Virgin Islands. The taking of the designated species of migratory game birds is presently prohibited.

All interested persons were invited to submit written comments, suggestions, or objections to the Director, Bureau of

Sport Fisheries and Wildlife, Washington, D.C. 20240. No responses were received from or regarding the Virgin Islands, so the Director has determined that a hunting season for the Virgin Islands should not be prescribed at this time. After consideration of the responses which were received, hunting seasons are prescribed for Puerto Rico. Since these revisions benefit the public by relieving existing restrictions, they shall become effective upon publication in the FEDERAL REGISTER.

Accordingly, Title 50, Chapter I, Subchapter B, Part 10, § 10.52, Code of Federal Regulations is revised to read:

§ 10.52 Migratory game bird hunting seasons for Puerto Rico and Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Puerto Rico:

	Doves ¹	Pigeons ¹
Open season dates ²	July 17 to Sept. 24, 1971.	8 singly or in the aggregate of all permitted species.
Daily bag limit ³	15 singly or in the aggregate of all permitted species.	8 singly or in the aggregate of all permitted species.
Possession limit ⁴	23 doves and pigeons, singly or in the aggregate of all permitted species.	23 doves and pigeons, singly or in the aggregate of all permitted species.
Shooting hours	One-half hour before sunrise to sunset daily.	One-half hour before sunrise to sunset daily.

Check Commonwealth Regulations for Additional Restrictions.

¹ Only the following species of doves and pigeons may be hunted during the open season: Zenaide dove (*Tortola cardenasera*); White-winged dove (*Tortola aliblanca o cubanita*); Mourning dove (*Tortola rabilara o rabilete*); Sealy-naped pigeon (*Paloma turca o torcaz*); White-crowned pigeon (*Paloma eschschblanca*).

² No open season is prescribed for doves and pigeons of any species on Culebra Island or in the Municipality of Cidra, said Municipality being composed of the following wards: Bayamon, Arenas, Monte Llano, Sud, Beatriz, Celba, Rio Abajo, Rincon, Toita, Honduras, Rabanal, and Salto.

³ On Mona Island the daily bag and possession limit on doves and pigeons is 15 singly or in the aggregate of all permitted species.

(b) Puerto Rico:

	Ducks	Coots	Gallinules	Common snipe (Wilson's)
Daily bag limit	4	6	8	8
Possession limit	8	12	16	16
Open season dates ¹	Dec. 1, 1971 to Jan. 29, 1972.			
Shooting hours	One-half hour before sunrise until sunset daily.			

Check Commonwealth Regulations for Additional Restrictions.

¹ No open season for waterfowl is prescribed for Culebra Island.

² The season on Bahama pintail is closed by Commonwealth law.

(c) Virgin Islands: Closed season.

(40 Stat. 755, 16 U.S.C. 703 et seq.)

Effective date: Upon publication in the FEDERAL REGISTER (6-24-71).

J. P. LINDUSKA,
Acting Director, Bureau of Sport Fisheries and Wildlife.

JUNE 18, 1971.

[FR Doc.71-8861 Filed 6-23-71; 8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

SALES OR OTHER DISPOSITIONS OF TERM INTERESTS IN PROPERTY

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 26, 1971.

Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 26, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 1001(e) of the Internal Revenue Code of 1954, relating to certain term interests in property, as added by section 516(a) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 646), such regulations are hereby amended as follows:

PARAGRAPH 1. Section 1.1001 is amended by adding new subsections (e) and (f) to section 1001 and by revising the historical note, as follows:

§ 1.1001 Statutory provisions: determination of amount of and recognition of gain or loss.

SEC. 1001. Determination of amount of and recognition of gain or loss.

(e) Certain term interests.—(1) In general. In determining gain or loss from the sale or other disposition of a term interest in property, that portion of the adjusted basis of such interest which is determined pursuant to section 1014 or 1015 (to the extent that such adjusted basis is a portion of the

entire adjusted basis of the property) shall be disregarded.

(2) Term interest in property defined. For purposes of paragraph (1), the term "term interest in property" means—

(A) A life interest in property,

(B) An interest in property for a term of years, or

(C) An income interest in a trust.

(3) Exception. Paragraph (1) shall not apply to a sale or other disposition which is a part of a transaction in which the entire interest in property is transferred to any person or persons.

(f) Cross reference. For treatment of certain expenses incident to the sale of a residence which were deducted as moving expenses by the taxpayer or his spouse under section 217(a), see section 217(e).

[Sec. 1001 as amended by secs. 231(c)(2) and 516(a), Tax Reform Act 1969 (83 Stat. 579, 646)]

PAR. 2. Section 1.1001 is amended by revising paragraph (a) and by adding a new paragraph (f), as follows:

§ 1.1001-1 Computation of gain or loss.

(a) General rule. Except as otherwise provided in subtitle A of the Code, the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent, is treated as income or as loss sustained. The amount realized from a sale or other disposition of property is the sum of any money received plus the fair market value of any property (other than money) received. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value. The general method of computing such gain or loss is prescribed by section 1001 (a) through (d) which contemplates that from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to restore the adjusted basis prescribed by section 1011 and the regulations thereunder (i.e., the cost or other basis adjusted for receipts, expenditures, losses, allowances, and other items chargeable against and applicable to such cost or other basis). The amount which remains after the adjusted basis has been restored to the taxpayer constitutes the realized gain. If the amount realized upon the sale or exchange is insufficient to restore to the taxpayer the adjusted basis of the property, a loss is sustained to the extent of the difference between such adjusted basis and the amount realized. The basis may be different depending upon whether gain or loss is being computed. For example, see section 1015 (a) and the regulations thereunder. Section 1001 (e) and paragraph (f) of this section prescribe the method of computing gain or loss upon the sale or other disposition of a term interest in property the adjusted basis (or a portion) of

which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust).

(f) Sale or other disposition of a term interest in property.—(1) General rule. Except as otherwise provided in subparagraph (3) of this paragraph, for purposes of determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in subparagraph (2) of this paragraph) a taxpayer shall not take into account that portion of the adjusted basis of such interest which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust) to the extent that such adjusted basis is a portion of the adjusted uniform basis of the entire property (as defined in § 1.1014-5). Where a term interest in property is transferred to a corporation in connection with a transaction to which section 351 applies and the adjusted basis of the term interest (1) is determined pursuant to section 1014 or 1015 and (2) is also a portion of the adjusted uniform basis of the entire property, a subsequent sale or other disposition of such term interest by the corporation will be subject to the provisions of section 1001(e) and this paragraph to the extent that the basis of the term interest so sold or otherwise disposed of is determined by reference to its basis in the hands of the transferor as provided by section 362(a). See subparagraph (2) of this paragraph for rules relating to the characterization of stock received by the transferor of a term interest in property in connection with a transaction to which section 351 applies. That portion of the adjusted uniform basis of the entire property which is assignable to such interest at the time of its sale or other disposition shall be determined under the rules provided in § 1.1014-5. Thus, gain or loss realized from a sale or other disposition of a term interest in property shall be determined by comparing the amount of the proceeds of such sale with that part of the adjusted basis of such interest which is not a portion of the adjusted uniform basis of the entire property.

(2) Term interest defined. For purposes of section 1001(e) and this paragraph, a "term interest in property" means—

(i) A life interest in property,

(ii) An interest in property for a term of years, or

(iii) An income interest in a trust.

Generally, subdivisions (i), (ii), and (iii) refer to an interest, present or future, in the income from property or the right to use property which will terminate or fail on the lapse of time, on the occurrence of an event or contingency, or on the failure of an event or contingency to occur. Such divisions do not refer to remainder or reversionary interests in the property itself or other interests in the property which will ripen into ownership of the entire property upon termination or failure of a preceding term interest. A "term interest in property" also includes any property received upon a sale or other disposition of a life interest in property, an interest in property for a term of years, or an income interest in a trust by the original holder of such interest, but only to the extent that the adjusted basis of the property received is determined by reference to the adjusted basis of the term interest so transferred.

(3) Exception. Paragraph (1) of section 101(e) and subparagraph (1) of this paragraph shall not apply to a sale or other disposition of a term interest in property as a part of a single transaction in which the entire interest in the property is transferred to a third person or to two or more other persons, including persons who acquire such entire interest as joint tenants, tenants by the entirety, or tenants in common. See § 1.1014-5 for computation of gain or loss upon such a sale or other disposition where the property has been acquired from a decedent or by gift or transfer in trust.

(4) Illustrations. For examples illustrating the application of this paragraph, see paragraph (c) of § 1.1014-5.

PAR. 3. Section 1.1014-5 is amended to read as follows:

§ 1.1014-5 Gain or loss.

(a) Sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent. (1) Except as provided in paragraph (b) of this section with respect to the sale or other disposition after October 9, 1969, of a term interest in property, gain or loss from a sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent is determined by comparing the amount of the proceeds with the amount of that part of the adjusted uniform basis which is assignable to the interest so transferred. The adjusted uniform basis is the uniform basis of the entire property adjusted to the date of sale or other disposition of any such interest as required by sections 1016 and 1017. The uniform basis is the unadjusted basis of the entire property determined immediately after the decedent's death under the applicable sections of part II of subchapter O of chapter 1 of the Code.

(2) Except as provided in paragraph (b) of this section, the proper measure of gain or loss resulting from a sale or other disposition of an interest in property acquired from a decedent is so much

of the increase or decrease in the value of the entire property as is reflected in such sale or other disposition. Hence, in ascertaining the basis of a life interest, remainder interest, or other interest which has been so transferred, the uniform basis rule contemplates that proper adjustments will be made to reflect the change in relative value of the interests on account of the passage of time.

(3) The factors set forth in the tables contained in § 20.2031-7 or § 20.2031-10, whichever is applicable, of Part 20 of this chapter (Estate Tax Regulations) shall be used in the manner provided therein in determining the basis of the life interest, the remainder interest, or the term certain interest in the property on the date such interest is sold. The basis of the life interest, the remainder interest, or the term certain interest is computed by multiplying the uniform basis (adjusted to the time of the sale) by the appropriate factor. In the case of the sale of a life interest or a remainder interest, the factor used is the factor (adjusted where appropriate) which appears in the life interest or the remainder interest column of the table opposite the age (on the date of the sale) of the person at whose death the life interest will terminate. In the case of the sale of a term certain interest, the factor used is the factor (adjusted where appropriate) which appears in the term certain column of the table opposite the number of years remaining (on the date of sale) before the term certain interest will terminate.

(b) Sale or other disposition of certain term interests. In determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in paragraph (1) of § 1.1001-1) the adjusted basis of which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust), that part of the adjusted uniform basis assignable under the rules of paragraph (a) of this section to the interest sold or otherwise disposed of shall be disregarded to the extent and in the manner provided by section 1001 (e) and paragraph (f) of § 1.1001-1.

(c) Illustrations. The application of this section may be illustrated by the following examples, in which references are made to the actuarial tables contained in Part 20 of this chapter (Estate Tax Regulations):

Example (1). Securities worth \$500,000 at the date of decedent's death on January 1, 1971, are bequeathed to his wife, W, for life, with remainder over to his son, S. W is 48 years of age when the life interest is acquired. The estate does not elect the alternate valuation allowed by section 2032. By reference to Table A(2) in paragraph (f) of § 20.2031-10, the life estate factor for age 48, female, is found to be 0.77488 and the remainder factor for such age is found to be 0.22512. Therefore, the present value of the portion of the uniform basis assigned to W's life interest is \$387,440 (\$500,000 × 0.77488), and the present value of the portion of the uniform basis assigned to S's remainder interest is \$112,560 (\$500,000 × 0.22512). W sells

her life interest to her nephew, A, on February 1, 1971, for \$370,000, at which time W is still 48 years of age. Pursuant to section 1001 (e), W realizes no loss; her gain is \$370,000, the amount realized from the sale. A has a basis of \$370,000 which he can recover by amortization deductions over W's life expectancy.

Example (2). The facts are the same as in example (1) except that W retains the life interest for 12 years, until she is 60 years of age, and then sells it to A on February 1, 1983, when the fair market value of the securities has increased to \$650,000. By reference to Table A(2) in paragraph (f) of § 20.2031-10, the life estate factor for age 60, female, is found to be 0.63226 and the remainder factor for such age is found to be 0.36774. Therefore, the present value on that date of the portion of the uniform basis assigned to W's life interest is \$316,130 (\$650,000 × 0.63226) and the present value on that date of the portion of the uniform basis assigned to S's remainder interest is \$333,870 (\$650,000 × 0.36774). W sells her life interest for \$410,969, that being the computed value of her remaining life interest in the securities as appreciated (\$650,000 × 0.63226). Pursuant to section 1001(e), W's gain is \$410,969, the amount realized. A has a basis of \$410,969 which he can recover by amortization deductions over W's life expectancy.

Example (3). Unimproved land having a fair market value of \$18,800 at the date of the decedent's death on January 1, 1970, is devised to A, a male, for life, with remainder over to B, a female. The estate does not elect the alternate valuation allowed by section 2032. On January 1, 1971, A sells his life interest to S for \$12,500. S is not related to A or B. At the time of the sale, A is 39 years of age. By reference to Table A(1) in paragraph (f) of § 20.2031-10, the life estate factor for age 39, male, is found to be 0.79854. Therefore, the present value of the portion of the uniform basis assigned to A's life interest is \$15,012.55 (\$18,800 × 0.79854). This portion is disregarded under section 1001(e). A realizes no loss; his gain is \$12,500, the amount realized. S has a basis of \$12,500 which he can recover by amortization deductions over A's life expectancy.

Example (4). The facts are the same as in example (3) except that on January 1, 1971, A and B jointly sell the entire property to S for \$25,000 and divide the proceeds equally between them. A and B are not related, and there is no element of gift or compensation in the transaction. By reference to Table A(1) in paragraph (f) of § 20.2031-10, the remainder factor for age 39, male, is found to be 0.20146. Therefore, the present value of the uniform basis assigned to B's remainder interest is \$3,787.45 (\$18,800 × 0.20146). On the sale A realizes a loss of \$2,512.55 (\$15,012.55 less \$12,500), the portion of the uniform basis assigned to his life interest not being disregarded by reason of section 1001(e)(3). B's gain on the sale is \$8,712.55 (\$12,500 less \$3,787.45). S has a basis in the entire property of \$25,000, no part of which, however, can be recovered by amortization deductions over A's life expectancy.

Example (5). (a) Nondepreciable property having a fair market value of \$54,000 and an estimated useful life of 27 years at the date of decedent's death on January 1, 1971, is devised to her husband, H, for life and, after his death, to her daughter, D, for life, with remainder over to her grandson, G. The estate does not elect the alternate valuation allowed by section 2032. On January 1, 1973, H sells his life interest to D for \$32,000. At the date of the sale, H is 62 years of age, and D is 45 years of age. By reference to Table A(1) in paragraph (f) of § 20.2031-10, the

life estate factor for age 62, male, is found to be 0.52321. Therefore, the present value on January 1, 1973, of the portion of the adjusted uniform basis assigned to H's life interest is \$28,253 (\$54,000 × 0.52321). Pursuant to section 1001(e), H realizes no loss; his gain is \$32,000, the amount realized from the sale. D has a basis of \$32,000 which she can recover by amortization deductions over H's life expectancy.

(b) On January 1, 1976, D sells both life estates to G for \$40,000. During each of the years 1973 through 1975, D is allowed a deduction for the amortization of H's life interest. At the date of the sale H is 65 years of age, and D is 48 years of age. For purposes of determining gain or loss on the sale by D, the portion of the adjusted uniform basis assigned to H's life interest and the portion assigned to D's life interest are not taken into account under section 1001(e). However, pursuant to § 1.1001-1(f)(1), D's cost basis in H's life interest, minus deductions for the amortization of such interest, is taken into account. On the sale, D realizes gain of \$40,000 minus an amount which is equal to the \$32,000 cost basis (for H's life estate) reduced by amortization deductions. G is entitled to amortize over H's life expectancy that part of the \$40,000 cost which is attributable to H's life interest. That part of the \$40,000 cost which is attributable to D's life interest is not amortizable by G until H dies.

Example (6). Securities worth \$1,000,000 at the date of decedent's death on January 1, 1971, are bequeathed to his wife, W, for life, with remainder over to his son, S. W is 48 years of age when the life interest is acquired. The estate does not elect the alternate valuation allowed by section 2032. By reference to Table A(2) in paragraph (f) of § 20.2031-10, the life estate factor for age 48, female, is found to be 0.77488, and the remainder factor for such age is found to be 0.22512. Therefore, the present value of the portion of the uniform basis assigned to W's life interest is \$774,880 (\$1,000,000 × 0.77488), and the present value of the portion of the uniform basis assigned to S's remainder interest is \$225,120 (\$1,000,000 × 0.22512). On February 1, 1971, W transfers her life interest to corporation X in exchange for all of the stock of X pursuant to a transaction in which no gain or loss is recognized by reason of section 351. On February 1, 1972, W sells all of her stock in X to S for \$800,000. Pursuant to section 1001(e) and § 1.1001-1(f)(2), W realizes no loss; her gain is \$800,000, the amount realized from the sale. On February 1, 1972, X sells to N for \$900,000 the life interest transferred to it by W. Pursuant to section 1001(e) and § 1.1001-1(f)(1), X realizes no loss; its gain is \$900,000, the amount realized from the sale. N has a basis of \$900,000 which he can recover by amortization deductions over W's life expectancy.

PAR. 4. Section 1.1014-6 is amended by revising paragraph (b)(3)(ii) to read as follows:

§ 1.1014-6. *Special rule for adjustments to basis where property is acquired from a decedent prior to his death.* . . .

(b) *Multiple interests in property described in section 1014(b)(9) and acquired from a decedent prior to his death.* . . .

(i) In cases of the type described in subdivision (i) of this subparagraph, the basis of any interest which is included in the decedent's gross estate may be ascer-

tained by adding to (or subtracting from) the basis of such interest determined immediately prior to the decedent's death the increase (or decrease) in the uniform basis of the property attributable to the inclusion of the interest in the decedent's gross estate. Where the interest is sold or otherwise disposed of at any time after the decedent's death, proper adjustment must be made in order to reflect the change in value of the interest on account of the passage of time, as provided in § 1.1014-5. For an illustration of the operation of this subdivision, see step 6 of the example in § 1.1014-7.

PAR. 5. Section 1.1015-1 is amended by revising paragraph (b) to read as follows:

§ 1.1015-1. *Basis of property acquired by gift after December 31, 1920.* . . .

(b) *Uniform basis; proportionate parts of.* Property acquired by gift has a single or uniform basis although more than one person may acquire an interest in such property. The uniform basis of the property remains fixed subject to proper adjustment for items under sections 1016 and 1017. However, the value of the proportionate parts of the uniform basis represented, for instance, by the respective interests of the life tenant and remainderman are adjustable to reflect the change in the relative values of such interest on account of the lapse of time. The portion of the basis attributable to an interest at the time of its sale or other disposition shall be determined under the rules provided in § 1.1014-5. In determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in § 1.1001-1(f)(2)) the adjusted basis of which is determined pursuant, or by reference, to section 1015, that part of the adjusted uniform basis assignable under the rules of § 1.1014-5(a) to the interest sold or otherwise disposed of shall be disregarded to the extent and in the manner provided by section 1001(e) and § 1.1001-1(f).

[FR Doc. 71-8921 Filed 6-23-71; 8:52 am]

[26 CFR Part 1] MINIMUM TAX FOR TAX PREFERENCES

Notice of Proposed Rule Making

On December 30, 1969, notice of proposed rule making was published in the FEDERAL REGISTER in regard to regulations under sections 56, 57, and 58 of the Internal Revenue Code of 1954, relating to the minimum tax for tax preferences, as added by section 301 of the Tax Reform Act of 1969 (35 F.R. 19757). Notice is hereby given that so much of the proposed regulations as are contained in § 1.56, paragraphs (b) and (c) of § 1.56-1, subparagraphs (1) (iii) (a) and (iv), (2), (4), and (5) (iii) of § 1.57-2(b), paragraph (c) (4) of § 1.58-7, and paragraphs (b) and (c) of § 1.58-8, as set

forth in paragraph 6 of the appendix to the notice of proposed rule making is hereby withdrawn.

Further, notice is hereby given that, in lieu of the proposed rules which are so withdrawn, the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 12, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 12, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

On December 30, 1969, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 19757) regarding the amendment of the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) to conform such regulations to the amendments of the Internal Revenue Code made by section 301 of the Tax Reform Act of 1969 (83 Stat. 580). In order to conform such regulations to the amendment of the Internal Revenue Code made by Public Law 91-614 (84 Stat. 1846) (relating to reduction of minimum tax liability because of tax carryovers) and to provide additional and modified rules with respect to the outstanding notice, so much of the proposed regulations as are contained in § 1.56, paragraphs (b) and (c) of § 1.56-1, subparagraphs (1) (iii) (a) and (iv), (2), (4), and (5) (iii) of § 1.57-2(b), paragraph (c) (4) of § 1.58-7, and paragraphs (b) and (c) of § 1.58-8, as set forth in paragraph 6 of the appendix to the notice of proposed rule making is hereby withdrawn. The following rules are hereby prescribed in lieu of the rules which are so withdrawn.

§ 1.56. *Statutory provisions; minimum tax for tax preferences; imposition of tax.*

SEC. 56. *Imposition of tax—(a) In general.* In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which—

(1) The sum of the items of tax preference in excess of \$30,000 is greater than

(2) The sum of—

(A) The taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

(i) Section 33 (relating to foreign tax credit),

(ii) Section 37 (relating to retirement income), and

(iii) Section 38 (relating to investment credit); and

(B) The tax carryovers to the taxable year.

(b) *Deferral of tax liability in case of certain net operating losses—(1) In general.* If for any taxable year a person—

(A) Has a net operating loss any portion of which (under section 172) remains as a net operating loss carryover to a succeeding taxable year, and

(B) Has items of tax preference in excess of \$30,000,

then an amount equal to the lesser of the tax imposed by subsection (a) or 10 percent of the amount of the net operating loss carryover described in subparagraph (A) shall be treated as tax liability not imposed for the taxable year, but as imposed for the succeeding taxable year or years pursuant to paragraph (2).

(2) *Year of liability.* In any taxable year in which any portion of the net operating loss carryover attributable to the excess described in paragraph (1) (B) reduces taxable income, the amount of tax liability described in paragraph (1) shall be treated as tax liability imposed in such taxable year in an amount equal to 10 percent of such reduction.

(3) *Priority of application.* For purposes of paragraph (2), if any portion of the net operating loss carryover described in paragraph (1) (A) is not attributable to the excess described in paragraph (1) (B), such portion shall be considered as being applied in reducing taxable income before such other portion.

(c) *Tax carryovers.* If for any taxable year—

(1) The taxes imposed by this chapter (computed without regard to this part and without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

(A) Section 33 (relating to foreign tax credit),

(B) Section 37 (relating to retirement income), and

(C) Section 38 (relating to investment credit), exceed

(2) The sum of the items of tax preference in excess of \$30,000,

then the excess of the taxes described in paragraph (1) over the sum described in paragraph (2) shall be a tax carryover to each of the 7 taxable years following such year. The entire amount of the excess for a taxable year shall be carried to the first of such 7 taxable years, and then to each of the other such taxable years to the extent that such excess is not used to reduce the amount subject to tax under subsection (a) for a prior taxable year to which excess may be carried.

[Sec. 56 as added by sec. 301(a) of the Tax Reform Act of 1969 (83 Stat. 580) as amended by sec. 501, Act of December 31, 1970 (Public Law 91-614, 84 Stat. 1846)]

§ 1.56-1. Imposition of tax.

(b) *Computation of tax.* The amount of such tax is 10 percent of the excess

(referred to herein as "the minimum tax base") of—

(1) The sum of the taxpayer's items of tax preference for such year in excess of the taxpayer's minimum tax exemption (determined under § 1.58-1) for such year, over

(2) The sum of:

(i) The taxes imposed for such year under chapter 1 other than the taxes imposed by section 56 (relating to minimum tax for tax preferences), by section 531 (relating to accumulated earnings tax), or by section 541 (relating to personal holding company tax), reduced by the sum of the credits allowable under—

(a) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(b) Section 37 (relating to retirement income), and

(c) Section 38 (relating to investment credit), and

(ii) The tax carryovers to such taxable year (as described in § 1.56-5).

(c) *Special rule.* For purposes of paragraph (b) of this section where for any taxable year in which a tax is imposed under section 668 (relating to treatment of amounts deemed distributed by a trust in preceding years), that portion of the section 668 tax representing an increase in an earlier year's chapter 1 taxes as recomputed (other than taxes imposed by section 56, section 531, and section 541) is allowable as a reduction in such earlier year's minimum tax base and is not allowable as a reduction in the minimum tax base for the current taxable year. The remaining portion of the section 668 tax is not allowable as a reduction in the minimum tax base for any taxable year. Similarly, taxes imposed under section 614(c)(4) (relating to increase in tax with respect to aggregation of certain mineral interests) or under section 1351(d) (relating to recoveries of foreign expropriation losses) for any taxable year are not allowed as a reduction in the minimum tax base for such taxable year to the extent they represent chapter 1 taxes which are allowable as a reduction in a minimum tax base for an earlier taxable year for purposes of the computations under section 614(c)(4) or section 1351(d) or to the extent they represent an increase in the tax imposed by section 56, section 531, or section 541 in an earlier taxable year.

(d) *Limitation on amounts treated as tax preferences.* See § 1.57-4 with respect to a limitation on the amount of the sum of the items of tax preference where there is no tax benefit from the use of an item of tax preference.

§ 1.56-5. Tax carryovers.

(a) *In general.* Section 56(c) provides a 7-year carryover of the excess of the taxes described in paragraph (1) of such section imposed during the taxable year over the items of tax preference described in paragraph (2) of such section for such taxable year for the purpose of reducing the amount subject to tax under section 56(a) in subsequent taxable years.

(b) *Computation of amount of carryover.* The amount of tax carryover described in section 56(c) is the excess (if any) of—

(1) The taxes imposed for the taxable year under chapter 1 other than taxes imposed by section 56 (relating to minimum tax for tax preferences), by section 531 (relating to accumulated earnings tax), or by section 541 (relating to personal holding company tax), reduced by the sum of the credits allowable under—

(i) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(ii) Section 37 (relating to retirement income), and

(iii) Section 38 (relating to investment credit), over

(2) The sum of the taxpayer's items of tax preference for such year in excess of the taxpayer's minimum tax exemption (determined under § 1.58-1) for such year.

For purposes of section 56(c) and this section, taxes imposed in a taxable year ending on or before December 31, 1969, are not included in the taxes described in subparagraph (1) of this paragraph. In addition, the rules of paragraph (c) of § 1.56-1 are applicable in determining the taxable year for which taxes are imposed under chapter 1 for purposes of paragraph (a) (1) of this section.

(c) *Operation of carryover.* Tax carryovers attributable to the taxable year shall be carried over to each of the 7 succeeding taxable years as follows:

(1) To the first such succeeding taxable year to reduce in the manner described in paragraph (d) of this section the amount subject to tax under section 56(a) for such first succeeding taxable year and

(2) To the extent such amount is not used as a reduction in the amount subject to tax under section 56(a) for such taxable year, such amount (if any) is carried over to each of the succeeding 6 taxable years but only to the extent such amount is not used to reduce the amount subject to tax under section 56(a) in taxable years intervening between the taxable year to which such amount is attributable and the taxable year to which such amount may otherwise be carried over.

(d) *Priority of reduction.* Where tax carryovers attributable to two or more taxable years are carried over to a subsequent taxable year such amounts attributable to the earliest taxable year shall be used to reduce the amount subject to tax under section 56(a) for such subsequent taxable year before any such amounts attributable to a later taxable year.

(e) *Special rules—(1) Periods of less than 12 months.* A fractional part of a year which is a taxable year under section 441(b) or 7701(a)(23) is a taxable year for purposes of section 56(c) and this section.

(2) *Electing small business corporations.* A taxable year for which a corporation is an electing small business corporation (as defined in section 1371(b))

shall be counted as a taxable year for purposes of determining the taxable years to which amounts which are available as a carryover under paragraph (a) of this section may be carried whether or not such carryovers arose in a year in which an election was in effect.

(3) *Husband and wife*—(i) *From joint to separate return*. If a joint return is filed by a husband and wife in a taxable year or years to which a tax carryover is attributable but separate returns are filed in any subsequent taxable year to which such carryover may be carried over to reduce the amount subject to tax under section 56(a), such carryover described in paragraph (b) of this section shall be allocated between husband and wife for purposes of reducing the amount subject to tax under section 56(a) for such subsequent taxable year in accordance with the principles of § 1.172-7(d).

(ii) *From separate to joint return*. If separate returns are filed by a husband and wife in a taxable year or years in which a tax carryover is attributable but a joint return is filed in any subsequent taxable year to which such carryover may be carried over to reduce the amount subject to tax under section 56(a) for such subsequent taxable year.

(4) *Estates and trusts*. In the case of the termination of an estate or trust, tax carryovers attributable to the estate or trust shall not be allowed to the beneficiaries succeeding to the property of the estate or trust.

(5) *Corporate acquisitions*. In the case of a transaction to which section 381(a) applies, the acquiring corporation shall succeed to and take into account, as of the close of the date transfer the tax carryovers attributable to the distributor or distribution or transferor corporation. The portion of such carryovers which may be taken into account under paragraph (b) (2) (ii) of § 1.56-1 for any taxable year shall not exceed the excess of (i) the sum of the items of tax preference for such year resulting from the continuation of the business in which the distributor or transferor corporation was engaged at the time of such transaction and the items of tax preference not related to the continuation of such business which are directly attributable to the assets acquired from the distributor or transferor corporation over (ii) an amount which bears the same ratio to the acquiring corporation's minimum tax exemption for such year as the items of tax preference described in subdivision (i) of this subparagraph bears to all of the acquiring corporation's items of tax preference for such year. This item shall be taken into account by the acquiring corporation subject to the rules in section 381(b) and the regulations thereunder.

(f) *Suspense preferences*. Where an item of tax preference which is a suspense preference (as defined in § 1.58-7) arises in a taxable year in which tax carryovers may be used to reduce the minimum tax base (or in which such

carryovers arise) the minimum tax liability for that year and the tax carryovers to subsequent taxable years shall be recomputed upon the conversion of the suspense preference in a subsequent year. In lieu of the above, in all cases, since there is no difference in tax consequence, the recomputation may be accomplished by recomputing the minimum tax liability of the taxable year in which the suspense preference arose without reduction of the minimum tax base for the tax carryovers which have been used as a reduction in the minimum tax base in intervening taxable years. If such method is used, the minimum tax liability of the intervening year is not recomputed and any tax carryovers carried from the taxable year in which the suspense preference arose which remain as a carryover in the year of conversion are reduced, in the priority provided in paragraph (d) of this section, to the extent used to reduce an increase in the minimum tax base for the earlier year resulting from the conversion of the suspense preference.

(g) *Taxes imposed in a taxable year beginning in 1969 and ending in 1970*. In the case of a taxable year beginning in 1969 and ending in 1970 the amount of the carryover determined under paragraph (b) of this section is reduced to an amount equal to the amount of such carryover (without regard to this paragraph) multiplied by the following fraction:

Number of days in taxable year ending after December 31, 1969	Number of days in the entire taxable year
(h) <i>Examples</i> . The provisions of this section may be illustrated by the following examples:	

Example (1). A is a single individual who uses a June 30 fiscal year. For fiscal 1968-1969, A had income tax liability under chapter 1 in the amount of \$100,000. For fiscal 1969-1970, A had items of tax preference in the amount of \$212,500 and income tax liability under chapter 1 (other than taxes imposed under sections 56, 531, and 541) of \$365,000.

(a) The chapter 1 tax attributable to fiscal 1968-1969 is not available as a carryover under section 56(c) to reduce the amount subject to tax under section 56(a) since this tax arose in a taxable year ending on or before December 31, 1969.

(b) A portion of the excess of chapter 1 tax over the amount subject to tax under section 56(a) attributable to fiscal year 1969-1970 is available as a carryover as provided in section 56(c) to reduce the amount subject to tax under section 56(a). The amount of this carryover is \$91,000 computed as follows:

1. Carryover under paragraph (b) of this section:	
Chapter 1 taxes	\$365,000
Items of tax preference in excess of exemption	182,500
Total	182,500
2. Reduction pursuant to paragraph (g) of this section:	
$182 \times \$182,500 =$	\$91,000
365	

Example (2). A is a calendar year taxpayer who is a single individual. In 1972, A had chapter 1 income tax liability (other than taxes imposed under sections 56, 531,

and 541) of \$200,000 and \$50,000 of items of tax preference. In 1973, A had chapter 1 income tax liability (other than taxes imposed under sections 56, 531, and 541) of \$120,000 and \$40,000 of items of tax preference. In 1974, A had \$400,000 of items of tax preference and no liability for tax under chapter 1 other than under section 56(a). Under section 56(c), the excess of the taxes described in paragraph (1) of that section arising in an earlier taxable year not used to reduce the amount subject to tax under section 56(a) for such taxable year can be carried over as provided in section 56(c) to reduce the amount subject to tax under section 56(a).

(a) The amount of the carryover for 1972 is \$180,000 computed as follows:

Carryover under paragraph (b) of this section:	
Chapter 1 taxes	\$200,000
Items of tax preference in excess of exemption	20,000
Total	180,000

(b) The amount of the carryover from 1973 is \$110,000 computed as follows:

Carryover under paragraph (b) of this section:	
Chapter 1 taxes	\$120,000
Items of tax preference in excess of exemption	10,000
Total	110,000

(c) For 1974, the excess of taxes in the preceding taxable years is used to reduce the amount subject to tax under section 56(a). The amount of carryover attributable to excess taxes arising in 1972 is used before such excess arising in 1973. The amount of tax under section 56(a) is \$8,000 computed as follows:

1974 tax preferences	\$400,000
Less exemption	30,000
	370,000
Less 1972 carryover	180,000
	190,000
Less 1973 carryover	110,000
1974 minimum tax base	80,000

1974 minimum tax (\$80,000 \times 10%) 8,000

Example (3). The facts are the same as in example (2) except that in 1974 A had \$300,000 of items of tax preference. The amount of the carryover for taxable years after 1974 is computed as follows:

1974 tax preferences	\$300,000
Less exemption	30,000
	270,000
Less 1972 carryover	180,000
	90,000
Less 1973 carryover	90,000
Minimum tax base	—0—
1973 carryover	110,000
Amount used in 1974	90,000

Amount available for taxable years after 1974 20,000

The \$20,000 remaining of the 1973 carryover is available to reduce the amount subject to tax under section 56(a) in 1975 or other future taxable years as provided in section 56(c).

Example (4). M Corporation is a calendar year taxpayer. N Corporation uses a June 30 fiscal year. For the fiscal year 1970-1971, N Corporation had excess chapter 1 tax liability

as described in paragraph (a) of this section in the amount of \$75,000. On January 1, 1972, M Corporation acquired N Corporation in a reorganization described in section 368 (a) (1) (A). N Corporation does not use any of such excess chapter 1 tax liability to reduce the amount subject to tax under section 56(a) for the short taxable year beginning on July 1, 1971, and ending on December 31, 1971. Thus, the excess chapter 1 tax liability is available to M Corporation as a carryover under paragraph (a) of this section to reduce the amount subject to tax for the next 6 succeeding taxable years beginning with taxable year 1972 as provided in this section. In applying the carryover to 1972 and succeeding taxable years, the carryover of N Corporation subject to the limitation of § 1.56-5(e) (4) is combined with any carryovers originating with M Corporation in 1970.

§ 1.57-2 Excess investment interest.

(b) Definitions.

(i) *Investment interest expense*.

(iii) (a) The determination of whether the purpose of incurring or continuing an indebtedness is to purchase or carry property held for investment must be made on the basis of the facts and circumstances of each particular case. Where it is clear that the intent of the taxpayer in incurring or continuing a particular indebtedness is solely for the purchase, improvement, or maintenance of business property, solely to engage in or continue a trade or business activity, or otherwise to use the proceeds of the indebtedness in the ordinary course of business, interest on such indebtedness is not treated as investment interest expense. Where it is clear that the intent of the taxpayer in incurring or continuing a particular indebtedness is solely for the purchase, improvement, or maintenance of property which is primarily for personal, as opposed to business or investment, use, or solely to engage in or continue an activity which is primarily personal, interest on such indebtedness is not treated as investment interest expense. Thus, indebtedness in the form of a purchase money mortgage on a personal residence, a student loan, a home improvement loan, or an installment obligation for the acquisition of consumer goods for personal use will not be investment interest expense unless it is clear that, in substance, such indebtedness was incurred to purchase or carry investment property. Similarly, interest on a purchase money mortgage or installment obligation for the acquisition of business property will not normally be investment interest expense. Where the proceeds of an indebtedness can be traced to a particular activity or property or the indebtedness constitutes all or a part of the payment for a particular activity or property, it will be inferred that such indebtedness was incurred or continued for the purpose of purchasing or carrying such property or engaging in or continuing such activity. In addition, if substantially identical amounts are borrowed and expended simultaneously it will be inferred that the resulting in-

debtedness was incurred to purchase or of such expenditure. Indebtedness which was originally incurred for one purpose may be continued for another purpose. Thus, if the taxpayer incurred an indebtedness to purchase business property but continued the indebtedness in order to avoid liquidation of property held for investment, the indebtedness is continued in order to carry the property held for investment. An indebtedness may be incurred or continued for multiple purposes. Where such a multiple purpose is established, including an investment purpose, a portion of the loan will be treated as incurred or continued in order to purchase or carry property held for investment. In cases where the proceeds of an indebtedness cannot be traced by application of the principles of this subdivision to a particular activity or property, it will be inferred that the indebtedness was incurred or continued in order to carry property held for investment. In some cases, however, it may be established that all or part of such indebtedness was not incurred or continued in order to carry property held for investment. Thus, where a taxpayer owns \$100,000 in value of appreciated investment property, indebtedness in excess of that amount will ordinarily not be considered to be incurred or continued in order to carry investment property.

(iv) For purposes of this subparagraph, interest paid or accrued on indebtedness incurred or continued in the construction of property to be used by the taxpayer in a trade or business is not treated as investment interest expense. Thus, if the taxpayer pays or accrues construction interest with respect to a building which he intends to use in his trade or business such interest is not investment interest expense. Similarly, interest paid or accrued with respect to the construction of property which is neither business nor investment property, such as the taxpayer's personal residence, is not treated as investment interest expense. On the other hand, if the taxpayer intends to hold property by leasing such property under a net lease entered into after October 9, 1969 (as defined in § 1.57-3), the resulting construction interest is investment interest expense. For this purpose, the use which the taxpayer intends is determined from the facts and circumstances of each case giving due weight to the actual use of the property and any similar property held or constructed by the taxpayer. Thus, a pattern of constructing net leased buildings is a factor to be taken into account. Similarly, if at any time prior to or during construction, the taxpayer has entered into an agreement to lease the property under an arrangement which would be considered a net lease pursuant to § 1.57-3(c), the construction interest will be investment interest expense. In determining the taxpayer's intent, however, the fact that the property is leased (regardless of when the lease is executed) under an arrangement which is subsequently considered to be a net lease pur-

suant to § 1.57-3(b) (but not § 1.57-3(c)) will not be considered.

(2) *Investment property*. (i) The determination whether property is held for investment must be made on the basis of the particular facts and circumstances. For purposes of this paragraph, the term "property" includes any form of property whether real, personal, tangible, or intangible. Under the facts and circumstances test, property is held for investment only if it is held for the production or collection of passive income, such as interest, rent, dividends, royalties, or capital gain (including amounts which would be capital gain but for the application of section 1245 or section 1250) to the extent such income, gain, and amounts are not derived from properties actively used in the conduct of trade or business. Except as provided in subdivision (ii) of this subparagraph, property is not held for investment if the expenses paid or incurred by the taxpayer in connection with his use thereof are allowable as deductions under section 162. For example, real property held in the conduct of the business of renting real property is property actively used in the conduct of a trade or business. Where it can reasonably be expected that a property will generate passive income, such property will ordinarily be considered investment property. Thus, portfolio investments held in a trade or business will constitute property held for investment. Generally, stock in a corporation, other than an electing small business corporation, whether a portfolio investment or a controlling interest constitutes property held for investment since such stock is not actively used in the trade or business of the taxpayer and can reasonably be expected to generate investment income. Stock in electing small business corporations and partnership interests constitute property held for investment to the extent the assets of the corporation or partnership are held for investment.

(ii) Property which is subject to a net lease (as defined in § 1.57-3) entered into after October 9, 1969, shall be treated as property held for investment. Property subject to a lease entered into on or before October 9, 1969, shall not be considered investment property by reason of the lease being a net lease. For this purpose, a renewal or extension of a lease (unless pursuant to a right of the lessee, exercisable without consent or approval of the lessor, existing on October 9, 1969, and at all times thereafter) shall constitute a new lease entered into on the date such renewal or extension takes effect. Modifications of a lease (other than a renewal or extension thereof) shall cause the lease to be considered a new lease entered into on the date such modifications take effect unless the modifications do not cause the lease to be a net lease under § 1.57-3(c). Moreover, modifications of a lease which is a net lease on October 9, 1969, pursuant to § 1.57-3(c) shall not deem the lease to be a new lease until the expiration of such lease (determined with regard to renewals or extensions which may

be effected as a matter of right by the lessee without consent or approval of the lessor on October 9, 1969, and at all times thereafter) since the modification did not cause the lease to be a net lease.

(4) *Investment income.* The term "investment income" includes:

(i) Interest, dividends, rents, and royalties, to the extent includible in gross income;

(ii) The net short-term capital gain attributable to the disposition of property held for investment; and

(iii) Amounts treated under sections 1245 and 1250 as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

but only to the extent such income, gain, and amounts are not derived from the conduct of a trade or business. Income, gain, and other amounts shall be considered investment income and not derived from the conduct of a trade or business only if derived from investment property as defined in subparagraph (2) of this paragraph. Generally, dividends received by a dealer in securities, or royalties received by a manufacturer will not constitute investment income since such amounts normally constitute income from the conduct of a trade or business. However, property subject to a net lease entered into after October 9, 1969 (as defined in § 1.57-3) is, for purposes of the minimum tax, treated as property held for investment. Accordingly, rents derived from such property are, for purposes of this section, considered investment income. Where the primary purpose of holding property is for investment, net income from the incidental or temporary use of the property in the active conduct of a trade or business will be treated as investment income. Thus, for example, where a taxpayer who owns investment property which consists of a large tract of wooded country realty realizes small amounts of annual income from the sale of hunting rights, the net income will be treated as investment income. Dividends from an electing small business corporation and undistributed taxable income of such a corporation taxed to the shareholders thereof pursuant to section 1373 are investment income only to the extent of the shareholder's proportionate share of the corporation's net investment income in excess of investment interest. The balance is income derived from the conduct of a trade or business.

(5) *Investment expenses.* . . .

(iii) Property subject to a net lease entered into after October 9, 1969, is for purposes of the minimum tax treated as property held for investment. Accordingly, solely for purposes of this section, deductions allowable under section 162 are considered deductions allowable under section 212 to the extent such deductions would have been allowable under section 212 were that section applicable to the taxpayer and were the property considered held for the production of investment income for all purposes of the Internal Revenue Code.

Thus, for example, deductions of an electing small business corporation (as defined in section 1371(b)) allowable under section 162 will be considered as investment expenses allowable under section 212 if directly connected with the production of investment income.

§ 1.58-7 Tax preferences attributable to foreign sources; preferences other than capital gains and stock options.

(c) *Reduction in taxes on United States source income.* . . .

(4) *Carryover of excess taxes.* For rules relating to carryover of excess taxes described in paragraph (1) of section 56(c) when suspense preferences are converted to actual items of tax preference, see § 1.56-5(f).

(5) *Character of amounts.* Where the amounts from sources within a foreign country or possession of the United States (or all such countries or possessions in the case of a taxpayer who has elected the overall foreign tax credit limitation) which are treated as reducing chapter 1 tax on income from sources within the United States or as suspense preferences are less than the total items of tax preference described in subparagraph (1)(i)(a) of this paragraph attributable to such sources, the amounts so treated are considered derived proportionately from each such item of tax preference.

§ 1.58-8 Capital gains and stock options.

(b) *Source of capital gains and stock options.* Generally, in determining whether the capital gain or stock option item of tax preference is attributable to sources within any foreign country or possession of the United States, the principles of sections 861-863 and the regulations thereunder are applied. Thus, the stock option item of tax preference, representing compensation for personal services, is attributable, in accordance with § 1.861-4, to sources within the country in which the personal services were performed. Where the capital gain item of tax preference represents gain from the purchase and sale of personal property, such gain is attributable, in accordance with § 1.861-7, entirely to sources within the country in which the property is sold. In accordance with paragraph (c) of § 1.861-7, in any case in which the sales transaction is arranged in a particular manner for the primary purpose of tax avoidance, all factors of the transaction, such as negotiations, the execution of the agreement, the location of the property, and the place of payment, will be considered, and the sale will be treated as having been consummated at the place where the substance of the sale occurred.

(c) *Preferential treatment.* For purposes of this section, gain, profit, or other income is accorded preferential treatment by a foreign country or possession of the United States if (1) recognition of the income, for foreign tax purposes, is deferred beyond the taxpayer's taxable

year or comparable period for foreign tax purposes which coincides with the taxpayer's U.S. taxable year in cases where other items of profit, gain, or other income may not be deferred; (2) it is subject to tax at a lower effective rate (including no rate of tax) than other items of profit, gain, or other income, by means of a special rate of tax, artificial deductions, exemptions, exclusions, or similar reductions in the amount subject to tax; (3) it is subject to no significant amount of tax; or (4) the laws of the foreign country or possession by any other method provide tax treatment for such profit, gain, or other income more beneficial than the tax treatment otherwise accorded income by such country or possession. For the purpose of the preceding sentence, gain, profit, or other income is subject to no significant amount of tax if the amount of taxes imposed by the foreign country or possession of the United States is equal to less than 2.5 percent of the gross amount of such income.

(d) *Examples.* The principles of this section may be illustrated by the following examples:

Example (1). The Bahamas imposes no income tax on individuals or corporations, whether resident or nonresident. Since capital gains are subject to no tax in the Bahamas, capital gains are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (2). In France, except in certain cases involving the sale of large blocks of stock, a nonresident individual is not subject to tax on isolated capital gains transactions. Since such capital gains are not subject to tax in France, they are considered to be accorded preferential treatment irrespective of the treatment accorded other capital gains in France and such gains will be taken into account for purposes of the minimum tax.

Example (3). In Germany, in the case of the sale within 1 taxable year of 1 percent or more of the shares of a corporation in which an individual taxpayer is regarded as holding a substantial interest, the gains on the sale of the large block of stock will be taxed as extraordinary income at one-half the ordinary income tax rate. Since these gains are taxed at a reduced rate of tax in comparison to other income, they are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (4). In Belgium, gains derived by an individual in the course of regular speculative transactions are taxed as ordinary income, but with an upper limit of 30 percent. Rates of tax on individuals in Belgium range from approximately 30 percent to approximately 60 percent. Since the gains on speculative transactions are taxed at a maximum rate which is more beneficial than the rates accorded to other income, such gains are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (5). In France, gains derived by a company on the sale of fixed assets held for less than 2 years are treated as short-term gains. The excess of short-term gains in any fiscal year is taxed at the full company tax rate of 50 percent. However, this tax may be paid in equal portions over the 5 years immediately following the realization of such short-term gains. Since recognition of the short-term gains for tax purposes

is subject to deferral over a 5-year period, such gains are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (6). Also in France, in the case of the sale or exchange by a company of depreciable assets and nondepreciable assets owned for at least 2 years, the excess of long-term capital gains over long-term capital losses in a fiscal year is subject to an immediate tax at the reduced rate of 10 percent. Such excess, reduced by the 10 percent tax, is carried in a special reserve account on the taxpayer's books. If the excess is re-invested in other fixed assets within a stated period, no further tax is due. If the amounts in the special reserve are distributed, they will be treated as ordinary income for the fiscal year in which the distribution is made. Since such gains (other than those distributed in the same fiscal year they are realized) are subject to deferral or a reduced rate of tax, they are (except to the extent distributed in the year of realization) considered to be accorded preferential treatment and are taken into account for purposes of the minimum tax.

Example (7). In Sweden, in the case of gains derived by an individual on the sale of shares or bonds held for 5 years or less, 25 percent of the gains are taxed if the holding period is 4 to 5 years, 50 percent of the gain is taxed if the holding period is 3 to 4 years, and 75 percent of the gain is taxed if the holding period is 2 to 3 years. The gain is fully taxable at ordinary income rates if held for less than 2 years. Thus, gains on shares or bonds held for 2 years or more are considered accorded preferential treatment in Sweden since they are either subject to exemption or treatment comparable to the U.S. capital gains deduction and are taxed at a reduced rate. Thus, such gains are taken into account for purposes of the minimum tax.

Example (8). Pursuant to Article XIV of the United States-United Kingdom Income Tax Convention, a resident of the United States is exempt from United Kingdom tax on most capital gains. Since such capital gains are exempt from United Kingdom taxation, they are considered to be accorded preferential treatment and are taken into account for purposes of the minimum tax.

Example (9). An individual resident of the United States, is desirous of selling his stock in a corporation listed on the New York Stock Exchange. He requests the stock certificates from his broker in the United States, travels to a foreign country, delivers the certificates to a broker in that country, and has the foreign broker execute the sale which takes place on the New York Stock Exchange. Since the sale was consummated in the United States, pursuant to paragraph (b) of this section and § 1.861-7, the resulting capital gain item of tax preference is attributable to sources within the United States.

Example (10). Two individuals, both residing in the United States, negotiate and reach agreement in New York City for the sale of stock of a close corporation. Prior to the transfer of the stock, in order to avoid imposition of the minimum tax, both individuals travel to a foreign country which does not accord preferential treatment to capital gains, but imposes a 5-percent rate of income tax which would be fully creditable against U.S. tax under sections 901 and 904 if the capital gains were sourced in that country. The stock is actually transferred and consideration paid in the foreign country. Since the primary purpose of consummating the sale in the foreign country was the avoidance of tax, pursuant to paragraph (b) of this section, and § 1.861-7(c), the resulting capital gain item of tax preference will be considered attributable to sources within the

country in which the substance of sale took place or, in this case, the United States.

[FR Doc. 71-8923 Filed 6-23-71; 8:52 am]

[26 CFR Part 53]

TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 26, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 26, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

The following regulations are prescribed under section 4944 of the Internal Revenue Code of 1954, as enacted by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 498), relating to taxes on investments which jeopardize the exempt purposes of private foundations. Except where otherwise specifically provided, these regulations are applicable with respect to jeopardizing investments made on or after January 1, 1970.

PRIVATE FOUNDATION EXCISE TAXES

Subpart E—Taxes on Investments Which Jeopardize Charitable Purpose

§ 53.4944 Statutory provisions: private foundations: taxes on investments which jeopardize charitable purpose.

SEC. 4944. *Taxes on investments which jeopardize charitable purpose—(a) Initial taxes—(1) On the private foundation.* If a private foundation invests any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes, there is hereby imposed on the making of such investment a tax equal to 5 percent of the amount so invested for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any foundation manager in the making of the investment, knowing that it is jeopardizing the carrying out of any of the foundation's exempt purposes, a tax equal to 5 percent of the amount so invested for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who participated in the making of the investment.

(b) *Additional taxes—(1) On the foundation.* In any case in which an initial tax is imposed by subsection (a)(1) on the making of an investment and such investment is not removed from jeopardy within the correction period, there is hereby imposed a tax equal to 25 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the removal from jeopardy, there is hereby imposed a tax equal to 5 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the removal from jeopardy.

(c) *Exception for program-related investments.* For purposes of this section, investments, the primary purpose of which is to accomplish one or more of the purposes described in section 170(c)(2)(B), and no significant purpose of which is the production of income or the appreciation of property, shall not be considered as investments which jeopardize the carrying out of exempt purposes.

(d) *Special rules.* For purposes of subsections (a) and (b)—

(1) *Joint and several liability.* If more than one person is liable under subsection (a)(2) or (b)(2) with respect to any one investment, all such persons shall be jointly and severally liable under such paragraph with respect to such investment.

(2) *Limit for management.* With respect to any one investment, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed \$10,000.

(e) *Definitions.* For purposes of this section—

(1) *Taxable period.* The term "taxable period" means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on whichever of the following is the earlier: (A) The date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212; or (B) the date on which the amount so invested is removed from jeopardy.

(2) *Removal from jeopardy.* An investment which jeopardizes the carrying out of exempt purposes shall be considered to be removed from jeopardy when such investment is sold or otherwise disposed of, and the proceeds of such sale or other disposition are not investments which jeopardize the carrying out of exempt purposes.

(3) *Correction period.* The term "correction period" means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which such investment is entered into and ending 90 days after the mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and (B) Any other period which the Secretary or his delegate determines is reasonable and necessary to bring about removal from jeopardy.

[Sec. 4944 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 498)]

§ 53.4944-1 Initial taxes.

(a) *On the private foundation.*—(1) *In general.* If a private foundation (as defined in section 509) invests any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes, section 4944(a)(1) of the Code imposes an excise tax on the making of such investment. This tax is to be paid by the private foundation and is at the rate of 5 percent of the amount so invested for each taxable year (or part thereof) in the taxable period (as defined in section 4944(e)(1)). The tax imposed by section 4944(a)(1) and this paragraph shall apply to investments of either income or principal.

(2) *Jeopardizing investments.* (i) Except as provided in section 4944(c), § 53.4944-3, § 53.4944-6(a), and subdivision (ii) of this subparagraph, an investment shall be considered to jeopardize the carrying out of the exempt purposes of a private foundation if it is determined that the foundation managers, in making such investment, have failed to exercise ordinary business care and prudence, under the facts and circumstances prevailing at the time of making the investment, in providing for the long- and short-term financial needs of the foundation to carry out its exempt purposes. In the exercise of the requisite standard of care and prudence the foundation managers may take into account the expected return, the risks of rising and falling price levels, and the need for diversification within the investment portfolio (for example, with respect to type of security, type of industry, maturity of company, degree of risk and potential for return). The determination whether the investment of a particular amount jeopardizes the carrying out of the exempt purposes of a foundation shall be made on an investment by investment basis, in each case taking into account the foundation's portfolio as a whole. No category of investments shall be treated as a per se violation of section 4944. However, the following are examples of types or methods of investment which will be closely scrutinized to determine whether the foundation managers have met the requisite standard of care and prudence: Trading in securities on margin, trading in commodity futures, investments in oil and gas wells, the purchase of "puts," "calls," and "straddles," the purchase of warrants, and selling short. The determination whether the investment of any amount jeopardizes the carrying out of a foundation's exempt purposes is to be made as of the time that the foundation makes the investment and not subsequently on the basis of hindsight. Therefore, once it has been ascertained that an investment does not jeopardize the carrying out of a foundation's exempt

purposes, the investment shall never be considered to jeopardize the carrying out of such purposes, even though, as a result of such investment, the foundation subsequently realizes a loss. The provisions of section 4944 and the regulations thereunder shall not exempt or relieve any person from compliance with any Federal or State law imposing any obligation, duty, responsibility, or other standard of conduct with respect to the operation or administration of an organization or trust to which section 4944 applies. Nor shall any State law exempt or relieve any person from any obligation, duty, responsibility, or other standard of conduct provided in section 4944 and the regulations thereunder.

(ii) (a) Section 4944 shall not apply to an investment made by any person which is later gratuitously transferred to a private foundation. If such foundation furnishes any consideration to such person upon the transfer, the foundation will be treated as having made an investment (within the meaning of section 4944(a)(1)) in the amount of such consideration.

(b) Section 4944 shall not apply to an investment which is acquired by a private foundation solely as a result of a corporate reorganization within the meaning of section 368(a).

(iii) For purposes of section 4944, a private foundation which, after December 31, 1969, changes the form or terms of an investment (regardless of whether subdivision (ii) of this subparagraph applies to such investment), will be considered to have entered into a new investment on the date of such change, except as provided in subdivision (ii) (b) of this subparagraph. Accordingly, a determination, under subdivision (i) of this subparagraph, whether such change in the investment jeopardizes the carrying out of the foundation's exempt purposes shall be made at such time.

(b) *On the management.*—(1) *In general.* In any case in which a tax is imposed by section 4944(a)(1) and paragraph (a) of this section, section 4944(a)(2) of the Code imposes on the participation of any foundation manager in the making of the investment, knowing that it is jeopardizing the carrying out of any of the foundation's exempt purposes, a tax equal to 5 percent of the amount so invested for each taxable year of the foundation (or part thereof) in the taxable period (as defined in section 4944(e)(1)), subject to the provisions of section 4944(d) and § 53.4944-4, unless such participation is not willful and is due to reasonable cause. The tax imposed under section 4944(a)(2) shall be paid by the foundation manager.

(2) *Definitions and special rules.*—(i) *Knowing.* For purposes of section 4944, a foundation manager shall be considered to have participated in the making of an investment "knowing" that it is jeopardizing the carrying out of any of the foundation's exempt purposes if he knows or has reason to know that it is a jeopardizing investment under paragraph (a)(2) of this section.

(ii) *Willful.* A foundation manager's participation in a jeopardizing investment is willful if it is voluntary, conscious, and intentional. No motive to avoid the restrictions of the law or the incurrance of any tax is necessary to make such participation willful. However, a foundation manager's participation in a jeopardizing investment is not willful if he does not know or have reason to know that it is a jeopardizing investment under paragraph (a)(2) of this section.

(iii) *Dues to reasonable cause.* A foundation manager's actions are due to reasonable cause if he has exercised ordinary business care and prudence. If a foundation manager relied on the advice of qualified investment counsel that a particular investment would not jeopardize the carrying out of any of the foundation's exempt purposes and if, in fact, the investment was a jeopardizing investment under paragraph (a)(2) of this section, the foundation manager's participation in such investment would generally be considered "not willful" and "due to reasonable cause."

(iv) *Participation.* The participation of any foundation manager in the making of an investment shall consist of any manifestation of approval of the investment.

(v) *Cross reference.* For provisions relating to the burden of proof in cases involving the issue whether a foundation manager has knowingly participated in the making of a jeopardizing investment, see section 7454(b).

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is a foundation manager of B, a private foundation with assets of \$100,000. A approves the following three investments by B after taking into account with respect to each of them B's portfolio as a whole: (1) An investment of \$5,000 in the common stock of corporation X; (2) an investment of \$10,000 in the common stock of corporation Y; and (3) an investment of \$8,000 in the common stock of corporation Z. Corporation X has been in business a considerable time, its record of earnings is good and there is no reason to anticipate a diminution of its earnings. Corporation Y has a promising product, has had earnings in some years and substantial losses in others, has never paid a dividend, and is widely reported in investment advisory services as seriously undercapitalized. Corporation Z has been in business a short period of time and manufactures a product that is new, is not sold by others, and must compete with a well-established alternative product that serves the same purpose. Z's stock is classified as a high-risk investment by most investment advisory services with the possibility of substantial long-term appreciation but with little prospect of a current return. A has studied the records of the three corporations and knows the foregoing facts. In each case the price per share of common stock purchased by B is favorable to B. Under the standards of paragraph (a)(2)(i) of this section, the investment of \$10,000 in the common stock of Y and the investment of \$8,000 in the common stock of Z may be classified as jeopardizing investments, while the investment of \$5,000 in the common stock of X will not be so

classified. B would then be liable for an initial tax of \$500 (i.e., 5 percent of \$10,000) for each year (or part thereof) in the taxable period for the investment in Y, and an initial tax of \$400 (i.e., 5 percent of \$8,000) for each year (or part thereof) in the taxable period for the investment in Z. Further, since A had reason to know that the investments in the common stock of Y and Z were jeopardizing investments, A would then be liable for the same amount of initial taxes as B.

Example (2). Assume the facts as stated in Example (1), except that: (1) In the case of corporation Y, B's investment will be made for new stock to be issued by Y and there is reason to anticipate that B's investment, together with investments required by B to be made concurrently with its own, will satisfy the capital needs of corporation Y and will thereby overcome the difficulties that have resulted in Y's uneven earnings record; and (2) in the case of corporation Z, the management has a demonstrated capacity for getting new businesses started successfully and Z has received substantial orders for its new product. The investments in Y and Z have been recommended by well-qualified investment counsel engaged to advise B with respect to investment of its funds generally. Under the standards of paragraph (a)(2)(i) of this section, neither the investment in Y nor the investment in Z will be classified as a jeopardizing investment and neither A nor B will be liable for an initial tax on either of such investments.

Example (3). D is a foundation manager of E, a private foundation with assets of \$200,000. D was hired by E to manage E's investments after a careful review of D's training, experience and record in the field of investment management and advice indicated to E that D was well qualified to provide professional investment advice in the management of E's investment assets. D, after careful research into how best to diversify E's investments, provide for E's long-term financial needs, and protect against the effects of long-term inflation, decides to allocate a portion of E's investment assets to unimproved real estate in selected areas of the country where population patterns and economic factors strongly indicate continuing growth at a rapid rate. D determines that the short-term financial needs of E can be met through E's other investments. Under the standards of paragraph (a)(2)(i) of this section, the investment of a portion of E's investment assets in unimproved real estate will not be classified as a jeopardizing investment and neither D nor E will be liable for an initial tax on such investment.

§ 53.4944-2 Additional taxes.

(a) *On the private foundation.* Section 4944(b)(1) of the Code imposes an excise tax in any case in which an initial tax is imposed by section 4944(a)(1) and § 53.4944-1(a) on the making of a jeopardizing investment by a private foundation and such investment is not removed from jeopardy within the correction period (as defined in section 4944(e)(3)). The tax imposed under section 4944(b)(1) is to be paid by the private foundation and is at the rate of 25 percent of the amount of the investment. This tax shall be imposed upon the portion of the investment which has not been removed from jeopardy within the correction period.

(b) *On the management.* Section 4944(b)(2) of the Code imposes an excise tax in any case in which an additional tax is imposed by section 4944

(b)(1) and paragraph (a) of this section and a foundation manager has refused to agree to part or all of the removal of the investment from jeopardy. The tax imposed under section 4944(b)(2) is at the rate of 5 percent of the amount of the investment, subject to the provisions of section 4944(d) and § 53.4944-4. This tax is to be paid by any foundation manager who has refused to agree to the removal of part or all of the investment from jeopardy, and shall be imposed upon the portion of the investment which has not been removed from jeopardy within the correction period.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). X is a foundation manager of Y, a private foundation. On the advice of X, Y invests \$5,000 in the common stock of corporation M. Assume that both X and Y are liable for the taxes imposed by section 4944(a) on the making of the investment. Assume further that no part of the investment is removed from jeopardy within the correction period and that X refused to agree to such removal. Y will be liable for an additional tax of \$1,250 (i.e., \$5,000 × 25%). X will be liable for an additional tax of \$250 (i.e., \$5,000 × 5%).

Example (2). Assume the facts as stated in Example (1), except that X is not liable for the tax imposed by section 4944(a)(2) for his participation in the making of the investment, because such participation was not willful and was due to reasonable cause. X will nonetheless be liable for the tax of \$250 imposed by section 4944(b)(2) since an additional tax has been imposed upon Y and since X refused to agree to the removal of the investment from jeopardy.

Example (3). Assume the facts as stated in Example (1), except that Y removes \$2,000 of the investment from jeopardy within the correction period, with X refusing to agree to the removal from jeopardy of the remaining \$3,000 of such investment. Y will be liable for an additional tax of \$750, imposed upon the portion of the investment which has not been removed from jeopardy within the correction period (i.e., \$3,000 × 25%). Further X will be liable for an additional tax of \$150, also imposed upon the same portion of the investment (i.e., \$3,000 × 5%).

§ 53.4944-3 Exception for program-related investments.

(a) *In general.* (1) For purposes of section 4944 and §§ 53.4944-1 through 53.4944-6, a "program-related investment" shall not be classified as an investment which jeopardizes the carrying out of the exempt purposes of a private foundation. A "program-related investment" is an investment which possesses the following characteristics:

(i) The primary purpose of the investment is to accomplish one or more of the purposes described in section 170(c)(2)(B);

(ii) No significant purpose of the investment is the production of income or the appreciation of property; and

(iii) No purpose of the investment is to accomplish one or more of the purposes described in section 170(c)(2)(D).

(2) (i) An investment shall be considered as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B) if it significantly

further the accomplishment of the private foundation's exempt activities and if the investment would not have been made but for such relationship between the investment and the accomplishment of the foundation's exempt activities. For purposes of section 4944 and §§ 53.4944-1 through 53.4944-6, the term "purposes described in section 170(c)(2)(B)" shall be treated as including purposes described in section 170(c)(2)(B) whether or not carried out by organizations described in section 170(c).

(ii) An investment in an activity described in section 4942(j)(5)(B) and the regulations thereunder shall be considered, for purposes of this paragraph, as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B).

(iii) In determining whether a significant purpose of an investment is the production of income or the appreciation of property, it shall be relevant whether investors solely engaged in the investment for profit would be likely to make the investment on the same terms as the private foundation. However, the fact that an investment produces significant income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

(3) (i) Once it has been determined that an investment is "program-related" it shall not cease to qualify as a "program-related investment" provided that changes, if any, in the form or terms of the investment are made primarily for exempt purposes and not for any significant purpose involving the production of income or the appreciation of property. A change made in the form or terms of a program-related investment for the prudent protection of the foundation's investment shall not ordinarily cause the investment to cease to qualify as program-related. Under certain conditions, a program-related investment may cease to be program-related because of a critical change in circumstances, as, for example, where it is serving an illegal purpose or the private purpose of the foundation or its managers.

(ii) If a private foundation changes the form or terms of an investment, and if, as a result of the application of subdivision (i) of this subparagraph, such investment no longer qualifies as program-related, the determination whether the investment jeopardizes the carrying out of exempt purposes shall be made pursuant to the provisions of § 53.4944-1(a)(2).

(b) *Types of program-related investments.* A program-related investment may consist of an interest in any form of property or of any credit arrangement, including, but not limited to, any type of securities, mortgages, or guarantees. The following are examples of types of investments which ordinarily will satisfy the requirements of paragraph (a) of this section as program-related investments:

(1) Low-interest or interest-free loans to needy students;

(2) High-risk investments in low-income housing operated on a nonprofit basis;

(3) Loans to or investments in small businesses where commercial sources of funds are not readily available at reasonable interest rates and where the funds are being used as part of a program of economic assistance for members of a charitable class;

(4) Investments in businesses in deteriorated urban areas where the investments are part of a program to revitalize the economy of such areas by providing employment or training for the unemployed or underemployed residents thereof; and

(5) Investments in nonprofit organizations for the purpose of combating community deterioration.

The quality of the investment from a financial standpoint is irrelevant if it satisfies the requirements of paragraph (a) of this section. Thus, for example, even a low-risk investment may qualify as program-related.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). X is a small business enterprise located in a deteriorated urban area and owned by members of an economically disadvantaged minority group. Conventional sources of funds are unwilling or unable to provide funds to X on terms it considers economically feasible. Y, a private foundation, makes a loan to X bearing interest at or below the market rate for commercial loans of comparable risk pursuant to a program run by Y to make such loans. Y's primary purpose for making such loans is to encourage the economic development of such minority groups. The financial terms of the loans are primarily intended to demonstrate to the financial community the economic viability of such enterprises, and the loans have no significant purpose involving the production of income or the appreciation of property. Accordingly, the loan is a program-related investment even though Y may earn income from the investment in an amount comparable to or higher than earnings from conventional portfolio investments. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities.

Example (2). Assume the facts as stated in Example (1), except that after the date of execution of the loan Y extends the due date of the loan. The extension is granted in order to permit X to achieve greater financial stability before it is required to repay the loan. Since the change in the terms of the loan is made primarily for exempt purposes and not for any significant purpose involving the production of income or the appreciation of property, the loan shall continue to qualify as a program-related investment.

Example (3). X is a small business enterprise located in a deteriorated urban area and owned by members of an economically disadvantaged minority group. Conventional sources of funds are unwilling to provide funds to X at reasonable interest rates unless it increases the amount of its equity capital. Consequently, Y, a private foundation, purchases shares of X's common stock pursuant to a program run by Y to provide such assistance. Y's primary purpose in purchasing the stock is to encourage the economic development of such minority group, and no significant purpose involves the production

of income or the appreciation of property. Accordingly, the purchase of the common stock is a program-related investment, even though Y may realize a profit if X is successful and the common stock appreciates in value. The investment significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the investment and Y's exempt activities.

Example (4). X is a business enterprise which is not owned by low-income persons or minority group members, but the continued operation of X is important to the economic well-being of a deteriorated urban area because X employs a substantial number of low-income persons from such area. Conventional sources of funds are unwilling or unable to provide funds to X on terms it considers economically feasible. Y, a private foundation, makes a loan to X at an interest rate below the market rate for commercial loans of comparable risk with a provision for increasing the interest rate if its operations become profitable. The purpose of such provision is to demonstrate the economic viability of X to the financial community and help to obtain financing from conventional sources in the future. The loan is made pursuant to a program run by Y to assist low-income persons by providing increased economic opportunities and to prevent community deterioration. No significant purpose of the loan involves the production of income or the appreciation of property. Accordingly, the loan is a program-related investment since the investment significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities.

Example (5). X is a business enterprise which is financially secure and the stock of which is listed and traded on a national exchange. Y, a private foundation, makes a loan to X at an interest rate below the market rate in order to induce X to establish a new plant in a deteriorated urban area which, because of the high risks involved, X would be unwilling to establish absent such inducement. The loan is made pursuant to a program run by Y to enhance the economic development of the area by providing employment opportunities for low-income persons at the new plant, and no significant purpose involves the production of income or the appreciation of property. Even though X is large and established, the investment is program-related since it significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities.

Example (6). X is a business enterprise which is owned by a nonprofit community development corporation. When fully operational, X will market agricultural products, thereby providing a marketing outlet for low-income farmers in a depressed rural area. Y, a private foundation, makes a loan to X bearing interest at a rate equal to the rate charged by financial institutions which have agreed to lend funds to X if Y makes the loan. The loan is made pursuant to a program run by Y to encourage conventional sources of funds to provide funds for ventures which may enhance the economic redevelopment of depressed areas, and no significant purpose involves the production of income or the appreciation of property. Accordingly, the loan is a program-related investment, even though the rate of financial return to Y is the same as the rate of return to participating financial institutions whose primary purpose for making the loan is financial. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities.

ties and would not have been made but for such relationship between the loan and Y's exempt activities.

Example (7). X, a private foundation, invests \$100,000 in the common stock of corporation M. The dividends received from such investment are later applied by X in furtherance of its exempt purposes. Although there is a relationship between the return on the investment and the accomplishment of X's exempt activities, there is no relationship between the investment per se and such accomplishment. Therefore, the investment cannot be considered as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B) and cannot qualify as program-related.

Example (8). S, a private foundation, makes an investment in T, a business corporation, which qualifies as a program-related investment under section 4944(c) at the time that it is made. All of T's voting stock is owned by S. T experiences financial and management problems which, in the judgment of the foundation, require changes in management, in financial structure or in the form of the investment. The following three methods of resolving the problems appear feasible to S, but each of the three methods would result in reduction of the exempt purposes for which the program-related investment was initially made:

(a) *Sale of stock or assets.* The foundation sells its stock to an unrelated person. Payment is made in part at the time of sale; the balance is payable over an extended term of years with interest on the amount outstanding. The foundation receives a purchase-money mortgage.

(b) *Lease.* The corporation leases its assets for a term of years to an unrelated person, with an option in the lessee to buy the assets. If the option is exercised, the terms of payment are to be similar to those described in (a) of this example.

(c) *Management contract.* The corporation enters into a management contract which gives broad operating authority to one or more unrelated persons for a term of years. The foundation and the unrelated persons are obligated to contribute toward working capital requirements. The unrelated persons will be compensated by a fixed fee or a share of profits, and they will receive an option to buy the stock held by S or the assets of the corporation. If the option is exercised, the terms of payment are to be similar to those described in (a) of this example.

Each of the three methods involves a change in the form or terms of a program-related investment for the prudent protection of the foundation's investment. Thus, under § 53.4944-3(a)(3)(i), none of the three transactions (nor any debt instruments or other obligations held by S as a result of engaging in one of these transactions) would cause the investment to cease to qualify as program-related.

§ 53.4944-4 Special rules.

(a) *Joint and several liability.* In any case where more than one foundation manager is liable for the tax imposed under section 4944 (a) (2) or (b) (2) with respect to any one jeopardizing investment, all such foundation managers shall be jointly and severally liable for the tax imposed under each such paragraph with respect to such investment.

(b) *Limits on liability for management.* With respect to anyone jeopardizing investment, the maximum amount of tax imposed by section 4944(a)(2) shall not exceed \$5,000, and the maximum amount of tax imposed by section 4944(b)(2) shall not exceed \$10,000.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A, B, and C are foundation managers of X, a private foundation. Assume that A, B, and C are liable for both initial and additional taxes under sections 4944(a)(2) and 4944(b)(2), respectively, for the following investments by X: an investment of \$5,000 in the common stock of corporation M, and an investment of \$10,000 in the common stock of corporation N. A, B, and C will be jointly and severally liable for the following initial taxes under section 4944(a)(2): a tax of \$250 (i.e., 5 percent of \$5,000) for each year (or part thereof) in the taxable period (as defined in section 4944(e)(1)) for the investment in M, and a tax of \$500 (i.e., 5 percent of \$10,000) for each year (or part thereof) in the taxable period for the investment in N. Further, A, B, and C will be jointly and severally liable for the following additional taxes under section 4944(b)(2): a tax of \$250 (i.e., 5 percent of \$5,000) for the investment in M, and a tax of \$500 (i.e., 5 percent of \$10,000) for the investment in N.

Example (2). Assume the facts as stated in Example (1), except that X has invested \$500,000 in the common stock of M, and \$1 million in the common stock of N. A, B, and C will be jointly and severally liable for the following initial taxes under section 4944(a)(2): a tax of \$5,000 for the investment in M, and a tax of \$5,000 for the investment in N. Further, A, B, and C will be jointly and severally liable for the following additional taxes under section 4944(b)(2): a tax of \$10,000 for the investment in M, and a tax of \$10,000 for the investment in N.

§ 53.4944-5 Definitions.

(a) *Taxable period.*—(1) *In general.* For purposes of section 4944, the term "taxable period" means, with respect to any investment which jeopardizes the carrying out of a private foundation's exempt purposes, the period beginning with the date on which the amount is so invested and ending on whichever of the following is the earlier:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the making of the investment by section 4944(a)(1); or

(ii) The date on which the amount so invested is removed from jeopardy.

(2) *Special rule.* Where a notice of deficiency referred to in subparagraph (1)(i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(b) *Removal from jeopardy.* An investment which jeopardizes the carrying out of a private foundation's exempt purposes shall be considered to be removed from jeopardy when—

(1) The foundation sells or otherwise disposes of the investment, and

(2) The proceeds of such sale or other disposition are not themselves investments which jeopardize the carrying out of such foundation's exempt purposes.

A change by a private foundation in the form or terms of a jeopardizing investment shall result in the removal of the investment from jeopardy if, after such change, the investment no longer jeopardizes the carrying out of such foundation's exempt purposes.

ment shall result in the removal of the investment from jeopardy if, after such change, the investment no longer jeopardizes the carrying out of such foundation's exempt purposes. For purposes of section 4944, the making by a private foundation of one jeopardizing investment and a subsequent exchange by the foundation of such investment for another jeopardizing investment will be treated as only one jeopardizing investment, except as provided in § 53.4944-6 (b) and (c). For the treatment of a jeopardizing investment which is removed from jeopardy or otherwise transferred by a private foundation by the making of a grant or by bargain-sale, see sections 4941 and 4945 and the regulations thereunder. A jeopardizing investment cannot be removed from jeopardy by a transfer from a private foundation to another private foundation which is related to the transferor foundation within the meaning of section 4946(a)(1)(H)(i) or (ii), unless the investment is a program-related investment in the hands of the transferee foundation.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). X, a private foundation on the calendar year basis, makes a \$1,000 jeopardizing investment on January 1, 1970. X thereafter sells the investment for \$1,000 on January 3, 1971. The taxable period is from January 1, 1970, to January 3, 1971. X will be liable for an initial tax of \$100, that is, a tax of 5 percent of the amount of the investment for each year (or part thereof) in the taxable period.

Example (2). Assume that both C and D are investments which jeopardize exempt purposes. X, a private foundation, purchases C in 1971 and later exchanges C for D. Such exchange does not constitute a removal of C from jeopardy. In addition, no new taxable period will arise with respect to D, since, for purposes of section 4944, only one jeopardizing investment has been made.

Example (3). Assume the facts as stated in Example (2), except that X sells C for cash and later reinvests such cash in D. Two separate investments jeopardizing exempt purposes have resulted. Since the cash received in the interim is not of a jeopardizing nature, the amount invested in C has been removed from jeopardy and, thus, the taxable period with respect to C has been terminated. The subsequent reinvestment of such cash in D gives rise to a new taxable period with respect to D.

(d) *Correction period.*—(1) *In general.* For purposes of section 4944, the correction period shall begin with the date on which the investment which jeopardizes the exempt purposes of the private foundation is entered into and end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4944 (b) (1). This period shall be extended by any period in which a deficiency cannot be assessed under section 6213(a) and any other period which the Commissioner determines is reasonable and necessary to bring about removal of such investment from jeopardy.

(2) *Extensions of correction period.* (i) Except as provided in subdivision (ii) of this subparagraph, the Commissioner

ordinarily will not extend the correction period for an investment which jeopardizes exempt purposes unless the following factors are present—

(a) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is actively in good faith seeking to remove the investment from jeopardy;

(b) The investment cannot reasonably be expected to be removed from jeopardy during the unextended correction period; and

(c) The jeopardizing investment appears to have been an isolated occurrence and it appears unlikely that the foundation will make similar investments in the future.

The fact that a jeopardizing investment is decreasing in value shall not, by itself, prevent an extension of the correction period with respect to such investment.

(ii) If a foundation pays a tax imposed under section 4944(a)(1) with respect to an investment and thereafter files a claim for refund of such tax within the unextended correction period, and if such foundation has not filed a petition contesting the tax with respect to such investment with the Tax Court within the time prescribed by section 6213(a), the Commissioner shall extend the correction period during the pendency of the claim. If such claim is denied, the correction period will be extended by an additional 90 days to permit the foundation to file a suit or proceeding referred to in section 7422(b) with respect to such claim or to make the required correction. If such suit or proceeding is filed, the correction period will be extended by the Commissioner during the pendency of such suit or proceeding.

§ 53.4944-6 Special rules for investments made prior to January 1, 1970.

(a) Except as provided in paragraph (b) or (c) of this section, an investment made by a private foundation prior to January 1, 1970, shall not be subject to the provisions of section 4944.

(b) If the form or terms of an investment made by a private foundation prior to January 1, 1970, are changed (other than as described in paragraph (c) of this section) on or after such date, the provisions of § 53.4944-1(a)(2)(iii) shall apply with respect to such investment.

(c) In the case of an investment made by a private foundation prior to January 1, 1970, which is exchanged on or after such date for another investment, for purposes of section 4944 the foundation will be considered to have made a new investment on the date of such exchange, unless the post-1969 investment is described in § 53.4944-1(a)(2)(ii)(b). Accordingly, a determination, under § 53.4944-1(a)(2)(i), whether the investment jeopardizes the carrying out of the foundation's exempt purposes shall be made at such time.

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Extension of Filing Date

JUNE 21, 1971.

In accordance with the Commission's notice of proposed rulemaking and order dated March 23, 1971, and published in the May 4, 1971, issue of the *FEDERAL REGISTER* (36 F.R. 8327), the date on or before which initial statements were due to be filed was fixed as June 24, 1971, by notice to all parties dated May 21 and served May 26, 1971.

At the request of National Railroad Passenger Corporation (AMTRAK), the date for filing initial statements is hereby extended to August 31, 1971. Statements in reply will be due on or before September 20, 1971. An original and 15 copies of each party's statement, including a certificate showing service upon all parties of record, should be directed to the Interstate Commerce Commission, Office of Proceedings, Room 5349, Washington, D.C. 20423.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8885 Filed 6-23-71; 8:49 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 924]

FRESH PRUNES GROWN IN WASHINGTON AND OREGON

Notice of Proposed Rule Making

Consideration is being given to the following proposal, which would limit the handling of fresh prunes by establishing minimum grades and sizes recommended by the Washington-Oregon Fresh Prune Marketing Committee, established pursuant to the marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

PROPOSED RULE MAKING

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the seventh day after the publication of this notice in the *FEDERAL REGISTER*. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of prunes from the production area are expected to begin on or about August 2, 1971. The grade and size requirements provided herein are necessary to prevent the handling, on and after August 2, 1971, of any prunes which do not comply with such requirements, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to producers pursuant to the declared policy of the act. Individual shipments, not exceeding 500 pounds, of prunes of the Stanley or Merton varieties of prunes, subject to necessary safeguards, are excepted from these requirements because the production of these varieties is relatively small and those few which are produced are primarily consumed locally or are sold for home use and not for resale. Individual shipments, not exceeding 150 pounds, of any variety other than Stanley or Merton varieties of prunes sold for home use and not for resale, subject to necessary safeguards, are excepted from these requirements in that the quantity of prunes so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impractical to regulate the handling of such shipments due to the nearness of the source of supply.

Such proposal reads as follows:

§ 924.310 Prune Regulation 9.

(a) Order: During the period August 2, 1971, through July 31, 1972, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless such prunes meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) Minimum grade: such prunes grade at least U.S. No. 1: *Provided*, That any prunes having not less than two-thirds ($\frac{2}{3}$) of the surface with purplish color may be shipped if they otherwise grade at least U.S. No. 1;

(2) Minimum size: Such prunes, except prunes of the Stanley variety, measure not less than $1\frac{1}{4}$ inches in diameter; *Provided*, That not more than 10 percent, by count, of such prunes may fail to meet such diameter requirement; and

(3) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of prunes of the Stanley or Merton varieties of prunes, or 150 pounds net weight, of prunes of any variety other than Stanley or Merton varieties of prunes, which meets each of the following requirements may be handled without regard to the restrictions of this paragraph, of § 924.41 (Assessments), and of § 924.55 (Inspection and certification):

(i) The shipment consists of prunes sold for home use and not for resale, and

(ii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) The term "U.S. No. 1" shall have the same meaning as when used in the U.S. Standards for Fresh Plums and Prunes (§§ 51.1520-51.1538 of this title); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (May 1954) and in the Oregon State Department of Agriculture Standards for Italian Prunes (July 1965); and, except as otherwise specified, all other terms shall have the same meaning as when used in the marketing agreement and order.

Dated: June 21, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8892; Filed 6-23-71; 8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-EA-98]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to

Part 71 of the Federal Aviation Regulations that would alter the 700-foot floor portion of the Rockland, Maine, transition area and the 1,200-foot floor portion of the Bangor, Maine, transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. All communications received within 30 days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11

PROPOSED RULE MAKING

and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would:

1. Amend the 700-foot floor portion of the Rockland, Maine, transition area to read as follows:

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Knox County Regional Airport, Rockland, Maine (lat. 44°03'40" N., long. 69°06'05" W.), and within 3.5 miles each side of the 203° bearing from the Rockland RBN, extending from the 7.5-mile-radius area to 11.5 miles southwest of the RBN.

2. Amend the 1,200-foot floor portion of the Bangor, Maine, transition area to include the airspace bounded by a line beginning at lat. 43°48'00" N., long. 69°03'00" W.; thence to lat. 43°44'00" N., long. 69°19'42" W.; to lat. 43°50'00" N., long. 69°18'00" W.; thence to point of beginning.

The alteration of transition areas as proposed herein is needed to provide controlled airspace for aircraft executing approaches and departures at the Knox County Regional Airport in accordance with recently revised procedures.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8869 Filed 6-23-71; 8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-21]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Mayport, Fla., control zone and Jacksonville, Fla., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as

they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State

and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would:

1. Amend the Mayport, Fla. (NS Mayport) control zone to read as follows:

Within a 5-mile radius of NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.); within 3 miles each side of the 057° bearing from the Navy Mayport RBN, extending from the 5-mile-radius zone to 8.5 miles northeast of the RBN, excluding the portion southwest of a line connecting the two points of intersection with a 5-mile-radius circle centered on Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.).

2. The Jacksonville, Fla., transition area would be amended to read as follows:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Jacksonville International Airport (lat. 30°29'26" N., long. 81°41'19" W.), NAS Jacksonville (lat. 30°14'00" N., long. 81°40'30" W.), NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.), Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.) and NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.).

The alterations of the control zone and transition area proposed herein are necessary to provide controlled airspace, specified by existing criteria, for aircraft executing instrument approach and departure procedures at NS Mayport and Craig Municipal Airport.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-8870 Filed 6-23-71; 8:47 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-13; Notice 1]

MOTOR VEHICLE BRAKE FLUIDS Advance Notice of Proposed Motor Vehicle Safety Standard

The purpose of this notice is to request comments on requirements for motor vehicle brake fluids not included in Federal Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids*, published today (36 F.R. 11987).

Standard No. 116 specifies physical and chemical properties that effectively prohibit the use of fluids other than polyglycol and similar synthetic fluids in motor vehicle brake systems. Additional types of fluids, however, such as petroleum-base fluids and silicones, are either in service or undergoing development for eventual use in conventional brake sys-

tems and central hydraulic systems. The National Highway Traffic Safety Administration is considering rulemaking that would allow use of such fluids, in braking systems of motor vehicles on and after January 1, 1973, provided acceptable safety performance parameters can be established, with particular reference to water miscibility and component compatibility.

Specifically, the NHTSA requests comments concerning:

1. Minimum performance values for the following properties:

a. Boiling point—as applicable to specific types of brake fluid.

b. Resistance to vapor lock.

c. Viscosity at 212° F. and minus 40° F.

d. Acidity or alkalinity characteristics necessary for safe operation of each brake fluid.

e. High temperature stability.

f. Chemical stability.

g. Corrosion resistance.

h. Fluidity and appearance at low temperature.

i. Evaporation.

j. Water tolerance.

k. Compatibility with other fluids not covered by Standard No. 116, and with synthetic fluids.

l. Resistance to oxidation.

m. Stroking properties.

n. Effects on rubber, including a definition of a chemical formulation of rubber compound, and effects on rubber components of existing systems.

o. Resistance to shear degradation.

p. Resistance to spray ignition.

2. Means to insure that rubber components used in brake systems intended for use with fluids conforming to Standard No. 116 cannot be used as replacements for similar components in systems using fluids not included in Standard No. 116. One possibility is that rings, cups, seals, etc. should be of significantly different sizes.

3. Means to insure that incompatible fluids are not mixed. Fluid container labeling, and labeling and location of brake fluid reservoir are areas of possible regulation to achieve this desired end.

4. Data on water absorption of brake fluid. Possibly a simulated service test could be run on a complete brake system or central power system under various environmental conditions, followed by addition of specified amounts of water and performance of a second set of environmental tests.

Interested persons are invited to submit data, views, and arguments concerning the proposed regulations. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5217, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on September 20, 1971, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date

will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This advance notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401 and 1407), and the delegations of authority and 49 CFR 1.51 and 49 CFR 501.8.

Issued on June 16, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc. 71-8731 Filed 6-23-71; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration
[24 CFR Part 200]

[Docket No. R-71-119]

PROJECT SELECTION CRITERIA

Notice of Proposed Rule Making

The Department proposes to amend Chapter II of Title 24 of the Code of Federal Regulations to add a new Subpart N, entitled "Project Selection Criteria." The proposed subpart is intended to apprise sponsors, developers, and other interested persons of the criteria and data to be used by Area and Insuring Offices to evaluate:

(a) Requests for reservation of contract authority for lower income homeowners assistance projects under the National Housing Act (sec. 235(i) of the Act, 12 U.S.C. 1715z(i)).

(b) Requests for reservation of contract authority for rent supplement and lower income families assistance projects under section 236 of the Act (12 U.S.C. 1715z-1), and

(c) Applications for low-rent public housing assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1401, et seq.). Because the clear and accurate presentation of the required data, and the priorities assigned to that data, are of the utmost importance in evaluating applications, we are publishing the proposed Project Selection Criteria which Area and Insuring Offices would be required to consider.

As indicated in the rating table which follows the criteria, an application will be disapproved in the event of either:

(a) Two or more "poor" ratings in either the 235(i) or 236 applications or three or more "poor" ratings on the low-rent public housing application; or

(b) A "poor" rating on any of the required criteria in any of the three applications.

The required criteria are: Item No. 1, "Community Need for Lower Income Housing"; Item No. 2, "Efficient Production"; Item No. 3, "Nondiscriminatory Location"; Item No. 4, "Improved Environmental Location for Lower Income Families"; Item No. 6, "Relationship to Orderly Growth and Development"; and, if applicable, Item No. 8, "Provision for Sound Housing Management."

When these proposed regulations become final, they will supercede the Nondiscrimination in Housing section of the site selection chapter of the HUD Low-rent Housing Preconstruction Handbook, RHA 7410.1(2)(g).

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should identify the proposed rule by the above docket number and title and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before July 26, 1971, will be considered by the Secretary before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

The proposed Subpart N reads as follows:

Subpart N—Project Selection Criteria § 200.700 Purpose.

The purpose of this subpart is to set forth the project selection criteria to be used in evaluating (a) requests for reservation of contract authority for projects under section 235(i) of the National Housing Act; (b) requests for reservation of contract authority for rent supplements and projects under section 236 of the Act; and (c) applications for low-rent housing assistance under the United States Housing Act of 1937.

§ 200.705 Authority.

The regulations in this subpart are issued pursuant to Executive Order 11063, 27 F.R. 11527; title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1; title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608; sections 235(i) and 236 of the National Housing Act (12 U.S.C. 1715z(i) and 1715z-1); and the United States Housing Act of 1937 (42 U.S.C. 1401).

§ 200.710 Request for reservation of contract authority for section 235 projects.

A request for reservation of contract authority for a proposed project pursuant to section 235(i) of the National Housing Act shall be evaluated and proc-

essed in accordance with the following Evaluation of Request:

EVALUATION OF REQUESTS FOR RESERVATION OF CONTRACT AUTHORITY—SECTION 235(i)

☐ Reservation
☐ Priority registration
Date of request _____

Builder or developer: _____
Identification of subdivision: _____

Registration number, if approved _____

Instructions: In evaluating applications for low-rent public housing, the Area Office shall take into consideration the following selection criteria. Each criterion should be commented upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the instructions set forth hereinafter.

1. Community need for lower income housing—☐ Superior ☐ Adequate ☐ Poor.
(a) Relative need for housing by lower income families in the neighborhood and market area to be served. _____

(b) Proposed unit types conform with the composition of the lower income housing need in the neighborhood and market area to be served. _____

(c) Housing will serve as a relocation resource for families displaced by governmental action. _____

2. Efficient production—☐ Superior ☐ Adequate ☐ Poor.
(a) Experience and resources of the sponsor/developer to proceed promptly to construction and completion. _____

(b) Ability of the sponsor/developer to provide housing at the lowest practicable cost and rentals without sacrificing good design and a marketable product. _____

3. Nondiscriminatory location—☐ Superior ☐ Adequate ☐ Poor.
(a) Outside an area of minority concentration. _____

(b) Area substantially racially mixed. _____

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive. _____

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing. _____

4. Improved environmental location for lower income families—☐ Superior ☐ Adequate ☐ Poor.

The opportunity for low-income families to live in neighborhoods which are:

(a) Outside areas which have an excessive concentration of subsidized housing. _____

(b) Accessible to job opportunities. _____

(c) Provided with good transportation at reasonable cost. _____

(d) Accessible to good educational, commercial, and recreational facilities. _____

5. Effect of proposed housing upon neighborhood environment—☐ Superior ☐ Adequate ☐ Poor.
(a) Compatibility of the land use concept and architectural design of the proposed housing with the existing neighborhood. _____

(b) Ability of project to uphold or improve existing property values. _____

(c) Compatibility of density levels of the proposed housing with existing and projected plans for the neighborhood. _____

6. Relationship to orderly growth and development—☐ Superior ☐ Adequate ☐ Poor.
(a) Neighborhood is undergoing comprehensive improvement via urban renewal, model cities, or rehabilitation—either Federal, State, or locally assisted. _____

(b) Proposed housing is compatible with A-95 areawide planning and/or other established local planning. _____

(c) Project will contribute to orderly and economical community growth. _____

7. Employment and utilization of employees and business in project area—☐ Superior ☐ Adequate ☐ Poor.
Project will provide an opportunity for training and employment of lower income persons residing in the area and/or opportunity for work to be performed by business concerns located in or owned in substantial part by persons residing in the area. _____

SUMMARY

Score on required criteria 1, 2, 3, 4, 6	Total score	Priority group (circle appropriate group number)
Superiors.....	Superiors.....	1. At least 5 superior ratings and no poor ratings, or 6 superior ratings and 1 poor rating.
Adequates.....	Adequates.....	2. Up to 4 superior ratings and no poor ratings, or 5 superior ratings and 1 poor rating.
Poors.....	Poors.....	3. Up to 4 superior ratings and 1 poor rating, or 5 superior ratings and 2 poor ratings.
		4. Up to 4 superior ratings and 2 poor ratings.

☐ *Disapproval.* More than 2 Poor ratings, or one Poor rating on a required criterion.

NOTE: A request which does not have at least an adequate rating on all of the required criteria Nos. 1, 2, 3, 4, 6 shall be disapproved. Proposals in priority group No. 1 shall be processed ahead of those in a lower priority group. Proposals in priority group No. 2 shall be processed ahead of those in groups No. 3 and No. 4, and those in group No. 3 ahead of those in No. 4. Within each group proposals shall be processed in order of date of receipt in the office.

Criteria and Reviewers (Name, Title, Date)
 1. _____
 2. _____
 3. _____
 4. _____
 5. _____
 6. _____
 7. _____

INSTRUCTIONS FOR EVALUATION OF REQUESTS FOR RESERVATION OF CONTRACT AUTHORITY—SECTION 235(1)

GENERAL—Appropriate Area or Insuring Office staff shall review the criteria which relate to their responsibilities. Final feasibility approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing.

1. Community Need for Lower Income Housing.

A "superior" rating shall be given under the following conditions: Proposed unit types conform to the needs of the lower income population; there is a shortage of standard housing to meet the needs of the lower income population of the housing market area, taking into account existing employment and employment opportunities; waiting lists for existing projects are substantial; or, the housing will serve as a relocation resource for families displaced by governmental action.

An "adequate" rating shall be given if the proposed unit types conform to the needs of the lower income population; there is not a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

A "poor" rating shall be given if the proposed unit types do not conform to the needs of the lower income population; or if there exists a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

2. Efficient Production.

A "superior" rating shall be given if it appears likely that the targeted production dates will be met, and that the housing will be produced at a cost at least 10 percent below the cost of comparable units being produced in the area.

An "adequate" rating shall be given if it appears likely that the start of construction or rehabilitation will occur within 9 months from approval of program reservation, and that the housing will be produced at a cost which does not exceed the cost of comparable units being produced in the area by more than 5 percent.

A "poor" rating shall be given if it appears likely that more than 9 months will be required from date of approval of reservation to start of construction or rehabilitation, and/or the housing will be produced at a cost which exceeds the comparable cost by more than 10 percent.

3. Nondiscriminatory Location.

A "superior" rating shall be given if the proposed project (1) will be located in an area with respect to which there is no present likelihood, in the judgment of the area

or insuring office director, that it will become one of minority group concentration, or (2) will be located in an area of minority concentration but is to be located in a major comprehensive development which will include a range of housing at various income levels and where experience and judgment indicate that the area will have a racially inclusive residential pattern.

An "adequate" rating shall be given (1) if the proposed project will be located in an area which is substantially racially mixed and on the basis of existing demographic trends it appears that the project will have no significant effect on the proportion of minority to nonminority families, or (2) if the proposed project will provide housing in or near an area of minority concentration in response to an overriding need which cannot otherwise feasibly be met. In the case of an "adequate" rating based on (2), the rating shall be accompanied by documented findings based upon relevant racial and socioeconomic information supporting both the overriding need and the availability of alternate housing.

A "poor" rating shall be given to any proposed project if the conditions specified above are not met.

4. Improved Environmental Location for Lower Income Families.

A "superior" rating shall be given if the percentage of subsidized housing to the total number of housing units in the neighborhood will be less than 15 percent, and travel time via adequate public transportation from the neighborhood to commercial and industrial job centers is less than 30 minutes and the proposed housing will be located in a neighborhood with good education, commercial, and recreational facilities.

An "adequate" rating shall be given if the percentage of subsidized units is less than 25 percent, and travel time to job centers is less than 60 minutes, and the proposed housing will be located in a neighborhood with average educational, commercial, and recreational facilities.

A "poor" rating shall be given if the percentage of subsidized units is more than 25 percent, or if travel time to major job centers is more than 60 minutes, or if adequate educational, commercial, and recreational facilities are not available in the neighborhood or are not easily accessible via low cost public transportation.

For the purposes of the above determination, the term "neighborhood" generally should not exceed a 1/2-mile radius from the site of a proposed project.

5. Effect of Proposed Housing Upon Neighborhood Environment.

A "superior" rating shall be given if the proposed project will result in a substantial improvement in the quality of life within the neighborhood, and the proposed housing will improve the neighborhood in which it is located.

An "adequate" rating shall be given if the project design is compatible with the neighborhood, and if the project will maintain or improve the quality of life.

A "poor" rating shall be given if the project design is likely to reduce living standards and conditions in the neighborhood.

6. Relationship to Orderly Growth and Development.

A "superior" rating shall be given if the proposed project (1) will be located in and is consistent with plans for a neighborhood that is undergoing comprehensive improvement via urban renewal, model cities, or Project Rehab—either Federal, State, or locally assisted; (2) has been requested by residents of the neighborhood who have participated in and planned an improvement program for their neighborhood; or (3) will affirmatively contribute to orderly growth and development in the metropolitan area,

either by reference to A-95 planning or otherwise.

An "adequate" rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A-95 planning or otherwise.

A "poor" rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. Employment and Utilization of Employees and Business in Project Area.

A "superior" rating shall be given if the developer, contractors and subcontractors have definite plans to train and employ lower income persons residing in the proposed project area; and to actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and if the developer has plans for the training and employment of lower income persons residing in the project area in the management of the project.

An "adequate" rating shall be given to proposals which provide some opportunities for training and employment of lower income persons residing in the project area; or which will provide opportunities for business concerns located in or owned in substantial part by persons living in the proposed project area; or which will provide for the training and employment of lower income persons residing in the project area in the management of the project.

A "poor" rating shall be given if training or employment opportunities will not be provided and it is unlikely that area businesses will perform any work on the project.

\$ 200.715 Request for reservation of contract authority for rent supplement and section 236 projects.

A request for reservation of contract authority for rent supplement and projects pursuant to section 236 of the National Housing Act shall be evaluated and processed in accordance with the following Evaluation of Request:

EVALUATION OF REQUEST FOR RESERVATION OF CONTRACT AUTHORITY FOR RENT SUPPLEMENT AND SECTION 236 PROJECTS

☐ Section 236

☐ Rent supplement

Date of request: _____
 Builder or developer: _____

Location of proposed project: _____
 Registration number, if approved: _____

INSTRUCTIONS: In evaluating applications for low-rent public housing, the Area Office shall take into consideration the following selection criteria. Each criterion should be commented upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the Instructions set forth hereinafter.

1. Community need for lower income housing—☐ Superior ☐ Adequate ☐ Poor.

(a) Relative need for housing by lower income families in the neighborhood and market area to be served. _____

(b) Proposed unit types conform with the composition of the low income housing need in the neighborhood and market area to be served. _____

(c) Housing will serve as a relocation resource for families displaced by governmental action. _____

2. Efficient production—☐ Superior ☐ Adequate ☐ Poor.

(a) Experience and resources of the sponsor/developer to proceed promptly to construction and completion. _____

(b) Ability of the sponsor/developer to provide housing at the lowest practicable cost and rentals without sacrificing good design and a marketable product. _____

3. Nondiscriminatory location—☐ Superior ☐ Adequate ☐ Poor.

(a) Outside an area of minority concentration. _____

(b) Area substantially racially mixed. _____

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive. _____

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing. _____

4. Improved environmental location for lower income families—☐ Superior ☐ Adequate ☐ Poor.

The opportunity for low income families to live in neighborhoods which are:

(a) Outside areas which have an excessive concentration of subsidized housing. _____

(b) Accessible to job opportunities. _____

(c) Provided with good transportation at reasonable cost. _____

(d) Accessible to good educational, commercial, and recreational facilities. _____

5. Effect of proposed housing upon neighborhood environment—☐ Superior ☐ Adequate ☐ Poor.

(a) Compatibility of the land use concept and architectural design of the proposed housing with the existing neighborhood. _____

(b) Ability of project to uphold or improve existing property values. _____

(c) Compatibility of density levels of the proposed housing with existing and projected plans for the neighborhood. _____

6. Relationship to orderly growth and development—☐ Superior ☐ Adequate ☐ Poor.

(a) Neighborhood is undergoing comprehensive improvement via urban renewal, model cities or rehabilitation—either Federal, State, or locally assisted. _____

(b) Proposed housing is compatible with A-95 areawide planning and/or other established local planning. _____

(c) Project will contribute to orderly and economical community growth. _____

7. Employment and utilization of employees and business in project area—☐ Superior ☐ Adequate ☐ Poor.

Project will provide an opportunity for training and employment of lower income persons residing in the area and/or opportunity for work to be performed by business concerns located in or owned in substantial part by persons residing in the area. _____

8. Provision for sound housing management—☐ Superior ☐ Adequate ☐ Poor.

Sponsor presents a plan to assure good management, social services and counseling, and to develop constructive tenant relations. _____

PROPOSED RULE MAKING

job centers is less than 30 minutes and the proposed housing will be located in a neighborhood with good educational, commercial, and recreational facilities.

An "adequate" rating shall be given if the percentage of subsidized units is less than 25 percent, and travel time to job centers is less than 60 minutes, and the proposed housing will be located in a neighborhood with average educational, commercial, and recreational facilities.

A "poor" rating shall be given if the percentage of subsidized units is more than 25 percent, or if travel time to major job centers is more than 60 minutes, or if adequate educational, commercial, and recreational facilities are not available in the neighborhood or are not easily accessible via low cost public transportation.

For the purposes of the above determination, the term "neighborhood" generally should not exceed a 1/2-mile radius from the site of a proposed project.

5. Effect of Proposed Housing Upon Neighborhood Environment.

A "superior" rating shall be given if the proposed project will result in a substantial improvement in the quality of life within the neighborhood, and the proposed housing will improve the neighborhood in which it is located.

An "adequate" rating shall be given if the project design is compatible with the neighborhood, and if the project will maintain or improve the quality of life.

A "poor" rating shall be given if the project design is likely to reduce living standards and conditions in the neighborhood.

6. Relationship to Orderly Growth and Development.

A "superior" rating shall be given if the proposed project (1) will be located in and is consistent with plans for a neighborhood that is undergoing comprehensive improvement via urban renewal, model cities, or Project Rehab—either Federal, State, or locally assisted; (2) has been requested by residents of the neighborhood, who have participated in and planned an improvement program for their neighborhood, or (3) will affirmatively contribute to orderly growth and development in the metropolitan area, either by reference to A-95 planning or otherwise.

An "adequate" rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A-95 planning or otherwise.

A "poor" rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. Employment and Utilization of Employees and Business in Project Area.

A "superior" rating shall be given if the developer, contractors, and subcontractors have definite plans to train and employ lower income persons residing in the proposed project area; and to actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and if the developer has plans for the training and employment of lower income persons residing in the project area in the management of the project.

An "adequate" rating shall be given to proposals which provide some opportunities for training and employment of lower income persons residing in the project area; or which will provide opportunities for business concerns located in or owned in substantial part by persons living in the proposed project area; or which will provide for the training and employment of lower income persons

residing in the project area in the management of the project.

A "poor" rating shall be given if training or employment opportunities will not be provided and it is unlikely that area businesses will perform any work on the project.

8. Provision for Sound Housing Management.

A "superior" rating will be given if the sponsor presents an outstanding plan to assure good management of the project when completed, and to provide social services and tenant counseling; and provides evidence of ability to carry out the proposed management plan.

An "adequate" rating shall be given if an acceptable plan is presented to accomplish the objectives outlined above.

A "poor" rating shall be given if there is any question regarding management capability to accomplish the above objectives.

§ 200.720 Application for low-rent public housing.

An application for low-rent public housing assistance under the United States Housing Act of 1937 shall be evaluated and processed in accordance with the following Evaluation of Application:

EVALUATION OF APPLICATIONS FOR LOW-RENT PUBLIC HOUSING

Date received _____
Local Housing Authority _____
Locality _____
Program type _____
Number of units _____

INSTRUCTIONS: In evaluating applications for low-rent public housing the Area Office shall take into consideration the following selection criteria. Each criterion should be commented upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the Instructions set forth hereinafter.

Community need for low-income housing—

☐ Superior ☐ Adequate ☐ Poor.

(a) Relative need for housing by low-income families in the neighborhood and market area to be served.

(b) Proposed unit types conform with the composition of the low-income housing need in the neighborhood and market area to be served.

(c) Housing will serve as a relocation resource for families displaced by governmental action.

(d) Waiting list for public housing.

Efficient production—☐ Superior ☐ Adequate ☐ Poor.

(a) Time expected to be required from date of application approval to construction start, acquisition, or lease.

(b) Cost of housing relative to prototype costs.

Nondiscriminatory location—☐ Superior ☐ Adequate ☐ Poor.

(a) Outside an area of minority concentration

(b) Area substantially racially mixed

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing

Improved environmental location for low-income families—☐ Superior ☐ Adequate ☐ Poor.

The opportunity for low-income families to live in neighborhoods which are:

(a) Outside areas which have an excessive concentration of subsidized housing.

(b) Accessible to job opportunities.

(c) Provided with good transportation at unreasonable cost.

(d) Accessible to good educational, commercial, and recreational facilities.

PROPOSED RULE MAKING

(c) Crime prevention encouragement.

(d) Provision of community services.

(e) Administration of tenant selection plan and good faith efforts to achieve integration.

(f) Management-tenant relations.

(Check as applicable)

Score on required criteria 1, 2, 3, 4, 6, 8	Total score	Priority group
Superiors.....	Superiors.....	1. (a) No poor ratings and 6 or more superior ratings. <input type="checkbox"/>
Adequates.....	Adequates.....	(b) One poor rating and 7 or more superior ratings. <input type="checkbox"/>
Poors.....	Poors.....	2. (a) No poor ratings and up to 5 superior ratings. <input type="checkbox"/>
		(b) One poor rating and 5 or 6 superior ratings. <input type="checkbox"/>
		3. (a) One poor rating and up to 4 superior ratings. <input type="checkbox"/>
		(b) Two poor ratings and 5 or more superior ratings. <input type="checkbox"/>
		4. (a) Two poor ratings and up to 4 superior ratings. <input type="checkbox"/>
		(b) Three poor ratings and 5 or 6 superior ratings. <input type="checkbox"/>
		5. Three poor ratings and up to 4 superior ratings. <input type="checkbox"/>

☐ Disapproval. More than three ratings of Poor, or one rating of Poor on a required criterion.

NOTE: A request which does not have at least an Adequate rating on all of the required criteria Nos. 1, 2, 3, 4, 6, 8 shall be disapproved. Proposals in higher ranking priority groups shall be processed ahead of those in lower priority groups. Within each group, proposals shall be processed in order of date of receipt in the office.

Criteria and Reviewers (Name, Title, Date)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____

INSTRUCTIONS FOR EVALUATION OF APPLICATIONS FOR LOW-RENT PUBLIC HOUSING

A. General.—Appropriate Area Office staff shall review the criteria which relate to their responsibilities. Statements and other evidence of intent on the part of the applicant to comply with a "superior" or "adequate" level may be accepted in the absence of specific information needed to rate a criterion. If the terms of a statement of intent are not met, the scheduling of the application for future action shall be affected accordingly. Final application approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing.

1. Community Need for Low-Income Housing.

A "superior" rating shall be given under the following conditions: Proposed unit types conform to the needs of the low-income population; there is a shortage of standard housing to meet the needs of the low-income population of the housing market area, taking into account existing employment and employment opportunities; waiting lists for existing projects are substantial; and the ratio of the number of families within public housing admission income limits to the existing and potential supply of public and rent supplement housing units is greater than 5:1; or, the housing will serve as a relocation resource for families displaced by governmental action.

9. Homeownership—☐ Superior ☐ Adequate ☐ Poor.

(a) Homeownership opportunities of the proposed project.

(b) LHA has other homeownership projects existing or under development.

(c) Homeownership opportunities of the proposed project.

(d) Homeownership opportunities of the proposed project.

(e) Homeownership opportunities of the proposed project.

(f) Homeownership opportunities of the proposed project.

(g) Homeownership opportunities of the proposed project.

(h) Homeownership opportunities of the proposed project.

(i) Homeownership opportunities of the proposed project.

(j) Homeownership opportunities of the proposed project.

(k) Homeownership opportunities of the proposed project.

(l) Homeownership opportunities of the proposed project.

(m) Homeownership opportunities of the proposed project.

(n) Homeownership opportunities of the proposed project.

(o) Homeownership opportunities of the proposed project.

(p) Homeownership opportunities of the proposed project.

(q) Homeownership opportunities of the proposed project.

(r) Homeownership opportunities of the proposed project.

(s) Homeownership opportunities of the proposed project.

(t) Homeownership opportunities of the proposed project.

(u) Homeownership opportunities of the proposed project.

(v) Homeownership opportunities of the proposed project.

(w) Homeownership opportunities of the proposed project.

(x) Homeownership opportunities of the proposed project.

(y) Homeownership opportunities of the proposed project.

(z) Homeownership opportunities of the proposed project.

(aa) Homeownership opportunities of the proposed project.

(ab) Homeownership opportunities of the proposed project.

(ac) Homeownership opportunities of the proposed project.

(ad) Homeownership opportunities of the proposed project.

(ae) Homeownership opportunities of the proposed project.

(af) Homeownership opportunities of the proposed project.

(ag) Homeownership opportunities of the proposed project.

(ah) Homeownership opportunities of the proposed project.

(ai) Homeownership opportunities of the proposed project.

(aj) Homeownership opportunities of the proposed project.

(ak) Homeownership opportunities of the proposed project.

(al) Homeownership opportunities of the proposed project.

(am) Homeownership opportunities of the proposed project.

An "adequate" rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A-95 planning or otherwise.

A "poor" rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. Employment and Utilization of Employees and Business in Project Area.

A "superior" rating shall be given if the LHA has definite plans to: (1) Actively encourage developers, contractors and subcontractors to train and employ lower income persons residing in the proposed project area; (2) actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and (3) actively implement plans for the training and employment of lower income persons residing in the project area in the management of the project.

An "adequate" rating shall be given if the LHA has agreed to give special consideration to: (1) Proposals from developers, etc., providing opportunities for training and employment of lower income persons residing in the project area; (2) proposals from business concerns located in or owned in substantial part by persons living in the proposed project area; and (3) the training and employment of lower income persons residing in the project area in the management of the project.

A "poor" rating shall be given if training opportunities will not be provided and it is unlikely that area businesses will perform any work on the project.

8. Provision for Sound Housing Management.

Rank separately as superior, adequate, or poor, the following specific criteria: (1) administrative capacity; (2) financial position; (3) maintenance; (4) crime prevention encouragement; (5) provision of community services; (6) administration of HUD-approved tenant selection plan and good faith efforts to achieve desegregation; and (7) management-tenant relations. If the rating of an LHA is "poor" on any of these items, no application should be approved unless: (1) The LHA has a satisfactory plan to improve in its area of deficiency (2) it can be shown that the new project will not be plagued by this deficiency; or (3) the provision of the new project will aid the LHA in overcoming this deficiency. Under no circumstances should a project be approved when an LHA is ranked "poor" in administrative capacity. The definitions of superior, adequate, or poor for these criteria shall be consistent with Housing Management policy.

In the case of an application from an LHA with no units under management, an "adequate" rating ordinarily will be given, unless there is information available which would justify a superior or poor rating. A "poor" rating shall always be assigned if there is any question regarding management feasibility. This is an especially important consideration in connection with a new LHA proposing a small program.

9. Homeownership.

A "superior" rating shall be given if the proposed project is to be developed as an authority-owned (Turnkey III) or leased (Turnkey IV) homeownership project.

An "adequate" rating shall be given if the LHA has other homeownership projects in some stage of development, or if it can be determined that the design of the project is such that eventual ownership by the tenants would be facilitated (e.g., detached, semi-detached, townhouse construction).

PROPOSED RULE MAKING

A "poor" rating shall be given if it appears unlikely that the proposed project will be converted to a homeownership program, and the design of the project is such that eventual ownership by the tenants will not be facilitated.

B. Use of the Rating System. All applications for low-rent public housing meeting the minimum requirement for assignment to a priority group shall be separated by the category of housing applied for (e.g., conventional, turnkey, leased—new construction). Within each production category, applications in higher ranking priority groups shall be processed ahead of those in the lower ranking priority groups. Within each priority group, applications shall be ordered by the date the applications were received in the office.

C. Exceptions to the Rating System for Low-Rent Public Housing.

1. At the discretion of the Area Office Director, an application meeting the minimum score may be placed in a higher priority group. The reasons for such special consideration shall be recorded.

2. Lower ranking applications for Indian housing or homeownership programs may be processed out-of-turn when necessary to meet the production targets in these categories.

3. Applications for units to be used as a resource for relocating displacees from urban renewal projects may be processed out-of-turn when necessary to assure that an Annual Contributions Contract will be executed by the time the Part II Loan and Grant Application is ready for approval.

4. Applications for units to be located in an urban renewal area may be processed out-of-turn when necessary to meet the urban renewal requirement that evidence of a program reservation must be submitted with the Part II Loan and Grant Application.

5. Lower ranking applications may be processed out-of-turn when necessary to meet our national goal of a balanced public housing program consisting of two-thirds family units and one-third elderly units.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-8844 Filed 6-23-71;8:45 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 214]

STUDENTS, EMPLOYMENT, AND APPROVAL OF SCHOOLS

Notice of Proposed Rule Making

Pursuant to section 553 of title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to students, their employment, and the approval of schools for attendance by nonimmigrant students. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, DC 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be pre-

sented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

PART 214—NONIMMIGRANT CLASSES

1. Paragraph (f) of § 214.2 is amended by adding a new subparagraph (1a) to read as follows:

(1a) Full course of study. A student shall be considered to be pursuing a "full course of study" within the meaning of section 101(a)(15)(F)(i) of the Act and this chapter only if (i) he is engaged in postgraduate studies at a college or university, or in undergraduate or postgraduate studies at a seminary, and an authorized official of the institution certifies that the student is engaged in a full course of study, or (ii) he is an undergraduate at a college or university and is carrying on less than 12 semester, trimester, or quarter hours of instruction or a program certified by an authorized official of the institution to be equivalent thereto; or (iii) he is taking courses at an institution other than a college, university or seminary aggregating at least 25 clock hours of school attendance per week if classroom instruction comprises the dominant part of the studies, or at least 30 hours of school attendance per week if shop or laboratory work comprises the dominant part of the studies. For purposes of determining whether the alien is engaged in a full course of study as described in this paragraph, classes scheduled to commence at 6 p.m. or later shall not be included or considered unless the student is regularly enrolled as a day student, the subjects taken are directly related to the course in which he is regularly enrolled, and those subjects are not offered or are not available in earlier classes. A school shall not certify that a student has been accepted for a full course of study and shall not issue a Form I-20 unless the student will be enrolled in a full course of study as defined in this paragraph. An alien seeking admission or extension of stay to pursue less than a full course of study may be admitted to the United States or his stay may be extended under section 101(a)(15)(B) of the Act as a temporary visitor for pleasure, if he is a bona fide nonimmigrant provided that permission to remain in the United States to pursue less than a full course of study shall not exceed 6 months in the aggregate. An alien who desires to attend school in the United States for more than 6 months may be permitted to do so only if he is pursuing a full course of study and is accorded a classification under section 101(a)(15)(F)(i) of the Act. An alien who was issued an F-1 visa or was admitted to the United States under a waiver of such visa or was granted a change to F-1 classification prior to August 1, 1971, notwithstanding that he was not taking a full course of study as defined in this paragraph, may continue to be classified F-1 until he completes his course of study at the school he was

attending prior to that date, provided he continues to carry no less than what was then considered by the school to be a full course of study and otherwise continues to maintain student status.

2. The third and 11th sentences are amended and a new sentence is added between the existing fifth and sixth sentences of subparagraph (3) of paragraph (f) Students of § 214.2 Special requirements for admission, extension, and maintenance of status to read as follows:

(3) Employment. * * * Permission to accept or continue employment because of economic necessity may be granted in increments of not more than 12 months each and while school is in session such employment may not exceed 20 hours per week. * * * However, when the course of study completed by the alien in this country was of less than 18 months' duration, permission may be granted to engage in employment for practical training for an aggregate number of months not exceeding the length of that course of study unless, in the case of a student who was engaged in postgraduate studies at a college, university, or seminary, the district director and the recommending school agree that permission for a greater number of months, not exceeding the permissible maximum of 18 months, is warranted. * * * A student who is offered this kind of on-campus employment, or any other on-campus employment which will not displace a U.S. resident, does not require Service permission to be engaged in such employment. * * *

3. The second sentence of paragraph (g) Reporting requirements of § 214.3 Petitions for approval of schools is amended to read as follows: "An immediate report shall also be made in the case of each nonimmigrant who fails to carry a full course of study as defined in § 214.2(f)(1a), fails to attend classes to the extent normally required, or terminates his attendance at the institution."

4. The first sentence of paragraph (j) Withdrawal of approval of § 214.3 Petitions for approval of schools is amended to read as follows: "The approval of a school shall be withdrawn if it is no longer entitled to approval under section 101(a)(15)(F) of the Act, or under this part, for any reason including, but not limited to, the following: (1) Failure to submit reports required by paragraph (g) of this section; (2) issuance of Certificates of Eligibility, Forms I-20, to students lacking scholastic, financial, or language requirements; (3) issuance of Forms I-20 to aliens who will not be enrolled in or carry a full course of study; (4) failure to operate as a bona fide institution of learning; (5) failure to maintain a sound financial condition; (6) failure to employ qualified professional personnel, or (7) failure to maintain proper facilities for instruction."

5. Paragraph (k) Issuance of Certificates of Eligibility of § 214.3 Petitions for approval of schools is amended by

PROPOSED RULE MAKING

adding the following sentence between the existing first and second sentences: "The Form I-20 must be issued in the United States by an authorized school official."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: June 17, 1971.

RAYMOND F. FARRELL,
Commissioner of
Immigration and Naturalization.

[FR Doc.71-8874 Filed 6-23-71;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19262; FCC 71-633]

FM BROADCAST STATIONS, SPARTA, ELBERTON, CLAXTON, LOUISVILLE, AND WASHINGTON, GA.

Table of Assignments

1. Notice of proposed rule making is hereby given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the rules) with respect to Sparta (RM-1706) and Elberton, Ga. (RM-1743), and related changes in other communities. The petitioner for Sparta is Hancock Committee for Social and Economic Development (Hancock Committee); and Elberton Broadcasting Co., Inc. (Elberton Broadcasting) is the petitioner for Elberton. As indicated in the report and order adopted this day in Docket No. 19144 (FCC 71-632), both Hancock Committee and Elberton Broadcasting filed counterproposals in that proceeding, but while denying the proposal for Burnetown, S.C. (RM-1452), with which they conflicted, we felt that it would be more appropriate to put these proposals out for separate rule making; see report and order in Docket No. 19144, paragraph 5. All population figures are from the 1970 Census, unless otherwise indicated.

2. By petition filed October 28, 1970, Hancock Committee seeks assignment of an FM channel to Sparta, population 2,172, the seat of Hancock County, population 9,019, the city and county now having no broadcast stations or FM channels assigned. By petition filed February 4, 1971, Elberton Broadcasting, the licensee of Class IV full-time AM Station WSGC at Elberton, filed a petition requesting Channel 221A as a first assignment at Elberton (there are no other broadcast stations and no FM assignments in this county, with respective populations of 6,438 and 17,262). Hancock Committee advanced three plans as alternatives, Plans II and III being consistent with the Elberton proposal and later adopted by that petitioner. The three are:

PLAN I (SPARTA)		
City	Channel No.	
	Present	Proposed
Sparta, Ga.		261A
Washington, Ga.	261A	221A
Louisville, Ga.	221A	296A
Claxton, Ga.	296A	286A

PLANS II AND III (ELBERTON AND SPARTA)		
City	Channel No.	
	Present	Proposed
Sparta, Ga.		228A
Waynesboro, Ga.	228A	296A or 285A
Elberton, Ga.		221A

Plan I was compatible with the Burnetown proposal (Channel 261A would have been assigned to Burnetown as well as Sparta) and, of course, is still feasible with denial of Burnetown in Docket No. 19144, but it involves the shift of authorized stations at Washington and Louisville, Ga. (WLOV-FM and WPEH-FM, the latter a CP issued in February 1971), and the matter of reimbursement to these stations for the cost of changing channel. See paragraph 3 of the notice of proposed rule making in Docket No. 19144, adopted February 2, 1971. See also paragraph 9, below. Further, and more importantly, this plan conflicts with RM-1743, since there would be a co-channel mileage spacing shortage between Elberton Broadcasting's proposed allocation of Channel 221A to Elberton and the proposed reallocation of Channel 221A (in lieu of 261A) to Washington, Ga. As to the Plan II and III alternative(s), Channel 228A would have to be sited at least 5 miles east of Sparta to maintain the 105-mile separation to Station WFDR-FM, Channel 227, Manchester, Ga., and either replacement channel for Waynesboro would have to be sited at least 1 mile from the reference point—Channel 296A 1 mile north, and Channel 265A about 1 mile south.

3. Elberton Broadcasting seeks the assignment of Channel 221A on the basis that there is no unoccupied FM channel available for assignment to Elberton or usable under the 10-mile rule (§ 73.203 (b) of the Commission's rules). It is urged that the proposed assignment is consistent with Commission policy for FM assignments as set forth in the first report and order in Docket 14185, 23 R.R. 1801 (1962), as amplified by the third report, memorandum opinion and order in Docket No. 14185, 23 R.R. 1859 (1963). Petitioner discusses the characteristics of Elberton and Elbert County, but detailing these comments is unnecessary. As to aural service, special note is made that petitioner's AM Station WSGC operates at 250 watts power at night, thus serving out only 2 or 3 miles and not providing the bulk of the county's populus with nighttime service.

4. Elberton Broadcasting's proposal raises problems. We already have ad-

verted to the conflict with Sparta Plan I as concerns Washington, Ga. Others either exist or a more adequate explanation is necessary. Firstly, due to the proximity of Station WESC-FM, the transmitter site for Channel 221A at Elberton would have to be located 6.5 miles southwest of Elberton in an area less than 0.2 square mile.¹ Broadcasting Company of the Carolinas, the licensee of WESC-FM, filed a "conditional opposition" contending that Elberton Broadcasting's proposal would restrict future improvements of its facility, more specifically, a plan to utilize Glassy Mountain, about 3 miles closer to Elberton. Elberton Broadcasting advises that it has reached a reciprocal agreement with Station WESC-FM not to oppose any request for waiver of § 73.207 of the rules. Of course, no agreement by the parties of accept short separations would be binding on the Commission.

5. More basic to the Elberton proposal (and to the Sparta Plan I with respect to Washington, Ga.) is the problem of the channel involved—Channel 221A—and its possible impact on use of the channels immediately below in the educational FM band (218, 219, and 220), a problem which has given us concern in the recent past in connection with proposed uses of this channel. This is particularly significant here because Elbert County is an area where the Channel 6 television station at Augusta, Ga. (WJBF), has substantial viewing, and where, therefore, any expansion of educational FM facilities may well have to be in the higher part of the educational FM band rather than in the lower part of it adjacent to Channel 6 in the spectrum.² The situation with respect to Washington, Ga.—to which Hancock Committee would reassign Channel 221A under its "Plan I"—is similar, except that it (in Wilkes County) is closer to Augusta and definitely within the basic viewing area of the Channel 6 station. Proponents of either the Elberton proposal or "Plan I" for Sparta (involving Washington, Ga.) should discuss this matter in their comments, and if no satisfactory answers are forthcoming the proposals may be denied on this ground even if otherwise meritorious.

6. It would appear that both Hancock Committee and Elberton Broadcasting have made a sufficient public interest, convenience, and necessity, showing that their proposals should be noticed for proposed rule making.

¹ We note, of course, that Elberton Broadcasting claims to have an option to purchase a suitable site within the restricted site area (Petition, p. 3).

² The Grade B contour of WJBF passes through Elbert County, which is listed in Television Factbook (1970-71) as having 24 to 49 percent net weekly circulation in the county (the county is not in the Augusta "area of dominant influence" (ADI) according to ARB). Washington, Ga., in Wilkes County, is closer to Augusta; the county shows 50 percent or more net weekly circulation and it is in the Augusta ADI.

7. *Showings required.* Comments are invited as to the proposals discussed above. The proponents will be expected to answer whatever questions have been raised. Proponents are expected to file comments, even if nothing more than resubmit or refer to the petitions and other pleadings in this as well as Docket No. 19144. The petitioners, among other things, are expected to state their intention to apply for the channel, if assigned, and, if authorized, to promptly build their stations. Failure to make these showings may result in denial of the petitions.

8. *Cutoff procedure.* As in other recent FM rule making proceedings, the following procedures would govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

9. *The question of reimbursement.* In their comments in Docket 19144, the licensee and permittee of the stations at Washington and Louisville, Ga., respectively, discussed the matter of reimbursement to which they may be entitled if the stations are required to change frequency as a result of this rule making. Since this is not a final decision, and since the result may well not involve shifts in these stations (Plans II or III, above), no lengthy discussion is required. We believe Commission policy in this area is, in general, sufficiently well settled. Parties may comment on this subject if they wish. It is appropriate to note that, in our tentative view, the permittee of Station WPEH-FM, Louisville, Ga., is not entitled to reimbursement, since its permit was granted only on February 24, 1971, well after the notice of proposed rule making in Docket No. 19144 was issued, and any expenses it may have were incurred in light of the proposal to change its channel.

10. In view of the foregoing, and pursuant to authority found in sections 4 (i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) as concerns Sparta and Elberton, Ga., as set forth above in paragraph 2.

11. Pursuant to applicable procedures set out in section 1.415 of the Commission's rules, interested persons may file comments on or before August 3, 1971, and reply comments on or before August 13, 1971. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or

other appropriate pleadings. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

12. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

FEDERAL COMMUNICATIONS
COMMISSION,
BEN F. WAPLE,
Secretary.

[PR Doc.71-8916 Filed 6-23-71; 8:52 am]

[47 CFR Part 73]

[Docket No. 19265; FCC 71-642]

TELEVISION BROADCAST STATIONS

Table of Assignments, Los Angeles, Calif.

In the matter of amendment of § 73.606(b) of the Commission's rules, Table of Assignments, Television Broadcast Stations (Los Angeles, Calif.), RM-1788.

1. In this rule making notice, the Commission proposes to add UHF Channel *68 or *69 as a reserved television channel assignment at Los Angeles, Calif., as requested in a petition filed on May 6, 1971, by Viewer Sponsored Television Foundation (VSTV), one of two competing applicants for Channel *58, now reserved there. Los Angeles is presently assigned seven VHF channels, all unreserved and used by commercial stations, and four UHF channels, two used commercially and two reserved for non-commercial educational use.¹ The latter are Channel *28, on which Station KCET has long operated, and Channel *58, for which VSTV and the Los Angeles Unified School District are competing, their applications having been filed in 1967 and 1968 respectively. There are no other ETV assignments in Los Angeles County, which is the Nation's largest and has a 1970 Census population of 7,032,075. The two competing applications were designated for hearing in November 1970 (along with a third application since dismissed) and the hearing is scheduled to commence June 21.

2. In support of its request that Channel *68 be added, VSTV urges in substance: (1) that Channel 68 or 69 can be assigned and used at the Mount Wilson location specified in both applications (and used by the other Los Angeles stations), in complete conformity with

¹ Commissioners Robert E. Lee and H. Rex Lee absent.

² Three other unreserved UHF channels are assigned in the area and occupied by commercial stations having transmitter locations on Mount Wilson. These include channels assigned at Corona, Fontana, and Guastl. Two of these stations which are operating have recently received authority to move their main studios to Los Angeles.

the mileage separation rules; (2) the desirability of avoiding a long and costly comparative hearing for Channel *58, and the public interest in prompt provision for ETV service which the additional channel would make possible by permitting grant of both applications; (3) the high public interest in the service which VSTV proposes, which will be of particular significance to minority groups in the Los Angeles area (who will be represented on its governing board) and low-income groups; and (4) the essentially different type of service proposed by the School District, which will be chiefly instructional and largely in-school material, so that, assertedly, there is need for both of these operations.

3. It appears that, as VSTV's petition and supporting engineering statement suggest, either Channel 68 or Channel 69 could be assigned in the Los Angeles area, for use at a Mount Wilson location; and it also appears clearly appropriate to consider assigning one of these channels on a reserved basis, in view of the large number of unreserved or "commercial" channels presently assigned.

4. VSTV also urges that the application which is amended to specify the new channel when it is assigned—apparently it is contemplated that it will be the VSTV application—be retained in hearing status so that it will not face further delays in processing (it asserts that it would prefer a hearing to further extended delay). It may be that such a course will ultimately be adopted if the channel is assigned and it appears appropriate. However, we need not and do not decide this question at this point, the present Notice being simply to propose the addition of another UHF channel in Los Angeles. We also point out that on June 9 we denied VSTV's request that the hearing be stayed pending consideration of its request for an additional channel, directing that the hearing proceed. We are still of the same view, and expect the proceeding to go forward as scheduled.

5. In view of the foregoing, pursuant to authority contained in sections 4 (i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the Table of Television Assignments, § 73.606(b) of the Commission's rules, to change the entry for Los Angeles, Calif., as follows:

City	Channel No.	
	Present	Proposed
Los Angeles, Calif.	2, 4, 5, 7, 9, 11, 13, 22, *28, 31, *58	2, 4, 5, 7, 9, 11, 13, 22, *28, 31, *58, *68

¹ The Commission's computer analysis indicates that Channel 68 is somewhat to be preferred to Channel 69 from an efficiency standpoint, and therefore it is proposed.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before July 7, 1971, and reply comments on or before July 15, 1971. All submissions by parties to this proceeding or by persons acting

on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all written comments, replies, pleadings, briefs, or other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

Adopted: June 16, 1971.

Released: June 18, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8911 Filed 6-23-71; 8:51 am]

[47 CFR Part 73]

[Docket No. 19264; FCC 71-641]

FM BROADCAST STATIONS

Table of Assignments; Certain Stations

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Carson City, Nev., Charleston, S.C., Fort Wayne, Ind., and Seward, Nebr.), RM-1594, RM-1595, RM-1605, RM-1607.

1. Notice of proposed rule making is hereby given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the rules) with respect to various proposals.

2. The proposals in alphabetical order by States are as follows:

City	Channel No.	
	Present	Proposed
Fort Wayne, Ind.	236, 247, 269A, 288A	236, 247, 269A, 280A, 288A
Seward, Nebr.	245	245
Carson City, Nev.	234, 247	234, 243
Charleston, S.C.	236, 245, 278	236, 245, 278, 300

3. The 1970 U.S. Census populations of these cities, their respective counties, and populations are as follows:

City	Population	County	Population
Fort Wayne, Ind.	177,671	Allen	280,455
Seward, Nebr.	5,294	Seward	14,460
Carson City, Nev.	15,468		
Charleston, S.C.	66,915	Charleston	247,650

Fort Wayne and Charleston are Standard Metropolitan Statistical Areas (SMSA). The Fort Wayne SMSA consists of only Allen County. The Charleston SMSA consists of Charleston and Berkeley Counties, with a total population of 303,849.

4. *Carson City, Nev. (RM-1594).* Family Stations, Inc., licensee of FM Station KEAR, Channel 247, San Francisco, Calif., which is operated as a non-

¹ Commissioners Robert E. Lee and H. Rex Lee absent.

commercial station deriving all income from loans and donations, filed a petition on March 30, 1970, seeking change in the assignment at Carson City from Channel 247 to Channel 243 in order to enable it to relocate its San Francisco transmitter site from Mount Beacon, Sausalito, to a site on Berkeley Hills, at Berkeley, Calif. Petitioner states that, due to a lack of line-of-sight reception over many areas of San Francisco, the multipath signal from Mount Beacon would require extra measures in antenna orientation and quality antennas for stereo reception; that telephone line service to the transmitter has been unsatisfactory; that a microwave STL system also was unsuccessful because of program line limitations; and that the proximity of its antenna site to the ocean has resulted in damage from high winds and salt sprays (and loss of one-half of its radiated signal to sea). Petitioner proposes to move its transmitter to Berkeley Hills. Such change, however, would require the substitution of the cochannel at Carson City, Nev., in order to comply with the minimum mileage separation rules. Family Stations shows that Channel 247 could be used for assignment in another community, e.g., Reno, Nev., approximately 25 miles north of Carson City, and its preclusion study shows that the use of Channel 243 and adjacent channels would be affected only in sparsely populated areas of the Sierra Nevada mountains. No preclusion study was made for areas east of Carson City, which are sparsely populated, because of the availability of other channels. Finally, the petitioner states that it is willing to reimburse Station KRWL-FM, the permittee on Channel 247 at Carson City, for the reasonable expense incurred in modifying its frequency to Channel 243.¹

5. We believe that the public interest, convenience, and necessity would be served by giving consideration to the proposal of Family Stations to substitute a channel at Carson City, Nev., in these circumstances.

6. *Charleston, S.C. (RM-1595).* By a petition filed April 7, 1970, and supplemented April 27, 1970, John H. Pembroke seeks assignment of FM Channel 300 to Charleston, S.C. The city, with a population of 66,945, is the seat of Charleston County, population 247,650, and the center of the Charleston SMSA (see paragraph 3). Charleston has eight aural broadcast stations: Four full-time AM stations, one daytime-only AM station, and three Class C FM stations. The petitioner proposes to add Channel 300 as a fourth assignment (see paragraph 2).

7. Petitioner contends that there is only one daytime AM station which programs exclusively for Negro interests, with no existing or proposed broadcasting of such programming at night. Presumably, Pembroke intends to apply for

¹ The Review Board, by memorandum opinion and order, adopted Dec. 11, 1970, FCC 70R-433, extended the term of Station KRWL-FM's construction permit (BPH-6897).

Channel 300 to provide for such nighttime programs. It is stated (without any substantiating data) that 168,000 people would be within the 1 mv/m contour, with an estimated black population of 61,500. Petitioner's preclusion study reveals that the assignment of Channel 300

City	Channel	Population	County	Population
Beaufort.....	254	9,474	Beaufort.....	51,136
Georgetown.....	240A, 262A	10,449	Georgetown.....	33,500
Monck's Corner.....	268A	2,314	Berkeley.....	56,199
St. George.....	240A	1,806	Dorchester.....	32,421
Summerville.....	228A	3,704	Dorchester.....	32,421
Walterboro.....	265A	6,259	Colleton.....	27,622

8. It would appear that the public interest, convenience, and necessity would be served by putting this proposal out for rule making.

9. *Fort Wayne, Ind. (RM-1605)*. Burnup and Sims filed a petition on April 22, 1970, seeking assignment of Channel 280A to Fort Wayne, Ind. Fort Wayne has a 1970 population of 177,671 and is the seat of Allen County (population 280,455). The city is designated as a SMSA under the 1970 Census. Broadcast service in Fort Wayne consists of five standard broadcast stations, three television stations, and three FM stations. The fourth channel (288A) is utilized by Station WIFF-FM at Auburn, Ind. (population 7,337), located about 20 miles north of Fort Wayne.

10. Petitioner in support of its petition alleges that Fort Wayne is a rapidly growing community and a focal point for Allen County as indicated by population growth and economic development. Additionally, there have been substantial educational, cultural, and industrial developments. Thus, petitioner contends that another FM station could be easily supported in the community.

11. Preclusion data submitted by petitioner discloses that use of the Channel 280A would preclude assignment to other communities only in a small area around Fort Wayne and the western part of the State of Ohio. There is no preclusion on the six adjacent channels. Only two communities of size in the area are able to use a Class A channel: one is New Haven, with a 1970 population of 5,728, which is contiguous to Fort Wayne and part of the Fort Wayne Urbanized Area; the other is Van Wert, Ohio, with a population of 11,320 (located in Van Wert County, population 29,194); Channel 255 (Class B) is presently assigned to that community. In order for the assignment to comply with mileage separations, a transmitter site would have to be located at least 1 mile north of Fort Wayne in order to avoid being short-spaced to Channel 281 assigned to Muncie, Ind.

12. It would appear that a sufficient showing has been made that the proposal be put out for rule making. We also believe that consideration should be given as to whether Channel 288A should be reassigned from Fort Wayne to Auburn, particularly since this would be more consonant with the present provisions of § 73.203(b) of the rules which limits the use of Class A channels to unlisted communities located within 10 miles of a listed community. Auburn, as already

would affect use of Channels 297, 298, and 299 in limited areas, but the communities in these areas are all relatively small and have FM channel(s) assigned to them (all in South Carolina). The communities involved are as follows:

City	Channel	Population	County	Population
Beaufort.....	254	9,474	Beaufort.....	51,136
Georgetown.....	240A, 262A	10,449	Georgetown.....	33,500
Monck's Corner.....	268A	2,314	Berkeley.....	56,199
St. George.....	240A	1,806	Dorchester.....	32,421
Summerville.....	228A	3,704	Dorchester.....	32,421
Walterboro.....	265A	6,259	Colleton.....	27,622

noted, is located farther than that from Fort Wayne. On the other hand, normally a community the size of Auburn is not entitled to other than a Class A channel. For the purposes of this notice, parties should comment on whether the Table of Assignments should be amended.

City	Channel No.	
	Present	Proposed
Auburn, Ind.....		288A
Fort Wayne, Ind.....	236, 247, 267A, 288A	236, 247, 267, 288A

13. *Seward, Nebr. (RM-1607)*. Ray G. Smith, doing business as Central Communications, filed a petition on March 23, 1970, supplemented April 24, 1970, seeking the assignment of Channel 245 to this community (population 5,294), located approximately 25 miles northwest of Lincoln, Nebr. Seward is the seat of Seward County (population 14,460). Class C assignment is needed at Seward, Seward without affecting present assignments in other communities. Seward and its county do not have local aural transmission facilities.

14. Smith in his petition urges that a Class C assignment is needed at Seward, for a station on a Class C channel could provide service to small towns and rural areas not adequately served by other aural stations. Petitioner also contends that Seward is a growing rural agricultural community and the center of a large agricultural area with few manufacturing firms; population growth has been steady for the last 50 years and there are a number of schools, a college, several churches, a library, a hospital, and two medical clinics. Petitioner asserts that, if allowed to build a Class C station, he could reach rural areas and small towns with programs relevant to their needs, e.g., weather information and local programming. In terms of coverage, the use of "reasonable facilities," i.e., 100-kw. E.R.P. and 640-foot antenna height a.a.t., an unserved area of 190 square miles with 6,878 persons would be served while a second service would be provided in another area of 1,070 square miles with 23,506 persons. There is a minor short spacing to Channel 245 at Grand Island, Nebr., on a reference point

* All Class A's at 3 kw. and 300 feet and all Class C's at 75 kw. and 500 feet. See in the Matter of Goldsboro and Roanoke Rapids, N.C., 9 FCC 2d 672, 677 (1967).

basis, but extensive areas for a transmitter site at Seward meeting separations is available.

15. It would appear that petitioner has made a sufficient public interest showing that a notice of proposed rule making as to this proposal should be issued. However, since normally a Class A channel would be assigned to a community of this size, we believe that any authorization to operate on Channel 245, if assigned, would require operation at minimum facilities equivalent to those proposed by the petitioner.

16. *Showings required.* In some cases, the Commission has reservations or questions and proponents of the proposed assignments are expected to file comments, even in nothing more than re-submit or refer to their petitions. They are expected, among other things, to express their intention to apply for the channel, if assigned, and if authorized, to promptly build their stations. Failure to make these showings may result in denial of a proposal. See notice of proposed rule making in Docket No. 19161, adopted February 2, 1971 (FCC 71-192).

17. *Cutoff procedures.* As in other more recent FM rule making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so the parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to any petition for rule making which conflicts with any of the proposals in this notice, it will be considered as comments in the proceeding and Public Notice to this effect will be given, as long as filed before the date for filing initial comments herein. If filed later than that, any such proposal will not be considered in connection with the decision herein.

See notices of proposed rule making in Docket No. 19074, adopted October 28, 1970 (FCC 70-1162), paragraph 17, page 7, and Docket No. 19116, adopted January 6, 1971 (FCC 71-23), paragraph 12, page 8.

18. Authority for the action proposed herein is contained in sections 4(i), 303(g), and 307 (b) and (r) of the Communications Act of 1934, as amended.

19. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before August 3, 1971, and reply comments on or before August 13, 1971. All submissions by parties to this proceeding, or by persons acting in behalf of these parties, must be made in written comments, reply comments, or other appropriate pleadings.

20. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket

Reference Room at its headquarters in Washington, D.C.

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FRC Doc. 71-8912 Filed 6-23-71; 8:51 am]

[47 CFR Part 73]

[Docket No. 19263; FCC 71-640]

TELEVISION BROADCAST STATIONS

Table of Assignments; Certain Stations in Mississippi

In the matter of amendment of § 73.606, Table of Assignments, Television Broadcast Stations. (Booneville, Clarksdale, Columbia, Columbus, Hattiesburg, Natchez, Oxford, and Senatobia, Miss.), RM-1684.

1. On September 1, 1970, the Mississippi Authority for Educational Television (Mississippi Authority) filed a petition with this Commission requesting a series of television channel assignments and reassignments in the State of Mississippi in order to establish a comprehensive statewide educational television network. An amendment to the petition was filed on February 11, 1971, which deleted reference to the possible assignment of Channel *12 to Booneville, Miss. In light of the amendment no comments in response to the petition were filed.¹

2. The Mississippi Authority was created by the Mississippi State Legislature in 1966. It was established as an independent agency in 1969. The Mississippi Authority appears to have a comprehensive responsibility for the administration, operation, control, and supervision of educational television and radio in Mississippi. Petitioner considers that its first major task is to establish a full 8-station statewide educational television network and at the same time provide for the network's expansion in later years. It points out, in its petition, that studies made in Mississippi indicate that the present educational program conducted in schools throughout the State is not meeting the needs of the State for the education of its citizens, that many of the State's citizens have not completed high school, that there is an unusually high level of illiteracy in the State, and that there is a need, not only to provide a more up-to-date and dynamic program for education

¹ A series of petitions for extensions of time to file comments were filed by Capitol Broadcasting Co., licensee of television Channel 12, WJTV, at Jackson, Miss. Apparently Capitol Broadcasting Co. was contemplating filing objecting comments to the portion of the petition which proposed the assignment of Channel *12 to Booneville, Miss. The Mississippi Authority has decided to deal with the possible assignment of Channel *12 to Booneville in a separate rule making proceeding so as to expedite the instant proceeding and the development of the overall educational network. See RM-1746.

ing children, but in addition that the State's adult citizens would benefit from an on-going program of adult education. It is hoped that these educational problems of the State can be remedied economically via a flexible, imaginative, full, and systematic presentation of educational material on a statewide educational television network. Through television, the Mississippi Authority hopes to bring the State's youths and adults a program of education which will enrich their lives and prepare them for successful employment in the newly developing industrial economy of Mississippi.

3. The pleadings indicate that the Mississippi Authority has already taken significant steps toward the implementation of its program for bringing the citizens of Mississippi a revitalized program of education, through educational television. Petitioner states that the flag station of its proposed statewide educational network is presently licensed to the Mississippi Authority, WMAA-TV, Channel *29, Jackson, Miss., and that it is the permittee of WMAB-TV, Channel *2, State College, Miss. The petition indicates that a production center has been established to serve the network through its flag station, WMAA-TV.

4. The Mississippi Authority has made concrete plans with respect to the programming it expects to air through the

proposed Mississippi statewide educational network. The programming is to include: elementary school instruction, inservice training for teachers, professional credit instruction for teachers, secondary school instruction, adult literacy training, high school equivalency instruction, business, industrial and professional training, and other programming areas which are expected to cover matters which are best understood through informal education—the wide horizons of man's development and participation in society.

5. In order to establish the statewide educational television network, use its production center effectively, and distribute the proposed programming described in the previous paragraph, petitioner has proposed the assignments and reassignments of television channels set out in the following table. In some instances the Commission's computer analysis of the allocations in Mississippi indicates that assignments other than those proposed by the Mississippi Authority may be preferable from an efficiency standpoint; therefore, we are setting out the Mississippi Authority's and the Commission's proposed allocations, both for consideration in this proceeding. Population statistics cited are from the 1970 U.S. Census. All channel reallocations are limited to assignments within the State of Mississippi.

Community and population	Existing assignments	Mississippi Authority's proposed assignments	Commission's proposed assignments
Booneville (5,895).....	*18	*20	*20
Clarksdale (21,673).....		*22	*42
Columbia (7,587).....	*34	*45	*45
Columbus (25,795).....	4, 27, *43	4, 27, *43	4, 27, *43
Hattiesburg (38,277).....	22, *28	22, *47	22, *47
Natchez (19,704).....		*18	*43
Oxford (15,946).....		*42	*42
Senatobia (4,247).....	*22	*34	*34

6. The above-proposed locations for assignments have been chosen by petitioner not solely because of the size of the communities involved but in some instances because of the geographical location of the community in the State. It is petitioner's intention to bring all of Mississippi's 2,216,912 citizens at least one educational television signal as early as possible. It will be noted that under the proposal existing ETV assignments at Booneville (Channel *18), Columbia (Channel *34), Hattiesburg (Channel *28), and Senatobia (Channel *22) would be deleted and replaced with other assignments. Each of these channels is unlicensed and unapplied for, except for Channel *18 at Booneville, which has an application pending for its use by the Mississippi Authority (BPET-371) and Channel *22 at Senatobia, for which a construction permit has been granted to the same party. Since petitioner is the applicant and permittee for Channel *18 at Booneville and Channel *22 at Senatobia, respectively, it is our understanding that the application for Channel *18 will be amended, as will the construction permit for Channel *22, to specify the replacement channels, on any adoption

by the Commission of the proposals set out in this proceeding.

7. After a careful analysis of: The responsibility, powers, and goal of the Mississippi Authority; the real need for strengthening educational television in Mississippi; the concrete steps petitioner has already taken; and the steps petitioner and the State of Mississippi have planned to meet the needs for education of the citizens of Mississippi; we have come to the judgment that it is in the public interest to set out petitioner's and the Commission's alternate proposals for examination and comment in this proceeding. See paragraph 5 above.

8. Authority for the action proposed herein, is contained in sections 4(i), 303, 307(b), and 316 of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations interested parties may file comments on or before August 3, 1971, and reply comments on or before August 13, 1971. All submissions by parties to this proceeding, or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

10. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission.

11. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-8913 Filed 6-23-71; 8:51 am]

[47 CFR Part 73]

[Docket No. 19046; FCC 71-636]

TELEVISION BROADCAST STATIONS

Table of Assignments, Gastonia and Monroe, N.C.; Report and Order Terminating Proceeding

In the matter of amendment of § 73.606(b) of the Commission's rules, Table of Assignments, Television Broadcast Stations (Gastonia and Monroe, N.C.).

1. This proceeding, begun by notice of proposed rule making issued October 12, 1970 (FCC 70-1102) concerns two possible UHF additions to the Television Table of Assignments (§ 73.606(b) of the rules), Channels 53 at Gastonia, N.C., and 66 at Monroe, N.C., both of which communities are within 25 miles of Charlotte. These would be the first channels assigned to these cities.

2. These assignments were sought in petitions filed in the mid-1960's by parties who are AM licensees at Belmont, N.C. (near Gastonia), and Monroe, respectively. They were proposed in a further notice issued in Docket 14229, the overall UHF allocation proceeding, in February 1966, and were supported by the petitioners and opposed by Charlotte Telecasters, Inc., then the permittee and later the licensee of Station WCTU-TV (now WRET-TV), the Charlotte independent UHF station. No action was taken until 1970, because it appeared that if the use of the upper UHF channels (70-83) for low-power "community" stations was decided on in Docket 14229, this might be a suitable approach to these situations, instead of regular TV assignments. However, in the "land-mobile" decision of May 1970 (Docket 18262), it was decided to use the upper UHF channels for land mobile operations, and accordingly further consideration of these two proposed regular assignments was required. It was decided to issue a notice of proposed rule making to permit more

² Commissioners Robert E. Lee and H. Rex Lee absent.

current submissions, and to do it in a new proceeding so that Docket 14229 could be terminated (all other matters at issue therein having been resolved). Accordingly the notice herein was issued. The notice herein stated that the Commission has reservations about whether these assignments should be made, chiefly with respect to whether—considering the small size of these places and their proximity to Charlotte—stations using the assignments could realistically be expected to be true local outlets for these cities, or would instead be simply additional Charlotte stations. However, it was also stated that even as really additional Charlotte assignments they did not appear to be out of the question, in view of that market's substantial size.

The comments filed. 3. Brief comments were filed by the original petitioners, both expressing lack of interest in the proposed assignments at least for the present, and mentioning such matters as intervening developments including CATV (with encouraged or required local program origination which can meet local needs), the present less than encouraging prospects for UHF, the somewhat slow state of the economy which makes financing difficult to get at present, and (for the Belmont petitioner) certain personal factors.

4. Three Charlotte licensees filed comments opposing the proposed assignments or either of them: these were the licensees of WSOC-TV (VHF) and WCCB-TV and WRET-TV (UHF). It was urged that the new stations could not realistically be expected to be entirely or primarily Gastonia or Monroe stations, these cities being simply too small to support a television operation primarily based on them, but would necessarily be additional stations competing in the Charlotte market. It was asserted that—located well within the Charlotte Grade A contours—they would compete for the same nonnetwork program material, thereby driving the price of such material (already boosted by the increased demand following the "prime time access rule") still higher, to the detriment of all; and that they would necessarily have to compete for the same national spot advertising dollar. It is asserted that the precarious history of UHF development in recent years in Charlotte—with WCCB-TV just beginning to establish a substantial position, and WRET-TV going through bankruptcy and a change in ownership even though continuing on the air—demonstrates that the additional competition from two new stations largely or entirely Charlotte station could well be ruinous to all UHF. Attention is called to CATV developments, with Gastonia having a large system now required to originate programming which can meet local needs, and systems there, at Charlotte (two) and elsewhere providing additional competition for the advertising revenues available. The existence of numerous radio stations in Gastonia and Monroe capable of meeting local programming needs (three

AM and one FM in Gastonia, two AM in Monroe) is also said to remove the need for a local TV outlet, along with the coverage which the Charlotte TV stations are said to give to matters of particular interest in these and other outlying places around Charlotte. The VHF licensees urge, also, that we should follow past Commission decisions (including one pertaining to Charlotte) in which we have declined to add channels until all of the presently assigned channels in an area are occupied; and that here there is an unused channel at South Hill, S.C. (sometimes included in the Charlotte market), as well as one at Kannapolis.

Conclusions. 5. We conclude that, in the absence of any present demand, and taking into account the other matters mentioned above, the making of the additional assignments at this time is not in the public interest. While we must, here as generally in decisions involving broadcasting, view with some skepticism contentions that a given city, market or area "cannot support" another station, nevertheless the combination of factors mentioned above must give us pause, particularly in the absence of any present demand for the assignments. We do not wish to take actions which might make more difficult situations which already have more than sufficient problems. Therefore, also taking into account that there are unused channels already assigned in the area (which, as mentioned, has been grounds for not assigning additional ones), we conclude that the assignments should not be made, at least at this time. If in the future there are other proposals which would affect the availability of these channels, we will again consider this matter, or, of course, if it is again raised by petition.

6. In view of the foregoing: *It is ordered*, That this proceeding, Docket No. 19046, is terminated.

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-8914 Filed 6-23-71; 8:51 am]

[47 CFR Part 74]

[Docket No. 19246]

CATV OPERATORS AND LICENSEES

Nondiscrimination in Employment Practices; Extension of Time for Filing Comments

Order. In the matter of amendment of the Commission's rules to require operators of community antenna television

¹ Commissioners Robert E. Lee and H. Rex Lee absent.

systems and community antenna relay station licensees to show nondiscrimination in their employment practices.

1. On June 10, 1971, the National Cable Television Association, Inc., requested that it be granted an extension of time to and including June 25, 1971, in which to file its comments in response to the Commission's notice of proposed rule making in Docket No. 19246. The Commission had previously specified June 11 and 21, 1971, respectively as the final dates for filing comments and reply comments regarding that notice.

2. In support of the requested extension, NCTA states that the additional time is needed for completion of NCTA committee studies of: (1) The proposed reporting forms, with a view to simplification of them, and (2) the overall impact on CATV systems of the proposed requirement that reports be filed by systems with five or more employees. It appears that the public interest would be served by granting the requested extension of time.

3. Accordingly, it is ordered, pursuant to § 0.289(c) (4) of the Commission's rules and regulations, That the National Cable Television Association, Inc.'s request for an extension of time to and including June 25, 1971, for it to file comments in response to the notice of proposed rule making in Docket 19246, is granted: *And it is further ordered*, That the period for filing reply comments responsive to the National Cable Television Association, Inc.'s comments is extended to and including July 7, 1971: *And it is further ordered*, That in all other respects the dates previously specified for filing of comments and reply comments with respect to the notice of proposed rule making in Docket No. 19246 shall remain unchanged.

Adopted: June 11, 1971.

Released: June 18, 1971.

[SEAL] SOL SCHILDHAUSE,
Chief, Cable Television Bureau.
[FR Doc. 71-8910 Filed 6-23-71; 8:51 am]

FEDERAL HOME LOAN BANK BOARD

[No. 71-592]

[12 CFR Part 545]

FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Amendment Relating to Loans in Excess of 90 Percent of Value

JUNE 17, 1971.

Resolved that the Federal Home Loan Bank considers it advisable to amend § 545.6-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.6-1) for the purpose of permitting Federal savings and loan associations to make loans on the security of homes in amounts in excess of 90 percent of the value thereof. Accordingly, the Federal Home Loan Bank Board proposes to amend said § 545.6-1 by adding, immediately after subparagraph (4), a new subparagraph (5) to paragraph (a) thereof, to read as follows:

§ 545.6-1 Lending powers under sections 13 and 11 of Charter K.

(a) Homes or combination of homes and business property. . . .

(5) Loans in excess of 90 percent of value. The limitation of 80 percent set forth in subdivision (i) of subparagraph (1) of this paragraph shall be 90 percent in the case of any loan with respect to which the requirements set forth in subdivisions (i), (iii), (iv), (v), (vi), and (viii) of subparagraph (4) of this paragraph are met and with respect to which the following additional requirements are met:

(i) The amount of the loan does not exceed the lesser of: (a) \$28,500, (b) 95 percent of the value of the real estate securing the loan, or (c) 95 percent of the purchase price of the security property;

(ii) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans made under this subparagraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 10 percent of the association's assets;

(iii) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans under this subparagraph and subparagraph (4) of this paragraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 30 percent of the association's assets; and

(iv) Either—
(a) That portion of the unpaid balance of such loan which is in excess of an amount equal to 80 percent of the value of the real estate is guaranteed or insured by a mortgage insurance company which has been determined to be a "qualified private insurer" by the Federal Home Loan Mortgage Corporation; or

(b) The association establishes and maintains a specific reserve with respect to such loan in an amount not less than 40 percent of the amount by which the unpaid principal balance of such loan exceeds an amount equal to 90 percent of the purchase price or the value of the real estate, whichever is less, determined at the time the loan was made.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC, 20552, by July 26, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc. 71-8917 Filed 6-23-71; 8:52 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management OREGON

Redelegation of Authority

JUNE 15, 1971.

1. Pursuant to the provisions of sections 1.1(a) and 1.1(a)(1) of Bureau Order No. 701 of July 23, 1964, as amended, authority is hereby redelegated to the following persons to take action in matters listed in sections 2.2(c), 2.4(a)(4), 2.6, and 2.9 of Part II of Bureau Order No. 701:

Chief, Branch of Records and Data Management.
Charles C. Brittain, Supervisory Record Specialist.
Mrs. Shirley Vessella, Legal Clerk, Land Law.

The Chief, Branch of Records and Data Management may also designate any qualified employee in his branch to certify as to the authenticity of copies of official records. The authority to take action on matters listed in sections 2.6 and 2.9 is limited to actions required to return unacceptable filings.

2. The authority delegated may not be redelegated except as provided in paragraph 1.

3. This redelegation of authority supersedes all previous redelegations.

ARCHIE D. CRAFT,
State Director.

[FR Doc.71-8930 Filed 6-23-71;8:53 am]

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m. July 15, 1971.

COPPER RIVER MERIDIAN, ALASKA

T. 1 S., R. 2 E.,
Sec. 2, lot 1;
Sec. 3, lots 1, 2, 3, 4;
Sec. 4, lots 1 through 5, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 5, lots 1, 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 6, lots 1 through 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 7, lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, lots 1 through 5, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 12, lot 1;
Sec. 13, lots 1, 2, 3, 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;
Sec. 19, lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;
Sec. 20, all;
Sec. 21, all;

Sec. 22, all;
Sec. 23, all;
Sec. 24, lots 1 and 2, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, SE $\frac{1}{4}$;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;
Sec. 31, lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;
Sec. 32, all;
Sec. 33, all.
Containing 16,136.31 acres.
T. 1 S., R. 3 E.,
Sec. 19, lots 1 through 6, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 20, lots 1, 2, 3, 4, S $\frac{1}{2}$;
Sec. 21, lots 1, 2, 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, lot 1;
Sec. 27, lots 1 through 5, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 28, lots 1, 2, 3, 4, W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 29, all;
Sec. 30, lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;
Sec. 31, lots 1, 2, 3, 4, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 32, lots 1, 2, 3, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 33, all;
Sec. 34, all;
Sec. 35, lots 1, 2, 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 36, lots 1, 2, 3.
Containing 5,603.42 acres.

2. The lands are situated along the right bank of the Copper River, approximately 20 miles southeast of Copper Center, Alaska. With the elevation ranging from 800 feet to 1,800 feet above sea level, the land is gently rolling with the approach to the Copper River marked by high bluffs and generally eroded slopes. Soil is generally sandy loam with growth of aspen, cottonwood, and spruce timber interspersed with alder, rose, and willow brush. There are numerous lakes and swamps with Willow Creek flowing southeasterly through the western portion of T. 1 S., R. 2 E.

3. Two land withdrawals by the Federal Power Commission, Power Projects 2138 and 2215, reserved under the provisions of section 24 of the Federal Power Act of June 10, 1920, as amended, embrace, in part, the following described lands:

COPPER RIVER MERIDIAN, ALASKA

T. 1 S., R. 2 E.,
Sec. 2, lot 1;
Sec. 3, lots 1, 2, 3, 4;
Sec. 4, lots 1 through 5;
Sec. 5, lots 1, 2, 3, 4;
Sec. 6, lots 1 and 2;
Sec. 10, N $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, lots 1 through 5, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 12, lot 1;
Sec. 13, lots 1, 2, 3, 4, SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 14, NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 24, lots 1 and 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 1 S., R. 3 E.,
Sec. 19, lots 1 through 6, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 20, lots 1, 2, 3, 4, S $\frac{1}{2}$;
Sec. 21, lots 1, 2, 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, lot 1;
Sec. 27, lots 1 through 5;
Sec. 28, lots 1, 2, 3, 4, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 29, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 30, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 35, lots 1, 2, 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 36, lots 1, 2, 3.

4. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 4582 dated January 17, 1969, as modified and amended by Public Land Order 4962 dated December 11, 1970, and the requirements of applicable law, rules, and regulations.

5. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska 99501.

CLARK R. NOBLE,
Land Office Manager.

[FR Doc.71-8883 Filed 6-23-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

USE OF TERM "ALL MEAT" OR "ALL (SPECIES)" ON FEDERALLY INSPECTED SAUSAGE PRODUCTS

Notice Concerning Court Decision and Order

By a complaint filed July 9, 1970, the Federation of Homemakers, brought an action against the Secretary of Agriculture and other officials of the Department of Agriculture in the U.S. District Court for the District of Columbia (C.A. No. 2057-70), seeking a declaratory judgment and injunctive relief against the Department's regulation permitting the use of the term "All meat" or "All (Species)" on frankfurter products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

After a hearing, the court issued a memorandum opinion, filed on April 21, 1971, which held that the use of such terms as applied to frankfurters is misleading and that the defendants should be enjoined from permitting any frankfurter products to be so labeled.

On May 5, 1971, the District Court entered a judgment enjoining the Secretary of Agriculture and the other defendants from permitting the term "All Meat" or "All (Species)" to be included on labels affixed to sausage products within the meaning of the standard in 9 CFR 319.180 under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

In addition, the order required the defendants to take all practicable steps necessary to stop the continued use of the "All Meat" or "All (Species)" labels by any official establishment as soon as

possible and provided that the defendants may not, in any event, permit the movement from any official establishment of any sausage product so labeled beyond 6 months after the date of the court order or the final disposition of an appeal should an appeal be taken.

The question as to whether an appeal will be taken is now under consideration.

The court's order further instructed the defendants to advise the industry of the order so as to facilitate its implementation. This notice is issued for the purpose of so advising the affected industry.

Done at Washington, D.C., on June 18, 1971.

CLAYTON YEUTTER,
Administrator.

Consumer and Marketing Service.
[FR Doc.71-8876 Filed 6-23-71;8:48 am]

Foreign Economic Development Service

ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Pursuant to the authority delegated to the Foreign Economic Development Service in section 194 of the Statement of Organization and Delegations appearing at 36 F.R. 6765, the Administrator, Foreign Economic Development Service, makes the following Statement of Organization, Functions, and Delegations of Authority of the Foreign Economic Development Service.

ORGANIZATION AND FUNCTIONS

SECTION 1. *General.* The Foreign Economic Development Service, hereinafter referred to as "FEDS", was created by the Secretary of Agriculture on December 1, 1969, pursuant to his authority under Reorganization Plan No. 2 of 1953 (18 F.R. 3219; 67 Stat. 633). The offices of FEDS are located in Washington, D.C.

Sec. 2. *The Office of the Administrator.*—(a) *The Administrator.* The Administrator is responsible for general direction and supervision of the U.S. Department of Agriculture's (USDA) program responsibilities and activities in foreign development assistance and training programs, and development of effective relationships with international and U.S. organizations in carrying out such programs under sections 301 and 302 of the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1451-1452); the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2161-2169, 2171-2178, 2211-2213, 2241-42, 2357, 2387, 2388); the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458); and section 109 of the Agricultural Trade and Development Assistance Act of 1954, as amended (7 U.S.C. 1709). These programs are carried out through three regional development programs (African Region, Asian Region, and Latin American Region), one training division (Foreign Training Division),

and three functional groups (Nutrition and Agribusiness, Program Development and Analysis, and Program Support), located in Washington, D.C.

(b) *Deputy Administrator.* The Deputy Administrator is responsible for participating with the Administrator in the overall planning and formulation of all policies, programs, and activities of FEDS.

Sec. 3. *Foreign Economic Development Service Programs.* The Regional Development Program Offices, the Foreign Training Division, Nutrition and Agribusiness Group, Program Development and Analysis Group, and Program Support Group, under the administrative direction of the Administrator and Deputy Administrator, are responsible as follows:

(a) *Regional Development Program Offices* (African Region, Asian Region, Latin American Region). The Regional Development Program Directors are responsible for:

1. Arranging for, coordinating and directing the resources of the USDA in the planning, development, implementation, and evaluation of country and regional agricultural technical assistance and development programs.

2. Preparation of Participating Agency Service Agreements (PASA's), recruitment, orientation, backstopping, program support and servicing of technicians for long- and short-term assignments for AID, Peace Corps, and international organizations.

3. Coordinating recruitment and assignment, and direction of USDA personnel on detail or loan to other Government agencies or international organizations.

(b) *Foreign Training Division.* The Foreign Training Division is responsible for:

1. Coordinating and directing the development, implementation, and supervision of training, study, consultation, and observation programs in agriculture, home economics, and related subjects for foreign officials, leaders, scientists, technicians, and other nationals sponsored by agencies of the U.S. Government, international organizations, other public or private groups and foreign governments.

2. Arranging for and directing utilization of resources made available by agencies of the USDA, land-grant institutions, other departments of Government, other public institutions or agencies, and international and private institutions for meeting the objective of training in the United States of foreign nationals.

3. Directing the orientation of foreign participants on the objectives and operations of their training program, and the agricultural customs, life and situations, agricultural institutions, agencies and organizations in the United States.

4. Directing the analysis and evaluation of training processes employed, of training program results, and the work of participants.

5. Planning and administering the records and controls required for participant maintenance while in the United States.

(c) *Nutrition and Agribusiness Group.* The Nutrition and Agribusiness Group is responsible for:

1. Planning and administering programs to increase the protein content of diets and protein-poor countries by increasing the contribution of cereal grains and other nonanimal sources to the protein economy and by developing new protein foods based on low-cost protein sources.

2. Exploring the immediate potential for improving the protein quality of vegetable resources by supplementing them and/or their products with amino acids, protein concentrates, and other nutrients.

3. Developing food products and developing means for manufacturing them in host countries.

(d) *Program Development and Analysis Group.* The Program Development and Analysis Group is responsible for:

1. Planning and developing new areas of cooperation with AID in foreign assistance including USDA's technical assistance, training and self-help activities and evaluation of current or completed programs.

2. Improving the USDA's agricultural development competence through seminars, orientation of personnel and analyses of economic development in the less developed countries.

3. Providing staff support for the Office of the Administrator on program policies, liaison with international organizations, analyses of U.S. legislation, foundation programs and other activities affecting U.S. foreign assistance programs.

(e) *Program Support Group.* The Program Support Group is responsible for:

1. Planning and coordinating Departmental staff functions necessary for more effective USDA agricultural development programs.

2. Developing overall Departmental operating policies and procedures for development assistance programs.

3. Providing technical information services to U.S. employees overseas, other Government agencies, international and private organizations, foreign nationals, and others interested in agricultural development of less developed countries.

4. Providing communication training to foreign nationals and assisting USDA technicians overseas on production and use of audio-visual aids, and on education/communication problems.

Sec. 4. *Management Services.* The responsibility for administering the administrative management functions, including budget, fiscal, personnel, and administrative services activities of FEDS is in the Office of Management Services, an agency of the USDA.

DELEGATIONS OF AUTHORITY

Sec. 5. *Deputy Administrator.* The Deputy Administrator is hereby delegated the authority to perform all the

duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is, or may be, reserved to the Administrator.

Sec. 6. *Foreign Economic Development Service Regional Development Programs, Divisions, and Groups.* The Directors of the African Region, Asian Region, and Latin American Region Development Programs, the Foreign Training Division, the Nutrition and Agribusiness Group, the Program Development and Analysis Group, and the Program Support Group are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and to exercise all functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is, or may be, reserved to the Administrator or Deputy Administrator.

Sec. 7. *Concurrent Authority and Responsibility.* No delegation or authorization prescribed herein shall preclude the Administrator or Deputy Administrator from exercising any of the powers of functions or from performing any of the duties conferred herein. Any such delegation or authorization is subject at all times to withdrawal or amendment by the Administrator and by the Deputy Administrator. The officers to whom authority is delegated herein shall (a) maintain close working relationships with the officers to whom they report, (b) keep them advised with respect to major problems and developments, and (c) discuss with them proposed actions involving major policy questions or other important considerations or questions, including matters involving relationships with federal agencies, other agencies of the Department, other divisions or offices of FEDS or other governmental or private organizations or groups.

Sec. 8. *Prior Authorizations and Delegations.* Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignments of functions.

AVAILABILITY OF INFORMATION AND RECORDS

Sec. 9. *Availability of Information and Reports.* The availability of information and records of FEDS is governed by the Code of Federal Regulations, Title 7, Chapter XXI.

Issued at Washington, D.C. this 15th day of June 1971.

QUENTIN M. WEST,
Administrator.

[FR Doc.71-8894 Filed 6-23-71;8:50 am]

Packers and Stockyards Administration

B AND H SALES STABLE ET AL.

Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets

named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard and date of posting

B and H Sales Stable, Keedysville, Md., June 28, 1965.
William M. Dye Stockyards, Asheboro, N.C., July 22, 1964.
Chocowinity Stockyard, Chocowinity, N.C., July 9, 1959.
Elizabethtown Livestock Market, Elizabethtown, N.C., May 22, 1959.
Avery County Livestock Co., Spruce Pine, N.C., Sept. 26, 1962.
A. B. Jackson Livestock Barn, Tabor City, N.C., Apr. 28, 1961.
Bristol Horse & Mule Commission Co., Bristol, Va., Jan. 25, 1963.
Southwest Horse Auction Company, Inc., Christiansburg, Va., June 26, 1964.
Bluegrass Market, Inc., Ronceverte, W. Va., Nov. 3, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not depositing promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER (6-24-71).

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 21st day of June 1971.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71-8895 Filed 6-23-71;8:50 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23 (67)-14]

ERWIN BRANDENSTEIN AND
WILHELM ROTH G.m.b.H.

Order Terminating Indefinite Denial Order

In the matter of Erwin Brandenstein and Wilhelm Roth G.m.b.H., Ebersbergerstrasse 12, 8 Munich 80, West Germany.

On January 26, 1970, effective on February 3, 1970, 35 F.R. 2461, an order was entered against the above respondents and related parties named on said order denying them, for an indefinite period, all privileges of participating in transactions involving commodities or tech-

nical data exported or to be exported from the United States because the respondents failed to answer interrogatories duly served in accordance with section 388.15 of the Export Control Regulations without showing good cause for such failure.

The respondents have now furnished responsive answers to the interrogatories and pursuant to section 388.15 are entitled to have the indefinite denial order terminated.

Accordingly, the above mentioned indefinite denial order of January 26, 1970, is hereby terminated against respondents and the following related parties:

Interelektrik G.m.b.H. & Co. KG, Bad Aibling, West Germany.
Panther Elektrik G.m.b.H., and Panther Elektrik G.m.b.H. & Co. KG, Munich, West Germany.
Marcus-Elektronik G.m.b.H., Munich, West Germany.

Dated: June 18, 1971.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.71-8882 Filed 6-23-71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FREEPORT KAOLIN CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 1B2689) has been filed by Freeport Kaolin Co., Gordon, Ga. 31031, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of kaolin modified by reaction with fatty acid titanates as a component of articles for food-contact use.

Dated: June 18, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8858 Filed 6-23-71;8:46 am]

PROCTER & GAMBLE CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 1B2687) has been filed by the Procter & Gamble Co., Ivorydale Technical Center, Cincinnati, Ohio 45217, proposing that § 121.2520 Adhesives (21 CFR 121.2520) be amended to provide for the safe use of triglycidyl ether of n-propoxylated glycerine in adhesives intended for use in food-contact articles.

Dated: June 16, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8859 Filed 6-23-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-268]

GENERAL ELECTRIC CO.

Order Extending Provisional Construction Permit Completion Date

By application dated May 27, 1971, General Electric Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPCSF-3. The permit authorizes General Electric Co. to construct an irradiated fuel reprocessing plant, known as the Midwest Fuel Recovery Plant, at the company's site in Grundy County, Ill.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPCSF-3 is extended from July 1, 1971, to April 1, 1972.

Dated at Bethesda, Md., this 17th day of June, 1971.

For the Atomic Energy Commission,

RICHARD E. CUNNINGHAM,
Acting Director,
Division of Materials Licensing.

[FR Doc.71-8847 Filed 6-23-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 22686, 22687; Order 71-6-103]

AIR WEST, INC.

Order Regarding Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of June 1971.

Application of Air West, Inc., for amendment of its certificate of public convenience and necessity for route 76, Docket 22686. Application of Air West, Inc., for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, Docket 22687.

Hughes Air Corp. doing business as Air West (Air West) has filed an application in Docket 22686 requesting an amendment of its certificate of public convenience and necessity for route 76 to authorize nonstop service between Los Angeles-Ontario and Eureka-Arcata, Calif. Contemporaneously, the carrier has filed an application in Docket 22687 seeking the same authority by exemption.

Air West states that there is now sufficient traffic to support a nonstop Eureka-Los Angeles service on an economic basis, and that grant of the requested authority would permit significantly improved Eureka-Los Angeles and

Air West has existing one-stop authority between these points via San Francisco, the junction point of segments 1 and 3 of the carrier's route 76.

Eugene, Oreg.-Los Angeles service by-passing the congested San Francisco area.² The carrier asserts that the non-stop authority would result in a lower level of expenses for it without producing any measurable amount of diversion from any other carrier.³

No answers in opposition to Air West's applications have been filed.

Upon consideration of the foregoing, and all the relevant facts, the Board has decided to issue an order to show cause proposing to amend Air West's certificate as requested. In addition, we will grant Air West an exemption on a pendente lite basis to permit nonstop service between Los Angeles and Eureka-Arcata.

We tentatively find and conclude that the public convenience and necessity require amendment of Air West's certificate for route 76 so as to authorize non-stop service between Los Angeles-Ontario and Eureka-Arcata, and that the carrier is fit, willing, and able properly to perform the air transportation proposed herein and to conform to the provisions of the Federal Aviation Act and the rules, regulations, and requirements of the Board thereunder. The authority will be ineligible for subsidy. In support of our ultimate findings, we tentatively find that the required stop at San Francisco serves no useful purpose and that its elimination will permit Air West to provide expedited service for a substantial number of Eureka/Eugene-Los Angeles passengers.⁴ The proposed authorization will enable the carrier to achieve greater operating flexibility and realize cost savings and we find that no other air carrier will be significantly affected by grant of this award.

Interested persons will be given 20 days from the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be supported by legal precedent and detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. Gen-

² The carrier indicates that bypassing San Francisco would permit an average time saving of approximately 1½ hours in each direction for Eureka passengers and approximately 1 hour for Eugene passengers over the presently available service.

³ Air West asserts that it would continue to provide service in the San Francisco-Eureka/Eugene markets sufficient to meet the needs of the local traffic.

⁴ Air West would provide first nonstop service for Eureka passengers and first northbound single-plane service for Eugene passengers. United currently operates a single southbound two-stop flight, leaving Eugene at 3 p.m. O.A.G., June 1, 1971.

eral, vague, or unsupported objections will not be entertained.⁵

We also find that grant of exemption authority pendente lite is warranted. The relief granted is limited and temporary and involves no new stations for Air West.⁶ Air West is authorized in the markets in question and the effect of our exemption would be to afford the carrier increased operating flexibility and cost savings without causing any significant adverse impact on any other air carrier. There is no opposition to the exemption. We find that it would be an undue burden, under the circumstances here presented, to deprive the carrier of the operational efficiencies and cost savings that will inure to it under the exemption authorized herein during the pendency of its application for an amendment of its certificate.

Accordingly, we find that enforcement of section 401 with respect to the service described above would be an undue burden on the carrier by reason of the limited extent of, and the unusual circumstances affecting, its operations, and is not in the public interest.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending Hughes Air Corp.'s certificate of public convenience and necessity for route 76 so as to authorize nonstop service between Los Angeles-Ontario, Calif., and Eureka-Arcata, Calif., on a subsidy-ineligible basis;

2. Any interested person having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration

⁵ We appreciate that Air West's applications fall within the class of cases which subpart M of the Board's Rules of Practice was designed to accommodate and that, for reasons set forth in Order 70-10-127, Oct. 28, 1970, should have been filed under subpart M procedures. We note, however, that the carrier's applications were filed prior to the date of our order reaffirming the utility of our subpart M procedures. Under these unusual circumstances, we do not believe it desirable to require the carrier to refile under subpart M. We are in no way abrogating our policy of requiring applications, such as those presented here, to be filed under the appropriate subpart M procedures, however, and, in the event a hearing should prove warranted in this case, we intend to proceed under subpart M.

⁶ The initial service would involve a Los Angeles-Eureka-Eugene-Portland-Pasco round trip operated with DC-9-30 equipment.

will be accorded the matters and issues raised by the objections before further action is taken by the Board:

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein:

5. Hughes Air Corp., Inc., be and it hereby is temporarily exempted from the provisions of section 401 of the Act, and the terms, conditions, and limitations of its certificate of public convenience and necessity for route 76, to the extent that they would otherwise prevent the carrier from operating nonstop service between Los Angeles-Ontario and Eureka-Arcata, Calif.;

6. The exemption authority granted herein shall be effective until 60 days following final Board decision in Docket 22686;

7. The exemption authority granted herein may be amended or revoked at any time in the discretion of the Board without hearing; and

8. A copy of this order shall be served upon the following: Air California, American Airlines, Braniff Airways, Continental Air Lines, Eastern Air Lines, Delta Air Lines, National Airlines, Northeast Airlines, Northwest Airlines, Pacific Southwest Airlines, Trans World Airlines, United Air Lines, Western Air Lines, the Governors of the States of California and Oregon, the mayors of the cities of Los Angeles, San Francisco, Eureka, Eugene, and Portland, Oreg., the California Public Utilities Commission, the chambers of commerce of Los Angeles, San Francisco, Eureka, Eugene, and Portland, and the Postmaster General (Attention: Assistant Postmaster General, Bureau of Transportation).

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 71-8896 Filed 6-23-71; 8:50 am]

[Dockets Nos. 21604, 21695]

ALOHA AIRLINES, INC., AND HAWAIIAN AIRLINES, INC.

Notice of Further Postponement of Hearing

Aloha Airlines, Inc. v. Hawaiian Airlines, Inc., Docket 21604; Hawaiian Airlines, Inc. v. Aloha Airlines, Inc., Docket 21695; enforcement proceedings.

Upon consideration of the request of Hawaiian Airlines, Inc., dated June 16, 1971, and the responses thereto of Aloha Airlines, Inc., and the Bureau of Enforcement, notice is hereby given that the hearing in the above-entitled matters is further postponed to be held on July 20, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Examiner.

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Dated at Washington, D.C., June 18, 1971.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[FR Doc. 71-8897 Filed 6-23-71; 8:50 am]

[Docket No. 23517; Order 71-6-101]

AMERICAN AIRLINES, INC., ET AL.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of June 1971.

American Airlines, Inc. (American), Braniff Airways, Inc. (Braniff), Delta Air Lines, Inc. (Delta), and National Airlines, Inc. (National), propose¹ that after August 31, 1971, tickets for military fares will be issued only on presentation of a Department of Defense Form No. 1580. Presently, these carriers will issue such tickets upon presentation of a Form 1580 or a copy of the passenger's official orders or other proof of authorized military leave or discharge. These same carriers also propose that in instances where the military passenger on emergency leave pays a higher fare due to the nonavailability of a Form 1580 at the time of ticket purchase, the carrier will later make an appropriate refund upon subsequent presentation of that form.

In support of their proposals, the carriers allege that they are being made to comply with an ATC resolution.

An untimely complaint was filed by the Department of Defense. No reason for its late filing accompanied the complaint and it will not be considered herein. No other complaints were filed.

Upon consideration of all relevant matters, the Board finds that the proposals may be unjust, unreasonable, unduly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the tariffs should be suspended pending investigation.

The carriers' justifications contain no explanation or discussion of the merits of their proposals nor is the ATC resolution, which has not yet been acted upon by the Board, accompanied by such a discussion.

It would appear that the proposal may result in some hardship to military personnel, particularly those on emergency leave, and we believe it should not be permitted in the absence of any apparent or stated need for the revision.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the symbol "#" and its explanation shown in connection with provisions in Rule 160(C)(8) on eighth and ninth Revised Pages 66 of Airline

¹ Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 142.

Tariff Publishers, Inc., Agent's CAB No. 142, and rules, regulations, or practices affecting such provisions are or will be unjust, unreasonable, unduly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions:

2. Pending hearing and decision by the Board, the symbol "#" and its explanation shown in connection with provisions in Rule 160(C)(8) on eighth and ninth Revised Pages 66 of Airline Tariff Publishers, Inc., Agent's CAB No. 142 are suspended (except from and to points in Canada) and their use deferred to and including September 17, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The complaint of the Department of Defense in Docket 23474 is hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed with the aforesaid tariffs and be served upon American Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., and National Airlines, Inc., which are hereby made parties to this proceeding, and upon the Department of Defense.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 71-8898 Filed 6-23-71; 8:50 am]

[Docket No. 23291; Order 71-6-95]

CASCADE AIRWAYS, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority June 17, 1971.

The Postmaster General filed a notice of intent April 16, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 44 cents per great circle aircraft mile for the transportation of mail by aircraft between Spokane, Wash., and Portland, Oreg., via Pasco, Wash., based on five round trips per week.

Northwest Airlines, Inc., filed an objection stating that it provides regular scheduled service between Spokane and Portland, its mail rates are lower than those proposed for Cascade, the Postal Service has failed to establish a cost/need relationship and it is concerned with the possible loss of mail during a decline in traffic and generally poor economic conditions.

The Postmaster General in its answer to the Northwest objection states that the

proposed air taxi service includes Pasco, Wash., which is not served by Northwest. Also, that the air taxi service is supplemented to that provided by the certificated carriers since their schedules do not always permit the necessary connections for the delivery of mail. In addition, a cost/need relationship is determined by certain service standards maintained in the public interest which are not affected by fluctuations in the volume of mail.

The Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. It is noted that the air taxi service appears to supplement the schedules provided by the certificated carriers and allow the Postal Service through better connections to improve its delivery of mail to the public. Furthermore, the diversion of mail from Northwest should be minimal since this carrier does not serve Pasco, Wash. Therefore, upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order¹ to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Cascade Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 44 cents per great circle aircraft mile between Spokane, Wash., and Portland, Oreg., via Pasco, Wash., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f), It is ordered, That:

1. Cascade Airways, Inc., the Postmaster General, Hughes Air Corp., doing business as Air West, Northwest Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Cascade Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written an-

¹ As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

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swer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Cascade Airways, Inc., the Postmaster General, Hughes Air Corp., doing business as Air West, Northwest Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 71-8899 Filed 6-23-71; 8:50 am]

[Dockets Nos. 21866-9, 23460; Order 71-6-104]

DELTA AIR LINES, INC., AND EASTERN AIR LINES, INC.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of June 1971.

By tariff revisions¹ marked to become effective July 1, 1971, Delta Air Lines, Inc. (Delta), and Eastern Air Lines, Inc. (Eastern), propose to revise the application of their night-coach fares to permit these fares to apply on eastbound flights originating at Dallas/Fort Worth and Houston between the hours of 9 p.m. and 4 a.m. Presently these fares apply between the standard night-coach hours of 10 p.m. and 4 a.m.

Braniff Airways, Inc. (Braniff), has filed a complaint requesting suspension and investigation of the proposal. Braniff alleges that night-coach fares are basically for the purpose of improving aircraft utilization and that no such justification is present for operations earlier than 10 p.m.; that Eastern alleges no competitive justification for its 9 p.m. departure from Dallas; and that if Eastern's proposal is permitted other carriers may have to do likewise for competitive reasons. Braniff also points out that Eastern erred in its justification when alleging that the 9 p.m. departure time at Houston is to meet a competitive

¹ Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 136.

² Delta states that its proposal is solely for defensive reasons.

night-coach service of Delta, which Eastern acknowledges in its answer to the complaint.

In support of its proposal and in answer to the complaint, Eastern alleges that the 9 p.m. departures at Dallas and Houston are necessary to permit through night-coach service beyond Atlanta, since with a later departure time connections with numerous night-coach flights out of Atlanta would not be possible. Eastern asserts that, while establishment of night-coach service out of Dallas at 9 p.m. is not required by the existence of competitive service, such a departure is offpeak and will improve equipment utilization. Eastern has submitted load-factor data indicating that flights after 8 p.m. in the Dallas market have very poor load factors in relation to earlier departures. Regarding the 9 p.m. Houston departure, Eastern points out that Delta presently has in effect an exception to the standard night coach hours which permits a Houston departure to Atlanta via New Orleans as early as 8:40 p.m.

Upon consideration of all relevant matters, the Board finds that the complaint does not set forth facts sufficient to warrant suspension, and consequently the request therefor will be denied. This matter is already under investigation in Phase 9 of the Domestic Passenger-Fare Investigation.

Data submitted by Eastern indicates that in July of 1970 load factors on flights departing as early as 8 p.m. in the Dallas-Atlanta market were considerably lower than those which departed earlier in the day. While Eastern has not provided any load-factor data for Houston departures, we note that of the 12 flights in that market in June 1971, only two departed later than 4:35 p.m. This would appear to support the contention that a 9 p.m. departure is in fact offpeak in this market.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. The complaint of Braniff Airways, Inc., in Docket 23460 is hereby dismissed; and

2. A copy of this order be served upon Braniff Airways, Inc., Delta Air Lines, Inc., and Eastern Air Lines, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 71-8900 Filed 6-23-71; 8:50 am]

[Docket No. 23333; Order 71-6-92]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Cargo Rate Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of June 1971.

Agreements have been filed with the Board pursuant to section 412(a) of the

Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 and Joint Conference 3-1 of the International Air Transport Association (IATA). The agreements, which were adopted for early effectiveness at the Worldwide Cargo Conference beginning May 11, 1971, in Singapore, have been assigned the above-designated CAB agreement numbers.

The subject agreements, insofar as they apply in air transportation as defined by the Act, would amend the currently existing specific commodity rate structures within the Western Hemisphere and on transpacific routes by the naming of rates in additional markets under existing commodity descriptions, as set forth in the attachment hereto.¹

While we are herein approving the additional specific commodity rates

¹ Attachment filed as part of the original document.

Agreement CAB	IATA No.	Title	Application
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22460:
R-2..... 5901..... Traffic Conference 1 Specific Commodity Rates (EXPEDITED)— 1.
Insofar as it relates to IATA Commodity Item 2420.

2. It is not found that the following resolutions, incorporated in Agreement CAB 22460, as indicated, are adverse to the public interest or in violation of the Act: *Provided*, That approval thereof is conditioned as hereinafter ordered:

Agreement CAB	IATA No.	Title	Application
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22460:
R-1..... 5901..... Traffic Conference 1 Specific Commodity Rates (EXPEDITED)..... 1.
R-2..... 5901..... Traffic Conference 1 Specific Commodity Rates (EXPEDITED)— 1.
Insofar as it relates to IATA Commodity Item 2420.
R-3..... 5901..... JT 3/1 Specific Commodity Rates (EXPEDITED)..... 3/1.

Accordingly, it is ordered, That:

1. That portion of Agreement CAB 22460 described in finding paragraph 1 above be and hereby is disapproved; and

2. Those portions of Agreement CAB 22460 described in finding paragraph 2 above be and hereby are approved; *Provided*, That, insofar as air transportation as defined by the Act is concerned, approval shall not extend beyond September 30, 1971: *Provided further*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication and that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 71-8901 Filed 6-23-71; 8:50 am]

agreed upon for early effectiveness on July 1 and July 15, 1971, we will limit such approval so as to expire with the present worldwide cargo rate structure, i.e., September 30, 1971, in order that the instant revisions, which are intended to be effective through September of 1973, may be considered in relation to the overall Western Hemisphere and transpacific rate structures which may emanate from the Singapore Conference. On the other hand, we will herein disapprove rates agreed for September 1, 1971, effectiveness under Item 2420 (Shoes and Slippers) inasmuch as they are at higher rate levels than currently existing general cargo rates for the agreed markets, i.e., Buenos Aires/Montevidео/Porto Alegre to Los Angeles/Miami/New York, and no basis has been submitted for the premiums involved.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is found that the following resolution, incorporated in Agreement CAB 22460, as indicated, is adverse to the public interest and in violation of the Act:

the public interest or in violation of the Act: *Provided*, That approval thereof is conditioned as hereinafter ordered:

Agreement CAB	IATA No.	Title	Application
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22460:
R-1..... 5901..... Traffic Conference 1 Specific Commodity Rates (EXPEDITED)..... 1.
R-2..... 5901..... Traffic Conference 1 Specific Commodity Rates (EXPEDITED)— 1.
Insofar as it relates to IATA Commodity Item 2420.
R-3..... 5901..... JT 3/1 Specific Commodity Rates (EXPEDITED)..... 3/1.

[Docket No. 23437]

LOFTLEIDER, H.F., AND SEABOARD WORLD AIRLINES, INC.

Notice of Proposed Approval

Application of Loftleider, H.F. and Seaboard World Airlines, Inc., for approval pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended, Docket 23437.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 5 days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., June 21, 1971.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

[FR Doc. 71- Filed - 71; am]

ORDER OF APPROVAL

Issued under delegated authority. Applications of Loftleider, H.F. and Seaboard World Airlines, Inc., for approval pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended, Docket 23437.

Loftleider, H.F. and Seaboard World Airlines, Inc. (Seaboard), have jointly requested approval, pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended (the Act), of the lease of one Douglas DC 8-63F aircraft for the period June 22, 1971, through September 30, 1971, on essentially the same terms and conditions as a previous lease from Seaboard to Loftleider which was approved by the Board.¹

In support of the request, Seaboard states that the aircraft is one of nine aircraft which constitute its operating fleet but is not presently required either to meet its certificated obligations or military requirements. Seaboard states that this is the slow season for transatlantic cargo traffic and further that the Military Airlift Command has reduced its civil airlift requirements further than was earlier estimated. Seaboard maintains, in view of the substantial operating losses it has been experiencing, that the revenue from the leased aircraft is vitally needed at this time.² Because of the limitations of its operations to cargo and mail plus the limited access it has even in these markets, Seaboard contends that it has no opportunity to offset its losses in these areas with profits from other operations. Applicants submit that the aircraft will be operated in accordance with arrangements for the operation of air services between the governments of Iceland and the United States; that the lease was entered into after arm's length bargaining and is fair to all parties and consistent with the public interest; that it does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not create a monopoly and thereby restrain competition or jeopardize another air carrier. Seaboard maintains that its needs and interests dictated the transaction and that the Board has never interfered in such cases. Under these circumstances Seaboard believes that approval without hearing under the third proviso of section 408 is warranted.

No comments relative to the application have been received. Seaboard is an air carrier and Loftleider is a foreign air carrier; thus the lease of the aircraft, which is considered a substantial part of Seaboard's property, requires approval under section 408(a)(2) of the Act. However, it is further concluded that the lease transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not create a monopoly and thereby restrain competition, and does not jeopardize another air carrier. Furthermore, no person disclosing a substantial interest in this proceeding is currently requesting a hearing and it is concluded that the public interest does not require a hearing. The Board has previously considered and approved similar transactions between the parties³ and the additional transaction described herein does not raise any new issues. Therefore it is not found that this transaction will be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled.

¹ Orders 70-5-20 and 70-5-111, May 7 and 21, 1970.
² Seaboard's losses before taxes in the first quarter of 1971 were \$400,000.
³ Order 70-5-111, supra.

Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the provisions of section 408(b) of the Act.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing transaction should be approved under section 408(b) of the Act without a hearing.⁴

Accordingly, it is ordered, That:

1. The leases of the aircraft, as described herein, by Seaboard to Loftleider be and it hereby is approved; and

2. Jurisdiction in this proceeding is retained for the purpose of taking such further action as may be required by the public interest.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall become effective upon date of issuance and the filing of such petitions shall not stay its effectiveness.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-8902 Filed 6-23-71; 8:50 am]

[Docket No. 23167]

TEXAS-MEXICO SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on July 20, 1971, at 10 a.m., e.d.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues and other details involved in this proceeding, interested persons are referred to Order 71-3-48, dated March 8, 1971, Order 71-4-150, dated April 23, 1971, and Order 71-5-79, dated May 17, 1971; the prehearing conference report, served May 24, 1971; and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 18, 1971.

[SEAL] ROBERT L. PARK,
Hearing Examiner.

[FR Doc. 71-8903 Filed 6-23-71; 8:50 am]

⁴ It is further found, pursuant to 14 CFR 385.6 that the actions taken herein are governed by prior Board precedent and policy, and that immediate action is required to enable effectuation of the transaction; therefore, it is determined that the filing of petitions for review of this order will not preclude this order from becoming effective immediately.

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, June 22, 1971. The hearing will take place in the South Auditorium of the ASTM Building, 1916 Race Street in Philadelphia, beginning at 2 p.m. The hearing will be on proposals to amend the Comprehensive Plan so as to include the following projects:

1. *Upper Merion Township Authority.* A project to construct sanitary sewers and an interceptor along Gulph Creek to serve Upper Merion Township, Montgomery County, Pa. The interceptor, composed of 8- and 10-inch-diameter pipe, will connect with the Authority's existing Matsunk sewage treatment plant. Ultimate discharge will be to the Schuylkill River.

2. *New Castle County.* A sewage interceptor construction program to relieve the entire North Delaware Interceptor System and a portion of the city of Wilmington sewerage system. The program consists of the Edgemoor interceptor located northeast of Wilmington and the Governor Printz Upper located just south of the Delaware-Pennsylvania State line. Ranging in size from 24- to 66-inch diameter, the interceptors will convey sewage to the Wilmington sewage treatment plant.

3. *New Castle County (Port Penn Sanitary District).* A project to construct sanitary sewers and a package treatment plant in St. Georges Hundred, New Castle County, Del. The package plant will serve approximately 500 persons in the uninhabited town of Port Penn and will provide high level secondary treatment. Treated effluent will discharge to the Delaware River.

4. *Borough of Downingtown.* An interceptor sewer project to serve Downingtown Borough and several adjacent townships in Chester County, Pa. Designated as Sections IV and V, the new interceptor will parallel Park Run and East Branch of Brandywine Creek and is designed to serve an ultimate population of 42,000 people. Sewage will be conveyed to the Borough treatment plant for ultimate discharge into Brandywine Creek.

5. *Valley Forge Sewer Authority.* An interim package type treatment plant to serve approximately 1,300 persons in a portion of Schuylkill Township, Chester County, Pa. About 95 percent of BOD₅ and suspended solids will be removed from the waste water prior to discharge into a tributary of French Creek. The plant will be abandoned when a regional system becomes available.

6. *Borough of Bristol.* Expansion of the Borough of Bristol sewage treatment

plant in Bucks County, Pa. Capacity will be increased from 1 to 4 million gallons per day and will provide removal of 95 percent of BOD₅. Treated effluent will discharge into the Delaware River.

7. *City of Bethlehem.* Expansion of the city's existing sewage treatment plant in Northampton County, Pa. Expansion will increase the capacity to 15.5 million gallons per day. About 90 percent of BOD₅ will be removed from waste prior to discharge to the Lehigh River.

Documents relating to the above items may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission. (609) 883-9500.

W. BRINTON WHITALL,
Secretary.

JUNE 9, 1971.

[FR Doc. 71-8848 Filed 6-23-71; 8:45 am]

FEDERAL MARITIME COMMISSION

CITY OF LONG BEACH AND TRANSOCEAN GATEWAY CORP.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Leonard Putnam, City Attorney, City of Long Beach, Suite 600 City Hall, Long Beach, Calif. 90802.

Agreement No. T-2214-2, between the city of Long Beach and Transocean Gate-

way Corp., modifies the basic agreement, as amended, which provides for the non-exclusive preferential assignment of certain terminal facilities at Long Beach, Calif. The purpose of the modification is to add to the assigned premises (1) the wharf and wharf premises at Berth 245, Pier J, (2) a new Parcel III, and (3) provide for the necessary increases in compensation, which are set forth in detail in the modification. The modification further provides for the construction of an addition to the existing container freight station located upon the premises, subject to an increase in the minimum and maximum compensation.

Dated: June 18, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8878 Filed 6-23-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-284]

EL PASO NATURAL GAS CO.

Notice of Application

JUNE 15, 1971.

Take notice that on June 1, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79999, filed in Docket No. CP71-284 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain compressor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks permission and approval to abandon, by removal and salvage, four 2,000 horsepower reciprocal compressor units and appurtenant facilities at its Driver Compressor Station located in Midland County, Tex. Applicant states that these units, among others, were installed pursuant to Commission authorization in Docket No. G-2106 and that the continued decline in the availability of casinghead gas from the Spraberry Field in Midland and Glasscock Counties, Tex., has made these units surplus. Applicant also states that there will be no reduction or termination of service to any of its customers as a result of the proposed abandonment of these compressor units because the remaining units will be adequate for any gas which may be available at this location. The estimated cost of the abandonment proposed herein is \$99,450.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in deter-

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mining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8850 Filed 6-23-71;8:45 am]

[Docket No. RP71-128]

FLORIDA GAS TRANSMISSION CO.

Notice of Existing Curtailment Procedures

JUNE 15, 1971.

Take notice that on May 17, 1971, Florida Gas Transmission Co. (Florida Gas) filed a written report, pursuant to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, stating that it "... anticipates no operating conditions or gas supply shortages that will require curtailment of deliveries to meet the firm obligations to its wholesale customers or its direct sale and transportation customers during the 1971-72 heating season."

While Florida Gas does not anticipate making curtailments below contract demand, it states that section 9 of its FPC Gas Tariff presently on file with the Commission specifies an ascending order of interruption to protect firm service. Section 9, priority of service: Provides, That during the periods when operating conditions require curtailments or interruptions in interruptible service, Florida Gas shall curtail or interrupt deliveries of gas to direct-sale industrial consumers and to Buyers under its Rate Schedule I in the following order: (1) Direct-sale "Primary Interruptible" Consumers, (2) Direct-sale "Intermediate Interruptible" Consumers, (3) Direct-sale "Preferred Interruptible" Consumers, and (4) Resale "Preferred Interruptible" Consumers. Service categories (1), (2), and (3) are comprised of direct-

sale industrial customers purchasing directly from Florida Gas, and category (4) is comprised of customers purchasing gas under Rate Schedule I of Florida Gas' FPC Gas Tariff. Each category of service is subject to complete curtailment or interruption, in the order of priorities listed above, before the next category is affected.

With respect to curtailment of firm service, section 9 provides as follows:

If, due to any cause whatsoever, the capacity for deliveries from Seller's transmission line or any part thereof is physically impaired through force majeure or operating conditions beyond the control of Seller and the affected parties, which in effect actually reduces the ability of Seller to deliver its authorized maximum daily delivery capacity, each then effective contracted firm service obligation of Seller will be entitled to such proportionate part of the total impaired deliveries as such contracted firm service obligation bears to Seller's then effective total contracted firm service obligations.

Although Florida Gas' existing curtailment policy is on file with the Commission and is not expected to be implemented within the foreseeable future, any person desiring to be heard or to make any protest with respect to Florida Gas' existing tariff provisions governing curtailments of service should on or before July 6, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Florida Gas' report, submitted pursuant to Order No. 431, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8851 Filed 6-23-71;8:45 am]

[Docket No. E-7521]

INDIANAPOLIS POWER & LIGHT CO.

Notice of Application for Supplemental Order

JUNE 15, 1971.

Notice is hereby given that on June 4, 1971, Indianapolis Power & Light Co. (applicant) filed a Supplemental Application seeking authority, pursuant to section 204 of the Federal Power Act, to increase the amount of short term unsecured promissory notes (Notes) which it was authorized to issue by order of the Commission entered in the above captioned Docket on March 2, 1970. By such order of March 2, 1970, applicant was authorized to issue up to twenty-seven million dollars (\$27,000,000) principal amount of such notes outstanding at any

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time, of which not more than twenty-four million dollars (\$24,000,000) principal amount outstanding at any time may be in the form of commercial paper, with final maturities of all such notes not later than December 31, 1971. By its supplemental application, applicant seeks authority to issue up to thirty-two million dollars (\$32,000,000) principal amount of such notes outstanding at any time, of which not more than twenty-six million dollars (\$26,000,000) principal amount may be in the form of commercial paper, with final maturity of all such notes not later than December 31, 1972.

Applicant is an operating public utility incorporated under the laws of the State of Indiana, with its principal office in the city of Indianapolis, Ind., and is doing business in such State pursuant to the laws thereof.

The interstate rate applicable to such notes issued and sold to commercial paper dealers will be the prevailing market rate (discount rate) for commercial paper of comparable quality and similar maturity in effect at the time of sale. The interest rate on notes issued to commercial banks will be the prevailing prime commercial rate in effect during the period each such note is outstanding. Applicant contemplates the issuance from time to time, without further order of the Commission, of notes up to the aforesaid maximum outstanding at any time, including the issue and "roll over" of notes in the form of commercial paper not to exceed the aforesaid maximum for notes issued in such form.

The proceeds of the notes will be used to finance in part applicant's construction program. Applicant states in its supplemental application that the increased authorization which it now seeks will allow it more freedom in selecting the appropriate times and market conditions to fund its short term debt.

Any person desiring to be heard or to make any protest with reference to the application should, on or before July 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition or protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8852 Filed 6-23-71;8:46 am]

[Docket No. CP71-291]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

JUNE 15, 1971.

Take notice that on June 9, 1971, Panhandle Eastern Pipe Line Co. (appli-

cant), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP71-291 an application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing on the date of Commission authorization, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of its existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed \$7 million, with no single project costing in excess of \$1 million. Applicant states that these costs will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8853 Filed 6-23-71;8:46 am]

[Project No. 2174]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Application for Amendment of License

JUNE 15, 1971.

Public notice is hereby given that application has been filed for amendment of license under the Federal Power Act (16 U.S.C. 791a-825r) by Southern California Edison Co. (correspondence to: Robert N. Coe, Vice President, Post Office Box 351, Los Angeles, CA 90053 for its constructed Portal Powerhouse Project No. 2174, located on Ward (Florence Lake) Tunnel which connects Florence Lake Reservoir with Huntington Lake Reservoir in the San Joaquin River basin, in the vicinity of Fresno, Calif. The project affects lands of the United States within the Sierra National Forest.

Applicant requests authorization to move a portion of the Portal 33 kv. transmission line about 100 feet to a new location to accommodate construction of an improvement to Edison Lake Road (Forest Service Road No. 4S01) in section 5, T. 8 S., R. 26 E., M.D.B. & M.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8854 Filed 6-23-71;8:46 am]

[Docket No. CP71-292]

TRUNKLINE GAS CO.

Notice of Application

JUNE 15, 1971.

Take notice that on June 9, 1971, Trunkline Gas Co. (applicant), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP71-292 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas gathering facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted to purchase natural gas from Rio Mines and Minerals, Inc., and other producers in the Northwest Ragland Field Area of Jim Wells County, Tex., and that ap-

proximately 2,000 Mcf of natural gas per day will be available therefrom. In order to connect these volumes to its 100-1 Pipeline in Jim Wells County, applicant proposes to construct and operate approximately 2 miles of 3½-inch pipeline and the necessary metering and regulating equipment. The estimated cost of the facilities proposed herein is \$39,000, which cost applicant states will be financed from general funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8858 Filed 6-23-71; 8:46 am]

[Docket No. CP69-63]

NORTHERN NATURAL GAS CO. Notice of Petition To Amend

JUNE 17, 1971.

Take notice that on May 11, 1971, Northern Natural Gas Co. (petitioner), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP69-63 a petition to amend the order of the Commission issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket to permit Lake Superior District Power Co. (Lake Superior) to utilize the contract demand assigned to its steam and

electric generating plant at Park Falls, Wis., to meet the peak winter requirements of residential and small volume commercial customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of November 12, 1968 (40 FPC 1291), in said docket, authorized the construction and operation of facilities for the sale and delivery of up to 6,995 Mcf of natural gas per day to Lake Superior for use in its steam and electric generating plant located in Park Falls, Wis. Petitioner states that because of the present shortage of natural gas, Lake Superior proposes to install oil burning standby equipment in the Park Falls generating plant for peak shaving thereby making available part of the contract demand of 6,995 Mcf to supply the winter requirements of residential and commercial customers in the city of Park Falls and environs. Accordingly, petitioner requests that the order of the Commission, heretofore issued in said docket, be amended to authorize the sale for resale of natural gas to Lake Superior of a portion of the 6,995 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 7, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71 8915 Filed 6-23-71; 8:52 am]

[Docket No. RP71-127]

CONSOLIDATED GAS SUPPLY CORP. Notice of Existing Curtailment Procedures

JUNE 17, 1971.

Take notice that on May 17, 1971, Consolidated Gas Supply Corp. (Consolidated) filed a written report, pursuant to paragraph (A)(2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, stating that it "is making every reasonable effort to fill all of its storage fields substantially to their full developed capacity by November 1 of this year and presently anticipates that these efforts will be successful."

Consolidated states that its forecasts are based upon the assumption that its pipeline suppliers will continue delivering all of the gas, without curtailment,

which Consolidated is entitled to receive under its contracts with them.

While Consolidated does not anticipate making curtailments below contract demand, it states that its FPC Gas Tariff, First Revised Volume No. 1, provides in section 10 of the general terms and conditions thereof the method of apportioning gas among its customers in the event of a gas shortage on its system. Consolidated in its report points to the following provision of section 10:

During periods of gas shortage, gas sold by Seller to Buyer for resale to domestic and commercial customers shall take priority over gas sold by Seller to Buyer for resale to industrial customers of Buyer, and Seller and Buyer shall operate their systems so as to provide protection to domestic and commercial customers; and so far as operating conditions will permit, available supplies of gas shall be dispatched in as equitable a manner as possible.

Although Consolidated's existing curtailment policy is on file with the Commission and is not expected to be implemented within the foreseeable future, any person desiring to be heard or to make any protest with respect to Consolidated's existing tariff provisions governing curtailments of service should on or before July 15, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Consolidated's report submitted pursuant to Order No. 431, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71 8929 Filed 6-23-71; 8:52 am]

[Projects Nos. 2243, 2273]

PACIFIC NORTHWEST POWER CO., ET AL.

Notice of Staff Draft Environmental Impact Statement

JUNE 17, 1971.

Take notice that the Staff of the Federal Power Commission has pursuant to the requirements of section 192(2)(C) of the National Environmental Policy Act of 1969, transmitted to the Council on Environmental Quality a draft Environmental Impact Statement, dated June 8, 1971. The transmitted statement pertains to the application for a major project license, High Mountain Sheep Projects Nos. 2243 and 2273.

All Federal agencies having jurisdiction by law or special expertise with respect to environmental impact and all State and local agencies authorized to

develop and enforce environmental standards are invited to comment on the Draft Environmental Statement by sending their comments to the Federal Power Commission, Washington, D.C. 20426 within 45 days of the date of the statement. Copies of the statement can be obtained from the Federal Power Commission, Office of Public Information.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8925 Filed 6-23-71; 8:52 am]

[Docket No. E-7638]

PUBLIC SERVICE COMPANY OF INDIANA, INC., AND SOUTHERN INDIANA GAS AND ELECTRIC CO.

Notice of Application

JUNE 17, 1971.

Take notice that on June 8, 1971, Public Service Company of Indiana, Inc., of Plainfield, Ind., and Southern Indiana Gas and Electric Company of Evansville, Ind., (applicants), filed an application pursuant to section 203 of the Federal Power Act seeking an order authorizing each of them to sell certain electrical facilities to Indiana Statewide Rural Electric Cooperative, Inc. (Statewide). The facilities proposed to be transferred by applicants to Statewide consist of real estate together with electric equipment located at 34 distribution substations now owned or leased by applicants.

The electrical facilities proposed to be sold are now used to deliver electric power and energy to certain rural electric distribution cooperatives in Indiana (REMCs), and after the consummation of the sale will be used by Statewide to deliver or cause to be delivered electric power and energy to the same REMCs. These REMCs will become customers of Statewide upon consummation of the proposed sale and purchase.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 9, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8926 Filed 6-23-71; 8:52 am]

[Docket No. RP71-126]

CONSOLIDATED GAS SUPPLY CORP. Notice of Proposed Changes in Rates and Charges

JUNE 17, 1971.

Take notice that on June 4, 1971, Consolidated Gas Supply Corp. (Consolidated) tendered for filing a motion by which it seeks Commission approval of a specific method of "tracking supplier rate changes".

Consolidated states it is seeking approval of its "tracking" method in order to enable it to recoup substantial and frequent purchased gas cost increases.

Consolidated states that in general the proposed method of computation, as more fully set out in the Motion and Exhibit I attached thereto, provides that Consolidated can file from time to time during a period ending July 1, 1972, as part of Revised Volume No. 1 of its FPC Gas Tariff, Revised Sheet No. 8 necessary to reflect increases or decreases in the rates thereunder, based upon increases or decreases in the cost of Consolidated's purchased and transported gas.

No change in rates would be made until the unit change in the increase or decrease in Consolidated's cost of gas purchased and transported equals or exceeds one tenth of a cent (0.1¢).

Copies of the filing were served on all customers of Consolidated Gas Supply Corp. and State commissions that would be affected by the filing.

Any person desiring to be heard or to make any protest with reference to this filing should on or before July 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The motion is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8927 Filed 6-23-71; 8:53 am]

FEDERAL RESERVE SYSTEM

SECURITY NEW YORK STATE CORP. Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Security New York State Corporation,

which is a bank holding company located in Rochester, N.Y., for prior approval by the Board of Governors of the acquisition by Applicant of 100 percent of the voting shares of First Bank and Trust Company of Corning, Corning, N.Y.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

By order of the Board of Governors, June 18, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8856 Filed 6-23-71; 8:46 am]

FIRST NATIONAL BANCORPORATION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of The First National Bancorporation, Inc., Denver, Colo., for approval of acquisition of 80 percent or more of the voting shares of The National State Bank of Boulder, Boulder, Colo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and section 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by

The First National Bancorporation, Inc., Denver, Colo., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The National State Bank of Boulder, Boulder, Colo.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on February 5, 1971 (36 F.R. 2538), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement of this date, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such time shall be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,
June 17, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.
[FR Doc.71-8857 Filed 6-23-71; 8:46 am]

FEDERAL TRADE COMMISSION SPECIAL REPORTS RELATING TO ADVERTISING CLAIMS

Requirement for Submission and Disclosure Thereof by the Commission

Notice is hereby given that the Federal Trade Commission has approved, adopted and entered of record the following resolution:

RESOLUTION REQUIRING SUBMISSION OF SPECIAL REPORTS RELATING TO ADVERTISING CLAIMS AND DISCLOSURE THEREOF BY THE COMMISSION

Production of documentation. The claims made in advertising consumer products often lead the consuming public to believe that such claims are substantiated by adequate and well-controlled scientific tests, studies, and other fully documented proof.

¹ Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City. Concurring Statement of Governor Maisei and Dissenting Statement of Governors Robertson and Brimmer filed as part of the original document and available upon request.

² Voting for this action: Chairman Burns and Governors Mitchell, Deane, Maisei, and Sherill. Voting against this action: Governors Robertson and Brimmer.

If the public and the Commission knew whether substantiation actually exists and the adequacy of substantiation, they would be aided in evaluating competing claims for products, and in distinguishing between the seller who is advertising truthfully and one who is unfairly treating both consumers and competitors by representing, directly or by implication, that it has proof when in fact there is none or the proof is inadequate.

Considering the importance of these questions to consumers and businessmen, the Commission, in fulfilling its statutory responsibility under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) with respect to false and deceptive advertising, and unfair methods of competition, resolves that advertisers shall be required, on demand by the Commission, to submit with respect to any advertisement such tests, studies, or other data (including testimonials or endorsements) as they had in their possession prior to the time claims, statements, or representations made in the advertisement regarding the safety, performance, efficacy, quality, or comparative price of the product advertised.

The claims, statements, or representations subject to the above requirement will be identified in orders to file special reports which will be issued to such advertisers as may be selected from time to time by the Commission. If the advertiser had no data to substantiate these claims before they were made, he shall notify the Commission of this fact before the return date of the order to file special reports.

The Commission will compel the production of said tests, studies, or other data (including testimonials or endorsements) in the exercise of the powers vested in it by sections 6, 9, and 10 of the Federal Trade Commission Act (15 U.S.C. 46, 49, and 50), and with the aid of any and all powers conferred upon it by law and any and all compulsory processes available to it.

Publication of documentation submitted. Except for trade secrets, customer lists or other financial information which may be privileged or confidential, pursuant to section 6(f) of the Federal Trade Commission Act, the material obtained by the Commission pursuant to this resolution will be made available to the public under such terms and conditions as the Commission may from time to time determine. In addition, the Commission may release summaries, reports, indices, or such other publications which will inform the public about material delivered or not delivered to it hereunder.

In deciding to make this material available to the public, and to publish summary reports, the Commission is persuaded by the following policy considerations:

1. Public disclosure can assist consumers in making a rational choice among competing claims which purport to be based on objective evidence and in evaluating the weight to be accorded to such claims.
2. The public's need for this information is not being met voluntarily by advertisers.
3. Public disclosure can enhance competition by encouraging competitors to challenge advertising claims which have no basis in fact.
4. The knowledge that documentation or the lack thereof will be made public will encourage advertisers to have on hand adequate substantiation before claims are made.
5. The Commission has limited resources for detecting claims which are not substantiated by adequate proof. By making documentation submitted in response to this resolution available to the public, the Commission can be alerted by consumers, businessmen, and public interest groups to possible violations of section 5 of the Federal Trade Commission Act.

By direction of the Commission dated June 9, 1971.

[SEAL] CHARLES A. TOBIN,
Secretary.
[FR Doc.71-8879 Filed 6-23-71; 8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[811-1438]

COMPUTER DIRECTIONS FUND, INC.

Notice of Proposal To Terminate Registration

JUNE 18, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8 (f) of the Investment Company Act of 1940 (Act) to declare by order upon its own motion that Computer Directions Fund, Inc. (Fund), 8720 Georgia Avenue, Silver Spring, Md., a corporation organized under the laws of the State of Maryland, and registered under the Act as an open-end, nondiversified management investment company, has ceased to be an investment company.

Fund was organized in Maryland on December 22, 1965, and filed a Notification of Registration on Form N-8A with the Commission on November 4, 1966. On April 20, 1967, a meeting of shareholders was held and a Plan of Complete Liquidation (the Plan) was adopted by unanimous vote. Fund has not effected any transactions in securities subsequent to the adoption of the Plan except for the purposes of effecting the Plan pursuant to an Offer of Settlement accepted by the Commission on May 23, 1967 (Securities Exchange Act Release No. 8083. By October 1, 1967, Fund had completely liquidated and distributed all of its assets to its sole stockholder, The Fund of Funds, Ltd., which also assumed all of Fund's existing or future liabilities.

Section 8(f) of the Act provides in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that an interested person may, not later than July 15, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the

point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8862 Filed 6-23-71; 8:46 am]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JUNE 18, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors; *It is ordered*, Pursuant to section 15 (c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 20, 1971, through June 29, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8863 Filed 6-23-71; 8:47 am]

[70-4998]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Debentures at Competitive Bidding

JUNE 18, 1971.

Notice is hereby given that Jersey Central Power & Light Co. (Jersey Central) Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is sum-

marized below, for a complete statement of the proposed transaction.

Jersey Central proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, \$25 million principal amount of debentures, due August 1, 1966. The interest rate (which will be a multiple of one-eighth of 1 percent) and the price (which will be not less than 100 percent nor more than 102.75 percent of the principal amount thereof plus accrued interest from August 1, 1971, to the date of delivery) will be determined by the competitive bidding. The debentures will be issued under an indenture, dated as of October 1, 1963, of Jersey Central to Irving Trust Co., Trustee, as heretofore supplemented and as to be further supplemented by a Fourth Supplemental Indenture to be dated as of August 1, 1971, and which includes, subject to certain exceptions, a prohibition until August 1, 1976, against refunding the issue with proceeds of funds borrowed at a lower interest cost.

A portion of the proceeds from the sale of the debentures will be used to pay Jersey Central's short-term bank notes outstanding at the date of sale of the bonds (estimated at \$24 million). The proceeds from the sale of such notes have been or will be used for construction purposes. The balance of the proceeds from the sale of the debentures will be used to pay a portion of Jersey Central's 1971 construction program (estimated to cost \$147,600,000). Any premium realized from the sale of the debentures will be applied to the financing of the business of Jersey Central, including the payment of expenses of this financing.

It is stated that the fees and expenses to be paid by Jersey Central in connection with the issue and sale of the debentures and the fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment.

It is further stated that the Board of Public Utility Commissioners of New Jersey has jurisdiction over the proposed issue and sale of debentures by Jersey Central and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 22, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case

of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-8864 Filed 6-23-71; 8:47 am]

[812-2954-812-2956]

VIRGINIA CAPITAL CORP., ET AL.

Consolidated Notice of the Filing of Applications for an Order

JUNE 18, 1971.

In the matter of Virginia Capital Corp., Arthur S. Brinkley, Jr. and Robert H. Pratt, Directors and Officers, Eugene B. Sydnor, Jr. and H. Dunlop Dawbarn, Directors, 808-A State Planters Bank Building, Richmond, Va. 23219; Pandick Press, Inc., Edward G. Green and Lawrence L. Roberts, Jr., Directors and Officers, 345 Hudson Street, New York, NY 10014; Massachusetts Mutual Life Insurance Co., Springfield, Mass. 01101; Capital Southwest Corp., 150 Hartford Building, Dallas, Tex. 75221; Allied Capital Corp., 1625 Eye Street NW., Washington, DC 20006, 812-2964, 812-2965, 812-2966.

Notice is hereby given that the following persons (collectively referred to herein as (Applicants) has filed applications pursuant to section 17(d) of the Investment Company Act of 1940 (Act) and Rule 17d-1 thereunder, for an order permitting them and certain other holders of Common Stock, \$0.10 par value (Stock), of Pandick Press, Inc. (Pandick) to sell shares of stock in a public offering (Public Offering) in the amounts indicated: Virginia Capital Corp. (Virginia Capital), 50,000 presently outstanding shares of stock; Arthur S. Brinkley, Jr., Senior Vice President and Treasurer of Virginia Capital, Robert H. Pratt, President of Virginia Capital, Eugene B. Sydnor, Jr. and H. Dunlop Dawbarn (all of whom are directors of Virginia Capital and collectively referred to herein as the "Virginia Capital Directors"), in the aggregate 11,340 presently outstanding shares of stock; Pandick, 150,000 authorized but unissued shares of stock; Edward G. Green and Lawrence L. Roberts, Jr. (both of whom are directors and officers of Pandick and referred to collectively

herein as the "Pandick Officers"), in the aggregate 110,327 presently outstanding shares of stock; Massachusetts Mutual Life Insurance Co. (Mass Mutual), 70,000 presently outstanding shares of stock; Capital Southwest Corp. (Capital Southwest), 30,000 presently outstanding shares of stock; and Allied Capital Corp. (Allied Capital), 28,000 presently outstanding shares of stock. All of the holders of stock who will be selling shares of stock in the Public Offering herein-after referred to as the "Selling Shareholders". Applicants also seek an order approving the execution and delivery to Pandick of a letter agreement (Letter Agreement) by certain of the Selling Shareholders. All interested persons are referred to the applications on file with the Commission, for a statement of the representations therein, which are summarized below.

Virginia Capital, incorporated under the laws of the State of Virginia, is registered under the Act as a closed-end, nondiversified investment company, and is licensed as a small business investment company (SBIC) under the Small Business Investment Act of 1958 (1958 Act). Pandick, a New York corporation which renders printing services to the financial community, has outstanding 1,334,000 shares of stock. There is no public market for the stock at present since to date there has been no public offering of the stock. Virginia Capital and Virginia Capital directors acquired their shares of the stock in transactions which were the subject of Investment Company Act Releases Nos. 3154, 3167, 4116, and 4140. Virginia Capital owns 326,934 shares (or approximately 24.5 percent) of the presently outstanding stock. Virginia Capital directors own an aggregate of 34,280 shares (or approximately 2.6 percent) of the presently outstanding stock. Edward G. Green (Green) and Lawrence L. Roberts, Jr. (Roberts) acquired their stock upon the merger in 1965 of James F. Newcomb Co., Inc., a commercial printing firm, all of the stock of which was owned by them, into Pandick. Green and Roberts own 239,000 and 251,900 shares (or approximately 18.1 percent and 18.9 percent) of the presently outstanding stock, respectively. Mass Mutual acquired its shares of stock in connection with a loan of \$500,000 to Pandick. Mass Mutual owns 70,000 shares (or approximately 5.2 percent) of presently outstanding stock.

Capital Southwest, a Texas corporation, is registered under the Act as a closed-end, nondiversified investment company, and is licensed as an SBIC under the 1958 Act. Capital Southwest acquired its stock in connection with a loan of \$200,000 to Pandick. Capital Southwest owns 130,000 shares (or approximately 9.7 percent) of presently outstanding stock. Allied Capital, a District of Columbia corporation, is also registered under the Act as a closed-end, nondiversified investment company, and is licensed as an SBIC, under the 1958 Act. Allied Capital owns 133,600 shares (or

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approximately 10.01 percent) of presently outstanding stock.

Section 2(a)(3) includes within the definition of "affiliated person" any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; and any director or officer of such other person. Virginia Capital, Mass Mutual, Pandick Officers, Capital Southwest, and Allied Capital are each an affiliate of Pandick and Pandick is an affiliate of each of them. Virginia Capital Directors are affiliated persons of Virginia Capital.

Pandick has filed a registration statement with the Commission under the Securities Act of 1933 with respect to the Public Offering. In the Public Offering, various underwriters, acting through Eastman Dillon, Union Securities & Co. Inc., and Wheat & Co., Inc., as their representatives, propose to purchase from Pandick and the selling shareholders approximately 475,000 shares of stock in the aggregate. The quantities of shares to be purchased from each of the Applicants are as indicated in the first paragraph hereof.

Pursuant to the Letter Agreement, effective upon Pandick's initial registration statement on Form S-1 being declared effective by the Securities and Exchange Commission, selling shareholders (1) have agreed to certain amendments and waivers with respect to: (i) Rights of registration of stock held by all Applicants (except Pandick and Pandick Officers) and certain other selling shareholders, which rights were obtained in connection with certain note and warrant agreements; (ii) covenants in such note and warrant agreements providing for the application of proceeds from insurance policies maintained on the lives of Green and Roberts to the payment of the notes (the Notes) issued by Pandick under such note and warrant agreements; and (iii) rights granted in Pandick's restated certificate of incorporation, as amended, to certain debt-holders, including holders of the notes, to prohibit the use of certain funds for various payments relating to Pandick's 4 percent Nonnegotiable Junior Subordinated Notes and its \$4 Participating Preferred Stock, and (2) have confirmed and approved certain consents, waivers and amendments previously obtained by Pandick under such note and warrant agreements.

Applicants state that the number of shares of stock included in the Public Offering was determined by the underwriters. Pandick and each of its shareholders (except Green) were given an unrestricted opportunity by the underwriters to offer stock. The underwriters felt it undesirable for Green, as President and Chief Executive Officer of Pandick, to offer more than 25,000 shares of stock, because of the possible implication of the

diminution of interest of top management in Pandick's future business prospects. The participation of Pandick or any of its shareholders is not contingent upon that of any one or more of them. No participation by any particular holder of stock was required in the public offering and the extent of participation of Allied Capital, Capital Southwest, or Virginia Capital has not been restricted because of shares offered by affiliated persons.

Applicants state that each of the selling shareholders and Pandick are paying underwriting discounts at the same rate, and all expenses of registration are being paid by Pandick for itself and all the selling shareholders, except that each selling shareholder is paying his or its own underwriting discounts and stock transfer taxes. Payment of expenses on this basis has been submitted to all Pandick shareholders and unanimously approved.

Applicants state that Pandick has agreed to hold the selling shareholders harmless on account of any indemnification by them of the underwriters and to defend any actions brought against selling shareholders in that connection (except indemnification by such shareholders with respect to loss or liability resulting from information supplied by them of any underwriter for use in the registration statement relating to the public offering). Further, Pandick proposes to indemnify the selling shareholders, the underwriters and the controlling persons of each against all claims, losses, damages, liabilities, and expenses arising out of or based upon any information contained in documents incidental to the registration and from any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements made not misleading in the light of the circumstances in which they are made, except as the same may be based upon information furnished in writing by such persons.

Applicants state that additional indemnification may be provided by the underwriters by the selling shareholders. The liability of each selling shareholder will be limited to the proportion of the total liability which the shares sold by such selling shareholder bears to be the total shares sold, and will be further limited to the amount of proceeds from the public offering to such selling shareholder.

Applicants represent that the participation of Allied Capital, Capital Southwest, and Virginia Capital in the public offering is not on a basis different from or less advantageous to them than to Pandick or to any of the other selling shareholders.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, among other things, that it shall be unlawful for an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any

transactions in connection with any joint enterprise or arrangement in which any such registered company, or a company controlled by such registered company, is a participant unless prior thereto, an application regarding such arrangement has been filed with and granted by the Commission, and that, in passing upon such an application, the Commission will consider whether the participation of such arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Notice is further given that any interested person may, no later than July 8, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the applications herein may be issued by the Commission upon the basis of the information stated in said applications, unless an order for hearing upon said applications shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc. 71-8865 Filed 6-23-71; 8:47 am]

INTERSTATE COMMERCE COMMISSION

[Notice 50]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JUNE 18, 1971.

The following applications are governed by Special Rule 100.247¹ of the

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 19227 (Sub-No. 154), filed May 27, 1971. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. F. Dewhurst (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Missiles and missile parts, and supplies, materials, parts and components used in the maintenance, servicing, repairs, and operation of missiles, between points in Orange County, Fla., Caddo and Bossier Counties, La., on the one hand, and, on the other, points in Montana and North Dakota. Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla., or Washington, D.C.

No. MC 28551 (Sub-No. 1), filed May 24, 1971. Applicant: GENERAL CARTAGE CO., a corporation, 1511 Pearl Street, Waukesha, WI. Applicant's representative: Robert M. Kaske, 2017 Wisteria Road, Rockford, IL 61107. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those commodities which by themselves require the use of special equipment) in containers and trailers having a prior or subsequent transportation by air, rail, and water, between points in Calumet, Columbia, Dane, Dodge, Fond du Lac, Green Lake, Jefferson, Kenosha, Manitowac, Milwaukee, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and Winnebago Counties, Wis. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 34227 (Sub-No. 6) (Correction), filed May 14, 1971, published in the FEDERAL REGISTER issue of June 10, 1971, and republished as corrected, this issue. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, a corporation, 15 Broadway Street, Cortez, CO 81321. Applicant's representative: David R. Parker, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment materials, and supplies used in the conduct of such business, and (2) commodities, the transportation of which is partially exempt as defined under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle and at the same time as the commodities described in (1) above; between points in New Mexico and Colorado, under contract with Associated Grocers of Colorado, Inc. Note: The purpose of this republication is (1) to

include the territorial description in the authority sought, which description was inadvertently omitted in the previous publication, and (2) reflect a correction in applicant's name. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Albuquerque, N. Mex.

No. MC 35286 (Sub-No. 2) (Amendment), filed April 14, 1971, published in the FEDERAL REGISTER issue of May 20, 1971, and republished as amended this issue. Applicant: TRUCK LINE DISTRIBUTION SYSTEMS, INC., 1905 South Belmont, Indianapolis, IN 46221. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carrier of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Shelbyville, Ind., and Indianapolis, Ind., from Shelbyville over Indian Highway 9 to junction Interstate Highway 74, thence over Interstate Highway 74 (also U.S. Highway 421) to Indianapolis, and return over the same route, serving the intermediate or off-route points of Five Points, New Bethel, Pleasant View, Acton, and Fairland, Ind. NOTE: The purpose of this republication is to redescribe the scope of the authority sought. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 41404 (Sub-No. 96) (Amendment), filed April 12, 1971, published in the FEDERAL REGISTER issue of May 6, 1971, and republished as amended this issue. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Post Office Box 440, Fulton Highway, Martin, TN 38237. Applicant's representative: Tom D. Copeland (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Meats*, cooked, cured, or preserved, with or without vegetable, milk, egg, or fruit ingredients, other than frozen from the plant-site or warehouse facilities of Armour-Dial, Inc., located at or near Fort Madison, Iowa, to points in Florida, Georgia, North Carolina, and Tennessee, and (2) *Meats, meat products, meat byproducts and articles distributed by meat packing-houses* as described in sections A and C of the appendix I to the report in *Description of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from points in Illinois, Indiana, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin, to Fort Madison, Iowa. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the authority sought.

If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 77202 (Sub-No. 4), filed May 27, 1971. Applicant: CAPITOL TRANSIT & STORAGE CO., INC., 420 Ledyard Street, Hartford, CT 06114. Applicant's representative: Reubin Kaminisky, Post Office Box 17-067, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tabulating machines*, including such auxiliary machines or component parts as are necessary to performance of a complete tabulating process, including punches, sorters, computers, verifiers, collators, reproducers, interpreters, multipliers, wiring units, and control panels and spare parts therefor, between the terminal and warehouse facilities of Capitol Transit & Storage Co., Inc., at Hartford, Conn., on the one hand, and, on the other, points in Connecticut. Restriction: Restricted to movements having an immediate prior or subsequent movement by air, rail, or motor carrier. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 83217 (Sub-No. 55), filed May 25, 1971. Applicant: DAKOTA EXPRESS, INC., 1217 West Cherokee, Post Office Box 1252, Sioux Falls, SD 57101. Applicant's representative: Henry J. Schuette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in section A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Banner Beef Co., at or near Hospers, Iowa, to points in South Dakota, Minnesota, Wisconsin, Illinois, Michigan, restricted to traffic originating at and destined to the named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 83217 (Sub-No. 54), filed May 19, 1971. Applicant: DAKOTA EXPRESS, INC., 1217 West Cherokee, Post Office Box 1252, Sioux Falls, SD 57101. Applicant's representative: Henry J. Schuette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite or storage facilities of Illini Beef Packers, Inc., located at or near Joslin, Ill., to points in Connecticut, Delaware, Indiana, Iowa, Maine, New York, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 86913 (Sub-No. 33), filed May 28, 1971. Applicant: EASTERN MOTOR LINES, INC., Post Office Box 649, Warrenton, NC 27589. Applicant's representative: C. M. Bullock (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Board, board faced or finished with decorative or protective material* and (2) *Accessories, materials, and supplies* used in the sale, manufacture, installation and distribution thereof (except commodities in bulk), between Murfreesboro, N.C., and points in Minnesota, Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, and all States east thereof. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 95743 (Sub-No. 25), filed May 20, 1971. Applicant: DORIS G. MEHRING, Personal Representative of the Estate of WILLIAM FREDERICK MEHRING, doing business as WILLIAM F. MEHRING, Keymar, Md. 21757. Applicant's representative: Theodore Polidoro, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bituminous asphalt hot mix and stone*, in dump vehicles, from points in Frederick, Washington, Montgomery, and Prince Georges Counties, Md., to points in Pennsylvania, Virginia, West Virginia, Delaware, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 97699 (Sub-No. 32), filed May 28, 1971. Applicant: BARBER TRANSPORTATION CO., Deadwood Avenue, Rapid City, S. Dak. 57701. Applicant's representative: Leslie R. Kehl, Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the site of the Earth Resources Observation System Data Collection Center located in Minnehaha County, S. Dak., approximately 12 miles north and 4 miles east of Sioux Falls, S. Dak.,

as an off-route point in connection with the applicant's regular route authority to and from Sioux Falls, S. Dak. NOTE: Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak.

No. MC 99214 (Sub-No. 5), filed May 28, 1971. Applicant: PATTERSON TRUCK LINE, INC., 600 Roosevelt Street, Houma, La. 70360. Applicant's representative: Morgan Nesbitt, Post Office Box 275, Austin, TX 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) *Antipollution systems, equipment and parts; liquid cooling and vapor condensing system equipment and parts; environmental control and protective systems equipment and parts* and (b) *equipment, materials, and supplies* used in the construction or installation of antipollution and environmental control and protective systems, (1) between points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas and (2) between points in (1) and points in the continental United States (including Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 100666 (Sub-No. 190), filed May 28, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representatives: Wilburn L. Williamson, Suite 280, National Foundation, Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112, and Paul Caplinger (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Diboll, Tex., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 106398 (Sub-No. 547), filed May 26, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, from Saratoga County, N.Y., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Albany or Schenectady, N.Y.

No. MC 106644 (Sub-No. 119), filed May 18, 1971. Applicant: SUPERIOR

TRUCKING CO., INC., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: K. Edward Wolcott, Suite 1600 First Federal Building, Atlanta, GA 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) *Metal containers, container ends, closures, and accessories*; and (b) *materials and supplies* used in connection with the manufacture and distribution of metal containers and container ends and closures; (1) between the plants and warehouse sites of Crown Cork & Seal Co., Inc., at Philadelphia, Pa.; Lawrence, Mass.; North Bergen, N.J.; Baltimore and Fruitland, Md.; Winchester, Va.; Spartanburg, S.C.; Birmingham, Ala.; Atlanta, Ga.; Orlando and Bartow, Fla.; New Orleans, La.; St. Louis, Mo.; Cleveland, Ohio, Bradley and Chicago, Ill.; and (2) from the plantsites of Crown Cork & Seal Co., Inc., as described in (1) above to points in New York, Pennsylvania, Maryland, New Jersey, Delaware, Virginia, West Virginia, North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Massachusetts, Alabama, Florida, Louisiana, Mississippi, Rhode Island, Connecticut, Illinois, Indiana, Ohio, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 104724 and Subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106644 (Sub-No. 120), filed May 28, 1971. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: Darrell D. Hodges (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Electric controllers and instruments* requiring special equipment or special handling by reason of size or weight, and *parts and attachments* therefor when moving therewith, from points in Roanoke County, Va., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Washington, D.C.

No. MC 107544 (Sub-No. 102), filed May 24, 1971. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, Post Office Box 580, Marion, VA 24354. Applicant's representatives: Daryl J. Henry (same address as applicant), and Harry C. Ames, Jr., 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Carbon, dry and spent carbon*, in bulk, between Covington, Va., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant now holds con-

tract carrier authority under its No. MC 113959, therefore dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority but it has no present intention of doing so. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 108119 (Sub-No. 30) (Clarification), filed May 14, 1971, published in the FEDERAL REGISTER issue of June 10, 1971, and republished, as clarified, this issue. Applicant: E. L. MURPHY TRUCKING CO., a corporation, 3303 Sibley Memorial Highway, St. Paul, MN 55111. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of size or weight require special handling or the use of special equipment; (2) *related parts, materials, and supplies* when the transportation of such items is incidental to the transportation by carrier of commodities which by reason of size or weight require special handling or the use of special equipment; and (3) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery tools, parts, and supplies* moving in connection therewith; restricted against the transportation of farm machinery, between points in Minnesota on the one hand, and, on the other, points in Ada and Jerome Counties, Idaho, for the purpose of joinder only. NOTE: The purpose of this republication is to clarify that the purpose of this application is to obtain alternate interline points in Idaho to the existing interline point of Montana. Common control may be involved. Applicant states that joinder would occur at the State of Minnesota with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 108119 (Sub-No. 32), filed May 27, 1971. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, 3303 Sibley Memorial Highway, St. Paul, MN 55111. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, between points in Idaho, Montana, Oregon, South Dakota, Washington, and Wyoming on the one hand, and, points in Iowa, Illinois, Indiana, Ohio, Michigan, Minnesota, Missouri, and Wisconsin on the other. NOTE: Common control may be involved. Applicant states that joinder is possible on those commodities which can be transported as size and weight items at the State of Minnesota. If a hearing is deemed necessary, applicants requests it be held at Minneapolis, Minn., and Coeur d'Alene, Idaho.

No. MC 109435 (Sub-No. 66), filed May 24, 1971. Applicant: ELLSWORTH BROS. TRUCK LINE, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry chemicals, including fertilizer and fertilizer materials*, in bulk and in packages, from Military and Halliwell, Kans., to points in Arkansas, Colorado, Iowa, Missouri, Nebraska, Oklahoma, and Texas; and (2) *fertilizer and fertilizer materials*, dry, in bulk, or in packages, *insecticides, fungicides, and herbicides*, except liquid in bulk, also in mixed shipments with manufactured fertilizer and fertilizer materials from points on the Arkansas and Verdigris Rivers in Oklahoma to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin. **NOTE:** Common control may be involved. Applicant states that it intends to tack its entire operating authority with that sought in this application, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 109994 (Sub-No. 44), filed June 1, 1971. Applicant: SIZER TRUCKING, INC., Post Office Box 97, Rochester, MI 55901. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Cleaning, scouring, or washing compounds; buffing and polishing compounds; carbon gum or sludge removing compounds; rust preventive lube oils and greases; paints, stains, and varnishes* (except commodities in bulk, in tank vehicles); (1) between Woodbridge, N.J.; Chicago, Joliet, South Beloit, Ill.; San Jose and Vernon, Calif.; Garland, Tex.; Minneapolis and St. Paul, Minn.; Atlanta, Ga.; Cleveland, Ohio; and Detroit, Mich.; (2) from Woodbridge, N.J., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; (3) from San Jose and Vernon, Calif., to points in Arizona, Idaho, Nevada, Oregon, Utah, and Washington; (4) from Minneapolis and St. Paul, Minn., to points in Iowa, Nebraska, North Dakota, and South Dakota; (5) from Chicago, Joliet, and South Beloit, Ill.; to points in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North

Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming;

(6) From Atlanta, Ga., to points in Oklahoma, New Mexico, Arizona, Arkansas, and Louisiana; (7) from Garland, Tex., to points in Oklahoma, New Mexico, Arizona, Arkansas, and Louisiana; and (B) *materials and supplies* used in the manufacturing and packaging of cleaning, scouring, or washing compounds; buffing and polishing compounds; carbon gum or sludge removing compounds; rust preventive lube oils and greases; paints, stains, and varnishes (except commodities in bulk, in tank vehicles), from points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming to Chicago, Joliet, and South Beloit, Ill.; Garland, Tex.; San Jose, Calif.; Woodbridge, N.J.; Minneapolis and St. Paul, Minn. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110988 (Sub-No. 269), filed May 25, 1971. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Encapsulated dye*, liquid, in bulk, in tank vehicles, from Hartford City, Ind., to Nekeosa and Stevens Point, Wis. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 111729 (Sub-No. 319), filed May 27, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representatives: John M. Delany (same address as applicant), and Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds, and advertising material* moving therewith, between points in Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North

Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, restricted to traffic with an immediately prior or subsequent movement by air; (2) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising material* moving therewith (excluding motion picture film used primarily for commercial theater and television exhibition); (a) between points in Arkansas, California, Connecticut, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Tennessee, Texas, Virginia, and Wisconsin, restricted to traffic having an immediately prior or subsequent movement by air; (b) between Kansas City, Mo., on the one hand, and, on the other, points on and east of U.S. Highway 77 in Kansas, restricted to traffic having an immediately prior or subsequent movement by air; (c) between points in Waukesha and Milwaukee Counties, Wis., and points in Iowa and Nebraska, restricted to traffic having an immediately prior or subsequent movement by air;

(3) *Medical instruments and replacement parts*, between points in Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, restricted to traffic having an immediately prior or subsequent movement by air; and (4) *proofs, cuts, copy, advertising poster material, and material related thereto*, between points in Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and West Virginia, restricted to traffic having an immediately prior or subsequent movement by air. **NOTE:** Applicant holds contract carrier authority under MC 112750 and subs thereunder, therefore dual operations and common control may be involved. Applicant states that a portion of the requested authority could be tacked with certain existing authorities, but indicated that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 112520 (Sub-No. 242), filed May 26, 1971. Applicant: MCKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: Sol H.

Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluorsilic acid*, in bulk, in tank vehicles, from points in Crisp and Effingham Counties, Ga., to points in North Carolina, South Carolina, Virginia, and Tennessee east of U.S. Highway 27. **NOTE:** Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Jacksonville, Fla., or Washington, D.C.

No. MC 113651 (Sub-No. 143), filed June 1, 1971. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, IN 47303. Applicant's representative: Henry A. Dillon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Eaton, Ind., to points in Oklahoma, Texas, Louisiana, Arkansas, Mississippi, Alabama, Georgia, Florida, South Carolina, and North Carolina, rejected or damaged material on return, restricted to traffic originating at the plantsite and/or storage facilities of Cleveland Partition Corp. located at or near Eaton, Ind. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 114106 (Sub-No. 85), filed May 28, 1971. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Post Office Box 849, Lexington, NC 27292. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastic materials*, in bulk, from Greer, S.C., to points in Georgia, North Carolina, South Carolina, and Tennessee, restricted to the transportation of shipments having a prior movement by rail. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 115176 and Subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 92), filed June 1, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representatives: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402, and Gene R. Prokuski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, from the plantsite of North Star Steel at New Port, Minn., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kan-

sas, Michigan, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, and Texas. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 114789 (Sub-No. 35), filed May 26, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail department stores*, from Secaucus, New Brunswick, and Wayne, N.J.; Yonkers and New York City, N.Y.; Bridgeport, Conn.; Philadelphia, Pa.; and Beltsville, Md., to points in Illinois, Indiana, Kentucky, Ohio, Wisconsin, Iowa, and Michigan; and to Baltimore and Beltsville, Md.; Buffalo and Rochester, N.Y.; and Williamsport, Glenolden, and Levittown, Pa. **Restriction:** (1) All service limited to a transportation service to be conducted under a continuing contract with Interstate Department Stores Payment Corp.; and (2) limited to a traffic destined to retail department stores owned or operated by Interstate Stores Payment Corp. **NOTE:** Applicant holds common carrier authority under MC 117940 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115311 (Sub-No. 120), filed May 26, 1971. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plant and warehouse site of Georgia Pacific Corp. at Vienna, Ga., to points in Alabama, Florida, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115331 (Sub-No. 312), filed May 28, 1971. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt*, from Pekin, Ill., to points in Illinois, Iowa, and Missouri; and (2) *agricultural chemicals*, in containers, from Muscatine, Iowa, to points in Arkansas, Delaware, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and Virginia. **NOTE:** Common control may be involved. Applicant states that tacking possibilities do exist with the authority

sought in Part (2); however, there is no tacking intended to be performed. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 115331 (Sub-No. 314), filed May 28, 1971. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and limestone products*, from points in Shelby County, Ala., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Birmingham, Ala., or Washington, D.C.

No. MC 115826 (Sub-No. 218), filed May 26, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5087A, 1960 31st Street, Denver, CO 80217. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dakota City and West Point, Nebr.; Denison, Fort Dodge, Lemars, and Mason City, Iowa; Luverne, Minn.; and Emporia, Kans.; to points in Arizona, California, Nevada, Oregon, Washington, Idaho, and Colorado, restricted to traffic originating at the plantsites and storage facilities of the Iowa Beef Processors. **NOTE:** Applicant states that this application is also for the purpose of eliminating interlining on traffic presently handled in joint line service. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115826 (Sub-No. 219), filed May 26, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088 TA, 1960 31st Street, Denver, CO 80217. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food products, foodstuffs, and beverages*, from points in California to points in Arizona, Colorado, Wyoming, New Mexico, Texas and points in Cheyenne, Banner, Kimball, Scottsbluff, Sioux, Morrill, Box Butte, and Dawes Counties, Nebr. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing

authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., Los Angeles and San Francisco, Calif.

No. MC 115917 (Sub-No. 23) (Correction), filed May 17, 1971, published in the FEDERAL REGISTER issue of June 10, 1971, and republished as corrected, this issue. Applicant: UNDERWOOD & WELD COMPANY, INC., Post Office Box 247, Crossnore, NC 28616. Applicant's representative: Wilmer B. Hill, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Salt and salt products* (except in bulk); and (B) *pepper*, ground, in packages, in mixed loads with salt and salt products; (1) from the plantsites and warehouse facilities of International Salt Co., at Cleveland, Ohio, to points in Alabama, Florida, Georgia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; and (2) from the plantsites and warehouse facilities of International Salt Co., at Watkins Glen, N.Y., to points in Alabama, Florida, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116077 (Sub-No. 309) (Correction), filed May 27, 1971, published in the FEDERAL REGISTER issue of June 4, 1971, and republished in part as corrected this issue. Applicant: ROBERTSON TANK LINES, INC., 2000 West Loop South, Suite 1800, Houston, TX 77001. Applicant's representative: Pat H. Robertson, Suite 401, First National Life Building, Austin, Tex. 78701. NOTE: The sole purpose of this partial republication is to reflect applicant's correct name as ROBERTSON TANK LINES, INC., in lieu of ROBERT TANK LINES, INC., as was erroneously shown in the previous publication. The rest of the application remains as previously published.

No. MC 116763 (Sub-No. 193), filed May 27, 1971. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Clay tile, and commodities* used in the manufacturing, installation and distribution of clay tile (except in bulk); (1) from Lawrenceburg, Ky., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (2) from points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, to Lawrenceburg, Ky.; (B) *clay tile*, from points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Mis-

souri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to Lawrenceburg, Ky.; (C) *clay tile, and commodities* used in the manufacturing, installation, and distribution of clay tile (except in bulk); (1) from Lakeland, Fla., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; (2) From points in Alabama, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, Wyoming, and points in that part of New York west of Interstate Highway 81, to Lakeland, Fla.; (D) *carpet, and commodities* used in the manufacturing, installation, and distribution of carpet (except in bulk); (1) from Lakeland, Fla., to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; (2) from points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, to Lakeland, Fla. Restriction: Parts (A), (B), (C), and (D) above are restricted to traffic originating at, or destined to, the facilities of Florida Tile Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 117565 (Sub-No. 40), filed May 27, 1971. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Coshocton, OH 43812. Applicant's representative: John R. Hafner, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Buildings*, in sections; (2) *materials and special devices* used in the unloading of building sections, from points in Hopkins County, Ky., to points in the United States (except Hawaii); and (3) *materials, special devices, and special purpose carriers*, used in the transportation and unloading of building sections from points in the United States (except Hawaii), to points in Hopkins County, Ky. NOTE: Applicant states that it has authority pending in MC 117565 Sub 28, which could be joined, but it has no present intention to join authorities if both are granted. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 117823 (Sub-No. 42), filed May 24, 1971. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 240 West California Avenue, Salt Lake City, UT 84115. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically refrigerated vehicles; (1) from the plantsite and warehouse facilities or Avoset Food Corp. in Gustine, Calif., to points in Nevada, Utah, Idaho, and Montana; and (2) from Salt Lake City, Utah, to points in Idaho, Montana, Wyoming, Colorado, and Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or San Francisco, Calif.

No. MC 117940 (Sub-No. 49), filed May 25, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, fresh, canned, and frozen, from Kennett Square, Pa., to points in Colorado, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. NOTE: Applicant now holds contract carrier authority under its No. MC 114789 Sub-1 and other subs, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118039 (Sub-No. 15), filed May 24, 1971. Applicant: MUSTANG TRANSPORTATION INC., 833 Warner Street SW., Atlanta, GA 30310. Applicant's representative: Virgil H. Smith, 431 Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, carpeting remnants and rugs*, from the plantsite and warehouse of Vernon Carpet Mills, Inc., at Randolph County, Ala., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 118039 (Sub-No. 15), filed May 24, 1971. Applicant: MUSTANG TRANSPORTATION INC., 833 Warner Street SW., Atlanta, GA 30310. Applicant's representative: Virgil H. Smith, 431 Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, carpeting remnants and rugs*, from the plantsite and warehouse of Vernon Carpet Mills, Inc., at Randolph County, Ala., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 119493 (Sub-No. 71), filed May 24, 1971. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material, mineral wood products, cement, asbestos,*

mineral wool or roofing, from Joplin, Mo., to points in Arizona, California, Nevada, and Utah. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119741 (Sub-No. 38), filed May 17, 1971. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., Post Office Box 1235, Fort Dodge, IA 50501. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, cooked, cured, or preserved with or without vegetable, milk, egg, or fruit ingredients, other than frozen, from Fort Madison, Iowa, to points in Missouri, Illinois, Ohio, West Virginia, New York, Pennsylvania, and Connecticut. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Sioux City, Iowa.

No. MC 119741 (Sub-No. 39), filed May 25, 1971. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., Post Office Box 1235, Fort Dodge, IA 50501. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Kansas, Missouri, Nebraska, Minnesota, Illinois, and Indiana to the plantsite and storage facilities of Armour-Dial, Inc., at Fort Madison, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Sioux City, Iowa.

No. MC 119880 (Sub-No. 47), filed May 25, 1971. Applicant: DRUM TRANSPORT, INC., Post Office Box 2056, East Peoria, IL 61611. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, in tank vehicles, between points in Illinois, Indiana, Kentucky, Tennessee, and Pennsylvania, on the one hand, and, on the other, points in California; and (2) *ground grapes, crushed grapes, grape pulp, and grape juice*, in bulk, in tank vehicles, from Di Giorgio and Lamont, Calif., to Silverton and Sandusky, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 120737 (Sub-No. 17), filed May 19, 1971. Applicant: STAR DELIVERY & TRANSFER, INC., Rural Route No. 5, Post Office Box 39, Canton, IL 61520. Applicant's representative: Chester J. Claudon, 121 West Elm Street, Canton, IL 61520. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Livestock feeder tanks, fuel tanks, stalls, grain boxes, and electric fence posts*, between points in McDonough County, Ill., on the one hand, and, on the other, points in Nebraska, Iowa, Minnesota, Wisconsin, Michigan, Indiana, Missouri, Illinois, Ohio, Kentucky, and Kansas; and (2) *parts, materials, and supplies* used to conduct business at plantsite of Bushnell Illinois Tank Co., from points in the United States (except Alaska and Hawaii) to the plantsite of the Bushnell Illinois Tank Co., at Bushnell, Ill. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 120737 (Sub-No. 18), filed May 24, 1971. Applicant: STAR DELIVERY & TRANSFER, INC., Post Office Box 39, Canton, IL 61520. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts*, from points in Mason County, Ill., to points in Ohio and Kentucky, and *materials and supplies used in the manufacture of motor vehicle parts*, from points in the United States (except Alaska and Hawaii), to points in Mason County, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 120737 (Sub-No. 19), filed May 24, 1971. Applicant: STAR DELIVERY & TRANSFER, INC., Post Office Box 39, Canton, IL 61520. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel forgings, bar steel and dies, and tools*, from points in Mason County, Ill., to points in Michigan; and (2) *materials and supplies* used in the manufacture of iron and steel forgings, bar steel and dies, and tools, from points in the United States (except Alaska and Hawaii) to points in Mason County, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123115 (Sub-No. 4), filed June 1, 1971. Applicant: BEN PACKER, doing business as PACKER TRANSPORTATION CO., 465 South Rock Boulevard, Sparks, Nev. 89431. Applicant's representative: Royal A. Stewart, 100 North Arlington, Suite 300 Reno, NE 89505. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, timber, wooden mouldings, shelving, jambs and casings, wooden columns, wooden doors and frames, door sills, flooring, wooden window frames, mouldings, composition wooden boards, wooden fence pickets, props or timbers, wood piling, poles, wooden posts, wooden rafters, wooden roof trusses, railroad ties, veneer, and wooden pallets*, from points in Oregon to points in California and Nevada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Reno, Nev., Carson City, Nev., or San Francisco, Calif.

No. MC 123233 (Sub-No. 36), filed May 26, 1971. Applicant: PROVOST CARTAGE INC., 7887 Second Avenue, Ville d'Anjou 437, PQ Canada. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in hopper type trailers, from the ports of entry on the international boundary line between the United States and Canada located at or near Trout River, Champlain, N.Y.; Highgate Springs, Derby Line, and Norton, Vt.; and Jackman, Van Buren, Houlton, Vanceboro, and Calais, Maine, to points in New York, New Hampshire, Vermont, Maine, Massachusetts, and Connecticut. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y., or Washington, D.C.

No. MC 123325 (Sub-No. 8), filed May 19, 1971. Applicant: WRIGHT MOTOR LINES, INC., 24 Pisgah View Avenue, Asheville, NC 28803. Applicant's representative: Boyce A. Whitmire, Post Office Box 908, Hendersonville, NC 28739. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Asheville and Old Fort, N.C., to points in Virginia, the District of Columbia, Delaware, New York, New Jersey, Pennsylvania, and Maryland. NOTE: Applicant now holds contract carrier authority under its MC 32486, therefore dual operations may be involved. The application is accompanied by a motion to dismiss. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Asheville, N.C.

No. MC 123372 (Sub-No. 20), filed May 28, 1971. Applicant: CARTAGE SERVICES, INC., 26380 Van Born Road, Dearborn Heights, MI 48123. Applicant's

representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from South Bend, Ind., to points in Iowa and Wisconsin, with return of empty containers, rejected or damaged merchandise, under contract with Drewry's Ltd., U.S.A. Inc. Note: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 123383 (Sub-No. 58), filed May 25, 1971. Applicant: BOYLE BROTHERS, INC., 941 South Second Street, Camden, NJ 08103. Applicant's representative: Thomas E. Kiley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Decorative pictures, furniture and furniture parts, wooden shelves* (except commodities in bulk) when moving in mixed shipments with plywood, restricted to commodities of Evans Products Co. when such commodities have had prior ocean transportation, from Norfolk, Va., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, North Carolina, and the District of Columbia. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Camden, N.J., or Philadelphia, Pa.

No. MC 123639 (Sub-No. 136), filed May 24, 1971. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard, Denver, CO 80216. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, from the plantsite and storage facilities of Monfort Packing Co. at or near Greeley, Colo., to points in Connecticut, Delaware, Illinois, Indiana (except points in Illinois and Indiana in the Chicago, Ill., commercial zone), Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the plantsite and/or storage facilities of Monfort Packing Co., at or near Greeley, Colo., and destined to the named territory. Note: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 123639 (Sub-No. 137), filed May 26, 1971. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard,

Denver, CO 80216. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite or storage facilities of Illini Beef Packers at or near Joslin, Ill., to points in Colorado (except points in the Denver, Colo., commercial zone), Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. Restriction: Restricted to traffic originating at the named origins and destined to the named territory. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123640 (Sub-No. 5), filed May 27, 1971. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maunee Avenue, Fort Wayne, IN 46803. Applicant's representative: Irving Klein, 280 Broadway, New York, NY 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities sold and dealt in by wholesale hardware houses*, between Cape Girardeau, Mo., on the one hand, and, on the other, points in Tennessee, Illinois, Indiana, Kentucky, Alabama, Mississippi, Arkansas, Missouri, Kansas, and Iowa, under contract with Hardware Wholesalers, Inc. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123690 (Sub-No. 1), filed May 24, 1971. Applicant: ROBERT N. SMITH, doing business as BOB SMITH'S WRECKER SERVICE, Post Office Box 514, 4740 Industrial Road, Fort Wayne, IN 46801. Applicant's representative: Harry J. Harman, One Indiana Square, Suite 2425, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used tractors*, in secondary movements, by the truck-away method, to be used as replacements for wrecked or disabled tractors, and used trailers or used semitrailers to be used as replacements for wrecked, damaged, or disabled trailers or semitrailers; (2) *wrecked or disabled motor vehicles, including wrecked or disabled trailers or semitrailers*; and (3) *motor vehicles parts, accessories, supplies, and materials*, moving in wrecker equipment for use in connection with the repairing and reconditioning of damaged, disabled, or wrecked motor vehicles, trailers and semitrailers, between points in Allen County, Ind., on the one hand, and, on the other, points in Wisconsin, Iowa, Missouri, Kentucky, Tennessee, and Pennsylvania, and the traversal of States necessary to perform said service. Restriction: The authority sought herein is restricted to the transportation of traf-

fic by wrecker equipment only. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fort Wayne or Indianapolis, Ind.

No. MC 124078 (Sub-No. 488), filed May 28, 1971. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Corn products and blends*, in bulk, from Cedar Rapids, Clinton, Keokuk, and Muscatine, Iowa, to points in the United States (except Alaska and Hawaii); and (b) *soybean products and blends*, dry, in bulk, from Cedar Rapids, Iowa, to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124328 (Sub-No. 48), filed May 27, 1971. Applicant: BRINK'S, INCORPORATED, 234 East 24th Street, Chicago, IL 60616. Applicant's representative: Francis D. Partlan (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food coupons*, from Washington, D.C., to points in the United States (except Alaska and Hawaii), under contract with United States of America, General Services Administration. Note: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125254 (Sub-No. 9), filed May 19, 1971. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., Post Office Box 714, Muscatine, IA 52761. Applicant's representative: Larry D. Knox, 4044 Southeast 14th Street, Des Moines, IA 50320. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Iowa City, Iowa, to points in Minnesota (except St. Paul and Minneapolis), South Dakota, North Dakota, Missouri (except Kansas City and St. Louis), Kansas (except Kansas City), Iowa, Rock Island, Ill., and Superior, Wis. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 126040 (Sub-No. 1), filed May 18, 1971. Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122d Street, Alsip, IL 60658. Applicant's representative: E. W. Heniff (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in bulk in tank trucks, from Peoria, Ill., to points in Iowa and Missouri, under contract

with American Oil Company. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 126196 (Sub-No. 6), filed May 17, 1971. Applicant: LUVERNE S. CHRISTENSEN, doing business as CHRISTENSEN TRUCK LINE, 206 West 11th Street, Redwood Falls, MN 56283. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients* (except in tank vehicles); (1) from points in Minnesota to points in North Dakota, South Dakota, Iowa, and Wisconsin; (2) from points in Wisconsin to points in Minnesota; and (3) from points in Hardin County, Iowa, to points in Minnesota, North Dakota, South Dakota, and Wisconsin, with duplications of MC 126196 Subs 1 and 3 eliminated. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 127274 (Sub-No. 25), filed June 1, 1971. Applicant: SHERWOOD TRUCKING, INC., 1517 Hoyt Avenue, Muncie, IN 47302. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Eaton, Ind., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas; and (2) *returned shipments of paper and paper products*, from points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas, to Eaton, Ind. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 127505 (Sub-No. 42), filed May 18, 1971. Applicant: RALPH H. BOELK, doing business as R. H. BOELK TRUCK LINES, Route 2, Mendota, Ill. 61342. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, IL 60175. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum and aluminum articles* (except commodities in bulk), from the plantsite of Amax Aluminum Mill Products, Inc., in Grundy County, Ill., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, and (2) *Return of damaged or rejected shipments* (except commodities in bulk),

from the destination States listed in (1) above to the plantsite of Amax Aluminum Mill Products, Inc., in Grundy County, Ill., restricted to traffic originating at the named origins and destined to the named destinations. Note: Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128237 (Sub-No. 13), filed June 1, 1971. Applicant: BURSAL TRANSPORT, INC., Rural Route 1, Bunder Hill, Ind. 46914. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, from points in Bibb County, Ga., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, under contract with Lowes, Inc., and its subsidiaries, Pike Peak Clay, Inc., and Southern Clay, Inc. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 128273 (Sub-No. 97), filed June 1, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys and recreational equipment*, from Bossier City, La., to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 128471 (Sub-No. 1) (Correction), filed May 14, 1971, published in the FEDERAL REGISTER issue of June 4, 1971, and republished in part as corrected this issue. Applicant: LAHMANN FILM SERVICE, INC., 5657 Green Acres Court, Cincinnati, OH 45211. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Note: The sole purpose of this partial republication is to reflect Greater Cincinnati Airport in Boone County, Ky., in lieu of Greater Cleveland Airport as erroneously shown in the previous publication. The rest of the application remains as previously published.

No. MC 128878 (Sub-No. 24), filed May 25, 1971. Applicant: SERVICE TRUCK LINE, INC., Post Office Box 3904, Shreveport, LA 71103. Applicant's representative: Ewell H. Muse, Jr., 415 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glue, glue stock, synthetic resin*, from Andalusia, Ala., to points in Alabama, Arkansas,

Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas; (2) *formaldehyde*, in bulk in tank vehicles, from Malvern, Ark., to Winnfield, La.; (3) *glue, glue stock*, from Lufkin, Tex., to points in Arkansas, Louisiana, Kentucky, and Tennessee (except Kingsport); (4) *carbon black*, other than in bulk, from the plantsites and storage facilities of the Thermatomic Carbon Co., located in Ouachita Parish, La., to Vicksburg, Miss.; (5) *fertilizer, fertilizer ingredients, feed, feed ingredients* in bulk and in containers, from Caddo, Bossier, and De Soto Parishes, La., to points in Arkansas on and south of Arkansas State Highway 4 beginning at Arkansas City, Ark., thence westerly on Arkansas State Highway 4 to the Arkansas-Oklahoma State line and points in Louisiana and Texas (except bulk to points in Chambers, Montgomery, Harris, Fort Bend, Galveston, Liberty, and Brazoria Counties, Tex.); and (6) *sawdust, woodchips*, between points and places in Arkansas, Louisiana, Mississippi, Tennessee, and Texas. Note: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La.; Baton Rouge, La.; or Houston, Tex.

No. MC 129449 (Sub-No. 7), filed May 19, 1971. Applicant: LUMBER TRANSPORT, INC., Post Office Box 5, 306 Northwest Fifth Street, John Day, OR. Applicant's representative: Kenneth G. Thomas, 900 Failing Building, 618 Southeast Fifth Avenue, Portland, OR 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood chips, sawdust, wood shavings, veneer, and box shoo*, from points in Grant, Wheeler, and Morrow Counties, Ore., to points in Oregon, Washington, Idaho, and California. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Ore.

No. MC 129645 (Sub-No. 35), filed May 24, 1971. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, doing business as SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, MI 49801. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane, urethane products, roofing and roofing materials, insulating materials, composition board, and gypsum products, and materials* used in the installation thereof (except commodities in bulk), from the plantsite and warehouse facilities of the Celotex Corp. at Charleston, Ill., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Nebraska, Louisiana,

Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., or Birmingham, Ala.

No. MC 133035 (Sub-No. 15), filed May 25, 1971. Applicant: DILTS TRUCKING, INC., Route 1, Crescent, IA 51526. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, from Blair, Nebr., to points in Iowa. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 133265 (Sub-No. 3), filed May 25, 1971. Applicant: CONSOLIDATED CARRIERS CORP., 141 West 35th Street, New York, NY 10038. Applicant's representative: Herbert Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies, and machinery* used in the manufacture thereof, and accessories between New York, N.Y., on the one hand, and, on the other, all points in Nassau and Suffolk Counties, N.Y. **NOTE:** Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 133631 (Sub-No. 3), filed May 26, 1971. Applicant: AAA DELIVERY SYSTEMS, INC., Post Office Box 1148, Flint, MI 48501. Applicant's representative: William B. Elmer, 23801 Gratiot Avenue, East Detroit, MI 48021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually dealt in, or used by retail department stores, between points in Michigan and Ohio, restricted to shipments moving from, to, or between wholesale or retail department stores, their warehouses or other facilities of the J. L. Hudson Co., under contract with J. L. Hudson Co. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.; or Detroit, Mich.

No. MC 133631 (Sub-No. 4), filed May 26, 1971. Applicant: AAA DELIVERY SYSTEMS, INC., Post Office Box 1148, Flint, MI 48501. Applicant's representative: William B. Elmer, 23801 Gratiot Avenue, East Detroit, MI 48021. Authority sought to operate as a *contract*

carrier, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually dealt in, or used by, retail department stores, between Detroit, Mich., on the one hand, and, on the other, points in Michigan located on and south of Michigan Highway 21, under contract with L. S. Good Co., J. W. Knapp Co., Lansing; Smith-Bridgman & Co., Flint; D. M. Christian Co., Owosso, Mich. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.; or Detroit, Mich.

No. MC 133676 (Sub-No. 7), filed March 1, 1971. Applicant: COMET DISTRIBUTION SERVICES, INC., 2125 Sorrell Avenue, Post Office Box 3175, Baton Rouge, LA 70821. Applicant's representatives: Norman LaBorde (same address as applicant), and Clint L. Pierson, 947 Gardere Lane, Route 3, Baton Rouge, LA 70808. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp*, in bales, from Port Hudson, La., to New Orleans, La., on traffic having subsequent out-of-State movement by water. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Baton Rouge, La.

No. MC 134134 (Sub-No. 10), filed May 24, 1971. Applicant: MAINLINER MOTOR EXPRESS, INC., 2002 Madison Street, Omaha, NE 68107. Applicant's representative: Robert V. Dwyer, Jr., 1601 Woodmen Tower, Omaha, NE 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing-houses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite and storage facilities utilized by Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: Restricted to traffic originating at the named plantsite and storage facilities and destined to the named destination States. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 134219 (Sub-No. 4), filed May 20, 1971. Applicant: GEORGE V. D'AGOSTINO, doing business as AIRLIN TRUCKING CO., 213-217 Poinier Street, Newark, NJ 07104. Applicant's representative: George A. Olsen, 69 Tomnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chalk* (except in bulk, in tank vehicles), from piers and

warehouses in New York, N.Y., harbor, as defined by the Commission, and Newark, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, under contract with Pluess-Stauffer (North American), Inc. **NOTE:** Applicant now holds common carrier authority under its No. MC 134743, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 134387 (Sub-No. 4), filed May 27, 1971. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal cans and can ends on pallets*, from points in Orange County, Calif., to points in Clark County, Nev.; and (2) *empty glass containers on pallets*, from points in Orange County, Calif., to points in Maricopa County and Pima County, Ariz. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 127952 Sub-2 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134494 (Sub-No. 2), filed May 26, 1971. Applicant: WAYNE DANIEL, doing business as WAYNE DANIEL TRUCK, Post Office Box 303, Mount Vernon, MO 65712. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries, sandboxes, blackboards, chalkboards and furniture*, from points in the St. Louis, Mo., commercial zone to points in California, Oregon, Washington, Idaho, Utah, Colorado, Arizona, New Mexico, and Nevada, under contract with Beatrice Foods Co. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 135080 (Sub-No. 1), filed May 26, 1971. Applicant: BEAULIEU TRANSPORT LIMITEE, 10, 272 Des Hetres Boulevard, Shawinigan, PQ Canada. Applicant's representative: Adrien R. Paquette, 200 St. James Street West, Montreal, PQ Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles* from ports of entry on the international boundary line between the United States and Canada, located in New York, Minnesota, and Michigan, to points in New York, Michigan, Minnesota, and Wisconsin, under contract with Les Industries Dauphin Ltee. **NOTE:** If a hearing is deemed necessary, applicant requests it

be held at Montpelier, Vt., Albany or Plattsburg, N.Y.

No. MC 135085 (Sub-No. 1), filed May 26, 1971. Applicant: BENTON BROTHERS DRAYAGE AND STORAGE COMPANY, a corporation 4111 Montgomery Street, Savannah, GA 31405. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, and *unaccompanied baggage and personal effects*, between points in Georgia and points in Aiken, Allendale, Edgefield, Hampton, McCormick, Barnwell, Jasper, and Beaufort Counties, S.C. Restriction: The operations requested herein are restricted to the transportation of traffic having a prior or subsequent movement, in containers (except as to unaccompanied baggage and personal effects), beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, containerization or unpacking, uncrating, and decontainerization of such traffic. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta or Savannah, Ga.

No. MC 135144 (Sub-No. 1), filed May 26, 1971. Applicant: GENERAL WAREHOUSE COMPANY, a corporation, Jean Ribaut Road, Port Royal, S.C. 29935. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, and *unaccompanied baggage and personal effects*, between points in South Carolina. Restriction: The operations sought herein are subject to the following conditions: (1) Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, except as to unaccompanied baggage and personal effects, beyond the points authorized. (2) Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta or Savannah, Ga.

No. MC 135342 (Sub-No. 1), filed May 27, 1971. Applicant: BLAINE L. PARK AND REED N. PARK, a partnership, doing business as PARK BROS. TRUCKING, Post Office Box 112, Terreton, ID 83450. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk supplement*, in bags, from Rogers, Minn., to points in California, Idaho, Montana, Oregon, Utah, Washington, and Wyoming, under contract with K & K Manu-

facturing, Inc. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 135349 (Sub-No. 1), filed April 29, 1971. Applicant: R T S DELIVERY SERVICE, INC., 325 Jelliff Avenue, Newark, NJ 07108. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), from New York, N.Y., to points in Connecticut, New Jersey, and points in Pennsylvania east of the Susquehanna River. Restricted: (a) against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day; and (b) in leased vehicles with drivers under continuing contracts with A. I. Friedman, Inc., Arrow Photo Service, Inc., Arthur Brown & Bros., Inc., Managistics, Inc., and Meeco Press, Inc.; (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), over irregular routes, from Newark, N.J., to points in New York, Connecticut, and points in Pennsylvania east of the Susquehanna River. Restricted: (a) against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any other day; and (b) in leased vehicles with drivers under continuing contract with Ever-Last Floor Supply Co.; and (3) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), over irregular routes, from Philadelphia, Pa., to points in Delaware, and points in New Jersey south of New Jersey Highway 33. Restricted: (a) against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day; and (b) in leased vehicles with drivers under continuing contract with Charles Bruning Co. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 135640 (Sub-No. 2), filed June 1, 1971. Applicant: STALEY EXPRESS, INC., 765 East Pythian, Decatur, IL 62525. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated steel and materials, equipment, and supplies* used in the installation and erection thereof, from Decatur, Ill., to points in Indiana, Iowa, Missouri, and Wisconsin. **NOTE:** Applicant states that the requested authority cannot be tacked with its exist-

ing authority. If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill., or St. Louis, Mo.

No. MC 135655, filed May 24, 1971. Applicant: STIDHAM TRUCKING, INC., 645 West Lennox Street, Yreka, CA 96097. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Light weight aggregates*, viz: *ash, volcanic, cinder pumice*, from the B.S.B. Cinder Co. pit and screening plant located on County Road A-12 in Siskiyou to points in Jackson and Josephine Counties, Oreg., under contract with B.S.B. Cinder Co., Montague, Calif. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 135656, filed May 24, 1971. Applicant: ALL POINTS MOVING & STORAGE, 3712 Franklin, Waco, TX. Applicant's representative: Bill Kinder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, between Waco, Tex., on the one hand, and, on the other, points in Bell, Williamson, Milan, Limestone, Hill, Bosque, Coryall, Lampasas, Robertson, and Navarro County, Tex. Restriction: The service herein sought is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points named, and further restricted to the performance of pickup or delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at (1) Austin, (2) Waco, (3) Fort Worth, Tex.

No. MC 82007 (Sub-No. 3), filed May 26, 1971. Applicant: SAMUEL COOPER GREGG, Yorklyn, Del. 19736. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, from points in Chester County, Pa., to points in New Jersey, Delaware, Maryland, Virginia, New York, and Washington, D.C., and return. **NOTE:** Applicant states that the requested authority can be tacked or joined with its existing authority in MC 82007 wherein it holds authority to operate in charter service from Wilmington, Del., and points within 10 miles of Wilmington to points in Maryland, Pennsylvania, New Jersey, Virginia, and the District of Columbia, and return. If a hearing is deemed necessary, applicant requests it be held at Wilmington, Del., or West Chester, Pa.

No. MC 106207 (Sub-No. 12) (Amendment), filed March 11, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, and republished as amended, this issue. Applicant: NEW YORK-KEANSBURG-LONG BRANCH BUS CO., INC.,

602 Broadway, Bayonne, NJ 07002. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers between Sea Bright, N.J., and Middletown, N.J. From junction Ocean Avenue and Rumson Bridge and Rumson Road to junction Avenue of Two Rivers, then over Avenue of Two Rivers to junction Ridge Road, then over Ridge Road to junction River Avenue, then over River Avenue to junction Washington Street and the Oceanic Bridge, then over the Oceanic Bridge to junction Locust Point Road, then over Locust Point Road (1) to junction Navesink Avenue, then over Navesink Avenue to junction Grand Avenue, then over Grand Avenue to junction New Jersey Highway 36 (Memorial Parkway); or (2) to junction Lakeside Avenue, then over Lakeside Avenue to junction Monmouth Road, then over Monmouth Road to junction Sears Avenue, then over Sears Avenue to junction New Jersey Highway 36 (Memorial Parkway) and return over the same routes, serving all intermediate points. The applicant proposes to join the above routes to its existing routes between Middletown and Sea Bright, N.J., on the one hand, and, on the other, New York, N.Y., in order to provide regular route service over the proposed routes and its existing routes between New York, N.Y., on the one hand, and, on the other, points on its existing routes and the proposed routes. The purpose of this republication is to change the territorial scope of the application. If a hearing is deemed necessary, applicant requests it be held at Long Branch or Newark, N.J.

No. MC 135392, filed March 2, 1971. Applicant: IRON RANGE BUS LINES LIMITED, 329 John Street, Thunder Bay "P", ON, Canada. Applicant's representative: John W. Erickson, 17A South Cumberland Street, Thunder Bay "P", ON, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, in round-trip sightseeing and pleasure tours, from ports of entry on the international boundary line between the United States and Canada, to points in Wisconsin and Minnesota. Note: Applicant states that purpose of this application is to connect the physical operation of the applicant which commences in the city of Thunder Bay in the Province of Ontario, to points in the States of Wisconsin and Minnesota in order to complete the applicant's charter service. If a hearing is deemed necessary, applicant requests it be held at Duluth or Minneapolis, Minn.

APPLICATION FOR FREIGHT FORWARDER
No. FF-267 (Sub-No. 5) (HONOLULU FREIGHT SERVICE, Extension—Calif.)

(2), filed June 8, 1971. Applicant: HONOLULU FREIGHT SERVICE, a corporation, 2425 Porter Street, Los Angeles, CA 90021. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought under section 410, part IV of the Interstate Commerce Act, for a permit to extend operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by water, motor common carrier, and rail common carrier in the transportation of *general commodities*, except household goods as defined by the Commission, unaccompanied baggage and used automobiles, between points in Hawaii, on the one hand, and, on the other, points in Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties, Calif.

No. FF-406 (WEST-WAY FWD., INC., Freight Forwarder Application), filed June 10, 1971. Applicant: WEST-WAY FWD., INC., 722 North Main Street, Post Office Box 15295, Las Vegas, NV 89114. Applicant's representative: Rulon A. Earl, El Portal Building, 310 East Fremont Street, Las Vegas, NV 89101. Authority sought under section 410, part IV of the Interstate Commerce Act for a permit authorizing applicant to institute operations as a freight forwarder in interstate or foreign commerce in the forwarding of *general commodities*, between all points in the continental United States (except Alaska), on the one hand, and, on the other, Hawaii.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED.

No. MC 29061 (Sub-No. 12), filed May 19, 1971. Applicant: MIDWEST COACHES, INC., 216 North Second Street, Mankato, MN 56001. Applicant's representative: William E. Fox, 860 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over regular routes: Between Mankato, Minn., and Sioux City, Iowa, from Mankato over U.S. Highway 14 to junction U.S. Highway 59, thence over U.S. Highway 59 to Slayton, Minn., thence over Minnesota Highway 30 to Pipestone, Minn., and thence over U.S. Highway 75 to Sioux City, and return over the same route, serving all intermediate points; and (2) *passengers and their baggage*, in the same vehicle with passengers, in charter operations, over irregular routes: Beginning and ending at points on the route described in (1) above, and extending to points in the United States.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-8720 Filed 6-23-71; 8:45 am]

[Notice 317]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 18, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field office named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 329 TA), filed June 14, 1971. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., Post Office Box 958, 1417 Clay Street, Oakland, CA 94612. Applicant's representative: R. N. Cooleedge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chloral*, in bulk, in tank vehicles, from Henderson, Nev., to Newark, N.J., for 150 days. Supporting shipper: Montrose Chemical Corp. of California, Post Office Box 147, Torrance, CA 90507. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 30383 (Sub-No. 7 TA), filed June 14, 1971. Applicant: JOSEPH F. WHELAN COMPANY, INC., 439 West 54th Street, New York, NY 10019. Applicant's representative: M. Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soap products, stearic acid, vegetable stearine, glycerine, oils, cooking fats, soap, soap powder, cleaning and washing compounds, lard substitutes, toilet preparations, empty containers, kegs and drums, advertising matter and premiums and groceries*, from East Brunswick, N.J., to points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., under continuing contract with Procter & Gamble Manufacturing Co., and Procter & Gamble Distributing Co., for 180 days. Supporting shipper: The Procter & Gamble Co., Post Office Box No. 599, Cincinnati, OH 45201. Send

protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

No. MC 31600 (Sub-No. 652 TA), filed June 11, 1971. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, MA 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica*, in bulk, in tank vehicles, from Alloy and Graham, W. Va., to North Haven, Conn., for 180 days. Supporting shipper: The Upjohn Co., North Haven, Conn. Send protests to: James F. Martin, Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building Government Center, Boston, Mass. 02203.

No. MC 107295 (Sub-No. 530 TA), filed June 14, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets*, from Winchester, Va., to Hammond, Ind., and Franklin Park, Ill., for 180 days. Supporting shipper: John Leffler, President, Plywood Minnesota Mid-Western, Inc., 1925 26th Avenue North, Franklin Park, IL 60131. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107403 (Sub-No. 813 TA), filed June 13, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, from Plaquemine, La., to points in Arkansas, Alabama, Florida, Georgia, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Texas, for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 629, Plaquemine, LA 70764. Send protests to: Ross A. Davis, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 111729 (Sub-No. 320 TA), filed June 14, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting media of all kinds, and advertising material moving therewith*, (a) between Milwaukee, Wis., on the one hand, and, on the other, Paris and Sterling, Ill., and Des Moines, Iowa;

(b) between Pottstown, Pa., and Richmond, Va.; (c) between Cincinnati, Ohio, on the one hand, and, on the other, Baldwin, St. Charles, and St. Louis, Mo., and Edwardsville, Ill.; (d) between Grand Rapids, Mich., on the one hand, and, on the other, Marion, Ind.; (e) between Rolling Meadows, Ill., on the one hand, and, on the other, Clinton, Iowa; (2) *ophthalmic goods, business papers and records*, between Whitewater, Wis., on the one hand, and, on the other, Chicago, Decatur, Joliet, Peoria, and Rockford, Ill.; Evansville, Fort Wayne, Gary, Hammond, Indianapolis, and South Bend, Ind.; Burlington, Cedar Rapids, Davenport, and Dubuque, Iowa; Minneapolis, and St. Paul, Minn.; (3) *exposed and processed film and prints complimentary replacement film, incidental dealer handling supplies, and advertising material moving therewith*; (excluding motion picture film used primarily for commercial theater and television exhibition), between Cincinnati, Ohio, on the one hand, and, on the other, Edwardsville, Ill., and Baldwin, St. Charles, and St. Louis, Mo.; (4) *cut flowers, decorative greens, and florist supplies*, on traffic having an immediately prior or subsequent movement by air or motor vehicle; (a) between points in Alabama, Georgia, Florida, Minnesota, Texas, and Wisconsin; (b) between Chicago, Ill., on the one hand, and, on the other, points in Wisconsin, for 180 days. Supporting shippers: Loewi & Co., 225 East Mason Street, Milwaukee, WI 53202; Bell Fibre Products Corp., 2000 Beverly SW., Grand Rapids, MI 49509; Baker Equipment Engineering Co., Summit and Norfolk Streets, Richmond, VA 23211; Chemplex Co., Rolling Meadows, Ill. 60008; American Optical Co., Southbridge, Mass. 01550; Photo Service, Inc., 933 Meadow Gold Lane, Cincinnati, OH 45203; Norman Cox & Co., Fort Myers, Fla.; Gulf Coast Farms, Inc., Fort Myers, Fla.; Davis Brothers Florists Inc., Post Office Box 1106, Denver, CO 80201. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y.

No. MC 113974 (Sub-No. 46 TA) (Correction), filed May 3, 1971, published FEDERAL REGISTER issue May 15, 1971, corrected and republished as corrected this issue. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Avenue, Post Office Box 67, Dravosburg, PA 15034. Applicant's representative: W. H. Schlottman (same address as above). Note: The purpose of this partial republication is to include the returned shipments of the above-described commodities, from the above-named destination points to the above-named origin point. The rest of the application remains the same.

No. MC 117883 (Sub-No. 156 TA), filed June 14, 1971. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, Versailles, OH 45380. Applicant's representative: Edward J. Subler (same address as above). Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, canned or preserved and flavored beverages*, from Champaign, Ill., to Akron, Ashtabula, Bedford Heights, Bellefontaine, Canton, Cincinnati, Cleveland, Columbus, Dayton, Dennison, Lima, Maple Heights, Massillon, Solon, Warrensville Heights, West Carrollton, Woodlawn, Xenia, Youngstown, Ohio, and Huntington, W. Va. Restriction: Restricted to traffic originating at the plant-site and storage facilities of Kraft Foods, Division of Kraftco Corp. at Champaign, Ill., for 180 days. Supporting shipper: Kraft Foods, Division of Kraftco Corp., 505 North Sacramento Boulevard, Chicago, IL 60612. Send protests to: Emil P. Schwab, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 126473 (Sub-No. 16 TA), filed June 14, 1971. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, Iowa 52580. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles*, from Parkersburg, W. Va., to Fairfield, Iowa, for 180 days. Supporting shipper: Cino Win Corp., Post Office Box 926, Fairfield, IA 52556. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 127028 (Sub-No. 8 TA), filed June 13, 1971. Applicant: BREDEHOEFT PRODUCE COMPANY, INC., Decatur, Ark. 72722. Applicant's representative: Edward T. Lyons, Jr., Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, from the plant-site of Occidental Chemical Co. near White Springs, Fla., to points in Arkansas and Missouri, for 180 days. Supporting shipper: Occidental Chemical Co., Post Office Box 1185, Houston, TX 77001. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 127049 (Sub-No. 8 TA), filed June 14, 1971. Applicant: CEDARBURG CONTAINER CARRIERS CORPORATION, 1616 Second Avenue, Grafton, WI 53024. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Semi-processed yarn*, between Grafton, Hustisford, and Fort Atkinson, Wis.; Bloomsburg, Pa.; and Fall River, Mass.; on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *wool tops*, from points in Massachusetts, North Carolina, Rhode Island, South Carolina, Virginia, and

West Virginia to Bloomsburg, Pa., and Grafton and Fort Atkinson, Wis.; (3) *yarn*, from Fall River, Mass., to points in the United States (except Alaska and Hawaii); (4) *dyestuffs and additives*, from points in New Jersey to Grafton and Fort Atkinson, Wis., and (5) *folding cartons*, from Wisconsin Rapids, Wis., to Fall River, Mass., all for the account of Badger Mills, Grafton, Wis., for 180 days. Supporting shipper: Badger Mills, 1350 14th Avenue, Grafton, WI 53024 (Edward Cowell, Vice President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 135663 (Sub-No. 1 TA), filed June 14, 1971. Applicant: A. J. MILES, INC., 2969 West 13th Street, Wichita, KS 67203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay aggregate*, in bulk, in dump-type vehicles, from Marquette, Kans., to points in Missouri on and west of U.S. Highway 63; and on and north of Interstate Highway 44, restricted to service under contract with Buildex, Inc., for 150 days. Supporting shipper: Buildex, Inc., Post Office Box 10, Ottawa, KS 66067. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 135664 (Sub-No. 1 TA), filed June 14, 1971. Applicant: D.C.C. TRANSPORTATION CO., INC., 110 East Jefferson Avenue, West Memphis, AR 72301. Applicant's representative: John Paul Jones, 189 Jefferson Avenue, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bottle or can carrying boxes, or crates*, new or used, and/or reconditioned, from points in West Memphis, Ark., and Memphis, Tenn., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia; and *materials, equipment, and supplies* utilized in the manufacture, distribution, and sale of the commodities described above, on return, restricted against the transportation of commodities in bulk, under a continuing contract with Delta Case Co., West Memphis, Ark., and Delta Case Repair Co., Memphis, Tenn., for 180 days. Supporting shipper: Delta Case Co., Inc., 110 Jefferson Avenue, Post Office Box 277, West Memphis, AR 72301. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135678 TA, filed June 14, 1971. Applicant: MIDWESTERN TRANSPORTATION, INC., 2400 Northwest 23d Street, Oklahoma City, OK 73107. Applicant's representative: Rufus H. Lawson

(same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*; (1) between Oklahoma City, Okla., and the Oklahoma-Texas State line approximately 1 mile west of Texola, Okla., serving all intermediate points, except Bethany, Yukon, and El Reno, Okla., and serving the off-route point of Hydro, Okla., from Oklahoma City, Okla., over U.S. Highway 66 and Interstate Highway 40 to the Oklahoma-Texas State line, and return over the same route; (2) between Oklahoma City, Okla., and Sayre, Okla., serving all intermediate points; between Clinton, and Sayre, Okla., and the off-route points of Stafford, Hammon, and Herring, Okla., from Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Clinton, Okla., thence over State Highway 73 to its junction with State Highway 34, thence over State Highway 34 to its junction with State Highway 33, thence over State Highway 33 to its junction with U.S. Highway 283, thence over U.S. Highway 283 to Sayre, Okla., and return over the same route; (3) between Oklahoma City, Okla., and intersection of State Highway 34 and State Highway 33, serving all intermediate points between Clinton, Okla., and intersection of State Highway 34 and State Highway 33, from Oklahoma City, Okla., over U.S. Highway 66 and Interstate Highway 40 to Clinton, Okla., thence over U.S. Highway 183 to its intersection with State Highway 33 to its intersection with State Highway 34, and return over the same route;

(4) Between Oklahoma City and Erick, Okla., serving the off-route points of Durham and Dempsey, and serving all intermediate points between Weatherford and Erick, Okla.; from Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Weatherford, Okla., thence over State Highway 54 to its intersection with U.S. Highway 183, thence over U.S. Highway 183 to its intersection with U.S. Highway 60, thence over U.S. Highway 60 to Selling, Okla., thence over U.S. Highway 60 to Arnett, Okla., thence north over State Highway 46 to Gage, Okla., thence over State Highway 15 to Shattuck, Okla., thence over State Highway 283 to its intersection with State Highway 33, thence over State Highway 33 to its intersection with State Highway 30 to Erick, Okla., and return over the same route; (5) between Oklahoma City, Okla., and Sayre, Okla., serving all intermediate points; between Clinton and Sayre, Okla., from Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Clinton, Okla., thence over U.S. Highway 183 to its intersection with State Highway 47, thence over State Highway 47 to its intersection with U.S. Highway 283, thence over U.S. Highway 283 to Sayre, Okla., and return over the same route; (6) between Oklahoma City, Okla., and Vici, Okla., and return over the same route; between Elk City, and Vici, Okla., and the off-route point of Trail, Okla., and return over the same route, from Okla-

homa City, Okla., to Elk City, Okla., over Interstate Highway 40 and U.S. Highway 66, thence over State Highway 34 to Vici, Okla., and return over the same route; (7) between Oklahoma City, Okla., and intersection of State Highway 33 and U.S. Highway 283 approximately 1 mile north of Roll, Okla., serving all intermediate points, between Elk City, Okla., and intersection of State Highway 33 and U.S. Highway 283, from Oklahoma City, Okla., to Elk City, Okla., over Interstate Highway 40 and U.S. Highway 66, thence over State Highway 6 to its intersection with U.S. Highway 283, thence over U.S. Highway 283 to intersection State Highway 33 and U.S. Highway 283, and return over the same route;

(8) Between Oklahoma City, Okla., and the Oklahoma-Texas State line approximately 5 miles west of Sweetwater, Okla., serving all intermediate points, between the intersection of State Highway 152 and State Highway 54 and the Oklahoma-Texas State line approximately 5 miles of Sweetwater, Okla., from Oklahoma City, Okla., over State Highway 152 to the Oklahoma-Texas State line approximately 5 miles west of Sweetwater, Okla., and return over the same route; (9) between Oklahoma City and Weatherford, Okla., serving the off-route points of Corn and Colony, Okla., from Oklahoma City, Okla., to Weatherford, Okla., over Interstate Highway 40 and U.S. Highway 66, thence over State Highway 54 to its intersection with State Highway 152, and return over the same route; (10) between Oklahoma City and Sayre, Okla., serving all intermediate points, between Cordell and Sayre, Okla., including Cordell, Okla., from Oklahoma City, Okla., over State Highway 152 to Cordell, Okla., thence over U.S. Highway 183 to Rocky, Okla., thence over State Highway 55 to its intersection with State Highway 152, thence over State Highway 152 to Sayre, Okla., and return over the same route; (11) between Oklahoma City, Okla., and Butler, Okla., serving all intermediate points, between Sentinel and Butler, Okla., and the off-route point of Clinton Sherman Air Force Base, from Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Clinton, Okla., thence over State Highway 183 to Rocky, Okla., thence over State Highway 55 to Sentinel, Okla., thence over U.S. Highway 44 to Butler, Okla., and return over the same route; (12) between Elk City and Retrop, Okla., serving all intermediate points, from Elk City, Okla., over State Highway 6 to Retrop, and return over the same route;

(13) Between Elk City, Okla., and intersection of State Highway 34 and State Highway 152, from Elk City, Okla., over Interstate Highway 40 and U.S. Highway 66 to its intersection with State Highway 34, thence over State Highway 34 to its intersection with State Highway 152, and return over the same route; and (14) between Oklahoma City, Okla., and intersection of U.S. Highway 183 and State Highway 47 serving all intermediate points, between Thomas, Okla., and intersection of U.S. Highway 183, from

Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Weatherford, Okla., thence over State Highway 54 to Thomas, Okla., thence over State Highway 47, to its intersection with U.S. Highway 183, and return over the same route, for 180 days. NOTE: Applicant states it intends to tack its authority at Oklahoma City, Elk City, Sayre, and Clinton, Okla. Supported by: There are approximately 58 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the Field Office named below. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135680 (Sub-No. 1 TA), filed June 14, 1971. Applicant: FRED C. WILLIAMS, 1127 Baker Street, Yakima, WA 98902. Applicant's representative: Terry C. Schmalz, 115 South Second Street, Selah, WA 98942. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages, and wine*, from Los Angeles, Calif., to Ephrata and Wenatchee, Wash., for 180 days. Supporting shipper: Columbia Distributing Co., 3 Benton, Wenatchee, WA 98801. Send protests to: District Supervisor W. J. Huetig, Interstate Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

MOTOR CARRIER OF PASSENGERS

No. MC 3647 (Sub-No. 434 TA), filed June 11, 1971. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, 180 Boyden Avenue, Maplewood, NJ 07040. Applicant's representative: Richard Fryling (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip special operations, beginning and ending at points in Passaic County, N.J., and extending to Monticello Raceway, Monticello, N.Y., for 150 days. Supporting shippers: Mr. Allen J. Pinkleson, Director of Public Relations, for Monticello Raceway, Monticello, N.Y.; Mr. Edward Britton (Patron) 180 Park Avenue, Paterson, NJ, and 24 individual patrons whose affidavits are on file in Newark, N.J., field office. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8887 Filed 6-23-71;8:49 am]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 26 (Atchison, Topeka and Santa Fe Railway Co.) and good cause appearing therefor:

It is ordered, That: ICC Order No. 26, be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1971, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 18, 1971.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.71-8886 Filed 6-23-71;8:49 am]

MERCER TRUCKING CO. ET AL.

Assignment of Hearings

JUNE 21, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 43685 Sub 14, Mercer Trucking Co., Inc., now assigned June 28, 1971, at Spokane, Wash., is postponed indefinitely.
MC 119777 Sub 191, Ligon Specialized Hauler, Inc., now assigned June 21, 1971, at Louisville, Ky., canceled and transferred to modified procedure.
MC 116110 Sub 9, P. C. White Truck Line, Inc., now assigned September 8, 1971, in Room 224, Aronov Building, 474 South Court Street, Montgomery, AL.
MC 77972 Sub 17, Merchants Truck Line, Inc., now assigned July 12, 1971, at Jackson, Miss., canceled and reassigned to July 12, 1971, at Albert Pick Hotel, Delta Room, Eleventh Floor, Memphis, Tenn., and

August 16, 1971, in Holiday Inn North, Jackson Room, Hattiesburg, Miss., and August 18, 1971, in Holiday Inn, Room 302, McComb, Miss.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8890 Filed 6-23-71;8:49 am]

[Notice 318]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 21, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 4928 (Sub-No. 2 TA), filed June 14, 1971. Applicant: VERNON REHA AND DENNIS REHA, a partnership, doing business as REHA TRUCKING, Adair, Iowa 5002. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel jump forms, metal scaffolding, hydraulic hoists, and materials, equipment, and supplies used in the construction and installation of concrete poured silos*, between points in Iowa, Kansas, Missouri, and Nebraska, for 180 days. Supporting shipper: Iowa Star Silos, Inc., Adair, Iowa 50002. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 105045 (Sub-No. 32 TA), filed June 14, 1971. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Post Office Box 724,

Evansville, IN 47701. Applicant's representative: George H. Veech (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pipes, prestressed beams, precast beams, precast wall panels, prestressed wall panels, hollow core slabs*, (1) from Evansville, Ind., to points in Illinois and Kentucky, (2) from Junction City, Ill., and Champaign, Ill., to points in Indiana and Kentucky, for 180 days. Supporting shipper: Nelson Concrete Products, Inc., Post Office Box 2267, Station D, Evansville, IN 47714. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 105566 (Sub-No. 33 TA), filed June 14, 1971. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, 405-S Crystal Plaza, 2111 Jefferson Davis Highway, Arlington, VA 22202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal and charcoal briquets*, from Meta, Mo., to points in Arizona, California, Nevada, Utah, Idaho, Washington, and Oregon, for 180 days. Supporting shipper: Standard Milling Co., 1009 Central Street, Kansas City, MO 64105. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 105566 (Sub-No. 34 TA), filed June 14, 1971. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, 405-S Crystal Plaza, 2111 Jefferson Davis Highway, Arlington, VA 22202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except hides, pelts, and commodities in bulk, in tank vehicles, from the plantsite and facilities of Illini Beef Packers, Inc., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Co. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

No. MC 106051 (Sub-No. 43 TA), filed June 14, 1971. Applicant: OLD COLONY TRANSPORTATION CO., INC., 676 Dartmouth Street, South Dartmouth, MA 02748. Applicant's representative: Francis E. Barrett, Jr., 536 Granite Street, Braintree, MA 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except

those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Albany, N.Y., on the one hand, and, on the other, points in Essex and Clinton Counties, N.Y., for 180 days. NOTE: Applicant states it does intend to tack the authority in MC 106051 at Albany, N.Y., supported by: There are approximately 19 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Gerald H. Curry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 187 Westminster Street, Providence, RI 02903.

No. MC 107162 (Sub-No. 31 TA), filed June 15, 1971. Applicant: NOBLE GRAHAM, Route No. 1, Brimley, MI 49715. Applicant's representative: John D. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden fencing, posts, and accessories used in the installation thereof*, from Alpena, Carney, Gladstone, Moran, Posen, Powers, Stephenson, and Wallace, Mich., to points in the United States (except Alaska, California, Hawaii, Michigan, Idaho, Montana, Nevada, Oregon, Utah, and Washington), restricted to use of flat-bed equipment only, for 180 days. Supporting shippers: Early American Fence Co., Post Office Box 166, Powers, MI 49874; Farley Fences, Inc., Post Office Box S, Bay City, MI 48706; Habitant Fence Division, Habitant Shops, Inc., Post Office Box 111, Bay City, MI 48706; MacGillis & Gibbs Co., 4278 North Teutonia Avenue, Milwaukee, WI 53209; Peterson Bros. Manufacturing Co., Carney, Mich. 49812. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 107227 (Sub-No. 120 TA), filed June 14, 1971. Applicant: INSURED TRANSPORTERS, INC., 1944 Williams Street, San Leandro, CA 94577. Applicant's representative: John G. Lyons, 1418 Mills Tower, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled aircraft cargo support vehicles*, excepting commodities requiring special equipment, from Van Nuys, Calif., to points in the United States, excepting points in Alaska and Hawaii, for 180 days. Supporting shipper: Nordeo Products, 7917 Gaviota, Van Nuys, CA 91406. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 107295 (Sub-No. 529 TA), filed June 14, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL

61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe conduit, and fittings, iron or steel, including accessories incidental to the completion erection, and installation thereof*, from Sharon and Wheatland, Pa., to points in Georgia, Alabama, Louisiana, Mississippi, and Texas; and from Alama State Docks at Mobile, Ala., to points in Alabama, Mississippi, Louisiana, Texas, and Georgia, for 180 days. Supporting shipper: Mr. W. B. Tull, Jr., Southern Pipe & Supply Co., Post Office Box 5738, Meridian, MS 39301. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 108393 (Sub-No. 48 TA), filed June 14, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Hinsdale, Ill. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical or gas appliances, parts of electrical or gas appliances, and equipment materials, and supplies used in the manufacture, distribution and repair of electrical or gas appliances*, for the account of Sears, Roebuck & Co., from Findlay, Ohio, to Pittsburgh, Pa., for 180 days. Supporting shipper: J. L. Roth, Territorial Traffic Manager, Post Office Box 5208, Chicago, IL 60680. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 108449 (Sub-No. 326 TA), filed June 14, 1971. Applicant: INDIAN HEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: W. A. Myllenbeck (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diesel fuel*, in bulk, in tank vehicles, from Bettendorf, Iowa, to Kaukauna, Wis., for 180 days. Supporting shipper: Phillips Petroleum Co., Hinsdale, Ill. Send protests to: District Supervisor E. C. Sjogren, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 115180 (Sub-No. 71 TA), filed June 13, 1971. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 265 West 14th Street, New York, NY 10011. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in

Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Maine, Vermont, New Hampshire, Ohio, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, West Virginia, Maryland, Pennsylvania, and the District of Columbia, and (2) *Such commodities as are used by meat packers, in the conduct of their business when destined to or for use by meat packers as described in section B of appendix I to the report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from points in Maine, Vermont, New Hampshire, Ohio, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, West Virginia, Virginia, Maryland, Pennsylvania, and the District of Columbia, to the plantsite and storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., restricted to the transportation of traffic originating at the above specified origins and destined to the above name destinations, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 118127 (Sub-No. 21 TA), filed June 14, 1971. Applicant: HALE DISTRIBUTING COMPANY, INC., 914 South Vail Avenue, Montebello, CA 90640. Applicant's representative: William J. Augello, 103 Fort Salonga Road, Northport, NY 11768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from points in Los Angeles, and Orange Counties, Calif., to Baltimore, Md., Alexandria, and Norfolk, Va., and Washington, D.C., for 150 days. Supporting shipper: Bavarian Pastry Shop, 750 Basin Street, San Pedro, CA 90731. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 119493 (Sub-No. 72 TA), filed June 14, 1971. Applicant: MONKEM COMPANY, INC. Office West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Atlanta, Ga., and Little Rock, Ark., to points in Alabama, Arkansas, Florida (on and west of U.S. Highway 231), Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee (on and west of U.S. Highway 41), and Texas (on and east of U.S. Highway 283 and 277), for 180 days. Supporting shipper: W. R. Grace & Co., Converted Plastic Group, Post Office Box 464, Duncan, SC 29334.

Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 126999 (Sub-No. 2 TA), filed June 15, 1971. Applicant: MATTHEW BERLETTCH, JR., 62 Laipple Street, Bridgeport, OH 43912. Applicant's representative: D. L. Bennett, 129 Edgington Lane, Wheeling, WV 26003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated nonalcoholic beverages and carbonated beverage flavoring syrup in shipper's special trailers*, from Morgantown, W. Va., to Frostburg, Md., for 180 days. Supporting shipper: Beverages of W. Va., Inc., 1448 University Avenue, Morgantown, W. Va. 26505. Send protests to: Joseph A. Niggemyer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 416 Old Office Building, Wheeling, W. Va. 26003.

No. MC 127238 (Sub-No. 3 TA), filed June 14, 1971. Applicant: DOROTHY R. ZUMMO, doing business as AIR DELIVERY SERVICE, 521 Cedar Avenue, Post Office Box 1102, Scranton, PA 18505. Applicant's representative: S. J. Zummo (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require special equipment), between points in Columbia County, Pa., on the one hand, and, on the other, Wilkes-Barre-Scranton Airport, Luzerne and Lackawanna Counties, Pa., Philadelphia International Airport, Philadelphia, Pa.; John F. Kennedy International Airport, New York, N.Y., and Newark Airport, Newark, N.J., restricted to the transportation of shipments having an immediately prior or an immediately subsequent movement by air, for 180 days. Supporting shippers: McGregor-Doniger, Inc., 69 King Street, Dover, NJ 07801; Yeager Wire Works, 620 Broad Street, Berwick, PA 18603. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, PA 18503.

No. MC 127844 (Sub-No. 17 TA), filed June 15, 1971. Applicant: L. B. BARNHILL AND I. S. JOHNSON, JR., a partnership, doing business as B & J TRANSPORTATION, Route 1, Box 48XA, Sumter, SC 29150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Nichols, S.C., to points in Connecticut, Massachusetts, Rhode Island, and New Hampshire, for 180 days. Supporting shipper: Unagusta Manufacturing Corp., Post Office Box 288, Nichols, SC 29581. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commis-

sion, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 129459 (Sub-No. 8 TA), filed June 13, 1971. Applicant: KEARNEY'S TRUCKING SERVICE, INC., Alternate Route U.S. 611—Post Office Box 264, Portland, PA 18331. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Elizabeth, N.J., to points in New York, New Jersey, Pennsylvania, Maryland, Delaware, Connecticut, Massachusetts, and Rhode Island, for 150 days. Supporting shipper: Diamond Crystal Salt Co., St. Clair, Mich. 48079. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 134219 (Sub-No. 5 TA), filed June 15, 1971. Applicant: GEORGE V. D'AGOSTINO, doing business as AIR-LIN TRUCKING CO., 213-217 Poinier Street, Newark, NJ 07114. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chalk*, except in bulk, in tank vehicles, from piers in New York, N.Y., Harbor, as defined by the Commission, warehouses in New York, N.Y., and Newark, N.J., to Harleysville, Pa., for 150 days. Supporting shipper: Pluess-Stauffer (North American), Inc., 82 Beaver Street, New York, NY 10005. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 134449 (Sub-No. 3 TA), filed June 14, 1971. Applicant: LESTER V. MOZNIX, 3753 Grandview Highway, Burnaby, 2, BC, Canada. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, counter tops and parts thereof*, from ports of entry on the international boundary between the United States and Canada at or near Blaine and Sumas, Wash., to points in California, except points in Alameda, San Francisco, Contra Costa, Marin, San Mateo, Calif., Las Vegas and Reno, Nev., and Phoenix, Ariz., for 180 days. Supporting shipper: Crestwood Kitchens Ltd., 225 No. 5 Road, Richmond, BC, Canada. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 135421 (Sub-No. 1 TA), filed June 16, 1971. Applicant: OSCAR DICKEY, Box 221, 209 Oak Street, Stayner, ON Canada. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Distiller's dried grain and gluten feed and meal*, in bulk, from ports of entry on the international boundary line between the United States and Canada located on the Niagara River at Buffalo, N.Y., to Buffalo and Watertown, N.Y., for 180 days. Supporting shipper: Barton Distilling (Canada) Ltd., Industrial Park, Collingwood, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 135610 (Sub-No. 1 TA), filed June 15, 1971. Applicant: JEAN CHARLES VOYER TRANSPORT, Riviere a Pierre, County Portneuf, PQ Canada. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Granite*, from the United States-Canada boundary line at or near Champlain, N.Y., to points in New York, for 150 days. Supporting shipper: Dumas & Voyer Ltee, Riviere a Piere, County Portneuf, PQ Canada. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 135679 (Sub-No. 1 TA), filed June 14, 1971. Applicant: FRANK A. HICKS, doing business as FRANK E. HICKS TRUCKING, Post Office Box 95, Somerset, CA 95684. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Limestone* (crushed), in bulk, from Shingle Springs, Calif., to points in Washoe County, Nev., and (2) *cement*, in bulk, from Fernley, Nev., to points in Alpine, Calaveras, El Dorado, Amador, Madera, Merced, Placer, Sacramento, San Joaquin, and Stanislaus Counties, Calif., for 180 days. Note: Applicant does not intend to tack or interline. Supporting shippers: El Dorado Limestone Co., Post Office Box 8, Shingle Springs, CA 95684; Nevada Cement Co., Fernley, Nev. 89408. Send protests to: Daniel Augustine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 135684 TA, filed June 16, 1971. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Star Route A, Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, restricted against the transportation of commodities in bulk, in tank vehicles, limited to a transportation service to be performed with Needham Packing Co., Inc., Sioux City, Iowa, (1) from the plant and warehouse facilities of Needham Packing Co., Inc., located at

West Fargo, N. Dak., Fargo, N. Dak., Sioux City, Iowa, and Omaha, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, North Carolina and South Carolina, and (2) from the plant and warehouse facilities of Needham Packing Co., Inc., located at Sioux City, Iowa, and Omaha, Nebr., to Chicago, Ill., and points in Illinois and Indiana in the Chicago commercial zone as defined by the Commission, for 180 days. Note: Applicant has extensive authority as contract carrier in MC 87720. Supporting shipper: Needham Packing Co., Inc., Sioux City Dressed Beef Division, 1911 Cunningham Drive, Sioux City, IA 51107. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8888 Filed 6-23-71;8:49 am]

[Notice 706]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 21, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72823. By order of June 17, 1971, the Motor Carrier Board approved the acquisition of control, through purchase of capital stock, by Michael Schlam, 65-05 Myrtle Avenue, Glendale, NY, of Swiss Ski Tours, Inc., Glendale, N.Y., which holds license No. MC-12820 issued June 4, 1964, authorizing it to engage in operations as a broker in connection with the transportation of passengers and their baggage, in round-trip tours, beginning and ending at Glendale, N.Y., and extending to points in Maine, Massachusetts, New Hampshire, and Vermont. Thomas E. Brett, 118-21 Queens Boulevard, Forest Hills, NY 11375, attorney for transferor.

No. MC-FC-72856. By order of June 17, 1971, the Motor Carrier Board approved the transfer to S & D Trucking Co., Inc., Dyersburg, Tenn., of the Certificate of Registration in No. MC-121666 issued February 2, 1971, to J. C. Stephens and

Clyde W. Davis, a partnership, doing business as S & D Trucking Co., Dyersburg, Tenn., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Tennessee, corresponding in scope to the service authorized by Certificate No. 2979, embraced in order dated June 26, 1970, issued by the Tennessee Public Service Commission. Barret Ashley, 322 Church Avenue, Dyersburg, TN 38024, attorney for applicants.

No. MC-FC-72870. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Paul Cavallo, doing business as Paul Cavallo Bus Line, Gillespie, Ill., of Certificates Nos. MC-101883, MC-101883 (Sub-No. 2), MC-101883 (Sub-No. 3), and MC-101883 (Sub-No. 4), issued June 29, 1949, June 15, 1955, September 29, 1966, and August 14, 1967, respectively, to Cavallo Bus Lines, Inc., authorizing, generally, the transportation of: Passengers and their baggage and passengers and their baggage, in charter operations, from, to, or between points in Illinois and Missouri. Paul Cavallo, 301 West Osie, Gillespie, IL 62033, for applicants.

No. MC-FC-72898. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Coy Hill, doing business as Hill Auto Transport, Fairbanks, Alaska, of Certificate No. MC-117137 issued May 22, 1969, to Alaska Auto Transport, Inc., Fairbanks, Alaska, authorizing the transportation of: Motor vehicles, in secondary movements, in truckaway service, from Seward, Valdez, and Anchorage, Alaska, to Fairbanks, Alaska, restricted to shipments having a prior movement by water; and automobiles and pickup trucks, in truckaway service, in secondary movements, between Seattle, Wash., and Fairbanks, Alaska. James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101, attorney for applicants.

No. MC-FC-72916. By order of June 17, 1971, the Motor Carrier Board approved the transfer to H & R Trucking Co., a corporation, doing business as H & R Trucking Co., Powell, Wyo. 82435, of Certificate No. MC-61174 (Sub-No. 1), issued March 26, 1968, to Harvey D. Henry and Byron K. Rood, doing business as H & R Trucking, Powell, Wyo., authorizing the transportation of oil field equipment, machinery and supplies between specified points in Montana and Wyoming.

No. MC-FC-72939. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Helen L. Tillman, Fremont, Nebr., of Certificate of Registration No. MC-120504 (Sub-No. 1) issued November 29, 1963, to Harvey Tillman and Helen L. Tillman, a partnership, doing business as Tillman Transfer, Fremont, Nebr., evidencing a right to engage in transportation in interstate commerce as described in Certificate No. M-11094 dated February 16, 1960, issued by the Nebraska State Railway Commission.

No. MC-FC-72944. By order of June 17, 1971, the Motor Carrier Board approved

the transfer to Roesch Lines, Inc., San Bernardino, Calif., of the operating rights in Certificate No. MC-119843 issued July 9, 1963, to Jack Austin Roesch, doing business as Roesch Transportation Co., San Bernardino, Calif., authorizing the transportation of passengers and their baggage, in charter operations, beginning and ending at Riverside and Santa Ana, Calif., and extending to points in Arizona, New Mexico, Nevada, and Utah. Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212, attorney for applicants.

No. MC-FC-72948. By order of June 16, 1971, the Motor Carrier Board approved the transfer to Jacob Los, doing business as Los Transfer and Storage, 924 Mound Road, Post Office Box 401, Delavan, WI 53115, of the operating rights in certificate No. MC-106133 issued August 12, 1964, to Jacob Los and John Vriezen, a partnership, doing business as Los & Vriezen Transfer & Storage, 360 Bradley Avenue, Delavan, WI 53115, authorizing the transportation of household

goods, as defined by the Commission, between points in Racine, Kenosha, and Walworth Counties, Wis., on the one hand, and, on the other, points in Illinois.

No. MC-FC-72949. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Sherman Edward Lassiter, doing business as Lassiter Bus Line, 311 East Troy Street, Ahoskie, NC 27910, of the operating rights in certificate No. MC-115207, issued June 8, 1956, to H. G. Swain, doing business as Swain's Friendly Bus Service, Route 4, Box 174, Windsor, NC 27983, authorizing the transportation of passengers and their baggage, in round-trip charter operations, beginning and ending at points in Bertie County, N.C., and those points in Martin County, N.C., within 15 miles of Windsor, N.C., and extending to points in Virginia and the District of Columbia.

No. MC-FC-72951. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Owen Transport Corp., Richmond, Va., of the operating rights in certificate No. MC-119511 issued August 9, 1960, to Thomas B. Puryear, Rich-

mond, Va., authorizing the transportation of lumber, between Semora, Youngs-ville, Pittsboro, and Kenly, N.C., on the one hand, and, on the other, Richmond, Va., between Pemberton, Va., and Richmond, Va., and from Richmond, Va., to Camden, N.J., Washington, D.C., Baltimore, Md., Wilmington, Del., and Allentown, Lancaster, Lansdale, Harrisburg, Reading, York, and Philadelphia, Pa.; lumber, fertilizer, and grain, from Baltimore, Md., to Richmond, Va.; posts, poles, ties, piling, and lumber, from Richmond, Va., and points within 6 miles thereof, to points in Delaware, Maryland, North Carolina, West Virginia, and the District of Columbia, subject to restrictions; and ties, posts, poles, and piling, with exceptions, from the plant of Kopper's Co., Inc., near Richmond, Va., to points in Pennsylvania. Jno. C. Goddin, 200 West Grace Street, Richmond, VA 23220, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8889 Filed 6-23-71;8:49 am]

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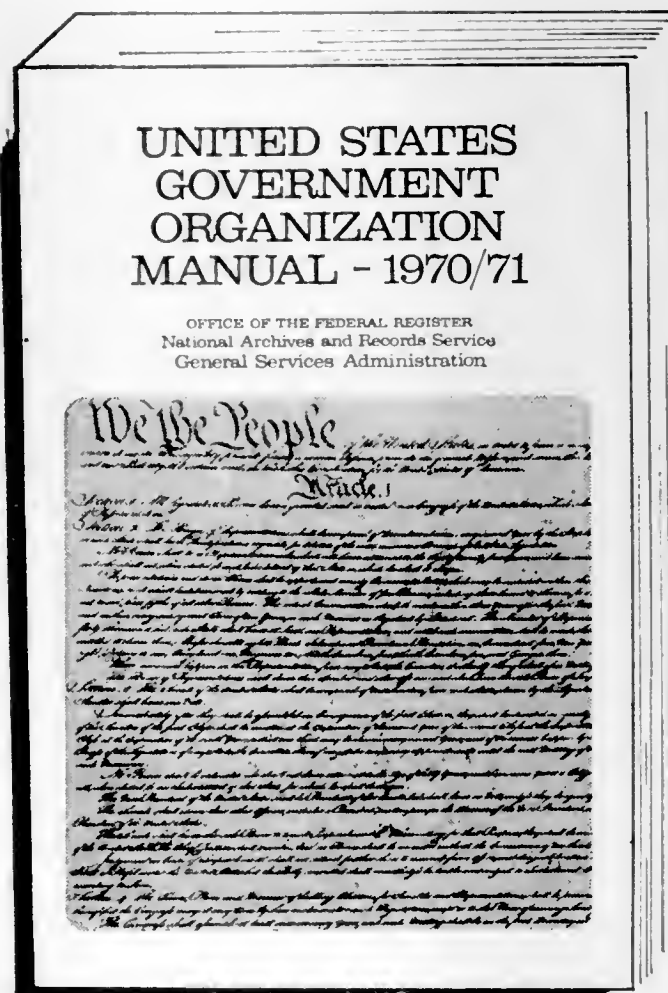


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Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Staff Assistant to the Assistant Secretary for Public Affairs is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-25-71), subparagraph (22) is added to paragraph (a) of § 213.3316 as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

(a) Office of the Secretary. . . .
(22) One Staff Assistant to the Assistant Secretary for Public Affairs.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.
[FR Doc.71-9058 Filed 6-24-71;8:53 am]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—European Chafer

CANCELLATION OF NOTICE OF REVOCATION OF QUARANTINE AND REGULATIONS

Pursuant to sections 8 and 9 of the Plant Quarantine Act and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the notice of revocation of the European chafer quarantine and regulations thereunder (7 CFR 301.77, 301.77-1 through 301.77-10), published in the FEDERAL REGISTER on March 25, 1971 (36 F.R. 5575), which was to become effective on June 30, 1971, is hereby canceled, in view of additional information subsequently made available to the Department of Agriculture and the said quarantine and regulations will continue in force.

This action continues in effect the quarantine and regulations designed to prevent the interstate spread of the European chafer and should be made effective without delay in order to provide the continuing protection to agriculture which is afforded by such quarantine and regulations. It does not appear that public participation in rulemaking pro-

cedures concerning this action would make additional relevant information available to the Department. Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that such public procedures are impracticable and unnecessary in regard to this action, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended)

This cancellation of the notice of revocation of the Federal European Chafer Quarantine (No. 77) and regulations thereunder shall become effective upon publication in the FEDERAL REGISTER (6-25-71).

Done at Washington, D.C., this 22d day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc.71-9029 Filed 6-24-71;8:53 am]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Soybean Cyst Nematode

CANCELLATION OF NOTICE OF REVOCATION OF QUARANTINE AND REGULATIONS

Pursuant to sections 8 and 9 of the Plant Quarantine Act and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the notice of revocation of the Soybean Cyst Nematode Quarantine and regulations thereunder (7 CFR 301.79, 301.79-1 through 301.79-10) published in the FEDERAL REGISTER on March 25, 1971 (36 F.R. 5575), which was to become effective on June 30, 1971, is hereby canceled, in view of additional information subsequently made available to the Department of Agriculture, and the said quarantine and regulations will continue in force.

This action continues in effect the quarantine and regulations designed to prevent the interstate spread of the soybean cyst nematode and should be made effective without delay in order to provide the continuing protection to agriculture which is afforded by such quarantine and regulations. It does not appear that public participation in rulemaking procedures concerning this action would make additional relevant information available to the Department. Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that such public procedures are impracticable and unnecessary in regard to this action, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended)

This cancellation of the notice of revocation of the Federal Soybean Cyst Nematode Quarantine (No. 79) and regulations thereunder shall become effective upon publication in the FEDERAL REGISTER (6-25-71).

Done at Washington, D.C., this 22d day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc.71-9030 Filed 6-24-71;8:53 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Expenses and Rate of Assessment

On June 9, 1971, notice of rule making was published in the FEDERAL REGISTER (36 F.R. 11103) regarding proposed expenses and the related rates of assessment for the fiscal period beginning March 1, 1971, and ending February 29, 1972, pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 36 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Control Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 917.210 Expenses and rate of assessment.

(a) Expenses: Expenses that are reasonable and likely to be incurred during the fiscal period March 1, 1971, through February 29, 1972, will amount to \$427,990.

(b) Rate of assessment: The rates of assessment for such fiscal period payable by each handler in accordance with § 917.37 are fixed at:

(1) Nine-tenths of a cent (\$0.009) per standard western pear box of pears, or its equivalent in other containers or in bulk;

(2) Four and four-tenths cents (\$0.044) per standard four-basket crate of plums, or its equivalent in other containers or in bulk;

(3) Three and five-tenths of a cent (\$0.035) per Los Angeles lug of peaches, or its equivalent in other containers or in bulk.

(c) Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in

RULES AND REGULATIONS

said amended marketing agreement and this part.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the *Federal Register* (5 U.S.C. 553) in that (1) shipments of the current crop of plums and peaches are currently underway; (2) the relevant provisions of said amended marketing agreement and this part require that the rates of assessment fixed for a particular season be applicable to all fresh pears, plums, and peaches from the beginning of such fiscal period; and (3) the fiscal period began March 1, 1971, and the rates of assessment herein fixed will automatically apply to all pears, plums, and peaches beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 21, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8984 Filed 6-24-71; 8:40 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

FLUE-CURED TOBACCO, 1971 CROP

Set forth below is a schedule of advanced rates, by grades, for the 1971 crop of types 11-14 flue-cured tobacco, under the tobacco loan program. The material previously appearing under § 1464.16 remains applicable to the crop to which it refers.

§ 1464.16 1971 Crop—Flue-cured tobacco, types 11-14, advance schedule.¹

[Dollars per hundred pounds, farm sales weight]

Grade	Advance Rate	Grade	Advance Rate
A1F	95.25	B3L	81.25
A2F	93.25	B4L	79.25
B1L	89.25	B5L	75.25
B2L	84.25	B6L	71.25

¹The advance rates listed are applicable only to untied flue-cured tobacco which (1) is identified on a 1971 tobacco marketing card which does not bear the notation "No Price Support," and (2) does not, together with all other tobacco previously marketed and currently being offered for marketing on a single tobacco sales bill, exceed 110 percent of the effective farm marketing quota. Rates for tied flue-cured tobacco are three dollars (\$3.00) per hundred pounds more for each grade than for untied tobacco similarly identified. Tobacco is eligible for advances only if consigned by the original producer and only if produced by a cooperator.

In all belts, advances will be available on both tied and untied tobacco.

Tobacco graded "W" (doubtful keeping order), "U" (unsound), N2, No-G or scrap

Grade	Advance Rate	Grade	Advance Rate
B1F	89.25	H3F	84.25
B2F	84.25	H4F	82.25
B3F	81.25	H5F	79.25
B4F	79.25	H6F	75.25
B5F	75.25	H3FR	79.25
B6F	71.25	H4FR	76.25
B1FR	88.25	H5FR	74.25
B2FR	83.25	H6FR	70.25
B3FR	80.25	H4K	76.25
B4FR	76.25	H5K	72.25
B5FR	72.25	H6K	67.25
B6FR	67.25	C1L	90.25
B3R	86.25	C2L	86.25
B4R	81.25	C3L	84.25
B5R	55.25	C4L	82.25
B6R	50.25	C1F	92.25
B3K	72.25	C2F	88.25
B4K	69.25	C3F	86.25
B5K	65.25	C4F	84.25
B6K	59.25	C5F	82.25
B3LV	77.25	C4LV	80.25
B4LV	73.25	C4FV	80.25
B5LV	69.25	C4LS	76.25
B3FV	77.25	C5LS	73.25
B4FV	73.25	C6K	80.25
B5FV	69.25	C4KL	77.25
B3LS	72.25	C4KF	77.25
B4LS	69.25	C4KM	77.25
B5LS	66.25	C4KR	80.25
B6LS	59.25	X1L	84.25
B3FS	68.25	X2L	82.25
B4FS	64.25	X3L	79.25
B5FS	62.25	X4L	74.25
B6FS	56.25	X5L	66.25
B3KL	63.25	X1F	86.25
B4KL	61.25	X2F	84.25
B5KL	58.25	X3F	82.25
B6KL	52.25	X4F	79.25
B3KF	62.25	X5F	74.25
B4KF	60.25	X3LV	77.25
B5KF	57.25	X4LV	74.25
B6KF	51.25	X3PV	77.25
B3KM	66.25	X4PV	74.25
B4KM	64.25	X3LS	75.25
B5KM	61.25	X4LS	71.25
B6KM	55.25	X3PS	73.25
B3KR	72.25	X4PS	70.25
B4KR	69.25	X4KL	72.25
B5KR	66.25	X4KF	72.25
B6KR	63.25	X4KV	67.25
B3KV	57.25	X3KM	75.25
B4KV	52.25	X4KM	70.25
B5RR	51.25	X4KR	75.25
B4GL	86.25	X4G	67.25
B5GL	83.25	X5G	61.25
B6GL	57.25	X4GK	64.25
B4GF	65.25	P2L	81.25
B5GF	60.25	P3L	78.25
B6GF	55.25	P4L	75.25
B4GR	58.25	P5L	69.25
B5GR	52.25	P2F	81.25
B6GR	46.25	P3F	78.25
B4GK	60.25	P4F	75.25
B5GK	55.25	P5F	69.25
B6GK	50.25	P4G	64.25
B5RG	48.25	P5G	57.25
B4GG	49.25	N1L	59.25
B5GG	47.25	N1XL	64.25
H1L	89.25	N1K	58.25
H2L	86.25	N1F	54.25
H3L	84.25	N1R	47.25
H4L	82.25	N1GL	52.25
H5L	79.25	N1GF	50.25
H6L	75.25	N1GR	45.25
H1F	89.25	N1GG	42.25
H2F	86.25		

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, sec. 125, 70 Stat. 198,

will not be accepted. The cooperative association through which advances are made available is authorized to deduct 25 cents per hundred pounds to apply against overhead costs.

74 Stat. 8; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1813, 15 U.S.C. 714b, 714c)

Effective date: Date of filing with the Office of the Federal Register.

Signed at Washington, D.C. on June 18, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.71-9031 Filed 6-24-71; 8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-EA-93; Amdt. 39-1236]

PART 39—AIRWORTHINESS DIRECTIVES

B. F. Goodrich Aircraft Tires

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to B. F. Goodrich aircraft tires.

There have been reports of tire failures of B. F. Goodrich 26 x 6.6 14 PR tubeless 200 m.p.h. aircraft tires, whereby the tread has separated from the tire carcass. Since it was found that immediate corrective action was required, a telegram, dated May 21, 1971, was transmitted to all known owners of aircraft incorporating the subject tires. These conditions still exist, and notice and public procedure hereon are impractical, and good cause exists for making the rule effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

B. F. Goodrich. Applies to B. F. Goodrich 26 x 6.6, 14 PR; tubeless, 200 m.p.h. tire, S/N's 0318 AK 0000 through and including 0365 AK 9999.

(a) Prior to next flight, visually inspect the tire, particularly on sidewall and shoulders, for bumps, blisters, or peeling.

(b) Replace defective tires with tire or tires having S/N's outside of the subject group, or with an equivalent tire approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(c) If a tire within the subject group reveals no specified deficiency, it may be used for a maximum of five (5) landings thereafter, provided the tire is inspected prior to each flight in accordance with paragraph (a). Replace tires after five (5) landings in accordance with paragraph (b).

This amendment is effective July 2, 1971, and was effective upon receipt for all recipients of the airmail letter, dated May 22, 1971, which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 16, 1971.

WALTER D. KIES,
Acting Director, Eastern Region.

[FR Doc.71-8978 Filed 6-24-71; 8:49 am]

[Docket No. 71-CE-18-AD; Amdt. 39-1235]

PART 39—AIRWORTHINESS DIRECTIVES

Bellanca Model 17-30 Airplanes

There have been reports of complete loss of engine power when using the fuel boost pump on Bellanca model 17-30 airplanes. These reports indicated that the engine will not restart in flight under certain conditions when one follows the operating instructions specified in the airplane flight manual for switching from a dry tank to one containing fuel. Further, the agency has determined that complete loss of engine power will occur in these aircraft when the boost pump is inadvertently left on "On" and the throttle is retarded below 19 inches hg. manifold pressure. Since this condition is likely to exist in other airplanes of the same type design, an airworthiness directive is being issued requiring within 50 hours' time-in-service from the effective date of this AD, modification of the boost pump electrical circuit to reduce pump output pressure by the installation of a three-position switch, resistor, and switch guard in accordance with Bellanca Service Letter 61A, Revision A, dated April 26, 1971, or any equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. The AD also requires insertion of Revision No. 13 in the Airplane Flight Manual.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provision of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BELLANCA. Applies to Model 17-30 airplanes.

Compliance: Within 50 hours' time-in-service after the effective date of this AD, unless already accomplished.

To prevent possible loss of engine power when using the fuel boost pump, accomplish the following:

(A) Modify the fuel boost pump electrical circuit by installing a three (3) position toggle switch, a three (3) ohm twenty (20) watt resistor, and a switch guard in accordance with Bellanca Service Letter No. 61A, Revision A, dated April 26, 1971, or later FAA-approved revisions.

(B) Insert Airplane Flight Manual Revision No. 13, dated May 26, 1971, or later FAA-approved revisions, in the Airplane Flight Manual. (Revision No. 13 is included in Bellanca Service Kit SK2-1040 referred to in Service Letter No. 61A, Revision A.)

(C) Any alternate equivalent method of compliance with paragraphs A and B above

RULES AND REGULATIONS

must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective June 26, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on June 16, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-8964 Filed 6-24-71; 8:48 am]

[Docket No. 11171; Amdt. 39-1238]

PART 39—AIRWORTHINESS DIRECTIVES

Mitsubishi Model MU-2B Airplanes

There have been reports of peeling and release of the fungus resistant top coating from the bottom inner surface of the main integral fuel tank on Mitsubishi Model MU-2B airplanes that could result in fuel system blockage and engine flame-out. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require periodic inspections of the main integral fuel tank inner surface coating and repair of peeling or blistering surfaces.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

MITSUBISHI. Applies to Models MU-2B-10 (Serial Nos. 101, 103 through 111, 113, 116, 117, 119, 120); MU-2B-15 (Serial Nos. 114, 115, 116); MU-2B-20 (Serial Nos. 005, 102, 121 through 127, 129 through 146, 149 through 151, 154 through 170, 172 through 175, 177 through 180, 182, 184, 185, 187 through 199, 205 through 215); and MU-2B-30 (Serial Nos. 502 through 551).

Compliance required as indicated.

To prevent possible fuel line clogging due to peeling of the DV1180 fungus resistant coating on the inner surface of the main integral fuel tanks, accomplish the following:

(a) For airplanes which have not had the inspection specified in paragraph (c) accomplished within the last 100 hours' time in service, within the next 10 hours' time in service after the effective date of this AD, comply with paragraph (c).

(b) For airplanes which have had the inspection specified in paragraph (c) accomplished within the last 100 hours' time in service, within 100 hours' time in service from the last inspection, comply with paragraph (c).

(c) Visually inspect the inner bottom surface of the main integral fuel tanks in the area below the fuel filler opening for peeling or blistering of the top coating.

(d) If evidence of peeling or blistering is found during the inspection required by paragraph (c), before further flight, comply with paragraph (f) and thereafter repeat the inspection specified in paragraph (c) at intervals not to exceed 200 hours' time in service from the last inspection.

(e) If no evidence of peeling or blistering is found during the inspection required by paragraph (c), repeat the inspection specified in paragraph (c) once within 100 hours' time in service from the last inspection, and thereafter at intervals not to exceed 200 hours' time in service from the last inspection.

(f) Drain the tanks and visually inspect the entire inner surface of the tanks for any additional evidence of peeling or blistering of the top coating. Remove all defective coating and rework the affected areas in accordance with repair instructions provided in Mitsubishi Service Bulletin No. 143A or a later revision approved by the Japan Civil Aviation Bureau, or an FAA-approved equivalent.

This amendment effective June 30, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 21, 1971.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.71-8977 Filed 6-24-71; 8:49 am]

[Airspace Docket No. 71-WE-31]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On May 14, 1971, a notice of proposed rule making was published in the *Federal Register* (36 F.R. 8880) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Sacramento, Calif. (Mather AFB), control zone.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t. August 19, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on June 16, 1971.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (36 F.R. 2055) the description of the Sacramento, Calif. (Mather AFB), control zone is amended to read as follows:

SACRAMENTO, CALIF. (MATHER AFB)

Within a 5-mile radius of Mather AFB (latitude 38°33'10" N., longitude 121°18'05" W.)

W.) within 2 miles each side of the Mather TACAN 048° radial, extending from the 5-mile radius zone to 7 miles northeast of the TACAN, excluding the portion subtended by a chord drawn between the points of intersection of the Mather AFB 5-mile radius zone with the Sacramento, Calif. (McClellan AFB) 5-mile radius zone.

[FR Doc.71-8965 Filed 6-24-71;8:48 am]

[Airspace Docket No. 71-SW-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Las Vegas, N. Mex., control zone and transition area.

On May 11, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8696) stating the Federal Aviation Administration proposed to alter controlled airspace in the Las Vegas, N. Mex., terminal area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

(1) In § 71.171 (36 F.R. 2055), the Las Vegas, N. Mex., control zone is amended to read:

LAS VEGAS, N. MEX.

Within a 5-mile radius of the Las Vegas Municipal Airport (lat. 35°39'20" N., long. 105°08'30" W.), within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 025° radial extending beyond the 5-mile-radius zone to a point 11 miles northeast of the VORTAC; and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 220° radial extending beyond the 5-mile-radius zone to a point 10 miles southwest of the VORTAC.

(2) In § 71.181 (36 F.R. 2140), the Las Vegas, N. Mex., transition area is amended to read:

LAS VEGAS, N. MEX.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Las Vegas Municipal Airport (lat. 35°39'20" N., long. 105°08'30" W.), and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 025° radial, extending beyond the 9-mile-radius area to 11.5 miles northeast of the VORTAC; and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 220° radial, extending beyond the 9-mile-radius area to 11.5 miles southwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on June 16, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-8966 Filed 6-24-71;8:48 am]

RULES AND REGULATIONS

[Docket No. 11168; Amdt. 762]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5610).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.11 is amended by establishing, revising or canceling the following L/MF-ADF(NDB)-VOR SIAP's, effective July 22, 1971:

Tucson, Ariz.—Tucson International Airport; ADF-1, Amdt. 1; Canceled.
Tucson, Ariz.—Tucson International Airport; VOR-1, Amdt. 5; Canceled.

2. Section 97.15 is amended by establishing, revising, or canceling the following VOR/DME SIAP's, effective July 22, 1971:

Tucson, Ariz.—Tucson International Airport; VOR/DME 2, Amdt. 2; Canceled.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective July 22, 1971:

Casper, Wyo.—Casper Air Terminal Airport; VOR Runway 21, Amdt. 12; Revised.
Indianapolis, Ind.—Indianapolis Municipal Weir-Cook Airport; VOR Runway 13R, Amdt. 15; Revised.

Liberal, Kans.—Liberal Municipal Airport; VOR Runway 17, Amdt. 1; Revised.
Liberal, Kans.—Liberal Municipal Airport; VOR Runway 35, Amdt. 6; Revised.

Medford, Ore.—Medford-Jackson County Airport; VOR-A, Original; Established.
Medford, Ore.—Medford-Jackson County Airport; VOR Runway 14, Amdt. 10; Canceled.

Olive Branch, Miss.—Municipal Airport; VOR-A, Original; Established.
Perry, Ga.—Perry-Fort Valley Airport; VOR-A, Original; Established.

St. Petersburg-Clearwater, Fla.—St. Petersburg-Clearwater International Airport; VOR Runway 17, Amdt. 4; Revised.

Tucson, Ariz.—Tucson International Airport; VOR-A, Original; Established.

Casper, Wyo.—Casper Air Terminal Airport; VOR/DME Runway 21, Amdt. 2; Revised.

Douglas, Ariz.—Bisbee-Douglas International Airport; VOR/DME Runway 17, Amdt. 1; Revised.

Hilton Head Island, S.C.—Hilton Head Airport; VOR/DME-A, Amdt. 1; Revised.

Medford, Ore.—Medford-Jackson County Airport; VOR/DME 1, Amdt. 5; Canceled.

Medford, Ore.—Medford-Jackson County Airport; VOR/DME 2, Amdt. 3; Canceled.

Medford, Ore.—Medford-Jackson County Airport; VOR/DME 1, Runway 14, Original; Established.

Medford, Ore.—Medford-Jackson County Airport; VOR/DME 2, Runway 14, Original; Established.

Pellston, Mich.—Emmett County Airport; VOR/DME Runway 5, Original; Established.

Rockwood, Tenn.—Rockwood Municipal Airport; VOR/DME Runway 22, Original; Established.

Tucson, Ariz.—Tucson International Airport; VOR/DME-A, Original; Established.

Vernon, Ala.—Lamar County Airport; VOR/DME-A, Original; Established.

4. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAP's, effective July 22, 1971:

Casper, Wyo.—Casper Air Terminal Airport; LOC (BC) Runway 25, Amdt. 11; Revised.
Indianapolis, Ind.—Indianapolis Municipal Weir-Cook Airport; LOC (BC) Runway 13R, Amdt. 3; Revised.

Indianapolis, Ind.—Indianapolis Municipal Weir-Cook Airport; LOC (BC) Runway 22R, Amdt. 10; Revised.

Moline, Ill.—Quad City Airport; LOC (BC) Runway 27, Amdt. 12; Revised.

Philadelphia, Pa.—Philadelphia International Airport; LOC (BC) Runway 27, Original; Established.

Washington, D.C.—Dulles International Airport; LOC (BC) Runway 1L, Original; Established.

Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton Airport; LOC (BC) Runway 22, Amdt. 2; Revised.

5. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAP's, effective July 22, 1971:

Atlantic, Iowa—Atlantic Municipal Airport; NDB Runway 12, Amdt. 1; Revised.
Casper, Wyo.—Casper Air Terminal Airport; NDB Runway 7, Amdt. 8; Revised.

Corinth, Miss.—Roscoe Turner Airport; NDB Runway 17, Original; Established.

Corinth, Miss.—Roscoe Turner Airport; NDB Runway 35, Original; Established.

Great Bend, Kans.—Great Bend Municipal Airport; NDB Runway 11, Amdt. 2; Revised.

Indianapolis, Ind.—Indianapolis Municipal Weir-Cook Airport; NDB Runway 4L, Amdt. 11; Revised.

Indianapolis, Ind.—Indianapolis Municipal Weir-Cook Airport; NDB Runway 31L, Amdt. 4; Revised.

Jacksonville, N.C.—Albert J. Ellis Airport; NDB-A, Original; Established.

Jacksonville, N.C.—Albert J. Ellis Airport; NDB Runway 5, Original; Established.

Moline, Ill.—Quad-City Airport; NDB Runway 9, Amdt. 16; Revised.

Sanford, Fla.—Sanford Airport; NDB Runway 9, Original; Established.

Storm Lake, Iowa—Storm Lake Municipal Airport; NDB Runway 31, Amdt. 1; Revised.

Tucson, Ariz.—Tucson International Airport; NDB-A, Original; Established.

Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton Airport; NDB-A, Amdt. 11; Revised.

6. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective July 22, 1971:

Casper, Wyo.—Casper Air Terminal Airport; ILS Runway 7, Amdt. 17; Revised.

Indianapolis, Ind.—Indianapolis Municipal Weir-Cook Airport; ILS Runway 4L, Amdt. 13; Revised.

Indianapolis, Ind.—Indianapolis Municipal Weir-Cook Airport; ILS Runway 31L, Amdt. 5; Revised.

Medford, Ore.—Medford-Jackson County Airport; ILS Runway 14, Amdt. 3; Revised.

Moline, Ill.—Quad-City Airport; ILS Runway 9, Amdt. 16; Revised.

Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton Airport; ILS Runway 4, Amdt. 26; Revised.

7. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective July 22, 1971:

Indianapolis, Ind.—Indianapolis Municipal Weir-Cook Airport; Radar-1, Amdt. 18; Revised.

Spokane, Wash.—Spokane International Airport; Radar-1 Amdt. 7; Revised.

Tucson, Ariz.—Tucson International Airport; Radar-1, Amdt. 6; Revised.

Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton Airport; Radar-1, Amdt. 6; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on June 16, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.
[FR Doc.71-8758 Filed 6-24-71;8:45 am]

RULES AND REGULATIONS

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

ELIGIBILITY OF SUBSTANCES FOR CLASSIFICATION AS GENERALLY RECOGNIZED AS SAFE IN FOOD

In the FEDERAL REGISTER of December 8, 1970 (F.R. 18623), the Commissioner of Food and Drugs proposed to revise § 121.3 to set forth criteria under which substances would or would not be classified as generally recognized as safe (GRAS). The proposal provided for the filing of comments within 30 days and this was extended to January 22, 1971, by a notice published January 7, 1971 (36 F.R. 224).

Numerous substantive comments were received from the food, chemical, and drug industries, trade and professional associations, individual consumers, and other interested persons.

The principal objections were that accepting GRAS status without FEDERAL REGISTER promulgation only for substances of natural biological origin that have been widely consumed for their nutrient properties is too restrictive; that the Food and Drug Administration has no authority to reserve to itself the sole responsibility for determining the GRAS status of substances; that Congress did not intend to equate "food" and "food additive"; and that ample notice should be provided before specific changes in the GRAS list are made. Some misunderstood the proposal and its relationship to the total review of the GRAS list.

Having evaluated the comments received and other relevant information, the Commissioner concludes that:

1. A current review of GRAS substances is necessary because of new scientific knowledge, the development of modern toxicological techniques, and the expanded usage of some GRAS substances beyond the exposure patterns considered when the GRAS list was originally promulgated. Also, the President has specifically directed the Food and Drug Administration to reevaluate all items generally recognized as safe for their intended use and used in food without food additive clearance.

2. A plan should be provided whereby the GRAS status of a substance may be determined through an administrative process by the Food and Drug Administration after the substance's intended use has been presented to the scientific community and to the public for review. Thus, the revision of § 121.3 is necessary to establish the general administrative plan for classifying substances as GRAS.

3. A regulation should be established prescribing the type of toxicological data upon which the safety of a substance can be determined. Such a regulation is being developed and will be proposed later in the FEDERAL REGISTER.

4. The definition of "safe" in the proposed revision of § 121.3 should be located instead in the list of definitions in § 121.1, and a definition of "generally recognized as safe" also should be added to § 121.1.

5. The limitation of GRAS status without FEDERAL REGISTER promulgation to substances of natural biological origin that have been widely consumed for their nutrient properties is proper to assure appropriate safety review of as many substances as possible.

6. The contention that the terms "food" and "food additive" are mutually exclusive is without basis. Sections 201 (f) and (s) of the Federal Food, Drug, and Cosmetic Act, as well as section 402 (a)(2)(C) which provides that a food additive for which no regulation or exemption is in effect is an adulterated food, establish their equivalency.

7. The GRAS status of particular substances will not be changed by the proposed revision of § 121.3. When changes are contemplated, the Commissioner will published proposals in the FEDERAL REGISTER and invite interested persons to submit comments, unless such prior notice is precluded by public health considerations.

8. The proposal, with changes, should be adopted as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-88, as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. Section 121.1 is amended by revising paragraph (i) and adding a new paragraph (k), as follows:

§ 121.1 Definitions and interpretations.

(i) "Safe" means that after reviewing all available evidence, including:

(1) The probable consumption of the substance and of any substance formed in or on food because of its use;

(2) The cumulative effect of the substance in the diet of man and animals, taking into account any chemically or pharmacologically related substance or substances in such diet; and

(3) Safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of foods and food ingredients are generally recognized as appropriate in the use of animal experimentation data;

the Food and Drug Administration can conclude that no significant risk of harm will result when the substance is used as intended.

(k) "Generally recognized as safe" means general recognition of safety by experts qualified by scientific training and experience to evaluate the safety of such a substance, as determined through the procedure prescribed by §121.3 (b) (2). On the basis of scientific data derived from published literature, available to experts generally, reporting on credible toxicological testing, or for those substances used in food prior to January 1, 1958, on the basis of a reasoned judgment founded in experience with common food use, the substance is recognized to have no significant risk of harm if used as intended, taking into account in either case:

(1) Reasonably anticipated patterns of consumption of the substance and of any substance formed in or on food because of the use of the substance;

(2) The cumulative effect of the substance, and any chemically or pharmacologically related substance, in the diet of man or animals; and

(3) Safety factors appropriate for the utilization of animal experimentation data.

2. Section 121.3 is revised to read as follows:

§ 121.3 Eligibility for classification as generally recognized as safe (GRAS).

(a) To provide assurance that any substance is absolutely safe for human or animal consumption is impossible. This is particularly true for substances intended for human consumption which have been tested in animals.

(b) A substance used as food, or the intended use of which results or may reasonably be expected to result directly or indirectly in its becoming a component of food or affecting the characteristics of food, may be eligible for classification as generally recognized as safe (GRAS) under the following criteria:

(1) Substances that will be considered as GRAS and for which a promulgation in the FEDERAL REGISTER is not required; (i) Any substance of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without detrimental effect when used under reasonably anticipated patterns of consumption.

(ii) Substances defined in subdivision (i) of this subparagraph that have been modified by conventional processing as practiced prior to January 1, 1958.

(2) Substances that will be affirmed as GRAS by the Commissioner after he has given notice in the FEDERAL REGISTER that the status of such substance (and limitations, if any) is under consideration, invited experts qualified by scientific training and experience to evaluate the safety of foods and food ingredients to submit comments, reviewed all available evidence and the comments received, and found convincing evidence of its general recognition of safety:

(i) Substances defined in subparagraph (1) (i) of this paragraph that have been modified by processes proposed for January 1, 1958, where such processes may reasonably be expected to significantly

cantly alter the composition of the substance.

(ii) Substances that have had significant alteration of composition by breeding or selection and the change may reasonably be expected to alter to a significant degree the nutritive value or the concentration of toxic constituents therein.

(iii) Distillates, isolates, extracts, concentrates of extracts, or reaction products of substances considered as GRAS.

(iv) Substances not of natural biological origin including those for which evidence is offered that they are identical with a GRAS counterpart or natural biological origin.

(v) Substances of natural biological origin intended for consumption for other than their nutrient properties.

(c) Substances that do not meet the criteria of paragraph (b) of this section are not eligible for GRAS status and hence require a food additive regulation promulgated under section 409 of the act, and no substance will be eligible for GRAS status if it has no history of food use or requires prescribed limitations for safe use.

(d) Any substance used in food must be of food-grade quality. The Commissioner regards the applicable specifications in the current edition of "Food Chemicals Codex" as establishing food grade unless he has by FEDERAL REGISTER promulgation established other specifications.

(e) If the Commissioner has not affirmed a given substance as GRAS on his own initiative, such affirmative ruling may be sought by submitting to the Commissioner a request containing all relevant usage and safety data.

(f) Substances listed as GRAS may require reclassification either because of the criteria established by this section or because of new information regarding safety. The initial results of a new investigation, even if not convincing with respect to potential harm, may establish that the substance in question can no longer be considered as GRAS. Newly reported information will be carefully evaluated by the Commissioner, along with other available information, to determine whether or not there has been a significant increase in risk to the public health from using the substance as intended. No change will be made in existing GRAS status until the Commissioner determines that the substance requires evaluation.

(g) If a responsible and substantial question of safety has been raised regarding a substance previously listed as GRAS, but the main weight of the scientific evidence still establishes safety within certain limits, an interim food additive regulation may be proposed in the FEDERAL REGISTER. This will permit further scientific investigations to define the conditions of safe use for a food additive regulation of indefinite duration.

Effective date. This procedural and defining order is effective upon publication in the FEDERAL REGISTER (6-25-71).

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-88, as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: June 18, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.
[FR Doc.71-8976 Filed 6-24-71;8:49 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Dimethyl Phosphorodithioate, S-Ester With 4-(Mercaptomethyl)-2-Methoxy- Δ^2 -1,3,4-Thiadiazolin-5-One

A petition (PP 0F4892) was filed by Geigy Agricultural Chemicals, a division of Ciba-Geigy Chemical Corp., Ardsley, N.Y. 10205, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a), proposing establishment of tolerances for residues of the insecticide O,O-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy- Δ^2 -1,3,4-thiadiazolin-5-one and its oxygen analog O,O-dimethyl-S-[2-methoxy-1,3,4-thiadiazol-5-(4H)-onyl-(4-methyl)] phosphorothiolate in or on the raw agricultural commodities alfalfa, alfalfa hay, clover, clover hay, grass, and grass hay at 10 parts per million; citrus fruit at 6 parts per million; and cottonseed at 0.2 part per million.

Subsequently, the petitioner amended the petition by proposing tolerances of 6 parts per million for residues in or on alfalfa, alfalfa hay, clover, clover hay, grass, and grass hay, and withdrawing the request for a tolerance for residues in or on citrus fruit.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established, and the Fish and Wildlife Service of the Department of the Interior advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the herbicide in meat, milk, poultry, and eggs. The uses are classified in the category specified in § 420.6(a) (3).

2. The tolerances established by this order will protect the public health.

3. There is no need to include the oxygen analog in the tolerance since it will not be present in significant amounts.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a (d) (2)),

U.S.C. 346a(d) (2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), Part 420 is amended as follows:

1. Section 420.3(e) (5) is amended by alphabetically inserting in the list of cholinesterase-inhibiting pesticides a new item, as follows:

§ 420.3 Tolerances for related pesticide chemicals.

(e)

(5)

O,O-Dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy- Δ^2 -1,3,4-thiadiazolin-5-one.

.

2. The following new section is added to Subpart C:

§ 420.298 O,O-Dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy- Δ^2 -1,3,4-thiadiazolin-5-one; tolerances for residues.

Tolerances for residues of the insecticide O,O-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy- Δ^2 -1,3,4-thiadiazolin-5-one are established in or on raw agricultural commodities as follows:

6 parts per million in or on alfalfa, alfalfa hay, clover, clover hay, grass, and grass hay.

0.2 part per million in or on cottonseed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-25-71).

(Sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a (d) (2))

Dated: June 17, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8986 Filed 6-24-71;8:49 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

N-1-Naphthyl Phthalamic Acid

A petition (PP 0F0904) was filed by Uniroyal Chemical, division of Uniroyal, Inc., Bethany, CT 06525, proposing establishment of tolerances for negligible residues of the herbicide N-1-naphthyl phthalamic acid in or on the raw agricultural commodities peanuts at 0.2 part per million; and cantaloups, castor beans, cranberries, cucumbers, muskmelons, peaches, peanut forage, plums, potatoes, pumpkins, soybeans, soybean forage, squash, sweetpotatoes, and watermelons at 0.1 part per million.

Subsequently, the petitioner amended the petition by changing peanut and soybean forage to peanut and soybean hay, reducing the proposed tolerance of 0.2 part per million to 0.1 part per million in or on peanuts, and withdrawing the raw agricultural commodities castor beans, peaches, plums, potatoes, pumpkins, squash, and sweetpotatoes.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerances are being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. Residues of the herbicide are not reasonably expected to transfer to eggs, meat, milk, and poultry from the proposed use, as specified in § 420.6(a) (3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a (d) (2)), the authority transferred to the Administrator 35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), Part 420 is amended by adding a new section to Subpart C, as follows:

§ 420.297 N-1-Naphthyl phthalamic acid; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide N-1-naphthyl phthalamic acid from application of its sodium salt in or on the raw agricultural commodities cantaloups, cranberries, cucumbers, muskmelons, peanuts, peanut hay, soybeans, soybean hay, and watermelons.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-25-71).

(Sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a (d) (2))

Dated: June 17, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.71-8985 Filed 6-24-71;8:49 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER A—GENERAL

[Docket No. R-71-120]

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

DIRECTOR, PRODUCTION DIVISION, AND DEPUTY

Section 200.116(a) of the Delegations of Basic Authority and Functions published March 16, 1971 (36 F.R. 4980) under Part 200 of Title 24 provided that the Director, and Deputy Director, Production Division, were authorized to approve construction change orders, and mortgage insurance advances during construction. This authority had been previously delegated to the Assistant Director for Technical Services under § 200.113(a) of the delegations of authority published October 30, 1970 (35 F.R. 16797).

Accordingly, the phrase " . . . construction change orders, mortgage insurance advances during construction, . . . " is revoked from paragraph (a) of § 200.116, which shall read as follows:

§ 200.116 Director, Production Division, and Deputy.

(a) To direct all activities essential to the insurance of mortgages, including the approval of determinations supporting feasibility letters, commitments and insurance endorsements, and the approval of cost certifications, eligibility statements, regulatory agreements, non-profit sponsors and housing consultants, all as related to mortgages in programs other than one- to four-family housing; to establish and monitor adherence to related processing priorities and schedules, and to perform the functions and exercise the authorities set forth in §§ 200.113, 200.114, and 200.115.

(Secretary's delegation of authority published at 35 F.R. 2749, Feb. 7, 1970; 35 F.R. 14515, Sept. 16, 1970)

Effective date. This revocation is effective March 1, 1971.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[FR Doc. 71-8999 Filed 6-24-71; 8:51 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice [Order No. 460-71]

PART O—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Orders of the Attorney General

The Administrative Division of the Department has prepared a new directives system for issuing and distributing certain internal Department directives. This order amends the Department's regulations governing issuance of orders, memoranda, and directives to enable the Assistant Attorney General for Administration to effectuate the new directives system.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, Subpart AA of Part O of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

Subpart AA—Orders of the Attorney General

Sec.
0.180 Documents designated as orders.
0.181 Requirements for orders.
0.182 Submission of proposed orders to the Office of Legal Counsel.
0.183 Distribution of orders.

Authority: The provisions of this Subpart AA issued under 28 U.S.C. 509, 510; 5 U.S.C. 301. ⁴

Subpart AA—Orders of the Attorney General

§ 0.180 Documents designated as orders.

All documents relating to the organization of the Department or to the assignment, transfer, or delegation of authority, functions, or duties by the Attorney General or to general departmental pol-

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icy shall be designated as orders and shall be issued only by the Attorney General in a separate, numbered series. Classified orders shall be identified as such, included within the numbered series, and limited to the distribution provided for in the order or determined by the Assistant Attorney General for Administration. All documents amending, modifying, or revoking such orders, in whole or in part, shall likewise be designated as orders within such numbered series, and no other designation of such documents shall be used.

§ 0.181 Requirements for orders.

Each order prepared for issuance by or approval of the Attorney General shall be given a suitable title, shall contain a clear and concise statement explaining the substance of the order, and shall cite the authority for its issuance.

§ 0.182 Submission of proposed orders to the Office of Legal Counsel.

All orders prepared for the approval or signature of the Attorney General shall be submitted to the Office of Legal Counsel for approval as to form and legality and consistency with existing orders.

§ 0.183 Distribution of orders.

The distribution of orders, unless otherwise provided by the Attorney General, shall be determined by the Assistant Attorney General for Administration.

Dated: June 19, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc. 71-8963 Filed 6-24-71; 8:47 am]

[Order No. 461-71]

PART O—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

PART 46—EMPLOYEE GRIEVANCES

PART 47—RECONSIDERATION AND REVIEW OF ADVERSE ACTIONS IN THE DEPARTMENT OF JUSTICE

Miscellaneous Amendments

This order delegates authority to the Assistant Attorney General for Administration to implement current regulations relating to adverse actions and employee grievances. The order also revokes the existing Department regulations on these subjects, which are replaced by regulations issued by the Assistant Attorney General for Administration, effective this date, implementing Executive Order No. 10987 of January 17, 1962, relating to agency systems for appeals from adverse actions, and Civil Service Commission regulations governing adverse action hearings, appeals and grievances.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.76(c) (3) of Subpart O of Part O is amended by adding the words "adverse action hearings, appeals and grievances," immediately after the words "labor-management relations."

2. Parts 46 and 47 are revoked.

Dated: June 19, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc. 71-8962 Filed 6-24-71; 8:47 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 60—Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

PART 60-8—ATLANTA PLAN

Pursuant to a notice of hearing appearing in the FEDERAL REGISTER on March 16, 1971 (36 F.R. 5020), representatives of the Department of Labor conducted public hearings in Atlanta, Ga., on March 31, April 1, and 2, 1971, for the purpose of determining what action should be taken to ensure equal employment opportunity in the construction industry in Atlanta, Ga. As a result of the findings made during those hearings, the Atlanta Plan is hereby issued and published in the FEDERAL REGISTER. A copy of the findings made as a result of the above noted hearings has been submitted with these regulations and is on file.

Therefore, and pursuant to Executive Order 11246 (30 F.R. 12319; 3 CFR 1964-65 Comp., p. 406) and §§ 60-1.1 and 60-1.40 of Title 41 of the Code of Federal Regulations, Chapter 60 of these regulations is hereby amended by adding a new Part 60-8 to read as set forth below.

Subpart A—Purpose; Applicability; Background

Sec.
60-8.1 Purpose.
60-8.2 Applicability.
60-8.3 Background.

Subpart B—General Findings; Minority Participation in Specific Trades; Availability; Need for Training; Impact Upon Existing Labor Force

60-8.10 General findings.
60-8.11 Minority participation in the specified trades.
60-8.12 Availability of minority group persons for employment.
60-8.13 Need for training.
60-8.14 The impact of the Plan upon the existing labor force.
60-8.15 Conclusions of findings.

Subpart C—Nondiscriminatory Purpose of the Plan; Requirements; Exemptions; Effective Date

60-8.20 Nondiscriminatory purpose of the Plan.
60-8.21 Requirements.
60-8.22 Exemptions.
60-8.23 Effective date.

Subpart D—Appendix A

60-8.30 Appendix A.

Authority: The provisions of this Part 60-8 issued under secs. 201, 202, 205, 211, 301, 302, and 303 of Executive Order 11246 (30 F.R. 12319; 3 CFR 1964-65 Comp., p. 406); and §§ 60-1.1 and 60-1.40 of Title 41 of the Code of Federal Regulations.

Subpart A—Purpose; Applicability; Background

§ 60-8.1 Purpose.

The purpose of the regulations in this part is to implement the provisions of Executive Order 11246, and the rules and regulations issued pursuant thereto, requiring a program of equal employment opportunity by Federal contractors and subcontractors and federally assisted construction contractors and subcontractors in Atlanta, Ga.

§ 60-8.2 Applicability.

While a contractor or subcontractor is performing on federally involved (Federal or federally assisted) construction contracts for projects, in the five county Atlanta, Ga., Standard Metropolitan Statistical Area of Fulton, De Kalb, Cobb, Clayton, and Gwinnett, the estimated cost of which exceeds \$500,000, all construction activities (including all activities on nonfederally involved work) of such a contractor or subcontractor within the Atlanta area shall be subject to the requirements of the regulations in this part: *Provided, however,* That if an area-wide agreement is developed for any trade covered by the regulations in this part or any such trade is covered by a multi-trade agreement and such an agreement is among contractors, unions, and the minority community, then the Office of Federal Contract Compliance (OFCC) may, in its complete discretion, accept such program in lieu of any or all of the requirements of the regulations in this part, subject to such terms and conditions as OFCC may specify.

§ 60-8.3 Background.

Public hearings were conducted by representatives of the Department of Labor in Atlanta, Ga., on March 31, April 1 and 2, 1971, to determine what action should be taken to insure equal employment opportunity in the construction industry in Atlanta, Ga. Testimony was heard and data received on the following:

(a) The current extent of minority group participation in the construction trades as journeymen, apprentices, trainees, and helpers;

(b) The effectiveness of present employee recruitment methods;

(c) The availability of qualified and qualifiable minority group persons for employment in each construction trade, including where they are now working, how they may be brought into the trades;

(d) The effectiveness of existing training programs in the area, including the number of minorities and others recruited into the programs, the number who complete training, the length and extent of training, employer experience with trainees, the need for additional or expanded training programs;

(e) The number of additional workers that could be absorbed into each trade without displacing present employees, including consideration of present employee shortages, projected growth of the trade, projected employee turnover;

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(f) The availability and utilization of minority contractors on federally involved contracts;

(g) The desirability and extent, including the geographical scope, of possible Federal action to ensure equal employment opportunity in the construction trades;

(h) Recommendations of governmental compliance agencies active in the Atlanta, Ga., area.

Subpart B—General Findings; Minority Participation in Specific Trades; Availability; Need for Training; Impact Upon Existing Labor Force

§ 60-8.10 General findings.

As a result of the material presented at the public hearing in Atlanta and as a result of other investigations, it is apparent that minority workers (Negroes, Spanish surnamed Americans, Orientals, and American Indians) have been prevented from fully participating in certain construction trades. This exclusion is due in great measure to the special nature of employment practices in the construction industry where contractors and subcontractors rely on construction craft unions as their prime or sole labor source. Collective bargaining agreements and/or established custom between construction contractors and subcontractors and unions frequently provide for, or result in, exclusive hiring halls. Even where the collective bargaining agreement contains no such hiring hall provisions or the custom is not rigid, as a practical matter most people working in these classifications are referred to the jobs by the unions. As a result, referral by the union is a virtual necessity for obtaining employment in union construction projects. Minorities often have not gained admittance into membership of certain unions and into certain apprenticeship programs, and, thus, for these and other reasons, have not been referred for employment.

§ 60-8.11 Minority participation in the specified trades.

(a) *Minority participation in the specified trades.* The overall minority population in the Atlanta area is approximately 22.6 percent. Minority representation among journeymen employees in the Atlanta area construction industry is approximately 27.1 percent. However, very few of these minorities are located in certain "skilled" trades.

(b) *Statistical data.* The most reliable data developed at the hearings reveal the following as the current minority representation in unions in selected trades, for the Atlanta area:

Asbestos Workers, 8.5 percent.
Bricklayers, 33 percent.
Carpenters, 3.4 percent.
Electricians, 0.5 percent.
Elevator Constructors, 1.1 percent.
Operating Engineers, 30 percent.
Glaziers, 0 percent.
Iron Workers, 1.3 percent.
Laborers, 91.4 percent.

Lathers, 53.3 percent.
Millwrights, 1 percent.
Painters, 3.6 percent.
Plasterers, 62.5 percent.
Plumbers, 1.6 percent.
Roofers, 89.2 percent.
Sheetmetal Workers, 0 percent.

It is apparent from the foregoing that certain trades evidence a significant underutilization of minority employees. Several of the above-designated trades and others however, as supported by findings of fact in that regard, do not appear to be engaged in the underutilization of minorities and accordingly will not be included under the requirements of the regulations in this part, at this time. These excluded trades are the bricklayers, operating engineers, laborers, lathers, plasterers, and roofers. Therefore, the requirements of the regulations in this part shall apply only to the trades of asbestos workers, carpenters, electricians, elevator constructors, glaziers, ironworkers, millwrights, painters, plumbers, and the sheet metal workers.

§ 60-8.12 Availability of minority group persons for employment.

(a) *Population.* (1) The April 1970 population estimate of the Atlanta area as found by the U.S. Census Bureau was 1,390,164 for a gain of 36.7 percent since the 1960 census. This population is disbursed among five counties that range in population from 607,592 residents in Fulton County to 72,349 in Gwinnett County, and includes a minority constituency of 314,015 or approximately 22.5 percent.

(2) The total labor force in the Atlanta area is approximately 700,000 persons, all but 19,000 of whom are nonagricultural. The contract construction industry accounts for the employment of approximately 31,500 persons. The total unemployment rate in the Atlanta area as of January 1971 was 3.2 percent. Negro unemployment in the Atlanta area however, as has been true of the Nation generally, has rather consistently been approximately twice the unemployment rate in the white labor force. Data for the full 1969 fiscal year indicates that this was a fact of long standing particularly in the city of Atlanta by showing unemployment for Negroes in that area at 7.3 percent while white unemployment was placed at less than one-half that figure, 3.4 percent.

(3) Based upon a statistical submission by the State of Georgia Department of Labor, in excess of 38,000 minority group persons are classified as underutilized, as employed part time for economic reasons, employed full time with total family income below the poverty level or excluded from the active work force altogether solely because of employment barriers. In addition there is the added problem of finding suitable employment for an estimated 1,500 returning minority group veterans during the present calendar year.

(4) For the city of Atlanta, the panel found its civilian labor force to approximate 206,000 of whom 96,000 are Negro. Of this figure an estimated 195,400 are employed including 89,000 Negroes.

(b) *Training programs.* (1) Although the Hearing Panel found that minorities have been and continue to be statistically underrepresented in certain construction trades and trade unions, this is not due to any lack of available qualified or qualifiable Negro and other minority applicants.

(2) Rather, the Panel's analysis of all available data reveals that existing contractor and union recruitment efforts fall far short of the type of affirmative action which would bring substantial numbers of available minorities into the construction trades.

(3) Thus a total of 878 minority persons with either some or substantial experience in various construction trades, have registered with the Georgia State Employment Service seeking employment in the industry.

(4) The Atlanta LEAP (Labor Education Advancement Program) has, in a 2-year period indentured 128 minority youth and dropped only 18 of them, equipping the remainder with some measure of the skills necessary to work in the following trades:

Bricklaying, Carpentry, Cement Masonry, Electrical Work, Operating Engineers, Lather, Machinists, Painting, Roofing, and Sheet Metal Work.

(5) The LEAP program's 1970 goal was to indenture 100 persons and tutor 275.

(c) *Community involvement.* Testimony presented at the hearings revealed, and it has consistently been the Department's experience, that the effectiveness of efforts to recruit minority trainees and workers depends in large measure upon the active involvement of minority organizations in the community. Various representatives of minority organizations indicated that they would have little, if any, difficulty in recruiting minority workers for training and jobs in sufficient numbers to meet the manpower needs of the Atlanta area construction industry.

(d) *Minority subcontractors.* Information gained at the hearing indicated, and it is found, that a number of minority subcontractors are operating effectively within the Atlanta area. Utilization of these subcontractors, particularly by nonminority contractors, could significantly expand the participation of minority craftsmen on projects of federally involved construction contractors.

§ 60-8.13 Need for training.

(a) *Existing programs.* (1) Total enrollment in the several vocational educational full-time programs in the Atlanta area is estimated in excess of 80 for the construction trades of whom approximately 50 are minorities. In the night school there are additionally enrolled 234 minorities for training in the construction trades.

(2) MDTA programs operating in the Atlanta area include seven minority

group trainees acquiring skills in the construction trades.

(3) A readily available source of minority manpower most of whom could be utilized in the skilled trades with skills refinement training only may be found in the number of minority laborers currently in labor unions having jurisdiction in the Atlanta area. This figure is currently placed at 2,550. Minority representation among the unionized laborers is in excess of 91 percent of the total, an indication of their disproportionate placement and the underutilization of actual or potential skills by the industry.

(4) Additionally, there are substantial numbers of nonunion employees and self-employed minorities currently employed throughout the industry, including 435 electricians, 417 plumbers and pipefitters, and 1,206 carpenters.

(b) *Trainable persons.* It is found and determined that a substantial number of minority persons can receive training annually in the Atlanta area through existing programs with additional funding. The Manpower Administration of the Department of Labor is committed to make available such funds as may be necessary to carry out reasonable and effective training programs in furtherance of the objectives of the regulations in this part and consistent with the policies and standards of the Manpower Administration as amplified in the President's statement of March 7, 1970, directing a 50 percent increase in construction skills training over the next 5 years.

§ 60-8.14 The impact of the Plan upon the existing labor force.

(a) *Contractors commitments.* A contractor could commit himself to minority hiring up to the annual rate of job vacancies for each trade without adverse impact upon the existing labor force. On the basis of specific information presented at the hearings indicating new jobs requirements and replacement needs within the construction trades covered by the regulations in this part, it is expected that there will be 3,000 new job opportunities in the Atlanta area through 1975. These projections are not inconsistent with conservative national statistics which reveal that approximately 7.5 percent of construction trade workers are replaced each year due to death, retirement, disability, and outmigration.

(b) *Timetable.* In an effort to provide an affirmative action program and practical ranges for utilization of minority manpower which can be met by employers in hiring productive, trained minority craftsmen, these rules should be developed to cover an extended period of time. Testimony at the hearing indicated that a 4-year duration for the Plan is proper as the greatest need for additional manpower in the industry will take place during the first part of the decade. Therefore, it is found and determined that in order for the regulations in this part to effect equal employment to the fullest extent, the standards of minority utilization should be determined for the next 4 years.

(c) *Projected new jobs.* The annual percentage of new job opening per craft for selected trades from 1971-75 are as follows:

	Percent
1. Asbestos Workers.....	10.0
2. Carpenters.....	7.5
3. Electricians.....	7.2
4. Elevator Constructors.....	6.5
5. Glaziers.....	15.8
6. Iron Workers.....	4.4
7. Millwrights.....	6.5
8. Painters.....	9.4
9. Plumbers.....	6.6
10. Sheet Metal Workers.....	9.6

§ 60-8.15 Conclusions of findings.

(a) *Current minority participation.* It is found in the Atlanta area work force data submitted at the public hearings, that minority representation in the construction industry in general exceeds 27 percent while certain skilled trades in the same area and industry have an extremely low minority representation, e.g., electricians 0.5, elevator constructors 1.1, ironworkers 1.3, millwrights 1 and plumbers 1.6. Thus, it appears that the latter trades have a level of minority representation far below that which should have resulted from meaningful past participation in the industry without regard to race, color, or national origin. Therefore, it is determined that the rules in this part are necessary to provide for minority participation in the following trades:

Asbestos Workers.
Carpenters.
Electricians.
Elevator Constructors.
Glaziers.
Ironworkers.
Millwrights.
Painters.
Plumbers.
Sheet Metal Workers.

(b) *Effect of Plan.* A construction contractor working in the Atlanta area could increase the minority participation in his trade significantly by hiring only minorities to fill new job openings (attrition plus growth). However, to do so would inevitably result in the exclusion of qualified nonminorities from such job opportunities. Based upon the fact that the minority population in the Atlanta area is approximately 22.5 percent of the total population, upon the fact that the minority unemployment rate in the Atlanta area is greater than double that of nonminority unemployment, upon the fact that there exists substantial minority underemployment in the area and upon the further fact that significant and effective training programs now exist, it may be reasonably expected that in the filling of new and vacant jobs, effective affirmative action efforts should produce at least one minority applicant for each nonminority applicant for effective construction employment.

(c) *Increased minority participation.* If new and vacant positions in only the trades covered by these rules totaling approximately 3,000 through 1975 were filled by one minority worker for each nonminority worker, the resultant increased minority participation in those

trades alone through June 1975 would be approximately 1,500 workers. On the basis of the findings indicated above, it is estimated that approximately 5,000 minority persons are presently available to fill such jobs, many of whom possess some degree of training. With the anticipated increase in those who should be available over the next 4 years, it appears that more than sufficient numbers of minority workers will be available to effectively fill new and vacated construction trade positions.

(d) *Purpose of ranges.* By establishing ranges which anticipate good faith efforts by construction contractors to fill new and vacated jobs on at least a 1-to-1 minority-to-nonminority basis through June 1975, contractors may recruit from available minority manpower without displacing any existing craftsmen and without discriminating against any nonminority applicant for employment.

(e) *Evaluation and advisory recommendations.* The Department recognizes that the contractors, unions, and minority community, who must operate on a day-to-day basis under the requirements of the regulations in this part, are in the best positions to evaluate the effectiveness of the regulations in this part. Therefore, the Department shall make every effort to encourage and develop a voluntary committee representing these three groups, which committee shall periodically review the effectiveness of the regulations in this part and make advisory recommendations to the Department in this regard.

Subpart C—Nondiscriminatory Purpose of the Plan; Requirements; Exemptions; Effective Date

§ 60-8.20 Nondiscriminatory purpose of the Plan.

The purpose of the contractor's commitment to specific goals is to meet the contractor's affirmative action obligations and is not intended and shall not be used to discriminate against any qualified applicant or employee.

§ 60-8.21 Requirements.

After full consideration and in view of the foregoing it is determined that:

(a) No contracts or subcontracts shall be awarded for Federally and federally assisted construction in the Atlanta, Ga., area on projects whose estimated cost exceeds \$500,000 unless the bidder completes and submits, prior to bid opening, the document identified as Appendix A, Notice of Requirement for Submission of Affirmative Action Plan To Ensure Equal Employment Opportunity or a substantially similar document, which shall include specific goals of minority manpower utilization for each trade designated below which will be used by the contractor on all of his work (both Federal and non-Federal) within the Atlanta, Ga., area, during the term of his performance of the contract, such goals to be established by the contractor at least within the ranges established in Appendix A of this part. Such Appendix

is for all purposes a part of the regulations in this part and shall be deemed a part of all contracts executed pursuant to the regulations in this part. Minority manpower means, for the purposes of the rules in this part, Negroes, Spanish surnamed Americans, Orientals and American Indians. The trades utilizing the following classifications of employees are covered by the rules in this part:

Asbestos Workers.
Carpenters.
Electricians.
Elevator Constructors.
Glaziers.
Ironworkers.
Millwrights.
Painters.
Plumbers.
Sheet Metal Workers.

(b) Each Federal agency shall include, or require the applicant to include, in the invitation for bids, or other solicitation used for a federally involved (Federal or federally assisted) construction contract, when the estimated total cost of the construction project exceeds \$500,000, a notice stating that to be eligible for award, each bidder will be required to comply with Appendix A for the hereinbefore designated trades to be used during the term of the performance of the contract—whether or not the work is subcontracted. The form of such notice shall be substantially similar to such Appendix A.

§ 60-8.22 Exemptions.

Requests for exemptions from the regulations in this part must be in writing, with justification, to the Director, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C. 20210, and shall be forwarded through and with the endorsement of the agency head.

§ 60-8.23 Effective date.

The provisions of this part will be effective with respect to transactions for which the invitations for bids or other solicitations for bids, or additions or amendments thereto, are sent on or after the publication of the regulations in this part.

Subpart D—Appendix A

§ 60-8.30 Appendix A.

For inclusion in the Invitation or Other Solicitation for Bids for a Federally Involved Construction Contract in the Atlanta, Ga., Area, when the Estimated Total Cost of the Construction Project Exceeds \$500,000.

NOTICE OF REQUIREMENT FOR SUBMISSION OF AFFIRMATIVE ACTION PLAN TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

NOTICE

To Be Eligible for Award of the Contract, Each Bidder Must Fully Comply With the Requirements, Terms, and Conditions of This Appendix A.

The following are hereby submitted by the undersigned bidder as its goals for minority manpower utilization ("minority" being Negro, Spanish surnamed American, Oriental, and American Indian) to be achieved on all

work of the bidder within the Atlanta, Ga., area, during the terms of his performance of this contract in the trades specified below in conformity with the requirements, terms, and conditions of this Appendix A as herein-after set forth:

Trade:	Total number of manhours to be worked by minority persons on all bidder's projects within the Atlanta area including on this contract, expressed in terms of a percentage of the total number of manhours to be worked until June 30, 1972.
Asbestos Workers.....
Carpenters.....
Electricians.....
Elevator Constructors.....
Glaziers.....
Ironworkers.....
Millwrights.....
Painters.....
Plumbers.....
Sheet Metal Workers.....

Trade:	Total number of manhours to be worked by minority persons on all bidder's projects within the Atlanta area including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from July 1, 1972, until June 30, 1973.
Asbestos Workers.....
Carpenters.....
Electricians.....
Elevator Constructors.....
Glaziers.....
Ironworkers.....
Millwrights.....
Painters.....
Plumbers.....
Sheet Metal Workers.....

Trade:	Total number of manhours to be worked by minority persons on all bidder's projects within the Atlanta area including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from July 1, 1973, until June 30, 1974.
Asbestos Workers.....
Carpenters.....
Electricians.....
Elevator Constructors.....
Glaziers.....
Ironworkers.....
Millwrights.....
Painters.....
Plumbers.....
Sheet Metal Workers.....

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Ironworkers	-----
Millwrights	-----
Painters	-----
Plumbers	-----
Sheet Metal Workers	-----
Total number of manhours to be worked by minority persons on all bidder's projects within the Atlanta area including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from July 1, 1974, until June 30, 1975.	
Trade:	-----
Asbestos Workers	-----
Carpenters	-----
Electricians	-----
Elevator Constructors	-----
Glaziers	-----
Ironworkers	-----
Millwrights	-----
Painters	-----
Plumbers	-----
Sheet Metal Workers	-----

REQUIREMENTS, TERMS, AND CONDITIONS

1. No contracts or subcontracts shall be awarded for Federal or federally assisted construction in the Atlanta, Ga., area on projects whose estimated cost exceeds \$500,000 unless the bidder completes and submits, prior to bid opening, this document designated as Appendix A, or a substantially similar document, which shall include specific goals of minority manpower utilization for each trade designated below which will be used by the contractor on all his work (both Federal and non-Federal) within the Atlanta, Ga., area during the term of his performance of the contract, such goals to be established by the contractor at least within the ranges established by this appendix in section 3 thereof. Minority manpower means, for the purposes of this Appendix, Negroes, Spanish surnamed Americans, Orientals, and American Indians. The trades utilizing the following classifications of employees are covered by this Appendix:

Asbestos Workers.
Carpenters.
Electricians.
Elevator Constructors.
Glaziers.
Ironworkers.
Millwrights.
Painters.
Plumbers.
Sheet Metal Workers.

A bidder who fails or refuses to complete or submit such goals shall not be deemed a responsive bidder and may not be awarded the contract or subcontract, but such goals need be submitted only for those trades which the contractor contemplates to be used in the performance of the federally involved contract. In no case shall there be any negotiations over the provisions of the specific goals submitted by the bidder after the opening of bids and prior to the award of the contract.

2. The following ranges, constituting acceptable minimums within which a prospective contractor or subcontractor must establish his goals are hereby established as the

standards for minority manpower utilization for each of the designated trades in the Atlanta, Ga., area for the next 4 years:

Trade	Range of minority group employment	
	From July 1, 1974	Until June 30, 1975
Asbestos workers	13.5	18.5
Carpenters	7.1	10.9
Electricians	4.1	7.7
Elevator constructors	4.3	7.6
Glaziers	7.9	15.8
Ironworkers	3.5	5.7
Millwrights	4.2	7.5
Painters	8.3	13.0
Plumbers	4.9	8.2
Sheet metal workers	4.8	9.6
Asbestos workers	18.5	23.5
Carpenters	10.9	14.6
Electricians	7.7	11.3
Elevator constructors	7.6	10.8
Glaziers	15.8	23.7
Ironworkers	5.7	7.9
Millwrights	7.5	10.7
Painters	13.0	17.7
Plumbers	8.2	11.5
Sheet metal workers	9.6	14.4
Asbestos workers	23.5	28.5
Carpenters	14.6	18.3
Electricians	11.3	14.9
Elevator constructors	10.8	14.1
Glaziers	23.7	31.6
Ironworkers	7.9	10.1
Millwrights	10.7	14.0
Painters	17.7	22.4
Plumbers	11.5	14.8
Sheet metal workers	14.4	19.2
Asbestos workers	28.5	33.5
Carpenters	18.3	22.0
Electricians	14.9	18.5
Elevator constructors	14.1	17.3
Glaziers	31.6	39.5
Ironworkers	10.1	12.3
Millwrights	14.0	17.2
Painters	22.4	27.7
Plumbers	14.8	18.1
Sheet metal workers	19.2	24.0

After the first year of the program, the standards (trades and ranges) set forth herein shall be reviewed to determine whether the projections on which these standards are based adequately reflect the construction labor market situation at that time. Reductions or other significant fluctuations in federally involved construction shall be specifically reviewed from time to time as to their effect upon the practicality of the standards. In no event, however, shall the standards be increased or trades be added for the contracts after bids have been received.

The contractor's or subcontractor's goals established within the above ranges shall express the contractor's or subcontractor's commitment of the percentage of minority personnel who will be working in each specified craft on each of his projects (whether federally involved or otherwise) within the Atlanta, Ga., area during the term of the covered contract.

The man hours for minority workers must be substantially uniform throughout the entire length of the contract for each of the designated trades, to the effect that the percentage of minority workers in the designated trades must be working throughout the length of work on each project in each trade. The contractor or subcontractor shall be deemed to have met his commitment to specific goals for minority manpower utilization:

(a) If the minority manpower utilization rate of the contractor or subcontractor itself meets the goals on the total of all of the contractor's or subcontractor's facilities within the Atlanta area: *Provided, however*, That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix, or

(b) If the contractor or subcontractor can establish that it is a member of a contractor's association or other employer organization or association, which has as one of its purposes the expanded utilization of minority manpower and the total utilization rate of minority craftsman by all member contractors and subcontractors of such an association or organization on all projects in which they are involved within the Atlanta area meets the contractor's or subcontractor's commitments: *Provided, however*, That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix, or

(c) If the contractor or subcontractor can establish that it has a collective bargaining agreement with a labor organization, that it utilizes such organization as its source for over 80 percent of its manpower needs and (1) that the percentage total of minority membership of such organization and the total percentage of minorities referred for employment on all projects within the Atlanta area meets the contractor's or subcontractor's commitments or (2) that such labor organization has made good faith efforts as described in 5 below in the referral of minorities for employment and the admission of minorities to membership: *Provided, however*, That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix.

3. Whenever a contractor or subcontractor uses trades covered by this appendix which were not covered at the time of his bid and he therefore does not submit goals for such trades, he shall be deemed to be committed to the minority group employment goal of the minimum percentage range for that trade for the appropriate year.

In the event that under a contract subject to this appendix any work by a trade covered by this appendix is performed after December 31, 1975, the minimum ranges of minority group employment for the year ending December 31, 1975, shall be applicable to such work.

4. The contractor's or subcontractor's commitment to specific goals is to meet affirmative action obligations and is not intended and shall not be used to discriminate against any qualified applicant or employee. Whenever it comes to the bidder's or contractor's attention that the goals are being used in a discriminatory manner, he shall immediately report that fact to the Office of Federal Contract Compliance of the U.S. Department of Labor in order that appropriate proceedings may be instituted.

5. The contractor's or subcontractor's (collectively hereinafter referred to as "contractor") commitment to specific goals for minority manpower utilization as required by this Appendix A shall constitute a commitment that it or the labor organization described in 2(c) above, will make every good faith effort to meet such goals. If the contractor has failed to meet his goals, a determination of "good faith" will be based upon his efforts or those of such labor union to broaden its recruitment base which efforts shall include but not be limited to the following as applicable:

(a) Notification to the community organizations that the contractor or union has

employment opportunities available and maintenance of records regarding the organizations' response.

(b) Maintenance of a file of the names and addresses of each minority worker referred by the union or to the contractor and what action was taken with respect to each such referred worker. If such worker was not sent to the union hiring hall for referral or if such worker was not referred by the union or not employed by the contractor, the file should document this and the reasons therefor.

(c) The contractor shall promptly notify the OFCC Area Coordinator when the union or unions with whom the contractor has a collective bargaining agreement has not referred to the contractor a minority worker sent by the contractor or the contractor has other information that the union referral process has impeded him in his efforts to meet his goal.

(d) Participation in training programs in the area, especially those funded by the Department of Labor.

(e) Dissemination of the contractor's or unions EEO policy within the respective organizations as applicable, by including it in any policy manual; by publicizing it in company or union newspapers, annual report, etc.; by conducting meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority employees or members.

(f) Dissemination of its EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority news media; and by notifying and discussing it with all contractors and subcontractors.

(g) Specific and constant personal (both written and oral) recruitment efforts directed at all minority organizations, schools with minority students, minority recruitment organizations, and minority training organizations, within the contractor's or union's recruitment area.

(h) Specific efforts to encourage present minority employees or members to recruit their friends and relatives.

(i) Validation of all man specifications, selection requirements, tests, etc.

(j) Making every effort to provide after-school, summer, and vacation employment to minority youths.

(k) Where reasonable, the development of on-the-job training opportunities and participation and assistance in any association or group training programs relevant to the contractor's or unions needs.

(l) Continuing inventory and evaluation of all minority personnel or members for promotional opportunities and encouragement of minority employees or members to seek such opportunities.

(m) Assuring that seniority practices, job classifications, etc., do not have a discriminatory effect.

(n) Assuring that all facilities and activities are non-segregated.

(o) Continual monitoring of all personnel activities to insure that its EEO policy is being carried out.

(p) The contractor shall solicit bids for subcontracts from available minority subcontractors with the trades covered by this Appendix, including circulation of minority contractor associations.

6. Each agency shall review contractors' and subcontractors' employment practices during the performance of the contract. If the contractor or subcontractor meets its goals or if the contractor or subcontractor can demonstrate that it or the labor union described in 2(c) above has made every good faith effort to meet those goals, the contractor shall be presumed to be in compliance with Executive Order 11246, the imple-

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menting regulations and its obligations under this appendix and no formal sanctions or proceedings leading toward sanctions shall be instituted unless the agency otherwise determines that the contractor or subcontractor is not providing equal employment opportunities. Where the agency finds that the contractor or subcontractor has failed to comply with the requirements of Executive Order 11246, the implementing regulations and its obligations under its appendix, the agency shall take such action and impose such sanctions as may be appropriate under the Executive order and the regulations. When the agency proceeds with formal action, it has the burden of proving that the contractor has not met the requirements of this appendix, but the contractor's failure to meet his goals shall shift to him the requirement to come forward with evidence to show that he or his labor union has met the "good faith" requirements of this appendix. Such noncompliance by the contractor or subcontractor shall be taken into consideration by Federal agencies in determining whether such contractor or subcontractor can comply with the requirements of Executive Order 11246 and is therefore a "responsible prospective contractor" within the meaning of the Federal procurement regulations.

7. Except as provided herein, it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the National Labor Relations Act, as amended, and title VII of the Civil Rights Act of 1964. It is the long-standing uniform policy of OFCC that contractors and subcontractors have a responsibility to provide equal employment opportunity if they want to participate in federally involved contracts. To the extent they have delegated the responsibility for some of their employment practices to a labor organization which does not meet the criteria prescribed in 5 above and they are, thus, prevented from meeting the obligations pursuant to Executive Order 11246, as amended, such contractors cannot be considered to be in compliance with Executive Order 11246, as amended, or the implementing rules, regulations, and orders.

8. All prime contractors and subcontractors shall include in all bid invitations or other prebid communications, written or otherwise, with respect to their prospective subcontractors, the goals, as applicable, which are required under this appendix. Whenever a prime contractor or subcontractor subcontracts a portion of the work in any trade designated herein, he shall include in such subcontract his commitment made under this appendix, as applicable, which shall be adopted by his subcontractor, who shall be bound thereby and by this appendix to the full extent as if he were the prime contractor. The prime contractor shall not be accountable for the failure of his subcontractor to fulfill his requirements. However the prime contractor or subcontractor shall give notice to the Area Coordinator of the Office of Federal Contract Compliance of the Department of Labor and the contracting agency of any refusal or failure of any subcontractor to fulfill his obligations under this appendix. Failure of compliance by any subcontractor will be treated in the same manner as such failure by the prime contractor.

9. Contractors and subcontractors must keep such records and file such reports relating to the provisions of this appendix as shall be required by the contracting or administering agency.

10. Nothing in this appendix shall be interpreted to diminish the responsibilities of the contracting and administering agencies nor the obligations of contractors or subcontractors pursuant to Executive Order 11246 for those trades and those contracts not covered by this appendix.

11. The procedures set forth in this appendix shall not apply to any contract when the lead of the contracting or administering agency determines that such contract is essential to the national security and that its award without following such procedure is necessary to the national security. Upon making such a determination, the agency head will notify, in writing, the Director of the Office of Federal Contract Compliance within 30 days.

12. Nothing in this appendix shall be interpreted to diminish the present contract compliance review and complaint programs.

13. Requests for exemptions from this appendix must be made in writing, with justification, to the Director, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C. 20210, and shall be forwarded through and with the endorsement of the agency head.

14. This appendix shall be signed in the space provided below.

(Bidder)

By: _____
(Date)

Signed at Washington, D.C., this 18th day of June 1971.

J. D. HODGSON,
Secretary of Labor.

ARTHUR A. FLETCHER,
Assistant Secretary for
Employment Standards.

JOHN L. WILKS,
Director, Office of
Federal Contract Compliance.

[FR Doc.71-9002 Filed 6-24-71; 8:51 am]

Chapter 114—Department of the Interior

PART 114-26—PROCUREMENT SOURCES AND PROGRAMS

U.S. Government National Credit Card

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 (Supp. V, 1965-1969) and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c), the following amendments are made to previously published regulations in Chapter 114 of Title 41 of the Code of Federal Regulations.

These amendments shall become effective on the date of publication in the FEDERAL REGISTER (6-25-71).

RICHARD R. HITE,
Deputy Assistant Secretary
for Administration.

JUNE 18, 1971.

The following amends 41 CFR Part 114-26 as previously published at 36 F.R. 59:

1. Delete the subpart presently shown as follows: "Subpart 114-26.406—U.S. Government National Credit Card for Use in Obtaining Service Station Deliveries and Services" and insert instead "Subpart 114-26.4—Purchase of Items

From Federal Supply Schedule Contractors" in both the table of contents and text.

2. Add § 114-26.406:

§ 114-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.

[FR Doc.71-8961 Filed 6-24-71; 8:47 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-626]

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 87—AVIATION SERVICES

Civil Air Patrol Land Stations

Order. In the matter of amendment of Parts 2 and 87 of the rules concerning authorized power output and types of emissions for Civil Air Patrol land stations, RM 1272.

1. The Civil Air Patrol (CAP) a civilian auxiliary of the U.S. Air Force, has filed a petition for Part 87, Aviation Services, rule changes as follows:

a. Amend § 87.31(b) to permit the immediate use of newly installed land station transmitting equipment pending Commission action on applications for modification of station authorization to show such equipment.

b. Amend § 87.513(h) to allow the use of FM in addition to AM emissions, permit 30 watts of maximum power, and delete the restriction which limits the operational area to the 48 conterminous States thus permitting operations within all 50 States and Possessions, on 143.90 MHz.

c. Amend § 87.513(i) to allow the use of FM in addition to AM emissions on 148.15 MHz.

2. Petitioner asserts that it desires to expedite the conversion to single side-band equipment as well as place in use some narrow band FM equipment that it has the opportunity to acquire free of cost. CAP further asserts the present allowable maximum power of 10 watts is inadequate for its land stations operating on 143.90 MHz and that changed conditions no longer necessitate this power limitation since this frequency, once shared with Government stations, is now used only by CAP. CAP radio operations within a given geographical area shall be restricted to one type of emission only. Since the conditions, which originally necessitated restricting use of 143.90 MHz to the 48 conterminous States, are no longer existent, the CAP affirms that operational authority to utilize this frequency on a U.S. & P. basis will enhance its operational efficiency.

3. CAP is a national organization that participates in relief efforts incidental to disasters and operates with a closed radio system using frequencies made available by the U.S. Air Force. The

organization is not required to use type accepted equipment, but must use transmitters that comply with the technical specifications in our rules. Thus, it is not essential to our regulatory functions that transmitters be shown on CAP land station authorizations as is now the practice. The CAP request with respect to being permitted to immediately use newly acquired SSB or FM transmitters (§ 87.31(b)) is reasonable and in the public interest and will be granted. We will provide CAP relief, administratively without rule change, by no longer showing transmitters on CAP land station authorizations granted hereafter, and in the case of stations operated pursuant to outstanding authorizations, CAP is hereby authorized to operate these stations with transmitters other than those shown on the authorization provided that a copy of this order is conspicuously posted at the transmitter location.

4. Since the frequency 143.90 MHz is now used only by CAP there no longer exists a need for a 10-watt power limitation formerly intended to prevent interference with other users of this frequency and the CAP request for change of this power limitation should be granted.

5. Because conditions which required the Commission to restrict CAP's operational use of the frequency 143.90 MHz to the conterminous 48 States, in fact no longer exist, it is felt that the removal of the restriction permitting operations on a U.S. & P. basis, will indeed increase CAP's operational effectiveness.

6. We believe the simultaneous operation of CAP stations in the same area using AM and FM emissions could impair communications because of the incompatible nature of the emissions. National CAP Headquarters, however, has stated that the use of FM by all lower echelons will be firmly controlled by (1) providing that the FM emission will be used only upon specific authority of the national CAP headquarters, (2) forbidding simultaneous use of AM and FM at the same time within a wing, i.e., State area, and (3) forbidding the use of FM in any wing if another wing in an adjacent State, or within communication range, is authorized to use AM emission at the same time on the same frequency. We believe these measures are sufficient to preclude interference or other unsatisfactory complications and the CAP, because of its military organizational structure, can reasonably ensure that the frequencies are used only as proposed.

7. The Interdepartment Radio Advisory Committee (IRAC) has been consulted and interposed no objections to this proposal.

8. In view of the foregoing amendments to footnote US10 to the table of Frequency Allocations, § 2.106, and to §§ 87.67 and 87.513 of the Commission's rules and regulations are found to be desirable and in the public interest. The specific changes are set forth below.

9. The amendments adopted herein pertain to the use of frequencies allo-

cated to the Government and used only by the petitioner. Since users of other frequencies are not affected and we find the amendments to be minor in nature and ones in which the public is not particularly interested, the prior notice and procedure provisions of 5 U.S.C. section 553 are not applicable.

10. In view of the foregoing: *It is ordered*, That pursuant to the authority contained in sections 4(i) and 303(c) (e) (f) and (r) of the Communications Act of 1934 as amended, Parts 2 and 87 of the Commission's rules are amended effective July 1, 1971, as set forth below.

11. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS

COMMISSION,¹

[SEAL] BEN F. WAPLE,

Secretary

§ 2.106 [Amended]

A. In Part 2, § 2.106, the Table of Frequency Allocations, footnote US10 is amended to read as follows:

US10 The use of frequencies 26.62 MHz, 143.90 MHz, and 148.15 MHz may be authorized to Civil Air Patrol land stations and Civil Air Patrol mobile stations on the condition that harmful interference will not be caused to Government stations.

B. In Part 87, §§ 87.67 and 87.513 are amended as follows:

1. In § 87.67(b)(1), footnote 4 is amended to read as follows:

§ 87.67 Types of emission.

(b)
(1)

⁴ Applicable to operational fixed stations in the bands 72.0-73.0 MHz and 75.4-76.0 MHz and to CAP stations using class F3 emissions on 143.9 MHz and 148.15 MHz.

2. In § 87.513 paragraphs (h) and (i) are amended to read as follows:

§ 87.513 Frequencies available.

(h) 143.9 MHz, A1, A2, A3, F3 emission, 30 watts maximum power.

(i) 148.15 MHz, A2, A3, F3 emission, 50 watts maximum power.

[FR Doc.71-9020 Filed 6-24-71; 8:53 am]

[Docket No. 17703; FCC 71-606]

USE OF TERTIARY FREQUENCIES

Report and order. In the matter of amendment of the rules in Parts 2, 89, 91, and 93 concerning the use of "tertiary," or 15 kHz channels, in the 150-162 MHz band; amendment of Part 89 to designate frequency 153.740 MHz as available to the Local Government Radio

¹ Commissioner Robert E. Lee absent.

Service; Docket No. 17703, RM-525, RM-811, RM-867.

1. On September 6, 1967, the Commission adopted a notice of proposed rule making in the above-entitled matter which was released on September 8, 1967, and published in the FEDERAL REGISTER on September 15, 1967 (32 F.R. 13143).

The rule changes proposed in the proceeding stem from petitions filed by the National Committee for Utilities Radio (NCUR), the Yellow Cab Co. of California, and the American Automobile Association, requesting that the 15 kHz splits, known as "tertiary" frequencies, be made available on a regular basis in the Power, Taxicab, and Automobile Emergency Radio Services, rather than a developmental basis.

2. Thirteen comments were timely filed. They are listed in the attached appendix A.¹ No reply comments were received. In reaching our determination all comments have been considered as well as pertinent information available from other sources. All the comments supported the proposal to make the tertiary frequencies available on a regular basis but there were varying opinions about the criteria for making assignments on them.

3. Operation in the 150 MHz band with 15 kHz spacing is possible only if the stations on the adjacent channels are geographically separated. The notice proposed a 15-mile-minimum separation and specifically invited comments as to adequacy and desirability of such a separation. Almost all of the comments objected to a required 15-mile separation; some claiming it was not enough, and others that it was too much or that there should be no specific figure. Those who felt the 15-mile separation excessive, such as the Association of American Railroads, stressed that the present coordination requirements make it unnecessarily restrictive to specify minimum geographical spacing and, that such individual factors as terrain, shielding, directional antenna, power, etc., may permit closer spacing, and thus avoid unnecessary waste of spectrum space. It was also pointed out that many systems in the Public Safety and Land Transportation services have successfully operated with less than 15-mile separations, e.g., the Yellow Cab Co. of California has been operating a system in Los Angeles on three tertiary pairs since September of 1966, without receiving or causing interference to any other station although base stations of other taxicab companies are as close as 9½ miles. Those who believe that a 15-mile separation is not enough, such as Electronic Industries Association (EIA), assert that tertiary interference is more bothersome than co-channel interference; that squelch may not open when the undesired transmitter is on, but when desired transmitter is on, interference will then be heard, thus precluding the ability to monitor; that desensitization occurrences will increase (this manifests itself by causing a re-

¹ Appendix A filed as part of original document.

ceiver to be insensitive to the desired channel while the audio output remains quiet), thus calls are missed without the user knowing. EIA believes that no assignment should be made with less than a 30-mile separation unless field tests are conducted to assure that no harmful interference will be caused.

4. A minimum mileage separation figure provides an area in which there is definite protection from possible interference. As the mileage figure is decreased, the protected area decreases but at the same time the possibility of making tertiary frequency station assignments increases. We have reduced the mileage figure to 10 for Parts 89 and 91 and 7 miles for Part 93. At the same time for Parts 89, 91, and 93 we have included a figure of 35 miles beyond which frequency coordination is not required for 15 kHz frequency separation. In reducing the mileage separation figure from the proposed 15, to 10 and 7, we have taken into account the comments which pointed out the restrictions imposed by larger figures. The mileage figure for Part 93 has been reduced to seven in consideration of the lower level of power allowed under the part.² Because of the problems involved in making meaningful on-the-air tests we have not accommodated those comments, such as EIA, proposing that assignments under 30 miles be based on tests. The 35-mile figure has been in use for some time in Part 91 as a maximum distance to require coordination of adjacent frequencies separated by 15 kHz or less and has been found to be satisfactory. With careful intraservice frequency coordination the mileage figures should permit sufficient flexibility to avoid unnecessary waste, unnecessary coordination, and insure full utilization of the limited number of frequencies available. It should be noted that existing assignments, including developmental assignments, which involve geographic separations of less than 10 or 7 miles, as may be applicable, will be permitted to continue operating as licensed and can be renewed on a regular basis for a full 5-year term.

5. The coordination sections in Parts 89, 91, and 93 require interservice coordination if the frequency applied for is 15 kHz removed from a frequency allocated to a different radio service. The responsibility for this interservice coordination rests with the committee representing the applicant's radio service. The coordinator must initiate interservice coordination with all other committees involved and bring to the attention of the applicant and the Commission any unresolved objections to the assignment of the frequency recommended.

6. It was proposed in the notice that the tertiary frequencies would generally be made available to the same radio service to which the adjacent frequencies were allocated; and, where the adjacent frequencies are shared by more

² In the 150 to 162 MHz band the maximum plate power input to the final radio frequency stage permitted is 600 watts for Parts 89 and 91 and 120 watts for Part 93.

than one service, the tertiaries would be shared on the same basis. In a few cases the tertiary was between frequencies allocated to different services and in the notice it was allocated to the service which appeared to have the greatest need. The comments agreed with this approach and we will adopt the allocations as proposed in the appendices of the notice. However, at the request of the Special Industrial Radio Service Association, Inc. (SIRSA), the proposed limitation for the frequency 158.385 MHz will be changed from "itinerant use" to "permanent use." In its comments SIRSA stated that mobile "itinerant use" of this channel would be compatible with the next higher Special Industrial frequency, 158.400 MHz, it would not be so with next lower frequency, 158.370 MHz, assigned to the Petroleum and Forest Products Radio Services. The "permanent use" limitation would permit careful coordination of assignments and avoid interference to other licensees. Additionally, SIRSA believes that there is a greater need for "permanent use" channels.

7. NCUR argued that 158.115 MHz be allocated to the Power Radio Service and the International Taxicab Association requested allocation of the frequency pairs 152.255/157.515 and 152.465/157.725 MHz to the Taxicab Radio Service. The frequency 157.515 MHz is between the Taxicab and Automobile Emergency Radio Services and was proposed to be allocated to the latter. The remaining frequencies are band edges between blocks of frequencies allocated to either the Domestic Public and Land Transportation or Industrial Radio Services or between the Industrial and Land Transportation Radio Services. The allocation of band edges between the Domestic Public and the private land mobile services, as well as tertiary frequencies adjacent to the Business Radio Service, involve additional considerations not developed in our notice proposal including a determination as to how frequency coordination with these activities could be accomplished. Accordingly, we have taken no action in regard to the proposals since they are beyond the scope of this rule making. The frequency 157.515 MHz is within a frequency block allocated to the Land Transportation Radio Service and has been made assignable in the Automobile Emergency Radio Service as was proposed in our notice.

8. No comments were directed to the proposal to make the frequency 153.740 MHz available in the Local Government Radio Service. This allocation has accordingly been finalized as proposed.

9. One other matter remains to be considered. A "Petition for Separate Consideration" in Docket 17703, was filed by the International Taxicab Association on August 13, 1969. The main reason for requesting separate consideration in this proceeding was to permit tertiary assignments in the Taxicab Radio Service at the earliest possible date. ITA felt that technical and operational considerations which might be holding up

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Released: June 15, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,³
[SEAL] BEN F. WAPLE,
Secretary

APPENDIX B

PART 2—FREQUENCY ALLOCATION
AND RADIO TREATY MATTERS;
GENERAL RULES AND REGULA-
TIONS

§ 2.106 [Amended]

1. In § 2.106, Table of Frequency Allocations, column 7 with respect to the 154.46–156.25 MHz bands is amended to read as follows:

FEDERAL COMMUNICATIONS COMMISSION				
Band (MHz)	Service	Class of Station	Frequency (MHz)	Nature of Service of stations
7	8	9	10	11
...
154.46–154.6375	LAND MOBILE.	Base Land Mobile.		INDUSTRIAL (NGS).
154.6375–156.25	LAND MOBILE.	Base Land Mobile.		PUBLIC SAFETY.

PART 89—PUBLIC SAFETY RADIO SERVICES

2. In § 89.15, paragraphs (b) and (c) are amended to read as follows:

§ 89.15 Frequency coordination procedures.

(b) A report, based on a field study, indicating the following:

(1) The degree of probable interference to existing stations operating on the same channel within 75 miles of the proposed station and a signed statement that all existing cochannel licensees within 75 miles of the proposed station have been notified of applicant's intention to file his application, and

(2) The degree of probable interference to existing stations located 10 to 35 miles from the proposed station operating on a frequency within 15 kHz and a signed statement that the licensees of all such stations have been notified of applicant's intention to file his application. In no instance will an application be granted where the proposed station is located less than 10 miles from an adjacent-channel station 15 kHz removed.

(c) A statement from a frequency advisory committee recommending the specific frequency which in the opinion of the committee will result in the least amount of interference to existing stations operating in the particular area or commenting upon the proposed changes in the station. The committee's recommendations may appropriately include comments on technical factors such as power, antenna height and gain, terrain,

and other factors which may serve to mitigate any contemplated interference. The committee shall not recommend any adjacent-channel frequency (15 kHz removed) to existing stations which would result in a separation of less than 10 miles. The frequency advisory committee must be so organized that it is representative of all persons who are eligible for radio facilities in the service concerned in the area the committee purports to serve. The functions of such committees are purely advisory in character, and their recommendations cannot be considered as binding upon either the applicant or the Commission and must not contain statements which would imply that frequency advisory committees have any authority to grant or deny applications. Where the frequency or frequencies requested or assigned are within 15 kHz of a frequency which is available to another radio service, and is assignable only after coordination, the committee's statement shall affirmatively show that coordination with a similar committee for the other service has been accomplished.

3. In § 89.101, the introductory text in paragraph (f) is amended to read as follows:

§ 89.101 Frequencies.

(f) The frequency band 159.4725 to 159.480 MHz may be authorized for developmental operation to any eligible applicant in the Public Safety Radio Services for narrow band systems only: *Provided*, That:

³ Commissioners Burch, Chairman; Robert E. Lee and Houser absent.

4. Section 89.259(f) is amended by adding the following entry in the tabulation of frequencies between the entries 72.00 to 76.00 and 153.755:

§ 89.259 Frequencies available to the Local Government Radio Service.

Frequency or band	Class of station(s)	Limitations
153.545.....do.....		34
153.560.....do.....		9, 10
153.575.....do.....		34
153.605.....do.....		34
153.620.....do.....		9, 10
153.635.....do.....		34
153.665.....do.....		34
153.680.....do.....		9, 10
158.145.....Base or mobile.....		35
158.160.....do.....		10, 15
158.175.....do.....		35
158.205.....do.....		35
158.220.....do.....		10, 15
158.235.....do.....		35
158.265.....do.....		11
158.280.....do.....		11
158.310.....do.....		11
158.325.....do.....		10
158.355.....do.....		10
158.370.....do.....		11
158.415.....do.....		11
158.430.....do.....		11

PART 91—INDUSTRIAL RADIO SERVICES

5. In § 91.8(a), subparagraphs (2) and (3) are amended to read as follows:

§ 91.8 Policy governing the assignment of frequencies.

(a) ...
(2) A report, based on a field study, indicating the following:

(i) The degree of probable interference to existing stations operating on the same channel within 75 miles of the proposed station and a signed statement that all existing co-channel licensees within 75 miles of the proposed station have been notified of applicant's intention to file his application, and

(ii) The degree of probable interference to existing stations located 10 to 35 miles from the proposed station operating on a frequency within 15 kHz and a signed statement that the licensees of all such stations have been notified of applicant's intention to file his application. In no instance will an application be granted where the proposed station is located less than 10 miles from an adjacent-channel station 15 kHz removed.

(3) A statement from a frequency advisory committee recommending the specific frequency which in the opinion of the committee will result in the least amount of interference to existing stations operating in the particular area or commenting upon the proposed changes in the station. The committee's recommendations may appropriately include comments on technical factors such as power, antenna height and gain, terrain, and other factors which may serve to mitigate any contemplated interference. The committee shall not recommend any adjacent-channel frequency (15 kHz removed) to existing stations which would result in a separation of less than

10 miles. The frequency advisory committee must be so organized that it is representative of all persons who are eligible for radio facilities in the service concerned in the area the committee purports to serve. The functions of such committees are purely advisory in character, and their recommendations cannot be considered as binding upon either the applicant or the Commission, and must not contain statements which would imply that frequency advisory committees have any authority to grant or deny applications. Where the frequency or frequencies requested or assigned are within 15 kHz of a frequency which is available to another radio service, and is assignable only after coordination, the Committee's statement shall affirmatively show that coordination with a similar committee for the other service has been accomplished.

6. Section 91.254 is amended by deleting from the tabulation of frequencies in paragraph (a), entries beginning 153.41 and ending 153.71 and substituting frequencies 153.410 through 153.725; deleting entries beginning 158.13 and ending 158.25 and substituting frequencies 158.130 through 158.265; and, amending paragraph (b) by adding new subparagraphs (33) and (34), as follows:

§ 91.254 Frequencies available.

POWER RADIO SERVICE FREQUENCY TABLE		
Frequency or band	Class of station(s)	Limitations
153.410.....Base or mobile.....		31
153.425.....do.....		11
153.440.....do.....		34
153.455.....do.....		34
153.470.....do.....		34
153.485.....do.....		11
153.500.....do.....		34
153.515.....do.....		34
153.530.....do.....		34
153.545.....do.....		11
153.560.....do.....		34
153.575.....do.....		34
153.590.....do.....		34
153.605.....do.....		11
153.620.....do.....		11
153.635.....do.....		34
153.650.....do.....		34
153.665.....do.....		11
153.680.....do.....		11
153.695.....do.....		34
153.710.....do.....		34
153.725.....do.....		34
158.130.....do.....		33
158.145.....do.....		12
158.160.....do.....		33
158.175.....do.....		33
158.190.....do.....		33
158.205.....do.....		12
158.220.....do.....		33
158.235.....do.....		33
158.250.....do.....		33
158.265.....do.....		33

(b) ...
(33) This frequency is shared with Forest Products and Petroleum Radio Services in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

(34) This frequency is shared with Forest Products and Petroleum Radio

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Services in the States of Arkansas, Louisiana, Oklahoma, and Texas.

7. Section 91.304 is amended by deleting from the tabulation of frequencies in paragraph (a), entries beginning 153.05 and ending 153.68, and substituting 153.035 through 153.680; deleting entries beginning 158.16 and ending 158.43, and substituting frequencies 158.145 through 158.430, and amending paragraph (b) by adding new subparagraphs (34) and (35) as follows:

§ 91.304 Frequencies available.

PETROLEUM RADIO SERVICE FREQUENCY TABLE		
Frequency or band	Class of station(s)	Limitations
153.035.....Base or mobile.....		11
153.050.....do.....		11
153.065.....do.....		11
153.080.....do.....		11
153.095.....do.....		11
153.110.....do.....		11
153.125.....do.....		11
153.140.....do.....		11
153.155.....do.....		11
153.170.....do.....		11
153.185.....do.....		11
153.200.....do.....		11
153.215.....do.....		11
153.230.....do.....		11
153.245.....do.....		11
153.260.....do.....		11
153.275.....do.....		11
153.290.....do.....		11
153.305.....do.....		11
153.320.....do.....		11
153.335.....do.....		11
153.350.....do.....		11
153.365.....do.....		11
153.380.....do.....		11
153.395.....do.....		11
153.410.....do.....		11
153.425.....do.....		11
153.440.....do.....		9, 10
153.455.....do.....		34
153.470.....do.....		34
153.485.....do.....		34
153.500.....do.....		9, 10
153.515.....do.....		34
153.530.....do.....		34
153.545.....do.....		34
153.560.....do.....		34
153.575.....do.....		34
153.590.....do.....		34
153.605.....do.....		11
153.620.....do.....		11
153.635.....do.....		11
153.650.....do.....		11
153.665.....do.....		11
153.680.....do.....		11
158.145.....Base or mobile.....		34
158.160.....do.....		11, 16
158.175.....do.....		34
158.190.....do.....		34
158.205.....do.....		11, 16
158.220.....do.....		34
158.235.....do.....		34
158.250.....do.....		34
158.265.....do.....		13
158.280.....do.....		13
158.295.....do.....		13
158.310.....do.....		13
158.325.....do.....		11
158.340.....do.....		11
158.355.....do.....		11
158.370.....do.....		11
158.385.....do.....		13
158.400.....do.....		13

(b) ...
(34) This frequency is shared with Power and Forest Products Radio Services and is available only in the States of Arkansas, Louisiana, Oklahoma, and Texas.

(35) This frequency is shared with Power and Forest Products Radio Services and is available only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

8. Section 91.354 is amended by deleting from the tabulation of frequencies in paragraph (a), entries beginning 153.05 and ending 153.68, and substituting frequencies 153.035 through 153.680; deleting entries beginning 158.16 and ending 158.43, and substituting the frequencies 158.145 through 158.430, and amending paragraph (b) by adding new subparagraphs (28) and (34) as follows:

§ 91.354 Frequencies available.

FOREST PRODUCTS RADIO SERVICE FREQUENCY TABLE		
Frequency or band	Class of station(s)	Limitations
153.050.....Base or mobile.....		13
153.065.....do.....		13
153.080.....do.....		13
153.095.....do.....		13
153.110.....do.....		13
153.125.....do.....		13
153.140.....do.....		13
153.155.....do.....		13
153.170.....do.....		13
153.185.....do.....		13
153.200.....do.....		13
153.215.....do.....		13
153.230.....do.....		13
153.245.....do.....		13
153.260.....do.....		13
153.275.....do.....		13
153.290.....do.....		13
153.305.....do.....		13
153.320.....do.....		13
153.335.....do.....		13
153.350.....do.....		13
153.365.....do.....		13
153.380.....do.....		13
153.395.....do.....		13
153.410.....do.....		24
153.425.....do.....		28
153.440.....do.....		9, 11
153.455.....do.....		28
153.470.....do.....		28
153.485.....do.....		28
153.500.....do.....		9, 11
153.515.....do.....		28
153.530.....do.....		28
153.545.....do.....		28
153.560.....do.....		9, 11
153.575.....do.....		28
153.590.....do.....		28
153.605.....do.....		9, 11
153.620.....do.....		28
153.635.....do.....		28
153.650.....do.....		28
153.665.....do.....		28
153.680.....do.....		9, 11
158.145.....Base or mobile.....		34
158.160.....do.....		11, 16
158.175.....do.....		34
158.190.....do.....		34
158.205.....do.....		11, 16
158.220.....do.....		34
158.235.....do.....		34
158.250.....do.....		34
158.265.....do.....		13
158.280.....do.....		13
158.295.....do.....		13
158.310.....do.....		13
158.325.....do.....		11
158.340.....do.....		11
158.355.....do.....		11
158.370.....do.....		11
158.385.....do.....		13
158.400.....do.....		13

(b) ...
(28) This frequency is shared with the Power and Petroleum Radio Services and is available only in the States of Arkansas, Louisiana, Oklahoma, and Texas.

(34) This frequency is shared with Power and Petroleum Radio Services and is available only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

9. Section 91.504 is amended by deleting from the tabulation in paragraph (a) entries beginning 151.535 and ending 151.595, and substituting frequencies 151.520 through 151.595; deleting entries beginning 152.87 and ending 152.02, and substituting frequencies 152.870 through 153.035; deleting entries beginning 158.40 and ending 158.40 and substituting frequencies 158.385 and 158.400, as follows:

§ 91.504 Frequencies available.

(a) ...

SPECIAL INDUSTRIAL RADIO SERVICE FREQUENCY

Frequency or band	Class of station(s)	General reference	Limitations
MHz			
151.520	Base or mobile	Permanent use	11
151.535	do	do	11
151.550	do	do	11
151.565	do	do	11
151.580	do	do	11
151.595	do	do	11
152.870	Base or mobile	General use	13
152.885	do	Permanent use	11
152.900	do	do	11
152.915	do	do	11
152.930	do	do	11
152.945	do	do	11
152.960	do	do	11
152.975	do	do	11
152.990	do	do	11
153.005	do	do	11
153.020	do	do	11
153.035	do	do	11
158.385	Base or mobile	Permanent use	11
158.400	do	Itinerant use	12

10. Section 91.554 is amended by deleting from the tabulation of frequencies in paragraph (a), entries beginning 154.540 and ending 154.600, and substituting frequencies 154.515 through 154.625; and adding a new subparagraph (47) to paragraph (b), as follows:

§ 91.554 Frequencies available.
(a) ***

BUSINESS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	General reference	Limitations
MHz			
154-155	Base or mobile	Permanent use	10, 11
154-160	do	do	10, 11
154-170	Mobile	Low power general use	13, 14
154-180	do	do	13, 14
154-190	do	do	13, 14
154-200	Base	One-way paging	47

(b) ***
(47) This frequency will be assigned only for the specific purpose of one-way tone or voice paging. The plate power input to the final radio frequency stage shall not exceed 30 watts.

11. Section 91.730 is amended by deleting from the tabulation of frequencies in paragraph (a) entries beginning 153.05 and ending 153.38, and substituting frequencies 153.050 through 153.395; deleting entries beginning 158.28 and ending 158.43 and substituting frequencies 158.280 through 158.430, as follows:

§ 91.730 Frequencies available.

(a) ***

MANUFACTURERS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
MHz		
153.050	Base or mobile	1
153.065	do	1
153.080	do	1
153.095	do	1
153.110	do	1
153.125	do	1
153.140	do	1
153.155	do	1
153.170	do	1
153.185	do	1
153.200	do	1
153.215	do	1
153.230	do	1
153.245	do	1
153.260	do	1
153.275	do	1

MANUFACTURERS RADIO SERVICE FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations
153.290	do	1
153.305	do	1
153.320	do	1
153.335	do	1
153.350	do	1
153.365	do	1
153.380	do	1
153.395	do	1
158.280	Base or mobile	1
158.295	do	1
158.310	do	1
158.325	do	1
158.340	do	1
158.355	do	1
158.370	do	1
158.385	do	1
158.400	do	1
158.415	do	1
158.430	do	1

PART 93—LAND TRANSPORTATION RADIO SERVICES

12. In § 93.8, the text of paragraphs (f) and (g) are deleted and the word "reserved" is substituted.

§ 93.8 Policy governing the assignment of frequencies.

(f) [Deleted]
(g) [Deleted]

13. In § 93.9(a) the introductory text is changed by substituting a period for the colon at the end of the text and adding a new sentence; also new sentences are added to subparagraphs (2), (3), and (4), as follows:

§ 93.9 Frequency coordination.

(a) *** In no instance will an application be granted where the proposed station is located less than 7 miles from an adjacent-channel station 15 kHz removed.

(2) *** In the case of existing stations operating on channels 15 kHz removed from the frequency used or proposed to be used by the applicant, those stations need not be notified that are greater than 35 miles from the proposed station location.

(3) *** Where the frequency or frequencies requested or assigned are within 15 kHz of a frequency which is available to another radio service, and is assignable only after coordination, the committee's statement shall affirmatively show that coordination with a similar committee for the other service has been accomplished. Coordination need not be accomplished to cover existing stations operating on channels 15 kHz removed from the frequency used or proposed to be used by the applicant if the stations are greater than 35 miles from the proposed station location.

(4) *** Where the frequency or frequencies requested or assigned are within 15 kHz of a frequency which is available to another radio service, and is assignable only after coordination, the committee's statement shall affirmatively show that coordination with a similar committee for the other service has been accomplished. Coordination need not be accomplished to cover existing stations operating on channels 15 kHz removed from the frequency used or proposed to be used by the applicant if the stations are greater than 35 miles from the proposed station location.

§ 93.252 [Amended]

14. In § 93.252, paragraph (e) is amended by deleting footnote 1.

§ 93.352 [Amended]

15. In § 93.352, paragraph (a) is amended by deleting the text of footnote 1, and substituting the word "Reserved."

16. Section 93.402(b) is amended by deleting the frequency tabulation and footnotes and substituting the following:

§ 93.402 Frequencies below 952 MHz available for base and mobile stations.

Base and Mobile	Mobile Only
MHz	
152.270	157.530
152.285	157.545
152.300	157.560
152.315	157.575
152.330	157.590
152.345	157.605
152.360	157.620
152.375	157.635
152.390	157.650
152.405	157.665
152.420	157.680
152.435	157.695
152.450	157.710

These frequencies are available only for assignment to Base or Mobile Stations operating wholly within Standard Metropolitan Areas having 50,000 or more population.

17. In § 93.503, the frequency tabulations in paragraphs (a), (b), (c), and (d) are amended by deleting the word frequencies where it appears in the headings, deleting the footnote in paragraph (a), and adding new frequencies as follows:

§ 93.503 Frequencies below 952 MHz available for base and mobile stations.

(a) ***	MHz
	157.470
	157.485
	157.500
	157.515

(b) ***	MHz
	452.525
	452.550
	452.575
	452.600

(c) ***	MHz
	150.905
	150.920
	150.935
	150.950
	150.965

(d) ***	MHz
	150.815
	150.830
	150.845
	150.860
	150.875
	150.890

[FR Doc.71-8909 Filed 6-24-71; 8:45 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1042, Amdt. 4]

PART 1033—CAR SERVICE

Chicago and North Western Railway Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of June 1971.

Upon further consideration of Service Order No. 1042 (35 F.R. 10150, 15394, 19753, 36 F.R. 5979), and good cause appearing therefor:

It is ordered, That § 1033.1042 Service Order No. 1042 (Chicago and North Western Railway Co. authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) Expiration date. This order shall expire at 11:59 p.m., December 31, 1971,

unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1 (10-17), 15(4), and 17(2).)

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9017 Filed 6-24-71; 8:52 am]

[Rev. S.O. 1046, Amdt. 2]

PART 1033—CAR SERVICE

Burlington Northern, Inc., et al. Authorized To Operate Over Tracks of Peoria and Pekin Union Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of June 1971.

Upon further consideration of Revised Service Order No. 1046 (35 F.R. 1301; 36 F.R. 773) and good cause appearing therefor:

It is ordered, That § 1033.1046 Service Order No. 1046 (Burlington Northern, Inc., Chicago, Rock Island and Pacific Railroad Co. and Toledo, Peoria & Western Railroad Co. authorized to operate over tracks of the Peoria and Pekin Union Railway Co.) be, and it is hereby amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) Expiration date. This order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspension by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1 (10-17), 15(4), and 17(2).)

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that

agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9011 Filed 6-24-71; 8:52 am]

[S.O. 1070, Amdt. 1]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago and North Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of June 1971.

Upon further consideration of Service Order No. 1070 (36 F.R. 7507), and good cause appearing therefor:

It is ordered, That § 1033.1070 Service Order No. 1070 (Chicago, Rock Island and Pacific Railroad Co. authorized to operate over tracks of the Chicago and North Western Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) Expiration date. This order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1 (10-17), 15(4), and 17(2).)

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9010 Filed 6-24-71; 8:52 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 225a]

OUTER CONTINENTAL SHELF ROYALTY OIL

Disposal

Pursuant to the authority contained in section 5(a)(1) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 464), it is proposed to issue regulations governing the sale of royalty are produced from the Outer Continental Shelf (OCS) under oil and gas leases issued or maintained under that Act.

Under regulations contained in 30 CFR Part 225, Government royalty oil produced under most Federal oil and gas leases onshore currently is being made available to small business enterprise refiners who are unable to purchase in the open market an adequate supply of crude oil to meet the needs of the existing capacity of their refineries. The purpose of the new regulations now proposed is to establish a procedure under which OCS royalty oil also may be made available to such refiners.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule-making process. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Director, U.S. Geological Survey, Washington, D.C. 20242, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

The proposed regulations read as follows:

PART 225a—DISPOSAL OF OCS ROYALTY OIL

- Sec.
225a.1 Statutory authority.
225a.2 Definitions.
225a.3 Policy.
225a.4 Reimbursement to lessee for transportation.
225a.5 Exchange agreements.
225a.6 Application; contents.
225a.7 Action by the Supervisor.
225a.8 Action by the Secretary.
225a.9 Notices.

§ 225a.1 Statutory authority.

(a) Section 5 of the Outer Continental Shelf Lands Act of August 7, 1953 (43 U.S.C. sec. 1334), authorizes the Secretary of the Interior to sell royalty oil accruing or reserved to the United States under oil and gas leases issued pursuant to that Act.

(b) Section 2 of the Small Business Act (15 U.S.C. sec. 613) declares that it is the policy of Congress that Government should aid, counsel, assist, and protect, insofar as is possible, the interests

of small-business concerns in order to preserve free competitive enterprise and to insure that a fair proportion of the total sales of Government property be made to such enterprises.

(c) Section 8 of the Small Business Act (30 U.S.C. sec. 637) provides that the Small Business Administration shall consult and cooperate with officers of the Government having property disposal powers in order to utilize the potential productive capacity of plants operated by small-business concerns. That section also provides that the Small Business Administration shall determine within any industry the concerns, firms, persons, corporations, partnerships, co-operatives, or other business enterprises which are to be designated "small-business concerns" for the purpose of that Act. That section also provides that the Small Business Administration shall consult and cooperate with all Government agencies for the purpose of insuring that small-business concerns shall receive fair and reasonable treatment from such agencies.

§ 225a.2 Definitions.

The following definitions shall be applicable to the regulations in this part:

(a) "Small refiner" means an owner of an existing refinery or refineries (including refineries not in operation) who qualifies as a small-business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of their existing refinery capacities.

(b) "Secretary" means the Secretary of the Interior.

(c) "Director" means the Director, Geological Survey.

(d) "Supervisor" means the Regional Oil and Gas Supervisor of the Geological Survey authorized and empowered to regulate oil and gas operations and to perform other duties prescribed in the regulations under Part 250 of this chapter.

(e) "Region" means the area over which a supervisor is authorized to exercise supervisory jurisdiction.

(f) "Section 6 lease" means an oil and gas lease originally issued by any State and currently maintained in effect pursuant to section 6 of the Outer Continental Shelf Lands Act (43 U.S.C. sec. 1335).

(g) "Section 8 lease" means an oil and gas lease issued by the United States pursuant to section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. sec. 1337).

(h) "OCS royalty oil" means the Government's royalty portion of oil produced under section 6 or section 8 leases when royalty on oil is paid in kind or taken in kind or is being considered for such payment or taking.

(i) "Market price" means (1) the highest price per barrel regularly posted, published, or generally paid, or offered, by any principal purchaser of crude oil of like quality in the field where produced, or (2) if there are no postings in the field, the highest price posted in the nearest field where crude oil of comparable quality is produced and sold, or (3) the true value as determined by the Supervisor when in his judgment such highest price regularly posted, published, or generally paid or offered in the same field or the nearest field is found by him to be less than the true value of the royalty oil. In no event shall the "market price" be less than the estimated reasonable value which the Supervisor would determine as the value of production, pursuant to § 250.64 of this chapter, if royalties on the production in question were being paid in money by the lessee rather than being paid or taken in kind.

(j) "Point of delivery" means the point at which the ownership of the OCS royalty oil is transferred from the Government to the purchaser. Protection of the OCS royalty oil before it reaches the point of delivery is the responsibility of the lessee.

§ 225a.3 Policy.

Except in times of general unavailability of an adequate supply of crude oil in the United States, or when special circumstances warrant other action, as determined by the Secretary, OCS royalty oil available for disposal will be sold in accordance with the regulations in this part. As an aid to small-business concerns, OCS royalty oil will be sold only to small refiners for use in their refineries and not for resale in kind, and all such sales will be made at the market price without premium or bonus; however, a charge for cost of administration of an amount equal to 1 percent of the market price will be made for each barrel of OCS royalty oil sold. When applications are filed by two or more small refiners for the same oil, the oil will be allocated among such applicants by a drawing or on an equitable prorated basis as determined by the Supervisor prior to execution of contracts for sale of such oil. OCS royalty oil produced under a section 6 lease may be made available for disposal only when the lessee or operator under the lease involved elects to pay royalty in kind to the Secretary. OCS royalty oil produced from areas for which ownership is in dispute between the Federal Government and a State may be made available for disposal only with the concurrence of that State, with evidence of such concurrence to be furnished by the applicant. The sum of the volumes of OCS royalty oil purchased pursuant to the regulations in this part and Government

royalty oil purchased pursuant to Part 225 of this chapter by any one small refiner shall not exceed 60 percent of the combined refinery capacity of that small refiner at the time when application is made for the oil.

§ 225a.4 Reimbursement to lessee for transportation.

When the point of delivery for OCS royalty oil produced under a section 8 lease is to be other than on or immediately adjacent to the leased area, the purchaser shall promptly reimburse the lessee or operator for the cost of transporting the oil to the point of delivery. Such reimbursement shall be monthly or at such other interval as may be designated by the Supervisor. Cost of transportation must be approved by the Supervisor and may be deducted from the value of the oil at the point of delivery in calculating payments to be made to the Government. The Government guarantees payment to the lessee or operator for such cost of transportation.

§ 225a.5 Exchange agreements.

Agreements providing for the exchange of OCS royalty oil purchased under these regulations for other crude oil on a volume or equivalent value basis will not be construed as constituting a resale in kind prohibited by § 225a.3. Where an exchange agreement has been entered into or is contemplated with regard to OCS royalty oil available for disposal, full information relative thereto must be furnished either at the time of filing application to purchase the OCS royalty oil or at such later date as may be specified by the Supervisor.

§ 225a.6 Application; contents.

A small refiner may file an application with the Supervisor of the Region in which the oil is produced. Such application shall be filed in triplicate and must be accompanied by a detailed statement containing the following information:

(a) The full name and address of the applicant; the location of his refinery or refineries; a complete disclosure of applicant's affiliation or association with any other refiner of oil if such relationship exists; and reasons for believing that applicant qualifies as a small refiner, including a full showing of efforts made to purchase the needed oil in the open market.

(b) The capacity of the refinery to be supplied and the amount, source, and grade of all crude oil currently available to the applicant refiner from his own production or by purchase.

(c) The minimum amount and grade of additional crude oil needed to meet existing refinery commitments or existing refinery capacity and the field or fields which the refiner believes offer a potential source of OCS royalty oil supply.

(d) The available transportation facilities which the applicant proposes to utilize. For OCS royalty oil produced under section 8 leases issued prior to October 1969, this should include the proposed point of delivery as obtained from the lessee or operator.

PROPOSED RULE MAKING

(e) The amount of any cost to be paid by the applicant for transporting OCS royalty oil to the point of delivery.

(f) A tabulation for the last 12 months of operation of the amount and grade of crude oil refined each month, and the kind and amount of the principal finished products.

§ 225a.7 Action by the Supervisor.

The Supervisor shall examine each application filed pursuant to this part and where he finds that the showing submitted is inadequate or unsatisfactory, such additional showing shall be required as may be deemed necessary. In his discretion, he may notify the lessee or operators of the OCS oil and gas leases involved and the then purchaser or purchasers of the oil, of his receipt of the application and allow them not more than 30 days within which to submit comments. When OCS royalty oil is available for disposal in his Region, the Supervisor, in his discretion, also may notify the public (including various refining associations) of his receipt of the application and may make inquiries of other small refiners as to their interest in filing applications to purchase OCS royalty oil when he has reason to believe they may be interested in filing applications to purchase such oil. Thereafter, he shall make appropriate recommendations for consideration by the Director and the Secretary.

§ 225a.8 Action by the Secretary.

When the Secretary makes a decision to sell OCS royalty oil from any given Region, he shall specify or approve the manner in which the sale is to be effected, including the form of contract to be used. At such time, he may authorize the Supervisor or another official of the Geological Survey to execute the contract, or contracts, of sale on behalf of the United States, to approve exchange agreements, and to determine the amount and type of bond or other security to be required from the purchaser under such contract or contracts.

§ 225a.9 Notices.

Prior to any requirement that OCS royalty oil be delivered in kind under section 8 leases, the Supervisor shall notify each lessee or operator under the OCS oil and gas leases involved of the requirement at least 30 days in advance of the effective date of that requirement; where it is determined to terminate the delivery of OCS royalty oil in kind, the Supervisor shall, if practicable in his opinion, give any affected lessee or operator notice of the change in requirements at least 30 days in advance.

Dated: June 18, 1971.

W. T. PECORA,
Acting Secretary of the Interior.
[FR Doc.71-9001 Filed 6-24-71; 8:51 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 928]

PAPAYAS GROWN IN HAWAII

Approval of Expenses and Fixing of Rate of Assessment for Initial Fiscal Year

Consideration is being given to the following proposals submitted by the Papaya Administrative Committee, established under the marketing agreement, and Order No. 928 (7 CFR Part 928; 36 F.R. 8925), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(a) That expenses which are reasonable and likely to be incurred by the Papaya Administrative Committee, during the period May 15, 1971, through December 31, 1971, will amount to \$81,250.

(b) That there be fixed, at 6½ mills (\$0.0065) per pound of papayas, the rate of assessment payable by each handler in accordance with § 928.41 of the aforesaid marketing agreement and order during the fiscal year beginning May 15, 1971.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: June 21, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8983 Filed 6-24-71; 8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

SACCHARIN AND ITS SALTS

Removal From Generally Recognized as Safe List; Provisional Regulation Prescribing Conditions of Safe Use

The Food and Drug Administration is conducting a comprehensive study of

the individual substances listed in § 121.101 *Substances that are generally recognized as safe* (GRAS) of the food additive regulations (21 CFR 121.101).

Saccharin and its salts are listed as GRAS in § 121.101(d)(4) without limitations under "Nonnutritive Sweeteners." At the request of the Commissioner of Food and Drugs, the National Academy of Sciences-National Research Council has reviewed the available information on these substances and concludes (1) that in the interest of safety, limitations on daily intake should be established and (2) that an intake of up to 15 milligrams per kilogram of body weight per day would not constitute an appreciable hazard. This is equivalent to 1 gram per day for an adult weighing approximately 155 pounds. The Academy recommends additional tests and a review of the conclusion of safety after their completion. Feeding studies are currently underway in several laboratories.

The Commissioner concludes that the public health will be adequately protected by removing saccharin and its salts from the GRAS list in § 121.101 and permitting their continued use within limitations, while said tests are being completed, by establishing their conditions of safe use in a new provisional regulation. The establishment of limitations as proposed below is in accordance with the NAS-NRC conclusions and recommendations as accepted by FDA. This proposed action does not represent a new assessment of safety pending receipt of information now being gathered.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(d), 701(a), 52 Stat. 1055, 72 Stat. 1784, 1787; 21 U.S.C. 321(s), 348(d), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended:

§ 121.101 [Amended]

1. In § 121.101(d) by deleting subparagraph (4).
2. By adding a new Subpart H containing a new section, as follows:

Subpart H—Provisional Food Additive Regulations

§ 121.4001 Saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin.

The food additives saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin may be safely used as sweetening agents in food in accordance with the following conditions if the substitution for nutritive sweeteners results in a significant reduction in caloric value of the food:

(a) Saccharin is the chemical 1,2-benzisothiazolin-3-one-1,1-dioxide (C₇H₅NO₂S). The named salts of saccharin are produced by the additional neutralization of saccharin with the proper base to yield the desired salt.

(b) The food additives meet the specifications of the "Food Chemicals Codex."

(c) Authority for such use shall expire June 30, 1973, unless revised sooner.

(d) The additives are used or intended for use as a sweetening agent:

(1) In beverages and fruit juice drinks whereby the maximum amount of the additive, calculated as saccharin, does not exceed 12 milligrams per fluid ounce when used as the only sweetening agent and does not exceed 7 milligrams per fluid ounce when used in combination with other sweetening agents.

(2) In sugar substitutes for table use whereby the maximum amount of the additive, calculated as saccharin, does not exceed 40 milligrams per serving (alone or in any mixture) equivalent to 2 teaspoonfuls of sugar.

(3) In processed foods whereby the maximum amount of the additive, calculated as saccharin, does not exceed 30 milligrams per serving.

(e) To assure safe use of the additives, in addition to the other information required by the act:

(1) The label of the additive and any intermediate mixes of the additive for manufacturing purposes shall bear:

(i) The name of the additive.

(ii) A statement of the concentration of the additive, expressed as saccharin, in any intermediate mix.

(iii) Adequate directions for use to provide a final food product that complies with the limitations prescribed in paragraph (d) of this section.

(2) The label of any finished food containing the additive shall bear a statement of the amount of saccharin contained therein in milligrams per serving, or per fluid ounce in the case of beverages, and such other labeling as required by Part 125 or § 3.72 of this chapter.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: June 18, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-8975 Filed 6-24-71;8:49 am]

Office of Education

[45 CFR Part 177]

FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Notice of Proposed Rule Making

Notice is hereby given in accordance with 5 U.S.C. 553 to eligible institutions, eligible lenders, and other interested parties that the U.S. Commissioner of Education, pursuant to the authority vested in him under section 432(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1082(a)(1)) proposes to amend

§ 177.6 of Title 45 of the Code of Federal Regulations by revising paragraph (e), which deals with discounting, payment of premiums and cost to the student. Paragraph (e) presently prohibits, inter alia, payment of points, premiums, or additional interest of any kind of any eligible lender in order to secure funds for making loans to students or to induce a lender to make loans to the students of a particular institution or any particular category of students. The proposed revision would delete that portion of the ban dealing with the securing of funds to make loans to students and would permit educational institutions to maintain account relationships with eligible lenders as a condition of the lenders' making guaranteed loans to the students of such educational institutions. In addition, the revised regulation would explicitly prohibit a school from (1) paying the cost of servicing guaranteed loans evidenced by notes not held by it and (2) entering into a tie-in arrangement which combines an agreement by the school to purchase services from a lending institution, such as billing services on guaranteed loans, with an agreement by the lending institution to make loans to the students of that school.

Interested persons are invited to submit written comment, suggestions or objections regarding the proposed amendments to Insured Loans Branch, DSFA, U.S. Office of Education, BHE, Washington, D.C. 20202, within 30 days after the date of publication of this notice in the FEDERAL REGISTER. Comments received will be available for public inspection in the office of the Acting Deputy Associate Commissioner for Higher Education, Room 4905, Regional Office Building No. 3, Seventh and D Streets SW, Washington, DC, between the hours of 8 a.m. and 4:30 p.m.

In its revised form, § 177.6(e) would read as follows:

§ 177.6 Permissible charges.

(e) Discounting, payment of premiums; cost to the student:

(1) No points, premiums, or additional interest of any kind may be paid to any eligible lender to induce such a lender to make loans to the students of a particular institution or any particular category of students and, except in circumstances approved by the Commissioner, notes (or any interest in notes) evidencing loans made by educational institutions shall not be sold or otherwise transferred at discount. The maintenance by an educational institution of an account relationship with an eligible lender as a condition of the lender's making guaranteed loans to students of that institution will not be considered to constitute the payment of points or premiums. The payment by an institution of charges for the servicing of outstanding guaranteed loans not held by the institution will be considered to be either a prohibited payment of points or premiums in order to induce such loans or, where accompanied by the transfer of notes evidencing such loans, a prohibited

sale of such notes at discount. Payment of charges for the servicing of loans held by the institution will be considered a prohibited payment of points or premiums if the recipient of such payment makes or has agreed to make guaranteed loans conditioned on its receipt.

(2) In no event may the costs of making a loan under this part (except those specifically provided for in this section) be passed on (in the form of higher tuition charges or otherwise) to the borrower.

Dated: June 1, 1971.

PETER P. MUIRHEAD,
Executive Deputy Commissioner
of Education.

Approved: June 17, 1971.

JOHN G. VENEMAN,
Acting Secretary.

[FR Doc.71-8998 Filed 6-24-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SO-118]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Gulfport, Miss., control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Gulfport control zone described in § 71.171 (36 F.R. 2055) would be redesignated as:

Within a 5-mile radius of Gulfport Municipal Airport (lat. 30°24'27.5" N., long. 89°04'05" W.); within 3 miles each side of Gulfport VORTAC 050°, 213°, and 325° radi-

als, extending from the 5-mile-radius zone to 8.5 miles northeast, southeast, and northwest of the VORTAC; within 5 miles each side of Gulfport VORTAC 129° radial, extending from the 5-mile-radius zone to 11.5 miles southeast of the VORTAC; excluding the portion within the Biloxi, Miss., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

The proposed alteration is required to provide controlled airspace protection for IFR aircraft executing the revised VOR RWY-31 Standard Instrument Approach Procedure to the Gulfport Municipal Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 16, 1971.

W. B. RUCKER,
Acting Director, Southern Region.
[FR Doc.71-8967 Filed 6-24-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-67]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Toughkenamon, Pa., transition area.

A new VOR RWY 24 instrument approach procedure to The New Garden Flying Field, Toughkenamon, Pa., requires the designation of a 700-foot floor transition area to provide controlled airspace for aircraft executing this procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal

Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Toughkenamon, Pa., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to designate a Toughkenamon, Pa., 700-foot floor transition area as follows:

TOUGHKENAMON, PA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 39°49'55" N., 75°46'08" W. of The New Garden Flying Field, Toughkenamon, Pa.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 10, 1971.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.71-8968 Filed 6-24-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 70-PC-7]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Guam Island transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Pacific Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 4009, Honolulu, HI 96813. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of this proposal relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and

Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

If the proposal contained in this docket is approved, the 1,200-foot floor portion of the Guam Island transition area would be amended to include the airspace within a 35-nautical-mile radius of the Saipan radio beacon.

Air traffic at the Kobler Airport, Saipan, is increasing. The proposed alteration of the transition area would provide the needed controlled airspace for aircraft operating in the vicinity of Kobler Airport.

This amendment is proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510); Executive Order 10854 (24 F.R. 9565); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 18, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 71-8969 Filed 6-24-71; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-103]

FEDERAL AIRWAY SEGMENT

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to

Part 71 of the Federal Aviation Regulations that would realign VOR Federal airway No. 35 west alternate segment between Sugarloaf Mountain, N.C., and Holston Mountain, Tenn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to realign V-35 west alternate segment from Sugarloaf Mountain to Holston Mountain via the intersection of Sugarloaf Mountain 310° T (312° M) and Holston Mountain 209° T (211° M) radials.

This airway segment alteration would facilitate arriving and departing air traffic at the Asheville, N.C., Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 18, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 71-8970 Filed 6-24-71; 8:48 am]

[14 CFR Parts 71, 75]

[Airspace Docket No. 70-AL-11]

FEDERAL AIRWAYS AND SEGMENTS AND JET ROUTES

Proposed Alteration and Designation

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would add alternate segments to Alaskan VOR Federal airways Nos. 317 and 506; designate a VOR airway between Level Island, Alaska, and Biorka Island, Alaska, and designate several jet routes in Alaska.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue,

Anchorage, AK 99501. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex II apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would:

1. Designate a west alternate to V-317 between Annette Island, Alaska, and Level Island, Alaska, via the intersection of the Annette Island VORTAC 311° T (284° M) and the Level Island VOR 164° T (136° M) radials.

2. Designate a standard west alternate to V-506 between the Nome, Alaska, VORTAC and the Kotzebue, Alaska, VOR.

3. Designate V-473 from Level Island, Alaska, to Biorka Island, Alaska, via the intersection of the Level Island VOR 277° T (249° M) and the Biorka Island VOR TAC 127° T (099° M) radials.

4. Extend J-123 from the King Salmon, Alaska, VORTAC to the Point Barrow, Alaska, RBN via the Bethel, Alaska, VORTAC; the Nome, Alaska, VORTAC; and the Kotzebue, Alaska, VOR.

5. Extend J-507 from the Deadhorse, Alaska, RBN to the Point Barrow, Alaska, RBN via the Oliktok, Alaska, RBN.

6. Designate J-135 from the Bethel, Alaska, VORTAC direct to the Unalakleet, Alaska, VOR.

7. Designate J-129 from Nome, Alaska, to Kotzebue, Alaska, via the intersection of the Nome VORTAC 009° T (352° M) and the Kotzebue VOR 221° T (202° M) radials.

The proposed airways and jet routes would simplify flight planning, reduce controller workload, and speed the flow of traffic by providing greater flexibility in the use of routes. Also, the proposed airways and jet routes would replace some existing off-airway routes and provide charted information.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510); Executive Order 10854 (24 F.R. 9565); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 18, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 71-8971 Filed 6-24-71; 8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 21, 43, 61]

[Docket No. 18920; FCC 71-655]

DOMESTIC PUBLIC POINT-TO-POINT MICROWAVE RADIO SERVICE

Specialized Common Carrier Services

In the matter of establishment of policies and procedures for consideration of applications to provide specialized common carrier services in the domestic public point-to-point microwave radio service and proposed amendments to Parts 21, 43, and 61 of the Commission's rules; Docket No. 18920.

1. Notice is hereby given of further inquiry and proposed rule making in the above-entitled matter.

2. In the First Report and Order in this proceeding released on June 3, 1971 (FCC 71-547), the Commission adopted a policy of new entry in the specialized common carrier field and rules to promote a more efficient use of radio spectrum by common carriers. We concluded

that further proceedings were necessary for a resolution of Issue D (quality and reliability of service) and Issue E (local distribution), and retained full jurisdiction over those aspects of this proceeding (First Report, paragraphs 145-162).

3. On the question of local distribution we concluded that, in addition to interconnection with the exchange facilities of established carriers, specialized carriers should have the option of constructing their own local facilities to provide end-to-end service (First Report, paragraphs 157-158). However, the record before us did not afford sufficient basis for any determination as to what radio frequencies might be allocated for this purpose. We stated (First Report, paragraph 159):

Accordingly, we have decided to issue a further notice of proposed rule making on MCI's proposal [RM 1700] to allocate the frequencies 38.6-40 GHz for a local carrier distribution service, and to include comparative consideration of frequencies in the other regions of the spectrum that have been suggested (11 GHz, 18 GHz, 30 GHz, and 50 GHz). We do not foreclose the contention, made by some parties here, that more than one frequency allocation might be appropriate, at least temporarily, or counterproposals as to possible alternative allocations. We will issue the further notice as soon as possible, and expedite the further proceedings on this question. For, we realize that this aspect should be resolved at an early date so that those authorized entrants contemplating local construction can plan and build such facilities without delay to the inauguration of the system.

4. The rule making petition (RM 1700) of Microwave Communications, Inc. (MCI), proposes to allocate the frequencies 38.6-40 GHz for a Carrier Distribution Service (CDS). MCI proposes that the band be divided into two sections, a high and a low, with each section containing six channels. It states that a channel pair (one high and one low) could be made available to each qualified common carrier. MCI claims that the six-channel pairs should be sufficient to meet the present and future needs of carriers desiring to offer specialized CDS. Since each carrier would be licensed for one specific pair, there would allegedly be no frequency interference problems and no need for frequency coordination among carriers. MCI claims that its proposed CDS system would be able to provide high levels of performance, e.g., reliabilities of 99.9 percent and bit error rates of 10⁻³ or lower, and would permit a service flexibility not available by the use of wire or local telephone exchange facilities.¹

¹ For example, MCI states, new locations could be quickly added or deleted simply by installing equipment on the building served, or removing it and reorienting the transmission path. Channel specifications could be changed merely by changing a plug-in module to accommodate customers with a high volume of incoming traffic and a much lower outgoing volume level, or those with changing requirements depending on the month, week, day, or hour of transmission. CDS would enable two users located close to each other to communicate directly, without wasteful routing through an exchange office, and it would eliminate switching impulses which are unnoticed in voice communications but are harmful in data transmission.

5. Data Transmission Corp. (Datran) proposes to use a combination of 11 GHz frequencies and multipair cable for a local distribution system for its proposed switched all digital network. It states that low-power transmitters would be used, and all carrier frequencies could be closely spaced within a single 20 MHz bandwidth which allegedly could distribute up to 4,000 4.8 Kb/s two-way data channels. Datran claims that such an 11 GHz local distribution system could be coordinated with existing FDM-FM systems by taking into account the established frequency plans and channel spacings of those systems and using interstitial frequency plans where applicable. In support of its position that such an 11 GHz local system would have minimum impact on the availability of the 11 GHz band (10.7-11.7 GHz) for other intracity or intercity use, Datran has submitted studies for the cities of Dallas and Los Angeles.

6. Datran recommends that the Commission authorize implementation of a Datran local distribution network in the various cities proposed to be served, using the 11 GHz band based upon the type of frequency planning described in its filings, with the 18 GHz band being considered as a feasible alternative for future expansion. In the alternative, Datran requests the use of both 11 and 18 GHz frequencies, with the use of 18 GHz confined to shorter path lengths at those locations with a requirement for drop and insert capability. If both of these alternatives are rejected, Datran seeks an assignment of 18 GHz frequencies for utilization for local carrier distribution systems. It states that its cost studies for the alternative use of 18 GHz frequencies indicate a cost impact of nearly two times the cost of 11 GHz frequencies.²

7. As in the original Notice (24 FCC 2d 318, 349), we again urge applicants and other interested persons to "address this aspect fully in their comments, with particular attention to the technical feasibility and comparative costs of the various alternatives and the effect on charges to subscribers for end-to-end service," as well as such factors as reliability of service and the availability of equipment. In connection with MCI's proposal for a 38.6-40 GHz allocation, parties are referred particularly to the engineering material set forth at pages 27-33 of its petition for rule making (RM 1700).³ In light of the tentative view expressed in the original Notice that the 11 GHz band (10.7-11.7 GHz) should be reserved for

² In its initial comments, Datran claimed that at 39 GHz path lengths would be severely restricted, only 1-2 miles. While alleging that these frequencies are not suitable for main links, Datran asserts that the higher frequencies could be used for short links to smaller clusters of subscribers or for even shorter links as an alternative to optical systems in heavy rain, fog, or snow. It also asserts that cable and optical transmission systems may be an economical alternative to radio in some areas for some purposes.

³ During the pendency of this rule making, the Commission will consider applications for developmental authorizations utilizing the 38.6-40 GHz frequencies.

intercity use (24 FCC 2d at 348) and comments of various parties in support of that view, a party requesting an 11 GHz assignment for local distribution purposes should make a substantial showing as to the compatibility of intracity and intercity use of these frequencies.⁴ Among other things, interested persons should address the material set forth at pages 91-113 of the comments already filed in this proceeding by Datran on October 1, 1970, and at pages 47-55 of Datran's reply comments filed on December 2, 1970 (including the recommendations indicated in paragraph 6 above).

8. We also solicit more detailed information, to the extent available, as to the types of transmitters (particularly those that might operate at 18 GHz and above), their state of development, and technical characteristics. Parties should also discuss the various details that may be pertinent to new frequency allocations, e.g., bandwidth limitations, the necessity or desirability of rules specifying definite frequency plans, the compatibility of such operation in the frequency band with other types of service, and the possible need for limitations on modulation techniques.⁵

9. As noted in the discussion of Issue D in the First Report (paragraphs 145-150), several parties have offered to work with the Commission to develop standard statements of quality and reliability of service and appropriate notification and reporting requirements. We think that a working committee of engineers and other interested persons under supervision of the Commission would be a useful preliminary step. Such a committee would aid the Commission in ascertaining whether and to what extent it may be necessary or desirable to develop practices and procedures to be followed by all carriers so as to give adequate notification of the essential characteristics of the service offered by the carriers; and, if so, the kinds of practices and procedures that should be proposed, including recommendations as to their appropriate implementation in the tariffs of the carriers and/or the rules and regulations of the Commission. Accordingly, we are proposing to establish an advisory committee consisting of such interested entities as we authorize to participate after consideration of statements of interest to be filed on the due date for comments in response to this Further Notice. Such statements of interest should set forth the nature of the interest, the names and addresses of the individual and alternate who desire to participate, and the qualifications of such persons to make a

⁴ Parties should also discuss in their comments or reply comments the effect of any allocation involving this band at the World Administrative Radio Conference for Space Telecommunications (Geneva, June-July 1971).

⁵ It is not our intent in seeking full information on technical details, to the extent presently available, to impede flexibility or modifications of positions as developmental work progresses.

contribution toward the above-stated objectives. In authorizing participants, we will endeavor to keep the committee to a size that can function effectively and to select those representatives of the various interests involved who appear best qualified to contribute to the work of the committee.

10. Authority for the further inquiry and rule making proposed herein is contained in sections 1, 2(a), 4 (i) and (j), 201, 202, 203(a), 214, 218, 219, 220, 301, 303, 307-309, and 403 of the Communications Act, and Executive Order 11007.

11. Interested persons may file comments and/or statements of interest on the foregoing matters on or before August 2, 1971, and reply comments on or before August 16, 1971. In reaching its decision in this matter, the Commission may also take into account any other relevant information before it, in addition to the comments invited by this Further Notice. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, statements of interest, and other pleadings shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc 71-9021 Filed 6-24-71; 8:53 am]

[47 CFR Parts 89, 91, 93]

[Docket No. 19261; FCC 71-827]

NONVOICE COMMUNICATION TECHNIQUES

Notice of Proposed Rule Making

In the matter of amendment of Parts 89, 91, and 93 of our rules to provide for expanded nonvoice communication techniques including radioteleprinter, radio facsimile, and ambulance telemetering; Docket No. 19261, RM-1712.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. In the first report and order in Docket No. 18108, the rules governing the Police, Fire, and Railroad Radio Services were amended to permit base station use of radioteleprinter devices on regularly assigned land mobile radio-telephone channels. First report and order adopted August 13, 1969, FCC 69-893.

3. Among the issues unresolved in this proceeding are (a) the disposition of 10 pairs of frequencies that have been reserved for radioteleprinter use, (b) the extent to which radio teleprinter uses

⁶ Commissioner Robert E. Lee absent.

may be permitted on land mobile radio-telephone channels in the remaining radio services under Parts 89, 91, and 93 of the Commission's rules, and (c) possible technical standards based on such factors as efficiency of spectrum utilization, performance, and other operational characteristics.

4. The use under the interim rules of radioteleprinter devices in the Police, Fire, and Railroad Radio Services was expected to develop operational data and technique as well as information concerning the compatibility of radioteleprinter and radiotelephone use of the same channel. Experience thus far indicates that the use of teleprinters on voice channels under the interim rules has not resulted in any significant interference problem. These rules permit voice printer operation sequentially or simultaneously in the multiplex mode. There is a minimum mileage spacing between the stations of different licensees for the purpose of minimizing the possibility of interference from teleprinter to voice and the rules permit a licensee to determine its own priority of transmission in either mode. In view of the favorable results under these provisions, we believe that the interim rules may be extended to all of our coordinated services. This should encourage development of the technique by commercial users as well as by all elements in the public safety field. Consistent with this action and because the emissions and transmission speeds are similar we propose to include provision for use of facsimile devices under the same rule provisions for all services in which radioteleprinters would be permissible.

5. On the other hand, the anticipated wide application of teleprinter has not occurred and it is now doubtful that all of the dedicated frequencies should be reserved solely for teleprinter transmissions. However, there appears to be an increasing demand for the use of nonvoice devices generally (teleprinter is just one specialized application of a nonvoice technique) which seem to offer increased efficiency in spectrum usage and/or which would serve highly important requirements of safety of life and property. The nature of these uses or the circumstances thereof seem to require dedicated frequencies.

6. A number of nonvoice applications are developing in the public safety area which do not appear capable of accommodation on the same channels used for voice messages, particularly in or near our largest cities where frequency congestion is a continuing problem. One such application involves two-way digital communications between mobile transmitters in police vehicles and central data files. The technique contemplates such uses as direct inquiry from a police vehicle to central records for data such as vehicle registration and license plate information. The response would be a visual display such as radioteleprinter, radio facsimile or cathode ray tube in

the vehicle. In many smaller police systems this use, as in the case of radioteleprinter, can be accommodated on voice channels. In police systems that are heavily loaded by day-to-day voice message traffic, separate channels appear to be needed in order to permit rapid access to computer records from a large number of mobile computer terminals with an expected message volume that will greatly exceed the capacity of the systems to handle such messages as well as voice messages. To provide for remote computer terminals systems for use by police radio systems in such circumstances we propose to designate two of the 10 pairs of frequencies now reserved for teleprinters. These frequencies will only be available for assignment to police departments in the 20 largest cities of the United States. Pending further development of the need for dedicated nonvoice channels outside of the 20 largest cities, these two channels will continue to be otherwise unavailable for assignment.

7. For those police radio systems that can adequately handle voice as well as data, we will expect that an integrated system will be utilized. Although nonvoice emissions can cause listener fatigue and irritation if some device to prevent the transmission from being overheard is not installed in two-way equipped vehicles, it is feasible to eliminate this effect by the use of suitable filters or tone coded squelch devices.

8. The medical profession has been investigating a possible new and important use of radio to assist in the diagnosis and treatment of heart patients being transported to or between hospitals. This involves the transmission of electrocardiograph (ECG) data from ambulances to medical centers to indicate the condition of patients being transported. Many hospitals are installing intensive care facilities for cardiac patients and it appears that further improvements can be achieved through earlier diagnosis and treatment. To achieve this end many cardiac specialists have been investigating radiotelemetering techniques to obtain ECG data from ambulances transporting patients. They also are investigating the possibilities for such transmission before the patient is placed in the ambulance utilizing the ambulance transmitter to retransmit telemetry information received from a low power transmitter carried to victims by ambulance crews. Since the frequencies now available to the Special Emergency Radio Service are shared between different licensees and are heavily used near our urban centers for voice communications, it does not appear that telemetering can be satisfactorily conducted or even permitted on these channels. Accordingly, we propose the allocation of five single frequencies to the Special Emergency Radio Service to be used for the transmission of ECG data from ambulances. Additionally, these frequencies

will be available on a secondary basis for voice transmissions which relate to the conduct of the ambulance telemetry function. These five frequencies will be taken from the group of 10 pairs (20 frequencies) now reserved for teleprinters. This should provide a reasonable accommodation for ambulance telemetry systems of ambulance operators and hospitals in that service. Also, since many municipalities provide emergency ambulance service under the control of the local fire department, we are proposing to designate two of the five 460 MHz (frequency pairs) channels available to the Fire Radio Service as available for ambulance telemetry primarily and secondarily for two-way radiotelephony related to ambulance operation generally whether or not related to ambulance telemetry. The provision for base station frequencies in the Fire Radio Service is expected to encourage the development of "Central dispatching" of all ambulances, municipal and private, within an urban area and possible use of a single emergency telephone number.

9. The total number of frequencies, two pairs and five single, should adequately accommodate the requirement for ambulance telemetry if each urban area approaches the problem on an areawide systems design which could utilize multi-channel capability in each ambulance with frequency selection to be determined at the start of each run. Comments are sought concerning the feasibility of requiring the development of areawide plans designed to achieve the most efficient use of the frequencies and to control interference between ambulances. Comments are also requested concerning the need for base station frequencies to permit direct hospital to ambulance instructions. If required, we will designate base station frequencies from the pool which was formerly reserved for radioteleprinters only. If this occurs, we would anticipate that dispatching would not be permitted thereon in order to insure channel availability for instructions to ambulances in response to telemetered patient data.

10. One other aspect of the ambulance telemetry problem requires special consideration. That is the matter of low power portable telemetering to the hospital from a patient preliminary to his being placed in the ambulance by means of an automatic retransmit capability in the ambulance. Comments are invited concerning this aspect of the ambulance telemetry problem. If frequencies are required for this purpose, we would reallocate frequencies from among the following 3-watt Business Radio frequencies: 457.525, 457.550, 457.575, and 457.600 MHz. These frequencies are little used and diversion for low power telemetry should have virtually no impact on Business licensees.

11. The county of Los Angeles on November 18, 1970, filed a petition (RM-1712) seeking amendment of the Public

Safety Rules, Part 89, to provide for a heart rescue service. The new service would provide for the transmission of radiotelephony supplemented by cardiac data from emergency vehicles. Petitioner indicates that 10 channels (20 frequencies) will be required and suggests that frequencies be made available for the use in the 470-512 MHz band.⁷ The proposals herein will meet to some extent the petition for rule making of Los Angeles County. While the number of frequencies, two pairs and five single, is less than petitioner seeks, we believe that the number proposed will provide an adequate accommodation for biomedical telemetry based on a coordinated area approach.

12. In summary we are proposing:

(a) To extend our interim radioteleprinter rules to all services in which frequency coordination is required and to modify these rules to permit facsimile as well as teleprinter transmissions.

(b) To make available two channels (base and mobile pairs) to the Police Radio Service for nonvoice communication between base and mobile stations to provide for the development of mobile computer terminal installations in the 20 largest cities.

(c) To make available five single frequencies to the Special Emergency Radio Service to provide for ambulance to hospital telemetry and to designate two of the five 460 MHz pairs of frequencies allocated to the Fire Radio Service to be used primarily for ambulance telemetry in municipal systems.

13. In view of the foregoing, the petition (RM-1712) described in paragraph 11 above is, to the extent that it is compatible with the proposals herein, granted and in all other respects denied.

14. The proposed amendments, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

15. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before September 3, 1971, and reply comments on or before September 13, 1971. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

16. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference

⁷ The request for allocation of frequencies in the 470-512 MHz band has been disposed of in the second report and order in Docket 18261. See paragraph 20, footnote 19.

Room at its headquarters in Washington, D.C.

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,^{*}
[SEAL] BEN F. WAPLE,
Secretary.

I. Parts 89, 91, and 93 of the Commission's rules are amended as follows:

1. The following revision to § 89.122 is proposed. Rules identical in substance will be included in Parts 91 and 93 of the rules.

§ 89.122 Interim provisions for operation of radioteleprinters and radiofacsimile devices in the Public Safety Radio Services.

(a) F2, F4, or F9 emission (audio-frequency tone shifts or tone phase shift) for radioteleprinter, radiofacsimile or audio passband radiotelephony multiplexed with radioteleprinter, or radiofacsimile, respectively, will be authorized for base station use only in the Local Government, Police, Fire, Highway Maintenance and Forestry-Conservation Radio Services, except on mobile only frequencies, subject to the following conditions:

(1) Information is submitted with the application to establish that the minimum separation between the proposed radioteleprinter or radiofacsimile base station and the nearest cochannel base station of another licensee operating a voice system is 75 miles for the single frequency mode of operation or 35 miles for the two-frequency mode of operation, or

(2) Where the minimum mileage separation that would be applicable under subparagraph (1) of this paragraph cannot be achieved, information is submitted with the application showing that agreement to the use of F2, F4, or F9 emission has been received from all existing cochannel licensees using voice emission within the applicable mileage limits. If it develops that agreement was not received from an existing cochannel licensee and the radioteleprinter or radiofacsimile operation interferes with the licensee's voice operations, the licensee of the radioteleprinter or radiofacsimile system is responsible for eliminating the interference. New licensees of voice operations sharing a frequency with any established radioteleprinter or radiofacsimile operation must tolerate any interference received from the radioteleprinter or radiofacsimile operation.

^{*} Commissioner Robert E. Lee absent.

PROPOSED RULE MAKING

(3) The application lists the manufacturer and model number of the radioteleprinter or radiofacsimile system to be employed or in lieu thereof contains a detailed technical description of the system and emitted data language.

(4) The provisions in this part applicable to use of F3 emission are also applicable to use of F2, F4, or F9 emission for radioteleprinters and radiofacsimile transmissions. The station identification required by § 89.153 shall be by voice.

(5) Frequencies will not be assigned exclusively for F2 or F4 emission for radioteleprinter or radiofacsimile.

(6) Transmitters type accepted under this part for use of F3 emission may also be used for F2, F4, or F9 emission for radioteleprinter or radiofacsimile, provided, for each of these emissions, the audio keying signal is passed through the low pass audio frequency filter required to be provided in the transmitter for F3 emission. The transmitter must be so adjusted and operated that the instantaneous frequency deviation does not exceed the maximum value allowed for F3 emission.

2. In § 89.309(g), the table is amended by adding the frequencies below, and new paragraphs (h) (5) and (12) are added to read as follows:

§ 89.309 Frequencies available to the Police Radio Service.

Frequency or band	Class of station(s)	Limitations
MHz		
462.950.....	Base and mobile.....	5, 12
462.975.....	do.....	5, 12
467.950.....	Mobile only.....	2, 5, 12
467.975.....	do.....	2, 5, 12

(h) (5) This frequency may be assigned primarily for nonvoice systems only within the 20 largest cities of the United States. F2, F3, F4, or F9 emission may be authorized, however, radiotelephony is secondary to nonvoice.

(12) This frequency may not be used for telemetry, telecommand, or vehicle location.

3. In § 89.359, the table in paragraph (f) is amended to designate channels for ambulance telemetry and paragraph (g) is amended by the addition of new subparagraphs (9) and (10) to read as follows:

§ 89.359 Frequencies available to the Fire Radio Service.

Frequency or band	Class of station(s)	Limitations
MHz		
460.525.....	Base and mobile.....	1, 2, 9
460.550.....	do.....	1, 2, 9
465.525.....	Mobile only.....	10
465.550.....	do.....	10

(g) (9) This frequency may be used for communication with ambulance systems employing telemetry devices.

(10) This frequency may be used for mobile biomedical telemetry systems in ambulances. F2, F3, and F9 emission may be authorized and radiotelephony use is secondary to nonvoice uses.

4. In § 89.525, the table in paragraph (e) is amended by the addition of the frequencies listed below, and paragraph (f) is amended by the addition of new subparagraphs (1), (2), and (4) to read as follows:

§ 89.525 Frequencies available to the Special Emergency Radio Service.

Frequency or band	Class of station(s)	Limitations
MHz		
468.000.....	Mobile only.....	1, 2, 3
468.025.....	do.....	1, 2, 3
468.050.....	do.....	1, 2, 3
468.075.....	do.....	1, 2, 3
468.100.....	do.....	1, 2, 3

(f) (1) This frequency may be assigned to hospitals and ambulance operators to be used for F2 and F9 emission for biomedical telemetering from emergency vehicles to hospitals.

(2) Radiotelephony either A3 or F3 will not be authorized.

(4) Multiple frequency installations may be authorized when the intended use is in connection with an areawide communication plan.

[FR Doc.71-9023 Filed 6-24-71; 8:53 am]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

AVOIDANCE OF INCIDENTS OF PESTICIDE POISONING

Memorandum of Understanding

Pursuant to the provisions of 7 U.S.C. 2201, the Organic Act of September 21, 1944, as amended (7 U.S.C. 147a), and the Act of September 28, 1962 (7 U.S.C. 450), there was published in the FEDERAL REGISTER on April 20, 1971 (36 F.R. 7471, corrected at 36 F.R. 7867), a notice announcing the institution of a cooperative Federal-State program designed to further protect the public regarding the safe use of pesticides which, if improperly handled, could be dangerous, and a list of States having executed a memorandum of understanding with the Agricultural Research Service agreeing upon procedures to follow regarding ethyl parathion, the first pesticide selected for special attention under this program. Since the initial announcement of this program in the FEDERAL REGISTER, the States of California, Colorado, Idaho, Illinois, Maine, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Tennessee, Washington, Wisconsin, and Wyoming have signed a similar memorandum of understanding with the Agricultural Research Service. Accordingly, the above-named States are added to the list of States participating in this cooperative program designed to prevent incidents of pesticide poisoning.

The States listed below are now the only States that have not, as yet, entered into this cooperative Federal-State program:

Alabama.	Michigan.
Alaska.	New Jersey.
Connecticut.	New York.
Indiana.	Ohio.
Iowa.	Oregon.
Kansas.	Texas.
Massachusetts.	Vermont.

Done at Washington, D.C., this 21st days of June 1971.

F. J. MULHERN,
Acting Administrator
Agricultural Research Service.

[FR Doc.71-8982 Filed 6-24-71; 8:49 am]

Office of the Secretary CERTAIN NATIONAL FORESTS

Changes in Boundary

Pursuant to authority vested in me by section 11 of the Act of March 1, 1911 (36 Stat. 961), as amended, and the delega-

Notices

tion of authority and assignment of functions by the Secretary of Agriculture dated November 27, 1964 (29 F.R. 16210), the boundaries of the Clark, Allegheny, Wayne, and Hoosier National Forests are adjusted as described below and all lands within these National Forest boundaries as adjusted that have been or hereafter are acquired by the United States under provisions of the aforesaid Act, or which otherwise attain status as National Forest land subject to such Act, are hereby designated for administration as part of the particular National Forest indicated by this order.

CLARK NATIONAL FOREST, MISSOURI
FIFTH PRINCIPAL MERIDIAN

Lands Added

T. 25 N., R. 6 E.,
Sec. 14, N $\frac{1}{2}$ N $\frac{1}{2}$.

Lands Excluded

T. 36 N., R. 1 E.,
Sec. 25, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 33 N., R. 4 E.,
Sec. 5, E $\frac{1}{2}$ lot 3 NE $\frac{1}{4}$.
T. 34 N., R. 4 E.,
Sec. 2, W $\frac{1}{2}$ lot 3 NW $\frac{1}{4}$;
Sec. 3, E $\frac{1}{2}$ lot 2 and E $\frac{1}{2}$ lot 3 NW $\frac{1}{4}$;
Sec. 12, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 16, E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 17, E $\frac{1}{2}$ W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 18, N $\frac{1}{2}$ W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 30, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
Sec. 32, SW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 35 N., R. 4 E.,
Sec. 2, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 23, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 28, SW $\frac{1}{4}$;
Sec. 29, SE $\frac{1}{4}$;
Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 33, Entire;
Sec. 34, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 35, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 34 N., R. 5 E.,
Sec. 7, S $\frac{1}{2}$ lot 1 and S $\frac{1}{2}$ lot 2 NW $\frac{1}{4}$, S $\frac{1}{2}$ lot 1 SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 18, N $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ lot 2 NW $\frac{1}{4}$;
Sec. 21, NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 24, W $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 29, SW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 34 N., R. 6 E.,
Sec. 24, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 35 N., R. 7 E.,
Sec. 15, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 34 N., R. 9 E.,
Sec. 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 5, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 9, N $\frac{1}{2}$;
Sec. 17, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 21, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 30 N., R. 2 W.,
Sec. 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, SE $\frac{1}{4}$.
T. 33 N., R. 4 W.,
Sec. 5, E $\frac{1}{2}$ lot 1 and E $\frac{1}{2}$ lot 2 NW $\frac{1}{4}$;
Sec. 6, S $\frac{1}{2}$ lot 1 SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 7, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, lot 2 NW $\frac{1}{4}$.
T. 34 N., R. 4 W.,
Sec. 18, lots 2 and 3 SW $\frac{1}{4}$;
Sec. 19, lots 1 and 3 NE $\frac{1}{4}$, lot 3 SW $\frac{1}{4}$;
Sec. 31, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, lot 3 SW $\frac{1}{4}$.
T. 35 N., R. 4 W.,
Sec. 36, S $\frac{1}{2}$.
T. 32 N., R. 11 W.,
Sec. 8, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 18, S $\frac{1}{2}$ lot 2 NW $\frac{1}{4}$, lot 1 and N $\frac{1}{2}$ lot 2 SW $\frac{1}{4}$;
Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

ALLEGHENY NATIONAL FOREST, PENNSYLVANIA
Lands Added

Beginning at the mouth of Tubbs Run on the east side of the Allegheny River in Forest County; thence northeasterly up the east side of the Allegheny River to a point opposite the mouth of Brokenstraw Creek; thence crossing the Allegheny River to the southern corner of the Biddle Estate Tract 443b on the north bank of said river at the mouth of Brokenstraw Creek; thence northwesterly up the east side of Brokenstraw Creek, which is also the southwesterly bounds of Biddle Estate Tract 443b, to a point where said east side of Brokenstraw Creek intersects the northerly right-of-way line of legislative route 88 in the village of Irvine in Brokenstraw Township, Warren County; thence northwesterly along the northerly right-of-way line of legislative route 88 approximately one-half mile to a point where said northerly right-of-way line of legislative route 88 intersects the westerly right-of-way line of township route 422; thence southerly along the westerly right-of-way line of township route 422 approximately 1 $\frac{1}{2}$ miles to a point near Sulphur Run where said westerly right-of-way line of township route 422 intersects the westerly right-of-way line of the Pennsylvania Railroad in the Allegheny River Valley; thence southerly along the westerly right-of-way line of the Pennsylvania Railroad in the Allegheny River Valley a distance of approximately 1 $\frac{1}{2}$ miles to a point about one-half mile south of Dunn Run where said westerly right-of-way line of the Pennsylvania Railroad intersects the northwesterly right-of-way line township route 422; thence southerly along the westerly right-of-way line of township route 422, a distance of approximately 6 $\frac{1}{2}$ miles to a point near Connelly Run where the westerly right-of-way line of township route 422 intersects the westerly right-of-way line of legislative route 61012. Said point being in the village of Cobham on the west bank of the Allegheny River in Deerfield Township, Warren County; thence southwesterly along the westerly right-of-way line of legislative route 61012 a distance of approximately 3 $\frac{1}{2}$ miles to a point where the westerly and northerly right-of-way line of legislative route 61012 intersects the east borough line of the Borough of Tidoute; thence westerly through the Borough of Tidoute along the north right-of-way line of Main Street a distance of approximately 2 $\frac{1}{2}$ miles to a point where the north right-of-way line of Main Street in the Borough of Tidoute intersects the westerly borough line. Said point being near Gordon Run; thence southwesterly right-of-way line of legislative route 61001 (State Route 127) up Babylon Hill to a point where said westerly right-of-way line of legislative route 61001 intersects the westerly right-of-way line of legislative route

61003 in Triumph Township, Warren County; thence southerly along the westerly right-of-way line of legislative route 61003 passing from Triumph Township, Warren County, into Harmony Township, Forest County at the village of Fagundus and continuing along the westerly right-of-way line of legislative route 61003 to a point on Flaming Hill where the westerly right-of-way line of legislative route 61003 intersects the westerly right-of-way line of township route 310; thence southerly along the westerly right-of-way line of township route 310 to a point on Preacher Hill where the westerly right-of-way line of township route 310 intersects the northeastern line of the Hickory Town Tracts as conveyed by Thomas Shepard, et al, to Joseph Green in 1855;

Thence N. 45° W., along the northeasterly line of the Hickory Town Tracts to the north corner of said Hickory Town Tracts; thence S. 45° W., along the northwesterly lines of the Hickory Town Tracts and the Michael Fousts warrant to the west corner of said Fousts warrant; thence S. 43° E., along the southwesterly line of the Michael Fousts warrant to an iron pipe and stones being the southeast corner of the Samuel Weir warrant and the north corner of the Charles McLafferty warrant now owned by the Commonwealth of Pennsylvania; thence along the northerly line of lands owned by the Commonwealth of Pennsylvania being the northerly bounds of the Charles McLafferty and Ira Copeland warrants, S. 84°44' W. 152.2 rods, also being the south line of the Samuel Weir warrant; S. 88°20' W. 83.8 rods, also being the south line of the Thomas Glenn warrant; S. 6°30' W. 5.1 rods, N. 87°31' W. 80.2 rods, and N. 55° W. 18.08 rods, also being the south lines of the Azro Copeland warrant; S. 6°30' W. 60.3 rods, and N. 84°25' W. 222.5 rods, along the east and south lines of the D. Copeland warrant to a point being the southwest corner of said D. Copeland warrant and the northwest corner of the said Ira Copeland warrant; thence along the westerly lines of lands owned by the Commonwealth of Pennsylvania being the westerly bounds of the Ira Copeland and Peter Herring warrants S. 6°36' W. 196.6 rods, to a point in the line between Harmony and Tionesta Townships, Forest County; thence N. 71°53' E. 97.5 rods, to a point in the west bounds of the Chauncy Stanley warrant; thence S. 18°27' E. approximately 92.8 rods, to a point in the westerly bounds of the Chauncy Stanley warrant; thence S. 6° W. 109.5 rods, to a point on the north bounds of legislative route 511 (State Route 36); thence south to the centerline of said legislative route 511 (State Route 36) and thence southerly and easterly along centerline of said legislative route 511, a distance of approximately 3 miles to and across the Allegheny River at Tionesta to a point where said centerline intersects the east side of the Allegheny River; thence northerly along the east side of the Allegheny River to the mouth of Tubbs Run, the point of beginning.

Also to be included as part of the extension is an ell-shaped tract of 62 acres now owned by the Commonwealth of Pennsylvania and located one-half mile northeast from White Church on township road 357 in Harmony Township, Forest County and being part of the Joseph Allender warrant in the head of Allender Run, a tributary of Dawson Run which flows southeasterly into the Allegheny River 3 miles below the village of West Hickory. Said tract was acquired by the Commonwealth of Pennsylvania from Jamieson Lumber & Supply Co. by deed made June 1949 and described as follows:

Beginning at the northwest corner of the Joseph Allender warrant; thence along the north line of the said Joseph Allender war-

rant S. 83°43' E. 52.3 rods, to a post and stones; thence into the Joseph Allender warrant by land of John Bingham S. 6°45' W. 130 rods, to an iron pin in township road 357 leading easterly to West Hickory, set for a corner of an abandoned schoolhouse lot; thence by land of John Bingham S. 73°05' E. 113.8 rods, to a post and stones on line of land of A. L. Nealy; thence by Nealy S. 20° W. 6.2 rods, to a post and stones, a corner common to lands of A. L. Nealy, T. Glenn, and Charles Kindred and the tract herein described; thence by line of land of said Glenn and Kindred N. 83°10' W. 164 rods, to a post and stones on the western line of the said Joseph Allender warrant; thence by western line of the said Joseph Allender warrant northerly 156.6 rods to the place of beginning.

Verbeck Island, 14.2 acres in Glade Township of Warren County.

WAYNE NATIONAL FOREST, OHIO

OHIO COMPANY SURVEY

The boundaries of the Wayne National Forest are revised to contain the following land:

- T. 6 N., R. 11 W., Secs. 30, 35, and 36.
- T. 7 N., R. 11 W., Secs. 25, 26, 31, and 32.
- T. 6 N., R. 12 W., Secs. 5, 6, 11, 12, 16, 17, 18, 23, 24, 29, 30, 34, 36, and fractional secs. 4, 5, 17, 18, 23, 24, 34, and 35.
- T. 7 N., R. 12 W., Secs. 1 to 4 inclusive, 7, 8, 13, 16, 19, 25, 26, 31, and 32 and fractional secs. 1 to 7 inclusive, 12, 13, 17, 18, 19, 23, 24, 25, and 30 to 36 inclusive.
- T. 5 N., R. 13 W., Secs. 4, 5, 6, 11, 12, 17, 18, 24, and fractional sec. 5.
- T. 6 N., R. 13 W., Secs. 1, 7, 13, 19, 25, 31 to 36 inclusive.
- T. 1 N., R. 14 W., Lots 1265 to 1268 inclusive; Secs. 29, 30, 34 to 36 inclusive.
- T. 2 N., R. 14 W., Lots 1232 to 1235 inclusive, 1240 to 1259 inclusive.
- T. 10 N., R. 14 W., Secs. 2, 3, 4, 24, 29, 30, 33 to 36 inclusive and fractional secs. 7 (T. 13 N., R. 16 W.), 11, 17, 18, 24, 30, 33 to 36 inclusive.
- T. 11 N., R. 14 W., Secs. 5, 6, 11, 12; Sec. 16, W $\frac{1}{2}$; Secs. 17, 18, 19, 23 to 26 inclusive, 29 to 36 inclusive, and fractional secs. 17, 18, 19, 23, 24, 25, 30 to 35 inclusive and part of fractional sec. 36.
- T. 2 N., R. 15 W., Sec. 29, E $\frac{1}{2}$; Lots 682, 740, 741, 1269 to 1279 inclusive, 1284 to 1287 inclusive, and 1300 to 1303 inclusive.
- T. 3 N., R. 15 W., All except lot 674 and the parts of lots 676 to 680 inclusive lying in sec. 7.
- T. 4 N., R. 15 W., All except sec. 6.
- T. 12 N., R. 15 W., All except secs. 25 and 31.
- T. 13 N., R. 15 W., All.
- T. 12 N., R. 16 W., All except sec. 36.
- T. 13 N., R. 16 W., Lots 770 to 781 inclusive, S $\frac{1}{2}$ of each; Secs. 1, 2, 6, 7, 8, 12;

¹ Township and Range number given in parenthesis after a fractional section are correct descriptions within the Ohio Company Survey area and actually are geographically located in the township with which listed.

Sec. 18, E $\frac{1}{2}$; Secs. 19, 25 and fractional secs. 2, 8, 8, 12, 17, 18; part of 19; 23, 24, 35, and 36.

OHIO RIVER SURVEY

- T. 1 N., R. 4 W., All.
- T. 2 N., R. 4 W., Secs. 7 to 9 inclusive, 13 to 15 inclusive, and 19 to 36 inclusive.
- T. 3 N., R. 4 W., Secs. 13 to 16 inclusive, 19 to 22 inclusive, 25 to 28 inclusive, and 31 to 34 inclusive.
- T. 1, 2, and 3 N., R. 5 W., All.
- T. 4 N., R. 5 W., Secs. 1 to 4 inclusive, 7 to 10 inclusive, 13 to 17 inclusive, 19 to 23 inclusive, 25 to 29 inclusive, and 31 to 35 inclusive.
- T. 1, 2, 3, and 4 N., R. 6 W., All.
- T. 5 N., R. 6 W., Secs. 1 to 5 inclusive, 7 to 11 inclusive, 13 to 17 inclusive, 19 to 23 inclusive, 25 to 29 inclusive, 31 to 35 inclusive.
- T. 2 N., R. 7 W., All except secs. 19, 25, and 31.
- T. 3 and 4 N., R. 7 W., All.
- T. 5 N., R. 7 W., Secs. 1 to 14 inclusive, 19, 20, and 25.
- T. 6 N., R. 7 W., Secs. 1 to 5 inclusive, 7 to 12 inclusive, 15 to 18 inclusive, 23 and 24.
- T. 7 N., R. 7 W., Secs. 7, 13, and 19.
- T. 8 N., R. 13 W., Secs. 5 to 8 inclusive, 17 to 20 inclusive, and 29 to 32 inclusive.
- T. 12 N., R. 14 W., All.
- T. 13 N., R. 14 W., Secs. 25 to 36 inclusive.
- T. 14 N., R. 15 W., All.
- T. 15 N., R. 15 W., Secs. 25 to 36 inclusive.
- T. 2 N., R. 16 W., Secs. 1 to 6 inclusive.
- T. 3 and 4 N., R. 16 W., All.
- T. 5 N., R. 16 W., Secs. 7, 8, 17 to 20 inclusive; Sec. 21, W $\frac{1}{2}$; Secs. 27 to 34 inclusive.
- T. 14 N., R. 16 W., Secs. 1 to 5 inclusive, 7 to 29 inclusive, and 34 to 36 inclusive.
- T. 15 N., R. 16 W., Secs. 25, 26; Sec. 34, S $\frac{1}{2}$; Secs. 35 and 36.
- T. 3 N., R. 17 W., Secs. 4 to 7 inclusive; Secs. 8 and 9, N $\frac{1}{2}$ of each.
- T. 4 N., R. 17 W., All except sec. 36.
- T. 5 N., R. 17 W., All.
- T. 6 N., R. 17 W., All except sec. 1.
- T. 7 N., R. 17 W., Secs. 31 to 35 inclusive, S $\frac{1}{2}$ of each.
- T. 12 N., R. 17 W., All.
- T. 1 N., R. 18 W., Secs. 1, 3 to 6 inclusive; Sec. 7, N $\frac{1}{2}$, and part of SW $\frac{1}{4}$ lying north-west of State Route 650; Secs. 8 to 10 inclusive, N $\frac{1}{2}$ of each.
- T. 2 and 3 N., R. 18 W., All.
- T. 4 N., R. 18 W., Sec. 1, E $\frac{1}{2}$ E $\frac{1}{2}$, and N $\frac{1}{2}$ NW NE; Secs. 3 to 5 inclusive, 8 to 10 inclusive; Sec. 11, S $\frac{1}{2}$; Secs. 12 to 36 inclusive.

- T. 5 N., R. 18 W., Secs. 25, 32, 33; Sec. 34, SW SW $\frac{1}{4}$; Sec. 36.
- T. 10 N., R. 18 W., Secs. 1, 12, 13, 24, and 25.
- T. 1 N., R. 19 W., Secs. 1 to 3 inclusive; Sec. 10, N $\frac{1}{2}$; Sec. 11, N $\frac{1}{2}$.
- T. 2 N., R. 19 W., All except secs. 4, 5, 6, and 13.
- T. 3 N., R. 19 W., Secs. 1 to 4 inclusive, 9 to 16 inclusive, 21 to 28 inclusive, and 32 to 35 inclusive.
- T. 4 N., R. 19 W., Sec. 13; Sec. 22, SE $\frac{1}{4}$; Sec. 23, S $\frac{1}{2}$; Sec. 24 to 27 inclusive, and 33 to 36 inclusive.
- French Grants, Lots 55, 56, 67, 68, 79, 80, 91; John Gabriel Gervais tract, that part lying northeast of the southwest line of lot 56 extended (the northeast 154.23 chains of the Gervais tract).

HOOSIER NATIONAL FOREST, INDIANA

SECOND PRINCIPAL MERIDIAN

The boundaries of the Hoosier National Forest are revised to contain the following land:

- T. 1 N., R. 1 E., Sec. 6, S $\frac{1}{2}$; Secs. 7, 8, 17 to 23 inclusive, 25 to 36 inclusive.
- T. 1 N., R. 2 E., Secs. 30 and 31.
- T. 1 N., R. 1 W., Sec. 1, E $\frac{1}{2}$ SE SE; Secs. 8 to 36 inclusive.
- T. 1 N., R. 2 W., Secs. 5 to 8 inclusive, 13 to 36 inclusive.
- T. 1 N., R. 3 W., Secs. 1 to 26 inclusive, 35, and 36.
- T. 1 N., R. 4 W., Secs. 1 and 12.
- T. 2 N., R. 2 W., Sec. 1, W $\frac{1}{2}$ W $\frac{1}{2}$; Secs. 2 to 11 inclusive; Sec. 12, W $\frac{1}{2}$ NW, NW, SW; Secs. 14 to 20 inclusive, 29 to 32 inclusive.
- T. 2 N., R. 3 W., All.
- T. 2 N., R. 4 W., Secs. 1 to 3 inclusive; Sec. 10, that part lying east of the East Fork of the White River; Secs. 11 to 14 inclusive, 23 to 25 inclusive, 36.
- T. 3 N., R. 1 W., Secs. 6, 7, 18.
- T. 3 N., R. 2 W., All.
- T. 3 N., R. 3 W., Secs. 31 to 36 inclusive.
- T. 3 N., R. 4 W., Secs. 26 and 27, S $\frac{1}{2}$ of each; Secs. 34 to 36 inclusive.
- T. 4 N., R. 1 W., Secs. 30, 31.
- T. 4 N., R. 2 W., Secs. 2 to 11 inclusive, 14 to 23 inclusive, 25 to 36 inclusive.
- T. 5 N., R. 2 W., Secs. 4 to 9 inclusive, 15 to 22 inclusive, 27 to 34 inclusive.
- T. 5 N., R. 3 W., Sec. 22, SE SW, that part of the SW SE lying southwest of the public highway; Sec. 23, SE NW SW, E $\frac{1}{2}$ SW, SE $\frac{1}{4}$, that part of the SW SW lying south and east of the Crane Lake Naval Depot boundary; Sec. 24, SE NE, east 20 feet of the S $\frac{1}{2}$ S $\frac{1}{2}$ SW NE, SW $\frac{1}{4}$, N $\frac{1}{2}$ NE SE, east 3 acres of the N $\frac{1}{2}$ NW SE, 2 acres lying west of

- the road in the N $\frac{1}{2}$ NW SE, S $\frac{1}{2}$ SE; Secs. 25 and 26; Sec. 27, NE NW, SE SW except the west 10 acres, E $\frac{1}{2}$; Sec. 33, that part east of the Crane Lake Naval Depot; Secs. 34 to 36 inclusive.
- T. 6 N., R. 1 E., Secs. 1 to 5 inclusive; Sec. 8, E $\frac{1}{2}$; Secs. 9 to 16 inclusive; Sec. 17, E $\frac{1}{2}$.
- T. 6 N., R. 2 E., Secs. 1 to 13 inclusive, 15 to 18 inclusive; Secs. 19 to 21, N $\frac{1}{4}$ of each; Sec. 22, W $\frac{1}{2}$ NE, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW, NW SE; Sec. 24, N $\frac{1}{2}$.
- T. 6 N., R. 3 E., Secs. 1 to 28 inclusive.
- T. 7 N., R. 1 E., All except sec. 31, S $\frac{1}{2}$.
- T. 7 N., R. 2 and 3 E., All.
- T. 7 N., R. 4 E., Secs. 4 to 9 inclusive, 16 to 20 inclusive, 29 and 30; Secs. 31 and 32, N $\frac{1}{2}$ of each.
- T. 7 N., R. 1 W., Sec. 24, part of SE SE lying east of the Reservoir; Sec. 25, part of E $\frac{1}{4}$ lying east of the Reservoir.
- T. 8 N., R. 1 E., Secs. 25 to 36 inclusive.
- T. 8 N., R. 2 E., Sec. 25, S $\frac{1}{2}$; Sec. 26, W $\frac{1}{2}$ SE $\frac{1}{4}$; Secs. 27 to 36 inclusive.
- T. 8 N., R. 3 E., Secs. 25 to 28 inclusive; Secs. 29 and 30, S $\frac{1}{2}$ of each; Secs. 31 to 36 inclusive.
- T. 8 N., R. 4 E., Secs. 30 and 31.
- T. 1 S., R. 1 E., Secs. 1 to 23 inclusive, 26 to 34 inclusive.
- T. 1 S., R. 1 W., All.
- T. 1 S., R. 2 W., Secs. 1 to 30 inclusive, 33 to 36 inclusive.
- T. 1 S., R. 3 W., Secs. 1, 2, 11 to 14 inclusive, 23 to 26 inclusive.
- T. 2 S., R. 1 E., Secs. 4 to 9 inclusive, 16 to 21 inclusive, 28 to 33 inclusive.
- T. 2 S., R. 1 W., All.
- T. 2 S., R. 2 W., Secs. 1 to 4 inclusive, 9 to 16 inclusive, 19 to 36 inclusive.
- T. 2 S., R. 3 W., Sec. 24, SE SE; Sec. 25, E $\frac{1}{2}$; Sec. 38, NE NE.
- T. 3 S., R. 1 E., Secs. 4 to 8 inclusive, 17 to 20 inclusive, 29 to 32 inclusive.
- T. 3 S., R. 1 W., All.
- T. 3 S., R. 2 W., Secs. 1 to 6 inclusive, 8 to 17 inclusive, 20 to 36 inclusive.
- T. 4 S., R. 1 E., Secs. 5 to 10 inclusive, 15 to 22 inclusive, 27 to 34 inclusive.
- T. 4 S., R. 1 and 2 W., All.
- T. 5 S., R. 1 E., Secs. 3 and 4.
- T. 5 S., R. 1 W., Secs. 1 to 22 inclusive; Sec. 23, W $\frac{1}{2}$; Secs. 27 to 34 inclusive.
- T. 5 S., R. 2 W., Secs. 1 to 30 inclusive; Sec. 32, E $\frac{1}{2}$ E $\frac{1}{2}$; Secs. 33 to 36 inclusive.

- T. 6 S., R. 1 W., Sec. 5, W $\frac{1}{2}$; Secs. 6 and 7; Secs. 8 and 17, W $\frac{1}{2}$ of each; Secs. 18 to 20 inclusive; Fr. sec. 21, S $\frac{1}{2}$; Fr. sec. 28; Secs. 29 to 34 inclusive.
- T. 6 S., R. 2 W., Secs. 1 to 4 inclusive; Sec. 5, NE $\frac{1}{4}$, S $\frac{1}{2}$; Sec. 6, S $\frac{1}{2}$; Secs. 7 to 30 inclusive; Sec. 32, E $\frac{1}{2}$; Secs. 33 to 36 inclusive.
- T. 7 S., R. 1 W., Sec. 3, N $\frac{1}{2}$ lying west of the Ohio River; Secs. 4 to 6 inclusive, N $\frac{1}{2}$ of each.
- T. 7 S., R. 2 W., Secs. 1 to 4 inclusive; Secs. 5 and 8, E $\frac{1}{2}$ of each; Secs. 9 to 12 inclusive, 14 to 16 inclusive, 21 to 23 inclusive, 26 to 28 inclusive.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER (6-25-71).

T. K. COWDEN,
Assistant Secretary.

JUNE 18, 1971.

[FR Doc.71-8839 Filed 6-24-71; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

C. J. PATTERSON CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 1A2684) has been filed by C. J. Patterson Co., 3947 Broadway, Kansas City, Mo. 64111, proposing that § 121.1211 *Sodium stearoyl-2-lactylate* (21 CFR 121.1211) be amended to provide for the safe use of sodium stearoyl-2-lactylate as an emulsifier, stabilizer, dough conditioner, whipping agent, or processing aid in all foods except those for which standards of identity preclude its use.

Dated: June 21, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8987 Filed 6-24-71; 8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORT TRAFFIC CONTROL TOWER AT ALBANY-DOUGHERTY COUNTY AIRPORT, ALBANY, GA.

Notice of Commissioning

Notice is hereby given that on or about June 27, 1971, the Airport Traffic Control Tower at the Albany-Dougherty

County Airport, Albany, Ga., will be in operation as an FAA facility. The tower is now jointly owned and operated by the city of Albany and Dougherty County, Ga. This information will be reflected in the FAA Organization Statement the next time it is reissued. Communication to the tower should be as follows:

Federal Aviation Administration, Airport Traffic Control Tower, Albany-Dougherty Airport, Albany, Ga. 31702.

Issued in East Point, Ga., on June 20, 1971.

W. B. RUCKER,
Acting Director, Southern Region.
[FR Doc.71-8972 Filed 6-24-71;8:48 am]

AIRPORT TRAFFIC CONTROL TOWER AT GAINESVILLE MUNICIPAL AIRPORT, GAINESVILLE, FLA.

Notice of Commissioning

Notice is hereby given that on or about June 27, 1971, the Airport Traffic Control Tower at the Gainesville Municipal Airport, Gainesville, Fla., will be in operation as an FAA facility. The tower is now owned and operated by the city of Gainesville, Fla. This information will be reflected in the FAA Organization Statement the next time it is reissued. Communication to the tower should be as follows:

Federal Aviation Administration, Airport Traffic Control Tower, Gainesville, Municipal Airport, Gainesville, Fla. 32601.

Issued in East Point, Ga., on June 20, 1971.

W. B. RUCKER,
Acting Director, Southern Region.
[FR Doc.71-8973 Filed 6-24-71;8:48 am]

FAA FACILITIES AND SERVICES FOR PRIVATELY OWNED, PUBLIC USE AIRPORTS

Notice of Invitation for Comments on Proposed Policy Change

This notice is in further implementation of the Department of Transportation's policy of regular consultation with users of the National Airspace System, the aviation industry, State and local government agencies, and the general public regarding major changes in policy and planning.

FAA policy as currently expressed in Airway Planning Standard No. 1, specifically excludes the establishment of FAA Facilities and Services at privately owned airports. A reexamination of this policy has been made over the past several months by the FAA in conjunction with an analysis conducted by the Technical Analysis Division of the National Bureau of Standards. A Notice of Invitation for Comments on the NBS study of FAA facilities and services for privately owned public use airports was published in the FEDERAL REGISTER on Octo-

ber 10, 1970, at 35 F.R. 16013. Comments received indicated firm public and interagency endorsement of a change in FAA policy which would allow the application of regular APS No. 1 facility establishment criteria at qualified privately owned as well as publicly owned airports.

Several comments were raised which criticized the rationale behind certain conclusions reached in the NBS study. In most cases, these comments were valid. They did not, however, detract from the basic principle involved nor did they raise objections to the change in policy. Certain other useful and valid comments and suggestions were made which have been incorporated in the proposed policy. The more significant of comments received which objected to such a policy change centered around the following two points:

1. The investment of Federal funds, however justified, for facilities and services at privately owned airports does, in fact, constitute a subsidy of private enterprise.
2. Diversion of user charge trust funds derived under the Airport and Airway Development Act to privately owned airports should not be permitted until the long unmet needs of the National Airport System have been met and services at publicly owned facilities have been raised to an acceptable level.

Regarding the first objection, we do not agree that any subsidy is involved. Under the terms of the recently established user charge concept, the user is indirectly providing a share of the funds for the services provided within the total National Airspace System including the services in question. He is not concerned with who owns the airport but with getting the services for which he is paying.

We also do not agree with the second objection. All too frequently, we are losing airports in critical traffic areas and such losses are not being recovered. In fact, we are convinced that this is the most telling argument for the proposed policy change. If the Federal Government can, through the provision of services justified through traffic volumes at public use airports, help to retain such airports as living parts of the National Airport System, then a most important objective will be realized.

This proposed major change in policy recognizes that high activity, privately owned, public use airports serve the same purposes and provide the same benefits to the general public, the aviation community and the Nation's economy as their publicly owned counterparts. It is in consonance with the assigned FAA mission and responsibility of assuring safety and efficiency of all civil aircraft operations and of promoting air commerce and civil aeronautics. It further recognizes that privately owned, public use airports are an important facet of our National Aviation System and, most important, that the growing lack of a sufficient number of airports and the increasing pressures against new airport construction requires that all public use

airports be considered as valuable national resources.

This proposed policy change also recognizes the supplementary requirement to establish clear and explicit legal procedures and precautionary arrangements to protect the Federal investment, to assure the continued aeronautical use of these airports as public facilities without discrimination and to prevent the assignment of exclusive operating rights and inequity of service charges.

It should also be clearly understood that any facility or service implementation action associated with this proposed change in policy shall not precede the satisfactory completion of the normal FAA budgetary process.

The Federal Aviation Administration proposes to provide terminal air navigation facilities and air traffic control services at privately owned airports in accordance with the following policy:

Privately owned airports open to and available for use by the public, which are recognized by and contained within the National Airport System Plan, are also candidates for the various terminal air navigation facilities and air traffic control services provided that they meet the same facility establishment standards and implementation criteria as those specified for publicly owned airports. In addition, the owner(s) of such airports shall enter into appropriate assurances and covenants to guarantee:

1. Compliance with that portion of section 308(a) of the Federal Aviation Act dealing with the prohibition of exclusive rights.
2. Compliance with those antidiscrimination regulations and practices applicable to publicly owned airports.
3. Equality of charges.
4. Protection of the Government investment through operation as a public use facility for long enough periods to permit the amortization of such investment.
5. Compliance with the same safety requirements and obstacle clearance criteria applicable to publicly owned airports.
6. That charges to the FAA and other Governmental Agencies for land, buildings, office space, etc., be the same as those applicable to publicly owned airports.
7. The continuing operation of such airport for the use and benefit of the public.

Interested persons are invited to submit such written data and comments as they may desire. Comments should be submitted to Director, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590, on or before July 30, 1971. All comments submitted will be available for review in Room 935, Federal Office Building 10A, 800 Independence Avenue SW., Washington, DC.

Should a change in policy still be deemed desirable, after analysis of all public and Government comments, action

leading toward the implementation of such policy change will be initiated. Issued in Washington, D.C., on June 18, 1971.

BENJAMIN F. L. DARDEN,
Director, Office of Aviation
Policy and Plans, Federal
Aviation Administration.

[FR Doc.71-8974 Filed 6-24-71;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-268]

GENERAL ELECTRIC CO.

Notice of Receipt of Application for Facility Operating License

Please take notice that General Electric Co., 175 Curtner Avenue, San Jose, CA 95125, pursuant to section 104b, of the Atomic Energy Act of 1954, as amended (the Act), has filed an application, in the form of a letter dated December 30, 1970, accompanied by a Final Safety Analysis Report, for a license to operate a nuclear fuel reprocessing plant at its site near Morris in Grundy County, Ill.

The plant, designated by the applicant as the Midwest Fuel Recovery Plant, is designed to process a nominal 1 ton of uranium per day of irradiated fuel from light water reactors.

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Morris Public Library, 604 Liberty Street, Morris, IL 60451.

Dated at Bethesda, Md., this 17th day of June 1971.

For the Atomic Energy Commission.

RICHARD E. CUNNINGHAM,
Acting Director,
Division of Materials Licensing.

[FR Doc.71-8960 Filed 6-24-71;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22768; Order 71-6-106]

FLYING TIGER CORP. AND TIGER LEASING CORP.

Order of Tentative Approval

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of June 1971.

The Flying Tiger Corp. (FTC) and Tiger Leasing Corp. (Tiger Leasing) request approval pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), of control relationships resulting from the common control by FTC of the Flying Tiger Line Inc. (FTL), a certificated all-cargo carrier, and Tiger Leasing, which proposes to engage in aircraft leasing transactions.

Tiger Leasing is a wholly owned subsidiary of FTC organized, on July 30,

1970, for the primary purpose of leasing real and personal property. We understand that the subsidiary will engage in the ownership and leasing of items such as containers for use in air and surface shipments, railroad cars, and other transportation-related equipment. It has 1 million shares of \$1 par value common stock authorized and 10,000 shares issued and outstanding.

By Order 70-12-158, December 31, 1970, the Board approved an application by Flying Tiger Air Services, Inc. (FTAS), and Overseas National Airways, Inc., involving a sale and lease-back arrangement for one DC-8-63F aircraft. In so doing, the Board indicated that its approval therein was solely to allow FTAS to transfer the aircraft to Tiger Leasing after the instant application and other matters were approved. By virtue of the fact that it intends to engage in aircraft lease activities, Tiger Leasing will become a person engaged in a phase of aeronautics.

In support of their request the applicants submit that since aircraft financing is one of the industry's most critical problems, there is substantial public interest in broadening the companies which are prepared and able to participate in this activity; and that there are significant contributions which can be made by a company which has available to it both the financing and aviation operating skills such as those embraced in Tiger Leasing. The applicants further submit that there is a public interest in permitting a company such as FTC, whose basic future is tied to air transportation, to establish an aircraft leasing business in which the derived profits from leasing activities will be available as necessary to strengthen the regulated air transportation enterprise rather than drained off entirely to some other purposes; that in management's view an aircraft leasing enterprise would be a lucrative business opportunity responsive to the increasing demands of the direct air carriers; that notwithstanding the fact that FTL's existing debt restrictions on investment impose a significant constraint on the company's ability to engage in aircraft lease transactions, FTL's management is uniquely qualified to engage in these activities; and that Tiger Leasing intends to operate such a program, but will engage only in financing-type leases as distinguished from operational leases which require crews.

In addition, the applicants state that, at present Tiger Leasing has no firm leasing commitments other than that indicated in Order 70-12-158, supra; that notwithstanding the fact that Tiger Leasing and FTL are affiliates of FTC, in no event will FTL's credit be pledged with respect to any lease transactions involving Tiger Leasing, and FTC will make no significant capital contribution to Tiger Leasing; and that, although FTL has no present intention of entering into intercompany transactions with Tiger Leasing, it is clear under established policy that any future transactions

exceeding \$100,000 in a calendar year would require prior Board approval.¹ Finally, the applicants state that it is clear approval of the relationships will not in any way compromise or impair the obligations and integrity of FTL; that the leasing company will have lines of credit available to itself in amounts sufficient for it to engage in lease transactions (i.e., the financial resources of FTL will not be made available to Tiger Leasing); and that the relationships between the joint applicants do not affect the control of an air carrier directly engaged in the operation of aircraft, do not and will not result in creating a monopoly and do not and will not tend to restrain competition.²

No objections to the application or requests for a hearing have been received. By Orders 69-12-121, dated December 29, 1969, and 70-6-119, dated May 5, 1970, the Board approved and disclaimed jurisdiction over certain relationships and the transfer of certificates involving FTC and FTL. Briefly stated, these orders approved a plan of corporate reorganization which provided for the formation by the Flying Tiger Line Inc. (Old Tiger), as it was then constituted, of a wholly owned subsidiary, the Flying Tiger Corp. (FTC) and the organization by FTC of a wholly owned subsidiary, FTL Air Freight Corp. (New Tiger). Old Tiger, FTC, and New Tiger entered into an agreement providing for the merger of Old Tiger into New Tiger, which received all of its assets. Subsequent to the merger, Old Tiger's air carrier activities have been conducted by New Tiger, which changed its name to the Flying Tiger Line Inc. (referred to herein as FTL).

In the above-cited orders dealing with the then proposed creation by the Tiger air carrier of a holding company to control the air carrier and any subsequently formed or acquired entities, the Board stated its concern lest the route to diversification facilitated by the proposed Tiger reorganization cause the obligations and integrity of the air carrier to be compromised or impaired.³ Thus, the Board approved the creation of the holding company subject to various condi-

¹ Order 70-6-119, infra, provides in part that "Flying Tiger Corp., Tiger Investment, Flying Tiger Air Services, Inc., or any other company within the existing Flying Tiger Corp. system of affiliates and subsidiaries shall not in any calendar year, and without prior Board approval, either individually or jointly enter into any intercompany transactions with or affecting New Tiger which will have an aggregate value of \$100,000 or more."

² According to the applicants the interlocking relationships between the joint applicants and FTL come within the scope of the relief from sec. 409 provided by Part 287 of the Board's Economic Regulations. However, should any future transactions between the parties and FTL exceed the scope of Part 287 exemption, an appropriate sec. 409 application will be submitted to the Board.

³ See also Trans World Airlines, Inc. Acquisition of Sun Line Cos., Order 71-1-4, Jan. 4, 1971, Cf. Piedmont Aviation, Inc. Acquisition of Greensboro/High Point Air Service, Inc., Order 71-2-69, Feb. 16, 1971.

tions which would allow it to monitor the means and extent of diversification.

As a general proposition we continue to regard it as an open question whether the engagement of air carriers, directly or through affiliates, in nontransport activities redounds to the benefit or detriment to the common carriage activities of the air carriers. Thus, apart from the obvious possible detriments such as the diversion of the air carrier's management talents and interests, there is always existing the possibility that ventures entered into with stated promises of financial gain ultimately turn sour—to the carrier's immediate harm and to the public's ultimate detriment.⁴ Additionally, ancillary activities of air carriers can cause such difficult regulatory problems as the proper separation and allocation of accounts⁵ and the appropriateness of the carrier's provision of services, through affiliates, which are not filed in the carrier's tariffs.⁶

Thus, the dimensions of the extent to which air carriers should diversify are not yet delimited. Nor, on the other hand, is it certain that diversification (of non-subsidized carriers) may not be without some benefits. In the instant case, it does not appear that the activities of Leasing will involve Tiger's management in activities which are unrelated to its transportation expertise or resources; and it does not appear that the creation and operation of Leasing will impair the financial strength and management of the air carrier.

Therefore, we do not find that the control relationships will be inconsistent with the public interest; and we do not find that the conditions of section 408 of the Act will be unfulfilled. On the basis of the facts of record, the Board tentatively concludes that it should approve the control relationships without hearing pursuant to the third provision of section 408(b) of the Act; and, pursuant to Order 70-6-119, that it should approve the transfer of one Douglas DC-8-63F aircraft to Tiger Leasing from FTAS.⁷ However, the Board proposes, consistent with its practice in similar circumstances,⁸ to impose a condition that would prohibit all transactions, other than that tentatively approved herein, involving the purchase, lease or modification of aircraft equipment or component parts between Tiger Leasing and the Flying Tiger Corp. system of affiliates and subsidiaries.⁹ We

⁴ The recent Penn Central debacle is only one example. Others are detailed in the Interstate Commerce Commission, Conglomerate Merger Studies, July 1, 1970.

⁵ See EDR-187, Sept. 9, 1970, Docket 22546.

⁶ See, e.g., Emery Air Freight Corp., Control of Cargo Facilities, approved in Order 70-12-15, Dec. 3, 1970.

⁷ See footnote 1, supra.

⁸ Capitol International Airways, Inc., Air-Lease, Inc., and Jesse F. Stallings, Order E-25854, Oct. 19, 1967, and E-25905, Oct. 31, 1967.

⁹ It is the Board's intention that the final order of approval shall also be subject to the conditions heretofore imposed by the Board in the approval relating to the reorganization of Old Tiger in Order 70-6-119, supra.

shall also retain jurisdiction over the relationships to take any further action that may be required in the public interest.¹⁰

On the basis of the foregoing, it is concluded that Tiger Leasing is a person engaged in a phase of aeronautics within the meaning of section 408 of the Act and that the control thereof by FTC, a person controlling an air carrier (FTL), is subject to such section. However, the Board has concluded tentatively that the establishment of Tiger Leasing does not affect the control of an air carrier engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing. In accordance with section 408(b) of the Act, this order constituting notice of the Board's tentative findings, will be published in the FEDERAL REGISTER, and interested persons will be afforded an opportunity to file comments or request a hearing on the Board's tentative decision.

Accordingly, it is ordered, That:

1. The common control by The Flying Tiger Corp. of The Flying Tiger Line Inc., and Tiger Leasing Corp. be and it hereby is tentatively approved subject to the condition that, except as allowed herein, there shall be no transactions involving the purchase, lease or modification of aircraft equipment or component parts between Tiger Leasing Corp. and The Flying Tiger Corp. system of affiliates and subsidiaries; and, to the extent applicable, subject to the conditions imposed in Order 70-6-119:

2. The transfer of one Douglas DC-8-63F aircraft to Tiger Leasing Corp. from Flying Tiger Air Service, Inc., be and it hereby is tentatively approved to the extent necessary under Order 70-6-119: *Provided*, That any agreement evidencing such transfer shall be filed in Docket 22768 within 10 days after execution thereof;

3. Interested persons are hereby afforded a period of fifteen days from the date hereof within which to file comments or request a hearing with respect to the Board's proposed action; and

4. The Attorney General of the United States be furnished a copy of this order within 1 day of publication.

This order shall be published in the FEDERAL REGISTER.

¹⁰ Applicant's amendment of Dec. 23, 1970, to the application in this proceeding relates to matters involved in The Flying Tiger Line Inc., reorganization proceeding in Docket 21223. Since an application for modification of Board Order 70-6-119, issued in that proceeding is presently pending, applicants' amendment herein will be considered as part of that pending application.

¹¹ Comments so filed shall conform to the requirements of the Board's rules of practice (14 CFR Part 302).

By the Civil Aeronautics Board.^{*}

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-9018 Filed 6-24-71;8:52 am]

[Docket No. 23496]

PANDAIR FREIGHT, LTD.

Foreign Air Carrier Permit for Indirect Foreign Air Transportation; Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on July 19, 1971, at 10 am (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner William H. Dapper.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before July 12, 1971.

Dated at Washington, D.C., June-22, 1971.

[SEAL] RALPH L. WISER,
Acting Chief Examiner.

[FR Doc.71-9019 Filed 6-24-71;8:52 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-159]

CERTAIN SPOOLS USED FOR TRANSPORTATION OF WIRE

Designation as Instruments of International Traffic

JUNE 18, 1971.

Under the authority of § 10.41a, Customs Regulations (19 CFR 10.41a), substantially constructed spools and reels composed of wood, spools and reels composed of metal, and spools and reels with metal cores and wooden rims used in the transportation of cable, wire, metal in strip form, and similar merchandise were designated instruments of international traffic by Treasury Decision 56247, dated August 26, 1964.

It has been established to the satisfaction of the Bureau that certain spools composed of plastic, used for the transportation of wire and similar merchandise are substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic.

Therefore, Treasury Decision 56247, relating to wood and metal spools and reels, is amended to designate the above-described plastic spools as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930,

¹² Dissenting statement of Member Murphy filed as part of original document.

as amended. These spools may be released under the procedures provided for in § 10.41a.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-8989 Filed 6-24-71;8:50 am]

[T.D. 71-163]

SWISS FRANC

Rates of Exchange

JUNE 15, 1971.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Swiss franc between June 7 and June 11, 1971.

Treasury Decision 71-101 published as the rate of exchange for the Swiss franc for use during the calendar quarter beginning April 1 through June 30, 1971, \$0.232800, as certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)).

For the dates listed below, the Federal Reserve Bank of New York certified rates for the Swiss franc which vary by 5 per centum or more from the rate \$0.232800. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert Swiss currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published:

Swiss franc:	
June 7, 1971	\$0.244625
June 8, 1971	244524
June 9, 1971	244445
June 10, 1971	244795
June 11, 1971	244795
	244587

Rates of exchange certified for the Swiss franc which vary by 5 per centum or more from the rate of \$0.232800 during the balance of the calendar quarter ending June 30, 1971, will be published in a Treasury Decision for dates subsequent to June 11, 1971, and before July 1, 1971.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-9009 Filed 6-24-71;8:52 am]

Internal Revenue Service

FRANK WAYNE BAKER

Notice of Granting of Relief

Notice is hereby given that Frank Wayne Baker, 309 West James Street, Danville, VA 24541, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on May 28, 1969, in the Corporation Court, City of Danville, Va., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Frank Wayne Baker because of such conviction, to ship, transport, or receive in interstate or

foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Frank Wayne Baker to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Frank Wayne Baker's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Frank Wayne Baker be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of June 1971.

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner
of Internal Revenue.

[FR Doc.71-8990 Filed 6-24-71;8:50 am]

JOHN DARRELL HILL

Notice of Granting of Relief

Notice is hereby given that John Darrell Hill, Post Office Box 20545, Sacramento, CA 95820, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on April 29, 1966, and May 13, 1966, in the Superior Court of the State of California, in and for the County of Butte, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for John Darrell Hill because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Ap-

pendix), because of such convictions, it would be unlawful for John Darrell Hill to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered John Darrell Hill's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That John Darrell Hill be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 17th day of June 1971.

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner
of Internal Revenue.

[FR Doc.71-8991 Filed 6-24-71;8:50 am]

EARL E. SHEESLEY, JR.

Notice of Granting of Relief

Notice is hereby given that Earl E. Sheesley, Jr., Rural Delivery No. 1, Downingtown, PA 19335, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 23, 1958, in the Court of Quarter Sessions of Chester County, Pa., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Earl E. Sheesley, Jr., because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Earl E. Sheesley, Jr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Earl E. Sheesley, Jr.'s application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Earl E. Sheesley, Jr., be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of June 1971.

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner
of Internal Revenue.

[FR Doc. 71-8992 Filed 6-24-71; 8:50 am]

CLIFFORD DUANE SILLIMAN

Notice of Granting of Relief

Notice is hereby given that Clifford Duane Silliman, 314 West First Street, Madrid, IA 50156, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 13, 1961, in the Polk County District Court, Des Moines, Iowa, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Clifford Duane Silliman because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Clifford D. Silliman to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Clifford D. Silliman's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the appli-

NOTICES

cant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Clifford D. Silliman be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of June 1971.

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner
of Internal Revenue.

[FR Doc. 71-8993 Filed 6-24-71; 8:50 am]

STEVEN JAMES VOGELSANG

Notice of Granting of Relief

Notice is hereby given that Steven James Vogelsang, Post Office Box 197, Livermore Falls, ME 04254, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 24, 1969, in the Androscoggin Superior Court, Auburn, Maine, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Steven J. Vogelsang because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Steven J. Vogelsang to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Steven J. Vogelsang's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury

by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Steven J. Vogelsang be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of June 1971.

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner
of Internal Revenue.

[FR Doc. 71-8994 Filed 6-24-71; 8:50 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

EASTERN BAND OF CHEROKEE INDIANS

Notice That Certain Federally Owned Lands in North Carolina Are Held by the United States in Trust

JUNE 14, 1971.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

The Act of October 22, 1970 (Public Law 91-501, 91st Congress; 84 Stat. 1097), authorizes the Secretary of the Interior to declare, upon request of the tribal council, that the United States holds in trust for the Eastern Band of Cherokee Indians, subject to valid existing rights, the title of the United States to certain federally owned lands. This declaration can be made for any federally owned lands and the improvements thereon within the Cherokee Reservation which the Secretary determines now or hereafter to be excess to Government needs for the administration of Indian affairs. The declaration will be made by publication of a notice in the FEDERAL REGISTER.

The Secretary of the Interior delegated his authority under said Act of October 22, 1970, to the Commissioner of Indian Affairs in section 30(a)(50) of Secretarial Order 2508, published on page 563 of the January 14, 1971, issue of the FEDERAL REGISTER (36 F.R. 563).

The Eastern Band of Cherokee Indians requested the return of the lands described below by their Resolution No. 10 (1966) adopted on May 17, 1966, and by Resolution No. 193 adopted on October 22, 1969.

Accordingly, pursuant to the authority contained in said Act of October 22, 1970, notice is hereby given that title of the United States of America to the following described lands and the improvements thereon is held in trust for the Eastern Band of Cherokee Indians of North Carolina, subject to valid existing rights:

Parcel No. 61—Upper Cherokee Community. Beginning on Marker No. 526 set in Upper Cherokee Community on the north side of the Oconaluftee River at the water's edge, S. 78° E. 40.4 feet from a 30-inch sycamore tree, S. 51° W. 9.3 feet from a 20-inch sycamore tree, and running N. 52° 28' W. 549.5 feet to Marker No. 525, passing over C.L. of U.S. Highway 441 at 166 feet. Marker No. 525 is set on the south side of BIA Road No. 16, 22 feet from C.L. and is a POL between Markers No. 526, 621, 620, and 524, 26.5 feet S. 62° E. from a 24-inch elm tree. Thence S. 37° 32' W. 162.3 feet to Marker No. 623, passing over Marker No. 527 at 109.2 feet. Marker No. 623 is set at the southeast corner of a small garden, north of the east end of a small covered ditch, a POL with Markers No. 525 and 527. Thence S. 09° 53' E. 148.3 feet to Marker Nos. 1761 set 0.8 foot S. 69° W. from a power pole at end of power line, 45 feet more or less from the north edge of P.H.S. Hospital, 33 feet N. 30° E. from a light pole. Thence S. 69° 12' E. 109.8 feet to Marker No. 1762 set at the base and 0.7 foot north of an 18-inch poplar tree, 110 feet S. 56° E. from a power pole. Thence N. 86° 47' E. 186.4 feet to Marker No. 652 set on the west R/W of U.S. Highway No. 441, in the center of a covered drain, 11.3 feet N. 54° W. from a stone fence, 12.8 feet N. 32° W. from the center of a concrete headwall and 25.1 feet S. 83° E. from the east corner of a 5' x 8' boulder. Thence with said R/W S. 38° 43' W. 191.3 feet to a point. Thence S. 47° 56' W. 217.3 feet to Marker No. 651 set on said R/W 10 feet west of the west edge of a stone fence. Thence crossing Highway No. 441 S. 49° 39' E. 60.0 feet to Marker No. 503 set on the east R/W of said highway at or near the location of the northeast corner of Long Blanket Tract No. 2, S. 84° E. 8 feet from the center of a stone headwall at east end of a culvert, 25 feet from the edge of the Oconaluftee River and 15.6 feet N. 80° E. from a 10-inch elm tree. Thence N. 56° 40' E. 328.9 feet to Marker No. 316 set on the west bank of the Oconaluftee River, 3 feet from the waters edge 8 feet southwest of a branch intersecting the river, S. 67° E. 10.2 feet from a 10-inch willow tree and N. 37° W. 1.5 feet from a 12-inch sycamore tree. Thence with edge of river N. 54° 22' E. 113.6 feet to a point. Thence N. 57° 40' E. 104.3 feet to Marker No. 526, the point of beginning. Containing 3.08 acres more or less.

Parcel No. 9—Big Cove Community. Beginning at Marker No. 1501 set at the base of a 15-inch chestnut stump believed to be the same as the 12-inch chestnut and the beginning corner of the survey of a portion of Big Cove Church Lot, Quitclaim Deed from W. Barton Greenwood, Acting Commissioner, Bureau of Indian Affairs to the Eastern Band of Cherokee Indians, dated January 24, 1955. Said chestnut stump being located 66 feet north of the Old Big Cove Road (now abandoned) and 80.3 feet north of a point in the center of present Big Cove Road (Blacktop) BIA No. 10. Thence running from said beginning point S. 35° 33' W. 121.4 feet to Marker No. 1502 a meandering corner set on right bank of Raven Fork River 12 feet more or less downstream from what is believed to be the location of spring mentioned in said deed. Said spring destroyed by construction of the New Big Cove Road. Thence a meandering line up said river S. 31° 15' E. 169.6 feet to a point. Thence S. 63° 44' E. 172.8 feet to a point. Thence N. 68° 56' E. 122.6 feet to a point. Thence N. 24° 31' E. 205.2 feet to Marker No. 1503 set on right bank of river and near the base of road fill, 10 feet S. 40° E. from 8-inch forked sycamore. Thence leaving river and crossing Big Cove Road N. 37° 24' W. 88.5 feet to a point at the top of vertical road cut and at the south edge of Old Big Cove Road. Thence S. 69° 51' W. 99 feet to a point

in center of Old Big Cove Road. Thence N. 76° 50' W. 230.8 feet to Marker No. 1501 the point of beginning. Containing 2.1 acres more or less.

NOTE: The traverse from a point in the center of Big Cove Road at Galamore Creek crossing. Also being a POL between Markers Nos. 841 and 842, 116.28 feet from Marker No. 842 on the east line of Parcel No. 5 (New Big Cove School Tract). Thence running from said point and with Big Cove Road N. 48° 02' E. 791.1 feet to a point in center of said road. Thence N. 89° 04' E. 451.7 feet to a point in center of said road. Thence S. 71° 47' E. 450.4 feet to a point in center of said road. Thence S. 52° 43' E. 850.8 feet to a point in center of said road which is a POL between Markers Nos. 1501 and 1502, 80.3 feet from Marker No. 1501, the west line of Old Big Cove School Lot Parcel No. 9.

Parcel No. 2—Birdtown Community. Beginning on Marker No. 690 set on the northwest side of U.S. Highway No. 19, 29 feet from C.L. at the east edge of a 5' x 8' boulder. This point believed to be on the east line of Lot No. 11 Temple Survey 1876 and the east line of the 2-acre tract conveyed to the U.S. Government January 31, 1910. This point also believed to be N. 34° 28' W. 17.5 feet from the original corner of the 2-acre tract as the railroad has been removed and the corner being destroyed by the construction of U.S. Highway No. 19, and running N. 34° 28' W. 230 feet to Marker No. 691 set on a fence line (said fence line believed to be the east line of Lot No. 11 Temple Survey 1876). Thence with a fence line S. 52° 04' W. 276 feet to Marker No. 692 set on the fence line extended on the west R/W line of BIA Road No. 38, 14.3 feet N. 68° W. from a 20-inch sycamore tree. Thence with said R/W line S. 28° 52' E. 218.1 feet to Marker No. 693 set at the intersection point of west R/W line of BIA Road No. 38 and the north R/W line of U.S. Highway No. 19, 37.8 feet S. 41° E. from a steel flagpole. Thence with R/W line of Highway No. 19, N. 56° 04' E. 149.1 feet to a point. Thence N. 53° 35' E. 147.7 feet to Marker No. 690 the point of beginning. Containing 1.47 acres more or less.

Parcel No. 4—Birdtown Community. Beginning on Marker No. 692 set on west R/W line of BIA Road No. 38 and 14.3 feet N. 68° W. from a 20-inch sycamore tree and running S. 52° 04' W. 70.7 feet to a point "A" set on back schoolhouse lawn and is POL with Marker No. 692 and Marker No. 691. Thence S. 37° 56' E. 211.5 feet to point "B" set on the north R/W line of U.S. Highway No. 19. Thence with said R/W line N. 58° 06' E. 36.6 feet to Marker No. 693 set on intersection point of the west R/W line of BIA Road No. 38 and the north R/W line of U.S. Highway No. 19. Thence with west R/W of BIA Road No. 38, N. 28° 52' W. 218.1 feet to Marker No. 692 the point of beginning. Containing 0.26 acre more or less.

Part of Parcel No. 60—Upper Cherokee Community. Beginning on Marker No. 524 set in the Upper Cherokee Community on the northwest side of a footpath 5 feet from center of path, N. 64° W. 13.1 feet from a 5-foot high vertical rock, N. 13° W. 45 feet from the C.L. of a bridge over a small drain, S. 14° W. 10 feet from the south end of an 8-inch culvert and running S. 01° 00' W. 400 feet to a 1-inch steel pipe driven on a fence line and being a POL between Marker No. 524 and G.L.O. Corner No. 3. Thence running with a fence line S. 72° 36' E. 180.8 feet to a point. Thence S. 87° 00' E. 142 feet to a point. Thence S. 85° 49' E. 155.7 feet to a point. Thence N. 52° 50' E. 129.3 feet to a 1-inch steel pipe driven as a POL between Markers Nos. 524, 1796, 620, 621, 525, and 526, approximately 30 feet southwest of a branch. Thence N. 55° 20' W. 694.3 feet to Marker No.

524, the point of beginning. Containing 3.3 acres more or less.

LOUIS R. BRUCE,
Commissioner.

[FR Doc. 71-8860 Filed 6-24-71; 8:45 am]

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA

Call for Nominations of Areas for Oil and Gas Leasing

Pursuant to the authority prescribed in 43 CFR Part 3300, notice is hereby given that nominations of areas for prospective oil and gas leasing in the Outer Continental Shelf off the entire coast of the State of Louisiana as shown upon official leasing maps and which were awarded to the United States by the Supplemental Decree of the Supreme Court, entered December 13, 1965, in the United States v. Louisiana, No. 9, Original (382 U.S. 288), or included in Zone 3 as described in the Interim Agreement of October 12, 1956, between the United States and the State of Louisiana, may be submitted to the Director, Bureau of Land Management, Washington, D.C. 20240, not later than August 9, 1971. Copies of nominations should be sent to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Post Office Box 53226, New Orleans, LA 70150, and to the Regional Oil and Gas Supervisor, Geological Survey, Suite 336, Imperial Office Building, 3301 North Causeway Boulevard, Metairie, LA 70002. Envelopes should be marked, "Nominations of Leasing in the Outer Continental Shelf—Louisiana."

Official leasing maps in a set of 26 maps, and a cover sheet showing leasing blocks off Louisiana, may be purchased at \$5 per set from the Manager, New Orleans Outer Continental Shelf Office at the above address, or the Manager, Eastern States Land Office, 7981 Eastern Avenue, Silver Spring, MD 20910. Whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

Official leasing map No. LA-Map No. 3D, South Marsh Island Area North Addition, approved April 16, 1971, will be included in the set of 26 maps and a cover sheet showing leasing areas off Louisiana. On Map No. 3D, only entire blocks and those portions of fractional blocks that are more than 9 geographical miles seaward from the coastline points defined in the Supplemental Decree of December 13, 1965, United States v. Louisiana (382 U.S. 288), and where the Decree does not pertain, to a line 9 geographical miles seaward of the mainland shore, are available for nomination at this time. The fractional blocks for which portions only are available are blocks 219, 220, 221, 229, 230, 231, 236, 241, 242, 243, 252, and 253.

Any areas selected for competitive bidding will be published in the FEDERAL REGISTER and the published notice of lease offers will state the conditions and

terms for leasing and the place, date, and hour at which bids will be received and opened.

JOHN O. CROW,
Acting Director,
Bureau of Land Management.

Approved: June 21, 1971.

HARRISON LOESCH,
Assistant Secretary
of the Interior.

[FR Doc.71-9000 Filed 6-24-71;8:51 am]

Fish and Wildlife Service ST. MARKS NATIONAL WILDLIFE REFUGE

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (Public Law 88-577; 78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 9 a.m. on September 24, 1971, at the Federal Savings and Loan Association Building, 440 North Monroe, Tallahassee, FL, on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior, regarding the desirability of including the St. Marks Wilderness proposal within the National Wilderness Preservation System. The wilderness proposal consists of approximately 11,800 acres within St. Marks National Wildlife Refuge, and is located in Taylor, Jefferson, and Wakulla Counties, State of Florida.

A brochure containing a map and information about the St. Marks Wilderness proposal may be obtained from the Refuge Manager, St. Marks National Wildlife Refuge, Post Office Box 68, St. Marks, FL 32355, or the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by October 26, 1971.

J. P. LINDUSKA,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

JUNE 23, 1971.

[FR Doc.71-9059 Filed 6-24-71;8:53 am]

SMITH ISLAND, JONES ISLAND, MATIA ISLAND, AND SAN JUAN NATIONAL WILDLIFE REFUGES

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (Public Law 88-577;

78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 9 a.m. on August 28, 1971, in the Anacortes City Council Chambers, Sixth and Q Streets, Anacortes, WA, on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior, regarding the desirability of including the proposed San Juan Islands Wilderness within the National Wilderness Preservation System. The proposal consists of approximately 28 acres within the Matia Island and San Juan National Wildlife Refuges.

The wilderness study which led to this proposal involved all lands within the Smith Island, Jones Island, Matia Island, and San Juan National Wildlife Refuges, and 74 islands and rocks which have been proposed for addition to these refuges, all located within San Juan, Island, Skagit and Whatcom Counties, Wash. The suitability or nonsuitability of this entire 648-acre area for consideration as wilderness will be discussed at the hearing.

A brochure containing a map and information about the San Juan Islands Wilderness proposal may be obtained from the Refuge Manager, Willapa National Wildlife Refuge, Ilwaco, Wash. 98624 or the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 3737, Portland, OR 97208.

Individuals or organizations may express their oral or written views by appearing at the hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by September 28, 1971.

J. P. LINDUSKA,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

JUNE 23, 1971.

[FR Doc.71-9060 Filed 6-24-71;8:53 am]

Office of the Secretary COAL MINE HEALTH AND SAFETY Departmental Survey

Notice is hereby given that the Secretary of the Interior has directed the Office of Hearings and Appeals to conduct a series of public meetings for the purpose of compiling information with respect to the Department of the Interior's implementation and enforcement of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. sec. 801 et seq. (Supp. V, 1969). It is the responsibility of the Office of Hearings and Appeals to assemble all facts, views, and relevant data regarding the administration and enforcement of the Act by the Bureau of Mines as well as suggestions and recommendations to make the Department's administration of the Act more effective.

The first public meeting will commence at 9:30 a.m., on July 1 and 2, 1971, in the

auditorium of the Department of the Interior, C Street between 18th and 19th Streets, NW., Washington, D.C.

All interested individuals, including miners, representatives of miners, labor officials, coal mine operators, associations, equipment manufacturers, mining engineers, mining educators, state mining officials, elected officials, and other public officials, who wish to speak at the meeting are requested to contact the Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203 (telephone 703-557-1500) by 5:00 p.m., June 29, 1971. Written comments from those unable to attend the meeting and from those wishing to supplement their oral presentation at the meeting should be addressed to the Director, Office of Hearings and Appeals, at the above address. The Department will accept such written comments until July 16, 1971. All written statements and comments received pursuant to this notice will be included in the first survey submitted to the Secretary.

Verbal statements at the meeting will be limited to 10 minutes. The oral statements may be supplemented by a more complete written statement at the time of the presentation of the verbal statement or mailed to the Director, as provided above. To the extent that time is available after presentation of the verbal statements by those who have given advance notice, the Director will give others present an opportunity to be heard.

Subsequent public meetings will be announced in the press and FEDERAL REGISTER.

Dated: June 24, 1971.

JAMES M. DAY,
Director, Office of Hearings
and Appeals.

[FR Doc.71-9129 Filed 6-24-71;11:33 am]

DEPARTMENT OF COMMERCE

Office of the Secretary BOSTON UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-0074-33-43780. Applicant: Boston University, Department of Biology, 2 Cumming Street, Boston, MA 02215. Article: Osmometer, Type HO

66. Manufacturer: Simonsen & Weel, Denmark.

Intended use of article: The article will be used for research on the determination of colloidal osmotic pressure of blood, blood substitutes, and other physiological solutions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has the capability of accepting samples less than 30 cubic centimeters in volume. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 20, 1970, that the characteristic of the foreign article described above is pertinent to the applicant's research studies. HEW further advises that it knows of no domestically manufactured instrument that provides the pertinent characteristic.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8937 Filed 6-24-71;8:45 am]

CARNEGIE-MELLON UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00073-01-42900. Applicant: Carnegie-Mellon University, Department of Chemistry, 4400 Fifth Avenue, Pittsburgh, PA 15213. Article: Superconductive magnet system. Manufacturer: Oxford Instrument Co., United Kingdom.

Intended use of article: The article will be used in a program of nuclear chemistry research. The main application will be in Mössbauer effect experiments to study hyperfine interactions in crystals of transition metals, particularly iron, and rare-earth salts. Investigations of paramagnetic relaxation phenomena, magnetic ordering, and quadrupole coupling are to be carried out.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (September 30, 1969).

Reasons: The captioned application is a resubmission of Docket No. 70-00314-01-42900 which was denied without prejudice to resubmission due to informational deficiencies described therein. The foreign article is a custom-built magnet system which provides aluminized mylar windows. The most closely comparable domestic custom-built magnet system was offered by the Magnion Division of the Ventron Instrument Company (Magnion). The Magnion system was not offered with aluminized mylar windows.

We are advised by the National Bureau of Standards in its memorandum dated November 19, 1970, that the aluminized mylar windows on the magnet are pertinent to the purposes for which the foreign article is intended to be used.

For this reason, we find that the custom-built Magnion magnet system was not of equivalent scientific value to the foreign article, for those purposes for which the foreign article is intended to be used at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8938 Filed 6-24-71;8:45 am]

COLUMBIA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00116-33-46070. Applicant: Columbia University, Department of Anatomy, 630 West 168th Street, New York, NY 10032. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom. Intended use of article: The article will be used for research concerning studies of developmental problems, including investigations of human and animal chromosomes in normal and in genetically altered individuals; studies on physiological altera-

tions, such as those of the microvilli or cilia of the intestine, placenta, choroid plexus and ependyma; studies on the vascular and hemopoietic system; and for studies of surface structure on various tissue components, such as the contours of collagenous and elastic fibers, of epithelial scales and their derivatives, and of the hard tissues of bone and teeth.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides an 18° focussed and 11° collimated 2 theta deflection of the beam which permits the production of meaningful pseudo Kikuchi patterns, whereas the published specifications of available domestic scanning electron microscopes do not indicate a similar capability. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated December 15, 1970, that the capability of providing meaningful pseudo Kikuchi patterns is pertinent to the applicant's research studies. HEW further advises that comparable domestic instruments are not known to provide this pertinent capability. HEW cites as a precedent to the prior recommendation of the National Bureau of Standards relating to Docket No. 70-00438-65-46070 which conforms in many particulars to the captioned application.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8939 Filed 6-24-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00306-33-46070. Applicant: U.S. Department of Agriculture National Animal Disease Laboratory, Post Office Box 70, Ames, IA 50010. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used in a research program in animal disease to characterize animal tissues and microbial agents. The tissues and agents will be varied as to physical qualities and physiognomy. Included are such diverse specimens as bone; blood cells; a variety of bacterial agents; fungal thalli and spores; certain algae and higher plant materials; and complexes of particulate antigens and antibodies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with an ion etching attachment which permits visualization of the sub-surface characteristics of a specimen by etching away the structures at the surface. In addition, the article is equipped with a dual diffusion pump system which permits the vacuum in the column and the specimen chamber to be independently maintained. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 19, 1971, that both of the characteristics of the article described above are pertinent to the applicant's research studies. HEW further advises, that it knows of no domestically manufactured scanning electron microscope that provides both of the pertinent characteristics.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.71-8940 Filed 6-24-71;8:45 am]

INSTITUTE FOR MUSCLE DISEASE, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce Washington, D.C.

Docket No. 71-00031-33-11000. Applicant: Institute for Muscle Disease, Inc., 515 East 71st Street, New York, NY 10021. Article: Gas chromatograph-mass spectrometer, Model LKB 9000. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to study the sterol and steroid composition of tissues from

normal animals (including human subjects) and those afflicted with muscular dystrophy. Defined muscle sections and the nerves which lead to these will be studied to determine their steroid and sterol profiles.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a single unit in which the functions of a gas chromatograph, molecular separator (or interface) and a mass spectrometer have been integrated. There are domestic manufacturers which are in a position to offer to supply some of these components to be combined with a component (or with components) produced by another domestic manufacturer. However, this is not considered to constitute a "reasonable combination of instruments" within the purview of § 602.1(e) of the regulations, unless (a) the domestic manufacturer offering to furnish the combination undertakes to functionally integrate the instruments as a single operating unit, and (b) establish through appropriate test procedures the performance specifications of the chromatographic and spectrometric functions as a single unit. (See decisions on Docket No. 67-00108-33-11000, 33 F.R. 597, Jan. 17, 1968; Docket No. 68-00516-01-11000, 33 F.R. 11097, Aug. 3, 1968 and Docket No. 69-00446-01-11000, 34 F.R. 13336 and 13337, Aug. 16, 1969.)

We note that two instruments meeting these criteria are being manufactured in the United States—the Model 1015 manufactured by Finnigan Instrument Corp. (Finnigan), and the Model 270 GC-DF manufactured by Perkin-Elmer Corp. (P-E).

A comparison of the Finnigan Model 1015 with the foreign article shows that this domestic instrument has a specified sensitivity of 100 nanograms of cholesterol injected into the gas chromatograph column, whereas the foreign article has a specified sensitivity of 10 nanograms of cholesterol injected into the gas chromatograph column. This indicates that the foreign article can produce a meaningful spectrum with the Finnigan Model 1015 and that the sensitivity of the foreign article exceeds that of this domestic instrument by a factor of 10. It is also noted that the foreign article can achieve this sensitivity with a corresponding resolution of 750 at a 10 percent valley definition, whereas the Finnigan Model 1015 has a maximum specified resolution that is equivalent to 500 at the 10 percent valley definition.

The quoted specification for the sensitivity of the P-E Model 270 GC-DF is "less than 3×10^{-9} gram/second of methyl stearate will produce a spectrum with a signal-to-noise ratio substantially greater than 1 at parent mass peak, for 1 second/decade scan rate." On the basis of these specifications, the sensitivity of the foreign article exceeds that of the P-E Model 270 GC-DF by a factor of 500.

We are advised by the Department of Health, Education, and Welfare in its memorandum dated November 20, 1970, that the sensitivity of the foreign article is pertinent to the applicant's research studies.

For this reason, we find that neither of the two domestic instruments cited above is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other combination of instruments being manufactured in the United States and being offered as a functionally integrated single instrument, which is of equivalent scientific value to the foreign article, for the purpose for which this article is intended to be used.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.71-8941 Filed 6-24-71;8:45 am]

MASSACHUSETTS GENERAL HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00091-33-43780. Applicant: The Massachusetts General Hospital, Fruit Street, Boston, MA 02114. Article: Total hip joint replacements, 10 each. Manufacturer: Protek Ltd., Switzerland.

Intended use of article: The purposes for which the articles are intended to be used are for a study and scientific assessment of hip reconstructions, using total hip replacement in contrast to previously existing modes of reconstructive hip surgery.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article is a combination of the Charnley apparatus which combines a metal femoral head prosthesis with a head diameter of 32 millimeters and a high density polyethylene acetabulum which accepts only this size head, and the Mueller apparatus which has a larger femoral head size and an acetabular component made of metal but with three polyethylene bearing points in the cup.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 29,

1971, that the combination of characteristics described above is pertinent to the purposes for which the article is intended to be used. HEW further advises, that it knows of no equivalent prosthesis which is being manufactured in the United States which provides the pertinent combination of characteristics.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.71-8942 Filed 6-24-71;8:46 am]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00012-98-46040. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic NVD., The Netherlands.

Intended use of article: The article will be used for research concerning electron energy analysis within the electron microscope, which will be modified by the insertion of an electron analyzer of the magnetic prism type below the objective lens. Experiments include microanalysis of various two-phase materials by imaging electrons which have lost characteristic amounts of energy in passing through a thin specimen; "no energy loss" image studies of biological tissue sections; and plasmon interaction as a function of crystal orientation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant intends to use the foreign article for "no energy loss" image studies of biological tissues. For this purpose, it is necessary to modify an electron microscope by inserting an electron energy analyzer below the objective lens of the instrument. The foreign article's design permits the separation of the column at the level of the objective lens.

We are advised by the National Bureau of Standards in its memorandum of September 28, 1970, that this characteristic of the foreign article is pertinent to the purposes for which the article is intended to be used. The most closely comparable domestic instrument is the Model EMU-4B which is manufactured by the Forgflo Corp. NBS advises us in the above-cited memorandum that the Forgflo Model EMU-4B cannot be separated at the level of the objective lens without cutting a shield. This operation is not recommended by the domestic manufacturer.

NBS further advises that a more important consideration is that the insertion and removal of the electron energy analyzer in the model EMU-4B involves dismantling the column down to the intermediate lens each time the analyzer is inserted or removed.

For the foregoing reasons, we find that the Forgflo Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.71-8943 Filed 6-24-71;8:46 am]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00153-65-46070. Applicant: Massachusetts Institute of Technology, Charles Stark Draper Laboratory, 68 Albany Street, Cambridge, MA 02139. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used to advance the development of, and to refine the performance of, gas bearing developed in the applicant's laboratory. To advance the state of the art of gas bearing fabrication, more knowledge is required with respect to the structure of materials used, machining and measuring techniques, and the quality of bearing geometry and surface finish.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article permits the production of meaningful patterns for pseudo-Kikuchi orientation analysis. We are advised by the National Bureau of Standards (NBS) in its memorandum dated January 21, 1971, that the ability to perform pseudo-Kikuchi orientation analysis is pertinent to the applicant's intended purposes.

NBS further advises, that it knows of no comparable domestically manufactured instrument that can be used for all of the applicant's intended purposes.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.71-8944 Filed 6-24-71;8:46 am]

MEDICAL COLLEGE OF PENNSYLVANIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00218-33-46040. Applicant: The Medical College of Pennsylvania, Department of Microbiology, 3300 Henry Avenue, Philadelphia, PA 19129. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for investigations concerning the interrelationship of potential human oncogenic viruses with mammalian cells and the role of biologically active proteins (such as interferon) on influencing these interactions. Graduate and medical students and postdoctoral fellows will learn current techniques employed in ultrastructural research in the fields of oncology and cell biology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C

has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 22, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8945 Filed 6-24-71; 8:46 am]

NORTHWESTERN UNIVERSITY MEDICAL SCHOOL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00105-33-46040. Applicant: Northwestern University Medical School, Department of Dermatology, 303 East Chicago Avenue, Chicago, IL 60611. Article: Electron microscope, Model HS-7S. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for research studies on developing a method for localizing kinases, especially phosphofructokinase; location of tissue forms of sporotrichium in clinically infected material; herpes simplex virus in smears; and for the use of combined electron microscopy and immuno-chemical techniques to localize the exact site of antibodies in pemphigus. Medical and graduate students will use the electron microscope in courses entitled "Fine Structure of the Epidermis," "The Desmosome intercellular substance and basal lamina," and "Dermatohistopathology."

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (March 13, 1967).

Reasons: Captioned application is a resubmission of Docket No. 67-00061-33-

46040 which was received on May 8, 1967, and denied without prejudice to resubmission due to informational deficiencies contained therein. The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument available at the time the article was ordered was the Model EMU-4 electron microscope manufactured by the Forglor Corp. The Model EMU-4 electron microscope was a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated December 15, 1970, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes.

We, therefore, find that the Model EMU-4 electron microscope was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8946 Filed 6-24-71; 8:46 am]

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00057-33-30950. Applicant: Purdue University, Lafayette, Ind. 47907. Article: Freeze-etching specimen preparation apparatus consisting of freeze unit, ultramicrotome, etching unit and coating unit. Manufacturer: Balzers High Vacuum Corp., Liechtenstein.

Intended use of article: The article will be used for research on the structure of membraneous and fibrillar structures inside cells and the cell walls or outer layers. The projects involve the direct observation of fracture surfaces in cells and in isolated parts of the cell and also,

modification of the original structure by removal or addition of components and study of the consequent modification in fracture pattern.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is designed for performing the freeze etching technique and incorporates a microtome which provides the capability of multiple cuts per specimen. We are advised by the Department of Health, Education, and Welfare in its memorandum dated November 20, 1970, that the characteristics of the article described above are pertinent to the purposes for which the foreign article is intended to be used. HEW, further advises, that it knows of no domestic instrument that can be used for the applicant's purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8947 Filed 6-24-71; 8:46 am]

SOUTHERN ILLINOIS UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00061-33-46040. Applicant: Southern Illinois University, School of Dental Medicine, Edwardsville, IL 62025. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for experiments involving the analysis of the subcellular particles isolated by ultracentrifugation from reproductive tissue and salivary glands as well as submicrosomal particles isolated from these specimens; histochemical techniques for the localization of enzyme systems associated with steroid biosynthesis and transformations; and for studies of crystallinity relationships in dental enamel and various dental materials.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides both a 20-kilovolt accelerating voltage and an externally controlled anode-cathode spacing. The most closely comparable domestic instrument is the Model EMU-4C manufactured by Forglor Corp. The Model EMU-4C provides upon request a 20-kilovolt accelerating voltage, but not an externally controlled anode-cathode spacing.

We are advised by the Department of Health, Education, and Welfare in its memorandum dated November 20, 1970, that both 20-kilovolt accelerating voltage and an externally controlled anode-cathode spacing are pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8948 Filed 6-24-71; 8:46 am]

STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00050-33-43400. Applicant: Research Foundation of the State University of New York, 3435 Main Street, Buffalo, NY 14214. Article: Stepping micromanipulator with various stereotaxic frames. Manufacturer: AB Transvertex, Sweden.

Intended use of article: The article will be used for recording extremely accurate and carefully controlled movements of microelectrodes in the brains of living, anesthetized animals. Research concerns the nervous system in all the applicant's investigations.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended

to be used, is being manufactured in the United States.

Reasons: The foreign article provides an extremely accurate and carefully controlled movements of recording microelectrodes in the nervous system of living animals. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 20, 1970, that these characteristics are pertinent to the purposes for which the foreign article is intended to be used. HEW further advised, that it knows of no comparable apparatus being manufactured in the United States, which provides these characteristics to the degree required by the applicant to achieve the purposes for which the foreign article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8948 Filed 6-24-71; 8:46 am]

STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00111-01-40500. Applicant: State University of New York at Binghamton, Vestal Parkway, Binghamton, NY 13901. Article: Michelson Interferometer. Manufacturer: SOPRA, France.

Intended use of article: The article will be used to calibrate the spectrum given by the applicant's "Hypeac" (Fabry-Perot photoelectric spectrometer).

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability to make wave length measurements to 0.0001 angstrom (Å). We are advised by the National Bureau of Standards (NBS) in its memorandum dated December 7, 1970, that the capability to make wave length measurements to 0.0001 Å is a pertinent characteristic of the foreign article. NBS further advises that it knows of no domestically available

apparatus that can be used for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8950 Filed 6-24-71; 8:46 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00109-41-35550. Applicant: University of California, Santa Barbara, Calif. 93106. Article: Gyro, Phywe model. Manufacturer: Phywe Aktiengesellschaft, West Germany.

Intended use of article: The article will be used as an educational instrument to demonstrate the phenomenon of gyro-dynamics in a broad sense. Gyrodynamics will not be limited to gyroscopic instruments which represent the simplest application of gyrodynamic theory, but will be interpreted to cover the broader field of rigid body motions. Experimental demonstrations of the many gyrodynamic phenomena will be covered in five graduate courses in Advanced Dynamics, Nonlinear Mechanics, and Advanced Astrodynamics by using the gyro.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (May 29, 1969).

Reasons: The captioned application is a resubmission of Docket No. 70-00263-41-35550 which was denied without prejudice to resubmission due to informational deficiencies in the original application. The foreign article provides ease of observation at slow-speeds with the capability of being used to demonstrate how a system is statically unstable, but dynamically stable can be made unstable by the inclusion of damping, as well as the capability of being used to demonstrate large, slow angular excursions from 0 to 180°. The most closely comparable domestic instruments available at the time the foreign article was ordered were the gyros of the Sperry Gyroscope Division (Sperry), Great Neck, N.Y., and the model series, Mitac manufactured by

Central Scientific Co., Chicago, Ill. Neither the Sperry gyros nor Mitac provides slow speeds or the capability of being used to demonstrate how a system which is statically unstable, but dynamically stable can be made unstable by the inclusion of damping or the capability of being used to demonstrate large slow angular excursions from 0 to 180°.

We are advised by the National Bureau of Standards in its memorandum dated January 28, 1971, that these characteristics of the article are pertinent to the purposes for which the foreign article is intended to be used.

For this reason, we find, that the Mitac was not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used at the time the foreign article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8952 Filed 6-24-71; 8:46 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00083-33-11000. Applicant: University of California, San Diego, Division of Metabolic Disease, Basic Science Building, Room 4054, La Jolla, CA 92037. Article: Gas chromatograph-mass spectrometer, Model LKB 9000. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for studies concerning the biochemical basis of phytanic acid storage disease; sterol and steroid hormone metabolism; inborn errors of metabolism, particularly those that are manifest early in life; a new class of chlorinated lipids; and for studies of a key process involved in coagulation of blood, namely, the formation of the fibrin clot.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a single unit in which the functions of a gas chromatograph, molecular separator (or interface) and a mass spectrometer have been integrated. There are domestic manufacturers which are in a position to offer to supply some of these components to be combined with a component (or with components) produced by another domestic manufacturer. However, this is

not considered to constitute a "reasonable combination of instruments" within the purview of § 602.1(e) of the regulations, unless (a) the domestic manufacturer offering to furnish the combination undertakes to functionally integrate the instruments as a single operating unit and (b) establish through appropriate test procedures the performance specifications of the chromatographic and spectrometric functions as a single unit. (See decisions on Docket No. 67-00108-33-11000, 33 F.R. 597, Jan. 17, 1968; Docket No. 68-00516-01-11000, 33 F.R. 11097, Aug. 3, 1968 and Docket No. 69-00446-01-11000, 34 F.R. 13336 and 13337, Aug. 16, 1969.)

We note that two instruments meeting these criteria are being manufactured in the United States—the Model 1015 manufactured by Finnigan Instrument Corp. (Finnigan), and the Model 270 GC-DF manufactured by Perkin-Elmer Corp. (P-E). A comparison of the Finnigan Model 1015 with the foreign article shows that this domestic instrument has a specified sensitivity of 100 nanograms of cholesterol injected into the gas chromatograph column, whereas the foreign article has a specified sensitivity of 10 nanograms of cholesterol injected into the gas chromatograph column. This indicates that the foreign article can produce a meaningful spectrum with a sample of one-tenth of that required to produce a meaningful spectrum with the Finnigan Model 1015 and that the sensitivity of the foreign article exceeds that of this domestic instrument by a factor of 10. It is also noted that the foreign article can achieve this sensitivity with a corresponding resolution of 750 at a 10 percent valley definition, whereas the Finnigan Model 1015 has a maximum specified resolution that is equivalent to 500 at the 10 percent valley definition.

The quoted specification for the sensitivity of the P-E Model 270 GC-DF is "less than 3 x 10⁻⁹ gram/second of methyl stearate will produce a spectrum with a signal-to-noise ratio substantially greater than 1 at parent mass peak, for 1 second/decade scan rate." On the basis of these specifications, the sensitivity of the foreign article exceeds that of the P-E Model 270 GC-DF by a factor of 500.

We are advised by the Department of Health, Education, and Welfare in its memorandum dated November 15, 1970, that the sensitivity of the foreign article is pertinent to the applicant's research studies.

For this reason, we find that none of the three domestic instruments cited above is of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other combination of instruments being manufactured in the United States and being offered as a functionally integrated single instrument, which is of equivalent scientific value to the foreign article, for the purposes for which this article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8953 Filed 6-24-71; 8:47 am]

UNIVERSITY OF MONTANA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00078-22-43000. Applicant: University of Montana, Missoula, Mont. 59801. Article: Magnetometer, Model GM-102A. Manufacturer: Barringer Research, Ltd., Canada.

Intended use of article: The article will be used to study the magnetism of rocks; the distribution of iron-bearing minerals in rocks within the first 25 km. of the earth's surface, and the geomagnetic field; and for standard operation of the magnetometer to measure the strength of the earth's magnetic field at discrete points on the earth's surface (including water surfaces). Educational uses include four courses, Introduction to Geophysics, Magnetic and Electrical Fields of the Earth, Senior Problems in Geophysics—and Thesis for graduate students electing to do thesis work in the area of geomagnetism.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 1968).

Reasons: Captioned application is a resubmission of Docket No. 69-00411-22-43000 which was denied without prejudice to resubmission because of informational deficiencies contained therein. The foreign article is a portable proton magnetometer which provides the capability for absolute magnetic field measurements. The capability for absolute magnetic field measurements is pertinent to the purposes for which the article is intended to be used.

We are advised by the National Bureau of Standards in its memorandum dated March 23, 1971, that it knows of no scientifically equivalent domestically manufactured proton magnetometer which was available at the time the article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8954 Filed 6-24-71; 8:47 am]

UNIVERSITY OF PENNSYLVANIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00107-65-46070. Applicant: Trustees of the University of Pennsylvania, Purchasing Department, 3451 Walnut Street, Philadelphia, PA 19104. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan.

Intended use of article: The article will be used for research on the structure of bone and teeth, fractography of bone and piezo-electric effects of bone under load; a study of fatigue crack propagation theories; and for a study of the morphology of cracks and deformation bands in polymers. A graduate level course will be given in the School of Metallurgy and Material Science to teach students how to use the microscope, prepare specimens, take photographs, and analyze the data.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with a solid pair detector system which allows discrimination between the compositional and topographical components of the backscattered image and permits the display of these two components independently of one another.

We are advised by the National Bureau of Standards in its memorandum dated January 22, 1971, that the characteristic of the article described above is pertinent to the applicant's research studies. NBS further advises that it knows of no comparable domestic instrument which is equipped with a scientifically equivalent detector system.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8951 Filed 6-24-71; 8:46 am]

UNIVERSITY OF ROCHESTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00027-33-46040. Applicant: The University of Rochester, School of Medicine and Dentistry, 260 Crittenden Boulevard, Rochester, NY 14620. Article: Electron microscope, Model AEI EM801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom.

Intended use of article: The article will be used for research projects on the morphological changes in axons electrically stimulated; the structure of electrical synapses; the details of the fine structure of triadic junction in vertebrate striated muscle fibers; and for a study of the structure of sensitive endings in the crayfish stretch receptor.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with a tilt stage having a guaranteed resolving power of 5 angstroms. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America and which is currently being produced by Forgyflo Corp. (Forgflo). The Model EMU-4B can be equipped with a tilt stage but the guaranteed resolving power of this stage is 8 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving power.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated November 13, 1970, that the guaranteed resolving power of the tilt stage of the foreign article is pertinent to the applicant's research studies. We, therefore, find that the Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc.71-8955 Filed 6-24-71; 8:47 am]

UNIVERSITY OF TEXAS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00077-33-45300. Applicant: The University of Texas at Houston, M. D. Anderson Hospital and Tumor Institute, 6723 Bertner, Houston, TX 77025. Article: Electron microprobe, Model MS-46. Manufacturer: CAMECA, France.

Intended use of article: The article will be used to measure all of the important elements (at the atomic level) in the periodic table which comprise the structure of all of the tissues of the human body. Research concerns the study of cancer and allied diseases.

Comments: Comments dated September 10, 1970, were received from the Materials Analysis Co. (MAC), Palo Alto, Calif., which alleges inter alia, that the MAC electron microprobe equipped with a transmission scanning attachment is superior to the foreign article for the purposes for which the article is intended to be used.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant specifies among other things the capability of attaining a resolution of 100 angstroms or better with a magnification of 10,000 diameters or better, with a transmission electron microscope. The foreign article is equipped with a transmission electron microscope. In its comments (page 2, paragraph 3) MAC states that it does not provide a transmission electron microscope accessory for its electron microprobe. MAC offers instead a transmission scanning attachment with "approximately 100 to 200 Å in the transmission scanning electron mode", the magnification being maximum at 50,000 diameters. MAC also asserts (page 2, paragraph 1) that "in order to have adequate penetration of a specimen with an electron beam of only 40 kv., as the Cameca instrument provides, an extremely thin specimen is required in order to image the object with any reasonable intensity and resolution be visible on the fluorescent screen."

In its memorandum dated December 4, 1970, the Department of Health, Education, and Welfare (HEW), in regard to MAC's assertion, states: "This may be true for resolutions in the neighborhood

of 10 Å, however, the application does make clear that a transmission electron microscope capable of 100 Å with a magnification of 10,000× is a necessary component for the studies. This resolution and magnification can be readily obtained on relatively thick sections at 40-kv. accelerating voltage."

We, therefore, find that the MAC electron microprobe equipped with a transmission scanning attachment is not of equivalent scientific value to the foreign article when equipped with the transmission electron microscope.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8956 Filed 6-24-71; 8:47 am]

UNIVERSITY OF VERMONT

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00030-01-07500. Applicant: University of Vermont, Burlington, Vt. 05401. Article: Precision calorimetry system. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research concerning the heats of hydration of crystal hydrates by direct solution calorimetry; the energetic of a hydrogen bond formation by titration calorimetry; and the heats of complexation by reaction calorimetry. Undergraduate and graduate students will be introduced to research methods in chemistry courses.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability of utilizing sealable ampoules. The most closely comparable domestic instrument is the thermometric titrator manufactured by Tronac, Inc. (Tronac). The Tronac titrator does not provide the capability of utilizing sealable ampoules. The National Bureau of Standards (NBS) in its memorandum dated February 8, 1971, advises us that the capability of utilizing sealable am-

poules is pertinent to the purposes for which the article is intended to be used.

We, therefore, find that the Tronac thermometric titrator is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8958 Filed 6-24-71; 8:47 am]

UNIVERSITY OF VIRGINIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00016-01-77040. Applicant: University of Virginia, Department of Chemistry, Charlottesville, Va. 22901. Article: Mass spectrometer, Model MS-902. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom.

Intended use of article: The article will be used for research concerning the structure elucidation of natural products; structure determination of products and intermediates produced in synthetic organic and inorganic chemistry; isotopic labeling studies; and for analysis of cell membrane constituents, components in biological fluids, drug metabolites and pesticides.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a guaranteed resolution of 70,000 at a 10 percent valley definition. The most closely comparable domestic instrument is the Model 21-110B mass spectrometer which is manufactured by the Consolidated Electrodynamics Corp. (CEC). The Model 21-110B provides a guaranteed resolution of 40,000 at the 10 percent valley definition. We are advised by the Department of Health, Education, and Welfare in its memorandum dated October 30, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the article is intended to be used. The National Bureau of Standards, in its memorandum of October 19, 1970, also

advised us that the additional resolving capability of the foreign article is pertinent to the purposes for which the article is intended to be used. For this reason, we find that the CEC Model 21-110B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8957 Filed 6-24-71; 8:47 am]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00038-07520. Applicant: Yale University, 225 Prospect Street, New Haven, CT 06520. Article: Batch microcalorimeter LKB 10700-2B. Manufacturer: LKB Produkter, A.B., Sweden.

Intended use of article: The article will be used in the determination of the enthalpy changes in a wide variety of biochemical processes. Research studies concern the hydrolysis of a specific arginine-isoleucine bond in soybean trypsin inhibitor by trypsin, for comparison with the hydrolysis of a similar bond in the activation chymotrypsinogen A; antibody-antigen reactions; and the interaction of metal ions with human apocarbonic anhydrase, and of sulfonamide inhibitors with the apoenzyme.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a microcalorimetric system capable of providing a maximum sensitivity of 1 microcalorie. We are advised by the National Bureau of Standards (NBS) in its memorandum dated December 16, 1970, that the maximum sensitivity of the foreign article is pertinent to the applicant's intended purposes. NBS further advises that it knows of no instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.
[FR Doc. 71-8959 Filed 6-24-71; 8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19245]

USE OF AMATEUR STATIONS ON BEHALF OF NONAMATEUR ORGANIZATIONS

Order Extending Time for Filing Comments

In the matter of inquiry into the extent to which amateur stations should be used on behalf of nonamateur organizations; Docket No. 19245.

1. A petition filed by the American Radio Relay League, Inc. (ARRL), requests the Commission to extend the time for filing comments in the above-captioned matter (FCC 71-453), released on May 5, 1971. ARRL requests that the time for filing comments be extended from July 1 to August 31, 1971.

2. In support of its request, ARRL states that although Docket 19245 raises questions of utmost importance to the Amateur Radio Service its specifics will not be circulated until publication of the July issue of its magazine "QST," and that by having the full text of the notice most interested amateurs will be in a better position to express their views.

3. It appears that the additional time requested by the petitioner would not unduly delay consideration of this matter and that further comments would be useful to the Commission.

4. Accordingly, it is ordered, Pursuant to § 0.331(b)(4) of the Commission's rules, that the time for filing comments in the above-captioned proceeding is extended to August 31, 1971.

Adopted: June 16, 1971.

Released: June 17, 1971.

[SEAL] JAMES E. BARR,
Chief, Safety and Special
Radio Services Bureau.
[FR Doc. 71-9026 Filed 6-24-71; 8:53 am]

[Report No. 549]

COMMON CARRIER SERVICES INFORMATION

Domestic Public Radio Services Applications Accepted for Filing²

JUNE 21, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must

¹ All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

² The above-alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application

by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS
COMMISSION,
BEN F. WAPLE,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign, and nature of application

- 7064-C2-P(3)71—The Pacific Telephone & Telegraph Co. (KMA744), C.P. for additional facilities to operate on frequency 454.475 MHz base and 459.475 MHz test at location No. 2: 1587 Franklin Street, Oakland, CA, and add frequency 454.475 MHz base at location No. 3: Daly City Reservoir No. 5, near Palisades Drive and Westmoor Drive, Daly City, Calif.
- 7065-C2-TC-71—New Jersey Mobile Telephone Co., Inc. Consent to transfer of control from Pye Communications, Inc., Transferor, to Radiofone Corp., Transferee. Station KEK290, Boonton, N.J.
- 7080-C2-AL-(7)71—Golden West Telephone Co. Consent to assignment of license from Golden West Telephone Co., Assignor, to Continental Telephone Co. of California, Assignee. Stations: KMM598 Parker Dam, Calif.; KMM635 Dos Palos, Calif.; KMM637 Blythe, Calif.; KMM638 Exeter, Calif.; KMM669 Weaverville, Calif.; KMM670 Garberville, Calif.; KMM681 Willow Creek, Calif.
- 7083-C2-P-71—Menter Radio Service (New), C.P. for a new 1-way station to be located at Route 49, Volney Road, 0.4 mile northeast of Fulton, N.Y., to operate on frequency 35.22 MHz.
- 7084-C2-P-71—AAA Answerphone, Inc.—Jackson (New), C.P. for a new 2-way station to be located at Highway No. 84, east of Brookhaven, Miss., to operate on frequency 152.03 MHz.
- 7087-C2-P-71—Tel-Illinois, Inc. (New), C.P. for a new 2-way station to be located at the existing Water Tower, Belleville, Ill., to operate on frequency 454.275 MHz.
- 7172-C2-P-(2)71—The Bell Telephone Co. of Pennsylvania (KGB868), C.P. to increase the output power for existing channel 152.810 MHz and add a fourth channel on 152.660 MHz at station located at Hilltop, 3 miles southeast of Allentown, Pa.
- 7173-C2-P-(2)71—Robert S. Dittin (New), C.P. for a new 1-way station to operate on 158.70 MHz at location No. 1: Jump Off Joe Butte, 7 miles south of Kennewick, Wash., and operate on 454.350 MHz control at location No. 2: 611 West Columbia Street, Pasco, WA.
- 7177-C2-P-71—Hamilton Telephone Co. (KOP325), C.P. for additional facilities to operate on 152.810 MHz at a new site described as location No. 2: Southedge of Aurora City, Aurora, Nebr.
- 7186-C2-P-71—Golden West Telephone Co. (KMM638), C.P. for additional facilities to operate on frequency 454.525 MHz at station located at 2 miles east-southeast of Exeter, Calif.
- 7188-C2-TC-71—AAA Answerphone, Inc.—Jackson, Consent to transfer of control from John N. Palmer, Transferor, to Middle-South Communications System, Inc., Transferee. Station KRS705, Tupelo, Miss.
- 3921-C2-R-71—Pacific Northwest Bell Telephone Co. (KF2010), Renewal of license (Developmental) expiring July 1, 1971. Term: July 1, 1971 to July 1, 1972.
- 7194-C2-P-71—RAM Broadcasting of North Carolina, Inc. (New), C.P. for a new air-ground station to be located at the Planter's National Bank Building, 100 Southwest Main Street, Rocky Mount, N.C., to operate on 454.925 MHz base and 454.675 MHz signaling.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

Virginia

RCC of Virginia, Inc. (KRS676), 4246-C2-MP-71.

Maryland

Radio Communications, Inc. (KGC583), 5011-C2-P-71.
Radio Communications, Inc. (KGC583), 5075-C2-P-71.

RURAL RADIO SERVICE

7081-C1-AL-(6)-71—Golden West Telephone Co. Consent to assignment of license from Golden West Telephone Co., Assignor, to Continental Telephone Co. of California, Assignee. Stations: KRW89 Welchpec, Calif.; KTF56 Parker Dam, Calif.; KTF57 Alamo Dam, Ariz.; WBO51 Parker, Ariz.; KNL54 Temp-Fixed; KNZ38 Temp-Fixed.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—Continued

7088-C1-P-71—Upper Peninsula Telephone Co. (New), C.P. for a new rural subscriber station to be located at the National Park Service Headquarters, Mott Island, Mich., to operate on 157.83 MHz communicating with station KQZ732 near Toivola, Mich.
 7178-C1-P-71—General Telephone Co. of California (New), C.P. for a new rural subscriber station to be located at the Hermitage Lodge, north of Venice Ferry on Courland, Calif., to operate on 459.600 MHz communicating with station KLF497, Courland, Calif.
 7179-C1-P-71—The Mountain States Telephone & Telegraph Co. (KLV22), C.P. to change coordinates and elevation at 8 miles south-southeast of Plonon, N. Mex. (FAA Vortec Site), operating on 459.60 MHz communicating with station KLV21, South Franklin Mountain, Tex.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)

7066-C1-P-71—American Telephone & Telegraph Co. (KQH36), C.P. to change point of communication from Cutlerville, Mich., to Ada, Mich., for frequencies 3730, 3310, 3890, and 3970 MHz and change frequencies 4030 and 4110 MHz to 4050 and 4130 MHz toward Ada in lieu of Cutlerville and add 4190 MHz toward Ada at its station 7 Fountain Street, Grand Rapids, MI.

7067-C1-P-71—American Telephone & Telegraph Co. (New), C.P. for a new station to be located at 3.2 miles north of Ada, Mich. Frequencies: 3770, 3650, 3930, 4010, 4090, 4170, and 4198 MHz on azimuth 256°52' and 117°22'.

7068-C1-P-71—American Telephone & Telegraph Co. (KQH35), C.P. to change point of communication from Cutlerville to Ada, Mich., for frequencies 3730, 3810, 3890, 3970, 4050, and 4130 MHz and add 4190 MHz on azimuth 297°25' at its station located 4 miles southeast of Saranac, Mich.

7069-C1-P-71—Cascade Utilities, Inc. (Formerly: Estacada Telephone & Telegraph Co.) (New), Resubmitted C.P. for a new station to be located U.S.F.S. road No. S344 and Highway 35, Mount Hood Meadows, Ore. Frequencies: 10.835 and 11.075 MHz.

7070-C1-P-71—Cascade Utilities, Inc. (Formerly: Estacada Telephone & Telegraph Co.) (New), Same as above, except: To be located 1,000 feet north of a point on Highway 35, 200 feet west of junction of Crystal Springs Creek at East Fork Hood River, Mount Hood Meadows Village, Ore. Frequencies: 11.285 and 11.525 MHz.

7071-C1-P-71—The Pacific Telephone & Telegraph Co. (KKNK40), C.P. to add Collins, type 50G10—MA amplifier to existing Western Electric type TL transmitter operating on 10.753 at 7.5 miles southwest of Lucerne Valley, Calif.

7072-C1-P-71—The Pacific Telephone & Telegraph Co. (KKNK41), Same as above, except: frequency 11.085 at Bass, 11.5 miles south-southwest of Hector, Calif.

7073-C1-P-71—The Pacific Telephone & Telegraph Co. (KKNK42), Same, except: frequency 10.755 MHz on azimuth 59°03' at 8.5 miles east-northeast of Hector, Calif.

7074-C1-P-71—The Pacific Telephone & Telegraph Co. (KKNK43), Same, except: frequency 11.685 MHz on azimuth 239°22' at 9.2 miles northwest of Kelso, Calif.

7075-C1-P-71—The Ohio Bell Telephone Co. (KV142), C.P. to add 6390.0 and 11.345 MHz on azimuth 273°30' at its station on County Road 45, 3 miles southwest of New Regel, Ohio.

7076-C1-P-71—The Ohio Bell Telephone Co. (KQN71), C.P. to add 6108.3 and 10.935 MHz on azimuth 93°19' at its station 121 West Harding Street, Findlay, OH.

7077-C1-P-71—The Mountain States Telephone & Telegraph Co. (KAN32), C.P. to add frequencies 6241.7 and 11.085 MHz on azimuth 236°42' at its station 602 North First Street, Montrose, CO.

7078-C1-P-71—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station. Frequencies: 5960.0, 5989.7, 10.955, and 10.975 MHz. Location: Raspberry, 14.5 miles north-northeast of Norwood, Colo.

7079-C1-P-71—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station. Frequencies: 2178, 6212, and 11.405 MHz. Location: Norwood Junction, 1.2 miles south of Norwood, Colo.

7080-C1-P-71—AP/AL-(27)-71—Golden West Telephone Co. Consent to assignment from Golden West Telephone Co., Assignor, to Continental Telephone Co. of California, Assignee. Stations (KM42) near Weaverville, Calif.; (KMW63) Trinity Center, Calif.; (KMZ74) Weaverville, Calif.; (KMZ75) near Willow Creek, Calif.; (KMZ76) Willow Creek, Calif.;

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—Continued

7176-C1-P-71—American Telephone & Telegraph Co. (KY023), C.P. to add 3910 MHz toward Berkeley, Mass., at its station 326 North Main Street, Fall River, MA.

7180-C1-P-71—General Telephone Co. of California (New), C.P. for a new station to be located at Devil Canyon, 2.7 miles southwest of Crestline Post Office, Crestline, Calif. Frequency: 2176.8 MHz.

7181-C1-P-71—General Telephone Co. of California (New), C.P. for a new station to be located at Cedar Springs, 4.7 miles northwest of Crestline Post Office, Crestline, Calif. Frequency: 2126.8 MHz.

7183-C1-P-71—Northwestern Bell Telephone Co. (New), C.P. for a new station to be located at Midway, 2 miles south of Virginia, Minn. Frequencies: 6004.5 and 6123.1 MHz.

7184-C1-P-71—Northwestern Bell Telephone Co. (New), C.P. for a new station to be located at 2 miles south of Shaw, Minn. Frequencies: 6286.2 and 6404.8 MHz.

7185-C1-P-71—Northwestern Bell Telephone Co. (New), C.P. for a new station to be located at 10th Street and Fourth Avenue West, Duluth, Minn. Frequencies: 6004.5 and 6123.1 MHz.

7195-C1-P-71—General Telephone Co. of the Southwest (New), C.P. for a new station to be located at 114 South Broadway, Laverne, OK. Frequency: 2122.0 MHz.

7196-C1-P-71—General Telephone Co. of the Southwest (KLR43), C.P. to add frequency 2172.0 MHz directed toward Laverne, Okla., at its station 6.5 miles northwest of Fort Supply, Okla.

7197-C1-P-71—South Central Bell Telephone Co. (K1K84), C.P. to add 3970 MHz toward Opelousas, La., on azimuth 349°42' at its station located 530 South Buchanan Street, Lafayette, La.

7198-C1-P-71—South Central Bell Telephone Co. (K1K85), C.P. to add 4010 MHz toward Lebeau, La., at its station located 251 West North Street, Opelousas, La.

7199-C1-P-71—South Central Bell Telephone Co. (K1K86), C.P. to add 4070 MHz toward Cheneyville, La., at its station located 3 miles south of Lebeau, La.

7200-C1-P-71—South Central Bell Telephone Co. (K1M90), C.P. to change frequency 3930 MHz to 3950 MHz and add 4030 MHz toward Alexandria, La., at its station located 1 mile northwest of Cheneyville, La.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTTELEPHONE)

6949-C1-P-71—Southeastern Microwave Co. (KJE51), C.P. to add frequencies 5945.2, 5974.8, 6034.2, 6093.5, and 6123.1 MHz on azimuth 339°12'. Location: 5.5 miles south of Stuart, Fla. at latitude 27°06'33" N., longitude 80°14'18" W.

6950-C1-P-71—Southeastern Microwave Co. (KJE52), C.P. to add frequencies 6228.9, 6286.2, 6315.9, 6345.5, and 6375.2 MHz on azimuth 358°28'. Location: 2 miles west of Fort Pierce, Fla., at latitude 27°26'28" N., longitude 80°23'17" W.

6951-C1-P-71—Southeastern Microwave Co. (New), C.P. for a new station 1 mile southeast of Vero Beach, Fla., at latitude 27°37'36" N., longitude 80°23'37" W. Frequencies 6034.2 and 6093.5 MHz on azimuth 333°42'.

6952-C1-P-71—Southeastern Microwave Co. (New), C.P. for a new station 2 miles west of Mico, Fla., at latitude 27°53'02" N., longitude 80°32'12" W. Frequencies 6226.9 and 6286.2 MHz on azimuth 330°48'.

6953-C1-P-71—Southeastern Microwave Co. (New), C.P. for a new station 7 miles northwest of Melbourne, Fla., at latitude 28°08'53" N., longitude 80°42'12" W. Frequencies 6034.2 and 6093.5 MHz on azimuths 19°48', 334°12', and 357°50'.

(INFORMATIVE: Applicant proposes to provide the television signals of stations WCIX-TV and WLTU-TV to Florida Cablevision Corp. in Fort Pierce, and Vero Beach, Fla.; to Tel-A-Cable in Mico, Fla.; to Florida TV Cable Co., Inc. in Melbourne and Merritt Island, Fla.; to Cocoa TV Cable in Cocoa, Fla., and to Southland Communications, Inc. in Cocoa Beach and Cape Canaveral, Fla. Applicant requests waiver of section 21.701 (1) of the Rules.)

6886-C1-MP-71—New York-Penn Microwave Corp. (WDD75), Modification of C.P. (2513-C1-MP-71) to change station location to latitude 41°25'57" N., longitude 75°38'06" W. Station location: 2300 Adams Avenue, Scranton, PA.

6887-C1-MP-71—New York-Penn Microwave Corp. (WDD87), Modification of C.P. (2433-C1-P-70) to change station location to latitude 42°03'03" N., longitude 79°45'21" W. Station location: Pekin Point, 6.8 miles west-northwest of Clymer, N.Y.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—Continued

(KNB36) Parker Dam, Calif.; (KNB39) Garberville, Calif.; (KNB40) near Garberville, Calif.; (KNB41) near Briceland, Calif.; (KNB42) Zenia, Calif.; (KNB43) near Laytonville, Calif.; (KNB44) Laytonville, Calif.; (KNE57) Bakersfield, Calif.; (KNE68) Glenview, Calif.; (KNG52) Dos Palos, Calif.; (KNG53) Los Banos, Calif.; (KNG51) Blythe, Calif.; (KNG52) near Blythe, Calif.; (KNG52) Orleans, Calif.; (KNG52) near Hayampoon, Calif.; (KNG52) Hayfork, Calif.; (KNG53) Havasu Landing, Calif.; (KNG52) Parker, Ariz.; (KNG52) Havasu City, Ariz.; (WAN94) Ridgeville, Calif.; (WAN95) Mud River, Calif.; (WDE45) at temporary-fixed locations.

7089-C1-AL-71—Beaver State Telephone Co. (KPT39), Consent to assignment from Telephone Utilities, Inc., Assignor, to Pacific Northwest Bell Telephone Co., Assignee, (Bly, Ore.)

3854-C1-R-71—Pacific Northwest Bell Telephone Co. (KPR65), Renewal of Developmental License expiring July 6, 1971. Term: July 6, 1971 to July 6, 1972 (Temporary-Fixed Locations).

7161-C1-P-71—Northwestern Bell Telephone Co. (WAN23), C.P. to add 6078.6 and 6137.9 MHz on azimuth 32°35' at its station 9.5 miles north-northeast of Boone, Iowa.

7162-C1-P-71—Northwestern Bell Telephone Co. (New), C.P. for a new station. Location: U.S. Highway 20 West, Webster City, Iowa. Frequencies: 6300.3, 6301.0, 6300.9, and 6300.7 MHz.

7163-C1-P-71—Northwestern Bell Telephone Co. (New), C.P. for a new station to be located at 901 Third Avenue, Fort Dodge, Iowa. Frequencies: 6049.0 and 6108.3 MHz.

7164-C1-P-71—Northwestern Bell Telephone Co. (KBD62), C.P. to change frequency 6338.1 MHz to 6226.9 MHz toward Forestburg, S. Dak., and correct coordinates to read latitude 44°21'46" N., longitude 98°12'59" W. at its station 154 Third Street SW., Huron, S. Dak.

7165-C1-P-71—Northwestern Bell Telephone Co. (KBD61), C.P. to change frequencies 6100.9 MHz to 6093.5 MHz toward Howard, and 6056.4 MHz to 5974.8 MHz toward Huron, S. Dak., and change coordinates to latitude 44°03'12" N., longitude 98°06'33" W. at its station approximately 2.2 miles north of Forestburg, S. Dak.

7166-C1-P-71—Northwestern Bell Telephone Co. (KBD60), C.P. to change frequencies 6338.1 to 6226.9 MHz toward Humboldt and 6323.3 to 6345.5 MHz toward Forestburg, S. Dak.; and change coordinates to latitude 43°59'12" N., longitude 97°31'33" W. at its station 1.5 miles south of Howard, S. Dak.

7167-C1-P-71—Northwestern Bell Telephone Co. (KBD59), C.P. to change frequencies 8056.4 to 5974.8 MHz toward Howard and 6100.9 to 6093.5 MHz toward Sioux Falls, S. Dak.; change coordinates to latitude 43°43'59" N., longitude 97°04'48" W. at its station approximately 6 miles north of Humboldt, S. Dak.

7168-C1-MP-71—Northwestern Bell Telephone Co. (KBD58), Modification C.P. to change frequencies 11,405 to 6226.9 MHz toward Pumpkin Center, S. Dak., and change 6323.3 to 6345.5 MHz toward Humboldt, S. Dak., at its station 125 South Dakota Avenue, Sioux Falls, SD. All other particulars same as File No. 1474-C1-P-70.

7169-C1-MP-71—Northwestern Bell Telephone Co. (WBO87), Modification of C.P. to change frequency 10,955 MHz to 5945.2 MHz directed toward Sioux Falls, S. Dak., at its station near Pumpkin Center, 7.1 miles southwest of Hartford, S. Dak. All other terms same as File No. 6122-C1-P-70.

7170-C1-P-71—New York Telephone Co. (New), C.P. for a new station to be located at 237 East 37th Street, New York, NY. Frequencies: 10.715, 10.775, 10.795, 10.855, 10.875, 10.935, 10.955, 11.015, 11.035, 11.095, 11.115, and 11.175 MHz.

7171-C1-P-71—New York Telephone Co. (WDD41), C.P. to add frequencies 11,225, 11,265, 11,305, 11,345, 11,385, 11,425, 11,465, 11,505, 11,545, 11,585, 11,625, and 11,665 MHz at its station located 101 Willoughby Street, Brooklyn, NY.

(INFORMATIVE: Applicant proposes to install Nippon Electric Co. PCM radio equipment to meet the current interarea T1 circuit requirements of Mid-State, Manhattan, Brooklyn-Queens and Nassau-Suffolk.)

7174-C1-P-71—American Telephone & Telegraph Co. (KCA22), C.P. to add 3910 MHz directed toward Berkeley, Mass., at its station High Rock, 2 miles west of Foxboro, Mass.

7175-C1-P-71—American Telephone & Telegraph Co. (KY024), C.P. to add 3870 MHz toward High Rock and Fall River, Mass., at its station 1 mile south of Berkley, Mass.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTTELEPHONE)—Continued

7189-C1-P-71—American Television Relay, Inc. (KOS63), C.P. to transmit frequencies 6210.4, 6278.8, 6338.1, and 6397.4 MHz, via power split, toward new point of communication at Sierra Vista, Ariz. (latitude 31°34'16" N., longitude 110°18'17" W.), on azimuth 199°56'. Station location: Hellograph Peak, 13.9 miles southwest of Safford, Ariz.

(INFORMATIVE: Applicant proposes to deliver the television signals of stations KTLA-TV, KTTV-TV, KHJ-TV, and KCOP-TV of Los Angeles, Calif., to Sierra Vista CATV, Inc., in Sierra Vista, Ariz.)

7190-C1-P-71—Western Telecommunications, Inc. (KPK42), C.P. to transmit frequencies 6212.0, 6241.7, 6301.0, and 6360.3 MHz, via power-split, toward passiver reflector near Columbus, Mont. (latitude 45°37'12" N., longitude 109°15'30" W.), on azimuth 151°27', and on to destination at Columbus, Mont. (latitude 45°38'24" N., longitude 109°15'02" W.), on azimuth 15°15'. Station location: Greycliff, 18 miles northeast of Greycliff, Mont.

(INFORMATIVE: Applicant proposes to provide the television signals of stations KCPX-TV, KUED-TV, KUTV-TV, and KSL-TV of Salt Lake City, Utah, to CATV system in Columbus, Mont.)

The following applicant proposes to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programmed" television service.

7182-C1-P-71—Micro TV, Inc. (New), C.P. for a new station to be located at 3600 Conshocken Avenue, Philadelphia, Pa. Frequencies: 2154.20 MHz (Aural), 2152.325 MHz (Visual), 2154.00 MHz (Aural), and 2158.50 MHz (Visual) toward various points of the system.

[FR Doc. 71-9028 Filed 6-24-71; 8:53 am]

[Docket No. 16495]

DOMESTIC COMMUNICATIONS SATELLITE FACILITIES

Applications Accepted for Filing

JUNE 15, 1971.

The following applications for domestic communications satellite facilities are accepted for filing for consideration in Docket No. 16495 in accordance with the procedures specified in previous public notices (FCC 70-953; FCC 71-174; and FCC Public Notice 65963, issued on April 13, 1971):

DOMESTIC COMMUNICATIONS SATELLITE SERVICE

EARTH STATIONS

11-DSE-P-71—The Western Union Telegraph Co. (New), C.P. for earth station near Lake Geneva, Wis. (near Chicago, Ill.) at 42°37'16" N. and 88°25'50" W. Station will use a 45-foot-diameter antenna to receive in the 3700-4200 MHz band and transmit in the 5925-6425 MHz band. Power output will be 330 watts with EIRP of 83 dBw in the main beam and -3 dBw/4 kHz in the horizontal plane.

27-DSE(R)-P-71—Twin County Trans-Video, Inc. (New), C.P. for receive-only earth station near Allentown, Pa., at 40°42'19" N. and 75°28'14" W. Station will use a 35-foot-diameter antenna to receive in the 3700-4200 MHz and 11.7-12.2 GHz bands.

28-DSE(R)-P-71—Phoenix Satellite Corp. (New), C.P. for receive-only earth station near Phoenix, Ariz., at 33°20'41" N. and 112°08'32" W. Station will use a 32-foot-diameter antenna to receive in the 3700-4200 MHz band.

29-DSE(R)-P-71—United Video, Inc. (New), C.P. for receive-only earth station near Oklahoma City, Okla., at 35°32'25" N. and 97°25'59" W. Station will use one 35-foot-diameter antenna to receive in either the 3700-4200 MHz or the 11.7-12.2 GHz bands.

30-DSE(R)-P-71—United Video, Inc. (New), C.P. for receive-only earth station near Tulsa, Okla., at 36°04'19" N. and 95°49'47" W. Station will use one 35-foot-diameter antenna to receive in either the 3700-4200 MHz or the 11.7-12.2 GHz bands.

DOMESTIC COMMUNICATIONS SATELLITE SERVICE—Continued
EARTH STATIONS

- 31-DSE(R)-P-71—United Video, Inc. (New), C.P. for receive-only earth station near La Salle, Ill., at 41°21'39" N. and 89°15'07" W. Station will use one 35-foot-diameter antenna to receive in either the 3700-4200 MHz or the 11.7-12.2 GHz bands.
- 25-DSE(R)-P-71—LVO Cable, Inc. (New), C.P. for receive-only earth station near Albuquerque, N. Mex., at 35°12'09" N. and 106°35'41" W. Station will use one 35-foot-diameter antenna to receive in either the 3700-4200 MHz or the 11.7-12.2 GHz bands.
- 26-DSE(R)-P-71—LVO Cable, Inc. (New), C.P. for receive-only earth station near Boise, Idaho, at 43°36'57" N. and 116°09'31" W. Station will use one 35-foot-diameter antenna to receive in either the 3700-4200 MHz or the 11.7-12.2 GHz bands.

TELEPHONE WIRE FACILITIES

- P-C-8172—Fairchild Industries, Inc. Formal: (Section 63.01) To construct coaxial cable between Muddy Ridge, Ga., earth station and Muddy Ridge radio station (see Files Nos. 66-DSE-P-71 and 5266-C1-P-71).
- P-C-8173—Fairchild Industries, Inc. Formal: (Section 63.01) To construct coaxial cable between Ink, Ark., earth station and Ink radio station (see Files Nos. 68-DSE-P-71 and 5286-C1-P-71).
- P-C-8174—Fairchild Industries, Inc. Formal: (Section 63.01) To construct coaxial cable between Vernon Valley, N.J., earth station and Pochuck Mt., N.J., radio station (see Files Nos. 65-DSE-P-71 and 5284-C1-P-71).
- P-C-8175—Fairchild Industries, Inc. Formal: (Section 63.01) To construct coaxial cable between Springfield, Wis., earth station and Springfield radio station (see Files Nos. 67-DSE-P-71 and 5272-C1-P-71).
- P-C-8176—Fairchild Industries, Inc. Formal: (Section 63.01) To construct coaxial cable between San Jacinto Valley, Calif., earth station and Beaumont, Calif., radio station (see Files Nos. 70-DSE-P-71 and 5277-C1-P-71).
- P-C-8177—Fairchild Industries, Inc. Formal: (Section 63.01) To construct coaxial cable between Big Tree Creek, Wash., earth station and Big Tree Creek radio station (see Files Nos. 69-DSE-P-71 and 5281-C1-P-71).

POINT-TO-POINT MICROWAVE RADIO SERVICE

The following applications were listed and described in the Common Carrier Services Information Reports Nos. 522 and 524, issued on December 14 and 28, 1970, and are accepted for filing for consideration in Docket No. 18495:²

3017-C1-P-70, The Western Union Telegraph Co.

3245-3247-C1-P-70, The Western Union Telegraph Co.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

¹Since the filing of its original applications for domestic communications satellite facilities, Fairchild Hiller Corp. has changed its name to Fairchild Industries, Inc.

²In the Common Carrier Services Information Report No. 539 of Apr. 12, 1971, the application of Western Union which was listed as File No. 5527-C1-P-70 should read File No. 5227-C1-P-70, as indicated in FCC Public Notice 65963, issued on Apr. 13, 1971.

[FR Doc. 71-9027 Filed 6-24-71; 8:53 am]

[Dockets Nos. 19068-19070; FCC 71R-195]

EDWARD G. ATSINGER III, ET AL.

Memorandum Opinion and Order
Modifying Issues

In regard applications of Edward G. Atsinger III, Owensboro, Ky., Docket No. 19068, File No. BP-18067; Gary H. Latham and Wells T. Lovett, doing business as L and L Broadcasting Co., Owensboro, Ky., Docket No. 19069, File No. BP-18475; and Bayard Harding Walters, trading as Hancock County Broadcasters, Hawesville, Ky., Docket No. 19070, File No. BP-18490; for construction permits.

1. The above-captioned mutually exclusive applications were designated for consolidated hearing by Commission Order, FCC 70-1133, released October 28, 1970, 35 F.R. 17004, published November 4, 1970. Among the issues specified were limited financial qualifications issues against L and L Broadcasting Co. (L & L) and Hancock County Broadcasters (Hancock). Presently before the Review Board is a petition to enlarge issues, filed November 19, 1970 by Edward G. Atsinger III (Atsinger), which requests

the addition of an abuse of process issue against L & L and Hancock, and Suburban Community and expanded financial issues against Hancock; and a petition to enlarge, change and delete issues, filed November 19, 1970, by L & L requesting the addition of site availability and expanded financial issues against Hancock and deletion of the financial issue against L & L.¹

Abuse of process issue. 2. Atsinger's request for an abuse of process issue against L & L and Hancock is based on the preparation and filing dates shown on their respective applications. Initially, Atsinger points out that his application was filed on February 6, 1968, the pub-

¹Also before the Review Board for consideration are: (a) Opposition to both petitions, filed Jan. 8, 1971, by Hancock; (b) opposition to Atsinger's petition, filed Jan. 8, 1971, by L & L; (c) partial opposition to L & L's petition, filed Jan. 8, 1971, by Owensboro-On-The-Air, Inc. (WVJS); (d) comments on both petitions, filed Jan. 8, 1971, by the Broadcast Bureau; (e) reply, filed Feb. 17, 1971, by Atsinger; and (f) response, filed Feb. 17, 1971, by L & L.

lished cutoff date of the application of Southern Broadcasters, Inc., for AM Station WAMG in Gallatin, Tenn. (File No. BP-17836).² Subsequently, in a public notice released December 20, 1968, the Atsinger application appeared on its own cutoff list, the cutoff date being February 27, 1969. Provided the Gallatin application remained on file until February 27, 1969, explains petitioner, no application mutually exclusive with the Atsinger application could be filed because the latter was in direct conflict with the Gallatin application and, therefore, under the umbrella protection of the February 6, 1968, Gallatin cutoff date. Pursuant to its request, dated February 18, 1969, and filed with the Commission on February 20, 1969, the Gallatin application was dismissed on February 27, 1969. Notice of such dismissal was released on February 28, 1969 (Public Notice, Report No. 8503, Mimeo No. 28503). Atsinger attempts to draw a relationship between the dismissal of the Gallatin application and the preparation and filing of the L & L and Hancock applications (filed February 26 and February 27, 1969, respectively), implying collusion between the parties, i.e., consideration passing from L & L and/or Hancock to Gallatin in return for the latter's dismissal by February 27, 1969. Petitioner notes that neither the L & L nor the Hancock application could have been accepted without the dismissal of Gallatin's application by February 27, 1969, and suggests that the preparation and filing of an application in such a circumstance are too costly to be based on mere speculation of a dismissal. Atsinger therefore requests the Board to add an abuse of process issue, in the absence of satisfactory explanations by L & L and Hancock of the circumstances surrounding the filing of their applications. In sole support of his request, Atsinger cites Wayne County Broadcasting Corp., 26 FCC 2d 52 (1970).

3. L & L, Hancock, and the Broadcast Bureau oppose the request for an abuse of process issue. L & L characterizes the Atsinger request as one based entirely on speculation, conjecture and innuendo. L & L contends that Gallatin, in its request for dismissal, explains, under oath and with sufficient specificity, the reasons for its request (i.e., its application, originally unopposed, became mutually exclusive with those of two other applicants and, therefore, Gallatin no longer wished to proceed). Hancock urges the Board to deny summarily Atsinger's request since it fails to make a threshold showing sufficient to warrant adding the issue. In any event, Hancock categorically denies any collusion regarding the Gallatin dismissal and attaches affidavits of Bayard H. Walters, the applicant, and Clarence E. Henson, a consulting engineer, explaining the circumstances surrounding the preparation and filing of

²Southern Broadcasters, Inc., requested a change in frequency and an increase in power for Station WAMG-AM.

the Hancock application. Specifically, the affidavits explain that, during the course of consultation concerning another broadcast interest, Henson became aware of the possible "drop out" of the Gallatin application. Henson so informed Walters, reminding him of the speculative nature of such an occurrence permitting acceptance of the Hancock application if it were filed by February 27, 1969. Considering the risk a reasonable one, Walters claims that he prepared and filed his application unaware of Gallatin's subsequent dismissal until informed thereof by counsel. The Broadcast Bureau takes the position that Atsinger's request is insufficient because he failed to include either supporting affidavits or a statement showing any connection between L & L or Hancock and Gallatin.

4. Atsinger's request for an abuse of process issue lacks specificity and is unsupported by affidavit; therefore, it is fatally defective under the requirements of § 1.229(c) of the Commission's rules.³ See Eastern Broadcasting Corp., FCC 71R-157, released May 19, 1971, 21 FCC 2d 1147, and cases cited therein. In particular, Atsinger has not shown any connection, much less one violative of the Commission's rules, between L & L and/or Hancock and Gallatin. In contrast to Atsinger's bare allegations, Bayard Walters, unequivocally and under oath, denies any collusion in connection with the Gallatin dismissal; moreover, the affidavits of Walters and Henson present a reasonable explanation of the circumstances surrounding the preparation and filing of the Hancock application. Under the circumstances, and based on all of the allegations before it, the Board concludes that Atsinger's claims rest entirely upon surmise and suspicion,⁴ and that no basis exists for the addition of an abuse of process issue.⁵

Suburban community issue. 5. In support of the requested Suburban Community issue against Hancock, Atsinger attempts to show the economic, social, and cultural dependence of Hawesville, Ky. (Hancock's proposed community of license), on neighboring Tell City, Ind. In an affidavit attached to the petition, Atsinger states that Hawesville has two physicians, but no hospital, or recrea-

³Sec. 1.229(c) requires that a petition to enlarge issues contain specific allegations of fact, and that these allegations of fact, except those of which official notice may be taken, shall be supported by affidavits of a person or persons having knowledge of the facts.

⁴See The Fox River Broadcasting Co., 5 FCC 2d 564, 8 RR 2d 899 (1966).

⁵Atsinger's reliance on Wayne County Broadcasting Corp., supra, in support of his request, is completely misplaced. In Wayne County, the Commission designated an abuse of process issue because the same person (either independently, as a corporate stockholder, or as legal counsel or technical director) filed several applications mutually exclusive with and antagonistic to each other. The Board agrees with the Bureau that no such connections have been shown in the instant applications. The case is therefore inapposite.

tional facilities; that Hawesville has only 42 retail establishments, compared to Tell City's 117; that the comparative population figures of Hawesville and Tell City are 1,177 and 7,827, respectively; that the nearest community comparable to Hawesville after Tell City is Owensboro, Ky., 27 miles from Hawesville; and that Hancock's proposed 5 mv/m service contour completely encompasses Tell City. Petitioner maintains that the foregoing constitute a threshold showing sufficient to warrant adding a Suburban Community issue⁶ and, in support, cites Outer Banks, supra, note 6.

6. In opposition, Hancock denies that it will serve primarily a community other than Hawesville. Hancock also argues that Atsinger has failed to make a threshold showing sufficient to add a Suburban Community issue. In an attached affidavit, Bayard Walters states that Hawesville residents, located across the river from Tell City in a different State and time zone,⁷ must rely on a toll bridge and proceed through a third city (Cannelton, Ind.) to reach Tell City. Hancock submits population figures to demonstrate Hawesville's pronounced growth (50 percent within the past 10 years) compared with Tell City's more modest growth (10 percent in the same period), ostensibly lending credence to its argument that it reasonably may rely on the expanding Hawesville economy as its primary source of advertising revenue.⁸ In contrast to Atsinger's allegations of dependence, Hancock contends that Hawesville, with its own school systems, and governmental, civic, social, and religious organizations, is separate and independent from Tell City. Hancock also contends that its 5 mv/m contour coverage of Tell City is coincidental rather

⁶The Commission's Policy Statement on Sec. 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 FCC 2d 190, 6 RR 2d 1901 (1965), reconsideration denied 2 FCC 2d 866, 6 RR 2d 1908 (1966), provides that when a standard broadcast applicant's proposed 5 mv/m contour would penetrate the geographical boundaries of a community with a population of 50,000 and having at least twice the population of the applicant's specified community, a rebuttable presumption arises that the applicant realistically proposes to serve that larger community. Where the communities in question do not satisfy the criteria explicated by the Commission, an issue still may be specified provided an adequate threshold showing is made that the proposal realistically would serve primarily a community other than the one specified. Click Broadcasting Co., 19 FCC 2d 497, 17 RR 2d 164 (1969); Outer Banks Radio Co., 15 FCC 2d 994, 15 RR 2d 471 (1969); Babcom, Inc., 12 FCC 2d 306, 12 RR 2d 998 (1968); V.W.B., Inc., 8 FCC 2d 744, 10 RR 563, reconsideration denied 10 FCC 2d 534, 11 RR 2d 653 (1967).

⁷According to Hancock, Hawesville, Ky., is in the central time zone, and Tell City, Ind., is in the eastern time zone.

⁸Hancock also attaches a resolution of the Hawesville City Council acknowledging the growth and industrial expansion of the city, and the script of a television program broadcast on July 4, 1970, by Station WFIE-TV, Evansville, Ind., concerning the industrial growth of the Hancock County area.

than intentional, a natural concomitant of geographic proximity, and in no way indicative of any intent by Hancock to serve primarily a community other than Hawesville. Hancock alleges that it proposes only 500 watts power to provide adequate coverage and overcome man-made noise, and submits that even the minimum power of 250 watts would provide a 5 mv/m signal over Tell City. Finally, Hancock directs the Board's attention to its efforts to ascertain community needs. All of these efforts, claims Hancock, were made in the Hancock County area (with the exception of a few persons who lived in Cannelton, Ind.) and no one from Tell City was interviewed.

7. The Broadcast Bureau also opposes the request for a Suburban Community issue, rejecting Atsinger's reliance on the Outer Banks case, supra, because, in that case, according to the Bureau, the proposed community, unlike Hawesville, was shown to have no independent existence relative to its civic, social and business activities, and had only one small business, as opposed to the over 40 businesses in Hawesville. In reply, Atsinger challenges Hancock's showing regarding the industrial growth of Hancock County, claiming that it is Hawesville, not Hancock County, that is the applicant's city of license, and that industrial growth is not necessarily analogous to retail activity which provides the main economic support to a small market radio station.

8. In V.W.B., Inc., supra, note 6, the Commission expressed its reluctance to designate a Suburban Community issue on a mere showing that an applicant will place a strong signal over a somewhat larger community. The Commission reasoned that to do so would disrupt its processes and delay the establishment of competitive broadcast facilities; therefore, the burden a petitioner must carry under these circumstances is not a light one. With reference to the instant proceeding, and in spite of the fact that Hawesville and Tell City are only 2 to 3 miles apart, Atsinger has shown only the geographical proximity and disparity in population of the two communities, and that Hancock's 5 mv/m signal covers Tell City as well as Hawesville. While Hancock's proposed 5 mv/m contour will cover Tell City, it does not necessarily follow that the needs and interests of the specified community of Hawesville will be disregarded or subordinated to those of Tell City. See Click Broadcasting Co., supra. Manifestly so where, as here, Hancock's contention that it intends to serve primarily its specified community is supported by its program survey efforts directed to the ascertainment of the needs and interests of Hawesville, not Tell City. See Click Broadcasting Co., supra.

9. Petitioner also has failed to establish the governmental, social, civic, and economic dependence of Hawesville on Tell City (compare Outer Banks Radio Co., supra), and has not established the use of excessive power to demonstrate

an intent by Hancock to serve primarily a community other than Hawesville. Significantly, Hancock alleges, and Atsinger does not deny, that any transmitter site which would have provided the requisite city grade signal over Hawesville would have provided also, with a nondirectional operation, a 5 mv/m coverage of Tell City. Thus, Atsinger has failed to show and, in fact, has not even alleged, that Hancock's proposed power is in excess of that needed to provide adequate coverage of the specified community and its environs. Compare Babcom, supra, and V.W.B., Inc., supra. The Board notes that Hawesville and Tell City are located in different states and different time zones, and are separated by the Ohio River with a toll bridge providing the most direct route from one city to the other. Clearly, this does not suggest a city-suburb relationship. While this fact alone is not fatal to Atsinger's request (see Outer Banks, supra), the absence of such a relationship tends to corroborate Hancock's extensive showing of Hawesville's separate and independent existence, i.e., respondent has shown that Hawesville is the county seat of Hancock County and has enjoyed a rate of growth in recent years five times that of Tell City; that it has its own civic, educational, governmental and religious organizations, and retail establishments (see Childress Broadcasting Corp. of West Jefferson, FCC 70-1032, released October 2, 1970, 20 RR 2d 335); and, that Hancock County is a growing industrial area now employing in excess of 2,000 people. Consequently, while Hancock's 5 mv/m signal will cover Tell City, Atsinger has failed to make a threshold showing that Hancock's proposal realistically will serve primarily Tell City rather than Hawesville. Accordingly, petitioner's request for a Suburban Community issue will be denied. See Click Broadcasting Co., supra.

Hancock's financial qualifications. 10. In the designation Order, the Commission noted that, according to its application, Hancock would require \$36,800 to construct and operate the proposed station for 1 year without revenue, and that it proposed to meet this requirement with \$2,600 cash, \$9,200 in other liquid assets, and a bank loan of \$20,000. Because the amount available totalled only \$31,800, the Commission designated an issue to determine the source of additional funds to construct and operate the proposed station and, in light thereof, whether Hancock is financially qualified. Both L & L and Atsinger request an expansion of the financial issue designated against Hancock. In its petition, L & L asserts: (a) That Hancock's proposed payroll figure of \$15,000, as reflected in its February 2, 1970, amendment (filed April 1, 1970) is inadequate; (b) that Hancock has failed to include in its cost estimates certain nonpayroll operating expenses such as records, royalties, telephone expenses, and technical supplies and repairs; (c) that Hancock has provided inadequately for legal and preopera-

tional expenses; and (d) that Hancock's sources of financing, including its Ohio Valley National Bank letter of credit extending a loan up to \$20,000, and its equipment letter from Electronic Laboratories outlining its credit terms, are inadequate in that they fail to mention any security for such credit. L & L further argues that Hancock's proposed equipment costs of \$10,000 are inadequate; and that its letter from Electronic Laboratories inadequately explains whether such costs are to include labor and engineering, as well as equipment, and precisely what equipment is to be provided. In support, L & L attaches the affidavits of two radio station managers, Jimmie A. Wooley and Gary H. Latham (an L & L partner), who state that based on their experience, Hancock's payroll figure is "grossly inadequate." L & L also attaches the affidavit of Robert L. Cave, President of First City Bank and Trust Co., Hopkinsville, Ky., in which he states that "sound banking principles" would preclude a \$20,000 unsecured loan to a person with Hancock's limited assets.

11. Atsinger's petition, like that of L & L, alleges that Hancock's \$20,000 letter of credit from the Ohio Valley National Bank is deficient because it fails to mention the security for such loan. In addition, Atsinger supports its request for an expanded financial issue by comparing its own proposed equipment costs (\$18,000) and those of L & L (\$22,000) with Hancock's proposed equipment costs (\$10,000), and concludes that Hancock's figure is unreasonably low. Moreover, since Hancock provides no list of equipment, Atsinger questions whether sufficient equipment has been specified.

12. The Broadcast Bureau recommends expansion of the financial issue against Hancock unless the applicant submits a satisfactory response demonstrating the sufficiency of its proposed equipment and payroll costs; the inclusion in its proposal of nonpayroll costs; and security for its bank loan. However, the Bureau opposes Atsinger's request for an issue to determine the reasonableness of Hancock's proposed equipment costs because, in the Bureau's opinion, Atsinger's showing that its equipment costs and those of L & L are higher than Hancock's in no way constitutes a showing that Hancock's equipment costs are inadequate.

13. In opposition, Hancock submits a letter from Electronic Laboratories listing the equipment it will furnish the applicant at the agreed upon price of \$10,000 (including installation, testing and preparation of the engineering portion of Hancock's application); outlining the terms of credit and repayment; and designating the equipment as collateral. Hancock attaches also the affidavit of W. T. Latta, President of the Ohio Valley National Bank, extending to the applicant a loan up to \$35,000,

*In the Board's opinion, the virtual identity of the two affidavits tends to diminish their value.

secured by a revocable trust agreement entered into between the bank and Bayard Walters' mother, and explicating the terms of interest and repayment of the loan.¹⁰ Regarding L & L's allegations of inadequate payroll and nonpayroll expenses, Hancock attaches the affidavit of Bob W. Hite, General Manager of AM Station WMSK, Morganfield, Ky. Hite states that, based on his experience, Hancock could operate its proposed station for \$32,000 the first year, including a first year salary budget of \$19,028. In its response, L & L reiterates its allegation as to the inadequacy of Hancock's proposed payroll costs, and based on Hancock's "Salary Expense" exhibit included in its opposition pleading, L & L questions the adequacy of Hancock's proposed staff.

14. Petitioners' claims concerning the absence of security for Hancock's bank loan and equipment purchase have been answered effectively by the affidavits attached to Hancock's opposition. The Ohio Valley National Bank has indicated its willingness to extend a loan to Hancock and has expressed its satisfaction with, and acceptance of, a trust agreement as security for such loan. Under the circumstances, the Board is of the opinion that Hancock has shown the availability of the bank loan. See note 10, supra. Similarly, Electronic Laboratories has indicated its acceptance of the equipment as collateral and reiterated its quoted price of \$10,000 for equipment listed (including installation and testing) thereby attesting to the reasonableness of Hancock's proposed equipment costs. Furthermore, the fact that Atsinger and L & L propose higher equipment costs than does Hancock is unconvincing in the absence of a showing that Hancock's cost estimates are inadequate. Eastern Broadcasting Corp., 28 FCC 2d 28, 21 RR 2d 417 (1971). The Board agrees with the Bureau that Atsinger's failure to demonstrate the in-

¹⁰ Hancock further requests the Review Board to take official notice of an amendment to its application, filed Jan. 8, 1971, and presently pending before the Hearing Examiner. The Broadcast Bureau and L & L have filed oppositions to the acceptance of such amendment, prompting the Examiner, by Order FCC 71M-243, released Feb. 12, 1971, to set aside his initial acceptance of the amendment (FCC 71M-233, released Feb. 11, 1971) and further order that there be oral argument on the matter. Consequently, the Board will consider those affidavits (including the equipment letter and the new bank letter) attached to Hancock's opposition pleading to the extent that they meet technical deficiencies raised by the pleadings; however, until the amendment has been accepted, the Board cannot rely on material therein that increases the bank's commitment from \$20,000 to \$35,000 and otherwise alters Hancock's financial showing. See Lawrence County Broadcasting Corp., 14 FCC 2d 833, 834, 14 RR 2d 449, 452 (1968); Graphic Printing Co., Inc., 12 FCC 2d 674, 13 RR 2d 2 (1968); State of Oregon Acting By and Through the State Board of Higher Education, 11 FCC 2d 374, 12 RR 2d 56 (1968); Triad Stations, Inc., FCC 64R-540, 3 RR 2d 1064 (1964).

adequacy of Hancock's proposed equipment costs warrants denial of its request to add an issue to determine the reasonableness of such costs. Moline Television Corp. (WQAD-TV), 12 FCC 2d 770, 13 RR 2d 77 (1968); Marbro Broadcasting Co., Inc., 2 FCC 2d 1030, 7 RR 2d 216 (1966).

15. However, the Board is of the opinion that substantial questions have been raised concerning the adequacy of Hancock's proposed payroll figure of \$15,000; its apparent failure to include in its cost estimates certain nonpayroll operating expenses such as records, royalties, telephone expenses, technical supplies and repairs; and whether it has provided adequately for legal and preoperational expenses. It is well settled that the Board must consider whether a financial issue is warranted on the basis of the proposal of record. Kittyhawk Broadcasting Corp., 8 FCC 2d 217, 9 RR 2d 1283 (1967). In light of the present unaccepted status of its January 8, 1971, amendment (note 10, supra), Hancock's earlier financial amendment (filed April 1, 1970) constitutes its proposal of record. On that basis, Hancock does not meet adequately petitioner's allegations regarding payroll, nonpayroll, legal, and preoperational expenses. Accordingly, appropriate financial issues will be added. Finally, to the extent that L & L's challenge concerning the adequacy of Hancock's proposed staff constitutes a request for a staffing issue, it will be denied L & L's allegation is based on conjecture and surmise and, absent supporting statements or affidavits, it is fatally defective and insufficient to warrant adding the issue. Eastern Broadcasting Corp., FCC 71R-157, supra. See also Jay Sadow, 27 FCC 2d 248, 20 RR 2d 1171 (1971), and cases cited therein.

Site availability issue. 16. In support of its requested site availability issue, L & L attaches the survey of one Aubrey Vanover of Owensboro, Ky., which shows that the proposed location of Hancock's transmitter site at its designated geographic coordinates is on land ostensibly owned by Porter Scifres, whose attached affidavit indicates that he has made no arrangements and has no understanding to sell or lease any portion of this land for the location of a transmitter tower. L & L also claims that Hancock's proposed site is in open country and provides inadequately for a studio-transmitter building, parking lot, roadway, power, water, sewage disposal, etc.; and, furthermore, Hancock's lease terms are inconsistent, uncertain and ambiguous. Accordingly, petitioner requests the addition of an issue to determine whether Hancock's proposed transmitter site is available, and the means by which open country is to be transformed into a studio-transmitter site. The Broadcast Bureau recommends addition of the issue requested unless Hancock, in its opposition pleading, demonstrates that the proposed transmitter site is not on Porter Scifres' land.

17. In opposition, Hancock claims that the geographic coordinates appearing in its application are in error. Hancock then

sets forth the corrected coordinates along with the attached affidavits of Bayard H. Walters, the applicant, and Clarence E. Henson, a consulting engineer, explaining that the proposed site is actually on land owned by Brown Daniels; that Daniels agreed to lease such land to Hancock; that the attached affidavit of Daniels, executed November 28, 1970, verifies that a lease agreement between applicant and landowner has been in effect since February, 1969; and that the lease agreement provides for monthly payments of \$20 for the option to lease and a monthly lease payment of \$40 after construction is commenced on the site. Hancock attaches also the affidavit of Mrs. Lucy C. Harding offering to lease to Hancock, on specified terms, a mobile home for use as an office and studio-transmitter building. In response, L & L maintains that Hancock's proposed use of a mobile home as a studio-transmitter building in no way obviates the need to demonstrate sufficient financial provision for a parking lot, roadway, sewage, water, etc.; nor does it mitigate the need for demonstrating that provision has been made for remodeling the mobile home to make it suitable for use as a broadcast studio-transmitter.

18. In our opinion, Hancock's opposition pleading adequately outlines the genesis of its error regarding geographic coordinates and explains that the error was inadvertent and due to inconsistencies in public records and a mistaken judgment as to the exact boundaries of Daniels' property. The Commission consistently has held that it does not require a binding agreement or absolute assurance of the availability of a proposed site; rather, it requires only that an applicant have "reasonable assurance" that its proposed site will be available. See, e.g., Marvin C. Hanz, 21 FCC 2d 420, 18 RR 2d 310 (1970), and cases cited therein. Hancock has effectively answered petitioner's allegations by setting forth the corrected coordinates and adequately demonstrating a "reasonable assurance" of the availability of its transmitter site. Accordingly, a site availability issue will not be added. Concomitantly, Hancock has shown the availability of a mobile home for use as a studio-transmitter building; however, the Board believes that, based on its current financial showing (see paragraph 15, supra), Hancock has not shown sufficient resources to accommodate related miscellaneous studio-transmitter expenses, e.g., a parking lot, roadway, etc. Accordingly, an appropriate financial inquiry will be specified.

L & L's financial qualifications. 19. In paragraph four of the designation order, the Commission concluded that:

Since L and L Broadcasting Co. has failed to keep its financial showing current, it will have to establish its qualifications in hearing. Thus, a financial issue with respect to this applicant will also be included.

The Commission, therefore, specified an issue: "To determine whether L and L Broadcasting Co. is financially qualified to construct and operate its proposed sta-

tion." (Issue 3). L & L urges the Board to delete this issue and, in support, claims that the financial information on file with its application is current and substantially accurate, fully establishing its financial qualifications. In further support of its position, L & L submits new financial statements of its partners, Wells T. Lovett and Gary H. Latham, purportedly demonstrating that Lovett is able to meet his first year obligation to the station, and that Latham is only \$250 short of meeting his obligation. Consequently, argues L & L, whether the Review Board considers petitioner's original showing or its newly attached financial statements, the financial issue against L & L should be deleted or, at least, revised to put in issue only Latham's present ability to raise an additional \$250.

20. The Broadcast Bureau opposes the deletion of the financial issue against L & L on the grounds that factual issues will not generally be resolved on the basis of interlocutory pleadings, and that a hearing issue will not be deleted in the absence of a showing that the issue was specified under a mistake of fact, citing Lorain Community Broadcasting Co., 5 FCC 2d 808, 8 RR 2d 1139 (1966). Hancock also opposes deletion of the financial issue against L & L, claiming that no security and no repayment schedule were mentioned in connection with the Central Bank and Trust Co. loan commitment and, moreover, the loan commitment letter was vague. In its opposition, Owensboro-On-The-Air, Inc. (WVJS), licensee of Station WVJS, Owensboro, Ky., maintains that the Commission, in reaching its decision to include a financial issue against L & L, fully considered the applicant's financial information but was precluded from reaching a conclusion concerning the applicant's financial qualifications because of the staleness of the showing. WVJS contends that if the Review Board were to delete the financial issue as requested it would be inconsistent with existing Commission policy and precedent.

21. The Review Board will deny L & L's request to delete or revise the financial issue against it. As WVJS points out in its opposition, it is well settled that the Board will not delete an issue in the absence of extenuating circumstances, such as where the Commission overlooked or failed to consider certain relevant information. Cowles Florida Broadcasting, Inc., FCC 71R-173, released May 28, 1971, 21 RR 2d 1229. See also Viking Television, Inc., 16 FCC 2d 1015, 15 RR 2d 968 (1969); Sundial Broadcasting Co., Inc., 15 FCC 2d 1002, 15 RR 2d 353 (1969). Petitioner has not shown that the Commission overlooked or misconstrued pertinent information relative to its financial qualifications; nor has petitioner shown unusual or extenuating circumstances sufficient to warrant deletion or modification of the issue. On the contrary, the Commission considered L & L's

¹¹ WVJS was made a party to this proceeding in the designation Order.

financial showing at the time of designation and made a specific reference to its particular deficiency (see paragraph 19, supra). Consequently, it would be inappropriate for the Board to delete the issue. See Durham-Raleigh Telecasters, Inc., 11 FCC 2d 23, 11 RR 2d 928 (1967).

22. *Accordingly, it is ordered*, That the petition to enlarge issues, filed November 19, 1970, by Edward G. Atsinger, III, is denied; and the petition to enlarge, change and delete issues, filed November 19, 1970, by Gary H. Latham and Wells T. Lovett, doing business as L & L Broadcasting Co., is granted to the extent indicated herein, and is denied in all other respects; and

23. *It is further ordered*, That Issue (4) herein is modified to read as follows:

(4) To determine, with respect to the application of Bayard Harding Walters, trading as Hancock County Broadcasters:

(a) Whether the applicant's proposed payroll expenses are adequate to meet its needs;

(b) Whether the applicant has included adequately in its financial proposal nonpayroll expenses such as records, royalties, telephone expenses, and technical supplies and repairs;

(c) Whether the applicant has provided adequately for legal and preoperational expenses;

(d) Whether the applicant has available sufficient financial resources to meet its proposed payroll and nonpayroll operating expenses; its anticipated legal and preoperational expenses; and, miscellaneous studio-transmitter expenses;

(e) The source of additional funds to construct and operate the proposal for 1 year without revenue;

(f) Whether, in light of the evidence adduced pursuant to (a-e) above, the applicant is financially qualified.

Adopted: June 17, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-9025 Filed 6-24-71;8:53 am]

[Docket No. 18672; FCC 71R-196]

CATHRYN C. MURPHY

Memorandum Opinion and Order Enlarging Issues

In regard application of Cathryn C. Murphy, Vancouver, Wash., File No. BL-12263, for renewal of license of Station KVAN, Vancouver, Wash.

1. This proceeding involves the application of Cathryn C. Murphy for renewal of her license of standard broadcast station KVAN, Vancouver, Wash. The Commission designated this matter for hearing by order, 19 FCC 2d 858, released September 30, 1969. Presently before the

Review Board is a petition, filed April 28, 1971, by the Broadcast Bureau¹ to enlarge the issues in this proceeding to include "false data and information" determine whether the licensee knew in her license application of March 15, 1971.

2. First, the Bureau contends that good cause has been shown for the late filing of its petition on April 28, 1971, since the matters encompassed by the requested issue are newly discovered and the petition was filed within 15 days of receipt by Bureau counsel of necessary affidavits. Turning to the substance of its request, the Bureau notes that Mrs. Murphy's application recites that the engineering portion (Exhibit 2) was prepared under the supervision of Harold Singleton, a consulting engineer. The Bureau submits an affidavit of Mr. Singleton, dated March 31, 1971, in which he states that Mrs. Murphy asked him to make antenna resistance measurements when a new tower was completed, but that he was unavailable and, consequently, "did not perform, direct, approve, nor review the antenna resistance data" in the application.² Further, the Bureau attaches the affidavit of KVAN's former chief engineer, Donald Nelson, who states that he was chief engineer at KVAN from approximately July 2, 1970, to February 9, 1971; that he is the sole author of engineering Exhibit 2 in the KVAN renewal application; that the data in that exhibit is theoretical; that during his employment at the station no official measurement was made of KVAN's antenna; that Mrs. Murphy knew that the data in Exhibit 2 was theoretical and it was drafted with her understanding that it was not to be submitted to the Commission; that Mrs. Murphy transcribed the typewritten pages of Exhibit 2 from his rough draft; and that because the and discrepancies in the engineering information supplied by KVAN in its ap-

¹ Other related pleadings before the Board are: (a) Opposition, filed May 18, 1971, by Cathryn C. Murphy; (b) Broadcast Bureau's reply, filed June 1, 1971; (c) supplement to opposition, filed June 15, 1971, by Cathryn C. Murphy; and (d) Broadcast Bureau's comments on supplement, filed June 15, 1971.

² The supplement to the opposition filed by Mrs. Murphy includes a letter from Mr. Singleton amplifying this statement, and indicating that, at the request of Mrs. Murphy, he did come by her office to locate "the antenna resistance and reactance figures" which Mrs. Murphy's attorney requested for purposes of answering "Sec. II-A, Paragraph 7." Mr. Singleton further states that at that time Mrs. Murphy showed him "antenna resistance data tabulating the antenna resistance and reactance"; that he simply gave Mrs. Murphy the figures as stated for the frequency 1480 kHz; and that these figures "can be confirmed by reference to the report you [Mrs. Murphy] had prepared by another engineer as part of the Form 302— which you [Mrs. Murphy] said was done by Mr. Murphy."

plication and points to some items which he inserted to prevent the data from being accepted as anything but theoretical. The Bureau concludes, on the basis of the two affidavits, that relevant and material representations in KVAN's March 18, 1971, license application are false and that Mrs. Murphy, despite her certification that all of the information in the application was complete and correct, "knew them to be false at the time data was theoretical he refused to sign page 2 of the engineering section of the KVAN application. Moreover, Mr. Nelson notes a number of alleged inaccuracies she prepared and filed the application".

3. In opposition, the licensee contends that Mr. Singleton has been an engineering consultant to Mrs. Murphy for many years; that she did consult him during the preparation of the license application and, therefore, understood that it was proper to show him as the person under whose direction the exhibit was prepared; and that it is inconceivable that Singleton was present at KVAN during the preparation of the license application for any purpose other than consultation. In support of these contentions, Mrs. Murphy attaches the affidavits of four employees of KVAN and of the lessor of the land for the station's studio and antenna, in which they state that Harold Singleton appeared at the station repeatedly during the time the license application in question was being prepared. Several of the affidavits assert that they observed Mr. Singleton filling out some papers, although they also state that they were not aware of the actual nature of such papers. As for Donald Nelson's affidavit, the licensee points out that Nelson could not testify from personal knowledge as to anything which took place after the termination of his employment at KVAN on February 9, 1971, and argues that, while Nelson did prepare an exhibit based on the theoretical specifications for the installation of equipment, the license application was not signed until March 12, 1971, and was not filed until March 15, 1971, and reflected actual measurements made on KVAN after February 9, 1971, after installation of equipment at the new site. In support of these points, Mrs. Murphy submits the affidavit of her former husband, William B. Murphy, who asserts that he prepared and signed section II of the license application after Mr. Nelson's employment had been terminated, and that the data in the application are based upon actual measurements.

4. In reply, the Bureau points out that there are conflicting factual allegations which cannot be resolved on the basis of the pleadings. The Bureau also submits the affidavit of Otis T. Hanson of the Aural-Existing Facilities Branch, Broadcast Facilities Division of the Broadcast Bureau, which sets forth a detailed engineering analysis of the data in the application.

5. The Broadcast Bureau's petition will be granted,³ although we will modify the language of the requested issue. In our view, a substantial question has been presented as to whether the engineering data submitted in the March 18, 1971, license application are based on actual measurements as required by specific questions in section II of the application. Contrary to the impression created by Mr. Murphy's statement that "measurements were in fact made as shown in Form 302 [the application]", the information submitted in the application does not, on its face, resolve the question of whether such data are, in fact, based on measurements. Rather, the detailed engineering analysis submitted by the Broadcast Bureau seems (a) to support Nelson's statements that the data in the application are based on his theoretical calculations which were not intended by him to be used in this application (paragraph 2); and (b) to contradict Mr. Murphy's statement that actual measurements were made. Moreover, we note that nowhere in Mr. Murphy's statement does he indicate that he took, and/or observed, and/or supervised the actual taking of measurements; nor has the applicant submitted a sworn statement of anyone with explicit first-hand knowledge of the alleged measurements.

6. In sum, the substantial questions presented relate, not only to the accuracy and truthfulness of the data in the application, but also to the truthfulness of Mr. Murphy's statement that actual measurements were taken. A misrepresentation issue is, therefore, warranted.

7. *Accordingly, it is ordered*, That the petition to enlarge issues, filed April 28, 1971, by the Broadcast Bureau, is granted; and

8. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issue: To determine the circumstances surrounding the preparation of the engineering portion of the license application filed March 15, 1971, by Cathryn C. Murphy, whether that application contains misrepresentations to the Commission, and, if so, the effect thereof on the qualifications of Cathryn C. Murphy to continue to be a Commission licensee; and

9. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the issue added herein shall be on the Broadcast

³ The Board agrees with the Bureau that good cause has been shown for the late filing of the subject petition.

⁴ The issues now specified include an issue relating to "whether Mrs. Murphy has been so careless or has evidenced such disregard for the Commission's rules and reporting requirements that she cannot be relied upon to fulfill the responsibilities imposed upon her as a licensee of this Commission." While the basic questions raised here are within the scope of the issue, we, nevertheless, believe that they also warrant a misrepresentation issue, per se.

Bureau, and the burden of proof under said issue shall be on Cathryn C. Murphy.

Adopted: June 18, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-9024 Filed 6-24-71;8:53 am]

FEDERAL MARITIME COMMISSION

CITY OF LONG BEACH AND KOPPEL BULK TERMINAL

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Leonard Putnam, City Attorney, City of Long Beach, Suite 600 City Hall, Long Beach, Calif. 90802.

Agreement No. T-1942-1, between the city of Long Beach (City) and Koppel Bulk Terminal (Koppel), modifies the basic agreement which provides for the lease of a bulk terminal facility and grants Koppel a nonexclusive, preferential berth assignment. The purpose of the modification is to (1) enlarge the leased premises, (2) adjust the rental, (3) re-define the preferential berth assignment, and (4) change certain insurance provisions.

Dated: June 21, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8995 Filed 6-24-71;8:50 am]

PACIFIC COAST AUSTRALASIAN TARIFF BUREAU

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

F. Conger Fawcett, Esq., Graham & James, 310 Sansome Street, San Francisco, CA 94104.

Agreement No. 50-22 between the member lines of the Pacific Coast Australasian Tariff Bureau modifies the basic conference agreement, as amended, to provide for (1) a Declaration of Principle to be added to Article I wherein the parties "pledge to give impartial recognition and consideration, in all matters brought for conference deliberation, to the individual characteristics, needs, desires, and capabilities of each of the other member lines" and (2) the expansion of the cargo covered in Article II to include "cargo moving under intermodal conditions from inland points."

Dated: June 21, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8996 Filed 6-24-71;8:50 am]

[Docket No. 71-42: Special Permission No. 5362]

SEA-LAND SERVICE, INC.

General Increases in Rates in U.S. Atlantic and Gulf/Puerto Rico Trade; Second Supplemental Order

By the original order in this proceeding served April 22, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including August 24, 1971 supplements No. 9 to Tariffs FMC-F No. 18 and FMC-F No. 21. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 303 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, on less than statutory notice, of consecutively numbered revised pages 95 and 96 to Tariff FMC-F No. 21 in order to extend certain expiration dates to June 30, 1972, continuing in effect changes resulting in a reduction in rates and charges.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-42 to make the changes in rates and provisions as set forth in Special Permission Application No. 303, said changes to become effective on not less than 1 day's notice, is hereby granted.

NOTICES

2. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Interstate Shipping Act, 1933.

3. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of Second Supplemental Order in Docket No. 71-42 and Federal Maritime Commission Special Permission No. 5362."

4. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-8997 Filed 6-24-71; 8:50 am]

FEDERAL POWER COMMISSION

[Docket No. R171-1091 etc.]

KENMORE OIL CO., INC., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

JUNE 11, 1971.

Respondents have filed proposed changes in rates and charges for jur-

¹ Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
R171-1091	Kenmore Oil Co., Inc.	2	* 12	Transcontinental Gas Pipe Line Corp. (Wildcat Bayou Field, Terrebonne Parish) (Southern Louisiana).	\$1,909	5-17-71	.....	7-2-71	11 20.0	11 22.652	
R171-1092	Mobil Oil Corporation	141	* 13	United Fuel Gas Co. (Thornwell Field, Jefferson Davis Parish) (Southern Louisiana).	251	5-14-71	.....	6-29-71	11 21.1	11 22.375	R171-492.
R171-1093	Union Oil Co. of California	165	* 18	Transcontinental Gas Pipe Line Corp. (Block 308, Ship Shoal Area) (Offshore Louisiana).	69,350	5-14-71	.....	6-29-71	11 19.0	11 20.0	
R171-1094	Humble Oil & Refining Co.	281	* 15	Trunkline Gas Co. (Bayou Sale Field, St. Mary Parish) (Southern Louisiana).	13,231	5-14-71	.....	6-29-71	11 22.375	11 26.0	R171-700.
R171-1095	Shell Oil Co. et al.	40	14	El Paso Natural Gas Co. (Tulb-Blineby Field, Lea County, N. Mex.) (Permian Basin).	348	5-17-71	.....	8-2-71	18.4138	18.9253	R171-297.
.....do.....	.....do.....	41	27	.....do.....	9,463	5-17-71	.....	8-2-71	18.4138	18.9253	R171-297.
.....do.....	.....do.....	341	8	.....do.....	61	5-17-71	.....	8-2-71	18.4138	18.9253	R171-297.
R171-1096	Shell Oil Co.	134	20	El Paso Natural Gas Co. (University Block 9 Field, Andrews County, Tex.) (Permian Basin).	4,289	5-17-71	.....	8-2-71	16.7846	17.2933	R171-297.
.....do.....	.....do.....	142	18	El Paso Natural Gas Co. (Spraberry Trend, Reagan County, Tex.) (Permian Basin).	117	5-17-71	.....	8-2-71	19.8364	20.3450	R171-297.
.....do.....	.....do.....	273	11	El Paso Natural Gas Co. (Yucca Butte Field, Pecos and Terrell Counties, Tex.) (Permian Basin).	3,146	5-17-71	.....	8-2-71	18.3105	18.8188	R171-297.

See footnotes at end of table.

dictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

NOTICES

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mef*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
.....do.....	.....do.....	305	10	El Paso Natural Gas Co. (South Andrews Field, Andrews County, Tex., Permian Basin).	326	5-17-71	.....	8-2-71	16.7846	17.2933	R171-297.
R171-1097	Union Texas Petroleum, a division of Allied Chemical Corp.	162	1	Natural Gas Pipeline Co. of America. (ROC Field, Ward County, Tex., Permian Basin).	46,500	5-18-71	.....	7-19-71	11 22.0	11 27.0	
R171-1098	Shell Oil Co.	16	15	El Paso Natural Gas Co. (Monahans Field, Ward and Winkler Counties, Tex.) (Permian Basin).	3,779	5-17-71	.....	8-2-71	18.3105	18.8181	R171-297.
.....do.....	.....do.....	17	24	.....do.....	4,578	5-17-71	.....	8-2-71	17.2933	17.8019	R171-297.
.....do.....	.....do.....	18	18	El Paso Natural Gas Co. (Rat-Bedford Field, Andrews County, Tex.) (Permian Basin).	3,998	5-17-71	.....	8-2-71	17.2933	17.8019	R171-297.
.....do.....	.....do.....	20	24	El Paso Natural Gas Co. (Wasson Plant, Yoakum and Galnes Counties, Tex.) (Permian Basin).	185,702	5-17-71	.....	8-2-71	17.188	17.694	R171-297.
.....do.....	.....do.....	34	19	El Paso Natural Gas Co. (Langmat Field, Lea County, N. Mex., Permian Basin).	1,079	5-17-71	.....	8-2-71	11 17.9671	11 18.4786	R171-297.
R171-1099	Union Oil Co. of California	164	5	Northern Natural Gas Co. (Denson Field, Sutton County, Tex., Permian Basin).	381	5-17-71	.....	8-2-71	16.06	17.064	
R171-1100	Union Texas Petroleum, a division of Allied Chemical Corp.	30	9	El Paso Natural Gas Co. (South Feltton Field, Andrews County, Tex., Permian Basin).	2,090	5-20-71	.....	7-21-71	15.19	19.3278	
.....do.....	.....do.....	13	* 10	El Paso Natural Gas Co. (Jack Herbert Field, Upton County, Tex., Permian Basin).	279	5-20-71	.....	7-21-71	12.79	16.2760	
R171-1101	Sun Oil Co.	239	5	Cimarron Transmission Co. (Enville Field, Love County, Okla., Other Area).	558	5-14-71	.....	7-15-71	11 14.13	11 18.8915	

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.

¹ Includes 0.277 B.t.u. adjustment for 1,063 B.t.u. gas.

² Increase resulting from termination of moratorium in Southern Louisiana pursuant to Order No. 413, as amended.

³ Includes documents required by Opinion No. 567 establishing the discovery date of new reservoirs.

⁴ Applicable only to reservoirs identified therein.

⁵ Pursuant to Opinion No. 567 and Order No. 413.

⁶ Pertains only to gas from interest acquired from Hastic Hunt Trust (formerly made under Hunt's Rate Schedule No. 22).

⁷ Includes letter dated Apr. 4, 1971, whereby United advises Mobil that United is now contractually required to pay 22.375 cents.

⁸ All of the southern Louisiana increases are suspended for a period ending 45 days from the date of filing or 1 day from the contractually due date, whichever is later.

⁹ Certain respondents request either waiver of notice requirements or effective dates for which adequate notice was not given. Good cause has not been shown for granting these requests and they are denied.

¹⁰ All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[FR Doc. 71-8610 Filed 6-24-71; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5036]

ALABAMA POWER CO.

Notice of Proposed Charter Amendments and Solicitation of Proxies

JUNE 21, 1971.

Notice is hereby given that Alabama Power Co. (Alabama), 600 North 18th

Street, Birmingham, AL 35203, an electric utility subsidiary company of The Southern Co. (Southern), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Alabama proposes to amend its charter so as to provide an increase in the authorized number of shares of preferred stock, par value of \$100 per share, which the company may issue from 1,200,000 shares to 2 million shares. Alabama presently has 924,000 shares of preferred stock outstanding. It is stated that the primary reason for the proposed increase is to enable Alabama to be in a position to finance a portion of its construction requirements through the issuance of additional shares of preferred stock.

Alabama also proposes to amend its charter so as to make certain technical changes in the general terms and provisions relating to all of the preferred stock in order (a) to permit the sale of new issues of preferred stock with accrued dividends from the date of original issue rather than from the first day of the current dividend period within which originally issued and (b) to incorporate in the company's charter the protective provisions to which the preferred stock

is already subject as set forth in the Commission's order of March 15, 1961 (Holding Company Act Release No. 14389), and certain supplemental orders. Alabama requests that at the time the proposed charter amendment becomes effective the terms and conditions previously prescribed no longer be effective.

Alabama further proposes (1) to change the authorized and issued shares of its common stock without nominal or par value into the same number of shares of common stock with a par value of \$40 per share, (2) to increase common stock capital from \$217,364,713.69 to \$224,358,200.00 by the transfer of \$6,993,486.31 from retained earnings, and (3) to amend the provisions of the charter relating to the issuance of capital stock in classes so as to be consistent with the present provisions of the Alabama Business Corporation Act. It is stated that the purpose of this proposal is to facilitate additional equity investments by Southern in Alabama.

Alabama proposes, pursuant to Rule 62 under the Act, to solicit proxies from the holders of its outstanding preferred stock in connection with a special meeting of stockholders in September 1971 which is to be called to take action upon the foregoing proposals. Such solicitation may be made personally, or by telephone, telegraph, or mail by company employees. Professional proxy solicitors may also be utilized. It is stated that Southern, the owner of all of the outstanding 5,608,955

shares of Alabama's common stock, proposes to vote all such shares for the adoption of the various proposed amendments and that the affirmative vote of a majority of the outstanding 924,000 shares of preferred stock is necessary for the proposed charter amendments regarding the preferred stock.

It is stated that the fees and expenses to be incurred in connection with the proposed transactions are estimated at \$130,000, including an Alabama charter tax of \$107,000, legal fees of \$10,000, and fees for soliciting proxies of \$4,000. It is also stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than July 8, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-9003 Filed 6-24-71; 8:51 am]

[File No. 24D-3055]

CIGARETTE BREAKERS, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

JUNE 15, 1971.

I. Cigarette Breakers, Inc. (issuer), Suite 304 Brooks Tower, 1020 15th Street, Denver, CO 80202, a Colorado corporation, filed with the Commission on March 5, 1971, a notification on Form

1-A and an offering circular relating to the offering of 60,000 shares of its \$0.20 par value common stock at \$5 per share, for an aggregate offering price of \$300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A promulgated thereunder. Charisma Securities Corp. (Charisma), 6 Maiden Lane, New York, NY, was designated as the underwriter of the offering. Charisma was to purchase 30,000 shares of the offering at a price of \$4.50 per share on a firm-commitment basis and was to reoffer such shares to the public at \$5 per share. Charisma was to sell the remaining 30,000 shares of the offering on a best efforts basis and receive an underwriting commission of \$0.50 per share sold. In addition, the issuer was to reimburse Charisma for expenses of the offering in an amount of up to \$10,000, at the rate of \$0.16% per share sold. On May 24, 1971, the issuer filed a request that its notification under Regulation A be withdrawn.

II. The Commission has reasonable cause to believe on the basis of information reported to it by its staff that:

(A) The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to the following:

(1) The failure to disclose that the principal purpose of the incorporation of the issuer and the offering of its common stock was to create a market for the common stock of the issuer so that the promoter of the issuer, and others, could purchase and sell the common stock of the issuer and manipulate the market therefor, to their own benefit and enrichment.

(2) The failure to disclose that following the offering of the issuer's common stock, the promoter of the issuer intended to spread false rumors about the financial and operational condition of the issuer for the purpose of driving down the price at which the common stock of the issuer might be traded, during a period when the promoter, and others, were selling the common stock of the issuer "short", for the benefit and enrichment of the promoter and others.

(3) The failure to disclose that following the offering of the issuer's common stock, a director and principal security holder of the issuer, who allegedly controlled two funds, would attempt to manipulate the price of that security through the purchase and sale of the common stock of the issuer by those funds.

(4) The failure to disclose that the promoter of the issuer did not intend to make a genuine effort to promote the business of the issuer.

(5) The failure to disclose that Robert Ramm, the principal promoter of the issuer, is the subject of a Canada-wide

warrant for fraud in connection with the promotion of Port Comm Communications Corp., Ltd., and the sale of shares of stock therein.

(B) The offering would be made in violation of section 17(a) of the Securities Act of 1933, as amended, by reason of the matters described above.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended:

It is ordered, Pursuant to Rule 261(a), of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within thirty days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-9005 Filed 6-24-71; 8:51 am]

[70-5034]

NEW ENGLAND ELECTRIC SYSTEM ET AL.

Notice of Proposed Issuance and Sale of Common Stock by Newly-formed Non-Utility Subsidiary Company and Acquisition Thereof by Holding Company and Issuance and Sale of Notes to Bank

JUNE 21, 1971.

Notice is hereby given that New England Electric System (NEES), a registered holding company, Massachusetts Gas System (Mass. Gas), a subsidiary holding company of NEES which directly owns the common shares of eight gas utility companies, and Massachusetts LNG, Inc. (Mass. LNG), 20 Turnpike Road, Westborough, MA 01581, have filed with this Commission an application-declaration and an amendment

thereto pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, and 12(b) and Rules 42, 45, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

The proposed transactions relate to a program of Mass. Gas to supplement the present natural gas supply needed during peak periods by its four larger gas utility subsidiary companies (Four Companies) through the use of liquefied natural gas. To implement such program, arrangements were made whereby a nonaffiliate company would liquefy and store pipeline gas at Lynn, Mass., in amounts equivalent to 1 billion cubic feet. An additional storage facility is being constructed in Salem, Mass., with a similar capacity. Construction of the Lynn facility started in 1969, with completion scheduled for November 1, 1971, at an approximate cost of \$10 million. On April 1, 1971, the company constructing the Lynn facility informed the Four Companies that it had been unable to arrange for adequate financing, as originally contemplated, and that the Four Companies would have to secure such financing. It is in consequence of such information that the proposed transactions outlined below were formulated.

It is proposed that Mass. LNG, a new wholly owned subsidiary company of Mass. Gas, issue and sell up to \$15 million at any one time outstanding of its short-term construction notes until September 30, 1972, to The First National Bank of Boston (First National), which notes are to be guaranteed by Mass. Gas. Mass. Gas proposes to acquire an initial issuance of 100 shares of Mass. LNG stock, par value \$1 per share, for \$1,000. The proceeds will be used by Mass. LNG to meet construction expenses for the Lynn and Salem facilities and for related corporate purposes.

The notes are to bear interest at a rate not greater than a percent and a half above the nominal prime rate in effect at First National at the time the notes are issued and sold, with no compensating balances being required by First National. The notes are to mature in less than 1 year from date of issuance but not later than December 31, 1972, and will be prepayable in whole or in part without premium. It is stated that a determination as to whether these facilities will, upon completion, be leased or owned and permanently financed by Mass. LNG has yet to be made. Any permanent financing by Mass. LNG will be the subject of future filings with the Commission.

It is stated that no fees or commissions will be paid in connection with the proposed transactions, and that incidental services estimated at \$3,000 will be performed by the NEES system service company at cost. It is further stated that

no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than 12 noon, July 6, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-9004 Filed 6-24-71; 8:51 am]

TARIFF COMMISSION

[AA1921-75]

CHICKEN EGGS IN THE SHELL FROM MEXICO

Determination of No Injury

The Assistant Secretary of the Treasury advised the Tariff Commission on March 22, 1971, that chicken eggs in the shell from Mexico are being, and are likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted Investigation No. AA1921-75 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on May 17, 1971.¹ Notices of the investigation and hearing were published in the FEDERAL REGISTER of March 27, 1971 (36 F.R. 5821), and April 17, 1971 (36 F.R. 7330).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from personal interviews and other sources.

On the basis of the investigation, the Commission² has unanimously determined that no industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of chicken eggs in the shell from Mexico sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS

In our opinion, no industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of chicken eggs in the shell from Mexico sold at less than fair value (LTFV).

The industry. The interested industry claiming injury consisted of the domestic producers of chicken eggs, most of whom were represented by the complainant, the United Egg Producers, Atlanta, Ga. No other industry claimed to be injured and there appeared to be no other industry likely to be adversely affected by such imports.

Sales of LTFV imports. In this case the Mexican exporters sold eggs for future delivery under contracts on the Chicago Mercantile Exchange. The contracts contemplated delivery of the eggs some 2 to 6 weeks subsequent to the date of sale. The futures contracts were sold indiscriminately with all other futures contracts for domestic eggs and were sold at the highest obtainable prices on the market. No price discrimination was made because of the source of the eggs, all of which had, under the terms of the contract, to be fresh eggs and to meet specified U.S. Department of Agriculture standards respecting quality, size, and color. In fact, buyers of such contracts generally know that delivery of eggs may be made from any source, foreign or domestic, but do not know the actual source until the eggs are delivered. Thus, there was no price discrimination in the market place when the Mexican eggs were sold in competition with domestic eggs. Moreover, no dumping margin existed at this time which could influence the market price of the futures contracts covering the Mexican eggs; fair value or foreign market value was not ascertainable under the provisions of the Antidumping Act until the dates on which the eggs were exported, dates which were 2 to 6 weeks later than the sale dates.

¹ A public hearing was originally scheduled for May 3, 1971.

² Commissioner Bruce E. Clubb, who was a member of the Commission until June 16, 1971, did not participate in the Commission's decision.

The futures market for shell eggs is a mechanism by which suppliers and users of eggs can reduce risks of losses due to subsequent price fluctuations in the cash market; many in the egg producing industry use futures sales in the normal course of business to hedge the price of future production. Prices on the futures market generally reflect traders' expectations of supply at some future time in conjunction with their expectations of demand at the same future time. In this case the Mexican exporters used the futures market to protect against a risk of a price decline; they, like some of the domestic producers who sold futures, failed to anticipate the rise in prices which followed. The Mexicans would have received more than they did if they had sold their eggs later in the cash market. The sale of egg futures contracts on the Exchange is subject to strict regulation by the U.S. Department of Agriculture and is an accepted fair method of competition in the sale of eggs in the shell.

How dumping margin arose—technical dumping. As a result of a rise in the price of eggs in Mexico by the time the exporters' eggs were entered into the United States, the purchase prices (derived by construction from the sale prices of the futures contracts) were lower than the home market price for eggs in Mexico, and the U.S. Department of the Treasury appropriately determined that there were sales at LTFV. However, considered in light of the method by which these eggs were sold well in advance of importation under a fair method of competition, we characterize the sales at LTFV as technical sales at LTFV in harmony with well established precedents of this Commission.¹ The margins of dumping in this case arise from the unusual effect of the time sequence between sales and importation rather than actual price discrimination or other anticompetitive practices.

No injury by reason of dumping. This Commission has unanimously held on a number of occasions that the mere presence or sale of "LTFV" goods in the U.S. market is not ipso facto evidence of injury to an industry as contemplated by the Antidumping Act. An injury to an industry must be caused by reason of the amount of price discrimination (the dumping margin). Without such causal connection, there can be no injury. In this case we found no causal connection for two reasons: (1) The imported eggs and the domestic eggs were sold in the futures market under identical conditions at the highest obtainable price, and (2) there was no dumping margin in existence at the time the futures contracts were sold and therefore the technical dumping could have no causal relation to the prices of those contracts. The sales of the futures contracts, moreover, had no evident adverse effect on futures prices on the days the contracts

were sold. For these reasons we determine there is no injury to an industry in the United States nor is there any likelihood of such injury when Mexican eggs are sold on the Exchange under like circumstances. Further, we found no evidence that any prospective egg producer was prevented from entering the business by reason of such imported eggs.

Injury claimed by complainant. The complainant in this case relied heavily on a claim of injury by reason of the presence of the LTFV eggs in the domestic market which is said to have depressed the prices of eggs in the cash market and prevented the prices of eggs from attaining the level they would have reached had such eggs not entered our market. Although we do not regard LTFV imports per se as a test of injury within the purview of the Antidumping Act, as indicated above, we would note that any injury from this factor was de minimis.² During the brief period of technical dumping (38 days), imports amounted to about one-fourth of 1 percent of domestic production. Competition in this respect was not widespread and we could find no demonstrable causal effect on the market prices of shell eggs.

By direction of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-9008 Filed 6-24-71; 8:51 am]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

¹ See, for example, Titanium Dioxide From France, AA1921-31, TC Publication 109, Sept. 1963, and Rayon Staple Fiber From France, AA1921-17, TC Publication 18, May 1961.

² Commissioner Leonard found no evidence to indicate injury, de minimis or otherwise, by reason of the less-than-fair-value eggs imported from Mexico.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below \$1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below \$1 an hour in the base year.

A. & W. Root Beer Drive In, Inc., restaurant; 1327 Prairie Avenue, Pueblo, CO; 3-16-72.
Alfredo Santos Grocery, Inc., foodstore; 1901 Santa Maria, Laredo, TX; 3-19-72.
Alta Foodland, foodstore; Alta, Iowa; 3-18-71 to 2-25-72.
Andy's Red Owl, foodstore; Litchfield, Minn.; 2-25-72.
Any Time Inn, restaurant; Eppley Airfield, Omaha, NE; 3-4-71 to 2-27-72.
B & B Super Service, foodstore; 103 Victoria Street, Kennedy, TX; 3-3-72.
E. W. Banks Co., variety-department store; 20-22 North Jackson Street, Forsyth, GA; 2-25-72.
Beck's Food Store, foodstore; 207 First Street, Schertz, TX; 3-9-72.
Belle Meade Drug, Inc., drugstore; 4324 Harding Road, Nashville, TN; 3-14-72.
Ben Franklin Store, variety-department store; No. 7544, Joplin, Mo.; 3-4-72.
Bethel Lutheran Home for Aged, nursing home; Williston, N.C.; 3-3-71 to 2-25-72.
Birchwood Club, restaurant; 27th and Redick Avenue, Omaha, NE; 3-11-71 to 3-9-72.
J. B. Bishop Store, foodstore; Valley Falls, S.C.; 3-9-71 to 3-2-72.
Bob's North Side Drugs, Inc., drugstore; 1303 Calumet, Valparaiso, IN; 3-3-72.
Brackley's, Inc., foodstore; 1013 B Street, Fairbury, NE; 3-15-71 to 3-9-72.
Brook Enterprise, Inc., restaurant; 8320 Airport Road, Berkeley, CA; 3-11-72.
Burger Chef, restaurant; 319 Second Street, Defiance, OH; 2-24-72.
Burke Pharmacy Inc., drugstore; 1812 North Cleburn, Grand Island, NE; 3-18-71 to 2-25-72.
Bus's High Street Market, foodstore; 70 East High Street, London, OH; 2-24-72.
Byrd Food, Inc., foodstores, 3-3-72; 1609 South Church Street, Burlington, NC; 2011 West Webb Avenue, Burlington, NC; 3-29-72.
Harden Street, Graham, NC.
Cambridge Nursing Home, Inc., nursing home; 548 West First Street, Cambridge, MN; 3-1-71 to 2-28-72.
Carmel Home, nursing home; 2501 Old Hartford Road, Owensboro, KY; 2-26-72.
Carson Supermarket, foodstore; 217 Edwards Street, Merkel, TX; 3-13-72.
Cattan's Food Market, foodstore; 2902 North Navarro, Victoria, TX; 3-13-72.
Chambers Super Market, foodstore; Wink, TX; 2-26-72.
Charles A. Stewart Co., Inc., apparel store; 116-118 South Garnett Street, Henderson, NC; 3-1-71 to 2-24-72.
Chase Gardens, agriculture; Eugene, Oreg.; 3-1-71 to 2-28-72.
Claude's Food Center, foodstore; Route 1, Hominy, OK; 2-17-72.
Coker's Pedigreed Seed Co., agriculture; 1221 Carolina Avenue, Hartsville, SC 3-19-72.
Colorado Drumstick, Inc., restaurant; 6301 East Colfax Avenue, Denver, CO; 3-3-71 to 2-25-72.
Corhern's Big Star, foodstore; 400 Russell Street, Starkville, MS; 3-6-72.
Cornerstone Farm & Gin Co., agriculture; Pine Bluff, Ark.; 2-29-72.
Craft's Drug Store, drugstores, 3-1-71 to 2-28-72; Nos. 1, 2, 3, and 4, Spartanburg, S.C.
Debroeck's Big Star Market, foodstore; 400

Dix Road, Jefferson City, MO; 3-3-71 to 2-28-72.
DeMars, Inc., apparel store; 6101 West Cermak Road, Cicero, IL; 3-1-72.
Denny's Department Store, variety-department store; 420-422 Gallatin Street, Vandalia, IL; 2-26-72.
Denton's Supermarket, foodstore; Dallas, Ga.; 3-10-72.
Denver Drumstick, Inc., restaurant; 6501 West Colfax Avenue, Denver, CO; 3-3-71 to 2-25-72.
Dillon Co., Inc., foodstores, 2-23-72; Nos. 2 and 12, Dodge City, Kans.; No. 15, Garden City, Kans.; Nos. 3 and 20, Great Bend, Kans.; No. 22, Greensburg, Kans.; No. 16, Hays, Kans.; No. 9, Larned, Kans.; No. 23, Lyons, Kans.; No. 17, McPherson, Kans.; No. 6, Newton, Kans.; No. 21, Pratt, Kans.; Nos. 5, 27, and 41, Salina, Kans.; No. 11, St. John, Kans.; No. 7, Sterling, Kans.; Nos. 18, 19, 28, 29, 30, 31, 33, 36, and 42, Wichita, Kans.
Doddson's Cafeteria Co. restaurants, 3-15-72; 2150 Southwest 59th Street, Oklahoma City, OK; 4101 South Western, Oklahoma City, OK.
Don's Super Valu, Inc., foodstore; 111 First Avenue South, Long Prairie, MN; 3-4-72.
Dow-Rummel Village, nursing home; 1000 North Lake Avenue, Sioux Falls, SD; 3-3-71 to 2-26-72.
Downtown Supermarket, Inc., foodstore; Monticello, Ky.; 3-2-72.
Eagle Stores Co., Inc., variety-department stores; Midtown Plaza Shopping Center, North Wilkesboro, N.C., 3-8-72; No. 42, Pageland, S.C., 2-9-72.
Eighth Avenue Meat & Grocery, foodstore; 376 Eighth Avenue, Salt Lake City, UT; 3-17-71 to 3-10-72.
O. K. Fairbanks Co., foodstores, 3-13-72; 64 Marlboro Street, Keene, NH; 480 West Street, Keene, NH.
Farmers Union Co-Operative Association, variety-department store; Wisner, Nebr.; 3-17-72.
Feddler's Fashion Shop, variety-department store; 103 Main Street, Easley, SC; 3-2-72.
Fields Pharmacy, Inc., drugstore; 1401 Reisterstown Road, Pikesville, MD; 2-22-72.
Fitzgerald's HWI Hardware, Inc., hardware store; 970 West Maple Road, Walled Lake, MI; 3-9-72.
Food Fair Super Market, foodstore; 890 Second Street, Macon GA; 2-20-72.
Food Town Store, foodstore; No. 1, Bessemer, Ala.; 3-10-72.
Forest-Oaks-Thrift-Mart, foodstore; 9335 Howard Drive, Houston, TX; 3-14-72.
J. H. Galley Florists, Inc., agriculture; 2244 Union Road, West Seneca, NY; 3-31-72.
George Regester, Inc., florist; 8833 Belair Road, Baltimore, MD; 3-10-72.
Glant Food Market, foodstores, 3-1-71 to 2-28-72; No. 6, Bristol, Tenn.; Nos. 2 and 4, Johnson City, Tenn.; No. 3, Kingsport, Tenn.
Goldblatt Bros., Inc., variety-department stores; 3149 North Lincoln Avenue, Chicago, IL, 2-15-72; 7975 South Cicero Avenue, Chicago, IL, 3-17-72.
Golden Drumstick, Inc., restaurant; 1490 South Colorado Boulevard, Denver, CO; 3-3-71 to 2-25-72.
W. T. Grant Co., variety-department stores; No. 660, Ramsey, N.J., 3-5-72; No. 63, Hazleton, Pa., 3-2-71 to 2-29-72.
Harrod's Thrift Market & Bakery, foodstore; 320 North White Street, Athens, TN; 2-24-72.
Harry G. Stephens Farm, agriculture; 345 St. Andrews, West Helena, AR; 3-9-72.
Henderson Drugs, Inc., drugstore; 5941 Kingston Pike, Knoxville, TN; 3-11-72.
Hirsch's Thriftway, Inc., foodstore; 241 South Sprigg Street, Cape Girardeau, MO; 3-15-71 to 3-12-72.

Hodges, foodstore; No. 4, Dallas, Tex.; 3-2-72.
Holcomb Pharmacy, drugstore; 1209 Second Street, Perry, IA; 3-3-71 to 2-27-72.
Holiday Inn, motel; Bismarck, N. Dak.; 3-12-71 to 3-9-72.
Holprins, Inc., foodstore; Eagle River, Wis.; 3-7-72.
Hook's Foods, Inc., foodstores; Grundy Center, Iowa, 3-3-71 to 2-22-72; Reinbeck, Iowa; 2-20-72.
Host International Glass House, restaurant; Vinita, Okla.; 3-6-72.
Hosterman & Stover Co., Inc., hardware store; Millhelm, Pa.; 3-8-71 to 3-3-72.
Howland-Hughes Co., variety-department store; 120-140 Bank Street, Waterbury, CT; 2-29-72.
Hudson's Big Country Store, Inc., variety-department store; Coalgate, Okla.; 2-26-72.
Johnson's Pharmacy, Inc., drugstore; 121 West Washington Street, Marquette, MI; 3-6-72.
Kelley's Thriftway, foodstore; 420 West Kingshiway, Paragould, AR; 3-5-72.
Kewanee Public Hospital, hospital; 719-721 Elliott Street, Kewanee, IL; 3-1-71 to 2-28-72.
Kilpatrick's Market, foodstore; North Center Street, Willow Springs, MO; 3-16-71 to 3-1-72.
King's Food Host USA, restaurant; 1955 28th Street, Boulder, CO; 3-16-72.
S. S. Kresge Co., variety-department stores; No. 750, St. Petersburg, Fla., 3-1-72; No. 717, Atlanta, Ga., 2-20-72; No. 714, Fort Worth, Tex., 2-25-72.
LaFour Minimax, foodstore; 923 Main Street, Liberty, TX; 2-29-72.
Lambert's, Inc., apparel store; 109 North Grand, Enid, OK; 3-3-72.
Lampapa's, Inc., variety-department store; Embarrass, Minn.; 3-1-71 to 2-28-72.
Landers Brothers Co., foodstore; Nowata, Okla.; 2-26-72.
Lawrence and Paul Selkel, Inc., variety-department store; Harrah, Okla.; 3-9-72.
Lerner Shops, apparel store; No. 100, Easton, Pa.; 3-16-72.
Lett Rexall Drug, drugstore; 4337 Southeast 15th Street, Del City, OK; 2-20-72.
Littleton's Market, Inc., foodstore; 2831 Dartmouth Avenue, Bessemer, AL; 3-4-72.
Madison Manor, nursing home; 411 East Lane Street, Winterset, IA; 3-11-71 to 3-9-72.
Madonna Home, Inc., nursing home; 5515 South Street, Lincoln, NE; 3-11-71 to 2-8-72.
McDonald's Hamburgers, restaurants, 2-29-72; 2170 East Lake Road, Erie, PA; 4319 Peach Street, Erie, PA; 909 Peninsula Drive, Erie, PA.
McKnight Lanes, bowling alley; 7507 McKnight Road, Pittsburgh, PA; 3-15-72.
McLain's, foodstore; Shepherd, Tex.; 2-24-72.
Mecca Convalescent Home, nursing home; 916 Southwest, U.S. No. 1, Vero Beach, Fla.; 2-22-71 to 2-19-72.
Melman's, foodstore; 924 Brookline Boulevard, Pittsburgh, PA; 3-3-72.
Mercy Hospital, hospital; 2601 Eighth Avenue, Altoona, PA; 3-9-72.
Messer Drug Co., drugstore; Two East Peoria, Paola, KS; 3-3-71 to 2-27-72.
Metzger Stores, hardware store; 901 18th Street, Los Alamos, NM; 3-6-72.
Micka's Market, Inc., foodstore; 199 Cole Road, Monroe, MI; 2-26-72.
Mile-Hi Drumstick, Inc., restaurant; 7400 Federal Boulevard, Westminster, CO; 3-3-71 to 2-25-72.
Minimax, foodstore; 209 East Main Street, Edna, TX; 2-29-72.
Mission Minimax, foodstore; 1137 East Ninth Street, Mission, TX; 3-1-71 to 2-28-72.
Moore's Department Store, Inc., variety-department store; Clarkson, Nebr.; 3-16-71 to 2-1-72.

Morimoto Market, foodstore; 6601 Menaul NE, Albuquerque, NM; 2-17-72.
Moyer's Cigar Store, cigarstore; 100 South Ninth Street, Reading, PA; 3-1-72.
Nelsner Brothers, Inc., variety-department store; No. 167, Cutler Ridge, Fla.; 3-5-72.
J. J. Newberry Co., variety-department store; No. 27, Coatesville, Pa.; 3-1-71 to 2-28-72.
Nicholas Drug Store, Inc., drugstore; 123 West Third Street, Grand Island, NE; 3-3-71 to 2-27-72.
Northern Farmers Co-op Society, variety-department store; Cook, Minn.; 3-1-71 to 2-28-72.
P & T Food Center, foodstores; Alabaster, Ala.; 3-14-72.
Park 'N Shop Food Mart, Inc., foodstores; 301 Robeson Street, Fayetteville, NC, 3-1-71 to 2-28-72; East Broad Street, St. Pauls, NC, 2-23-72.
Parker's Foodliner I.G.A., foodstore; Medicine Lodge, Kans.; 3-11-72.
B. Peck Co., variety-department store; 184 Main Street, Lewiston, ME; 3-17-72.
Pfeiffer's Drugs, drugstore; 2501 West Cervantes Street, Pensacola, FL; 2-17-72.
Piggly Wiggly, foodstores, 3-5-72, except as otherwise indicated: 201 Kirkland Street, Abbeville, AL; 501 Claxton Street, Elba, AL; South Broad Street, Eufula, AL; 806 Water Street North, Geneva, AL; 315 Forrest Avenue, Luverne, AL; 109 East Avenue, Ozark, AL; One East Main Street, Samson, AL; Brundidge Street, Troy, AL; 300 Southeast Washington, Idabel, OK, 2-27-72; 707 West Main Street, Clarksville, TX, 2-27-72; Washington and Bonham, Commerce, TX, 2-27-72; 1310 11th Street, Huntsville, TX, 2-27-72; New Boston, TX, 2-26-72; Nos. 2, 3, and 4, Waco, TX, 2-27-72; Grundy, VA, 2-23-72.
Poquette's Super Market Inc., foodstore; 20 Hosmer Street, Marinette, WI; 3-7-72.
Ralph's Super Valu, Inc., foodstore; 110 West Main Street, Beresford, SD; 3-18-71 to 1-9-72.
Rite-Way Foodliners, Inc., foodstore; 135 East Eufula Street, Norman, OK; 3-1-71 to 2-28-72.
Ritter's Oakwood Manor, Inc., nursing home; 400 Highway 18 West, Clear Lake, IA; 3-16-72.
Rockford Dry Goods, apparel store; 6321 North Second Street, Loves Park, IL; 3-14-72.
Rogerson Restaurant, restaurant; 153 Main Avenue East, Twin Falls, ID; 3-1-71 to 2-28-72.
Sacred Heart Hospital, Inc., hospital; 626 N Street, Loup City, NE; 3-10-72.
Sadowski Super Market, foodstore; 800 Fayette Avenue, Belle Vernon, PA; 3-17-72.
St. Anthony Hospital, hospital; South Clark Street, Carroll, IA; 3-15-71 to 3-12-72.
St. Joseph Hospital, hospital; 602 West Sixth Street North, Cheyenne WYs, CO; 2-20-72.
St. Vincent Hospital, hospital; Xavier Heights, Leadville, Colo.; 3-16-72.
Sanford Memorial Hospital, hospital; 913 Main Street, Farmington, MN; 2-23-72.
Santa Fe Drumstick, Inc., restaurant; 4095 South Santa Fe Drive, Englewood, CO; 3-3-71 to 2-25-72.
Scoco Corp., apparel store; 300 West Main Street, Oklahoma City, OK; 2-23-72.
Shaddid's Food Store, foodstore, 2918 North Pennsylvania, Oklahoma City, OK; 2-27-72.
Sharon Super Market, foodstore; Highway 45 East, Sharon, TN; 3-9-72.
Shawnee Restaurant, Inc., restaurant; 2808 Scioto Trail, Portsmouth, OH; 2-24-72.
Sherry Hardware, hardware store; 1718 West Fourth Street, Davenport, IA; 3-4-71 to 2-16-72.
Shop Rite, Inc., foodstores, 3-1-71 to

2-28-72; Fort Oglethorpe, Ga.; Ringgold, Ga. Silver Lining, restaurant; Eppley Airfield, Omaha, NE; 3-4-71 to 2-27-72.

Singmon-Valentine Market, Inc., foodstore; 511 East 135th, Kansas City, MO; 2-25-72.

Smith Nursery Co., agriculture; Ninth and Allison Streets, Charles City, IA; 3-4-71 to 3-1-72.

Spendthrift Farm, agriculture; Lexington, Ky.; 3-1-71 to 2-28-72.

Spurgeon's, variety-department stores, 2-25-72, except as otherwise indicated; East Side of Square, Canton, IL; 816 Fifth Avenue, Antigo, WI; 108 West Cook, Portage, WI, 3-3-72.

Stanley's Department Store, Inc., variety-department store; 218 East Johnson Street, Greenwood, MS; 3-17-72.

Stephersons Big Star 10, foodstore; 4625 Poplar, Memphis, TN; 3-1-71 to 2-28-72.

Sterling Stores Co., variety-department store; 626 Main Street, Jacksonville, AR; 3-2-72.

Stutstill Grocery & Market, foodstore; 114 South Valdosta Road, Lakeland, GA; 3-2-72.

Sullivan's Restaurant, Inc., restaurant; 2510 East Genesee Avenue, Saginaw, MI; 3-10-72.

Sureway Food Store, foodstores, 3-14-72; No. 4, Henderson, Ky.; No. 9, Madisonville, Ky.; No. 5, Morganfield, Ky.; No. 8, Princeton, Ky.

Sutton's Food City, foodstore; 1935 North Topeka Boulevard, Topeka, KS; 3-19-72.

T. G. & Y. Stores Co., variety-department stores, 3-12-72, except as otherwise indicated; No. 150, Kansas City, Mo. (3-3-71 to 2-28-72); No. 301, St Joseph, Mo. (2-18-72); No. 79, Sand Springs, Okla.; Nos. 1, 68, and 71, Tulsa, Okla.

Taylor Drug Store, drugstore; G-5543 Richfield Road, Flint, MI; 2-27-72.

Temple Avenue Department Store, variety-department store; 143 Temple Avenue, Newnan, GA; 1-31-72.

Tom Thumb Stores, Inc., foodstores, 2-23-72; Nos. 3, 4, 15, and 18, Dallas, Tex.

Tomlinson Stores, Inc., variety-department stores; 155 North Dargan Street, Florence, SC, 2-26-72; 806 Front Street, Georgetown, SC, 2-17-71 to 10-16-71.

Trey's Department Store, variety-department store; Main Street, Parkersburg, IA; 3-5-72.

Variety Foods, foodstore; 44th and South Walker, Oklahoma City, OK; 2-28-72.

Verne Hainline, restaurant; Grand Island, Nebr.; 2-23-71 to 2-20-72.

Victoria Pharmacy, drugstore; Victoria, Tex.; 2-12-72.

Warren's IGA Supermarket, foodstore; Medford, Okla.; 2-17-72.

P. Wiest's Sons, variety-department store; 14-20 West Market Street, York, PA; 2-22-72.

Zarda Brothers Dairy Inc., foodstores, 3-15-72; No. 4, Grandview, Mo.; No. 2, Kansas City, Mo.; No. 3, Raytown, Mo.

The following certificates were issued to establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory

minimum to total hours of employment of all employees.

A to Z Supermarket, foodstore; 2823 Main Street, Hurricane, WV; carryout, stock clerk, cashier; 16 to 22 percent; 3-15-72.

Allen's of Hastings, Inc., variety-department store; 1115 West Second Street, Hastings, NE; carryout, stock clerk, cleanup; 20 percent; 3-19-71 to 3-6-72.

W. R. Angle & Co., Inc., foodstore; 25 East Main Street, Christiansburg, VA; stock clerk, bagger; 9 to 12 percent; 3-13-72.

Ben Franklin Store, variety-department store; 828 South Main Street, West Bend, WI; salesclerk, cashier; 9 to 40 percent; 3-15-72.

Bill Crook's Food Town, foodstores, for the occupations of bagger, stock clerk, 3-8-72; No. 3, Hendersonville, Tenn., 9 to 10 percent; No. 4, Nashville, Tenn., 10 to 11 percent.

Bruners, variety-department store; 1007 Southwest West White Road, San Antonio, TX; salesclerk, stock clerk, office clerk, janitorial; 10 to 28 percent; 3-5-72.

Byrd Food Stores, Inc., foodstores, for the occupations of bagger, carryout, janitorial, stock clerk, cashier, 18 percent, 3-14-72; 727 East Davis Street, Burlington, NC; 2120 North Church Street, Burlington, NC; 110 Washington, Leaksville, NC; 506 Center Street, Mebane, NC; 121 North Madison Avenue, Roxboro, NC; 408 North Second Avenue, Siler City, NC.

Carson Pirie Scott & Co., variety-department store; 3232 Lake Avenue, Wilmette, IL; salesclerk, stock clerk, wrapper; 2 to 8 percent; 3-1-71 to 2-28-72.

Centers, variety-department store; 151-159 Main Street, Waterville, ME; salesclerk, office clerk, stock clerk; 10 percent; 3-14-72.

Craft's Drug Store, drugstores, for the occupation of salesclerk, 8 percent, 3-1-71 to 2-28-72; No. 5, Gaffney, S.C.; No. 10, Greer, S.C.; Nos. 6 and 9, Spartanburg, S.C.

Debroeck's Big Star Market, foodstore; 435 Clark Avenue, Jefferson City, MO; cashier, stock clerk, carryout, wrapper, maintenance, meatcutter; 11 to 32 percent; 3-15-71 to 3-12-72.

The Dillon Co., Inc., foodstores, for the occupations of cashier, checker, carryout, clerk, maintenance, wrapper, 11 to 32 percent, 2-23-72, except as otherwise indicated; No. 101, Fayetteville, Ark.; No. 103, Ozark, Ark.; No. 102, Paris, Ark.; No. 104, Prairie Grove, Ark.; No. 49, Lawrence, Kans. (8 to 28 percent); No. 32, Mulvane, Kans. (11 to 30 percent); No. 24, Newton, Kans. (11 to 25 percent); No. 35, Wichita, Kans. (9 to 17 percent).

Edsel's AG Supermarket, foodstore; 100 Avenue F, Kentwood, LA; bagger, stock clerk, catalogue fillers; 8 to 15 percent; 2-15-72.

Erdman Supermarket, Inc., foodstores, for the occupations of checker, carryout, stock clerk, cleanup, 10 percent, 2-20-72, except as otherwise indicated; 19 Second NW., Kasson, MN (5 to 8 percent); 404 Fourth Street SE., Rochester, MN (2-23-72); 1652 Highway 52 North, Rochester, MN; 1402 North Broadway, Rochester, MN (2-23-72).

Ernie's Super Valu, foodstore; 606 Grundy Avenue, Reinbeck, IA; sacker, carryout; 3 to 5 percent; 3-11-71 to 3-7-72.

Food Town, foodstores, for the occupation of bagger, 22 to 41 percent, 3-10-72; No. 2, Bessemer, Ala.; No. 4, Homewood, Ala.; No. 3, Hueytown, Ala.; No. 6, Pinson, Ala.; No. 5, Pleasant Grove, Ala.

Glant Food Market, Inc., foodstores, for the occupations of carryout, cashier, stock clerk, 20 to 22 percent, 3-1-71 to 2-28-72, except as otherwise indicated; No. 5, Alcoa, Tenn. (3-15-72); No. 12, Greeneville, Tenn.; No. 10, Johnson City, Tenn.; Nos. 8 and 9, Kingsport, Tenn.

Gibson Products Co., variety-department store; 1318 West Doolin, Blackwell, Okla.; salesclerk, stock clerk, cashier; 8 to 16 percent; 3-8-72.

Goldblatt Brothers, Inc., variety-department store; Fairplain Plaza, Benton Harbor, Mich.; salesclerk, stock clerk; 5 to 6 percent; 3-10-72.

Good Samaritan Center, nursing home; Syracuse, Nebr.; nurse's aide, maintenance; 0 to 8 percent; 3-13-72.

H. E. B. Food Store, foodstores, for the occupations of package clerk, sacker, bottle clerk, 10 percent, 3-10-72; No. 111, Austin, Tex.; No. 115, Sinton, Tex.

Hodges, foodstore; No. 5, Grand Prairie, Tex.; package clerk, stock clerk; 10 to 14 percent; 3-2-72.

Hunts Store, foodstores, for the occupations of stock clerk, package clerk, 11 to 14 percent, 2-23-72; Nos. 408 and 432, Dallas, Tex.

Huntsville Grocery Co., Inc., foodstore; 1310 Avenue L, Huntsville, TX; stock clerk, checker, sacker, clerk; 10 percent; 2-27-72.

S. S. Kresge Co., variety-department stores, for the occupations of stock clerk, maintenance, office clerk, food preparation, salesclerk, register operation, counter filling, customer service, 11 to 22 percent, except as otherwise indicated; No. 4295, Miami, Fla., 3-11-72 (salesclerk, 7 to 24 percent); No. 4355, St. Petersburg, Fla., 3-11-72 (salesclerk, 7 to 24 percent); No. 226, Calumet City, Ill., 3-7-72 (salesclerk, stock clerk, checker-cashier, office clerk, 18 to 33 percent); No. 4595, Olney, Ill., 3-12-72 (salesclerk, stock clerk, checker-cashier, office clerk, 9 to 16 percent); No. 4020, Detroit, Mich., 2-26-72 (10 percent); No. 246, Grand Rapids, Mich., 2-27-72 (2 to 11 percent); No. 4082, Troy, Mich., 3-5-72 (8 to 10 percent); No. 4163, Westland, Mich., 3-5-72 (10 percent); No. 4112, Asheville, N.C., 2-21-72 (salesclerk, checker); No. 4075, Raleigh, N.C., 2-7-72 (salesclerk); No. 775, Wilmington, N.C., 3-2-72 (checker, salesclerk); No. 4175, Canton, Ohio, 2-23-72 (6 to 17 percent); No. 4153, Cincinnati, Ohio, 2-24-72 (salesclerk, stock clerk, checker-cashier, maintenance, display clerk, office clerk, 7 to 22 percent); No. 4023, Amarillo, Tex., 2-20-72 (salesclerk, stock clerk, office clerk, checker-cashier, customer service, 0 to 7 percent); No. 4236, Houston, Tex., 2-18-72 (salesclerk, 7 to 27 percent).

Lerner Shops, apparel store; 4142-48 Melrose Avenue, Roanoke, VA; salesclerk, cashier, credit clerk; 2 to 18 percent; 3-16-72.

Wm. A. Lewis Clothing Co., apparel store; 8037-41 South Cicero, Chicago, IL; receptionist, stock clerk, checkwriter, wrapper; 8 to 10 percent; 3-12-72.

Leys Department Store, variety-department store; Burlington, Wis.; salesclerk, stock clerk, office clerk; 8 to 12 percent; 3-1-71 to 2-28-72.

Lo Mark, Inc., foodstore; Cumberland Street, Dunn, N.C.; bagger, carryout, cashier, janitorial, stock clerk; 18 percent; 3-1-72.

J. E. Mayes, agriculture; Mayesville, S.C.; farm laborer; 0 to 22 percent; 3-11-71 to 2-11-72.

McCrory-McLellan-Green Stores, variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, except as otherwise indicated; No. 226, Savannah, Ga.; 10 to 31 percent, 3-14-72; No. 269, Munster, Ind., 7 to 16 percent, 3-1-71 to 2-28-72; No. 373, Bowie, Md., 27 to 38 percent, 3-6-72 (salesclerk, stock clerk, office clerk, cashier); No. 1307, Bergenfield, N.J., 19 to 37 percent, 3-15-72; No. 398, Feasterville, Pa., 11 to 26 percent, 2-29-72.

Mr. H's Fine Foods, foodstore; 7635 West Bluemound, Milwaukee, WI; bagger, carryout, stock clerk, clean up; 17 to 23 percent; 3-3-72.

G. C. Murphy Co., variety-department stores, for the occupations of salesclerk, office clerk, stock clerk, janitorial, 3-15-72; No. 315, Corry, Pa., 9 to 25 percent; No. 325, Harrisburg, Pa., 17 to 25 percent.

Nathan's Jewelers, jewelry store; 129 South Chadbourne Street, San Angelo, TX; salesclerk, gift wrapper; 7 to 27 percent; 3-11-72.

Novak IGA, foodstore; First and Lincoln, Ellsworth, KS; meat department clerk, produce department clerk, stock clerk, courtesy clerk, janitorial; 14 to 30 percent; 3-5-71 to 3-3-72.

Pence Food Center, foodstore; 1501 South Sante Fe, Chanute, KS; bagger, carryout, cashier, janitorial, stock clerk; 8 to 25 percent; 2-22-72.

Piggly Wiggly, foodstores, for the occupations of checker, stock clerk, bagger, clerk, 10 percent, 2-27-72, except as otherwise indicated; 830 South Oates Street, Dothan, AL (bagger, 9 to 10 percent, 3-5-72); No. 21, Texarkana, Ark. (3-8-72); West Oakland Avenue, Camilla, Ga. (bagger, 3-5-72); Town and Country Shopping Center, Pikeville, Ky. (bagger, carryout, stock clerk, 20 to 32 percent, 2-23-72); South Van Buren Street, Carthage, Miss. (stock clerk, bagger, clean up, 11 to 15 percent); Biscoe, N.C. (bagger, checker, stock clerk, 19 to 20 percent, 3-1-71 to 1-31-72) (Replacement); Mount Gilead, N.C. (bagger, checker, stock clerk, 19 to 20 percent, 3-1-71 to 1-31-72) (Replacement); 102 West Chestnut, Troy, NC (bagger, checker, stock clerk, 19 to 20 percent, 3-1-71 to 1-31-72) (Replacement); Highway 6 and Rosemary, Bryan, Tex. (1 to 31 percent); 407 South Main Street, Henderson, TX (1 to 31 percent); No. 10, Rockdale, Tex.; No. 11, Temple, Tex.; Nos. 8 and 9, Waco, Tex.; Williamson, W. Va. (bagger, carryout, stock clerk, 20 to 32 percent, 2-23-72).

Pikes Peak Drumstick, Inc., restaurant; 1104 South Circle Drive, Colorado Springs, CO; waiter (waitress), kitchen helper, bus boy (girl), host (hostess), counter helper, takeout clerk; 38 to 63 percent; 3-2-71 to 2-24-72.

Queen Nursing Home, nursing home; 300 Queen Avenue North, Minneapolis, MN; nurse's aide, kitchen helper; 6 to 15 percent; 3-17-72.

Rayless Department Store, variety-department store; 112-114 Main Street, Suffolk, VA; clerk, salesclerk, stock clerk, janitorial, marker; 13 to 34 percent; 3-1-72.

The Record Bar, music stores, for the occupation of salesclerk, 13 to 28 percent, 2-18-71 to 1-1-72, except as otherwise indicated; Chapel Hill, N.C.; Southpark Mall, Charlotte, N.C. (2-18-71 to 2-8-72); 201 East Main Street, Durham, N.C.; Greenville, N.C. (2-18-71 to 2-8-72); Cameron Village, Raleigh, N.C.; North Hills Shopping Center, Raleigh, N.C.; Tarrytown Mall, Rocky Mount, N.C. (2-18-71 to 2-8-72).

Scott Foods, Inc., foodstore; Oneida, Tenn.; bagger, service meat counter, produce helper, stock clerk; 19 to 30 percent; 3-1-71 to 2-28-72.

Shop Rite, Inc., foodstores, for the occupations of bagger, stock clerk, 10 percent, 3-1-71 to 2-28-72; Murray Plaza, Chatsworth, Ga.; Downtown Shopping Center, Summerville, Ga.

Southside Super Market, foodstore; 610 South Main Street, Charles City, IA; cashier, carryout, stock clerk; 21 to 60 percent; 3-15-72.

Stop and Shop Food Market, foodstore; 626 Main Street, Barboursville, W. Va.; carryout, stock clerk, cashier; 14 to 25 percent; 3-11-72.

Sureway Food Store, foodstores, for the occupations of carryout, checker, stock clerk, 18 to 38 percent, 3-14-72, except as otherwise indicated; No. 1, Calvert City, Ky.; No. 7, Eddyville, Ky.; No. 2, Henderson, Ky. (23 to 40 percent); No. 14, Henderson, Ky. (23 to 40 percent, 3-1672); No. 10, Madisonville, Ky. (26 to 48 percent); No. 6, Marion, Ky.; No. 12, Providence, Ky. (26 to 48 percent); No. 3, Sturgis, Ky.

Sutherland Hospital & Nursing Home, hospital; 344 Hickory Street, Sutherland, NE; nurse's aide, kitchen helper; 0 to 8 percent; 3-15-72.

T. G. & Y. Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk; No. 2100, Little Rock, Ark., 11 to 30 percent, 2-27-72; No. 544, Granada Hills, Calif., 16 to 30 percent, 3-20-71 to 2-28-72; No. 634, Los Angeles, Calif., 19 to 35 percent, 3-20-71 to 2-28-72; No. 309, Manhattan, Kans., 15 to 29 percent, 3-12-72; No. 810, Santa Fe, N. Mex., 4 to 30 percent, 3-6-72; No. 10, Ada, Okla., 20 to 30 percent, 2-27-72; No. 44, Bethany, Okla., 5 to 28 percent, 3-6-72; No. 423, Oklahoma City, Okla., 18 to 30 percent, 3-13-72; No. 22, Sapulpa, Okla., 24 to 30 percent, 3-12-72; No. 50, Tulsa, Okla., 16 to 30 percent, 3-12-72; No. 401, Tulsa, Okla., 14 to 30 percent, 3-12-72; No. 828, Abilene, Tex., 8 to 30 percent, 3-10-72; Nos. 813 and 821, Houston, Tex., 30 percent, 3-1-71 to 2-28-72; No. 739, Kilgore, Tex., 30 percent, 2-27-72; No. 762, Marshall, Tex., 30 percent, 2-29-72.

Tip Top Fruit Farm, Inc., agriculture; Route 1, Penn Laird, Va.; fruit packer, fruit grader, unloader, loader; 5 to 50 percent; 3-4-72.

Tom Thumb Stores, Inc., foodstores, for the occupation of package clerk, 9 to 13 percent, 2-23-72; Nos. 23, 27, 28, 30, and 34, Dallas, Tex.; No. 25, Garland, Tex.; No. 24, Grand Prairie, Tex.

Tradewell Supermarket, foodstore; 425 Camden Road, Huntington, W. Va.; carryout, stock clerk, cashier; 16 to 22 percent; 3-15-72.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or consideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 18th day of June 1971.

ROBERT G. GRONEWALD,
Authorized Representative
of the Administrator.

[FR Doc.71-8988 Filed 6-24-71; 8:50 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 22, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42231—Sulphuric Acid to Holt, Ala. Filed by O. W. South, Jr., Agent (No. A6265), for interested rail carriers. Rates on acid, sulphuric, in tank carloads, as described in the application, from Occidental, Fla., to Holt, Ala.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 46 to Southern Freight Association, agent, tariff ICC S-881. Rates are published to become effective on July 22, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9014 Filed 6-24-71; 8:52 am]

HOME TRANSPORTATION CO., INC., ET AL.

Assignment of Hearings

JUNE 22, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-111545 Sub 150, Home Transportation Co., Inc., now being assigned July 22, 1971, at Columbus, Ohio, in Room 4, State Office Building, 65 South Front Street.

FD-26349, Missouri Pacific Railroad Co.—Trackage Rights—St. Louis-San Francisco Railway Co., and FD-26350, Missouri Pacific Railroad Co., Abandonment between Crane and Battlefield, Mo., assigned hearing July 26, 1971, at Springfield, Mo., in Court Room 308, U.S. Courthouse, 870 Boonville.

MC-2229 Sub 157, Red Ball Motor Freight, Inc., Dallas, Tex., assigned for continued hearing on June 28, 1971, at Texas State Hotel, Houston, Tex., and July 12, 1971, at the Stemmons Inn, Dallas, Tex.

MC-119441 Sub 25, Baker Hi-Way Express, Inc., Dover, Ohio, now assigned July 2, 1971, at Columbus, Ohio, postponed indefinitely.

MC-52657 Sub 676, Arco Auto Carriers, Inc., now assigned June 28, 1971, at Washington, D.C., canceled and transferred to modified procedure.

MC-C-7287, Aaacon Auto Transport, Inc.—Investigation and Revocation of certificate, and FF-359, Auto Trip U.S.A., Inc., Freight Forwarder Application, assigned hearing July 12, 1971, at New York, N.Y., is postponed to September 27, 1971, same time and place.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71 9016 Filed 6-24-71;8:52 am]

[Notice 707]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 22, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72911. By order of June 21, 1971, Motor Carrier Board approved the transfer to Tullahoma Freight Co., Inc., Tullahoma, Tenn., of the certificates of registration in Nos. MC-121592 issued October 23, 1967, and No. MC-121592 (Sub-No. 1) issued August 5, 1966, to Frank C. Martin, doing business as Tullahoma Freight Co., Tullahoma, Tenn., authorizing transportation corresponding in scope to common carrier certificates Nos. 2333, dated July 21, 1965, and No. 233-A, dated April 22, 1966, issued by the Tennessee Public Service Commission. R. E. Bonner, Jr., 111 West Court Street, McMinnville, TN 37110, attorney for applicants.

No. MC-FC-72934. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Gerald E. Amundson, Route 1, Northfield, Minn. 55057, of the operating rights in certificates Nos. MC-115295, MC-115295 (Sub-No. 1), MC-115295 (Sub-No. 2), MC-115295 (Sub-No. 3), MC-115295 (Sub-No. 4), and MC-115295 (Sub-No. 5) issued July 10, 1963, November 5, 1964, November 1, 1965, April 21, 1966, September 6, 1967, and July 19, 1968, respectively, to Bob Utgard, doing business as Utgard Trucking, New Richmond, Wis., authorizing the transportation of animal and poultry feeds, from New Richmond, Wis., to points in Olmsted, Dakota, Scott, Anoka, Benton, Carlton, Chisago, Hennepin, Isanti, Kanabec, Mille Lacs, Pine, Ramsey, Sherburne, Washington, Wright, Mower,

Carver, Chippewa, Dodge, Freeborn, Le Seuer, McLeod, Meeker, Nicollet, Renneville, Rice, Sibley, Steele, Waseca, Goodhue, Lac Qui Parle, Wabasha, Yellow Medicine, Fillmore, and Houston Counties, Minn., specified portions of Blue Earth, Faribault, and Winona Counties, Minn., and points in Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Fayette, Floyd, Franklin, Howard, Mitchell, Winnebago, Winnebush and Worth Counties, Iowa; manufactured feed ingredients, in bulk and in bags, from points in Carver, Dakota, Hennepin, Ramsey, and Scott Counties, Minn., to New Richmond, Wis., and alfalfa meal and alfalfa pellets, from points in Renneville County, Minn., to New Richmond, Wis. Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402, attorney for transferor.

No. MC-FC-72950. By order of June 18, 1971, the Motor Carrier Board approved the transfer to K & B Mounting, Inc., Warren, Mich., of the operating rights in certificates Nos. MC-1184, MC-1184 (Sub-No. 1), MC-1184 (Sub-No. 2), MC-1184 (Sub-No. 4), MC-1184 (Sub-No. 9), MC-1184 (Sub-No. 13), and MC-1184 (Sub-No. 19) issued May 4, 1942, June 3, 1940, December 30, 1944, November 14, 1950, July 16, 1958, November 5, 1959, and February 5, 1971, respectively to George F. Burnett Co., Inc., South Bend, Ind., authorizing the transportation of specified commodities from South Bend, Ind., to points in Alabama, Arizona, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; from Baltimore, Md., to points in Maine, New Hampshire, Vermont, Minnesota, and Iowa; and from Bethlehem, Pa., to Atlanta, Ga., Cincinnati, Ohio, St. Louis, Mo., and Flint, Mich. Harold G. Hernly, 510 Circle Building, 2030 North Adams Street, Arlington, VA 22201, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71 9015 Filed 6-24-71;8:52 am]

[Rev. S.O. 994; ICC Order 47, Amdt. 5]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 47 (The Chicago, Rock Island, and Pacific Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 47 be, and it is hereby, amended by substituting the follow-

ing paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1971, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 21, 1971.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.
[FR Doc.71 9013 Filed 6-24-71;8:52 am]

[S.O. 994; ICC Order 12, Amdt. 13]

NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 12 (New York, Susquehanna, and Western Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 12 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1971, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 21, 1971.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.
[FR Doc.71 9006 Filed 6-24-71;8:51 am]

[Rev. S.O. 994; ICC Order 57, Amdt. 1]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 57 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees), and good cause appearing therefor:

It is ordered, That:

ICC Order No. 57 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1971, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 21, 1971.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.
[FR Doc.71-9007 Filed 6-24-71;8:51 am]

[Rev. S.O. 994; ICC Order 56, Amdt. 1]

PENN CENTRAL TRANSPORTATION CO. AND SOO LINE RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 56 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees; and Soo Line Railroad Co.),

It is ordered, That:

ICC Order No. 56 be, and it is hereby, amended by substituting the following

paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1971, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 21, 1971.

INTERSTATE COMMERCE COM-
MISSION,
R. D. PFAHLER,
Agent.
[FR Doc.71-9012 Filed 6-24-71;8:52 am]

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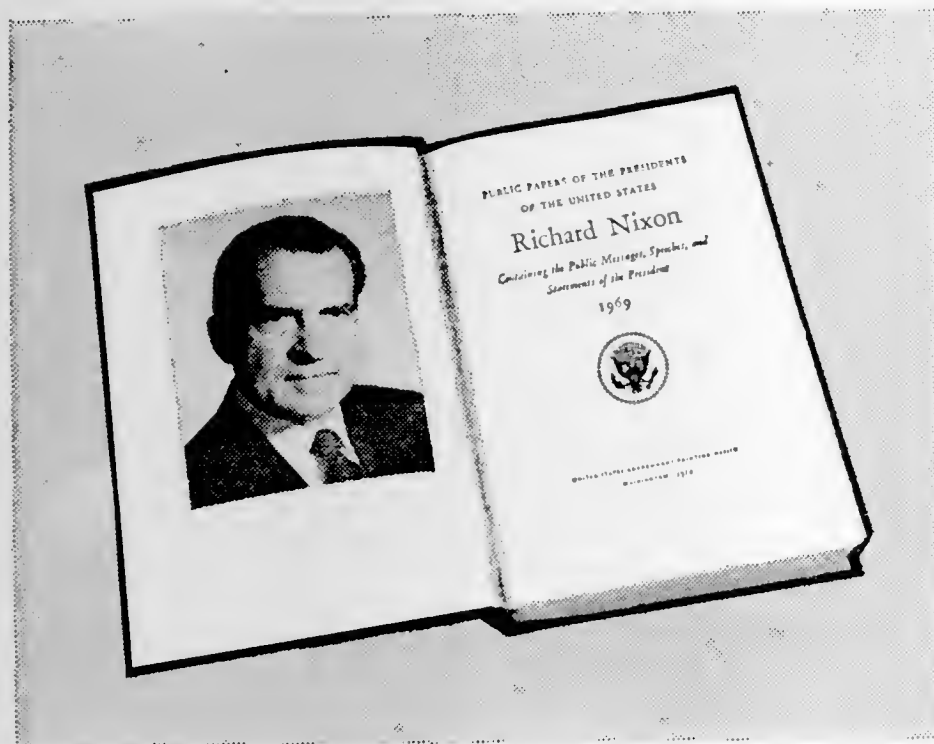
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Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 486]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.786 Lemon Regulation 486.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the fact is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the afore- and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any

special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 22, 1971.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period June 27, 1971, through July 3, 1971, are hereby fixed as follows:

- (i) District 1: Unlimited;
- (ii) District 2: 300,000 cartons;
- (iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 23, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division Consumer and Marketing Service.

[FR Doc. 71-9125 Filed 6-25-71; 8:51 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

[Hearing Docket CE-P 16]

PART 150—ORDERS OF THE COMMODITY EXCHANGE COMMISSION

Limits on Position and Daily Trading in Corn and Soybeans for Future Delivery

On January 28, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 1340) of a proposed amendment of the orders of the Commodity Exchange Commission promulgated under section 4a of the Commodity Exchange Act, as amended (7 U.S.C. 6a), by revision of §§ 150.1(e) and 150.4 (a) and (b) and issuance of a proposed new section to be designated as § 150.11 thereof.

Interested persons were given until March 1, 1971, to request an oral hearing or to submit written statements on the proposed amendment. A hearing was requested and on March 5, 1971, notice was published in the FEDERAL REGISTER (36 F.R. 4408) that a hearing would be held on March 19, 1971; the time and place of the hearing were also stated in that notice. The time for filing written statements on the proposed amendment, was extended to the time of the hearing, and notice of this was also published in the latter notice.

The hearing was held pursuant to the latter notice. At that hearing, it was announced that interested persons were given until April 16, 1971, 4 weeks from the date of the hearing, to file written arguments based on the evidence received at the hearing.

As set forth in the notice of proposed rule making published on January 28, 1971, limits fixed by the previous orders establishing maximum limits on position and daily trading in corn and in soybeans for future delivery on any one market, were based on the principle that the larger the net trades by large speculators, the more certain it becomes that prices will respond directly to trading. Analysis of speculative trading for the 4 years 1966-69 did not show that undue price fluctuations resulted from speculative trading as the trading by individual traders grew larger. Although there was some indication that prices tended to move in the direction of the larger trades by speculators, the analysis did not show a sufficiently high probability of this occurring to indicate that the limits should be retained at the present 2-million-bushel level in these commodities.

After consideration of all relevant matters presented by interested persons the amendment as so proposed is hereby adopted without change and is set forth below.

As set forth in the notice of proposed rule making published on January 28, 1971, the purpose of this amendment is to provide that the maximum limits on position and daily trading in corn and in soybeans for future delivery on any one market, should be established at 3 million bushels in any one future or in all futures combined.

The effect of this amendment is to enlarge the permissible amount of trading and size of positions in corn and soybeans. Accordingly, pursuant to 5 U.S.C. 553, good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 4a as amended by secs. 2-4, 82 Stat. 26, 27; 7 U.S.C. 6a, 1964 Ed. Supp. IV, 1969)

This amendment shall become effective on publication in the FEDERAL REGISTER (2-26-71).

Issued this 23d day of June 1971.

COMMODITY EXCHANGE COMMISSION,
H. L. UPCHURCH,
Chairman designee for the
Secretary of Agriculture.

HUDSON B. DRAKE,
Member designee for the
Secretary of Commerce.

JOSEPH J. SANDERS,
Member designee for the
Attorney General.

Sections 150.1(e) and 150.41 (a) and (b) are revised and a new section designated § 150.11 is added to read as follows: Sections 150.1(e) and 150.4 (a) and (b) are revised and a new section designated § 150.11, is added to read as follows:

§ 150.1 Limits on position and daily trading in grain for future delivery.

(e) *Definitions.* As used in this part the word "grain" includes wheat, oats, barley, and flaxseed, and the word "person" imports the plural or singular and includes individuals, associations, partnerships, corporations, and trusts.

§ 150.4 Limits on position and daily trading in soybeans for future delivery.

The following limits on the amount of trading under contracts of sale of soybeans for future delivery on or subject to the rules of any contract market, which may be done by any person, are hereby proclaimed and fixed, to be in full force and effect on and after June 26, 1971:

(a) *Position limit.* The limit on the maximum net long or net short position which any person may hold or control in soybeans on or subject to the rules of any one contract market is 3 million bushels in any one future or in all futures combined.

(b) *Daily trading limit.* The limit on the maximum amount of soybeans which any person may buy, and on the maximum amount which any person may sell, on or subject to the rules of any one contract market during any one business day is 3 million bushels in any one future or in all futures combined.

§ 150.11 Limits on position and daily trading in corn for future delivery.

The following limits on the amount of trading under contracts of sale of corn for future delivery on or subject to the rules of any contract market, which may be done by any person, are hereby proclaimed and fixed, to be in full force and effect on and after June 26, 1971.

(a) *Position limit.* The limit on the maximum net long or net short position which any person may hold or control in corn on or subject to the rules of any one contract market is 3 million bushels in any one future or in all futures combined.

(b) *Daily trading limit.* The limit on the maximum amount which any person may buy, and on the maximum amount which any person may sell, of corn, on or subject to the rules of any one contract market during any one business day is 3 million bushels in any one future or in all futures combined.

(c) *Bona fide hedging.* The foregoing limits upon position and upon daily trading shall not be construed to apply to bona fide hedging transactions, as defined in section 4a(3) of the Commodity Exchange Act (7 U.S.C. 6a(3)).

(d) *Manipulations: corners; responsibility of contract market.* Nothing contained in this section shall be construed to affect any provisions of the Com-

modity Exchange Act relating to manipulation or corners, nor to relieve any contract market or its governing board from responsibility under section 5(d) of the Commodity Exchange Act (7 U.S.C. 7(d)) to prevent manipulation and corners.

(e) *Definition.* As used in this part, the word "person" imports the plural or singular and includes individuals, associations, partnerships, corporations, and trusts.

(f) *Application of limits.* The foregoing limits upon positions and upon daily trading shall be construed to apply, respectively, to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single individual.

[FR Doc.71-9096 Filed 6-25-71; 8:51 am]

Chapter II—Securities and Exchange Commission

[Release No. 1C-6568]

PART 271—INTERPRETATIVE RELEASES RELATIVE TO THE INVESTMENT COMPANY ACT OF 1940 AND RULES AND REGULATIONS THEREUNDER

Guidelines for Additional Disclosures for Contractual Plan Prospectuses Concerning New Refund and Election Provisions of the Investment Company Act

This is the sixth in a series of releases relating to the Investment Company Act Amendments Act of 1970 (1970 Act), Public Law 91-547, enacted December 14, 1970 (84 Stat. 1413). The purpose of this release is to furnish guidelines for additional prospectus disclosures concerning the new refund and election provisions, which become effective on June 14, 1971, to be made by companies which issue periodic payment plan certificates.

In Investment Company Act Release No. 6392, dated March 19, 1971 (36 F.R. 5840), the requirements of new subsections (b), (e), (f), (g), and (h) of section 27 of the Act (84 Stat. 1424) were explained, and certain interim disclosures were suggested. The guidelines contained in the present release deal with disclosures which will be required on and after the effective date of the above subsections.

As set forth below, the guidelines are presented in two versions. The first version should be used by companies which have elected to be governed by new section 27(h) of the Act. Such companies should, as indicated, prominently disclose the new 45-day withdrawal right. The second version is to be used by companies which have not elected to be governed

¹ See Investment Company Act Releases, Nos. 6336, 6392, 6430, 6440 and 6506 (1971) [36 F.R. 2867, 36 F.R. 5840, 36 F.R. 7897, 36 F.R. 8729 and 36 F.R. 9130].

by section 27(h). These companies should disclose and describe both the 45-day and 18-month withdrawal rights. Companies within this category which are presently considering making an election to be bound by section 27(h) should, as noted, also disclose this fact.

Companies which have elected to be governed by section 27(h) will be making extensive revisions in their prospectuses dealing with the new sales load provisions and accordingly will be amending their registration statements. The new disclosures discussed in this release should be made as a part of these amendments. Companies which have not elected to be governed by section 27(h) may amend their prospectuses pursuant to Rule 424(c) under the Securities Act of 1933 (17 CFR 230.424(c)), either by attaching stickers to the prospectuses currently in use or by integrating the new disclosures through reprinting their prospectuses.

The Commission would ordinarily consider as acceptable language which substantially conforms to the following guidelines:

(1) *For companies which have elected to be governed by subsection 27(h).*

For front page:

45-DAY WITHDRAWAL RIGHT

Under recent amendments to the Investment Company Act of 1940, an investor who starts a plan on or after June 14, 1971, has a 45-day right of withdrawal. For a full discussion of this withdrawal right, see page _____ of this prospectus.

For body of prospectus:

45-DAY WITHDRAWAL RIGHT

A new investor starting a plan on or after June 14, 1971, who surrenders his plan certificate within 45 days after the custodian bank mails him a notice, has a right to receive in cash the value of his account plus an amount equal to the difference between the gross payments made and the net amount invested. The custodian bank is required to mail to the certificate holder, within 60 days after the issuance of the certificate, a statement of charges to be deducted from the projected payments and the notice of the right of withdrawal.

(2) *For companies which have not elected to be governed by subsection 27(h).*

For front page:

WITHDRAWAL RIGHTS

Under recent amendments to the Investment Company Act of 1940, an investor who starts a plan on or after June 14, 1971, has (a) a 45-day right of withdrawal, and (b) a right to receive during the first 18 months of the plan the value of his account and a portion of the sales charges paid prior to his withdrawal. For a full discussion of these withdrawal rights, see sticker attached to page _____ of this prospectus.

NOTE: Companies which are presently considering making the election under section 27(g) of the Act should add the following statements to their front page disclosure:

POSSIBLE CHANGE IN SALES LOAD

Under the periodic payment plans now in effect, and being offered 12 months or their equivalent is deducted as sales charges. Effective June 14, 1971, registered investment companies issuing periodic payment plan certificates may elect to sell periodic payment

plans under which no more than 20 percent of any payment, and no more than an average of 16 percent of all such payments, is deducted for sales charges from the first 48 payments. If such an election is made, substantially larger portion of the planholder's early payments would be invested on his behalf in the shares of the underlying investment company than under the periodic payment plans presently being offered. The sponsor is considering whether it will elect to offer periodic payment plans on this basis.

For body of prospectus:

WITHDRAWAL RIGHTS

45-DAY WITHDRAWAL RIGHT

A new investor starting a plan on or after June 14, 1971, who surrenders his periodic payment plan certificate within 45 days after the custodian bank mails him a notice, has a right to receive in cash the value of his account plus an amount equal to the difference between the gross payments made and the net amount invested. The custodian bank is required to mail to the certificate holder, within 60 days after the issuance of the certificate, a statement of charges to be deducted from the projected payments and a notice of the right of withdrawal.

18-MONTH WITHDRAWAL RIGHT

A new investor who starts a plan on or after June 14, 1971, is entitled to surrender his certificate and receive in cash the value of his account plus that part of the amount which he has paid for sales charges which exceeds 15 percent of his gross payments. In addition, a new investor who misses specified numbers of payments during this 18-month period will be sent a notice informing him of (1) his right to surrender, (2) the value of his account at the time of the mailing of the notice, and (3) the amount of refund to which he is entitled if he should withdraw. By the Commission, June 11, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-9046 Filed 6-25-71; 8:46 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-166]

PART I—GENERAL PROVISIONS
Customs Field Organization; Station Established at Muskogee, Okla.

To provide improved service to the carriers and importing community of central Oklahoma, a Customs station will be established at Muskogee, Okla., on July 1, 1971.

The station will be under the supervision of the Port of Tulsa, Okla., which is in the Houston Customs District (Customs Region VI).

Section 1.3(d) of the Customs Regulations is amended by adding "Houston, Tex." after "New Orleans, La." in the column headed "Districts," and by adding on the same line "Muskogee, Okla." in the column headed "Customs Stations," and "Tulsa, Okla." in the column headed "Port of Entry Having Supervision."

(80 Stat. 379, sec. 1, 37 Stat. 434; 5 U.S.C. 301, 19 U.S.C. 1)

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: June 18, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-9095 Filed 6-25-71; 8:50 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70-129a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS
Cedar Bayou, Texas

This amendment changes regulations for the Missouri Pacific Railroad Bridge across Cedar Bayou, Texas, to require the lift span to be maintained in the open position, except when a train crosses the draw. Under this amendment the vertical clearance under the draw is 49.9 feet; however, a clearance of 81.4 feet is available upon at least 12 hours notice. To obtain a clearance of 81.4 feet the span must be lifted manually.

This amendment was circulated as a public notice dated June 18, 1968 by the Commander, Eighth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 70-129) on January 9, 1971 (36 F.R. 323). Editorial changes have been made. No comments were received.

Accordingly, Part 117 is amended by adding § 117.550 to read as follows:

§ 117.550 Cedar Bayou, Texas, Missouri Pacific automated drawbridge.

(a) The bridge need not be manned by a regular attendant.

(b) The lift span shall be maintained at a minimum vertical clearance of 49.9 feet above mean high water. Fixed green navigation lights shall be displayed in the center of the lift span. The lift span shall be raised to a clearance of 81.4 feet above mean high water if at least 12 hours advance notice has been given.

(c) When a train approaches the bridge, the navigation lights shall be changed from green to red, alternating flashing red lights shall be turned on, a horn shall be sounded for 6 minutes, and at the end of 6 minutes the horn shall be stopped and the draw may be lowered and locked if the scanning equipment does not detect any object under the span. If the scanning equipment detects an obstruction, the draw shall be raised until the obstruction is cleared.

(d) After the train has cleared the bridge, the draw shall be raised to 49.9

feet above mean high water, the flashing red lights shall be stopped, and the navigation lights shall be changed from red to green.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4958), 33 CFR 1.04(c) (4) (35 F.R. 15922)

Effective date: This revision shall become effective on July 26, 1971.

Dated: June 11, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-9074 Filed 6-25-71; 8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A-2.4—Opening of Bids and Award of Contracts

USE OF PURCHASE ORDERS AS COMBINATION NOTICE OF AWARD AND DELIVERY ORDER

Section 5A-2.407-82 is amended as follows:

§ 5A-2.407-82 Preparation of documents for acceptance.

The acceptance of an offer received on SF 33, Solicitation, Offer, and Award, shall be accomplished and documented as follows:

(a) *Definite-quantity contracts*—(1) *Single consignee.* Where only one consignee is involved, notice of award of contract shall be documented on either SF 33 (Award portion accomplished), or on GSA Form 300, Purchase Order, as determined most advantageous by the procuring activity.

(i) When SF 33 is used, the award portion on both the original and duplicate of the accepted offer shall be completed. The original contract shall be retained by the Government and the duplicate copy mailed to the contractor. A purchase (delivery) order also must be issued to provide shipping instructions and necessary information copies to others concerned.

(ii) When GSA Form 300 is used, the block entitled "This order is issued pursuant to" shall be filled in by entering substantially the following: "Your offer on solicitation No. _____ is accepted for items listed herein." Under this procedure, the original contract consists of the original bid signed by the contractor and copy No. 5 (paying office copy) of GSA Form 300, Purchase Order, signed by the contracting officer. The contractor's copy of the contract consists of his retained copy of the bid and copy No. 1 (original) of GSA Form 300, Purchase Order, signed by the contracting officer.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. This regulation is effective July 1, 1971.

Dated: June 16, 1971.

L. E. SPANGLER,
Acting Commissioner,
Federal Supply Service.

[FR Doc 71-9071 Filed 6-25-71; 8:48 am]

Chapter 9—Atomic Energy Commission

PART 9-3—PROCUREMENT BY NEGOTIATION

Subpart 9-3.4—Types of Contracts

PART 9-53—NUMBERING AND DISTRIBUTION OF CONTRACTS AND ORDERS

Subpart 9-53.100—Contracts

MISCELLANEOUS AMENDMENTS

In Subpart 9-53.100, Contracts, the Division of Management Information and Telecommunications Systems is added to the list of active offices in § 9-53.106 *Assigned contract prefixes*.

1. In Subpart 9-3.4 Types of Contracts, § 9-3.408 *Letter contract*, is revised to read as follows:

§ 9-3.108 *Letter contract.*

Letter contracts shall contain a provision obligating the parties to enter into a definitive contract within a specified time (preferably within 120 days) or, upon failure to do so, the Government's obligation shall be limited to reimbursement of the contractor's costs incurred under the terms of the letter contract through the termination date.

2. In Subpart 9-53.100 Contracts, § 9-53.106 *Assigned contract prefixes*, is revised to read as follows:

§ 9-53.106 *Assigned contract prefixes.*

Prefixes for AEC contract numbers for each procurement office are set forth as follows:

Active offices:	Contract prefix
San Francisco	AT(04-3)-
Canoga Park	AT(04-4)-
Grand Junction	AT(05-1)-
Rocky Flats	AT(05-2)-
Idaho Falls	AT(10-1)-
Chicago	AT(11-1)-
Paducah	AT(15-1)-
Kansas City	AT(23-3)-
Nevada	AT(26-1)-
New Brunswick	AT(28-1)-
Princeton	AT(28-2)-
Los Alamos	AT(29-1)-
Albuquerque	AT(29-2)-
New York	AT(30-1)-
Brookhaven	AT(30-2)-
Schenectady	AT(30-3)-
Dayton	AT(33-1)-
Portsmouth	AT(33-2)-
Fernald	AT(33-4)-
Pittsburgh	AT(36-1)-
Savannah River	AT(38-1)-

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Active offices:	Contract prefix
Oak Ridge	AT(40-1)-
Richland	AT(45-1)-
Headquarters:	
Headquarters Services	AT(49-1)-
General Manager	AT(49-2)-
Military Application	AT(49-3)-
Production	AT(49-4)-
Reactor Development and Technology	AT(49-5)-
Raw Materials	AT(49-6)-
Biology and Medicine	AT(49-7)-
Research	AT(49-8)-
Labor Relations	AT(49-10)-
Isotopes Development	AT(49-11)-
Technical Information	AT(49-12)-
Personnel	AT(49-13)-
Space Nuclear Propulsion	AT(49-14)-
International Affairs	AT(49-15)-
Space Nuclear Systems	AT(49-16)-
Peaceful Nuclear Explosives	AT(49-17)-
Management Information and Telecommunications Systems	AT(50-1)-
Enlwetok	AT(51-1)-
Puerto Rico	AT(51-1)-
Inactive Offices:	
Los Angeles	AT(04-1)-
Berkeley	AT(04-2)-
Hartford	AT(06-1)-
Wilmington	AT(07-1)-
Spoon River	AT(11-2)-
Iowa (Burlington)	AT(13-1)-
Ames	AT(13-2)-
Detroit	AT(20-1)-
Centerline	AT(20-2)-
St. Louis	AT(23-2)-
Sandia	AT(29-3)-
Lockland	AT(33-3)-
Pantex	AT(41-1)-
Milwaukee	AT(47-1)-
Headquarters:	
Special Projects	AT(49-9)-

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER (6-26-71).

Dated at Germantown, Md., this 22d day of June 1971.

For the U.S. Atomic Energy Commission.

ROBERT A. KOHLER,
Acting Director,
Division of Contracts.

[FR Doc 71-9035 Filed 6-25-71; 8:45 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER A—GENERAL REGULATIONS PART 310—BRIDGE TOLL PROCEDURAL RULES

Miscellaneous Amendments

The Federal Highway Administrator is amending the Bridge Toll Procedural

Rules to make more certain the times within which exceptions to recommended decisions of hearing examiners and petitions for reconsideration of final orders must be filed.

Since these amendments relate to pleading and practice before the Federal Highway Administration and do not affect substantive rights or liabilities, notice and public procedure are unnecessary and they are effective on the date of issuance set forth below.

In consideration of the foregoing, §§ 310.12, 310.13, and 310.14 of the Bridge Toll Procedural Rules (Part 310 of Subchapter A of Chapter III in Title 49, CFR) are amended to read as set forth below.

(Sec. 4, Bridge Act of 1906 as amended (33 U.S.C. 494), sec. 503, General Bridge Act of 1946, as amended (33 U.S.C. 526), sec. 6, Department of Transportation Act (49 U.S.C. 1655), and the delegation of authority by the Secretary of Transportation in 49 CFR 1.48 (1))

Issued on June 18, 1971.

F. C. TURNER,
Federal Highway Administrator.

§ 310.12 Recommended decision.

(a) As soon as practicable after he receives the transcript and the time allowed for filing proposed findings of fact, conclusions of law, and briefs has expired, the hearing examiner issues a recommended decision and certifies the record in the proceedings to the Administrator. The recommended decision contains the hearing examiner's findings of fact, his conclusions of law (and the reasons or bases therefor), and a recommended order disposing of the proceedings. The recommended decision is served on the parties by certified or registered mail. The date of service, which is not earlier than the date the recommended decision is issued, is specified on the face of the decision.

(b) Within 30 days after the date of service specified in a recommended decision, any party may file with the Administrator exceptions to the hearing examiner's findings of fact, conclusions of law, or recommended order, together with a supporting brief.

§ 310.13 Administrator's decision.

(a) Upon review of the hearing examiner's recommended decision, the Administrator may adopt his recommended findings of fact, conclusions of law, and order in whole or in part. He may also remand proceedings to the hearing examiner with instructions for such further proceedings as he deems appropriate.

(b) The Administrator issues a final order disposing of the proceedings. The final order is served on the parties by registered or certified mail. The date of service, which is not earlier than the date the final order is issued, is specified on the face of the order.

§ 310.14 Reconsideration.

Within 20 days after the date of service specified in a final order, any party may petition the Administrator for reconsideration of his order. The filing of a petition for reconsideration does not stay the effectiveness of the final order unless the Administrator so orders.

[FR Doc 71-9051 Filed 6-25-71; 8:47 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1030; Amdt. 8]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Tracks of Atchison, Topeka and Santa Fe Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of June 1971.

Upon further consideration of Service Order No. 1030 (34 F.R. 11211, 15250; 35 F.R. 5334, 10661, 15294; 36 F.R. 5798), and good cause appearing therefor:

It is ordered, That: Section 1033.1030 *Service Order No. 1030* (Chicago, Rock Island and Pacific Railroad Co. authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc 71-9093 Filed 6-25-71; 8:50 am]

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[Second Revised S.O. 1064]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of June 1971.

It appearing, that an acute shortage of plain boxcars with inside length of 40 feet or longer and less than 50 feet, equipped with side doors 9 feet or wider or of plain boxcars with inside length 50 feet or longer and less than 70 feet, regardless of door width, exists throughout the United States; that shippers are being deprived of such cars required for loading creating great economic loss and resulting in a severe emergency; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of such boxcars, to the owning railroads are ineffective; and that orders issued by the Association of American Railroads to promote more equitable distribution have proved ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1064 *Service Order No. 1064.*

(a) *Distribution of boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owners empty, except as otherwise authorized in subparagraphs (3) and (5) of this paragraph, all plain boxcars which are listed in the registration of the specific railroads named herein in the Official Railway Equipment Register, ICC R.E.R. 379, issued by E. J. McFarland, or successive issues thereof as having mechanical designation XM, with inside length of 40 feet or longer and less than 50 feet and equipped with side doors 9 feet or wider, or with inside length 50 feet or longer and less than 70 feet regardless of door width, which bear the identification marks shown:

Burlington Northern Inc.
Identification marks—BN, CBQ, GN, NP, SPS.
Chicago, Milwaukee, St. Paul and Pacific Railroad Co.
Identification marks—Milw.

(2) Plain boxcars described in subparagraph (1) of this paragraph include both plain boxcars in general service and plain boxcars assigned to the exclusive use of a specified shipper.

(3) Except as otherwise provided in subparagraph (5) of this paragraph, boxcars described in subparagraph (1) of this paragraph may be loaded to stations on the lines of the owning railroad, or to any other station which is closer to the owner than the station at which loaded. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(4) Boxcars described in subparagraph (1) of this paragraph shall not be back-hauled empty from a junction with the car owner.

(5) Boxcars described in subparagraph (1) of this paragraph located at a point other than a junction with the car owner shall not be back-hauled empty, except for the purpose of loading to a junction with the car owner or to a station on the lines of the car owner.

(6) The return to the owner of a boxcar described in subparagraph (1) of this paragraph shall be accomplished when it is delivered to the car owner, either empty, or loaded as authorized by subparagraphs (3) or (5) of this paragraph.

(7) Junction points with the car owner shall be those listed by the car owner in its specific registration in the Official Railway Equipment Register, ICC R.E.R. No. 379, issued by E. J. McFarland, or successive issues thereof, under the heading "Freight Connections and Junction Points."

(8) In using plain boxcars owned by railroads not listed in subparagraph (1) of this paragraph, the railroads named therein shall restrict the use of such cars to traffic destined to a station closer to the car owner than the station at which the car was loaded, or to traffic routed via the lines of the car owner.

(9) In determining distances to the car owner from points of loading or unloading, tariff distances applicable via the lines of the carriers obligated under Car Service Rules 1 and 2 to move the car shall be used.

(10) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraphs (3) or (5) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 11:59 p.m., June 30, 1971.

(d) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served

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upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9090 Filed 6-25-71;8:50 am]

[S.O. 1067; Amdt. 2]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of June 1971.

Upon further consideration of Service Order No. 1067 (36 F.R. 5606 and 5793) and good cause appearing therefor:

It is ordered, That: Section 1033.1067 Service Order No. 1067 (Distribution of boxcars) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9091 Filed 6-25-71;8:50 am]

[S.O. 1072; Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service

Board, held in Washington, D.C., on the 21st day of June 1971.

Upon further consideration of Service Order No. 1072 (36 F.R. 8674), and good cause appearing therefor:

It is ordered, That: Section 1033.1072 Service Order No. 1072 (Distribution of boxcars) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9092 Filed 6-25-71;8:50 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Selective Service System

Effective June 30, 1971, paragraph (c) of § 213.3146, having expired by its own terms, is revoked reflecting termination of Schedule A exception for the position of Executive Secretary, National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-9066 Filed 6-25-71;8:48 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3215 is amended to show that the expiration date of the Schedule B authority for 35 positions of Man-

power Development Specialist, grades GS-9 through GS-15, has been changed from June 30, 1971, to June 30, 1973.

Effective on publication in the FEDERAL REGISTER (6-26-71), paragraph (c) of § 213.3215 is amended as set out below.

§ 213.3215 Department of Labor.

(c) Not to exceed 35 positions of Manpower Development Specialist at grades GS-9 through GS-15 in the Manpower Administration. This authority may not be used after June 30, 1973.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-9063 Filed 6-25-71;8:47 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3273 is amended to reflect a 2-year extension, until June 30, 1973, of the Schedule B exception covering up to 35 positions at GS-9 through GS-15 in new, experimental programs for which existing civil service lists of eligibles are inadequate.

Effective on publication in the FEDERAL REGISTER (6-26-71), paragraph (b) of § 213.3273 is amended as set out below.

§ 213.3273 Office of Economic Opportunity.

(b) Not to exceed 35 positions at GS-9 through GS-15 in new, experimental programs or special projects when it is determined that existing registers are not appropriate or do not permit appointment expeditiously. This authority may not be used after June 30, 1973.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-9065 Filed 6-25-71;8:48 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one additional position of Confidential Assistant to the Secretary is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-26-71), § 213.3312(a) (1) is amended as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* . . .
(1) Five Confidential Assistants and one Private Secretary to the Secretary.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-9062 Filed 6-25-71;8:47 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to reflect the following title change: from Confidential Staff Assistant to the Director, Human Rights Division, to Confidential Staff Assistant to the Associate Director for Human Rights.

Effective on publication in the FEDERAL REGISTER (6-26-71), subparagraph (22) of paragraph (a) of § 213.3373 is amended as set out below.

§ 213.3373 Office of Economic Opportunity.

(a) *Office of the Director.* . . .
(22) Confidential Staff Assistant to the Associate Director for Human Rights.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-9064 Filed 6-25-71;8:47 am]

Title 22—FOREIGN RELATIONS

[Dept. Reg. 108.638]

Chapter I—Department of State

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Issuance of Nonimmigrant Visas

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is amended to revise the procedures for issuance and revalidation of nonimmigrant visas in the United States. Sections 41.120 and 41.125 are amended as follows:

1. Section 41.120 is amended to read:

§ 41.120 Authority to issue visas.
(a) *Issuance outside the United States.* Any consular officer is authorized to issue regular and official visas. Diplomatic visas may be issued only by—

(1) A consular officer attached to a United States Diplomatic Mission, if he is authorized to do so by the Chief of the Mission, or

(2) A consular officer assigned to a consular office, if so authorized by the Department or by the Chief, the Deputy Chief, or the Counselor for Consular Affairs of the United States Diplomatic

Mission in the country in which such consular office is located or, at a consular post not under the jurisdiction of a diplomatic mission, by the principal officer.

(b) *Issuance in the United States in certain cases.* The Director of the Visa Office of the Department and such other officers of the Department as he may designate are authorized, in their discretion, to issue nonimmigrant visas to—

(1) Qualified aliens classifiable under the visa symbol C-2 or C-3;

(2) Other qualified aliens who—
(i) Are properly classifiable under subparagraph (A), (E), (G), (H), (I), or (L) of section 101(a) (15) or under the visa symbols NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or NATO-7;
(ii) Present appropriate evidence that—

(a) They have been lawfully admitted to the United States in such status or have, after admission, had their status changed to such status;

(b) Their period of authorized stay in such status has not expired; and
(c) They are currently maintaining such status; and

(iii) Intend, after a temporary absence, to reenter the United States in such status.

2. Section 41.125 is amended to read:

§ 41.125 Revalidation of visas.

(g) *Revalidation in the United States in certain cases.* The Director of the Visa Office of the Department and such other officers of the Department as he may designate are authorized, in their discretion, to revalidate nonimmigrant visas, including diplomatic visas, for—

(1) Qualified aliens classifiable under the visa symbol C-2 or C-3;

(2) Other qualified aliens who—

(i) Are properly classifiable under subparagraph (A), (E), (F), (G), (H), (I), (J), or (L) of section 101(a) (15) of the Act or under the visa symbols NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or NATO-7;
(ii) Present appropriate evidence that—

(a) Their period of authorized admission in such status has not expired; and
(b) They are currently maintaining such status; and
(iii) Intend, after a temporary absence, to reenter the United States in such status.

(h) *Fee for revalidation.* The fee for the revalidation of a nonimmigrant visa shall be that prescribed for the issuance of such a visa, if any: *Provided, however,* That

(1) When the visa was issued valid for a lesser number of applications for admission or for a period of validity less than the maximum permitted by reciprocity, it may be revalidated for the remaining number of applications for admission and validity permitted without the payment of an additional fee; and

(2) No fee shall be charged in the case

of a visa considered to be automatically revalidated pursuant to the provisions of paragraph (f) of this section.

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER. (6-26-71.)

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule-making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

JUNE 15, 1971.

BARBARA M. WATSON,
Administrator, Bureau of
Security and Consular Affairs.

[FR Doc.71-9050 Filed 6-25-71;8:47 am]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

[Docket No. R-71-121]

PART 40—STANDARDS FOR DESIGN, CONSTRUCTION, AND ALTERATION OF PUBLICLY OWNED RESIDENTIAL STRUCTURES

Waiver of Standards

Section 40.5 is amended to reflect the delegation of authority, issued concurrently herewith, to the Assistant Secretary for Housing Production and Mortgage Credit, and his Deputy, to waive or modify standards with respect to the college housing and the low-rent public housing program.

§ 40.5 Waiver.

The applicability of the standards set forth in this part may be modified or waived on a case-by-case basis upon application to the Secretary of HUD or, with respect to the college housing program under title IV of the Housing Act of 1950 (12 U.S.C. 1749) and the low-rent public housing program under the United States Housing Act of 1937 (42 U.S.C. 1401), to the Assistant Secretary for Housing Production and Mortgage Credit, made by the head of the department, agency, or instrumentality of the U.S. concerned only if the Secretary or the Assistant Secretary, as appropriate, determines that such waiver or modification is clearly necessary and consistent with the purpose of Public Law 90-480 (42 U.S.C. 4153).

(Sec. 3, 82 Stat. 719, 42 U.S.C. 4153; sec. 7(d), 79 Stat. 670, 42 U.S.C. 3535(d))

Effective date. This amendment is effective as of June 23, 1971.

GEORGE ROMNEY,
Secretary of Housing
and Urban Development.

[FR Doc.71-9097 Filed 6-25-71;8:51 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
California	Los Angeles	Arcadia	1 06 037 0420 05 through 1 06 037 0120 08	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802.	Office of the City Clerk, City Hall, Post Office Box 60, Arcadia, CA 91006.	June 25, 1971.
Do	do	Burbank	1 06 037 0480 02 through 1 06 037 0480 10	California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	City Hall, 275 East Olive Ave., Burbank, CA 91502.	Do.
Do	do	La Puente	1 06 037 1845 03 through 1 06 037 1845 04	do	Office of the City Clerk, City Hall, 1500 East Main St., La Puente, CA 91744.	Do.
Do	Monterey	King City	1 06 053 1760 03 through 1 06 053 1760 06	do	City Hall, City of King City, 212 South Vanderhust, King City, CA 95130.	Do.
Florida	Orange	Costa Mesa	1 12 081 0000 03 through 1 12 081 0000 33	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301.	Planning and Zoning Department, Manatee County, 212 6th Ave. East, Bradenton, FL 33505.	June 25, 1971.
Do	Manatee	Unincorporated areas.	1 12 081 0000 33	State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	do	July 1, 1970.
Do	Palm Beach	Palm Beach Shores	1 12 099 2132 02	do	Office of the Town Engineer, Town Hall, 247 Edwards Lane, Palm Beach Shores, FL 33404.	Apr. 25, 1970 and June 25, 1971.
Indiana	Vanderburgh	Unincorporated areas.	1 22 051 1190 05 through 1 22 051 1190 08	State Department of Public Works, Post Office Box 44135, Capitol Station, Baton Rouge, LA 70804.	Regulatory Department, 1801 Williams Blvd., Kenner, LA 70062.	Do.
Do	do	Evansville	1 22 051 1190 05 through 1 22 051 1190 08	Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, LA 70804.	do	Do.
Massachusetts	Norfolk	Needham	1 34 027 0745 03 through 1 34 027 0745 04	Department of Environmental Protection, Division of Water Resources, Box 1300, Trenton, NJ 08625.	Township Clerk's Office, Municipal Bldg., 95 East Main St., Denville, NJ 07831.	Do.
New Jersey	Morris	Denville Township	1 34 027 0745 03 through 1 34 027 0745 04	Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	do	Do.
Do	Union	Cranford Township	1 34 039 0705 02	do	Office of the Township Engineer, Cranford Municipal Bldg., 8 Springfield Ave., Cranford, NJ 07016.	Do.
Do	do	Plainfield	1 34 039 2630 03 through 1 34 039 2630 05	do	Office of the Director of Public Works and Urban Development, City Hall, 515 Watchung Ave., Plainfield, NJ 07061.	Do.
Texas	Karnes	Kenedy	1 48 255 3630 03 through 1 48 255 3630 04	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701.	City Hall, 222 Tilden St., Kenedy, TX 78119.	Do.
Do	Nueces	Aransas Pass	1 48 355 0240 03 through 1 48 355 0240 07	Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	City Offices, City of Aransas Pass, Aransas Pass, Tex. 78336.	Do.
Do	do	Port Aransas	1 48 355 5420 03 through 1 48 355 5420 04	do	City of Port Aransas, Post Office Box 397, Port Aransas, TX 78373.	Do.
Do	San Patricio	Ingleside	1 48 409 3380 03 through 1 48 409 3380 04	do	City Hall, 116 Humble St., Ingleside, TX 78622.	Do.
Do	Jackson	Unincorporated areas.	1 48 409 3380 04	do	do	Do.
Washington	Skagit	do	do	do	do	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: June 25, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-9032 Filed 6-25-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
California	Los Angeles	Arcadia	H 06 037 0120 05 through H 06 037 0120 08	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802.	Office of the City Clerk, City Hall, Post Office Box 60, Arcadia, CA 91006.	Sept. 2, 1970.
Do	do	Burbank	H 06 037 0480 02 through H 06 037 0480 10	California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	City Hall, 275 East Olive Ave., Burbank, CA 91502.	Oct. 3, 1970.
Do	do	La Puente	H 06 037 1845 03 through H 06 037 1845 04	do	Office of the City Clerk, City Hall, 1500 East Main St., La Puente, CA 91744.	Sept. 9, 1970.
Do	Monterey	King City	H 06 053 1760 03 through H 06 053 1760 06	do	City Hall, City of King City, 212 South Vanderhust, King City, CA 95130.	Sept. 2, 1970.
Do	Orange	Costa Mesa	H 12 081 0000 03 through H 12 081 0000 33	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301.	Planning and Zoning Department, Manatee County, 212 6th Ave. East, Bradenton, FL 33505.	June 25, 1971.
Florida	Manatee	Unincorporated areas.	H 12 081 0000 33	State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	do	July 1, 1970.
Do	Palm Beach	Palm Beach Shores	H 12 099 2132 02	do	Office of the Town Engineer, Town Hall, 247 Edwards Lane, Palm Beach Shores, FL 33404.	Apr. 25, 1970 and June 25, 1971.
Indiana	Vanderburgh	Unincorporated areas.	1 22 051 1190 05 through H 22 051 1190 08	State Department of Public Works, Post Office Box 44135, Capitol Station, Baton Rouge, LA 70804.	Regulatory Department, 1801 Williams Blvd., Kenner, LA 70062.	Do.
Do	do	Evansville	H 22 051 1190 05 through H 22 051 1190 08	Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, LA 70804.	do	Do.
Massachusetts	Norfolk	Needham	H 34 027 0745 03 through H 34 027 0745 04	Department of Environmental Protection, Division of Water Resources, Box 1300, Trenton, NJ 08625.	Township Clerk's Office, Municipal Bldg., 95 East Main St., Denville, NJ 07831.	June 25, 1971.
New Jersey	Morris	Denville Township	H 34 027 0745 03 through H 34 027 0745 04	Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	do	July 1, 1970.
Do	Union	Cranford Township	H 34 039 0705 02	do	Office of the Township Engineer, Cranford Municipal Bldg., 8 Springfield Ave., Cranford, NJ 07016.	June 17, 1970 and June 25, 1971.
Do	do	Plainfield	H 34 039 2630 03 through H 34 039 2630 05	do	Office of the Director of Public Works and Urban Development, City Hall, 515 Watchung Ave., Plainfield, NJ 07061.	June 17, 1970.
Texas	Karnes	Kenedy	H 48 255 3630 03 through H 48 255 3630 04	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701.	City Hall, 222 Tilden St., Kenedy, TX 78119.	Sept. 2, 1970.
Do	Nueces	Aransas Pass	H 48 355 0240 03 through H 48 355 0240 07	Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	City Offices, City of Aransas Pass, Aransas Pass, Tex. 78336.	June 17, 1970.
Do	do	Port Aransas	H 48 355 5420 03 through H 48 355 5420 04	do	City of Port Aransas, Post Office Box 397, Port Aransas, TX 78373.	Do.
Do	San Patricio	Ingleside	H 48 409 3380 03 through H 48 409 3380 04	do	City Hall, 116 Humble St., Ingleside, TX 78622.	Do.
Do	Jackson	Unincorporated areas.	H 48 409 3380 04	do	do	June 25, 1971.
Washington	Skagit	do	do	do	do	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: June 25, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-9033 Filed 6-25-71;8:45 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 132—SECOND CLASS

Qualifications for Second-Class Privileges; Correction

In the daily issue of Wednesday, December 23, 1970 (35 F.R. 19427), the ref-

erence to Part 124 appearing under § 132.2(a) (1) should have read Part 123. As so corrected the cited subparagraph reads as follows:

§ 132.2 Qualifications for second-class privileges.

(a) What may qualify—(1) Mailable publications. Only newspapers and other periodical publications which meet the

mailability criteria established in Part 123 of this chapter may be mailed at the second-class rates.

(5 U.S.C. 301, 39 U.S.C. 501, 4351-4370)

DAVID A. NELSON,
General Counsel.

[FR Doc.71-9034 Filed 6-25-71;8:45 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Proposed Limitation of Shipments

Consideration is being given to the issuance of the limitation of shipments regulation, hereinafter set forth, which was recommended by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946). This marketing order program regulates the handling of Irish potatoes grown in the State of Washington and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations of the committee reflect its appraisal of the composition of the 1971 crop of Washington potatoes and of the marketing prospects for this season. Harvesting is expected to begin the first half of July. The grade, size, cleanliness, and maturity requirements provided herein, which are the same as those currently in effect (35 F.R. 11291), effective through July 15, 1971, are necessary to prevent potatoes, of lesser maturities, or those that are of poor quality, or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop, and maximize returns to producers for the preferred quality and sizes.

The proposed regulations with respect to special purpose shipments for other than fresh market use are designed to meet the different requirements for such outlets.

All persons who desire to submit written data, views, or arguments in connection with this proposal may file the same, in quadruplicate, with the Hearing Clerk, Room 112-A, not later than 5 days after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed regulation follows:

§ 946.326 Limitation of shipments.

During the period July 16, 1971, through July 15, 1972, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with paragraphs (c) through (f) of this section.

(a) *Minimum quality requirements*—(1) *Grade*—all varieties. U.S. No. 2, or better grade.

(2) *Size*—(i) *Round varieties*. 1 1/2 inches minimum diameter.

(ii) *Long varieties*. 2 inches minimum diameter or 4 ounces minimum weight.

(3) *Cleanliness*. All varieties—at least "fairly clean."

(b) *Minimum maturity requirements*—(1) *Round and White Rose varieties*. Not more than "moderately skinned."

(2) *Other long varieties (including but not limited to Russet Burbank and Norgold)*. Not more than "slightly skinned."

(c) *Special purpose shipments*. The minimum grade, size, cleanliness and maturity requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of seed potatoes or to shipments of potatoes for any of the following purposes:

(1) Livestock feed;

(2) Charity;

(3) Export;

(4) Prepeeling; or

(5) canning, freezing, and "other processing" as hereinafter defined:

Provided: That shipments of potatoes for the purposes specified in subparagraphs of this paragraph shall be exempt from inspection requirements specified in § 946.53 and from assessment requirements specified in § 946.41.

(d) *Safeguards*. Each handler making shipments of potatoes for export, prepeeling, canning, freezing, or "other processing" pursuant to paragraph (c) of this section, unless such potatoes are handled in accordance with paragraph (e) of this section, shall:

(1) Notify the committee of intent to ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment;

(2) Obtain a Washington State Shipping Permit as issued by the Washington State Department of Agriculture in lieu of a Federal-State Inspection Certificate, except shipments for export; and

(3) Prepare on forms furnished by the committee a special purpose shipment report on each such shipment. The handler shall forward copies of each such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for cancellation of such handler's certificate applicable to such special purpose shipments and/or the receiver's eligibility to receive further shipments pursuant to

such certificate. Upon cancellation of such certificate, the handler may appeal to the committee for reconsideration. Such appeal shall be in writing.

(4) Before diverting any such special purpose shipment from the receiver of record as previously furnished to the committee by the handler, such handler shall submit to the committee a revised special purpose shipment report.

(e) *Special purpose shipments exempt from safeguards*. In the case of shipments of potatoes: (1) To freezers or dehydrators in the Counties of Grant, Adams, Franklin, Benton, and Yakima in the State of Washington and (2) for canning, freezing, dehydration, potato chipping or prepeeling within the district where grown, the handler of such potatoes shall be exempt from safeguard requirements of paragraph (d) of this section whenever the processor of such potatoes has signed an agreement with the committee to meet the reporting and other requirements of this part specified by the committee.

(f) *Minimum quantity exception*. Each handler may ship up to, but not to exceed 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment over 5 hundredweight of potatoes.

(g) *Definitions*. Effective July 16, 1971, through August 31, 1971, the terms "U.S. No. 2," "fairly clean," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540-51.1556 of this title), including the tolerances set forth therein. From September 1, 1971, through June 15, 1972, the terms "U.S. No. 2," "fairly clean," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes (§§ 51.1540-51.1566 of this title effective September 1, 1971, as published in the FEDERAL REGISTER of Dec. 1, 1970, 35 F.R. 18257), including the tolerances set forth therein. The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in the prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (U.S. Standards for Grades of Peeled Potatoes §§ 52.2421-52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural

form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." Other terms used in this section have the same meaning as when used in the marketing agreement and this part.

(h) *Applicability to imports*. Pursuant to § 608e-1 of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the red skinned round type imported during the months of July and August in the effective period of this section shall meet the minimum grade, size, quality and maturity requirements specified in this section for round varieties, i.e., in paragraphs (a) and (b).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 22, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-9057 Filed 6-25-71; 8:47 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 71-61]

FREEMONT HARBOR, TEX.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Missouri Pacific railroad bridge across Old Brazos River, mile 4.4 above the GTRW, between Velasco and Freeport, to permit the draw to remain permanently closed to navigation. The draw is presently required to open on signal if at least 24 hours notice has been given. This change is being considered because of infrequent openings of the draw. There have been 9 openings from 1956 through 1970.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Eighth Coast Guard District, Customhouse, New Orleans, La. 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before August 3, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

PROPOSED RULE MAKING

12173

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.245(j) (35) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridge where constant attendance of draw tenders is not required.

(j)
(35) Freeport Harbor, Tex.; Missouri Pacific railroad bridge between Freeport and Valasco. The draw of this bridge need not open for the passage of vessels. Paragraph (b) through (e) of this section do not apply to this bridge.

(Sec. 5, 28 Stat. 362 as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: June 18, 1971.

D. H. LUZIUZ,
Captain, U.S. Coast Guard, Acting Chief, Office of Operations.

[FR Doc. 71-9078 Filed 6-25-71; 8:49 am]

[33 CFR Part 117]

[CGFR 71-60]

BROAD CAUSEWAY, BISCAYNE BAY, FLA.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Broad Causeway drawbridge, Biscayne Bay, to require that from November 1 through April 30, from 8 a.m. to 6 p.m. the draw open only on the hour and half hour for vessels. At all other times of the year, the draw shall open on signal. Under this proposal, the draw would be required to open for public vessels of the United States, commercial tows, regularly scheduled cruise boats and vessels in distress at any time. Present regulations require that the draw open on signal. This change is being considered in order to expedite vehicular traffic across this bridge.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, 7th Coast Guard District, Room 1018, Federal Building, 51 Southwest First Avenue, Miami, FL 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 7th Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any com-

ments received before July 30, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

Accordingly, it is proposed that Part 117 be amended by adding § 117.446e to read as follows:

§ 117.446e Broad Causeway, Biscayne Bay, Fla.

(a) Except as provided in paragraph (b) of this section, the draw shall open on signal.

(b) From November 1 through April 30 from 8 a.m. to 6 p.m., the draw need open only on the hour and half hour, except that the draw shall open on four blasts of a whistle at any time for a public vessel of the United States, commercial tows, regularly scheduled cruise boats, and vessels in distress.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: June 11, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc. 71-9076 Filed 6-25-71; 8:49 am]

[33 CFR Part 117]

[CGFR 71-58]

HOQUIAM RIVER, WASH.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Washington State Highway Commission bridge across the Hoquiam River at Simpson Avenue, Hoquiam, Wash., for the purpose of reducing the need for drawtenders due to infrequent requests for draw openings. The present regulations require that the draw shall be opened promptly on signal from 5 a.m. to 9 p.m. At all other times, 8 hours' advance notice is required. If adopted, the proposed regulations would require 1 hour's advance notice at all times.

Several earlier proposals were published in the FEDERAL REGISTER on August 27, 1970 (35 F.R. 13669) and February 19, 1971 (36 F.R. 3202). Public Notices, dated August 24, 1970, and February 25, 1971, were also issued by Commander, 14th Coast Guard District. This proposal provides for the State of Washington to maintain a radiotelephone on the Chehalis River Bridge to monitor 2182Kz in lieu of an earlier proposal for telephone at the Hoquiam River Bridge for acceptance of advance notice. The State will still accept collect long-distance telephone calls and/or collect ship-to-shore radiotelephone calls at the Chehalis River Bridge.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, 13th Coast Guard District, 618 Second Avenue, Seattle, WA 98104.

PROPOSED RULE MAKING

Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 13th Coast Guard District.

The Commander, Thirteenth Coast Guard District, will forward any comments received before July 27, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.810(f) (6) to read as follows:

§ 117.810. Navigable waters in the State of Washington: bridges where constant attendance of drawtenders is not required.

(f)
(6) *Hoquiam River.* State Department of Highways bridge at Simpson Avenue, Hoquiam. The draw need not open unless at least one (1) hour's notice has been given. The State Department of Highways shall accept collect telephone calls from vessels via the local marine telephone operator, or long distance telephone. The State Department of Highways shall provide a two-way radio-telephone on the Chehalis River Bridge which will be attended at all times. Vessels may place 1 hour's notice calls for the Hoquiam River Simpson Avenue Bridge through the Chehalis River Bridge operator. Radio frequencies are 2182Kz and 2738Kz. The bridge tender shall monitor 2182Kz and switch to 2738Kz for communication.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: June 11, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.
[FR Doc. 71-9075 Filed 6-25-71; 8:49 am]

[33 CFR Part 117]

[CGFR 71-59]

DEEP RIVER, WASH.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Washington State Highway Commission bridge 1 mile south of the town of Deep River, across Deep River, at mile 3.5, to reduce the times during which the draw will be required to open for the passage of vessels. Presently the draw is required to open on signal. The proposed change would require that the draw open on

signal from 8 a.m. Monday through 3:30 p.m. Friday and that at all other times the draw would open on signal if at least 4 hours notice has been given. This change is being considered because of infrequent requests for openings on weekends.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, 13th Coast Guard District (oan), 618 Second Avenue, Seattle, WA 98104. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 13th Coast Guard District.

The Commander, 13th Coast Guard District, will forward any comments received before July 27, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33, Code of Federal Regulations be amended by adding § 117.810(f) (9) to read as follows:

§ 117.810. Navigable waters in the State of Washington: bridges where constant attendance of draw tenders is not required.

(f)
(9) *Deep River, Wash.* State highway bridge, mile 3.5 (1 mile south of town Deep River). From 8 a.m. Monday through 4:30 p.m. Friday the draw shall open on signal. From 4:30 p.m. Friday through 8 a.m. Monday the draw shall open on signal if at least 4 hours' notice has been given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: June 11, 1971.

D. H. LUZIVS,
Captain, U.S. Coast Guard,
Acting Chief, Office of Operations.
[FR Doc. 71-9077 Filed 6-25-71; 8:49 am]

Federal Highway Administration

[49 CFR Part 395]

[Docket No. MC-29; Notice No. 71-13]

DRIVERS OPERATING BETWEEN ALASKA AND CANADA

Hours of Service

Alaska Carriers Association, Inc., has filed a petition for rule making, asking the Director of the Bureau of Motor Carrier Safety to amend the special hours-of-service rules for drivers operating solely within the State of Alaska (see

49 CFR 395.3(e)) so that those rules will extend to drivers who operate between Alaska and points in Yukon Territory, Canada, or British Columbia, Canada. The petition asks that section 395.3(e) be revised to read as follows:

§ 395.3 Maximum driving and on-duty time.

(e) In the instance of a driver who drives motor vehicles solely within the State of Alaska or between points in Alaska, on the one hand, and points in Yukon Territory or British Columbia and points in Alaska, on the other, such driver may be permitted to drive not more than 15 hours following 8 consecutive hours off duty and may not be permitted to drive after having been on duty 20 hours following 8 consecutive hours off duty. Such driver shall not be on duty more than 70 hours in any period of 7 consecutive days: *Provided*, That carriers operating every day in a week may permit drivers to remain on duty for a total of not more than 80 hours in any period of 8 consecutive days.

In support of its petition, petitioner alleges that the Canadians have developed, and are continuing to develop, extensive mineral deposits, including asbestos ore, which are being moved through Alaska by Alaskan drivers. Petitioner says that it would be impossible to complete these trips through the primitive areas involved except under the special provisions of § 395.3(e). Those provisions are, at present, limited to drivers who operate "solely within the State of Alaska".

Petitioner further observes that Customs regulations require that the same driver who brings a load across the Canadian border be the driver who returns through the Tok, Alaska Customs facilities. The generally applicable restrictions on hours of service contained in § 395.3, petitioner claims, prevents a driver from doing this and requires that he lay over for rest at points where there are no rest facilities. It is, petitioner concludes, both impracticable and dangerous for the management of the trucking companies to require their drivers to take their rest in such completely unsatisfactory locations.

In accordance with § 398.33(b) of the Motor Carrier Safety Regulations, the Director has determined that the petition contains adequate justification. Consequently, he is inviting public comment on the rule change that petitioner has requested. Interested persons are invited to submit data, views, or arguments pertaining to the proposed amendment. Comments must identify the docket number and the notice number set forth above and must be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591.

All comments received before the close of business on August 16, 1971, will be considered before further action is taken. All comments will be available for examination in the public docket of the Bureau of Motor Carrier Safety in Room

4134, 400 Seventh Street SW., Washington, DC, before and after the closing date for comments.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority at 49 CFR 1.48 and 389.4.

Issued on June 10, 1971.

ROBERT A. KAYE,

Director,

Bureau of Motor Carrier Safety.

[FR Doc. 71-9052 Filed 6-25-71; 8:47 am]

Hazardous Materials Regulations Board

[49 CFR Part 195]

[Notice 71-19; Docket No. HM-6B]

MOVEMENT OF PIPELINES CONTAINING LIQUEFIED GASES

Proposed Modification of Restriction

The Hazardous Materials Regulations Board is considering an amendment to § 195.424 of the Hazardous Materials Regulations of the Department of Transportation. The proposed amendment would modify the restriction on movement of pipe carrying liquefied gases.

Interested persons are invited to participate in making the proposed amendment by submitting written information, views, or arguments. Communications should identify the docket number (or notice number) and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. All communications received on or before August 20, 1971, will be considered before final action is taken on the proposed amendment. Comments filed after that date will be considered so far as practicable. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available, both before and after the closing date for communications, in the Rules Docket for examination by interested persons.

Under the present regulations, no carrier may move any pipeline containing liquefied gases unless the line section involved is isolated to prevent the flow of commodity. It has come to the Board's attention that this requirement is not only costly to the industry, but may actually create an unnecessary hazard in practice.

Simply stated, due to added heat from the sun, isolation of an exposed line section can cause the internal line pressure to rise and introduce unnecessary stresses in the pipe which could be harmful. Conversely, if commodity flow is maintained while a pipeline is being moved, added heat will be dissipated, and

PROPOSED RULE MAKING

internal pressure will remain nearly the same.

To remedy the situation, the proposed amendment would permit pipe movement without isolation, provided the internal line pressure has been substantially reduced. Due to the unusually hazardous nature of liquefied gases, the Board believes that internal line pressure must be reduced below the level presently required under § 195.424(a), and yet remain high enough to prevent vaporization of the liquid. To accomplish this result, § 195.424(b) would be deleted and a new provision governing pressure in pipelines containing liquefied gases has been added at the end of present § 195.424(a).

This notice is issued under the authority of sections 831-835 of title 18, United States Code, and 6(e) (4) and (f) (3) (A) of the Department of Transportation Act (49 U.S.C. 1655(e) (4) and (f) (3) (A)) and § 1.49(f) of the regulations of the Office of the Secretary of Transportation.

In consideration of the foregoing, it is proposed to amend § 195.424 of Title 49 of the Code of Federal Regulations to read as follows:

§ 195.424 Pipe movement.

No carrier may move any line pipe unless the pressure in the line section involved is reduced to 50 percent or less of the maximum operating pressure. In the case of pipelines containing liquefied gases, the pressure in the line section involved must be reduced to the lowest practical level that will maintain the commodity in a liquid state with continuous flow, but must not be less than 50 p.s.i.g. above the vapor pressure of that commodity.

Issued in Washington, D.C., on June 21, 1971.

CARL V. LYON,
Acting Administrator,
Federal Railroad Administration.

[FR Doc. 71-9069 Filed 6-25-71; 8:48 am]

[49 CFR Part 195]

[Notice 71-20; Docket No. HM 6C]

TRANSPORTATION OF LIQUIDS BY PIPELINE

Telephonic Accident Reporting Requirements

The Hazardous Materials Regulations Board is considering an amendment to Part 195 to broaden the requirements for immediate reporting of certain accidents by carriers engaged in the transportation of liquids by pipeline.

The purpose of immediate reporting is to provide notice of significant incidents in order that the Board may investigate the incident and take any action that may be necessary to protect persons or property. However, the present regulation only requires an immediate report in the event of a fatality. A recent acci-

dent on a liquefied petroleum gas line destroyed or extensively damaged 17 buildings and injured eight persons. Yet an immediate report was not required under § 195.52.

The proposed new § 195.52 would be similar to § 191.5 of Title 49, which contains the immediate notification requirements for leaks occurring on gas pipelines. The one significant difference is the addition of a proposed requirement for reporting of leaks that result in pollution of bodies of water.

Interested persons are invited to give their views on the proposal discussed herein by submitting written data or arguments as they may desire. Communications should be identified by the notice number and docket number and should be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before August 20, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

In consideration of the foregoing, it is proposed to amend Part 195 of Title 49 of the Code of Federal Regulations by amending § 195.52 to read as set forth below.

This notice is issued under the authority of sections 831-835 of title 18, United States Code, sections 6(e) (4) and (f) (3) (A) of the Department of Transportation Act (49 U.S.C. 1655(e) (4) and (f) (3) (A)), and § 1.49(f) of the regulations of the Office of the Secretary of Transportation.

§ 195.52 Telephonic notice of certain leaks.

(a) At the earliest practicable moment following discovery, each carrier shall give notice, in accordance with paragraph (b) of this section, of any leak that:

(1) Caused a death or personal injury requiring hospitalization.

(2) Required the taking of any segment of trunk pipeline out of service, except for leaks occurring as a consequence of, or in connection with, planned or routine maintenance or construction.

(3) Resulted in fire or explosion not intentionally set by the carrier.

(4) Caused estimated damage to the property of the carrier or others, or both, of a total of \$5,000 or more.

(5) Resulted in pollution of any stream, river, lake, reservoir, or other similar body of water.

(6) In the judgment of the carrier, was significant even though it did not meet the criteria of any other subparagraph of this paragraph.

(b) Reports made under paragraph (a) of this section are made by telephone

to Area Code 202, 426-0700 and must include the following information:

- (1) The location of the leak.
- (2) The time of the leak.
- (3) The fatalities and personal injuries, if any.
- (4) All other significant facts that are known by the carrier that are relevant to the cause of the leak or extent of the damages.

Issued in Washington, D.C., on June 23, 1971.

ROBERT LEE KESSLER,
Acting Administrator,
Federal Railroad Administration.
[FR Doc.71-9070 Filed 6-25-71;8:48 am]

ENVIRONMENTAL PROTECTION AGENCY

[18 CFR Part 640]

STANDARDS OF PERFORMANCE FOR MARINE SANITATION DEVICES

Extension of Time for Comments

The Environmental Protection Agency published a notice of proposed rule making in the FEDERAL REGISTER on Wednesday, May 12, 1971 (36 F.R. 8739), proposing standards of performance for marine sanitation devices under section 13 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1163.

Several requests for extension of time to comment on that Notice have been received. The present deadline for submitting comments expires on June 26, 1971. An extension of time is considered reasonable to allow all interested parties adequate opportunity to submit written views, comments, and recommendations concerning the proposed standards.

Accordingly, the time for submitting written views, comments and recommendations on the proposed standards for marine sanitation devices is extended for 60 days to August 25, 1971.

Dated: June 23, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71-9042 Filed 6-25-71;8:46 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order No. 150-73]

ASSISTANT COMMISSIONER (TECHNICAL)

Designation To Serve as Acting Commissioner of Internal Revenue

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, Assistant Commissioner (Technical) Harold T. Swartz is designated, effective 12:01 a.m., June 23, 1971, to serve as Acting Commissioner of Internal Revenue, with authority to perform all functions, without limitation, now authorized to be performed by the Commissioner of Internal Revenue. Mr. Swartz will continue to serve in this capacity until a new Commissioner of Internal Revenue has been appointed and assumes the duties of the office.

Dated: June 22, 1971.

JOHN B. CONNALLY,
Secretary of the Treasury.

[FR Doc.71-9067 Filed 6-25-71;8:48 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management COLORADO

Change of Location and Temporary Closing

JUNE 18, 1971.

Notice is hereby given that the Colorado State Office, Bureau of Land Management, in Denver, Colo., will be closed to the public, Monday, July 12, through Friday, July 16, 1971, to facilitate moving to the new location: Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO. The new mailing address of the State Office, effective July 12, 1971, will be Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

In accordance with Title 43, Code of Federal Regulations, §§ 1821.2; 1821.2-1; 1821.2-2; 1821.2-3; applications, payments, and other documents received for filing in the normal course of business from July 12, through July 16, 1971, shall be deemed to be filed as of 10 a.m., July 19, 1971, and those required by the regulations to be filed on or before July 12, through July 16, 1971, will be timely filed if received in the Land Office in its new location up to 4 p.m. on July 19, 1971.

The list of lands available for further leasing for oil and gas in accordance with 43 CFR Subpart 3112 will not be posted

Notices

on the required date of July 19, 1971. Lands which normally would have been posted on that date will be included with the August list which will be posted on August 16, 1971.

E. I. ROWLAND,
State Director.

[FR Doc.71-9072 Filed 6-25-71;8:48 am]

CHIEF, BRANCH OF LANDS AND MINERALS OPERATIONS, DIVISION OF TECHNICAL SERVICES, MONTANA STATE OFFICE

Redelegation of Authority

JUNE 22, 1971.

1. Pursuant to the authority contained in Part I, section 1.1(a) of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Branch of Lands and Minerals Operations, in the Division of Technical Services, authority to take action on the matters listed in Part II-A.

2. The Chief, Branch of Lands and Minerals Operations may redelegate that authority vested in him by this delegation to any qualified employee under his jurisdiction. Any order of redelegation must specify the extent of and limitations on the grant of authority, be approved by the State Director and published in the FEDERAL REGISTER.

3. The Chief, Branch of Lands and Minerals Operations may, by written order, designate any qualified employee of the Branch to perform the functions of his position in his absence. Such order will be approved by the Chief, Division of Technical Services.

4. Effective Date. This redelegation will become effective upon publication in the FEDERAL REGISTER (6-26-71).

HAROLD C. LYND,
Acting State Director.

Approved:
JOHN O. CROW,
Associate Director.

[FR Doc.71-9044 Filed 6-25-71;8:46 am]

PHOSPHATE PREFERENCE RIGHT LEASE APPLICATION

Notice of Public Hearing

The Bureau of Land Management has received an application for a preference right lease covering 2433.81 acres of land within the Los Padres National Forest, Ventura County, Calif.

Notice is hereby given that a public hearing will be conducted at Ventura College Theater on July 27, 28, 1971. The purpose of the hearing is to develop factual information concerning the possible effects the proposed mining operation and the construction of the necessary fa-

cilities, such as access roads, to support it, would have upon the environment, including the California Condor.

A draft environmental statement pursuant to sec. 102(2)(C) (Public Law 91-190, 83 Stat. 852) prepared by the Department of the Interior's Bureau of Land Management and the Department of Agriculture's Forest Service, and a "situation statement" prepared by the Forest Service provide additional information concerning the proposed project and the environment of the area. These documents and maps may be obtained after July 12 at the following offices:

State Director, Bureau of Land Management, Federal Building, Room E 2841, Sacramento, Calif. 95825.

Riverside District and Land Office, Bureau of Land Management, 1414 University Avenue, Riverside, CA 92502.

Forest Supervisor, Los Padres National Forest, 42 Aero Camino, Goleta, CA (Mailing address: Post Office Box 30250, Santa Barbara 93105).

District Ranger, Ojai Ranger District, 1190 East Ojai Avenue, Ojai, Calif. 93023.

The hearing gives Federal, State, and local agencies which are authorized to develop and enforce environmental standards, as well as all interested citizens, an opportunity to submit their views. Individuals and organizations wishing to testify at the hearing are asked to submit their comments in writing and consider the following topics:

(1) The environmental impact of the proposed action; (2) any adverse environmental effects which cannot be avoided, should the proposal be implemented; (3) alternatives to the proposed action; (4) the relationship between the local, short-term uses of man's environment and the maintenance and enhancement of long-term productivity; (5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action, should it be implemented.

The hearing is scheduled to commence at 10 a.m. each day at the Ventura College Theater. It will be conducted by a hearing examiner for the Department of the Interior.

Persons wishing to present statements of factual information should notify the hearing examiner in writing by July 13. Correspondence should be addressed to Hearing Examiner, Room W-2426, Federal Building, 2800 Cottage Way, Sacramento, CA 95825. Oral testimony of each person testifying may be limited in time in order to permit maximum participation.

The Department of the Interior will accept written testimony through August 9, 1971. Those presenting oral testimony will be allowed the same time to submit supplemental materials in written form. All written material submitted

should be addressed to the Hearing Examiner at the address given above.

JOHN O. CROW,
Acting Director.

JUNE 23, 1971.

[FR Doc.71-9061 Filed 6-25-71; 8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[Marketing Agreement 146]

PEANUTS

Budget of Expenses of Administrative Committee and Rate of Assessment for 1971 Crop Year

Pursuant to Marketing Agreement 146, regulating the quality of domestically produced peanuts (30 F.R. 9402), and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found and determined that the expenses of said Committee and the rate of assessment applicable to peanuts produced in 1971 and for the crop year beginning July 1, 1971, shall be as follows:

(a) *Administrative expenses.* The budget of expenses for the Committee for the crop year beginning July 1, 1971, shall be in the total amount of \$285,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the Committee, and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the Committee for indemnification payments, pursuant to the Terms and Conditions of Indemnification Applicable to 1971 Crop Peanuts, effective July 1, 1971, are estimated at, but may exceed \$3.5 million, such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the Peanut Administrative Committee, in accordance with section 48 of the marketing agreement, an assessment at the rate of \$3.80 per net ton of farmers stock peanuts received or acquired other than those described in section 31 (c) and (d) (\$0.30 for administrative expenses and \$3.50 for indemnification expenses).

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to section 48 of the marketing agreement, shall continue. That portion of the total assessment funds accrued from the \$3.50 rate and not expended in providing indemnification on 1971 crop peanuts shall be placed in such reserve and shall be available to pay indemnification expenses on subsequent crops.

The expenses and rate of assessment are, under the agreement, on a crop year basis and will automatically be applicable to all assessable peanuts from the beginning of such crop year. The handlers of peanuts who will be affected

hereby have signed the marketing agreement authorizing approval of expenses that may be incurred and the imposition of assessments, they are represented on the Committee which has submitted the recommendation with respect to such expenses and assessment for approval; and handlers have had knowledge of the foregoing in their recent industry-wide discussions and will be afforded maximum time to plan their operations accordingly.

Dated: June 22, 1971.

PAUL A. NICHOLSON,
Fruit and Vegetable Division,
Consumer and Marketing
Service.

[FR Doc.71-9056 Filed 6-25-71; 8:47 am]

DEPARTMENT OF COMMERCE

Maritime Administration

DETERMINATION OF OPERATING-DIFFERENTIAL SUBSIDY FOR WAGES OF OFFICERS AND CREWS

Availability of Manual of Procedures

Notice is hereby given that the Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board have formulated procedures to be followed in connection with determining operating-differential subsidy for wages of officers and members of crews of vessels subsidized under Title VI, Merchant Marine Act, 1936, as amended.

Copies of said procedures may be obtained from the Secretary, Maritime Subsidy Board, Maritime Administration, Washington, D.C. 20235.

Dated: June 17, 1971.

By order of the Maritime Subsidy Board and Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-9099 Filed 6-25-71; 8:51 am]

National Bureau of Standards PROCESSING STANDARD FOR COBOL

Notice of Proposed Federal Information

Under the provisions of Public Law 89-306, the Secretary of Commerce is authorized to make appropriate recommendations to the President relating to the establishment of uniform Federal automatic data processing standards.

A proposed standard for Common Business Oriented Language (COBOL) is being recommended by the National Bureau of Standards. This standard, at such time as it may be approved by the Office of Management and Budget, will be published as a Federal Information Processing Standard.

Prior to the submission of the final endorsement of this proposal to the OMB, it is essential to assure that proper con-

sideration is given the needs and views of manufacturers, the public and State and local governments. The purpose of this notice is to solicit such views.

Proposed Federal Information Processing Standards contain two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specification section which details the technical requirements of the standard.

Since this proposed standard is an implementation of an American National Standard, only the announcement section is being published. The detail technical specifications of COBOL are contained in American National Standard X3.23-1968, Standard for Common Business Oriented Language. Copies may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018. Cost \$6.50 per copy.

Interested parties may submit comments to the Director, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, within 60 days after publication of this notice in the FEDERAL REGISTER.

LAWRENCE M. KUSHNER,
Acting Director.

JUNE 17, 1971.

FEDERAL INFORMATION PROCESSING STANDARDS
PUBLICATION

(Date)

Announcing the Standard for Common Business Oriented Language (COBOL)

Name of Standard: Common Business Oriented Language (COBOL). (FIPS -----).
Category of Standard: Software Standards, Programming Languages.

Explanation: This FIPS PUB announces the adoption of the American National Standard COBOL as the Federal Standard COBOL. The ANS defines the elements of the COBOL Programming Language and the rules for their use. The standard is used by implementors as the reference authority in developing compilers and by users for writing programs in COBOL. A primary purpose in using the standard is to promote a high degree of interchangeability of programs for use on a variety of automatic data processing systems. The COBOL language is intended to be used with business-oriented applications. Other languages, appropriate to other application areas, are being considered for future adoption as Federal Standards.

Approving Authority: Office of Management and Budget.

Maintenance Agency: Department of Commerce, National Bureau of Standards (Center for Computer Sciences and Technology).
Cross Index: American National Standard X3.23-1968, COBOL.

Objectives: The basic objectives in applying the Federal Standard COBOL Language are (1) to achieve the long recognized advantages that are inherent in the use of higher level languages, and (2) to maximize and protect program investments by making it easier and less expensive to exchange programs among different computer systems, including replacement systems.

The attainment of these objectives, from a Government-wide point of view, depends upon the widespread use of Federal Standard COBOL. Thus, the general intent of this FIPS

PUB is to provide for the use of this language in programming all business-oriented applications except in circumstances, discussed below, where such use would not be advantageous.

Applicability: Federal Standard COBOL will be used in programming business-oriented computer applications (i.e., those applications or programs that emphasize the manipulation of characters, files and input/output as contrasted with those concerned primarily with the computation of numeric values) which are developed or acquired for Government use at Government expense. Specifically, the standard will be used for such applications whenever—

The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models, and configurations.

The program will or might possibly be run on equipment other than that for which the program is initially written.

It is anticipated that the life of the program will be longer than the life of the presently installed equipment.

The application or program is under constant review for updating of the specifications and changes may result frequently.

The advantages of the use of this higher level language can accrue locally irrespective of interchange potential (e.g. ease of coding, ease of documentation, improved understanding, and ease of debugging).

Exceptions to the use of Federal Standard COBOL may be made, however, when any of the following circumstances exist:

1. If a comparative analysis shows that the advantages inherent in the use of Standard COBOL are clearly offset by even greater advantages obtainable through use of an alternative language. The language selection should be made in consideration of the Government's overall objectives and should be approved by a central authority in the agency under a waiver procedure, except for the selection of the special kinds of languages identified in paragraph 2 below.

2. If the use of report generators, file management languages, and text processing languages are clearly more economical and efficient. Decisions to utilize these languages do not necessarily require an agency waiver but must be made with consideration of the Government-wide objectives stated above.

3. If the program is to be processed on equipment systems of small capacity for which COBOL compilers are normally not developed.

4. If the program is to be processed on equipment systems that are in the Federal Inventory and for which a standard COBOL compiler is not available.

5. If the computer installation is heavily oriented toward the use of scientific and engineering applications in which case incidental business-oriented applications may be programmed in locally used languages.

Specifications: Federal Standard COBOL consists of four alternative combinations of the modules specified by the American National Standard COBOL (X3.23-1968). These combinations are known as Low, Low-Intermediate, High-Intermediate and High Level Federal Standard COBOL respectively. Each level is defined as consisting of the high or low level nucleus and selected levels of six of the seven Functional Processing Modules (FPM's) of the American National Standard COBOL as follows:

NOTICES

	Low level	Low-Intermediate level	High-Intermediate level	High level
Nucleus.....	Low (1).....	High (2).....	High (2).....	High (2).....
FPM				
Table handling.....	Low (3).....	Intermediate (4).....	Intermediate (4).....	High (5).....
Sequential access.....	Low (6).....	High (7).....	High (7).....	High (7).....
Random access.....	High (9).....	High (9).....	High (9).....	High (9).....
Sort.....	Low (10).....	Low (10).....	Low (10).....	High (11).....
Segmentation.....	Low (14).....	Low (14).....	Low (14).....	High (15).....
Library.....	Low (16).....	Low (16).....	Low (16).....	High (17).....

The numbers in parentheses in the above table refer to chapters in X3.23-1968, and a dash in the table denotes that the corresponding FPM is to be omitted.

Implementation: Implementation considerations are divided into acquisition of COBOL compilers and use of COBOL in applications programs.

a. *COBOL compilers.* Beginning July 1, 1972, all COBOL compilers brought into the Federal inventory must be identified as implementing one of the levels of the Federal Standard COBOL (see Specifications above).

This applies to compilers developed in-house, compilers acquired as part of an ADP system procurement and compilers acquired by separate procurement. This does not apply to orders placed before the date of this FIPS PUB for compilers to be delivered subsequent to the implementation date. Each compiler must include all of the language elements of the identified level, except that a compiler acquired exclusively to produce object programs for computers without random access devices need not include the random access module regardless of level.

A compiler may include language elements over and above those of the identified level (whether or not they are part of the Federal COBOL Standard) but such additions will not be specified for development or acquisition unless an agency waiver is first obtained. Waivers authorizing such compilers must stipulate that the additional elements, when used, will be automatically identified and flagged on the source program listing by the compiling system (i.e., compiler or pre-processor). It is expected that waivers of this nature will be granted only upon a clear demonstration that an appreciable and continuing performance vs. cost advantage, when considered from a Government-wide point of view, would be obtained by the use of such a compiler.

At the present time, agencies acquiring COBOL compilers have the responsibility for insuring vendor compliance with Federal Standard COBOL levels. It is expected that a centralized validation service will soon be available to assist agencies in the area of COBOL compilers. Pending final resolution of this service, agencies should contact the National Bureau of Standards, Office of Information Processing Standards, if assistance is desired.

b. *Use of the language.* Federal Standard and applications undergoing major revisions, as soon as compilers that conform to the standard specifications are available and acquired. It is not intended that existing programs be rewritten solely for the purpose of conforming to the standard. This includes programs designed for compilers ordered prior to the implementation date of this FIPS PUB for delivery subsequent to that date.

Programs written in standard COBOL should, to the extent practicable, be limited

to the elements of one of the specified levels. Although the use of flagged unilateral extensions in applications programs is permitted, it should be recognized that this practice will compromise interchangeability or may complicate future conversion to replacement computers. Extensions should be employed, therefore, only when their use will result in efficiencies that clearly outweigh the difficulties that they may cause.

Waivers. Agencies are permitted to waive the requirements of this FIPS PUB regarding the use of the Federal Standard COBOL and compliance with the COBOL compiler specifications upon proper internal justification. These waivers need not be coordinated in advance with NBS. However, in order that NBS may be knowledgeable about the extent to which agencies find it necessary to deviate from the specifications of this standard in meeting their operational requirements, agencies are requested to provide NBS with the following information on each of the waivers:

a. Waivers granted in the acquisition of compilers will be reported to the National Bureau of Standards with the following information:

1. Relevant documentation considered by the head of the agency (or his assignee) in authorizing the waiver.

2. Detailed technical specifications of the language deviations granted. In the case of deletions (except as noted under "Implementation a"), exact reference to the items in ANS X3.23 is all that is required.

3. Related to the waiver, a statement of any recommended action that NBS should take concerning future development of COBOL.

b. Waivers involving the use of languages other than Federal Standard COBOL, need not be furnished to the National Bureau of Standards. It is requested, however, that the National Bureau of Standards be informed of each occurrence of a major deviation in the use of Federal Standard COBOL in new source programs together with the reasons therefor.

c. Letters should be addressed to the Associate Director for ADP Standards, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

Special Information:

a. Development and maintenance of the COBOL language is the responsibility of the Conference on Data Systems Languages (CODASYL), a voluntary organization comprised of interested organizations and individuals. Standardization of COBOL in the United States is in the purview of the American National Standards Institute (ANSI). The technical specifications of American National Standard COBOL, herein adopted as a Federal Standard are based on the specifications contained in CODASYL COBOL, Edition 1965, as modified by CODASYL through

January 1, 1967. The COBOL language is under continual review by the CODASYL organization for modification and extension. These changes are then reviewed by ANSI for incorporation in revised editions of ANSI COBOL.

b. A serious problem that has confronted Federal data processing managers is the often difficult conversion of programs when replacing or upgrading installed computers. Since this involves, in a sense, interchange of programs between computers, then the advantages of using a higher-level language apply, even if all that is available is a COBOL compiler that pre-dates the standard. Therefore, in the event such a nonstandard compiler is available, and there are no prospects for the development of a standard COBOL compiler for the machine being used (because it is out of production), serious consideration should be given to the advantages of using the existing (nonstandard) COBOL language for new or revised applications to ease the eventual conversion to a new system employing a standard COBOL compiler.

Where to obtain copies of the ANSI COBOL Language Specifications:

a. Federal Government activities should obtain copies of the specifications from established sources within each agency. When there is not an established source, purchase orders should be submitted to the General Services Administration, Specifications Activity, Printed Materials Supply Division, Building 197, Naval Weapons Plant, Washington, D.C. 20402. Refer to Federal Information Processing Standard No. ----- (FIPS PUB -----). Price \$2.45 a copy.

b. Others may obtain copies from the American National Standards Institute, Inc., 1430 Broadway, New York NY 10018. Refer to American National Standard X3.23-1968, Standard for Common Business Oriented Language. (Price \$6.50 a copy. Discounts available on quantity orders. See ANSI Catalogue.)

[FR Doc.71-9101 Filed 6-25-71; 8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ETHICON, INC.

Notice of Filing of Petition Regarding Color Additive D&C Red No. 30 (Talc Lake)

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402; 21 U.S.C. 376(d)), notice is given that a petition (CAP 1C0100) has been filed by Ethicon, Inc., Somerville, N.J. 08876, proposing the issuance of a color additive regulation (21 CFR Part 8) to provide for the certification and safe use of D&C Red No. 30 (talc lake) as a dyeing agent for cotton nonabsorbable surgical sutures (U.S.P.).

Dated: June 22, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-9039 Filed 6-25-71; 8:46 am]

CHEM-Y, FABRIEK VAN CHEMISCHE PRODUCTEN N.V.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2683) has been filed by Chem-y, Fabriek van Chemische Producten N.V., Noordstraat 49, Bodegraven, Holland, proposing that § 121.2527 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 121.2527) be amended to provide for the safe use of tetradecyl (poly-1-oxapropene) oxathane carboxylic acid as an antistatic and antifogging agent in olefin polymers intended for use in food-packaging materials.

Dated: June 22, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-9040 Filed 6-25-71; 8:46 am]

Public Health Service HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 5 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968), is hereby amended with regard to section 5-B, Organization, as follows:

Delete the center head "Regional Medical Programs Service (2700)" and the text thereunder, and substitute the following center head and accompanying text:

REGIONAL MEDICAL PROGRAMS SERVICE (3R00)

Serves as the focal point in the Health Services and Mental Health Administration (HSMHA) for improving personal health care through development of the quality of performance by the providers of care, placing special emphasis on continuing education of established professional health personnel and on cooperative arrangements among providers of care: (1) Supports grants and contracts to encourage the development of regional cooperative arrangements among medical centers, research institutions, hospitals, the health professions, and other providers of care which show promise of leading to the regionalization of health resources and enhancement of the capabilities of providers of care at the community level; (2) furnishes professional and technical assistance and advice to the regional medical programs, States, and local com-

munities; (3) conducts programs focused primarily on developing, testing, and evaluating methods at the community level for closing the health care gap; and (4) administers specialized pilot or educational and monitoring programs in the fields of kidney disease and smoking and health, which have a significant national responsibility for improved personal health care in addition to their contributing towards the accomplishment of regional medical program goals.

Office of the Director (3R01). By specific delegation from the Administrator: (1) Provides direction and leadership for the programs of HSMHA assigned to the Regional Medical Programs Service; (2) plans and formulates mission objectives and policies; (3) develops and coordinates policy and operational relationships with public and private organizations which support and carry out health programs related to the objectives of the program; and (4) establishes and maintains liaison with leaders in the medical community, State and local officials, and members of Congress directly related to this mission.

Office of Communications and Public Information (3R17). As a part of HSMHA's total program of communication and public information and under general HSMHA policy guidelines: (1) Advises the Director on policies and activities dealing with communications and public information designed to achieve understanding and acceptance of the objectives and activities of the Service and its various operating elements; (2) directs staff in developing programs and plans for effective liaison with representatives of the national news media and other information outlets, including those at Federal level and those of the national voluntary health and health-related organizations; (3) maintains liaison with the information staffs of the regional medical programs, both separately and collectively, to insure the development of an integrated effort for the achievement of maximum understanding, acceptance, and support for all regional medical program-related efforts; and (4) develops and implements new concepts and techniques of communications, public information, and relationships consistent with the unique features and needs of the Service.

Office of Administrative Management (3R19). Is an integral part of HSMHA's Office of Administrative Management and in this role: (1) Plans, directs, and evaluates the administrative management activities of the Service; (2) develops and implements management policies, procedures, and systems; (3) provides guidance to the staff of the Administrator's Office of Financial Management, including program policy interpretation in budget formulation and execution, preparation of program planning and budgeting data, and the financial management of grants; and (4) serves as

the focal point for liaison with officials of the Office of the Administrator and the Office of the Secretary on financial, personnel, organization, supply, contracts, and other management matters.

Office of Systems Management (3R21). (1) Plans, develops, and coordinates the Service's management information system, including data obtained from applications, awards, contracts, progress reports, and other documents; (2) conducts statistical analyses and assists components of the Service by collecting and analyzing specific data required for planning, evaluation, program development, and grants and contract review; (3) provides computer programming and tabulating services for the Service; (4) develops and coordinates Service-wide programs for determining the requirements for and the utilization of ADP equipment; (5) upon request, provides the regional organizations with technical advice and assistance in data systems design; and (6) maintains liaison to insure that the Service's and related Administration management data needs are met and that adjustments are made to accommodate new areas of interest and changes in program emphasis or goals.

Office of Program Planning and Evaluation (3R31). Subject to policies and guidelines of HSMHA's Office of Program Planning and Evaluation: (1) Provides primary staff support to the Director on program planning and evaluation, and maintains liaison with program planning and evaluation offices of the Administration and the Department; (2) formulates and articulates program goals and objectives for the Director; (3) performs long- and short-range planning, and conducts and directs program evaluation studies; (4) collaborates with counterpart offices and budget and fiscal offices in development and implementation of the Department's Program Planning and Budgeting System; and (5) monitors planning and evaluation activities of regional medical programs and, upon request, provides technical advice and assistance to them on these program aspects.

Division of Professional and Technical Development (3R41). Plans, develops, and coordinates a program of continuing education and pilot demonstration directed toward improving the availability and quality of the health care system: (1) Aids in the continuing development and operation of regional medical programs throughout the Nation through professional and technical assistance and project review; (2) develops, tests, and evaluates methods of disseminating and applying knowledge; (3) promotes the application of the latest techniques in the health care field; (4) develops and coordinates a program of demonstrations which will lead to improvement in the availability and quality of primary health care; (5) supports continuing education and the development and utilization of allied health manpower; and (6) maintains liaison with other groups and organizations involved in related health activities.

Division of Operations and Development (3R47). Promotes and sustains, through grants and professional advice and assistance to regional medical programs: (1) Development of cooperative arrangements for the regionalization of health resources; (2) enhancement of the capabilities of providers of care at the community level; and (3) improvement of the quality of health care and the strengthening of the health care system throughout the Nation by placing special emphasis upon communication and cooperation with the professional sector.

Division of Kidney Disease Control (3R53). Plans, develops, field tests, coordinates, and supports pilot programs which can reasonably be expected to improve the quality of personal health care for patients suffering from renal disease, and improves the delivery of services, including prevention, early intervention, diagnosis, case management, and rehabilitation: (1) Supports studies directed toward improving the efficiency and capacity of the health care system by cooperation with hospitals, health professionals, medical schools, and official and voluntary health agencies; (2) conducts and supports studies designed to develop new methods or improve existing methods of prevention and control, including the organization, delivery, financing, and cost reduction of health care services by more efficient use of manpower, funds, and facilities; (3) conducts time-limited specialized activities which will encourage regionalization, planning, and development of a network of health care systems that will enhance the quality and quantity of care for those patients suffering from renal disease; (4) provides consultation and technical assistance to regional groups, States, and local communities; and (5) as an integral part of HSMHA's total effort develops information, standards, and guidelines among the providers of care to effect optimum and coordinated medical care services for renal disease patients at the community level.

National Clearinghouse for Smoking and Health (3R57). By delegation through the Administrator: (1) Provides leadership and direction for a national program to reduce death and disability due to smoking; (2) acts as coordinator for Department activities related to smoking and health, maintaining liaison, through the Office of the Administrator or directly as deemed appropriate by HSMHA, with other Federal agencies and with official and voluntary groups concerned with the problem; (3) participates in the activities of the National Interagency Council on Smoking and Health; (4) provides consultation to State and Local Interagency Councils and to industrial and local groups in developing coordinated community approaches to smoking control programs; (5) prepares an annual report to Congress reviewing the medical and scientific evidence on the health consequences of smoking; (6) collects, organizes, and disseminates sci-

entific information, maintaining the comprehensive Clearinghouse literature collection; (7) works with groups and organizations, within and outside government, carrying out cooperative programs of public information and education for use in all media; (8) works with health and education programs on smoking and health, including innovative methods of developing health education in the schools; (9) plans and carries out studies to furnish a better understanding of the dynamics of smoking behavior, and to evaluate program progress and effectiveness; and (10) provides advice and guidance to regional medical programs and other grant applicants, and renders technical assistance where requested.

Dated: June 12, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-9043 Filed 6-25-71; 8:46 am]

Social and Rehabilitation Service OFFICE OF MANPOWER DEVELOPMENT AND TRAINING

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (35 F.R. 8712 and 8713, June 4, 1970) is hereby amended to reflect the reorganization of the Office of the Assistant Administrator, Manpower Development and Training in the Office of the Associate Administrator for Planning, Research and Training. For such purposes, Part 5-B is amended as follows:

By striking out the heading "Office of the Assistant Administrator, Manpower Development and Training" and all that follows thereunder and inserting in lieu thereof the following:

OFFICE OF MANPOWER DEVELOPMENT AND TRAINING

In coordination with the program administrations directs a program for the development of policy, regulations, standards, and guidelines necessary for the systematic identification, definition, and evaluation of the structure and manpower needs of SRS-related State and local agencies. This program includes administration of the direct grant program authorized in section 707, Title VII, of the Social Security Act. Serves as the primary source of technical assistance and consultation regarding manpower development and training to the program administrations and regions.

DIVISION OF MANPOWER SYSTEMS

In coordination with the program administrations determines the quantitative and structural manpower requirements of the SRS-related State and local

agencies. The structural requirement includes formulation of guidance concerning the utilization of staff particularly emphasizing the differentiation of functions among professionals, subprofessionals, and volunteers, and development of career ladders as appropriate. Develops and updates requirements of the national manpower data system for estimating total manpower requirements of State and local SRS-related programs. Develops standards or operates under standards developed by State Merit System Service where appropriate, and guidelines for the establishment of a standard manpower management system for the various SRS-related State or local agencies concerning recruitment, selection, utilization, career development, education and training programs.

DIVISION OF STANDARDS FOR STATE/LOCAL AGENCY OPERATIONS

In coordination with the program administrations formulates policy, regulations, and guides pertinent to the execution and evaluation of the staff development, in-service training, and volunteer programs of the various SRS-related State and local agencies. Provides technical assistance and consultation, and promotes the exchange of information regarding manpower development and training among Federal, State, and local agencies.

DIVISION OF STANDARDS FOR EDUCATIONAL INSTITUTIONS

In coordination with the program administrations develops regulations, standards, and guidelines for approval, administration, and evaluation of all SRS educational grant programs and contracts. Administers and evaluates the direct grants assigned to the Office of Manpower Development and Training. Monitors and provides technical assistance concerning educational grants administered by the Region.

Approved: June 18, 1971.

JOHN G. VENEMAN,
Acting Secretary.

[FR Doc. 71-9073 Filed 6-25-71; 8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-114]

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT

Amendment of Delegation of Authority

The Secretary's delegation of authority to the Assistant Secretary and Deputy Assistant Secretary for Housing Production and Mortgage Credit, published at

36 F.R. 5006, March 16, 1971, is amended to add authority under section 6 of Public Law 90-480 to waive or modify standards for the design, construction, and alteration of residential structure to assure accessibility to the physically handicapped with respect to the college housing and the low-rent public housing programs. As amended, the pertinent sections read:

SECTION A. Authority delegated. * * *

5. Title IV of the Housing Act of 1950 (12 U.S.C. 1749-1749c) with respect to the college housing program, and section 6 of Public Law 90-480 (42 U.S.C. 4156), with respect to waiver or modification of standards for the design, construction, and alteration of buildings for accessibility to the physically handicapped under such program.

8. Low-rent public housing program under the United States Housing Act of 1937 (42 U.S.C. 1401) and all other

power and authority of the Public Housing Administration and the head and other officers and offices of the Public Housing Administration transferred under section 5(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3534(a)), and section 6 of Public Law 90-480 (42 U.S.C. 4156) with respect to waiver or modification of standards for the design, construction, and alteration of buildings for accessibility to the physically handicapped under such program.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. These amendments of the delegation of authority are effective as of June 23, 1971.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc. 71-9098 Filed 6-25-71; 8:51 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

AMERICAN CYANAMID CO. ET AL.

Special Permits Issued

JUNE 22, 1971.

Pursuant to Docket No. HM-1, Rule-making Procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR Part 170, following is a list of new DOT special permits upon which Board action was completed during May 1971:

Special permit No.	Issued to—Subject	Mode or modes of transportation
6376	American Cyanamid Co., Wayne, N.J., to ship "Thimet, technical" described as "organic phosphate compound, liquid, n.o.s.", in DOT Specification 105A 500W tank car having nominal water capacity not exceeding 12,000 gallons.	Rail.
6439	Shippers registered with this Board for shipments of fissile and large quantities of radioactive materials, n.o.s., in rectangular box/steel casing composite packages.	Highway, Cargo-only Aircraft.
6440	Shippers registered with this Board for shipments of fissile and large quantities of radioactive materials, n.o.s., in rectangular box/steel casing composite packages.	Highway, Cargo-only Aircraft.
6445	Shippers registered with this Board to ship metallic sodium containing not more than a Type A quantity of radioactivity (\$173.389(1)) in DOT-19A or 19B wooden boxes.	Rail, Highway, Cargo-only Aircraft.
6452	Shippers registered with this Board to ship peroxide, organic, solid specifically identified to this Board in DOT-12B65 fiberboard boxes having inside securely closed paper bags lined with 0.002 inch polyethylene, not over 1 pound capacity each.	Rail, Highway.
6455	Shippers registered with this Board to ship benzoyl peroxide, wet containing 23% by weight water, plus or minus 2%, in compliance with 49 CFR 173.157 (a)(3) except the one pound net weight factor may be on a dry weight basis.	Rail, Highway.
6456	Shippers registered with this Board to ship high explosives with liquid explosive ingredient, and propellant explosives, solid, Class B in modified DOT-12H fiberboard boxes.	Rail, Highway.
6459	Equipment Sales Co., Fort Lauderdale, Florida, to ship certain compressed gases in DOT-3A, 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.
6460	Gardner Cryogenics Corporation, Bethlehem, Pa., to ship certain compressed gases in DOT-3A, 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.
6462	Balloy Oxygen Co., Bryan, Texas, to ship certain compressed gases in DOT-3A, 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.
6464	Shippers registered with this Board for shipment of liquefied natural gas, in non-DOT specification aluminum cargo tank, having capacity of 11,500 gallons.	Highway.
6465	National Bureau of Standards, Washington, D.C. to ship trace quantities of carbon monoxide in air or nitrogen in cylinders similar to DOT-41B cylinders.	Rail, Highway.
6466	Ensign Bickford Co., Simsbury, Conn., to ship Primadet Delays described as "Detonating Primers" in DOT-12H fiberboard boxes.	Highway.
6468	Southern Dyestuff Co., Charlotte, N.C., to ship Dinitrochlorobenzene, maintained at a temperature above 113° F. in insulated DOT MC-304 stainless steel cargo tanks with heating coils.	Highway.
6469	Tenneco Chemicals, Inc., Pasadena, Texas, to ship vinyl chloride in a tank car having safety relief valve overdue for retest.	Rail.
6470	Welding & Supply Co., St. Petersburg, Florida, to ship certain compressed gases in DOT-3A, 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.
6471	Magnolia Welding Supply Co., Pascagoula, Mississippi, to ship certain compressed gases in DOT-3A, 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.

ALAN I. ROBERTS,
Secretary.

[FR Doc. 71-9068 Filed 6-25-71; 8:48 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

Arkansas Power & Light Co., Ninth and Louisiana Streets, Post Office Box 551, Little Rock, AR 72203, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated September 17, 1970, for authorization to construct and operate a pressurized water nuclear reactor designated as Arkansas Nuclear One, Unit 2, adjacent to Arkansas Nuclear One, Unit 1, on a peninsula in the Dardanelle Reservoir on the Arkansas River in Pope County, Ark. The site is located about 2 miles southeast of the village of London, Ark.

The proposed reactor will be designed for operation at approximately 2,760 megawatts (thermal) with an electrical output of approximately 950 megawatts (electrical).

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after June 19, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and a copy has been sent to the Arkansas River Valley Regional Library, Dardanelle, Ark. 72834, Mrs. Robert Keathly, Librarian.

Dated at Bethesda, Md., this 7th day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc. 71-8285 Filed 6-18-71; 8:45 am]

[Docket No. 50-389]

FLORIDA POWER AND LIGHT CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

The Florida Power and Light Co., 4200 Flagler Place, Post Office Box 3100, Miami, FL 33101, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, dated April 30, 1971, for authorization to construct and operate a pressurized water nuclear reactor, designated as the Hutchinson Island Nuclear Power Plant, Unit No. 2, on Hutchinson Island in St. Lucie County, Fla. The 1,132-acre site is located about 10 miles from Fort Pierce and 10 miles from Stuart on the east coast of Florida.

The proposed facility is designed for initial operation at approximately 2,440 thermal megawatts with a net electrical

output of approximately 890 megawatts. Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after June 12, 1971.

A copy of the application is available for public inspection at the Commission Public Document Room, 1717 H Street NW., Washington, DC, and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, FL 33450.

Dated at Bethesda, Md., this 1st day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.
[FR Doc. 71-7833 Filed 6-11-71; 8:45 am]

[Docket No. 50-298A]

NEBRASKA PUBLIC POWER DISTRICT

Notice of Receipt of Application for Facility Operating License

Please take notice that the Nebraska Public Power District, Post Office Box 499, Columbus, NE 68601, pursuant to the Atomic Energy Act of 1954, as amended (the Act) has filed an application, dated February 26, 1971, accompanied by a Final Safety Analysis Report, for a license to operate a nuclear power reactor on its site on the west bank of the Missouri River near the village of Brownsville in Nemaha County, Nebr.

The nuclear power reactor is a boiling water reactor, designated by the applicant as the Cooper Nuclear Station, which is designed for initial operation at approximately 2,381 megawatts thermal with a net electrical output of approximately 778 megawatts.

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Auburn Public Library, 1118 Fifteenth Street, Auburn, NE.

Dated at Bethesda, Md., this 21st day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.
[FR Doc. 71-9022 Filed 6-25-71; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23516; Order 71-6-110]

ALITALIA AIRLINES

Order Denying Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of June 1971.

By petition docketed June 18, 1971, Alitalia Airlines (Alitalia) requests reconsideration of the Board's denial of

Special Tariff Permission Applications Nos. 162 and 164, by which the carrier sought permission to make effective certain tariffs on less than the statutory notice period of 30 days.¹

The tariffs for which short-notice effectiveness was requested set forth economy-class round-trip fares between Italy and the United States for persons between 12 and 26 years of age. The fare between New York, Boston, and Philadelphia, on the one hand, and Rome and Milan, on the other, is \$199; and the fare between Chicago and Detroit, on the one hand, and Rome and Milan, on the other, is \$259.

Special Tariff Permission Application No. 162 was filed on June 10 and denied by letter dated June 14, 1971. Application No. 164 was filed on June 14 and denied by letter dated June 15, 1971. The first requested that the tariffs in question be permitted to become effective on June 14; and the second, on June 15, 1971. The reason given for the requests was that the Government of Italy had directed Alitalia to apply the fares immediately. Concurrently with its second application, Alitalia filed a tariff incorporating the proposed fares for effectiveness on statutory notice (July 14, 1971).

In its petition for reconsideration, Alitalia states that, after Sabena Belgian World Airlines filed a tariff on statutory notice providing for student fares between New York and Brussels, the Board permitted certain other transatlantic carriers to file similar student- or youth-fare tariffs on short notice (naming Pan American, BOAC, Air France, KLM, TWA, and National). Alitalia argues that the Board's denial of Alitalia's applications was arbitrary and capricious in that it discriminated against Alitalia vis-a-vis the foreign and U.S. carriers whose short-notice filings were permitted; that the Board does not have power to suspend rates in foreign air transportation; that the Board has no authority to employ its discretion over the granting or denial of short-notice filings as an indirect device for exercising power over rates in foreign air transportation; that, whether or not the Board can, through denial of a short-notice filing, arrogate to itself power over rates

¹ Section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)) provides as follows:

"(c) No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier or foreign air carrier, except after 30 days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section. Such notice shall plainly state the change proposed to be made and the time such change will take effect. The Board may in the public interest, by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions."

in foreign air transportation, to do so would be contrary to the public interest and to the interests of the American traveling public; and that Alitalia must act in accordance with instructions of the government of Italy and any effort to resolve this dispute must be made through appropriate diplomatic channels rather than by means of Board action against Alitalia. In the event the Board decides not to grant its petition, Alitalia requests oral hearing and/or argument before the Board.

Upon consideration of the applications and petition and other facts before us, we will deny Alitalia's petition for reconsideration.

Sabena's original tariff filing was made on statutory notice to become effective 30 days thereafter.² Special Tariff Permission Applications were then filed by U.S. carriers requesting permission to file tariffs on short notice to match Sabena's fare to and from Brussels, and by BOAC, Air France, KLM, Lufthansa, and Swissair to establish comparable student or youth fares to and from points in the United Kingdom, Paris, Amsterdam, Germany, and Switzerland, respectively, based generally on mileage differentials between the United States and European points. U.S. and foreign carriers were also granted permission to match the latter fares on short notice.³ These short-notice applications were granted because of the unusual circumstances surrounding the Sabena filing. This filing was made pursuant to a government directive, rather than a normal carrier initiated tariff which would have required IATA traffic conference procedures. Moreover, the tariffs were filed at the onset of the peak eastbound tourist season and, in view of the sharp discount of prevailing fares involved, could be expected to divert heavily from carriers not able to offer the fares. Thus, failure to grant Special Tariff Permission to permit U.S. and other carriers to offer matching fares as soon as possible would have severely and, in the Board's view, unfairly disadvantaged those carriers. Accordingly, the Special Tariff Permission was granted in order to put all carriers on an equal footing.

On the other hand, a grant of Alitalia's Special Tariff Permission Application would have put the carrier at an unfair advantage, and accordingly it was denied. The tariff sought to be filed on short notice by Alitalia went beyond a mere matching of the tariffs previously filed and in fact significantly undercut

the earlier filings. Alitalia's proposal presents a new type of fare available year-round at a level not based on the mileage relationship.⁴ To permit Alitalia to establish these tariffs on less than the 30 days' statutory notice would have put that carrier in an unduly favorable competitive position and would have prejudiced not only the U.S. carriers but the other transatlantic operators as well.⁵ Alitalia has presented no reason why equity or fairness requires such a result. In short, the Board is convinced that its various actions in this matter have been entirely consistent and that there has been no discrimination against Alitalia.

The Board is not attempting to regulate rates by indirection; Alitalia's fares will become effective in approximately 3 weeks unless withdrawn by the carrier. The Board's denial of Special Tariff Permission does not constitute any determination concerning the reasonableness of the fares but only the determination that no special circumstances or public-interest factors have been shown which warrant their effectiveness on less than statutory notice. Furthermore, the bilateral Air Transport Agreement between the United States and Italy also provides that tariffs are to be filed at least 30 days before their effective date and does not purport to deny to the Board its discretionary authority not to waive this provision.

Neither are we persuaded that the Board is required to permit these fares to take effect on short notice because of the order of the Italian Government, or by reason of Alitalia's assertion that the proper procedure is to grant its application and thereafter to proceed by diplomatic channels if it objects to the fares involved. These conditions fly in the face of the bilateral as well as the statute. Whether or not this Government may elect to object to the fares through diplo-

² The fares filed by the carriers are as follows:

	Peak	Off-peak
Sabena—New York-Brussels.....	\$220	\$200
BOAC—New York-London.....	210	190
Air France—New York-Paris.....	220	200
KLM—New York-Amsterdam....	220	200
Lufthansa—New York-Germany..	228	210
Swissair—New York-Switzerland..	228	210
Alitalia—New York-Rome.....	199	199

³ Alitalia contends that the tariffs to which short-notice authority was given differed from each other and therefore Alitalia's tariff should not be denied short-notice merely because it differs from those already in effect. The Board did not consider the differences among the earlier tariffs of such significance to require denial of short notice. The proposed youth tariffs eliminated the limitation of these fares to students and in this respect were in accord with long-standing Board policy that the limitation to persons with the status of students is discriminatory. The differences in age limits were small and did not in our view significantly distinguish one tariff from another. All the earlier tariffs have limitations on the period within which reservations may be made while Alitalia proposed no such limitation.

matic channels is irrelevant to our denial of the Alitalia petition. Again, the Board's determination is only that no basis has been shown which warrants a waiver of the applicable statutory and bilateral provisions.⁶

Alitalia's request for hearing and/or oral argument will also be denied. The contentions have been fully considered by the Board, grant or denial of a special tariff permission application does not require an evidentiary hearing, and the granting of oral argument is a matter within the Board's discretion. Neither would serve any useful purpose or be productive in the circumstances here present.

Accordingly, it is ordered, That the petition for reconsideration filed by Alitalia Airlines in Docket 23516 and its request for hearing and/or oral argument therein are hereby denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-9081 Filed 6-25-71; 8:49 am]

[Docket No. 22992; Order 71-6-111]

ALLEGHENY AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 22d day of June 1971.

Allegheny Airlines, Inc. (Allegheny), has filed a petition for issuance of an order to show cause why the Board should not grant Allegheny's application, Docket 22992, for amendment of its certificate of public convenience and necessity for route 97 so as to modify condition (9) (b), a long-haul restriction on Pittsburgh-Cleveland service. The restriction currently requires all flights operating nonstop between Cleveland and Pittsburgh to originate or terminate at a point west or south of Cleveland. Allegheny requests a modification of the restriction so that it would require flights to serve either a point beyond Cleveland or a point beyond Pittsburgh.

No objections to Allegheny's motion have been filed.

Upon consideration of the pleadings and all the relevant facts, we have decided to grant Allegheny's request for an order to show cause, and we tentatively find and conclude that the public convenience and necessity require the proposed modification of condition (9) (b) of Allegheny's certificate.

⁶ Alitalia's argument that no complaints have been filed by other carriers opposing its tariff is irrelevant to the Board's denial of its application for short notice. We may note, however, that we have received a number of informal complaints from members of the American public protesting the discrimination inherent in the various student and youth fares filed, and we are presently considering whether an investigation of these fares should be instituted.

In support of our ultimate finding, we tentatively find and conclude: That the proposed modification of the long-haul restriction will afford the carrier increased operational flexibility without impairing service to the public and without any significant impact on other carriers; and that Allegheny is fit, willing, and able properly to perform the proposed transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder.

Interested persons will be given 10 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending Allegheny Airlines' certificate of public convenience and necessity for route 97 by amending condition (9) to read as follows:

(9) The holder shall schedule nonstop service (a) between Detroit, Mich., and Cleveland, Ohio, only on flights originating or terminating at a point east or south of Cleveland; and (b) between Pittsburgh, Pa., and Cleveland, Ohio, only on flights which also serve a point beyond either Pittsburgh or Cleveland.

2. Any interested person having objection to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 10 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order shall be served upon the following persons, who are

hereby made parties to the proceeding: American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., North Central Airlines, Inc., Mohawk Airlines, Inc., Northwest Airlines, Inc., Northeast Airlines, Inc., United Air Lines, Inc., Airlift International, Inc., The Flying Tiger Line Inc., the Ohio Department of Commerce, the Pennsylvania Department of Transportation, and the cities of Cleveland and Pittsburgh.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-9082 Filed 6-25-71; 8:49 am]

[Docket No. 23371]

ALLEGHENY-MOHAWK MERGER

Notice of Postponement of Hearing

Notice is hereby given that the hearing is postponed until July 19, 1971, at 10 a.m., e.d.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., June 23, 1971.

[SEAL] MERRITT RUHLEN,
Hearing Examiner.

[FR Doc. 71-9080 Filed 6-25-71; 8:49 am]

[Docket No. 23480; Order 71-6-112]

BUCKEYE AIR SERVICE, INC.

Order To Show Cause Regarding Service Mail Rate

Issued under delegated authority June 22, 1971.

The Postmaster General filed a notice of intent June 7, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 50.8 cents per great circle aircraft mile for the transportation of mail by aircraft between Baltimore, Md., and Greensboro, N.C., via Pulaski, Va., based on six round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected there-

with, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order¹ to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Buckeye Air Service, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 50.8 cents per great circle aircraft mile between Baltimore, Md., and Greensboro, N.C., via Pulaski, Va., based on six round trips per week flown with Beechcraft 18 aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Buckeye Air Service, Inc., the Postmaster General, Eastern Air Lines, Inc., Piedmont Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Buckeye Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Buckeye Air Service, Inc., the Postmaster

¹ As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

General, Eastern Air Lines, Inc., Piedmont Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.
[FR Doc. 71-9083 Filed 6-25-71; 8:49 am]

[Docket No. 23302]

HARRISON AIRWAYS LTD.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on July 6, 1971, at 10 a.m., e.d.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issue and other details involved in this proceeding, interested persons are referred to the prehearing conference report, served May 18, 1971; the Supplemental Report of Prehearing Conference, served May 24, 1971; and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 22, 1971.

[SEAL] RICHARD M. HARTSOCK,
Hearing Examiner.
[FR Doc. 71-9084 Filed 6-25-71; 8:49 am]

[Docket No. 23538; Order 71-6-116]

IMPERIAL AIR FREIGHT SERVICE, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of June 1971.

By tariffs filed May 26 and marked to become effective June 26, 1971, Imperial Air Freight Service, Inc. (Imperial), a freight forwarder, proposes to increase its excess valuation charge from 15 to 20 cents for each \$100, or fraction thereof, by which the declared value of a shipment exceeds 50 cents per pound or \$50 per shipment, whichever is higher for shipments under its general commodity rates, and from 15 cents to 25 cents per \$100 for shipments under its specific commodity rates. No complaints have been received. Most major forwarders currently have in effect an excess value charge of 15 cents per \$100 on their domestic traffic. The Board has suspended, pending investigation, a number of previous proposals to increase excess valuation charges above this level where no showing has been made that excess value revenues do not cover the

¹ Tariff CAB No. 10 and CAB No. 11 issued by Imperial Air Freight Service, Inc.

amount of the claim expense stemming from declarations of excess value.² Imperial has not submitted any data on the relationship between its excess value revenues and losses attributable to declarations of excess valuation. In addition, Imperial has not provided any explanation as to why shipments moving under specific commodity rates should be charged higher for declarations of excess value than shipments under general commodity rates.

Upon consideration of all relevant factors, the Board finds that the proposed excess valuation charges may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful and should be investigated. We further conclude that the proposed charge should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the charge and provisions of Rule No. 80, paragraph 1(b) on First Revised Page 6 of CAB No. 10 and Rule No. 80, paragraph 1(b) on First Revised Page 8 of CAB No. 11 issued by Imperial Air Freight Service, Inc., and rules, regulations, or practices affecting such charge and provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charge and provisions, and rules, regulations, or practices affecting such charge and provisions;

2. Pending hearing and decision by the Board, Rule No. 80, paragraph 1(b) on First Revised Page 6 of CAB No. 10 and Rule No. 80, paragraph 1(b) on First Revised Page 8 of CAB No. 11 issued by Imperial Air Freight Service, Inc., are suspended and their use deferred to and including September 23, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated as Docket 23538, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Imperial Air Freight Service, Inc., which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.
[FR Doc. 71-9085 Filed 6-25-71; 8:49 am]

² E.g., Order 71-4-53 dated Apr. 9, 1971, and prior orders cited therein.

[Order 71-6-114]

UNAUTHORIZED INDIRECT AIR CARRIERS PERFORMING HOUSEHOLD GOODS SERVICES FOR DEPARTMENT OF DEFENSE

Order Granting Temporary Relief

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of June 1971.

At the request of the Department of Defense (DOD), the Board, by Orders 69-10-60, October 13, 1969, 70-10-45, October 8, 1970, 71-2-82, February 17, 1971, and 71-5-66, May 13, 1971 granted temporary relief from provisions of the Federal Aviation Act of 1958 (the Act) to permit 28 unauthorized indirect air carriers¹ to transport by air used household goods² of Department of Defense personnel. The relief will expire October 14, 1971.

By letter dated May 24, 1971, the Department of the Army, acting on behalf of DOD, stated that, in addition to the 28 carriers already exempted, it now has a requirement for the services of one additional unauthorized indirect air carrier and requests that this carrier be similarly relieved from the requirements of the Act, such relief to terminate no later than October 14, 1971. The carrier whose services are requested by DOD is listed in Appendix A hereto.

In view of the foregoing circumstances, the Board finds that it is in the public interest to temporarily relieve from the provisions of the Act that carrier whose services have been requested by DOD to

¹ American Ensign Van Service, Inc., Asiatic Forwarders, Inc., CTI—Container Transport International, Inc., Four Winds Forwarding, Inc., HC&D Moving & Storage, Imperial Household Shipping Co., Inc., International Sea Van, Inc., North American Van Lines, Inc., Aero Mayflower Transit Co., Inc., Allied Van Lines, Inc., Astron Forwarding Co., Davidson Forwarding Co., Fernstrom Storage and Van Co., Home-Pack Transport, Inc., King Van Lines, Inc., Richardson Transfer & Storage Co., Inc., Smyth Worldwide Movers, Inc., Air Van Lines, Inc., Burnham Van Service, Inc., Suddath Van Lines, Inc., United Van Lines, Inc., Von der Ahe Van Lines, Inc., Door to Door International, Inc., Republic Van & Storage Co., Inc., Trans-American Van Service, Inc., American Red Ball Transit Co., Getz Bros. and Co., U.S., and Neptune Thru-Container Corp.

² The term "used household goods" means personal effects (including unaccompanied baggage) and property used or to be used in a dwelling, when a part of the equipment or the supply of such dwelling, but specifically excludes (1) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments, when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments, and (2) objects of art (other than personal effects), displays and exhibits.

transport by air used household goods of personnel of DOD.

Accordingly, it is ordered:

1. That pursuant to sections 101(3) and 204 of the Federal Aviation Act of 1958, as amended, the person listed in Appendix A is hereby relieved from the provisions of title IV and section 610(a) (4) of the Act to the extent necessary to transport by air used household goods of personnel of DOD upon tender by that Department;

2. That the relief granted herein shall expire October 14, 1971, unless sooner terminated by the Board;

3. That this order may be amended or revoked at any time in the discretion of the Board, without hearing, and

4. That copies of this order shall be served on the Military Traffic Management and Terminal Service, U.S. Army, and the person listed in Appendix A.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX A

Karevan, Inc., 534 Westlake Avenue, North Post Office Box 9240, Queen Anne Station, Seattle, Wash. 98109.

[FR Doc. 71-9086 Filed 6-25-71; 8:50 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p) (1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/Operator and Vessels
01287---	Knorr & Burchard NFL.; Rlenbek.
01323---	Manchester Liners Ltd.; Manchester Crusade.
01559---	Rederiaktiebolaget Fraternitas; Avant.
01852---	Smasco Ship Management & Supply Co. S.A. Panama; Santa Evdolia. Santa Katerina 11. Santa Marina.
02249---	Fisser & V Doornum; Sunlina.
02264---	Dr. Erich Retzlaff; Ingrid Retzlaff. Emma Retzlaff. Renate Retzlaff. Hugo Retzlaff. Else Retzlaff. Indal Retzlaff. Erich Retzlaff. Henriette Retzlaff.
02496---	U.S. Steel Corp.; Hughes 152. Hughes 115.
02655---	Reederel Jonny Wesch; Bernd Wesch II. Egon Wesch.
02864---	Refineria de Petroleos de Escombreras, S.A. (Repesa); Alcazar.
02867---	Kee Yeun Maritime (Panama) Corp., S.A.; Kee Lee.
02962---	Nippon Kisen Kabushiki Kaisha; Toyota Maru No. 16.
02977---	J. Ray McDermott & Co., Inc.; McDermott Tidelands No. 85.
02982---	The Shipping Corp. of India Ltd.; Balladila.
03254---	Turecamo Tankers, Inc.; Phoenix.
03294---	Companhia de Navegacao Lloyd Brasileiro; Marilla.
03678---	Lucien M. McLeod and Janet C. McLeod; Luminetta.
03723---	Southern Terminal and Transport Co.; AD-104.
03840---	Sunexport Holdings Corp.; GTS Adm. Wm. M. Callaghan.
04007---	Egon Oldendorff; Terespolis.
04044---	N.R. Bugge Skibsselskabet; Sea Explorer.
04061---	The Sanko (Hong Kong) Ltd.; Maritime Dominion. Eastern Giant. Maritime Brilliance. World Guard. World Guard. Golden Orchid.
04087---	Merichem Co.; ETT-113. ETT-117.
04121---	Alabama Dry Dock and Shipbuilding Co.; Derrick Barge No. 1. Oil Barge 71060.
04210---	Anderson Petroleum Transportation Co.; APT 300. APT 301.
04504---	Sumiyoshi Gyogyo Kabushiki Kaisha; Sumiyoshi Maru No. 11. Sumiyoshi Maru No. 16.
05111---	Porto Alegre Compania Naviera S.A.; Panaghia.
05215---	Lucien M. McLeod; Lumen.
05308---	Koriana Compania Naviera S.A.; Antzouletta.
05471---	Belcher Oil Co.; Barge No. 16.
05586---	M/V Day Island, Inc.; Day Island.
05621---	Valera Compania Naviera S.A.; Aretl S.
05622---	CIA. NAV. Santa Irene S.A.; Irini.
05655---	Post Office (of the UK) (Telecommunications); Iris. Ariel. Alert.
05780---	Aradas Compania Naviera S.A.; M/V Ardas.
05927---	A. F. Henry & MacGregor, Ltd.; M/V Ratray Head.
05936---	Transocean Shipping Co., Ltd.; Newhaven.
05943---	Kanagawa Prefectural Government; Shonan Maru.

Certificate No.	Owner/Operator and vessels
05944---	Ibaragi Prefectural Government; Kashima Maru.
05945---	Shimane Prefectural Government; Shinkai Maru.
05946---	Nihon Daigaku Nijigaku-Bu; Nihondaigaku-Go.
05947---	Kabushiki-Kaisha Yamaguchi-Ken Gyogyo Kosha; Bocho Maru No. 8.
05965---	Marepica Neptunea S.A.; Odysseis.
05975---	Columbia Shipping Co., Inc.; Van Trader.
05980---	Tamamaru Suisan Kabushiki-Kaisha; Tama Maru No. 18.
05995---	Association of Maryland Pilots; Baltimore.
06001---	G. E. Houry (London), Ltd.; Union.
06002---	Elmira Shipping, Inc.; Pisces.
06011---	Mitsui Kinkai Kisen Kabushiki Kaisha; Azuchi Maru.
06012---	Tensel Kisen K.K.; Tensho Maru.
06026---	Tarsands Shipping Co.; Tarpon Sands.
06031---	Retlow Enterprises, Inc.; Hines 7.
06036---	South Texas Towing, Inc.; LRL 111. T-700.
06037---	Nilgata Rinko Kaeriku Unso Co., Ltd.; Shinano Maru.
06041---	Parten-Reederel MS Max Sieghold; Max Sieghold.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-9087 Filed 6-25-71; 8:50 am]

EAST COAST COSTA RICA RATE AGREEMENT

Notice of Proposed Cancellation of Agreement

Notice is hereby given that the following agreement(s) will be canceled by the Commission pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreement(s) at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement(s) including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER.

Notice of Agreement filed by:

T. F. Griffin, Secretary, East Coast Costa Rica Rate Agreement, Suite 1667, No. 1 World Trade Center, New York, N.Y. 10048.

Agreement No. 9538-2, among the member lines of the East Coast Costa Rica Rate Agreement, operating in the trade between East Coast ports of Costa Rica and U.S. Atlantic and Gulf ports, provides for the termination of the basic agreement upon approval by the Commission.

By order of the Federal Maritime Commission.

Dated: June 23, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-9088 Filed 6-25-71;8:50 am]

AMERICAN EXPORT ISBRANDTSEN LINES, INC., AND FIRST ATOMIC SHIP TRANSPORT, INC.

Notice of Agreement Filed Correction

In F.R. Doc. 71-8877 appearing at page 11958 in the issue of Wednesday, June 23, 1971, the reference to "20 days" in the 12th line of the second paragraph should read "5 days".

FEDERAL POWER COMMISSION

[Docket No. G-3252, etc.]

EDWIN J. PEET ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

JUNE 14, 1971.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all ap-

plications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the

Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-3252-1 E 4-21-71	Edwin J. Peet, Trustee (Operator) (successor to Johnnie Jones Peet, d.b.a. Peet Oil Co., and James A. Peet, Trustee), 502 North Crown Bldg., 830 Northeast Loop 410, San Antonio, TX 78209.	Transcontinental Gas Pipe Line Corp., Greta Field, Refugio County, Tex.	12.19.0	14.65
G-3894 C 4-29-71	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	El Paso Natural Gas Co., Langley Matix et al., Fields, Lea County, N. Mex.	11.0	14.65
G-4986 D 4-30-71	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Lone Star Gas Co., Golden Trend Field, Garvin and Stephens Counties, Okla.	Uneconomical	
G-7648 D 5-8-71	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	United Gas Pipe Line Co., White Point, Saret et al., Fields, San Patricio and Nueces Counties, Tex.	Assigned	
G-8386 E 4-21-71	Edwin J. Peet, Trustee (Operator) (successor to Johnnie Jones Peet, d.b.a. Peet Oil Co., and James A. Peet, Trustee), 502 North Crown Bldg., 830 Northeast Loop 410, San Antonio, TX 78209.	Transcontinental Gas Pipe Line Corp., Greta Field, Refugio County, Tex.	11.19.0 11.13.04575	14.65
G-9617 E 4-21-71	Amoco Production Co., Post Office Box 591, Tulsa, OK 74102.	El Paso Natural Gas Co., Justis Field, Lea County, N. Mex.	11.0	14.65
G-11479 C 5-13-71	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	Cities Service Gas Co., Oklahoma City Field, Oklahoma County, Okla.	(*)	
G-11959 D 1-7-71	do.	do.		
G-11960 D 5-8-71	do.	do.		
G-12006 D 5-4-71	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001 (partial abandonment).	Texas Gas Transmission Corp., Carthage Field, Panola County, Tex.	Assigned	
G-13308 D 6-3-71	Shell Oil Co. (Operator) et al., One Shell Plaza, Houston, Tex. 77002 (partial abandonment).	United Gas Pipe Line Co., Eugene Island Area, Offshore, Louisiana	Depleted	
G-16563 E 4-2-71	Kennore Oil Co., Inc. (successor to Gulf Oil Corp. and Hassie Hunt Trust), 520 Whitney Bldg., New Orleans, La. 70130.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	10.20.625	15.025
C161-459 D 4-5-71	Texaco, Inc., Post Office Box 3109, Midland, TX 79701 (partial abandonment).	Natural Gas Pipeline Co. of America, West Panhandle Field, Carson County, Tex.	(*)	
C161-852 E 4-12-71	Walker Oil & Gas Co. (successor to Sunset International Petroleum Corp.), c/o J. A. Walker, President, Dallas, Tex. 75201.	Michigan Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla.	11.8.5	14.65
C162-569 D 5-4-71	Texaco, Inc., Post Office Box 2420, Tulsa OK 74102.	Oklahoma Natural Gas Gathering Corp. and Pioneer Gas Products Co., Ringwood Field, Major County, Okla.	(*)	
C162-1004 E 4-23-71	Petroleum Evaluation and Management Co., Inc. (successor to Coastal States Gas Producing Co.), 477 Madison Ave., New York, NY 10022.	Tennessee Gas Transmission Co., Chess Todd Lease, Narcisso Tract No. 4, Willacy County, Tex.	17.24347	14.65
C162-1200 D 6-2-71	Columbia Gas Development Corp., Post Office Box 1350, Houston, TX 77001.	United Fuel Gas Co., North Crowley Field, Acadia Parish, La.	Depleted	
C163-234 D 5-17-71	Mobil Oil Corp. (Operator) et al., Post Office Box 1774, Houston, TX 77001.	Arkansas Louisiana Gas Co., Red Oak, Area, Le Flore County, et al. Okla.	Assigned	
C163-977 D 6-2-71	Columbia Gas Development Corp., Post Office Box 1350, Houston, TX 77001.	United Fuel Gas Co., Ellis Field, Acadia Parish, La.	Depleted	
C164-663 E 5-11-71	Apache Corp. (successor to Gulf Oil Corp.), Post Office Box 229, Tulsa, OK 74101.	Cities Service Gas Co., Deer Creek North Field, Grant County, Okla.	14.0	14.65
C165-1153 E 2-22-71	Sohio Petroleum Co., 970 First National Office Bldg., Oklahoma City, Okla. 73102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Pass Block 24 Field, Plaquemines Parish, La.	11.28.05	15.025
C167-1732 E 2-16-71	Consolidated Production Corp. (successor to Tarpon Oil Co.), 510 Hightower Bldg., Oklahoma City, Okla. 73102.	Transwestern Pipeline Co., acreage in Lipscomb County, Tex.	10.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C171-804 A 5-9-71	Petroleum, Inc., 300 West Douglas, Wichita, KS 67202.	Michigan Wisconsin Pipe Line Co., Northwest Cedarvale Field, Woodward County, Okla.	20.3	14.65
C171-805 F 5-7-71	Robert G. Shaw (successor to Pan American Petroleum Corp.), 2072, Longview, TX 75601.	Transcontinental Gas Pipe Line Corp., Harris County and Oakville Fields, Lave Oak County, Tex.	16.0	14.65
C171-806 A 5-7-71	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	Texas Eastern Transmission Corp., Main Street Field, Off-shore, (Federal) Louisiana	27.5	15.025
C171-807 A 5-7-71	White Shield Oil & Gas Corp., Post Office Box 218, Tulsa, OK 74101.	Arkansas Louisiana Gas Co., Colquitt Field, Claiborne Parish, La.	21.8.5	15.025
C171-808 A 5-7-71	Amarex Funds of Delaware, Inc., Post Office Box 9168, Amarillo, TX 79106.	Northern Natural Gas Co., Ellis Ranch, Keyes Field, Oallalire County, Tex.	24.0	14.65
C171-809 A 5-7-71	Clinton Oil Co., 217 North Water Street, Wichita, KS 67202.	Panhandle Eastern Pipe Line Co., Mudge Made County, Kansas.	23.848	14.65
C171-810 B 5-7-71	Union Oil Co. (Operator) et al., Union Oil Center, Los Angeles, Calif. 90017.	Michigan Wisconsin Pipe Line Co., Southeast Stockham Field, Harper County, Okla.	Depleted	
C171-813 A 5-7-71	Cities Service Oil Co., Post Office Box 300, Tulsa OK 74102.	Transcontinental Gas Pipe Line Corp., Mineral Unit, Bee County, Tex.	Depleted	
C171-814 B 5-10-71	do.	do.	Depleted	
C171-815 A 5-10-71	Midwest Oil Corp., 700 Broadway, Denver, CO 80202.	United Fuel Gas Co., Rowland Land Co., No. 4 Well, Raleigh County, W. Va.	26.5	14.65
C171-817 B 5-12-71	H. L. Hunt, 1401 Elm St., Dallas, TX 75202.	El Paso Natural Gas Co., Pecos Valley (3400' Devonian) Unit, Pecos County, Tex.	Depleted	
C171-820 F 5-17-71	Natural Resources Corp. (successor to King Resources Co.), 615 San Jacinto Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., South Hill City Field, Calcasieu Parish, La.	21.25	15.025
C171-822 A 5-12-71	The Superior Oil Co., Post Office Box 651, Houston, TX 77001.	Michigan Wisconsin Pipe Line Co., Area, Offshore Louisiana.	22.0	15.025
C171-823 F 5-13-71	Hunt Oil Co. (successor to Mobil Oil Corp.), 1401 Elm St., Dallas, TX 75202.	Texas Gas Transmission Corp., Carthage Field, Panola Parish, Tex.	15.0649	14.65
C171-824 A 5-13-71	Hunt Oil Co., 1401 Elm St., Dallas, TX 75202.	Michigan Wisconsin Pipe Line Co., North Woodward Pool, Woodward County, Okla.	22.4575	14.65
C171-825 A 5-14-71	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Arkansas Louisiana Gas Co., Wilcoxville Field, Sebastian County, Ark.	21.0	14.65
C171-826 B 5-17-71	Sohio Petroleum Co., 970 First National Center-North, Oklahoma City, Okla. 73102.	Michigan Wisconsin Pipe Line Co., M. T. Smith Well, Cedarvale Field, Woodward County, Okla.	Depleted	
C171-827 A 5-17-71	Kirby Petroleum Co., Post Office Box 1746, Houston, TX 77001.	Texas Gas Transmission Corp., Jota Field, Acadia Parish, La.	26.0	15.025
C171-828 A 5-17-71	Pennaco Petroleum Co., 7702, Houston, TX 77002.	Transcontinental Gas Pipe Line Co., Field, Offshore Louisiana.	18.75	15.025
C171-829 A 5-17-71	An-Sun Corp., 3814 North Santa Fe, Oklahoma City, OK 73118.	Northern Natural Gas Co., acreage in Beaver County, Okla.	20.0	14.65
C171-830 A 5-17-71	Bay Pipeline, Inc., D-102 Petroleum Center, San Antonio, Tex. 78209.	United Gas Pipeline Co., Orange Grove Field, Jim Wells County, Tex.	24.25	14.65
C171-831 A 5-17-71	An-Sun Corp., 3814 North Santa Fe, Oklahoma City, OK 73118.	Arkansas Louisiana Gas Co., acreage in Le Flore County, Okla.	20.0	14.65
C171-832 A 5-19-71	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Transcontinental Gas Pipe Line Co., Various Fields, Starr County, Tex.	25.0	14.65
C171-833 F 5-19-71	Corbin J. Robertson et al. (successor to Union Oil Co. of California), 2100 First City National Bank Bldg., Houston, Tex. 77002.	Trunkline Gas Co., North Freshwater Bayou Area, Vermilion Parish, La.	23.8	15.025

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C171-834 B 5-20-71	First National Bank in Dallas, Trustee (Operator) et al., Post Office Box 6891, Dallas, TX 75222.	South Texas Natural Gas Gathering Co., Northeast Thompsonville Field, Jim Hogg County, Tex.	(12)	
C171-835 (G 11-9-61) F 5-20-71	Amoco Production Co. (successor to Mobil Oil Corp.), Post Office Box 591, Tulsa, OK 74102.	Phillips Petroleum Co., Guymon Hugoton Field, Texas County, Okla.	11.6111	14.65
C171-836 H 5-21-71	Jake L. Hamon, c/o Wm. Taylor LaGrone, Attorney, Post Office Box 663, Dallas, TX 75221.	Panhandle Eastern Pipe Line Co., Tangier Area, Woodward County, Okla.	Depleted	
C171-837 A 5-21-71	Texaco, Inc., Post Office Box 60252, New Orleans, LA 70160.	Florida Gas Transmission Co., Lake Mongoulois Field, St. Martin Parish, La.	25.0	15.025
C171-839 H 5-24-71	Wrightman Investment Co., 1805 First City National Bank Bldg., Houston, Tex. 77002.	Texas Gas Transmission Corp., South Rayne Field, Acadia Parish, La.	Depleted	
C171-840 A 5-24-71	Shell Oil Co., One Shell Plaza, Houston, Tex. 77001.	Michigan-Wisconsin Pipe Line Co., Eugene Island Blocks 254 and 255, Block 276 Field, Offshore Louisiana.	26.0	15.025
C171-841 B 5-26-71	Sun Oil Co., Post Office Box 2880, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., LaGrange Field, Jim Wells County, Tex.	(2)	

- ¹ For gas from reservoirs discovered prior to Sept. 28, 1960.
² For gas from reservoirs discovered from Sept. 28, 1960, to June 17, 1970.
³ Rate in effect subject to refund in Docket No. R171-893.
⁴ Subject to a 0.21931 cent per Mcf reduction for all gas dehydrated by buyer.
⁵ For gas compressed by seller, price will be 12.045 cents for gas compressed if seller operates and maintains buyer's compressors; price will be 11.04125 cents if gas does not require compression or is compressed by buyer.
⁶ For gas from reservoirs discovered on or after June 17, 1970. Rate of 25 cents suspended until Sept. 3, 1971, when it will be effective subject to refund in Docket No. R171-893.
⁷ Gaslinehead Gas.
⁸ Depletion of productive acreage assigned to others and of nonproductive acreage.
⁹ Applicant proposes to continue the sales authorized in Docket No. G-18963 to be made pursuant to Gulf Oil Corp. FPC Gas Rate Schedule No. 347 and in Docket No. G-18897 to be made pursuant to Hassie Hunt Trust FPC Gas Rate Schedule No. 22.
¹⁰ Settlement rate for sales from acreage acquired from Gulf Oil Corp.
¹¹ Rate for sales from acreage acquired from Hassie Hunt Trust.
¹² Expiration of leases.
¹³ Subject to upward and downward B.T.U. adjustment.
¹⁴ Amendment to pending application for authorization to sell gas from additional acreage.
¹⁵ Includes 1.75 cents per Mcf tax reimbursement.
¹⁶ Buyer lacks pipeline capacity.
¹⁷ Amendment to pending application.
¹⁸ Rate in effect subject to refund in Docket No. R171-678.
¹⁹ Total initial rate erroneously stated to be 15 cents per Mcf in notice issued in Docket No. G-6437 et al., on Apr. 12, 1971, and published in the FEDERAL REGISTER on Apr. 20, 1971 (36 F.R. 7486).
²⁰ Applicant proposes to exchange gas with Natural Gas Pipeline Co. of America, certificate holder in Docket No. C171-163.
²¹ Purchaser proposes to abandon interstate operation of gathering facilities.
²² Rate under the Pennzoil-Transwestern and Stetco-Transwestern contracts. Rate in effect subject to refund in Dockets Nos. R170-705 and R170-706. Subject to upward and downward B.T.U. adjustment.
²³ Rate under the Antwell, Delta, Mabce-Transwestern contract. Subject to upward and downward B.T.U. adjustment.
²⁴ Expiration of contract. Applicant has dedicated the gas to Natural Gas Pipeline Co. of America.
²⁵ Application previously noticed May 19, 1971, in G-2730 et al., at a rate of 23.25 cents per Mcf. By letter of May 20, 1971, applicant agrees to accept a certificate conditioned to a 23.25-cent rate.
²⁶ Texas Oil & Gas Corp. will collect 15.0375 from March 1, 1971, to March 29, 1971. Rate in effect subject to refund in Docket No. R167-108.
²⁷ Texas Oil & Gas Corp. will collect from and after Mar. 30, 1971 a rate of 21. Rate in effect subject to refund in Docket No. R171-555.
²⁸ Includes 0.03-cent tax reimbursement. Subject to upward and downward B.T.U. adjustment.
²⁹ Includes 1.5-cent tax reimbursement.
³⁰ Includes 1.84-cent B.T.U. adjustment.
³¹ Rate in effect subject to refund in Docket No. R171-473.
³² Includes 0.015-cent as partial reimbursement of Oklahoma petroleum excise tax. Rate in effect subject to refund in Docket No. R166-235.
³³ Expiration of contract.

[FR Doc.71-8849 Filed 6-28-71;8:45 am]

[Docket No. R171-1115 etc.]

PHILLIPS PETROLEUM CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

JUNE 18, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

¹ Does not consolidate for hearing or dispose of the several matters herein.

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(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought

to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf [*]	Rate in effect subject to refund in Dockets Nos.
R171-1115..	Phillips Petroleum Co.....	381	7	Northern Natural Gas Co. (Azalea Area, Midland County, Tex.), Azalea Plant, Permian Basin.	\$68,170	5-24-71		7-25-71	10 17.0408	10 18.0433
.....do.....		386	8	Northern Natural Gas Co. (Benedum-Stiles Area, Upton County, Tex. (Permian Basin).	26,045	5-24-71		7-25-71	10 17.0408	10 18.0433
.....do.....		387	7	Northern Natural Gas Co. (Hunt-Baggett Area, Crockett County, Tex.) (Permian Basin).	961	5-24-71		7-25-71	10 17.0	10 18.0675
R171-1116..	Amoco Production Co.....	563	5	Southern Union Gathering Co. (Fulcher-Kutz Pictured Cliffs Field, San Juan County, N. Mex.) (San Juan Basin).	122	5-24-71		5-25-71	13.0	13.0551
R171-1117..	Murphy Oil Corp. et al.	5	15	Mississippi River Transmission Corp. (Ruston Field, Lincoln Parish, Northern Louisiana).	39,809	5-21-71		11-21-71	22 14.947	22 23.387
.....do.....		9	14	Arkansas Louisiana Gas Co. (Bear Creek Field, Blenville Parish, Northern Louisiana).		5-21-71	6-21-71	Accepted		
.....do.....		9	15	.....do.....	17,162	5-21-71		7-22-71	13.27	20.0
R171-1118..	Gulf Oil Corp.....	230	4	Arkansas Louisiana Gas Co. (South Marlowe Field, Stephens County, Okla., Other Area).	31,465	5-24-71		8-3-71	10 16.255	10 17.270 R171-358, R171-1041.
R171-1119..	Kerr-McGee Corp.....	61	16 21	Transcontinental Gas Pipe Line Corp. (Ship Shoal Blocks 28 and 32 Units, Offshore Louisiana) (Disputed Zone).	(C)	5-25-71		7-10-71	22.375	22 26.0 R171-831.

^{*} Unless otherwise stated, the pressure base is 15.025 p.s.i.a.

¹ In accordance with order dated May 19, 1971, issuing certificate in Docket No. C171-624.

² Base rate subject to downward B.T.U. adjustment.

³ Includes 1.667-cent tax reimbursement and 0.22-cent dehydration charge paid by buyer.

⁴ Letter agreement dated Mar. 31, 1971, which provides for proposed increased rate.

⁵ Includes documents required by Opinion No. 567.

⁶ Applies only to sales from reservoirs identified therein which were shown to have been discovered after Oct. 1, 1968.

⁷ Pursuant to Opinion No. 567 and Order No. 413.

⁸ Not stated.

⁹ Current rate is 28.05 cents.

¹⁰ The pressure base is 11.65 p.s.i.a.

¹¹ Accepted to become effective on the date shown in the "Effective Date" column.

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Barnett Banks of Florida, Inc., which is a bank holding company located in Jacksonville, Fla., for prior approval by the Board of Governors of the acquisition by Applicant of 80 percent or more of the voting shares of Central Bank in Fort Lauderdale, Fort Lauderdale, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be

in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, June 22, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-9038 Filed 6-25-71;8:45 am]

BOATMEN'S BANCSHARES, INC. Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Boatmen's Bancshares, Inc., which is a bank holding company located in St. Louis, Mo., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Bank of O'Fallon, O'Fallon, Mo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of St. Louis.

By order of the Board of Governors, June 22, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.
[FR Doc.71-9053 Filed 6-25-71;8:47 am]

CENTRAL BANCOMPANY

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Central Bancompany, Jefferson City, Mo., for approval of action to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Central Trust Bank, Jefferson City, Mo., and as an incident to the merger and acquisition, indirect ownership of 100

percent of the voting shares (less directors' qualifying shares) of Jefferson Bank of Missouri, Jefferson City, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and section 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Central Bancompany, Jefferson City, Mo. (Applicant), for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Central Trust Bank, Jefferson City, Mo. (Bank), and as an incident to the merger and acquisition, indirect ownership of 100 percent of the voting shares of The Central Trust Bank's subsidiary, Jefferson Bank of Missouri, Jefferson City, Mo. (Jefferson Bank). The merger is a means to facilitate the acquisition of shares of Bank and has no other significance; the proposal is therefore treated herein, insofar as Bank is concerned, as one to acquire shares of Bank directly. (Bank, a trust company, although the owner of Jefferson Bank, has heretofore not been considered a bank holding company by virtue of section 2(a)(5)(F) of the Act.)

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Missouri Commissioner of Finance, and requested his views and recommendation. The Commissioner offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on May 1, 1971 (36 F.R. 8273), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a nonoperating corporation formed for the purpose of acquiring Bank (\$117.6 million deposits) and its subsidiary bank, Jefferson Bank (\$6.7 million deposits). (All banking data are as of December 31, 1970, and reflect bank holding company applications approved by the Board to May 31, 1971.) Upon consummation of the proposal, Applicant will assume Bank's present position as the State's 10th largest banking organization (\$124.2 million deposits) with 1.1 percent of total deposits in the State. As Applicant has no present operations or subsidiaries, consummation of the proposal would eliminate neither existing nor potential competi-

tion. Neither does it appear that there would be adverse effects on any bank in the area. Inasmuch as Bank organized Jefferson Bank in 1965 and retain ownership, there is no actual and little potential for future competition between the two banks.

The financial and managerial resources and prospects of Bank and Jefferson Bank are generally satisfactory, as would be those of Applicant upon approval. Consummation of the proposal would have no immediate effect on the convenience and needs of the community involved. Considerations under these factors are consistent with approval. It is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

It is hereby ordered, For the reasons set forth above, that said application be and hereby is approved: *Provided*, that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors, June 22, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.
[FR Doc.71-9054 Filed 6-25-71;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2952]

KEYSTONE CUSTODIAN FUND, SERIES K-1 AND KEYSTONE CUSTODIAN FUND, SERIES B-4

Notice of Filing of Application for Order Permitting Proposed Trans- action

JUNE 22, 1971.

Notice is hereby given that Keystone Custodian Funds, Inc., 50 Congress Street, Boston, MA 02109, as trustee of Keystone Custodian Fund, Series K-1 (K-1), a common law trust registered as an open-end, diversified investment company under the Investment Company Act of 1940 (Act) and Keystone Custodian Fund, Inc., as Trustee of Keystone Custodian Fund, Series B-4 (B-4), a common law trust registered as an open-end, diversified investment company under the Act (hereinafter collectively referred to as "Applicant"), has filed an application pursuant to section 17(d) of the Act and Rule 17d-1 promulgated thereunder for an order granting said application with respect to the execution of consent agreements on be-

¹ Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, and Sherrill. Absent and not voting: Governors Robertson, Daane, and Malsel.

half of K-1 and B-4 whereby K-1 and B-4 consent to the reorganization of Liquidonics Industries, Inc. (Liquidonics), a New York corporation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

In March of 1968, K-1 and B-4 each purchased privately \$2 million of 7¼ percent senior subordinated notes with warrants of Liquidonics. The terms of the purchase agreements between Liquidonics and K-1 and B-4 respectively were identical as were the terms of the notes which were received by such trusts. The Applicant did not apply for or receive an order of the Commission permitting such transaction pursuant to section 17(d) of the Act and Rule 17d-1 thereunder. The present application seeks approval only for the proposed transaction. These notes called for interest payments at the rate of 7¼ percent per annum and a repayment of principal was scheduled to begin in 1971 which would retire the issue at maturity in 1976.

Liquidonics also has substantial additional debt outstanding, both senior to that held by K-1 and B-4 and on a par with K-1 and B-4's holdings. In addition there are junior subordinated convertible debentures in the amount of \$22,488,500 earning interest at rates varying from 3 percent to 6 percent per annum.

Liquidonics has become unable to meet its obligations under the existing debt structure and as a result it is now in default with regard to interest payments due to both K-1 and B-4 as of the first of the year 1971. Applicant asserts that in order to prevent the failure of Liquidonics, it will be necessary to reduce the existing debt service requirements. To effect such a reduction, it has been proposed that the owners of both the senior notes and senior subordinated notes, including K-1 and B-4, accept a reduction in interest and, in the case of senior subordinated note-holders, a delay in the repayment of principal. The proposal offers the junior subordinated debenture holders two alternatives, those being (1) the receipt, in cash, of 10 percent of the face amount of such debt as is tendered, that being not less than 50 percent of the debt held by any such holder electing this alternative or (2) the receipt of common stock of Liquidonics together with an income bond in return for all of the debt held by such junior subordinated debenture holder electing this second alternative.

The effect upon K-1 and B-4 of the proposed transaction as summarized above would be identical. The interest rate payable on the notes held by each of them would be reduced from 7¼ percent per annum to 5 percent per annum and the repayment of principal would be delayed so as not to begin until 1974 and finally ending in 1980 when the entire face amount is to be repaid. In addition, the exercise price on the warrants held by the senior subordinated

noteholders, including K-1 and B-4, will be reduced from \$10 to \$5.

In addition to the proposed transaction having the same effect upon the position of both K-1 and B-4, any consents executed on behalf of K-1 and B-4 will be identical in their terms and any securities received by K-1 and B-4 as a result of the transaction will be the same as to terms and amounts.

Rule 17d-1, adopted under section 17(d) of the Act, provides, *inter alia*, that no affiliated person of any registered investment company, and no affiliated person of such affiliated person, shall, acting as principal, participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered company, or a company controlled by such registered company, is a participant, unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by order, and that in passing upon such application the Commission will consider whether the participation of the registered or controlled company in the joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Notice is further given that any interested person may, not later than July 12, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-9047 Filed 6-25-71;8:46 am]

[812-2931]

VALUE LINE SPECIAL SITUATIONS FUND AND MARINE INTERNATIONAL CORP.

Notice of Filing of Application for Order Exempting Transaction

JUNE 22, 1971.

Notice is hereby given that Marine International Corp. (Marine), 11 Commerce Street, Newark, NJ, a New Jersey corporation, and The Value Line Special Situations Fund, Inc. (Fund), 5 East 44th Street, New York, NY 10017, an open-end, diversified management investment company registered under the Investment Company Act of 1940, as amended (Act), have filed an application for an order pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act (1) an exchange between Marine and Fund of certain Marine warrants currently held by Fund for a different number of new Marine warrants having different exercise terms, and (2) the sale by Marine to Fund of 62,250 shares of Marine's common stock upon the exercise by Fund of other Marine warrants now held by Fund. All interested persons are referred to the application on file with the Commission for a statement of Applicants' representations which are summarized below.

On May 14, 1969, pursuant to an agreement of sale, Fund purchased from Marine (1) 1,555 shares of common stock of Marine, (2) warrants to purchase at any time up to 1,250 shares of Marine common stock at a price of \$0.01 per share (the "Current Warrants") and (3) warrants to purchase at any time within 10 years from the date of purchase up to 4,200 shares of Marine common stock at the price of \$250 per share (the "10 Year Warrants"). The total consideration paid by the Fund for these securities was \$700,000. On January 22, 1971, Marine effected a 50 for 1 stock split. As a result, Fund presently owns 77,750 shares of Marine's common stock, the Current Warrants represent the right of Fund to purchase an additional 62,250 shares of Marine common stock at 1/50 of 1 cent per share and the 10 Year Warrants represent Fund's right to purchase up to 210,000 shares of Marine common stock at \$5 per share. As of March 9, 1971, there were 1,100,920 shares of Marine common stock outstanding. By virtue of its ownership of about 7 percent of Marine's outstanding common stock, Fund and Marine are "affiliated persons" of each other as that term is defined in section 2(a)(3) of the Act.

On March 23, 1971, Marine filed with the Commission a Registration Statement on Form S-1 relating to the proposed public offering of 300,000 shares of its common stock and on March 31, 1971, filed Amendment No. 1 thereto. Marine has indicated to Fund that the feasibility of its initial public offering is dependent upon its revising its capital structure so as to lessen the dilution effect on Marine common stock caused by

the number of warrants outstanding that are exercisable at \$5 per share. To lessen this dilution effect, Marine proposes to exchange the 10 Year Warrants for new warrants (the "New Warrants") exercisable at \$0.01 per share. The New Warrants would be identical to the 10 Year Warrants except as to the exercise price. The number of New Warrants to be issued by Marine would depend on the public offering price per share of the common stock of Marine covered by the Registration Statement. The minimum number of New Warrants issued would be 107,500 if the public offering price is \$10 per share or less, while the maximum number of New Warrants to be issued would be 137,500 if the public offering price is more than \$14 per share. If the public offering price is more than \$10 per share but not more than \$14 per share, then the number of New Warrants to be issued would be a number determined by a formula, described in the application as amended.

Fund, subject to the granting of the exemption herein applied for, proposes to exchange, at the closing under the underwriting agreement, all of the 10 Year Warrants it currently holds for the New Warrants. At the said closing, Fund also proposes, through the exercise of its Current Warrants, to purchase 62,250 shares of Marine's common stock. Upon the exercise of the Current Warrants and the purchase of additional shares of Marine, Fund will own approximately 10 percent of the total of issued and outstanding stock of Marine.

With certain exceptions, section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to, or purchasing from, such company, any security or other property, unless the Commission finds upon application under section 17(b) of the Act that the terms of the proposed transaction are reasonable and fair and do not involve overreaching and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Fund states that it is willing to cooperate with Marine as to the exchange of the 10 Year Warrants for the New Warrants because the creation of a public market for the common stock of Marine is in the best interests of Fund shareholders for the following reasons: (1) It would facilitate the valuation of Marine securities by Fund's board of directors, and (2) it would facilitate the sale by Fund of Marine securities if and when Fund decides to sell the securities. Fund also contends that its exercise of the Current Warrants is in the best interests of its shareholders because it enables Fund to preserve its proportionate equity in the capital of Marine during its developmental phase. Moreover, Fund states that the exercise of the Current Warrants does not involve overreaching since the exercise price for these warrants was the subject of arms-length bargaining at a time when there was no

affiliate relationship between Fund and Marine. Fund also claims that the proposed transactions are consistent with its investment policies as stated in its current prospectus and with the policy and purposes of the Act.

Notice is further given that any interested person may, not later than July 13, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-9048 Filed 6-25-71; 8:45 am]

[File No. 24W-2859]

WOODLAWN LEASING CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Thereof, and Notice of Opportunity for Hearing

JUNE 22, 1971.

I. Woodlawn Leasing Corp. (Issuer), 8743 Cooper Road, Alexandria, Va. 22309, incorporated in the State of Virginia on March 27, 1967, filed with the Commission on April 11, 1968, a notification on Form I-A and an offering circular relating to an offering of 250 bonds at \$1,000 per unit for an aggregate offering price of \$250,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that:

1. The Issuer failed to disclose the offer and sale of unregistered securities of its affiliates;

2. The Issuer has exceeded the \$300,000 ceiling limitation provided for by Rule 254 of Regulation A, as in effect at the time the Issuer's notification was filed;

3. The Issuer failed to file, pursuant to Rule 258, a letter offering the bonds to shareholders of Universal Holding Corp., an affiliate of the Issuer under the revised terms; and

4. The Issuer fails to disclose in the notification and offering circular or amendments thereto, that the Issuer's affiliates and president and vice president, since September 14, 1970, have been subject to an injunctive decree issued from the U.S. District Court permanently enjoining them from further violating the registration and antifraud provisions of the Securities Act of 1933.

B. The notification and offering circular and amendments thereto of Woodlawn Leasing Corp. contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading particularly with respect to:

1. The terms of the offering.

2. The offer and sale of unregistered securities of its affiliates in violation of section 5 of the Securities Act of 1933, and through the use of false and misleading statements.

C. The offering would be and has been made in violation of sections 5 and 17 of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the Issuer under Regulation A be, and it hereby is, temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be and hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's Rules of Practice, that the Issuer file an answer to the allegations contained in this order within 30 days of the entry hereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is

ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-9049 Filed 6-25-71; 8:46 am]

SMALL BUSINESS ADMINISTRATION

SOUTHERN GROWTH INDUSTRIES, INC.

Notice of License Surrender

Notice is hereby given that Southern Growth Industries, Inc., (SGI), 1930 Augusta Road, Greenville, SC 29601, has surrendered its license to operate as a small business investment company pursuant to § 107.105 of the regulations governing small business investment companies (13 CFR § 107.105 (1968)).

SGI was licensed as a small business investment company on February 2, 1960, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C., 661 et seq.), and the regulations promulgated thereunder.

Under the authority vested by the Act, and pursuant to the cited regulation, the surrender of the license is hereby accepted and all rights, privileges, and the franchises derived therefrom are canceled.

Dated: June 18, 1971.

A. H. SINGER,
Associate Administrator,
for Operations and Investment.
[FR Doc.71-9045 Filed 6-25-71; 8:46 am]

INTERSTATE COMMERCE COMMISSION

CROYDON STUDENT TOURS, INC., ET AL.

Assignment of Hearings

JUNE 23, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 130106 Sub 1, Croydon Student Tours, Inc., now assigned July 14, 1971, at New York, N.Y., postponed indefinitely.
MC-C-7295, Tallans Transfer, Inc., Investigation and Revocation of Certificates, now assigned July 15, 1971, canceled.
MC 116763 Sub 176, Carl Subler Trucking, Inc., now assigned July 22, 1971, at Columbus, Ohio, postponed indefinitely.
MC 61592 Sub 182, Jenkins Truck Line, Inc., now assigned June 28, 1971, at Chicago, Ill., postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9089 Filed 6-25-71; 8:50 am]

[Notice 708]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 23, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72488. By order of June 21, 1971, Division 3, acting as an Appellate Division, approved the transfer to Van Fleet Moving & Storage Co., Inc., Manchester, N.H., of the operating rights in Certificate No. MC-6050 issued October 14, 1963, to Richard E. Cronin, Jr., Norwood, Mass., authorizing the transportation of household goods between Boston, Mass., and points in Massachusetts within 25 miles thereof, on the one hand, and, on the other, points in New Hampshire, Maine, Rhode Island, Connecticut, New York, and New Jersey.

Joseph A. Kline, 31 Milk Street, Boston, MA 02109, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9094 Filed 6-25-71; 8:50 am]

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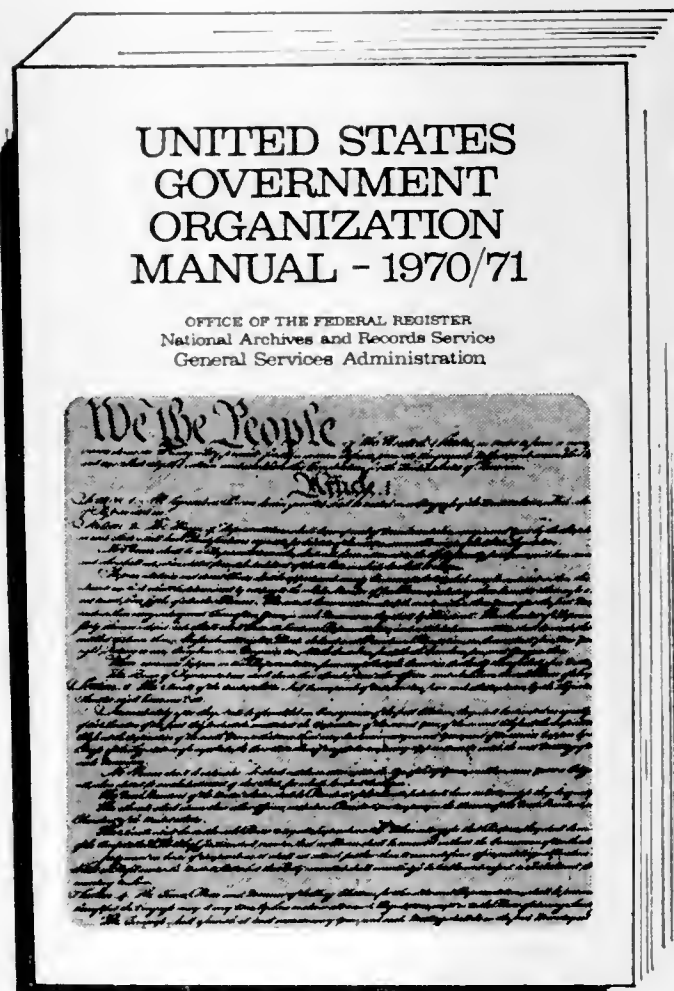
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Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Government Printing Office

Section 213.3152 is added to show that one position of Umpire is excepted under Schedule A.

Effective on publication in the FEDERAL REGISTER (6-29-71), § 213.3152 is added as set out below.

§ 213.3152 U.S. Government Printing Office.

(a) One Umpire.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc. 71-9118 Filed 6-28-71; 8:46 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development; Correction

In the FEDERAL REGISTER of April 1, 1971, F.R. Doc. 71-4445, on page 5961, the headnote of paragraph (c) of § 213.3384 should read "Office of Assistant Secretary for Housing Management" as set forth below.

In the FEDERAL REGISTER of May 12, 1971, F.R. Doc. 71-6608, on page 8723 the headnote of paragraph (d) and subparagraph (8) should read:

§ 213.3384 Department of Housing and Urban Development.

(c) Office of Assistant Secretary for Housing Management. . . .

(d) Office of Assistant Secretary for Community Planning and Management. . . .

(8) Deputy Assistant Secretary for Community Planning and Management. . . .

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1964-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc. 71-9119 Filed 6-28-71; 8:46 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 485, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) Order, as amended. The provisions in paragraph (b) (1) (ii) of § 910.785 (Lemon Regulation 485; 36 F.R. 11802) during the period June 20, 1971, through June 26, 1971, are hereby amended to read as follows:

§ 910.785 Lemon Regulation 485.

(b) Order. (1)

(ii) District 2: 350,000 Cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 23, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-9126 Filed 6-28-71; 8:46 am]

[Peach Reg. 8]

PART 921—FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Regulation by Grades and Sizes

Notice was published in the FEDERAL REGISTER issue of June 9, 1971 (36 F.R. 11104), that the Department was giving consideration to a proposal which would limit the handling of fresh peaches grown in designated counties in Washington by establishing regulations, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 921, as amended (7 CFR 921) regulating the handling of fresh peaches grown in designated counties in Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal was submitted by the Peach Marketing Committee, established pursuant to said amended marketing agreement and order. Such recommendation by said committee reflects its appraisal of the 1971 Washington peach crop and the current and prospective market conditions. Said regulation, consisting of grade (including uniform firmness), size, maturity and pack requirements provided herein, is necessary to prevent the handling, on and after June 28, 1971, of any peaches which do not comply with such requirements, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to producers pursuant to the declared policy of the act. Individual shipments, not exceeding 500 pounds, of peaches sold for home use and not for resale, subject to necessary safeguards, are excepted from said requirements in that the quantity of peaches so handled has been relatively inconsequential when compared with the total quantity handled.

The provisions which allow the handling of Washington Fancy Grade rather than the higher Washington Extra Fancy Grade peaches when packed in Western lug boxes or standard peach boxes reflects the fact that in distant major markets Washington peaches compete with peaches similar to the lower grade in such containers shipped from other production areas. Prices in said markets reflect the levels resulting from this competition, hence, the higher grade Washington peaches are shipped to nearby markets where they can command better returns to producers through their higher quality and the lack of competition. Washington peaches, except Elberta varieties, packed

in standard peach boxes may be of a slightly smaller minimum size than such peaches shipped in other containers because, again, market prices reflect the levels established by peaches (mainly Elberta varieties) of the smaller size from competing production areas packed in standard peach boxes. Washington peaches, except Elberta varieties, smaller than the largest minimum diameter (2½ inches) are much less desirable in nearby markets and are permitted to be shipped at a minimum diameter of 2¼ inches only if packed in standard peach boxes which are the containers commonly shipped to distant markets. Furthermore, Washington Elberta varieties would have to compete in distant markets with Elberta varieties produced elsewhere. The requirement that loose or jumble packed Washington peaches be in containers of a capacity at least equal to the Western lug box and not less than 26 pounds net weight prevents unfair competition through the marketing of such peaches packed in containers of smaller capacity. The proviso that said loose or jumble packs weighing less than 26 pounds are acceptable if the containers are well filled reflects the fact that the larger sizes of such peaches will not always weigh 26 pounds, hence, the substitution of the "well filled" container requirement.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Peach Marketing Committee, and upon other available information, it is hereby found that the limitation of handling of such peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of such peaches are expected to begin on or about the effective date hereof and this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; (2) notice of proposed rule making concerning this regulation, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (36 F.R. 11104), and no objection to this amendment or such effective date was received; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date hereof.

§ 921.308 Peach Regulation 8.

(a) Order: Peach Regulation 7 (35 F.R. 10891) is hereby terminated on June 28, 1971.

(b) During the period June 28, 1971, through June 30, 1972, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with subparagraph (6) of this paragraph:

(1) *Minimum grade.* Such peaches shall grade at least Washington Extra Fancy Grade: *Provided*, That peaches which grade Washington Fancy Grade, or better may be handled if they are packed in the Western lug box or the standard peach box.

(2) *Minimum size.* (i) Such peaches of any variety, except peaches of the Elberta varieties, packed in any container except the standard peach box; shall measure not less than 2½ inches in diameter;

(ii) Such peaches of any variety when packed in a standard peach box shall measure not less than 2¼ inches in diameter; and

(iii) Such peaches of the Elberta varieties, packed in any container shall measure not less than 2¼ inches in diameter.

(3) *Minimum maturity.* Such peaches shall be well matured, except that any lot of peaches shall be deemed to have met such minimum maturity requirement if not more than 25 percent, by count, of the peaches in such lot are mature.

(4) *Uniform firmness.* Such peaches in individual containers shall have a reasonably uniform degree of firmness.

(5) *Pack.* (i) Such peaches in loose or jumble packs shall be in containers of a capacity equal to or greater than that of a Western lug box and shall contain not less than 26 pounds net weight of peaches: *Provided*, That such containers of peaches having less than 26 pounds net weight may be handled if such containers are well filled; and

(ii) Such peaches other than peaches in loose or jumble packs in any container shall meet the standard pack requirements as set forth in the Washington Standards for Peaches (Order No. 1203), or the U.S. Standards for Peaches (§ 51.1210 et seq. of this title).

(6) Notwithstanding any other provision of this section, any individual shipment of peaches sold by the producer or at an established packinghouse which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 921.41 (Assessments), and of § 921.55 (Inspection and certification) if:

(i) The shipment consists of peaches sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of peaches; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(c) The terms "Washington Extra Fancy Grade," "Washington Fancy Grade," and "mature" shall have the same meaning as when used in the Washington Standards for Peaches (effective June 14, 1971), issued by the State of Washington Department of Agriculture; the term "well matured" shall mean peaches which will yield very slightly to moderate pressure at the suture or blossom end, have shoulders and sutures that are well filled out, and have skin and flesh colored sufficiently that it will show

characteristic varietal color when ripe; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in rows, cups, compartments, or otherwise are not placed in the container in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4¼ to 6 by 11½ by 16 inches; the term "Western lug box" shall mean any container with inside dimensions of 7 by 11½ by 18 inches; the term "diameter" shall mean the greatest distance, measured through the center of the peach at right angles to a line running from the stem to the blossom end; and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

Dated, June 24, 1971, to become effective June 28, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-9200 Filed 6-25-71; 12:35 pm]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., Amdt. 3]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—General Regulations Governing Price Support for the 1970 and Subsequent Crops

MISCELLANEOUS AMENDMENTS

The regulations issued by the Commodity Credit Corporation, published at 35 F.R. 7363, 7781, 11456, and 19566, containing the General Regulations Governing Price Support for the 1970 and Subsequent Crops of Grain and Similarly Handled Commodities are hereby amended as follows:

1. Paragraph (c) of § 1421.4 is amended to provide that a producer remains eligible for price support if he enters into a contract to sell or gives an option to buy his commodity if the producer retains control of the commodity and its production, risk of loss, and title of the commodity. The amended paragraph reads as follows:

§ 1421.4 Eligibility requirements.

(c) *Beneficial interest.* To be eligible for price support, the beneficial interest in the commodity must be in the producer tendering the commodity as security for a loan or for purchase and must always have been in him or in him and a former producer whom he succeeded before it was harvested, except that heirs who (1) succeed to the beneficial interest of a deceased producer, (2) assume the decedent's obligation under a loan if a loan has already been obtained, and (3) assure continued safe

storage of the commodity if under farm storage loan, shall be eligible for price support as producers whether such succession occurs before or after harvest of the commodity. A producer shall not be considered to have divested himself of the beneficial interest in the commodity if he enters into a contract to sell, or gives an option to buy his commodity if, under the contract or option, he retains control, risk of loss and title to the commodity subject to such agreements, and retains control of its production. Commodities obtained through payment-in-kind certificates or by purchase shall not be eligible for price support. If price support is made available through an approved cooperative marketing association, the beneficial interest in the commodity must always have been in the producer-members who delivered the commodity to the approved cooperative or its member cooperatives or must always have been in them and former producers whom they succeeded before the commodity was harvested, except as provided in the case of heirs of a deceased producer. Commodities so delivered to a cooperative marketing association shall not be eligible for price support if the producer-members who delivered the commodity to the cooperative or its member cooperatives do not retain the right to share in the proceeds from the marketing of the commodity as provided in Part 1425 of this chapter.

§ 1421.13 [Deleted]

2. The provisions of § 1421.13(b), beginning with the second sentence, relating to the release of farm storage loan collateral are moved from § 1421.13(b) to § 1421.19(a) and the remaining parts of § 1421.13 are deleted.

3. Paragraph (a) of § 1421.19 is amended to add the provisions of former paragraph (b) of § 1421.13 relating to the release of farm storage loan collateral for delivery to a buyer for sale prior to repayment of the loan. The amended paragraph reads as follows:

§ 1421.19 Release of the commodity under loan.

(a) *Obtaining release—farm storage loan.* A producer shall not remove any collateral covered by a chattel mortgage until he has received prior written approval for such removal from the county committee on one of the applicable forms listed in § 1421.8. A producer may at any time obtain release of all or part of the commodity remaining under loan by paying to CCC the amount of the loan made with respect to the quantity of the commodity released plus interest. CCC will permit removal of a quantity of the commodity from storage, without any payment on the loan, if the principal amount outstanding on the loan does not exceed the maximum loan which may be obtained based on the quantity remaining in storage after removal of the quantity requested by the producer. When the proceeds of the sale of the commodity are needed to repay a farm storage loan, the producer must request

and obtain prior written approval of the county office on a form prescribed by CCC to remove a specified quantity of the commodity from storage. Any such approval shall be subject to the terms and conditions set out in the applicable form, copies of which may be obtained by producers at the county office. Any such approval shall not constitute a release of CCC's security interest in the commodity or release the producer from liability for any amounts due on his loan indebtedness if full payment of such amounts is not received by the county office.

4. In paragraph (a) of § 1421.23 the reference to paragraph (f) as it relates to rice is deleted to state more clearly that a trackloading payment can be made to a producer for deliveries to CCC of rice under farm stored loans. The amended paragraph reads as follows:

§ 1421.23 Settlement.

(a) *General.* Settlement with producers for commodities acquired by CCC under loans or purchases made under this subpart will be made as provided in this section and in the applicable commodity supplement. The support rate at which settlement will be made shall be determined under the provisions of the applicable commodity supplement. Settlement will be made on the basis of the grade, quality, and quantity of the commodity delivered by the producer. In the case of rice and dry edible beans, paragraphs (b), (c), (e), (g), and (h) of this section shall not apply.

(Secs. 4 and 5, 62 Stat. 1070, as amended; secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1447, 1421, 1425)

Effective date: Upon publication in the FEDERAL REGISTER (6-29-71).

Signed at Washington, D.C., on June 10, 1971.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 71-9173 Filed 6-28-71; 8:51 am]

[Cotton Loan Program Reg., Amdt. 7]

PART 1427—COTTON

Subpart—Cotton Loan Program Regulations

MISCELLANEOUS AMENDMENTS

The regulations issued by Commodity Credit Corporation published in 33 F.R. 8802 as Cotton Loan Program Regulations and containing the terms and conditions with respect to the Cotton Loan Program, as amended, are hereby further amended as follows:

1. Paragraph (n) of § 1427.1356 is amended to provide that a producer shall not be considered to have transferred his beneficial interest in the cotton as a result of entering into a contract or other sales agreement that requires delivery of

the cotton or equity therein to a person who does not meet the requirements for succession of interest. The amended paragraph reads as follows:

§ 1427.1356 Eligible cotton.

(n) The beneficial interest in the cotton must be in the producer tendering the cotton for a loan (or in the producer-member delivering the cotton to the cooperative marketing association which tenders the cotton for a loan) and must have always been in him or in him and a former producer whom he succeeded before it was harvested. To meet the requirements of succession to a former producer, the right, responsibilities, and interest of the former producer with respect to the farming unit on which the cotton was produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest without acquisition of any additional interest in the farming unit shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met. A producer shall not be considered to have divested himself of the beneficial interest in the cotton if he enters into a contract or other sales agreement that requires delivery of the cotton or the equity therein to a person who does not meet the requirements for succession of interest. Beneficial interest will be considered to have been transferred when actual title to or control or risk of loss of, the cotton is transferred.

2. Paragraph (c) of § 1427.1376 is amended to delete the provisions relating to a producer contracting to sell his equities in loan cotton. The amended paragraph reads as follows:

§ 1427.1376 Repayment of loan.

(c) Warehouse receipts redeemed by repayment shall be released only to the producer or his authorized agent, except that redeemed warehouse receipts may be released to persons designated on Form 813 (or their transferees) executed by the producer or his authorized agent. The Form 813 must be delivered to the county office maintaining custody of the loan documents within 30 days after the date the form is executed or the form (and related equity transfers, if applicable) will be void. The warehouse receipts (and the classification memorandums, if requested) covering the cotton will be delivered to the person designated on the Form 813 or his transferee upon payment of the loan, interest, and charges within 5 business days after the Form 813 is delivered to the county office or, if it was requested that the documents be forwarded to a bank for payment, upon payment of the loan, interest, and charges within 5 business days after the documents are received by the bank. Repayments will not be accepted after CCC acquires title to the cotton on or after maturity of the loan. All charges assessed by the bank to which the documents

are sent must be paid by the person redeeming the cotton. If payment is not effected within the applicable 5-business-day period and prior to the time at which the loan matures and CCC acquires the cotton, the Form 813 (and related equity transfers, if applicable) will be void. If the purchases of a producer's equities in loan cotton fails to comply with the terms of contracts, sales agreements or equity transfer agreements with producers, accepts from producers undated or postdated Form 813, or commits other acts of misconduct under the program showing a serious lack of business integrity or business honesty, he may be suspended or debarred from contracting with CCC and from otherwise participating in programs administered or financed by CCC.

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 103, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1444, 1421)

Effective date. The amendment is effective upon filing with the Office of the Federal Register for publication.

Signed at Washington, D.C., on June 10, 1971.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.
[FR Doc. 71-9128 Filed 6-28-71; 8:47 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture
SUBCHAPTER A—LABORATORY ANIMAL WELFARE

PART 4—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE LABORATORY ANIMAL WELFARE ACT

Oral Hearing Procedures

Pursuant to the provisions of the Act of August 24, 1966 (Public Law 89-544), as amended by the Animal Welfare Act of 1970 (Public Law 91-579), § 4.19 of Part 4 of Subchapter A, Chapter I, Title 9, Code of Federal Regulations, is hereby amended as follows:

In § 4.19, present §§ 4.19-2 through 4.19-9 are renumbered consecutively as §§ 4.19-4 through 4.19-11, and new §§ 4.19-2 and 4.19-3 are added to read as follows:

§ 4.19 Procedure upon request for an oral hearing.

§ 4.19-2 Subpenas.

(a) **Issuance of subpenas.** The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to the proceeding may, by subpoena, be required at any designated place of hearing. Subpenas may be issued by the Secretary or by the Examiner, under the facsimile signature of the Secretary, upon a reasonable showing by the appli-

cant of the grounds, necessity, and reasonable scope thereof.

(b) **Application for subpoena duces tecum.** Subpenas for the production of documentary evidence, unless issued by the Examiner upon his own motion, shall be issued only upon a verified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, and materiality and the necessity for their production.

(c) **Service of subpenas.** Subpenas may be served (1) by a U.S. Marshal or his deputy, or (2) by any other person who is not less than 18 years of age, or (3) by registering or certifying and mailing a copy of the subpoena addressed to the person to be served at his or its last known residence or principal place of business or residence. Proof of service may be made by the return of service on the subpoena by the U.S. Marshal or his deputy; or, if served by an individual other than a U.S. Marshal or his deputy, by an affidavit of such person stating that he personally served a copy of the subpoena upon the person named therein; or if service was by registered or certified mail, by an affidavit made by the person mailing the subpoena that it was mailed as provided herein and by the signed return post office receipt; *Provided*, That, where the subpoena is issued on behalf of the Secretary, the return receipt without an affidavit of mailing shall be sufficient proof of service. In making personal service, the person making service shall leave a copy of the subpoena with the person subpoenaed; the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the same.

§ 4.19-3 Fees of witnesses.

"Witnesses summoned before the examiner or the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States¹ Fees shall be paid by the party at whose instances the witness appears.

The purpose of the amendments is to include in the rules of practice contained in 9 CFR Part 4 provisions relating to subpenas and fees of witnesses for which authority was provided by the Animal Welfare Act of 1970.

The provisions contained in these amendments will materially strengthen the rules of practice which govern proceedings under the Laboratory Animal Welfare Act, as amended and supplemented, and will expedite the enforcement of regulations and standards promulgated under this Act.

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (6-29-71).

¹ First sentence quoted from sec. 9 of the Federal Trade Commission Act (38 Stat. 722; 15 U.S.C. 49) which is made applicable to proceedings under the Laboratory Animal Welfare Act, as amended and supplemented, by sec. 17 of the Animal Welfare Act of 1970 (84 Stat. 1563).

Done at Washington, D.C., this 23d day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-9127 Filed 6-28-71; 8:47 am]

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-576]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2 in paragraph (e) (4) relating to the State of North Carolina, subdivision (iii) relating to Northampton County is deleted.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes a portion of Northampton County, N.C., from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded area. No areas in Northampton County, N.C., remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and

good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-9174 Filed 6-28-71; 8:51 am]

[Docket No. 71-577]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e) (4) relating to the State of North Carolina, subdivision (v) relating to Lenoir County and subdivision (vi) relating to Onslow and Duplin Counties are deleted.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Onslow, Duplin, and Lenoir Counties in North Carolina from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas. No areas in Onslow, Duplin, or Lenoir Counties in North Carolina remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions

in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-9175 Filed 6-28-71; 8:51 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER E—DISTRICT OF COLUMBIA SAVINGS AND LOAN ASSOCIATIONS AND BRANCH OFFICES

[No. 71-620]

PART 581—DEFINITIONS

PART 582a—OPERATIONS OF DISTRICT OF COLUMBIA ASSOCIATIONS

District of Columbia Savings and Loan Associations and Branch Offices

JUNE 22, 1971.

Resolved that, notice and public procedure having been duly afforded (36 F.R. 5867) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, amends Subchapter E of Chapter V of Title 12 of the Code of Federal Regulations to implement the authority contained in section 913 of Public Law 91-609, which amended section 8 of the Home Owners' Loan Act of 1933 to grant the Board regulatory authority over certain District of Columbia institutions. Accordingly, for the purposes of allowing such institutions to invest in service corporations and to act as trustees for certain pension trusts to the same extent permitted Federal savings and loan associations, the Federal Home Loan Bank Board hereby amends said subchapter by: (1) Revising the caption thereof, (2) adding a new § 581.6 to Part 581—Definitions, and (3) adding a new Part 582a—Operations of District of Columbia Associations, to read as follows, effective August 2, 1971:

§ 581.6 District of Columbia associations.

The term "District of Columbia association" means an association which is incorporated or organized under the laws of the District of Columbia and which has its principal office located therein.

§ 582a.1 Miscellaneous activities.

Any District of Columbia association may, if not inconsistent with the terms of its charter, certificate or articles of incorporation, constitution, or bylaws, to the same extent as it could if it were a Federal savings and loan association:

(a) Invest in a service corporation, pursuant to the provisions of § 545.9-1 of this chapter; and

(b) Act as a trustee of any trust forming part of a stock bonus, pension, or profit-sharing plan, pursuant to the provisions of § 545.17-1 of this chapter.

(Sec. 8, 48 Stat. 132, as added by sec. 913, Public Law 91-609, 84 Stat. 1815, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc. 71-9146 Filed 6-28-71; 8:48 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-165]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Importation of Articles for Prevention of Conception

Section 1 of Public Law 91-662, approved January 8, 1971, amended section 305(a) of the Tariff Act of 1930 (19 U.S.C. 1305(a)) to strike out the prohibition against importation of articles for the prevention of conception.

The purpose of this amendment is to conform the provisions of § 12.40 of the Customs Regulations to section 305(a) of the Tariff Act of 1930, as amended by Public Law 91-662.

1. In § 12.40 paragraphs (f) and (h) are revised and paragraphs (i) and (j) are revoked as follows:

§ 12.40 Seizure; disposition of seized articles; reports to the U.S. attorney.

(f) If seizure is made of books or other articles which do not contain obscene matter but contain information or advertisements relative to means of causing abortion, the procedure outlined in paragraphs (b), (c), (d), and (e) of this section shall be followed.

(h) Whenever it clearly appears from information, instructions, advertisements enclosed with or appearing on any drug or medicine or its immediate or other container, or otherwise that such drug or medicine is intended for inducing abortion, such drug or medicine shall be detained or seized.

(i) [Revoked]

(j) [Revoked]

2. Part 12 is amended to delete footnote 27 and paragraph (a) of § 12.40 is revised to delete footnote reference "27."

(Secs. 305, 624, 46 Stat. 688, as amended, 759; 19 U.S.C. 1305, 1624)

Effective date. This amendment, reflecting the removal of import restrictions against a class of articles formerly

restricted entry, shall be effective retroactively to January 9, 1971, the effective date of section 1 of Public Law 91-662.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: June 18, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-9171 Filed 6-28-71;8:51 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Controlled Substances; Labeling, Dispensing in Emergencies, Security and Accountability

A notice was published in the FEDERAL REGISTER of April 9, 1971 (36 F.R. 6833), proposing regulations implementing certain provisions of the Federal Controlled Substances Act of 1970.

Comments on the proposal. Written comments on the proposed regulations were received from Lexington Chemical Co., Inc., the National Association of Chain Drug Stores, Inc., Geigy Pharmaceuticals, and the Pharmaceutical Manufacturers Association.

Lexington Chemical Co., commenting on § 1.109, expressed confusion as to when and where the warning, required by that section, was to appear, indicating that it seemed useless on the commercial label sent from the manufacturer to the pharmacist. PMA also recommended clarification of this point in § 1.108. Section 305(c) of the Federal Controlled Substances Act and proposed § 1.109 of the regulations are clear in indicating that this label warning is required only at the time the drug is dispensed to the patient pursuant to individual prescriptions. Section 1.108 has been clarified.

The National Association of Chain Drug Stores, Inc., commented that the warning statement proposed in § 1.109 was too long for inclusion in normal label stock, and was confusing. Since the label warning is required only on a portion of the drugs ordinarily dispensed by a pharmacy, an auxiliary warning label seems practical, when required. The auxiliary label will allow for legible type size. The alternative wording of the warning, suggested by NACDS is shorter but not as clear as the proposed wording. PMA and Geigy recommended that the warning contained in § 1.109 not be re-

quired on the label of drugs being used in controlled clinical investigations since the presence of the label on the active drug could interfere with "blinding" controls. This suggestion has been incorporated in the final regulation.

PMA and Geigy also recommended a deferred "effective" date for the label warning in § 1.109.

Geigy Pharmaceuticals commented on § 130.3(a)(4) which requires that investigational drugs, which are also controlled substances, be stored in a securely locked, substantially constructed cabinet. Geigy indicated this provision might be impractical in situations where the bulk of drugs involved (e.g. full production sized batches for investigational testing) could not be kept in a cabinet. The proposed regulations have been modified to accommodate this point.

PMA recommended that § 130.3(a)(4) require only that the sponsor inform the investigator of the security requirements, and suggested the deletion of paragraph (b) of § 1.110. However, this would seriously impair the clarity and regulatory utility of these sections.

Therefore, pursuant to the provisions of the Federal Controlled Substances Act (secs. 201, 305, 307, 309, 84 Stat. 1247, 1256, 1259, 1260) and the Federal Food, Drug, and Cosmetic Act as amended (secs. 503(b), 505, 701(a), 52 Stat. 1051, 1052, 1055, 76 Stat. 781-785, 21 U.S.C. 353(b), 355, 371(a)), and under the authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs, having consulted with the Attorney General, as directed by sections 307 and 309 of the Controlled Substances Act, hereby promulgates regulations amending Parts 1 and 130 as follows:

1. Section 1.108 is amended by adding new paragraph (c) which reads as follows:

§ 1.108 Drugs and devices; statement of policy re Spanish-language versions of required labeling statements.

(c) By direction of section 305(c) of the Federal Controlled Substances Act, § 1.109, promulgated under section 503(b) of the Federal Food, Drug, and Cosmetic Act, requires the following warning on the label of certain drugs when dispensed to or for a patient: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed." The Spanish version of this is: "Precaucion: La ley Federal prohíbe el transferir de esta droga a otra persona que no sea el paciente para quien fue recetada."

2. A new § 1.109 is added which reads as follows:

§ 1.109 Drugs; statement of required warning on controlled substances listed in schedule II, III, or IV of Federal Controlled Substances Act.

The label of any drug listed as a "controlled substance" in schedule II, III, or IV of the Federal Controlled Substances Act shall, when dispensed to or

for a patient, contain the following warning: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed." This statement is not required to appear on the label of a controlled substance dispensed for use in clinical investigations which are "blind."

3. A new § 1.110 is added which reads as follows:

§ 1.110 Definition of emergency situation.

For the purposes of authorizing an oral prescription of a controlled substance listed in schedule II of the Federal Controlled Substances Act, the term "emergency situation" means those situations in which the prescribing practitioner determines:

(a) That immediate administration of the controlled substance is necessary, for proper treatment of the intended ultimate user; and

(b) That no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under schedule II of the Act; and

(c) That it is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance, prior to the dispensing.

4. Section 130.3(a)(4) is amended by adding one sentence at the end of the subparagraph. In paragraph (a)(12), item 6b of Form FD-1572 is amended and in paragraph (a)(13), item 4b of form FD-1573 is amended, as follows:

§ 130.3 New drugs for investigational use in human beings; exemptions from section 505(a).

(a) A shipment or other delivery of a new drug shall be exempt from section 505(a) of the act if all the following conditions are met:

(4) The sponsor maintains adequate records showing the investigator to whom shipped, date, quantity, and batch or code mark of each such shipment and delivery, until 2 years after a new-drug application is approved for the drug; or, if an application is not approved, until 2 years after shipment and delivery of the drug for investigational use is discontinued and the Food and Drug Administration has been so notified. Upon the request of a scientifically trained and properly authorized employee of the Department at reasonable times, the sponsor makes the records referred to in this subparagraph and in subparagraph (2) of this paragraph available for inspection, and upon written requests submits such records or copies of them to the Food and Drug Administration. If the investigational drug is subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970 adequate precautions are taken, including storage of the investigational drug in a securely

locked, substantially constructed cabinet, or other securely locked, substantially constructed enclosure, access to which is limited, to prevent theft or diversion of the substance into illegal channels of distribution.

(12)

6.

b. The investigator is required to maintain adequate records of the disposition of all receipts of the drug, including dates, quantity, and use by subjects, and if the clinical pharmacology is suspended, terminated, discontinued, or completed, to return to the sponsor any unused supply of the drug. If the investigational drug is subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, adequate precautions must be taken, including storage of the investigational drug in a securely locked, substantially constructed cabinet, or other securely locked, substantially constructed enclosure, access to which is limited, to prevent theft or diversion of the substance into illegal channels of distribution.

(13)

4.

b. The investigator is required to maintain adequate records of the disposition of all receipts of the drug, including dates, quantity, and use by subjects, and if the investigation is terminated, suspended, discontinued, or completed, to return to the sponsor any unused supply of the drug. If the investigational drug is subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, adequate precautions must be taken, including storage of the investigational drug in a securely locked, substantially constructed cabinet, or other securely locked, substantially constructed enclosure, access to which is limited, to prevent theft or diversion of the substance into illegal channels of distribution.

5. Section 130.3a(b)(7)(ii) is revised to read as follows:

§ 130.3a New drugs for investigational use in animals; exemptions from section 505(a).

(b) New drugs for clinical investigation in animals. A shipment or other delivery of a new drug intended for clinical investigational use in animal, shall be exempt from section 505(a) of the act if all the following conditions are met:

(7) The sponsor shall assure himself that the drug is shipped only to investigators who:

(ii) Shall maintain complete records of the investigations, including complete records of the receipt and disposition of each shipment or delivery of the drug under investigation. Copies of all records of the investigation shall be retained by the investigator for 2 years after the termination of the investigation or approval of a new-drug application.

6. A new § 130.3b is added to read as follows:

§ 130.3b Controlled substances for investigational use.

If an investigational drug is subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, records concerning shipment, delivery, receipt, and disposition of the drug, which are required to be kept by §§ 130.3(a)(4), (12), and (13) and 130.3a(a)(3) and (b)(3), (7), and (8) shall, upon the request of a properly authorized employee of the Bureau of Narcotics and Dangerous Drugs of the U.S. Department of Justice, approved by the Secretary, be made available by the investigator or sponsor to whom the request is made, for inspection and copying.

7. A new § 130.13b is added to read as follows:

§ 130.13b New drugs with potential for abuse.

When a new-drug application is submitted for a drug which has a stimulant, depressant, or hallucinogenic effect on the central nervous system, if it appears that the drug has a potential for abuse, the Commissioner shall forward that information to the Attorney General of the United States.

This order shall take effect 30 days following the date of its publication in the FEDERAL REGISTER.

Dated: June 18, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-9107 Filed 6-28-71;8:45 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Dimethyl Phosphate of 3-Hydroxy-N-Methyl-cis-Crotonamide

A petition (PP 0F0861) was filed by Shell Chemical Co., division of Shell Oil Co., Suite 1103, 1700 K Street NW., Washington, DC 20006, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a), proposing establishment of a tolerance for residues of the insecticide dimethyl phosphate of 3-hydroxy-N-methyl-cis-crotonamide in or on the raw agricultural commodity cottonseed at 0.1 part per million. Another petition (PP 0F0912) was filed by Shell, proposing establishment of tolerances for residues of the same pesticide chemical in or on the raw agricultural commodities potatoes and sugarcane at 0.1 part per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerances are being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petitions and other relevant material, it is concluded that:

1. The proposed uses are not reasonably expected to result in residues in eggs, meat, milk, and poultry, as specified in § 420.6(a)(3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), Part 420 is amended as follows:

1. Section 420.3(e)(5) is amended by alphabetically inserting in the list of cholinesterase-inhibiting pesticides a new item, as follows:

§ 420.3 Tolerances for related pesticide chemicals.

(e)
(5)

Dimethyl phosphate of 3-hydroxy-N-methyl-cis-crotonamide.

2. The following new section is added to Subpart C:

§ 420.296 Dimethyl phosphate of 3-hydroxy-N-methyl-cis-crotonamide; tolerances for residues.

A tolerance is established for residues of the insecticide dimethyl phosphate of 3-hydroxy-N-methyl-cis-crotonamide in or on cottonseed, potatoes, and sugarcane at 0.1 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections

may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the *FEDERAL REGISTER* (6-29-71).

(Sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a (d) (2))

Dated: June 21, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.71-9133 Filed 6-28-71; 8:47 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice
[Order 462-71]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart Q—Bureau of Prisons

INTERSTATE AGREEMENT ON DETAINERS

The Interstate Agreement on Detainers provides that whenever a person is serving a prison term in one jurisdiction and there is pending in another jurisdiction any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he may request a trial and final disposition of the matter in the latter jurisdiction. The United States became a party to this agreement pursuant to the Interstate Agreement on Detainers Act enacted December 9, 1970 (84 Stat. 1397). This order designates the Director of the Bureau of Prisons as the official to carry out certain responsibilities with respect to the Federal Government under the Agreement.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, Subpart Q of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.96 is amended by adding a new paragraph (q) at the end thereof, to read as follows:

§ 0.96 Delegations.

(q) Deciding upon requests by States for temporary transfer of custody of inmates for prosecution under Article IV of the Interstate Agreement on Detainers (84 Stat. 1399) and pursuant to other available procedures.

2. A new § 0.96a is added immediately after § 0.96, to read as follows:

§ 0.96a Interstate Agreement on Detainers.

The Director of the Bureau of Prisons is designated as the United States Officer under Article VII of the Interstate Agreement on Detainers (84 Stat. 1402).

Dated: June 19, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-9140 Filed 6-28-71; 8:48 am]

RULES AND REGULATIONS

[Order 463-71]

PART 5—ADMINISTRATION AND EN- FORCEMENT OF FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

Exemptions

Section 3(d) as amplified by section 1(q), and section 3(g) of the Foreign Agents Registration Act of 1938, as amended, make available to domestic corporations with foreign affiliates and to attorneys respectively an exemption from registration under certain circumstances. Corporations and attorneys desiring to avail themselves of the exemptions must, under current regulations, disclose the identity of their foreign principals annually in writing, as well as disclose it orally to the Government officials with whom they have dealings. The purpose of this order is to amend these regulations so as to remove the requirement to make an annual written disclosure to Government agencies, but retain the requirement to disclose the identity of the foreign principal to the Government official with whom the business is transacted or before whom the legal representation is undertaken.

By virtue of the authority vested in me by section 10 of the Foreign Agents Registration Act of 1938, as amended (56 Stat. 257; 22 U.S.C. 620), Part 5 of Chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

1. Section 5.304(c) is amended to read as follows:

§ 5.304 Exemptions under sections 3 (d) and (e) of the Act.

(c) For the purpose of section 3(d) of the Act, the disclosure of the identity of the foreign person that is required under section 1(q) of the Act shall be made to each official of the U.S. Government with whom the activities are conducted. This disclosure shall be made to the Government official prior to his taking any action upon the business transacted. The burden of establishing that the required disclosure was made shall lie upon the person claiming the exemption.

2. Section 5.306(b) is amended to read as follows:

§ 5.306 Exemption under section 3(g) of the Act.

(b) If an attorney engaged in legal representation of a foreign principal before an agency of the U.S. Government is not otherwise required to disclose the identity of his principal as a matter of established agency procedure, he must make such disclosure, in conformity with this section of the Act, to each of the agency's personnel or officials before whom and at the time his legal representation is undertaken. The burden of establishing that the required disclosure

was made shall lie upon the person claiming the exemption.

Dated: June 19, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-9141 Filed 6-28-71; 8:48 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines,
Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 70—MANDATORY HEALTH STANDARDS—UNDERGROUND COAL MINES

Respirable Dust Standards for Intake Air Courses in Underground Coal Mines

Pursuant to the authority vested in the Secretary of the Interior under section 508 of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173; 30 U.S.C. 801), and in accordance with section 303(b) of the Act which requires that the Secretary or his authorized representative prescribe the maximum respirable dust level in the intake air courses of each underground coal mine, there was published in the *FEDERAL REGISTER* for March 9, 1971 (36 F.R. 4547), a notice of proposed rule making setting forth proposed amendments to Part 70, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, which prescribed the maximum respirable dust levels which must be continuously maintained in the intake air courses of each underground coal mine, and the dust sampling procedures which must be initiated by each operator to determine compliance with the dust levels for intake air.

Interested persons were afforded a period of 30 days from the date of publication of the notice in which to submit written comments, suggestions, or objections to the proposed amendments. Only one comment was received, the substance of which was that operators of underground coal mines would have difficulty in complying with the proposed provision requiring an average concentration of 1 milligram of respirable dust per cubic meter of air, or less, effective December 30, 1972, since equipment needed to reduce the average concentration of respirable dust to this level was not commercially available. Careful consideration was given this comment, however, data available to the Bureau of Mines, consisting of respirable dust samples taken in the intake air courses of underground coal mines in accordance with 30 CFR 70.246, shows that compliance with a standard of 1 milligram of respirable dust per cubic meter of air, or less, is not difficult with use of commercially available technology.

As proposed in 36 F.R. 4547, the dust standards were expressed as "below 2

milligrams of respirable dust per cubic meter of air" and "below 1 milligram of respirable dust per cubic meter of air." As promulgated herein, the standards have been revised as "at or below 2 milligrams of respirable dust per cubic meter of air" and "at or below 1 milligram of respirable dust per cubic meter of air."

In consideration of the foregoing, Part 70, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, is hereby amended as set forth below. These amendments shall be effective June 30, 1971.

W. T. PECORA,
Acting Secretary of the Interior.

JUNE 22, 1971.

1. The authority paragraph following the table of contents is amended to read as follows:

AUTHORITY: The provisions of this Part 70 issued under title II, sec. 303(b), and sec. 508 of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742; 30 U.S.C. 801).

2. Section 70.100 is amended by adding paragraphs (d) and (e) as follows:

§ 70.100 Dust standards; respirable dust.

(d) Effective June 30, 1971, each operator shall continuously maintain the average concentration of respirable dust in the intake air courses in the mine during each shift to which each miner in the active workings of such mine is exposed, at or below 2 milligrams of respirable dust per cubic meter of air.

(e) Effective December 30, 1972, each operator shall continuously maintain the average concentration of respirable dust in the intake air courses in the mine during each shift to which each miner in the active workings of such mine is exposed at or below 1 milligram of respirable dust per cubic meter of air.

3. Subpart C is amended by adding a new § 70.212 as follows:

§ 70.212 Violation of dust standard: intake air samples.

(a) If the data recorded pursuant to § 70.261 for a single intake air sample with respect to a working section of a coal mine establish a concentration of respirable dust in excess of the concentration stated in paragraph (d) or (e) of § 70.100, as applicable, the Secretary shall require the operator to submit five additional intake air samples to determine whether such working section is in compliance with the applicable respirable dust limit.

(b) Upon receipt of advice that additional sampling is required, the operator shall commence such sampling on the first day on which there is a production shift following the day upon which he receives such advice from the Secretary pursuant to this paragraph, and shall continue to take such consecutive samples until he is advised in writing by the Secretary that the total number of valid samples required have been received.

(c) Where additional samples are received by the Secretary in accordance with paragraph (b) of this section, they

RULES AND REGULATIONS

shall be combined with the valid intake air sample already received, and a determination of compliance or noncompliance shall be made with respect to the working section.

(d) If the data recorded pursuant to § 70.261 with respect to the working section establish an average concentration of respirable dust in excess of the concentration stated in paragraph (d) or (e) of § 70.100 with respect to the particular applicable limit, the Secretary shall issue a notice to the operator that he is in violation of paragraph (d) or (e) of § 70.100.

[FR Doc.71-9151 Filed 6-28-71; 8:49 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers,
Department of the Army

PART 207—NAVIGATION REGULATIONS

Alligator Bayou, Fla.

F.R. Doc. 71-3722, appearing at 36 F.R. 5218, March 18, 1971, concerning § 207.175d, pertaining to a restricted area in Alligator Bayou, Fla., is amended by changing the name of the enforcing agency. As so amended, § 207.175d(b) (1) and (2) reads as follows:

§ 207.175d Alligator Bayou, a tributary of St. Andrew Bay, Fla.: restricted area.

(b) *The regulation.* (1) No vessel shall enter the area or navigate therein without permission of the Commanding Officer, Naval Ship Research and Development Laboratory, Panama City, Fla., or his authorized representative.

(2) The regulation of this section shall be enforced by the Commanding Officer, Naval Ship Research and Development Laboratory, Panama City, Fla., or such agencies as he may designate.

[Regs., June 11, 1971—ENGW-ON] (Sec. 7, 40 Stat. 266 (33 U.S.C.))

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-9147 Filed 6-28-71; 8:48 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter IV—Low-Emission Vehicle
Certification Board

PART 400—PROCEDURES FOR CER- TIFICATION OF LOW-EMISSION VEHICLES

Section 212 of the Clean Air Act establishes a Low-Emission Vehicle Certification Board composed of the Administrator, Environmental Protection Agency, Secretary of Transportation, Chairman of the Council on Environ-

mental Quality or their designees, the Director of the National Highway Traffic Safety Administration (formerly the National Highway Safety Bureau) in the Department of Transportation, the Administrator of General Services, and two members appointed by the President. Under the statute, the Board is charged with the responsibility of certifying any class or model of motor vehicles for which an application has been filed in accordance with regulations prescribed by the Board and which has been determined to be a "low-emission" vehicle in accordance with procedures prescribed by the Administrator of the Environmental Protection Agency and which the Board determines is suitable for use as a substitute for a class or model of vehicles in use at that time by agencies of the Federal Government. Section 212 further provides that certified vehicles shall be acquired by purchase or lease for use by the Federal Government as substitutes for other vehicles if the procurement costs are no more than 150 percent of the retail price of the least expensive class or model of such other vehicles as determined by the Administrator of General Services. If the Board determines that the low-emission vehicle is powered by an inherently low-polluting propulsion system, the premium to be paid for such vehicles may be raised to 200 percent.

The regulations set forth below contain the procedures for filing applications with the Board, specify the information required to be included in such applications, and describe the manner in which the Board will make the determination concerning certification of such vehicles. The regulations are designed to be consistent with regulations promulgated by the Administrator of the Environmental Protection Agency. The Administrator's regulations establish procedures for determining whether a vehicle qualifies as a "low-emission vehicle". Persons desiring to file applications pursuant to section 212 of the Act should do so in accordance with the regulations set forth below and regulations of the Environmental Protection Agency at 45 CFR Part 1201.

Pursuant to section 212(j) of the Act, the Board is required to promulgate the procedures required to implement this section by June 29, 1971. Accordingly, good cause is found for dispensing with notice of proposed rule making and deferral of the effective date of the regulations. The regulations will be effective as of the date of publication. However, in order to insure that the view of the public will be considered, interested persons are invited to submit written comments on the proposed regulations in triplicate to the Chairman (Administrator, EPA), 1626 K Street NW., Washington, DC 20460.

All relevant comments postmarked no later than 30 days after publication of the regulations will be considered and the regulations will be amended as the Board deems appropriate after consideration of such comments.

There is hereby established a new Title 40 of the Code of Federal Regulations entitled "Protection of Environment."

NOTE: References in Part 400 to 45 CFR 1201.320 through 1201.327 are to sections set forth in a proposed rule making action published at 36 F.R. 12240.

Dated: June 24, 1971.

WILLIAM D. RUCKELSHAUS,
Chairman.

Sec.	
400.1	Definitions.
400.2	Application for certification.
400.3	Requirements for certification.
400.4	Submission of required data.
400.5	Additional data: submission of test vehicles.
400.6	Certification: publication of decision.
400.7	Postcertification testing.

AUTHORITY: The provisions of this Part 400 issued under sec. 212, 84 Stat. 1676, Public Law 91-604.

§ 400.1 Definitions.

All terms used herein shall have the meaning given them in the Clean Air Act (42 U.S.C. 1857f-1 et seq.), as amended by Public Law 91-604, and in 45 CFR 1201.320.

§ 400.2 Application for certification.

(a) Any person desiring certification of a motor vehicle as a low-emission vehicle which will be a suitable substitute for a class or model of motor vehicles in use by agencies of the Federal Government shall file an application with the Administrator of the Environmental Protection Agency in accordance with 45 CFR 1201.322. In addition to the information required by Subpart S of 45 CFR Part 1201, the application shall contain the data required by § 400.4.

(b) Upon written request by the applicant the Board may waive any requirement of § 400.4 for data or information if it deems that such data is unnecessary, inappropriate, or cannot be obtained by procedures described in § 400.4. Such waiver may be conditioned upon the applicant's agreement to test the motor vehicle under such alternative procedures as the Board specifies.

(c) Upon making a determination that any motor vehicle is a low-emission vehicle pursuant to section 212(c) of the Act, the Administrator will transmit a copy of the application for certification to the Board. The Board shall publish a notice of each application received in the FEDERAL REGISTER as soon as practicable after receipt thereof. The Board shall solicit, receive, and evaluate written comments and documents from interested parties in support of, or in opposition to, certification of the applicant vehicle.

§ 400.3 Requirements for certification.

Any vehicle submitted for certification as a low-emission vehicle shall comply with the Federal Motor Vehicle Safety Standards and regulations (49 CFR Part 571) which will be applicable to that class of vehicle during the anticipated certification period, as defined in 45 CFR 1201.320, and shall in all other respects be safe to operate and maintain.

§ 400.4 Submission of required data.

Applications for certification shall include data concerning the following factors:

(a) *Safety*—(1) *Hazards related to unfamiliarity*. These are defined as any device or design feature which constitute a potential hazard because of its unusual character. In addition to analytical evidence that the danger arising from such features has been mitigated by the application of suitable protective measures, the applicant shall submit familiarization and training materials containing descriptions of these features, protective measures and instructions, and warnings relative to their operation. These materials shall address the potentially hazardous features in terms of:

(i) Driver response to unconventional hardware and performance characteristics;

(ii) Protection of persons and property in close proximity to the vehicle; and

(iii) Servicing and maintenance procedures.

(2) *Hazards related to failure mode*. Any device or design feature whose failure mode(s) may cause personal injury or property damage constitutes an avoidable potential hazard when such injury or damage would not be caused in the absence of such device or feature. A safety analysis shall be submitted describing any protective measures and fail safe provisions applied to such devices or features. In addition, results of any component failure which necessitates replacements or repair under paragraph (c)(1) of this section must be described.

(b) *Performance characteristics*. (1) Engine startup time from key-on to self-sustaining idle.

(2) Acceleration from standing start (warm engine) to 60 miles per hour velocity.

(3) Acceleration in merging traffic from 25 miles per hour to 70 miles per hour velocity.

(4) Results of tests under the applicable Department of Transportation high-speed pass maneuver.

(5) Maximum sustained velocity on a 5 percent grade.

(6) Maximum speed capability over a 1-mile course.

(7) Vehicle operating temperature range.

(8) Maximum vehicle range at an average 70 miles per hour velocity without supplementing energy storage.

(9) Predicted vehicle efficiency in terms of miles per unit fuel consumption at vehicle mileage of 0, 20,000, 50,000, and 100,000 miles when operated over the dynamometer schedules in 45 CFR Part 1201 at 20° F., 60° F., and 100° F., and when operated at constant speeds of 15, 35, and 60 miles per hour at the same temperatures.

(10) Vehicle frontal area, drag coefficient, and rolling resistance.

(11) Engine internal displacement, or equivalent.

(12) Engine compression ratio, or equivalent.

(13) Engine brake horse power and torque versus engine revolution per minute.

(14) Minimum turning circle diameter.

(15) Accessory power requirements (average and peak).

Performance test conditions are nominally 85° F., 14.6 pounds per square inch absolute, level grade, unless otherwise specified, and a vehicle test weight equal to curb weight plus 300 pounds for light-duty vehicles, and gross vehicle weight for heavy-duty vehicles.

(c) *Reliability potential*. (1) Raw test data in accordance with 45 CFR 1201.322 (b) or 1201.324 indicating the types and frequencies of vehicle component failures, covering all vehicle components including power plant, drive train, electrical and structural system. Components replacement and repairs made prior to submission of the application shall also be detailed. All data must include the date, time, and mileage of the replacement or repair. Reduced reliability data in the form of mean time to component failure may be presented at the option of the applicant; however, all raw data used must also be included in the application.

(2) Projected system reliability and reliability goals must also be included. These estimates may be based on reliability histories of similar systems.

(d) *Serviceability*. (1) Passenger comfort, seating capacity, and heating and cooling performance.

(2) Instrumentation, including any necessary special warning devices.

(3) Controls for vehicle operation.

(4) Anticipated useful lifetime of the vehicle and its power plant.

(5) Brake type (drum, disc, etc.).

(6) Tire size and type and reserve load capacity.

(7) Steering type (worm and roller, rack and pinion, etc.).

(8) Front and rear suspension type.

(9) Hip room (front and rear).

(10) Head and leg room (front and rear).

(11) Entrance height (front and rear).

(12) Curb weight (full fuel, oil, etc., no passengers).

(13) Weight distribution (front and rear).

(14) Wheelbase.

(15) Overall length, width, height.

(16) Ground clearance.

(17) Overhang (front and rear).

(18) Usable trunk space.

(19) Fuel tank capacity.

(c) *Fuel availability*. If any test article requires the use of fuels, working fluids, coolants, lubricants, or other fluids other than those readily available through conventional motor vehicle marketing channels, the applicant shall submit detailed procurement specifications for all required fuels and fluids including any model.

special storage and handling requirements associated with the specified fuels and fluids. The procurement of such fuels and fluids must be shown to be capable of accomplishment in a manner which complies with the Department of Transportation regulations (49 CFR Parts 1-199) concerning the transportation of hazardous materials.

(f) *Noise level*—(1) *Maximum noise*. The maximum noise generated by the vehicle when measured in accordance with SAE Procedure J986a.

(2) *Low speed noise*. The maximum noise generated by the vehicle measured in accordance with SAE Procedure J896a, except that a constant vehicle velocity of 30 m.p.h. is used on the pass-by, the vehicle being in the highest gear in which it can be operated at that speed.

(3) *Idle noise*. The maximum noise generated by the vehicle when measured in accordance with SAE Procedure J986a, except that the engine is idling (clutch disengaged or in neutral gear) and the vehicle passes by at a speed of less than 10 m.p.h. The microphone will be placed at 10 feet from the centerline of the vehicle pass line.

(g) *Maintenance cost potential*. (1) A specification of normal vehicle maintenance procedures including inspection, parts replacement or refurbishment, and time/mileage for replacement or refurbishment. The specifications should be sufficient for use by regular maintenance personnel. Any maintenance details requiring special attention, special equipment or special personnel must be separately specified.

(2) A record of all maintenance parts costs for each test article.

(3) A record of maintenance time and labor cost for each test article in terms of clock/hours/maintenance activity, man-hours/maintenance activity, and dollars/maintenance activity.

§ 400.5 Additional data: submission of test vehicles.

(a) The Board may require the submission of any other information or data which it deems necessary and appropriate to assist it in deciding whether to certify any motor vehicle prior to reaching such a decision. The Board may require that any one or more of the applicant's test vehicles be submitted to an authorized representative of the Board at such place or places and at such time or times as the Board may specify for the purpose of testing the suitability of such vehicle as a substitute for any class or model of vehicle presently being purchased by the Federal Government.

(b) In order to compare the results of any test vehicle with any class or model of motor vehicle presently being purchased by the Federal Government and for which the applicant seeks to have its vehicle substituted, the Board shall enter into appropriate agreements with other Government agencies to gather the necessary data regarding such class or model.

§ 400.6 Certification: publication of decision.

(a) Within 180 days of the determination of the Administrator in accordance with 45 CFR 1201.326 that the applicant test vehicle is a low-emission vehicle, the Board will reach a decision by majority vote of the entire Board as to whether the test vehicle is a suitable substitute for any class or model of vehicle or engines presently being purchased by the Federal Government for use by its agencies. Such decision shall be based upon the data obtained pursuant to §§ 400.4 and 400.5, the Board's evaluation of the validity of the data, comments of interested parties, and, as the Board deems appropriate, an actual inspection of the vehicle at such places and times as the Board may prescribe. The Board will also determine whether the vehicle is an inherently low-polluting vehicle.

(b) Immediately upon making the decision as to whether a vehicle is a suitable substitute for any class or classes of vehicles presently being purchased by the Federal Government for use by its agencies, the Board will publish in the FEDERAL REGISTER notice of such decision, including the reasons therefor and any dissenting views.

(c) If the test vehicle is a low-emission vehicle as determined by the Administrator and the Board decides that it is suitable for use as a substitute for a class or model of vehicles presently being purchased by the Federal Government for use by its agencies, the Board will issue a certification of that vehicle. The certification will specify with particularity the class or model of vehicles for which the certified vehicle is a suitable substitute.

(d) Any certification under this section shall be effective for a period of 1 year from the date of issuance.

(e) A determination of procurement costs of any certified low emission vehicle will be made by the Administrator of General Services in accordance with such procedures as he may prescribe and with subsection (c) of section 212 of the Clean Air Act.

§ 400.7 Postcertification testing.

The Board may, from time to time, request the Administrator to test the emissions from certified low-emission vehicles purchased by the Federal Government. If at any time the Administrator finds that the emission levels exceed the rates on which the Administrator based his determination under 45 CFR 1201.326, he will notify the Board. Thereupon the Board will give the supplier of such vehicles written notice of such finding, publish such finding in the FEDERAL REGISTER, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements as the Board directs. If the repairs, adjustments, or replacements are not made within the period set by the Board, the Board may order the supplier to show cause why the vehicle involved should be eligible for recertification.

[FR Doc. 71-9187 Filed 6-28-71; 8:52 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 8—Veterans Administration MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 8 is amended as follows:

PART 8-1—GENERAL

1. Section 8-1.305-6 is revised to read as follows:

§ 8-1.305-6 Military and departmental specifications.

(a) Veterans Administration Supply Catalog No. 3, section III, Index of Specifications, lists in addition to the Veterans Administration and Federal Specifications those military and departmental specifications that have been adopted by the Veterans Administration. The index lists the sources from which these specifications may be obtained and also establishes the segment of Supply Service that is responsible for their development, maintenance, and revision. These specifications will be used in all applicable transactions and will not be deviated from except as provided in this section.

(b) The monetary exemption to the use of Federal Specifications contained in FPR 1-1.305-2(b) is equally applicable to Veterans Administration, military and departmental specifications. Contracting officers may when they deem it to be advantageous to the Veterans Administration, utilize these specifications when procuring supplies and equipment costing less than \$2,500. However, when purchasing items of perishable subsistence, contracting officers shall observe only those exemptions set forth in paragraphs (f) and (g) of this section.

(c) When circumstances will not permit a field station to use a Veterans Administration specification without deviation, the contracting officer shall, prior to taking any procurement action, submit to the Director, Supply Service, or Manager, VA Marketing Center, Hines III, whichever is appropriate, a request for authority to deviate from the specification. The request will specifically detail the reasons why the deviation is essential to the station's operation. The approving authority will coordinate the request with the using service in Central Office. The contracting officer will be advised as to the approval or disapproval of the request. If approved the letter of approval will be filed in the appropriate purchase or contract file.

(d) The Veterans' Administration has adopted for use in the procurement of packinghouse products, the purchase descriptions and specifications set forth in the Institutional Meat Purchase Specifications (IMPS), and the IMPS General Requirements, which have been developed by the U.S. Department of Agriculture. Purchase descriptions and

specifications for dairy products, poultry, eggs, fresh and frozen fruits and vegetables, as well as certain packinghouse products selected from the IMPS especially for Veterans' Administration use, are contained in VAPR Program Guide G-1, Federal Hospital Perishable Subsistence Guide. A copy of this guide and the IMPS may be obtained from any Veterans' Administration contracting officer.

(e) Contract terms and conditions governing the procurement of subsistence items listed in VAPR Program Guide G-1 and IMPS are set forth in VA Form 10-1365. This form shall be attached to and made a part of each solicitation for such items when applicable.

(f) The military specifications for meat and meat products contained in VAPR Program Guide G-1 shall be used by the Veterans' Administration only when purchasing such items of subsistence from the Defense Supply Agency (DSA). Military specifications for poultry, eggs, and egg products contained in VAPR Program Guide G-1 may be used when purchasing either from DSA or from local dealers.

(g) Except as authorized in Subpart 8-14.1 of this chapter and VA Form 10-1365, contracting officers shall not deviate from the specifications contained in VAPR Program Guide G-1, and the IMPS without prior approval of the Director, Supply Service.

(h) Items of meat, cured pork and poultry, not listed in either the VAPR Program Guide G-1 or the IMPS, will not be purchased without prior approval of the Director, Supply Service.

(i) In the absence of mandatory documents, specifications or purchase descriptions of other agencies may be used by the various Marketing Divisions when appropriate. These specifications or purchase descriptions may be modified to meet the needs of the Veterans Administration. If repeated use of a modified specification or purchase description is required, the Manager, VA Marketing Center shall consider converting it to a Veterans Administration specification.

(j) A field station may use a specification or purchase description of another agency without prior approval when the specification or description will, without modification, satisfy its needs. If, however, the specification or description must be modified to meet the station's needs, the procedure set forth in paragraph (c) of this section will be followed.

(k) The Director, Publications Service is responsible for developing, publishing, and distributing Veterans Administration specifications covering printing and binding.

(l) Veterans Administration specifications, as they are revised, are placed in stock in the Forms and Publications Depot. Station requirements of these specifications will be requisitioned from that source.

2. Section 8-1.706-5 is revised to read as follows:

§ 8-1.706 Procurement set-asides for small business.

§ 8-1.706-5 Total set-asides.

Each proposed procurement for construction, including alteration, maintenance, and repairs, in excess of \$2,000 and under \$500,000 shall be considered individually as though the Small Business Administration had initiated a set-aside request. When, in the judgment of the contracting officer, a particular project falling within these dollar limits is determined unsuitable as a set-aside for exclusive small business participation pursuant to FPR 1-1.7 of this title, he shall notify the Director, Supply Service of this decision. Unless the Director, Supply Service, or his designee, disagrees with the contracting officer's decision, the contracting officer shall proceed to process the procurement on an unrestricted basis.

3. Section 8-1.708-3 is revised to read as follows:

§ 8-1.708-3 Conclusiveness of certificate of competency.

When a certificate of competency has been issued by the Small Business Administration (SBA) and the contracting officer, as provided for in FPR 1-1.708-2(a)(5), has substantial doubts as to the ability of the prospective contractor to perform, he shall document his reasons therefor and submit the matter to the Director, Supply Service. The Director, Supply Service shall resolve the matter with SBA and if, in his opinion, the contracting officer's reasons are valid he may request SBA to withdraw the certificate of competency. The contracting officer will be advised as to the action he is to take.

PART 8-3—PROCUREMENT BY NEGOTIATION

4. Sections 8-3.203 and 8-3.204 are revised to read as follows:

§ 8-3.203 Purchases not in excess of \$2,500.

(a) Procurement of medical services and resources authorized by sections 213, 4117, and 5053 of title 38, United States Code, costing less than \$2,500 may be procured by negotiation under authority of FPR 1-3.203. Each such contract and revision thereof is, however, subject to the same approval as those costing in excess of \$2,500.

(b) Supplies, equipment, and services, other than those specified in paragraph (a) of this section, authorized under the special procurement authorities cited in title 38, United States Code will be procured by negotiation under authority of FPR 1-3.203, when the cost of each such transaction does not exceed \$2,500.

NOTE: The limitation imposed upon open market transactions by 38 U.S.C. 1820(b) (Loan Guaranty repair of property) will be observed in all instances.

§ 8-3.204 Personal or professional services.

Various sections of title 38, United States Code, authorize the Administrator to enter into contracts for the purpose of acquiring personal or professional services. These authorizations do not, however, stipulate the manner in which such contracts are to be entered into, i.e., negotiation or formal advertising. Civilian agencies are, under the authority of FPR 1-3.204, authorized to procure such services by negotiation. Therefore, when the services listed in this section are to be acquired by the Veterans' Administration, at a cost in excess of \$2,500, a contract will be negotiated by the contracting officer. These contracts will cite in addition to the authority to negotiate, FPR 1-3.204, the appropriate section of title 38 which authorizes the contract.

(a) Architect-engineer services when required in conjunction with construction (see Subparts 8-4.50 and 8-7.50 of this chapter) will cite as the authority for such negotiation FPR 1-3.204—38 U.S.C. 5002.

(b) Contracts with medical schools and clinics for the acquisition of scarce medical specialist services will be negotiated under authority of FPR 1-3.204—38 U.S.C. 4117.

(c) Contracts with medical schools and other medical installations having hospital facilities or with a Federal, State, or local hospital, public or private, in the medical community for:

(1) The mutual use, or exchange of use, of specialized medical resources when such a contract will obviate the need for a similar resource to be provided in a Veterans Administration facility; or

(2) The mutual use, or exchange of use, of specialized medical resources in a Veterans Administration facility, which have been justified on the basis of veterans' care, but which are not utilized to their maximum effective capacity

will be negotiated under authority of FPR 1-3.204—38 U.S.C. 5053.

(d) Proposed contracts for the services and resources specified in paragraphs (b) and (c) of this section will be entered into for 1 fiscal year only and are not subject to renewal. When deemed essential to the mission of the station a new contract may be negotiated upon expiration of the original contract. Such contracts will, prior to consummation, be submitted to the appropriate Regional Medical Director (134) for approval in accordance with the following schedule, so as to reach Central Office prior to the 15th day of the month specified.

Stations in region	Scarce medical specialist and professional services	Mutual use, or exchange of use, of specialized medical resources
No. 1.....	May.....	April.....
No. 2.....	April.....	May.....
No. 3.....	February.....	March.....
No. 4.....	March.....	April.....
No. 5.....	February.....	March.....

Submissions will include five copies of (1) the contract, (2) transmittal document, including full name and address of the other party to the contract, and (3) supporting documentation.

(e) Proposed contracts of the type specified in paragraph (c) (1) and (2) of this section will be accompanied by a recommendation of the head of the station as to the geographical limits to be applied to the medical community.

(f) Personal service contracts having an employer-employee relationship, except to the extent indicated in paragraph (b) of this section, will not be negotiated under this authority but will be consummated in accordance with MP-5, Parts I and II. The determination as to whether a contract is of this nature is primarily the responsibility of the appointing official; however, contracting officers should be alert to the following conditions or circumstances, which, if present, could result in an invalid contract if with:

(1) *An individual.* (i) The contract does not call for an end product which is adequately described in the contract.

(ii) The contract price or fee is based on the time actually worked rather than the results to be accomplished.

(iii) The services are to be of a continuing rather than a temporary or intermittent nature.

(2) *A concern.* (i) Office space, equipment, and supplies necessary for contract performance are to be furnished by the Veterans Administration.

(ii) Contractor-furnished personnel are to be integrated within the Veterans Administration organizational structure.

(iii) Contractor-furnished personnel are to be used interchangeably with Veterans Administration personnel to perform the same functions.

(iv) The Veterans Administration retains the right to control and direct the means and methods by which contractor-furnished personnel accomplish this work.

(g) If in the opinion of the contracting officer any of the conditions or circumstances in paragraph (f) of this section are present, he will, in consultation with the requester, resolve all such doubts seeking if necessary competent legal advice.

(h) Contracts for professional or technical services with private or public agencies not specifically authorized in any other section of title 38, United States Code, may be acquired under 38 U.S.C. 213 and negotiated under FPR 1-3.204 when the cost of such services will exceed \$2,500. Contracts of this nature must meet the requirements of FPR 1-3.204(a). The approval of the appropriate department or staff head will be secured before any contract is negotiated under this authority.

PART 8-7—CONTRACT CLAUSES

5. In § 8-7.150-6(a), the clause is amended to read as follows:

§ 8-7.150-6 Frozen processed foods.

FROZEN PROCESSED FOODS

The products delivered under this contract shall be in excellent condition, shall not show evidence of defrosting or refreezing, and shall be transported and delivered to the consignee at a temperature of zero degrees Fahrenheit or lower.

6. In § 8-7.150-19, paragraph (c) of the clause is amended to read as follows:

§ 8-7.150-19 Affirmative action compliance program.

Invitations for bids and requests for proposals that will result in a supply or service (excluding construction) contract of \$50,000 or more will contain the following:

(c) Clause 6 of Standard Form 33 is amended to include the following:

The bidder (or offeror) represents that (1) he ☐ has developed and has on file ☐ has not developed and does not have on file at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (2) he ☐ has not previously had contracts subject to the written affirmative action program requirement of the rules and regulations of the Secretary of Labor.

PART 8-14—INSPECTION AND ACCEPTANCE

7. A new § 8-14.105-52 is added and former § 8-14.105-52 is redesignated § 8-14.105-53 so that §§ 8-14.105-52 and 8-14.105-53 read as follows:

§ 8-14.105-52 Waiver of USDA inspection and specifications.

(a) Contracting officers may purchase butter; cheese (except cottage cheese); sausage; meat food products; bacon, smoked; and bacon, Canadian style, without reference to the specifications in VAPR Program Guide G-1, and the U.S. Department of Agriculture (USDA) inspection requirements of VA Form 10-1365, when the amount of an item to be purchased will not exceed 500 pounds per delivery. When these items are procured together with items that are not exempt the solicitation shall include the following:

Items ----- are not required to be in accordance with the specifications contained in VAPR Program Guide G-1, nor is the special USDA inspection required. Inspection for quality and condition will be made by VA upon delivery at destination. These items are, however, subject to the quality controls stated herein.

(b) As appropriate the following statements shall be included in each invitation for bid, request for proposal or purchase order.

(1) *Butter.* This product must be graded by the USDA and labeled "Grade A" or the grade specified herein.

(2) *Sausage and meat food products.* (i) This product must be a high com-

mercial product and shall have been prepared in a federally inspected plant and bear the USDA establishment number stamp which evidences that it is sound, healthful, wholesome, and fit for human consumption; and

(ii) This product must bear a label complying with the Federal Food, Drug and Cosmetic Act, which requires that all ingredients be listed according to the order of their predominance.

(3) *Bacon, smoked and bacon, Canadian style.* This product must be a high commercial product and shall have been prepared in a federally inspected plant and bear the USDA establishment number stamp which evidences that it is sound, healthful, wholesome, and fit for human consumption.

(c) When using a "brand name or equal" purchase description every brand name item that is known to be acceptable and available in the area will be listed.

§ 8-14.105-53 Supply depot selection of samples for test.

(a) The number of samples to be selected will be as stated in the item specifications or as specified by the contracting officer for items without lot numbers.

(b) On items bearing lot numbers, one unit will be selected from each lot to be tested, unless otherwise specified. Contracts will require that the contractor's shipping document or packing list indicate the lot numbers of items shipped to each depot and subdepot on the contract. To reduce handling and transportation costs, samples of lots received at more than one location will be submitted as follows:

(1) The VA Supply Depot, Hines, Ill., will submit samples from all lots received.

(2) The VA Supply Depot, Somerville, N.J., will submit samples from lots not received at Hines.

(3) The VA Subdepot, Bell, Calif., will submit samples from lots not received at Hines or Somerville.

(c) On drug items, when there is only one unit in the lot to be tested or when five or more lots on the same order require sampling, the contracting officer will be notified and requested to furnish instructions. Such notification will be transmitted by teletype.

(d) To facilitate handling and packing, samples may be consolidated into one package. However, under no circumstances will shipment of samples be held more than 48 hours from time of receipt.

PART 8-52—CONTRACT ADMINISTRATION

8. In § 8-52.106, paragraph (c) is amended to read as follows:

§ 8-52.106 Representatives of contracting officers: receipt of equipment, supplies, and nonpersonal services.

(c) The Chief, Stock Control Division, VA Supply Depot, Hines, Ill., is hereby designated as the representative of each contracting officer and purchasing agent

of the various marketing divisions of the VA Marketing Center, Hines, Ill., for the purpose of accepting, on behalf of the Veterans Administration, items purchased for stock. The Chief, Stock Control Division, may designate one or more employees of the Incoming Property Section, Supply Control Division, to represent him and authority is hereby delegated to such designees to accept such property on behalf of the Veterans Administration. Designations will be confined to those employees to whom such responsibility has been assigned by their position descriptions. The Chief, Fiscal Division, will be furnished a list of such designees. Where inspection for compliance with specifications, purity, quality, or other element must be made by the Service and Reclamation Division or other testing agency, acceptance will be contingent upon receipt of a properly prepared inspection report.

PART 8-75—DELEGATIONS OF AUTHORITY

9. Sections 8-75.201-5 and 8-75.201-6 are revised to read as follows:

§ 8-75.201-5 Construction contracts; field stations, supply depots.

The Chief, Supply or Business Services Division at a field station, the Manager, VA Supply Depot, and any employee designated by them in accordance with § 8-75.101(b) are authorized to execute, award, and administer contracts for construction projects assigned by the Chief Medical Director, under delegation of the Assistant Administrator for Construction, or those accomplished with station or depot funds. Contracting officers, in executing, awarding, and administering construction contracts, including those for maintenance and repair projects, will be guided by Federal Procurement Regulations, Veterans Administration Procurement Regulations, and procedures established by the Assistant Administrator for Construction.

§ 8-75.201-6 Printing and binding.

Authority to execute, award, and administer contracts, purchase orders and agreements, involving the expenditure of funds, for the acquisition of printing and binding is delegated to the Director, Publications Service, Administrative Services, Central Office.

10. In § 8-75.201-8, paragraph (a) is amended to read as follows:

§ 8-75.201-8 Issue of Government bills of lading—Transportation of property.

(a) Authority to issue and sign Government bills of lading for the transportation of supplies, material, and equipment is delegated to the following:

- (1) Chiefs, Transportation Sections, VA Supply Depots.
- (2) Chief, Warehouse Section, VA Forms and Publications Depot.
- (3) Traffic Manager, Department of Medicine and Surgery, Central Office.

11. Section 8-75.201-10 is revised to read as follows:

§ 8-75.201-10 Architectural and engineering services; field stations, supply depots.

The Chief, Supply or Business Services Division at a field station, the Manager, VA Supply Depot, and any employee designated by them in accordance with § 8-75.101(b) are authorized to execute, award, and administer contracts for the acquisition of architectural and engineering services when the cost of such services are chargeable to station or depot funds.

12. In § 8-75.201-12, paragraph (a) is amended to read as follows:

§ 8-75.201-12 Loan guaranty program.

(a) The authority to execute, award, and administer contracts, purchase orders, and other agreements for the expenditure of funds for supplies or services for the maintenance, protection, repair, rehabilitation, enlargement, completion, conversion, or demolition of properties acquired under chapter 37, title 38, United States Code, is delegated to:

- (1) Chief Benefits Director.
- (2) Director, Loan Guaranty Service.
- (3) Director, Regional Office.
- (4) Director, Veterans Benefits Office (Washington, D.C.).
- (5) Loan Guaranty Officer.
- (6) Assistant Loan Guaranty Officer.

(Sec. 205(c), 63 Stat. 389, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114; 38 U.S.C. 210(c))

These regulations are effective August 19, 1971.

Approved: June 21, 1971.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.
[FR Doc. 71-9143 Filed 6-28-71; 8:48 am]

Chapter 114—Department of the Interior

PART 114-26—PROCUREMENT SOURCES AND PROGRAMS

Procurement Sources Other Than GSA

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 (Supp. V, 1965-69) and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c), Chapter 114, Title 41 of the Code of Federal Regulations, is amended by the addition of the following new subpart.

This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (6-29-71).

RICHARD R. HITE,
Deputy Assistant Secretary
of the Interior.

JUNE 21, 1971.

Subpart 114-26.6—Procurement Other Than GSA

Sec.
114-26.600-50 Procurement of tax free alcohol.
114-26.600-51 Procurement of bench marks and corner markers.

AUTHORITY: The provisions of this Subpart 114-26.6 issued under 5 U.S.C. 301, Supp. V, 1965-69; sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114-26.6—Procurement Sources Other Than GSA

§ 114-26.600-50 Procurement of tax free alcohol.

The Internal Revenue Service has issued permits for the purchase of tax free alcohol and specially denatured spirits for use in the United States and the Territories and possessions. The following is a list of the current permits and the names and address of the manufacturers from whom such items should be procured:

Manufacturer	Tax free permit
U.S. Industrial Chemicals, Inc., Division of National Distillers Products Corp., Industrial Alcohol Bonded Warehouse No. 112, Anaheim, Calif.	US-TF-137
U.S. Industrial Chemicals, Inc., Division of National Distillers Products Corp., Industrial Alcohol Bonded Warehouse No. 7, Boston, Mass.	US-TF-138
U.S. Industrial Chemicals, Inc., Division of National Distillers Products Corp., Industrial Alcohol Bonded Warehouse No. 2, New Orleans, La.	US-TF-139
Publisher Industries, Inc., Industrial Alcohol Bonded Warehouse No. 160, Philadelphia, Pa.	US-TF-140
Commercial Solvents Corp., Industrial Alcohol Bonded Warehouse No. 25, Agnew, Calif.	US-TF-141
Shell Chemical Corp., Industrial Alcohol Bonded Warehouse No. 224, Culver City, Calif.	US-TF-142
U.S. Industrial Chemicals Co., Division of National Distillers & Chemical Corp., Industrial Alcohol Bonded Warehouse No. 418, Tuscola, Ill.	US-TF-143
U.S. Industrial Chemicals Co., Division of National Distillers Products Corp., Industrial Alcohol Bonded Warehouse No. 158, Newark, N.J.	US-TF-144
Carbide & Carbon Chemicals Co., Industrial Alcohol Bonded Warehouse No. 218, Whiting, Ind.	US-TF-145
California Packing Corp., Industrial Alcohol Bonded Warehouse No. 77, Honolulu, Hawaii.	US-TF-146
	Specially Denatured Permit
U.S. Industrial Chemicals Co., Division of National Distillers Products Corp., Anaheim, Calif.	US-SDS-74
Commercial Solvents Corp., Agnew, Calif.	US-SDS-75
Commercial Solvents Corp., Terre Haute, Ind.	US-SDS-76

Requests for any additional permits should be submitted through Bureau channels to the Director of Management Operations, Office of the Assistant Secretary for Administration, for transmittal to the Internal Revenue Service.

§ 114-26.600-51 Procurement of bench marks and corner markers.

The minimum standard lettering to be used to identify all bench mark tables is as follows:

U.S. DEPARTMENT OF THE INTERIOR
Height of lettering: 1/4"
Width of letters at surface: .040"
UNLAWFUL TO DISTURB
Height of lettering: 1/4"
Width of letters at surface: .030"

Exceptions to the use of the foregoing lettering will be granted only where special circumstances warrant exemption. Requests for such exemption shall be transmitted through Bureau Channels to the Director, Office of Management Operations, Office of the Assistant Secretary for Administration.

[FR Doc. 71-9110 Filed 6 28 71; 8:45 am]

Title 44—PUBLIC PROPERTY AND WORKS

Chapter VII—Department of Housing and Urban Development (Community Facilities)

[Docket No. R-71-122]

PART 707a—EVALUATION OF PRELIMINARY APPLICATIONS FOR BASIC WATER AND SEWER FACILITIES GRANTS

This part sets forth the criteria and procedures used in evaluating preliminary applications by local public bodies and agencies for Federal grants for basic water and sewer facilities under section 702 of the Housing and Urban Development Act of 1965. Such initial evaluation is necessary because applications for assistance exceed the available funds for grants for eligible water and sewer facilities. Further procedures necessary before an applicant may receive such a grant are not described in this part.

Since present procedures for evaluating preliminary applications in this program expire June 30, 1971, it is found that notice and public procedure under the Department policy (24 CFR Part 10) are impracticable, and this regulation should be made effective July 1, 1971, in the public interest.

Accordingly, Chapter VII of Title 44 of the Code of Federal Regulations is amended by adding Part 707a, to read as follows:

Sec.
707a.1 Scope.
707a.2 Definitions.
707a.3 Preliminary applications for assistance.
707a.4 Criteria for evaluating preliminary applications.
707a.6 Orderly growth and development.
707a.8 Financial need.

707a.10 Housing.
707a.12 Health.
707a.14 Local job and business opportunities.
707a.16 Community development.
707a.18 Further application procedures.

AUTHORITY: The provisions of this Part 707a issued under secs. 702 and 705, 79 Stat. 490, 492; 42 U.S.C. 3102, 3105.

§ 707a.1 Scope.

This part sets forth the criteria and procedures used in evaluating preliminary applications for Federal grant assistance to local public bodies and agencies for basic water and sewer facilities under the Act. The evaluation of preliminary applications described in this part does not result in a final decision by the Secretary to extend grant assistance to particular projects for the construction of such facilities. Further application procedures are described in § 707a.18.

§ 707a.2 Definitions.

The terms "Act", "development cost", "local public bodies and agencies", "Secretary", and "State" shall have the meanings given in § 707.2 of this chapter.

§ 707a.3 Preliminary applications for assistance.

(a) Preliminary applications for grants for water and sewer facilities shall be submitted on Standard Form 101, to the appropriate HUD regional or area office having jurisdiction over the geographic area involved in the application. Copies of this form may be obtained on request from the regional or area office.

(b) In general, Standard Form 101 requests the legal name and address of the applicant (an eligible local public body or agency); a brief description of the proposed project and its purpose; a list of the localities to be served; the public interest and necessity for the project; and the proposed method of financing including the total project cost and the grant amount requested.

§ 707a.4 Criteria for evaluating preliminary applications.

Criteria for evaluating preliminary applications are divided into the following major categories:

- (a) Orderly growth and development.
- (b) Financial need.
- (c) Housing.
- (d) Health.
- (e) Local job and business opportunities.
- (f) Community development.

The elements considered in each category are described in the following sections, and the method of assigning rating points to each element or category is set forth. Points are awarded to each element or category in the following manner unless otherwise specifically indicated: If a statement under a particular element or category applies specifically to the project application under consideration, the application is awarded the number of points assigned to that statement. If no statement applies, no

points are awarded to the application for that element.

§ 707a.6 Orderly growth and development.

(The value of this category is the sum of the values of paragraphs (a) to (d) of this section.)

(a) Service area need. (Select one):

- (1) Is to rehabilitate an existing system with no increase in the area served. 1
- (2) Is to increase the existing area served with or without rehabilitation of the existing system. 5
- (3) Is to provide a basic system for a community which is presently unserved. 10

"Service area" means the total geographic area for which the applicant has legal responsibility to provide services and facilities. "Rehabilitation" refers only to major items of construction; it does not include normal maintenance and repair. The phrase "increase the area served" refers to the provision of facilities in those portions of the service area which are not currently part of the existing system. A "basic system" is one which provides facilities within the service area where no facilities currently exist, but existing or proposed supporting facilities, e.g., water supply or sewage treatment, may be provided by other units of government.

(b) Capacity for future growth. (Select one):

- (1) The project provides for the reasonable foreseeable growth needs of the area. 1
- (2) The project provides for the reasonable foreseeable growth needs of the area in addition to providing for an anticipated urgent need of the applicant in the next 2 to 5 years. 5
- (3) The project provides for the reasonable foreseeable growth needs of the area in addition to meeting an immediate critical need. 10

"Reasonable foreseeable growth needs" are determined by the applicant as reflected in the functional planning and programming for the area. "Urgent need" refers to a need which, if not corrected in the next 5 years, can be expected to result in a critical need. A "critical need" refers to a need that should be satisfied immediately, e.g., a desperate need for water including any need to import water, or a need to control frequent inundations or to eliminate sources of epidemics.

(c) Planning and programming.

If the statement of goals and objectives prepared by the area-wide planning organization has been endorsed or adopted, as provided by State law, by the unit(s) of general-purpose government for the area in which the project is located, the application will be awarded the following number of points: 5

(d) State and regional/metropolitan clearinghouse concern.

If the proposed project has high priority for the State or regional/metropolitan program, based on the State or regional/metropolitan clearinghouse review and comment, the application will be awarded the following number of points: 5

§ 707a.8 Financial need.

(Value of this category is the sum of the values of paragraphs (a) to (c) of this section.)

- (a) If the project cannot be financed without the requested Federal assistance, the application will be awarded the following number of points --- 5

Ability to finance the project on the basis of revenue bonds is computed at 6 percent interest over 25 years. If the estimated net revenue in an average year exceeds the total debt service costs for that year by a factor of 1.25, it is assumed that the project can be financed without the requested Federal aid, and the points will not be awarded.

(b) Relative median family income: The median family income of the service area of the proposed project compared to the median family income of the State in which the project is to be located is: (Select one):

- (1) \$501-\$1,500 above 2
(2) \$1-\$500 above 4
(3) \$0-\$500 below 6
(4) \$501-\$1,500 below 8
(5) \$1,501 or more below 10

Median family incomes for the service area and the State are to be obtained by utilizing the City-County Data Book or other census data. In those instances where the median family income for the area as determined from the source material appears inconsistent with the Department's knowledge of the community, adjacent area median family incomes will be considered.

(c) Non-Federal financial aid: (Value of this element is the sum of the values of (1) and (2).)

- (1) State assistance (grant and/or loan) is being provided to assist in project financing 3
(2) Units of government other than the applicant and a State are providing financial assistance for the project 2

Financing by other units of governments includes grants, loans, or contributions to the construction of the project by units of general- or special-purpose governments other than the applicant and a State.

§ 707a.10 Housing.

(The value of this category is the sum of the values of paragraphs (a) and (b) of this section.)

(a) Decent, safe, and sanitary housing. (Value of this element is the sum of the values of subparagraphs (1) to (3) of this paragraph.)

The project is necessary for the—

- (1) Maintenance of existing decent, safe and sanitary housing 2
(2) Maintenance of existing, or assistance to proposed, decent, safe, and sanitary low and moderate income housing 3
(3) Assistance of significant areas of housing that is less than decent, safe, and sanitary 2

"Decent, safe, and sanitary housing" refers to housing that is in accordance with local housing standards in the area in which the project is to be located. "Low- and moderate-income housing" refers to housing with a fair market value that is equal to or less than the

resultant of multiplying the section 235-236 maximum income for a family of four, as established by the Secretary for the county in which the project is located, by a factor of 3. "Low- and moderate-income housing" also refers to housing with an annual rental equal to or less than one-third of such section 235-236 maximum income.

(b) Accessibility of housing. (Select one):

Percent of housing in project area that will be accessible on a nondiscriminatory basis to families and individuals with low and moderate income is:

- (1) 81-100 percent 10
(2) 61-80 percent 8
(3) 41-60 percent 6
(4) 21-40 percent 4
(5) 20 percent or less 2

As used herein, "nondiscriminatory" means free of legal or social constraints arising from race, creed, color, and national origin.

§ 707a.12 Health.

The proposed project is necessary for: (Select one):

- (a) Elimination of a potential public health hazard 6
(b) Elimination of a demonstrated public health hazard 12
(c) Elimination of a critical health hazard 18

A "potential public health hazard" refers to a hazard which if not corrected can be expected to result in a dangerous lowering of environmental quality and health standards; e.g., malfunctioning septic tanks, polluted individual wells, or areas subject to inundation not more often than every 5 years but at least once every 10 years. A "demonstrated public health hazard" refers to hazards from existing sources which if not corrected, could result in disease of epidemic proportions (which sources are evidenced by epidemiological studies and reports), contamination of domestic water sources from any cause, the need to import water for any cause, and the inundation of the area more frequently than every 5 years. A "critical public health hazard" refers to a demonstrated public health hazard which must be resolved immediately, e.g., a desperate need for water, control of demonstrated causes of diseases of epidemic proportions, and the inundation of the area more frequently than once per year.

§ 707a.14 Local job and business opportunities.

(Value of this category is the sum of paragraphs (a) to (e) of this section.)

- (a) The project is needed for existing or proposed commercial or industrial development 2
(b) During the construction phase of the project, on-the-job training activities will be provided 2
(c) The project will provide job opportunities for underemployed and unemployed persons 2
(d) The project has provisions for small business participation 2
(e) The project has provisions for minority business participation 2

"On-the-job training" refers to union or government sponsored apprenticeship or similar training programs. "Small businesses" refers to those contractors, including supply contractors, whose contractual abilities are limited to \$125,000 or less. In addition to information furnished on SF-101, the relationship of the project to commercial or industrial development in the area will be taken into account.

§ 707.16 Community development.

The degree to which the project is necessary for undertaking other publicly supported community development activities 1 to 5

"Community development activities" refers to those publicly supported physical development activities and those related social or economic development activities being carried out or to be carried out within a reasonable period of time in accordance with a locally determined or areawide plan or strategy. Factors taken into consideration may include the project's responsiveness to local needs and objectives, the economies possible through coordinated or joint action, and the degree of support by the appropriate unit(s) of local general-purpose government.

§ 707a.13 Further application procedures.

(a) Preliminary applications that receive a comparatively high rating are placed on the potential project list by the regional or area office having jurisdiction over the geographic area to which the application relates. Then, depending upon the relative rating of the preliminary application among other such applications submitted to the area or regional office within any given period, the applicant may be asked to submit further application material, with supporting documentation, so that a final decision on the grant may be reached. Such application material is subject to further reviews to determine compliance of the application with basic eligibility and technical requirements.

(b) The relative rating of the preliminary application and remedial action by applicants are determined as follows: A minimum value that will permit funding within the area office is to be determined on the basis of aggregate scores of rated applications. When an SF-101 falls to receive the prescribed score for inclusion of the project on the potential project list, the application and supporting documents will be returned to the applicant with advice as to areas of deficiency. Remedial action regarding the deficiencies must be undertaken before the proposal may be reconsidered.

Effective date. This regulation is effective July 1, 1971.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-9178 Filed 6-28-71;8:51 am]

Title 45—PUBLIC WELFARE

Chapter IX—Administration on Aging, Social and Rehabilitation Service, Department of Health, Education, and Welfare

PART 903—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR THE AGING

Miscellaneous Amendments

Notice of proposed regulations for the programs administered under title III, of the Older Americans Act of 1965, as amended, with respect to Areawide Model Projects on Aging and related amendments to existing regulations were published in the FEDERAL REGISTER on May 13, 1971 (36 F.R. 8816). After consideration of the views presented by interested persons, no changes have been considered necessary. Accordingly, Chapter IX is amended as set forth below.

Part 903 of Chapter IX, Title 45 of the Code of Federal Regulations is amended as set forth below.

1. Sections 903.1—903.49 are designated as "Subpart A—The State Plan."
2. Section 903.6 is revised to read as follows:

§ 903.6 Withholding of funds.

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of a State plan approved under Title III of the Act, finds that (a) the State plan no longer complies with the provisions of the Act, or (b) in the administration of the plan there is a failure to comply substantially with any such provision, the Secretary shall notify such State agency that no further payments will be made to the State in connection with the State plan under Title III of the Act (or in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied no further payments shall be made to such State in connection with the State plan under Title III of the Act (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

3. Section 903.17 is revised to read as follows:

§ 903.17 Fiscal administration.

The State plan shall provide for such accounting systems and procedures as are adequate to control and support all fiscal activities carried on in connection with the State plan under Title III of the Act. The State plan shall provide for the maintenance by the State agency, and all community project grantees, of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the

Federal grants, including the disposition of all moneys received and the nature and amount of all charges claimed to lie against the allotments to the States.

§§ 903.20, 903.23 [Amended]

4. In §§ 903.20(f) and 903.23, the dates for completion of the Study of Status and Needs and Report on Aging are changed from "July 1, 1971" to "December 31, 1971."

5. A new Subpart B is added to Part 903 to read as follows:

Subpart B—Areawide Model Projects on Aging

- Sec.
903.70 General.
903.71 Program objective.
903.72 Conditions for approval of awards.
903.73 Categories of older persons.
903.74 Eligible applicants and review of applications.
903.75 Awards.
903.76 Project revisions.
903.77 Program evaluation.
903.78 Payments.
903.79 Termination.
903.80 Reports.
903.81 Expenditures.
903.82 Audits.
903.83 Contracts.

AUTHORITY: The provisions of this Subpart B issued under sec. 101 et seq., 79 Stat. 218-226, 81 Stat. 106-108, 82 Stat. 1101, 83 Stat. 108-115; 42 U.S.C. 3001 et seq.

Subpart B—Areawide Model Projects on Aging

§ 903.70 General.

Through grants to or contracts with State agencies as designated under § 903.10, the Commissioner is authorized to pay not more than 75 per centum of the cost of the development and operation of statewide, regional, metropolitan area, county, city, or other areawide model projects for carrying out the purpose of Title III of the Act to be conducted by State agencies either directly or through contractual arrangements. Sections 903.71—903.82 deal with grants and § 903.83 with contracts.

§ 903.71 Program objective.

The objective of the Areawide Model Project on Aging program is to determine in geographic areas of high priority the needs of the elderly citizens, to satisfy these needs on a priority basis, and to change those conditions which either directly or indirectly pose significant barriers to those older persons who desire to live independently in the community and to participate in a full and meaningful way in community life.

§ 903.72 Conditions for approval of awards.

(a) Each application under this subpart submitted by a State agency shall include only one Areawide Model Project.

(b) Consideration will be given under this subpart only to those applications submitted by State agencies which:

- (1) Establish that the area chosen for the conduct of the project contains large numbers of older persons, including

a high percentage of individuals of low income;

(2) Provide for the designation of a suitable local agency of general purpose government, a local private nonprofit agency, or other local agency or entity approved by the Administration on Aging to conduct the project if the project is not to be conducted directly by the State agency, and set forth the contractual arrangement between the State agency and the local agency with respect to the conduct of the project. Such local agency must have the capacity to achieve the objective of the project throughout the area;

(3) Provide for the formation of a task force comprised of older persons and representatives of the major public and private agencies of the area having programs affecting the elderly; and for quartering of such task force in or by the local agency designated for the project, if any. Such task force shall assist in the development and implementation of the project which shall include the following functions:

(i) Identification of or updating data on the specific needs of the elderly of the area, and listing such needs in order of priority;

(ii) Planning on behalf of the elderly on an ongoing basis;

(iii) Development of a plan of action containing innovative program designs or alternative solutions, with special emphasis on cooperative and combined agency activity and joint funding arrangements, for meeting the objectives of the Areawide Model Project program and the highest priority needs of the elderly identified; and

(iv) Implementation of the plan developed on behalf of all older persons of the area having need for such services or activities specified in the plan.

(4) Propose to utilize to a maximum extent the existing public and private resources of the area to meet the needs and problems of the elderly which have been identified;

(5) Contain commitments from public and private agencies for joint and cooperative activities by such agencies to a maximum extent possible in the planning and implementation of the plan, including joint funding;

(6) Contain recognition for the project from the major political jurisdiction of the area;

(7) Provide for the use of State financial resources, wherever available, for meeting part of the cost of the project;

(8) Provide for the interrelationship of the project proposed with other related comprehensive planning or service delivery efforts of the area (if any);

(9) Provide for the employment by the State agency of a qualified staff person who will work full time, in providing leadership, technical assistance, and support to the Areawide Model Projects in the State;

(10) Provide that there will be a qualified staff person employed full time at the project level by the State agency or

by the designated local agency, if any, to coordinate the activities of the task force and to direct the implementation of the plan developed under subparagraph (3) (ii) of this paragraph, and the employment of such additional staff members as may be necessary to operate the project; and

(11) Set forth a budget containing proposed estimated expenditures for a budget period covering 12 months of project operations.

§ 903.73 Categories of older persons.

The plan proposed under § 903.72 must have as its goal that services or activities of the project be available and accessible to all older persons of the project area having need for such services or activities. Provision must be made for special efforts to reach low income older persons having need for such services.

§ 903.74 Eligible applicants and review of applications.

(a) Any State agency designated under § 903.10 may file an application for an Area-wide Model Project on Aging with the Commissioner. Such application shall be submitted in writing and in accordance with guidelines issued by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(b) Applicants may be requested to submit additional information while a project application is being considered by the Administration on Aging. All applications which meet the legal requirements for an award will be considered for funding. The Commissioner will determine the action to be taken with respect to each application and notify the applicant accordingly in writing.

§ 903.75 Awards.

Within the limits of funds available for such purpose, the Commissioner will award a grant to those applicants whose proposed projects will, in his judgment, best promote the purposes of title III of the Act and the objectives set forth in this subpart. All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support within the project period, grantees must make separate application in accordance with the guidelines established.

§ 903.76 Project revisions.

Projects shall be conducted in accordance with the provisions of the application as it is approved. A project grantee shall request in writing that a project be revised whenever it is proposed that the approved plan of operation or method of financing will be materially

changed. The request for revision shall be submitted for approval in the same manner as the original application. Project revisions may be initiated by the Commissioner, if, on the basis of reports, it appears that the project is ineffective, or if changes are made in Federal appropriations, laws, regulations, or policies governing Area-wide Model Projects.

§ 903.77 Program evaluation.

The plan developed under an Area-wide Model Project must propose a feasible plan, including participation in a national evaluation of the Area-wide Model Project program, to evaluate the extent to which the objectives set forth under this subpart are being met, and the impact of the program on the lives of the elderly in the project area.

§ 903.78 Payments.

The Commissioner shall from time to time make payments to a grantee of all or a portion of any grant award either in advance or by way of reimbursement for expenses to be incurred or incurred in the project period, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project. All such payments shall be recorded by the grantee in accounting records separate from all other fund accounts, including funds derived from other grant awards. Amounts paid shall be available for expenditure by the grantee in accordance with the regulations of this subpart throughout the project period subject to such limitations as the Commissioner may prescribe.

§ 903.79 Termination.

A grant may be terminated in whole or part at any time at the discretion of the Commissioner. Noncancelable obligations properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

§ 903.80 Reports.

The grantee shall make such reports to the Commissioner including reports of findings and results of evaluation, in such form and containing such information as may reasonably be necessary to enable him to perform his functions under this subpart and shall keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 903.81 Expenditures.

Grants under this subpart will be available to pay not to exceed 75 per centum of the costs of the project necessary to carry out the objectives set forth under this subpart and in keeping with policies set forth in Bureau of the Budget Circular A-87, or its revision.

§ 903.82 Audits.

All fiscal transactions by a grantee relating to grants under section 305 of the Act are subject to audit by the Department to determine whether expenditures

have been made in accordance with the Act and this subpart.

§ 903.83 Contracts.

(a) **Eligibility.** Subject to applicable provisions in this subpart, the Commissioner is authorized to make contracts with State agencies designated under § 903.10 to carry out the purposes of Title III and section 305 of the Act.

(b) **Provisions.** Any contract under this subpart shall be entered into in accordance with, and shall conform to all applicable laws, regulations and Department policy.

(c) **Payments.** Payments under any contract under this subpart may be made in advance or by way of reimbursement and in such installments and on such conditions as the Commissioner may determine.

(Sec. 101 et seq., 79 Stat. 218-226, 81 Stat. 106-108, 82 Stat. 1101, 83 Stat. 108-115; 42 U.S.C. 3001 et seq.)

Effective date. These amendments shall become effective on the date of publication in the FEDERAL REGISTER (6-29-71).

Dated: June 14, 1971.

JOHN D. TWINAME,
Administrator, Social and
Rehabilitation Service.

Approved: June 25, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc. 71-9252 Filed 6-28-71; 8:52 am]

PART 906—RETIRED SENIOR VOLUNTEER PROGRAM

Notice of proposed regulations for the Retired Senior Volunteer Program, authorized under section 601 of the Older Americans Act, as amended, was published in the FEDERAL REGISTER on May 7, 1971 (36 F.R. 8525). After consideration of the views presented by interested persons, certain changes have been made as listed below and the proposed regulations, as changed, are hereby adopted:

1. Section 906.16 has been revised to expand the variety of advisory committee membership.

2. Section 906.20 now requires assurance of safety standards.

3. Section 906.21 has been changed to provide for insurance protection by the grantee for volunteers, in accordance with instructions to be issued by the Commissioner on Aging.

4. Minor clarifying and editorial changes have been made.

Part 906 of Chapter LX, Title 45, of the Code of Federal Regulations is revoked, and a new Part 906 with content related to the Revised Senior Volunteer Program is added to read as set forth below:

PURPOSE	
Sec.	Purpose.
906.1	Purpose.
906.2	Nature of program.
GRANTS	
906.3	Eligibility.
906.4	Applications.

Sec.	Purpose.
906.5	Cost sharing.
906.8	Awards.
906.7	Payments.
906.8	Expenditures and fiscal procedures.
906.9	Audits.
906.10	Records and reports.
906.11	Termination.

PROGRAM OPERATION

906.15	Volunteer stations.
906.16	Advisory Committee.
906.17	Volunteers.
906.18	Expenses of volunteers.
906.19	Training of staff and volunteers.
906.20	Safety standards.
906.21	Insurance.

CONTRACTS

906.30	Eligibility.
906.31	Provisions.
906.32	Payments.

AUTHORITY: The provisions of this Part 906 issued under sec. 101 et seq., 79 Stat. 218-226, 81 Stat. 106-108, 82 Stat. 1101, 83 Stat. 108-115, 42 U.S.C. 3001 et seq.

PURPOSE

§ 906.1 Purpose.

The purpose of the Retired Senior Volunteer Program is to develop a recognized role in the community and a meaningful life in retirement for older adults through significant volunteer service.

§ 906.2 Nature of program.

A Retired Senior Volunteer Program arranges varied opportunities for retired persons, age 60 and over, to serve as volunteers for the betterment of their community and themselves, with reimbursement for out-of-pocket expenses. It is organized and operated with Federal and non-Federal support in accord with the Retired Senior Volunteer Program Guide published by the Commissioner. The program is directed and coordinated in a community or service area by competent staff with the support of a local Retired Senior Volunteer Program Advisory Committee. The community or service area is defined in the approved grant application. Senior volunteers, aided by appropriate assignment, instruction and supervision, serve at a variety of volunteer stations, such as schools, courts, day care centers, hospitals, welfare agencies, nursing homes and institutions. Senior volunteers do not displace employed workers nor impair existing contracts for services. Awards and recognition appropriate to their service are given to senior volunteers.

GRANTS

§ 906.3 Eligibility.

Grants may be made to State agencies designated under § 903.10 of this chapter or other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer programs under this part, as determined by the Commissioner.

§ 906.4 Applications.

(a) An application under this part shall include information needed by the Commissioner to support findings that

the requirements of section 601 of the Act will be met, as required in the various other sections of this part.

(b) In addition, an application will include:

(1) General goals for the proposed program, consistent with the purpose of this part.

(2) Individual objectives to be achieved during the projected budget period in support of the stated goals.

(3) A detailed budget and budget item justification.

(4) An explicit plan for maximizing non-Federal support of the program budget.

(5) Duties of projected staff positions and qualifications required for incumbents of the positions.

(6) Ways in which active coordination is to be established with other volunteer and aging related agencies and organizations, including the State agency.

(7) Membership and functions of a Retired Senior Volunteer Program Advisory Committee.

(8) Geographical boundaries to be served by the program.

(9) Copies of proposed or existing agreements with agencies or volunteer stations using senior volunteers.

(10) Available data on the population, age 60 and over, in the proposed service area.

(11) Existing senior volunteer service opportunities and those projected for development.

(12) Other information required by the Commissioner.

(c) The application shall be executed by a person authorized to act for the applicant, and to assume on behalf of the applicant the obligations imposed by the terms and conditions of an award, including the regulations in this part.

(d) A copy of the application (other than one by the State agency) shall be submitted by the applicant to the State agency which shall have 60 days after receipt to review it and make written recommendations to the Commissioner.

§ 906.5 Cost sharing.

Grant funds will pay part or all of the approved costs, as determined by the Commissioner, for development and operation of a Retired Senior Volunteer Program. In all cases, however, the applicant must demonstrate, through an acceptable plan, the intent to provide by a specified date and continue to develop non-Federal support in the form of cash or allowable in-kind contributions to the maximum extent permitted by local circumstances.

§ 906.6 Awards.

(a) Within the limits of funds available for the Retired Senior Volunteer Program, the Commissioner will award a grant to applicants whose proposals will in his judgment best serve the purposes of the program and this part. Awards will be in writing, specifying the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award.

(b) The initial grant award will specify the program period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees shall make separate application in accordance with the provisions of this part for each budget period.

(c) Awards will be made so as to achieve an equitable distribution of programs to the States from which applications eligible for funding are received.

§ 906.7 Payments.

Payments under this part pursuant to a grant may be made (after necessary adjustment, due to previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Commissioner may determine.

§ 906.8 Expenditures and fiscal procedures.

(a) All expenditures are to be made in accordance with the approved program budget and are subject to such limitations as are set forth in instructions issued by the Commissioner.

(b) Payments received and expenditures made shall be fully recorded by or for the grantee in accounting records separate from all other fund accounts, including funds derived from other grant awards.

(c) The grantee shall provide or arrange for fiscal control and accounting procedures necessary to assure proper disbursement of, and accounting for, Federal funds received. Accounts and supporting documents relating to program expenditures shall be adequate to facilitate an accurate audit.

§ 906.9 Audits.

All fiscal transactions relating to an award under this part are subject to audit by the Federal Government to determine whether or not expenditures have been made in accordance with the award and Federal requirements.

§ 906.10 Records and reports.

The grantee shall keep records and make reports as required and shall retain and afford access to the records in a manner determined necessary by the Commissioner to allow for verification. Accounting records shall be retained for the period specified in § 901.4 of this chapter.

§ 906.11 Termination.

A grant may be terminated in whole or in part at the discretion of the Commissioner. Noncancelable obligations properly incurred prior to receipt of the notice of termination will be honored. The grantee shall be promptly notified in writing of such termination and given reasons therefor.

PROGRAM OPERATION

§ 906.15 Volunteer stations.

(a) Volunteer stations are agencies, organizations or institutions which re-

celve senior volunteers from the Retired Senior Volunteer Program. Volunteer stations at which volunteers serve will be in the community where such persons live or in nearby communities. Volunteer services will be performed either on publicly owned and operated facilities or projects or on local projects sponsored by private nonprofit organizations (other than political parties) other than projects involving construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place of religious worship.

(b) Volunteer stations to which senior volunteers are assigned by the program shall be party to a memorandum of understanding executed with the grantee containing mutually agreeable provisions relating to functions and conditions of service of volunteers and to responsibilities of both the program and the volunteer station. The purpose of the memorandum of understanding is to promote cooperation, establish channels of communication, and avoid misunderstanding.

§ 906.16 Advisory Committee.

(a) A Retired Senior Volunteer Program Advisory Committee shall be established for each program, prior to filing of the program application, to give advice on planning of the program and on drafting of the application and, after funding of the program, to give the grantee support, assistance and advice on significant decisions and actions. Membership of the Advisory Committee shall consist of representation from volunteer stations, specialists in the field of aging and volunteerism, representation from major private organizations and public agencies concerned with the best interests of older adults and volunteers, and other citizens of the community able to make a substantial contribution to the program, including persons competent in the field of service being staffed. At least one-fourth of the membership shall be persons aged 60 and over and must include senior volunteers. The Committee shall have regularly scheduled meetings. Transportation costs for attendance at Committee meetings subsequent to the grant award shall be reimbursed in the same manner as for transportation of the program's volunteers.

(b) The grantee shall request assistance of the Committee to coordinate activities of the program with other volunteer and older persons programs. The grantee shall also request the Committee to evaluate progress of the program at regular intervals.

§ 906.17 Volunteers.

(a) Each Retired Senior Volunteer Program will be responsible for development of a variety of opportunities for useful service in the community commensurate with abilities, preferences and availability of senior volunteers from varied levels of income, education and experience.

(b) Eligibility requirements for service as a senior volunteer are that a person:

- (1) Be retired and age 60 or over,
- (2) Be physically and mentally able to serve,
- (3) Accept supervision as required,
- (4) Commit the necessary time to carry out the assigned volunteer functions, usually a given number of hours on a regular basis.

§ 906.18 Expenses of volunteers.

Volunteers will not be compensated for their services. Reimbursement may be provided to senior volunteers for necessary out-of-pocket expenses incurred during, or as a result of, assigned volunteer activities in accord with allowable expense reimbursement prescribed in the Retired Senior Volunteer Program Guide. Such reimbursement shall be made from funds of the program.

§ 906.19 Training of staff and volunteers.

The program budget shall include such short-term instruction or training as may be necessary to make the most effective use of the skills and talents of those persons who are participating in the administration of the program and volunteers, including payment of necessary and reasonable expenses of trainees incurred during training.

§ 906.20 Safety standards.

Adequate standards of safety to protect older persons serving as senior volunteers at various volunteer stations shall be assured by the grantee.

§ 906.21 Insurance.

Senior volunteers shall be provided insurance protection in relation to their volunteer assignments by the grantee, as established in the Retired Senior Volunteer Program Guide.

CONTRACTS

§ 906.30 Eligibility.

The Commissioner is authorized to make contracts to carry out the purpose of this part with a public or private nonprofit agency or organization (other than the State agency).

§ 906.31 Provisions.

Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations, and Department policy.

§ 906.32 Payments.

Payments for a contract under this part may be made in advance or by way of reimbursement and in such installments and on such conditions as the Commissioner may determine.

Effective date. These regulations shall be effective on date of publication in the FEDERAL REGISTER (6-29-71).

Dated: June 21, 1971.

JOHN D. TWINAME,
Administrator, Social and
Rehabilitation Service.

Approved: June 25, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-9253 Filed 6-28-71; 8:52 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 2-15; Notice 8]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Child Seating Systems

This notice amends Motor Vehicle Safety Standard No. 213, "Child Seating System", to allow additional forward horizontal movement of child seating systems, under test, when the vehicle seat is rearward of its forwardmost position. The amendment is intended to remove unjustified compliance burdens on child-seat manufacturers caused by certain vehicle seat belt configurations over which they have no control.

Motor Vehicle Safety Standard No. 213, specifying requirements for child seating systems, was issued March 23, 1970 (35 F.R. 5120), and amended September 23, 1970 (35 F.R. 14778) and April 10, 1971 (36 F.R. 6895). The standard presently limits the forward horizontal movement of a reference point on the torso block to 12 inches or less, when the torso block is installed in the child seating system and subjected to a 1,000-pound static force. Bolt Beranek and Newman, Inc. (on behalf of the Juvenile Products Manufacturers' Association) has requested that this requirement be changed in light of recent tests that have been conducted. It appears that in some cases involving late model passenger car front seats, the front outboard seat belt anchorage has been placed so that when the vehicle seat is adjusted to a rearward position, the angle of the seat belt is almost perpendicular to the floor when the belt is fastened. This angle, which the child seat manufacturer can in no way control, increases the forward movement of the torso block to more than 12 inches during the performance test.

The requirement for a maximum 12-inch forward movement is designed to limit as much as is practicable the forward movement of a child placed in a child seating system in the event of a crash. However, the distance between a child seat occupant and possibly injurious surfaces of the vehicle interior in front of the child increases as the vehicle seat is moved rearward. Thus the need to limit the forward horizontal movement to a fixed value, regardless of the adjusted position of the seat, is unwarranted in terms of the safety benefit achieved. The requirement of S4.11.1 (a) (3) of Standard No. 213, that the forward horizontal movement be limited to 12 inches or less, is hereby amended to allow for a greater forward movement than 12 inches when the vehicle seat is adjusted rearward of its forwardmost position, to the extent of the distance that the seat has been moved rearward.

In light of the above, paragraph S4.11.1 (a) (3) of Motor Vehicle Safety Standard No. 213, appearing at 49 CFR 571.21, is amended to read as follows:

(3) Restrict forward horizontal movement of the torso block reference point: (i) When the vehicle seat is in its forwardmost adjustment position, to not more than 12 inches;

(ii) When the vehicle seat is rearward of its forwardmost adjustment position, to not more than 12 inches plus the distance, measured horizontally, that the vehicle seat is rearward of its forwardmost adjustment position.

This amendment relieves restrictions presently contained in the standard, and imposes no additional burdens on manufacturers. Accordingly, good cause exists for an effective date less than 30 days from the date of issuance, and this amendment is effective upon publication in the FEDERAL REGISTER (6-29-71).

(Secs. 103, 112, 114, and 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. secs. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.51)

Issued on June 23, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

[FR Doc.71-9132 Filed 6-28-71; 8:47 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1074]

PART 1033—CAR SERVICE

Union Pacific Railroad Co. Authorized To Operate Over Certain Trackage of Burlington Northern, Inc.

At a session of the Interstate Commerce Commission, Railroad Service Board, held at its office in Washington, D.C., on the 23d day of June 1971.

It appearing, that because present routes and trackage of the railroads serving Connell, Wash., are inadequate to handle certain traffic of shippers located on the Burlington Northern Inc., when destined to points located on the Union Pacific in Idaho; that the Burlington Northern Inc., has consented to use of approximately 4,302 feet of its main and side tracks at Connell, Wash., by the Union Pacific Railroad Co.; that the Commission is of the opinion that operation by the Union Pacific Railroad Co. over this trackage of the Burlington Northern Inc., is necessary in the interest of the public and the commerce of the people, pending final disposition of the application of the Union Pacific Railroad Co., in Finance Docket No. 26685, for permanent authority to operate over this trackage; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1074 Service Order No. 1074.

(a) Union Pacific Railroad Co. authorized to operate over certain trackage of Burlington Northern Inc. The Union

Pacific Railroad Co. be, and it is hereby, authorized to operate over approximately 4,302 feet of main and side tracks of the Burlington Northern Inc., at Connell, Wash.

(b) Application. The provisions of this order shall apply to intrastate and foreign traffic, as well as to interstate traffic.

(c) Rules and regulations suspended. The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) Effective date. This order shall become effective at 11:59 p.m., June 30, 1971.

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10-17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9160 Filed 6-28-71; 8:50 am]

[5th Rev. S.O. 1061]

PART 1033—CAR SERVICE

Return of Hopper Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 3d day of June 1971.

It appearing, that an acute shortage of hopper cars exists on the railroads named in paragraph (a) (1) herein; that shippers located on the lines of these carriers are being deprived of hopper cars required for loading, resulting in an emergency, forcing curtailment of their operations, and thus creating great economic loss and reduced employment of their personnel; that hopper cars, after being unloaded, are being appropriated and being retained in services for which they have not been designated by the car owner; that present regulations and practices with respect to the use, supply, control movement, distribution, exchange, interchange, and return of hopper cars are ineffective. It is the opinion of the Commission that an emergency

exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1061 Service Order No. 1061.

(a) Regulations for return of hopper cars: Each common carrier by railroad subject to the Interstate Commerce Act, with the exception of those carriers named in Service Order No. 1043 (Service Order No. 1043 remains in effect, and carriers named therein must continue to comply with its provisions), shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty, except as otherwise authorized in subparagraphs (4), (5), and (6) of this paragraph, all hopper cars owned by the following railroads:

The Akron, Canton & Youngstown Railroad Co.
Reporting marks: ACY.
Burlington Northern, Inc.
Reporting marks: BN, CB&Q, GN, NP, SP&S.
Chicago & Eastern Illinois Railroad Co.
Reporting marks: C&EI.
Chicago, Rock Island and Pacific Railroad Co.
Reporting marks: RI.
The Colorado and Southern Railway Co.
Reporting marks: C&S.
Illinois Central Railroad Co.
Reporting marks: IC.
Fort Worth and Denver Railway Co.
Reporting marks: FW&D.
Missouri-Illinois Railroad Co.
Reporting marks: M-I.
Missouri-Kansas-Texas Railroad Co.
Reporting marks: MKT, BKT.
Missouri Pacific Railroad Co.
Reporting marks: MP.
St. Louis-San Francisco Railway Co.
Reporting marks: SLF.
Texas-New Mexico Railway Co.
Reporting marks: T-NM.
The Texas and Pacific Railway Co.
Reporting marks: T&P, TP.
Union Pacific Railroad Co.
Reporting marks: UP.

(2) The following companies will be considered as one railroad in the application of subparagraphs (1), (4), (5), and (6) of this paragraph:

Chicago & Eastern Illinois Railroad Co.
Missouri-Illinois Railroad Co.
Missouri Pacific Railroad Co.
The Texas and Pacific Railway Co.
Texas-New Mexico Railway Co.

(3) The following companies will be considered as one railroad in the application of subparagraphs (1), (4), (5), and (6) of this paragraph:

Burlington Northern, Inc.
The Colorado and Southern Railway Co.
Fort Worth and Denver Railway Co.

(4) Hopper cars described in subparagraph (1) of this paragraph may be loaded to stations on the lines of the owning railroad. Cars located at a point other

than a junction with the car owner shall not be backhauled empty, except for the purpose of loading to a junction with the car owner or to a station on the lines of the car owner.

(5) Except as authorized in subparagraph (6) of this paragraph, hopper cars described in subparagraph (1) of this paragraph, empty at a junction with the owner, must be delivered to the owner at that junction.

(6) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to and approval by R. D. Pfahler.

(7) Junction points with the car owner shall be those listed by the car owner in its specific registration in the Official Railway Equipment Register, ICC R.E.R. No. 379, issued by E. J. McFarland, or reissues thereof, under the heading "Freight Connections and Junction Points."

(8) In using hopper cars owned by railroads not listed in subparagraph (1) of this paragraph, the railroads named therein shall restrict the use of such cars to traffic destined to a station closer to the car owner than the station at which the car was loaded, or to traffic routed to stations on the lines of the car owner, or to a junction with the car owner.

(9) In determining distances to the car owner from points of loading or unloading, tariff distances applicable via the lines of the carriers obligated under Car Service Rules 1 and 2 to move the car shall be used.

(10) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded hopper car for movements contrary to the provisions of subparagraph (4) or (5) of this paragraph.

(b) The term "hopper cars" as used in this order, means freight cars having a mechanical designation "HD," "HM," "HK," or "HT," in the Official Railway Equipment Register, ICC R.E.R. No. 379, issued by E. J. McFarland, or reissues thereof.

(c) Application: The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) Effective date: This order shall become effective at 12:01 a.m., June 9, 1971.

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., June 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-9254 Filed 6-28-71; 9:46 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 13]

INCOME TAX

Amortization of Railroad Grading and Tunnel Bores

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 29, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 29, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the *FEDERAL REGISTER*. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to reflect certain changes made by section 705 of the Tax Reform Act of 1969 (83 Stat. 672), relating to amortization of railroad grading and tunnel bores, such regulations are hereby amended as set forth below. Section 1.185-1 of the regulations hereby adopted supersedes those provisions of § 13.0 (temporary regulations concerning certain elections) of this chapter relating to section 185(c) of the Internal Revenue Code of 1954, which was prescribed by T.D. 7032, approved March 9, 1970 (35 F.R. 4330).

PARAGRAPH 1. The following sections are added before § 1.211:

§ 1.185 Statutory provisions: amortization of railroad grading and tunnel bores.

Sec. 185. Amortization of railroad grading and tunnel bores—(a) General rule. In the case of a domestic common carrier by railroad, the taxpayer shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of his qualified railroad grading tunnel bores. The amortization de-

Proposed Rule Making

duction provided by this section with respect to such property shall be in lieu of any depreciation deduction, or other amortization deduction, with respect to such property for any taxable year to which the election applies.

(b) Amount of deduction—(1) In general. The deduction allowable under subsection (a) for any taxable year shall be an amount determined by amortizing ratably over a period of 50 years the adjusted basis (for determining gain) of the qualified railroad grading and tunnel bores of the taxpayer. Such 50-year period shall commence with the first taxable year for which an election under this section is effective.

(2) Special rule. In the case of qualified railroad grading and tunnel bores placed in service after the beginning of the first taxable year for which an election under this section is effective, the 50-year period with respect to such property shall begin with the year following the year the property is placed in service.

(c) Election of amortization. The election of the taxpayer to take the amortization deduction provided in subsection (a) may be made for any taxable year beginning after December 31, 1969. Such election shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election. The election shall remain in effect for all taxable years subsequent to the first year for which it is effective and shall apply to all qualified railroad grading and tunnel bores of the taxpayer, unless, on application by the taxpayer, the Secretary or his delegate permits him, subject to such conditions as the Secretary or his delegate deems necessary, to revoke such election.

(d) Definitions. For purposes of this section—

(1) Railroad grading and tunnel bores. The term "railroad grading and tunnel bores" means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track. If expenditures for improvements described in the preceding sentence are incurred with respect to an existing roadbed or right-of-way for railroad track, such expenditures shall be considered, in applying this section, as costs for railroad grading or tunnel bores placed in service in the year in which such costs are incurred.

(2) Qualified railroad grading and tunnel bores. The term "qualified railroad grading and tunnel bores" means railroad grading and tunnel bores the original use of which commences after December 31, 1968.

(e) Treatment upon retirement. If any qualified railroad grading or tunnel bore is retired or abandoned during a taxable year for which an election under this section is in effect, no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this section shall continue with respect to such property. This subsection shall not apply if the retirement or abandonment is attributable primarily to fire, storm, or other casualty.

(f) Investment credit not to be allowed. Property eligible to be amortized under this

section shall not be treated as section 38 property within the meaning of section 48(a).

(g) Regulations. The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) Cross reference. For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245.

[Sec. 185 as added by sec. 705, Tax Reform Act 1969 (83 Stat. 672)]

§ 1.185-1 Amortization of railroad grading and tunnel bores.

(a) Allowance of deduction—(1) In general. Under section 185(a) a domestic common carrier by railroad (as defined in paragraph (e) of § 1.185-2) shall, at its election, be entitled to a deduction with respect to the amortization of the adjusted basis for determining gain (see part II (section 1011 and following), subchapter O, chapter 1 of the Code) of its qualified railroad grading and tunnel bores (as defined in paragraph (b) of § 1.185-2) based on a period of 50 years. Such amortization deduction with respect to such property shall be in lieu of any depreciation deduction, or other amortization deduction, with respect to such property for any taxable year to which the election applies.

(2) Election to amortize. (i) Under section 185(c) the taxpayer may elect to take the amortization deduction provided by section 185(a) beginning with any taxable year beginning after December 31, 1969, in which such taxpayer has qualified railroad grading and tunnel bores on the first day of such taxable year. Thus, for example, if, during 1969, a domestic common carrier by railroad, which is a calendar year taxpayer, places in service (within the meaning of paragraph (d) of § 1.185-2) qualified railroad grading, it may make such election on its income tax return filed for its taxable year beginning January 1, 1970, or on its income tax return filed for any subsequent taxable year. For rules with respect to the time and manner of making the election see paragraph (a) of § 1.185-3.

(ii) An election made under section 185(c) shall remain in effect for all taxable years subsequent to the first year for which it is effective. Such election shall apply to all qualified railroad grading and tunnel bores of the taxpayer, unless, on application filed by the taxpayer in the manner prescribed in paragraph (b) (1) of § 1.185-3, the Commissioner of Internal Revenue permits him, subject to such conditions as the Commissioner deems necessary in the individual case, to revoke such election. Such revocation shall be effective only as of the beginning of a taxable year.

In addition, if before [the date of publication in the FEDERAL REGISTER of the Treasury decision] an election under section 185 has been made, consent is hereby given to revoke such election without the consent of the Commissioner in the manner prescribed in paragraph (b) (2) of § 1.185-3.

(iii) In the case of qualified railroad grading and tunnel bores placed in service (as defined in paragraph (d) of § 1.185-2 after the beginning of the first taxable year for which an election under section 185 is effective, the 50-year period with respect to such property shall begin with the taxable year following the taxable year in which the property is placed in service. See paragraph (a) (2) of § 1.185-3 for the statement required relating to such qualified railroad grading and tunnel bores.

(3) *Amount of deduction.* (i) With respect to each taxable year of each 50-year period the deduction for amortization for the taxable year is determined by dividing the adjusted basis (for determining gain) of the property at the beginning of the taxable year by the number of years (including the year for which the deduction is computed) remaining in the 50-year period. The adjusted basis (for determining gain) for any taxable year shall be computed without regard to the amortization deduction under section 185 for such taxable year.

(ii) If qualified railroad grading or a qualified tunnel bore is sold or exchanged or otherwise disposed of during a particular taxable year, the amortization deduction (if any) allowable to the transferor in respect of that year shall be that portion of the amount to which such person would be entitled for a full year which the number of days in such year during which such property was held by such person bears to the total number of days in such year. For treatment upon retirement see subparagraph (5) of this paragraph.

(4) *Treatment of assets amortized under section 185 subsequent to revocation with consent or in the case of revocation of an election made prior to [the date of publication in the "Federal Register" of the Treasury decision].* A taxpayer whose application to revoke an election under section 185(c), made in the manner prescribed in paragraph (b) (1) of § 1.185-3, is approved or who elects under subparagraph (2) (ii) of this paragraph and paragraph (b) (2) of § 1.185-3 to revoke an election under section 185(c) with respect to its qualified railroad grading and tunnel bores shall use the method of accounting it would have used for such assets but for the application of this section. If the taxpayer so revokes the amortization deduction under section 185 such taxpayer shall not be entitled to any further amortization deduction under section 185 with respect to such qualified railroad grading and tunnel bores. However, such amortization deduction shall be available with respect to qualified railroad grading and tunnel bores placed in service subsequent to the effective date of

such revocation provided a proper election is made (see paragraph (a) (2) of this section).

(5) *Treatment upon retirement.* If any qualified railroad grading or tunnel bore is retired (within the meaning of paragraph (a) of § 1.167(a)-8) or abandoned during a taxable year for which an election under section 185 is in effect, no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this section shall continue with respect to such property. However, this subparagraph shall not apply if the retirement or abandonment is attributable primarily to fire, storm, or other casualty. For purposes of this subparagraph the term "casualty" shall have the meaning assigned to such term by § 1.165-7.

(b) *Special rules—* (1) *Investment credit not to be allowed.* Property which is eligible to be amortized under section 185 shall not be treated as section 38 property within the meaning of section 48. See section 185(f).

(2) *Certain corporate acquisitions.* (i) If the assets of a domestic common carrier by railroad which has elected to take the amortization deduction under section 185 are acquired by another electing railroad in a transaction to which section 381 (relating to carryovers in certain corporate acquisitions) applies, the acquiring corporation is to be treated as if it were the transferor or distributor corporation for purposes of this section.

(ii) If the acquiring corporation has elected to take the amortization deduction provided for by section 185 and the transferor or distributor corporation has not so elected, then any qualified railroad grading or tunnel bores of the distributor or transferor railroad shall be deemed for purposes of section 185(b) (2) to have been placed in service by the acquiring corporation on the date of distribution or transfer. Thus, for example, if A corporation, a domestic common carrier by railroad which has elected to take the amortization deduction provided for by section 185, acquires the assets (which include qualified railroad grading and tunnel bores) of B corporation, which has not so elected, during a taxable year subsequent to the first taxable year for which A's election under section 185 is effective, A must begin taking the amortization deduction provided for by section 185 with respect to the qualified railroad grading and tunnel bores of B corporation with the taxable year succeeding the taxable year during which the transfer of assets from B to A occurred. The statement required by paragraph (a) (2) of § 1.185-3 must be attached to A's income tax return for such succeeding taxable year.

(iii) If the acquiring corporation has not elected to take the amortization deduction provided for by section 185 and the distributor or transferor corporation has so elected, then the acquiring corporation shall be deemed to have elected the amortization deduction under section 185 beginning with the taxable year following the taxable year during which the distribution or transfer occurred, un-

less the acquiring corporation files an application for permission to revoke an election made under section 185 in the time and manner provided for in paragraph (b) (1) of § 1.185-3. For purposes of this subdivision the qualified railroad grading and tunnel bores of the distributor or transferor corporation will be deemed placed in service by the acquiring corporation in the year in which the distribution or transfer occurred. Thus, for example, if A corporation, a domestic common carrier by railroad which has not elected to take the amortization deduction provided for by section 185, acquires, in a transaction to which section 381 applies, the assets (which include qualified railroad grading and tunnel bores) of B corporation, which has so elected, during a taxable year for which B's election under section 185 is effective, A shall be deemed to have elected to take the amortization deduction provided by section 185 with respect to its own qualified railroad grading and tunnel bores and to those acquired from B corporation beginning with the taxable year succeeding the taxable year during which the transfer of assets from B to A occurred. The statement required by paragraph (a) (2) of § 1.185-3 must be attached to A's income tax return for such succeeding taxable year.

(3) *Cross reference.* For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to section 185 see section 1245 and the regulations thereunder.

(c) *Examples.* This section may be illustrated by the following examples:

Example (1). In July 1969 X Corporation, a domestic common carrier by railroad, which uses the calendar year as its taxable year, completes qualified railroad grading A (as defined in paragraph (b) of § 1.185-2) which is immediately placed in service. The cost of the grading is \$100,000. On its income tax return filed for 1970 (the first year for which the grading was eligible for amortization under section 185) the corporation elects to take the amortization deduction provided by section 185 with respect to its qualified railroad grading and tunnel bores. As of January 1, 1970 (the first day of the taxable year succeeding the year in which the grading was placed in service) the adjusted basis (for determining gain) of grading A (its only qualified railroad grading or tunnel bore) is \$100,000 (determined without regard to the amortization deduction under section 185(b) for that year). The allowable amortization deduction with respect to such grading for the taxable years 1970 and 1971 is \$2,000 each year, computed as follows:

1970: \$100,000 divided by 50..... \$2,000

1971: \$98,000 (\$100,000 minus \$2,000) divided by 49..... 2,000

Example (2). Assume the same facts as in example (1). Assume further that during January, 1971 X completes and places in service qualified railroad grading B at a cost of \$50,000. X would not be entitled to an amortization deduction for 1971 for the new grading. However, it would be required to take the amortization deduction on its income tax return filed for 1972. X's total amortization deduction for 1972 would therefore be \$3,000, computed as follows:

1972 amortization deduction for railroad grading A is \$96,000 (\$98,000 minus \$2,000) divided by 48..... \$2,000

1972 amortization deduction for railroad grading B is \$50,000 divided by 50..... 1,000

Total amortization deduction for 1972..... 3,000

Example (3). Assume the same facts as in examples (1) and (2). Assume further that on September 10, 1972, X files an application for permission to revoke an election in accordance with paragraph (b) (1) of § 1.185-3, which application is duly approved. The adjusted bases of railroad grading A and B as of January 1, 1973, the first day as of which the revocation is deemed effective, are \$94,000 and \$49,000, respectively, computed as follows:

Grading A:

Adjusted basis at beginning of amortization period..... \$100,000

Less: Amortization deductions (\$2,000 each year for 1970, 1971, and 1972)..... 6,000

Adjusted basis upon revocation of amortization..... 94,000

Grading B:

Adjusted basis at beginning of amortization period..... \$50,000

Less: Amortization deduction..... 1,000

Adjusted basis upon revocation of amortization..... 49,000

Example (4). During 1970 and 1971 Y Corporation, a domestic common carrier by railroad, which uses the calendar year as its taxable year, places in service qualified railroad grading and tunnel bores. Y does not elect to take the amortization deduction under section 185. During 1974 the corporation places in service additional railroad grading and tunnel bores. On its income tax return filed for 1976 the corporation elects in the manner provided for in paragraph (a) of § 1.185-3 to take the amortization deduction under section 185. Y would be required to amortize the qualified railroad grading and tunnel bores placed in service during 1970, 1971, and 1974 over a 50-year period commencing with 1976.

§ 1.185-2 Definitions.

(a) *Railroad gradings and tunnel bores.* The term "railroad grading and tunnel bores" means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track. If expenditures for improvements described in the preceding sentence are incurred with respect to an existing roadbed or right-of-way for railroad track, such expenditures shall be considered, in applying this section, as costs for railroad grading or tunnel bores placed in service in the year in which such costs are incurred.

(b) *Qualified railroad grading and tunnel bores.* The term "qualified railroad grading and tunnel bores" means railroad grading and tunnel bores the original use of which commences after December 31, 1968.

(c) *Original use.* For purposes of paragraph (b) of this section, the term "origi-

nal use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer.

(d) *Placed in service.* For purposes of section 185, the principles set forth in paragraph (d) of § 1.146-3 are applicable in determining when property is placed in service.

(e) *Domestic common carrier by railroad.* For purposes of section 185 the term "domestic common carrier by railroad" means a railroad subject to regulations under part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or a railroad which would be subject to regulations under part I of the Interstate Commerce Act if it were engaged in interstate commerce.

§ 1.185-3 Time and manner of making and terminating elections.

(a) *Election of amortization—* (1) *Initial election.* Under section 185(c), an election by the taxpayer to take the amortization deduction provided in section 185(a) shall be made on a statement attached to its income tax return filed for any taxable year beginning after December 31, 1969 during which year the taxpayer has qualified railroad grading or tunnel bores which are eligible for such deduction (see paragraph (a) (2) (i) of § 1.185-1). If the taxpayer does not file a timely return (taking into account extension of the time for filing) for the taxable year for which the election is first to be made, the election shall be filed at the time the taxpayer files his first return for that year. The election may be made with an amended return only if such amended return is filed no later than the time prescribed by law (including extensions thereof) for filing the return for the taxable year of election. If an election is not made within the time and in the manner prescribed in this paragraph, no election may be made (by the filing of an amended return or in any other manner) with respect to such taxable year. The statement required by this subparagraph shall include the following information:

(i) A description clearly identifying each qualified railroad grading or tunnel bore of the taxpayer (see paragraphs (a) and (b) of § 1.185-2);

(ii) The date on which the original use of the property commenced (see paragraph (c) of § 1.185-2);

(iii) The adjusted basis (for determining gain) of each qualified railroad grading and tunnel bore of the taxpayer; and

(iv) The annual amortization deduction allowable with respect to each railroad grading and tunnel bore of the taxpayer.

(2) *Special rule.* In the case of qualified railroad grading and tunnel bores placed in service (as defined in paragraph (d) of § 1.185-2) after the beginning of the first taxable year for which the election made under subparagraph (1) of this paragraph is effective, the statement required by such subparagraph (1) with respect to such additional

railroad grading and tunnel bores must be attached to the taxpayer's income tax return filed for the taxable year succeeding the taxable year in which such additional qualified railroad grading and tunnel bores are placed in service. Thus, for example, if a domestic common carrier by railroad attaches the statement required by subparagraph (1) of this paragraph to its income tax return filed for 1972 and during 1975 places in service additional qualified railroad grading and tunnel bores, the statement required by this subparagraph must be attached to its income tax return filed for 1976.

(b) *Revocation of election—* (1) *Revocation with consent.* An application for consent to revoke an election under section 185 shall be in writing and shall be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application for consent to revoke the election shall set forth the name and address of the taxpayer, state the taxable years for which the election was in effect, and state the reason for revoking the election. The application shall be signed by the taxpayer or a duly authorized officer of the taxpayer and shall be filed at least 90 days prior to the time, but not including extensions thereof, prescribed by law for filing the income tax return for the first taxable year for which the election is to terminate. In the case of a transaction to which paragraph (b) (2) (iii) of § 1.185-1 applies the application required by this paragraph shall be filed at the time provided for in the preceding sentence or 90 days from the date of the distribution or transfer, whichever is later.

(2) *Revocation of elections prior to [the date of publication in the Federal Register of the Treasury decision].* If before [such date] an election under section 185 has been made, such election may be revoked (see paragraph (a) (2) (ii) of § 1.185-1) by filing on or before [the 90th day after such date] a statement of revocation of an election under section 185(a) in accordance with the requirements in subparagraph (1) of this paragraph for filing an application to revoke an election. If such election to revoke is for a period which falls within one or more taxable years for which an income tax return has been filed on or before [such 90th day] amended income tax returns shall be filed for any such taxable years in which deductions were taken under section 185.

[FR Doc. 71-9117 Filed 6-28-71; 8:46 am]

[26 CFR Parts 1, 13]

INCOME TAX

Sales and Exchanges of Bonds and Other Evidences of Indebtedness by Financial Institutions

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the

PROPOSED RULE MAKING

final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 29, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 29, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and section 433(d) (2) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 624).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 582 and 1243 of the Internal Revenue Code of 1954 to section 433 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 623), such regulations are amended as set forth hereinafter. Section 1.582-1 of the regulations hereby adopted supersedes those provisions of § 13.0 of this chapter relating to section 433(d) (2) of such Act which were prescribed by T.D. 7032, approved March 9, 1970 (35 F.R. 4330).

PARAGRAPH 1. Section 1.582 is amended by revising the heading thereof, by revising the heading of section 582, by revising section 582(c), and by revising the historical note. These revised provisions read as follows:

§ 1.582 Statutory provisions: bad debts, losses, and gains with respect to securities held by financial institutions.

SEC. 582. *Bad debts, losses, and gains with respect to securities held by financial institutions.*

(c) *Bond, etc., losses and gains of financial institutions.*—(1) *General rule.* For purposes of this subtitle, in the case of a financial institution to which section 585, 586, or 593 applies, the sale or exchange of a bond, debenture, note, or certificate or other evidence of indebtedness shall not be considered a sale or exchange of a capital asset.

(2) *Transitional rule for banks.* In the case of a bank, if the net long-term capital gains of the taxable year from sales or exchanges of qualifying securities exceed the net short-term capital losses of the taxable year from such sales or exchanges, such excess shall be considered as gain from the sale of a capital asset held for more than 6 months to the extent it does not exceed the net gain on sales and exchanges described in paragraph (1).

(3) *Special rules.* For purposes of this subsection—

(A) The term "qualifying security" means a bond, debenture, note, or certificate or

other evidence of indebtedness held by a bank on July 11, 1969.

(B) The amount treated as capital gain or loss from the sale or exchange of a qualifying security shall be determined by multiplying the amount of capital gain or loss from the sale or exchange of such security (determined without regard to this subsection) by a fraction, the numerator of which is the number of days before July 12, 1969, that such security was held by the bank, and the denominator of which is the number of days the security was held by the bank.

[Sec. 582 as amended by sec. 34, Technical Amendments Act 1958 (72 Stat. 1632); sec. 433 (a) and (c), Tax Reform Act 1969 (83 Stat. 623, 624)]

PAR. 2. Section 1.582-1 is amended by revising the heading thereof, by adding headings to paragraphs (a) and (b), by revising paragraph (c), and by adding new paragraphs (d), (e), and (f). These revised and added provisions read as follows:

§ 1.582-1 Bad debts, losses, and gains with respect to securities held by financial institutions.

(a) *Bad debt deduction for banks.* A bank, as defined in section 581, is allowed a deduction for bad debts to the extent and in the manner provided by subsections (a), (b), and (c) of section 166 with respect to a debt which has become worthless in whole or in part and which is evidenced by a security (a bond, debenture, note, certificate, or other evidence of indebtedness to pay a fixed or determinable sum of money) issued by any corporation (including governments and their political subdivisions), with interest coupons or in registered form.

(b) *Worthless stock in affiliated bank.* For purposes of section 165(g) (1), relating to the deduction for losses involving worthless securities, if the taxpayer is a bank (as defined in section 581) and owns directly at least 80 percent of each class of stock of another bank, stock in such other bank shall not be treated as a capital asset.

(c) *Pre-1970 sales and exchanges of bonds, etc., by banks.* For taxable years beginning before July 12, 1969, with respect to the taxation under subtitle A of the Code of a bank (as defined in section 581), if the losses of the taxable year from sales or exchanges of bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including one issued by a government or political subdivision thereof), exceed the gains of the taxable year from such sales or exchanges, no such sale or exchange shall be considered a sale or exchange of a capital asset.

(d) *Post-1969 sales and exchanges of securities by financial institutions.* For taxable years beginning after July 11, 1969, the sale or exchange of a security is not considered the sale or exchange of a capital asset if such sale or exchange is made by a financial institution to which any of the following sections applies: Section 585 (relating to banks), 586 (relating to small business investment companies and business develop-

ment corporations), or 593 (relating to mutual savings banks, domestic building and loan associations, and cooperative banks). This paragraph shall apply to determine the character of gain or loss from the sale or exchange of a security notwithstanding any other provision of subtitle A of the Code, such as section 1233 (relating to short sales). However, this paragraph shall have no effect in the determination of whether a security is a capital asset under section 1221 for purposes of applying any other provision of the Code, such as section 1232 (relating to original issue discount). For purposes of this paragraph, a security is a bond, debenture, note, or certificate or other evidence of indebtedness, issued by any person. See paragraphs (e) and (f) of this section for special transitional rules applicable, respectively, to banks and to small business investment companies and business development corporations.

(e) *Transition rule for qualifying securities held by banks.*—(1) *In general.* Notwithstanding the provisions of paragraph (d) of this section, if the net long-term capital gain from sales and exchanges of qualifying securities exceeds the net short-term capital loss from such sales and exchanges in any taxable year beginning after July 11, 1969, such excess shall be treated as long-term capital gain, but in an amount not to exceed the net gain from sales and exchanges of securities in such year. See section 1222 and the regulations thereunder for definitions of the terms "net long-term capital gain" and "net short-term capital loss". For purposes of this paragraph:

(i) The term "security" means a security within the meaning of paragraph (d) of this section.

(ii) The term "qualifying security" means a security which is held by the bank on July 11, 1969, and continuously thereafter until it is first sold or exchanged by the bank.

(2) *Computation of capital gain or loss.* For purposes of this paragraph, the amount of gain or loss from the sale or exchange of a qualifying security treated as capital gain or loss is determined by multiplying the amount of gain or loss recognized from such sale or exchange by a fraction the numerator of which is the number of days before July 12, 1969, that such security was held by the bank and the denominator of which is the sum of the number of days included in the numerator and the number of days the security was held by the bank after July 11, 1969.

(3) *Special rules.* For purposes of subparagraphs (1) and (2) of this paragraph, the following items are not taken into account:

(i) Any amount which, without regard to section 582(c) and this section, would be treated as gain or loss from the sale or exchange of property which is not a capital asset, such as an amount which is treated as original issue discount under section 1232, or an amount which is realized from the sale or exchange of a

security which is held by a bank as a dealer in securities, and

(ii) Any capital loss carryover allowed under section 1212.

(4) *Holding period in certain cases.* For purposes of this paragraph—

(i) The time a security received in an exchange is deemed to have been held by a bank includes a period of time determined under section 1223(1) with respect to such security.

(ii) The time a security transferred to a bank from another bank is deemed to have been held by the transferee bank includes a period of time determined under section 1223(2) with respect to such security.

For example, if a bank on December 3, 1972, surrendered an obligation of the United States which it held as a capital asset on July 11, 1969, in a transaction to which section 1037 applied, the time during which the newly received obligation is deemed to have been held includes the time during which the surrendered obligation was deemed to have been held by the bank. Because the surrendered obligation was held on July 11, 1969, the newly acquired obligation is deemed to have been held on that date and is a qualifying security. The period during which the surrendered obligation is deemed to have been held is taken into account in computing the fraction determined under subparagraph (2) of this paragraph with respect to the newly received obligation.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Bank A, a calendar year taxpayer, purchased a qualifying security on July 14, 1968, and held it to maturity on August 20, 1970, when it was redeemed. The redemption resulted in a taxable gain of \$10,000. The security was held by the bank for 363 days before July 12, 1969, and for a total of 768 days. During the taxable year, the bank had no other gains and no losses from sales or exchanges of qualifying securities, but had a net loss of \$4,000 from sales of securities other than qualifying securities. The portion of the gain from the redemption of the qualifying security treated as capital gain under subparagraph (2) of this paragraph is \$4,726.56 ($363/768 \times \$10,000$). Because the net gain of the taxable year from sales and exchanges of securities, \$6,000 ($\$10,000 - \$4,000$), exceeds the portion of the gain on the sale of the qualifying security treated as capital gain under this paragraph, \$4,726.56 is treated as long-term capital gain on the sale of the qualifying security for the taxable year.

Example (2). Assume the same facts as in example (1), except that the bank's net loss of the taxable year from the sale of securities other than qualifying securities was \$7,000. The amount considered as long-term capital gain under this paragraph is limited by the amount of gain on the sale of securities to \$3,000 ($\$10,000 - \$7,000$).

(f) *Small business investment companies and business development corporation.*—(1) *Election.* In the case of a small business investment company or a business development corporation, described in section 586(a), section 582(c) does not apply for taxable years begin-

PROPOSED RULE MAKING

ning after July 11, 1969, and before July 11, 1974, unless the taxpayer elects that such section shall apply. In the case of a small business investment company, see paragraph (a) (1) of § 1.1243-1 if such an election is made, but see paragraph (a) (2) of § 1.1243-1 if such an election is not made. Such election applies to all such taxable years and, except as provided in subparagraph (3) of this paragraph, is irrevocable. Such election must be made not later than (i) the time, including extensions thereof, prescribed by law for filing the taxpayer's income tax return for its first taxable year beginning after July 11, 1969, or (ii) June 8, 1970, whichever is later.

(2) *Manner of making election.* An election pursuant to the provisions of this paragraph is made by the taxpayer by a written statement attached to the taxpayer's income tax return (or an amended return) for its first taxable year beginning after July 11, 1969. Such statement shall indicate that the election is made pursuant to section 433(d) of the Tax Reform Act of 1969 (83 Stat. 624). The taxpayer shall attach to its income tax return for each subsequent taxable year to which such election is applicable a statement indicating that the election has been made and the amount to which it applies for such year.

(3) *Revocation of election.* An election made pursuant to subparagraph (2) of this paragraph shall be irrevocable unless—

(i) A written application for consent to revoke the election, setting forth the reasons therefor, is filed with the Commissioner within 90 days after the permanent regulations relating to section 433(d) (2) of the Tax Reform Act of 1969 (83 Stat. 624) are filed with the Office of the Federal Register, and

(ii) The Commissioner consents to the revocation.

The revocation is effective for all taxable years to which the election applied.

PAR. 3. Section 1.1243 is amended by revising section 1243(1) and the historical note to read as follows:

§ 1.1243 Statutory provisions: loss of small business investment company.

SEC. 1243. *Loss of small business investment company.*

(1) A loss is on stock received pursuant to the conversion privilege of convertible debentures acquired pursuant to section 304 of the Small Business Investment Act of 1958, and

[Sec. 1243 as added by sec. 57, Technical Amendment Act 1958 (72 Stat. 1645); as amended by sec. 433(b), Tax Reform Act 1969 (83 Stat. 624)]

PAR. 4. Section 1.1243-1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.1243-1 Loss of small business investment company.

(a) *In general.*—(1) *Taxable years beginning after July 11, 1969.* For taxable years beginning after July 11, 1969, a

small business investment company to which section 582(c) applies, and which sustains a loss as a result of the worthlessness, or on the sale or exchange, of the stock of a small business concern (as defined in section 103(5) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 662(5))) and in 13 CFR 107.3), shall treat such loss as a loss from the sale or exchange of property which is not a capital asset if—

(i) The stock was issued pursuant to the conversion privilege of the convertible debentures acquired in accordance with the provisions of section 304 of the Small Business Investment Act of 1958 (15 U.S.C. 684) and the regulations thereunder,

(ii) Such loss would, but for the provisions of section 1243, be a loss from the sale or exchange of a capital asset, and

(iii) At the time of the loss, the company is licensed to operate as a small business investment company pursuant to regulations promulgated by the Small Business Administration (13 CFR Part 107).

If section 582(c) does not apply for the taxable year, see subparagraph (2) of this paragraph.

(2) *Taxable years beginning before July 11, 1970.* In a taxable year beginning after September 2, 1958, but before July 11, 1974, a small business investment company to which section 582(c) does not apply, and which sustains a loss as a result of the worthlessness, or on the sale or exchange, of the securities of a small business concern (as defined in section 103(5) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 662(5))) and in 13 CFR 107.3), shall treat such loss as a loss from the sale or exchange of property which is not a capital asset if—

(i) The securities are either the convertible debentures, or the stock issued pursuant to the conversion privilege thereof, acquired in accordance with the provisions of section 304 of the Small Business Investment Act of 1958 (15 U.S.C. 684) and the regulations thereunder,

(ii) Such loss would, but for the provisions of this subparagraph, be a loss from the sale or exchange of a capital asset, and

(iii) At the time of the loss, the company is licensed to operate as a small business investment company pursuant to regulations promulgated by the Small Business Administration (13 CFR Part 107).

If section 582(c) applies for the taxable year, see subparagraph (1) of this paragraph.

(b) *Material to be filed with return.* A small business investment company which claims a deduction for a loss on the convertible debentures (pursuant to paragraph (a) (2) of this section) or stock (pursuant to paragraph (a) (1) or (a) (2) of this section) of a small business concern shall submit with its income

tax return a statement that it is a Federal licensee under the Small Business Investment Act of 1958 (15 U.S.C. ch. 14B). The statement shall also set forth: the name and address of the small business concern with respect to whose securities the loss was sustained, the number of shares of stock or the number and denomination of debentures with respect to which the loss is claimed, the basis and selling price thereof, and the respective dates of purchase and sale of the securities, or the reason for their worthlessness and the approximate date thereof. For the rules applicable in determining the worthlessness of securities, see section 165 and the regulations thereunder.

[FR Doc. 71-9116 Filed 6-28-71; 8:46 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 934]

[Docket No. AO-372]

SPEARMINT OIL PRODUCED IN WASHINGTON AND CERTAIN OTHER STATES

Decision and Referendum Order With Respect to Proposed Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Richland, Wash., February 24-26, 1971, after notice thereof published in the FEDERAL REGISTER (36 F.R. 1535) on a proposed marketing agreement and order for regulating the handling of spearmint oil produced in the States of Washington, Idaho, and Oregon, and designated part of California, Nevada, Utah, and Montana, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674).

On the basis of the evidence adduced at the hearing, and the record thereof, the recommended decision in this proceeding was filed on May 21, 1971, with the Hearing Clerk, U.S. Department of Agriculture. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F.R. Doc. 71-7424; 36 F.R. 9640).

Ruling on exceptions. Several exceptions to the recommended decision were filed within the time provided.

One exception requested a 45-day extension of time for filing exceptions or, in the alternative the question of acting on the order be postponed and that additional hearing be held to consider an exception for oil produced under contract. The notice of hearing was published in the FEDERAL REGISTER on February 2, 1971. A public hearing was held

in Richland, Wash., on February 24-26, 1971, at which all interested persons were afforded an opportunity to be heard. The harvesting of spearmint plants will soon take place. Shortly thereafter the oil will be distilled. Therefore, time is of the essence if the order is to become effective and provide the maximum benefits to the producers of spearmint oil for the 1971-72 season.

In view of the fact that the exception was filed with the request, and because of the time factor as stated above the request is denied.

Some exceptions stated that a longer period for filing exceptions should have been provided. Under the circumstances it would not be fair to the industry as a whole to delay this decision any longer.

Exceptions were filed objecting to the definition of the term "handler," on the basis that it would impose restrictions on handlers beyond those performing the kind of handling function which were intended to be regulated. It is intended that only those who first handle spearmint oil should pay assessments, comply with the set-aside requirements, and file reports on their inventory and receipts. Accordingly, §§ 934.8 *Handler*; 934.47 *Set-aside*; 934.60 *Reports*; and 934.61 *Records* are amended to expressly so limit the regulatory impact of the order.

Other exceptions objected to a production area that does not include all of the spearmint producing regions of the United States. Others exceptions objected to the application of the set-aside to oil produced under contract signed prior to January 28, 1971, which provides for the purchase of all or a percentage of such oil during the years 1971-72 and 1972-73.

Other exceptions were with respect to the authority which would permit a cooperative to vote for its members in any producer referendum.

Some exceptions were with respect to the provisions which would authorize the committee, through its duly authorized agent and the secretary to examine handlers books, records, and premises with respect to matters under the order. Some of these exceptions erroneously assumed that the committee's authorized agent and the Secretary would not be limited to matters under the order.

Each point raised in each exception was carefully and fully considered in conjunction with the record evidence and the recommended decision pertaining thereto in arriving at the findings and conclusions set forth in this decision. To the extent any such exception is not specifically ruled upon and is at variance with the findings, conclusions, and actions decided upon in this decision, all such exceptions are denied.

The material issues, findings and conclusions, rulings, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 71-7424; 36 F.R. 9640), as hereinafter modified, are hereby approved and adopted as the material issues, findings, and conclusions, rulings, and the general findings of this decision as if set forth in full herein.

1. Section 934.7 *Handler* (36 F.R. 9651) is revised.

2. Section 934.8 *Handle* (36 F.R. 9651) is revised.

3. Paragraph (a) of § 934.47 (36 F.R. 9654) is revised.

4. Paragraphs (a) and (b) of § 934.60 (36 F.R. 9654) are revised.

5. Section 934.61 (36 F.R. 9654) is revised.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Spearmint Oil Produced in the States of Washington, Idaho, and Oregon, and designated part of California, Nevada, Utah, and Montana" and "Order Regulating the Handling of Spearmint Oil Produced in the States of Washington, Idaho, and Oregon, and designated part of California, Nevada, Utah, and Montana," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.41 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among the producers, who, during the period June 1, 1970 through May 31, 1971 (which period is hereby determined to be a representative period for the purpose of such referendum) were engaged within the production area in the production of spearmint oil for market to ascertain whether such producers favor the issuance of the said annexed order regulating the handling of spearmint oil.

Allan E. Henry, William C. Knope, and John E. Coop, Jr., Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Room 506, Washington Building, 1218 Southwest Washington Street, Portland, OR 97205, are hereby designated agents of the Secretary to conduct said referendum severally or jointly.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (7 CFR 900.400 et seq.).

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed order.

Copies of the aforesaid annexed order and of the aforesaid referendum procedure may be examined in the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum, and other necessary forms and instructions, may be obtained from any referendum agent or appointee.

It is hereby ordered, That all of this decision and referendum order, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement are identical with those contained in the said order which will be published with this decision.

Dated: June 24, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order¹ Regulating the Handling of Spearmint Oil Produced in Washington, Idaho, and Oregon, and Designated Part of California, Nevada, Utah, and Montana

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	REPORTS AND RECORDS
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¹This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

MISCELLANEOUS PROVISIONS

Sec.	Compliance.
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AUTHORITY: The provisions of this Part 934 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 934.0 Findings and determinations.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Richland, Wash., February 24-26, 1971, upon a proposed marketing agreement and a proposed marketing order regulating the handling of spearmint oil produced in Washington, Idaho, and Oregon, and designated parts of California, Nevada, Utah, and Montana. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The order, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order regulating the handling of spearmint oil grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of spearmint oil produced in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of spearmint oil produced in the production area, as defined in said order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is, therefore ordered, That, on and after effective date hereof, all handling of spearmint oil produced in the production area shall be in conformity to, and in compliance with, the terms and conditions of this order; and such terms and conditions are as follows:

DEFINITIONS

§ 934.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to

act in his stead.

§ 934.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ 934.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 934.4 Spearmint oil or oil.

"Spearmint Oil" or "Oil" is a farm commodity and means the essential oil extracted by distillation from plants, grown in the production area, of the genus *Mentha*, species *cardiaca* (commonly referred to as Scotch spearmint), spicata (commonly referred to as native spearmint), or such other species, grown in the production area, that produce a spearmint flavored oil. Spearmint oil shall be segregated into classes according to the following terms and conditions:

"Class 1" shall include that oil produced, from the first cutting during any season, from fields classified as scotch spearmint.

"Class 2" shall include that oil produced, from cuttings other than the first cutting, made during any season, from fields classified as scotch spearmint.

"Class 3" shall include that oil produced, from the first cutting during any season, from fields classified as native spearmint.

"Class 4" shall include that oil produced, from cuttings other than the first cutting, made during any season, from fields classified as native spearmint.

"Class 5" shall include that oil produced by redistillation of the condensate water from any or all classes.

"Class 6" shall include that oil which has a spearmint flavor, extracted from plants, other than *Mentha cardiaca* or *Mentha spicata*, grown in the production area.

Classification of particular lots of oil including any mixture shall be determined in accordance with rules and regulations adopted by the committee.

§ 934.5 Production area.

"Production area" means all of the area in the continental United States north of the 37th parallel and west of the 111th meridian except Alaska. The area shall be divided into the following districts:

(a) "District 1" shall include the area in the State of Washington west of the Okanogan River and west of the Columbia River below its confluence with the Okanogan River.

(b) "District 2" shall include the area in the State of Washington not included in District 1.

(c) "District 3" shall include the State of Idaho, and that portion of the State of Montana and that portion of the State of Utah included in the production area.

(d) "District 4" shall include the State of Oregon and that portion of the State of California and that portion of the

State of Nevada included in the production area.

§ 934.6 Producer.

"Producer" is synonymous with "grower" and means any person that produces spearmint oil or causes it to be produced.

§ 934.7 Handler.

"Handler" means any person who handles spearmint oil.

§ 934.8 Handle.

"Handle" means to purchase oil from a producer, or to sell spearmint oil, use oil commercially of own production, to acquire, transport or ship (except as a common or contract carrier of oil owned by another), or otherwise place spearmint oil into the current of commerce within the production area or from the production area to any point outside thereof following distillation, except that the preparation, sale, or transportation of spearmint oil by a producer to a handler within the production area shall not be construed as handling.

§ 934.9 Marketing year and crop year.

"Marketing Year" and "Crop Year" are synonymous and means the 12 months from July 1 to the following June 30, inclusive, or such other period as recommended by the committee and approved by the Secretary.

ADMINISTRATIVE BODIES

§ 934.20 Designation of administrative bodies.

A Spearmint Oil Administrative Committee and a Spearmint Oil Marketing Advisory Board are hereby established. The membership shall be selected in accordance with provisions of §§ 934.21 through 934.28, inclusive.

§ 934.21 Spearmint Oil Administrative Committee—membership and term of office.

(a) The Spearmint Oil Administrative Committee (hereinafter referred to as "Committee") shall consist of 11 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate. Five (5) of the members and their respective alternates shall each be a producer, or an officer or employee thereof, in District 1; two (2) members and their respective alternates shall each be a producer, or an officer or employee thereof in District 2; two (2) members and their respective alternates shall each be a producer, or an officer or employee thereof, in District 3; and two (2) members and their respective alternates shall be a producer, or an officer or employee thereof, in District 4.

(b) The term of office of committee members and their respective alternates shall be for 2 years beginning April 1 and ending March 31; *Provided*, That the initial term of office shall begin on the effective date of the order and shall end March 31, 1973.

§ 934.22 Nominations for Spearmint Oil Administrative Committee members.

(a) *Initial members.* Nominations for each of the initial members and alternate members may be submitted to the Secretary, not later than 15 days after the effective date of this part, by individual producers, including officers or employees thereof, or groups of producers. Such nominations may be made by means of separate group meetings of the producers concerned in each district, which meetings shall be publicized and open to all producers. In the event nominations for initial members or alternate members of the committee are not submitted pursuant to and within the time specified in this paragraph, the Secretary may select such initial members or alternate members without regard to nominations, but selections shall be on the basis of the representation provided for in § 934.21.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than March 1 of each odd-numbered year, meetings of producers in each district for the purpose of designating nominees for successor members and alternate members of the committee whose term of office expires on March 31 of that year. Such meetings shall be publicized and open to all producers. At each such meeting, a chairman and a secretary shall be elected by the producers eligible to participate therein. The eligible person receiving the highest number of votes for a member or alternate member position shall be the nominee for the respective position. The chairman shall announce at each meeting the results of nominations for members and alternate members and shall submit promptly to the committee a complete report concerning such meetings. Should the committee find it impracticable to conduct nomination meetings in one or more districts during any marketing year, nominations may be submitted to the Secretary based on the results of balloting by mail. Whenever ballots are to be cast by mail, the committee shall give public notice, and mail to all producers of record, ballots containing the names of the candidates, blank spaces in which names of candidates may be written for each position, and instructions as to the voting procedure. The committee shall submit all nominations to the Secretary on or before March 15 of such year. In the event nominations for successor members or alternate members of the committee are not submitted pursuant to and within the time specified in this paragraph, the Secretary may select such successor members or alternate members without regard to nominations; but selections shall be on the basis of the representation provided for in § 934.21.

(2) Only producers, including duly authorized officers or employees thereof, who are present at nomination meetings may participate in the nomination and election of nominees for committee members and alternate members. Each pro-

ducer shall be entitled to cast only one vote for each position to be filled. No producer or any agent thereof shall participate in the election of nominees in more than one district. In case a person produces spearmint oil in more than one district, he shall select one district in which he will cast nominating votes and notify the committee as to the district in which he will, until further notice, cast nominating votes.

§ 934.23 Selection of Spearmint Oil Administrative Committee members.

(a) *Initial members.* From the persons nominated pursuant to § 934.22(a), or from other qualified persons, the Secretary shall select the initial members and alternate members for the committee on the basis of the district representation provided for in § 934.21.

(b) *Successor members.* From the nominations made pursuant to § 934.22(b), or from other qualified persons, the Secretary shall appoint the successor members and alternate members on the basis of the district representation provided for in § 934.21.

§ 934.24 Spearmint Oil Marketing Advisory Board—membership and term of office.

The Spearmint Oil Marketing Advisory Board (hereinafter referred to as "board") shall consist of five members, each of whom shall have an alternate, all of whom shall be handlers or officers or employees of handlers. The term of office of board members and their respective alternate shall be for 2 years beginning April 1 and ending March 31; *Provided*, That the term of office of the initial members and their alternates shall end March 31, 1973. Members and alternate members shall serve in such capacities for the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ 934.25 Nomination for Spearmint Oil Marketing Advisory Board.

(a) *Initial members.* Nominations for each of the initial members and alternate members of the board may be submitted to the Secretary not later than 15 days after the effective date of this part, by individual handlers or groups of handlers, as appropriate. The four handlers who individually handled the greatest quantity of spearmint oil during the past marketing year (hereinafter the four major handlers) shall each furnish the name of a person for one of the four members and the name of a person for one of the four alternate member's position on the board. All other handlers shall nominate an individual for the remaining member position and another individual for the remaining alternate member position on the board. Such nomination shall be by means of a mail ballot conducted by the Northwest Marketing Field Office. In the event nominations for initial members or

alternate members of the board are not submitted pursuant to and within the time specified by this paragraph, the Secretary may select such initial members and alternate members without regard to nominations.

(b) *Successor members.* Nominations for successor members and alternate members of the board shall be made in the following manner: The four handlers who individually handled the greatest quantity of spearmint oil during the past marketing year (hereinafter the four major handlers), shall each furnish the name of a person for one of the four member and the name of a person for one of the four alternate member positions on the board. All other handlers shall nominate an individual for the remaining member position and another individual for the remaining alternate member position on the board. Such nominations shall be by means of a mail ballot conducted by the committee. The names of all such nominees shall be submitted to the committee for transmission to the Secretary not later than March 15 of each odd-numbered year, together with such information deemed pertinent, including the ballots cast in the mail voting, or requested by the Secretary. In the event nominations for successor members or alternate members of the board are not submitted pursuant to and within the time specified in this paragraph, the Secretary may select such successor members or alternate members without regard to nominations.

§ 934.26 Selection of Spearmint Oil Marketing Advisory Board Members.

(a) *Initial members.* The Secretary shall select the initial members and alternate members for the board from the persons nominated pursuant to § 934.25(a), or from other qualified persons.

(b) *Successor members.* The Secretary shall select the successor members and alternate members for the board from persons nominated pursuant to § 934.25(b), or from other qualified persons.

§ 934.27 Acceptance.

Any persons selected by the Secretary as a member or alternate member of the committee or the board shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 934.28 Vacancies.

To fill any vacancy occasioned by the failure to qualify of any person selected as a member or as an alternate member of the administrative committee or of the advisory board or in the event of the death, removal, resignation, or disqualification of any member or alternate member of either the administrative committee or of the advisory board, a successor for the unexpired term of such member or alternate shall be nominated and selected in the manner specified in §§ 934.22 and 934.23 or §§ 934.25 and 934.26, as applicable. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such

vacancy occurs, the Secretary may fill such vacancy without regard to nominations, except that selections to fill vacancies shall be made on the basis of representation provided for in § 934.21 or in § 934.25.

§ 934.29 Alternate members.

An alternate member of the committee or of the board, during the absence or at the written request of the member for whom he is an alternate, shall act in the place and stead of such member. In the event of the death, removal, resignation, or disqualification of any member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event that both a member and his alternate are unable to attend a meeting, the administrative body may designate any other alternate member from the same body and the same district, where applicable, to serve in such member's place and stead.

§ 934.30 Powers of the Spearmint Oil Administrative Committee.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its term;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 934.31 Duties of the Spearmint Oil Administrative Committee.

The Committee shall have, among others, the following duties:

(a) To select from among its membership such officers and adopt such rules or bylaws for the conduct of its meetings as it deems necessary;

(b) To appoint such employees as it may deem necessary, and to determine the compensation and to define the duties of each employee;

(c) To appoint such subcommittees or other committees as it may deem necessary;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the Committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of financial operations of the Committee and to make copies of each such statement available to producers and handlers for examination at the office of the Committee;

(f) To cause its books to be audited by a certified public accountant at least once each marketing year and at such other times as the Committee may deem necessary, or as the Secretary may request, to submit two copies of each such audit report to the Secretary and to make available a copy which does not contain confidential data, for inspection by producers and handlers at the offices of the Committee;

(g) To act as intermediary between the Secretary and any producer or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to spearmint oil;

(i) To submit to the Secretary such available information as he may request or the Committee may deem desirable and pertinent;

(j) To notify producers and handlers of all meetings of the Committee to consider recommendations for regulations and of all regulatory actions taken affecting producers and handlers;

(k) To give the Secretary the same notice of meetings of the committee and its subcommittees or other committees as is given to its members;

(l) To investigate compliance with the provisions of this part;

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided and to reapportion the representation of any district on the committee; *Provided*, That any such changes shall reflect, insofar as practicable, shifts in spearmint oil production within the districts and the production area; and

(n) To consult, cooperate and exchange information with other marketing agreement committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

§ 934.32 Procedure of the Spearmint Oil Administrative Committee.

At any assembled meeting, nine members of the committee shall constitute a quorum and all votes shall be cast in person. Decisions of the committee at assembled meetings shall require the concurring vote of at least eight members. The committee may vote by mail, telephone, or other means of communication on matters other than the formulation of marketing policies and recommendation of regulation; *Provided*, That each proposition is explained accurately and fully to each member available and all such votes shall be confirmed in writing. Eight concurring votes shall be required for approval of a committee action by such method of voting.

§ 934.33 Duties of the Spearmint Oil Marketing Advisory Board.

The duties of the board shall consist of selecting from its members such officers, establishing such by-laws as it deems necessary for performing its functions, making such recommendations with respect to marketing policies, and considering and recommending such other matters as it may deem advisable or the committee may request.

§ 934.34 Compensation and expenses.

Members and alternate members of the committee and of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in connection with their duties under this part.

§ 934.35 Annual report.

The committee shall, as soon as practicable after the close of each marketing year, prepare and mail an annual report to the Secretary and make a copy available to each handler and producer who requests it. This annual report shall contain at least:

- (a) A complete review of the regulatory operations during the marketing year;
- (b) A review of the effect upon the spearmint oil industry of the regulatory operations; and
- (c) Any recommendations for changes in the program.

§ 934.36 Funds and other property.

(a) All funds received by the committee, pursuant to the provisions of this part shall be used solely for the purpose specified in this part; and the Secretary may require the committee and its members to account for all receipts and disbursements.

(b) Upon the resignation, removal, or expiration of the term of any member or employee of the committee, all books, records, funds, and other property in his possession belonging to the committee shall be delivered to the committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the committee full title to all the books, records, funds, and other property in the possession or under the control of such member or employee, pursuant to the provisions of this part.

EXPENSES AND ASSESSMENTS

§ 934.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred to carry out the functions of said committee and of the board under this part during each marketing year. The funds to cover such expenses shall be acquired by levying of assessments as prescribed in § 934.41. The committee shall submit to the Secretary a budget for each marketing year, including an explanation of the items appearing therein, and a recommendation as to the rate of assessment for such year.

§ 934.41 Assessments.

(a) *Requirements for payment.* Each person who first handles spearmint oil shall pay to the committee upon demand, his pro rata share of the expenses authorized by the Secretary for each marketing year. Each such person's pro rata share shall be the rate of assessment fixed by the Secretary times the salable quantity of spearmint oil which he handles as first handler thereof. The payment of assessments for the maintenance and functioning of the committee and the board may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) *Rate of assessment.* The Secretary shall fix the rate of assessment to be

paid by each first handler. At any time during or after the marketing year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all spearmint oil handled during the applicable marketing year. In order to provide funds for the administration of the provisions of this part during the first part of a marketing year before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

§ 934.42 Accounting.

(a) *Excess funds.* At the end of a marketing year, funds in excess of the year's expenses shall be placed in an operating reserve not to exceed approximately 1 marketing year's operational expenses or such lower limits as the committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the committee for expenses authorized pursuant to § 934.40. Funds in excess of those placed in the operating reserve shall be refunded to handlers: *Provided*, That any sum paid by a first handler in excess of his pro rata share of the expenses during any marketing year may be applied by the committee at the end of such marketing year to any outstanding obligations due the committee from such person. Each handler's share of such excess funds shall be the amount of assessments he paid in excess of his pro rata share.

(b) *Disposition of funds upon termination of order.* Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate; *Provided*, That to the extent practicable, such funds will be returned pro rata to the first handler from whom such funds were collected.

REGULATION

§ 934.43 Marketing policy.

(a) Each season, prior to May 31, the committee shall hold such meetings as necessary for it to adopt a marketing policy for the ensuing crop year: *Provided*, That with respect to the initial marketing year the committee shall hold such meetings as soon as practicable after the effective date of this part. The committee shall submit such marketing report to the Secretary prior to making any recommendation pursuant to § 934.44. Such marketing policy report shall contain information relative to:

- (1) The estimated pounds of each class of oil in the hands of producers.
- (2) The desirable carryout of each class of oil at the end of crop year.
- (3) The amount of each class of oil in the set-aside.
- (4) The estimated carryover of each class of salable oil by handlers.
- (5) The estimated demand for each class of oil.

(6) The estimated production in the ensuing crop year by class or the known production in the current crop year, as applicable.

(7) The current prices being received and the probable general level of prices to be received for each class of oil.

(8) The recommendation of the Advisory Board and the information submitted in support thereof.

§ 934.44 Recommendations for regulations.

(a) Whenever the considerations enumerated in § 934.43 indicate a need for limiting the quantity of any class of spearmint oil marketed, the Committee shall not later than June 1 recommend to the Secretary a salable percentage and a set-aside percentage of the currently available oil of that class: *Provided*, That with respect to any recommendation for the initial marketing year, the Committee shall make its recommendation as soon as practicable after the effective date of this part.

(b) The failure of the Advisory Board to make a recommendation with respect to regulation authorized by § 934.45, after having received notice of the intention of the Committee to meet for the purpose of receiving such recommendations, shall not preclude the Committee from submitting recommendations and supporting information to the Secretary.

(c) All assembled meetings of the Committee shall be open to growers and handlers and other interested persons. The Committee shall publish notice of such meetings in such newspapers as it deems appropriate and shall mail notice of such meetings to producers and handlers and any other person who has filed his name and address with the Committee for such purpose.

§ 934.45 Issuance of regulations.

(a) When the Secretary finds, but no later than June 15 of each year, or such later date as may be appropriate during the initial marketing year, on the basis of the committee's recommendations or other information, that the anticipated supply of spearmint oil by class produced by producers in the production area is in excess of the market demand for that class, he shall establish a salable percentage and a set-aside percentage which shall be used to determine the amount of spearmint oil of each class that may be purchased from or handled on behalf of each producer by all handlers.

(b) Each producer's salable quantity of oil of any class for any marketing year shall be that oil the quantity of which equals the product obtained by multiplying the quantity of spearmint oil delivered to a handler for handling (such delivered quantity may be composed of oil produced by the producer during the marketing year in question, oil produced during any prior marketing year(s) but which was not purchased by a handler or handled on his behalf by handlers, or set-aside oil that was released to him on July 1 of any calendar year) by the salable percentage for that class. The remaining balance shall be the set-aside

oil for that class. Handlers may acquire and freely handle the salable quantity of each producer: *Provided*, That there is set-aside from each delivery, in the name of the producer, the appropriate set-aside quantity.

§ 934.46 Modification of volume regulation.

(a) During the first week in October and February, or such other dates as recommended by the committee and approved by the Secretary, and at such other times as the committee deems appropriate, the committee shall review its recommendations of the set-aside percentages for each class of spearmint oil. If it is determined that such percentage did not result in an adequate salable quantity of any class of oil, it shall recommend a reduction of the set-aside percentage for that class of oil.

(b) Whenever the Secretary finds, from the recommendation and information submitted by the Committee or from other available information, that a regulation for any class of oil should be modified in order to effectuate the declared policy of the act, he shall modify such regulation: *Provided*, That no such modification shall increase the set-aside percentage for any class of oil previously established for the then current marketing year.

§ 934.47 Set-aside.

(a) Whenever the Secretary has fixed the set-aside percentage for any marketing year as provided in § 934.45, each first handler who purchases spearmint oil from or otherwise handles spearmint oil on behalf of any producer shall set aside in the name of such producer at such time and in such manner and form as the Committee may prescribe, a portion of the spearmint oil he acquired from such producer by purchase or for handling during such period that will fulfill the set-aside requirements. Such set-aside portion shall be equal to the product obtained by multiplying the quantity of spearmint oil of each class so acquired from each producer during the marketing year by the set-aside percentage as fixed by the Secretary after a recommendation therefor by the Committee.

(b) Set-aside spearmint oil shall be held by the handler for the account of the producer until such oil is released to the owner thereof on the next following July 1 or until relieved of such responsibility by the Committee. Handlers shall store set-aside spearmint oil in suitable containers, apart from other spearmint oil, in accordance with good commercial practices, and maintained the same as when acquired except for normal and natural deterioration, loss through fire, acts of God, or other conditions beyond the handler's control. The Committee may, with the approval of the Secretary, establish rules and regulations to effectuate the provisions of this § 934.47. Such rules and regulations may be with respect to, but not limited to, such matters as storage of the set-aside, transfer of the set-aside from one handler to another, transfer of the set-aside from one

location to another and identification of set-aside spearmint oil and minimum quantity exemptions.

§ 934.48 Exempt spearmint oil.

Oil held in the hands of a producer or handler on the effective date of this order shall be free of regulations under this order if reported to and identified to the committee not later than 30 days after the effective date of the order. If not so reported and identified to the committee, it shall be presumed that such oil was produced after the effective date of this order.

REPORTS AND RECORDS

§ 934.60 Reports.

(a) *Inventory.* Each first handler who purchases spearmint oil from or otherwise handles spearmint oil on behalf of any producer shall file with the committee a certified report showing such information as the committee may specify with respect to any spearmint oil held by him on such dates as the committee may designate.

(b) *Receipts.* Each first handler who purchases spearmint oil from or otherwise handles spearmint oil on behalf of any producer shall, upon request of the committee, file with the committee a certified report showing for each lot of spearmint oil received the identifying marks, class, weight, place of production, and the producer's name and address.

(c) *Other reports.* Upon the request of the committee, as approved by the Secretary, each handler shall furnish to the committee such other information as may be necessary to enable it to exercise its powers and perform its duties under this part.

§ 934.61 Records.

Each first handler shall maintain such records pertaining to all spearmint oil handled under the provisions of this part as will substantiate the required reports. All such records shall be maintained for at least 2 years after the termination of the marketing year to which the records relate.

§ 934.62 Verification of reports and records.

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by handlers the Secretary and the committee, through its duly authorized employees, shall have access of any premises where applicable records are maintained, where spearmint oil is received or held, and, at any time during reasonable business hours, shall be permitted to inspect oil on hand and any or all records of such handlers with respect to matters within the purview of this part.

§ 934.63 Confidential information.

All reports and records furnished or submitted by handlers to, or obtained by the employees of, the committee which contain data or information constituting a trade secret or disclosing the trade position, financial conditions, or business operations of the particular handler

from whom received, shall be treated as confidential and the reports and all information obtained from the records shall at all times be kept in the custody and under the control of one or more employees of the committee who shall disclose such information to no person other than the Secretary.

MISCELLANEOUS PROVISIONS

§ 934.70 Compliance.

No person shall handle spearmint oil, the handling of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle spearmint oil except in conformity with the provisions and the regulations issued under this part.

§ 934.71 Rights of the Secretary.

Members of the committee and of the board, and any agent, employee, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every decision, determination, and other act of the committee shall be subject to the continuing right of disapproval by the Secretary at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance there or in accordance therewith prior to such disapproval by the Secretary.

§ 934.72 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the Act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 934.73 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 934.74 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee or agent, except for acts of dishonesty, willful misconduct or negligence.

§ 934.75 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

PROPOSED RULE MAKING

§ 934.76 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

§ 934.77 Effective term.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § 934.78.

§ 934.78 Termination.

(a) *Failure to effectuate.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this order whenever he finds that such provisions obstruct or do not tend to effectuate the declared policy of the act.

(b) *Referendum.* The Secretary shall terminate the provisions of this part at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, produced for market more than 50 percent of the volume of sparmint oil so produced in the production area.

(c) *Termination of act.* The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 934.79 Proceedings after termination.

Upon termination of the provisions of this part the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. The said trustees shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (c) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto. Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 934.80 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not

(a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this part or any regulation issued hereunder, or (b) release or extinguish any violation of this part or any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

[FR Doc. 71-9130 Filed 6-28-71; 8:47 am]

[7 CFR Part 945]

IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

Proposed Limitation of Shipments

Consideration is being given to the issuance of the limitation of shipments regulation hereinafter set forth, which was recommended by the Idaho-Eastern Oregon Potato Committee, established pursuant to Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR Part 945). This marketing order program regulates the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oreg., and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations by the Idaho-Eastern Oregon Potato Committee reflect its appraisal of the crop and prospective market conditions. Shipments of new crop potatoes from the production area are expected to begin July 20, however, storage potatoes from last year's crop will be shipped throughout the month of July. The proposed regulation provided herein is necessary to prevent potatoes of lower grades, undesirable sizes, and potatoes of lesser maturities from being distributed in the channels of commerce to improve the returns to producers for preferred grades and sizes. The specific requirements, hereinafter set forth, regulate the handling of potatoes by grade, size, cleanliness, and maturity so as to (1) promote orderly marketing, (2) standardize the quality of the potatoes shipped from the production area, and (3) maximize returns to the producers pursuant to the declared policy of the act.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same in quadruplicate with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

§ 945.330 Limitation of shipments.

During the period July 10, 1971, through July 31, 1972, no person shall handle any lot of potatoes unless such

potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with paragraphs (c), (d), and (e) of this section.

(a) *Minimum quality requirements—*(1) *Grade.* All varieties: U.S. No. 2, or better grade.

(2) *Size.* (i) Round red varieties: 1 7/8 inches minimum diameter.

(ii) All other varieties: 2 inches minimum diameter, or 4 ounces minimum weight.

(iii) All varieties: Size B if U.S. No. 1, or better grade.

(iv) When containers of long varieties of potatoes are marked with a count or similar designation they must meet the weight range for the count designation listed below:

Count designation	Weight range
Larger than 50 count..	15 ounces or larger.
50 count.....	12-19 ounces.
60 count.....	10-16 ounces.
70 count.....	9-15 ounces.
80 count.....	8-13 ounces.
90 count.....	7-12 ounces.
100 count.....	6-10 ounces.
110 count.....	5-9 ounces.
120 count.....	4-8 ounces.
130 count.....	4-8 ounces.
140 count.....	4-8 ounces.
Smaller than 140 count.	4-8 ounces.

The following tolerances, by weight, are provided for potatoes in any lot which fail to meet the weight range for the designated count:

(a) Not to exceed 5 percent for under-size; and

(b) Not to exceed 10 percent for oversize.

(3) *Cleanliness.* All varieties: "Generally fairly clean."

(b) *Minimum maturity requirements—*(1) *White Rose and red skin varieties.* During the period July 10, 1971, through December 31, 1971, "moderately skinned" and thereafter they may be handled without regard to the maturity requirements.

(2) *All other varieties.* "Slightly skinned."

(3) *Exceptions.* (i) Subject to compliance with subdivision (iii) of this subparagraph, any lot of potatoes not exceeding a total of 50 hundredweight of each variety may be handled for any producer without regard to the foregoing maturity requirements.

(ii) If an officially inspected lot of potatoes meets the foregoing maturity requirements, but fails to meet the grade and size requirements, the lot may be regraded. If, after regrading, such lot then meets the grade and size requirements but fails to meet the maturity requirements, as indicated by the applicable Federal-State inspection certificate, such lot if not exceeding 100 hundredweight shall be exempt from the foregoing maturity requirements: *Provided*, That the handler complies with subdivision (iii) of this subparagraph.

(iii) Prior to each shipment of potatoes exempt from the foregoing maturity requirements, the handler thereof shall report to the committee the name and

address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Special purpose shipments.* (1) The minimum grade, size, cleanliness, and maturity requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(i) Charity;

(ii) Certified seed;

(iii) Seed pieces cut from stock eligible for certification as certified seed;

(iv) Experimentation;

(v) Canning, freezing, and "other processing" as hereinafter defined:

Provided, That shipments of potatoes for the purposes specified in subdivision (v) of this subparagraph shall be exempt from inspection requirements specified in § 945.65 and from assessment requirements specified in § 945.42.

(2) The minimum grade, size, cleanliness, and maturity requirements set forth in paragraphs (a) and (b) of this section shall be applicable to shipments of potatoes for each of the following purposes:

(i) *Export: Provided*, That potatoes of a size not smaller than 1 1/2 inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and

(ii) *Prepeeling: Provided*, That potatoes of a size not smaller than 1 1/2 inches in diameter may be shipped if the potatoes grade not less than Idaho Utility or Oregon Utility grade.

(d) *Safeguards.* Each handler making shipments of potatoes for charity, seed pieces cut from stock eligible for certification, experimentation, canning, freezing, and "other processing" as hereinafter defined, export, or for prepeeling pursuant to paragraph (c) of this section shall:

(1) First, apply to the committee for and obtain a Certificate of Privilege to make each shipment;

(2) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(3) At the time of applying to the committee for a Certificate of Privilege, or promptly thereafter, furnish the committee with a receiver's or buyer's certification that the potatoes so handled are to be used only for the purpose stated in the application and that such receiver will complete and return to the committee such periodic receiver's reports that the committee may require;

(4) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(5) Bill each shipment directly to the applicable processor or receiver.

(e) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds 5 hundredweight of potatoes.

PROPOSED RULE MAKING

(f) *Definitions.* Effective July 10, 1971, through August 31, 1971, the terms "U.S. No. 1," "U.S. No. 2," "Size B," "fairly clean," "moderately skinned," and "slightly skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540-51.1566 of this title), including the tolerances set forth therein. The term "generally fairly clean" means that at least 90 percent of the potatoes in a given lot are "fairly clean." From September 1, 1971, through July 31, 1972, the terms "U.S. No. 1," "U.S. No. 2," "Size B," "fairly clean," "moderately skinned," and "slightly skinned" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes (§§ 51.1540-51.1566 of this title effective September 1, 1971, as published in the FEDERAL REGISTER of December 1, 1970, 35 F.R. 18257), including the tolerances set forth therein. The term "generally fairly clean" means that at least 90 percent of the potatoes in a given lot are "fairly clean." The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (U.S. Standards for Grades of Peeled Potatoes, §§ 52.2421-52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoe-strings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." The terms "Idaho Utility grade" and "Oregon Utility grade" shall have the same meanings as when used in the respective standards for potatoes for the respective States. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(g) *Applicability to imports.* Pursuant to section 608e-1 of the Act and § 980.1 "Import regulations" (§ 980.1 of this chapter), Irish potatoes of the long varieties imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 24, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc. 71-9177 Filed 6-28-71; 8:51 am]

DEPARTMENT OF
TRANSPORTATIONHazardous Materials Regulations
Board

[49 CFR Part 171]

[Docket No. HM-22; Notice No. 71-21]

TRANSPORTATION OF HAZARDOUS
MATERIALS

Matter Incorporated by Reference

The Hazardous Materials Regulations Board of the Department of Transportation is considering amending § 171.1(d) of the Hazardous Materials Regulations by adding subparagraph (7). Paragraph (d)(7) will list Bureau of Explosives pamphlets referenced in Parts 170-189 of the Hazardous Materials Regulations.

The Board has been petitioned by the Bureau of Explosives, Association of American Railroads, to make this revision.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 171 as follows:

In § 171.7, paragraph (d)(7) would be added to read as follows:

§ 171.7 Matter incorporated by reference.

(d)

(7) Bureau of Explosives, Association of American Railroads:

(i) Bureau of Explosives Pamphlet No. 6 is titled, "Illustrating Methods for Loading and Bracing Carload and Less Than Carload Shipments of Explosives and Other Dangerous Articles," 1962 edition.

(ii) Bureau of Explosives Pamphlet No. 6A (includes Appendix No. 1, October 1944, and Appendix No. 2, December 1945) is titled, "Illustrating Methods for Loading and Bracing Carload and Less Than Carload Shipments of Loaded Projectiles, Loaded Bombs, etc.," 1943 edition.

(iii) Bureau of Explosives Pamphlet No. 6C is titled, "Illustrating Methods for Loading and Bracing Trailers and Less Than Trailer Shipments of Explosives and Other Dangerous Articles via Trailer-on-Flat-Car (TOFC) or Container-on-Flat-Car (COFC)," September 1968.

(iv) Bureau of Explosives Pamphlet No. 22 is titled, "Handling Collisions and Derailments Involving Explosives, Gasoline and Other Dangerous Articles," revised September 1969.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before August 3, 1971, will be considered before final action is taken on the

proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and Title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)).

Issued in Washington, D.C., on June 23, 1971.

WILLIAM K. BYRD,
Acting Chairman, Hazardous
Materials Regulations Board.

[FR Doc.71-9115 Filed 6-28-71;8:48 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Light-Water-Cooled Nuclear Power Reactors; Correction

In F.R. Doc. 71-8049 appearing at page 11113 in the issue for Wednesday, June 9, 1971, the first sentence of footnote 3 is corrected to read as follows: "An exposure rate such that a hypothetical individual continuously present in the open at any location on the boundary of the site or in the offsite environment would not incur an annual exposure in excess of 10 millirems."

Dated at Washington, D.C., this 23d day of June 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-9139 Filed 6-28-71;8:48 am]

ENVIRONMENTAL PROTECTION AGENCY

[21 CFR Part 420]

DINITRO-o-CYCLOHEXYLPHENOL AND ITS DICYCLOHEXYLAMINE SALT

Proposed Revocation of Pesticide Chemical Tolerances

As a result of the 1950 spray residue public hearings and pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act, tolerances were established in Part 420 for residues of the insecticide dinitro-o-cyclohexylphenol in or on citrus fruits at 1 part per million (§ 420.144) and for residues of the dicyclohexylamine salt of dinitro-o-cyclohexylphenol in or on apples, apricots, beans, blackberries, boysenberries, celery, cherries, citrus fruits, dewberries, grapes, loganberries, nectarines, peaches, pears, plums (fresh prunes), quinces, raspberries, strawberries, and youngberries at 1 part per million (§ 420.143).

In line with the Environmental Protection Agency policy of reducing exist-

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ing tolerances to levels no higher than necessary and reviewing pesticide tolerances with respect to changes in pesticide usage, new scientific data, and information, as well as in keeping with the recommendations of the President's Science Advisory Committee report (May 15, 1963), a review was made of the established tolerances for dinitro-o-cyclohexylphenol and its dicyclohexylamine salt to determine whether current agricultural practices and available data justify the continuation of these tolerances. The review revealed that the tolerances are unnecessary since the manufacture, sale, and use of dinitro-o-cyclohexylphenol and its dicyclohexylamine salt as an insecticide have been discontinued.

The Pesticides Regulation Division advises that there are no registrations for either compound.

Based on consideration given to the above information and other relevant material, it is concluded that the subject tolerances should be revoked.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (e), (m), 68 Stat. 514, 517; 21 U.S.C. 346a (e), (m)), under authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and delegated by him to the Deputy Assistant Administrator for Pesticide Programs of the Environmental Protection Agency (36 F.R. 9038), it is proposed that Part 420 be amended by the revocation of § 420.143 *Dicyclohexylamine salt of dinitro-o-cyclohexylphenol; tolerances for residues* and § 420.144 *Dinitro-o-cyclohexylphenol; tolerance for residues*.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: June 21, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.71-9134 Filed 6-28-71;8:47 am]

[45 CFR Part 1201]

QUALIFICATIONS OF LOW-EMISSION VEHICLES

Notice of Proposed Rule Making

Notice is hereby given of a proposal to promulgate regulations establishing pro-

cedures in accordance with which the Administrator of the Environmental Protection Agency will determine whether an applicant vehicle qualifies as a "low-emission vehicle" under section 212 of the Clean Air Act (42 U.S.C. 1857 f-1 et seq.), as amended by the "Clean Air Amendments of 1970" (Public Law 91-604). It is proposed to publish the new regulations as Subpart S of Part 1201 of Title 45 of the Code of Federal Regulations.

Section 212 of the Clean Air Act requires the Federal Government to purchase certified low-emission vehicles in lieu of other vehicles if the cost of the certified vehicles does not exceed 150 percent of the cost of the vehicles for which they are to substitute. The proposed regulations relate only to the Administrator's determination of whether a vehicle qualifies as a "low-emission vehicle" and should be considered in conjunction with the regulations of the Low-Emission Vehicle Certification Board (40 CFR Part 400). The proposed regulations are applicable to vehicles which the applicant seeks to have certified as a suitable substitute for light-duty motor vehicles. Regulations relating to vehicles which the applicant seeks to substitute for heavy-duty motor vehicles will be proposed as soon as practicable.

Any interested person may within 30 days from the date of publication of this notice in the FEDERAL REGISTER submit in triplicate comments, views, data, or arguments concerning the proposal to the Office of Air Programs, Environmental Protection Agency, 5600 Fishers Lane, Rockville, MD 20852. All relevant comments postmarked no later than 30 days after publication of the regulations will be considered and the regulations will be amended as the Administrator deems appropriate after consideration of such comments. The regulations will become effective on the date of republication in the FEDERAL REGISTER.

Dated: June 24, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart S—Low-Emission Vehicles

Sec.

- 1201.320 Definitions.
- 1201.321 Low-emission vehicle.
- 1201.322 Application for certification.
- 1201.323 Test vehicle selection.
- 1201.324 Data reporting.
- 1201.325 Testing by the Administrator.
- 1201.326 Administrator's determination.
- 1201.327 Post-certification testing.

AUTHORITY: The provisions of this Subpart S issued under sec. 212, 84 Stat. 1676, Public Law 91-604.

§ 1201.320 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act (42 U.S.C. 1857 f-1 et seq.) and in § 1201.1:

(1) "Motor vehicle" means any self-propelled vehicle designed for use in the United States on the highways, other than a vehicle designed or used for military field training, combat, or tactical purposes.

(2) "Inherently low-polluting vehicle" means any low-emission vehicle which is powered by a propulsion system which does not require control devices, for exhaust emissions, external to the engine.

(3) "Anticipated certification period" means the 1-year period which begins 270 days after submission of a completed certification application to the Administrator.

(4) "Model year" as used in this subpart shall have the same meaning as that term has under section 202(b)(3)(A)(i) of the Clean Air Act.

(5) "Light-duty motor vehicle" as used in this subpart means a motor vehicle which the applicant seeks to have certified as a suitable substitute for a class or model of light-duty motor vehicle as defined at § 1201.1(a)(5).

§ 1201.321 Low-emission vehicle.

(a) A "low-emission vehicle" means any light-duty motor vehicle for which a completed certification application has been filed in accordance with § 1201.322 and which—

(1) Meets the most stringent crankcase emission and fuel evaporative standards which will apply under section 202 of the Clean Air Act during any part of the anticipated certification period to motor vehicles of that type; and

(2) Produces exhaust emissions of (i) hydrocarbons or carbon monoxide which meet the emission standards applicable under section 202 of the Act to model year 1975 vehicles, or (ii) oxides of nitrogen which meet emission standards applicable under section 202 to model year 1976 vehicles; and

(3) Does not exceed the following exhaust emission standards:

- (i) Hydrocarbons—3 grams per vehicle mile;
- (ii) Carbon monoxide—28 grams per vehicle mile; and
- (iii) Oxides of nitrogen—3.1 grams per vehicle mile; and

(4) Emits no air pollutant other than those pollutants which are emitted by the class or model of motor vehicles for which the applicant seeks to substitute its vehicle, unless the Administrator determines that such other emissions will not contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare; and

(5) Does not significantly increase the emissions of any air pollutant not subject to an emission standard under section 202 of the Act by comparison to the emissions of such pollutant by the class or model of motor vehicles for which the applicant seeks to substitute its vehicle.

(b) The applicable test procedures for determining compliance with the standards established by paragraph (a) of this section shall be those in effect under section 202 of the Act for 1975 model year light-duty gasoline-powered motor vehicles, except as provided in § 1201.322(b).

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§ 1201.322 Application for certification.

(a) Any person desiring certification of a test vehicle under section 212 of the Clean Air Act shall submit to the Administrator a notice of intent to submit a certification application with respect to such vehicle. The notice of intent shall include a statement of the propulsion system and the fuel which is used by the vehicle, the class or model of vehicles for which the prospective applicant seeks to substitute its vehicle, and such other information as the Administrator may request.

(b) If the Administrator determines that the test procedures required under § 1201.321(b) are inapplicable to a vehicle for which he has received a notice of intent under paragraph (a) of this section, he shall prescribe test procedures for determining whether such vehicle is a low-emission vehicle and, if necessary, he shall establish emission standards equivalent to those in effect under paragraph (a) of § 1201.321.

(c) After completion of testing of durability test vehicles in accordance with applicable test procedures and with § 1201.323, the person desiring certification shall submit to the Administrator a written application signed by an authorized representative. The application shall contain a description of the applicant vehicle and an identification of the class or model of vehicles presently being purchased by the Federal Government for use by its agencies for which the applicant vehicle is proposed as a substitute. The application shall also contain all emission data from the tests of the durability test vehicles and all data required by the Low-Emission Vehicle Certification Board under 40 CFR 400.4, relative to the following vehicle characteristics:

- (1) Safety;
- (2) Performance characteristics;
- (3) Reliability potential;
- (4) Serviceability;
- (5) Fuel availability;
- (6) Noise level; and
- (7) Maintenance costs.

(d) Any certification application which asserts that the applicant test vehicle meets the requirement of paragraph (a)(2)(i) of § 1201.321 must be filed prior to January 1, 1973, in order for that vehicle to be eligible for certification. Any certification application which asserts that the applicant test vehicle meets the requirement of paragraph (a)(2)(ii) of § 1201.321 must be filed prior to January 1, 1974, in order for that vehicle to be eligible for certification.

(e) In addition to the information requirement under this section, and under 40 CFR 400.4 the Administrator may require the applicant to submit any other information which the Administrator deems necessary in determining whether the test vehicle is a low-emission vehicle. The application for certification shall

not be considered complete until all information required by the Administrator and the Low-Emission Vehicle Certification Board has been submitted.

§ 1201.323 Test vehicle selection.

(a) The test vehicles covered by the application for certification shall be divided by the applicant into engine families in accordance with § 1201.89(a)(2) unless the Administrator approves an alternative procedure under § 1201.322(b).

(b) Except as the Administrator may require pursuant to § 1201.322(b), the applicant shall test or cause to be tested two durability vehicles for each engine system combination for which the applicant seeks certification as a suitable substitute. To the extent feasible, the test vehicles shall employ the engine displacement/transmission/inertia weight/fuel-system combination which is most similar to that used in the model or class of vehicles which the Federal Government purchases in greatest quantity from among the models or classes for which the applicant seeks to substitute its vehicles.

(c) After the submission of the application in accordance with § 1201.322, the Administrator will select emission data test vehicles as provided in § 1201.89(b).

§ 1201.324 Data reporting.

(a) All data on durability test vehicles shall be reported in accordance with § 1201.191(d).

(b) The data on all emission data test vehicles shall be reported to the Administrator only at the completion of the testing of all emission data test vehicles.

(c) For the purpose of this subpart § 1201.91(e) shall not apply.

§ 1201.325 Testing by the Administrator.

The Administrator may require that any one or more of the applicant's test vehicles be submitted to him, at such place or places and at such time or times as he may designate for the purpose of conducting emission tests.

§ 1201.326 Administrator's determination.

(a) The Administrator shall, within 90 days after receipt of a completed application for certification, determine whether the applicant vehicle is a low-emission vehicle. Such determination shall be based upon an evaluation of the data provided to the Administrator in the application for certification, any supporting information the Administrator may obtain from the applicant, and the results of any testing the Administrator may have conducted in accordance with this § 1201.326.

(b) The Administrator shall, immediately upon making the determination required in paragraph (a) of this section, publish in the FEDERAL REGISTER notice of such determination and the reasons therefor.

(c) The Administrator may make any recommendation which he deems appropriate concerning whether any applicant vehicle is an inherently low-polluting vehicle.

(d) If at any time after making an affirmative determination under paragraph (a) but prior to certification by the Board the Administrator obtains in-

formation which demonstrates that the applicant vehicle is not a low-emission vehicle, he may revoke such determination. The Administrator must immediately thereafter notify the Board and publish in the *FEDERAL REGISTER* notice of such revocation and the reasons therefor.

§ 1201.327 Post-certification testing.

The Administrator shall, at the request of the Board, test the emissions from certified low-emission vehicles purchased by the Federal Government. If these tests show that the emissions exceed the rates on which the Administrator based his determination under § 1201.326, the Administrator shall notify the Board.

[FR Doc.71-9186 Filed 6-28-71; 8:52 am]

DEPARTMENT OF STATE

Agency for International Development

DIRECTOR, OFFICE OF CAPITAL DEVELOPMENT AND FINANCE, BUREAU FOR EAST ASIA

Redelegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 5, dated December 29, 1961, as amended, I hereby redelegate to the Director, Office of Capital Development and Finance, authority to exercise any of the functions, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate loan agreements and amendments thereto, with respect to loans authorized under the Foreign Assistance Act of 1961, as amended (the Act), in accordance with the terms of the authorization of such loan;

2. Authority to implement loan agreements with respect to loans authorized under the Act and by the Board of Directors of the Corporate Development Loan Fund including the following:

(a) Authority to prepare, negotiate, sign, and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers in satisfaction of conditions precedent to financing under such loan agreements;

(c) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan agreements; and

(d) Authority to approve contractors, review and approve the terms of contracts, amendments and modifications thereto and invitations for bids with respect to such contracts financed by funds made available under such loan agreements.

The authorities herein redelegated may be exercised by a person who is performing the functions of the Director, EA/CDF, in an "Acting" capacity.

The authorities enumerated above may be redelegated to East Asia Mission Directors in whole or in part as may be deemed necessary or desirable.

This redelegation of authority is effective immediately.

RODERIC L. O'CONNOR,
Assistant Administrator, East Asia.
JUNE 21, 1971.

[FR Doc.71-9149 Filed 6-28-71; 8:49 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

FINISHED TUBELESS TIRE VALVES FROM WEST GERMANY

Antidumping Proceeding Notice

JUNE 22, 1971.

On April 26, 1971, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that finished tubeless tire valves from West Germany are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows: The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-9172 Filed 6-28-71; 8:51 am]

TUBELESS TIRE VALVES FROM CANADA

Withholding of Appraisement Notice

Information was received on July 20, 1970, that tubeless tire valves from Canada were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the *FEDERAL REGISTER* of August 21, 1970, on page 13396. The "Antidumping Proceeding Notice" indicated that there was

evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of tubeless tire valves from Canada is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Statement of reasons. The information currently before the Bureau tends to indicate that the probable basis of comparison will be between purchase price and home market price of such or similar merchandise.

Preliminary analysis suggests that purchase price will probably be calculated by deducting from the duty-paid delivered price to the United States inland freight charges, duty, and warehousing allowance, as applicable. Canadian sales tax and Canadian duty rebates on raw materials refunded or not collected upon exportation are likely to be added back.

It appears that home market price will be based on a discounted weighted average price less sales commission and delivery costs.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price will be lower than home market price.

Customs officers are being directed to withhold appraisement of tubeless tire valves from Canada in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the *FEDERAL REGISTER*.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the *FEDERAL REGISTER*.

This notice, which is published pursuant to § 153.34(b), Customs Regulations,

shall become effective upon publication in the FEDERAL REGISTER (6-29-71). It shall cease to be effective at the expiration of 6 months from the date of such publication, unless previously revoked.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: June 24, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-9212 Filed 6-28-71;8:52 am]

Internal Revenue Service

[Order No. 67 (Rev. 8)]

SIGNING OF COMMISSIONER OR ACTING COMMISSIONER'S NAME OR ON HIS BEHALF

Delegation of Authority

Effective as of 12:01 a.m., June 23, 1971, all outstanding authorizations to sign the name of, or on behalf of, Randolph W. Thrower, Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of, Harold T. Swartz, Acting Commissioner of Internal Revenue.

This order supersedes Delegation Order No. 67 (Rev. 7), issued April 1, 1969.

Effective date: June 23, 1971.

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner.

[FR Doc.71-9144 Filed 6-28-71;8:48 am]

Office of the Secretary ALUMINUM CHLORIDE (ANHYDROUS) FROM CANADA

Notice of Tentative Negative Determination

JUNE 24, 1971.

Information was received on June 29, 1970, that aluminum chloride (anhydrous) from Canada was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 21, 1970, on page 13396.

I hereby make a tentative determination that aluminum chloride (anhydrous) from Canada is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based. Sales to the United States were made to unrelated parties within the meaning of section 207 of the Act (19 U.S.C. 166).

Based on the available information, it was determined that insufficient quantities of such or similar merchandise were sold in the home market to furnish an

adequate basis for fair value comparisons.

Accordingly, for fair value purposes, purchase price was compared with the price at which such or similar merchandise was sold to third countries.

Purchase price was calculated by deducting from the c.i.f. delivered duty-paid price for exportation to the United States the included selling expenses, freight charges, duty, and brokerage.

Third country price was computed on the basis of the c.i.f. third country port prices. Appropriate adjustments were made for inland freight, loading and container charges, ocean freight, marine insurance, and packing.

Comparison of purchase price with adjusted third country price revealed that purchase price was higher than adjusted third country price.

In accordance with § 153.33(b), Customs Regulations (19 CFR 153.33(b)), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs Regulations (19 CFR 153.33).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-9210 Filed 6-28-71;8:52 am]

BICYCLE TIRES AND INNER TUBES FROM JAPAN

Notice of Intent To Discontinue Antidumping Investigation

JUNE 24, 1971.

Information was received on August 27, 1969, that bicycle tires and inner tubes from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of January 23, 1970, on page 991.

I hereby announce an intent to discontinue the antidumping investigation of bicycle tires and inner tubes from Japan.

Statement of reasons on which this notice of intent to discontinue antidumping investigation is based. It was determined that a sufficient quantity of such or similar merchandise was sold in the home market to form a basis for the use of home market price for comparison. Sales were made to unrelated parties in the United States. Comparisons were, therefore, made between home market price and purchase price.

Purchase price was based on the sale price to the United States with deductions for included inland insurance and freight, shipping charges, marine insurance, and ocean freight, as applicable.

Adjusted home market price was based on the weighted average home market price for such or similar merchandise with a deduction for inland freight and adjustments for differences in packing costs, credit charges, and production costs, as applicable.

The comparisons made revealed some instances where purchase price was lower than the adjusted home market price of such or similar merchandise. However, these were determined to be minimal in terms of the volume of sales involved.

Subsequently, formal assurances were received from the manufacturers that they would make no future sales at less than fair value within the meaning of the Act.

These facts recited above constitute evidence warranting the discontinuance of the investigation.

Interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views. Any such written views, arguments, or requests should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Unless persuasive evidence or argument to the contrary is presented pursuant to the preceding paragraph, a final notice will be published discontinuing the investigation.

This notice of intent to discontinue an antidumping investigation is published pursuant to § 153.15(b) of the Customs Regulations (19 CFR 153.15(b)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-9213 Filed 6-28-71;8:52 am]

DOOR LOCKS AND LATCHES FROM JAPAN

Notice of Tentative Negative Determination

JUNE 24, 1971.

Information was received on May 25, 1970, that door locks and latches from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as

"the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of July 28, 1970, on page 12079.

I hereby make a tentative determination that door locks and latches from Japan, are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based. It was determined that the appropriate basis of comparison for fair value purposes was between home market price and purchase price.

The home market price was based upon sales of identical or similar merchandise, as appropriate, in the home market. Where similar merchandise was used, due allowance was made for differences in the merchandise. Included inland freight was deducted and adjustments made for cost differences between home market and export packing. Adjustments, as appropriate, were also made for advertising costs in behalf of a purchaser, and for differences in interest cost, warranties and general selling expenses to the extent of the export commission. Purchase price was based on either the c.i.f. or exfactory price to the unrelated purchasers in the United States. Where the sale was on a c.i.f. basis, the included costs for ocean freight, insurance, shipping charges, handling charges, and inland freight in Japan were deducted. Selling commissions, where applicable, were deducted. Purchase price was found to be higher than the home market price in all cases.

In accordance with § 153.33(b), Customs Regulations (19 CFR 153.33(b)), interested parties may present written views or arguments, or request in writing, that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs Regulations (19 CFR 153.33).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-9211 Filed 6-28-71;8:52 am]

TAPERED ROLLER BEARINGS FROM JAPAN

Determination of Sales at Not Less Than Fair Value

JUNE 24, 1971.

On January 9, 1971, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" that tapered roller bearings manufactured by the Koyo Seiko Co., Tokyo, Japan, were not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as the "Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination. Presentations were made by both the attorney for the complainant and the attorney for the Japanese manufacturer.

Upon review of all information submitted and for the reasons stated in the tentative determination, I hereby determine that tapered roller bearings manufactured by the Koyo Seiko Co., Tokyo, Japan, are not being, nor likely to be, sold at less than fair value (section 201(a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and § 153.33(c), Customs Regulations (19 CFR 153.33(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-9214 Filed 6-28-71;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

PROPOSED OUTER CONTINENTAL SHELF OIL AND GAS DRAINAGE SALE OFFSHORE LOUISIANA

Environmental Impact Statement

JUNE 22, 1971.

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Department of the Interior, has prepared a draft environmental impact statement relating to a proposed Outer Continental Shelf drainage oil and gas lease sale. The environmental statement considers 19 tracts of Outer Continental Shelf lands which have been identified for drainage potential. All 19 tracts are located in the Gulf of Mexico offshore Louisiana.

The draft environmental statement is available for public review. Copies may be obtained from the Department of the

Interior, Director, Bureau of Land Management (310), Washington, D.C. 20240. Anyone wishing to comment on the draft environmental statement should submit their comments in writing within 30 days to:

U.S. Department of Interior, Director, Bureau of Land Management (310), Washington, D.C. 20240.

After all comments have been received and analyzed, a final environmental statement will be prepared.

HARRISON LOESCH,
Assistant Secretary of the Interior.

[FR Doc.71-9310 Filed 6-28-71;11:18 am]

Bureau of Mines

SURFACE WORK AREAS OF UNDERGROUND COAL MINES AND SURFACE COAL MINES

Mandatory Health Standards; Objections Filed and Hearings Requested

Pursuant to the authority vested in the Secretary of the Interior under section 101 (e) and (i) of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173; 30 U.S.C. 801) to publish proposed mandatory health standards transmitted to him by the Secretary of Health, Education, and Welfare, there was published, as proposed rulemaking, in the FEDERAL REGISTER for January 7, 1971 (36 F.R. 252), Part 71, Subchapter O of Chapter I, Title 30, Code of Federal Regulations, entitled Mandatory Health Standards—Surface Work Areas of Underground Coal Mines and Surface Coal Mines.

Interested persons were afforded a period of 45 days following publication within which to submit to the Director, Bureau of Mines, written comments, suggestions, or objections to a proposed mandatory standard, stating the grounds therefor, and to request a public hearing on such objections.

Section 101(f) of the Act directs the Secretary of the Interior to publish in the FEDERAL REGISTER as soon as practicable after the period for filing such objections has expired, a notice specifying the proposed mandatory health standards to which objections have been filed and a hearing requested.

Notice is hereby given that written objections were timely filed with the Director, Bureau of Mines, stating the grounds for objections and requesting a public hearing on paragraph (f) of § 71.2 of Subpart A, and on substantially all standards set out in Subparts B through G, inclusive, of the proposed Part 71.

Pursuant to section 101(g) of the Act, the Secretary of Health, Education, and

Welfare shall issue notice of the time and place at which a public hearing will be held for the purpose of receiving relevant evidence to the objections received and hearing requested.

W. T. PECORA,
Acting Secretary of the Interior.
JUNE 23, 1971.
[FR Doc.71-9150 Filed 6-28-71;8:49 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary INDIAN TRIBES IN SOUTHWEST UNITED STATES Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of various Indian Tribes in the States of Arizona and New Mexico and San Juan County, Utah, has been materially increased and become acute because of the current severe drought of several months in length, and its damaging effect on their grazing lands. These lands are reservation or other lands designated for Indian use and are utilized by members of the Indian Tribes for grazing.

2. The use of feed grains or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

Based on the above determination, I hereby declare the reservation and grazing lands of these tribes to be an acute distress area and authorize the donation of feed grains owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior to be needy members of tribes utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through the duration of the prevailing drought conditions or at such time as may be stated later in a notice issued by the Secretary of Agriculture.

Signed at Washington, D.C., on June 23, 1971.

CLIFFORD M. HARDIN,
Secretary of Agriculture.
[FR Doc.71-9131 Filed 6-28-71;8:47 am]

MEAT IMPORT LIMITATIONS

Third Quarterly Estimates

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled,

or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act. In accordance with the requirements of the Act, the following third quarterly estimates are published.

1. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1971 is 1,160 million pounds.

2. The estimated quantity of such articles prescribed by section 2(a) of the Act during the calendar year 1971 is 1,025 million pounds.

Since the estimated quantity of imports continues to exceed 110 percent of the estimated quantity prescribed by section 2(a) of the Act, under the Act limitations for the calendar year 1971 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10), and fresh, chilled, or frozen meat of goats and sheep (TSUS 106.20) are required to be imposed but may be suspended. Such limitations were imposed by Proclamation 4037 of March 11, 1971, and were suspended during the balance of the calendar year 1971 unless because of changed circumstances further action under the Act becomes necessary.

Done at Washington, D.C., this 24th day of June 1971.

CLIFFORD M. HARDIN,
Secretary of Agriculture.
[FR Doc.71-9176 Filed 6-28-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ALLIED COLLOIDS, INC.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 1B2682) has been filed by Allied Colloids, Inc., 1 Robinson Lane, Ridgewood, N.J. 07450, proposing that § 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 121.2526) be amended to provide for the safe use of sodium polyacrylate as a dispersant of pigments used in the manufacture of paper and paperboard for contact with aqueous and fatty foods.

Dated: June 23, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.
[FR Doc.71-9108 Filed 6-28-71;8:45 am]

NOTICES

ETHICON, INC.

Notice of Filing of Petition Regarding Color Additive D&C Green No. 5

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402; 21 U.S.C. 376(d)), notice is given that a petition (CAP 1C0099) has been filed by Ethicon, Inc., Somerville, N.J. 08876, proposing the issuance of a color additive regulation (21 CFR Part 8) to provide for the certification and safe use of D&C Green No. 5 as a dyeing agent for nylon nonabsorbable surgical sutures (U.S.P.).

Dated: June 23, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.
[FR Doc.71-9106 Filed 6-28-71;8:45 am]

Office of the Secretary ASSISTANT SECRETARY (PUBLIC AFFAIRS)

Statement of Mission, Organization, and Functions

Chapter 1-H has been added to describe the mission, organization, and functions of the Assistant Secretary (Public Affairs).

SECTION 1-H.00 Mission. The Assistant Secretary (Public Affairs) serves as a principal adviser to the Secretary and a major policy coordinating official, with principal concern for the responsibilities of the Department of Health, Education, and Welfare for public reporting, public information, and for services generally responsive to public needs, in accordance with legislative authorities and Administration goals. The Assistant Secretary (Public Affairs) establishes information policy and provides direction and counsel to HEW agencies.

SEC. 1-H.10 Organization. A. The Assistant Secretary (Public Affairs) reports to the Secretary.

B. The Assistant Secretary (Public Affairs) directs the Office of Public Affairs which consists of:

1. The Deputy Assistant Secretary for Public Affairs (Communications).
- a. Communications Office.
2. The Deputy Assistant Secretary for Public Affairs (Operations).
- a. Operations Office.

SEC. 1-H.20 Functions. A. The Assistant Secretary (Public Affairs): plans, directs, coordinates, and evaluates the Department of Health, Education, and Welfare's nationwide public affairs programs with a view to developing general public understanding of the services and programs available to it from this Department. Serves as the central public affairs communications office of the Department; counsels and acts for the Secretary and his staff in carrying out responsibilities under statutes, Presidential directives, and Secretary's orders for informing the general public, specific publics, and Department and other Federal employees of the programs, policies,

NOTICES

For the Atomic Energy Commission.
W. B. McCool,
Secretary of the Commission.
[FR Doc. 71-9100 Filed 6-28-71;8:45 am]

CRITERIA FOR EMERGENCY CORE COOLING SYSTEMS FOR LIGHT-WATER POWER REACTORS

Interim Policy Statement

The Atomic Energy Commission has adopted the interim statement of policy set forth below providing interim acceptance criteria for emergency core cooling systems for light-water power reactors.

INTERIM ACCEPTANCE CRITERIA FOR EMERGENCY CORE COOLING SYSTEMS FOR LIGHT-WATER POWER REACTORS

I. GENERAL

The Atomic Energy Commission has recently been reevaluating the theoretical and experimental bases for predicting the performance of emergency core cooling systems, including new information obtained from industry and AEC research programs in this field. As a result of this reevaluation, the interim criteria of section IV of this policy statement have been adopted by the Commission for use in the licensing of light-water power reactors.

II. BACKGROUND

Protection against a highly unlikely loss-of-coolant accident has long been an essential part of the defense-in-depth concept used by the nuclear power industry and the AEC to assure the safety of nuclear power plants. In this concept, the primary assurance of safety is accident prevention by correctly designing, constructing, and operating the reactor. Extensive and systematic quality assurance practices are required and applied at every step to achieve this primary assurance of safety. Nevertheless, deviations from expected behavior are postulated to occur, and protective systems are installed to take corrective action as required in such events. Notwithstanding all this, the occurrence of serious accidents is postulated, in spite of the fact that they are highly unlikely, and engineered safety features are installed to mitigate the consequences of these unlikely events. The loss-of-coolant accident is such a postulated improbable accident; the emergency core cooling system is one of the engineered safety features installed to mitigate its consequences.

Emergency core cooling system design considerations were reviewed in a 1967 report to the AEC by an ad hoc Advisory Task Force on Power Reactor Emergency Core Cooling. The Task Force recommended that additional assurance could and should be obtained that substantial fuel melting can be prevented by emergency core cooling systems. Improve-

ments in primary system integrity, development of improved analytical methods for predicting core cooling performance, and performance of confirmatory experiments were recommended.

Extensive design, analysis, and research programs were initiated by the AEC and the nuclear industry in these areas, and much new information has been developed. Additionally, practices in the design, manufacture, installation, and inspection of power reactor primary systems have been markedly improved.

Later, in 1969, an AEC Internal Study Group recommended greater emphasis on quality assurance, and confirmed the use of postulated unlikely accidents (such as the loss-of-coolant accident) as design bases for reactor safety.

The ongoing industry and AEC programs have produced a large amount of information not available at the time of the earlier reviews. This new information has led to changes in the various emergency core cooling system designs for power reactors, and also in the analytical methods used in the evaluation of system performance. Development by the reactor vendors, and independently by the AEC, of new methods of analysis—computer codes—more complex and sophisticated by far than those formerly in use, gave new insight into the processes, and problems, in predicting emergency core cooling system performance.

The nuclear industry as well as the AEC has sponsored a great deal of confirmatory experimentation in this field. Blowdown experiments performed on nonnuclear simplified models of pressurized systems were used to check and correct the new codes. Some of these experiments in the small LOFT Semiscale Blowdown System at the National Reactor Testing Station in Idaho showed deviations from the predictions of the codes then in use. For example, the emergency core cooling water was ejected from the system during the blowdown. Although there are differences between the small LOFT Semiscale experiments and large power reactors, this experimental result has been taken into account where applicable in the evaluation models of Appendix A by including the conservative assumption that all of the water injected by the accumulators during blowdown is lost.

The process of code development and experimentation using models is expected to continue. The Commission plans to place the necessary additional emphasis on such work in Commission programs and expects the nuclear industry to accelerate its efforts.

In view of the large amount of new information available, the AEC has again conducted a review of the present state of emergency core cooling system technology, and has reevaluated the basis previously used for accepting system designs for current types of light-water reactors.

and services of the Department. Coordinates the public information activities of the Department at all levels. Integrates the public affairs communications processes with Department policies and objectives, and establishes and enforces those policies which effect a clear, efficient, and consistent flow of information to the general public and other audiences about Department programs and activities.

B. The Deputy Assistant Secretary for Public Affairs (Communications) represents the Office of Public Affairs on matters relating to information flow and processing and interface with various publics on substantive matters of Department policies and positions related to: News services, audiovisual and photo services, publications and graphics services, and speakers bureau and speech writing.

C. The Deputy Assistant Secretary for Public Affairs (Operations) represents the Office of Public Affairs on matters relating to management and administration of public affairs activities and interface with pertinent Department publics and organizations related to: Communications planning and evaluation, field services and agency liaison, administrative services, general public services, outside organization liaison, and special information task forces.

Approved: June 22, 1971.

ELLIOT L. RICHARDSON,
Secretary.
[FR Doc.71-9145 Filed 6-28-71;8:48 am]

ATOMIC ENERGY COMMISSION

[Docket No. PRM-36-1]

NEW ENGLAND NUCLEAR CORP.

Filing of Petition

Notice is hereby given that the New England Nuclear Corp., 575 Albany Street, Boston, MA, by letter dated May 26, 1971, has filed with the Atomic Energy Commission a petition for rule making to amend the general license in § 36.24(b) of 10 CFR Part 36 for export of tritium with a specific activity of not more than 10 curies per gram of hydrogen in labeled organic compounds.

The petition requests that the specific activity restriction of "10 curies per gram of hydrogen" be deleted. The petition states further that if the Commission considers that additional controls would be required with deletion of the specific activity restriction, the single shipment restriction of § 36.24(b) could simultaneously be reduced from 10 curies to 1 curie.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Washington, D.C., this 23d day of June 1971.

III. EVALUATION OF EMERGENCY CORE COOLING SYSTEM PERFORMANCE

The course of a loss-of-coolant accident, and the performance of the emergency core cooling system, are evaluated with a sequence of calculations. For calculation, the system is divided into many control volumes ("nodes"). Each volume contains the heat sources and sinks appropriate to the component being modeled. During the entire calculation, temperatures in the core are calculated as function of time. The cooling processes are primary coolant flow during blowdown and flow of emergency core cooling water as it becomes available.

Ideally, one would have available analytical methods capable of detailed realistic prediction of all phenomena known or suspected to occur during a loss-of-coolant accident, supported in every aspect by definitive experiments directly applicable to the accident. In the absence of such perfection, adequate assurance of safety can be obtained from an appropriately conservative analysis based on available experimental information. In areas of incomplete knowledge, conservative assumptions or procedures must be applied. When further experimental information or improved calculational techniques become available, the conservatisms presently imposed will be reevaluated and a more realistic approach will be taken.

Detailed technical reviews have been performed by the AEC of the computer codes currently available for predicting emergency core cooling system performance. The AEC has developed sets of suitably conservative assumptions and procedures which together with the computer codes comprise three appropriately conservative evaluation models to use for evaluation. The codes used in one of these evaluation models (described in Part 1 of Appendix A) are available from the AEC. Codes used in the other two evaluation models (described in Parts 2 and 3 of Appendix A) contain proprietary material, for which summaries are or soon will be publicly available. Other evaluation models are under review by the AEC.

The three acceptable evaluation models presently included in Appendix A are different in many respects, and the sets of conservative assumptions and procedures also differ from one another. These differences arise from two principal causes: (1) Differences in approach and calculational methods of the different analyses, leading to different areas where imperfect knowledge or analysis require conservative treatments, and (2) differences in hardware among the various reactor designs, such as spray vs. flood cooling and hot leg vs. cold leg vs. direct vessel injection.

IV. INTERIM ACCEPTANCE CRITERIA FOR EMERGENCY CORE COOLING SYSTEMS

The criteria for acceptance of emergency core cooling systems have been developed in the context of the defense-in-depth concept, with the primary as-

surance of safety being accident prevention, achieved by correct design, construction, and operation and by adequate quality assurance. The loss-of-coolant accidents postulated in the criteria thus presuppose a highly unlikely event as a starting point.

These criteria are applicable to all light-water power reactors except as otherwise provided. Improvements are expected in analytical techniques, and experimental programs are expected to provide increased and improved knowledge about ECCS performance. On the basis of such improvements in technology, these criteria will be modified from time to time.

The Commission believes that these criteria for emergency core cooling systems provide reasonable assurance that such systems will be effective in the unlikely event of a loss-of-coolant accident. Nevertheless, in connection with water power reactors yet to be designed and constructed the possibility of accomplishing by changes in design further improvements in the capability of emergency core cooling systems should be considered.

A. *Criteria for all light-water power reactors.* These general requirements have been the basis of AEC safety review for some time. On the basis of today's knowledge, the performance of the emergency core cooling system is judged to be acceptable if the calculated course of the loss-of-coolant accident¹ is limited as follows:

1. The calculated maximum fuel element cladding temperature does not exceed 2,300° F. This limit has been chosen on the basis of available data on embrittlement and possible subsequent shattering of the cladding. The results of further detailed experiments could be the basis for future revision of this limit.
2. The amount of fuel element cladding that reacts chemically with water or steam does not exceed 1 percent of the total amount of cladding in the reactor.

3. The clad temperature transient is terminated at a time when the core geometry is still amenable to cooling, and before the cladding is so embrittled as to fail during or after quenching.

4. The core temperature is reduced and decay heat is removed for an extended period of time, as required by the long-lived radioactivity remaining in the core.

B. *Criteria for specific reactors.* Each reactor shall be evaluated in accordance with the general criteria of section IV.A, and using a suitable evaluation model. Examples of acceptable evaluation

¹ A loss-of-coolant accident is a postulated accident that results from the loss of reactor coolant at a rate in excess of the capability of the reactor coolant makeup system from breaks in the reactor coolant pressure boundary, up to and including a break equivalent in size to the double-ended rupture of the largest pipe of the reactor coolant system.

models are described in Appendix A.² These evaluation models are acceptable to the Commission but their use is not mandatory. Other evaluation models may be proposed by applicants for review in individual cases.

C. *Application of criteria to reactor licensing.*—1. *Application to operating reactors.* (a) For each reactor holding an operating license on the effective date of these criteria and not covered by paragraph (b) below, an analysis of the performance of the emergency core cooling system presently installed, using methods equivalent to those in Appendix A, shall be submitted to the AEC as soon as practicable, but not later than October 1, 1971. Each such operating reactor shall be shown by that date to be in compliance with the criteria of sections IV A and B.

(b) For reactors granted operating licenses on or before January 1, 1968, compliance with the criteria of sections IV A and B will not be required until July 1, 1974. Each such reactor, to the extent that it is not in compliance with the criteria, shall be subject to the following additional requirements:

- (1) An analysis of the performance of the emergency core cooling system presently installed, using methods equivalent to those in Appendix A, shall be submitted to the AEC as soon as practicable, but in no case later than January 1, 1972.

- (2) A program of improvements, and a schedule for effecting them before July 1, 1974, together with supporting analysis based on an evaluation model equivalent to those in Appendix A, shall be submitted to the AEC as soon as practicable, but in no case later than July 1, 1972.

The licensee shall make, as soon as practicable, such interim improvements in operating techniques as are practical and worthwhile in improving emergency core cooling system performance or reliability.

- (3) An augmented inservice inspection program shall be inaugurated promptly covering those portions of the system piping, pumps, and valves with a nominal diameter of 4 inches or greater and for whose postulated failure the performance of the installed emergency core cooling system would not be in compliance with the criteria. The augmented program shall be based on the American Society of Mechanical Engineers' Boiler and Pressure Vessel Code, section XI, except that the frequency of inspection shall be tripled.

- (4) Equipment shall be installed as soon as practical if needed to facilitate detection of primary-system leakage by at least two different methods. The technical specifications regarding allowable rates of identified and unidentified leakage shall be reduced to the lowest practical values.

2. *Variances.* (a) The Commission may authorize variances from these criteria

² Westinghouse Electric Corp. proposals for subatmospheric and ice condenser containments, and proposals from The Babcock and Wilcox Co. and Combustion Engineering, Inc., are under review by the AEC.

where their application is not practicable or for other good cause.

(b) The Commission may also authorize variances from these criteria for a limited period of time to allow completion of testing programs.

(c) The application of these criteria is expected to permit normal electrical power output of all, or almost all, power reactors. However, if a limitation should result, and if an urgent short-term need for additional power occurs because of unusual or peak demand, outage of other equipment, or other similar reasons the Commission may authorize full power operation of the reactor for a limited period.

(d) Any variance authorized hereunder shall be based upon a determination of reasonable assurance that the proposed action will not adversely affect the health and safety of the public.

APPENDIX A—ACCEPTABLE EVALUATION MODELS INCLUDING THEIR CONSERVATIVE ASSUMPTIONS AND PROCEDURES

PART 1—AEC EVALUATION MODEL FOR PRESSURIZED-WATER REACTORS

Analyses should be performed for the entire break spectrum, from 0.5 ft.² up to and including the double-ended severance of the largest pipe of the reactor coolant pressure boundary. The combination of systems used for analysis should be derived from a failure mode and effects analysis, using the single failure criterion.

The following analytical techniques should be used:

1. Thermohydraulic calculation during blowdown—IN-1321, "RELAP 3—A Computer Program for Reactor Blowdown Analysis," June 1970.
2. A suitable refill and reflood calculation from the end of blowdown onward.
3. Fuel element heatup calculation—IN-1445, "THETA 1-B, A Computer Code for Nuclear Reactor Core Thermal Analysis," February 1971. Inputs from 1 and 2 will be used for this calculation.

The user of these codes should assure himself that he has reviewed available "updated memos" and is using the correct versions and choice of options within the code.

The following assumptions and procedures are to be used. Any assumptions not specified should be fully justified.

1. Core and System Modeling.
 - a. RELAP—at least 3 core nodes, at least 7 nodes in the primary side of each steam generator model, and one containment node.
 - b. THETA—at least 4 radial fuel nodes and one radial cladding node; at least 7 axial fluid nodes.
2. Pump Model—The pump resistance, K, used for analysis should be fully justified. The effect of pump speed upon K should be considered. The more conservative of two assumptions (locked or running) should be used for the pump during the blowdown calculation.

3. Break Characteristics—For large breaks in the range 0.6 to 1 times the total area of the double-ended break of the largest cold-leg pipe, two break models should be used. The first model should be the double-ended severance (guillotine), which assumes that there is break flow from both ends of the broken pipe, but no communication between the broken ends. The second model should assume discharge from a single node (split).

4. A break discharge coefficient (C_b) of 1 should be used for all break sizes.

5. Decay heat—The decay heat curve described in the proposed ANS Standard, with

a 20 percent allowance for uncertainty, should be used. The fraction of decay heat generated in the hot rod should be considered to be 100 percent of this value unless a smaller value is justified.

6. Time to departure from nucleate boiling—use any calculated option in the code.
7. Heat transfer after departure from nucleate boiling—use programed transition boiling correlation option.

8. Film boiling heat transfer—use Groeneveld correlation (equation 5.7 of AECL-3281, December 1969).

9. Metal-worker reaction rate—use the Baker-Just equation, with a coefficient of 1.

10. Core flow—use 0.8 x RELAP smoothed flow at the junction which is entering core. If flows are opposed, use zero flow.

11. Enthalpy and pressure—use entering plenum conditions.

12. Accumulator Bypass—For cold leg breaks, all of the water injected by the accumulators prior to end-of-blowdown shall be assumed to be lost. In this context the end-of-blowdown shall be specified as the time at which zero break flow is first computed.

13. Reflood—a calculation for the reflooding heat transfer should be performed. The contaminant back pressure assumed for the analysis should not be higher than the initial pre-break pressure plus 80 percent of the increase in pressure calculated for the accident. The following items should be constraints on the calculation:
 - a. No steam flow should be permitted in intact loops during the time period that accumulators are injecting.
 - b. Core exit quality should be calculated from entering mass flow rate and nominal FLECHT heat transfer.
 - c. Pump resistance, K, should be calculated on the basis of a locked rotor.
 - d. The effects of the nitrogen gas in the accumulator, which is discharged following accumulator water discharge, should be taken into account in calculating steam flow as a function of time.
 - e. The pressure drop in the steam generator should be calculated with the existing fluid conditions and associated loss coefficients.

- f. All effects of cold injection water, in either a hot or cold leg, on steam flow (and ΔP) should be included in the calculation.

- g. The heat transfer coefficient during reflood should be derived from FLECHT data.

PART 2—GENERAL ELECTRIC EVALUATION MODEL

Analyses should be performed for the entire break spectrum, up to and including a double-ended severance of the largest pipe of the reactor coolant pressure boundary. The combinations of systems used for analysis should be derived from a failure mode and effects analysis, using the single failure criterion as indicated in Table 2-1 of the topical report: "Loss-of-Coolant Accident and Emergency Core Cooling Models for General Electric Boiling Water Reactors," NEDO-10329. The analytical techniques described in NEDO-10329 and its supplement should be used with the following exceptions:

1. During the period of flow coastdown after the minimum critical heat flux ratio at the hot spot is less than one and until the top of the jet pumps uncover, the heat transfer coefficient should be calculated using the D. C. Groeneveld correlation (AECL-3281, equation 5.7).

2. During the period of lower plenum flashing until the core becomes uncovered, the heat transfer coefficient should be calculated using Groeneveld's correlation as in 1 above.

3. The heat transfer coefficients associated with rated core spray flow should correspond to those derived from experimental data, as-

suming the cladding and channel box emissivity is equal to 0.9.

4. It should be assumed that channel wetting does not occur until 60 seconds following the wetting time calculated using the Yamanouchi analysis.

5. A range of conservatively calculated peaking factors should be studied and the combination selected which results in the most severe thermal transient for the break spectrum and combinations of systems analyzed.

6. The decay heat curve described in the proposed ANS Standard, with a 20 percent allowance for uncertainty, should be used. The fraction of decay heat generated in the hot rod should be considered to be 100 percent of this value unless a smaller value is justified. The effect of voids on reactivity during the blowdown may be taken into account.

PART 3—WESTINGHOUSE EVALUATION MODEL

Analyses should be performed for the entire break spectrum, up to and including the double-ended severance of the largest pipe of the reactor coolant pressure boundary. The combination of systems used for analyses should be derived from a failure mode and effects analysis, using the single-failure criterion.

The analytical techniques to be used are described in the topical report, "Westinghouse PWR Core Behavior Following a Loss-of-Coolant Accident" WCAP-7422-L January 1970 (Proprietary), and a supplementary proprietary Westinghouse report, "Emergency Core Cooling Performance," received June 1, 1971, and in an appropriate nonproprietary report to be furnished by Westinghouse, with the following exceptions:

For breaks greater than 0.5 ft.²—

1. The break discharge coefficient, (C_b), used with the Moody discharge flow model should be equal to 1 for all break sizes.

2. The decay heat curve described in the proposed ANS Standard, with a 20 percent allowance for uncertainty, should be used. The fraction of decay heat generated in the hot rod may be considered to be 95 percent of this value.

3. For large breaks in the range 0.6 to 1 times the total area of the double-ended break of the largest cold-leg pipe, two break models should be used. The first model should be the double-ended severance (Guillotine), which assumes that there is break flow from both ends of the broken pipe, but no communication between the broken ends. The second model should assume discharge from a single node (split).

4. The time after the break for the onset of departure from nucleate boiling at the hot spot should be equal to 0.1 second.

5. For cold leg breaks, all of the water injected by the accumulators prior to end-of-blowdown shall be assumed to be lost. In this context the end-of-blowdown shall be specified as the time at which zero break flow is first computed. The containment back pressure assumed for the blowdown analysis should not be higher than the initial pre-break pressure plus 90 percent of the increase in pressure calculated for the accident under consideration.

6. The pump resistance, K, used for analysis should be fully justified. The effect of pump speed upon K should be considered. The more conservative of two assumptions (locked or running) should be used for the pump during the blowdown calculation.

7. A calculation for the reflooding heat transfer should be performed. The containment back pressure assumed for the analysis should not be higher than the initial pre-break pressure plus 80 percent of the increase

in pressure calculated for the accident under consideration.

The following items should be constraints on the calculation:

a. No steam flow should be permitted in intact loops during the time period that accumulators are injecting.

b. Core exit quality should be calculated from entering mass flow rate and nominal FLECHT heat transfer.

c. Pump resistance should be calculated on the basis of a locked rotor.

d. The effects of the nitrogen gas in the accumulator, which is discharged following accumulator water discharge, should be taken into account in calculating steam flow as a function of time.

e. The pressure drop in the steam generator should be calculated with the existing fluid conditions and associated loss coefficients.

f. All effects of cold injection water, in either a hot or cold leg, on steam flow (and ΔP) should be included in the calculation.

g. The heat transfer coefficient during reflow should be derived from FLECHT data.

In view of the public health and safety considerations discussed above, the Commission has found that the interim acceptance criteria contained herein should be promulgated without delay, that notice of proposed issuance and public procedure thereon are impracticable, and that good cause exists for making the statement of policy effective upon publication in the FEDERAL REGISTER. The Commission invites all interested persons who desire to submit written comments or suggestions for consideration in connection with the statement of policy to send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. The Commission will consider all such comments and suggestions with the view to possible amendments and will issue a report. Additionally, the Commission will consider holding an informal public rule making hearing on this interim policy statement.

(Sec. 161, 68 Stat. 948, 80 Stat. 383, 81 Stat. 54; 42 U.S.C. 2201, 5 U.S.C. 552, 553)

Dated at Washington, D.C., this 25th day of June 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-9185 Filed 6-28-71;8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23542; Order 71-6-127]

AIR TRAFFIC CONFERENCE OF AMERICA

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of June 1971.

By Opinion and Order 70-12-165, December 31, 1970, the Board passed upon

the provisions of a resolution of the carrier members of the Air Traffic Conference of America (ATC)¹ relating to the establishment of commission rates for travel agent sales of domestic air transportation and providing for certain amendments to the ATC process for the selection and retention of travel agents.² During the course that proceeding issues were raised with respect to whether the procedures employed by ATC in adopting the resolution, i.e., ATC's unanimous voting requirement, were contrary to the public interest because such had resulted in an inherently unfair compromise which was reflected by the inadequate level of agent compensation provided for in the resolution.³

In response to these allegations we concluded that the substantial issues raised by the unanimous features of ATC's bylaws warranted a general inquiry independent of our concern with the commission resolutions there before us. Consequently, we stated that we would address ourselves to the initiation of an inquiry relative to the unanimity voting procedures at a subsequent date, Order 70-12-165, supra, pages 14-15.

Accordingly, we are herein instituting a general investigation of all the ATC bylaws—not only those which encompass the unanimous voting procedures. We have concluded that the most appropriate avenue of exploring those issues raised by the unanimous voting procedures would be in the context of a thorough and complete investigation into the framework of the conference in which they are employed.

We have concluded that a formal evidentiary hearing is the most satisfactory means of resolving all of the issues raised by the ATC bylaws and would be in the public interest. Our limited experience with the unanimity provisions of the bylaws during the course of the proceedings in Docket 21305 has demonstrated to us that it would be extremely difficult if not essentially impossible to fully explore all of the issues raised by each provision of the bylaws on the basis of written comments alone.

The basic issue to be resolved in the proceeding will be whether the ATC bylaws should be approved or disapproved under section 412 of the Act. Of course, the subsidiary issues are subject to delineation at the prehearing conference. We

¹ ATC is one of four conferences of the Air Transport Association of America, the domestic scheduled air carrier industry trade association. The other conferences are: The Airline Finance and Accounting Conference; the Personnel Relations Conference; and the Airline Operations Conference. ATC deals primarily in traffic and sales matter and has a stated purpose of increasing the use and usefulness of air transportation and furthering the interest of the member carriers to deal with their mutual traffic, sales, and advertising problems.

² Agreements CAB 5044-A144, Docket 21305. ³ This allegation was raised initially by ARTA which was later joined therein by the Department of Justice which argued that the Board consider the unanimous voting procedures either in the commission proceeding or in a subsequent proceeding.

would expect that such issues include the following: whether the unanimous voting procedures currently employed by ATC should be maintained and if not, whether a representative determination of the conference membership can and should be effected by different voting procedures; whether a carrier which seeks to take action independent of that which the whole conference has decided upon should be allowed to do so pursuant to requirements more flexible than the current ones; whether it is in the public interest to require membership in ATA as a condition to full membership in ATC; and related thereto whether it is in the public interest for ATC to function as part of ATA.⁴

Accordingly, it is ordered, That:

1. An investigation to be known as the "ATC Bylaws Investigation" be initiated for the purpose of determining whether such bylaws or any provisions thereof are adverse to the public interest and whether they should be approved under section 412 of the Act;

2. Said investigation be and it hereby is set for hearing before an examiner of the Board at a place and time to be hereafter designated; and

3. ATA, ATC, all carrier members of ATC, each travel agent and travel agent association participating in the commission proceeding in Docket 21305, and the Departments of Justice and Transportation be served with copies of this order and made parties to the proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-9168 Filed 6-28-71;8:50 am]

[Docket No. 22118]

HAWAIIAN SERVICE INVESTIGATION

Notice of Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled investigation is postponed until August 3, 1971, at 10 a.m., e.d.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

The date for filing requests for information and evidence, proposed statements of issues, and procedural dates by counsel for the Bureau of Air Operations is accordingly postponed until July 12, 1971, and the date for similar filings by Aloha and Hawaiian Airlines, and by any other parties, is postponed until July 26, 1971.

⁴ We do not intend in this proceeding to reexamine our approval of any prior resolution adopted by ATC and approved by the Board, since the status of such resolutions under section 412 has already been examined and determined. To the extent the outcome of the investigation affects any extant resolution, we shall consider such matters subsequent to the conclusion of the investigation.

Dated at Washington, D.C., June 23, 1971.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[FR Doc.71-9166 Filed 6-28-71;8:50 am]

[Docket No. 22628; Order 71-6-119]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 23, 1971.

By Order 71-6-56, dated June 9, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by the Joint Conferences of the International Air Transport Association (IATA). The agreement amends IATA resolutions recently approved by the Board, in that it would permit the combinability of normal fares in conjunction with excursion fares and that the stopover points covered by such normal fares shall not be counted for the purposes of determining the number of permissible stopovers under the excursion fares' rules.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-6-56 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22472 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-9170 Filed 6-28-71;8:51 am]

[Docket No. 22034]

REOPENED TAG-WRIGHT CASE

Notice of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding will be held on July 6, 1971, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Ross I. Newmann.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report served on May 12, 1971, the Supplemental Prehearing Conference Report served on June 17, 1971, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 23, 1971.

[SEAL] ROSS I. NEWMANN,
Hearing Examiner.

[FR Doc.71-9167 Filed 6-28-71;8:50 am]

SEMO AVIATION, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority June 22, 1971.

The Postmaster General filed a notice of intent June 7, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 59.48 cents per great circle aircraft mile for the transportation of mail by aircraft between Oklahoma City, Okla., and Dallas, Tex., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order¹ to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Semo Aviation, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 59.48 cents per great circle aircraft mile between Oklahoma City, Okla., and Dallas, Tex., based on five round trips per week flown with Beechcraft 18 aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Semo Aviation, Inc., the Postmaster General, American Airlines, Inc., Continental Air Lines, Inc., Frontier Airlines, Inc., Braniff Airways, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and

¹ As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Semo Aviation, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed with 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Semo Aviation, Inc., the Postmaster General, American Airlines, Inc., Continental Air Lines, Inc., Frontier Airlines, Inc., and Braniff Airways, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-9169 Filed 6-28-71;8:51 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner for Higher Education, Office of Education.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-9120 Filed 6-28-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of

the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Special Assistant to the Secretary for Civil Rights and Deputy Director, Office for Civil Rights, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.
[FR Doc.71-9123 Filed 6-28-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.
[FR Doc.71-9124 Filed 6-28-71;8:46 am]

DEPARTMENT OF LABOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary for Workplace Standards.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.
[FR Doc.71-9121 Filed 6-28-71;8:46 am]

U.S. INFORMATION AGENCY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the U.S. Information Agency to fill by noncareer executive assignment in the excepted service the position of Assistant Director (Motion Pictures and Television), Office of the Assistant Secretary.

By direction of the Commission.
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.
[FR Doc.71-9122 Filed 6-28-71;8:46 am]

NOTICES

ENVIRONMENTAL PROTECTION AGENCY

DOW CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a (d) (1)), notice is given that a petition (PP 1F1075) has been filed by The Dow Chemical Co., Post Office Box 1706, Midland, MI 48640, proposing establishment of tolerances (21 CFR Part 420) for residues of the herbicide 2-sec-butyl-4,6-dinitrophenol applied as the phenol or its readily hydrolyzable salts (alkanolamine salts, ammonium salt, or sodium salt) in or on the raw agricultural commodities alfalfa and alfalfa hay, barley forage and straw, bean forage, birds-foot trefoil and trefoil hay, clover and clover hay, oat forage and straw, pea vines, peanut vines, rye forage and straw, soybean forage, sweetclover and sweet-clover hay, vetch and vetch hay, and wheat forage and straw at 1 part per million; and in or on almonds, apples, apricots, barley (grain), beans, blackberries, blueberries, boysenberries, cherries, citrus fruits, corn kernels and cobs (field corn, popcorn, and sweet corn), corn fodder and forage (field corn, popcorn, and sweet corn), cottonseed, cotton forage cucurbits, currants, dates, figs, filberts, garlic, gooseberries, grapes, hops, loganberries, nectarines, oats (grain), olives, onions, peaches, peanuts, pears, peas, pecans, peppermint, plums, potatoes, prunes, raspberries, rye (grain), soybeans, spearmint, strawberries, walnuts, and wheat (grain) at 0.1 part per million (negligible residue).

The analytical method proposed for determining residues of the herbicide is a colorimetric procedure in which the residue is extracted, buffered, and reextracted with 3-pentanone. The optical absorbance of the 2-sec-butyl-4,6-dinitrophenol salt is measured directly in 3-pentanone spectrophotometrically at 380 and 433 nanometers.

Dated: June 21, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.
[FR Doc.71-9135 Filed 6-28-71;8:47 am]

ELANCO PRODUCTS CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a (d) (1)), notice is given that a petition (PP 1F1157) has been filed by Elanco Products Co. of Eli Lilly & Co., Indianapolis, Ind. 46206, proposing establishment of tolerances (21 CFR Part 420) for residues of the fungicide 2-am-

nobutane in or on the raw agricultural commodities citrus fruits at 50 parts per million; kidney of cattle at 3 parts per million; and fat, liver, meat, and milk of cattle at 0.75 part per million.

The analytical method proposed in the petition for determining residues of the fungicide is a technique in which the volatile amines are converted to their 2,4-dinitrophenyl derivatives and are then separated by thin layer chromatography. Analysis is by gas chromatography with an electron affinity detector.

Dated: June 21, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.
[FR Doc.71-9136 Filed 6-28-71;8:47 am]

FMC CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a (d) (1)), notice is given that a petition (PP 1F1150) has been filed by FMC Corp., 100 Niagara Street, Middleport, NY 14105, proposing establishment of a tolerance (21 CFR Part 420) for combined residues of the insecticide carbofuran and its metabolite 2,3-dihydro - 2,2 - dimethyl - 3 - hydroxy - 7 - benzofuran-yl-N-methylcarbamate in or on the raw agricultural commodity potatoes at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a microcoulometric-gas chromatographic procedure with a nitrogen detector.

Dated: June 21, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.
[FR Doc.71-9137 Filed 6-28-71;8:47 am]

FMC CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a (d) (1)), notice is given that a petition (PP 1F1163) has been filed by FMC Corp., 100 Niagara Street, Middleport, NY 14105, proposing establishment of tolerances (21 CFR Part 420) for combined residues of the insecticide carbofuran and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy - 7 - benzofuran-yl-N-methylcarbamate in or on the raw agricultural commodities subar beet tops at 1 part per million and sugar beet roots at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic

technique using a nitrogen-specific microcoulometric detection system.

Dated: June 21, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.
[FR Doc.71-9138 Filed 6-28-71;8:48 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

EXCHANGE BANK

Notice of Application for Exemption

Pursuant to authority granted the Corporation under section 12 (h) and (i) of the Securities Exchange Act of 1934, as amended, notice is hereby given to all interested parties that The Exchange Bank, Attalla, Ala., has applied to the Federal Deposit Insurance Corporation for exemption from certain provisions of that Act. The bank has asked the Corporation to exempt it from the requirements of section 12 of the Act. Even though they have only requested an exemption from section 12, such an exemption would also exempt them from the requirements of sections 13, 14, and 16 of the Act.

Interested persons are given the opportunity to present their written views or comments on this application within 20 days following the date of publication of this notice in the FEDERAL REGISTER. Communications should be addressed to the Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Dated: June 24, 1971.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] HANNAH R. GARDINER,
Acting Secretary.
[FR Doc.71-9159 Filed 6-28-71;8:50 am]

FEDERAL MARITIME COMMISSION

[No. 71-17]

MILITARY SEALIFT COMMAND

Permission To Intervene and Schedule for Replies Regarding Nonassessment of Fuel Surcharges on Rates

Violations of sections 14 Fourth, 16 First and 17, Shipping Act, 1916, in the nonassessment of fuel surcharges on Military Sealift Command (MSC) rates under the MSC request for rate proposals (RFP) bidding system.

Military Sealift Command, on behalf of the Department of Defense, has petitioned to intervene in this proceeding on the grounds that the outcome of the proceeding may have an impact on the rates which the U.S. Government must pay the respondent carriers. Petitioner's interest is apparent and accordingly the petition to intervene is hereby granted.

Military Sealift Command has also filed a memorandum of law in support of

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its position in this matter. In fairness to other parties to this proceeding the filing schedule is hereby revised to permit replies to interveners memorandum of law by all parties to this proceeding. Any such replies shall be submitted on or before June 30, 1971.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.
[FR Doc.71-9148 Filed 6-28-71;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-800 etc.]

MOLTREY OIL CORP. ET AL.

Notice of Applications for "Small Producer" Certificates¹

JUNE 18, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 12, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

¹This notice does not provide for consolidation for hearing of the several matters covered herein.

unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS71-800...	5-3-71	Moltrey Oil Corp., 1912 The 600 Bldg., Corpus Christi, Tex. 78401.
CS71-801...	5-3-71	A. O. Morgan, 1912 The 600 Bldg., Corpus Christi, Tex. 78401.
CS71-802...	5-3-71	A. Frank Ausanka d/b/a Ausanka Oil Operations, 606 Oil and Gas Bldg., Wichita Falls, Tex. 76091.
CS71-803...	5-3-71	V. H. Houshman, Box 9113, Oklahoma City, OK 73119.
CS71-804...	5-3-71	D. H. Bolin, 1120 Oil and Gas Bldg., Wichita Falls, Tex. 76091.
CS71-805...	5-3-71	Bolin Oil Co., 1120 Oil and Gas Bldg., Wichita Falls, Tex. 76091.
CS71-806...	5-3-71	Janana Darby Cranfield and Job S. Darby, Jr., 10825 Bearing Brook Lane, Houston, TX 77021.
CS71-807...	5-3-71	Sheldon K. Heren, 1776 Lincoln St., Suite 601, Denver, CO 80203.
CS71-808...	5-3-71	A. E. Orliphant, Operator, 602 National Bank of Tulsa Bldg., Tulsa, Okla. 74103.
CS71-809...	5-3-71	Puefleitius Oil Co., Agent (Operator), et al., Post Office Box 466, Robstown, TX 78380.
CS71-810...	5-3-71	Susylle Wilkison Lyons, 1500 Beck Bldg., Shreveport, La. 71101.
CS71-811...	5-3-71	William O. Watson, Jr., 1500 Beck Bldg., Shreveport, La. 71101.
CS71-812...	5-3-71	George L. Logan, 903 Beck Bldg., Shreveport, La. 71101.
CS71-813...	5-3-71	J. C. Barnes, Jr., Post Office Box 505, Midland, TX 79701.
CS71-814...	5-3-71	Russell J. Ramsland, Post Office Box 505, Midland, TX 79701.
CS71-815...	5-3-71	W. F. Wynn, Post Office Box 505, Midland, TX 79701.
CS71-816...	5-3-71	Barnes Adelaide Trusts, Post Office Box 505, Midland, TX 79701.
CS71-817...	5-3-71	Barnes Adelaide Trusts No. 2, Post Office Box 505, Midland, TX 79701.
CS71-818...	5-3-71	Trusts under Trust Indenture dated Nov. 21, 1961, Post Office Box 505, Midland, TX 79701.
CS71-819...	5-3-71	Harry Hong Corp., Suite 211, 225 Baronne St., New Orleans, LA 70112.
CS71-820...	5-3-71	Superwell Development Corp., Post Office Box 36389, Houston, TX 77036.
CS71-821...	5-3-71	W. Howell Cooke, Jr., 1560 Post Oak Tower, Houston, Tex. 77027.
CS71-822...	5-3-71	Mrs. Evelyn Schaefer Luke, 13727 Tosen Lane, Houston, TX 77024.
CS71-823...	5-3-71	The First National Bank of Shreveport, Trustee F.W. of James R. Nowery, Post Office Box 1116, Shreveport, LA 71102.
CS71-824...	5-3-71	Joseph F. Fritz Operating Co., Post Office Box 286, Clinton, MS 39056.
CS71-825...	5-3-71	Cleary Petroleum Corp., 310 Kermac Bldg., Oklahoma City, Okla. 73102.
CS71-826...	4-26-71	Commercial National Bank in Shreveport, Trustee for Mrs. Jean Whitwell Carpenter, Post Office Box 1116, Shreveport, LA 71102.
CS71-827...	4-26-71	Commercial National Bank in Shreveport, Trustee for Mrs. Marla Whitwell Persons, Post Office Box 1119, Shreveport, LA 71102.
CS71-828...	5-4-71	Estate of W. P. Prontiss, 730 Lane Bldg., Shreveport, La. 71101.
CS71-829...	5-4-71	Marine Minerals, Inc. (Operator) et al., 665 San Jacinto Bldg., Houston, Tex. 77002.

Docket No.	Date filed	Name of applicant
CS71-830...	5-4-71	(i) Frank C. Nelms, (ii) Estate of H. G. Nelms, (iii) Estate of Wheeler Nazro, 665 San Jacinto Bldg., Houston, Tex. 77002.
CS71-831...	5-4-71	Katherine Adger Atkins et al., Post Office Box 1838, Shreveport, LA 71102.
CS71-832...	5-4-71	Gladstone Gasoline Co., Post Office Box 1838, Shreveport, LA 71102.
CS71-833...	5-4-71	W. W. F. Oil Corp., Post Office Box 1746, Shreveport, LA 71102.
CS71-834...	5-4-71	Rosett & Motes, Inc., Post Office Box 910, Shreveport, LA 71102.
CS71-835...	5-4-71	John B. Atkins, Jr., Post Office Box 1838, Shreveport, LA 71102.
CS71-836...	5-4-71	William J. Atkins, Post Office Box 1838, Shreveport, LA 71102.
CS71-837...	5-4-71	Mrs. Caroline A. Crawford, Post Office Box 1838, Shreveport, LA 71102.
CS71-838...	5-4-71	O K Oil Operators et al. (successor to O K & B Drilling Co.), 4545 Lincoln Blvd., Oklahoma City, OK 73105.
CS71-839...	5-5-71	Hugh L. Umphres, Jr., S. Keith Tabbill, and Bill J. Barbee, 211 Vaughn Bldg., Amarillo, Tex. 79101.
CS71-840...	5-5-71	Prentice Oil & Gas Co., Post Office Box 1030, Houma, LA 70360.
CS71-841...	5-5-71	David Crow et al., 2000 Beck Bldg., Shreveport, LA 71101.
CS71-842...	5-5-71	Roy Lee Rogers, Jr., 509 Ray P. Oden Bldg., Post Office Box 362, Shreveport, LA 71102.
CS71-843...	5-5-71	Margaret B. Smitherman, 903 Beck Bldg., Shreveport, LA 71101.
CS71-844...	5-5-71	Donald A. Beadle, The 600 Bldg., Corpus Christi, Tex. 78401.
CS71-845...	5-5-71	LaCoastal Petroleum Corp., 1808 West Mockingbird Lane, Dallas, TX 75205.
CS71-846...	5-5-71	Trinity Gas Corp., 1150 Mercantile Dallas Bldg., Dallas, Tex. 75201.
CS71-847...	5-5-71	Phillip Lynn Sampson, 3710 Ella Lee Lane, Houston, TX 77027.
CS71-848...	5-5-71	Edward W. Sampson, Jr., 1317 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS71-849...	5-5-71	Estate of Annie R. Bass, 12th Floor, Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS71-850...	5-5-71	Eugene H. Perry, 1005 Trans-American Life Bldg., Fort Worth, Tex. 76102.
CS71-851...	5-5-71	Volt Gilmore, Post Office Box 280, Southern Pines, NC 28387.
CS71-852...	5-5-71	McMahon Oil Co., 1313 5th St., Wichita Falls, TX 76301.
CS71-853...	5-5-71	Marshall Exploration, Inc., Post Office Box 729, Marshall, TX 75670.
CS71-854...	5-5-71	Jack Blankley, Post Office Box 448, San Angelo, TX 76901.
CS71-855...	5-5-71	W. Earl Rowe, Operator et al., 930 Milam Bldg., San Antonio, Tex. 78205.
CS71-856...	5-5-71	W. T. Waggoner Estate, Post Office Box 2130, Vernon, TX 76344.
CS71-857...	5-6-71	Investors Royalty Co., Inc., 510 Oklahoma National Bldg., Tulsa, Okla. 74119.
CS71-858...	5-6-71	Fair Oil Co., Post Office Box 689, Tyler, TX 75701.
CS71-859...	5-6-71	A. M. Jackson, 730 Lane Bldg., Shreveport, LA 71101.
CS71-860...	5-6-71	James A. Ford d.b.a. Cypress Gas Co., Post Office Box 9111, Amarillo, TX 79105.
CS71-861...	5-6-71	Merlin C. Sticklebier, 114 East 5th St., Tulsa, OK 74103.
CS71-862...	5-6-71	Moran Bros., Inc., 3000 Petroleum Bldg., Wichita Falls, Tex. 76301.
CS71-863...	5-6-71	Joe J. Peters, 2621 South Terwilliger Blvd., Tulsa, OK 74116.
CS71-864...	5-6-71	Chaparral Oil & Gas Co., Post Office Box B, Aztec, NM 87410.

Docket No.	Date filed	Name of applicant
CS71-865...	5-6-71	James R. McEldowney, Box 94113, Oklahoma City, OK 73139.
CS71-866...	5-6-71	Marion Corp., 114 East 5th St., Tulsa, OK 74103.
CS71-867...	5-6-71	Hoover & Bracken, Inc., 1702 Fidelity Bank Bldg., Oklahoma City, Okla. 73102.
CS71-868...	5-6-71	Robert M. Hoover, Jr., 1702 Fidelity Bank Bldg., Oklahoma City, Okla. 73102.
CS71-869...	5-7-71	H. C. and Gertrude B. Andrews, Post Office Box 60089, Oklahoma City, OK 73106.
CS71-870...	5-7-71	Amarox Funds of Delaware, Inc., 614 East Bldg., 2000 Classen Center, Oklahoma City, OK 73106.
CS71-871...	5-7-71	S. R. Cohan, 1734 Milam Bldg., San Antonio, Tex. 78205.
CS71-872...	5-7-71	Harry Killian, 2130 Chamber of Commerce Bldg., Houston, Tex. 77002.
CS71-873...	5-7-71	Cooper Bryant, 1084 Parkwood Pl., Jackson, MS 39204.
CS71-874...	5-7-71	William V. Conover, Suite 710, 2001 Kirby Dr., Houston, TX 77019.
CS71-875...	5-4-71	Robert P. Evans, 1502 Beck Bldg., Shreveport, LA 71101.
CS71-876...	5-4-71	Jones-O'Brien, Inc., Post Office Box 5152, Shreveport, LA 71105.
CS71-877...	5-3-71	The Hoswell Corp., 310 Kermac Bldg., Oklahoma City, Okla. 73102.
CS71-878...	5-6-71	Hurley Petroleum Corp., 400 Petroleum Bldg., Shreveport, LA 71101.
CS71-879...	5-6-71	Hurley Oil and Gas Co., 400 Petroleum Bldg., Shreveport, LA 71101.
CS71-880...	5-7-71	Gus Canales, 1010 Wilson Bldg., Corpus Christi, Tex. 78401.
CS71-881...	5-7-71	Connet Petroleum, Inc., Suite 500, 200 West Douglas, Wichita, KS 67202.
CS71-882...	5-10-71	Robert B. Prentice, Post Office Box 1030, Houma, LA 70360.
CS71-883...	5-10-71	Roger H. Davis, 1150 Mercantile Continental Bldg., Dallas, Tex. 75201.
CS71-884...	5-10-71	P. G. LeGendre, 523 Gladstone Blvd., Shreveport, LA 71104.
CS71-885...	5-10-71	Tilbor St. John de Chelnoky, 140 East 47th Street, Apt. 5c, New York, NY 10017.
CS71-886...	5-10-71	Douglas R. Cummings, 3141 Northwest 61st St., Oklahoma City, OK 73112.
CS71-887...	5-10-71	Harry L. Blackstock, Jr. (Operator), et al., 300 Hightower Bldg., Oklahoma City, Okla. 73102.
CS71-888...	5-10-71	Wood Oil Co., 800 Thurston National Bldg., Tulsa, Okla. 74103.
CS71-889...	5-10-71	Sutton Producing Corp., Operator, et al., 2145 Zercher Rd., San Antonio, TX 78209.
CS71-890...	5-10-71	Paladin Petroleum, Inc., 421 Cravens Bldg., Oklahoma City, Okla. 73102.
CS71-891...	5-10-71	M & M Producing Co., 604 Johnson Bldg., Shreveport, LA 71101.
CS71-892...	5-10-71	W. F. Whitfield et al., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-893...	5-10-71	D. J. Brown, 701 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS71-894...	5-10-71	C. M. Jeffries, 2237 Beech Lane, Pampa, TX 79065.
CS71-895...	5-10-71	Allan C. King, 538 Main Bldg., Houston, Tex. 77002.
CS71-896...	5-10-71	W. J. Goldston, 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-897...	5-10-71	Goldrus Drilling Co., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-898...	5-10-71	Goldking Production Co., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS71-899...	5-10-71	Royal Oil & Gas Corp., Clark Bldg., 115 South 6th St., Indiana, PA 15701.

[FR Doc.71-9037 Filed 6-28-71; 8:45 am]

NATIONAL GAS SURVEY TECHNICAL ADVISORY COMMITTEES

Order Designating Additional Members

JUNE 21, 1971.

The Federal Power Commission by order issued April 6, 1971, established three Technical Advisory Committees of the National Gas Survey.

1. **Membership.** Additional members to the Technical Advisory Committees, as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

TECHNICAL ADVISORY COMMITTEE—SUPPLY	
Leroy Culbertson...	Vice president, Phillips Petroleum Co., Texaco, Inc.
Arthur Fahn...	Assistant general manager.
John R. Grey...	Vice president, Standard Oil Co. of California, Shell Oil Co.
Arthur T. Guernsey...	Planning manager.
Stanley Learned...	Consultant, Independent.
Richard J. Murdy...	Assistant to the president, Natural Gas Co.
Howard McKinley...	Vice president, Continental Oil Co.
Ernest L. Petree...	Vice president, Gulf Oil Co.
John W. Pheniele...	Vice president, Amoco Production Co.
TECHNICAL ADVISORY COMMITTEE—TRANSMISSION	
Orval C. Davis...	President, Natural Gas Pipeline Co. of America.
George F. Kirby...	President, Texas Eastern Transmission Corp.
Wilber H. Mack...	President, Michigan Wisconsin Pipe Line Co.
John W. Morton...	President, Cities Service Gas Co.

TECHNICAL ADVISORY COMMITTEE—DISTRIBUTION	
Buell G. Duncan...	Chairman, Piedmont Natural Gas Co., Inc.
James F. Gary...	President, Honolulu Gas Co., Ltd.
Calvin R. Henze...	President, Memphis Light, Gas & Water Division.
Robert R. Herring...	President, Houston Natural Gas Corp.
C. C. Ingram...	Chairman, Oklahoma Natural Gas Co.
Paul W. Kraemer...	President, Minneapolis Gas Co.
Ward C. McCallister...	President, The Peoples Gas Light & Coke Co.
John W. Partridge...	Chairman, Columbia Gas System, Inc.
Thomas L. Pelican...	President, Colorado Interstate Gas Co.
Joseph R. Rensch...	President, Pacific Lighting Service Co.
William P. Woods...	Chairman, Washington Natural Gas Co.

By the Commission.

[SEAL] KENNETH F. PLUMB, Secretary.

[FR Doc.71-9103 Filed 6-28-71; 8:45 am]

FEDERAL TRADE COMMISSION

STATEMENT OF ORGANIZATION

Field Offices; Correction

In F.R. Doc. 71-6865 appearing at pages 9044-9045 in the issue for Tuesday, May 18, 1971, the address of the St. Louis Field Station starting in the sixth line of section 18(b) (5) should read as follows:

Federal Trade Commission, Room 1414, 210 North 12th Street, St. Louis, MO 63101.

By direction of the Commission dated June 23, 1971.

[SEAL] CHARLES A. TOBIN, Secretary.

[FR Doc. 71-9165 Filed 6-28-71; 8:50 am]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

DRAFT ENVIRONMENTAL STATEMENT
Notice of Availability and Request for Comments From State and Local Agencies and Private Interests

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that this agency has prepared a draft statement which discusses environmental considerations relating to the proposed enlargement of the existing Hackney Floodway and the closure of Mission Floodway, both located south of McAllen, Hidalgo County, Tex. A copy of the statement is being placed in the Office of the Country Director for Mexico, Room 3906-A, Department of State, 21st Street and Virginia Avenue NW., Washington, DC, in the office of the Project Superintendent, U.S. Section, International Boundary and Water Commission, 208 South F Street, Harlingen, TX, and in the office of the U.S. Section, Chief of Planning and Reports, 809 Southwest Center, El Paso, TX. The environmental analysis statement was prepared as a part of the study of the necessary improvements to the existing flood control project being undertaken by the two countries.

Comments are particularly invited from State and local agencies or groups which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved, from which comments have not been specifically requested.

Copies of the draft environmental statement have been sent to the Environmental Protection Agency; Department of Health, Education, and Welfare; Department of Agriculture, Soil Conservation Service; Department of the Interior, Bureau of Sport Fisheries and Wildlife, National Park Service, Bureau of Outdoor Recreation; Department of the Army, Corps of Engineers; Division of Planning Coordination, Office of the Governor, State of Texas; Lower Rio Grande Development Council; and various conservation associations in Texas.

Comments are requested within 60 days of publication of this notice in the FEDERAL REGISTER. If any such State, local or Federal agency which has not received a specific request for comments fails to provide the U.S. Section with comments within 60 days of publication of this

notice in the FEDERAL REGISTER, it will be presumed the agency has no comments to make.

Comments are also requested from any interested individual or association within 60 days of publication of this notice in the FEDERAL REGISTER.

Comments concerning the environmental effect of the construction proposed should be addressed to D. D. McNeely, Principal Engineer, Projects, U.S. Section, International Boundary and Water Commission, Post Office Box 1859, El Paso, TX 79950.

Copies of the draft statement, dated June 18, 1971, and the comment thereon of Federal and State agencies (whose comments are being separately requested by the U.S. Section) will be supplied to such local agencies, individuals or associations upon request addressed to the Commissioner, U.S. Section, International Boundary and Water Commission, Post Office Box 1859, El Paso, TX 79950.

Dated at El Paso, Tex., this 18th day of June 1971.

FRANK P. FULLERTON, Executive Assistant.

[FR Doc.71 9109 Filed 6-28-71; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24D-2943]

CASYNDEKAN, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor and Notice of Opportunity for Hearing

JUNE 23, 1971.

I, Casyndekan, Inc. (issuer), a Colorado corporation, Suite 1050 Holly Sugar Building, Chase Stone Center, Colorado Springs, Colo. 80902, filed with the Commission on February 18, 1970, a notification on Form 1-A and an offering circular relating to an offering of 100,000 shares of common stock at \$3 per share for an aggregate of \$300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A promulgated thereunder. The offering circular stated that the shares were to be sold by James B. Wahrenbrock, Treasurer, and the issuer's officers, directors, and employees and that no commissions were to be paid on the sales. The offering commenced on April 1, 1970, and was completed on December 31, 1970.

If the Commission has reasonable cause to believe from information reported to it by the staff that:

A. The terms and conditions of Regulation A were not complied with in that:

1. Offers and sales of the aforementioned securities of the issuer were made to individuals who were not furnished with an offering circular as required by Rule 256(a).

2. The issuer failed to file all sales material used in connection with the offering as required by Rule 258.

3. Offers and sales of the aforementioned securities of the issuer were made in States other than as listed in response to Item 8 of the Form 1-A filed by the issuer.

4. The Form 2-A report filed by the issuer failed to respond adequately and accurately to the items of that form with respect to use of proceeds from the offering.

5. The offering circular failed to state adequately and accurately the method by which the securities of the issuer were to be offered as required by Item 5 of Schedule I.

6. The offering circular failed to state accurately the use to which proceeds of the offering would be applied as required by Item 6(a) of Schedule I.

B. The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The failure to state that salaries of officers and directors were to be paid from proceeds of the offering, and the failure to state correctly the amount of proceeds to be used for computer and office equipment rent.

2. The failure to state that proceeds from sale of the aforementioned securities were to be held in escrow as required by the Colorado Securities Commissioner until 85 percent of the offering was sold.

3. The failure to name each State in which the issuer's securities were to be sold.

4. The names of all those individuals who were engaging in underwriting activities on behalf of the issuer.

C. Sales literature used in connection with the offer and sale of the aforementioned securities contains untrue statements of material facts and omits to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The products offered by the issuer, and the marketing of those products.

2. The services offered and to be offered by the issuer and the marketing of those services.

3. The progress of the issuer during the first half of 1970.

4. The sales efforts anticipated for the last half of 1970.

D. The offering was made in violation of section 17(a) of the Securities Act of 1933, as amended, by reason of the matters described above.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended:

It is ordered, Pursuant to Rule 261(a), of the general rules and regulations under the Securities Act of 1933, as

amended, that the exemption of Casyn-dekan, Inc., under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 13th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-9152; Filed 6-28-71; 8:49 am]

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP. Order Suspending Trading

JUNE 23, 1971.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange, and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 24, 1971, through July 3, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-9153 Filed 6-28-71; 8:49 am]

NOTICES

[811-2042]

FIRST MINNEAPOLIS GROWTH INVESTMENT FUND

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Com- pany

JUNE 23, 1971.

Notice is hereby given that First Minneapolis Growth Investment Fund (Applicant), 120 South Sixth Street, Minneapolis, MN 55402, a collective investment fund established in the State of Minnesota registered as an open-end, diversified investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations as set forth therein which are summarized below.

Applicant represents that it registered under the Act on March 11, 1970, by filing a notification of registration on Form N-8A.

Applicant states that at the time of registration sales of the units of participation which it planned to offer to the public were prohibited, pending the approval of the Comptroller of the Currency. The Comptroller is now precluded from granting such approval and, therefore, the Fund will not engage in the business of an investment company. Applicant has not offered or sold any securities to the public. Further, Applicant does not intend to initiate other registrations. For this reason the Applicant has requested that its registration be withdrawn.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 12, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of

an attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-9154 Filed 6-28-71; 8:49 am]

[811-2043]

FIRST MINNEAPOLIS INCOME INVESTMENT FUND

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Com- pany

JUNE 23, 1971.

Notice is hereby given that First Minneapolis Income Investment Fund (Applicant), 120 South Sixth Street, Minneapolis, MN 55402, a collective investment fund established in the State of Minnesota, registered as an open-end, diversified investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations as set forth therein which are summarized below.

Applicant represents that it registered under the Act on March 11, 1970, by filing a notification of registration on Form N-8A.

Applicant states that at the time of registration, sales of the units of participation which it planned to offer to the public were prohibited, pending the approval of the Comptroller of the Currency. The Comptroller is now precluded from granting such approval and, therefore, the Fund will not engage in the business of an investment company. Applicant has not offered or sold any securities to the public. Further, Applicant does not intend to initiate other registrations. For this reason the Applicant has requested that its registration be withdrawn.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 12, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-9155 Filed 6-28-71; 8:49 am]

[File No. 500-1]

MEDICAL INVESTMENT CORP. Order Suspending Trading

JUNE 22, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Medical Investment Corp. (a Minnesota corporation) and all other securities of Medical Investment Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this

order to be effective for the period June 23, 1971, through July 2, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-9157 Filed 6-28-71; 8:49 am]

[812-2938]

PACIFIC SILVER CORP.

Notice of Filing of Application for Order Declaring That Company is Not an Investment Company

JUNE 23, 1971.

Notice is hereby given that Pacific Silver Corp. (Applicant), 1320 Ala Moana Building, 1441 Kapiolani Boulevard, Honolulu, HI 96814, organized under the laws of the State of Hawaii, has filed an application for an order of the Commission pursuant to section 3(b)(2) of the Investment Company Act of 1940 (Act) declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or through majority owned subsidiaries, or through controlled companies conducting similar types of businesses. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant's assets were valued at \$1,625,461 on January 31, 1971. On that date, Applicant owned 242,730 shares of common stock of Silver King Mines, Inc. (King), a Nevada corporation engaged in various mining activities, whose stock Applicant carried at \$1,360,054, an average of \$5.60 a share. As of April 19, 1971, Applicant's holding in King had increased to 267,730 shares which represented 13.95 percent of the outstanding shares of King. In addition Applicant has the right to acquire, pursuant to the terms of a subscription agreement dated June 1, 1970, an additional 50,000 shares of King at \$4.50 per share. Upon exercise of its right, Applicant would own 317,730 shares of King or 16.55 percent of the amount outstanding, with an average cost price to Applicant at such time of \$5.34 per share. Applicant states that on April 12, 1971, King stock was quoted at \$7.25 a share in the over-the-counter market.

Applicant, because of its stockholding in King, which amounts to more than 40 percent of its assets, concedes that it is within the provisions of section 3(a)(3) of the Act. Applicant states, however, that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities through its controlled company, King. Applicant states in support of its contention that it controls King that it is the largest shareholder of King, and that the only other shareholder owning over 5 percent of the outstanding shares of King is Kay L. Stoker, President and

Chairman of the Board of Applicant, who owns approximately 6.7 percent of the outstanding shares of King. Stoker is also president and a director of King. Applicant states that its officer and directors as a group own 11.57 percent of the outstanding shares of King and that when such shares are added to the shares owned directly by Applicant and the 50,000 shares to be acquired pursuant to the subscription agreement, the total represents 28.12 percent of the outstanding shares of King. Applicant states that considering the wide disbursement of the stock of King and the amount owned and controlled by Applicant and its officers, it has the power to exercise a controlling influence over the management or policies of King within the meaning of section 2(a)(9) of the Act.

Applicant states that on March 1, 1970, Applicant and King entered into a joint venture agreement (the "Agreement") for an equal participation in properties and projects known as the Seven Devils Mining District, Idaho, and the Tybo Mining District, Nevada (the "Districts"). The Agreement provides that the operations will be under the supervision of a joint board consisting of five members with three nominees from King, which will actually operate the properties, and two nominees from Applicant, which will participate equally as to all expenditures and receipts. However, Applicant represents that due to common directors, three of the five members of the joint board are directors of Applicant. Applicant valued its investment in the joint venture at \$197,208 on January 31, 1971. Article 10 of the Agreement provides that if either Applicant or King acquires any additional property within the Districts, then the other party shall be given an opportunity to elect to have such property transferred to the joint venture upon reimbursing the purchaser for one-half of the amount paid. Article 10 also provides that if either Applicant or King acquires any property not located in the Districts and offers a joint participation to a third party, the other contracting party shall have a first right to enter into such joint participation on the same terms and conditions as was offered to the third party. Applicant asserts that both prior to and at the time of its entry into the Agreement, it controlled King, and through this control was itself directly engaged in the mining business, and thus would have then been entitled to an order pursuant to section 3(b)(2) of the Act.

Applicant, which was formed in 1964, states that it has had virtually no income, either by way of dividend on its King stock or from any other source since 1968, and that the financing of its operations has been out of capital. The only revenue received by Applicant since 1968 has come principally from interest paid pursuant to the terms of stock subscriptions.

Applicant also states that its involvement in the mining business both through its direct participation in joint ventures and indirectly through its control of King is underscored by the fact that the training and experience of the common principal executive officer is exclusively in the mining business, and that of its 12 directors, six serve as directors of King which has 13 directors. Applicant also states that the business of King and Applicant are substantially the same. The interrelationship of the two companies, Applicant states, is further evidenced by King's ownership of 9.15 percent of the outstanding shares of Applicant. Applicant states that such ownership will be reduced if a contemplated public offering by Applicant and a secondary offering by King, for which a registration statement on Form S-3 has been filed with the Commission, is successful. Applicant further states that a substantial portion of the proceeds of such public offering will be used to develop the properties jointly held by Applicant and King.

Section 3(b)(2) of the Act, among other things, excepts from the definition of an investment company in section 3(a)(3), any issuer which the Commission finds and by order declares to be primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities, either directly through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses.

Notice is further given that any interested person may, not later than July 15, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

NOTICES

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-9158 Filed 6-28-71; 8:49 am]

[File No. 500-1]

PIED PIPER YACHT CHARTERS CORP. Order Suspending Trading

JUNE 22, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pied Piper Yacht Charters Corp. (a Delaware corporation) and all other securities of Pied Piper Yacht Charters Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 22, 1971, 3:30 p.m., e.d.s.t., through July 2, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.
[FR Doc.71-9156 Filed 6-28-71; 8:49 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4, Rev. 2;
Amdt. 5]

ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Revocation of Authority To Declare Disasters

Delegation of Authority No. 4, Revision 2 (35 F.R. 13234), as amended (35 F.R. 16759, 36 F.R. 653, 36 F.R. 8537, and 36 F.R. 11491), is hereby further amended by revoking Items I.E. and I.F. in their entirety.

Item I.E. gave the Associate Administrator for Financial Assistance the authority to extend the original disaster period resulting from a disaster declaration and Item I.F. gave him the authority to declare a disaster area and period in the absence of both the Administrator and Deputy Administrator.

All authority previously delegated by the Administrator to the Associate Administrator for Financial Assistance in the above-mentioned items is hereby revoked without prejudice to actions taken under such delegation prior to the effective date hereof.

Effective date: June 3, 1971.

THOMAS S. KLEPPE,
Administrator.
[FR Doc.71-9112 Filed 6-28-71; 8:45 am]

[Delegation of Authority No. 50, Rev. 3;
Amdt. 4]

ASSOCIATE ADMINISTRATOR FOR OPERATIONS AND INVESTMENT

Delegation of Authority To Declare Disasters

Delegation of Authority No. 50, Revision 3 (25 F.R. 7418), as amended (26 F.R. 4440, 27 F.R. 1303, and 31 F.R. 13563), is hereby further amended by adding subsections I.E. and I.F. as follows:

I. . . .
E. To declare a disaster area and period.

F. To extend the original disaster period resulting from a disaster declaration.

Effective date: June 3, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-9114 Filed 6-28-71; 8:45 am]

[Delegation of Authority No. 1, Rev. 2;
Amdt. 1]

DEPUTY ADMINISTRATOR

Delegation of Authority To Declare Disasters

Delegation of Authority No. 1, Revision 2 (32 F.R. 177), is hereby amended by adding the following new paragraph to the end of the present delegation:

The Deputy Administrator is authorized to declare a disaster area and period and to extend the original disaster period resulting from a disaster declaration.

Effective date: June 3, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-9113 Filed 6-28-71; 8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

[Docket No. 100-71]

ARO, INC.

Notice of Hearing Regarding Violation of Contract

The Director of the Office of Federal Contract Compliance (hereinafter the Director), having reason to believe that the provisions of the contracts referred to herein have been violated, having given ARO, Inc. (hereinafter the respondent), notice of proposed termination of existing contracts and determination of contract ineligibility under the authority of Executive Order 11246, as amended (30 F.R. 12319; 32 F.R. 14303), and the regulations pursuant thereto (41 CFR Ch. 60), and respondent having requested a hearing on these proposed actions, hereby sets this matter down for hearing to be conducted in accordance with specific procedures established for use at this hearing, copies of which may

be obtained by submitting a written request to the Director, OFCC, U.S. Department of Labor, Washington, D.C. 20210, or by calling 202-961-3418.

The allegations on which the Director's proposed action is based are as follows:

1. Respondent, ARO, Inc., is a corporation organized under the laws of the State of Tennessee. Its single establishment is located at Arnold Air Force Station, TN 37389, where approximately 3,100 persons are employed. Respondent is engaged in the operation and maintenance of advanced flight simulation testing facilities (Arnold Engineering and Development Center) for the U.S. Air Force; its operations include research, development, testing, and evaluation of aerospace components and vehicles.

2. At all times material hereto, respondent has had contracts with the United States and thus has been subject to the contractual obligations imposed by Executive Order 11246, as amended, and its predecessors.

3. In accordance with the requirements of section 202 of Executive Order 11246, as amended (30 F.R. 12319; 32 F.R. 14303), and the corresponding sections of preceding Executive orders, the contract(s) between respondent and the United States contain an "equal employment opportunity clause." This "equal employment opportunity clause" provides in part: "(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment; upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."

4. The representatives of respondent's approximately 1,364 bargaining unit employees is the Air Engineering Metal Trades Council and Affiliated Unions, AFL-CIO (hereinafter the Metal Trades Council), a labor organization comprised of the following 13 local unions: Local 515, Truck Drivers and Helpers; Local 51, Sheet Metal Workers International Association; Local 2113, International Brotherhood of Electrical Workers; Local 456, Brotherhood of Painters, Decorators and Paperhangers of America; Local 352, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada; Local 174, International Hod Carriers, Building and Common Laborers' Union of America; Local F-14, International Association of Fire Fighters; Local 1501, International Association of Machinists; Local 57, International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; Local 917, International Union of Operating Engineers; Local 704, International Association of Bridge, Struc-

tural and Ornamental Iron Workers; Local 2470, Tri-State Carpenters District Council; Local 572, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada.

5. The Metal Trades Council has entered into collective bargaining agreements with respondent concerning wages, hours, and other terms and conditions of employment for operations, maintenance, and service employees at its establishment.

6. Respondent has engaged in employment practices which have discriminated against Negroes on the basis of their race and color in the hiring, assignment, transfer, promotion, layoff, and recall of employees.

7. Respondent has had a policy of hiring and assigning its employees on the basis of race and color; hiring Negroes for and assigning them to low-paying, menial jobs in the laborer, janitor, and track laborer classifications, and failing or refusing to hire them for traditionally white jobs in the bargaining unit. All or virtually all of respondent's Negro employees who were hired or transferred into the bargaining unit have been adversely affected by this policy.

8. Respondent has engaged and continues to engage in employment practices which perpetuate the effects of past discrimination and which have discriminated and continue to discriminate against Negroes on the basis of their race and color in hiring, promotion, transfer, layoff, recall, and other conditions of employment. These practices include:

(a) Maintenance of traditionally Negro jobs, located in the building service, laborer, and track laborer seniority groups, to which all but one of respondent's Negro bargaining unit employees were assigned upon entry into the unit.

(b) Maintenance of a seniority system for promotion, transfer, layoff, recall, and shift preference, which makes it difficult or impossible for Negro employees to have an equal opportunity to compete with their similarly situated white contemporaries for more desirable, better paying, traditionally white jobs.

(c) Failure or refusal to implement the changes in terms or conditions of employment described in the Agreement of June 27, 1970, between respondent, the Agency for International Development and the Office of Federal Contract Compliance, and/or other appropriate affirmative action to correct fully the present effects of past discrimination.

9. The discriminatory policies and practices of respondent have been repeatedly brought to the attention of its officials by the Department of Defense, the Agency for International Development, and the Office of Federal Contract Compliance over an 18-month period beginning October 27, 1969. Government officials have made reasonable, but unsuccessful, efforts within a reasonable time limitation to obtain voluntary compliance with the requirements of Executive Order 11246, as amended, by means of conference, conciliation, mediation, and persuasion. Such efforts have in-

cluded numerous contacts between the respondent and Government representatives during 1970, including conciliation conferences held on June 26, 1970, and September 10, 1970.

10. The acts and practices of respondent described in paragraphs 6, 7, and 8 above constitute violations of the contractual obligations imposed upon it by virtue of Executive Order 11246, as amended, and the rules, regulations and orders pursuant thereto.

Wherefore, a hearing examiner designated by the Chief Hearing Examiner under the direction of the Secretary of Labor shall hear and determine this matter in accordance with the attached Rules of Procedure, and recommend to the Secretary whether,

(a) Pursuant to section 209(a)(5) of Executive Order 11246, as amended, the Secretary shall cause to be terminated all existing contracts or any portion or portions thereof which the respondent holds with agencies and departments of the Federal Government and all subcontracts as defined in 41 CFR 60-1.3(w); and

(b) Pursuant to sections 202 and 209(a)(6) of Executive Order 11246, as amended, and 41 CFR 60-1.26(b), the Secretary shall declare the respondent ineligible for further contracts, subcontracts, and extensions of existing contracts or subcontracts until the respondent has satisfied the Secretary that it has established and will carry out personnel and employment policies in compliance with the provisions of Executive Order 11246, as amended; and

(c) Other appropriate action authorized by section 209 of Executive Order 11246, as amended, shall be taken.

The Hearing will be convened at 9:30 a.m., on July 20, 1971, at the Arnold Air Force Station, Main Conference Room, Administrative and Engineering Building.

This notice has been signed and issued pursuant to 41 CFR 60-1.26(b) and 60-1.27 at Washington, D.C., this 17th day of June 1971.

JOHN L. WILKS,
Director, Office of
Federal Contract Compliance.
[FR Doc.71-9111 Filed 6-28-71; 8:45 am]

Office of the Secretary EMERSON TELEVISION AND RADIO CO.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of April 2, 1971, the U.S. Tariff Commission made its report of the results of its investigation (TEA-W-77) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers of the Emerson Television and Radio Co. plant located in Jersey City, N.J. In this report, the Commission, being equally

divided, made no finding with respect to whether articles like or directly competitive with television receivers, radios, and phonographs produced by Emerson Television and Radio Co. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of workers at the plants concerned. The President subsequently decided, under the authority of section 330 (d) (1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 9154; 29 CFR Part 90). In the recommendation, he noted that imports of television receivers (both monochrome and color), like or directly competitive with those produced at Emerson Television and Radio Co., more than quadrupled during the 1965-70 period preceding the closing of the plant. During this period production, and consequently employment, dropped precipitously. The bulk of layoffs began to occur on October 23, 1969, and continued until the plant ceased production operations in June 1970. As of May 14, 1971, about 88 workers were still employed at the plant. About 40 of these workers will be terminated around September 1971. The remaining 48 will be retained by the company. After due consideration, I make the following certification:

All hourly and salaried workers of the Emerson Television and Radio Co. plant located at Jersey City, N.J., who became or will become unemployed or underemployed after October 23, 1969, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 16th day of June 1971.

J. D. Hodson,
Secretary of Labor.

[FR Doc.71-9142 Filed 6-28-71;8:48 am]

INTERSTATE COMMERCE COMMISSION

BIVIN TRANSFER CO., INC., ET AL.

Assignment of Hearings

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates.

The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 82080 Sub 4, Bivin Transfer Co., Inc., now assigned July 26, 1971, at Indianapolis, Ind., postponed indefinitely.

MC 83539 Sub 273, C & H Transportation Co., and MC 113855 Sub 217, International Transport, Inc., continued to September 1, 1971, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC 126714 Sub 3, Southwest Delivery Co., Inc., continued to September 13, 1971, and October 11, 1971, at Portland, Oreg., at the Thunderbird Motor Inn, 1401 North Hayden Island Drive.

MC 61592 Sub 203, Jenkins Truck Line, Inc., now assigned July 12, 1971, at St. Louis, Mo., postponed indefinitely.

MC 108449 Sub 302, Indianhead Truck Lines, Inc., MC 120800 Sub 24, Capitol Truck Line, Inc., now assigned July 19, 1971, postponed indefinitely.

MC 109337 Sub 11, Watson Bros. Van Lines and Heavy Hauling Co., application dismissed.

MC 83835 Sub 58, Wales Transportation, Inc., application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9164 Filed 6-28-71;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 24, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42232—*Propylene Oxide to Points in West Virginia*. Filed by Southwestern Freight Bureau, Agent (No. B-246), for interested rail carriers. Rates on propylene oxide, in tank carloads, as described in the application, from specified points in Louisiana and Texas, to Institute and South Charleston, W. Va.

Grounds for relief—Market competition.

Tariff—Supplement 12 to Southwestern Freight Bureau, Agent, tariff ICC 4922. Rates are published to become effective on July 24, 1971.

FSA No. 42233—*Bulgar and Mill Feed from Points in Montana*. Filed by North Pacific Coast Freight Bureau, Agent, (No. 71-6), for and on behalf of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Rates on bulgur and mill feed, in carloads, as described in the application, from points in Montana, to North Pacific Coast Ports.

Grounds for relief—Unregulated truck competition.

Tariff—Supplement 74 to North Pacific Coast Freight Bureau, Agent, tariff ICC

1117. Rates are published to become effective on July 26, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9161 Filed 6-28-71;8:50 am]

[Notice 319]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 23, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 10761 (Sub-No. 255 TA), filed June 16, 1971. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, MI 48209. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, and meat byproducts as described in sections A and C of Appendix I to the report in *Description in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except hides and skins), from the plansite and warehouse facilities of Swift Fresh Meats Co. at Brownwood, Tex., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restricted to shipments originating at Brownwood, Tex., plantsite and destined to the above-named States, for 150 days. Supporting shipper: Swift Fresh Meats Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: District Supervisor Melvin F. Kirsch, Bureau of Operations, Interstate Commerce Commission, 1110 Broderick Tower, 10 Witherell, Detroit, MI 48226.

No. MC 11722 (Sub-No. 25 TA), filed June 16, 1971. Applicant: BRADER

HAULING SERVICE, INC., Post Office Box 655, Zillah, WA 98953. Applicant's representative: Ronald R. Brader (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Newsprint, in rolls, from Seattle, Wash., to Yakima, Wash., for 180 days. Supporting shipper: Yakima Herald-Republic, Republic Publishing Co., 114 North Fourth Street, Yakima, WA 98901. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 87720 (Sub-No. 108 TA), filed June 14, 1971. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Star Route A, Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Paper and paper articles, together with materials, supplies, and equipment used in connection with the manufacture, distribution or sale of the aforementioned articles, between Riegelsville, Milford, Warren Glen, and Hughesville, N.J., on the one hand, and, on the other, West Salem, Ill., for the account of Riegel Paper Corp., for 150 days. Supporting shipper: Riegel Paper Corp., Paper Division, 260 Madison Avenue, New York, NY 10018. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 100666 (Sub-No. 192 TA), filed June 17, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, 1129 Grimmer Drive, Shreveport, LA 71107. Applicant's representative: Dean Williamson, Suite 280, National Foundation Life Center, 3535 NW 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Particle board, from Diboll, Tex., to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico, for 180 days. Supporting shipper: Temple Industries, Diboll, Tex. 75941; Mr. Henry H. Holubec, Jr., Vice President, Marketing. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T-4009 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 108207 (Sub-No. 321 TA), filed June 17, 1971. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Candy and confectionery products, from Oklahoma City, Okla., to points in Arkansas, California, Louisiana, Mississippi, Texas, Nebraska, Missouri, Kan-

sas, Illinois, and Memphis, Tenn., for 150 days. Note: Carrier does not intend to tack authority. Supporting shipper: Bunte Candies, Inc., Oklahoma City, Okla. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 108207 (Sub-No. 340 TA), filed June 17, 1971. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, and meat byproducts, from Omaha, Neb., to points in Kansas City, Kans., Kansas City, Mo., commercial zone, for 150 days. Note: Carrier does not intend to tack authority. Supporting shipper: Morton Meats of Omaha, Inc., 1209-15 Howard Street, Omaha, NE 68102. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, Room 13C12, 1100 Commerce Street, Dallas, TX 75202.

No. MC 114194 (Sub-No. 163 TA), filed June 17, 1971. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: Donald D. Metzler (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Witch hazel, in bulk, in tank vehicles, from East Hampton, Conn., to Chicago, Ill., for 180 days. Supporting shipper: S. M. Blankenbiller, President, American Distilling and Manufacturing Co., Inc., Lake Pocotopaug, East Hampton, Conn. 06424. Send protests to: Harold C. Joliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 116810 (Sub-No. 7 TA), filed June 17, 1971. Applicant: BAIR TRANSPORT, INC., Post Office Box 216, Riverside, NJ 08075. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs group: bakery goods, chips, twists or puffs; popcorn; pork skins; or bacon rinds, fried; potato chips; in packages, from Berwick, Pa., to points in New Jersey, New York, and Maryland, for 180 days. Supporting shipper: Wise Foods, Division of Borden Foods, Borden, Inc., Berwick, Pa. 18603. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 121570 (Sub-No. 3 TA), filed June 16, 1971. Applicant: MAURICE SMITH AUSLEY, II, doing business as AUSLEY MOTOR FREIGHT, 935 South Miles Street, El Reno, OK 73036. Applicant's representative: Dean Williamson, Suite 280, National Foundation Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a common carrier, by motor

vehicle, over regular routes, transporting: General commodities, except commodities in bulk, (1) between Oklahoma City, and Frederick, Okla., over State Highway 152 to its intersection with State Highway 146, west of Binger, Okla., thence south on State Highway 146, to Fort Cobb, thence over State Highway 9 to Gotebo, thence south on State Highway 54 to its intersection with State Highway 19, south of Cooperton, thence over State Highway 19 to Roosevelt, thence over U.S. Highway 183 to Manitou, thence over State Highway 5C to Tipton, thence over State Highway 5 to Frederick, Okla., and return over the same route serving Oklahoma City, Cooperton, Manitou, Tipton, and Frederick; (2) between Oklahoma City and Frederick over H. E. Bailey Turnpike, from Oklahoma City to its intersection with State Highway 5, thence over State Highway 5 to Frederick, and return over the same route for operating convenience only serving no intermediate points; and (3) between Oklahoma City and Watonga, Okla., over Interstate Highway 40, from Oklahoma City to its intersection with U.S. Highway 270, thence over U.S. Highway 270 to Geary, Okla., thence over U.S. Highway 281 to Watonga and return over the same route, serving Oklahoma City, Calumet, Geary, Greenfield, and Watonga, Okla., for 180 days.

Note: Applicant states it will interline with other carriers at Oklahoma City, Okla. Supporting shippers: Oklahoma Hardware Co., 31 East California, Oklahoma City, OK; Fry Furniture, Post Office Box 546, Frederick, OK; O'Hara Drug Co., 107 West Main, Watonga, OK; Gay Dress Shop, 126 North Main, Frederick, OK; Burrell Implement, Watonga, Okla.; Hursh-Gose Ford, Noble and Highway 33, Watonga, Okla.; National Bank of Frederick-Frederick Hardware Co., Frederick, Okla.; Gish's Home Furnishings, Frederick, Okla. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 126844 (Sub-No. 11 TA), filed June 17, 1971. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Road, Post Office Drawer S, Vineland, NJ 08360. Applicant's representative: Terrence D. Jones, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Computer-printed letters, from Pleasantville, N.J., to Chicago, Ill., for 180 days. Supporting shipper: Spencer Gifts, Inc., 1601 Albany Avenue Boulevard, Atlantic City, NJ 08401. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 134022 (Sub-No. 4 TA) (Substitution), filed May 12, 1971, published FEDERAL REGISTER, issue of May 27, 1971, and republished this issue. Applicant: RICHARD A. ZIMA, doing business as

ZIPCO, 4008 Schuster Drive, Post Office Box 115, West Bend, WI 53095. Applicant's representative: William E. McCarty, Midland Bank Building, 211 West Wisconsin Avenue, Milwaukee, WI 53203. NOTE: The purpose of this republication is to show that the above individual has been substituted as applicant in lieu of Contract Transportation, Inc. The remainder of the notice of filing remains as previously published.

No. MC 134232 (Sub-No. 16 TA), filed June 16, 1971. Applicant: JAY LINES, INC., Post Office Box 1644, 6210 River Road, Amarillo, TX 79105. Applicant's representative: Gailyn L. Larsen, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Playground apparatus and children's recreational equipment, and gas lite posts*, from Bossier City, La., to points in California, Oregon, Washington, Utah, Nevada, and Colorado, for 180 days. Supporting shipper: Thomas R. Ufert, Traffic Manager, Gymdandy, Inc., Post Office Box 5637, Bossier City, LA. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1012 Herring Plaza, 317 East Third Street, Amarillo, TX 79101.

No. MC 134477 (Sub-No. 12 TA), filed June 17, 1971. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Paul Schanno (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, cooked, cured, or preserved*, requiring mechanical refrigeration, from St. Paul, Minn., to Laurens and Sioux City, Iowa, for 180 days. Supporting shipper: Peters Meat Products, Inc., 344-370 South Robert Street, St. Paul, MN 55107. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 134856 (Sub-No. 3 TA), filed June 16, 1971. Applicant: STANFORD NORRIS, 1744 Northwest Estelle Avenue, Roseburg, OR 97470. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden box cleats*, from Roseburg, Ore., and the plantsite of Poteet Products, near Roseburg, Ore., to El Dorado, Calif., for 150 days. Supporting shipper: Poteet Wood Products, Route 1, Box 970, Roseburg, OR. Send protests to: Albert E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Ore. 97204.

No. MC 135530 (Sub-No. 1 TA), filed June 16, 1971. Applicant: LAKE CENTER INDUSTRIES TRANSPORTATION, INC., 111 Market Street, Winona, MN 55987. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile and*

vehicle parts, electrical and electronic goods, electrical and electronic appliances and instruments and parts thereof, electrical and electronic supplies, equipment, fittings, and accessories, metals and metal articles, wire and wire products, and wire stripping machines, and equipment, materials and supplies used in manufacturing, processing, or repairing said communities, (a) between Winona, Minn., Lewiston and Rushford, Minn., Decorah, Iowa, and Galesville, Wis., on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, and West Virginia; and (b) between Winona, Minn., and Lewiston and Rushford, Minn., on the one hand, and, on the other, points in Iowa and Wisconsin; and (c) between Decorah, Iowa, on the one hand, and, on the other, points in Iowa and Wisconsin; and (d) between Galesville, Wis., on the one hand, and, on the other, points in Iowa and Minnesota; all for the account of Lake Center Switch Co., Rush Products Co., Deco Products Co., and Gale Products Co., for 150 days. Supporting shippers: Lake Center Switch Co., Winona, Minn., Rush Products Co., Winona, Minn., Gale Products Co., Winona, Minn., Deco Products Co., Winona, Minn. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135685 (Sub-No. 3 TA), filed June 16, 1971. Applicant: LILY TRANSPORT LINES, INC., 25 Denby Road, Allston, MA 02134. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass bottles*, from Wharton, N.J., to Lawrence, Mass., Buckfield, Maine, and Highland, N.Y.; (2) *tin cans*, from Edison Township, N.J., to Lawrence, Mass., Buckfield, Maine, and Highland, N.Y. Restriction: The operations authorized above in (1) and (2) are limited to a transportation service to be performed, under a continuing contract, or contracts with Lincoln Foods, Inc., of Lawrence, Mass., (3) *canned or preserved foods*, from Lawrence, Mass., to points in Connecticut, Maine, New Hampshire, New Jersey, Pennsylvania, Rhode Island, and Vermont, and (4) *canned foods*, from Kennett Square, Pa., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. Restriction: The operations authorized above in (3) and (4) are limited to a transportation service to be performed, under a continuing contract, or contracts with S. S. Pierce Co. of Boston, Mass., for 180 days. Supporting shipper: Lincoln Foods, Inc., One Newbury Street, Lawrence, MA; S. S. Pierce Co., 133 Brookline Avenue, Boston, MA. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Com-

mission, Bureau of Operations, J. F. K. Federal Building, Room 2211-B, Government Center, Boston, Mass. 02203.

No. MC 135687 TA, filed June 16, 1971. Applicant: OAKDALE SERVICE CO., INC., 1990 College Avenue NE., Atlanta, GA 30317. Applicant's representative: Jack M. McLaughlin, Suite 220, 17 Executive Park Drive NE., Atlanta, GA 32309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, tile, and concrete block*, from the manufacturing plants of Bickerstaff Clay Products Co., Inc., located in Cobb County, Ga.; Russell and Jefferson Counties, Ala.; and Escambia County, Fla., to points in Alabama, Georgia, Mississippi, and Tennessee and in Florida in and west of Hamilton, Suwanee, Lafayette, and Dixie Counties, and from points in the aforesaid destination territory to points in Alabama, Georgia, Tennessee, Mississippi, and in that portion of Florida in and west of Hamilton, Suwanee, Lafayette, and Dixie Counties, for 180 days. Supporting shipper: Bickerstaff Clay Products Co., Inc., Columbus, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

MOTOR CARRIER OF PASSENGERS

No. MC 135674 (Sub-No. 1 TA), filed June 17, 1971. Applicant: NORTHERN PACIFIC TRANSPORT COMPANY, 176 East Fifth Street, St. Paul, MN 55101. Applicant's representative: Byron D. Olsen (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, from Helena, Mont., to Butte, Mont., and return, handling only National Railroad Passenger Corp. (AMTRAK) passengers traveling between Helena and points beyond Butte over Interstate Highway 15, and U.S. Highway 91. No service will be provided to any intermediate points nor will local passengers traveling only between Butte and Helena be handled. All ticketing will be by AMTRAK, who will make no additional charge for transportation to or from Helena over and above the presently published tariff rates to and from Butte, from other points on the AMTRAK Railroad System, for 180 days. Supported by: Affidavits by George N. Page, Vice President and General Manager of Northern Pacific Transport Co., and Richard K. Mossman, Assistant Vice President, Executive Department of Burlington Northern, Inc., and National Passenger Corp. Operations Officer. Send protests to: District Supervisor E. C. Sjogren, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9162 Filed 6-28-71; 8:50 am]

[Notice 320]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 24, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field of application named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2310 (Sub-No. 5 TA) (correction), filed June 9, 1971, published FEDERAL REGISTER issue June 11, 1971, and corrected, and republished in part as corrected this issue. Applicant: SIGNAL TRANSPORT, INC., Post Office Box 681, 620 Boston Street, La Porte, IN 46350. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. NOTE: The purpose of this partial republication is to include Youngstown, Cincinnati, Belle Fontaine, Lima, Columbus, Dayton, and Xenia, Ohio, as destination points, which were inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 64932 (Sub-No. 495 TA) (correction), filed May 7, 1971, published FEDERAL REGISTER June 2, 1971, corrected and republished in part as corrected this issue. Applicant: ROGERS CARTAGE CO., 1439 West 103d Street, Chicago, IL 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. NOTE: The purpose of this partial republication is to include the restriction, *in bulk, in tank vehicles*, which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 92319 (Sub-No. 3 TA), filed June 14, 1971. Applicant: KENNETH GRAHAM, Route No. 1, Box 41-A, Brimley, Mich. 49715. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to St. Ignace,

Mich., under continuing contract with Mackinaw Distributing Co., St. Ignace, Mich., for 120 days. Supporting shipper: Mackinaw Distributing Co., 590 North State Street, St. Ignace, MI 49781. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 119619 (Sub-No. 55 TA), filed June 17, 1971. Applicant: DISTRIBUTORS SERVICE CO., 200 West 43d Street, Chicago, IL 60609. Applicant's representative: Arthur J. Piken, Suite 1515, 1 Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Meat, meat products, meat byproducts, and articles distributed by meat packing-houses* as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (b) from the plantsites and facilities of Swift and Co., at or near St. Charles, Ill., to points in Indiana, Ohio, Michigan, Pennsylvania, New York, Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, New Jersey, Maryland, Delaware, District of Columbia, Virginia, West Virginia, and Louisville, Ky., restricted to traffic originating at the plantsites and facilities of Swift and Co. at or near St. Charles, Ill., for 180 days. Supporting shipper: Swift Processed Meats Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 124673 (Sub-No. 12 TA), filed June 14, 1971. Applicant: FEED TRANSPORTS, INC., Pullman Road, Post Office Box 2167, South Amarillo, TX 79105. Applicant's representative: L. M. Maples (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry livestock feed and feed ingredients*, in bulk and/or in bags, in hopper-type trailers, from points in Harris County, Tex., to points in New Mexico on and east of Interstate Highway 25 (except Curry County, N. Mex.), and points in Colorado on and east of Interstate Highway 25, for 150 days. NOTE: Applicant states it does intend to tack the authority in MC-124673. Supporting shipper: Occidental Chemical Co., Post Office Box 1185, Houston, TX 77001. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1012 Herring Plaza, 317 East Third Street, Amarillo, TX 79101.

No. MC 134534 (Sub-No. 3 TA), filed June 17, 1971. Applicant: LUIS BASTER-RECHEA, doing business as BASTER-RECHEA DISTRIBUTING, 341 Colorado, Gooding, ID 83330. Applicant's representative: Jay L. Depew, Post Office Box 23, Twin Falls, ID 83301. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, in bags, from points in Skagit County, Wash., to points in Idaho south of the Salmon River, for 180 days. NOTE: Applicant states it does not intend to tack or interline authority sought herein. Supporting shipper: Smith & Arduss, Inc., 115 South Dawson Street, Seattle, WA 98108. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, Boise, Idaho 83702.

No. MC 134777 (Sub-No. 14 TA), filed June 17, 1971. Applicant: SOONER EXPRESS, INC., Office: Sooner Building, Highway 70 South, Post Office Box 219, Madill, OK 73446. Applicant's representative: Dale Waymire (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packing-houses*, from the plantsite and/or warehousing facilities of Wilson Certified Foods at Oklahoma City, Okla., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, for 180 days. NOTE: Carrier does not intend to tack its authority. Supporting shipper: Wilson Certified Foods, Inc., 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 135179 (Sub-No. 4 TA) (Correction), filed May 28, 1971, published FEDERAL REGISTER issue June 11, 1971, corrected, and republished in part as corrected this issue. Applicant: EASTERN TRANSPORT, INC., 320 Stiles Street, Linden, NJ 07036. Applicant's representative: George A. Olsen, Traffic Consultant, 69 Tonnele Avenue, Jersey City, NJ 07306. NOTE: The purpose of this partial republication is to reflect the correct publishing date as June 11, 1971, in lieu of June 7, 1971. The rest of the application remains the same.

No. MC 135686 TA, filed June 16, 1971. Applicant: BRUCE FIELDS AND GLEN PIATT, a partnership, North Third Street, Union City, TN 38261. Applicant's representative: Glen Platt (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasolines, diesel fuel, and kerosene*, in bulk, in tank trailers, from Shell Oil Co. terminal at Paducah, Ky., to the plant and bulk storage facilities of the Fields Oil Co., Inc., at Paris, Tenn. Restriction: Transportation restricted to contract carriage on shipments originating at Shell Oil Co. terminal at Paducah, Ky., and destined to Fields Oil Co., at Paris, Tenn., for 180 days. Supporting shipper: Field Oil Co., Inc., Post Office Box 589, Paris, TN 38242. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Office Building,

NOTICES

167 North Main Street, Memphis, TN
38103.

MOTOR CARRIER OF PASSENGERS

No. MC 129038 (Sub-No. 6 TA), filed June 14, 1971. Applicant: TRI-STATE COACH LINES, INC., Post Office Box 547, Gary, IN 46401. Applicant's representative: Harold M. Olsen, 712 South Second, Springfield, IL 62704. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*, from Milwaukee, Wis., to O'Hare Airport, Chicago, Ill., serving intermediate points of junction I-94 and Wisconsin 50; junction

I-94 and Wisconsin 20, I-94 into I-294 and return. Restricted to transportation of passengers, baggage, and express having an immediate prior or subsequent transportation by air, for 150 days. Supporting shippers: Wery Travel Service, Inc., 634 North 27th Street, Milwaukee, WI 53208; International House of Travel, 6733 West Capitol Drive, Milwaukee, WI 53216; Mr. and Mrs. Walter R. Novak, 3200 Barbara Drive, Racine, WI 53404; Massey-Ferguson Inc., Post Office Box 240, Racine, WI 53401; Travel Ideas, Inc., 885 North Jefferson Street, Milwaukee, WI 53202; Howard Johnson's Motor Lodge, Interstate 94 and Wisconsin

sin 50, Kenosha, WI 53140; American Express, 326 East Mason Street, Milwaukee, WI 53202; Thos. Cook & Son, Inc., 320 Wisconsin Avenue, East Milwaukee, WI 53202. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Port Wayne, IN 46802.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9163 Filed 6-28-71;8:50 am]

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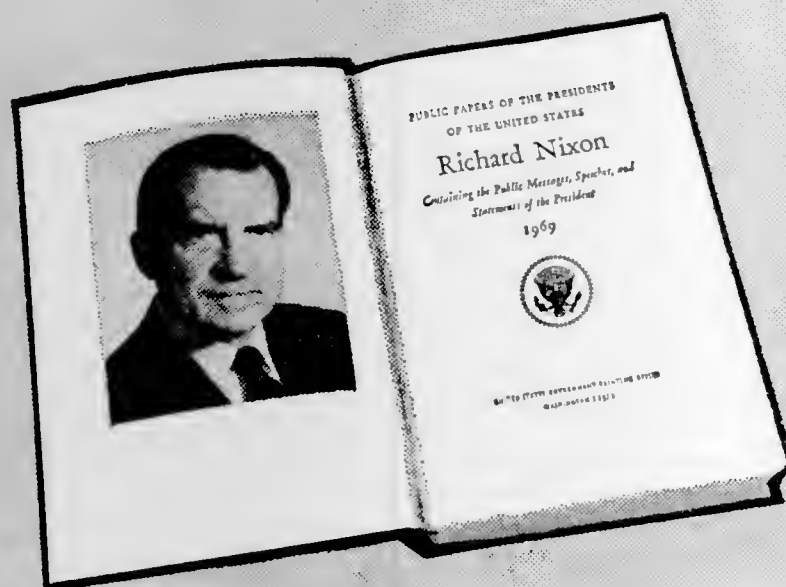
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Title 7—AGRICULTURE

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 40]

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

Order Suspending Certain Provision

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Southern Michigan marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (36 F.R. 11455) concerning a proposed suspension of a certain provision of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of July through December 1971 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1040.12, which defines "fluid milk product", the provision "yogurt."

STATEMENT OF CONSIDERATION

This suspension order will continue the present suspension which results in milk used to produce yogurt being classified and priced as Class III milk rather than as Class I milk. The current suspension expires June 30, 1971.

Handlers who distribute a major portion of the producer milk under the Southern Michigan order requested that the present suspension be continued for several months. This request was expressly supported by certain cooperative associations. There is no indication of any opposition to this suspension action.

The marketing conditions which supported the previous suspension warrant this extension for an additional 6 months. Southern Michigan handlers compete for yogurt sales with handlers in neighboring Federal order markets who pay a minimum price for milk in such use that is substantially less than the Southern Michigan Class I price. Without this suspension, Southern Michigan handlers will be unable to compete on a reasonable basis for yogurt sales.

A hearing on this issue for the Southern Michigan market has been delayed pending the Department's recommenda-

tions on proposals to adopt a uniform plan of milk classification for seven Mid-west Federal order markets, including several in which Michigan handlers are distributing yogurt. A recommended decision on such a uniform classification plan was issued June 4, 1971. Southern Michigan handlers contemplate a hearing on the appropriate classification of yogurt following the proceedings on the seven markets.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without this action Southern Michigan handlers will be unable to compete on a reasonable basis for yogurt sales with handlers in neighboring markets who pay a minimum price for milk in such use that is substantially less than the Southern Michigan Class I price;

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) This suspension is a continuation of a previous suspension of the same provision. Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning the continuation of such suspension.

Therefore, good cause exists for making this order effective July 1, 1971.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the months of July through December 1971.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: July 1, 1971.

Signed at Washington, D.C., on June 24, 1971.

RICHARD E. LYNCH,
Assistant Secretary.

[FR Doc.71-9203 Filed 6-29-71; 8:47 am]

[Milk Order 94]

PART 1094—MILK IN NEW ORLEANS, LA., MARKETING AREA

Order Terminating Certain Provisions

This termination order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the New Orleans, La., marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (36 F.R. 10980) concerning a proposed ter-

mination of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that the following provisions of the order no longer tend to effectuate the declared policy of the Act:

1. Section 1094.19 in its entirety.

2. In § 1094.22(k)(2), the words "through 1094.74."

3. In § 1094.30(a)(1), the words "and for each month of the base operating period, the total quantities of base milk and excess milk."

4. In § 1094.30(b), the words "and base and excess milk" appearing at the end of the first sentence of said subparagraph.

5. In § 1094.31(a)(2), the words "and for the base operating period the total pounds of base and excess milk."

6. In § 1094.31(b)(2)(i), the words "with separate totals for base and excess milk for the base operating period."

7. In § 1094.72(b), the words "in the months of August through January."

8. Sections 1094.73 and 1094.74 in their entirety.

9. In § 1094.75, the words "base price and excess price" immediately following the words "uniform price."

10. In § 1094.76(a), the words "and the uniform price for base milk."

11. In § 1094.77, paragraph (b) in its entirety.

12. In § 1094.77(c), the words "through 1094.74."

13. In § 1094.80(a)(2), the words "or to §§ 1094.73 and 1094.74 as the case may be."

14. In § 1094.80(b)(2), subdivision (ii) in its entirety.

15. In § 1094.80(c)(2), subdivision (ii) in its entirety.

16. Sections 1094.90, 1094.91, 1094.92, 1094.93, and 1094.94 in their entirety.

The termination of the specified provisions will eliminate from the order the base-excess plan currently used during the months of February through July as a means of distributing to producers returns for their milk.

Statement of consideration. A cooperative association which represents the majority of the producers supplying the New Orleans market requested the termination of the base-excess plan for the order contending that the plan no longer tends to effectuate the declared policy of the Act. Producers have overresponded to the plan in that production, particularly in the base-forming months, greatly exceeds the market's requirements for Class I milk. Elimination of the base-excess plan in the attendant

"race for base" in the fall months will bring supplies more nearly in line with the market's requirements.

Therefore, good cause exists for making this order effective on September 1, 1971, the date on which the base-forming period otherwise would commence.

It is therefore ordered, That the aforesaid provisions of the order are hereby terminated.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: September 1, 1971.

Signed at Washington, D.C., on June 24, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-9204 Filed 6-29-71; 8:47 am]

[Milk Order 124]

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

Order Terminating Certain Provision

This termination order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Oregon-Washington marketing area.

It is hereby found and determined that the provision in § 1124.51(a) of the order which reads "For the first 18 months from the effective date of this section," no longer tends to effectuate the declared policy of the Act.

STATEMENT OF CONSIDERATION

This termination order removes the June 30, 1971, terminal date for the Class I price now provided in the order.

The effect of this termination order will be to continue the current Class I price until a decision based on evidence adduced at a public hearing held in Tualatin, Oreg., on March 30, 1971, through April 1, 1971, is issued. One of the issues at the hearing was the Class I price. The recommended decision resulting from the hearing is expected to be issued at an early date.

It is hereby found and determined that notice of proposed rule making, public procedure therein, and 30 days' notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(a) This termination is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that it is the only practical means of continuing the current Class I price in the Oregon-Washington order until a decision is issued based on evidence adduced at a public hearing held in Tualatin, Oreg., on March 30, 1971, through April 1, 1971.

(b) This termination order does not require of persons affected substantial or extensive preparation prior to the effective date.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provision of the order is hereby terminated.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: Upon publication in the FEDERAL REGISTER (6-30-71).

Signed at Washington, D.C., on June 24, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-9202 Filed 6-29-71; 8:47 am]

[Milk Order 125; Docket No. AO-226-A23]

PART 1125—MILK IN PUGET SOUND, WASH., MARKETING AREA

Order Amending Order

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) **Findings upon the basis of the hearing record.** Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Puget Sound marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(b) **Additional findings.** It is necessary in the public interest to make this order amending the order effective not later than July 1, 1971. Any delay beyond that

date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued May 6, 1971, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued June 14, 1971. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1971, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(c) **Determinations.** It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended;

(3) The issuance of the order, exclusive of the Class I base plan of payment to producers, is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area; and

(4) The issuance of the Class I base plan of payment to producers, which is included in this order, is approved or favored by at least two-thirds of the producers who participated in a separate referendum in which each individual producer had one vote and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Puget Sound marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1125.71, the heading and paragraphs (b), (c), and (g) are revised to read as follows:

§ 1125.71 **Computation of weighted average price and uniform price for producer milk.**

(b) Add or subtract the aggregate of the location adjustments computed pursuant to § 1125.81(a),

(c) Add the aggregate of the values on nonpool milk computed pursuant to § 1125.81(c).

(g) Subtract not less than 4 cents but less than 5 cents from the price computed pursuant to paragraph (f) of this section. The result shall be known as the uniform price for producer milk and the weighted average price for all milk.

1a. In § 1125.72, paragraph (a) is revised as follows:

§ 1125.72 **Computation of uniform prices for base milk and excess milk.**

(a) . . .
(1) The amount computed by multiplying the hundredweight of milk specified in § 1125.71(f) (2) by the weighted average price for all milk;

(2) The amount obtained by multiplying by the Class III price the total hundredweight of milk delivered by all producers described in § 1125.121 (c) and (d) for whom no base milk has been computed; and

(3) The amount computed by multiplying the hundredweight of excess milk by the Class III price for 3.5 percent milk, rounded to the nearest one-tenth cent; *Provided*, That if such result is greater than an amount computed by multiplying the hundredweight of base milk by the Class I price (for 3.5 percent milk) plus 4 cents, such amount in excess thereof shall be subtracted from the result obtained prior to this proviso;

1b. In § 1125.72(c), in both instances, change the reference "(a)(2)" to read "(a)(3)".

2. In § 1125.80, paragraph (a) is revised as follows:

§ 1125.80 **Time and method of payment to producers and to cooperative associations.**

(a) . . .

(1) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 1125.82 and by any location adjustment applicable under § 1125.81;

(2) At not less than the Class III price adjusted by the butterfat differential computed pursuant to § 1125.82 for the quantity of milk received from producers described in § 1125.121 (c) and (d) for whom no base milk has been computed; and

(3) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1125.82 and by any location adjustment applicable under § 1125.81; *Provided*, If by such date such handler has not received full payment for such month pursuant to § 1125.85, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment

from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

CLASS I BASE PLAN PROVISIONS

§ 1125.110 **Production history base and Class I base.**

For purposes of determination and assignment of Class I base of each producer:

(a) "Production history base" means a quantity of milk in pounds per day as computed pursuant to § 1125.120 (b) or (c).

(b) "Class I base" means a quantity of milk in pounds per day as computed pursuant to § 1125.121 for which a producer may receive the base milk price.

(c) "Average daily producer milk deliveries" of a producer in any specified period used for computing production history bases means the total pounds of producer milk delivered by the producer divided by the number of days in the period rounded to the nearest whole pound; *Provided*, That if a producer is prevented from delivering milk during the production history period because of storm conditions, the number of days of nondelivery due to such cause not to exceed 4 days in any year may be deducted from the total number of calendar days in the period.

§ 1125.111 **Base milk and excess milk.**

(a) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of days in the month except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(2) Milk received from a producer to whom no Class I base has been issued, in the amount determined pursuant to § 1125.121 (c) or (d).

(b) "Excess milk" means milk in excess of base milk received during any designated period from a producer who during such period is delivering base milk.

§ 1125.120 **Computation of production history base for each producer.**

A "production history base" as defined in paragraph (b) or (c) of this section shall be determined by the market administrator for each producer eligible for such base on the effective date of this provision and on February 1 of each year thereafter. The computation of production history base shall be subject to adjustments described in paragraph (c) (1) of this section due to acquisition or disposition by transfer of Class I base or other modifications of Class I base due

to hardship or loss of Class I base because of underdelivery of base. For purposes of computation of his production history base, a producer shall be considered as having been on the market during any specified period if: As a producer he delivered milk of his production during the designated period without interruption sufficient to cause forfeiture of base pursuant to § 1125.123(a); during such period (after the effective date of this provision) did not dispose of all his Class I base by transfer; and during no year of his production history period were his average daily producer milk deliveries subject to negative adjustments pursuant to paragraph (c) (1) of this section resulting in a zero quantity. If such adjustment results in a zero quantity of average daily deliveries, the producer shall have a 1 year production history period and a corresponding production history base, not subject, however, to the 20 percent reduction provided in paragraph (c) (3) of this section.

(a) "Production history period" means the period to be used for the computation of production history base for a producer. Production history periods for this purpose are as follows:

(1) The production history period for a producer who has been on the market during the 3 years (January-December) preceding the determination of his production history base shall be the 4 months of each such year during which the average daily receipts of total producer milk in the market were lowest for the year. The period described in this subparagraph shall be known as a 3-year production history period.

(2) The production history period for a producer who has been on the market for a lesser period than specified in subparagraph (1) of this paragraph but beginning on a date not later than September 1 of one of the three preceding years (January-December) shall be:

(i) In the first year, the months specified in subparagraph (1) of this paragraph if the producer were on the market during the first full month so specified, otherwise the months of September through December, of such year; and

(ii) In any other years preceding the determination of his production history base, the 4 months of each year specified in subparagraph (1) of this paragraph;

(iii) Periods described in this subparagraph shall be known as 1-year, 2-year or 3-year production history periods depending on whether deliveries began in the first, second, or third year, respectively, preceding determination of production history base;

(3) The production history period for a producer who has been on the market during a period beginning after September 1, 1970, and who delivered producer milk in each of the 7 months preceding the effective date of this provision shall be the first 4 full months of delivery on the market. Such period shall be known as a 1-year production history period. For any such producer, the milk deliveries of the same 4 months shall be used in subsequent updating of produc-

tion history bases to represent the milk deliveries of such producer in 1970. When a producer has acquired the herd and farm of a member of his immediate family (either before or after the effective date of this provision) and has continued to operate that farm and herd as a continuous operation, the deliveries made by the previous producer during the base earning period shall be assumed to have been delivered by the current producer for use in computing a production history base.

(b) The production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(1) If the production history period of any producer includes in any year months other than those specified pursuant to paragraph (a) (1) of this section, the average daily producer milk deliveries of such producer in the months used in his production history period shall be adjusted as follows: Multiply the producer's average daily producer milk deliveries by the ratio of average daily total producer milk in the market in the 4 months of the year specified in paragraph (a) (1) of this section to the average daily total producer milk in the market in the months used for such producer; except that for a producer described pursuant to paragraph (a) (3) of this section, the 4-month period specified in paragraph (a) (1) of this section shall be the applicable months in 1970.

(2) For a producer who was issued a Class I base pursuant to the provisions which became effective on September 1, 1967, and thus had a "production history base" which he had earned pursuant to the provisions then effective, and who has continued on the market as a producer since the issuance of such base, the production history base pursuant to this subparagraph shall be the larger of (i) the "production history base" assigned pursuant to the provisions effective September 1, 1967, reduced by the amount specified in the provision made effective September 1, 1967, in § 1125.123(f) with respect to reduction of production history base in proportion to transfer of Class I base, or (ii) such producer's production history base determined pursuant to subparagraph (3) of this paragraph. This provision shall apply also to the production history base of a Class I base effective September 1, 1967, if now held by a producer who received it from the original holder by intrafamily transfer, or through a succession of intrafamily transfers.

(3) For a producer with a 3-year production history period, the production history base shall be the sum of his average daily producer milk deliveries each year in the specified months for production history (subject to adjustment of deliveries in any year pursuant to subparagraph (1) of this paragraph if applicable) divided by 3.

(4) For a producer with a 1-year or 2-year production history period, the production history base shall be the sum of his average daily producer milk deliveries

in each year in the specified months for production history (subject to adjustment of deliveries in any year pursuant to subparagraph (1) of this paragraph, if applicable) divided by the number of years in the production history period and multiplied by 60 percent for a 1-year production history period or by 80 percent for a 2-year production history period.

(5) A production history base shall be assigned to producers on the effective date of this provision who qualify for such base pursuant to paragraphs (d), (e), and (f) of this section.

(c) The production history base for each producer who has not disposed of his entire base by transfer, or who after disposing of his entire base by transfer has met the delivery requirements described in § 1125.121(d), shall be determined by the market administrator on February 1 of each year as follows:

(1) In updating a production history base as described in this paragraph, adjustments to a producer's previously assigned production history base and/or average daily producer milk deliveries in prior years shall be made as follows:

(i) If a producer's average daily producer milk deliveries in the combined period of the four production history months of the preceding year is less than the average of such producer's Class I base effective on the first day of each such month, the amount of such difference shall represent a reduction in Class I base. Such reduction shall not apply, however, in the updating of bases on February 1, 1972.

(ii) The prior production history base assigned to such producer shall be adjusted in proportion to the net change in Class I base due to acquiring or disposing of Class I base by transfer, adjustment of Class I base for hardship, or because of underdelivery of Class I base. The adjustment factor shall be determined by dividing the Class I base last held by the producer in the preceding January (after any adjustment pursuant to subdivision (i) of this subparagraph), by the amount of Class I base issued on the preceding February 1 or effective date of this provision.

(iii) The average daily producer milk deliveries for which a producer will receive credit in his production history in the current year and in years prior to any net disposal of Class I base by transfer or reduction due to underdelivery shall be adjusted in proportion to the net change in Class I base. The adjustment factor shall be the Class I base issued on the previous February 1 (or effective date of this provision) less the net amount of Class I base disposed of by transfer since such date and the amount of reduction of Class I base pursuant to subdivision (i) of this subparagraph, divided by the amount of Class I base issued on the preceding February 1 (or effective date of this provision).

(iv) If the combined effect of such adjustments is a reduction greater than the respective production history base or average daily producer milk deliveries

subject to such adjustments, then the resulting amount after adjustment shall be zero and any year for which a zero amount is determined shall not be regarded as a production history period.

(2) For a producer with a 3-year production history period, the production history base shall be one-third of the sum of the amounts pursuant to subdivisions (i), (ii), and (iii) of this subparagraph, or the amount pursuant to subdivision (iv) of this subparagraph, whichever is larger:

(i) His average daily producer milk deliveries in the specified months for production history in the first year (adjusted pursuant to paragraph (b) (1) of this section, if applicable) reduced by any adjustments pursuant to subparagraph (1) (iii) of this paragraph;

(ii) His average daily producer milk deliveries in the specified months for production history in the second year of his production history period, reduced by any adjustments pursuant to subparagraph (1) (iii) of this paragraph;

(iii) His average daily producer milk deliveries in the specified months for production history in the most recent year of his production history period reduced by any adjustments pursuant to subdivision (1) (iii) of this subparagraph which are applicable to a net disposal of Class I base by transfer;

(iv) The production history base assigned to such producer on the preceding February 1 (or effective date of this provision) subject to any adjustments pursuant to subparagraph (1) of this paragraph.

(3) For a producer with a 1- or 2-year production history period who did not acquire Class I base by transfer from another producer, the production history base shall be the sum of his average daily producer milk deliveries for each year (calculated in the same manner and subject to the same type of reductions as described in subparagraph (2) (i) of this paragraph) divided by the number of years in his production history period and multiplied by 60 percent if the producer has a 1-year production history period or by 80 percent if he has a 2-year production history period. The resulting quantity shall be subject to a further reduction of 20 percent in the case of any producer who began deliveries after the effective date of this provision or who is a producer described in § 1125.121(d).

(4) For a producer who has acquired a Class I base by transfer from another producer prior to assignment of a production history base computed from deliveries of his own milk production, the production history base to be assigned on the February 1 following a 1-year production history period of such producer shall be the larger of the amounts computed pursuant to subdivision (i) or (ii) of this subparagraph, and on the February 1 following a 2-year production history period shall be the amount computed pursuant to subdivision (iii) of this subparagraph.

(i) The production history base asso-

ciated with the Class I base acquired, adjusted pursuant to subparagraph (1) of this paragraph.

(ii) One-third of his average daily producer milk deliveries in the specified production history months of the preceding year (adjusted pursuant to paragraph (b) (1) of this section, if applicable).

(iii) The production history base last assigned on a February 1 adjusted pursuant to subparagraph (1) of this paragraph plus one-third of the excess of the producer's average daily producer milk deliveries in the four production history months of the preceding year over such adjusted production history base.

(5) For a producer who has been assigned a production history base calculated only from deliveries of his own milk production during a one-year production history period and who since such assignment has acquired Class I base by transfer from another producer, the production history base of such producer on February 1 following such acquisition of Class I base shall be the production history base last assigned to such producer on the effective date of this provision or on the latest preceding February 1 adjusted pursuant to subparagraph (1) of this paragraph plus one-third of the excess of the producer's average daily producer milk deliveries in the four production history months of the preceding year over such adjusted production history base.

(d) For each producer not subject to § 1125.121(d) who became a producer for this market after January 1, 1968, because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible, pursuant to paragraph (b) or (c) of this section based on his deliveries of milk as if the nonpool plant to which he delivered were a pool plant during the 3 preceding years.

(e) A producer not described pursuant to paragraph (d) of this section who delivered milk to a nonpool plant or who delivered manufacturing grade milk to a pool plant prior to becoming a producer, and who is not subject to the provisions of § 1125.121(d), shall have a production history base effective on the first day of the third month after the month in which he began deliveries of producer milk to a pool plant if a production history base can be computed pursuant to paragraph (b) or (c) of this section based on deliveries of milk from the same farm on which he is now a producer as if the plant(s) to which he delivered had been a pool plant(s) during the 3 preceding years.

(f) For a producer who held producer-handler status during any part of the production history periods specified in paragraph (a) of this section, a production history base shall be calculated as prescribed in paragraph (b) or (c) of this section as though the milk of his own production received at his producer-

handler plant had been received at a pool plant.

(g) With respect to computation of production history bases pursuant to this section the following rules shall apply:

(1) If a producer operated more than one farm at the same time during any specified production period, a separate computation shall be made with respect to producer milk delivered from each such farm for such period, except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler specified in § 1125.14(b) (1).

(2) Only one production history base shall be allotted with respect to milk produced by one or more persons where the land, buildings, and equipment are jointly used, owned, or operated.

§ 1125.121 Computation of Class I base or base milk for each producer.

On the effective date of this provision and on February 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in paragraphs (d), (e), and (f) of § 1125.120 when they are issued production history bases. Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding calendar year from the following:

(i) Class I producer milk pursuant to § 1125.46(c),

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding December, and

(iii) The Class I disposition of his own production of a person who was a producer-handler during a portion of the year and who held producer status in the preceding December.

Multiply the sum by 1.20 and divide the result by the number of days in such year: *Provided*, That on the effective date of this provision, comparable Class I disposition for the year 1970 will be determined, including that of former nonpool plants and producer-handlers which in the second month preceding the effective date were, respectively, pool plants and producers.

(2) Divide the quantity computed paragraph (1) by a quantity which is the total of production history bases computed pursuant to § 1125.120. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage."

(c) A producer, other than a producer pursuant to paragraph (d) of this sec-

tion, who has no production history base shall be assigned base milk each month effective on the first day of the third month after the month in which he began deliveries of producer milk. Such base milk for each month prior to the first February 1 on which he is eligible for a Class I base shall be computed as follows:

(1) Multiply the quantity of producer milk delivered by the producer during the month by the ratio of average daily total producer milk in the market in the last 4 months described in § 1125.120(a) (1) used in the computation of production history base for assignment on the effective date hereof or on the February 1 preceding this computation to the average daily total producer milk in the market in the month of the year preceding this calculation which corresponds to the current month for which Class I base assignment is being computed.

(2) Multiply the quantity resulting from the computation pursuant to subparagraph (1) of this paragraph by 40 percent and by the Class I base percentage, and if such producer began production after the effective date of this provision, or is a producer described in paragraph (d) of this section, subtract from the resulting quantity 20 percent of such quantity, rounding in either event to the nearest whole number.

(d) A producer who, after having forfeited or disposed of all of his Class I base, either continues as a producer on the market or discontinues deliveries to the market and returns to the market as a producer, shall be assigned base milk computed in the manner specified in paragraph (c) (1) and (2) of this section, such assignment to be effective on the later of the following dates: the first day of the third month after the month in which he recommences deliveries of producer milk on the market, or the first day of the seventh month after the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. The production history period of such producer shall begin on the later of the following dates: the date on which he first received payment for base milk or the first day of the first month eligible for use in a production history period pursuant to § 1125.120(a). In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. It shall be applied also to any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in

such person later than 3 months prior to the effective date of the base transfer or forfeiture.

§ 1125.122 Transfer of bases.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both the production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of the Class I base prior to the first day of the month of transfer of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer and the amount of base to be transferred if less than the entire Class I base held by the transferor.

(c) It must be established to the satisfaction of the market administrator that the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section.

(d) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(e) A transfer of Class I base may be made in amounts of not less than 150 pounds or the entire base, whichever is smaller. The amount of base credited to the transferee shall be two-thirds of the Class I base disposed of by the transferor producer.

(f) A transfer of a portion of a Class I base shall be a partial transfer and shall be effective only on the first day of a month. A transfer where the transferee producer will combine the Class I base received with Class I base already held shall be considered a partial transfer.

(g) A transfer of a complete Class I base of a producer to a person who does not hold a Class I base will be effective on the date of transfer of herd and farm, or on the first day of the month if no herd and farm is transferred, provided in either case that a base transfer request was made to the market administrator on or before the first day of the month of transfer.

(h) An intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) will not be subject to a one-third lapse of base, provided that the transfer implements a continuous operation on the same farm with the same herd. All restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

(i) A producer who receives a base pursuant to § 1125.120 (d) or (e) may not transfer such base, other than pursuant to paragraph (h) of this section, for 1 year from the date of receipt or

such later date as provided in paragraph (k) of this section.

(j) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 3 years from the date of receipt, except to a member of the immediate family pursuant to paragraph (h) of this section.

(k) A base which has been computed from a less than 3-year production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (h) of this section.

(l) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons will require a transfer of bases and compliance with all base rules therein.

§ 1125.123 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases:

(a) A person who discontinues delivery of producer milk for a period of 60 consecutive days after a Class I base is issued to him shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain them until 1 year after being released from active military service.

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(c) As a condition for designation as a producer-handler pursuant to § 1125.14, any person (including any member of the immediate family of such a person, any affiliate of such a person, or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period.

§ 1125.124 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1125.120 through 1125.123 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding February 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such

as loss of buildings, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1125.123(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1125.120(c)(1);

(5) Inability to transfer base due to the provisions of § 1125.122 (i), (j), or (k);

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1125.123(b) with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to requests pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a) (2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(a) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(b) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director, Dairy Division within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmission.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1125.88 for their services at \$20 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

COMPUTATION OF UNIFORM PRICE FOR PRODUCER MILK

The following provisions are necessary to effectuate the continued operation of the order in the event producers voting individually in a separate referendum fail to approve the Class I base plan or if the statutory authority for such a plan is terminated while it is in effect after its incorporation in the order. In such event, the preceding order provisions shall be modified as specified below.

1. In § 1125.22, paragraphs (j) (1) (iii) and (k) (2) are revised to read as follows:

§ 1125.22 Duties.

(j)

(1)

(iii) Uniform price for producer milk.

(k)

(2) On or before the 13th day of each month the uniform price for producer milk computed pursuant to § 1125.71 and the butterfat differential computed pursuant to § 1125.82, each applicable to milk received during the preceding month.

2. In § 1125.35, paragraph (a) (2) is revised by deleting the words "the pounds of base and excess milk."

3. In § 1125.71, the subheading is changed to read: "Computation of weighted average price and uniform price for producer milk." The second sentence of paragraph (g) is revised to read as follows: "The result shall be known as the uniform price for producer milk and the weighted average price for all milk."

4. Section 1125.72 is revoked.

5. In § 1125.80, paragraph (a) is revised to read as follows:

§ 1125.80 Time and method of payment to producers and to cooperative associations.

(a) On or before the 19th day after the end of each month each handler shall make payment to each producer for the milk received from such producer during such month at not less than the uniform price for producer milk adjusted by the butterfat differential computed to § 1125.82 and by any location adjustment applicable under § 1125.81: *Provided*, If by such date such handler has not received full payment for such month pursuant to § 1125.85, he should not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payments uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

6. In § 1125.81, paragraph (a) is revised to read as follows:

§ 1125.81 Location adjustments to producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1125.80(a), subject to the application of § 1125.12(c), deductions may be made per hundredweight of milk received from producers at the respective plant locations at the same rate per hundredweight as is specified for Class I milk in the table set forth in § 1125.53.

7. In § 1125.82, the words "for base milk and for excess milk" are deleted.

8. The centerhead "Class I Base Plan Provisions" following § 1125.101, and §§ 1125.110, 1125.111, 1125.120, 1125.121, 1125.122, 1125.123, and 1125.124 are revoked.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: July 1, 1971.

Signed at Washington, D.C., on June 25, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc. 71-9205 Filed 6-29-71; 8:47 am]

[Milk Order 136; Docket No. AO-309-A17]

PART 1136—MILK IN GREAT BASIN MARKETING AREA

Order Amending Order

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the

issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Great Basin marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended,

and as hereby further amended, as follows:

1. Section 1136.11 is revised as follows:

§ 1136.11 Pool plant.

"Pool plant" means:

(a) A fluid milk plant, except a producer-handler plant, from which not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 is disposed of on routes, and not less than 15 percent of such route disposition is on routes in the marketing area.

(1) For the purpose of determining the qualification pursuant to this paragraph of a fluid milk plant pursuant to § 1136.10 (a) operated by a cooperative association, producer milk which such cooperative association causes to be delivered to the pool plant of another handler or diverted therefrom shall be included with receipts of producer milk at such cooperative's plant and the quantity of such milk assigned to Class I pursuant to § 1136.22(h) shall be included as a Class I route disposition from such cooperative's plant;

(i) If such a cooperative association operates more than one fluid milk plant as defined in § 1136.10(a), such producer milk and class I milk shall be included in the computation for whichever plant the cooperative association requests in writing to the market administrator; and

(ii) If no such written request is made, such producer milk and class I milk shall be prorated among the plants; and

(2) If a handler operates more than one fluid milk plant, the combined receipts and fluid milk products disposition, except filled milk, of any such plants may be used as the basis for qualifying the respective plants pursuant to the preceding computations specified in this paragraph if a handler in writing so requests the market administrator.

2. Section 1136.13(c) is revised as follows:

§ 1136.13 Producer milk.

(c) Diverted from a pool plant to a nonpool plant that is not another order plant, a producer-handler plant or an exempt distributing plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) A cooperative association may divert for its account only the milk of member producers: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(4) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (3) and (4) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk;

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a request in writing with the market administrator on or before the 1st day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator; or

3. Section 1136.41(c)(5) is revised as follows:

§ 1136.41 Classes of utilization.

(c)

(5) In shrinkage of skim milk and buttermilk, respectively, at each pool plant, or a handler pursuant to § 1136.9(c), assigned pursuant to § 1136.45(b)(1), but not to exceed the following:

(i) Two percent of producer milk; plus

(ii) One and one-half percent of milk received in bulk from other pool plants; plus

(iii) One and one-half percent of milk received from a handler pursuant to § 1136.9(c) (except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent); plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which class III utilization

was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which class III utilization was requested by the handler; less

(vi) One and one-half percent of milk transferred or diverted in bulk to other plants (except when the exception specified in subdivision (iii) of this subparagraph applies, the applicable percentage shall be 2 percent);

4. Section 1136.50 is revised as follows:

§ 1136.50 Class prices.

Subject to the provisions of §§ 1136.52 and 1136.53, the class prices per hundred-weight for the month shall be as follows:

(a) *Class I milk price.* The class I milk price shall be the basic formula price for the preceding month plus \$1.70 and plus 20 cents.

(b) *Class II milk price.* The class II milk price shall be the class III price for the month plus 15 cents.

(c) *Class III milk price.* The class III milk price shall be the basic formula price for the month.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: August 1, 1971.

Signed at Washington, D.C., on June 24, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-9206 Filed 6-29-71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-17-AD; Amdt. 39-1227]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 33, 35, 55, 56, 58, and 95 Series Airplanes; Correction

In F.R. Doc. 71-8100 appearing on page 11185 in the issue of Thursday, June 10, 1971, line 6 of paragraph (2) should be corrected to read: "502 thru TC-1020; 95-C55, 95-C55A".

Issued in Kansas City, Mo., on June 18, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-9192 Filed 6-29-71;8:46 am]

[Docket No. 70-CE-18-AD; Amdt. 39-1237]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 99 Series Airplanes

Amendment 39-1108, published in the FEDERAL REGISTER on November 14, 1970

(35 F.R. 17534, 17535), AD 70-23-6, applicable to Beech Models 99 and 99A airplanes is an Airworthiness Directive which requires repetitive inspections of specific wing components to detect fatigue cracks and establishes a life limit on these components.

After issuing Amendment 39-1108, the agency determined that clarification was needed to insure that all Model 99 series airplanes were affected by this AD, that an edge crack at the inboard screw hole of the wing attach fitting was not critical and that operators could report information regarding cracks to the agency through normal M&D and MRR procedures. In addition, the repetitive inspection interval required after a crack is found is being increased to 300 hours to provide relief for those operators with 75- to 100-hour inspection cycles. Accordingly, it is necessary to amend the applicability statement and Paragraphs A(1), A(2), and D of AD 70-23-6 to effect these changes.

Since this amendment is in the interest of safety, provides a clarification relieves a reinspection cycle and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1108 (35 F.R. 17534, 17535), AD 70-23-6 is amended as follows:

(1) The applicability statement is amended so that it now reads: "BEECH. Applies to all Model 99 Series (Serial No. U-1 and up) Airplanes with 2,000 or more hours' time in service."

(2) In paragraph A(1), after the existing sentence, add the following sentence: "Skin cracks located at the most inboard screw hole (corner screw) of the attached fitting are not critical and are excluded from this inspection requirement."

(3) In the last line of the existing sentence in paragraph A(2) delete the phrase "not more than 250-hour intervals" and substitute the phrase "not more than 300-hour intervals."

(4) In paragraph D, before the parenthetical sentence add the following parenthetical sentence: "(Reports may be submitted by letter or through M&D or MRR procedures.)"

This amendment becomes effective July 1, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on June 18, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-9191 Filed 6-29-71;8:46 am]

[Airworthiness Docket No. 71-WE-13-AD; Amdt. 39-1239]

PART 39—AIRWORTHINESS DIRECTIVES

International Inflatables Company Regulator, Model No. 68240

An International Inflatables Co. Regulator, P/N 68240, failed in flight. The regulator was installed on an inflation bottle for the tall cone slide of a DC-9 aircraft. Separation of the bottle and regulator caused extensive damage to the aircraft skin. The bottle left the aircraft through the fiberglass tail cone. Various aircraft, including the Models DC-8, DC-9, B-707, B-727, BAC 1-11, and L-188, incorporate P/N 68240.

Corrosion in the area of the bottle threads caused the separation. Examination has indicated similar corrosion of a significant number of spare regulators.

Since this condition is likely to exist or develop in other products of the same design, an airworthiness directive (AD) is being issued to require an inspection and eventual replacement of all regulators installed in aircraft.

Since a situation exists that requires immediate adoption of the regulation, it is felt that notification and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days. In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

INTERNATIONAL INFLATABLES Co. Applies to aircraft incorporating International Inflatables Co. Regulator, P/N 68240. Compliance required as indicated.

To prevent unwanted bottle and regulator separation of P/N 68240, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, unless already accomplished within the last 30 days, and thereafter at intervals not to exceed 60 days from the last inspection, inspect the International Inflatables Co. Regulator, P/N 68240, if installed in an aircraft, in accordance with International Inflatables Co. Service Bulletin No. 33-102, Volume 1, No. 101, dated June 11, 1971, or later FAA-approved revisions, or an equivalent inspection procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region. If there is any evidence of corrosion, replace the regulator prior to further flight with a previously inspected (per this AD) and corrosion-free regulator. Do not return any regulator exhibiting evidence of corrosion to service.

(b) After the effective date of this AD, and prior to the installation of an International Inflatables Co. Regulator, P/N 68240 on an aircraft, inspect that regulator per (a) above.

NOTE: An improved regulator is under development. If and when approved by FAA, this AD will be amended to require installation within a prescribed time period.

This amendment becomes effective July 2, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on June 22, 1971.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.71-9189 Filed 6-29-71;8:46 am]

[Airspace Docket No. 71-CE-67]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to amend the Cleveland, Ohio, control zone and transition area.

The Brecksville, Ohio, radio beacon is to be decommissioned. Since the Cleveland control zone and transition area designations in part refer to this radio beacon such reference should be deleted from the designations with the decommissioning. Action is taken herein to effect these changes.

Since these amendments do not change the amount of designated controlled airspace at Cleveland, Ohio, and are editorial in nature only, no additional burden will be imposed on any person. Therefore, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective immediately as herein-after set forth:

(1) In § 71.171 (36 F.R. 2055), the following transition area is amended to read:

CLEVELAND, OHIO

In the text, delete, "to 2 miles west of the Brecksville RBN;" and substitute therefor, "to the Runway 28 OM:".

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

CLEVELAND, OHIO

In the text, delete, "to the intersection of a 126° bearing from the Brecksville, Ohio, RBN and the arc of a 12.5-mile-radius circle" and substitute therefor, "to the intersection of a line bearing 126° from latitude 41°24'35" N., longitude 81°41'25" W., and the arc of a 12.5-mile-radius circle".

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on June 2, 1971.

JOHN A. HARGRAVE,
Acting Director, Central Region.

[FR Doc.71-9193 Filed 6-29-71;8:46 am]

[Docket No. 10171; Amdts. Nos. 121-74; 135-27]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Pilot in Command Operating Experience

The purpose of this amendment to Part 121 of the Federal Aviation Regulations is to permit a check pilot designated as pilot in command to occupy an observer's seat while a transitioning pilot qualifying for service as pilot in command occupies a pilot station, if after at least two takeoffs and landings the check pilot is satisfied that the qualifying pilot is competent to perform the duties of a pilot in command. The amendment is also applicable to air taxi operations using large aircraft, as provided in § 135.2.

This amendment is based on a notice of proposed rule making, Notice 70-36, published in the *Federal Register* on September 15, 1970 (35 F.R. 14463). Four commentators responded to the notice and their views, as well as the response of the FAA thereto, are discussed below.

As stated in the notice, this amendment is based on a petition for rule making submitted by United Air Lines, Inc. (United), requesting an amendment to § 121.434 to give check pilots greater discretion in the selection of the seat to be occupied by them during their supervision of air carrier pilots acquiring initial operating experience. As a result of the FAA examination of the petition and relevant safety considerations, the agency developed the proposals which make up the substance of this amendment.

Those commentators opposed to the notice recommended that check pilot discretion should extend beyond the transition situation to encompass initially qualifying pilots in command and second in command pilots upgrading to pilot in command. These commentators disagreed with the FAA rationale limiting check pilot discretion to the transitioning situation, namely that in the initial and upgrading situations a pilot will not have been exposed to the operating environment of a pilot in command of a Part 121 operation. It was their opinion that inasmuch as pilots in the initial and upgrade situation will have received their necessary ratings and pilot-in-command training before the operating experience phase, they will have sufficient knowledge of, and the ability to perform, the responsibilities of the position and that the check pilot, with his expertise, will be able to determine whether the qualifying pilot should be allowed to occupy a pilot station.

We consider this argument to be only partially valid, for until a pilot has experienced the environment of a pilot in command in line operations for the length of time prescribed by § 121.434, we question whether he has sufficient training to adequately assume the re-

sponsibilities of a pilot in command in Part 121 operations. It was for this reason that the proposals in the notice extended only to pilots in command of one airplane within a group transitioning to another airplane of the same group.

In further support of broad check pilot discretion in determining when a pilot is capable of occupying a pilot station, several commentators argued that the check pilot is in the best position to determine when a pilot (whether in the initial, upgrade, or transition situation) is ready to assume control of the airplane as pilot in command. The FAA recognizes the expertise of check pilots to determine the ability of pilots to assume the responsibilities of the positions for which they are training. However, the agency does not believe that the check pilot function should be performed without required standards. In this case, the requirements of current § 121.434, with the change made by this amendment, are considered necessary to insure the safe conduct of the operating experience phase of pilot flight training.

One commentator objected to the notice on the grounds that it confused the regulations by changing the clear language of § 121.543, requiring that each flight crewmember on the flight deck remain at his station, to include an exception covering the situation where a check pilot occupies an observer's seat while the pilot in command trainee he is checking is obtaining his transition flight training from a pilot seat. We agree that an amendment to § 121.543 is unnecessary inasmuch as the amendment to § 121.434 adopted herein clearly specifies when a check pilot serving as pilot in command is authorized to occupy an observer's seat and while occupying that seat he is considered to be at his station as required by current § 121.543. Accordingly, the proposal to amend § 121.543 is not adopted.

It should be noted that several comments received made recommendations that were beyond the scope of the notice and cannot, therefore, be considered as a part of this action. However, the FAA will examine these recommendations and if it appears that they will enhance the effectiveness of training without derogating from safety, the agency will undertake the necessary rule making to implement them.

Section 121.431 is amended to incorporate in Subpart O the airplane groups and terms and definitions prescribed in Subpart N in order to maintain consistency between the Subparts. This change is editorial only.

Finally, as proposed in the Notice, § 121.434(b)(3) is amended to permit operating experience to be obtained during ferry flights or proving flights in the case of airplanes new to the certificate holder and prior to their being placed in service. This amendment is made to assist certificate holders in the qualification of the initial pilot in command of such aircraft.

In consideration of the foregoing, Part 121 of the Federal Aviation Regulations

is amended, effective July 30, 1971, as follows:

1. By amending § 121.431 to read as follows:

§ 121.431 Applicability.

(a) This subpart prescribes crewmember qualifications for all certificate holders except where otherwise specified.

(b) For the purpose of this subpart, the airplane groups and terms and definitions prescribed in § 121.400 of this part apply.

2. By amending § 121.434(b)(3) and adding a flush paragraph at the end of § 121.434(c)(1) to read as follows:

§ 121.434 Operating experience.

(b)

(3) The experience must be acquired in flight during operations under this part. However, in the case of an aircraft not previously used by the certificate holder in operations under this part, operating experience acquired in the aircraft during proving flights or ferry flights may be used to meet this requirement.

(c)

(1)

During the time that a qualifying pilot in command is acquiring the operating experience in this subparagraph a check pilot who is also serving as the pilot in command must occupy a pilot station. However, in the case of a transitioning pilot in command the check pilot serving as pilot in command may occupy the observer's seat, if the transitioning pilot has made at least two takeoffs and landings in the type airplane used, and has satisfactorily demonstrated to the check pilot that he is qualified to perform the duties of a pilot in command of that type of airplane.

(Secs. 313(a), 601, 604, 607, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1424, 1427; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 21, 1971.

J. H. SHAFFER,
Administrator.

[FR Doc. 71-9190 Filed 6-29-71; 8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER E—RULES, REGULATIONS, STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS UNDER THE FAIR PACKAGING AND LABELING ACT

PART 502—REGULATIONS UNDER SECTION 5(C) OF THE FAIR PACKAGING AND LABELING ACT

On May 19, 1970 (35 F.R. 7705), and on November 24, 1970 (35 F.R. 18001),

notices of proposed rule making pursuant to section 5(c) of the Fair Packaging and Labeling Act were published in the *Federal Register*. These proposals would regulate the use of "cents-off", "introductory offer", and "economy size" representations imprinted on packaged or labeled consumer commodities.

The proposals were based upon both past and current observations in the consumer commodity market which disclosed that the use of such representations have resulted in widespread confusion and deception of the purchasing public necessitating regulations of general application to prevent deception of consumers and to facilitate value comparisons if these representations are to be used in the future. After publication, all interested persons were afforded the opportunity to submit their written data, views, and arguments on each proposal.

The Commission has now considered all matters of fact, law, policy and discretion, including the data, views, and arguments presented by interested persons in response to the published proposals and has determined that the adoption of the rules and statements of basis and purpose set forth herein are in the public interest and are fully justified by the information available to it.

A. "Cents-off" representations. The consumer believes a "cents-off" representation means that the commodity so labeled is being offered for sale at a reduction of the represented amount from the ordinary and customary price at which the commodity is regularly sold to the public by the retailer.

Hearings before the Committee on Commerce in the U.S. Senate, 89th Congress, first session, and before the Committee on Interstate and Foreign Commerce, House of Representatives, 89th Congress, second session, reveal that there was sufficient evidence of consumer deception and confusion in the use of these representations to warrant inclusion in the initial bills on the Fair Packaging and Labeling Act of an outright prohibition of the use of "cents-off" and "economy size" representations on packages and labels of consumer commodities.

After introduction and hearings on the initial bills, testimony of the various representatives of Federal Agencies expressed the view that if the use of these representations was properly regulated, the consumer could reap the benefits of nondeceptive retail price reductions made for promotional purposes. As a consequence, the House of Representatives Bill (H.R. 15440) and the Senate Bill (S. 985) were reported out of Committee with the present provisions that responsible agencies could regulate these representations. Senator Hart in summing up the provision as finally reported out by the Conference Committee said, "Cents-off claims and economy designations can now be regulated. To the consumer, this means that economy size should be more economical for the housewife, not just the manufacturer; that cents-off should relate to an established price and that a manufacturer should not be allowed to

use a cents-off designation to hide an actual rise in the price of the product if computed on a per ounce basis."

In January 1965 and March 1966 the Commission's staff completed investigations involving packaging and pricing concepts utilizing "cents-off" claims. Additional observations and reports of "cents-off" utilization have been collected by the Commission's staff since those periods. Misrepresentations occur either when the commodity so labeled does not have an established ordinary and customary retail price or when the commodity is sold so frequently or in such great volume with the "cents-off" representation that the "cents-off" price becomes the ordinary and customary price of the commodity. It was also revealed that some manufacturers have made all of their sales on a "cents-off" basis for periods of time in excess of a year and that others have repeated the "cents-off" offer so frequently that most of their output has been sold at the reduced price.

In response to the invitation contained in the proposal, sixty-two (62) comments were received from Federal and State officials, private citizens and industry representatives. Decisions respecting the various sections of the published proposed rule after consideration of all comments are as follows:

(1) Proposed § 502.1 is revised to encompass the scope of all regulations which may be written under the authority of section 5(c) of the Act. Note that introductory offers, previously referred to in proposed § 502.1(b), are no longer included under the regulations concerning "cents-off" representations. Regulations governing use of introductory offers are issued as a separate § 502.101 under "Retail Sale Price Representations".

(2) Proposed § 502.2 is revised to include the definition of terms common to all regulations to be included under Part 502. The phrase "a reasonably substantial period of time" as used to define the term "ordinary and customary price" has been further defined as "a 30-day period".

(3) Section 502.3 of the regulations is new and contains the broad prohibitions appropriate to Part 502.

(4) Section 502.100 contains the regulations specifically addressing the use of "cents-off" representations. Paragraph (a) defines the term "cents-off" representation.

(5) Proposed § 502.3 now appears as paragraph (b) of § 502.100. The requirement that the amount of the "cents-off" be substantial (i.e., at least 8 percent) has been deleted. Since the precise amount of the "cents-off" reduction must appear on the package in each case, the consumer will have adequate information upon which to make a value comparison. An optional method of informing the consumer of the ordinary and customary retail price of the "cents-off" marked commodity has been provided to ease the administrative burden at the retail level. The packager or labeler must still imprint the three-price format on the package but when he sells the product at re-

tail he may either complete the three pricing blanks or he may display the pricing information on a sign, placard or shelf-marker contiguous to the retail display of the commodity. Either the completed three-price format or the display card will insure that the consumer is fully informed on all pricing details.

The sections designed to control frequency, duration and volume have been revised to increase flexibility of employment of the promotion but still retain sufficient limits to preclude any misrepresentation to the consumer. Volume limitation is expanded to 50 percent and this amount can be sold in one promotional effort not to exceed a 6-month period in any 1 year or it may be sold in two periods or three periods within the year but the total time of all promotional distribution may not exceed the 6-month limitation. In addition, at least thirty (30) days must elapse between successive promotions. This period insures the establishment of an ordinary and customary price and equates to the definition of reasonably substantial period of time as used in context with ordinary and customary price. An explanation of the 12-month period to be used and a description of proper volume computation has been included.

(6) Proposed § 502.3(b) now appears as § 502.100(c) and is revised in language to include the optional pricing concepts using the three-price format or the display card.

(7) Proposed § 502.3(c) is deleted.

(8) Proposed § 502.4 now appears as § 502.100(d) and is revised to require maintenance of invoices for 1 year beyond the prior 12-month period of "cents-off" employment.

B. *Introductory offers.* The consumer believes that an "introductory offer" representation on a package or label of a consumer commodity means there is a newly developed product being introduced into the market or a consumer commodity being newly introduced into a given trade area. When combined with a "cents-off" representation, the consumer believes that the commodity so labeled is being offered for sale at a reduction of the represented amount from the ordinary and customary price for which the commodity will be regularly sold to the public by the retailer for a reasonably substantial period of time immediately following the period of introductory offer.

In the past the Commission has discussed in advisory opinions the use of the word "new" as it relates to a consumer product. The word "new" may be properly used only when the product so described is either entirely new or has been changed in a functionally significant and substantial respect. A product may not be called "new" when only the package has been altered or some other change is made which is functionally insignificant or insubstantial. In addition, the Commission has stated that any claim that a product was "new" for a period of time longer than 6 months would be questioned unless exceptional

circumstances to warrant a period longer than 6 months were shown to exist. Since the consumer equates "introductory offers" with new products or products new to their trade area and the confusion and deception of "cents-off" representations are present in conjunction with employment of introductory offers, the Commission proposed regulation to prevent deception and facilitate value comparisons when using "cents-off" with introductory offers.

Decisions respecting § 502.1(b) of the published proposed rule after consideration of all comments are as follows:

(1) Section 502.1(b) now appears as § 502.101 to conform with the reorganization of Part 502 contained herein.

(2) The initial part of the regulation invokes the previously announced principles involving the use of the word "new" when introductory offers are used in conjunction with consumer commodities.

(3) The final portion of the regulation permits the use of the term "cents-off" in conjunction with introductory offers under specific conditions which provide for authenticity of price representations made to the consumer.

C. *Economy size representations.* The Commission finds that the consumer believes that terms such as "economy size", "economy pack", "budget pack", "bargain size", "value size", and the like, when placed upon a package or label of a consumer commodity, represent that a retail sale price advantage is being accorded to the purchaser thereof by reason of the size of that package or the quantity of its contents.

Historically, House of Representatives and Senate Committee hearings on the Fair Packaging and Labeling Act followed the path as enumerated herein under "cents-off" representations, clearly eliciting evidence of past practices wherein use of "economy size" representations were both deceptive and confusing to the consumer. Congress initially proposed prohibition of "economy size" designations but ultimately chose regulation of this area by permitting regulation to avoid deception rather than an outright ban.

In May of 1970 the Commission's staff completed a nationwide survey of "economy size" representations used on packaged and labeled consumer commodities. The staff found the following:

(a) In many instances when an economy claim was made, the price at which the commodity was offered to the consumer did not provide the consumer with a savings when compared to other packages of the same commodity.

(b) There were some instances discovered where the price of the economy marked packages were, in fact, higher than other regularly marked packages of the same product.

(c) Instances were found where the only package of a product offered to the consumer was that bearing an economy claim.

(d) Situations were observed where several sizes of the same packaged product bore economy claims.

There were twenty-five (25) comments from consumers, industry, and government sources submitted in response to the invitation published with the proposed regulation. After consideration of all comments, decisions concerning the various sections of the previously published proposed rule are as follows:

(1) Proposed § 502.6 now appears as § 502.102. The definition of "economy size" has been limited to those terms which clearly contain value representations. Terms which are used purely to denote size characterizations have been excluded and will be regulated when necessary under section 5(c) (1) of the Act.

(2) Proposed § 502.6 has been omitted. The price used for purposes of economy size claims is explained in § 502.102(b).

(3) To the specific request of the Commission that comments address what should constitute a substantial reduction for the purposes of this paragraph, a great diversity of views were received. The opinions covered the expense of suggestion that no specific definition be used because of the great variance of commodities involved, through the suggestion that substantial reduction be at least 25 percent. The Commission has concluded that at the outset of this rule there should be a minimum established which will both guide the manufacturer in his labeling and provide the consumer with basic reliability that an economy claim is at least a reduction of the regular price in recognizable percentage. Thus, the Commission has amended this section by adding the words "i.e., at least 5 percent" following the words "substantially reduced".

(3) Subsection (c) of proposed § 502.7 has been deleted.

(4) Proposed § 502.8 now appears as § 502.102(d) and is revised to require maintenance of invoices for 1 year.

Therefore, based on consideration of the comments received, the Commission has concluded that the proposed regulations, with some modifications in language as previously explained, should be adopted.

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (Sections 5, 6, 80 Stat. 1299, 1300; 15 U.S.C. 1454, 1455); Subchapter E is amended by adding thereto the following new Part 502:

SCOPE	
Sec. 502.1	Scope of the regulations in this part.
DEFINITIONS	
502.2	Terms defined.
GENERAL REQUIREMENTS	
502.3	Prohibited acts.
CHARACTERIZATION OF PACKAGE SIZE	
502.4—502.99	[Reserved]
RETAIL SALE PRICE REPRESENTATIONS	
502.100	"Cents-off" representations.
502.101	Introductory offers.
502.102	"Economy size".
502.103—502.199	[Reserved]
COMMON NAME AND INGREDIENT LISTING	
502.200—502.299	[Reserved]

NONFUNCTIONAL-SLACK-FILL

502.300—502.399 [Reserved]

AUTHORITY: The provisions of this Part 502 issued under sections 5, 6, 80 Stat. 1299, 1300; 15 U.S.C. 1454, 1455.

SCOPE

§ 502.1 Scope of the regulations in this part.

The regulations in this part establish requirements for labeling of consumer commodities with respect to use of package size characterizations, retail sale price representations, and common name and ingredient listing. Additionally, the regulations in this part establish criteria to prevent nonfunctional-slack-fill of packages containing consumer commodities.

DEFINITIONS

§ 502.2 Terms defined.

As used in this part, unless the context otherwise specifically requires:

(a) The terms "Act", "regulation" or "regulations", "consumer commodity", "package", "label", "person", "commerce", "principal display panel", and "random package" have the same meaning as those terms are defined under Part 500 of this chapter.

(b) The term "packager" and "labeler" means any person engaged in the packaging or labeling of any consumer commodity for distribution in commerce or any person, other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire, engaged in the distribution in commerce of any packaged or labeled consumer commodity; except persons engaged in business as wholesale or retail distributors of consumer commodities are not included unless such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

(c) The terms "ordinary and customary" and "regular" when used with the term "price" means the price at which a consumer commodity has been openly and actively sold in the most recent and regular course of business in a particular market or trade area for a reasonably substantial period of time, i.e., a 30-day period. For consumer commodities which fluctuate in price, the ordinary and customary price shall be the lowest price at which any substantial sales were made during the aforesaid 30-day period.

GENERAL REQUIREMENTS

§ 502.3 Prohibited acts.

(a) No person engaged in the packaging or labeling of any consumer commodity for distribution in commerce, and no person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, shall distribute or cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed

to that commodity a label, which does not conform to the provisions of the Act and of the regulations in this part.

(b) Persons engaged in business as wholesale or retail distributors of consumer commodities shall be subject to the Act and the regulations in this part to the extent that such persons are engaged in the packaging or labeling of consumer commodities, or prescribe or specify by any means the manner in which such consumer commodities are packaged or labeled.

CHARACTERIZATION OF PACKAGE SIZE

§§ 502.4—502.99 [Reserved]

RETAIL SALE PRICE REPRESENTATIONS

§ 502.100 "Cents-off" representations.

(a) The term "cents-off" representation means any printed matter consisting of the word "cents-off" or words of similar import, placed upon any package containing a consumer commodity or placed upon any label affixed to such commodity, stating or representing by implication that the commodity is being offered for sale at a price lower than the ordinary and customary retail sale price.

(b) Except as set forth in § 502.101, the package or label of a consumer commodity shall not have imprinted thereon by a packager or labeler a "cents-off" representation unless:

(1) The commodity has been sold by the packager or labeler at an ordinary and customary price in the most recent and regular course of business in the trade area in which the "cents-off" promotion is made, either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler.

(2) The packager or labeler sells the commodity so labeled (either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler) at a reduction from his ordinary and customary price, which reduction is at least equal to the amount of the "cents-off" representation imprinted on the commodity package or label.

(3) The packager or labeler imprints on the package or label in the usual pricing spot and in a clear and convenient format the following:

Regular price -----
----- Cents-Off
You pay -----

The packager or labeler who does not sell the commodity at retail must fill in the blank next to "cents-off" with the amount of the represented price reduction. The packager or labeler who sells the commodity at retail must fill in all three blanks, except, in lieu of completing the three blanks, he may display the identical information on a sign, placard, or shelf-marker placed in a conspicuous and prominent position contiguous to the retail display of the commodity.

(4) Any "cents-off" representation, used in addition to that prescribed in

subparagraph (3) of this paragraph, is limited to the phrase "----- cents-off the regular retail price".

(5) The packager or labeler:

(i) Does not initiate more than three "cents-off" promotions of any single size commodity in the same trade area within a 12-month period;

(ii) Allows at least 30 days to lapse between "cents-off" promotions of any particular size packaged or labeled commodity in a specific trade area; and

(iii) Does not sell any single size commodity so labeled in a trade area for a duration in excess of 6 months within any 12-month period.

(6) Sales by the packager or labeler of any single size commodity so labeled in a trade area do not exceed in volume fifty percent (50%) of the total volume of sales of such size commodity in the same trade area during any 12-month period. The 12-month period used by the packager or labeler may be the calendar, fiscal, or market year provided the identical period is applied in this subparagraph and subparagraph (5) of this paragraph. Volume limits may be calculated on the basis of projections for the current year but shall not exceed 50 percent of the sales for the preceding year in the event actual sales are less than the projection for the current year.

(c) A packager or labeler will not make a "cents-off" promotion available in any circumstances where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, e.g., where the retailer charges a price which does not fully pass on to consumers the represented price reduction; where the retailer fails to fill in the blanks in the prescribed pricing spot clearly and correctly; or where the retailer fails to conspicuously and clearly display the pricing information in lieu of filling in the blanks on the pricing spot. Nothing in this rule, however, should be construed to authorize or condone the illegal setting or policing of retail prices by a packager or labeler.

(d) A packager or labeler who sponsors a "cents-off" promotion shall prepare and maintain invoices or other records showing compliance with this section. The invoices or other records required by this section shall be open to inspection by duly authorized representatives of this Commission and shall be retained for a period of 1 year subsequent to the end of the year (calendar, fiscal, or market) in which the "cents-off" promotion occurs.

§ 502.101 Introductory offers.

(a) The term "introductory offer" means any printed matter consisting of the words "introductory offer" or words of similar import, placed upon a package containing any new commodity or upon any label affixed to such new commodity, stating or representing by implication that such new commodity is offered for retail sale at a price lower than the anticipated ordinary and customary retail sale price.

(b) The package or label of a consumer commodity may not have imprinted thereon by a packager or labeler an introductory offer unless:

(1) The product contained in the package is new, has been changed in a functionally significant and substantial respect, or is being introduced into a trade area for the first time.

(2) The packager or labeler clearly and conspicuously qualifies each offer on a package or label with the phrase "Introductory Offer."

(3) The packager or labeler does not sell any commodity so labeled in a trade area for a duration in excess of 6 months.

(4) At the time of making the introductory offer promotion, the packagers or labeler intends in good faith to offer the commodity, alone, at the anticipated ordinary and customary price for a reasonably substantial period of time following the duration of the introductory offer promotion.

(c) The package or label of a consumer commodity shall not have imprinted thereon by a packager or labeler an introductory offer in the form of a "cents-off" representation unless, in addition to the requirements in paragraph (b) of this section:

(1) The packager or labeler clearly and conspicuously and in immediate conjunction with the phrase "Introductory Offer" imprints the phrase "----- cents-off the after introductory offer price".

(2) The packager or labeler sells the commodity so labeled (either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler) at a reduction from his anticipated ordinary customary price, which reduction is at least equal to the amount of the reduction from the after introductory offer price representation on the commodity package or label.

(d) A packager or labeler will not make an introductory offer with a "cents-off" representation available in any circumstance where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, e.g., where the retailer charges a price which does not fully pass on to consumers the represented price reduction. Nothing in this rule, however, should be construed to authorize or condone the illegal setting or policing of retail prices by a packager or labeler.

(e) A packager or labeler who sponsors an introductory offer shall prepare and maintain invoices or other records showing compliance with this section. The invoices or other records required by this section shall be open to inspection by duly authorized representatives of this Commission and shall be retained for a period of 1 year subsequent to the period of the introductory offer.

§ 502.102 "Economy size."

(a) The term "economy size" means any printed matter consisting of the

words "economy size," "economy pack," "budget pack," "bargain size," "value size," or words of similar import placed upon any package containing any consumer commodity or placed upon any label affixed to such commodity, stating or representing directly or by implication that a retail sale price advantage is accorded to the purchaser thereof by reason of the size of that package or the quantity of its contents.

(b) The package or label of a consumer commodity may not have imprinted thereon an "economy size" representation unless:

(1) The packager or labeler at the same time offers the same brand of that commodity in at least one other packaged size or labeled form.

(2) The packager or labeler offers only one packaged or labeled form of that brand of commodity labeled with an "economy size" representation.

(3) The packager or labeler sells the commodity labeled with an "economy size" representation (either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler), at a price per unit of weight, volume, measure, or count which is substantially reduced (i.e., at least 5 percent) from the actual price of all other packaged or labeled units of the same brand of that commodity offered simultaneously.

(c) A packager or labeler will not make an "economy size" package available in any circumstances where he knows that it will be used as an instrumentality for deception, e.g., where the retailer charges a price which does not pass on to the consumer the substantial reduction in cost per unit initially granted by the packager or labeler. Nothing in this rule, however, should be construed to authorize or condone the illegal setting or policing of retail prices by a packager or labeler.

(d) A packager or labeler who sponsors an "economy size" package shall prepare and maintain invoices or other records showing compliance with paragraph (b) of this section. The invoices or other records required by this Section shall be open to inspection by duly authorized representatives of this Commission and shall be retained for one year.

§§ 502.103-502.199 [Reserved]

COMMON NAME AND INGREDIENT LISTING

§§ 502.200-502.299 [Reserved]

NONFUNCTIONAL-SLACK-FILL

§§ 502.300-502.399 [Reserved]

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Secretary, Federal Trade Commission, Washington, D.C. 20580, written objections thereto, specifying with particularity the provisions of the order deemed objectionable, stating the

grounds therefor, and requesting a public hearing upon such objections. Objections will be deemed sufficient to warrant the holding of a public hearing only: (1) If they establish that the objector will be adversely affected by the order; (2) if they specify with particularity the provisions of the order to which objection is taken; and (3) if they are supported by reasonable grounds which if valid and factually supported may be adequate to justify the relief sought. Anyone who files objections which are not deemed by the Commission sufficient to warrant the holding of a public hearing will be promptly notified of that determination.

As soon as practicable after the time for filing objections has expired, the Commission will publish a notice in the FEDERAL REGISTER specifying those parts of the order which have been stayed by the filing of objections or, if no objections sufficient to warrant the holding of a public hearing have been filed, stating the fact. This order shall become effective on December 31, 1971, except as to any provisions that may be stayed by the filing of valid objections.

By direction of the Commission dated June 21, 1971.

[SEAL]

CHARLES A. TOBIN,
Secretary.

[FR Doc.71-9209 Filed 6-29-71;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

"Cents-Off" and "Economy Size" Package Promotions

In the matter of establishing new enforcement regulations (21 CFR 1.1d, 1.1e) to control "cents-off," "economy size," and other savings representations:

A notice of proposed rulemaking in the above-identified matter was published in the FEDERAL REGISTER of May 21, 1970 (35 F.R. 7811), and provided for the filing of comments within 60 days. The comment time was extended to September 1, 1970, by a notice published July 18, 1970 (35 F.R. 11591).

In response, 54 comments were received. On the basis of these comments and other relevant information, the Commissioner of Food and Drugs concludes that:

1. Contentions that the Fair Packaging and Labeling Act grants authority to establish "cents-off" regulations only on a commodity-by-commodity basis are without merit. It was clearly the intent of Congress to control savings representa-

tion abuses regardless of their form or the particular consumer commodity they appear upon at any given time. The history of abuses and complaints encompasses the greater spectrum of consumer commodities subject to the Fair Packaging and Labeling Act; therefore, the need for control has been clearly established and the best interest of both the consumer and the regulated industry will be served by a single issuance to control such savings representations.

2. The Fair Packaging and Labeling Act does not provide the authority to abolish "cents-off" promotions, and the proposed regulation would have no such effect. For those involved in savings promotions, § 1.1d will provide options that will not hamper commerce and yet will provide the consumer with information required to make rational purchases.

3. Regarding whether the Fair Packaging and Labeling Act authorizes regulating "cents-off" and related promotions in the labeling of consumer commodities: While the Fair Packaging and Labeling Act specifically provides for regulations applicable to the label and package, the foods, drugs, and cosmetics involved also are subject to the label and labeling requirements of the Federal Food, Drug, and Cosmetic Act. Application of the proposed "cents-off" regulation both to labels and labeling is necessary to make label and labeling claims consistent, to prevent misleading representations in labeling that could not be used on the label, and to ensure adequate consumer protection in situations where savings representations might be abused by labeling; for example, contiguous displays, placards, etc.

4. Regarding the authority to regulate price-marking activities at the retail level: The Fair Packaging and Labeling Act specifically provides that its prohibitions apply to retail distributors to the extent that such persons are engaged in labeling consumer commodities or in prescribing or specifying the manner in which such commodities are packaged or labeled. Such control is imperative since the retailer provides the last responsible link in the chain of commerce to ensure that the consumer is in fact receiving the savings being offered.

5. Proposed § 1.1d(a) should be changed as set forth below to amplify the meaning of the phrase "other savings representations" as it relates to the label or labeling of consumer commodities; however, due to the variety of savings representations that may be utilized in the marketplace, the applicability of a specific promotion to these proposed regulations may of necessity be adjudged on a case-by-case basis as the need arises.

6. Proposed § 1.1d(a) should be changed as set forth below to clarify the time that records are required to be maintained for all successive promotions occurring within a 12-month period.

7. Regarding the proposed requirements and format for displaying savings representations on the label or labeling of consumer commodities: Proposed § 1.1d(b) should be changed as set

forth below to recognize those price marking practices currently in use at the retail level and to provide an alternative method of displaying such savings representations in a contiguous manner while still affording full consumer protection.

8. Regarding clarifying the term "average" when related to the ordinary and customary retail selling price of a consumer commodity: Due to the importance of establishing the relationship of the ordinary and customary retail selling price to any savings offered to the consumer and in the interest of uniformity with the Federal Trade Commission, it is preferable to eliminate the averaging concept and to use instead the price which the commodity has been openly and actively sold for a reasonable period of time; that is, at least 30 days. For commodities that fluctuate in price, the price will be the lowest one at which any substantial sales were made during said period. Proposed § 1.1d(b) should be changed accordingly and the length of time in which the ordinary and customary retail price is determined increased from 20 to 30 days.

9. The phrase "geographical area" should be changed to "geographic trade area" in § 1.1d (c), (d), and (e) to be more readily accepted and recognized in the business community.

10. Proposed § 1.1d(c) should be changed as set forth below to provide greater flexibility as to the volume of a consumer commodity that may be made available in price reduction promotions.

11. Proposed § 1.1d(e) should be changed as set forth below to provide for greater flexibility as to the duration and frequency of price reduction promotions.

12. Regarding "introductory offers" promotions: Proposed § 1.1d(e) should be changed as set forth below to define better an acceptable duration for such promotions, to provide for the maintenance of records, and to provide the same time period for establishment of the ordinary and customary retail price as is required for other promotions.

13. Proposed § 1.1d(f) should be changed as set forth below to define better the scope and coverage of the coupon-type promotions and to provide for the full disclosure of all material conditions important to the consumer in the use of such representations.

14. The portion of the proposed regulations dealing with economy representation based on the size of the container or its quantity of contents should not be withdrawn as suggested; however, proposed § 1.1e(a) should be changed as set forth below to amplify the scope of such promotions, to include examples, and to modify the manner in which such promotions may be displayed on the label or labeling.

15. The phrase "significant degree," which is used to describe the reduction in price per unit of weight, measure, or count on the "economy type" containers, should be clarified. In responding to the question of what constitutes a rea-

sonable reduction in the price per unit for such promotions, the Federal Trade Commission in its proposed regulation of November 24, 1970 (35 F.R. 18001), dealing with such representations, requested comments to assist in arriving at a suitable solution. After considering the comments, the FTC concludes that such reductions should be at least 5 percent. The Commissioner of Food and Drugs accepts 5 percent as a reasonable minimum for the consumer to expect in such price-reduction promotions.

Accordingly, pursuant to provisions of the Fair Packaging and Labeling Act (secs. 5, 6, 80 Stat. 1298-1300; 15 U.S.C. 1454-55) and the Federal Food, Drug, and Cosmetic Act (secs. 403 (a), (f), 502 (a), (c), 602 (a), (c), 701, 52 Stat. 1047, 1050, 1054, 1055, as amended; 21 U.S.C. 343 (a), (f), 352 (a), (c), 362 (a), (c), 371), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 1 is amended by adding thereto two new sections, as follows:

§ 1.1d "Cents-off," coupon, or other savings representations.

Any food, drug, cosmetic, or device that bears on the label or labeling a representation that the consumer commodity is being offered for retail at a reduction in retail price is subject to the following conditions:

(a) A "cents-off" coupon, or other savings representation that states or implies a reduction in the ordinary and customary retail price may be used by a manufacturer, packer, distributor, or retailer, hereinafter known as the sponsor, initiating such promotion only if (1) an ordinary and customary retail selling price of such consumer commodity has been established, (2) the sponsor's selling price and the selling price at all subsequent levels of commerce such as wholesalers and jobbers has been reduced by at least the savings differential represented on the package or labeling, and (3) the sponsor and all subsequent levels or commerce keep and maintain invoices or other records for each promotion and for all successive promotions which occur within a 12-month period for at least 1 year beyond the termination date of the last of such promotions set by the sponsor in order to show that the invoice cost to the retailer has been reduced in an amount sufficient to enable the retailer to pass the savings on to the purchaser.

(b) (1) A price reduction representation shall be presented on the package to show the ordinary and customary retail price and the savings to the consumer as follows:

Regular Price	-----
-----	Cents Off
You Pay	-----

The sponsor of the promotion shall fill in the "----- Cents Off" blank. The remaining blanks are to be filled in at the retail level to reflect actual pricing at that level. Alternatively, the retailer may display such price reduction information

on a sign, placard, or shelf marker placed in conspicuous and prominent position contiguous to the retail display of the consumer commodity.

(2) For the purposes of this section, the terms "ordinary and customary" and "regular" when used with the term "price" means the price at which a consumer commodity has been openly and actively sold in the most recent and regular course of business in a particular market or a trade area for a reasonably substantial period of time; that is, at least 30 days. For consumer commodities that fluctuate in price, the ordinary and customary price shall be the lowest price at which any substantial sales were made during said 30 days.

(c) Shipments of consumer commodities bearing "cents-off," coupon, or other savings representations to a given geographic trade area made by the sponsor initiating such promotion shall be in no greater volume than 50 percent of the total units of that identical consumer commodity distributed in the same geographic trade area during any period of 12 consecutive months.

(d) The "cents-off," coupon, or other savings promotion may not be employed by a sponsor on consumer commodities for distribution to a specific geographic trade area until after 1 month has elapsed since their last distribution of the same consumer commodity bearing a savings representation to the same geographic trade area. No more than three such promotions for the same consumer commodity may occur within a 12-month period, and the total period of time for such promotions of any given size consumer commodity shall not exceed 6 months within that 12-month period.

(e) A newly developed consumer commodity, one which has been changed in a functionally significant respect, or one which is newly introduced into a given geographic trade area may be the subject of an introductory-offer type promotion. Such offers are not considered subject to the provisions of paragraphs (a) through (d) of this section, provided labeled representations (1) are qualified by a phrase such as "introductory offer," (2) include the suggested postintroduction retail price, and (3) do not exceed a period of 6 months duration. Any subsequent price reduction promotion of the consumer commodity is subject to the provisions of paragraphs (a) through (d) of this section and shall be preceded by the 30-day period required for a determination of the ordinary and customary selling price in that retail establishment. At the time of making the introductory offer promotion, the sponsor must intend in good faith to offer the commodity alone, immediately following the introductory offer promotion, for a reasonably substantial period of time, that is, at least 30 days, at the anticipated postintroduction price. The sponsor and all subsequent levels of commerce shall maintain invoices and records for at least 1 year beyond the termination date of such introductory offers.

(f) A representation on the label or labeling that the consumer commodity is being offered for retail sale at a reduced price by virtue of a redeemable coupon shall not be used unless the coupon is redeemable at retail unconditionally or upon the purchase or subsequent purchase of either that product or other consumer commodities involved in the promotion. Coupon offers which bear expiration dates or which are contingent upon the purchase of other consumer commodities involved in the promotion shall bear a prominent and conspicuous statement fully disclosing all material conditions included in the coupon offer. Such statement shall be in conjunction with the representation wherever it appears on the label or labeling of the consumer commodity.

§ 1.1e Package size savings.

Any food, drug, cosmetic, or device that bears on the label or labeling a representation that the consumer commodity is being offered at a lower price per unit of weight, measure, or count because of economy resulting from the size of the container or quantity of its contents is subject to the following conditions:

(a) The container may bear a representation of economy by virtue of its size (for example, "economy size," "economy pack," "big value," "thrifty pack," "bargain size," "budget pack," etc.) only if an ordinary and customary retail selling price has been established for both regular or other size containers, and the economy size containers and the price per unit of weight, measure, or count in the economy size container is lower to a significant degree, at least 5 percent, than the ordinary and customary price per unit of weight, measure, or count of the least expensive per unit of weight, measure, or count of the other retail size(s) for the identical consumer commodity. Only one packaged or labeled form of that brand of commodity may bear such an economy representation, and it shall be conspicuously presented and in no way misleading. For the purposes of this section, the price per unit of weight, measure, or count shall be based upon the ordinary and customary retail selling price which shall be the arithmetical mean of the prices at which the consumer commodity in the containers was sold in that particular retail outlet for the 30-day period immediately preceding the price marking.

(b) The sponsor of the economy size promotion, and all subsequent levels of commerce such as wholesalers and jobbers, shall maintain for at least 1 year invoices or other records showing that the wholesale price per unit of weight, measure, or count in the economy size package is such that the retailers can sell the economy size container at a significantly lower price per unit.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of FEDERAL REGISTER publication file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md.

20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective December 31, 1971, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 5, 6, 80 Stat. 1298-1300; 15 U.S.C. 1454-55; secs. 403 (a), (f), 502 (a), (c), 602 (a), (c), 701, 52 Stat. 1047, 1050, 1054, 1055, as amended; 21 U.S.C. 343 (a), (f), 352 (a), (c), 362 (a), (c), 371)

Dated: June 24, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc. 71-9261 Filed 6-29-71; 8:50 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7105]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DE- CEMBER 31, 1953

Definition of Pooled Income Fund Correction

In F.R. Doc. 71-4589 appearing at page 6477 in the issue of Tuesday, April 6, 1971, the figure ".07265" in Table G(2) under § 1.642(c)-6(d)(3) representing the 6 percent yearly rate of return for age 24 should read ".07261".

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Depart- ment of Labor

PART 1905—RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIA- TIONS, TOLERANCES, AND EXEMPTI- ONS UNDER THE WILLIAMS- STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Implementation of Williams-Steiger Occupational Safety and Health Act of 1970

Pursuant to sections 6, 8, and 16 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1598, and 1606; 29 U.S.C. 655, 657, 665), Chapter XVII of Title 29, Code of Federal

Regulations, is hereby amended by adding thereto a new part designated Part 1905. The new Part 1905 contains the rules of practice for administrative proceedings for granting variances from occupational safety and health standards under certain provisions of section 6 of the Act, and rules of practice for providing limitations, variations, tolerances, and exemptions under section 16 of the Act.

The rules of practice shall be effective upon publication in the FEDERAL REGISTER (6-30-71). However, interested persons are encouraged to petition for any amendments to the rules which they may consider appropriate.

The new Part 1905 reads as follows:

Subpart A—General

Sec.
1905.1 Purpose and scope.
1905.2 Definitions.
1905.3 Petitions for amendments to this part.
1905.4 Amendments to this part.
1905.5 Effect of variances.
1905.6 Public notice of a granted variance, limitation, variation, tolerance, or exemption.

1905.7 Form of documents; subscription; copies.

Subpart B—Applications for Variances, Limitations, Variations, Tolerances, Exemptions and Other Relief

1905.10 Variances and other relief under section 6(b)(6)(A).
1905.11 Variances and other relief under section 6(d).
1905.12 Limitations, variations, tolerances, or exemptions under section 16.
1905.13 Modification, revocation, and renewal of rules or orders.
1905.14 Action on applications.
1905.15 Requests for hearings on applications.
1905.16 Consolidation of proceedings.

Subpart C—Hearings

1905.20 Notice of hearing.
1905.21 Manner of service.
1905.22 Hearing examiners; powers and duties.
1905.23 Prehearing conferences.
1905.24 Consent findings and rules or orders.
1905.25 Discovery.
1905.26 Hearings.
1905.27 Decisions of hearing examiners.
1905.28 Exceptions.
1905.29 Transmission of record.
1905.30 Decisions of the Assistant Secretary.

Subpart D—Summary Decisions

1905.40 Motion for summary decision.
1905.41 Summary decision.

Subpart E—Effect of Initial Decisions

1905.50 Effect of appeal of a hearing examiner's decision.
1905.51 Finality for purposes of judicial review.

AUTHORITY: The provisions of this Part 1905 issued under secs. 6, 8, 16, 84 Stat. 1593, 1598, 1606; 29 U.S.C. 655, 657, 665.

Subpart A—General

§ 1905.1 Purpose and scope.

(a) This part contains rules of practice for administrative proceedings (1) to grant variances and other relief under sections 6(b)(6)(A) and 6(d) of the Williams-Steiger Occupational Safety

and Health Act of 1970, and (2) to provide limitations, variations, tolerances, and exemptions under section 16 of the Act.

(b) These rules shall be construed to secure a prompt and just conclusion of proceedings subject thereto.

(c) The rules of practice in this part do not apply to the granting of variances under section 6(b)(6)(C). Whenever appropriate, the procedure for granting such a variance shall be published in the FEDERAL REGISTER.

§ 1905.2 Definitions.

As used in this part, unless the context clearly requires otherwise—

(a) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970.

(b) "Secretary" means the Secretary of Labor.

(c) "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health.

(d) "Person" means an individual, partnership, association, corporation, business trust, legal representative, an organized group of individuals, or an agency, authority, or instrumentality of the United States or of a State.

(e) "Party" means a person admitted to participate in a hearing conducted in accordance with Subpart C of this part. An applicant for relief and any affected employee shall be entitled to be named parties. The Department of Labor, represented by the Office of the Solicitor, shall be deemed to be a party without the necessity of being named.

(f) "Affected employee" means an employee who would be affected by the grant or denial of a variance, limitation, variation, tolerance, or exemption, or any one of his authorized representatives, such as his collective bargaining agent.

§ 1905.3 Petitions for amendments to this part.

Any person may at any time petition the Assistant Secretary in writing to revise, amend, or revoke any provisions of this part. The petition should set forth either the terms or the substance of the rule desired, with a concise statement of the reasons therefor and the effects thereof.

§ 1905.4 Amendments to this part.

The Assistant Secretary may at any time revise, amend, or revoke any provisions of this part, on his own motion or upon the written petition of any person.

§ 1905.5 Effect of variances.

All variances granted pursuant to this part shall have only future effect. In his discretion, the Assistant Secretary may decline to entertain an application for a variance on a subject or issue concerning which a citation has been issued to the employer involved and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending before the Occu-

pational Safety and Health Review Commission until the completion of such proceeding.

§ 1905.6 Public notice of a granted variance, limitation, variation, tolerance, or exemption.

Every final action granting a variance, limitation, variation, tolerance, or exemption under this part shall be published in the FEDERAL REGISTER. Every such final action shall specify the alternative to the standard involved which the particular variance permits.

§ 1905.7 Form of documents; subscription; copies.

(a) No particular form is prescribed for applications and other papers which may be filed in proceedings under this part. However, any applications and other papers shall be clearly legible. An original and six copies of any application or other papers shall be filed. The original shall be typewritten. Clear carbon copies, or printed or processed copies are acceptable copies.

(b) Each application or other paper which is filed in proceedings under this part shall be subscribed by the person filing the same or by his attorney or other authorized representative.

Subpart B—Applications for Variances, Limitations, Variations, Tolerances, Exemptions and Other Relief

§ 1905.10 Variances and other relief under section 6(b)(6)(A).

(a) **Application for variance.** Any employer, or class of employers, desiring a variance from a standard, or portion thereof, authorized by section 6(b)(6)(A) of the Act may file a written application containing the information specified in paragraph (b) of this section with the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

(b) **Contents.** An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A specification of the standard or portion thereof from which the applicant seeks a variance;

(4) A representation by the applicant, supported by representations from qualified persons having first-hand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof by its effective date and a detailed statement of the reasons therefor;

(5) A statement of the steps the applicant has taken and will take, with specific dates where appropriate, to protect employees against the hazard covered by the standard;

(6) A statement of when the applicant expects to be able to comply with

the standard and of what steps he has taken and will take, with specific dates where appropriate, to come into compliance with the standard;

(7) A statement of the facts the applicant would show to establish that (i) the applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date; (ii) he is taking all available steps to safeguard his employees against the hazards covered by the standard; and (iii) he has an effective program for coming into compliance with the standard as quickly as practicable;

(8) Any request for a hearing, as provided in this part;

(9) A statement that the applicant has informed his affected employees of the application by giving a copy thereof to their authorized representative, posting a statement, giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means; and

(10) A description of how affected employees have been informed of the application and of their right to petition the Assistant Secretary for a hearing.

(c) **Interim order.**—(1) **Application.** An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The Assistant Secretary may rule ex parte upon the application.

(2) **Notice of denial of application.** If an application filed pursuant to subparagraph (1) of this paragraph is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) **Notice of the grant of an interim order.** If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties and the terms of the order shall be published in the FEDERAL REGISTER. It shall be a condition of the order that the affected employer shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§ 1905.11 Variances and other relief under section 6(d).

(a) **Application for variance.** Any employer, or class of employers, desiring a variance authorized by section 6(d) of the Act may file a written application containing the information specified in paragraph (b) of this section, with the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

- (1) The name and address of the applicant;
- (2) The address of the place or places of employment involved;
- (3) A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;
- (4) A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment to employees which are as safe and healthful as those required by the standard from which a variance is sought;

(5) A certification that the applicant has informed his employees of the application by (i) giving a copy thereof to their authorized representative; (ii) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (iii) by other appropriate means;

(6) Any request for a hearing, as provided in this part; and

(7) A description of how employees have been informed of the application and of their right to petition the Assistant Secretary for a hearing.

(c) *Interim order.*—(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The Assistant Secretary may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to subparagraph (1) of this paragraph is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties, and the terms of the order shall be published in the FEDERAL REGISTER. It shall be a condition of the order that the affected employer shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§ 1905.12 Limitations, variations, tolerances, or exemptions.

(a) *Application.* Any person, or class of persons, desiring a limitation, variation, tolerance, or exemption authorized by section 16 of the Act may file an application containing the information specified in paragraph (b) of this section, with the Assistant Secretary for Occupational Safety and Health, U.S.

Department of Labor, Washington, D.C. 20210.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

- (1) The name and address of the applicant;
- (2) The address of the place or places of employment involved;
- (3) A specification of the provision of the Act to or from which the applicant seeks a limitation, variation, tolerance, or exemption.

(4) A representation showing that the limitation, variation, tolerance, or exemption sought is necessary and proper to avoid serious impairment of the national defense;

(5) Any request for a hearing, as provided in this part; and

(6) A description of how employees have been informed of the application and of their right to petition the Assistant Secretary for a hearing.

(c) *Interim order.*—(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the limitation, variation, tolerance, or exemption filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The Assistant Secretary may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to subparagraph (1) of this paragraph is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties, and the terms of the order shall be published in the FEDERAL REGISTER. It shall be a condition of the order that the affected employer shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§ 1905.13 Modification, revocation, and renewal of rules or orders.

(a) *Modification or revocation.* (1) An affected employer or an affected employee may apply in writing to the Assistant Secretary of Labor for Occupational Safety and Health for a modification or revocation of a rule or order issued under section 6(b) (6) (A), 6(d), or 16 of the Act. The application shall contain:

- (i) The name and address of the applicant;
- (ii) A description of the relief which is sought;
- (iii) A statement setting forth with particularity the grounds for relief;
- (iv) If the applicant is an employer, a certification that the applicant has informed his affected employees of the application by:

(a) Giving a copy thereof to their authorized representative;

(b) Posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and

(c) Other appropriate means.

(v) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and

(vi) Any request for a hearing, as provided in this part.

(2) The Assistant Secretary may on his own motion proceed to modify or revoke a rule or order issued under section 6(b) (6) (A), 6(d), or 16 of the Act. In such event, the Assistant Secretary shall cause to be published in the FEDERAL REGISTER a notice of his intention, affording interested persons an opportunity to submit written data, views, or arguments regarding the proposal and informing the affected employer and employees of their right to request a hearing, and shall take such other action as may be appropriate to give actual notice to affected employees. Any request for a hearing shall include a short and plain statement of:

(i) How the proposed modification or revocation would affect the requesting party; and

(ii) What the requesting party would seek to show on the subjects or issues involved.

(b) *Renewal.* Any final rule or order issued under section 6(b) (6) (A) or 16 of the Act may be renewed or extended as permitted by the applicable section and in the manner prescribed for its issuance.

§ 1905.14 Action on applications.

(a) *Defective applications.* (1) If an application filed pursuant to § 1905.10(a), § 1905.11(a), § 1905.12(a), or § 1905.13 does not conform to the applicable section, the Assistant Secretary may deny the application.

(2) Prompt notice of the denial of an application shall be given to the applicant.

(3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.

(4) A denial of an application pursuant to this paragraph shall be without prejudice to the filing of another application.

(b) *Adequate applications.* (1) If an application has not been denied pursuant to paragraph (a) of this section, the Assistant Secretary shall cause to be published in the FEDERAL REGISTER a notice of the filing of the application.

(2) A notice of the filing of an application shall include: (i) the terms, or an accurate summary, of the application; (ii) a reference to the section of the Act under which the application has been filed; (iii) an invitation to interested persons to submit within a stated period of time written data, views, or arguments regarding the application; and (iv) information to affected employers and employees of any right to

request a hearing on the application.

§ 1905.15 Requests for hearings on applications.

(a) *Request for hearing.* Within the time allowed by a notice of the filing of an application, any affected employer or employee may file with the Assistant Secretary, in quadruplicate, a request for a hearing on the application.

(b) *Contents of a request for a hearing.* A request for a hearing filed pursuant to paragraph (a) of this section shall include:

(1) A concise statement of facts showing how the employer or employee would be affected by the relief applied for;

(2) A specification of any statement or representation in the application which is denied, and a concise summary of the evidence that would be adduced in support of each denial; and

(3) Any views or arguments on any issue of fact or law presented.

§ 1905.16 Consolidation of proceedings.

The Assistant Secretary on his own motion or that of any party may consolidate or contemporaneously consider two or more proceedings which involve the same or closely related issues.

Subpart C—Hearings

§ 1905.20 Notice of hearing.

(a) *Service.* Upon request for a hearing as provided in this part, or upon his own initiative, the Assistant Secretary shall serve, or cause to be served, a reasonable notice of hearing.

(b) *Contents.* A notice of hearing served under paragraph (a) of this section shall include:

(1) The time, place, and nature of the hearing;

(2) The legal authority under which the hearing is to be held;

(3) A specification of issues of fact and law; and

(4) A designation of a hearing examiner appointed under 5 U.S.C. 3105 to preside over the hearing.

(c) *Referral to hearing examiner.* A copy of a notice of hearing served pursuant to paragraph (a) of this section shall be referred to the hearing examiner designated therein, together with the original application and any written request for a hearing thereon filed pursuant to this part.

§ 1905.21 Manner of service.

Service of any document upon any party may be made by personal delivery of, or by mailing, a copy of the document to the last known address of the party. The person serving the document shall certify to the manner and the date of the service.

§ 1905.22 Hearing examiners; powers and duties.

(a) *Powers.* A hearing examiner designated to preside over a hearing shall have all powers necessary or appropriate to conduct a fair, full, and impartial hearing, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive relevant evidence;

(3) To provide for discovery and to determine its scope;

(4) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

(5) To consider and rule upon procedural requests;

(6) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) To make, or to cause to be made, an inspection of the employment or place of employment involved;

(8) To make decisions in accordance with the Act, this part, and the Administrative Procedure Act (5 U.S.C. Ch. 5); and

(9) To take any other appropriate action authorized by the Act, this part, or the Administrative Procedure Act.

(b) *Private consultation.* Except to the extent required for the disposition of ex parte matters, a hearing examiner may not consult a person or a party on any fact at issue, unless upon notice and opportunity for all parties to participate.

(c) *Disqualification.* (1) When a hearing examiner deems himself disqualified to preside over a particular hearing, he shall withdraw therefrom by notice on the record directed to the Chief Hearing Examiner.

(2) Any party who deems a hearing examiner for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the Chief Hearing Examiner of the Department of Labor a motion to disqualify and remove the hearing examiner, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Chief Hearing Examiner shall rule upon the motion.

(d) *Contumacious conduct; failure or refusal to appear or obey the rulings of a presiding hearing examiner.* (1) Contumacious conduct at any hearing before the hearing examiner shall be ground for exclusion from the hearing.

(2) If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the hearing examiner may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of an applicant or regulating the contents of the record of the hearing.

(e) *Referral to Federal Rules of Civil Procedure.* On any procedural question not regulated by this part, the Act, or the Administrative Procedure Act, a hearing examiner shall be guided to the extent practicable by any pertinent provisions of the Federal Rules of Civil Procedure.

§ 1905.23 Prehearing conferences.

(a) *Convening a conference.* Upon his own motion or the motion of a party, the hearing examiner may direct the parties or their counsel to meet with him for a conference to consider:

- (1) Simplification of the issues;
- (2) Necessity or desirability of amendments to documents for purposes

of clarification, simplification, or limitation;

(3) Stipulations, admissions of fact, and of contents and authenticity of documents;

(4) Limitation of the number of parties and of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding, and to assure a just conclusion thereof.

(b) *Record of conference.* The hearing examiner shall make an order which recites the action taken at the conference, the amendments allowed to any documents which have been filed, and the agreements made between the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order when entered controls the subsequent course of the hearing, unless modified at the hearing, to prevent manifest injustice.

§ 1905.24 Consent findings and rules or orders.

(a) *General.* At any time before the reception of evidence in any hearing, or during any hearing a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the presiding hearing examiner, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.

(b) *Contents.* Any agreement containing consent findings and rule or order disposing of a proceeding shall also provide:

(1) That the rule or order shall have the same force and effect as if made after a full hearing;

(2) That the entire record on which any rule or order may be based shall consist solely of the application and the agreement;

(3) A waiver of any further procedural steps before the hearing examiner and the Assistant Secretary; and

(4) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the presiding hearing examiner for his consideration; or

(2) Inform the presiding hearing examiner that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefor, the presiding hearing examiner may accept such agreement by issuing his decision based upon the agreed findings.

§ 1905.25 Discovery.

(a) *Depositions.* (1) For reasons of unavailability or for other good cause shown, the testimony of any witness may be taken by deposition. Depositions may be taken orally or upon written interrogatories before any person designated by the presiding hearing examiner and having power to administer oaths.

(2) *Application.* Any party desiring to take the deposition of a witness may make application in writing to the presiding hearing examiner, setting forth: (i) the reasons why such deposition should be taken; (ii) the time when, the place where, and the name and post office address of the person before whom the deposition is to be taken; (iii) the name and address of each witness; and (iv) the subject matter concerning which each witness is expected to testify.

(3) *Notice.* Such notice as the presiding hearing examiner may order shall be given by the party taking the deposition to every other party.

(4) *Taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and the parties not calling him shall have the right to cross-examine him. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, subscribed by him, and certified by the officer before whom the deposition is taken. Thereafter, the officer shall seal the deposition, with two copies thereof, in an envelope and mail the same by registered mail to the presiding hearing examiner. Subject to such objections to the questions and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present, represented at the taking of the deposition, or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of hearing.

(b) *Other discovery.* Whenever appropriate to a just disposition of any issue in a hearing, the presiding hearing examiner may allow discovery by any other appropriate procedure, such as by written interrogatories upon a party, production of documents by a party, or by entry for inspection of the employment or place of employment involved.

§ 1905.26 Hearings.

(a) *Order of proceeding.* Except as may be ordered otherwise by the presiding hearing examiner, the party applicant for relief shall proceed first at a hearing.

(b) *Burden of proof.* The party applicant shall have the burden of proof.

(c) *Evidence.*—(1) *Admissibility.* A party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true dis-

closure of the facts. Any oral or documentary evidence may be received, but a presiding hearing examiner shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(2) *Testimony of witnesses.* The testimony of a witness shall be upon oath or affirmation administered by the presiding hearing examiner.

(3) *Objections.* If a party objects to the admission or rejection of any evidence, or to the limitation of the scope of any examination or cross-examination, or to the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made before the presiding hearing examiner may be relied upon subsequently in a proceeding.

(4) *Exceptions.* Formal exception to an adverse ruling is not required.

(d) *Official notice.* Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice or concerning which the Department of Labor by reason of its functions is presumed to be expert: *Provided*, That the parties shall be given adequate notice, at the hearing or by reference in the presiding hearing examiner's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(e) *Transcript.* Hearings shall be stenographically reported. Copies of the transcript may be obtained by the parties upon written application filed with the reporter, and upon the payment of fees at the rate provided in the agreement with the reporter.

§ 1905.27 Decisions of hearing examiners.

(a) *Proposed findings of fact, conclusions, and rules or orders.* Within 10 days after receipt of notice that the transcript of the testimony has been filed or such additional time as the presiding hearing examiner may allow, each party may file with the hearing examiner proposed findings of fact, conclusions of law, and rule or order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all other parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(b) *Decision of the hearing examiner.* Within a reasonable time after the time allowed for the filing of proposed findings of fact, conclusions of law, and rule or order, the presiding hearing examiner shall make and serve upon each party his decision, which shall become final upon the 20th day after service thereof, unless exceptions are filed thereto, as provided in § 1905.28. The decision of the hearing examiner shall include (1) a statement of findings and conclusions, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record, and (2) the appropriate rule, order, relief, or denial thereof. The decision of the hearing examiner shall be based upon a con-

sideration of the whole record and shall state all facts officially noticed and relied upon. It shall be made on the basis of a preponderance of reliable and probative evidence.

§ 1905.28 Exceptions.

Within 20 days after service of a decision of a presiding hearing examiner, any party may file with the hearing examiner written exceptions thereto with supporting reasons. Such exceptions shall refer to the specific findings of fact, conclusions of law, or terms of the rule or order excepted to, the specific pages of transcript relevant to the suggestions, and shall suggest corrected findings of fact, conclusions of law, or terms of the rule or order. Upon receipt of any exceptions, the hearing examiner shall fix a time for filing any objections to the exceptions and any supporting reasons.

§ 1905.29 Transmission of record.

If exceptions are filed, the hearing examiner shall transmit the record of the proceeding to the Assistant Secretary for review. The record shall include: the application, any request for hearing thereon, motions and requests filed in written form, rulings thereon, the transcript of the testimony taken at the hearing, together with the exhibits admitted in evidence, any documents or papers filed in connection with prehearing conferences, such proposed findings of fact, conclusions of law, rules or orders, and supporting reasons, as may have been filed, the hearing examiner's decision, and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

§ 1905.30 Decision of the Assistant Secretary.

If exceptions to a decision of a hearing examiner are taken pursuant to § 1905.28, the Assistant Secretary shall upon consideration thereof, together with the record references and authorities cited in support thereof, and any objections to exceptions and supporting reasons, make his decision. The decision may affirm, modify, or set aside, in whole or part, the findings, conclusions, and the rule or order contained in the decision of the presiding hearing examiner, and shall include a statement of reasons or bases for the actions taken on each exception presented.

Subpart D—Summary Decisions

§ 1905.40 Motion for summary decision.

(a) Any party may, at least 20 days before the date fixed for any hearing under Subpart C of this part, move with or without supporting affidavits for a summary decision in his favor on all or any part of the proceeding. Any other party may, within 10 days after service of the motion, serve opposing affidavits or countermove for summary decision. The presiding hearing examiner may, in his discretion, set the matter for argument and call for the submission of briefs.

(b) The filing of any documents under paragraph (a) of this section shall be with the hearing examiner, and copies of any such documents shall be served in accordance with § 1905.21.

(c) The hearing examiner may grant such motion if the pleadings, affidavits, material obtained by discovery or otherwise obtained, or matters officially noticed show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. The hearing examiner may deny such motion whenever the moving party denies access to information by means of discovery to a party opposing the motion.

(d) Affidavits shall set forth such facts as would be admissible in evidence in a proceeding subject to 5 U.S.C. 556 and 557 and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this section, a party opposing the motion may not rest upon the mere allegations or denials of his pleading; his response must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(e) Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the hearing examiner may deny the motion for summary decision or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

(f) The denial of all or any part of a motion for summary decision by the hearing examiner shall not be subject to interlocutory appeal to the Assistant Secretary unless the hearing examiner certifies in writing (1) that the ruling involves an important question of law or policy as to which there is substantial ground for difference of opinion, and (2) that an immediate appeal from the ruling may materially advance the ultimate termination of the proceeding. The allowance of such an interlocutory appeal shall not stay the proceeding before the hearing examiner unless the Assistant Secretary shall so order.

§ 1905.41 Summary decision.

(a) *No genuine issue of material fact.* (1) Where no genuine issue of a material fact is found to have been raised, the hearing examiner may issue an initial decision to become final 20 days after service thereof, unless, within such period of time any party has filed written exceptions to the decision. If any timely exception is filed, the hearing examiner shall fix a time for filing any objections to the exception and any supporting reasons. Thereafter, the Assistant Secretary, after consideration of the exceptions and any supporting briefs filed therewith and of any objections to the exceptions and any supporting reasons, may issue a final decision.

(2) An initial decision and a final decision made under this paragraph shall include a statement of—

(i) findings and conclusions, and the reasons or bases therefor, on all issues presented; and

(ii) the terms and conditions of the rule or order made.

(3) A copy of an initial decision and a final decision under this paragraph shall be served on each party.

(b) *Hearings on issues of fact.* Where a genuine material question of fact is raised, the hearing examiner shall, and in any other case he may, set the case for an evidentiary hearing in accordance with Subpart C of this part.

Subpart E—Effect of Initial Decisions

§ 1905.50 Effect of appeal of a hearing examiner's decision.

A hearing examiner's decision under this part shall not be operative pending a decision on appeal by the Assistant Secretary.

§ 1905.51 Finality for purposes of judicial review.

Only a decision by the Assistant Secretary shall be deemed final agency action for purposes of judicial review. A decision by a hearing examiner which becomes final for lack of appeal is not deemed final agency action for purposes of 5 U.S.C. 704.

Signed at Washington, D.C., this 22d day of June 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-9179 Filed 6-29-71; 8:45 am]

Title 41—PUBLIC CONTRACTS
AND PROPERTY MANAGEMENTChapter 39—Post Office Department
DELETION OF PROCUREMENT
REGULATIONS

The Board of Governors of the U.S. Postal Service, acting under the authority of section 15(a) of the Postal Reorganization Act (Public Law 91-375), by Resolution No. 71-9 (36 F.R. 785) has fixed July 1, 1971, as the date of commencement of operations of the U.S. Postal Service. Effective on that date procurement regulations relating to the Postal Service codified under Chapter 39 of Title 41, Code of Federal Regulations, are being superseded by interim regulations issued pursuant to the Postal Reorganization Act.

This issue of the FEDERAL REGISTER contains a notice setting forth the new interim regulations dealing with the procurement of property and services for the Postal Service. The interim regulations will be replaced by a comprehensive manual of procurement regulations in the near future. In addition, this issue contains codified regulations relating to transportation of the mails and the procurement of mail transportation and related services. The described documents are effective July 1, 1971.

Accordingly, effective July 1, 1971, Chapter 39 of Title 41 is revoked.

(39 U.S.C. 401, 410, 2008(c) as enacted by Public Law 91-375; sec. 5(a) of Public Law 91-375)

DAVID A. NELSON,
General Counsel.

[FR Doc.71-8931 Filed 6-29-71; 8:45 am]

Chapter 101—Federal Property
Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-34—EMERGENCY
PREPAREDNESS PLANNINGRevision of GSA Supply Support
Emergency Plans

The policies and procedures governing GSA supply support activity during periods of national defense emergencies are revised to eliminate the requirement for agencies to report the names of supply liaison contacts to GSA, advise agencies of a new policy concerning cancellation of agency requisitions at the time of a nuclear attack upon the United States, clarify instructions for the requisitioning of prepositioned relocation site items, add the definition of "immediate postattack," and incorporate other minor technical changes.

The table of contents for Part 101-34 is amended by revising the captions for §§ 101-34.003, 101-34.101, and Subpart 101-34.2, and adding new § 101-34.200 to read as follows:

Sec.
101-34.003 GSA Handbook, Emergency Supply Support Operations.
101-34.101 Requisitioning Instructions.

Subpart 101-34.2—Postattack Defense
Emergency Plans
101-34.200 General.

Sections 101-34.002(a) and 101-34.003 are revised and § 101-34.002(f) is added to read as follows:

§ 101-34.002 Definitions.

(a) *Defense Readiness Conditions (DEFCONS).* DEFCONS are levels of military readiness which indicate the degree of preparedness required for national defense emergency conditions short of attack warning. Actions by Federal departments and agencies having emergency nonmilitary defense responsibilities are geared to DEFCONS to provide gradual strengthening of the U.S. defense and retaliatory capabilities. DEFCONS progress from 5 through 1. DEFCONS 5 and 4 require continuance of normal preparedness, and most civil agencies will not be notified of them for nonmilitary defense purposes. DEFCONS 3, 2, and 1 represent stepped-up readiness actions from moderate to maximum

preparations to insure performance of emergency functions.

(f) *Immediate postattack.* That period immediately following an attack upon the United States and extending until such time as communications are at least partially restored, damage has been assessed, and agencies are in a position to evaluate their surviving resources and capabilities to carry out emergency functions.

§ 101-34.003 GSA Handbook, Emergency Supply Support Operations.

Detailed instructions and guidelines on implementing GSA emergency preparedness plans are provided in the GSA Handbook, Emergency Supply Support Operations (FPMR 101-34.003), which is issued by the Commissioner, Federal Supply Service. Since the handbook identifies actions to be taken to obtain supplies, equipment, and services from or through GSA in the postattack period, agencies should obtain copies for prepositioning at their relocation sites.

Sections 101-34.101, 101-34.102, 101-34.103, 101-34.104, and 101-34.105 are revised to read as follows:

Subpart 101-34.1—Preattack Defense Emergency Plans

§ 101-34.101 Requisitioning instructions.

(a) Normal FEDSTRIP/MILSTRIP requisitioning procedures shall be followed during the preattack period. When emergency conditions require such procedures to be altered, GSA will issue appropriate guidance.

(b) All agency requisitions in process at the time of a nuclear attack upon the United States shall be canceled except for those items for shipment to an agency relocation site. After an assessment of bomb damage, agencies shall resubmit requisitions based on an evaluation of current requirements and in accordance with the appropriate priority as explained in paragraph 4, chapter 1 of the GSA Handbook, Emergency Supply Support Operations.

§ 101-34.102 Prepositioned stocks.

(a) *Requirements determination.* The Office of Emergency Preparedness encourages agencies to preposition stocks of essential supplies at relocation sites as a part of their relocation program. Such action will insure availability of operating supplies in case of a surprise attack or rapid progression from DEFCON 3 to an attack warning and allow time for GSA to evaluate surviving resources and adapt to postattack operations. Prior to the preattack period, agencies with relocation programs should determine the minimum requirements for the administrative type supplies and equipment needed for the first 30 days' operations at relocation sites and should prepare requisitions in accordance with the instructions contained in the following paragraph.

(b) *Submission of requisitions for GSA stock items to be prepositioned.* (1) Requisitions for minimum operating re-

quirements of GSA stock items for prepositioning at relocation sites should be submitted to the appropriate GSA regional office prior to the preattack period.

(2) Although it is preferable to request shipment before DEFCON 3, it may be advisable to submit a requisition for immediate shipment of items with no shelf life or with an extended (at least 2 years) shelf life and a separate requisition covering items with less than a 2-year shelf life for shipment upon the declaration of DEFCON 3. A requisition for items to be delivered in the future should contain Document Identifier Code A95 or A9E (as applicable) and an appropriate explanation of the exception data in the "Remarks" field to preclude premature processing by GSA. GSA will hold the requisition for automatic release upon declaration of DEFCON 3 without further instruction from the requisitioning activity. If DEFCON 3 is bypassed, shipment will be made (time permitting) during DEFCON 2 or 1, or at such other time as the requisitioning activity requests GSA to make shipment.

(3) In the absence of instructions from the requisitioning activity, a requisition held for shipment upon declaration of a designated DEFCON will be returned if such DEFCON is not declared within 1 year from the date of the requisition. Should the 1-year period encompass the major part of the fiscal year following the one in which the requisition is submitted and the appropriate DEFCON is declared, GSA will honor the requisition on the assumption that sufficient funds will be allocated by agencies on a year-to-year basis to provide for payment of merchandise requisitioned under this program.

(4) A change to a requisition being held by GSA should be made by submitting a new requisition to the appropriate GSA regional office with an instruction to replace the requisition on file with the newly submitted one.

(c) *Disposition of unused stocks.* If prepositioned stocks requisitioned from GSA are not used through relocation site operations, they should be entered into the agency's normal supply distribution program. Such items that cannot be used in this manner may be considered for return to GSA under the credit return program (Subpart 101-27.5 of this chapter).

(d) *Representative supply items.* The GSA Handbook, Emergency Supply Support Operations, provides a listing of administrative type supply items which represent the general type of items required for relocation site operations.

§ 101-34.103 Logistics Control Centers.

Upon declaration of DEFCON 3 (or in some cases DEFCON 4), GSA will activate Logistics Control Centers (LCC's) at the Central Office and in each region to provide 24-hour continuous service to requisitioning activities. For the benefit of activities which have a requirement to contract GSA on defense supply matters subsequent to declaration of DEFCON 3, the telephone numbers of the LCC's are included in the GSA Handbook, Emergency Supply Support Operations. The

LCC's will provide information on the GSA emergency plans for supply support, monitor high priority requirements to include assistance for specialized procurements and expedited deliveries, determine availability of critically needed items, and offer advice and guidance as necessary.

§ 101-34.104 Agency supply requirements.

To enable GSA to develop plans for providing supply support to agencies under emergency defense conditions, agencies should identify the supply items for which substantial increases are anticipated and mail a consolidated list of these items to the General Services Administration (FX), Washington, D.C. 20406, upon declaration of DEFCON 3. The listing should reflect the Federal stock numbers of the items purchased from or through sources established by GSA and the expected volume and percentage of increases over normal requirements. With this data GSA can, as applicable, alert suppliers of anticipated increases, arrange for increased quantities under present contracts, provide for increased GSA inventories, or develop data on additional sources of supply.

§ 101-34.105 Agency supply liaison.

(a) GSA provides 24-hour supply support service to process emergency or other urgent requirements which arise after normal duty hours. GSA regional offices publish in regional bulletins or notices the names and telephone numbers of persons to contact when such service is desired. If advance information is not available regarding this service, or if any additional information is required, the GSA supply service officer (at the applicable GSA regional office) should be contacted. A map showing GSA regional offices and telephone numbers is printed on the inside back cover of the GSA Handbook, Emergency Supply Support Operations.

(b) At the time of activation of GSA LCC's, the LCC duty officers will establish liaison contact with those agency supply officials on record with GSA to coordinate the functions enumerated in § 101-34.103.

Subpart 101-34.2 is redesignated and § 101-34.200 is added to read as follows:

Subpart 101-34.2—Postattack Defense Emergency Plans

§ 101-34.200 General.

GSA plans and procedures for emergency operations following an attack upon the United States are included in the Code of Emergency Federal Regulations (CEFR). Selected portions of those plans are included in the GSA Handbook, Emergency Supply Support Operations. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective June 30, 1971.

Dated: June 22, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc. 71-9181 Filed 6-29-71; 8:45 am]

SUBCHAPTER H—UTILIZATION AND DISPOSAL PART 101-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Identical Bids

Section 101-45.318 is added to provide that when an invitation for bids for the sale of personal property results in submission of identical bids consideration shall be given to whether adequate price competition was obtained. This amendment is intended to insure that Federal agencies resolicit the sale if the circumstances do not permit a reasonable determination that the price competition was adequate. This amendment is in response to a decision of the Comptroller General (B-169843(1)), dated December 7, 1970.

The table of contents for Part 101-45 is amended by adding new § 101-45.318 as follows:

Sec.
101-45.318 Identical bids.

Section 101-45.318 is added as follows:

Subpart 101-45.3—Sale of Personal Property

§ 101-45.318 Identical bids.

In addition to complying with the requirements of §§ 101-45.316 and 101-45.317, when an invitation for bids for the sale of personal property results in the submission of identical bids, consideration shall be given to whether adequate price competition was obtained. Whether there is adequate price competition for a given sale is a matter of judgment to be based on the circumstances of the sale. If the circumstances do not permit a reasonable determination that the price competition was adequate, the sale should be resolicited.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective June 30, 1971.

Dated: June 22, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.
[FR Doc. 71-9180 Filed 6-29-71; 8:45 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. OPS-5; Amdt. 192-4]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Requirements for Corrosion Control

This amendment establishes a new Subpart I to Part 192 in Title 49, Code of Federal Regulations, containing the minimum Federal safety standards for

the transportation of gas and for pipeline facilities used in this transportation.

On April 30, 1970, the Department issued a notice of proposed rule making, Notice 70-8, containing requirements for corrosion control (35 F.R. 2127, May 6, 1970). Interested persons were invited to participate in the making of the proposed rules by submitting written comments before June 29, 1970.

On June 6, 1970, an amended notice of proposed rule making was published in the FEDERAL REGISTER (Notice 70-10, 35 F.R. 8833) to make certain changes in the proposed rules relating to cast iron and ductile iron pipe. After a request for a public hearing on the requirements of these two notices, a public hearing (see Notice 70-12, 35 F.R. 10596, June 30, 1970) was held on July 20, 1970, and comment was received on the proposed applicability of the requirements to existing pipelines and to cast iron or ductile iron pipe. The information and views presented in the comments and at the hearing have been fully considered, and are reflected in this final rule. Some sections contained in the notice have been consolidated, eliminated, or reorganized and most sections have been renumbered. The deviation table below indicates the corresponding section number in the notice for each section of the final rule.

DERIVATION TABLE

New section	Proposed section
192.451	192.451.
192.453	192.481(b).
192.455	192.453, 192.455, 192.457.
192.457	192.467, 192.469, 192.473.
192.459	192.481(a).
192.461	192.455.
192.463	192.457.
192.465	192.475.
192.467	192.463, 192.465, 192.479.
192.469	192.459, 192.477.
192.471	192.461, 192.477.
192.473	192.491
192.475	192.487
192.477	192.487
192.479	192.489.
192.481	192.489.
192.483	192.481, 192.483, 192.485.
192.485	192.483.
192.487	192.485 (a) and (b).
192.489	192.485(c).
192.491	192.493.

Subpart I differs in many respects from the notice upon which it was based. Some changes were made for consistency in terminology and format. Others involve the moving of requirements from one section to another for better organization. Other changes are substantive in nature and are based both on the comments received on the notice and on the recommendations of the Technical Pipeline Safety Standards Committee. Each of these changes is within the general scope of the notice on which it was based.

A number of recommendations included in the comments were beyond the scope of the proposed regulations, and could therefore not be included in the final rule. However, these recommendations will be considered for inclusion in future rule-making actions.

Some of the comments were directed to the overall effect of Subpart I, and these general subjects are discussed below. All other significant changes and comments are discussed in a section-by-section analysis.

Effective date. Section 3(c) of the Natural Gas Pipeline Safety Act requires that standards and amendments thereto prescribed under the Act "shall become effective 30 days after the date of issuance . . . unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance". The notice invited comment on the adequacy of specific proposed effective dates, both as to whether earlier dates would be in the interest of increased safety and whether later dates are indicated by factors of cost or feasibility.

Besides the numerous comments received on proposed effective dates, the question was discussed with the Technical Pipeline Safety Standards Committee. Accordingly, this regulation will become effective 30 days after the date of issue. However, certain specific provisions will not become applicable at once. The primary reason for allowing additional time for these provisions is that the corrosion regulations are new requirements that were not contained in the interim minimum Federal regulations, and it is desirable to allow appropriate leadtime to all affected parties to receive copies of the new regulation and to thoroughly review its requirements, and to make the necessary preparations and arrangements for compliance. This additional leadtime is contained in provisions relating to cathodic protection of new pipelines (§ 192.455(a)(2)); cathodic protection of existing pipelines (§ 192.457 (a) and (b)); interference currents (§ 192.473); internal corrosion control (§ 192.475); atmospheric corrosion control of existing aboveground pipelines (§ 192.479); and corrosion control records (§ 192.491).

Retroactive effect on existing pipelines. Some comments related to the effect of this regulation on existing pipelines, and suggested the insertion of dates in particular sections to make clear that these sections are not intended to apply to installations, repairs or replacements made before the effective date. (See § 192.455(e) (installation of aluminum); § 192.461 (protective coating); § 192.467 (electrical isolation); and § 192.483 (repaired or replaced pipe).) As stated in the preamble when Part 192 was issued, there is no basis for such concern. The Natural Gas Pipeline Safety Act (section 3(b)) makes clear that only standards applying to the extension, operation, replacement, or maintenance, and subsequent inspection and subsequent testing are applicable to pipeline facilities in existence on the date the standards are adopted.

However, provisions applicable to existing lines need not be limited to cases in which a facility is hazardous to life

or property, as asserted in some comments, but are permissible as part of the regular operation and maintenance requirements for existing lines. The determination of areas of active corrosion on existing pipelines by electrical survey, by study of corrosion and leak history records and by leak detection survey, as well as the application of cathodic protection to such areas, or repaired or replaced areas, and subsequent inspection and testing to determine the adequacy and efficacy of corrosion control, are examples of operation, replacement, maintenance, and subsequent testing and inspection specifically permitted under the Act.

Where a particular section applies only to existing pipelines, that is made clear by use of the phrase "pipelines installed before August 1, 1971". (See §§ 192.457, 192.479(b).)

Distinction between high and low stress pipe; distinction between bare and coated pipe. To be consistent with the previously issued subparts of Part 192, the terms "transmission line" and "distribution line" have been substituted for the phrases "pipelines, mains and service lines operating at 20 percent or more of SMYS", and "pipelines, mains, or service lines operating at less than 20 percent of SMYS", which were used in the notice. Some of the comments maintained that the distinction between high- and low-stress pipe, and between bare and coated pipe, was unjustifiable as a basis for differing corrosion control requirements. However, the problems of cathodically protecting existing distribution lines are different from those of existing transmission lines. Special problems make compliance in the case of the distribution lines more difficult, so more time must be allowed for meeting these requirements. In many cases it is more practical to cathodically protect an existing coated transmission line in its entirety than to survey it for "hot spots" and cathodically protect only those areas where active corrosion is found. Consequently, it is required that effectively coated existing transmission lines be cathodically protected within 3 years of the effective date, but 5 years is allowed for existing bare transmission lines, all distribution lines and all station piping.

Distinction based on type of metal. Special provisions deal with specific metals having unique characteristics, such as copper (§ 192.455(c)(1)), aluminum (§ 192.455(e)), and cast iron and ductile iron (§ 192.489). However, the phrase "steel or aluminum pipeline", as used in the notice, has been eliminated, since there was no intention to exclude other types of metallic pipe such as wrought iron.

Section 192.451. This section, stating the scope of the subpart, has been rewritten. The word "pipeline" has now been substituted for the words "gas pipeline facilities" and "pipelines, mains, service lines, and related facilities" which were used in proposed § 192.451, as well as in many other sections of the notice. As defined in § 192.3, "pipeline" means all

parts of those physical facilities through which gas moves in transportation, including pipes, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies. The second sentence of the proposed scope section in the notice was deleted as unnecessary.

Various suggestions were made that the scope section state that these requirements are for the protection of pipelines from "harmful" corrosion, or corrosion "detrimental to safety", or that it state that it prescribes minimum requirements for the protection of pipelines from corrosion, "consistent with public safety", in order to make clear that not every degree or type of existing corrosion imposes an obligation on the operator to take protective steps. These proposals were deemed unnecessary, since their purpose is accomplished by the definition of "active corrosion" in § 192.457(c) as "continuing corrosion which, unless controlled, could result in a condition that is detrimental to public safety". Moreover, under §§ 192.485, 192.487, and 192.489, remedial action is required only where corrosion is of the degree or extent described in those sections. In addition, cathodic protection of most existing lines is now required only in "areas in which active corrosion is found" (§§ 192.457(b) and 192.465(e)) thus eliminating any implication that an operator must cathodically protect the pipeline in all areas of existing corrosion, even where the operator has not been able to detect it.

Section 192.453. This section, based on proposed § 192.481(b), which applied only to cathodic protection systems, now applies to all procedures to implement the requirements of this subpart, "including those for the design, installation, operation, and maintenance of cathodic protection systems".

Recommendations that some standards be included to assure the competence of the "person qualified by experience and training in pipeline corrosion control methods", or that such a person be qualified under the terms of the accreditation program of the National Association of Corrosion Engineers, were deemed inappropriate at this time. The word "corrosion specialist", suggested as a substitute for the word "person", was thought to be redundant in view of the additional language, "qualified by experience and training in pipeline corrosion control methods". A person so qualified, but not officially designated as a corrosion specialist, should not be precluded from acting under this section.

Section 192.445. Paragraph (a) of § 192.455 requires, with certain exceptions, protection against external corrosion for all newly constructed pipelines, by means of a combination of external protective coating and cathodic protection.

The proposed regulation would have required new buried pipelines to be "cathodically protected not later than 1 year after completion of construction".

Since time must be allowed for the environment to reach a stable level due to changes in soil settling and in oxygen and water content of backfill, before final measurements can be taken to determine adequacy of protection, it is now provided that a properly designed cathodic protection system must be "installed and placed in operation within 1 year". An additional year will then be available under § 192.465 for any adjustments necessary because of changes in the soil following construction.

No differentiation has been made in § 192.455(a) between new transmission and new distribution lines. Except as provided in paragraphs (b) and (c), all new pipelines must be coated and cathodically protected.

New pipe that replaces pipe removed from an existing buried or submerged pipeline because of external corrosion, is covered by § 192.483 (a) and (b), but it should be noted that such new replacement pipe also must be coated and cathodically protected.

Paragraph (b) provides an exception to the requirements of paragraph (a). Many comments recommended that an exception to the coating and cathodic protection requirements, similar to that proposed for new copper pipelines (where the operator can demonstrate by test, investigation or experience in the area of application that a corrosive situation does not exist), should be extended to all new pipelines. This has been done in paragraph (b) of § 192.455, but with additional safeguards. Certain minimum tests for soil resistivity and corrosion accelerating bacteria will be required. These tests are a prerequisite in every instance of an installation made without complying with the requirements of paragraph (a). In addition, within 6 months after such an installation, the operator must conduct tests, including pipe-to-soil potential measurements and soil resistivity measurements at potential profile peak locations, and the pipeline must be cathodically protected in those areas in which the tests indicate a corrosive condition exists.

Paragraph (c) provides an additional exception to the requirements for coating and cathodic protection, for new temporary pipelines, where the operating period of service is not to exceed 5 years beyond installation.

Paragraph (d) provides that even where protection of a new buried pipeline against external corrosion control is not required under one of these exceptions set out in paragraphs (b) or (c), if the pipeline is coated, it must then also be cathodically protected. This is necessary because first leaks can develop sooner on a coated pipeline than they would on the same line left bare, since harmful discharge of current would be concentrated at the breaks in the coating (holidays).

Paragraph (e) of § 192.455 has been modified to incorporate suggested language in regard to installation of aluminum, which is the same as that used in

the 1969 edition of NACE Standard RP-01-69. Comments criticized the term "highly alkaline environment" used in the notice as too vague, and suggested that the use of aluminum should be prohibited in "an environment with a natural pH in excess of 8.0", unless tests indicate its suitability in the particular environment involved.

Finally, it should be noted that no exception to the requirements of § 192.455 is provided for new cast iron or ductile iron. Because of the unique physical characteristics of its corrosion process (graphitization), and because of the normal allowance of extra wall thickness, it was argued in some of the comments and at the hearing on July 20, 1970, that it should not be required that newly installed cast iron or ductile iron be coated and cathodically protected, but that a loose polyethylene wrap should be considered an appropriate coating adequate for proper corrosion control. But moisture and ground water which can enter the loose polyethylene wrap may form a breeding ground for bacteriological corrosion. Moreover, in the event there is a break in the polyethylene wrap and corrosion started, there is no way to apply cathodic protection to prevent further corrosion. The current would be intercepted by the insulating qualities of the polyethylene sheet, and cathodic protection would only reach the metal under the break. The other areas under the wrap that may be corroding from water and access to oxygen would not be cathodically protected. Therefore, new cast iron and ductile iron have not been treated differently from steel and a coating bonded to the pipe and cathodic protection are required.

Section 192.457. Whereas § 192.455, which deals with new pipelines, makes no distinction for corrosion control purposes, between new transmission lines and new distribution lines, generally requiring both to be coated and cathodically protected in the entirety, § 192.457, which applies to existing pipelines, has different requirements for coated transmission lines than for distribution lines.

Several comments pointed out that coated pipe with deteriorated coating that is no longer effective should be treated as bare pipe for corrosion control purposes. Accordingly, the proposed requirement that coated pipelines operating at 20 percent or more of SMYS must be cathodically protected in the entirety within 3 years, now applies only to existing buried or submerged transmission lines that have an effective external coating (§ 192.457(a)). The effectiveness of the coating is to be established by tests to determine the current requirements of the pipeline for cathodic protection. Coating is deemed ineffective if the cathodic protection current requirements are substantially the same as if the pipeline were bare.

Paragraph (b) of § 192.457 provides that except for cast iron or ductile bare transmission lines (including those with ineffective coating), bare or coated station piping, and bare or coated distribu-

tion lines, all must be cathodically protected within 5 years in areas in which active corrosion is found. "Active corrosion" is defined in paragraph (c).

The proposed regulation would have required cathodic protection of existing distribution lines and bare transmission lines within 5 years, "in areas in which corrosion exists". The operator was to determine these areas by electrical survey or other means. There appeared to be some concern in the comments that the proposal contained an absolute requirement that every area of existing corrosion be found and protected against within 5 years. This was apparently felt to be impossible for some distribution lines, since determination of areas of corrosion by electrical survey is often impractical in the case of distribution lines (such as those under paved city streets and sidewalks). This has now been changed to require cathodic protection "in areas in which active corrosion is found", and that areas of active corrosion be determined by electrical survey, or "where electrical survey is impractical, by the study of corrosion and leak history records, by leak detection survey, or by other means". This modified language should make clear that the operator is not obligated to take action concerning active corrosion which cannot be found by the required methods. The operator must conduct electrical surveys in areas where they are practical. In other areas, he must make diligent efforts, utilizing leak surveys, all available records such as corrosion and leak history records, or other appropriate methods, to discover active corrosion. Leak surveys could be made by such commonly used means of leak detection as flame ionization, infrared detectors and combustible gas detectors. If these efforts do not indicate the presence of active corrosion, the operator may assume that none exists, until such time as an actual indication of its existence arises. Moreover, it should be noted that an operator may apply for a waiver if it is shown that justification exists for not meeting the 5-year time period in cathodically protecting "hot spots" found by the methods set out in § 192.457(b).

In summary, § 192.457 now provides that existing, effectively coated transmission lines must be cathodically protected in the entirety within 3 years, while all other existing lines (including bare transmission lines, bare or coated buried station piping operating at above or below 20 percent of SMYS, and bare or coated distribution lines) must be cathodically protected within 5 years in areas in which active corrosion is found. On new construction, § 192.455 provides that all new pipe (both transmission and distribution) must be coated and cathodically protected within 1 year of installation unless the operator can demonstrate that a corrosive environment does not exist.

Section 192.459. The requirement that whenever any buried piping is exposed for any reason it must be examined for evidence of external corrosion has been modified. Comments suggested that it be made clear that this requirement would

not necessitate tearing off good coating to examine the pipe. As the section is rewritten, it requires only that "Whenever an operator has knowledge" that any portion of buried pipeline is exposed, the pipe must be examined for evidence of external corrosion "if the pipe is bare or if the coating is deteriorated".

Section 192.461. This section, dealing with protective coating, has been slightly reworded.

Subparagraph (a)(2) requires a protective external coating to have sufficient adhesion to the metal surface to "effectively resist" (rather than "prevent") underfilm migration of moisture, in response to comments asserting that the coating could not absolutely prevent underfilm migration of water.

Paragraph (c) relating to inspection of coating prior to lowering the pipe and backfilling, now requires repair only of "any damage detrimental to effective corrosion control", since the comments indicated that minor damage often does not require repair.

Paragraph (e) is a new paragraph requiring that precautions be taken to minimize damage to coating during installation by boring or driving. This paragraph, although proposed in Notice 70-3, Subpart H (Customer's Meters, Service Regulators, and Service Lines) as proposed § 192.429(b), was omitted in the final rule for that subpart, since it was considered to be more properly a part of the corrosion subpart.

Section 192.463. Paragraph (a) of this section refers to the criteria for cathodic protection contained in a new Appendix D, rather than to paragraph 6.3 of the 1969 edition of NACE Standard RP-01-69. However, it should be noted that the criteria in the appendix are substantially the same as those in the NACE Standard. In addition, it is now provided that "If none of these criteria is applicable, the cathodic protection system must provide a level of cathodic protection at least equal to that provided by compliance with one or more of these criteria." It was felt that the possibility of an exception should be provided, but that where the criteria are applicable, they should be followed.

In accordance with several suggested comments, paragraph (d) of proposed section 192.457 was deleted as unnecessary, and paragraph (f) of that proposed section has been reworded to eliminate the requirement that the cathodic protection "assure proper performance of the protective coating system", and instead now requires that the amount of cathodic protection must be controlled "so as not to damage the protective coating or the pipe".

Section 192.465. The section on monitoring differs from the proposal in several ways. It applies to monitoring of both new and existing lines. In paragraph (a), offshore pipelines, where monitoring is impractical, have been excepted. The phrase "at intervals not exceeding 12 months" has been changed to "at least once each calendar year, with intervals not exceeding 15 months". The

purpose of the change was to allow seasonal considerations in scheduling annual inspections, and it was felt that 3 months' leeway would provide sufficient flexibility for this purpose.

Instead of requiring that each interference bond be electrically checked for proper performance at intervals not exceeding 2 months, it is now provided in § 192.465(c) that each interference bond "whose failure would jeopardize structure protection", must be electrically checked for proper performance at intervals not exceeding 2 months. Each other interference bond must be checked at least annually, but with intervals not exceeding 15 months.

Section 192.467. This section, entitled "External corrosion control: Electrical isolation", is based on the proposed sections which dealt with electrical insulation on new construction and existing pipelines, and with clearance between pipe and underground structures on new construction.

Paragraph (a) still requires that each buried pipeline must be electrically isolated from other underground metallic structures, but in accordance with suggestions received, it permits an exception if the pipeline and the other structures are electrically interconnected and cathodically protected as a single unit.

Paragraph (b) of § 192.467, requires that an insulating device be installed where electrical isolation of a portion of a pipeline is necessary to facilitate corrosion control. It was felt that this performance-type language is sufficient to cover such specific situations as the necessary insulation of ferrous valves and fittings installed in underground copper service lines.

Paragraph (c) of § 192.467, providing for electrical isolation of the pipeline from metallic casings that are a part of the underground system, now permits other measures to minimize corrosion of the pipeline inside the casing, where isolation is impractical. The additional language was added in response to comments suggesting that this requirement should not apply to a service going through a casing in a cement or masonry wall, where the casing is above ground. Other measures that may be taken include placing a noncorrosive casing filler made of high dielectric material in the annular space between the pipe and casing.

Paragraph (f) concerning protection against damage due to fault currents and lightning now refers to "areas where fault currents or unusual risk of lightning may be anticipated".

Proposed § 192.463(e) has been eliminated as unnecessary, since the specific situations described in that paragraph are covered by the more performance-oriented type of language of § 192.467 (a) and (b).

Section 192.473. This section now requires that after July 31, 1973, each operator whose pipeline system is subjected to stray currents must have a continuing program to minimize the detrimental effects of such currents.

Comments indicated that the 12-month leadtime originally proposed was insufficient for the acquisition of manpower and equipment for such a program.

Sections 192.475 and 192.477. These sections are essentially the same as proposed. However, paragraph (c) of § 192.475, providing that gas containing more than 0.1 grain of hydrogen sulfide per 100 standard cubic feet may not be stored in pipe-type or bottle-type holders, is newly added. It was originally proposed as part of Notice 70-7, Subpart D (Design of Piping System Components and Facilities), as proposed § 192.168(b), but was not included in Subpart D, since it was considered to be more appropriately within the corrosion subpart.

In response to comments, § 192.477 makes clear that coupons are required only "if corrosive gas is being transported". However, it should be noted that § 192.475(b) applies also in cases where corrosive gas is not being transported, but internal corrosion is caused by other factors.

Sections 192.479 and 192.481. The sections on atmospheric corrosion control have been completely rewritten. The proposal would have required all new and existing steel, cast iron and ductile iron aboveground pipelines to be coated or jacketed within 1 year for the prevention of atmospheric corrosion. This requirement would have applied to aluminum and copper pipe only when exposed to an atmospheric environment corrosive to those metals.

The comments objected to the 1 year time limitation as insufficient, and also suggested that coating only be required where atmospheric corrosion was actually taking place. While § 192.479(a), applying to newly installed aboveground pipelines, still requires that such pipelines be cleaned and coated with a material suitable for the prevention of atmospheric corrosion, it now also allows for an exception to this requirement if the operator can demonstrate by tests, investigation or experience in the area of application that a corrosive atmosphere does not exist.

Paragraph (b), applying to existing aboveground pipelines, now requires that they be cleaned and coated within 3 years, but only in areas where atmospheric corrosion has taken place on the pipeline.

Section 192.481 requires that at intervals not exceeding 3 years, aboveground pipelines must be reevaluated and necessary action taken to maintain protection against atmospheric corrosion.

Section 192.483. This section on general remedial measures requires that all new replacement pipe installed because of external corrosion (including cast iron or ductile iron) must be coated and cathodically protected, as is required for new pipelines in § 192.455(a). The exception to these requirements allowed for new pipelines in § 192.455(b) (where the operator can demonstrate that a corrosive environment does not exist), would not apply to replacement pipe, where

replacement is necessitated by external corrosion, since it would normally be impossible to make such a demonstration. However, it should be noted that if copper pipe is used to replace corroded steel, cast iron or ductile iron, the provisions of § 192.455(c) (2) might permit the use of uncoated copper replacement without cathodic protection, in the highly unlikely event that the operator could demonstrate by test that the environment (which had been corrosive to the other metals) was not corrosive to copper.

Except for repaired cast iron or ductile iron, a segment of buried pipe that is repaired because of external corrosion must be cathodically protected. Repaired cast iron and ductile iron are excepted from the cathodic protection requirement because the density of cathodic protection current, as normally provided by galvanic anodes, is not sufficient to reach the cast iron beneath the graphitized surface so as to prevent further graphitization. Current of such low density from such low electromotive force collects on the graphitized area and continues through adjacent cast iron and back to the galvanic anode source without providing protection.

It should be noted that at this time, the regulations are not requiring that repaired pipe be coated in every case, since it is not always practical to do so, especially where the repair is in a very small area, or on a bare pipeline. However, where the repaired segment is part of an effectively coated pipeline, the repaired area would also have to be coated.

The proposed regulation provided that generally corroded pipe would not need to be replaced or repaired if the operating pressure were reduced so as to be commensurate with the specified limits on operating pressure based on the actual remaining wall thickness. That option is retained in § 192.485(a) covering general corrosion on transmission lines. However, § 192.487(a) dealing with general corrosion on distribution lines does not provide the option of reducing operating pressure instead of replacing the pipe. Since such lines are already operating at low pressure, the reduction of pressure would be meaningless. In this connection, it should be noted that the minimum percentage of remaining wall thickness required in such cases is not contingent on internal pressure (hoop stress) but on external loads.

Sections 192.485 and 192.487. The proposed regulations dealing with remedial measures for isolated corrosion pitting were the subject of considerable comment. Based on the information available at this time, the Department has developed the following regulations which are considered adequate to protect the public:

§ 192.485 Remedial measures: transmission lines.

(b) *Localized corrosion pitting.* Each segment of transmission line pipe with localized corrosion pitting must be replaced or repaired, or the operating pressure must be reduced based on the actual remaining wall

thickness in the pits, if either of the following exists:

(1) The diameter of the pits as measured at the surface of the pipe is greater than three times the nominal wall thickness of the pipe.

(2) The remaining wall thickness at the bottom of the pits is less than 30 percent of the nominal wall thickness.

§ 192.487 Remedial measures: distribution lines other than cast iron or ductile iron lines.

(b) *Localized corrosion pitting.* Except for cast iron or ductile iron pipe, each segment of distribution line pipe with localized corrosion pitting must be replaced or repaired if either of the following exists:

(1) The diameter of the pits, as measured at the surface of the pipe, is greater than five times the nominal wall thickness of the pipe.

(2) The remaining wall thickness at the bottom of the pits is less than 20 percent of the nominal wall thickness.

However, we are aware that the completion of research now going on is anticipated in the near future, on the subject of the effect of pitting on the integrity of pipe, requiring repair or replacement for the protection of the public. Accordingly, the Department intends to delay the issuance of these regulations on localized corrosion pitting, in order to hold a public hearing on July 20, 1971, to explore the problem further. (See p. 12309 of this issue.) This will give interested persons an opportunity to present new material or to demonstrate that the criteria set out above are inappropriate.

In issuing this rule, the Department has included general criteria on corrosion pitting in § 192.485(b) and 192.487(b) as interim regulations. These interim regulations give the operator discretion to determine the severity of pitting that requires remedial action.

Unless the hearing discloses information indicating other criteria are more appropriate, the regulations set forth above in this preamble will be substituted for the interim provisions within 60 to 90 days from the effective date of this regulation.

Section 192.491. The comments on this provision urged that construction drawings and records should not both be required, and that records or drawings should not be required as to all neighboring structures. In response to these comments, § 192.491(a) now requires that "records or maps" be maintained to show the location of cathodically protected piping, cathodic protection facilities "other than unrecorded galvanic anodes installed prior to August 1, 1971", and neighboring structures that are "bonded to" the cathodic protection system.

In response to other comments urging that the retention of all records of tests, surveys, and inspections is unnecessary and unduly burdensome, paragraph (b) now provides for retention only of records, tests, and inspections in sufficient

detail to demonstrate the adequacy of corrosion control measures, or, in the case of unprotected pipelines, that a corrosive condition does not exist.

Appendix D. An appendix has been added, setting out criteria for cathodic protection required by § 192.463(a), and methods of determining such measurements as voltage, voltage shifts, and polarization voltage shifts. These criteria and methods of measurement are based on the 1969 issue of the National Association of Corrosion Engineers' Standard RP-01-69, Recommended Practice—Control of External Corrosion on Underground or Submerged Metallic Piping Systems.

Report of Technical Pipeline Safety Standards Committee. Section 4 of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicality of each such proposal". This amendment to Part 192 has been submitted to the Technical Committee and that Committee has submitted a favorable report. The Committee's report and the minority views of the Committee member who disagreed with the majority report are set forth below.

JUNE 21, 1971.

Memorandum to: The Secretary of Transportation, Attention: Joseph C. Caldwell, Acting Director Office of Pipeline Safety.
From: Secretary, Technical Pipeline Safety Standards Committee.
Subject: Office of Pipeline Safety Proposed Requirements For Corrosion Control (Part 192, Subpart I).

The following letter and attachments represent an official report by the Technical Pipeline Safety Standards Committee concerning the Committee action related to "Requirements for Corrosion Control (Part 192, Subpart I)" which the Office of Pipeline Safety proposes to adopt as a part of Minimum Federal Safety Standards: Transportation of Natural and Other Gas by Pipeline.

The Committee reviewed proposals of the Office of Pipeline Safety at a meeting held on April 13-14, 1971, and through an informal ballot procedure recommended modification to the OPS proposed regulations. The Office of Pipeline Safety considered the recommendations of the Technical Committee and prepared a revised draft regulation which reflected recommendations of the Committee. The revised draft regulation accompanied by a "Discussion of Technical Committee Recommendations" prepared by OPS was distributed to the membership of the Committee on May 4, 1971, by the undersigned together with a formal letter-ballot.

The results of the letter-ballot as finally tabulated reveal that 13 members of the Committee approved the proposed regulation as being technically feasible, reasonable and practicable. One member disapproved the proposed regulation.

Attached, as Item A, are the minority views expressed by the dissenting Committee member.

Also attached, as Item B, is a summary of views expressed by Committee members who voted in favor of the proposed regulation but disagreed with minor specifics.

LOUIS W. MENDONSA.

EXPLANATION OF THE DISAPPROVAL BY FREDERIC A. LANG OF THE PROPOSED MAJORITY REPORT ON THE PROPOSED PART 192 SUBPART I "REQUIREMENTS FOR CORROSION CONTROL."

As a member of the Technical Pipeline Safety Standards Committee, I disapprove of the proposed majority report because it is less than adequate for providing safety to the public living beside gas pipelines, distribution lines, and mains.

Design and operation of pipelines as regulated by Federal Pipeline Safety Standards Part 192 already issued except for this Subpart I, does not contemplate any weakening of the pipe wall by corrosion, therefore, the "Requirements of Corrosion Control" as proposed, should guarantee, within practical limits, that corrosion does not occur. Unfortunately, the regulations as drafted are less than adequate to prevent a dangerous degree of corrosion.

My comments on the need for better corrosion control appear in the transcript of the Committee meetings held April 13 and 14, 1971, to discuss the proposed regulation. In summary, my recommendations are that cathodic protection be used on all piping at all times to prevent corrosion and that scientifically designed sampling be used to determine whether corrosion has occurred. When corrosion has occurred the piping should be replaced or downrated in accordance with the remaining wall thickness available to contain the pressurized gas.

FREDERIC A. LANG.

This regulation is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. § 1671 et. seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

In consideration of the foregoing, a new Subpart I is added to Part 192 of Title 49 of the Code of Federal Regulations, effective August 1, 1971, to read as set forth below.

Issued in Washington, D.C., on June 25, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

Subpart I—Requirements for Corrosion Control

Sec.
192.451 Scope.
192.453 General.
192.455 External corrosion control: buried or submerged pipelines installed after July 31, 1971.
192.457 External corrosion control: buried or submerged pipelines installed before August 1, 1971.
192.459 External corrosion control: examination of buried pipeline when exposed.
192.461 External corrosion control: protective coating.
192.463 External corrosion control: cathodic protection.
192.465 External corrosion control: monitoring.
192.467 External corrosion control: electrical isolation.
192.469 External corrosion control: test stations.
192.471 External corrosion control: Test leads.

- Sec.
192.473 External corrosion control: interference currents.
192.475 Internal corrosion control: general.
192.477 Internal corrosion control: monitoring.
192.479 Atmospheric corrosion control: general.
192.481 Atmospheric corrosion control: monitoring.
192.483 Remedial measures: general.
192.485 Remedial measures: transmission lines.
192.487 Remedial measures: distribution lines other than cast iron or ductile iron lines.
192.489 Remedial measures: cast iron and ductile iron pipelines.
192.491 Corrosion control records.
Appendix D—Criteria for cathodic protection and determination of measurements.

AUTHORITY: The Provisions of this Subpart I issued under Natural Gas Pipeline Act of 1968 (49 U.S.C. sec. 1671 et seq., Part I regulations of Office of the Secretary of Transportation, 49 CFR Part I, and delegation of authority to Director, Office of Pipeline Safety, 33 F.R. 16468.

Subpart I—Requirements for Corrosion Control

§ 192.451 Scope.

This subpart prescribes minimum requirements for the protection of metallic pipelines from external, internal, and atmospheric corrosion.

§ 192.453 General.

Each operator shall establish procedures to implement the requirements of this subpart. These procedures, including those for the design, installation, operation, and maintenance of cathodic protection systems, must be carried out by, or under the direction of, a person qualified by experience and training in pipeline corrosion control methods.

§ 192.455 External corrosion control: buried or submerged pipelines installed after July 31, 1971.

(a) Except as provided in paragraphs (b) and (c) of this section, each buried or submerged pipeline installed after July 31, 1971 must be protected against external corrosion, including the following:

- (1) It must have an external protective coating meeting the requirements of § 192.46.
- (2) It must have a cathodic protection system designed to protect the pipeline in its entirety in accordance with this subpart, installed and placed in operation within one year after completion of construction.

(b) An operator need not comply with paragraph (a) of this section, if the operator can demonstrate by tests, investigation, or experience in the area of application, including, as a minimum, soil resistivity measurements and tests for corrosion accelerating bacteria, that a corrosive environment does not exist. However, within 6 months after an installation made pursuant to the preceding sentence, the operator shall conduct tests, including pipe-to-soil potential measurements with respect to either a

continuous reference electrode or an electrode using close spacing, not to exceed 20 feet, and soil resistivity measurements at potential profile peak locations, to adequately evaluate the potential profile along the entire pipeline. If the tests made indicate that a corrosive condition exists, the pipeline must be cathodically protected in accordance with paragraph (a) (2) of this section.

(c) An operator need not comply with paragraph (a) of this section, if the operator can demonstrate by tests, investigation, or experience that—

- (1) For a copper pipeline, a corrosive environment does not exist; or
- (2) For a temporary pipeline with an operating period of service not to exceed 5 years beyond installation, corrosion during the 5-year period of service of the pipeline will not be detrimental to public safety.

(d) Notwithstanding the provisions of paragraph (b) or (c) of this section, if a pipeline is externally coated, it must be cathodically protected in accordance with paragraph (a) (2) of this section.

(e) Aluminum may not be installed in a buried or submerged pipeline if that aluminum is exposed to an environment with a natural pH in excess of 8, unless tests or experience indicate its suitability in the particular environment involved.

§ 192.457 External corrosion control: buried or submerged pipelines installed before August 1, 1971.

(a) Except for buried piping at compressor, regulator, and measuring stations, each buried or submerged transmission line installed before August 1, 1971, that has an effective external coating must, not later than August 1, 1974, be cathodically protected along the entire area that is effectively coated, in accordance with this subpart. For the purposes of this subpart, a pipeline does not have an effective external coating if its cathodic protection current requirements are substantially the same as if it were bare. The operator shall make tests to determine the cathodic protection current requirements.

(b) Except for cast iron or ductile iron, each of the following buried or submerged pipelines installed before August 1, 1971, must, not later than August 1, 1976, be cathodically protected in accordance with this subpart in areas in which active corrosion is found:

- (1) Bare or ineffectively coated transmission lines.
- (2) Bare or coated pipes at compressor, regulator, and measuring stations.

(3) Bare or coated distribution lines. The operator shall determine the areas of active corrosion by electrical survey, or where electrical survey is impractical, by the study of corrosion and leak history records, by leak detection survey, or by other means.

(c) For the purpose of this subpart, active corrosion means continuing corrosion which, unless controlled, could result in a condition that is detrimental to public safety.

§ 192.459 External corrosion control: examination of buried pipeline when exposed.

Whenever an operator has knowledge that any portion of a buried pipeline is exposed, the exposed portion must be examined for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion is found, remedial action must be taken to the extent required by § 192.483 and the applicable paragraphs of §§ 192.485, 192.487, or 192.489.

§ 192.461 External corrosion control: protective coating.

(a) Each external protective coating, whether conductive or insulating, applied for the purpose of external corrosion control must—

- (1) Be applied on a properly prepared surface;

(2) Have sufficient adhesion to the metal surface to effectively resist underfilm migration of moisture;

(3) Be sufficiently ductile to resist cracking;

(4) Have sufficient strength to resist damage due to handling and soil stress; and

(5) Have properties compatible with any supplemental cathodic protection.

(b) Each external protective coating which is an electrically insulating type must also have low moisture absorption and high electrical resistance.

(c) Each external protective coating must be inspected just prior to lowering the pipe into the ditch and backfilling, and any damage detrimental to effective corrosion control must be repaired.

(d) Each external protective coating must be protected from damage resulting from adverse ditch conditions or damage from supporting blocks.

(e) If coated pipe is installed by boring, driving, or other similar method, precautions must be taken to minimize damage to the coating during installation.

§ 192.463 External corrosion control: cathodic protection.

(a) Each cathodic protection system required by this subpart must provide a level of cathodic protection that complies with one or more of the applicable criteria contained in Appendix D of this subpart. If none of these criteria is applicable, the cathodic protection system must provide a level of cathodic protection at least equal to that provided by compliance with one or more of these criteria.

(b) If amphoteric metals are included in a buried or submerged pipeline containing a metal of different anodic potential—

- (1) The amphoteric metals must be electrically isolated from the remainder of the pipeline and cathodically protected; or

(2) The entire buried or submerged pipeline must be cathodically protected at a cathodic potential that meets the requirements of Appendix D of this part for amphoteric metals.

(c) The amount of cathodic protection must be controlled so as not to damage the protective coating or the pipe.

§ 192.465 External corrosion control: monitoring.

(a) Except where impractical on offshore pipelines, each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected service lines or short sections of protected mains, not in excess of 100 feet, these service lines and mains may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

(b) At intervals not exceeding 2 months, each cathodic protection rectifier or other impressed current power source must be inspected to ensure that it is operating.

(c) At intervals not exceeding 2 months, each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection, must be electrically checked for proper performance. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months.

(d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

(e) After the initial evaluation required by paragraphs (b) and (c) of § 192.455 and paragraph (b) of § 192.457, each operator shall, at intervals not exceeding 3 years, reevaluate its unprotected pipelines and cathodically protect them in accordance with this subpart in areas in which active corrosion is found. The operator shall determine the areas of active corrosion by electrical survey, or where electrical survey is impractical, by the study of corrosion and leak history records, by leak detection survey, or by other means.

§ 192.467 External corrosion control: electrical isolation.

(a) Each buried or submerged pipeline must be electrically isolated from other underground metallic structures, unless the pipeline and the other structures are electrically interconnected and cathodically protected as a single unit.

(b) An insulating device must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.

(c) Except for unprotected copper inserted in ferrous pipe, each pipeline must be electrically isolated from metallic casings that are a part of the underground system. However, if isolation is not achieved because it is impractical, other measures must be taken to minimize corrosion of the pipeline inside the casing.

(d) Inspection and electrical tests must be made to assure that electrical isolation is adequate.

(e) An insulating device may not be installed in an area where a combustible atmosphere is anticipated unless precautions are taken to prevent arcing.

(f) Where a pipeline is located in close proximity to electrical transmission tower footings, ground cables or counterpoise, or in other areas where fault currents or unusual risk of lightning may be anticipated, it must be provided with protection against damage due to fault currents or lightning, and protective measures must also be taken at insulating devices.

§ 192.469 External corrosion control: test stations.

Except where impractical on offshore and wet marsh area pipelines, each pipeline under cathodic protection required by this subpart must have sufficient test stations or other contact points for electrical measurement to determine the adequacy of cathodic protection.

§ 192.471 External corrosion control: test leads.

(a) Each test lead wire must be connected to the pipeline so as to remain mechanically secure and electrically conductive.

(b) Each test lead wire must be attached to the pipeline so as to minimize stress concentration on the pipe.

(c) Each bared test lead wire and bared metallic area at point of connection to the pipeline must be coated with an electrical insulating material compatible with the pipe coating and the insulation on the wire.

§ 192.473 External corrosion control: interference currents.

(a) After July 31, 1973, each operator whose pipeline system is subjected to stray currents shall have in effect a continuing program to minimize the detrimental effects of such currents.

(b) Each impressed current type cathodic protection system or galvanic anode system must be designed and installed so as to minimize any adverse effects on existing adjacent underground metallic structures.

§ 192.475 Internal corrosion control: general.

(a) After July 31, 1972, corrosive gas may not be transported by pipeline, unless the corrosive effect of the gas on the pipeline has been investigated and steps have been taken to minimize internal corrosion.

(b) Whenever any pipe is removed from a pipeline for any reason, the internal surface must be inspected for evidence of corrosion. If internal corrosion is found—

- (1) The adjacent pipe must be investigated to determine the extent of internal corrosion;

(2) Replacement must be made to the extent required by the applicable paragraphs of § 192.485, § 192.487, or § 192.489; and

(2) Steps must be taken to minimize the internal corrosion.

(c) Gas containing more than 0.1 grain of hydrogen sulfide per 100 standard cubic feet may not be stored in pipe-type or bottle-type holders.

§ 192.477 Internal corrosion control: monitoring.

If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. After July 31, 1972, each coupon or other means of monitoring internal corrosion must be checked at intervals not exceeding 6 months.

§ 192.479 Atmospheric corrosion control: general.

(a) Pipelines installed after July 31, 1971. Each aboveground pipeline or portion of a pipeline installed after July 31, 1971 that is exposed to the atmosphere must be cleaned and either coated or jacketed with a material suitable for the prevention of atmospheric corrosion. An operator need not comply with this paragraph, if the operator can demonstrate by test, investigation, or experience in the area of application, that a corrosive atmosphere does not exist.

(b) Pipelines installed before August 1, 1971. Not later than August 1, 1974, each operator having an aboveground pipeline or portion of a pipeline installed before August 1, 1971 that is exposed to the atmosphere, shall—

- (1) Determine the areas of atmospheric corrosion on the pipeline;

(2) If atmospheric corrosion is found, take remedial measures to the extent required by the applicable paragraphs of §§ 192.485, 192.487, or 192.489; and

(3) Clean and either coat or jacket the areas of atmospheric corrosion on the pipeline with a material suitable for the prevention of atmospheric corrosion.

§ 192.481 Atmospheric corrosion control: monitoring.

After meeting the requirements of paragraphs (a) and (b) of § 192.479, each operator shall, at intervals not exceeding 3 years, reevaluate its aboveground pipelines or portions of pipelines that are exposed to the atmosphere and take remedial action wherever necessary to maintain protection against atmospheric corrosion.

§ 192.483 Remedial measures: general.

(a) Each segment of metallic pipe that replaces pipe removed from a buried or submerged pipeline because of external corrosion must have a properly prepared surface and must be provided with an external protective coating that meets the requirements of § 192.461.

(b) Each segment of metallic pipe that replaces pipe removed from a buried or submerged pipeline because of external corrosion must be cathodically protected in accordance with this subpart.

(c) Except for cast iron or ductile iron pipe, each segment of buried or submerged pipe that is required to be repaired because of external corrosion must

be cathodically protected in accordance with this subpart.

§ 192.485 Remedial measures: transmission lines.

(a) *General corrosion.* Each segment of transmission line pipe with general corrosion and with a remaining wall thickness less than that required for the maximum allowable operating pressure of the pipeline, must be replaced or the operating pressure reduced commensurate with the actual remaining wall thickness. However, if the area of general corrosion is small, the corroded pipe may be repaired. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

(b) *Localized corrosion pitting.* Each segment of transmission line pipe with localized corrosion pitting to a degree where leakage might result must be replaced or repaired, or the operating pressure must be reduced commensurate with the strength of the pipe, based on the actual remaining wall thickness in the pits.

§ 192.487 Remedial measures: distribution lines other than cast iron or ductile iron lines.

(a) *General corrosion.* Except for cast iron or ductile iron pipe, each segment of generally corroded distribution line pipe with a remaining wall thickness less than that required for the maximum allowable operating pressure of the pipeline, or a remaining wall thickness less than 30 percent of the nominal wall thickness, must be replaced. However, if the area of general corrosion is small, the corroded pipe may be repaired. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

(b) *Localized corrosion pitting.* Except for cast iron or ductile iron pipe, each segment of distribution line pipe with localized corrosion pitting to a degree where leakage might result must be replaced or repaired.

§ 192.489 Remedial measures: cast iron and ductile iron pipelines.

(a) *General graphitization.* Each segment of cast iron or ductile iron pipe on which general graphitization is found to a degree where a fracture or any leakage might result, must be replaced.

(b) *Localized graphitization.* Each segment of cast iron or ductile iron pipe on which localized graphitization is found to a degree where any leakage might result, must be replaced or repaired, or sealed by internal sealing methods adequate to prevent or arrest any leakage.

§ 192.491 Corrosion control records.

(a) After July 31, 1972, each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, other than unrecorded/galvanic anodes

installed before August 1, 1971, and neighboring structures bonded to the cathodic protection system.

(b) Each of the following records must be retained for as long as the pipeline remains in service:

(1) Each record or map required by paragraph (a) of this section.

(2) Records of each test, survey, or inspection required by this subpart, in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist.

APPENDIX D—CRITERIA FOR CATHODIC PROTECTION AND DETERMINATION OF MEASUREMENTS

I. Criteria for cathodic protection—A. Steel, cast iron, and ductile iron structures.

(1) A negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-copper sulfate half cell. Determination of this voltage must be made with the protective current applied, and in accordance with sections II and IV of this appendix.

(2) A negative (cathodic) voltage shift of at least 300 millivolts. Determination of this voltage shift must be made with the protective current applied, and in accordance with sections II and IV of this appendix. This criterion of voltage shift applies to structures not in contact with metals of different anodic potentials.

(3) A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with sections III and IV of this appendix.

(4) A voltage at least as negative (cathodic) as that originally established at the beginning of the Tafel segment of the E-log-I curve. This voltage must be measured in accordance with section IV of this appendix.

(5) A net protective current from the electrolyte into the structure surface as measured by an earth current technique applied at predetermined current discharge (anodic) points of the structure.

B. *Aluminum structures.* (1) Except as provided in subparagraphs (3) and (4) of this paragraph, a minimum negative (cathodic) voltage shift of 150 millivolts, produced by the application of protective current. The voltage shift must be determined in accordance with sections II and IV of this appendix.

(2) Except as provided in subparagraphs (3) and (4) of this paragraph, a minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with sections III and IV of this appendix.

(3) Notwithstanding the alternative minimum criteria in subparagraphs (1) and (2) of this paragraph, aluminum, if cathodically protected at voltages in excess of 1.20 volts as measured with reference to a copper-copper sulfate half cell, in accordance with section IV of this appendix, and compensated for the voltage (IR) drops other than those across the structure-electrolyte boundary, may suffer corrosion resulting from the build-up of alkali on the metal surface. A voltage in excess of 1.20 volts may not be used unless previous test results indicate no appreciable corrosion will occur in the particular environment.

(4) Since aluminum may suffer from corrosion under high pH conditions, and since application of cathodic protection tends to increase the pH at the metal surface, careful investigation or testing must be made before applying cathodic protection to stop pitting attack on aluminum structures in environments with a natural pH in excess of 8.

C. *Copper structures.* A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with sections III and IV of this appendix.

D. *Metals of different anodic potentials.* A negative (cathodic) voltage, measured in accordance with section IV of this appendix equal to that required for the most anodic metal in the system must be maintained. If amphoteric structures are involved that could be damaged by high alkalinity covered by subparagraphs (3) and (4) of paragraph B of this section, they must be electrically isolated with insulating flanges, or the equivalent.

II. *Interpretation of voltage measurement.* Voltage (IR) drops other than those across the structure-electrolyte boundary must be considered for valid interpretation of the voltage measurement in paragraph A(1) and (2) and paragraph B(1) of section I of this appendix.

III. *Determination of polarization voltage shift.* The polarization voltage shift must be determined by interrupting the protective current and measuring the polarization decay. When the current is initially interrupted, an immediate voltage shift occurs. The voltage reading after the immediate shift must be used as the base reading from which to measure polarization decay in paragraphs A(3), B(2), and C of section I of this appendix.

IV. *Reference half cells.* A. Except as provided in paragraphs B and C of this section, negative (cathodic) voltage must be measured between the structure surface and a saturated copper-copper sulfate half cell contacting the electrolyte.

B. Other standard reference half cells may be substituted for the saturated copper-copper sulfate half cell. Two commonly used reference half cells are listed below along with their voltage equivalent to -0.85 volt as referred to a saturated copper-copper sulfate half cell:

(1) Saturated KCl calomel half cell: -0.78 volt.

(2) Silver-silver chloride half cell used in sea water: -0.80 volt.

C. In addition to the standard reference half cells, an alternate metallic material or structure may be used in place of the saturated copper-copper sulfate half cell if its potential stability is assured and if its voltage equivalent referred to a saturated copper-copper sulfate half cell is established.

[FR Doc.71-9221 Filed 6-29-71; 8:48 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1051; Amdt. 2]

PART 1033—CAR SERVICE

Distribution of Privately Owned Coal Cars

At a Session of the Interstate Commerce Commission, held in Washington, D.C., on the 24th day of June 1971.

Upon further consideration of Service Order No. 1051 (35 F.R. 16088, 36 F.R. 64) and good cause appearing therefor:

It is ordered, That: § 1033.1051 Service Order No. 1051 be, and it is hereby, amended by substituting the following

paragraph (f) for paragraph (f) thereof:

§ 1033.1051 Service Order No. 1051.

(f) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.
[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9232 Filed 6-29-71; 8:49 am]

[Service Order No. 1075]

PART 1033—CAR SERVICE

Distribution of Refrigerator Cars

At a Session of the Interstate Commerce Commission, Railroad Service Board held in Washington, D.C., on the 24th day of June 1971.

It appearing, that an acute shortage of mechanical refrigerator cars exists in the areas served by the Southern Pacific Transportation Co. and the Union Pacific Railroad Co., and that shippers served by the Southern Pacific Transportation Co. and the Union Pacific Railroad Co. are being deprived of such cars required for loading perishable products, creating a great economic loss; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of such mechanical refrigerator cars owned by the Pacific Fruit Express Co., a wholly owned subsidiary of the Southern Pacific Transportation Co. and the Union Pacific Railroad Co. are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1075 Service Order No. 1075.

(a) *Distribution of refrigerator cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service.

(1) Withdraw from distribution and return to owners empty, except as otherwise provided in subparagraphs (2) and (3) of this paragraph, all mechanical refrigerator cars owned by the Pacific Fruit Express Co. which are listed in the Official Railway Equipment Register, ICC R.E.R. 379, issued by E. J. McFarland, or successive issues thereof, in the registrations of the companies named herein as having mechanical designations RP, RPL, and RPM and which bear the identification marks shown:

Pacific Fruit Express Co., Identification marks—PFPE.
Southern Pacific Transportation Co., Identification marks—SPFE.
Union Pacific Railroad Co., Identification marks—UPFE.

(2) Pacific Fruit Express Co. refrigerator cars, described in subparagraph (1) of this paragraph, available empty at a station other than a junction with the Southern Pacific Transportation Co. or Union Pacific Railroad Co., may be loaded with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, ICC No. 37, issued by J. D. Sutherland, supplements thereto or reissues thereof, if destined to any station on or routed via the Southern Pacific Transportation Co. or the Union Pacific Railroad Co.

(3) Pacific Fruit Express Co. refrigerator cars described in subparagraph (1) of this paragraph available empty at a junction with the Southern Pacific Transportation Co. or with the Union Pacific Railroad Co. must be delivered at that junction to either the Southern Pacific Transportation Co. or the Union Pacific Railroad Co., as directed by the Pacific Fruit Express Co., and regardless of identification marks of the individual cars, either empty or loaded with freight requiring protection from heat or cold, and subject to the provisions of Perishable Protective Tariff 18, ICC No. 37, issued by J. D. Sutherland, supplements thereto or reissues thereof.

(4) Pacific Fruit Express Co. refrigerator cars described in subparagraph (1) of this paragraph available empty at stations on the Southern Pacific Transportation Co. or the Union Pacific Railroad Co. shall be loaded only with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, ICC No. 37, issued by J. D. Sutherland, supplements thereto or reissues thereof. Exception: Cars with defective mechanical refrigeration units which the Pacific Fruit Express Co. certifies cannot be repaired and placed in operating condition within 30 days. The certification provided herein shall be made to R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C.

(5) Pacific Fruit Express Co. refrigerator cars, described in subparagraph (1) of this paragraph, must not be backhauled empty, or held empty more than 24 hours awaiting placement for loading for the purpose of obtaining a load as authorized in subparagraphs (2) and (3) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 11:59 p.m., June 28, 1971.

(d) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, 17(2). Interprets or applies secs. 1 (10-17), 15(4), 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), 17(2).)

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.71-9233 Filed 6-29-71; 8:49 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Inter-American Social Development Institute

Section 213.3320 is amended to show that one position of Chauffeur to the Executive Director is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-30-71), paragraph (e) is added to § 213.3320 as set out below.

§ 213.3320 Inter-American Social Development Institute.

(e) One Chauffeur to the Executive Director.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58, p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-9197 Filed 6-29-71; 8:46 am]

PART 213—EXCEPTED SERVICE**Executive Office of the President**

Section 213.3103 is amended to show that in the Council on Environmental Quality the Schedule A exception of professional and technical positions in grades GS-13 through 15 will be continued without time limitation. It is also amended to show that the temporary Schedule A exception of professional and technical positions in grades GS-11 and 12 will expire by its own terms on June 30, 1971.

Effective on publication in the FEDERAL REGISTER (6-30-71), subparagraph (1) of paragraph (c) of § 213.3103 is amended as set out below.

§ 213.3103 Executive Office of the President.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS-13 through 15 on the staff of the Council.

(5 U.S.C. §§ 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc. 71-9352 Filed 6-29-71; 8:50 am]

RULES AND REGULATIONS**PART 213—EXCEPTED SERVICE****Department of Agriculture**

Section 213.3113 is amended to remove the June 30, 1971, limitation on the authority to make new Schedule A appointment to certain temporary positions whose principal duties involve the distribution of foods to needy families at Federal Commodity Distribution Centers. The authority may be used only to replace employees on the rolls as of June 30, 1971, or their successors.

§ 213.3113 Department of Agriculture.

(j) *Food and Nutrition Service.* (1) Temporary positions in grade GS-4 and below, and the wage system equivalents, whose principal duties involve the distribution of food to needy families at Federal Commodity Distribution Centers. After June 30, 1971, appointments under this authority may be made only to replace employees on the rolls as of that date, or their successors.

(5 U.S.C. §§ 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc. 71-9350 Filed 6-29-71; 8:50 am]

PART 213—EXCEPTED SERVICE**Civil Aeronautics Board**

Section 213.3340 is amended to show that the position of Special Assistant to the Chairman is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-30-71), paragraph (d) is added to § 213.3340 as set out below.

§ 213.3340 Civil Aeronautics Board.

(d) One Special Assistant to the Chairman.

(5 U.S.C. §§ 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc. 71-9351 Filed 6-29-71; 8:50 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE**Consumer and Marketing Service****[7 CFR Part 948]****IRISH POTATOES GROWN IN COLORADO****Proposed Limitation of Shipments**

Consideration is being given to the issuance of the limitation of shipments regulation, hereinafter set forth, which was recommended by the Area Committee for Area No. 3, Colorado, established pursuant to Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948). This marketing order program regulates the handling of Irish potatoes grown in the State of Colorado and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations of the committee reflect its appraisal of the composition of the 1971 crop in Area No. 3 and of the marketing prospects for this season. Harvesting is expected to begin on or about July 15 so the regulation should become effective on that date.

The grade, size, and quality requirements provided herein are necessary to prevent potatoes of lesser maturities, or those that are of undesirable sizes, or below grade from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop, and maximize returns to producers for the preferred quality and sizes.

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 10 days after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed rules are as follows:

§ 948.365 Limitation of shipments.

During the period July 15, 1971, through June 30, 1972, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with paragraphs (c) through (g) of this section.

(a) *Grade and size requirements.*— (1) *Round varieties.* U.S. No. 1, or better grade, 2 inches minimum diameter; or U.S. No. 2, or better grade up to but not including U.S. No. 1 grade and not less than 1 7/8 inches minimum diameter.

(2) *Long varieties.* U.S. No. 1, or better grade, 2 inches minimum diameter or 4 ounces minimum weight; or U.S. No. 2, or better grade up to but not including U.S. No. 1 grade and not less than 1 7/8 inches minimum diameter or 4 ounces minimum weight.

(3) *All varieties.* Size B, if U.S. No. 1, or better grade.

(b) *Maturity (skinning) requirements.* All varieties. For U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned."

(c) *Special purpose shipments.* (1) The grade, size, and maturity requirements of paragraphs (a) and (b) of this section and the inspection and assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed; .
(ii) Charity;
(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(3) The quality and maturity requirements of paragraphs (a) and (b) of this section shall not be applicable to shipments of certified seed potatoes (§ 948.6) but such shipments shall be subject to assessment.

(d) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (c) of this section shall:

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee.

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver on the use of such potatoes, and

(3) Bill each shipment directly to the applicable buyer or receiver.

(e) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 5 days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by, and made available for examination at any time upon request, a copy of the inspection certificate applicable thereto.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "moderately skinned," and "slightly skinned," shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes (§§ 51.1540-51.1566 of this title, as amended, 35 F.R. 18257 which are to become effective Sept. 1, 1971) including the tolerances set forth therein. The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (U.S. Standards for Grades of Peeled Potatoes, §§ 52.2421-52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing."

(h) *Applicability to imports.* Pursuant to section 608e-1 of the act and § 980.1 Import regulations of this title, round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period August 1, 1971, through June 4, 1972, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: June 24, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc. 71-9201 Filed 6-29-71; 8:47 am]

[7 CFR Parts 1030, 1032, 1046, 1049, 1050, 1062, 1099]

[Docket No. AO-361-A3 etc.]

MILK IN THE CHICAGO REGIONAL AND CERTAIN OTHER MARKETING AREAS

Notice of Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR part	Marketing area	Docket No.
1030	Chicago Regional.....	AO-361-A3.
1032	Southern Illinois.....	AO-313-A20.
1046	Louisville-Lexington-Evansville.....	AO-123-A37.
1049	Indiana.....	AO-319-A16.
1050	Central Illinois.....	AO-355-A9.
1062	St. Louis-Ozarks.....	AO-10-A42.
1099	Paducah, Ky.....	AO-183-A24.

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Chicago Regional, Southern Illinois, Louisville-Lexington-Evansville, Indiana, Central Illinois, St. Louis-Ozarks and Paducah, Ky., marketing areas, which was issued June 4, 1971 (36 F.R. 11352), is hereby extended to July 31, 1971.

The above notice of extension of time for filing exceptions is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on June 24, 1971.

CLAYTON YEUTTER,
Administrator,
Consumer and Marketing Service.
[FR Doc.71-9207 Filed 6-29-71; 8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration [24 CFR Part 201]

[Docket No. R-71-123]

PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Financing of Mobile Homes

The Department of Housing and Urban Development is considering amending Part 201 of Title 24 of the Code of Federal Regulations, Subpart B, "Mobile

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Home Loans". This amendment, issued in accordance with section 2(a) of the National Housing Act, 12 U.S.C. 1701, would permit mobile home loans to be made to borrowers who purchase sites under real estate contracts and would increase the allowable transportation and setup costs for mobile homes consisting of two or more modules.

Interested persons are invited to participate in the making of the proposed regulation by submitting data, views, or statements with regard to it. Communications should identify the proposed rule by the above docket number and title and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before August 2, 1971, will be considered. Copies of comments submitted will be available during business hours at the above address, both before and after closing date, for examination by interested persons.

The proposed rule is issued pursuant to 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Part 201 is proposed to be amended as follows:

1. Section 201.501(1) is amended to read:

§ 201.501 Definitions.

(1) "Owner" means a borrower who has at least a one-half interest in the real property upon which the mobile home is placed, which interest is a fee simple title and such title may be subject to a mortgage, deed of trust or other lien securing a debt or where the borrower is a purchaser under a mutually binding recorded contract for the purchase of the real property, is rightfully in possession, and the purchase price is payable in equal installments.

2. Section 201.530(b) (5) and (6) are amended to read:

§ 201.530 Maximum loan amount.

(b) Permissible charges and fees.

(5) Costs of transportation or freight as shown on the invoice, not to exceed \$400 for a mobile home or where the mobile home consists of two or more modules \$600.

(6) Itemized setup charges by the dealer for installing the mobile home on site, not to exceed \$200 or where a mobile home consists of two or more modules \$400.

Issued at Washington, D.C., June 25, 1971.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[FR Doc.71-9218 Filed 6-29-71; 8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-CE-52]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Muskegon, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

Since designation of controlled airspace at Muskegon, Mich., a new RNAV approach has been developed for the Muskegon County Airport. In addition, the criteria for the designation of control zones and transition areas have change. Accordingly, it is necessary to alter the Muskegon, Mich., control zone and transition area to adequately protect aircraft executing the new approach procedure and to comply with the new control zone and transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

MUSKEGON, MICH.

Within a 5-mile radius of Muskegon County Airport (43°10'16" N., 86°14'09" W.); within 1.5 miles each side of the Muskegon

VORTAC 272° radial, extending from the 5-mile-radius zone to 1 mile west of the VORTAC; and within 1.5 miles each side of the ILS back course extending from the 5-mile-radius zone to 10.5 miles northwest of the Muskegon County Airport ILS OM.

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

MUSKEGON, MICH.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Muskegon County Airport (43°10'16" N., 86°14'09" W.); within a 7-mile radius of the Grand Haven Memorial Airpark (43°02'00" N., 86°12'00" W.), Grand Haven, Mich.; within 4.5 miles southwest and 9.5 miles northeast of the Muskegon County Airport ILS localizer southeast course, extending from the 10-mile-radius area to 18.5 miles southeast of the OM; within 4 miles each side of the Muskegon VORTAC 092° radial, extending from the VORTAC to 11.5 miles east of the VORTAC; and within 4½ miles each side of the Muskegon County Airport runway 14 centerline extended to the northwest, extending from the 10-mile-radius area to 17 miles northwest of the Muskegon County Airport ILS OM; and that airspace extending upward from 1,200 feet above the surface within an 18-mile radius of the Muskegon County Airport; within 5 miles each side of a line extending from 43°09'30" N., 86°55'30" W., to 43°18'24" N., 86°24'30" W.; and the airspace southwest of Muskegon bounded on the northeast by the 18-mile-radius area, on the southeast by the Grand Rapids, Mich., transition area on the southwest by V-30, and on the northwest by V-218.

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on June 2, 1971.

JOHN A. HARGRAVE,
Acting Director, Central Region.

[FR Doc.71-9195 Filed 6-29-71; 8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-69]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Garden City, Kans.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be

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considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Divisions Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

The Kansas City Air Route Traffic Control Center needs additional controlled airspace in the vicinity of Garden City, Kans., in order to more effectively control aircraft arriving and departing Garden City Municipal Airport. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Garden City, Kans., control zone and transition area to provide this additional airspace and to comply with the new control zone and transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 F.R. 2055, the following control zone is amended to read:

GARDEN CITY, KANS.

Within a 5-mile radius of the Garden City Municipal Airport (latitude 37°55'49" N., longitude 100°43'40" W.), and within 2 miles each side of the 144° bearing from the Garden City RBN, extending from the 5-mile-radius zone to 2 miles southeast of the RBN; and within 2½ miles each side of the 004° radial of the Garden City VORTAC extending from the 5-mile-radius zone to 8 miles north of the VORTAC; and within 2½ miles each side of the 171° radial of the Garden City VORTAC extending from the 5-mile-radius zone to 5 miles south of the VORTAC.

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

GARDEN CITY, KANS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Garden City Municipal Airport (latitude 37°55'49" N., longitude 100°43'40" W.), within 3 miles each side of the 144° and 324° bearings from Garden City RBN, extending from the 7-mile radius to 8 miles northwest of the RBN; and 4½ miles east and 9½ miles west of the 004° radial of the Garden City VORTAC extending from the 7-mile radius to 18½ miles north of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of the Garden City VORTAC; within 4½ miles west and 9½ miles east of the 171° radial of the Garden City VORTAC extending from the 15-mile radius to 18½ miles south of the VORTAC; and the area southwest of Garden City bounded on the north by the south edge of V10, on the east

by the west edge of V17W, and on the south-west by the northeast edge of V210; and the area northeast of the Garden City VORTAC bounded on the northwest by the southeast edge of V255, on the south by the north edge of V10, and on the east by 100° W. longitude, excluding that portion of which overlies the Dodge City, Kans., and Liberal, Kans., 1,200-foot-floor transition areas.

These amendment are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on June 11, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-9196 Filed 6-29-71; 8:46 am]

Office of Pipeline Safety

[49 CFR Part 192]

[Notice 71-3; Docket No. OPS-5]

MINIMUM FEDERAL SAFETY STANDARDS FOR GAS PIPELINES

Corrosion Pitting; Notice of Public Hearing

On April 30, 1970, the Department issued a notice of proposed rule making, Notice 70-8, containing proposed requirements for corrosion control (35 F.R. 7127, May 6, 1970). Interested persons were invited to participate in the making of the proposed rules by submitting written comments before June 29, 1970.

On June 6, 1970, an amended notice of proposed rule making was published in the FEDERAL REGISTER (notice 70-10, 35 F.R. 8833) to make certain changes in the proposed rules relating to cast iron and ductile iron pipe. After a request for a public hearing on the requirements of these two notices, a public hearing (see notice 70-12, 35 F.R. 10596, June 30, 1970) was held on July 20, 1970, and comment was received on the proposed applicability of the proposed requirements to existing pipelines and to cast iron or ductile iron pipe. The information and views presented in the comments and at the hearing have been considered, and are reflected in the regulations which have been issued. (See p. 12297 of this issue.)

In issuing the rule, the Department has included general criteria on corrosion pitting in §§ 192.485(b) and 192.487 (b) as interim regulations only. These interim regulations give the operator discretion, for the time being, to determine the severity of pitting that requires remedial action.

The proposed sections dealing with this matter were the subject of considerable comment. Based on the information available at this time, the Department has developed the following regulations which will provide more definitive standards for the evaluation of corrosion pitting:

§ 192.485 Remedial measures: Transmission lines.

(b) *Localized corrosion pitting.* Each segment of transmission line pipe with localized corrosion pitting must be replaced or repaired, or the operating pressure must be reduced based on the actual remaining wall thickness in the pits, if either of the following exists:

(1) The diameter of the pits as measured at the surface of the pipe is greater than three times the nominal wall thickness of the pipe.

(2) The remaining wall thickness at the bottom of the pits is less than 30 percent of the nominal wall thickness.

§ 192.487 Remedial measures: Distribution lines other than cast iron or ductile iron lines.

(b) *Localized corrosion pitting.* Except for cast iron or ductile iron pipe, each segment of distribution line pipe with localized corrosion pitting must be replaced or repaired if either of the following exists:

(1) The diameter of the pits, as measured at the surface of the pipe, is greater than five times the nominal wall thickness of the pipe.

(2) The remaining wall thickness at the bottom of the pits is less than 20 percent of the nominal wall thickness. Because we are aware that the completion of research on the subject is anticipated in the near future, the Department intends to delay the issuance of these regulations on localized corrosion pitting, in order to hold a public hearing to explore the problem further. The hearing will be held at 10 a.m. on Tuesday, July 20, 1971 in the Department of Transportation Building (Nassif Building), Room 2230, 400 Seventh Street SW., Washington, D.C. This will give interested persons an opportunity to present new material or to demonstrate that the criteria set out above are inappropriate. Unless the hearing discloses information indicating other criteria are more appropriate, the regulations set forth above will be substituted for the interim provisions within 60 to 90 days from the effective date of the regulation.

The hearing will be an informal one. It will not be a judicial or evidentiary type of hearing. There will be no cross-examination of persons presenting statements. A staff member of the Office of Pipeline Safety will make an opening statement outlining the problem. Interested persons will then have an opportunity to present their initial oral statements. After all initial statements have been completed, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for the conduct of the hearing will be announced at the hearing.

Interested persons are invited to attend the hearing and present oral or written statements on the matters set for

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hearing. These statements will be made a part of the record of the hearing, the transcript of which will be a matter of public record. Any person who wishes to make oral statements at the hearing should notify the Director, Office of Pipeline Safety, before July 16, 1971, stating the amount of time required for his initial statement.

All communications concerning this hearing should be addressed to the Director, Office of Pipeline Safety, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590.

This notice is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. sec. 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

Issued in Washington, D.C., on June 25, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-9220 Filed 6-29-71; 8:48 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 244, 296, 297, 399]

[Docket No. 23543; PSDR-31, EDR-204]

PROCESSING OF APPLICATIONS BY RAILROAD CARRIERS AS AIR FREIGHT FORWARDERS OR INTERNATIONAL AIR FREIGHT FORWARDERS

Notice of Proposed Rule Making

JUNE 24, 1971.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Parts 399, 296, 297, and 244 of the Board's regulations (14 CFR Parts 399, 296, 297 and 244) concerning the filing and processing of applications of railroad carriers for authorization as air freight forwarders or international air freight forwarders and applications of railroad carriers for approval of control of an air freight forwarder or international air freight forwarder. The principal features of the proposed amendments are further described in the explanatory statement, and the proposed amendments are set forth in the proposed rule. This regulation is proposed under the authority of sections 204(a), 101(3), 407, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324, 72 Stat. 737; 49 U.S.C. 1301; 72 Stat. 766; 49 U.S.C. 1377, 72 Stat. 771; 49 U.S.C. 1386. It interprets or applies sections 102 and 408, 72 Stat. 740; 49 U.S.C. 1302, 72 Stat. 767, as amended by 74 Stat. 901; 49 U.S.C. 1378.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written

data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter or communications received on or before July 30, 1971, will be considered by the Board before taking final action on the proposals. Copies of communications will be available for examination by interested persons in the Docket Section, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

In Order 70-10-100 dated October 21, 1970, the Board determined to authorize, through subsidiaries, two railroad carriers¹ to engage in domestic and international air freight forwarding on an experimental basis. The Board also found that the monitored entry policy for long-haul motor carriers of general commodities, as enunciated in the Motor Carrier-Air Freight Forwarder Investigation,² is equally applicable to and should be extended to railroad carriers which seek forwarder authority. In addition, the Board indicated that it would institute rule making procedures to modify the regulations which grew out of the Board's decision on remand in the Motor Carrier case to make them applicable to railroad carriers in addition to long-haul motor carriers. To this end the regulations proposed herein simply broaden the existing regulations for processing applications of long-haul motor carriers for entry into the forwarding field to encompass railroad carriers. Specifically, the existing regulations for long-haul motor carriers have been changed by adding a definition of "railroad carrier" (e.g. § 399.20(b)) and incorporating the term "railroad carrier" into the appropriate sections of the regulations.

Thus, these regulations provide that, as in the case of long-haul motor carriers, air freight forwarding authority may be granted to railroad carriers on an individual application basis, with or without hearing, upon a showing that (1) the applicant is capable of performing the proposed air transportation and of conforming to the Act and the regulations thereunder; (2) the applicant will conscientiously promote air cargo and will benefit air transportation; and (3) the applicant's operations, alone or together with those of other similar carriers granted air forwarding authority, will not result in creating a monopoly or monopolies and thereby restrain competition, or jeopardize another air carrier and will not otherwise be inconsistent with the public interest (Parts 399,

¹ Southern Pacific Transportation Co. and the Atchafalaya, Topeka, and Santa Fe Railroad Co. While Southern Pacific formed a subsidiary to inaugurate air forwarding service, the Santa Fe acquired an established air freight forwarder, Express Air Freight, Inc. ² Order 69-4-100, Apr. 21, 1969.

296, and 297). The regulations further provide for approval of applications of railroad carriers for control of air freight forwarders or international air freight forwarders, with or without hearing, based upon similar criteria (Part 399).

Furthermore, rail carriers which are granted air forwarder authority will be required to file with the Board's Bureau of Accounts and Statistics, (1) the financial and statistical reports required of all domestic and international air freight forwarders by Part 244 of the Board's regulations, and (2) the additional schedules and reports required to be filed by air freight forwarders which are also long-haul motor carriers pursuant to §§ 244.19a through 244.19d.³ The schedule forms are attached hereto as an appendix.^{4a}

Finally, we intend to have the additional reporting requirements for rail carrier/air freight forwarders expire on April 29, 1974, which is coterminous with the expiration date of the operating authorizations issued to the three long-haul motor carriers in the Motor Carrier Investigation, supra,⁴ or for the duration of any proceeding in which a renewal of the authorization is sought.

It is proposed to amend Parts 399, 296, 297, and 244 of the Board's regulations (14 CFR Parts 399, 296, 297, and 244), as follows:

Part 399. 1. Amend the Table of Contents by revising the title to § 399.20 of Subpart B, as follows:

Sec. 399.20 Processing of applications of long-haul motor carriers and railroad carriers for authority as air freight forwarders or international air freight forwarders.

2. Amend paragraphs (a) through (e) of § 399.20 to read as follows:

§ 399.20 Processing of applications of long-haul motor carriers and railroad carriers for authority as air freight forwarders or international air freight forwarders.

(a) *General.* This policy statement prescribes the procedures and general

³ These additional reports include (1) an "Originating Air Station Data" schedule to reflect the source and distribution of tons enplaned and deplaned at the originating air station, and data on the miles of surface movement of the air freight before and after its air transportation; (2) a "Supplemental Operating Statistics" schedule to provide the number and weight of those intermodal air freight shipments handled by both the air freight forwarder and the surface carrier which is its parent or affiliate or which operates as a separate division within the same corporate structure; (3) an "Analysis of Traffic by Weight Breaks" schedule to indicate, by specified weight breaks, the number and weight of shipments handled in air freight forwarding operations and the revenue received therefor; and (4) an annual report setting forth the location of each freight forwarding station and each surface transport terminal at which air freight forwarding services are offered.

^{4a} Filed as part of the original document. ⁴ It should be emphasized, however, that the Board's rule making action here is not

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standards which the Board will use in processing applications of long-haul motor carriers of general commodities and railroad carriers for authorization as air freight forwarders or international air freight forwarders. It will also apply to such motor carriers' and railroad carriers' applications for Board approval of the acquisition of control of such forwarders.

(b) *Definitions.* As used in this section:

"Long-haul motor carrier" means a motor carrier holding operating rights issued by the Interstate Commerce Commission to haul general commodities between any pair of points which are over 500 miles apart, or an affiliate⁵ of such a carrier.

"Railroad carrier" means a common carrier by railroad subject to Part I of the Interstate Commerce Act, or an affiliate⁶ of such a carrier.

(c) *Applications for forwarding authority.* Where a long-haul motor carrier or railroad carrier applies for authority as an air freight forwarder or an international air freight forwarder and submits a proposal to conscientiously promote air cargo in conformity with Part 296 or 297, of this chapter, the following will be the Board's policy in ordinary circumstances:

(1) The Board will process the application without hearing.

(2) The Board will not deem the size, geographical extent, or general commodity rights of the long-haul motor carriers or the size or geographical extent of the railroad carrier's surface transport authorization and operations, of themselves, as factors indicating that the applicant's operations as an air freight forwarder or international air freight forwarder will result in creating a monopoly or monopolies, and thereby restrain competition or jeopardize another air carrier, or will otherwise be inconsistent with the public interest.

(d) *Applications for acquisition of control.* Where a long-haul motor carrier or railroad carrier applies for Board approval to acquire control of an air freight forwarder or an international air freight forwarder and submits a proposal to conscientiously promote air cargo, the Board's policy in ordinary circumstances will be as follows:

(1) The Board will exempt the acquisition from the requirements of section 408(a) of the Act, pursuant to the proviso in section 408(a)(5) to the extent and for such periods as it finds may be in the public interest; or, in the alternative the Board will process the application for approval without a hearing, pursuant to the third proviso in section 408(b) if it determines (i) that the

intended to affect the duration of the reporting requirements imposed on the railroad carriers/air freight forwarders in the Southern-Pacific-Santa Fe Air Freight Forwarder Case, Dockets 18776 and 19164, Order 70-10-100, Oct. 21, 1970.

⁵ For the definition of "affiliate" see § 296.1 (e), § 297.1 (f), or § 244.1.

⁶ Ibid.

transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not tend to restrain competition, and (ii) that no person disclosing a substantial interest then currently is requesting a hearing.

(2) The Board will not deem the size, geographical extent, or general commodity rights of the long-haul motor carrier's or the size or geographical extent of the railroad carrier's surface transport authorization and operations, of themselves, as factors indicating that the carrier's control of the air freight forwarder or international air freight forwarder will result in creating a monopoly or monopolies, and thereby restrain competition or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control, or will otherwise be inconsistent with the public interest.

(e) *Exceptions.* (1) If the Board finds that the long-haul motor carrier or railroad carrier has not made a prima facie showing, in accordance with the standards set forth in § 296.83 of this chapter, that it will conscientiously promote air cargo, the Board may—

(i) Deny the application without hearing; or

(ii) Order a hearing.

(2) If the Board finds that the long-haul motor carrier or railroad carrier has not made a prima facie showing that its operations (either alone or together with other similar carriers granted air forwarding authority) will not result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier, or will not otherwise be inconsistent with the public interest, the Board may—

(i) Deny an application without hearing; or

(ii) Order a hearing.

(3) The Board may also order a hearing if any person demonstrates that he will present evidence which may contradict the prima facie showing of a long-haul motor carrier or railroad carrier described in this paragraph.

Part 296. 3. Amend the Table of Contents by revising the title to Subpart I to read as follows:

Subpart I—Authorization of Long-Haul Motor Carriers of General Commodities and Railroad Carriers as Air Freight Forwarders

4. Amend § 296.1 by adding new paragraph (d-1) and revising paragraph (e) as follows:

§ 296.1 Definitions.

For the purposes of this part:

(d-1) "Railroad carrier" means a common carrier by railroad subject to Part I of the Interstate Commerce Act, or an affiliate of such a carrier.

(e) An "affiliate" of a long-haul motor carrier, railroad carrier, or air freight

forwarder means a person who controls such carrier or is controlled by such carrier or by another person who controls or is controlled by such carrier. A person who beneficially owns, directly or indirectly, 10 percent or more of the outstanding issued capital stock of a carrier, in the absence of a proper showing to the Board that he does not control the carrier despite his stock ownership, shall be deemed to control the carrier for purposes of this part.

5. Amend the title to Subpart I as follows:

Subpart I—Authorization of Long-Haul Motor Carriers of General Commodities and Railroad Carriers as Air Freight Forwarders

6. Amend §§ 296.80, 296.81, 296.82, 296.83, 296.85, and 298.89 to read as follows:

§ 296.80 Applicability of subpart.

This subpart sets forth the special rules applicable to the processing of applications of long-haul motor carriers, as defined in § 296.1(d) and railroad carriers as defined in § 296.1(d-1) for authorization to operate in their own names as air freight forwarders. The regulation does not govern requests of motor and railroad carriers for Board approval of control relationships created when they apply through subsidiaries or other affiliates for authorization as air freight forwarders. Action on such applications for approval of control shall be governed by section 408 of the Act and by § 399.20 of the Board's policy statements in this chapter.

§ 296.81 Applicability of other subparts.

Unless otherwise provided in this subpart, the provisions of Subparts A through C and E through H of this part shall be applicable to the processing of applications of long-haul motor carriers or railroad carriers for authority to operate as air freight forwarders, and to the conduct of such operations.

§ 296.82 Applicability of policy statement.

The provisions of § 399.20 of the Board's policy statements in this chapter (14 CFR Part 399) shall be applicable to the processing of applications of long-haul motor carriers or railroad carriers for authority under this subpart.

§ 296.83 Application for operating authorization.

In addition to the requirements set forth in § 296.42, a long-haul motor carrier or railroad carrier applicant must show:

(a) A plan to conscientiously promote air cargo. This showing shall include, inter alia:

(1) A statement as to whether the long-haul motor carrier or railroad carrier plans to solicit existing surface customers for air cargo and, if so, the extent of such plans;

(2) A traffic estimate showing what traffic is newly generated or presently shipped by surface means;

(3) An estimate of what portion of the long-haul motor carrier's or railroad carrier's existing surface traffic is subject to diversion to air;

(4) An estimate of beyond-terminal-area traffic moving by surface transportation over the routes of the long-haul motor carrier or railroad carrier or via interline agreements; and

(5) A statement of the proposed air cargo sales force and facilities.

(b) A statement of the long-haul motor carrier's authority or railroad carrier's certificate for construction of interstate rail lines from the Interstate Commerce Commission or other regulatory agency, including a description of the surface transportation authorized and offered at the stations at which air forwarding operations are proposed.

(c) A statement of any other advantages which would result from approval of the application.

§ 296.85 Objections.

Within thirty (30) days after publication of notice of application in the FEDERAL REGISTER, any interested person may file an objection thereto. The objection must set forth an adequate factual showing of—

(a) The party's interest in the matter;

(b) His reasons for believing that the long-haul motor carrier or railroad carrier or affiliates of the long-haul motor carrier or railroad carrier will not promote air cargo; and

(c) Any other reasons why the application does not meet the licensing criteria of § 296.86.

If a hearing is requested, the objection must set forth the economic data and other facts which the party will offer to prove.

§ 296.89 Revocation or suspension.

The Board may institute proceedings to revoke the authorization of one or more long-haul carriers or railroad carriers or a group of motor or railroad carriers if it has cause to believe that the continued operations of such carrier or carriers are contrary to the above-stated licensing criteria (§ 296.86). Pending completion of revocation proceedings, the Board may without hearing suspend or limit the authorization of such motor or railroad carriers in accordance with procedures specified by § 296.48.

Part 297. 7. Amend the Table of Contents by revising the title to Subpart F to read as follows:

Subpart F—Authorization of Long-Haul Motor Carriers of General Commodities and Railroad Carriers as International Air Freight Forwarders

8. Amend § 297.1 by adding new paragraph (e-1) and revising paragraph (f), as follows:

§ 297.1 Definitions.

For the purposes of this part:

(e-1) "Railroad carrier" means a common carrier by railroad subject to Part I of the Interstate Commerce Act, or an affiliate of such a carrier.

(f) An "affiliate" of a long-haul motor carrier or railroad carrier or an air freight forwarder means a person who controls such carrier or is controlled by such carrier or by another person who controls or is controlled by such carrier. A person who beneficially owns, directly or indirectly, 10 percent or more of the outstanding issued capital stock of a carrier, in the absence of a proper showing to the Board that he does not control the carrier despite his stock ownership, shall be deemed to control the carrier for purposes of this part.

9. Amend the title to Subpart F to read as follows:

Subpart F—Authorization of Long-Haul Motor Carriers of General Commodities and Railroad Carriers as International Air Freight Forwarders

10. Amend §§ 297.60, 297.61, 297.62, 297.63, 297.65, and 297.69 to read as follows:

§ 297.60 Applicability of subpart.

This subpart sets forth the special rules applicable to the processing of applications of long-haul motor carriers, as defined in § 297.1(e) and railroad carriers as defined in § 297.1(e-1), for authorization to operate in their own names as international air freight forwarders. The regulation does not govern requests of motor and railroad carriers for Board approval of control relationships created when they apply through subsidiaries or other affiliates for authorization as international air freight forwarders. Action on such applications for approval of control shall be governed by section 408 of the Act and by § 399.20 of the Board's policy statements in this chapter.

§ 297.61 Applicability of other subparts.

Unless otherwise provided in this subpart, the provisions of Subparts A through E of this part shall be applicable to the processing of applications of long-haul motor carriers or railroad carriers for authority to operate as international air freight forwarders, and to the conduct of such operations.

§ 297.62 Applicability of policy statement.

The provisions of § 399.20 of the Board's policy statements in this chapter (14 CFR Part 399) shall be applicable to the processing of applications of long-haul motor carriers and railroad carriers for authority under this subpart.

§ 297.63 Application for operating authorization.

In addition to the requirements set forth in § 297.32, a long-haul motor carrier or railroad carrier applicant must show:

(a) A plan to conscientiously promote air cargo. This showing shall include, inter alia:

(1) A statement as to whether the long-haul motor carrier or railroad carrier plans to solicit existing surface customers for air cargo and, if so, the extent of such plans;

(2) A traffic estimate showing what traffic is newly generated or presently shipped by surface means;

(3) An estimate of what portion of the long-haul motor carrier's or railroad carrier's existing surface traffic is subject to diversion to air;

(4) An estimate of beyond-terminal-area traffic moving by surface transportation over the routes of the long-haul motor carrier or railroad carrier or via interline agreements; and

(5) A statement of the proposed air cargo sales force and facilities.

(b) A statement of the long-haul motor carrier's authority or railroad carrier's certificate for construction of interstate rail lines from the Interstate Commerce Commission or other regulatory agency, including a description of the surface transportation authorized and offered at the stations at which air forwarding operations are proposed.

(c) A statement of any other advantages which would result from approval of the application.

§ 297.65 Objections.

Within thirty (30) days after publication of notice of application in the FEDERAL REGISTER, any interested person may file an objection thereto. The objection must set forth an adequate factual showing of—

(a) The party's interest in the matter;

(b) His reasons for believing that the long-haul motor carrier or railroad carrier, or their affiliates will not promote air cargo; and

(c) Any other reasons why the application does not meet the licensing criteria of § 297.66.

If a hearing is requested, the objection must set forth the economic data and other facts which the party will offer to prove.

§ 297.69 Revocation or suspension.

The Board may institute proceedings to revoke the authorization of one or more long-haul motor carriers or railroad carriers or a group of motor or railroad carriers if it has cause to believe that the continued operations of such carrier or carriers are contrary to the above-stated licensing criteria (§ 297.66). Pending completion of revocation proceedings, the Board may without hearing suspend or limit the authorization of such motor or railroad carrier or motor or railroad carriers in accordance with procedures specified by § 297.43.

Part 244. 11. Amend the Table of Contents by revising the title to § 244.19b of Subpart B, as follows:

§ 244.19b Supplemental operating statistics—long-haul motor carriers and railroad carriers/air freight forwarders (Schedule T-5).

12. Amend § 244.1 by revising the definition of "affiliate" and adding a new definition of "Railroad carrier," as follows:

§ 244.1 Definitions.

For the purposes of this part:

An "affiliate" of a long-haul motor carrier, railroad carrier, or an air freight

forwarder means a person who controls such carrier or is controlled by such carrier or by another person who controls or is controlled by such carrier. A person who beneficially owns, directly or indirectly, 10 percent or more of the outstanding issued capital stock of a carrier, in the absence of a proper showing to the Board that he does not control the carrier despite his stock ownership, shall be deemed to control the carrier for purposes of this part.

"Railroad carrier" means a common carrier by railroad subject to Part I of the Interstate Commerce Act, or an affiliate of such a carrier.

13. Amend paragraphs (b) (4) and (5) of § 244.10 to read as follows:

§ 244.10 General.

(b)

(4) Schedule T-4, Originating Air Station Data; T-5, Supplemental Operating Statistics—Long-Haul Motor Carriers or Railroad Carriers/Air Freight Forwarders; T-6, Analysis of Traffic by Weight Breaks; all to be filed quarterly by (i) long-haul motor carriers of general commodities and railroad carriers which are authorized to operate as air freight forwarders or international air freight forwarders, and (ii) air freight forwarders or international air freight forwarders which are affiliates of long-haul motor carriers or railroad carriers. Schedule T-6 shall also be filed by long-haul motor carriers and railroad carriers affiliated with air freight forwarders or international air freight forwarders or operating as a separate division within the forwarder's corporate structure.⁷

(5) A location report (as provided in § 244.19d, infra) to be filed annually by (i) long-haul motor carriers of general commodities and railroad carriers holding authorization to operate as air freight forwarders or international air freight forwarders, and (ii) air freight forwarders or international air freight forwarders which are affiliates of long-haul motor carriers or railroad carriers.

14. Amend paragraph (a) of § 244.19a, § 244.19b, paragraph (a) of § 244.19c, and § 244.19d to read as follows:

§ 244.19a Originating air station data (Schedule T-4).

(a) The schedule of originating air station data shall be filed by (1) long-haul motor carriers of general commodities and railroad carriers which are authorized to operate as air freight forwarders or international air freight forwarders within the forwarder's corporate structure. It is designated as Schedule T-4 of CAB Form 244, and shall be prepared for each calendar quarterly period and filed with the Board as provided in § 244.10.

⁷Schedules T-4, T-5, and T-6 and the location report referred to in subparagraph (5) above shall be required for a temporary period coterminous with the term of the operating authorizations issued in the Motor Carrier-Air Freight Forwarder Investigation (Docket 16857, Order 69-4-100) and for the duration of any proceeding in which a renewal of the authorization is sought.

⁸Ibid.

warders, and (2) air freight forwarders or international air freight forwarders which are affiliates of long-haul motor carriers or railroad carriers. It is designated as Schedule T-4 of CAB Form 244 and shall be prepared for each calendar quarterly period and filed with the Board as provided in § 244.10.

§ 244.19b Supplemental operating statistics—long-haul motor carriers and railroad carriers/air freight forwarders (Schedule T-5).

(a) The schedule of supplemental operating statistics shall be filed by (1) long-haul motor carriers of general commodities and railroad carriers which are authorized to operate as air freight forwarders or international air freight forwarders, and (2) air freight forwarders or international air freight forwarders which are affiliates of long-haul motor carriers or railroad carriers. It is designated as Schedule T-5 of CAB Form 244, and shall be prepared for each calendar quarterly period and filed with the Board as provided in § 244.10.

(b) Schedule T-5 shall cover where applicable both domestic and overseas/foreign air operations. With respect to combination surface/air operations of the forwarder, the schedule shall reflect the number and weight of (1) shipments which the reporting forwarder received from or delivered to an affiliated long-haul motor carrier or railroad carrier prior or subsequent to transporting them in its air freight forwarding operations, and (2) shipments which the reporting carrier accepted for air freight forwarding, but substituted other than air means for their transportation. With respect to other air operations by the forwarder, the schedule shall reflect the number and weight of all shipments tendered by the reporting carrier to direct air carriers in a capacity other than as a freight forwarder (shipper's agent or agent for direct air carrier). All the aforesaid categories shall be itemized and subdivided as shown by Schedule T-5 and the instructions thereon.

§ 244.19c Analysis of traffic by weight breaks (Schedule T-6).

(a) The schedule of analysis of traffic by weight breaks shall be filed by (1) long-haul motor carriers of general commodities and railroad carriers which are authorized to operate as air freight forwarders or international air freight forwarders, (2) air freight forwarders or international air freight forwarders which are affiliates of long-haul motor carriers or railroad carriers, and (3) long-haul motor carriers or railroad carriers affiliated with air freight forwarders or operating as a separate division within the forwarder's corporate structure. It is designated as Schedule T-6 of CAB Form 244, and shall be prepared for each calendar quarterly period and filed with the Board as provided in § 244.10. In addition, each long-haul motor carrier and railroad carrier shall report applicable data (insofar as they are available) relative to its long-haul

motor carrier or railroad carrier operations for the corresponding quarter of each of the preceding 5 years.

§ 244.19d Report of location of air freight forwarding stations and surface transport terminals.

Each long-haul motor carrier or railroad carrier holding authorization to operate as an air freight forwarder or international air freight forwarder and each air freight forwarder or international air freight forwarder which is an affiliate of a long-haul motor carrier or railroad carrier shall file with the Board's Bureau of Accounts and Statistics, Washington, D.C. 20428, within 45 days after the close of each calendar year, a report showing as of December 31 of such year the location of each specialized air freight forwarding station and of each surface transport terminal at which air freight forwarding services are offered. The statement shall indicate, for each station or terminal, the number of drivers, salesmen and other personnel who are assigned to promote air freight exclusively. For identification purposes, this report should be referred to as "location report."

[FR Doc. 71-9243 Filed 6-29-71; 8:52 am]

[14 CFR Parts 249, 371]

[Docket No. 23442; EDR-202A, SPDR-23A]

UNIFORM REPORTING OF CONSUMER COMPLAINT STATISTICS AND RETENTION OF DATA

Supplemental Notice of Proposed Rule Making

JUNE 25, 1971.

The Board, by circulation of notice of proposed rule making EDR-202 and SPDR-23, and publication at 36 F.R. 10803, gave notice that it had under consideration the enactment of a new Part 371, and the amendment of Part 249, to establish uniform reporting of statistics with regard to consumer complaints received by air carriers, and to provide for the retention of data used in the preparation of the reports. Interested persons were invited to participate in the proceeding by submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before July 6, 1971.

Subsequent to the issuance of the proposed rule, the Air Transport Association of America, on behalf of certain of its certificated air carrier members, requested an extension of sixty (60) days, or until September 3, 1971, for the time for filing comments on the proposed rule on the grounds that more time is needed to study the rule making, to consider the competitive and financial ramifications, and to prepare and file comments with the Board.

The undersigned finds that good cause has been shown for additional time for

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filing comments to the extent hereinafter granted. Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's organization regulations, the undersigned hereby extends the time for submitting comments to September 3, 1971.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board,

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel,
Rules and Rates.

[FR Doc. 71-9242 Filed 6-29-71; 8:52 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Docket No. 19268; FCC 71-658]

COMPARABLE TELEVISION TUNING REGULATION

Notice of Proposed Rule Making

1. The Commission has before it a request that it authorize use of a 70-position nonmemory UHF detent tuning system (described in para. 2 below) for purposes of compliance with the comparable tuning rules (47 CFR 15.68).¹ Because such a system would not "provide approximately the same degree of tuning accuracy with approximately the same expenditure of time and effort" (47 CFR 15.68(b)), as compared to VHF tuning systems currently in use, it would not comply with the comparable tuning requirement. However, since other considerations were involved, namely the question of whether such a system would be as good as, or preferable to, other systems whose use is authorized, the Commission's staff, on March 15, 1971, issued a public notice requesting comment on the request (36 F.R. 5305). Information and comment has been furnished by organizations and firms connected with the television receiver and tuner manufacturing industries and the UHF television broadcast industry. The comments, which predominantly favor authorization of a 70-position system, are discussed in paragraphs 11 and 12, infra. Those who furnished comment are listed below:

Television Receiver Manufacturing Industry:
Electronic Industries Association (EIA).
Electronic Industries Association of Japan (EIA-Japan).
Admiral Corp.
Magnavox Consumer Electronics Co.
Motorola, Inc.

¹The request was submitted by Sarkes Tarzian, Inc., a tuner manufacturer. We are advised that other tuner manufacturers, including the F. W. Sickles Division of the General Instrument Corp. and Oak Electro/Netics Corp., are capable of producing similar tuning systems.

Philco-Ford Corp.
Zenith Radio Corp.

Television Tuner Manufacturers:
F. W. Sickles Division, General Instrument Corp.

Oak Electro/Netics Corp.
Sarkes Tarzian, Inc.
UHF Television Broadcasting Industry:
All-Channel Television Society (ACTS).
Community Television of Southern California.
Kaiser Broadcasting.
WFLD-TV.
WNOK-TV.

2. On the basis of information furnished by Sarkes Tarzian, it is understood that the 70-position system has the following characteristics significant for purposes of comparable tuning:

(a) 70 detent positions, one for each UHF channel.

(b) Numerical display of the precise UHF channel selected at each position.

(c) Maximum variation from correct frequency of ± 3 MHz ($\frac{1}{2}$ channel).²

(d) The detent and readout mechanisms require almost no space within the receiver. Consequently, the tuning system can be used in all receivers, regardless of size.

(e) Added cost is said to be less than one third of the cost of any UHF memory tuning system now available.

3. The rules currently authorize use of a 6-position UHF memory tuning system having the following characteristics significant for comparable tuning:

(a) Six detent positions.

(b) The viewer must preset the tuner to receive television stations available in his community. Display of the channel number is by a tab furnished by the manufacturer and affixed by the viewer.

(c) The maximum variation from correct frequency at any one of the six detent positions is ± 600 kHz (figure furnished by Sarkes Tarzian).

(d) The size of the six-position system may preclude its use in smaller receivers.

(e) Added cost of the detent mechanism is said to be more than three times the cost of the detent mechanism used with the 70-position system.

4. Information made available to the Commission further indicates that, for

²The term "maximum variation from correct frequency," as here used, is the sum of the alignment error for the worst-aligned channel (all channels cannot be perfectly aligned) and maximum reset error (resulting from the inability of the detent mechanism to return the tuner oscillator to exactly the same position each time a channel is tuned). The figure of ± 3 MHz and other figures used herein are best thought of as the manufacturer's normal reasonable expectation rather than as a precise sum applicable to all tuning systems produced. They are useful as reflecting the norm and are believed valid for comparative purposes. It should be noted that the figures refer to maximum rather than typical tuning error. It would be reasonable to expect more accurate results on most channels on most occasions. On the other hand, both alignment and reset error normally increase as the receiver ages and is used.

nonmemory VHF tuning systems currently in use, the maximum variation from correct frequency is ± 550 kHz. With a memory VHF tuning system, we understand that maximum error is ± 50 kHz.³ On the basis of these figures, it seems reasonable to conclude that UHF memory tuning systems are fully comparable in tuning accuracy to VHF non-memory tuning systems; that the UHF memory system is not fully comparable in accuracy to VHF memory systems; and that the 70-position system is not fully comparable in tuning accuracy to the UHF memory system, to nonmemory VHF systems, to VHF memory systems. The UHF memory system falls short of comparability in other respects, i.e., the limited number of detent positions and the need for the viewer to preset the detent mechanism and attach channel number tabs.

5. The differences in tuning accuracy noted above are significant for both black and white and color reception. Accuracy within ± 50 kHz, for example, should produce a viewable color picture. A maximum variation from correct frequency of ± 550 or 600 kHz does not, in our judgment, assure reception of a black and white picture which most viewers would consider acceptable; for color reception, it does not assure reception of a color picture, and may not assure accuracy within the range of commonly utilized automatic fine tuning systems (AFT or AFC). Accuracy within ± 3 MHz provides assurance only that the viewer will receive a black and white picture of indeterminate quality at the proper channel setting. In other words, it is to be expected that the normal viewer would find fine tuning to be necessary or desirable, at least part of the time, with all systems other than the VHF memory tuning system. This may be the case with a nonmemory VHF or a UHF memory system used in a receiver which is AFC-equipped. It will be the case with the 70-position system used in an AFC-equipped receiver. We are advised that AFC with a range of ± 1 MHz has not been developed, that development of a wide-band system which could distinguish between adjacent channels would involve a number of technical difficulties, and that, if developed, it would be costly.

6. From the foregoing, it appears that currently available UHF tuning systems are not fully comparable to currently utilized VHF tuning systems. However, we think that the tuning systems described accurately reflect the current capabilities of UHF tuner manufacturers, given reasonable limitations on the size and cost of tuning apparatus. The UHF tuner manufacturer faces problems (e.g., larger number of channels, higher frequencies, greater frequency range) not faced in the manufacture of VHF tuners. The requirement of comparability is, in

turn, naturally limited by the state of the art. In addition, we seek progress toward full comparability without imposing inordinant burdens on receiver and tuner manufacturers or the purchaser of a receiver, and without degrading VHF tuning. Reasonable progress toward comparable tuning is being made, in our judgment, and must be accepted as meeting the requirements of the comparable tuning rules. At this stage of development, therefore, the fact that the proposed 70-position UHF tuning system does not provide full comparability is not a basis for denial of the request that its use be authorized. The question before us is instead whether, as compared with other UHF tuning systems whose use is authorized, the 70-position system would advance or retard the development of UHF television broadcasting.

7. Comparison of the 70-position tuning system with the 6-position memory system authorized by the rules indicates the following:

(a) The six-position system is appreciably better in tuning accuracy (± 600 kHz maximum variation from correct frequency as opposed to ± 3 MHz for the 70-position system). It will be necessary to fine tune the 70-position system more frequently and more extensively for black and white or color reception, or to tune within the range of AFC. Considerable fine tuning will nevertheless be required on the six-position system. The 70-position system has been demonstrated to the Commission and to others, and there is general agreement among those who have seen it that fine tuning for black and white reception is relatively simple, probably requiring no more than a few seconds for most viewers. In addition, in our judgment, fine tuning for color reception would also be relatively simple on a receiver equipped with AFC such as that commonly in use.

(b) The six-position system is also better by reason of the fact that all detent positions can be tuned in a single rotation of the tuning knob. The 70-position system with digital readout for each channel requires seven full rotations to tune through the UHF band. (But see paragraph 10, infra.) This could deter viewing of some stations, most likely those in the upper portion of the UHF band.

(c) The 70-position system is appreciably better in channel capacity (70 channels as opposed to six). This is significant in a number of respects. First, in some locations, more than six UHF television signals are available to the viewer. On the six-position system, some of the available stations could not then be assigned a detent position. Secondly, the user of a six-position system must pre-set each of the six positions to receive an available television signal and must attach channel identification tabs. It is certain that some viewers (and pos-

³Sarkes Tarzian and General Instrument state that maximum alignment error is ± 500 kHz. Sarkes Tarzian states that maximum reset error is ± 50 kHz.

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sibly many) may not do so. If the viewer moves to a new community, the process must be repeated, and there is no assurance that he will have retained channel identification tabs for stations in the new community. If a new station is authorized to operate in a community, viewers using the six-position system will have to preset one of the detent positions to receive its signal.

(d) The 70-position system requires almost no space within the receiver over and above the space required for the tuner. It is therefore well-suited for use in a small receiver, where space is at a premium. It may be that the six-position system is too large for use in small receivers. If so, the 70-position system or some other small system would ultimately have to be authorized for small receivers. If the six-position system can be used in smaller receivers, its use nevertheless presents serious design problems for the receiver manufacturer. Solution of such problems is time-consuming and expensive. Authorizing use of the 70-position system would minimize these problems and would presumably encourage the earlier provision of more nearly comparable tuning in smaller receivers.

(e) The cost of the detent and readout mechanism of the 70-position system is less than one-third of the cost of the comparable mechanism of the six-position system. The cost of the six-position system adds appreciably to the cost of the receiver, particularly to that of an otherwise inexpensive receiver. The comparable tuning requirement will not apply to 100 percent of receiver models until July 1, 1974. In the interim, the cost of the six-position system could well discourage the production and sale of inexpensive receivers equipped to provide more nearly comparable tuning.

(f) The effect of Commission action permitting or rejecting use of a 70-position system on research and developmental efforts is necessarily speculative. However, the following would appear to be a reasonable expectation:

We consider it unlikely that a 70-position mechanical UHF detent tuning system can be developed to the point where it would be comparable in tuning accuracy to VHF tuning systems currently in use, except in combination with wide-band AFC. The technical problems associated with development of wide-band AFC suitable for use with a 70-position system are not insuperable. Technical developments may also result in lower cost for wide-band AFC. It is possible, in addition, that improved capability and lower cost of varactor tuning systems will ultimately result in a 70-position system with much improved tuning accuracy. Authorization of the 70-position system should stimulate research in these areas. Nevertheless, a fully comparable 70-position system is not viewed as a near-term expectation.

A limited-position memory system, on the other hand, can never be developed to full comparability, since the limited number of positions in itself constitutes

⁴See the responses of Magnavox and ACTS to the public notice of Mar. 15, 1971.

a disparity. It should, on the other hand, be possible to reduce reset error appreciably. Moreover, such a system is suitable for use with currently available automatic fine tuning systems, and such a combination would produce full comparability in tuning accuracy. If the Commission does not authorize use of the 70-position system, this should be an added stimulus to research designed to improve the capability of limited-position systems and to reduce their size and cost.

8. On the basis of this comparison, we are unable to say that authorization of the 70-position system would retard the development of UHF television broadcasting. We are likewise unable to say with certainty that the 70-position system would advance UHF television broadcasting. It would appear, however, that authorization of such a system may produce some near-term beneficial results and we conclude, on balance, that this approach to comparable tuning should not be rejected without a trial. Subject to the comments submitted, therefore, we are proposing to authorize use of the 70-position system on a temporary basis, pending the development of a more nearly comparable system. We stress the temporary nature of this authorization and caution the receiver and tuner manufacturing industries to continue research and development efforts along varied lines (including electronic tuning). Neither the 70-position nor the six-position system, in their current stages of development, is considered satisfactory for the long term. Barring the development of other less costly solutions, we foresee a requirement that all (or all color) receivers be AFC equipped. However, we wish at the same time to assure the receiver manufacturing industry that, as advances are made in UHF tuning system design and performance, and as the comparable tuning regulations are tightened, the industry will be afforded an adequate period for redesign of equipment and amortization of design costs.

9. Use of the 70-position system would be subject to the following conditions:

(a) Maximum variation from correct frequency shall not exceed ± 3 MHz.

(b) Numerical readout shall be provided for each of the 70 UHF channel numbers or, if all (VHF and UHF) channel numbers are at all times visible on the face of the receiver, numerical readout shall be provided for at least every other channel. See paragraph 10, infra.

(c) Any receiver utilizing such a 70-position UHF detent tuning system for color tuning shall be AFC-equipped. (The reference is to AFC which is in common use today rather than to a not-yet-developed wide-band system. Without AFC, we think that UHF color tuning would be difficult, especially by comparison with VHF memory color tuning. With AFC, we think UHF color tuning should be relatively simple.)

10. The 70-position system which we have discussed to this point utilizes a readout mechanism in which the first of the two digits in any UHF channel number is moved forward or backward

once (e.g., from 1 to 2, as in the first digits of 19 and 20) for each complete rotation of the tuning knob, and the precise channel number is displayed in a window on the face of the receiver. Seven complete rotations of the knob are required to tune through the 70-channel UHF television band. This method solves the problem of squeezing 70 two-digit numbers of reasonable size around the edge of a tuning knob of appropriate size for use on a small receiver. Another way to solve that problem is to utilize two concentric circles, one displaying the even, and one the odd, channel numbers. With this on-the-knob display, there is flexibility as to the number of rotations of the tuning knob required to tune through the UHF television band. The Commission has been advised informally that a UHF tuning system utilizing an on-the-knob display would cost about one-fourth as much as the 70-position window display system heretofore discussed. Although the concentric circle arrangement involves a considerable crowding and profusion of numbers, we have been unable to say that it is not reasonably comparable (considering the problem of legibly presenting 70 numbers in a restricted space) to an on-the-knob VHF display. In our judgment, however, a concentric circle display would be less legible and generally less satisfactory than the display of alternate UHF channel numbers in a single circle, with marks to indicate the missing numbers. We accordingly propose amendment of the rules to provide for on-the-knob display of alternate channels. This method would be considered acceptable only in combination with an on-the-knob VHF display typically utilized in small inexpensive receivers.

11. Comments submitted in response to the March 15 Public Notice predominantly favor use of the 70-position system. However, they contain a number of suggestions as to the specifications for such a system and as to conditions under which it should be used. These are discussed below:

(a) A number of the comments suggest that ± 3 MHz tuning accuracy requirement be relaxed, to allow for alternate sourcing of 70-position systems. However, since it appears that a number of tuner manufacturers are capable of producing a 70-position system with maximum variation from correct frequency of ± 3 MHz, alternate sources of such equipment appear to be available without relaxing the accuracy requirement. Moreover, we regard ± 3 MHz as an outside limit and consider it reasonable to expect improvement in this figure to follow from design changes and manufacturing experience.

(b) A number of the comments also suggest that specifications as to factors other than tuning accuracy and digital read-out (e.g., fine tuning ratio, fine tuning range) be prescribed. However, since the specifications as to such matters have little or no bearing on the cost or size of the system and are adjustable according to the manufacturer's concept of

consumer needs and preferences, we believe they are best left to the judgment of receiver and tuner manufacturers.

(c) ACTS urges the Commission to authorize use of the 70-position system, but on condition that its use be limited to a 3-year period. Since our proposal is based on the premise that the 70-position system is not demonstrably inferior to the six-position system and since there is no time limit on use of the six-position system, it would not appear reasonable or consistent to impose a time limit on use of the 70-position system. A 3-year limitation, moreover, would appear to preclude any appreciable use of the 70-position system, as receiver manufacturers require a substantial period for redesign of receiver models to accommodate a new tuning system and a period of 3 years to amortize design costs. While we would again stress the need for improvement of available UHF tuning systems, we do not at this time consider it desirable to set a limit in years on the use of any particular system. However, if we do not see reasonable progress in the development of UHF tuning, we will reexamine this position.

(d) Kaiser Broadcasting considers that authorization of the 70-position system "would be generally in the best interests of the public and UHF broadcasters provided that any set with remote control also has . . . AFC." We have partially accepted this suggestion by proposing that AFC be required for color reception. In addition, it should be clear, under existing rules, that remote fine tuning would have to be provided if the 70-position system were used with remote controls. With remote fine tuning, UHF remote tuning should be as easy or easier than it is at the receiver. Without remote fine tuning, AFC would not provide comparable tuning, since no assurance is provided that the tuner would be positioned within the range of AFC. There is, moreover, a legitimate question as to whether AFC is desirable for black and white reception.

(e) It is also suggested that use of the 70-position system be authorized only in black and white receivers lacking VHF memory. Because VHF memory is inexpensive and most beneficial, we think that manufacturers will increasingly incorporate it as a feature in their receivers. Authorizing use of a small, inexpensive UHF tuning system only with a VHF system lacking memory, however, would tend to limit the use of VHF memory. Because we seek comparability by upgrading UHF tuning rather than by downgrading VHF tuning, we have rejected this suggestion.

12. Three UHF broadcasters strongly oppose use of the 70-position system, on the ground that it fails to provide full comparability with VHF tuning systems. If fully comparable UHF tuning systems were available, this would also be the Commission's position. However, as it appears that fully comparable systems are not now available (see paragraph 6, supra), the position of these broadcasters must be rejected.

13. The proposed amendment is set forth below. Authority for the amendment is contained in sections 4(i), 303 (r) and (s), and 330 of the Communications Act of 1934, 47 U.S.C. 154(i), 303 (r) and (s), and 330.

14. Comments submitted in response to the Public Notice of March 15, 1971, will be entered in this docket and, with comment in response to this notice, will be available for inspection in the Commission's Broadcast and Dockets Reference Room. Because a prior opportunity has been afforded for comment and because near-term use of the 70-position tuning system would require prompt commencement of the receiver redesign process, we are affording a relatively brief period for comment on this proposal and we do not anticipate granting any extensions of time for the filing of comments.

15. Pursuant to applicable procedures set forth in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments in this proceeding on or before July 12, 1971, and reply comments on or before July 19, 1971. All relevant and timely comments and reply comments will be considered by the Commission prior to final action in this proceeding. In reaching its decision, the Commission may take into account other relevant information before it in addition to the specific comments invited by this notice. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, an original and 14 copies of all comments, reply comments and other materials shall be furnished the Commission.

Adopted: June 24, 1971.

Released: June 25, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

In Part 15 of Chapter I of Title 47 of the Code of Federal Regulations, a note is added at the end of § 15.68, to read as follows:

§ 15.68 All-channel television broadcast reception: receivers manufactured on or after July 1, 1971.

NOTE: A 70-position UHF detent tuning system meeting the following requirements is acceptable on a temporary basis, pending development of a more nearly comparable system: (1) Maximum variation from correct frequency shall not exceed ± 3 MHz; (2) numerical readout shall be provided for each of the 70 UHF channel numbers or, if all (VHF and UHF) channel numbers are at all times visible on the face of the receiver, numerical readout shall be provided for at least every other UHF channel, with marks to indicate those channels not displayed numerically; and (3) any receiver utilizing such a 70-position UHF detent tuning system for color reception shall be AFC-equipped.

*Commissioners Robert E. Lee, Johnson, and Houser absent.

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-37 (Sub-No. 9C)]

BALTIMORE, MD., COMMERCIAL ZONE

Proposed Redefinition

JUNE 25, 1971.

Petitioner: The Howard Research and Development Corp. Petitioner's representative: William L. Marbury and Donald P. McPherson, III, 900 First National Bank Building, Baltimore, Md. 21202; George A. Shehan, The Rouse Co., American City Building, Columbia, Md. 21043.

By petition filed June 17, 1971, petitioner requests the Commission to institute a proceeding for the purpose of specifically redefining the limits of the zone adjacent to and commercially a part of Baltimore, Md., which are now prescribed by the specific definition promulgated in Commercial Zones and Terminal Areas (Baltimore, Md. Commercial Zone), 111 M.C.C. 240, 49 CFR 1048.21. The instant petition requests a redefinition of the Baltimore commercial zone so as to add the area as follows in part (e) of the present description.

(e) All points in that area southwest of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses the Baltimore-Washington Expressway and extending in a southwesterly direction along the Baltimore-Washington Expressway to its intersection with Maryland Highway 176, thence westerly along Maryland Highway

way 176 to its intersection with the Howard-Anne Arundel County line; thence southwesterly along said county line to its intersection with Maryland Highway 32, thence northwesterly along Maryland Highway 32 to its intersection with the Little Patuxent River, thence northerly along the Little Patuxent River to the intersection of its north fork and its east fork located approximately 1 mile north of the intersection of Maryland Highway 32 and Berger Road, thence easterly along the east fork of the Little Patuxent River to its intersection with Broken Land Parkway, thence southerly along Broken Land Parkway to its intersection with Snowden River Parkway, thence easterly along Snowden River Parkway to its intersection with relocated Maryland Highway 175, thence southeasterly along relocated Maryland Highway 175 to its intersection with Oakland Mills Road, thence northerly along Oakland Mills Road to its intersection with Lark Brown Road, thence northeasterly along Lark Brown Road to its intersection with Maryland Highway 175, thence southerly along Maryland Highway 175 to its intersection with Interstate Highway 95, thence northeasterly along Interstate Highway 95 to its intersection with the line described in paragraph (b) of this section.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the above-proposed specific redefinition of the limits of the Baltimore, Md., commercial zone, may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before August 16, 1971. Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, DC, during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9234 Filed 6-29-71; 8:49 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

BICYCLES FROM WEST GERMANY

Withholding of Appraisement Notice

Information was received on April 16, 1970, that bicycles from West Germany were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of July 7, 1970, on page 10917. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) or the exporter's sales price (section 204 of the Act; 19 U.S.C. 163), as applicable, of bicycles from West Germany is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Statement of reasons. The information currently before the Bureau tends to indicate that the basis for comparison for fair value purposes will probably be between purchase price or exporter's sales price, as appropriate, and home market price of such or similar merchandise.

Purchase price will probably be calculated on the basis of an f.o.b. price for exportation to the United States with appropriate deductions for inland freight and insurance, storage and handling, and accessories used exclusively on export models.

Exporter's sales price will probably be calculated on the basis of a c.i.f. duty-paid price with deductions for selling expenses, duty, Customs brokerage, insurance, ocean freight, inland freight, storage, and handling.

Home market price will probably be based on a delivered price with deductions for inland freight and home market discounts, and adjustments for accessories used exclusively on home market models, production cost differential, commissions paid in the home market and packing cost differential.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price or exporter's sales price, as applicable, will be lower than home market price in all cases.

Customs officers are being directed to withhold appraisement of bicycles from West Germany in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to section 153.34(b), Customs Regulations, shall become effective upon publication in the FEDERAL REGISTER (6-30-71). It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: June 25, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-9262 Filed 6-29-71; 8:53 am]

Office of the Secretary HIGH VOLTAGE PORCELAIN INSULATORS FROM JAPAN Notice of Discontinuance of Antidumping Investigation

JUNE 25, 1971.

On May 18, 1971, there was published in the FEDERAL REGISTER a "Notice of Intent to Discontinue Antidumping Investigation" of high voltage porcelain insulators manufactured by NGK Insulators, Ltd., Nagoya, Japan.

The statement of reasons for intending to discontinue this investigation was published in the above-mentioned notice, and interested parties were afforded until June 18, 1971, to make written submissions or requests for an opportunity to present oral views in connection with the intended action.

An initial request for an opportunity to present oral views in connection with the intended action was received but subsequently withdrawn. No written submissions have been received. For the reasons stated in the Notice of Intent to Discontinue Antidumping Investigation, I hereby discontinue the antidumping in-

vestigation of high voltage porcelain insulators manufactured by NGK Insulators, Ltd., Nagoya, Japan.

This "Notice of Discontinuance of Antidumping Investigation" is published pursuant to § 153.15(b) of the Customs Regulations (19 CFR 153.15(b)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-9263 Filed 6-29-71; 8:53 am]

DEPARTMENT OF DEFENSE

Department of the Army

OFFICE OF CIVIL DEFENSE

Delegation of Authority

References: (a) Delegations of Authority published at 29 F.R. 11852-11853, August 19, 1964; (b) Further Redesignation of Authorities published at 29 F.R. 12653, September 5, 1964, as amended at 29 F.R. 14756, October 29, 1964.

1. The following amendment to reference (a) is hereby approved:

Sec. 4. *Regional Directors* is hereby revised to add new paragraphs as follows:

(e) Procurement of materials, supplies, equipment and services, including the making of necessary findings and determinations with respect thereto for the following OCD programs for the States: (1) Radiological Defense Maintenance and Calibration (RADEF Maintenance); (2) Community Shelter Planning Officer, State (CSPOS); (3) Civil Defense Education (CDE); (4) Shelter Survey by State Personnel (Survey-State); (5) CSP Emergency Public Information Program (CSP-EPI); (6) National Communications System (Radio) Agreements (NACOM II); and on a case-by-case basis as authorized by the Director of Civil Defense, for (7) Civil Defense University Extension Program (CDUEP), and (8) Professional Advisory Service Program (PAS);

(f) Perform contract administration functions with respect to the Civil Defense University Extension Program (CDUEP) and the Professional Advisory Service Program (PAS);

(g) Entering into and executing of agreements for the loan of engineering stockpile equipment or the loan of civil defense exhibits to State and local governments;

(h) Procurement of supplies and services other than personal for civil defense purposes not in excess of \$2,500 per order from governmental or nongovernmental sources. Established Government sources shall be utilized to the maximum extent possible in the procurement of supplies and services;

(i) Issuance of U.S. Government Bills of Lading not to exceed \$2,500 per order;

(j) Arranging for and acquiring through General Services Administration, of space and facilities for regional and field offices not to exceed \$10,000 per order;

(k) Approving of invitational travel to persons serving without compensation whose consultative, advisory, or other highly specialized technical services are required in a capacity that is directly related to, or in connection with, assigned civil defense activities.

2. Reference (b) is hereby superseded. This amendment to the Delegations of Authority shall be effective July 1, 1971.

JOHN E. DAVIS,
Director of Civil Defense.
[FR Doc.71-9216 Filed 6-29-71; 8:48 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

CABEZA PRIETA GAME RANGE

Notice of Public Hearing Regarding Wilderness Proposal

On page 11118 of the FEDERAL REGISTER of June 9, 1971, there was published a notice of public hearing to be held on August 11, 12, 13, and 14, 1971, on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior regarding the desirability of including the proposed Cabeza Prieta Wilderness within the National Wilderness Preservation System. In consideration of public requests to hold the hearing at a more convenient time, the announced hearing dates are hereby rescinded and the hearing will now be held beginning at 9 a.m., m.s.t., on September 15, 1971, at the City Council Chambers, Tucson, Ariz., and continued at 9 a.m., m.s.t., on September 16 at the Del Webb's TowneHouse, Phoenix, Ariz., at 10 a.m., m.s.t., on September 17 at the Ajo High School Auditorium, Ajo, Ariz., and further continued at 9 a.m., m.s.t., on September 18 at the Yuma City-County Library, Yuma, Ariz.

A brochure containing a map and information about the Cabeza Prieta Wilderness proposal may be obtained from the Refuge Manager, Cabeza Prieta Game Range, Post Office Box 1032, Yuma, AZ 85364, or the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, 500 Gold Avenue SW., Albuquerque, NM 87103.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by October 18, 1971.

SPENCER H. SMITH,
Acting Director,
Bureau of Sport Fisheries and Wildlife.
JUNE 24, 1971.
[FR Doc.71-9188 Filed 6-29-71; 8:46 am]

NOTICES

Office of the Secretary

OIL SHALE LANDS IN STATES OF COLORADO, UTAH, AND WYOMING Applications for Permits To Conduct Informational Core Drilling

1. For a period of 2 years from the date of the publication, applications may be filed for Special Land-Use Permits to conduct informational core drilling in order to allow the evaluation of the environmental characteristics, hydrology, and the oil shale resources of specific sites on oil shale lands situated in the States of Colorado, Utah, and Wyoming. Any interested party may obtain a permit to conduct informational core drilling by filing an application for a Special Land-Use Permit in the Bureau of Land Management Land Office, or any successor Office (hereinafter referred to as the "Land Office"), having jurisdiction over the lands sought for core drilling. Except as otherwise provided herein, applications shall be filed in accordance with the provisions of 43 CFR 2920. No specific form of application is required. The application must be accompanied by a Notice of Intent to Drill, U.S. Geological Survey Form 9-331-A, and a description of the proposed exploration program, including a description of the lands and the number and location of core holes to be drilled. Upon the filing of an application, the proposed exploration program included therewith shall be made available to the public for inspection. If the lands have been surveyed under the public land rectangular system, each application shall describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each application shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to a monument or to a prominent topographic feature. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, each application for lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands according to the legal subdivision, section, township, and range shown on the approved protracted surveys.

2. Applicants for permits shall be required, upon issuance of a permit, to afford other parties a period of at least 120 days in which to participate in the proposed drilling program. A participant shall be required to pay a pro rata share of the cost of the program described in the application, including any subsequent modifications of the program by the Regional Mining Supervisor, U.S. Geological Survey (hereinafter referred to as "the Mining Supervisor"). The applicant must publish a notice once every 30 days for three consecutive 30-day periods in at least two mining or oil and gas trade journals and two newspapers of general circulation in the area where the lands covered by the permit application are situated. The notice must con-

tain an invitation to the public, open for a period of 120 days from the date of the first publication, to participate in the proposed informational drilling program.

3. Prior to publication, the notice referred to in paragraph 2, and the news sources in which it is to be published, must be approved by the Land Office and the proposed exploration program must be approved by the Mining Supervisor. Upon the grant of the approvals referred to in this section, a special Land-Use Permit to conduct informational core drilling will be issued to the applicant.

4. Copies of all notices of invitations to participate under a core drilling permit must be filed with the Land Office upon each publication and, thereafter, will be posted in that Office. The names of parties electing to participate under a permit, if any, shall be furnished to the Land Office at the close of the period provided for election to participate.

5. Detailed requirements and stipulations pertaining to operations and environmental protection shall be made known to an applicant prior to approval of an application and shall be incorporated in any permit that may be issued by the Department. For general information concerning such requirements and stipulations, interested parties are referred to the "Program Statement for the Proposed Prototype Oil Shale Leasing Program," published by the U.S. Department of the Interior, Washington, D.C., June 1971.

6. If a Special Land-Use Permit is issued, the permittee shall be required to file with the Mining Supervisor, prior to the commencement of operations on the lands covered by the permit, a detailed drilling plan which must include location of holes, drilling method, size of hole, size of core, length and size of casing, safety precautions, abandonment procedures, and a schedule of the projected time period during which the work is to be performed, including starting and completion dates. Operations under the permit shall not be commenced until the Mining Supervisor has approved the detailed drilling plan.

7. A permittee shall be required, among other things, to: (1) Commence drilling operations within 1 year from the date of approval of a detailed drilling plan for the permit; (2) conduct his operation in such a manner as not to interfere with or endanger operations on any existing or future mineral lease, nor interfere with or endanger other land uses; (3) conduct his operations in such a manner as to preserve and protect the environment, including land, water and air, and to protect and conserve other natural resources; (4) comply with all applicable Federal, State, and local regulations or requirements pertaining to these operations, including the regulations in 43 CFR Part 23 and 30 CFR 231; (5) post a \$5,000 bond with the Department for each Special Land-Use Permit issued to cover damages that may be caused to the environment or resources, either onsite or offsite, by construction, maintenance, and use of roads

or trails, or by other activities conducted under the permit; and (6) post a \$5,000 bond with the Department for each informational core hole to be drilled, to assure compliance with regulations for drilling and abandonment operations (30 CFR 231 and 43 CFR Part 23).

8. All data obtained by a permittee shall be shared with the Department of the Interior, at no cost to the Federal Government. Resource data, but not environmental data, which is made available to the Department by the permittee, shall be treated as confidential proprietary information for not more than 5 years or until the permit lands are leased for oil shale, whichever is sooner.

9. Neither the permittee nor any participant under a Special Land-Use Permit shall acquire any right to a lease or to preferential treatment, nor shall equities of any kind be deemed to accrue, as a result of informational core drilling conducted under such a permit. Permittees and participants shall be required to stipulate that data acquired from such informational core drilling shall not be relied upon to support an application for patent or lease, nor be submitted as evidence in any administrative contest or court proceeding concerning the validity of mining claims or the validity of sodium preference right lease applications on oil shale lands.

Date: June 25, 1971.

W. T. PECORA,
Acting Secretary of the Interior
[FR Doc.71-9219 Filed 6-29-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary ARIZONA

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91-606), it has been determined that in the following county in the State of Arizona natural disasters have caused a general need for agricultural credit:

ARIZONA

Yuma.

Emergency loans will not be made in the above-named county under this designation after June 30, 1972, except subsequent loans to qualified borrowers who receive initial loans under this designation on or before that date.

Done at Washington, D.C., this 24th day of June 1971.

CLIFFORD M. HARDIN,
Secretary of Agriculture.
[FR Doc.71-9208 Filed 6-29-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration PPG INDUSTRIES, INC.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1M2640) has been filed by PPG Industries, Inc., Drawer A, Delaware, Ohio 43015, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use in contact with food of an electron-beam cured coating prepared with spermaceti wax, acrylic acid, butyl acrylate, ethyl acrylate, hydroxyethyl acrylate, methacrylic acid, methyl methacrylate, and trimethylolpropane triacrylate.

Dated: June 24, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-9226 Filed 6-29-71;8:48 am]

Office of the Secretary PUBLIC HEALTH SERVICE

Statement of Organization, Functions and Delegations of Authority

As of May 17, 1971, the organizational elements of the Environmental Health Service that remained within HEW after the creation of the Independent Environmental Protection Agency on December 2, 1970, were transferred—

To the Food and Drug Administration:
The Bureau of Radiological Health.

To the Health Services and Mental Health Administration:

The National Institute for Occupational Safety and Health.

The Bureau of Community Environmental Management.

The changes in organization that are indicated below show how the latter two units are being incorporated into HSMHA.

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968), as amended, and former Part 3 (33 F.R. 19050, December 20, 1968) are further amended as follows:

Under former Part 3, which was entitled Consumer Protection and Environmental Health Service, delete paragraph (g) Bureau of Community Environmental Management and succeeding paragraphs (g-1) through (g-3), and delete paragraph (h) Bureau of Occupational Safety and Health and succeeding paragraphs (h-1) through (h-3).

Part 3, which now is the part assigned to the Health Services and Mental Health Administration, is hereby amended with regard to section 3-B, Organization, as follows:

Following the paragraph entitled "St. Elizabeths Hospital—Division of Clinical and Community Services (3J71)" under the center head National Institute of Mental Health (3J00), insert a new center head and succeeding paragraphs reading:

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (3K00)

Plans, directs, and coordinates the national program effort to develop and establish recommended occupational safety and health standards and to conduct research, training, and related activities to assure safe and healthful working conditions for every working man and woman:

(1) Administers research in the field of occupational safety and health, including the psychological factors involved; (2) develops innovative methods and approaches for dealing with occupational safety and health problems; (3) provides medical criteria which will ensure, insofar as practicable, that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience, with emphasis on ways to discover latent disease, establishing causal relationship between diseases and work conditions; (4) serves as a principal focus for training programs to increase the number and competence of personnel engaged in the practice of occupational safety and health; (5) develops and coordinates the appropriate reporting procedures which assist in accurately describing the nature of the national occupational safety and health problems; and (6) consults with the U.S. Department of Labor, other Federal agencies, State and local government agencies, industry and employee organizations, and other appropriate individuals, institutes, and organizations with regard to promotion of occupational safety and health.

Office of the Director (3K01). (1) Plans, directs, coordinates, and evaluates the operations of the institute; (2) maintains liaison with, and provides advice and assistance to, the U.S. Department of Labor, the U.S. Department of the Interior, other Federal agencies, State and local government agencies, international health organizations, and outside groups; (3) provides coordination with the Federal Health Programs Service's occupational health activities for Federal employees; and (4) provides policy guidance and coordination to occupational safety and health activities in the Regional Offices.

Office of Public Information (3K17).

(1) Assists and advises the Institute Director and the Divisions on public information policies and activities; (2)

provides information materials for response to public inquiries; (3) coordinates printing, publication, and clearance procedures for the Institute; and (4) assists in developing displays, exhibits, and illustrations.

Office of Extramural Activities (3K18).

(1) Advises the Institute Director on matters relating to the development and progress of Institute-supported external research; (2) in cooperation with the offices and operating divisions of the Institute, stimulates research, training, and demonstration grants in relevant priority areas; and (3) administers the management aspects of the Institute's grants programs by receiving, reviewing, analyzing, and evaluating all grant applications.

Office of Administrative Management (3K19). (1) Provides management information, advice, and guidance to the Institute Director; (2) coordinates all management activities in the conduct of finance, personnel, and procurement functions; (3) relates administrative management activities to programs; and (4) develops necessary policies, procedures, and operations, and provides such special reports and studies as may be required in the management area.

Office of Planning and Resource Management (3K21). (1) Plans and coordinates the strategy and philosophy of operation of the Institute regarding mission and objectives; (2) conducts or participates in special studies for program planning and evaluation; (3) conducts the necessary control functions to assure operational compliance toward program objectives within the Institute; and (4) provides management systems consultation and analyses.

Office of Research and Standards Development (3K23). (1) Reviews existing scientific criteria for health and safety standards and assesses through priority systems the needs for additional research program areas for criteria development; and (2) coordinates and maintains an overview of research activities in the operating divisions of the Institute with the ultimate aim toward finalization of criteria and standards.

Office of Manpower Development (3K25). (1) Provides policy guidance and evaluates the Institute's manpower development and training activities; (2) advises the Institute Director on national health manpower needs related to occupational safety and health, and relates to other Federal agencies regarding occupational safety and health manpower needs; and (3) conducts equal employment opportunity activities of the Institute as part of the total HSMHA-EEO program.

Office of Health Surveillance and Biometrics (3K27). (1) Operates as the principal statistical and data research unit in the Institute; (2) monitors new as well as existing occupational hazards, and maintains surveillance on the incidence of occupational illness and disease; (3) in coordination with the U.S. Department of Labor, establishes a priority list for the conduct of research and

the development of standards; (4) develops and conducts record studies of work population groups to determine the national trends and problem areas related to job health and safety, and provides health policy guidance in epidemiology; and (5) coordinates the Institute's electronic data processing requirements, to ensure that adequate computer facilities and services are available.

Division of Laboratories and Criteria Development (3K43). (1) Develops criteria for standards for the control of chemical, biological, and physical hazards to the health and safety of the working population, and initiates standard methodology and instrumentation for the detection, evaluation, and control of such hazards; (2) evaluates the toxicity, health, and safety hazards of industrial substances, processes, and other agents, as well as current research requirements and regulations; (3) conducts methodology studies for evaluating the varying capacity of workers to withstand physical and psychological responses; (4) provides for equipment development, analytical service, and calibration needs of other operating divisions within the Institute, and maintains an analytical and calibrations service for the U.S. Department of Labor; and (5) evaluates and certifies the performance of safety and health equipment.

Division of Field Studies and Clinical Investigations (3K47). (1) Conducts nationwide studies, surveys, and comprehensive analyses to determine the health status of the working population, including the incidence and prevalence of disease and injury; and (2) initiates studies to determine chronic and long-term effects of work-related exposures to toxic and hazardous substances.

Division of Technical Services (3K53). (1) Provides demonstrations, technical assistance, and consultation to public and private agencies responsible for the control of occupational diseases and accidental work injuries; (2) through the Regional Offices and its central staff serves as the focal point for the review of State plans and grants with the U.S. Department of Labor and makes the initial responses to requests for hazards evaluations; (3) in cooperation with the Office of Extramural Activities, stimulates, programs, and monitors demonstration grants for new and innovative methods of recognizing, evaluating, and controlling occupational hazards; (4) prepares manuals of good practice for safe work procedures; and (5) operates the technical information inquiry service of the Institute.

Division of Occupational Health Programs (3K57). (1) Promotes occupational health programs at the State and local governmental levels as well as in industry and agriculture; (2) provides technical guidance in the development of occupational health programs; and (3) correlates the practice of occupational medicine in industry with the total delivery of health services.

Division of Training (3K63). (1) Develops and plans short-term training ac-

tivities for Federal, State, and local governments, industry, and other appropriate organizations in the field of occupational safety and health; and (2) conducts such short-term training.

Appalachian Laboratory for Occupational Respiratory Diseases (3K67). (1) Conducts studies of the incidences and prevalence of occupational respiratory diseases in specific work groups with particular emphasis on coal workers' pneumoconiosis; and (2) provides medical and engineering research and service to fulfill the Institute's responsibilities under the Federal Coal Mine Health and Safety Act of 1969.

Also, following the paragraph entitled "Field Organization" under the center head Federal Health Programs Service (3U00), insert a new center head and succeeding paragraphs reading:

BUREAU OF COMMUNITY ENVIRONMENTAL MANAGEMENT (3W00)

(1) Formulates and establishes criteria and recommends standards for sustaining man's health and well-being in the living environment of the community; (2) conducts and participates in studies and demonstrations to establish data for formulating criteria and standards; (3) conducts or participates in research, investigations, and demonstrations to control environmental hazards to health; (4) collects epidemiological information and maintains an information resource of statistical data on environmental hazards to health; (5) plans, conducts, and supports a program to control injuries caused by environmental situations, human behavior, and community environments; and (6) assists in the development of manpower and training needs for community environmental management.

Office of the Director (3W81). (1) Plans, directs, coordinates, and evaluates the operations of the Bureau; (2) maintains liaison with, and provides advice and assistance to, the U.S. Department of Housing and Urban Development, the U.S. Department of the Interior, other Federal agencies, State and local government agencies, international health organizations, and outside groups; and (3) provides technical guidance and coordination to community environmental management activities in the Regional Offices.

Office of Public Information (3W17). (1) Assists and advises the Bureau Director and the Divisions on public information policies and activities; (2) provides information materials for response to public inquiries; (3) coordinates printing, publication, and clearance procedures for the Bureau; and (4) assists in development of displays, exhibits, and illustrations.

Office of Administrative Management (3W19). (1) Provides management information, advice, and guidance to the Bureau Director; (2) coordinates all management activities in the conduct of finance, personnel, and procurement functions; (3) relates administrative management activities to programs;

and (4) develops necessary policies, procedures, and operations.

Office of Research and Development (3W21). (1) Develops and coordinates the research and development policy of the Bureau; (2) assists the Divisions and advises the Director in identification of research and development needs and on funding priorities and program relevancy; (3) coordinates stimulation, programming, reviewing, evaluating, and reporting of research and development projects, and of training and fellowship grants; (4) manages grants activities, the research and development advisory committee, and consultant panels; (5) serves as liaison office with the HSMHA Office of Grants Management, and briefs study sections and the Advisory Council; (6) maintains contact with investigators, universities, and research facilities to determine research and training capabilities and to stimulate appropriate grant applications or contract proposals; and (7) maintains the intragovernmental, private foundation, and international research and development contacts.

Office of Program Planning and Evaluation (3W31). (1) Coordinates development of Bureau strategy, including long- and short-range objectives and philosophy of operations; (2) conducts and coordinates planning and program development activities; (3) evaluates program effectiveness and recommends necessary planning strategy to overcome deficiencies; (4) coordinates legislative planning; and (5) conducts and participates in special studies and program analyses.

Division of Environmental Improvement (3W41). (1) Provides technical assistance to public, nonprofit, and other public service organizations and agencies on community environmental management, housing and environmental planning, community sanitation, recreation sanitation, and disease vector control; (2) conducts and participates in research investigations and demonstrations to control environmental hazards to health; (3) conducts and participates in studies and demonstrations to establish data for formulating criteria and standards; (4) establishes criteria and recommends standards for health-related codes, ordinances, and community environmental planning; (5) provides technical review of the pertinent portions of comprehensive health plans and project applications under the Partnership for Health Amendments, Public Law 89-749; (6) provides technical assistance to and evaluates urban rat control projects funded under section 314(e) of the PHS Act; and (7) identifies the need for and assists in the development of informational material, demonstration tools, visual aids, training courses, field training, and demonstrations in environmental management techniques.

Division of Planning and Standards (3W51). (1) Establishes criteria and recommends standards for the safety aspects of health-related codes, ordinances, and community environmental planning; (2) conducts and supports research and

development and conducts control programs to reduce injuries caused by environmental situations, human behavior, and community environments; (3) establishes a national resource for statistical data on accidental injuries and conducts epidemiological studies and surveys; (4) establishes priorities and determines utilization of resources; (5) identifies the need for and assists States, local communities, and others in the development of informational material, demonstration tools, visual aids, training courses, field training, and demonstrations in injury control; (6) provides technical advice and assistance in administering the provisions of the Lead-Based Paint Poisoning Prevention Act of 1971, Public Law 91-695; and (7) maintains liaison with national, State, and local agencies and organizations, industry, and others concerned with the control of injuries.

Division of Area Ecologic Centers (3W61). Plans, develops, and operates a series of ecologic centers committed to providing research, development, and technical assistance on the health aspects of human ecology to the population served by the individual centers.

Dated: June 22, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc. 71-9248 Filed 6-29-71; 8:52 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-342, 50-343]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

The Consolidated Edison Co. of New York, Inc., 4 Irving Place, New York, NY 10003, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application, dated June 3, 1969, for authorization to construct and operate a two-unit nuclear power station at its 130-acre site on the east side of the Hudson River in the town of Cortlandt, Westchester County, N.Y. The site is contiguous to the company's Indian Point site at Buchanan.

The proposed nuclear power station will consist of two identical boiling water nuclear reactors, designated by the applicant as Verplanck Nuclear Facility Units No. 1 and No. 2, each of which will have a net electrical output of approximately 1,115 megawatts derived from a thermal capacity of approximately 3,293 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after June 30, 1971.

A copy of the application and the amendments thereto are available for

public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Hendrik Hudson High School Library, Albany Post Road, Montrose, NY.

Dated at Bethesda, Md., this 16th day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc. 71-8697 Filed 6-29-71; 8:45 am]

AMCHITKA ISLAND

Trespassing on Commission Property

Notice is hereby given that the Atomic Energy Commission, pursuant to section 229 of the Atomic Energy Act of 1954, as amended, as implemented by 10 CFR Part 160 published in the FEDERAL REGISTER on August 16, 1963 (28 F.R. 8400), prohibits the unauthorized entry, as provided in 10 CFR 160.3, and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 160.4, into or upon the Amchitka test area, said area consisting of the whole of Amchitka Island, located in the Rat Island group of the western Aleutian Islands (at latitude 51.5° N., longitude 179° E.), approximately 1,340 miles west-southwest of Anchorage, Alaska, and 2,500 miles west-northwest of Seattle, Wash.

Notices stating the pertinent prohibitions of 10 CFR 160.3 and 160.4 and penalties of 10 CFR 160.5 will be posted at all entrances of said tract and at intervals along its perimeter as provided in 10 CFR 160.6.

Dated at Germantown, Md., this 24th day of June, 1971.

R. E. HOLLINGSWORTH,
General Manager.

[FR Doc. 71-9223 Filed 6-29-71; 8:48 am]

CANNIKIN

Notice of Availability of the General Manager's Final Environmental Statement

Notice is hereby given that a document entitled "Final Environmental Statement—CANNIKIN," issued pursuant to the Atomic Energy Commission's implementation of section 102(2)(C) of the National Environmental Policy Act of 1969 is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and in the Commission's Nevada Operations Office, Post Office Box 14100, Las Vegas, NV 89114; the San Francisco Operations Office, 2111 Bancroft Way, Berkeley, CA 94704; the Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439; and the Alaska Information Office, Royal Inn, Suite 606, 720 West 5th

Street, Anchorage, AL 99501. CANNIKIN is an underground nuclear test of less than 5 megatons to be fired underground on Amchitka Island, Alaska, in the autumn of 1971. Included with the Statement are the comments received from Federal and State agencies on the draft statement of which notice of availability was published in the FEDERAL REGISTER, Volume 35, No. 120, dated June 20, 1970 and the AEC's response to these comments.

The Environmental Statement, including the comments and AEC's responses, will be furnished upon request addressed to the Assistant General Manager for Operations, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Washington, D.C., this 23d day of June 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc. 71-9184 Filed 6-29-71; 8:45 am]

[Dockets Nos. 50-369, 50-370]

DUKE POWER CO.

Notice of Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Duke Power Co. (the applicant), for construction permits for two pressurized water nuclear reactors designated as the William B. McGuire Nuclear Station, Units 1 and 2 (the facilities), each of which is designed for initial operation at approximately 3,411 thermal megawatts with a net electrical output of approximately 1,180 megawatts. The proposed facilities are to be located at a site on the shore of Lake Norman, approximately 17 miles north-northwest of Charlotte, N.C., and is immediately east of Duke Power Co.'s Cowan Ford Hydroelectric Station. The hearing will be held in the vicinity of the site of the proposed facilities.

The Board will be designated by the Atomic Energy Commission (Commission). Notice as to its membership will be published in the FEDERAL REGISTER.

The date and place of a prehearing conference will be set by the Board. The date and place of the hearing will be set at or after the prehearing conference. In setting these dates due regard shall be had for the convenience and necessity of the parties or their representatives, as well as of the Board members. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

Upon receipt of a report by the Advisory Committee on Reactor Safeguards and upon completion of a favorable Safety Evaluation of the application by the AEC regulatory staff, the Director of Regulation will consider making affirmative findings on Items Nos. 1-3 and a negative finding on Item 4 specified below as the basis for the issuance of construction permits to the applicant.

1. Whether in accordance with the provision of 10 CFR 50.35(a).

(a) The applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4 of the Commission's rules of practice, the Board will, without conducting a de novo evaluation of the application, consider the issues of whether the application and the record of the proceeding contain sufficient information, and the review by the Commission's regulatory staff has been adequate, to support the findings proposed to be made and the construction permits proposed to be issued by the Director of Regulation.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as the issues in this proceeding, Item Nos. 1 through 4 above as the basis for determining whether construction permits should be issued to the applicant.

In addition, any party may, in accordance with paragraph 11 of appendix D of 10 CFR Part 50, raise as an issue in the proceeding whether the issuance of the permits would be likely to result in a significant, adverse effect on the environment. If such a result were indicated, in accordance with the declaration of national policy expressed in the National Environmental Policy Act of 1969, the Board will give consideration to the need for the imposition of requirements for the preservation of environmental values consistent with other essential considerations of national policy, including the need to meet on a timely basis requirements for electrical power in the affected region. These additional issues do not include (i) radiological effects (since such effects are within the four numbered items set forth above) or (ii) matters of water quality covered by section 21(b) of the Federal Water Pollution Control Act. If any party raises any such issue, the Board will make findings of fact on, and resolve, the matters in controversy among the parties with regard to those issues. With respect to those aspects of environmental quality for which environmental quality standards and requirements have been established by authorized Federal, State, and regional agencies, proof that the applicant is equipped to observe and agrees to observe such standards and requirements will be considered a satisfactory showing that there will not be a significant, adverse effect on the environment. Certification by the appropriate agency that there is reasonable assurance that the applicant for the permits or licenses will observe such standards and requirements will be considered dispositive for this purpose.

As they become available, the application, the proposed construction permits, the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS), and the Safety Evaluation by the Commission's regulatory staff, the applicant's Environmental Report, the Commission's Detailed Statement on Environmental Considerations, and the transcripts of the prehearing conference and of the hearing, will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Public Library of Charlotte and Mecklenburg Counties, 310 North Tryon Street, Charlotte, NC, for inspection by members or the public between the hours of 9 a.m. and 9 p.m. on weekdays, 9 a.m. and 6 p.m. on Saturdays, and 2 p.m. and 6 p.m. on Sundays. Copies of the proposed construction permits, the ACRS report, the regulatory staff's Safety Evaluation and the Commission's Detailed Statement on Environmental Considerations may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the *FEDERAL REGISTER*. Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a petition for leave to intervene. Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the *FEDERAL REGISTER*. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating only to matters outside the Commission's jurisdiction will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the applicant not later than twenty (20) days from the date of publication of this notice in the *FEDERAL REGISTER*. Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings

Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to paragraph (a) (1) of this section. The Appeal Board is composed of the Chairman and Vice-Chairman of the Atomic Safety and Licensing Board Panel, with a third member to be designated by the Commission.

A "Notice of Receipt of Application for Construction Permit and Operating License; Time for Submission of Views on Antitrust Matter" was published in the *FEDERAL REGISTER* on March 11, 18, 25, and April 1, 1971. The notice afforded an opportunity for any person wishing to have his views on the antitrust aspects of the application presented to the Attorney General for consideration to submit such views to the Commission within 60 days after March 11, 1971.

Dated at Washington, D.C., this 25th day of June 1971.

UNITED STATES ATOMIC
ENERGY COMMISSION,
W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71-9265 Filed 6-29-71;8:53 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23428, etc.; Order 71-6-120]

EASTERN AIR LINES, INC.

Order Dismissing Complaints

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of June 1971.

By tariff revisions¹ marked to become effective July 1, 1971, Eastern Air Lines, Inc. (Eastern) proposes to add provisions for conditional reservations for transportation in the rear compartment of combination aircraft between points within Continental United States, to Canada, Puerto Rico, and the Virgin Islands.² The rule, which is marked to expire March 31, 1972, is essentially as follows:

¹ Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 142 and Eastern Air Lines, Inc., Tariff CAB No. 58.

² Conditional reservations would not be accepted for travel on the Air Shuttle nor available to youth and military standby passengers, group-fare passengers, Visit U.S.A.-fare passengers, and passengers traveling in connection with international transportation.

When a passenger seeks a reservation on a flight he will be informed if conditional reservation space is available, and if he wishes he may purchase a conditional reservation ticket at the applicable fare and standby for the flight. If he cannot be accommodated on that flight,³ Eastern will tender the passenger compensation in the amount of the value of the remaining flight coupon(s) to the first point of stopover or interline connecting point, or, if there is no such point, to the passenger's destination. Eastern will also provide transportation at no extra charge on the next available seat.

The purpose of the rule is to ameliorate the no-show problem. Eastern asserts that its passenger surveys indicate that the major causes of no-shows—personal problems or changes in travel plans—are factors over which the airline industry can exercise very little control, and as such must be considered an inherent part of the reservation service. The carrier further asserts that despite repeated efforts to reduce no-shows to a manageable level, they still account for a sizeable level of activity which produces a significant lessening of available capacity and a loss of revenues.⁴ In support of its proposal, Eastern contends that all passengers will benefit since it will reduce further upward pressure on fare level by enabling the carrier to obtain better utilization of its seats. It will also enable more passengers to fly on the peak holiday travel day of their choice by making seats available on flights booked "full," but not in fact full due to the high incidence of multiple bookings and no-shows at such times.

Based on 1970 experience, Eastern believes that seats made available for conditional reservation sales could be allowed to reach a level of 5.3 percent of aircraft capacity. This would result in potential revenue gain of \$16.4 million with an associated level of compensation to unaccommodated passengers of \$400,000.

The Aviation Consumer Action Project (ACAP), Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., National Airlines, Inc., and Northeast Airlines, Inc., have filed complaints against Eastern's proposal and request its suspension and investigation.⁵ The

³ If the carrier is unable to accommodate the passenger in the rear compartment he will be accommodated in the forward compartment (subject to space availability) at no additional cost.

⁴ Eastern claims that during 1970 its reserved seat boardings on peak demand flights amounted to 87 percent of bookings held at departure time.

⁵ Braniff Airways, Inc., submitted a letter to the Board indicating that it wishes to associate itself with the allegations contained in other complaints about the conditional reservation rule. Northwest Airlines, Inc., has filed an answer in support of the complaints. Northwest's filing is in essence a late-filed complaint, and it will not be considered. The proper time for filing complaints is on or before the complaint date specified in the rules.

complainants allege, inter alia, that the proposal (1) violates section 403(b) of the Act by granting free transportation on a subsequent flight when Eastern is unable to accommodate a passenger on a flight for which he holds a conditional reservation (2) discriminates against other standby passengers and (3) will encourage passengers to eschew seeking available confirmed reservations on later flights, for the chance of receiving free transportation. Several complainants argue that the proposal is at odds with the denied boarding compensation rule (Part 250 of the Board's Economic Regulations), since Eastern's proposal could entail free transportation within 2 hours after the flight on which a conditional reservation was held. The denied boarding compensation rule, on the other hand, provides that the passenger is not eligible for compensation if accommodated on a flight which arrives at the passenger's destination no later than 2 hours after the flight on which a confirmed reservation was held but boarding was denied.

In answer to the complaints Eastern asserts that persons provided reduced-rate transportation pursuant to tariffs need not be named in section 403(b) of the Act, and that a tariff rule such as that proposed is therefore not unlawful. The carrier contends that it has no intention of setting the level on conditional reservation passengers so high in comparison to historic no-show experience that conditional reservation passengers won't be accommodated on the original flight, and that there will always be a substantial cushion between no-show experience and the booking level of conditional reservations.

Upon consideration of all relevant matters, the Board finds that the complaints do not set forth sufficient facts to warrant investigation of the proposal and the requests therefor, and consequently the requests for suspension will be denied, and the complaints dismissed.

For a number of years, the no-show passenger has been a vexing problem for which no adequate solution has yet been devised. Eastern has proposed a novel method of dealing with the problem which in our judgment has sufficient promise as to warrant the experimentation for the 9-month trial period proposed by Eastern. If successful, Eastern's proposal should tend on the one hand to reduce the number of denied boardings to holders of confirmed reservations, while on the other hand reduce the number of empty seats operated on peak flights related to passenger no-shows. While the complainants have raised a number of practical problems with the proposal, we believe that the workability of the proposal can only be ascertained through actual experimentation. Nor are we prepared to state at this juncture that Eastern's proposal is violative of the Act or inconsistent with the Board's regulations. As Eastern notes, section 403(b) does not prohibit the furnishing of free transportation to persons other than those named therein. Accordingly, the legality of the proposal

must be tested under the standards of reasonableness and freedom from discrimination of section 404, and we are not persuaded that the proposal violates these standards. Nor is the plan inconsistent with Part 250, since the latter regulation deals solely with persons holding confirmed reservations.

While we are permitting experimentation as worthwhile and in the overall public interest, there are as indicated above certain practical problems and unknowns which may, at the least, cause some confusion. For example, there is the matter of boarding priorities, on which the tariff is silent. However, Eastern has indicated that as a matter of company policy it will board conditional reservation passengers ahead of all standby traffic. Likewise, the tariff contains no provisions as to the manner in which interline bookings will be handled. We believe it would insure better understanding of its rights by the traveling public if these matters were clearly set forth in the tariff.

The no-show problem is essentially an industry problem, and it would be most desirable in our opinion that it be dealt with on a uniform basis. For this reason, and in light of the procedural unknowns mentioned above, we believe that industry-wide discussions would be useful and indeed several carriers have so indicated in their complaints. Accordingly, the Board will entertain applications for such discussions should Eastern and other carriers elect to pursue such a course.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. The complaints of the Aviation Consumer Action Project in Docket 23428, Allegheny Airlines, Inc., in Docket 23454, American Airlines, Inc., in Docket 23461, Delta Air Lines, Inc., in Docket 23462, National Airlines, Inc., in Docket 23466, and Northeast Airlines, Inc., in Docket 23458 are hereby dismissed; and

2. Copies of this order be served upon the Aviation Consumer Action Project, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., National Airlines, Inc., and Northeast Airlines, Inc.

This order shall be published in the *FEDERAL REGISTER*.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-9244 Filed 6-29-71;8:52 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Serv-

ice Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Director for Government Enterprise, Office of Minority Business Enterprise, Government Programs Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-9198 Filed 6-29-71;8:47 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary, Secretary's Immediate Office.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.71-9199 Filed 6-29-71;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19157-19159; FCC 71R-200]

PETTIT BROADCASTING CO. ET AL.

Memorandum Opinion and Order Enlarging Issues

In regards applications of Claud M. Pettit and Margaret E. Pettit, doing business as Pettit Broadcasting Co., Brush, Colo., Docket No. 19157, File No. BP-18125; A. V. Bamford, Colorado Springs, Colo., Docket No. 19158, File No. BP-18467; Enid C. Pepperd and Dona B. West, doing business as Brocade Broadcasting Co., Boulder, Colo., Docket No. 19159, File No. BP-18470; for construction permits.

1. This proceeding involves the mutually exclusive applications of Claud M. Pettit and Margaret E. Pettit, doing business as Pettit Broadcasting Co.; A. V. Bamford (Bamford); and Enid C. Pepperd and Dona B. West, doing business as Brocade Broadcasting Co. for construction permits for new standard broadcast stations at Brush, Colorado Springs, and Boulder, Colo., respectively. By order, FCC 71-189, 27 FCC 2d 985, released March 9, 1971, the Commission designated the proceeding for hearing, specifying, inter alia, a limited financial issue with respect to the application of Bamford. Presently before the Review Board is a petition to enlarge issues, filed

March 25, 1971, by the Broadcast Bureau,¹ which seeks addition of misrepresentation and Rule 1.65 issues with respect to Bamford, as well as expansion of the existing financial issue.²

2. In support of its petition, the Bureau states that on February 25, 1969, Bamford filed his Colorado Springs application. Therein, the Bureau alleges, Bamford proposed to raise the approximately \$159,000 he would require to effectuate his proposal from personal resources, and submitted a supporting balance sheet dated January 3, 1969, which showed a net worth of \$234,825.36. On January 30, 1970, the Bureau continues, an application for a new FM facility at Corpus Christi, Tex., was filed, with Bamford listed as 50 percent partner and committed to supply up to \$50,000; in a supporting balance sheet, dated October 1, 1969, Bamford listed an increased net worth of approximately \$240,000. Thus, at the time of the filing of the Corpus Christi application, petitioner avers, Bamford had undertaken a total commitment to the two applications of \$209,000 to be derived from a listed net worth of \$240,000. However, the Bureau alleges that stock prices listed on Bamford's October 1, 1969, balance sheet do not comport with market quotations on that date which were, in fact, \$4,000 lower. Further, the Bureau points out, both the Colorado Springs and the Corpus Christi balance sheets list the book value of KEPO Broadcasting Co., Inc., licensee of Stations KBER and KBER-FM, San Antonio, as \$103,898.79. However, the Bureau alleges, the latest balance sheet (March 1968) in the KBER license file shows a book value for the corporation of \$76,980, or approximately \$27,000 less than that stated on Bamford's balance sheets. Furthermore, the Bureau alleges that Station KBER operated at a loss in 1969. Also, the Bureau notes that, by amendment to the Corpus Christi application, filed January 4, 1971 (and granted January 26, 1971, FCC 71M-130), Bamford became individual party applicant and his financial commitment was accordingly increased to \$86,400. Thus, the Bureau submits, Bamford's full obligation to the two proposals now totals over \$245,000 whereas even his inflated October 1, 1969, balance sheet shows a lesser net worth. The Bureau points out that, although Bamford amended his Colorado Springs application on July 22, 1970, and January 27, 1971, to change transmitter sites, he has not amended his financial proposal. Nor, the Bureau alleges, did Bamford indicate in the Corpus Christi application that he had a \$159,000 obligation to the subject Colorado

Spring application. The Bureau further alleges that Bamford has not amended his Colorado Springs proposal to report his original financial commitment to the Corpus Christi proposal or to report his subsequent assumption of the entire financial burden in that proceeding. Based upon these allegations, it is the Bureau's position that: (1) The Commission was misled in passing upon Bamford's financial qualifications in both the Corpus Christi and Colorado Springs applications because of Bamford's failure to fully disclose his other financial commitments; (2) Bamford filed a balance sheet in the Corpus Christi proceeding containing material inaccuracies; and (3) Bamford has failed to amend his Colorado Springs application so as to reflect substantial and significant changes regarding his Corpus Christi application pursuant to Rule 1.65.

3. In opposition, Bamford, asserts that the Bureau's petition is speculative and ignores the following pertinent facts: (1) That on January 30, 1970, Bamford filed an amendment to the subject Colorado Springs application to reflect the filing of the Corpus Christi application; (2) that the Corpus Christi application disclosed the Colorado Springs application; and (3) that a Rule 1.65 notification was submitted to the Commission on January 27, 1971, reporting that the Corpus Christi applications had been amended to make Bamford sole party applicant. Thus, Bamford declares that full and complete disclosure concerning both applications has been made. Beyond this, Bamford points out that the Bureau's allegations are not supported by an affidavit. In any case, Bamford alleges, the Commission was not misled in designating the subject application for hearing. That is, Bamford asserts, his financial obligations to his Corpus Christi proposal will only come into being when and if that application is granted; furthermore, Bamford claims, a full financial issue has already been designated in the instant proceeding which would encompass inquiry into any other financial obligation Bamford may have. Regarding his balance sheets, Bamford asserts that his San Antonio AM-FM broadcast station grossed nearly \$300,000 last year and is "conservatively valued" at between \$600,000 and \$750,000. A supporting profit and loss statement is submitted. Regarding the reported value of his stock, Bamford alleges that his October 1, 1969, balance sheet was merely an "up-date" of his January 31, 1969, balance sheet; that the prices were not rechecked and Bamford did not know they had changed; and that the fact that the number and identity of the shares were reported indicates that there was no attempt to conceal anything. Bamford further asserts that he did not amend his cost plan when he changed transmitter sites because no significant cost changes occurred; in fact, Bamford states, the second site change returned the station to its original site, for which cost information had already been fur-

nished. Bamford states that his one major asset, ownership of Stations KBER and KBER-FM, is not liquid in nature, and concedes that he has been unable thus far to furnish the Commission with definite liquidity from which to effectuate his Corpus Christi and Colorado Springs proposals. However, Bamford concludes, full financial issues have been designated in those proceedings to account for these problems, and no concealment or Rule 1.65 issue is warranted.

4. In reply, the Bureau explains that the thrust of its petition was that neither application's financial plan revealed the financial commitment to the other application. Regarding Bamford's claim that the subject application was amended on January 27, 1971, to indicate that Bamford had become sole applicant in Corpus Christi, the Bureau submits that the only amendment filed under that date related to a change in transmitter site which in fact caused Bamford's total commitment to exceed his net worth. The Bureau rejects Bamford's argument that his FM obligation did not have to be reported in this proceeding because of the contingency of a grant and argues that where an applicant relies on identical assets in prosecuting separate applications, the proposals must be considered together in assessing the applicant's financial fitness, citing Sawnee Broadcasting Co., 3 FCC 2d 461, 7 RR 2d 405 (1966); Nelson Broadcasting Co., 64R-505, 4 RR 2d 87. The Bureau also challenges Bamford's disclaimers regarding knowledge of the value of his stock, and contends that the severity of the decline in the stock market between May and July 1969 was notorious. To buttress its point, the Bureau cites statistics showing that the Dow Jones averages for industrials were 133 points lower on September 30, 1969, than on January 31, 1969, and the average for 65 stocks was off 65 points. By January 30, 1970, the day Bamford filed his Corpus Christi application, the averages were still lower, the Bureau submits, and, furthermore, the total value of Bamford's stock had declined to \$8,176.50, or to 40 percent below the stated value on the October 1, 1969, balance sheet. Bamford's change in transmitter sites also "raises more questions than it resolves", the Bureau argues, because Bamford has returned to a site originally alleged to have become unavailable and thus new lease terms possibly affecting Bamford's financial qualifications must be in effect. The Bureau concludes that Bamford has in effect conceded his present inability to finance his proposals and was probably aware of this at the time the Corpus Christi application was filed, thus raising questions of abuse of Commission processes.³

5. The Review Board agrees with the Broadcast Bureau that a substantial question of misrepresentation has been

³ The Bureau, however, does not specifically request an abuse of process issue and, in any event, such a request presented in a reply pleading could not properly be considered by the Board.

¹ Related pleadings before the Board are: (a) Erratum, filed Mar. 31, 1971, by the Bureau; (b) opposition, filed Apr. 9, 1971, by Bamford; and (c) reply, filed May 17, 1971, by the Bureau.

² The issue now encompasses a determination of whether Bamford has available sufficient additional funds to construct and operate its proposed station for 1 year without reliance on revenues.

raised and that an appropriate issue is warranted. Although Bamford attaches to his pleading a balance sheet for KEPO Broadcasting Co., Inc., dated December 31, 1970, which shows a net worth substantially comporting with the value for KEPO listed on the balance sheets in both proceedings, no adequate explanation has been offered for the failure to accurately report the reduced value of Bamford's stock on the Corpus Christi balance sheet. Bamford's claim that the October 1, 1969, statement was a mere "up-date" of the January 31, 1969, balance sheet is belied by the description "current value" which accompanies the questioned stock listings. An equally serious and un rebutted allegation is that in neither proceeding before the Commission in which Bamford is an applicant has he provided a full and accurate picture of his financial obligations. Bamford's argument in mitigation that his Corpus Christi obligations only assume relevance in the event of a grant is, as the Bureau points out, without substance. Therefore, an issue is required. We are also of the view that the circumstances herein raise a serious question as to whether the information furnished in the subject application is substantially accurate and complete in all significant respects, as required by Rule 1.65. Although our perusal of the public docket discloses that on February 9, 1971, Bamford notified the Commission that he was now an individual party applicant in the Corpus Christi proceeding, we do not believe that this changes the situation with respect to the nondisclosures concerning Bamford's initial and subsequent financial commitments to that application. Bamford's contention that the already designated financial issue in this case obviates the need for an issue only ignores the fact that an applicant's obligations under Rule 1.65 are independent of the existence or nonexistence of a particular hearing issue. These grounds considered, an appropriate issue will be added. Cf. Radio Stations KNN and KRKT, 11 FCC 2d 364, 12 RR 2d 91 (1968). Finally, although the Bureau's allegations that Bamford does not show sufficient net worth from which to finance both of his proposed stations, coupled with Bamford's concession that he now has no concrete plan for their financial effectuation, clearly raise substantial questions as to his ability to finance the instant proposal, we believe that no expansion of the existing financial issue is required. The Commission, in the Corpus Christi proceeding, designated a full financial inquiry; and, in this proceeding, the Commission noted that Bamford only showed \$18,000 in liquid assets and thus specified an inquiry as to how he will obtain sufficient additional funds to construct and operate his proposed facility. It appears, therefore, that the questions relating to Bamford's needs with which the Bureau is concerned may be fully examined at hearing and that no issue in

line with Nelson Broadcasting Co., supra, is necessary.⁴

6. Accordingly, it is ordered, That the petition to enlarge issues, filed March 25, 1971, by the Broadcast Bureau is, granted to the extent indicated below and is denied in all other respects; and

7. It is further ordered, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine whether A. V. Bamford in applications and related material filed with the Commission has made false and misleading statements and/or was lacking in candor.

(b) To determine whether A. V. Bamford failed to report substantial and significant changes within 30 days as required by Rule 1.65.

(c) To determine the effect of the evidence adduced pursuant to the issues herein upon the requisite and/or comparative qualifications of A. V. Bamford to be a Commission licensee.

8. It is further ordered, That the burden of proceeding with the introduction of evidence under the issues herein added shall be upon the Broadcast Bureau and the burden of proof thereon shall be upon A. V. Bamford.

Adopted: June 21, 1971.

Released: June 23, 1971.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-9250 Filed 6-29-71; 8:53 am]

[Docket No. 19267; FCC 71-651]

WESTERN UNION TELEGRAPH CO.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of the Western Union Telegraph Co., consolidation of 22 public telegraph offices into single Public Message Center, New York, N.Y., Docket No. 19267, File No. TD-17972.

1. The Commission has before it for consideration (1) an application (TD-17972) filed on March 22, 1971, by the Western Union Telegraph Co. (hereafter "Western Union") for authority to discontinue its Class 1¹ and associated 21 branch offices in New York City and to establish substitute facilities therefor; (2) numerous protests thereto including a petition to deny; and (3) responses of

¹ The absence of an affidavit accompanying the Bureau's petition is not fatal since the merits of its position relate to matters already of record such as Bamford's balance sheets. See RKO General, Inc. (WNAC-TV), FCC 71R-180, — FCC 2d — RR 2d —, released June 7, 1971; Nelson Broadcasting Co., supra.

² Located in lobby of Western Union headquarters building at 166 West Broadway and designated as the main office for the city, although its functions are essentially those of a branch office.

Western Union. The offices in question, serving the area of Manhattan south of 24th Street, and their addresses, are listed below:

Class 1	166 West Broadway.
AX	2 Broadway.
BM	428 Broadway.
BW	11 Broadway.
BY	17 Barclay Street.
CH	85 John Street.
CS	70 Pine Street.
DN	5 DeBrosses Street.
EQ	80 Cedar Street.
FW	90 West Street.
FX	44 Beaver Street.
GT	89A Worth Street.
JB	1 West Third Street.
JT	209 Varick Street.
MP	71 Broadway.
NF	25 West 14 Street.
NH	371 Grand Street.
NJ	34 Eighth Street.
NW	40 Wall Street.
SQ	36A Third Avenue.
UJ	75A New Street.
VU	130 Nassau.

The Class 1 office at 166 West Broadway and UJ branch office at 75A New Street are open 24 hours per day, 7 days a week; the others observe normal business hours of 9 a.m. to 5 p.m., or in some instances to 6 p.m. or later, Monday through Friday.

2. In lieu of these offices, Western Union proposes to establish a single public message center (hereafter "PMC") to be located near the lead center of the affected area. The exact location has not been finally determined, but the company contemplates establishing the consolidated office at or near the corner of Broadway and Maiden Lane. Briefly, the company contends that the establishment of a single office and the centralization of operating forces will overcome many of the service, staffing, and facility problems now existing at the smaller and diverse offices, and would result in greatly improved service to the public. It would be equipped to provide all presently available services as well as any future offerings which may be initiated. The proposal envisions use of computer-switching for traffic destined to lower Manhattan, which will ultimately enable all major cities to switch traffic directly to the consolidated office, bypassing the reprocessor system and present manual terminal switching operation at the New York City relay center.

3. Western Union contends that with the decline over the years in public use of the 22 public offices proposed for discontinuance, there no longer exists a need for the multiple office locations in the area covered by the application.³ The current traffic volumes appear to vary widely between offices, ranging during the month of February 1971 from a low

³ The company provides no figures showing decline in traffic volume at these specific offices, but cites an aggregate decline at all New York City branch offices between January 1940 and January 1971 of 81.5 percent, from 2,134,000 to 396,000 messages. This is attributed to changes in patrons' requirements, methods of filing messages and changing communication usage patterns.

of four messages per day at VU office to a high of 1,421 at CS office. Eight of the offices handled fewer than 40 messages per day during the 6-month period ending February 28, 1971. The distances between the branch offices and the prospective location of the proposed consolidated office range from about one-tenth mile to more than 2 miles, with the median about one-half mile. The company states that over 80 percent of the present counter acceptances and messenger pickups are within four-tenths mile of the proposed PMC.

4. The company has indicated that it plans further similar modifications in the New York City area.

5. A number of protests have been received from individual members of the public and business and civic organizations directed against the application in toto or the proposed discontinuance of particular offices. The Public Service Commission of New York has evidenced interest in the matter and has requested certain information concerning the proposal. Western Union International (hereafter "WUI") has expressed concern as to the prospective effects of the proposed closures upon international record carrier services, and wishes to be considered as a party of interest in the matter. Additionally, the Communications Workers of America (hereafter "CWA") has requested that a public hearing on the proposal be held in lower Manhattan, in order that the Commission may have the benefit of the maximum possible number of comments from the business firms located in the area.

6. It is evident from data contained in the application that traffic volumes at certain of the 22 offices have declined to the point where continued existence of these particular offices may no longer be in the public interest. However, substantial traffic volumes are being handled at many of the other offices. The revenues from the group currently total about \$186,000 per month with direct operating expense of approximately \$67,000. No estimate is provided as to saving to the company, if any, which would result from the consolidation.

7. We are unable to determine from the facts contained in the application and related pleadings whether Western Union's overall proposal to serve the area of Manhattan south of 24th Street with a single public office would serve the public convenience and necessity. We will, therefore, set the application for hearing pursuant to the provisions of section 214 of the Communications Act of 1934, as amended, 47 U.S.C. section 214, such hearing to be held in Washington, D.C., and, to the extent necessary to permit participation of interested user groups, in New York City at a time and place to

³ In its petition to deny WUI urges the Commission to deny the application or in the alternative to conduct a wide ranging hearing into Western Union's overall plans for public message service in New York City and other gateway cities.

be designated in a subsequent order. As the company has indicated that its future planning contemplates the establishment of five or six additional public message centers to serve the New York metropolitan area, with concomitant discontinuance of existing public branch offices, consideration should be given by the parties to these plans as well as the instant application.

8. While we anticipate consideration of all of the company's plans for PMC service in New York City, we intend, nevertheless, to grant or deny the subject application on the basis of the record made herein. We also believe that in view of the overall policy questions presented by Western Union's plans for New York City, the matter can be most effectively resolved without separation of the trial staff of the Bureau, and that the public interest would be served by issuance of a Recommended Decision by the Chief, Common Carrier Bureau.

9. To assist in the resolution of the issues we will designate WUI and CWA as parties hereto. All protestants of record will be served with copies of this memorandum opinion and order and they, as well as other interested parties, may file petitions to intervene. Members of the public may appear and give testimony in this proceeding without giving any formal notice of an intent to do so. Finally, we specifically invite the participation of the New York State Public Service Commission and the city of New York as parties hereto.

10. We are not persuaded that the public interest requires consideration at this time of the very broad issues raised by WUI. We will, however, provide an issue herein inquiring into the effect of the instant application, and any similar applications for New York City on international telegraph service.

11. Accordingly, it is ordered, Pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. section 214, that the above-described application is set for hearing on the issues designated below:

(1) To determine the character, quality, scope, and adequacy of telegraph service, facilities, and personnel now provided through applicant's facilities sought to be discontinued in the above-described application;

(2) To determine the character, quality, scope, and adequacy of telegraph service, facilities, and personnel which would be provided if the application was granted;

(3) To determine, through a comparison of the character, quality, scope, and adequacy of the proposed service, facilities and personnel with those now being provided, the extent to which and respects in which the proposed change will result in reduction, impairment, extension, or improvement in service;

(4) To determine the nature and extent of the requirements of local telegraph users for telegraph service, and the ability of the proposed public message center to meet such requirements;

(5) To determine the extent of any savings and reduction in revenue requirements which will accrue to the applicant from the consolidation of its facilities as proposed in the application and the weight to be given this factor;

(6) To determine the extent to which the proposed consolidation may result in either a diminution or increase in the use of telegraph service;

(7) To determine how a grant of the application would affect the availability of money order service;

(8) To determine Western Union's plans and expectations with respect to future applications similar to the above-captioned one, and whether, in principle, such plans would, if implemented, serve the public convenience and necessity;

(9) To determine the effect (a) of Western Union's overall plans with respect for PMC services in New York City, and (b) in particular the effect of a grant of the foregoing application on the provision of international telegraph service;

(10) To determine whether grant of the foregoing application, in light of the evidence adduced pursuant to the foregoing issues will adversely affect the present or future public convenience and necessity.

It is further ordered, That the hearings in this proceeding shall be held in Washington, D.C., except that to the extent necessary to permit the participation of local users or user groups, such hearings shall be held in New York City;

It is further ordered, That the petition to deny filed by WUI is granted to the extent indicated herein, and in all other respects, is denied;

It is further ordered, That interested parties, apart from private citizens, wishing to avail themselves of the opportunity to be heard at the hearing may do so by filing with the Commission, no later than July 8, 1971, a written notice stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this memorandum opinion and order;

It is further ordered, That interested parties may file with the Commission, no later than 30 days following the close of the record herein, comments, recommendations, or other such pleadings as well as reply pleadings;

It is further ordered, That Western Union International and Communications Workers of America are named parties hereto;

It is further ordered, That a copy of this memorandum opinion and order be served on all protestants of record;

It is further ordered, That the Hearing Examiner shall take appropriate measures to provide opportunity for all local witnesses to be heard in the hearings to be held in New York City and to this end shall arrange for due and adequate public notice of the time, place, and date of the hearings to be provided to the public;

It is further ordered, That the presiding examiner shall, upon close of the

record, certify the same to the Commission and that the Chief, Common Carrier Bureau, shall issue a recommended decision herein.

Adopted: June 16, 1971.

Released: June 23, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-9251 Filed 6-29-71;8:53 am]

FEDERAL MARITIME COMMISSION SAN FRANCISCO PORT COMMISSION AND CALIFORNIA STEVEDORE AND BALLAST CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:
Mr. Edward L. David, Deputy Port Director (Maritime Operations), Port of San Francisco, San Francisco, Calif. 94111.

Agreement No. T-2537, between the San Francisco Port Commission (Port) and California Stevedore and Ballast Co. (CS & B), is a cooperative working arrangement covering the operation of an off-dock consolidation freight station and a rail freight distribution service at Pier 30, San Francisco. The facility when in full operation, will provide consolidation for breakbulk or contain-

erized cargo, stuffing of containers, and distribution of rail freight. The parties will cooperate in the solicitation and advertising of services. CS & B will be entitled to a credit of \$3.90 per ton of cargo handled, to be applied against rental due from CS & B for other premises occupied on the San Francisco waterfront. Surplus revenues will be divided quarterly, 50 percent to Port and 50 percent to CS & B. If the operation becomes self-supporting or shows a profit, the Port's share of the profit will then be deducted from the \$3.90 per ton charge in whatever manner the parties find convenient.

⁴ Commissioners Robert E. Lee and Houser absent.

Dated: June 25, 1971.
By order of the Federal Maritime Commission.
FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-9245 Filed 6-29-71;8:52 am]

[Docket No. 71-43; Special Permission No. 5363]

SEATRAN LINES INC. General Increases in Rates in U.S. Atlantic/Puerto Rico Trade; Second Supplemental Order

By the original order in this proceeding served April 22, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including August 24, 1971, Supplement No. 57 to Tariff FMC-F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 212 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon not less than 30 days' notice of consecutively numbered revised pages 90-A, 90-B, 90-C, and 90-D, in order to extend certain expiration dates to July 31, 1972, continuing in effect tariff matter resulting in a reduction in rates and charges.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-43 to extend project rate provisions in consecutively numbered Revised Pages 90-A, 90-B, 90-C, and 90-D as set forth in its Special Permission Application No. 212, said changes to become effective on not less than 30 days' notice, is hereby granted.

2. The authority granted hereby does not prejudice the right of this Commission to suspend and/or investigate any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Intercoastal Shipping Act, 1933.

3. Publications issued and filed under this authority shall bear the following

notation: "Issued under authority of Second Supplemental Order in Docket No. 71-43 and Federal Maritime Commission Special Permission No. 5363."

4. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of Tariff publications.

By the Commission.
[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-9246 Filed 6-29-71;8:52 am]

[Docket No. 71-30; Special Permission No. 5360]

TRANSAMERICAN TRAILER TRANSPORT, INC. General Increases in Rates in U.S. Atlantic/Puerto Rico Trade; Third Supplemental Order

By the original order in this proceeding served March 31, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including August 24, 1971, Supplement No. 8 to Tariff FMC-F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 54 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon not less than 30 days' notice, 10th Revised Page 73B and Third Revised Page 73C which will change tariff matter continued in effect by reason of suspension in this proceeding.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-30 to make the changes in rates and provisions as set forth in exhibits of 10th Revised Page 73B and Third Revised Page 73C in Special Permission Application No. 54, said changes to become effective on not less than 30 days' notice, is hereby granted.

2. The authority granted hereby does not prejudice the right of this Commission to suspend and/or investigate any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Intercoastal Shipping Act, 1933.

3. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of Third Supplemental Order in Docket No. 71-30 and Federal Maritime Commission Special Permission No. 5360."

4. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes, nor

valve, except as herein authorized, any of the requirements of its rules relative to the construction and filing of Tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-9247 Filed 6-29-71;8:52 am]

FEDERAL POWER COMMISSION

[Docket No. RI71-1121]

TEXACO, INC., ET AL.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

JUNE 21, 1971.

Respondent has filed a proposed change in rate and charge for the juris-

dictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*	Rate in effect	Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI71-1121	Texaco, Inc., et al.	188	18	Cimarron Transmission Co. (Enville Field, Love County, Oklahoma Other Area).	\$56,403	4-30-71		7-2-71	17.6799	18.7483		

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
† Base rate subject to upward and downward adjustment.

The producer's proposed increased rate and charge exceeds the applicable area price level for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR, Ch. I, Part 2, § 2.56).

[FR Doc.71-9105 Filed 6-29-71;8:45 am]

[Docket No. RI71-1120]

UNION TEXAS PETROLEUM

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

JUNE 18, 1971.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is

suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*	Rate in effect	Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI71-1120	Union Texas Petroleum, a division of Allied Chemical Corp.	90	4	Lone Star Gas Co. (North Durant Field, Bryan County, Okla., Other Area).	\$530	5-18-71		7-19-71	15.155	16.17		

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.

† Buyer deducts 0.5 cent from rate shown for dehydration and 2 cents for recovery of pipeline investment.

The producer's proposed increased rate and charge exceeds the applicable area price level for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR, Ch. I, Part 2, § 2.56).

[FR Doc.71-9104 Filed 6-29-71;8:45 am]

[Docket No. CI71-882]

WENERT TRICH ET AL.

Notice of Application

JUNE 25, 1971.

Take notice that on June 10, 1971, Wenert Trich et al. (applicants), Post Office Box 1408, Longview, TX 75603, filed in Docket No. CI71-882 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corp. from the Woodlawn Field, Harrison County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they commenced the subject sale March 5, 1971, within the contemplation of § 2.68 of the Commission's General Policy and Interpretations (18 CFR 2.68) and that by letter of May 6, 1971, the Commission extended authorization for the sale on an emergency basis through July 2, 1971. Applicants propose to continue said sale within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) for 1 year from July 2, 1971, or from the date of certificate authorization at the total rate of 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 9, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on

this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-9264 Filed 6-29-71;8:53 am]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Acquisition of Control Over Banks

Order pursuant to section 5(b) of the Bank Holding Company Act.

By virtue of amendments to the Bank Holding Company Act (the Act) enacted on December 31, 1970, the acquisition by any company of control over a bank is unlawful, except when done pursuant to prior approval of the Board.

There have come to the Board's attention several instances in which a company, apparently without knowledge of the changes in the law, has consummated an acquisition of an interest in a bank in violation of the provisions of the Act. Despite the fact that such violations of the law were apparently not willful, it would not be consistent with the provisions of the Act to permit continuation of control of a bank by such a company without a determination by the Board that the standards set forth in section 3 of the Act are met.

A requirement that such an interest be divested may in some situations cause irreparable injury to the company, the bank, and the communities involved. The Board finds that the imposition of such a requirement would not be in the public interest, unless necessary to effectuate the purposes of the Act.

For the foregoing reasons, and in order to enable the Board to Administer and carry out the purposes of the Act without undue hardship to persons affected thereby: *It is hereby ordered*, pursuant to section 5(b) of the Act, that:

1. Any company which, between December 31, 1970, and the date of this order, acquired an interest in a bank requiring prior approval of the Board by virtue of the Bank Holding Company Act Amendments of 1970, without knowledge of that requirement and without having obtained such approval, may apply to the Board for a determination that such acquisition is in the public interest.

2. Any such application should be filed in the form appropriate for requesting prior approval of the transaction involved under section 3 of the Act, and will be determined by the Board in the

light of the criteria established by the Act with respect to an application for such prior approval.

3. With regard to any provision of the Act which requires a bank holding company to take any action within a specified period of time after the date on which it becomes a bank holding company, such period shall commence on the date of the transaction by which it became a bank holding company, and not on the date of the Board's later approval of such transaction.

4. Any application involving the circumstances set forth therein shall be filed with the appropriate Federal Reserve Bank by August 31, 1971, unless such time shall be extended for good cause.

5. In the event that such an application is denied by the Board, the company involved shall take all appropriate action to forthwith divest the interest unlawfully held.

By order of the Board of Governors, June 22, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-9224 Filed 6-29-71;8:52 am]

CHARTER NEW YORK CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) (3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (3)), by Charter New York Corp., which is a bank holding company located in New York, N.Y., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent (excluding directors' qualifying shares) of the voting shares of successor by merger to the Nanuet National Bank, Nanuet, N.Y.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the

FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

By order of the Board of Governors,
June 23, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-9225 Filed 6-29-71;8:52 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRO- DUCED OR MANUFACTURED IN PAKISTAN

Entry or Withdrawal from Warehouse for Consumption

JUNE 22, 1971.

On May 6, 1970, the Government of the United States, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a new comprehensive bilateral cotton textile agreement with the Government of Pakistan, concerning exports of cotton textiles from Pakistan to the United States over a 4-year period beginning on July 1, 1970. Under this agreement the Government of Pakistan has undertaken to limit its exports to the United States of all cotton textiles and cotton textile products to an aggregate limit of 89,250,000 square yards equivalent for the second agreement year beginning July 1, 1971. The agreement also provides that within the aggregate limit, the Government of Pakistan has undertaken to limit its exports to the United States of all cotton textiles and cotton textile products in Group I (Categories 1-27) to 78,750,000 square yards equivalent and in Group II (Categories 28-64) to 10,500,000 square yards equivalent for the second agreement year. Among the other provisions of the agreement are those applying specific export limitations to Categories 9/10, 15/16, 18/19, 22/23, parts of 26, part of 31, and 41/42.

Accordingly, there is published below a letter of June 18, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that for the 12-month period beginning July 1, 1971, and extending through June 30, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in the indicated cate-

gories produced or manufactured in Pakistan and exported to the United States on or after July 1, 1971, be limited to the designated levels. At this time, no directions with respect to the aggregate limit and group limits are being given to the Commissioner of Customs. Notice is hereby given, however, that at a future date it may be necessary to give such directions in order to assist the Government of Pakistan in the implementation of these limits. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile
Administrative Committee,
and Deputy Assistant Secre-
tary for Resources.

THE SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY
COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

JUNE 18, 1971.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of May 6, 1970, between the Governments of the United States and Pakistan, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed, effective July 1, 1971 and for the 12-month period extending through June 30, 1972, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 9/10, 15/16, 18/19, 22/23, parts of 26, part of 31, and 41/42, produced or manufactured in Pakistan, in excess of the following designated levels of restraint:

Category	12-month levels of restraint
9/10 -----square yards--	37,800,000
15/16 -----do-----	3,150,000
18/19 and part of 26 (print cloth) ¹ -----do-----	16,800,000
22/23 -----do-----	4,200,000
Part of 26 (bark cloth) ² -----do-----	6,300,000
Part of 26 (duck) ² -----do-----	8,925,000
Part of 31 (only T.S.U.S.A. No. 366.2740) -----pieces--	5,056,800
41/42 -----dozen--	431,550
¹ In Category 26, only T.S.U.S.A. Nos.:	
320...34 322...34	327...34
321...34 326...34	328...34
² Only T.S.U.S.A. Nos.:	
320...88 328...88	324...92
321...88 329...88	325...92
322...88 330...88	326...92
323...88 331...88	327...92
324...88 320...92	328...92
325...88 321...92	329...92
326...88 322...92	330...92
327...88 323...92	331...92
³ Only T.S.U.S.A. Nos.:	
320...01 through 04, 06, 08	
321...01 through 04, 06, 08	
322...01 through 04, 06, 08	
326...01 through 04, 06, 08	
327...01 through 04, 06, 08	
328...01 through 04, 06, 08	

In carrying out this directive, entries of cotton textiles and cotton textile products in Categories 9/10, 15/16, 18/19, and part of 26 (print cloth),¹ 22/23, part of 26 (bark cloth),² part of 26 (duck),³ part of 31 (only T.S.U.S.A. No. 366.2740), and 41/42, produced or manufactured in Pakistan and exported to the United States prior to July 1, 1971, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period July 1, 1970, through June 30, 1971. In the event that the levels of restraint established for such goods during that period have been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of May 6, 1970, between the Governments of the United States and Pakistan which provide in part that within the aggregate and applicable group limits of the agreement, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V. 1965-69). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

MAURICE H. STANS,
Secretary of Commerce, and Chair-
man, President's Cabinet Textile
Advisory Committee.

[FR Doc.71-9217 Filed 6-29-71;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2900]

BCC INDUSTRIES, INC.

Notice of Filing of Application for Order

JUNE 23, 1971.

Notice is hereby given that BCC Industries, Inc. (BCC), 535 Boylston Street,

Boston, MA 02116, formerly known as Boston Capital Corp., registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 (the "Act") has filed an application pursuant to section 17(d) of the Act and Rule 17d-1 thereunder for an order granting said application pursuant to Rule 17d-1 with respect to the proposed participation by BCC and General Research Corp. (General Research), a California corporation, in a public offering of shares of General Research. All interested persons are referred to the application, which is on file with the Commission, for a statement of the representations therein, which are summarized below.

BCC owns 205,200 shares (approximately 21 percent) of the outstanding voting shares of common stock of General Research. As a result thereof General Research is an affiliated person as defined in section 2(a)(3) of the Act of a registered investment company (BCC).

General Research and BCC (the latter as a selling stockholder) propose to offer and sell to the public through various underwriters a total of approximately 300,000 shares of General Research common stock. Of such amount, 53,300 shares, and 205,200 shares and 41,500 shares are to be offered and sold by General Research, BCC, and other selling stockholders, respectively.

The application indicates that BCC determined the portion of its holdings of General Research stock to be included in the proposed offering pursuant to an unrestricted opportunity to offer to sell such shares.

The application states that BCC and General Research are paying underwriting discounts at the same rate; that General Research and BCC will pay all expenses of registration, allocated on the basis of the shares to be sold by each; General Research, in addition, will pay the expenses attributable to the shares being sold by the other selling shareholders; and that BCC will pay its own counsel fees and stock transfer taxes, if any.

Rule 17d-1, adopted under section 17(d) of the Act, provides, as here pertinent, that no affiliated person of any registered investment company shall, acting as principal, participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered company, or a company controlled by a registered company, is a participant, unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by order, and that in passing upon such application the Commission will consider whether the participation of the registered or controlled company in the joint enterprise or arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

BCC represents that its participation in the offering is not on a basis less ad-

vantageous to it than to General Research. BCC also states that it had a contractual right, similar to that now being exercised by the other selling shareholders, to require General Research to pay expenses of one public offering of its holdings of General Research stock. BCC exercised this right in a prior public offering of General Research stock. Therefore, unlike the other selling stockholders, BCC must pay its allocable share of the expenses of registration in the public offering of General Research stock now proposed.

Notice is further given that any interested person may, not later than July 14, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc. 71-9227 Filed 6-29-71;8:48 am]

[811-1930]

FIRST CHICAGO INVESTMENT FUND

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JUNE 23, 1971.

Notice is hereby given that First Chicago Investment Fund (Applicant), 1 First National Plaza, Chicago, IL 60670, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant

has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, summarized below.

On September 4, 1969, Applicant filed a Notification of Registration on Form N-8A pursuant to section 8(a) of the Act. On January 6, 1970, Applicant filed a registration statement on Form N-8B-1 pursuant to section 8(b) of the Act and a registration statement on Form S-5 pursuant to the Securities Act of 1933 (1933 Act). Applicant's 1933 Act Registration never became effective.

On April 5, 1971, the Supreme Court of the United States announced its decision in certain litigation and held that the operation of a commingled account, as contemplated by Applicant, would be illegal under certain provisions of the Federal banking laws. By resolution adopted on May 25, 1971, Applicant's Board terminated Applicant.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 9, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-9228 Filed 6-29-71;8:48 am]

[812-2968]

NEWTON FUND, INC.**Notice of Filing of an Application for an Order Exempting Proposed Exchange of Shares**

JUNE 24, 1971.

Notice is hereby given that Newton Fund, Inc. (Applicant), 330 East Mason Street, Milwaukee WI, a Maryland corporation registered under the Investment Company Act of 1940 (Act), as an open-end, diversified, management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of sections 22(c) and 22(d) of the Act and Rule 22c-1 thereunder a proposed transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus in exchange for substantially all the assets of Mueller Investment Co., Inc. (Corporation), a personal holding company as defined in the Internal Revenue Code. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant states that as of May 14, 1971, it had approximately 6,340 shareholders owning approximately 1,302,007 shares of its capital stock, and its net assets were \$20,429,673. Applicant offers its shares to the public on a continuous basis at net asset value plus varying sales charges described in the prospectus.

The Corporation, a Wisconsin corporation, has engaged in the business of investing and reinvesting its funds since September 3, 1968. It has eight stockholders and is exempt, Applicant states, from registration under the Act by reason of section 3(c)(1).

Pursuant to an agreement dated May 28, 1971, between Applicant, the Corporation, and the stockholders of the Corporation, substantially all of the securities and cash (Assets) owned by the Corporation on the closing date defined in the agreement will be transferred to Applicant. The securities held on May 14, 1971, by the Corporation consisted entirely of \$150,000 of commercial paper due June 6, 1971, of Chrysler Financial Corp. Applicant states it is permitted to invest in these securities. In exchange for the Corporation's Assets, Applicant will deliver to the Corporation the largest number of its voting shares as are equal to the number of times the net asset value per share of Applicant in effect at the close of business on the day preceding the closing day can be evenly divided into the then value of the Corporation's Assets. No fractional shares shall be issued and no cash or other settlement shall be paid in lieu thereof.

The value of the Corporation's Assets will be determined in substantially the same manner as net asset value is determined for the purposes of issuing and redeeming shares of Applicant. However, from this value shall be deducted the

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aggregate of the following to the extent it is greater than zero: Ten percent of the amount by which the net unrealized appreciation of the securities exceeds the amount arrived at by multiplying (i) the sum of such net unrealized appreciation of the securities, the net unrealized appreciation of the securities held by Applicant (such sum to be reduced by the amount of any capital loss carryovers of Applicant) by (ii) the fraction whose numerator is the value of the Corporation's Assets to be transferred to Applicant and whose denominator is such value plus the total net assets of Applicant. The value of the Corporation's Assets and the net asset value of Applicant's shares will be determined by the Heritage Bank of Milwaukee.

The obligations of Applicant and the Corporation and the stockholders of the Corporation under the agreement are subject to certain conditions, including (a) the taking of all action by the corporation's directors and stockholders necessary for it to carry out the agreement and to dissolve the Corporation and (b) the obtaining of any necessary orders of the Commission under the Act. The Corporation's stockholders have consented to the transfer of the Corporation's assets and have agreed to acquire the shares of Applicant for investment and not for distribution to the public.

The market value of the Portfolio Securities of the Corporation at May 14, 1971 was approximately \$150,000 plus accrued interest. In addition, there was approximately \$2,500 in cash which would have been transferred to Applicant. A portion or all of the \$2,500 in cash held by the Corporation may be invested prior to the closing. Applicant states that the aggregate market value of the securities which Applicant will receive as well as the ratio of securities to cash, if any, to be transferred to Applicant may vary by reason of, among other things, market fluctuations and the use of the cash for liquidation expenses.

As of May 14, 1971, the Portfolio Securities had a market value which was substantially equal to cost. On the same date, Applicant had realized and undistributed gains and unrealized appreciation (less its capital loss carryover) aggregating approximately \$1,043,667. If the transaction had been closed on May 14, 1971, under the agreement, the above described adjustment would have been zero, and the Corporation would have received approximately 0.75 percent of the total shares of Applicant that would have been outstanding on that date, including the shares that would have been issued to the Corporation under the agreement.

Applicant states that assuming the closing under the agreement were to be held on the date of this application, Applicant would hold the Portfolio Securities until maturity and invest the proceeds in accordance with its investment policy and objectives.

Applicant states that the terms of the proposed transaction are fair and equita-

ble and an exemption is necessary and appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Under the terms of the agreement, no sales charge or other premium is being added to the net asset value of Applicant other than a possible deduction from the value of the Corporation's Assets based on 10 percent of certain net unrealized appreciation, if any, as described above. For this reason, Applicant may be considered as selling its stock for a price other than the public offering price stated in the prospectus currently in effect, which lists a sales load of 3 percent for sales from \$100,000 to \$250,000. Further, under the terms of the agreement, valuation of the Corporation's Assets and Applicants shares will be made as of the close of business the day prior to the exchange of assets and shares which may be construed to be contrary to the provisions of Rule 22c-1.

Applicant states that the terms of the entire transaction, including the adjustment described above, were arrived at through arm's length bargaining between the officers of Applicant and the Corporation. There is no affiliation or relationship of any kind between the officers and directors of Applicant and the officers, directors and stockholders of the Corporation.

Applicants further state that the adjustment formula in the agreement, described above, yields an adjustment of zero using May 14, 1971 figures and it is expected that such adjustment also be zero at the time of closing. No Federal income tax liability to Applicant's stockholders would result from the maturity or sale of the Portfolio Securities based on May 14, 1971 values except for tax on the interest on such securities which is not material in amount as it relates to the Fund.

Section 22(c) of the Act and Rule 22c-1 thereunder inter alia prohibit registered investment companies from issuing their redeemable securities except at a price based on the current net asset value of such security which is next computed after receipt of an order to purchase the security. Section 22(d) of the Act provides that registered investment companies may sell their shares only at the current public offering price described in the prospectus.

Section 6(c) permits the Commission, upon application, to exempt any transaction from any provision or provisions of the Act or of any rule or regulation thereunder if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 16, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues

of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is order, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] **THEODORE L. HUMES,**
Associate Secretary.

[FR Doc.71-9229 Filed 6-29-71; 8:49 am]

[24FW-1441, 24FW-1456]

SUN-MASTR CORP., INC.**Order Permanently Suspending Regulation A Exemption**

JUNE 23, 1971.

The Sun-Mastr Corp., Inc., 603 South Kansas Avenue, Olathe, KS, a Kansas corporation, filed with the Commission on December 31, 1968, a notification and offering circular for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933 pursuant to section 3(b) thereof and Regulation A thereunder, with respect to a public offering of 60,000 shares of its no par value common stock at \$5 per share. The offering of those shares was completed on March 20, 1969. On August 1, 1969, the issuer filed with the Commission a further notification and offering circular relating to a proposed offer of rescission to the purchasers of those shares.

On December 17, 1970, the Commission issued an order, pursuant to Rule 261 of Regulation A, temporarily suspending the exemption. The order alleged that the terms and conditions of Regulation A had not been complied with, in that both offering circulars contained untrue and misleading statements of material facts. As to the earlier circular, it was alleged that the balance sheet and

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statement of earnings for the period ended October 31, 1968, overstated in a material amount total net sales, trade accounts receivable, and net earnings. The order also alleged that the subsequent circular failed to disclose the existence of contingent civil liability under the provisions of section 12(2) of the Securities Act, or to disclose, by appropriate amendment, the filing of a civil suit against the issuer in the U.S. District Court for the Western District of Missouri, in which it was alleged that issuer had violated the Securities Act and the Securities Exchange Act of 1934. The order further alleged that the offering of the 60,000 shares was made in violation of section 17 of the Securities Act and that the proposed offer of rescission would be made in violation of that section.

Following requests for a hearing filed by the issuer and the underwriter, hearings were held to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption. At the conclusion of the hearings, the issuer and underwriter, solely for the purpose of these proceedings and any other administrative proceeding pursuant to the Securities Act, the Securities Exchange Act, or the Investment Advisers Act of 1940, and without admitting or denying the allegations in the temporary suspension order, waived posthearing procedures and consented to entry of an order based on such allegations permanently suspending the issuer's Regulation A exemption.

In view of the foregoing, it is appropriate to enter a permanent suspension order.

Accordingly, it is ordered, Pursuant to Rule 261 of Regulation A under the Securities Act of 1933, that the exemption from registration with respect to the above-described offerings of securities by The Sun-Mastr Corp., Inc., be, and it hereby is, permanently suspended.

For the Commission, by the Office of Opinions and Review, pursuant to delegated authority.

THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-9230 Filed 6-29-71; 8:49 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4-4-2, Oklahoma City Disaster No. 790]

MANAGER, DISASTER BRANCH OFFICE, SHAWNEE, OKLA.**Rescission of Delegation of Authority**

Notice is hereby given that Delegation of Authority No. 4-4-2, Disaster No. 790, 36 F.R. 9482, is hereby rescinded in its entirety.

Effective: April 30, 1971.

E. BRUCE CAFKY,
District Director, Oklahoma City.

[FR Doc.71-9183 Filed 6-29-71; 8:45 am]

VERMONT INVESTMENT CAPITAL, INC.**Notice of Application for License as Small Business Investment Company**

Notice is hereby given that Vermont Investment Capital, Inc., Route 14, South Royalton, Vt. 05068, has filed an application with the Small Business Administration (SBA) for a license to operate as a small business investment company in the State of Vermont, pursuant to section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1968)) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and stockholders are as follows:

Name	Titles	Percentage of stock ownership
Philip K. Kisky, Route 14, South Royalton, Vt. 05068.	President, director.	33 1/3
Harold Jacobs, Pleasant St., South Royalton, Vt. 05068.	Vice president, director.	33 1/3
Ned Harrison Pettengill, South Windsor St., South Royalton, Vt. 05068.	Treasurer, clerk, director.	33 1/3

The company proposes to commence operations with a capitalization of \$153,000.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management, and the probability of successful operations of the new company under their management including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA in writing, relevant comments on the proposed company. Any communication should be addressed to: Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in the South Royalton, Vt., area.

Dated: June 18, 1971.

For SBA (pursuant to delegated authority).

A. H. SINGER,
Associate Administrator for
Operations and Investment.

[FR Doc.71-9182 Filed 6-29-71; 8:45 am]

INTERSTATE COMMERCE COMMISSION

SLUTSKY'S MOTOR EXPRESS, INC.

Notice of Filing of Petition

JUNE 25, 1971.

No. MC-20490 (Notice of Filing of Petition for Modification of Certificate), filed June 15, 1971.

Petitioner: Slutsky's Motor Express, Inc., Perth Amboy, N.J. Petitioner's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102.

Petitioner holds certificate No. MC-20490, authorizing the transportation of general commodities, except those of unusual value, high explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New York, N.Y., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, N.J., within 35 miles of the city hall, New York, N.Y. By the instant petitioner requests individual consideration, pursuant to the procedure described in the Sixth Supplemental Report in *Commercial Zones and Terminal Areas*, 54 M.C.C. 21, at page 58, of its terminal area at New York, N.Y., to permit terminal area service from and to all points in the New Jersey within 5 miles of New York, N.Y., including those points within the 5-mile radius not within the "exempt" zone as defined in *New York, N.Y., Commercial Zone*, 112 M.C.C. 203. In effect, the relief sought would constitute a modification of petitioner's certificate, and the petition therefore will be treated as a petition for the modification of petitioner's certificate No. MC-20490. No oral hearing is contemplated in this procedure, and any interested person desiring to participate may file an original and seven copies of written representations, views, or arguments in support of or against the petition on or before August 5, 1971. A copy of each such statement must be served on petitioner's representative. Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, DC, during regular business hours.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9236 Filed 6-29-71;8:49 am]

[Notice 16]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 25, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Com-

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mission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successfully filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 585) (Cancels Deviation No. 462), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed June 16, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From junction U.S. Highway 40 and Interstate Highway 70 at Pocahtontas, Ill., over Interstate Highway 49, thence over Illinois Highway 49 to Casey, Ill., with the following access roads: (1) From Vandalia, Ill., over U.S. Highway 51 to junction Interstate Highway 70; (2) from Effingham, Ill., over U.S. Highway 40 and access road to junction Interstate Highway 70; and (3) from Effingham, Ill., over U.S. Highway 45 to junction Interstate Highway 70, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) From Effingham, Ill., over U.S. Highway 40 to Vandalia, Ill., thence over Illinois Highway 140 (portions formerly U.S. Highway 40 and Illinois Highway 11) to junction unnumbered highway, thence over unnumbered highway via Greenville, Ill., to junction U.S. Highway 40; (2) from junction Illinois Highway 140 (formerly shown as old U.S. Highway 40) and U.S. Highway 40 (formerly shown as relocated U.S. Highway 40) near Mulberry Grove, Ill., over U.S. Highway 40 to junction unnumbered highway (formerly shown as old U.S. Highway 40) near Greenville, Ill.; and (3) from Manhattan, Ind., over U.S. Highway 40 to junction Alternate U.S. Highway 40 west of Livingston, Ill., thence over Alternate U.S. Highway 40 via Marshall, Ill., to junction U.S. Highway 40, thence over U.S. Highway 40 to junction Alternate U.S. Highway 40 approximately 2 miles east of Martinsville, Ill., thence over Alternate U.S. Highway 40 via Martinsville, and Casey, Ill., to junction U.S. Highway 40 west of Casey, Ill., thence over U.S.

Highway 40 to junction Alternate U.S. Highway 40 (formerly U.S. Highway 40), thence over Alternate U.S. Highway 40 to junction U.S. Highway 40 at or near Mulberry Grove, Ill., and return over the same routes.

No. MC 1515 (Deviation No. 586), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed June 16, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From Van Buren, Ohio, over Interstate Highway 75 to Dayton, Ohio, with the following access roads: (1) From Findlay, Ohio, over Ohio Highway 12 to junction Interstate Highway 75; (2) from Bluffton, Ohio, over unnumbered highway to junction Interstate Highway 75; (3) from Beavertown, Ohio, over U.S. Highway 30N to junction Interstate Highway 75; (4) from Lima, Ohio, over Ohio Highway 81 to junction Interstate Highway 75; (5) from Lima, Ohio, over U.S. Highway 30S to junction Interstate Highway 75; (6) from Wapakoneta, Ohio, over Ohio Highway 67 to junction Interstate Highway 75; (7) from Wapakoneta, Ohio, over Ohio Highway 198 to junction Interstate Highway 75; (8) from Sidney, Ohio, over Ohio Highway 29 to junction Interstate Highway 75; (9) from Sidney, Ohio, over Ohio Highway 47 to junction Interstate Highway 75; (10) from Piqua, Ohio, over unnumbered highway to junction Interstate Highway 75; (11) from Piqua, Ohio, over U.S. Highway 36 to junction Interstate Highway 75; (12) from Troy, Ohio, over Ohio Highway 41 to junction Interstate Highway 75; (13) from Troy, Ohio, over unnumbered highway to junction Interstate Highway 75; and

(14) From Vandalia, Ohio, over U.S. Highway 40 to junction Interstate Highway 75, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: From Van Buren, Ohio, over unnumbered highway (formerly U.S. Highway 25) to Bluffton, Ohio, thence over access road to junction Interstate Highway 75, thence over Interstate Highway 75 to junction U.S. Highway 30N, thence over U.S. Highway 30N to Beavertown, Ohio, thence over Napoleon Road to junction access road south of Beavertown, thence over access road to Old North Road (formerly U.S. Highway 25), thence over Old North Road to junction Ohio Highway 81, thence over Ohio Highway 81 (formerly U.S. Highway 25) to Lima, Ohio, thence over unnumbered highway (formerly U.S. Highway 25) to junction Ohio Highway 67, thence over Ohio Highway 67 to Wapakoneta, Ohio, thence over unnumbered highway (formerly U.S. Highway 25) to junction Ohio Highway 219, thence over Ohio Highway 219 to Botkins, Ohio, thence over unnumbered highway via Sidney,

Piqua, Troy, and Vandalia, Ohio, to Dayton, Ohio; (2) from Findlay, Ohio, over U.S. Highway 68 to Springfield, Ohio; (3) from Springfield, Ohio, over U.S. Highway 40 to Brandt, Ohio; and (4) from Brandt, Ohio, over U.S. Highway 40 to junction U.S. Highway 35, and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9237 Filed 6-29-71;8:49 am]

[Notice 22]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 25, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successfully filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-61440 (Deviation No. 17), LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Post Office Box 82488, Oklahoma City, OK 73108, filed June 18, 1971. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Salem, Ill., over Illinois Highway 37 to Mount Vernon, Ill., thence over U.S. Highway 460 to Crossville, Ill., thence over Illinois Highway 1 to junction Illinois Highway 64, thence over Illinois Highway 64 to the Illinois-Indiana State line, thence over Indiana Highway 64 to New Albany, Ind., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Tulsa, Okla., over U.S. Highway 66 to St. Louis, Mo., (2) from St. Louis, Mo., over U.S. Highway 50 to Aurora, Ind.; and (3) from junction U.S. Highways 50 and 150, near Shoals, Ind., over U.S. Highway 150 to New Albany, Ind., thence over Indiana

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Highway 62 to Madison, Ind., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9238 Filed 6-29-71;8:49 am]

[Notice 51]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 25, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here notified will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 114290 (Sub-No. 52) (Amendment), filed October 8, 1970, published in the FEDERAL REGISTER issue of November 13, 1970, and republished as amended this issue. Applicant: EXLEY EXPRESS, INC., 2610 Southeast Eighth, Portland, OR 97202. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Meat and meat products*, from points in Washington to points in Oregon, California, and Arizona, and (2) *frozen foods*, from points in Oregon, to points in California, Washington, and Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the authority sought.

HEARING: Assigned for hearing on July 28, 1971, at 9:30 a.m., daylight saving time (or 9:30 a.m., U.S. standard time, if that time is observed), in Room 1155, Federal Office Building, 909 First Avenue, Seattle, WA.

No. MC 103993 (Sub-No. 432) (Republishing) filed June 25, 1969, published in the FEDERAL REGISTER issue of July 17, 1969, and republished this issue. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). The modified procedure has been followed in this proceeding and a report and order of the Commission, Review Board No. 1, decided June 8,

1971, and served June 17, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of conveyors and bins, mounted on wheeled undercarriages; (1) from Glasgow and Kansas City, Mo., to points in the United States (except Alaska and Hawaii); and (2) from Leavenworth, Kans., to points in the United States (except Alaska, Hawaii, Kansas, Iowa, Minnesota, South Dakota, Nebraska, Illinois, Colorado, Oklahoma, Texas, Louisiana, and Arkansas); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 127787 (Sub-No. 2) (Republishing), filed March 12, 1970, published in the FEDERAL REGISTER issue of April 2, 1970, and republished this issue. Applicant: ANTHONY PALLOTTA AND FRANK PALLOTTA, a partnership, doing business as PALLOTTA BROS., 285 Hickory Avenue, Bergenfield, NJ 07621. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. The modified procedure has been followed in this proceeding and a report and order of the Commission, Review Board No. 1, decided June 8, 1971, and served June 17, 1971, finds; that operation by applicants, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of foodstuffs (other than frozen), except in bulk, between the plantsite of B. Manischewitz Co., at Jersey City, N.J., and the warehouse of B. Manischewitz Co., at East Rutherford, N.J., on the one hand, and, on the other, East Farmingdale, N.Y., under a continuing contract or contracts with B. Manischewitz Co., of Newark, N.J., will be consistent with the public interest and the national transportation policy; that applicants are fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons who have relied upon the notice of the application as published in the FEDERAL REGISTER may

have an interest in and would be prejudiced by the lack of proper notice, a notice of the authority actually granted applicant will be published in the FEDERAL REGISTER and issuance of the permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITION

No. MC 116816 (Sub-No. 10) (Notice of filing of petition to modify permit by adding a new shipper and deleting an existing shipper), filed June 7, 1971. Petitioner: MERIT TRUCKING CORP., Kearny, N.J. Petitioner's representatives: Edward M. Alfano and John L. Alfano, 2 West 45th Street, New York, NY 10036. Petitioner holds authority in No. MC 116816 (Sub-No. 10) to conduct operations as a motor contract carrier, transporting: Household appliances, air conditioning equipment, water heaters, central home heating and cooling units, radio, recorder, phonograph, and television sets, and parts and equipment therefor, from site of carrier's warehouse at Kearny, N.J., to New York, N.Y., to points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., and Fairfield County, Conn.; and returned shipments of the above-specified commodities, on return, under a continuing contract, or contracts, with the following shippers: Apollo Distributing Co., of Newark, N.J.; Warren-Connolly Co., Inc., of Long Island City, N.Y.; L & P Distributors of New Jersey, of Maspeth, N.Y.; Cooper Distributing Co., Inc., of Newark, N.J.; Philco Distributors, Inc., of New York, N.Y.; and Motorola Metro, Inc., of Franklin Park, Ill. By the instant petition, petitioner requests permission to add the name of a new shipper, Bruno-New York, Inc., of New York, N.Y., and deleting an existing shipper, Warren-Connolly Co., Inc., of Long Island City, N.Y. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 112999 (Sub-No. 4), filed May 28, 1971. Applicant: WEST TRANSPORTATION, INC., 961 South 14th Street, Richmond, CA 94802. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a common carrier, by motor vehicle, over regular and irregular routes, transporting: General commodities (except uncrated used household goods, livestock and fresh fruit and vegetables), Part (1) (a) between all points in the following territories over any and all highways,

streets and roads as follows: San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of the paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road;

Northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Part (2) Los Angeles Basin Territory includes that area em-

braced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence north-easterly along said county line to the point it intersects State Highway No. 118, approximately 2 miles west of Chatsworth;

Easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the city of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary to the right-of-way of the Atchison, Topeka & Santa Fe Railway Co.;

Southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersection U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning. Part (3) (B) between all points on or within 20 miles of the following routes: (1) U.S. Highways

101, 101 Bypass and 101-A between Novato and the Mexican border line, inclusive; (2) State Highway 48 between junction with U.S. Highway 101, near Ignacio, and U.S. Highway 40, inclusive; (3) State Highway 37 between Sears Point and Napa, inclusive; (4) State Highway 29 between U.S. Highway 40 and Napa, inclusive; (5) State Highway 12 between Schellville and U.S. Highway 50, near Lodi, inclusive; (6) U.S. Highway 40 between San Francisco and the California-Nevada State line, inclusive; (7) U.S. Highway 40A between Davis Junction and the California-Nevada State line, inclusive; (8) State Highway 24 between Oakland and Oroville, inclusive; (9) State Highway 89 between U.S. Highway 40A, near Blairsdene and Tahoe Valley, inclusive; (10) U.S. Highways 99, 99E and 99W between Red Bluff and the Mexican border line, inclusive; (11) State Highway 20 between Williams and junction with U.S. Highway 40, near Cisco;

(12) State Highway 49 between Placerville and Sattley, inclusive; (13) U.S. Highway 50 between San Francisco and the California-Nevada State line, inclusive; (14) State Highway 4 between junction with U.S. Highway 40, near Pinole and Stockton, inclusive; (15) State Highway 33 between junction with U.S. Highway 50, near Tracy and junction with U.S. Highway 99, at Mettler; (16) State Highway 152 between Watsonville and Califa, inclusive; (17) State Highway 132 between Vernalis and Modesto, inclusive; (18) State Highway 120 between junction with U.S. Highway 50, near Lathrop and Manteca, inclusive; (19) State Highway 399 between Ventura and Greenfield, inclusive; (20) U.S. Highway 466 between Paso Robles and the California-Nevada State line, inclusive; (21) State Highway 198 between junction with State Highway 33, near Coalinga and junction with State Highway 65, near Exeter, inclusive; (22) State Highway 65 between junction with State Highway 198, near Exeter and U.S. Highway 99, near Bakersfield; (23) U.S. Highway 395 between San Diego and the California-Nevada State line, inclusive; (24) U.S. Highway 6 between Los Angeles and the California-Nevada State line, inclusive; (25) U.S. Highway 66 between Los Angeles and the California-Arizona State line, inclusive; and

(26) U.S. Highway 60 between Los Angeles and the California-Arizona State line, inclusive. The service authorized herein is restricted against the transportation of any property to or from Cajon Junction and Barstow and intermediate points along U.S. Highway 66, and Part (4) Regular and irregular routes: Talc, from mines in Nevada within 10 miles of Palmetto, Nev., to Lone Pine, Calif., serving the intermediate points of Zurich and Big Pine, Calif., for delivery only: From mines in Nevada within 10 miles of Palmetto, over irregular routes to junction Nevada Highway 3, thence over Nevada Highway 3 to the Nevada-California State line, thence over California Highway 3 (formerly Cali-

fornia Highway 63) to Big Pine, Calif., and thence over U.S. Highway 395 to Lone Pine; and Mining machinery and supplies, maximum 10,000 pounds, from Lone Pine, Calif., to mines in Nevada within 10 miles of Palmetto, Nev., serving the intermediate points of Zurich and Big Pine, Calif., for pickup only: From Lone Pine over the above-specified regular and irregular routes to mines in Nevada within 10 miles of Palmetto, Nev., irregular routes: Talc and clay, in bulk, between points in Inyo County, Calif. Note: This application is a matter directly related to MC-F-11191, published in the FEDERAL REGISTER issue of June 9, 1971. Applicant presently holds the authority described in Parts (1), (2), and (3) above in a certificate of registration, and conversion of that authority to an original certificate by the Commission will be required. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11212. Authority sought for purchase by GALLATIN-PORTLAND FREIGHT LINES, INC., James Street, Post Office Box 888, Gallatin, TN 37066, of the operating rights of ROBERT H. BRADSHAW, doing business as HARTSVILLE FREIGHT COMPANY, Broad Street, Post Office Box 1, Hartsville, TN 37074, and for acquisition by SHELBY GREGORY, also of Gallatin, Tenn. 37066, of control of such rights through the purchase. Applicants' attorney: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Operating rights sought to be transferred: Under certificates of registration in Docket No. MC-120585 Sub-1 and Sub-2, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Tennessee. Vendee is authorized to operate as a common carrier in Tennessee. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11213. Authority sought for control by THE BEKINS COMPANY, 1335 South Figueroa Street, Los Angeles, CA 90015, of the operating rights and property of (A) O.K. VAN & STORAGE, INC., 5950 East Palsano Drive, El Paso, TX, and (B) OK VAN & STORAGE CO. OF NEW MEXICO, 2315 South Valley Drive, Las Cruces, NM, and for acquisition by MARTIN B. AND SALLY HOLT of 445 South June Street, Los Angeles, CA 90005, IDA RAINEY BEKINS HECKER, MILO W. BEKINS, FLOYD R. BEKINS, SR., FLOYD R. BEKINS, JR., MILO W. BEKINS, JR., DOROTHY ELOISE BEKINS, DONALD R.

BEKINS, AND KATHERINE BEKINS PALMER, all of 1335 South Figueroa Street, Los Angeles, CA 90015, of control of (A) O.K. VAN & STORAGE, INC., and (B) OK VAN & STORAGE CO. OF NEW MEXICO, through the acquisition by THE BEKINS COMPANY. Applicants' attorneys: Vernon V. Baker, 1250 Connecticut Avenue NW., Washington, DC 20036, Irving J. Raley, 3017 North Military Road, Arlington, VA 22207, and Eldon R. Clawson, 1335 South Figueroa Street, Los Angeles, CA 90015. Operating rights sought to be controlled: (A) Used household goods, as a common carrier, over irregular routes, between points in El Paso County, Tex., with restriction; and (B) used household goods, as a common carrier, over irregular routes, between points in Dona Ana and Otero Counties, N. Mex., with restriction. THE BEKINS COMPANY holds no authority from this Commission. However, it is affiliated with (1) BEKINS VAN & STORAGE CO., 3429 Troost, Kansas City, MO 64109; (2) BEKINS MOVING & STORAGE CO., 1335 South Figueroa Street, Los Angeles, CA 90015; (3) BEKINS VAN LINES CO., 333 South Cedar Street, Hillside, IL 60162 (4) BEKINS MOVING & STORAGE CO., 1347 South Sheridan Road, Tulsa, OK 74112; and (5) BEKINS MOVING & STORAGE CO. OF HAWAII, INC., 2839 Mokumoa Street, Honolulu, HI 96819, which are authorized to operate as common carriers in (1) Kansas and Missouri; (2) California; (3) Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, Nebraska, Washington, Idaho, Montana, Utah, Maine, New Hampshire, and Vermont; (4) Arizona; and (5) Hawaii. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11214. Authority sought for control by REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050, of the operating rights of A-1 CONTRACT CARRIERS CORPORATION (KY.), Post Office Drawer 84, Winston-Salem, NC 27102, and for acquisition by LAMAR BEAUCHAMP, Post Office Box 1699, Winter Haven, FL 33880, and RICHARD BEAUCHAMP, Post Office Box 308, Forest Park, GA 30050, of control through capital stock of A-1 CONTRACT CARRIERS CORPORATION (KY.), through the acquisition by REFRIGERATED TRANSPORT CO., INC. Applicants' attorneys and representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301; W. F. Womble, Post Office Drawer 84, Winston-Salem, NC 27102; and Harry A. Greenburg, 420 Lincoln Road, Miami Beach, FL 33039. Operating rights sought to be controlled: Tobacco (except leaf,

chopped leaf, redried leaf, stemmed leaf, and stems of tobacco, leaf, redried leaf, stemmed leaf, and stems of tobacco, when transported in the same vehicle and at the same time with commodities subject to economic regulations, tobacco products and articles used in the production, processing, manufacture, sale, and distribution of tobacco products, as a contract carrier, over irregular routes, between the facilities of Lorillard, a division of Loew's Theatres, Inc., in Danville, Va., Greensboro, N.C., and Lexington and Louisville, Ky., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, District of Columbia, Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; with restriction, REFRIGERATED TRANSPORT CO., INC., is authorized to operate as a common carrier in Mississippi, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Louisiana, Arkansas, Nebraska, Illinois, Indiana, Iowa, Minnesota, Missouri, Oklahoma, Texas, Wisconsin, Kentucky, Michigan, Ohio, Kansas, Virginia, West Virginia, Nevada, Utah, Pennsylvania, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Wyoming, South Dakota, North Dakota, Colorado, New Mexico, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9239 Filed 6-29-71; 8:49 am]

[Drought Order No. 67]

CERTAIN DROUGHT AREAS IN ARIZONA

Transportation of Hay at Reduced Rates

In the matter of relief under section 22 of the Interstate Commerce Act.

Present: Dale W. Hardin, Vice Chairman, to whom the above-entitled matter has been assigned for action thereon.

It appearing, that by reasons of drought conditions existing in certain portions of the State of Arizona, hereinafter referred to as the disaster area, the Assistant Secretary of the U.S. Department of Agriculture has requested the

Commission to enter an order under section 22 of the Interstate Commerce Act authorizing railroads subject to the Commission's jurisdiction to transport hay to the disaster area at reduced rates:

It is ordered, That carriers by railroad participating in the transportation of hay to the counties of:

Apache.
Coconino.
Gila.
Graham.
Maricopa.
Mohave.
Navajo.
Pima.
Pinal.
Santa Cruz.
Yavapai.

all located in the State of Arizona, referred to herein as the disaster area, be, and they are hereby, authorized under section 22 of the Interstate Commerce Act to establish and maintain until July 31, 1971, reduced rates for such transportation, the rates to be published and filed in the manner prescribed in section 6 of the Interstate Commerce Act except that they may be effective 1 day after publication and filing instead of 30.

It is further ordered, That the class of persons entitled to such reduced rates is hereby defined as persons designated as being in distress and in need of relief by the U.S. Department of Agriculture or by such State agents or agencies as may in turn be designated by the U.S. Department of Agriculture to assist in relieving the distress caused by the drought.

It is further ordered, That, during the period in which any reduced rates authorized by this order are effective the carriers may, notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of this order.

It is further ordered, That any tariffs or tariff provisions published under the authority of this order shall explicitly so state, making reference to this order by number and date.

And it is further ordered, That, subject to the conditions in the succeeding paragraphs hereof, the use of reduced rates established by authority of this order may be conditioned upon the release by the shipper of the value of the commodity, which released value, in its relation to the invoice value of the property at time of shipment, shall be in the same percentage relation which the reduced rates bear to the rates which otherwise would apply.

And it is further ordered, That tariffs containing released rates filed under authority of this order shall show in connection with such rates the following notation:

The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not in excess of (show percent) of the invoice value of the property herein described.

If the shipper fails or declines to execute the above statement, shipments will not be accepted for transportation at the rates subject hereto. Rates published elsewhere in other tariffs lawfully filed with the Interstate Commerce Commission will apply in such a case. Rates herein published on released value have been authorized by the Interstate Commerce Commission in Drought Order No. 67 of June 9, 1971.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the Chairman of the Executive Committee, Western Railroads Traffic Association, Chicago, Ill.; the Vice President and Director, Economics and Finance Department, Association of American Railroads, Washington, D.C.; and to the President of the American Short Line Railroad Association, Washington, D.C.

Dated at Washington, D.C., this 9th day of June 1971.

By the Commission, Vice Chairman Hardin.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9257 Filed 6-29-71; 8:53 am]

[Drought Order No. 68]

CERTAIN DROUGHT AREAS IN NEW MEXICO

Transportation of Hay at Reduced Rates

In the matter of relief under section 22 of the Interstate Commerce Act.

Present: Dale W. Hardin, Vice Chairman, to whom the above-entitled matter has been assigned for action thereon.

It appearing, that by reasons of drought conditions existing in certain portions of the State of New Mexico, hereinafter referred to as the disaster area, the Assistant Secretary of the U.S. Department of Agriculture has requested the Commission to enter an order under section 22 of the Interstate Commerce Act authorizing railroads subject to the Commission's jurisdiction to transport hay to the disaster area at reduced rates:

It is ordered, That carriers by railroad participating in the transportation of hay to the counties of:

Bernalillo.
Chaves.
Colfax.
De Baca.
Eddy.
Grant.
Guadalupe.
Hidalgo.
Lea.
Lincoln.
McKinley.
Mora.
Otero.
Quay.
Sandoval.
San Miguel.
San Juan.
Santa Fe.
Sierra.
Socorro.
Torrance.
Union.
Valencia.

all located in the State of New Mexico, referred to herein as the disaster area,

be, and they are hereby, authorized under section 22 of the Interstate Commerce Act to establish and maintain until August 15, 1971, reduced rates for such transportation, the rates to be published and filed in the manner prescribed in section 6 of the Interstate Commerce Act except that they may be effective 1 day after publication and filing instead of 30.

It is further ordered, That the class of persons entitled to such reduced rates is hereby defined as persons designated as being in distress and in need of relief by the U.S. Department of Agriculture or by such State agents or agencies as may in turn be designated by the U.S. Department of Agriculture to assist in relieving the distress caused by the drought.

It is further ordered, That, during the period in which any reduced rates authorized by this order are effective, the carriers may, notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of this order.

It is further ordered, That any tariffs or tariff provisions published under the authority of this order shall explicitly so state, making reference to this order by number and date.

And it is further ordered, That, subject to the conditions in the succeeding paragraphs hereof, the use of reduced rates established by authority of this order may be conditioned upon the release by the shipper of the value of the commodity, which released value, in its relation to the invoice value of the property at time of shipment, shall be in the same percentage relation which the reduced rates bear to the rates which otherwise would apply.

And it is further ordered, That tariffs containing released rates filed under authority of this order shall show in connection with such rates the following notation:

The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not in excess of (show percent) of the invoice value of the property herein described.

If the shipper fails or declines to execute the above statement, shipments will not be accepted for transportation at the rates subject hereto. Rates published elsewhere in other tariffs lawfully filed with the Interstate Commerce Commission will apply in such a case. Rates herein published on released value have been authorized by the Interstate Commerce Commission in Drought Order No. 68 of June 9, 1971.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the

Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the Chairman of the Executive Committee, Western Railroads Traffic Association, Chicago, Ill.; the Vice President, Economic and Finance Department, Association of American Railroads, Washington, D.C.; and to the President of the American Short Line Railroad Association, Washington, D.C.

Dated at Washington, D.C., this 9th day of June 1971.

By the Commission, Vice Chairman Hardin.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9258 Filed 6-29-71; 8:53 am]

[Drought Order No. 66, Sub. No. 3]

CERTAIN DROUGHT AREAS IN TEXAS

Transportation of Hay at Reduced Rates

In the matter of relief under section 22 of the Interstate Commerce Act.

Present: Dale W. Hardin, Vice Chairman, to whom the above-entitled matter has been assigned for action thereon.

It appearing, that by reasons of drought conditions existing in certain portions of the State of Texas, hereinafter referred to as the disaster area, the Assistant Secretary of the U.S. Department of Agriculture has requested the Commission to enter an order under section 22 of the Interstate Commerce Act authorizing railroads subject to the Commission's jurisdiction to transport hay to the disaster area at reduced rates:

It is ordered, That carriers by railroad participating in the transportation of hay to the counties of:

Borden.
Castro.
Childress.
Clay.
Collingsworth.
Cooke.
Crane.
Crosby.
Dawson.
Donley.
Ector.
Floyd.
Galnes.
Glascock.
Hall.
Hardeman.
Hemphill.
Irion.
Jackson.
Jones.
Lamb.
Lipscomb.
Lubbock.
Lynn.
Ochiltree.
Pecos.
Reagan.
Real.
Roberts.
Shackelford.
Somervell.
Stephens.
Taylor.
Terry.
Throckmorton.
Upton.
Wheeler.
Wise.
Young.

all located in the State of Texas, referred to herein as the disaster area, be, and they are hereby, authorized under section 22 of the Interstate Commerce Act to establish and maintain until June 30, 1971, reduced rates for such transportation, the rates to be published and filed in the manner prescribed in section 6 of the Interstate Commerce Act except that they may be effective 1 day after publication and filing instead of 30.

It is further ordered, That the class of persons entitled to such reduced rates is hereby defined as persons designated as being in distress and in need of relief by the U.S. Department of Agriculture or by such State agents or agencies as may in turn be designated by the U.S. Department of Agriculture to assist in relieving the distress caused by the drought.

It is further ordered, That, during the period in which any reduced rates authorized by this order are effective the carriers may, notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of this order.

It is further ordered, That any tariffs or tariff provisions published under authority of this order shall explicitly so state, making reference to this order by number and date.

And it is further ordered, That, subject to the conditions in the succeeding paragraphs hereof, the use of reduced rates established by authority of this order may be conditioned upon the release by the shipper of the value of the commodity, which released value, in its relation to the invoice value of the property at time of shipment, shall be in the same percentage relation which the reduced rates bear to the rates which otherwise would apply.

And it is further ordered, That tariffs containing released rates filed under authority of this order shall show in connection with such rates the following notation:

The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not in excess of (show percent) of the invoice value of the property herein described.

If the shipper fails or declines to execute the above statement, shipments will not be accepted for transportation at the rates subject hereto. Rates published elsewhere in other tariffs lawfully filed with the Interstate Commerce Commission will apply in such a case. Rates herein published on released value have been authorized by the Interstate Commerce Commission in Drought Order No. 66 (Sub No. 3) of June 9, 1971.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the Chairman of the Executive Committee, Western Railroads Traffic Association, Chicago, Ill.; the Vice President, Economics and Finance Department,

Association of American Railroads, Washington, D.C.; and to the President of the American Short Line Railroad Association, Washington, D.C.

Dated at Washington, D.C., this 9th day of June 1971.

By the Commission, Vice Chairman Hardin.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9255 Filed 6-29-71; 8:53 am]

[Drought Order No. 66, Sub No. 4]

CERTAIN DROUGHT AREAS IN TEXAS Transportation of Hay at Reduced Rates

In the matter of relief under section 22 of the Interstate Commerce Act.

Present: Dale W. Hardin, Vice Chairman, to whom the above-entitled matter has been assigned for action thereon.

It appearing, that by reasons of drought conditions existing in certain portions of the State of Texas, hereinafter referred to as the disaster area, the Assistant Secretary of the U.S. Department of Agriculture has requested the Commission to enter an order under section 22 of the Interstate Commerce Act authorizing railroads subject to the Commission's jurisdiction to transport hay to the disaster area at reduced rates:

It is ordered, That carriers by railroad participating in the transportation of hay to the counties of:

Andrews. Howard.
Bailey. Jack.
Cochran. Martin.
Eastland. Yoakum.
Hockley.

all located in the State of Texas, referred to herein as the disaster area, be, and they are hereby, authorized under section 22 of the Interstate Commerce Act to establish and maintain until June 30, 1971, reduced rates for such transportation, the rates to be published and filed in the manner prescribed in section 6 of the Interstate Commerce Act except that they may be effective 1 day after publication and filing instead of 30.

It is further ordered, That the class of persons entitled to such reduced rates is hereby defined as persons designated as being in distress and in need of relief by the U.S. Department of Agriculture or by such State agents or agencies as may in turn be designated by the U.S. Department of Agriculture to assist in relieving the distress caused by the drought.

It is further ordered, That, during the period in which any reduced rates authorized by this order are effective the carriers may, notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of this order.

It is further ordered, That, any tariffs or tariff provisions published under authority of this order shall explicitly so state, making reference to this order by number and date.

And it is further ordered, That, subject to the conditions in the succeeding paragraphs hereof, the use of reduced rates established by authority of this order may be conditioned upon the release by the shipper of the value of the commodity, which released value, in its relation to the invoice value of the property at time of shipment, shall be in the same percentage relation which the reduced rates bear to the rates which otherwise would apply.

And it is further ordered, That tariffs containing released rates filed under authority of this order shall show in connection with such rates the following notation:

The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not in excess of (show percent) of the invoice value of the property herein described.

If the shipper fails or declines to execute the above statement, shipments will not be accepted for transportation at the rates subject hereto. Rates published elsewhere in other tariffs lawfully filed with the Interstate Commerce Commission will apply in such a case. Rates herein published on released value have been authorized by the Interstate Commerce Commission in Drought Order No. 66 (Sub No. 4) of June 18, 1971.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the Chairman of the Executive Committee, Western Railroads Traffic Association, Chicago, Ill.; the Vice President, Economics and Finance Department, Association of American Railroads, Washington, D.C.; and to the President of the American Short Line Railroad Association, Washington, D.C.

Dated at Washington, D.C., this 18th day of June 1971.

By the Commission, Vice Chairman Hardin.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9256 Filed 6-29-71; 8:53 am]

CHEROKEE HAULING AND RIGGING, INC., AND HORNE HEAVY HAULING, INC.

Assignment of Hearings

JUNE 25, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only

once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 127834 Sub 32, Cherokee Hauling & Rigging, Inc., application dismissed.
MC 35045 Sub 4, Horne Heavy Hauling, Inc., application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9235 Filed 6-29-71; 8:49 am]

[No. 34543]

NEW JERSEY AND NEW YORK RAILROAD CO. AND ERIE LACKAWANNA RAILROAD CO.

Increased Suburban Fares

MAY 25, 1971.

Notice is hereby given that the Erie Lackawanna Railway Co., successor to Erie Lackawanna Railroad Co., which has acquired the properties of New Jersey and New York Railroad Co., has filed a petition on April 28, 1971, with the Interstate Commerce Commission, through its attorney named below, for leave to file a petition attached thereto praying that the Commission modify its outstanding order in this proceeding, decided May 21, 1965 (not printed), to the extent necessary to permit the petitioner to file tariffs (or supplements), on statutory notice and subject to the usual suspension and investigation procedures, increasing interstate fares for monthly and weekly commutation service in the New York-New Jersey suburban area. The order of May 21, 1965, modified the outstanding orders in No. 33147, Increased Suburban Fares, Erie Railroad Co. and New Jersey & New York Railroad Co., decided September 18, 1959, embraced in Pennsylvania Railroad Company Increased Commutation Fares, 308 I.C.C. 593, and in No. 32946, Increased Passenger Fares, Delaware, Lackawanna and Western Railway Co., decided July 14, 1959, embraced in Increased Commutation Fares, Central Railroad Company of New Jersey, 308 I.C.C. 119, to the extent necessary to permit the establishment of certain changed interstate suburban fares, but otherwise continued such orders in full force and effect.

The petitioner proposes to increase all interstate suburban passenger fares in the New York-New Jersey suburban area, including commutation fares, by approximately 15 percent. The fares for monthly commutation tickets will be rounded to even dollars, with amounts of 49 cents and less dropped, and 50 cents and more increased to the next dollar; weekly tickets will be priced in multiples of 50 cents, with 24 cents and less dropped, and 25 cents and more increased to the next multiple of 50 cents.

The petitioner points out that it has not increased its commutation fares since May 1965, but has experienced increases in wage rates and other costs. It urges that passenger fares of other railroads have been increased 15 percent or more in the past year, and that the proposal will place the petitioner's fares on a similar level. Furthermore, petitioner states that the other railroads are presently seeking additional commutation fare increases of 10 percent or more.

Any persons interested in this matter may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petitions supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of two copies thereof upon petitioner's Attorney, J. T. Clark, 1336 Midland Building, Cleveland, Ohio 44115. Thereafter, the Commission will proceed to render its decision in this matter, including additional proceedings

if they appear to be warranted to assure due process of law.

Notice of the filing of this petition will be given by publication in the FEDERAL REGISTER. It is not contemplated that any further notices, orders, etc., in this proceeding will be published in the FEDERAL REGISTER. Service will be solely upon the persons responding to this notice.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-9259 Filed 6-29-71; 8:53 am]

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PART II



UNITED STATES POSTAL SERVICE

■

Regulations and Notices
Implementing the Postal
Reorganization Act

Title 39—POSTAL SERVICE

Chapter I—United States Postal Service

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

SUBCHAPTER I—ORGANIZATION STATEMENTS RESTATEMENT OF HEADQUARTERS ORGANIZATION

The regulations set out below reflect enactment of the Postal Reorganization Act (Public Law 91-375). They are interim regulations, and relate basically to headquarters. A reorganization of Regional Offices is underway at this time. This reorganization will reduce the number of Regional Offices from 15 to 5, to be designated as Postal Regions. Regulations will be issued stating that reorganization when it is completed.

Delegations of authority in existence prior to the effective date of these regulations remain in full force and effect, except to the extent that any such delegation is inconsistent with these regulations.

Accordingly, the following amendments to regulations codified in Title 39, Code of Federal Regulations, are hereby made to be effective July 1, 1971:

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

1. In Subchapter D (36 F.R. 4755) Part 221, *Office of the Postmaster General and Deputy Postmaster General*, is revoked.

2. Parts 211, 212, 213, 222, and 235 are revised to read as follows:

PART 211—GENERAL PRINCIPLES OF ORGANIZATION

Sec.	
211.1	The U.S. Postal Service.
211.2	Board of Governors of the Postal Service.
211.3	Postmaster General.
211.4	Deputy Postmaster General.
211.5	Executive Assistant to the Postmaster General.
211.6	Postal Service Advisory Council.
211.7	Groups and Departments.
211.8	Officers serve at pleasure of Postmaster General.
211.9	Postal Field Service.
211.10	Conversion of terms.

AUTHORITY: The provisions of this Part 211 issued under authority of 39 U.S.C. 201, 202, 203, 204, 206, 401(2), 402, 403, 404, as enacted by Public Law 91-375, 84 Stat. 719.

§ 211.1 The U.S. Postal Service.

(a) The U.S. Postal Service has been established as an independent establishment within the executive branch of the Government of the United States under the provisions of the Postal Reorganization Act of August 12, 1970, Public Law 91-375, 84 Stat. 719.

(b) As a complement to the information in the regulations in this part, a concise statement of the organization of the Postal Service can be found in the U.S. Government Organization Manual.

§ 211.2 Board of Governors of the Postal Service.

(a) The Board of Governors directs the exercise of the powers of the Postal Service. It reviews the practices and policies of the Postal Service and directs and controls its expenditures.

(b) For composition of the Board of Governors, see § 3.1 of this chapter.

§ 211.3 Postmaster General.

(a) The Postmaster General is the chief executive officer of the Postal Service and is responsible for its overall operation. He is named and can be removed by the nine members of the Board of Governors, statutorily designated "Governors", who are appointed by the President with the advice and consent of the Senate. He is a voting member of the Board of Governors.

(b) The Postmaster General determines appeals from the actions of staff and department heads, except as delegated.

(c) The Board of Governors has directed that the Postmaster General exercise the powers of the Postal Service to the extent that such exercise does not conflict with power reserved to the Board by law. The Postmaster General is authorized to direct any officer, employee, or agency of the Postal Service to exercise such of his powers as he deems appropriate. For the direction of the Board of Governors that the Postmaster General exercise the powers of the Postal Service, see §§ 3.9 and 5.3 of this chapter.

§ 211.4 Deputy Postmaster General.

(a) The Deputy Postmaster General is the chief operating officer of the Postal Service and a voting member of the Board of Governors. He is appointed and can be removed by the Postmaster General and Governors.

(b) He directs all postal operations and delegates such of his authority as he considers appropriate. He is required to perform all tasks assigned him by the Postmaster General. He acts as Postmaster General in the Postmaster General's absence or whenever a vacancy exists in the Office of Postmaster General.

(c) During any period when, by reason of absence, disability or vacancy in office, neither the Postmaster General nor the Deputy Postmaster General is available to exercise the powers or perform the functions of the office of Postmaster General, the first official on the list in § 212.1(c) of this chapter who is available to do so shall perform the functions of the Postmaster General.

(d) For delineation of authority of the Deputy Postmaster General by the Board of Governors see § 5.4 of this chapter.

§ 211.5 Executive Assistant to the Postmaster General.

The Executive Assistant to the Postmaster General coordinates certain activities on behalf of the Postmaster General, directs the Postmaster Gen-

eral's office staff, and performs such additional duties as are assigned by the Postmaster General. He reports directly to the Postmaster General.

§ 211.6 Postal Service Advisory Council.

The Postal Service Advisory Council consults with and advises the Postal Service with regard to all aspects of postal operations. It consists of the Postmaster General who is Chairman, the Deputy Postmaster General who is Vice Chairman, and 11 additional members appointed by the President as follows: four representatives of postal labor organizations, four representatives of major mail users, and three representatives of the public at large.

§ 211.7 Groups and Departments.

(a) Postal Service Headquarters personnel is partially divided into three groups—Mail Processing, Customer Services, and Support. Each group is headed by a Senior Assistant Postmaster General who reports to the Deputy Postmaster General. Senior Assistant Postmasters General are responsible for the following activities with respect to Postal Service activities within their assigned areas:

(1) Program planning, direction, and review;

(2) Establishment of policies, procedures, and standards; and

(3) Operational determinations not within the full jurisdiction of field officers.

(b) The operating groups are in turn divided into departments of offices headed by either Assistant Postmasters General or Directors who report to their respective Senior Assistant Postmasters General. The heads of these departments and offices are responsible for assisting their Senior Assistant Postmasters General in carrying out the activities assigned their groups.

(c) In addition to the three operating groups under the Deputy Postmaster General, certain departments report directly to the Postmaster General. These are departments whose activities are not concerned primarily with day-to-day operational matters. They are the Departments of Planning, Communications and Public Affairs, and Research, each headed by an Assistant Postmaster General; Government Relations, headed by an Executive Assistant to the Postmaster General; Inspection Service, headed by the Assistant Postmaster General, Inspection Service; Law Department, headed by the Senior Assistant Postmaster General and General Counsel (sometimes referred to in the regulations in this part simply as General Counsel); and Consumer Advocate. They are responsible for policymaking and overall direction within their assigned areas. There is also a Judicial Officer who performs such quasi-judicial duties as the Postmaster General may assign.

(d) Statements of the functions of the various groups, departments, and offices can be found in Part 222 of this chapter.

§ 211.8 Officers serve at pleasure of Postmaster General.

The following officers, who report directly to the Postmaster General or Deputy Postmaster General, are appointed by the Postmaster General and serve at his pleasure: Senior Assistant Postmasters General (including the General Counsel), Assistant Postmasters General, Executive Assistants who report to the Postmaster General, Directors of offices as referred to in Parts 211 and 222 of this chapter, the Consumer Advocate, and the Judicial Officer. The number of Senior Assistant Postmasters General and Assistant Postmasters General is set by resolution of the Board of Governors.

§ 211.9 Postal Field Service.

(a) *Regional offices.* There are currently 15 regional offices, each under a Regional Director responsible for:

(1) Operations of all postal installations (except those reserved to headquarters) in his region under prescribed delegations, policies, procedures, and standards.

(2) Referral of matters requiring higher decision, with recommendations.

(3) Reporting performance, problems, trends, and information necessary for headquarters' planning and action.

(b) The number of regional offices is to be reduced to five after July 1, 1971. These will be designated Postal Regions. Each Postal Region will be headed by a Regional Postmaster General who will report to the Deputy Postmaster General.

(c) *Postal data centers.* There are six postal data centers, each under a Director who is responsible for:

(1) Accounting and data processing for assigned areas.

(2) Adjudication of claims pursuant to authority delegated to him by the Senior Assistant Postmaster General, Support.

§ 211.10 Conversion of terms.

(a) In any provision of this chapter outside Parts 211, 212, 213, 222, and 235 of this subchapter references to the:

(1) Assistant Postmaster General, Operations Department with regard to matters concerning mail processing shall be deemed to mean the Senior Assistant Postmaster General, Mail Processing Group;

(2) Assistant Postmaster General, Operations Department with regard to matters concerning customers relations and delivery shall be deemed to mean the Senior Assistant Postmaster General, Customer Services Group;

(3) Assistant Postmaster General, Operations Department with respect to functions of the Operations Department as liaison office with the Postal Regions shall be deemed to mean the Deputy Postmaster General.

(4) Assistant Postmaster General, Finance and Administration Department shall be deemed to mean the Senior Assistant Postmaster General, Support Group;

(5) Assistant Postmaster General, Personnel Department shall be deemed to mean the Senior Assistant Postmaster General, Support Group;

(6) Assistant Postmaster General, Facilities Department with regard to matters concerning procurement, shall be deemed to mean the Senior Assistant Postmaster General, Support Group;

(7) Assistant Postmaster General, Facilities Department with regard to matters concerning real property, equipment, and postal facility design and construction shall be deemed to mean the Senior Assistant Postmaster General, Mail Processing Group;

(8) Assistant Postmaster General, Research and Engineering Department with regard to matters concerning research and development shall be deemed to mean the Assistant Postmaster General, Research Department;

(9) Assistant Postmaster General, Research and Engineering Department with regard to matters concerning engineering and processing of mail shall be deemed to mean the Senior Assistant Postmaster General, Mail Processing Group;

(10) Assistant Postmaster General, Research and Engineering Department, with regard to matters concerning procurement shall be deemed to mean the Senior Assistant Postmaster General, Support Group;

(11) Assistant Postmaster General, Planning and Marketing Department with regard to planning shall be deemed to mean the Assistant Postmaster General, Planning Department;

(12) Assistant Postmaster General, Planning and Marketing Department with regard to matters concerning marketing and customer services shall be deemed to mean the Senior Assistant Postmaster General, Customer Services Group;

(13) Chief Postal Inspector shall be deemed to mean the Assistant Postmaster General, Inspection Service;

(14) General Counsel shall be deemed to mean the Senior Assistant Postmaster General and General Counsel;

(15) Assistant Postmaster General, Bureau of Transportation shall be deemed to mean the Senior Assistant Postmaster General, Mail Processing Group;

(b) The same conversion of terms applied in paragraph (a) of this section to officers enumerated there shall apply to the groups, departments, or offices which they head.

(c) Where the conversion rules stated in paragraph (a) of this section do not explicitly cover a particular officer, employee or organizational unit, references shall be deemed to refer to the officer, employee or organizational unit in the new organization performing functions most similar to those performed by the corresponding officer, employee, or organizational unit in the old organization.

PART 212—DELEGATIONS OF AUTHORITY

Sec.	
212.1	Authority for delegation.
212.2	Media of delegation.
212.3	Contents of delegations.
212.4	Redelegation.
212.5	Authority to approve personnel actions.
212.6	Authority to administer oaths.
212.7	Authority to designate certifying officers—Headquarters.
212.8	Authority to designate certifying officers—Field.
212.9	Delegation of authority to the Senior Assistant Postmaster General, Support Group.

AUTHORITY: The provisions of this Part 212 issued under 39 U.S.C. 203, 204, 401(2), 402, 403, 404, 409, as enacted by Public Law 91-375, 84 Stat. 719.

§ 212.1 Authority for delegation.

(a) The Postmaster General is empowered to authorize any employee or agency of the Service to exercise any function vested in the Postal Service, in him, or in any other Postal Service employee.

(b) The Deputy Postmaster General is the full alternate to the Postmaster General.

(c) When, by reason of absence, disability, or vacancy in office, neither the Postmaster General nor the Deputy Postmaster General can act as Postmaster General, the first available official on the following list will do so as acting Postmaster General:

(1) Senior Assistant Postmaster General, Support Group;

(2) Senior Assistant Postmaster General, Mail Processing Group;

(3) Senior Assistant Postmaster General, Customer Services Group;

(4) Senior Assistant Postmaster General and General Counsel.

(d) The Postmaster General has been authorized by the Board of Governors to exercise the powers of the Postal Service to the full extent that such exercise is lawful. See §§ 3.9 and 5.3 of this chapter.

(e) The Senior Assistant Postmasters General (including the General Counsel), the Assistant Postmaster General, Research, the Assistant Postmaster General, Planning, the Assistant Postmaster General, Communications and Public Affairs, the Executive Assistant, Government Relations, the Assistant Postmaster General, Inspection Service, the Consumer Advocate, the Judicial Officer and the Executive Assistant to the Postmaster General (see § 211.5 of this chapter), act for the Postmaster General on assigned matters. Each of these officers is authorized to exercise the powers and functions of the Postal Service under the Postal Reorganization Act, in respect to matters within the area of responsibility of his group or department, and departments reporting to him, except as limited by law or by the specific terms of his assignment.

(f) Each head of a department or office who reports to a Senior Assistant Postmaster General is authorized to exercise the powers and functions of that Senior Assistant Postmaster General within the area of responsibility of his department or office; except as such authority may be reserved or rescinded by the Senior Assistant Postmaster General or is limited by law, or the terms of his specific assignment.

(g) In the absence of any head of a group, department, or office, an officer designated by him shall take his place. The acting head of a group, department, or office is authorized to sign documents in his own name as Acting Senior Assistant Postmaster General, Acting Assistant Postmaster General, etc.

§ 212.2 Media of delegation.

(a) All delegations of authority shall be issued through established media such as the Postal Service Manual or other official directives.

(b) Chapter 2 of the Postal Service Manual shall be used to promulgate delegations of authority to groups, departments, and offices and their heads to perform their duties. Other official issuance series may be used as media for conveying specific, related operating authorities. Individual memoranda of delegation, numbered serially for record purposes, may be issued when required.

(c) Headquarters or regional officials shall not orally authorize postmasters to deviate from published instructions, except in emergencies. An oral authorization shall be confirmed by a memorandum or order dated subsequent to the issuance date of the most recently published instructions on the subject. Postal inspectors shall charge as irregularities any improperly authorized deviations observed in the course of office inspections.

§ 212.3 Contents of delegations.

(a) Delegations of authority shall ordinarily be made by position title rather than by name of the individual involved. Such terms as "chief or acting chief" shall not be used; the officer acting in the absence of a principal has his principal's full authority.

(b) When authority is delegated to an officer, the officers above him shall have the same authority. This authority shall not extend to aides, except on an acting basis as specified in paragraph (a) of this section or unless specifically authorized.

(c) A delegation must accord with the law and regulations under which it is made and contain specific limiting conditions as appropriate.

§ 212.4 Redelegation.

(a) Except as otherwise prohibited by law, or by a regulation that expressly prohibits redelegation or by the terms of the delegation:

(1) The head of a group, department, or office at headquarters may redelegate any authority vested in him.

(2) A regional director may redelegate any authority vested in him subject to the following:

(i) Issuance of letters of proposed adverse action against postmasters and the making of the initial decision in an adverse action proceeding involving postmasters may not be redelegated;

(ii) Redelegation to members of a regional office staff must be consistent with the current regional organizational structure; and

(iii) Redelegation to postmasters in his region requires the prior approval of the head of the appropriate group, department, or office at headquarters.

(3) A director, Postal Data Center, may redelegate any authority vested in him.

(4) Heads of other field installations may redelegate any authority vested in them.

(b) Other subordinate officers or employees in groups, departments, or offices at Headquarters and in field installations may not delegate any authority vested in them without the prior approval of the head of the group, department, or office at headquarters, or head of the field installation, as appropriate, except when power of redelegation is granted in the delegation of authority.

§ 212.5 Authority to approve personnel actions.

(a) *Delegation.* The following officials and employees can approve and sign Forms 50, Notification of Personnel Action, for appointments, employment changes, and separations of employees under their jurisdiction in the Postal Field Service, except as limited by the Postal Service Manual or by the Regional Director:

(1) *Inspection Service Divisions.*
Assistant Postmaster General, Inspection Service.
U.S. Postal Security Force Inspector.

(2) *Regional Headquarters.*
Regional Director.
Director, Personnel Division.
Deputy Regional Director.
Chief, Personnel Operations Branch.

(3) *Postal data centers.*
Director, Postal Data Centers.

(4) *Postal installations.*
Postmaster.
Assistant Postmaster.
Supervisor assigned to personnel office.
Area Supply Manager and Superintendent, Supply Center.
Manager and Assistant Manager, Mail Equipment Shops.
Manager, Mailbag Depository and Mailbag Repair Center.

(b) *Redelegation.* The Regional Director or the Director, Postal Data Center, can redelegate the authority to approve and sign Forms 50 to officers and supervisors under his jurisdiction.

(c) *Administrative clearances and approval.* Authority delegated here does not eliminate securing administrative clearances and approvals required by instructions implementing this section issued in other media.

§ 212.6 Authority to administer oaths.

(a) *Delegation.* The following can administer oaths of office in connection with employment:

(1) Regional headquarters.

Regional Director.
Deputy Regional Director.
Director, Personnel Division.
Director, Finance Division.
Chief, Personnel Operations Branch.
Employment and Placement Officers.
Personnel Assistant.
Postal Service Officer.

(2) Postal data centers.

Director, Postal Data Center.
Director, Systems and Planning Division.

(3) Postal installations.

Postmasters.
Assistant Postmasters.
Chief, Administrative Service, or Director, Office of Administrative Services, only to contractors, contract stations and branches.
Superintendent and Administrative Assistant, Mail Bag Depository.
Superintendent, Assistant Superintendent (where authorized) and Administrative Assistant of Combined Mail Bag Depository and Mail Bag Repair Center.
Supervisor assigned to personnel office in postal installation.
Executive Secretary, Postal Board of Civil Service Examiners.
Area Supply Manager; Deputy Area Supply Manager; Superintendent and Personnel Officer, Supply Center.
Manager, Assistant Manager, and Administrative Assistant Mail Equipment Shops.
U.S. Stamped Envelope Agent.

(4) Inspection Service.

Postal Inspector in Charge.
Deputy Postal Inspector in Charge.
Assistant Postal Inspector in Charge.
Postal Inspector.
Area Manager, Internal Audit Division.

(5) Automatic Data Processing Center.

Director, Automatic Data Processing Center.

(b) *Prohibition on redelegation.* Authority delegated to officers and supervisors specified in paragraph (a) cannot be redelegated by them.

(c) *Administering oaths.* (1) Forms 61, Appointment Affidavit, and 62, Oath of Office and Appointment Affidavit shall be used. No employee shall be assigned to duty if the forms indicate he does not meet requirements. Appointing officers shall especially guard against impersonation.

(2) Administer oath of office on entrance in the Postal Service (or on conversion to career status) without charge or fee.

(3) Postal inspectors may administer oaths on matters coming before them in their official duties.

(4) Members of the Board of Appeals and Review of the Postal Service and each person assigned to conduct a hearing of an appeal from an adverse decision, may administer oaths.

NOTE: For administration of oaths by postmasters and assistant postmasters, see § 244.2 of this chapter.

§ 212.7 Authority to designate certifying officers—Headquarters.

(a) *Delegation.* The following can designate certifying officers at Headquarters for items specified:

(1) The Assistant Postmaster General, Inspection Service, certificates (i)

payment from his special deposit account; (ii) disbursements for rewards based on Postmaster General Notices of Reward; (iii) payments from confidential funds; (iv) salary payments to office division inspectors; (v) advances of funds for confidential purpose; (vi) inspection service, travel advances, transportation of things; and (vii) payments for special analyses and services.

(2) General Counsel certifies payments relating to tort claims and claims under 39 U.S.C. 2603.

(3) The Senior Assistant Postmaster General, Support Group certifies all payments not covered by subparagraphs (1) and (2) of this paragraph.

(b) *Redelegation.* The officials named in paragraph (a) of this section can redelegate their authority to designate certifying officers. The redelegation shall be made by letter to the appropriate postal data center disbursing officer and must bear the specimen signature of the person to whom the authority is redelegated.

(c) *Designating certifying officers—(1) Inspection Service and Law Department.* Officials authorized to designate certifying officers (see paragraph (a) of this section) will complete SF 210, Signature Card for Certifying Officer, in duplicate for each postal data center disbursing officer affected to show:

(i) Name of department for which vouchers will be certified.

(ii) Signature of certifying officer written exactly as he will sign vouchers.

(iii) Class of vouchers to be certified.

(iv) His signature and effective date.

(2) *Other departments and offices.* Other departments and offices requiring certifying officers will complete SF 210 in duplicate as prescribed in subparagraph (1) of this paragraph, except for signature and date. Send both copies to the Senior Assistant Postmaster General, Support Group.

(3) *Submitting SF 210 to postal data center disbursing officers.* The Assistant Postmaster General, Inspection Service, the General Counsel, and the Senior Assistant Postmaster General, Support Group or their designees shall send signed originals of SF 210 to each of the disbursing officers affected and retain duplicates. These will be the official designations of the employees named on the SF 210 as certifying officers.

(d) *Maintaining designations.* Each group and department must keep current its designation of authorized certifying officers. As certifying officers die, retire, transfer, or otherwise leave, groups and departments must inform the affected postal data center disbursing officers promptly so that signature cards may be removed from active files. When new or additional designations are made, this § 212.7 shall be followed.

§ 212.8 Authority to designate certifying officers—Field.

(a) *Delegation.* The following can designate certifying officers in postal data centers, inspection service divisions, and internal audit areas:

(1) The Assistant Postmaster General, Inspection Service, for obligations of the Inspection Service.

(2) Postal Data Center Directors for obligations of all other regional functions.

(3) The New York Postal Data Center Director for obligations for Headquarters functions except those under § 212.7(a) (1) and (2) and those certified by the Senior Assistant Postmaster General, Support Group, or his designee.

(b) *Redelegation.* These officials can redelegate their authority to designate certifying officers. Redelegate by letter to each disbursing officer affected, with the specimen signature of the person to whom authority is redelegated.

(c) *Designating certifying officers—(1) Inspectors in charge and internal audit area managers.* These officials, who are designated certifying officers, as limited by the Assistant Postmaster General, Inspection Service, can designate certifying officers for obligations incurred by the Inspection Service. They will complete SF 210, Signature Card for Certifying Officer, in duplicate to show:

(i) Inspection Service division or internal audit area for which vouchers will be certified.

(ii) Signature of certifying officer written in the same manner that he will sign vouchers.

(iii) Class of vouchers to be certified.

(iv) His signature and effective date.

Inspectors in charge and internal audit area managers cannot redelegate their authority to designate authorized certifying officers.

(2) *Postal Data Center Directors.* Officers under direction of Postal Data Center Directors will complete SF 210 in duplicate as in paragraph (c) (1) of this section except for signature and date. Send both copies to him for completion.

(3) *Submitting SF 210 to disbursing officer.* The inspector in charge, internal audit area manager, and Postal Data Center Director (or his designees) will send the signed originals of SF 210 to each disbursing officer affected and keep the duplicates. These will be the official designations of the employees named on the SF 210 as certifying officers.

(d) *Maintaining designations.* Each office under jurisdiction of the officials named in § 212.8 must keep current its designation of authorized certifying officers. As certifying officers leave the certifying activity, send notices of termination and appointment through the offices of the named officials to each disbursing officer affected.

§ 212.9 Delegation of authority to the Senior Assistant Postmaster General, Support Group.

(a) *Delegation.* The Senior Assistant Postmaster General, Support Group, may take final action in his own name, on:

(1) Claims for overpayment of pay.

(2) Relief of accountable officers of liability for loss.

(3) Relief of accountable officers of liability for illegal, improper, or incorrect payments.

(4) Certifying officers; accountability.

(5) Deposit to and withdrawal from Postal Service fund.

(6) Collection of debts due the Postal Service with the exception of those falling under the jurisdiction of the Assistant Postmaster General, Inspection Service.

(7) Adjustment of claims of postmasters and Armed Forces postal clerks, including the loss of funds or valuable papers from their official custody resulting from burglary, fire, or unavoidable casualty, with concurrence by General Counsel in cases involving doubtful questions of law or fact.

(8) Certification on fourth-class mail revenue—cost relationship.

(b) *Redelegation.* Except for the authority described in paragraph (a) (8) of this section, the Senior Assistant Postmaster General, Support Group can redelegate all or part of the authority vested in him by paragraph (a) of this section to such subordinate officers as he may deem appropriate.

PART 213—RELATIONSHIPS AND CHANNELS OF COMMUNICATION

Sec.
213.1 Relationships.
213.2 Channels of communication.
AUTHORITY: The provisions of this Part 213 issued under 39 U.S.C. 203, 204, 401(2), 402, 403, 404, as enacted by Public Law 91-375, 84 Stat. 719.

§ 213.1 Relationships.

(a) *Between Headquarters groups, departments, and offices.* Headquarters groups, departments, and offices serve in a staff relationship to the Postmaster General and his Deputy in assigned functional areas.

(b) *Between Headquarters, regional offices, and postal data centers.* Each Headquarters group, department, and office shall provide guidance and policy interpretation to regional officials in its area of responsibility. The Support Group shall provide guidance and policy interpretation to postal data centers.

(c) *Between regional offices and postal installations.* The Regional Director shall provide guidance to the installations within his region with the assistance of his staff in their areas of specialization.

§ 213.2 Channels of communication.

(a) *Headquarters and regional offices.* (1) The heads of groups, departments, and offices formulate the necessary directives to provide guidance to Regional Directors.

(2) Policy directives shall be issued over the signatures of the heads of the groups, departments, and offices covering matters within their responsibility, except when the Postmaster General or Deputy Postmaster General may wish to issue such directives personally. Policy directives shall be coordinated through the Senior Assistant Postmaster General, Support, with other appropriate staffs and departments groups, departments, or offices before issuance.

(3) Instructions and procedures not involving policy shall ordinarily be issued over the signature of the group, depart-

ment, or office head having jurisdiction, and shall have the same effect as though it were sent to the Regional Director by the Postmaster General or his Deputy.

(4) Regional staff officers may communicate directly with the corresponding functional group, department, or office in Headquarters on matters within their area of jurisdiction. In addition, where authorized, they may also directly contact supporting Headquarters departments such as Law Department, Inspection Service, and Department of Communications and Public Affairs on technical matters not requiring administrative judgment of the Regional Director.

(b) *Regional offices and postal installations.* The regular channel of communication to and from the postmaster or the head of any postal installation is through the Regional Director, and his staff specialists in the areas concerned.

(c) *Headquarters, regional offices, and other postal installations with postal data centers.* (1) The Support Group provides the necessary directives to the postal data centers. All other Headquarters communications to and from the postal data centers shall be coordinated with the Support Group. The Law Department and the postal data centers shall maintain direct contact on matters relating to professional and policy guidance on claims.

(2) Regional offices and postal data centers may communicate directly with each other.

(3) Other postal installations and postal data centers may communicate directly on routine accounting matters. All other communications shall be coordinated with the regional staff.

PART 222—FUNCTIONS OF GROUPS AND DEPARTMENTS

Sec.	
222.1	Mail Processing Group.
222.2	Customer Services Group.
222.3	Support Group.
222.4	Planning Department.
222.5	Research Department.
222.6	Communications and Public Affairs Department.
222.7	Government Relations Department.
222.8	Postal Inspection Service.
222.9	Consumer Advocate.
222.10	General Counsel.
222.11	Judicial Officer.

AUTHORITY: The provisions of this Part 222 issued under 39 U.S.C. 203, 204, 401(2), 402, 403, 404, 409, as enacted by Public Law 91-375, 84 Stat. 719.

§ 222.1 Mail Processing Group.

(a) The Mail Processing Group is headed by the Senior Assistant Postmaster General, Mail Processing, who reports to the Deputy Postmaster General. It has overall responsibility for all aspects of mail processing within the Postal Service. This responsibility includes the distribution and processing functions, the construction and mechanization of the processing facilities, and the transportation of mail throughout the Postal Service. It establishes and evaluates mail processing policies. It has responsibility for the operation of the bulk

mail network and transportation between the bulk mail facilities. Also, it has responsibility for coordination of the use of the Corps of Engineers in constructing all major postal facilities. This includes internal capability for design and construction of major modifications or additions to existing facilities.

(b) The Senior Assistant Postmaster General, Mail Processing, participates in the planning and budget process and reviews and evaluates the mail processing, transportation, and construction portions of the plans and budget requests of each Region. He monitors for the Deputy Postmaster General the performance of the Mail Processing Group and of each Region within his area of responsibility.

(c) The Mail Processing Group is divided into three departments whose heads report to the Senior Assistant Postmaster General, Mail Processing Group:

(1) *Preferential Mail Processing Department.* The Preferential Mail Processing Department is headed by the Assistant Postmaster General, Preferential Mail Processing. It is concerned with processing of preferential mail and has overall responsibility for the development of the preferential mail network. It is responsible for the systems and equipment development work required to develop and implement the preferential mail network. It is also responsible for the development of methods and standards, and distribution systems to be used in the system. It is responsible for review and evaluation of the Preferential Mail Processing Budget.

(2) *Bulk Mail Processing Department.* The Bulk Mail Processing Department is headed by the Assistant Postmaster General, Bulk Mail Processing. It is concerned with the processing of bulk mail. It has overall responsibility for the management of bulk mail processing operations throughout the Postal Service. It provides central staff support to Regional Directors for bulk mail operations and has staff capability in the areas of systems, equipment and facility engineering, distribution procedures and mail handling; industrial engineering, plant and equipment maintenance and performance appraisal. It also has responsibility for monitoring the productivity performance of the bulk mail processing operations of the Regions. In addition, it has direct responsibility for bulk mail installations as assigned by the Deputy Postmaster General. In this regard, it exercises direct supervision over and is responsible for review and evaluation of the individual Bulk Mail Facility plans and budgets.

(3) *Engineering and Logistics Department.* The Engineering and Logistics Department is headed by the Assistant Postmaster General, Engineering and Logistics. It has overall responsibility for the policy direction of all transportation within the Postal Service, to foreign countries and to and between military installations outside the United States, and is responsible for all types of engineering necessary to support present mail processing operations. It plans and develops a national transportation and routing

system and monitors performance of each region with respect to achievement of transportation and processing standards and productivity goals. It is also responsible for budget review and approval for all mail processing and transportation activities not designated as part of the preferential or the bulk mail networks.

§ 222.2 Customer Services Group.

(a) The Customer Service Group is headed by the Senior Assistant Postmaster General, Customer Services, who reports to the Deputy Postmaster General. It has overall responsibility for all of the marketing and public contact activities of the Postal Service, including retail and delivery services. It carries out all of the product management functions, including the development and implementation of marketing programs, market research and product development. It has program planning and field support responsibilities for customer cooperation activities. This includes programs for both the general public and major customers. It also has management responsibilities for the merchandising, delivery, and collection programs and provides staff direction to the window clerk and carrier forces. Other responsibilities include the design of postal lobbies, developing new forms of window and delivery services, lobby equipment and improving present work methods in these areas. The group also evaluates service levels.

(b) The Senior Assistant Postmaster General, Customer Services participates in the planning and budget process, and reviews and evaluates the marketing, delivery, and retail portions of the plans and budget requests of each region. He monitors, for the Deputy Postmaster General, the performance of the Customer Services Group and of each Region within his area of responsibility.

(c) The Customer Services Group is divided into three departments whose heads report to the Senior Assistant Postmaster General, Customer Services Group:

(1) *Marketing Department.* The Marketing Department is headed by the Assistant Postmaster General, Marketing. It is responsible for developing customer cooperation programs for mail users, developing program objectives, and setting cost savings targets for programs directed at large postal customers, such as presort and mail early. It provides staff guidance for regional services and sales staffs and customers service representatives in the field through sales methods, presentation kits, prototype sales letters, computerized zip code lists, and other support materials directed at large mailers. In conjunction with the Employees Relations Department, it develops and carries out sales training programs for both the regional direct sales forces and the customer service representatives in the field. It directs the work of a small direct sales force in Washington which sells postal services to businesses and other Government agencies, coordinating this effort with the field sales force. In conjunction with the Department of Communication

and Public Affairs it develops and executes a comprehensive program of cooperation from the general public; develops cost savings objectives; establishes promotional budgets; and secures advertising for such programs as ZIP Code and Christmas mail early. It develops educational and promotional support materials such as ZIP Code manuals. It coordinates the National Postal Forum and activities of the Postmaster General's Mailers Technical Advisory Committee. It maintains the principal marketing and sales contact with associations and industry officials at the national level necessary to support marketing and sales objectives. It shares responsibility for developing new postal products, modifying current ones, and executing marketing programs for all products. It defines service goals and other product characteristics, works with the Finance Department to develop pricing recommendations for each postal product, and directs the work of Product Managers who have broad responsibility for the day-to-day business of each product. This includes:

(i) Setting sales volume objectives and monitoring performance against these objectives in conjunction with the Headquarters and field sales forces;

(ii) Establishing, in conjunction with the Department of Communications and Public Affairs, product marketing plans, including the formulation of advertising and promotion strategies, programs and budgets;

(iii) Developing advertising, in concert with the Department of Communications and Public Affairs;

(iv) Monitoring product profit and loss and recommending areas for improvement.

To assist in establishing marketing programs, it supervises a market research function which carries out (or obtains from contractors) market studies to measure customer reaction to present and proposed postal products and product concepts. It also maintains a product development staff responsible for revising current products and developing new ones, and directs the work of product promotion.

(2) *Delivery Program Management Department.* The Delivery Program Management Department is headed by the Assistant Postmaster General, Delivery Program Management. It has overall responsibility for the national postal collection and delivery program including fleet management. It works with the Marketing Department to set national collection and delivery policy and standards as they relate to published product characteristics. It establishes policy and develops programs for using the postal delivery system. It has national program planning and budget responsibility, and conducts cost benefit analyses of the entire postal delivery program, recommending potential areas for cost reductions and improvement. It has overall staff responsibility for all postal carriers. In conjunction with the Employees Relations Department, it develops training programs with respect to carriers and specifies uniform and mailbag design. It

works in cooperation with the Research Department to develop safety equipment such as shoes and boots. It is responsible for the design of and experimentation with carrier vehicles and for specifying and compiling vehicle requirements. As part of its program management efforts, it is responsible for developing, testing, and implementing alternate means of delivery and for establishing improved work methods and designs relating to present delivery techniques. To accomplish these two functions, it directs developmental and industrial engineering staffs which develop and evaluate prototype equipment and originate improved delivery techniques or monitor contracts for these services.

(3) *Retail Management Department.* The Retail Management Department is headed by the Assistant Postmaster General, Retail Management. It has broad responsibility for all the Postal Service's window operations, retail requirements, contract stations, self-service and automated postal units, and merchandising. It establishes policies relating to the use of the Postal Service retail network and has overall budget review and program planning responsibility. It determines what products and services, in addition to postal products, will be offered to the public through the system. It develops national retail merchandising and promotion programs, lobby exhibits and graphic design for lobbies, and directs the National Program for lobby design and customer counter services. It is responsible for overall post office lobby design and for customer support equipment, and in conjunction with the Research Department, for developing such alternatives to traditional window service as self-service units, and all retail locations outside traditional post office lobbies. It develops and tests new and improved vending equipment. It also has staff responsibility for window clerk training and uniform design and develops policies relating to stocks supply.

§ 222.3 Support Group.

(a) Seven activities that provide specialized support for postal activities are included in the Support Group headed by the Senior Assistant Postmaster General, Support Group, who reports to the Deputy Postmaster General.

(b) The Support Group is divided into four departments and three offices, corresponding to the seven support activities. The heads of these departments and offices report to the Senior Assistant Postmaster General, Support Group. The Support Group departments and offices are:

(1) *Finance Department.* The Finance Department is headed by the Assistant Postmaster General, Finance. It is responsible for forecasting and meeting the Postal Service's requirements for long-term capital and short-term borrowing. It invests the funds of the Service and prescribes and monitors practices governing cash management. It works with other officials in developing credit management policies. The Finance Department designs and maintains the Postal Service rate structure, develops and ad-

ministers standards and procedures relating to mail classification, cost analysis and attribution, and related functions, and makes and defends recommendations to the Postal Rate Commission in conjunction with the Law Department. The Finance Department develops the systems and specifies the standards and schedules for the Postal Service's budget process. It analyzes budget requests and makes recommendations to the Deputy Postmaster General on budget levels. It analyzes Postal Service performance with reference to operating plans continuously. The Finance Department develops accounting policy and procedure. It operates the financial reporting program and maintains accounting controls throughout the Service. It provides the basic processing services associated with the money order program and assists the Customer Services Group in developing money order program policy.

(2) *Employee Relations Department.* The Employee Relations Department is headed by the Assistant Postmaster General, Employee Relations. It provides direction and authority for all matters pertaining to employee relations throughout the Postal Service. It directs the development, implementation, and auditing of employee relations plans, policies, standards, and procedures. It establishes broad employee relations policy for the Postal Service in the areas of labor relations, employee services, and manpower planning and development. It represents and takes final action for the Postmaster General in all employee relations matters including negotiating for the Postal Service in collective bargaining with the postal unions. It directs the administration of collective bargaining agreements and negotiated grievance procedures. It directs the implementation of the National Labor Relations Act pertinent to employee relations matters. It directs the development and maintenance of a strong auditing system for assuring compliance with established employee relations policy throughout the Postal Service. It directs an organization and manpower planning program to serve all postal units in establishing the proper "table of organization" and to improve the operating effectiveness of these units through management and career development, skills training, and professional development. It establishes and maintains a manpower information system to provide accurate data in manpower planning, staffing, and other employee relations matters. It directs the administration of all employee services throughout the Postal Service which includes salary administration and benefits, recruiting and staffing, personnel services, accident prevention, and occupational health service. It directs an employee communications program in conjunction with the Communications and Public Affairs Department to keep the employees informed of plans, programs, and newsworthy items of interest to a well-informed postal worker. It is responsible for the day-to-day implementation of Equal Employment Opportunity affirmative action within the Postal Service, working in coordination

with the Office of Equal Employment Opportunity.

(3) *Administration Department.* The Administration Department is headed by the Assistant Postmaster General, Administration. It is responsible for the procurement activities of the Postal Service. It has responsibility for the policy direction and review of all procurement activities within the Postal Service, including all headquarters procurement except transportation contracting. It is also responsible for administration of Headquarters personnel actions. It manages Headquarters operating services, including printing, library, telephone switchboard, and Headquarters building maintenance and repair. It controls and administers supplies and inventories for the entire Postal Service.

(4) *Management Information Systems Department.* The Management Information Systems Department is headed by the Director of Management Information Systems. It is concerned with automatic data processing, statistical programs, information requirements, and reports. It is responsible for the prompt delivery of information on field activities to postal management. It provides automatic data processing and statistical support to management and assists clients in determining their information needs. It specifies controls on use, modification, or implementation of information systems, including manual and automated systems and exercises those functions of control over information systems which are discharged centrally at Headquarters. It administers the postal data centers and automatic data processing centers in the field.

(5) *Office of International Postal Affairs.* The Office of International Postal Affairs is headed by the Director of International Postal Affairs. It represents the U.S. Postal Service in its relationships with other countries and with international postal organizations, such as the Universal Postal Union and the Postal Union of the Americas and Spain. Working with other functional areas, it develops and recommends U.S. policy and positions on proposals of foreign governments submitted to postal congresses, prepares and recommends U.S. proposals, and negotiates postal agreements with other countries. It maintains liaison with other government agencies, such as the State Department, on nonoperational international mail matters. It assigns international postal matters to functional areas for statements of policy or recommendations of policy, reports or correspondence, particularly in the areas of international rates and classification, international money orders, logistics and parcel post. It directs the foreign visitor programs; develops training programs for visiting postal study groups; maintains liaison with the Agency for International Development on the training of participants from other countries; and directs the international personnel exchange program. It is responsible for protocol in dealing with foreign visitors and for translations of foreign materials.

(6) *Office of Equal Employment Op-*

portunity. The Office of Equal Employment Opportunity is headed by the Director of Equal Employment Opportunity. It reviews and renders decisions in appeals cases submitted to Headquarters for formal action and directs the staff work required for complete development and presentation of the record, insuring that investigations and conclusions of Appeals Examiners are in accordance with established policy and guidelines. It directs further field investigation and development of the record as necessary and confers with representatives of aggrieved employees and with postal officials when appropriate. It also plans and directs a positive contract compliance program throughout the Postal Service and prescribes the manner and method to govern enforcement and full compliance with Executive Order 11246 as amended. It is responsible for gaining the cooperation and support of contractors with the Postal Service to assure their voluntary compliance. It directs field investigative activities in aggrieved situations and renders formal decisions.

(7) *Office of Management Services.* The Office of Management Services is headed by the Director of Management Services. It serves as the principal advisor and central analytical staff on organization matters and the evaluation and design of management systems and services. It plans and conducts service-wide studies of organization and management systems; it recommends changes to correct identified management deficiencies and designs and installs improved management systems and methods. It designs and administers a service-wide directives and publications distribution program and conducts special systems studies as directed. It is responsible for the development and operation of a service-wide management improvement program and maintains liaison with other Federal agencies and private industry with regard to advanced management techniques.

§ 222.4 Planning Department.

The Planning Department is headed by the Assistant Postmaster General, Planning, who reports directly to the Postmaster General. It is responsible for business planning and strategic studies. It has the principal responsibility for insuring that comprehensive and effective plans are developed. This includes: forecasting the internal and external Postal Service environment; assisting top management in developing goals and objectives in the context of those forecasts; assuring that supporting plans are developed to meet approved objectives; and evaluating progress in meeting plans and objectives. It is also responsible for identifying alternative business strategies and for conducting studies on which to base recommendations to the Postmaster General.

§ 222.5 Research Department.

The Research Department is headed by the Assistant Postmaster General, Research, who reports directly to the Postmaster General. It is concerned with development of new techniques and has

overall responsibility for the research and advanced development work done by the Postal Service. It is responsible for keeping abreast of and evaluating state-of-the-art concepts for application to Postal Service requirements, and for maintaining contact with top level representatives of industry, education, appropriate Government agencies, and foreign postal services to obtain new concepts, ideas, and approaches related to postal research and development. It conducts original research to develop and evaluate state-of-the-art concepts and approaches to mechanization and methods for collection, processing, transportation, and delivery of mail. It is also responsible for design and development of new equipment based on state-of-the-art technology. It operates the Postal Laboratory, conducting all phases of research up to and including simulated live-mail testing environment.

§ 222.6 Communications and Public Affairs Department.

The Communications and Public Affairs Department is headed by the Assistant Postmaster General, Communications and Public Affairs, who reports directly to the Postmaster General. It is responsible for the interchange of information with employees, the public, and the press. This includes responsibility for advertising activities. It is responsible for all phases of the philatelic program and serves as liaison with the Citizens Stamp Advisory Committee.

§ 222.7 Government Relations Department.

The Government Relations Department is headed by the Executive Assistant to the Postmaster General, Government Relations. It is responsible for cooperation between the U.S. Postal Service and Members of Congress, other Federal agencies within the Executive Branch, the White House, and other officials at all levels of State and local government. It advises Postal Service officials on legislative and other policy matters in public or political areas involving Congressional committees or individual Congressmen. It maintains liaison with Members of Congress and their staffs for the purpose of consulting and providing information as requested on specific legislation and on Postal Service policies and operations, and (except for the Law Department, as to matters within its responsibility) is the Postmaster General's sole spokesman in this regard.

§ 222.8 Inspection Service.

The Inspection Service is headed by the Assistant Postmaster General, Inspection Service, who reports directly to the Postmaster General. It is responsible for protection of the mails, enforcement of postal laws, plant and personnel security, postal inspection, and internal audits. It directs the execution of policies, regulations, and procedures governing all investigations, including presentation of evidence to the Department of Justice and U.S. attorneys in investigations of a criminal nature. It directs operating inspections and audits for the

Postal Service and acts as security officer and defense coordinator for the Postal Establishment, maintaining liaison with other investigative and law enforcement agencies of the Government.

§ 222.9 Consumer Advocate.

The Consumer Advocate, who reports directly to the Postmaster General, is the spokesman for the individual mail user. He provides the Postmaster General with an independent evaluation of mail service to the individual customer. He also expedites action on customer inquiries and complaints and is responsible for seeing that the responsible office takes corrective action. He makes recommendations for policy changes to improve the individual user's mail service and acts as liaison with consumer groups.

§ 222.10 Law Department.

The Law Department is headed by the Senior Assistant Postmaster General and General Counsel, who reports directly to the Postmaster General. The Law Department:

(a) Serves as legal adviser to the Postmaster General, the Deputy Postmaster General, and the entire Postal Service; this includes making rulings, giving advisory opinions, drafting or approving legal instruments, and representing the Service in administrative proceedings and in judicial proceedings as authorized;

(b) Interprets laws in relation to the Postal Service;

(c) Institutes and maintains administrative proceedings in the consumer protection area;

(d) Prepares the legislative program of the Postal Service, and prepares and submits reports and testimony on all legislation introduced in Congress that would affect the Postal Service;

(e) Is responsible for publication of regulations in the FEDERAL REGISTER;

(f) Manages the regional and field programs that are under the jurisdiction of the General Counsel;

(g) Administers activities under the Tort Claims Act, and other personal injury and physical loss claims;

(h) Maintains liaison with other elements of the Government on legal matters and determines questions concerning legal relations between the Postal Service and Government agencies;

(i) Renders legal services concerning labor relations and standards, employment policy, and personnel security;

(j) Furnishes legal support in connection with all procurement and contracting activities;

(k) Performs legal services in connection with proceedings before the Postal Rate Commission;

(l) Acts as agent for the receipt of legal process on behalf of the Postal Service and the Postmaster General and other headquarters officials resulting from the performance of their official functions;

(m) Provides legal services in connection with denials and revocations of second-class mailing privileges in proceedings before hearing examiners and the Judicial Officer;

(n) Represents Postal Service Contracting Officers before the Board of Contract Appeals; and,

(o) Administers the Ethical Conduct Program.

§ 222.11 Judicial Officer.

(a) The Judicial Officer is an independent officer who acts for the Postmaster General in the performance of quasi-judicial and other functions. He administratively supervises hearing examiners and hears appeals from their decisions. He serves with them on the Board of Contract Appeals, of which he is ex officio Chairman.

(b) The Judicial Officer has authority to:

(1) Execute in his own name the final decision and order in proceedings authorized by section 1717 of title 18, and by sections 3001(a), 3003, 3004, 3005, and 3007 of title 39, United States Code, appeals from administrative denial, suspension or revocation of second-class mail permits, administrative proposals to refuse to rent, to renew the rental of, or to close a Post Office Box and other proceedings authorized by Postal Service Regulations to be brought before the Hearing Examiner or the Judicial Officer;

(2) Modify, suspend, or rescind any action heretofore taken (including any order issued) or which hereafter may be taken by the Judicial Officer pursuant to the powers, functions, authority, and duties vested in the Postmaster General and the Postal Service with respect to the matters covered by subparagraph (1) of this paragraph;

(3) Preside at the reception of evidence in proceedings where expedited hearings are requested by either party or are provided in rules of practice, and issue a tentative decision in such cases;

(4) Revise or amend the rules governing eligibility to practice before the Postal Service and to revise or amend the Postal Service rules of practice governing proceedings conducted under the Administrative Procedure Act (5 U.S.C. chapters 5 and 7) and in other proceedings in which the Judicial Officer is authorized to execute a final decision and order;

(5) Name and delegate authority to an Acting Judicial Officer;

(6) Exercise jurisdiction over the Hearing Examiner for administrative purposes only, but not to direct or participate in the initial decisions of Hearing Examiners in any proceeding;

(7) Exercise such other authority as the Postmaster General delegates him.

(c) Decisions and orders of the Judicial Officer made under the delegated authority shall be the final Postal Service decisions and orders except that the Judicial Officer may refer any proceeding to either the Postmaster General or the Deputy Postmaster General for final decision. The Judicial Officer does not determine the constitutionality of statutes nor the validity of Postal Service regulations. He is responsible only to the Postmaster General. The Law Department and the Postal Inspection Service

do not participate in or advise as to the decisions of the Judicial Officer in any proceeding.

(d) *Hearing Examiners:*

(1) Hearing examiners are appointed and qualified as prescribed by law (5 U.S.C. 3105). They preside at administrative hearings involving alleged violations of postal laws or conflicts arising over second-class mail permits and other proceedings as provided by Postal Service regulations.

(2) Initial decisions prepared by Hearing Examiners become final Postal Service decisions unless an appeal is taken to the Judicial Officer. Hearing examiners do not determine the constitutionality of statutes nor the validity of Postal Service regulations.

(3) The Hearing Examiners are under the jurisdiction of the Judicial Officer for administrative purposes only, in the same manner as are hearing examiners assigned to independent regulatory commissions.

(e) *Board of Contract Appeals:*

(1) The Board of Contract Appeals is the authorized representative of the Postmaster General to hear and decide appeals from decisions of contracting officers when and to the extent such appeals are expressly authorized by the terms of any contract to which the Postal Service of the United States is a party. The chairman of the Board of Contract Appeals is authorized to promulgate rules of procedure for the Board of Contract Appeals. These duties shall be performed by the members of the Board of Contract Appeals in addition to their regular duties in the Postal Service.

(2) The Board of Contract Appeals for the Postal Service is composed of the Judicial Officer, who is the permanent chairman, and the Chief Hearing Examiner, who shall be a permanent member. One of the Hearing Examiners of the Postal Service appointed pursuant to the provisions of 5 U.S.C. 3105 designated by the Judicial Officer on an acting basis.

PART 235—DEFENSE DEPARTMENT LIAISON

Sec.
235.1 Postal Service to the Armed Forces.
235.2 Civil Defense.

AUTHORITY: The provisions of this Part 235 issued under 39 U.S.C. 401(2), 402, 403, 404, as enacted by Public Law 91-375, 84 Stat. 719.

§ 235.1 Postal Service to the Armed Forces.

(a) Publication 38, Postal Agreement Between the Post Office Department and the Department of Defense, defines the Postal Service's responsibilities for providing postal service to the Armed Forces.

(b) The Assistant Postmaster General, Inspection Service, is responsible for military liaison.

(c) Postal inspectors provide liaison between postmasters and military commanders, visit military installations as required, and make any necessary recommendations.

§ 235.2 Civil Defense.

(a) Mission: The prime objective of postal civil defense planning is to maintain or restore essential postal service in a national emergency.

(b) Defense Coordinator: The Assistant Postmaster General, Inspection Service, is designated Defense Coordinator for the Postal Service. As Defense Coordinator, he provides general direction and coordination of the national civil defense and defense mobilization programs.

(c) Postmaster General emergency line of succession: (1) Deputy Postmaster General, (2) Senior Assistant Postmaster General, Support Group; (3) Senior Assistant Postmaster General, Mail Processing Group; (4) Senior Assistant Postmaster General, Customer Services Group; (5) Senior Assistant Postmaster General and General Counsel; (6) Assistant Postmaster General, Inspection Service.

(d) Group, department, and field lines of succession: Each group and department shall establish its own internal line of succession to provide for continuity under emergency conditions. Each Regional Director, Postal Data Center Director, Inspector in Charge, and postmaster at first-class post offices shall prepare a succession list of officials who will act in his stead in the event he is incapacitated or absent in an emergency. Orders of succession shall be shown by position titles; those of the inspection division by names.

(e) Field responsibilities: Postmasters and heads of other installations shall:

(1) Carry out civil defense assignments, programs, etc., as directed by regional officials.

(2) Comply with, and cooperate in community civil defense plans (including exercise) for evacuation, take cover, and other survival measures prescribed for local populations.

(3) Designate representatives for continuing liaison with local civil defense organizations where such activity will not interfere with normal duties.

(4) Endeavor to serve (at their own option) as members on the staff of the local civil defense director, provided such service will not interfere with their primary postal responsibility in an emergency.

(5) Authorize and encourage their employees to participate voluntarily in nonpostal preemergency training programs and exercises in cooperation with States and localities.

SUBCHAPTER I—ORGANIZATION STATEMENTS

PART 821—OFFICE OF POSTMASTER GENERAL AND DEPUTY POSTMASTER GENERAL

In Subchapter L (36 F.R. 4755), § 821.3(c) is revoked.

DAVID A. NELSON,
General Counsel.

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MAIL TRANSPORTATION REGULATIONS AND PROCUREMENT PROCEDURES RELATING TO CONTRACTS FOR MAIL TRANSPORTATION

Effective July 1, 1971, the date of commencement of operations of the U.S. Postal Service, the regulations set out below are adopted by the Postal Service. These regulations, which reflect enactment of the Postal Reorganization Act (Public Law 91-375), prescribe criteria and standards to govern mail transportation generally. They also establish a procurement system for the purchase of mail transportation and related services by contract.

It is recognized that these new regulations and procedures may need modification as experience is gained through use and application. In this regard the Postal Service is receptive to any suggestions for improvement which may be forthcoming from the transportation industry or the public generally. Any such comments may be submitted to the Director, Traffic Management Division, Engineering and Logistics Department, U.S. Postal Service, Washington, D.C. 20260.

Accordingly, effective July 1, 1971, Subchapters G and H (as redesignated, 35 F.R. 18965) of Title 39, Code of Federal Regulations, are amended to read as set forth below.

(39 U.S.C. 401, 404, 410, 2008(c), 5001-5605 as enacted by Public Law 91-375)

DAVID A. NELSON,
General Counsel.

SUBCHAPTER G—TRANSPORTATION OF THE MAIL

PART 510—CONTRACTORS' RESPONSIBILITIES AND ADMINISTRATION OF CONTRACT SERVICE—GENERAL

Sec.	
510.1	Contractors' responsibilities.
510.1-1	For operating according to law.
510.1-2	Free transportation of postal employees.
510.1-3	For providing service employees.
510.2	Administration of service.
510.2-1	Administrative official.
510.2-2	Changes in schedules.
510.2-3	Service deficiencies.
510.3	Contractor employees' liens.
510.4	Substitution of sureties.
510.5	Termination.
510.6	Death of contractor-owner operated highway routes.
510.7	Subcontracting.
510.7-1	Part of the route.
510.7-2	The whole route.
510.8	Residence requirements—box delivery routes.
510.9	Claims for damage to contractors' equipment.

AUTHORITY: The provisions of this Part 510 issued under 39 U.S.C. 401, 5001, 5005, 5006, 5007, 5212, 5214.

§ 510.1 Contractors' responsibilities.

The Contracting Officer may make deductions from the compensation due contractors for failure to perform service

as required by the contracts, and he may impose forfeitures and fines for other delinquencies as set forth in their contracts. He may also change or remit deductions, forfeitures, or fines. Contractors are also answerable in damages to the Postal Service for the proper care and transportation of the mail. Such damages, as are determined by the Contracting Officer, may be withheld by the Postal Service from compensation otherwise due the contractor. Contractors are accountable to the Postal Service for loss or damage to the mail or any part thereof due to loss, rifling, damage, wrong delivery, depredation upon or other mistreatment of the mail, by the contractor or any of the contractor's officers, agents, or employees or the failure of the contractor or any of the contractor's officers, agents, or employees to exercise due care in the custody, handling, or transportation of the mail. When a contractor having more than one contract for the transportation of mail does not perform the service according to the terms of such contract, the Postal Service may withhold payments on any or all contracts with the contractor until the failure has been removed and all penalties therefor are fully satisfied. The following responsibilities apply generally to all contractors for the transportation of mail.

§ 510.1-1 For operating according to law.

Contractors must comply with applicable Federal and State laws and regulations. The award of a contract to transport mail grants no special right or privilege to the contractor to transport passengers, freight, or express. If passengers are transported, mail must be carried in such a manner so passengers shall not have access to the mail. If other cargo is carried, mail shall be stowed so as to be readily identifiable and not be subject to damage or loss.

§ 510.1-2 Free transportation of postal employees.

Each contractor engaged in the transportation of mail shall carry on any vessel, train, motor vehicle, or aircraft he operates, upon exhibiting their credentials and without extra charge therefor, persons on duty in charge of the mails or when traveling to and from such duty.

§ 510.1-3 For providing service employees.

(a) *Qualifications.* Contractor employees engaged in provision of services under the contract must be:

(1) For highway service, not less than 21 years of age, if driving a vehicle over the highway, otherwise not less than 18.

(2) For airline, railway, and steamship companies, employees of suitable age for the duties required and not less than 18 years of age.

(3) Of good character, reliable and trustworthy.

(4) Sufficiently educated to enable them to perform all required duties in a satisfactory manner.

(b) *Persons ineligible.* The following are ineligible to provide services under the contract.

(1) Persons on parole or under suspended sentence for commission of a felony.

(2) Persons with known criminal records involving moral turpitude or dishonesty.

(3) Persons whose traffic records indicate that their driving motor vehicles would be hazardous. (Applies only to drivers and assistants.)

(4) Officers and employees of the Postal Service including substitutes and temporaries.

(c) *Screening.* Each contractor, subcontractor, or person employed by a contractor or subcontractor to handle mail or drive mail vehicles, except those listed below, must be screened in accordance with established procedures. The following are exempt from screening:

(1) Certificated interstate common carriers and their employees, if the contracting officer and the postal inspector in charge approve the contractor's own security screening procedures.

(2) Civil Service personnel otherwise subject to investigation under Executive Order 10450.

(3) Persons who have been screened previously for another route.

(4) Employees hired for an emergency of only a few days.

(d) *Removal.* A contractor, subcontractor, or contract employee handling mail or driving a mail vehicle shall be removed if the screening process shows that he has: (1) been convicted of a felony; (2) knowingly associates with felons; or (3) if a driver has a record of serious moving traffic convictions, unless the contracting officer has determined that he has since been rehabilitated and has become a responsible citizen.

§ 510.2 Administration of service.

§ 510.2-1 Administrative official.

Routes are under the supervision and administrative control of an official of the Postal Service, as designated by the contracting officer. Generally, routes are under the head of the postal installation serving as the principal terminus point. The advertisement or request for proposals indicate in each instance who shall administer and supervise the route.

§ 510.2-2 Changes in schedules.

The administrative official may issue orders changing exclusive postal contract schedules of departure and arrival, when overall hours required to perform the contract service are not increased.

§ 510.2-3 Service deficiencies.

(a) *Breach not warranting termination.* When a contractor has committed a breach of the contract not considered so grave as to warrant termination, he may be fined an amount determined by the contracting officer, in accordance with the terms of the contract.

(b) *Loss or damage to mail.* When a contractor permits loss or damage to the

mail through failure to observe the conditions of the contract, the contracting officer may withhold from the contractor's compensation as damages, the value of the mail lost or damaged plus administrative costs of handling the irregularity.

(c) *Contractor with several routes.* Where a contractor holding several routes is subject to a fine or assessment of damages on one route, the contracting officer may withhold compensation due for other routes operated by the contractor until such fines and damages have been recovered.

§ 510.3 Contractor employees' liens.

If a mail transportation contractor has not paid an employee sums due for service under the contract, such employee may, on proper application to the contracting officer, establish a lien for such wages, which will be withheld from the contractor's compensation and paid directly to the employee.

§ 510.4 Substitution of sureties.

The Postal Service, whenever it deems it consistent with the public interest, may accept or require a new surety on a contract for the transportation of mail in substitution for and release of an existing surety.

§ 510.5 Termination.

Contracts may be terminated at any time as provided by law or by the contract terms.

§ 510.6 Death of contractor-owner operated highway routes.

When a contractor dies, the administrative postal official will immediately notify the contracting officer of the date and approximate time of the contractor's death. If service is not provided promptly by or for the estate of a deceased contractor or his surety, the administrative postal official supervising the route will arrange to hire a temporary operator at the lowest obtainable rate and advise the contracting officer accordingly. Prior to entering into any such temporary arrangements, the administrative postal official shall give notice to the surety.

§ 510.7 Subcontracting.

Execution and recognition of a subcontract does not release the contractor or sureties from their contractual obligations; it does relieve the contractor from personally supervising the performance of service and, in the case of subcontracts for the whole route, permits payments to be made directly to the subcontractor.

§ 510.7-1 Part of the route.

The contractor may subcontract part of the service required by the contract to permit interchange with different modes of transportation or to interline with other carriers of the same mode when such interchanging or interlining is desired to meet the contractor's plan of operation, under the following conditions:

(a) The contractor shall remain responsible to the Postal Service for the care of the mail and shall be charge-

able with the acts and omissions of the subcontractor or their employees.

(b) Payments for service performed shall be made to the contractor for the entire service and the contractor shall be expected to pay any subcontractor according to the agreement or understanding between the contractor and subcontractor.

(c) All subcontracts must be approved by the contracting officer and a copy of the subcontracts must be filed with the contracting officer.

(d) Company interline agreements on equipment interchange and joint operations are not subject to the foregoing filing requirements.

§ 510.7-2 The whole route.

The contractor, or surety who has been placed in charge of a route, may subcontract the whole route with the approval of the contracting officer. Whenever the contracting officer determines that a contractor has sublet the whole route without consent, he shall consider the contract as breached and may again advertise the service as provided by law. The contractor and his surety are liable to the Postal Service for damage resulting from the termination of the contract. Subcontracting of the whole route instead of readvertising shall be an exceptional action and shall be permitted only when the contractor furnishes good and valid reasons for such action. A subcontract for the entire route may not be terminated unless first approved in writing by the contracting officer. The provisions of § 510.7-1 (a) and (b) will also apply to subcontracts for the whole route.

§ 510.8 Residence requirements—box delivery routes.

Notwithstanding any provisions of these regulations, when contracts are primarily for the performance of box delivery and collection service, the following will apply:

(a) No bid for a contract shall be considered unless the bidder is a legal resident of one of the counties crossed by the roads over which the mail is to be carried or a legal resident of a county adjoining one through which the mail is to be carried. Advertisements for box delivery and collection service shall set forth the counties in which a bidder must live to be eligible to bid.

(b) A bid shall be considered from two or more individuals who bid jointly if only one of the bidders legally resided in a county in which part of the route lies, or in an adjoining county, if proof is furnished that a bona fide partnership existed at the time the bid was signed.

(c) Bids shall be considered from corporations actually engaged in some business other than contract transportation of mail within the counties in which individuals are restricted as to residence.

§ 510.9 Claims for damage to contractors' equipment.

(a) Claims covered herein are those claims for damage to a contractor's equipment while it is being used pursuant to the performance of a mail transportation contract.

(b) If the equipment is in the custody of the owning contractor when the damage occurs, and such damage resulted from the act or omission of an officer or employee of the Postal Service, the Postal Service shall be liable for such damage, excluding fair wear and tear, when a claim is properly documented and submitted to the contracting officer.

(c) If the equipment owned by a contractor is damaged while in the custody of the Postal Service or a contractor other than the owner except for contractors providing services to other contractors under an interline agreement and is being employed in connection with a mail transportation contract, the Postal Service shall be liable for such damage, excluding fair wear and tear, when a claim is properly documented and submitted to the contracting officer, unless the Postal Service determines that such damage was caused solely by the act of an independent third party.

(d) Claim forms may be obtained from the contracting officer or the administrative official.

PART 520—AIR TAXI AND HIGHWAY TRANSPORTATION CONTRACT ADMINISTRATION

Sec.	Administrative official.
520.2	Unsatisfactory service by highway contractors.
520.2-1	Standards of performance.
520.2-2	Irregularities—local action.
520.2-3	Irregularities—action by contracting officer.
520.2-4	Removal of contractor.
520.2-5	Irregularities—major.
520.3	Unsatisfactory service by air taxi contractor.
520.3-1	Standards of performance.
520.3-2	Irregularities subject to penalty.
520.3-3	Irregularities—local action.
520.3-4	Irregularities—action by contracting officer.
520.3-5	Removal of contractor.
520.3-6	Irregularities—major.
520.4	Release of contractor.
520.4-1	Authority.
520.4-2	Indemnity payment.
520.4-3	Relief of contractor—advertised contracts.
520.4-4	Soliciting to relieve contractors.
520.4-5	Award of contracts.
520.5	Screening.
520.5-1	Basic requirement.
520.5-2	New contracts and subcontracts.
520.5-3	Screened personnel checklists.
520.5-4	Time limitations and periodic review.
520.5-5	Unsatisfactory cooperation.
520.5-6	Processing forms.
520.5-7	Removal.
520.5-8	Confidential nature of screening data.
520.5-9	Filing and retention requirements.
520.6	Special filing requirements—terminated contracts.
520.7	Contract service changes.
520.7-1	Authority.
520.7-2	Discontinuance of contract.
520.7-3	Changes in service.
520.7-4	Readvertisement versus service change—advertised contracts.
520.7-5	Preparation and distribution of order.
520.7-6	Temporary extensions.
520.8	Schedule changes.
520.8-1	Factors to be considered.
520.8-2	Orders.

Sec.	Administration of emergency service contracts.
520.9	Administrative official.
520.9-1	Certifying service.
520.9-2	Abandonment by contractor.
520.9-3	Screening.
520.9-4	Death of contractor-owner operated routes.

AUTHORITY: The provisions of this Part 520 issued under 39 U.S.C. 401, 5001, 5005, 5006, 5007, 5402.

§ 520.1 Administrative official.

Routes are under the supervision and administrative control of an official of the Postal Service, as designated by the contracting officer, who will instruct such officials in their duties and responsibilities. This official will be the administrative official of the route. Generally, routes are under the head of the postal installation serving as the principal terminus point.

§ 520.2 Unsatisfactory service by highway contractors.

§ 520.2-1 Standards of performance.

Solicitations (advertisements or requests for proposals—RFPs), PS Notice 82, Additional General Provisions For Service Contracts, and Form 5411-A, Contract General Provisions, state specifically the service on each route.

§ 520.2-2 Irregularities—local action.

(a) Form 5500, Report of Contract Irregularity, will be used to report irregularities on all highway routes. This form will be used only at SCP offices and at offices of other administrative officials. Officials at all other offices will report irregularities to the appropriate administrative official authorized to issue the form.

(b) Only administrative officials who are authorized to prepare Form 5398, Transportation Performance Record—Large Installations, may issue Form 5500 for all highway routes operating to their office whether they are the administrative officials or not. If an administrative official is authorized to record service on Form 5399, Record of Performance of Contract Routes, he will prepare Form 5500 for only the routes for which he is the administrative official. On the other routes operating to his office he will report irregularities to the administrative official by phone or memorandum. The administrative official will then prepare Form 5500 in these cases.

(c) Administrative officials will review the irregularities reported along with the contractor's comments in section 2 of Form 5500, will consult with the contractor, and take any corrective action necessary. If service is omitted, also see § 530.1-7 of this chapter.

(d) If irregularities persist or become more serious in nature, the administrative official will arrange for a conference with the contractor. At this conference, he will inform the contractor of the number and gravity of the irregularities which have occurred; of the need for immediate correction of the irregularities and of the serious consequences which will ensue if corrective action is not immediately taken. Following this conference, he will write a memorandum for the file recording all pertinent statements made by the contractor and him during the course of the conference. A copy of this memorandum will be sent to the contractor and the surety on the contract.

(e) If improved service does not result from the conference, the administrative official will write a letter to the contractor informing him that if service does not improve within 7 days, the case will be forwarded to the contracting officer for appropriate attention. The letter will additionally advise that the contract may be terminated and the surety called upon to assume the route. A copy of this letter will be sent to the surety.

(f) If, by the end of this 7-day period, service still has not improved, the administrative official will forward the complete file to the contracting officer. The memorandum transmitting the file will briefly describe the nature of the irregularities and will contain a recommendation as to the action considered appropriate.

(g) If, by the end of this 7-day period, service still has not improved, the administrative official will forward the complete file to the contracting officer. The memorandum transmitting the file will briefly describe the nature of the irregularities and will contain a recommendation as to the action considered appropriate.

§ 520.2-3 Irregularities—action by contracting officer.

(a) Upon receipt of the file from the administrative official, the contracting officer will prepare a letter warning the contractor that if service does not improve immediately, his contract may be terminated with the surety being called on to provide required service. A copy of this letter will be sent to the surety. The letter should inform the contractor in detail of all irregularities that made the action necessary. Concurrently, if it is felt that it will encourage improved service, a fine in the amount of not less than one-half of, or more than one percent of the annual contract rate may be ordered. Issue orders on Form 5440-C, Contract Route Service Order, fining the contractor and giving all reasons. Send copies to the contractor, the postal data center and the administrative official.

(b) The question of whether or not to levy a fine is strictly a matter within the discretion of the contracting officer, and no fines should be levied in cases where it appears that a lack of funds may possibly be a cause of the contractor's irregularities. If no fine is assessed, tell the contractor the reason why. In any event, no more than one fine will be assessed in any case. Fines must be charged against the account of the contract under which the irregularities occurred and not against any other account of the contractor.

(c) The contracting officer must carefully review any appeals of fines. If he decides to remit a fine, an order should be issued on Form 5440-C. If he decides the fine should stand, he should advise the contractor that his decision is final but appealable, and furnish the contractor a copy of the Rules of Practice Before the Board of Contract Appeals. This final decision will be in writing, will set forth the basis for the final decision in specific detail, and will be mailed to the contractor by Certified Mail/Return Receipt Requested.

§ 520.2-4 Removal of contractor.

If service does not improve after the foregoing procedures have been followed, removal procedures shall be instituted. In removing a contractor, the contracting officer will:

(a) Issue an order on Form 5440-C, terminating the service of the contractor from a specific date, citing provisions of his contract under which his services are being terminated and recognizing the surety in charge effective the following date. The order should suspend payments to the contractor if there is any reason to expect that money will be due the Postal Service as a result of the removal. No indemnity will be allowed.

(b) Transmit by letter a copy of the order to the contractor. The letter should list all irregularities that made the removal action necessary and should advise him that the decision to remove him is final but appealable. It should also transmit a copy of the Rules of Practice Before the Board of Contract Appeals, for his information. The final decision will be mailed to the contractor by Certified Mail/Return Receipt Requested.

(c) Furnish the surety with a copy of the order and a copy of the letter to the contractor, and determine whether the surety will personally continue the service, employ a carrier, or sublet.

§ 520.2-5 Irregularities—major.

Where irregularities occur which are of such proportions that summary suspension or removal is required in the public interest (such as theft, deliberate loss, damage, or abandonment of the mail), the foregoing provisions, insofar as they require consultation, conference, correspondence with and warning of the contractor, do not apply.

§ 520.3 Unsatisfactory service by air taxi contractor.

§ 520.3-1 Standards of performance.

Solicitations (advertisements or requests for proposals—RFPs), PS Notice 82, Additional General Provisions for Service Contracts and Form 2750, General Contract Provisions for Air Taxi Mail Service, state specifically the service required on each route.

§ 520.3-2 Irregularities subject to penalty.

(a) Mail refusal (inability or refusal of contractor to accept mail within the agreed allocation). When mail in excess of amount specified on Form 2752, Air Taxi Mail Service Action, is refused, it is not considered a refusal but will be reported as mail left.

(b) Failure to protect mail (fire, damage, weather, or leaving mail unattended).

(c) Failure to notify postal unit of irregular operations.

(d) Failure to provide specified aircraft. (Except in emergencies when equipment substitution is made with prior approval.)

§ 520.3-3 Irregularities—local action.

(a) Form 2759, Report of Irregular Handling of Mail, will be prepared by

postal employees immediately to report any air taxi irregularities in handling mail or mail equipment, including weather damage due to negligence on the part of the contractor, or other irregularity requiring remedial action. When mail is damaged by inclement weather, report only those bags and outside pieces actually wet or otherwise damaged. Do not prepare forms to cover irregular receipt due to weather conditions. Furnish all data required. If accuracy or completeness of the facts are uncertain, get additional information from the contractor involved.

(b) Copies of Form 2759 will be distributed if possible at the close of each day. Send original and first copy to the contracting officer having jurisdiction over the reporting unit, send second copy to the contractor, and retain third copy in files.

§ 520.3-4 Irregularities—action by contracting officer.

(a) The following example shows how to compute penalty for air taxi mail service:

- (1) If specified mail capacity requirement is 2,000 pounds;
- (2) Capacity of replacement aircraft is 1,500 pounds;
- (3) Required weight capacity not available: 500 pounds or 25 percent; and
- (4) The normal authorized route payment per mile is: 40 cents.

The amount of the penalty is based on authorized rate (40 cents) per mile. The pro rata penalty would be 10 cents per mile. Concurrently, if it is felt that it will encourage improved service, a fine in the amount of not less than one-half of, or more than 1 percent of the annual contract rate may be ordered by using Form 2765, Authorization to Deduct Fines From Mail Pay fining the contractor, giving reasons. Send copies to the contractor and the postal data center.

(b) The question of whether or not to levy a fine is strictly a matter within the discretion of the contracting officer, and no fines should be levied in cases where it appears that a lack of funds may possibly be a cause of the contractor's irregularities. If no fine is assessed, tell the contractor the reason why. In any event, no more than one fine will be assessed in any case. Fines must be charged against the account of the contract under which the irregularities occurred and not against any other account of the contractor.

(c) The contracting officer will review the irregularities reported along with the contractor's comments. He may consult with the contractor, and will take any corrective action necessary.

(d) If irregularities persist or become more serious in nature, the contracting officer will arrange for a conference with the contractor. At this conference, he will inform the contractor of the number and gravity of the irregularities which have occurred; of the need for immediate correction of the irregularities; and the serious consequences which will ensue if corrective action is not immediately taken. Following this conference, he will

write a memorandum for the file recording all pertinent statements made by the contractor and him during the course of the conference. A copy of this memorandum will be sent to the contractor and the surety on the contract.

(e) If improved service does not result from the conference, the administrative official will write a letter to the contractor informing him that if service does not improve within 1 week the contract may be terminated and the surety called upon to assume the route. A copy of this letter will be sent to the surety.

(f) The contracting officer must carefully review any appeals of fines. If he decides to remit a fine, an order should be issued on Form 2765, U.S. Postal Service Authority to Deduct Fines from Mail Pay. If he decides the fine should stand, he should advise the contractor that his decision is final but appealable, and furnish the contractor a copy of the Rules of Practice Before the Board of Contract Appeals. This final decision will be in writing, will set forth the basis for the final decision in specific detail, and will be mailed to the contractor by Certified Mail/Return Receipt Requested.

§ 520.3-5 Removal of contractor.

If service does not improve after the foregoing procedures have been followed, removal procedures shall be instituted. In removing a contractor, the contracting officer will:

(a) Write a letter terminating the service of the contractor from a specific date, citing provisions of his contract under which his services are being terminated and recognizing the surety in charge effective the following date. The letter should suspend payments to the contractor if there is any reason to expect that money will be due the Postal Service as a result of the removal. No indemnity will be allowed.

(b) The letter should list all irregularities that made the removal action necessary and should advise him that the decision to remove him is final but appealable. It should also transmit a copy of the Rules of Practice Before the Board of Contract Appeals, for his information. The final decision will be mailed to the contractor by Certified Mail/Return Receipt Requested.

(c) Furnish the surety with a copy of the order and a copy of the letter to the contractor, and determine whether the surety will personally continue the service, employ a carrier, or sublet.

§ 520.3-6 Irregularities—major.

(a) Where irregularities occur which are of such proportions that summary suspension or removal is required in the public interest (such as theft, deliberate loss, damage, or abandonment of the mail), the foregoing provisions, insofar as they require consultation, conference, correspondence with and warning of the contractor, do not apply.

(b) The contracting officer will remove the contractor at once from air taxi mail service routes and notify the surety when the contractor's operating certificate is revoked by the Federal Aviation Administration or he fails to com-

ply with pilot, flight, and aircraft requirements of his contract. Necessary replacement service will be obtained and the surety will be held responsible according to the terms of its bond (See 39 CFR 619.207-3).

§ 520.4 Release of contractor.

§ 520.4-1 Authority.

The contracting officer may take initiative to release contractors by resoliciting under certain conditions, or may, upon request of contractors, resolicit and award new contracts to release contractors and sureties when undue hardships are imposed by:

- (a) Changes ordered which materially increase or decrease the service required.
- (b) Abnormal increase in mail requiring larger equipment.
- (c) Schedule changes resulting in excessive increase or decrease in time required.

§ 520.4-2 Indemnity payment.

Contractor will be allowed the 1 month's indemnity payment if route is resolicited under § 520.4-1.

§ 520.4-3 Relief of contractor—advertised contracts.

If request of a contractor under an advertised contract for release is based on changed conditions, the contracting officer will consider adjusting the contractor's pay.

§ 520.4-4 Soliciting to relieve contractors.

Solicitations for release of contractors for reasons stated in § 520.4-1 must be issued and new contracts awarded as early as practicable.

§ 520.4-5 Award of contracts.

New advertised or negotiated contracts will be solicited and awarded; emergency contracts will not be made in these instances.

§ 520.5 Screening.

§ 520.5-1 Basic requirement.

Each contractor, subcontractor, or person employed by a contractor or subcontractor to handle mail, drive a mail vehicle, or pilot aircraft must complete Form 2025, Contract Personnel Questionnaire, and have his fingerprints taken on Form FD-258 (Fingerprint Chart) within 10 days after beginning service, except the following who are exempted:

- (a) Certificated interstate common carriers and their employees, if the contracting officer and the postal inspector in charge approve the contractor's own security screening procedures.
- (b) Civil service personnel otherwise subject to investigation under Executive Order 10450.
- (c) Person who have been screened previously for another route.
- (d) Employees hired for an emergency of only a few days. This does not exempt regular relief or substitute employees.

NOTE: Persons who must be screened within 10 days after beginning service may

have the time limit extended by the contracting officer, in unusual circumstances.

§ 520.5-2 New contracts and subcontracts.

When a new contract is awarded or subcontract recognized, the administrative official will ascertain whether or not the contractor, subcontractor, or their employees need to be screened according to requirements. If the contractor, subcontractor, or their employees must be screened, the administrative official will forward to the contractor or subcontractor sufficient copies of Form 2025 and FD-258 for the screening and will see that the forms are properly completed. Form 2025 will be prepared in duplicate.

§ 520.5-3 Screened personnel checklists.

The administrative official will maintain a list of contractors, subcontractors, and employees who have been screened. A copy of the list will be furnished to the postal supervisor or, in the case of air taxi service, the driver delivering mail to air taxi contractor who will consult the list before mail is turned over to an unknown driver or pilot. If the contractor's driver's, or pilot's name does not appear on the list, the supervisor or driver will check with the contractor to see if the contractor's driver or pilot is authorized to receive mail and will report the name of any new driver or pilot to the administrative official, who will send screening forms to the contractor or subcontractor.

§ 520.5-4 Time limitations and periodic review.

(a) *Before employment.* Every effort must be made to have the contractors and subcontractors submit screening forms (Form 2025) for all prospective drivers, pilots, and mail handlers, before they are employed, to administrative officials for review. If this procedure is not possible, the administrative official will ensure that forms are received within a 10-day period, after employment. Anyone who has not complied with this request will be denied access to the mails unless the contracting officer has allowed a reasonable time extension due to unusual circumstances.

(b) *Updating the program.* The postal data center will send each contractor and subcontractor Form 5415, Postal Service Screening Program, with their last check for Postal quarters 1 and 3 reminding them of their responsibility for reporting changes in employees to the administrative official. This official will insure that reports are received on all routes for which he is administratively responsible and that new employees are screened by following procedures as outlined above. The contracting officer will remind administrative officials of the periodic review of the screening program.

§ 520.5-5 Unsatisfactory cooperation.

(a) *Local action.* If the administrative official does not receive cooperation from a contractor or subcontractor in completing the screening forms, he will sub-

mit the case to the contracting officer for advice. Include with the report the name and address of the contractor, subcontractor, or their employees, with copies of all correspondence in the case. In the event a person claims that he has been screened on another route, or if a certificated interstate common carrier believes he should be exempt as outlined previously, the administrative official will submit the case to the contracting officer for a determination.

(b) *Action of contracting officer.* When the contracting officer receives the case from the administrative official, he will write to the contractor or subcontractor asking for immediate compliance. If this does not achieve the desired results, and if the forms are not completed within a reasonable time as determined by the contracting officer, a fine of \$25 should be imposed. If the fine does not bring about compliance, he should submit the case to Headquarters for review and final decision.

§ 520.5-6 Processing forms.

Upon receipt of completed forms, the administrative official will insert the name of the region on Form 2025 and review the forms to make certain that every item on both forms is complete and legible (including signature and date blanks) and that fingerprints appear to be sufficiently clear for classification. If forms are not completed in their entirety, return them for proper completion. Particular attention must be given to Item 18 (Declaration of Arrests and Charges) of Form 2025. If an applicant whose record shows possible undesirable factors (i.e., recent theft charges, habitual driving while intoxicated, narcotic charges, parole and probation violations, and other charges which appear to be serious enough to place the mail in jeopardy) shows up to drive before formal clearance, administrative officials will withhold mail and immediately inform the contracting officer by telephone and request his advice. When the forms are in order, the administrative official will send the original Form 2025 stapled to Form FD-258 to the Personnel Security Officer, U.S. Postal Service, Washington, D.C. 20260.

§ 520.5-7 Removal.

Removal or retention will be governed by the following:

(a) When no derogatory information is developed or when only minor traffic offenses are involved, forms will be returned without comment to the contracting officer, by the Personnel Security Officer. The remainder will be reviewed at Headquarters and returned to the contracting officer, with instructions to retain or remove. Forms will be filed in accordance with § 520.5-9. Administrative officials, contractors, subcontractors, or their employees need not be informed of the results of a favorable investigation.

(b) Do not remove a contractor, subcontractor, or an employee for reasons developed in the screening program without specific instructions from Headquarters.

(c) When the responsible official at Headquarters advises that an individual is unsuitable, the contracting officer will:

(1) In the case of an employee, direct the contractor or subcontractor in writing to remove the unsuitable employee at once and to acknowledge the direction with a certification that the employee has been removed and will no longer be employed in performance of the mail contract.

(2) In the case of the contractor, remove him following procedures as outlined.

(3) In the case of an emergency contractor, terminate his contract.

(4) In the case of a subcontractor, terminate subcontract.

§ 520.5-8 Confidential nature of screening data.

All material developed in the screening program will be treated as privileged information. Do not communicate it to contractors, subcontractors, or their employees, or allow it to become known to unauthorized persons. When removing a contractor, the reason for removal may be given, but only to the contractor. When removing a subcontractor, only the subcontractor should be told the reason for removal if he requests such information. Contractors and subcontractors will be informed only, without details, that unsuitable employees be removed. An employee may be advised of the reason for his removal by the contracting officer, if he requests such information.

§ 520.5-9 Filing and retention requirements.

The original of Form 2025, Form FD-258, and other papers developed will be filed alphabetically in a separate cabinet, equipped with a lock in the office of the contracting officer. Retain all material for 1 year after the contractor, subcontractor, or employee is separated for any reason.

§ 520.6 Special filing requirements—terminated contracts.

Two copies of all documents terminating contracts for any reason shall be filed with the Interstate Commerce Commission and the Civil Aeronautics Board, as appropriate.

§ 520.7 Contract service changes.

§ 520.7-1 Authority.

(a) Contracting officers may take final action to discontinue, extend, or curtail routes; to change and restate service required; and to increase or decrease frequencies.

(b) Give careful consideration to the effect specific route changes will have on other routes and types of service. The contracting officer must not authorize any change contingent on or related to changes in other service without concurrence of all concerned.

(c) The contracting officer may issue instructions to officials to omit or change the frequency of supply of intermediate post offices without issuance of formal orders, if no change in distance or pay is involved.

(d) Negotiated contracts frequently have special contract provisions governing service changes. Therefore, prior to taking any of the actions described in paragraph (a) of this section the contracting officer should review the terms of a negotiated contract to determine if any special conditions apply.

§ 520.7-2 Discontinuance of contract.

(a) A route may be discontinued if unnecessary or if it is to be superseded by some other service, by allowing the contractor the indemnity as provided in the terms of the contract.

(b) Sometimes discontinuance of service under the contract may be to the advantage of the contractor or subcontractor. In these instances, the contractor may waive the indemnity, and the contracting officer should acquire a statement from him to that effect. Consent of the surety is not necessary. The order discontinuing service will include the statement: Without the allowance of indemnity, in accordance with agreement with the contractor. Copy will be sent to the surety.

(c) Contractors are not expected to waive the indemnity upon termination of their contracts after resolicitation.

(d) It is the policy of the Postal Service to furnish contractors as much advance notice as possible when a contract is to be terminated prior to the end of the contract term. A minimum of 30 days advance notice must be given except in an emergency beyond the control of the contracting officer. A contractor may be notified by letter of intention to discontinue in advance of issuance of formal order.

§ 520.7-3 Changes in service.

(a) *Schedule changes.* The contracting officer may issue orders changing schedules of departure and arrival, to meet Postal Service requirements, without increase or decrease in pay, when overall hours required to perform the service are not increased.

(b) *Minor service change.* The contracting officer may at any time, without consulting the contractor, issue orders requiring minor extensions or curtailments, changes in line of travel of the route, and other revisions to the route which do not materially affect the contractor's rate of return by authorizing an increase or decrease in compensation at the existing rate. If, in the judgment of the contracting officer, such revision in compensation is not fair and reasonable, he may order the change and allow the contractor more or less increase or decrease, provided the change in pay does not exceed 2 percent or \$1,000, whichever is the lesser amount. If the contractor is not satisfied with the contracting officer's judgment on the amount of compensation changes, he may ask for an adjustment in compensation. If time permits, and the contracting officer desires, he may discuss changes with the contractor before he officially orders changes.

(c) *Box delivery routes.* Service changes on box delivery routes will be

made on the basis of the increase or decrease in the number of hours required to service the route.

(d) *Major service changes—(1) Advertised contracts.* (i) When major service changes are necessary due to revision in Postal Service patterns requiring substantial extension or curtailment of a route, or when increased or decreased mail volume occurs requiring additional or fewer trips or change in the size or number of vehicles required to operate the route, the contracting officer may advise the contractor, in writing, of the desired change. He will ask the contractor to submit a written proposal to operate the revised service and to send with the proposal cost data to support the request. If the contractor's offer is satisfactory to the contracting officer, the change will be ordered to reflect both the service change and the compensation change without further correspondence. No indemnity will be allowed except when equipment requirements are reduced in which case indemnity will be paid in accordance with the contract terms.

(ii) If agreement cannot be reached in accordance with paragraph a, or by further negotiations before the time the service change must take place, or if the contracting officer feels that the desired service change is so major that readvertising the service rather than negotiating the change would be in the best interest of the Postal Service, the contracting officer will readvertise the route and advise the contractor accordingly. The contractor will be entitled to indemnity in accordance with the contract terms. When possible, the route will be readvertised and a new contract awarded before the change in service is required. If this is not possible, the contract will be terminated and the service will be established as an emergency route.

(iii) The additional new route segments will be allowed by negotiation with the existing contractor, only if the original route and the new segment to be added have at least one common terminus point.

(2) *Negotiated contracts.* If a major service change is necessary, the contract will be terminated.

§ 520.7-4 Readvertisement versus service change—advertised contracts.

(a) Before authorizing a major change in a route, covered by an advertised contract, the contracting officer will consider whether the change will so completely transform the contract that it would not be known whether a competitive price was being paid for actual service performed. If a competitive price cannot be retained for the changed service, consider readvertising. If a change has the effect of transforming the existing contract into a different contract, the services may not be added without advertising.

(b) The point at which a change will have this effect is difficult to determine and careful judgment is required. When a major change is authorized under an existing contract, the contracting officer

must fully document justification for adding the service to an existing route in lieu of advertising the service, and retain such documentation with the contract files.

§ 520.7-5 Preparation and distribution of order.

When a service change must be ordered, the contracting officer will:

(a) Establish effective date of orders on the basis of individual requirements. If possible, effective date will be the beginning of an accounting period. When a change in line travel or frequency is made, the date on which service will start must be the effective date. Additional service may not become effective prior to date of order. This does not apply to emergency service.

(b) Prepare Form 5440-C, for highway routes and Form 2752, for air taxi routes, to authorize the service change. In the case of highway routes, if several copies of order are needed, use Form 5440, Contract Route Service Order, and if necessary, Form 5440-F, Contract Route Service Order (Continuation Sheet), which are preprinted mats. Assign serial number. All changes, including change in line of travel, must be clearly stated to avoid misunderstanding by contractors, administrative officials, and postal data centers. The order will specify that the contractor be allowed as extra pay any indemnity as determined in § 520.7-3. The condition for allowing the extra pay also applies to contracts which have been extended.

(c) Show the new annual mileage on the order forms if the order changes the annual scheduled mileage.

(d) When extending a route primarily to supply additional box customers show extended line of travel in full capital letters and add following note on order:

NOTE: New Line of Travel Shown in Full Caps.

(e) The contracting officer will distribute form(s) as follows:

(1) Original signed copy to postal data center's copy must bear an original signature. Facsimile signatures are not acceptable.

(2) Copy to files.

(3) Copy to contractors, subcontractors, and administrative officials as necessary.

(4) If a major change is ordered involving a substantial increase or decrease in pay, furnish surety on contract with a copy.

(5) If the change involves or affects service in areas outside the geographic authority of the contracting officer, furnish a copy of the order to each affected contracting officer.

§ 520.7-6 Temporary extensions.

The contracting officer may extend existing routes to temporary terminals, post offices, railroad stations, and airports by issuance of an order to read about as follows:

Contractor is hereby authorized to operate from Greensburg Freight Yards instead of Greensburg RR. Station on Part A of this

route during the period December ----- to -----, 19--., inclusive, increasing distance ----- of a mile and back, and is to be allowed pay pro rata.

§ 520.8 Schedule changes.

§ 520.8-1 Factors to be considered.

Improvement of mail service must be the primary factor. The contracting officer or administrative official, as appropriate, will consider the following points before making schedule changes:

(a) Reversal of schedules could deprive rural families of transportation to local trading centers. Loss of non-postal service may outweigh possible Postal Service improvements; consider carefully wishes of the customers.

(b) Consider financial effect on the contractor. Reversal of schedule or requiring an excessive layover might cause sufficient increase in cost of operation to provide basis for a request to adjust pay.

(c) Make every reasonable effort to work out satisfactory arrangements which will not work hardship on contractors or customers. Avoid arbitrary action.

(d) Do not alter schedules for the convenience of contractors, subcontractors, or carriers unless it will not be detrimental to the Postal Service.

(e) Make every effort to see that schedules are realistic. Do not set running or flight time that would require violation of speed limits, or exceed cruising speed of aircraft.

§ 520.8-2 Orders.

The contracting officer or administrative official, as appropriate, will ascertain that schedule changes are coordinated with all other affected service. When schedule changes must be ordered, he will prepare orders on Form 5440-B, Notice of Change in Schedule, for highway routes and Form 2752, for air taxi routes. In the case of highway routes, if several copies of order are necessary, use preprinted mat, Form 5440-A, Notice of Change in Schedule. The schedules should be stated clearly and as briefly as possible. Do not list intermediate points unless necessary, particularly on long routes where detailed schedules are published for all concerned. Copies will be distributed as indicated on form. If the change involves or affects service in another contracting officer's geographic area of responsibility, furnish him with a copy of the order.

§ 520.9 Administration of emergency service contracts.

§ 520.9-1 Administrative official.

Routes will be placed under the supervision and administrative control of an official of the Postal Service, as designated by the contracting officer, who will instruct such officials in their duties and responsibilities. This official will be the administrative official of the route. Generally, routes are under the head of the postal installation serving as the principal terminal point.

§ 520.9-2 Certifying service.

Administrative officials will certify service performed under temporary emergency service contracts on Form 5429, Certification of Exceptional Contract Service Performed, for highway routes, and Form 2756, Certification of Air Taxi Mail Service Performed, for air routes.

§ 520.9-3 Abandonment by contractor.

On receipt of information that the contractor has abandoned his route, the contracting officer will prepare an order on Form 5440-C, for highway routes, and Form 2752, terminating services of the contractor.

§ 520.9-4 Screening.

See section 520.5.

§ 520.9-5 Death of contractor-owner operated routes.

In the event of the death of a contractor for emergency service who operated his own route, the contracting officer shall immediately arrange for a new emergency contract to replace the deceased contractor's contract.

PART 530—AIR TAXI AND HIGHWAY TRANSPORTATION CONTRACT PAYMENT PROCEDURES

Sec.	
530.1	Air taxi contract payment.
530.1-1	Records and reports.
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530.2	Highway transportation contract payment.
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AUTHORITY: The provisions of this Part 530 issued under 39 U.S.C. 401, 5001, 5005, 5006, 5007, 5402.

§ 530.1 Air taxi contract payment.

§ 530.1-1 Records and reports.

(a) *Responsibility.* The contracting officer will assign the responsibility of recording contract performance to an administrative official and will instruct him on the proper presentation of the recording forms.

(b) *Form 2755, Air Taxi Mail Service Performed.* (1) The pilot will complete Form 2755, Air Taxi Mail Service Performed, for each scheduled trip. He will record arrival and departure time for every air stop served. At the end of the trip, copies 1 and 2 will be promptly turned into the terminal postal unit.

(2) If service is provided over a route from the originating terminal to an outer terminal and returns to the originating terminal using the same aircraft and pilot, both the outbound and inbound service will be reported on one Form 2755 as a round trip.

(3) If service is provided over a route from the originating terminal to the outer terminal by one aircraft and pilot, and from the outer terminal to the originating terminal by a second aircraft and pilot, each pilot will report this portion of the service on Form 2755 as a one-way trip.

(c) *Form 2756, Certification of Air Taxi Mail Service Performed.* (1) At the end of each week, the administrative official of the certifying postal unit will prepare Form 2756, as reported on Form 2755 furnished by the pilot for each trip and submit it to the Dallas Postal Data Center for payment of service. Form will be dispatched in a separate envelope endorsed Form 2756 in the lower left corner.

(2) A copy of Form 2756 and related copies of Form 2755 for the week will be forwarded to the Contracting Officer, for each route.

§ 530.1-2 Condition for payment.

Full payment will be allowed when:

(a) Service is performed under published schedule.

(b) Contractor begins a trip but terminates an intermediate stop or an alternate point because of weather or other conditions beyond the pilot's control, except mechanical failures and accidents or incidents which prevent completion of trip.

§ 530.1-3 Mileage deductions.

Mileage deductions will be made for trips, or portions of trips, canceled because of mechanical failure and complete trips canceled because of weather.

§ 530.1-4 Additional trips.

(a) *Policy.* All advertised contracts will, and negotiated contracts may, contain a provision that contractors will be required to perform additional trips between points regularly served for the purpose of relieving congestion in postal facilities and to expedite delivery of mail.

(b) *Advanced planning—holiday.* Service will not be contractually scheduled on holidays or holiday weekends, keeping in mind that extra trips can be operated where volume dictates. Service will be scheduled to meet minimum requirements.

(c) *Delegation of authority.* The contracting officer may authorize the administrative official at the terminal postal unit to operate additional flights when he believes a need exists.

(d) *Payment for additional service.* Payment for additional service will be certified in accordance with §§ 530.1-1, 530.1-2, and 530.1-3.

§ 530.1-5 Review and control of service.

The administrative official for each air taxi route will forward a copy of each Form 2755 and 2756 to the contracting officer at the end of each week for review.

§ 530.1-6 Controls.

(a) Prior to the close of each fiscal year, the contracting officer will furnish a list to the postal data center of contracts that will not be renewed. The postal data center will make final payments under these contracts by the close of accounting period 1, after clearing records of performance with the contracting officer.

(b) The contracting officer will notify the postal data center by Form 5440-C to suspend payment when it is determined that a route will be terminated before expiration of the contract term. On all contracts made for a term to end on a date other than June 30, the contracting officer will notify the postal data center by Form 5440-C during the accounting period in which the contract expires to suspend payment due for the last 2 weeks of this period. The postal data center will make final payment after clearing records of performance.

(c) *Form 5399, Record of Performance of Contract Routes—(1) Use.* Postmasters and other installation heads, designated as recording offices and not designated to record on Form 5398 or Form 5463, Report of Performance of Highway Mail Transportation (Unit Rate Contracts), will maintain daily records on Form 5399.

§ 530.1-7 Omitted service.

(a) Administrative officials will report omitted service to the contracting officer.

(b) The contracting officer must decide whether deductions will be made for omitted service which do not fall under § 530.1-2 *Condition for payment*. Deductions will not generally be made for omitted service caused by catastrophes or other Acts of God. When deductions appear in order, the contracting officer will instruct the administrative official of the route to submit an amended Form 2756 to the data center to reflect the deduction.

§ 530.2 Highway transportation contract payment.

§ 530.2-1 Records and reports.

(a) *Responsibility.* The contracting officer will assign the responsibility of recording contract performance to an administrative official and will instruct him on the proper preparation of the recording forms.

(b) *Form 5398, Transportation Performance Record—Large Installations.* (1) All sectional center facilities will be designated to use Form 5398. Postmasters and heads of other large installations may also be designated to use Form 5398.

(2) *Preparation.* Mats will be prepared by the officials authorized to use Form 5398. Duplicating will be done by the installation if duplicating equipment is available.

If duplicating equipment is not available, the installation will send the mat to the contracting officer, who will review the form for accuracy and reproduce the required copies. When minor service changes occur, the stock of duplicated forms may be changed with pen and ink. New forms should be prepared after extensive service changes. The form should be dated to insure use of latest edition.

(3) *Master file.* A copy of the latest edition of Form 5398 will be filed in the office of the contracting officer. Installations which perform their own duplicating will be instructed to send a copy to the contracting officer each time a new edition is printed. The copies in the file of the contracting officer will be corrected as service changes occur. This file will be used to check the mats prepared by the installations.

(c) *Form 5399, Record of Performance of Contract Routes—(1) Use.* Postmasters and other installation heads, designated as recording offices and not designated to record on Form 5398 or Form 5463, Report of Performance of Highway Mail Transportation (Unit Rate Contracts), will maintain daily records on Form 5399.

(2) *Recording officials other than administrative officials.* All designated recording offices, other than the administrative office, will submit their Forms 5399 to the administrative official immediately after the end of each accounting period. On interregional and inter-sectional center routes where the recording official maintains daily record of performance on Form 5398, the Form 5399 will be prepared showing only the exceptions to regular service.

(3) *Administrative official.* If other offices on the route have been designated to send Forms 5399 to the administrative official, the administrative official will review these forms for any information requiring attention and file the forms with the Forms 5398 or 5399 prepared by his office.

(4) *Receipt of Forms 5399.* Form 5418, Control Log, will be used by the administrative official to check in Forms 5399. The first column of the form will be used for route numbers, second column for names of reporting offices, and third column for the number of Forms 5399 due.

(d) *Processing Forms 5398 and 5399.* The administrative official will examine Forms 5398 or 5399 prepared by his office, and Forms 5399 prepared by other recording official, for exceptions to service. Worksheets will be prepared for extra trips and detour mileage for consolidation after all forms have been examined. Omitted service will be reported to the contracting officer.

(e) *Form 5463, Report of Performance of Highway Mail Transportation (Unit Rate Contracts).* Form 5463 will be used to record performance of service under unit rate contracts (piece rate, pound rate, trip rate, mileage rate, etc.).

§ 530.2-2 Additional service.

(a) *Detour travel.* Additional compensation at the basic rate per mile may be paid to contractors for necessary increased travel caused by obstruction of roads, destruction of bridges, discontinuance of ferries, or any other cause occurring during contract period, provided the increase amounts to as much as \$1 in any 4-week accounting period and a report is made within 90 days after service is performed. The following actions are required:

(1) *By contractor.* The contractor is responsible for reporting to the administrative official all necessary detours, reasons therefor, and additional distance traveled on each trip.

(2) *By administrative official.* The administrative official is responsible for obtaining all pertinent facts for recording the detour travel on either Form 5398 or Form 5399.

(b) *Additional trips*—(1) *Policy*. All advertised contracts will, and negotiated contracts may, contain a provision that contractors will be required to perform additional trips between points regularly served for the purpose of relieving congestion in post offices, railroad stations, terminals and airports, and to expedite distribution and delivery of mail. If a route, or parts of a route, are set up on a one-way basis, additional trips may be ordered on a one-way basis at the basic rate per mile based on the one-way distance of the trip. In all other cases, additional trips should be ordered on a round-trip basis and the contractor paid at the basic rate per mile for the round-trip mileage even though there may be no mail to be handled on the return trip.

(2) *Advance planning—holidays*. No service will be contractually scheduled on holidays, or holiday weekends, keeping in mind that extra trips may be operated where volume dictates. Rates for such extra service may be negotiated when premium wage conditions prevail. Service will be scheduled to meet the minimum requirements.

(3) *Delegation of authority*. All administrative officials designated to record performance on Form 5398 will be delegated authority to authorize extra trips as the need develops and will be instructed as to the criteria for authorizing extra trips. Officials designated to record performance on Form 5399 may be delegated authority to authorize extra trips if the contracting officer believes the need exists. If the official desiring the extra trip is not the administrative official of the route involved, prior to exercising the authority delegated to him pursuant to this paragraph, he shall first clear such extra trip with the administrative official of the route.

(4) *Form 5397, Contract Extra Trip Authorization*. Each extra trip certified for payment will be supported by Form 5397. The original of this form will be retained in the office of the official certifying on Form 5429, that the service was performed. When additional trips are expected, postmasters will be furnished Forms 5397 in advance. When an additional trip is required by a postmaster not supplied with a Form 5397, the contracting officer will furnish this postmaster a Form 5397 to cover the additional trip.

§ 530.2-3 Payments for service performed.

The postal data center will make payments for service performed after certification as outlined in §§ 530.2-4 and 530.2-5. Payments will not be made under a new contract until a properly executed contract is filed with the postal data center.

§ 530.2-4 Certification of service.

(a) *Under regular annual rate contracts*. The contracting officer will certify annual rate contracts semiannually as provided by § 530.2-5(a) (2).

(b) *Exceptional service*. Administrative officials will certify service performed under emergency contracts, unit rate contracts, extra trips and detours on Form 5429, as follows:

(1) Form 5429, covering items except those being held for review of exceptions, should be mailed in sufficient time to allow for arrival at postal data center by first mail Wednesday morning following end of the accounting period. Form 5429 may be submitted in written form, instead of being typed, if necessary to meet the deadline for submission. Service not included on this regular certification should be covered by a supplemental Form 5429 at a later date. Routes should be listed numerically on the form.

(2) To accelerate the processing of Forms 5429, separate forms must be prepared for emergency contract service, unit rate service, detour and additional service. First priority must be given to certification of emergency contract service and unit rate service, so that the postal data center will have them as soon as possible. Certifications for additional and detour service must follow immediately after the ones given first priority.

(3) In certifying, the administrative official will sign Form 5429 or else designate an employee to sign the form in his behalf. In the latter case, the designated employee should enter the official's name and title and then sign the form giving his title. The word "by" should precede the designated employee's signature.

(4) The basis for the certifying unit rate contracts will be Form 5463. The basis for certifying extra trips will be Form 5397. The basis for certifying emergency contract service and detours will be Form 5398 and Form 5399. These forms will be retained at the office of the official certifying on Form 5429 along with other papers developed to support the certification.

(5) Form 5429 will be prepared in triplicate. The original will be sent to the postal data center, a copy will be sent to the contracting officer, and a copy will be retained in the office preparing the form. The contracting officer will review the copy of the form to see that it is being prepared properly and to check extra trip authorizations.

§ 530.2-5 Review and control of annual rate contracts.

(a) *Semiannual review*. (1) The postal data center will prepare for the contracting officer two additional copies of the report of contractors prepared as of accounting periods 1 and 8, revised to show annual rates of contracts.

(2) The contracting officer will review the report, compare it with records on Form 5443, contract route statement, schedule and specifications, make any necessary corrections on both copies, and return one corrected copy within 15 days of receipt to the postal data center with the following certification:

The information pertaining to annual rate contracts as shown on the attached listing accurately describes such contract service in

effect as of (the last day of accounting period 1 or 8).

(b) *Controls*. (1) The contracting officer will advise the postal data center of the serial number of the last order on Form 5440-C, Contract Route Service Order, issued on Friday of the third week of the accounting period. The postal data center will maintain a control listing of these serial numbers, and changes resulting from orders issued during the last week of an accounting period will be adjusted in the subsequent period.

(2) After the close of each fiscal year, the contracting officer will furnish a list to the postal data center of contracts that will not be renewed. The postal data center will make final payments under these contracts for service performed to the end of the fiscal year at the close of accounting period 1, after clearing records of performance with the contracting officer.

(3) The contracting officer will notify the postal data center by Form 5440-C to suspend payment when it is determined that a route will be terminated on a date before the expiration of the contract term. On all annual rate contracts made for a term to end on some date other than June 30, the contracting officer will notify the postal data center by Form 5440-C during the accounting period in which the contract expires to suspend payment due for this accounting period. The postal data center will make final payment after clearing records of performance.

§ 530.2-6 Omitted service.

(a) Administrative officials will report omitted service to contracting officer.

(b) The contracting officer must decide whether deductions will be made for service omitted. He will consider circumstances and past records. Deductions will not generally be made for omitted service caused by catastrophes or other Acts of God. If a deduction appears in order, he will prepare orders as follows on Form 5440-C for deductions:

Deduct \$----- for service not performed as follows, such amount to be deducted from the postal accounting period ----- to ----- (List service omitted and dates.)

(c) The postal data center will adjust payment in a subsequent accounting period as directed by the deduction order.

PART 540—DOMESTIC WATER ROUTE CONTRACTS—ADMINISTRATION AND PAYMENT PROCEDURES

§ 540.1 General.

Administration and payment procedures covering domestic water route transportation contracts shall be the same as those covering highway transportation contracts as set forth in Parts 520 and 530 of this subchapter.

(39 U.S.C. 401, 5001, 5005, 5006, 5007)

PART 550—RAIL TRANSPORTATION CONTRACTS—REGULATIONS COVERING THE PERFORMANCE OF SERVICE

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550.8	Basic administrative policies.
550.8-1	Appearance before State commissions in railroad discontinuances.
550.8-2	Association of American Railroads.

AUTHORITY: The provisions of this Part 550 issued under 39 U.S.C. 401, 5001, 5005, 5006, 5007, Public Law 91-375 (Chapter 52).

§ 550.1 Definitions.

(a) *Regulations*. All provisions of this Part 550 and other pertinent portions of this Subchapter G, and Part 619 of this chapter.

(b) *Space-used system*. A transportation and accounting method under which rail storage mail volume is computed.

(c) *Brief*. Official notice by the U.S. Postal Service to a railroad company of a service failure. Such a notice may become the basis of an assessment of liquidated damages.

(d) *Closed pouch train*. The term "closed pouch" or the symbol CP refers to trains, other than merchandise and freight, designated to carry mail in storage cars which do not have an RPO authorization.

(e) *Destination unit*. A destination storage car or van or container used exclusively for mail and moving intact over its entire run from origin (point of loading) to destination (point of complete unloading).

(f) *Working cars*. A storage car will be classed as a working car when it is operated as:

(1) An exclusive mail car making local exchanges of mail.

(2) A mixed traffic car containing mail, baggage, express, etc., making local exchanges of mail.

(3) A set-out or set-in car used in lieu of loading mail into or loading mail from a working car or cars at an intermediate point.

(g) *RPO*. The abbreviation for a railway post office.

(h) *Train date*. The date a train is scheduled to leave the origin point of the titled RPO or CP shall be used as the date for all service performed in the train. In cases where the RPO line is divided into East, Middle, and West, or North and South Divisions, each division shall be considered separately.

(i) *Railroad and railroad company*. Means railway common carrier.

§ 550.2 General conditions of service.

§ 550.2-1 Conditions and class of service.

(a) *Class of service*. The class, frequency, and distance of service to be provided shall be determined according to the needs of the Postal Service.

(b) *Transportation of postal personnel*. Each railroad engaged in the transportation of mail shall carry on any train it operates, upon exhibiting their credentials and without extra charge therefor, persons on duty in charge of the mails or when traveling to and from such duty.

§ 550.2-2 Service regulations.

(a) *Responsibility*. Officers and employees of the Postal Service are responsible for the transportation of mail by railroad in accordance with these regulations, and with the terms of respective contracts.

(b) *Exceptions*. Exceptions to these regulations or to the requirements of a contract must be in writing and must be approved in advance by the contracting officer.

§ 550.2-3 Operation according to schedule.

(a) *Schedules*. The transit time of trains upon which mail is transported shall be that which is maintained by the carriers for their general transportation business in their published schedules, or those specified by contract.

(b) *Failure to observe schedule*. If any train used for the transportation of mail consistently fails to maintain its schedule on its own line or one required by contract, the contracting officer shall take action in accordance with § 550.7.

§ 550.2-4 Designated trains.

A railroad must carry mail only on trains designated for the transportation of mail. In emergencies, local representatives of the Postal Service or postmasters when authorized by the contracting officer may request a railroad company to provide space on any train. The contracting officer will inform the railroad of such authority.

§ 550.2-5 Changes in service.

(a) *Notification of changes*. Postmasters shall promptly notify the contracting officer and the proper official of a railroad of any change in service or routing of mail which may affect the handling of mail. Changes in consist or operation of trains will be referred to the contracting officer for approval and prompt notification of the proper official of the railroad.

(b) *Establishment, extension, or discontinuance of service*—(1) *Discontinuance procedures*. If a proposed discontinuance of mail service (entire or partial) by diversion to highway or to another railroad will reduce a railroad's contractual operations, a statement shall be secured from the railroad company as to the effect the loss of mail revenues will have on train operation.

(2) *Service changes by railroad*. When a railroad plans withdrawal, adjustment or curtailment of contract service which will require the Postal Service to consider substitute service, the railroad company will give reasonable advance notice of at least 10 days of the changes to the contracting officer.

§ 550.2-6 Irregularities.

(a) *Service failures*. The contracting officer may assess liquidated damages against railroad companies and/or recommended diversion of traffic for each of the following delinquencies:

(1) *Inadequate protection of mail*. Allowing the mail to become wet, lost, injured, or destroyed, or conveying or keeping the mail in a place or manner that exposes it to depredation, loss, or injury.

(2) *Failure to transport mail*. Failure to transport mail in accord with terms of the contract.

(3) *Failure to observe schedules*. (i) Repetitive failure to observe schedules.

(ii) Cars, vans, or piggyback units handled in merchandise freight service that do not meet the agreed availability time because of late train operations will not be subject to a penalty for late running, but, if not corrected, the mail involved will be considered for diversion to another carrier or mode of transportation.

(4) *Leaving mail*. Leaving mail that arrives at a station or terminal within a reasonable time before the departure of the train for which it is intended.

(5) *Holding delayed mail*. Failure to use the first practicable means of forwarding mail delayed en route.

(6) *Failure to furnish proper accommodations*. Failure to furnish proper accommodations for the handling and storage of transit mail in a railroad station if applicable.

(7) *Failure to furnish or to place RPO cars in advance*. Failure to furnish the number of RPO units required or failure to place RPO equipment in a station at the time specified by the Postal Service for the advance distribution of mail.

(8) *Delaying storage cars or vans*. Permitting storage cars or vans to accumulate at any point for operation in other than designated trains.

(9) *Failure to provide sufficient storage units*. Failure to provide sufficient

numbers of storage units or vans to accommodate the normal volume of mail.

(10) *Failure to unload or deramp in time specified.* Failure to unload or deramp storage units at destination within the time specified in accordance with the terms of the contracts.

(11) *Failure to connect mail.* Failure to handle mail between trains resulting in delay in the final delivery of the mail.

(12) *Failure to handle for exchange.* Failure to handle mail from trains at designated points for exchange with postal installations, and highway mail routes delaying final delivery.

(13) *Failure to dispatch.* Failure to dispatch mail at the proper station.

(14) *Improper switching of RPO cars.* Switching crews must notify RPO crew before coupling RPO car to locomotive or other cars when there are fewer than five cars between the RPO car and point of coupling. Failure to switch RPO car accordingly will be regarded as not providing for safety of RPO crew on duty and switching without such notice shall constitute a delinquency.

(15) *Mishandling en route.* Failure to route and interline in accordance with instructions furnished at time of delivery to originating railroad.

(b) *Assessment of liquidated damages.* The amount of damages assessed in each instance shall be governed by the applicable terms of the contract with due consideration being given to the gravity of the service failures. The assessment shall be made by the contracting officer and shall be deducted from the railroad's pay for service.

(c) *Carrier protest.* Any protest by the carrier should be made to the contracting officer, who will try to resolve the differences and notify the carrier of his final decision. Any appeal from this decision shall be processed in accordance with § 550.7-6.

§ 550.3 Services required of railroads.

§ 550.3-1 Equipment.

Each railroad engaged in the transportation of mail is required to furnish equipment necessary for the service contracted for by the U.S. Postal Service.

§ 550.3-2 Switching and placing units.

(a) *General requirements.* Railroad companies may be required to perform all necessary switching of cars, to load mail into cars so as to obtain maximum utilization of storage space, including the proper separation piling, and to unload mail from cars. Handling of mail within railway post office cars and apartments shall be performed by mobile unit clerks. Handling of cars/vans and mail shall be in accordance with the terms of contracts.

(b) *Switching.* Necessary switching means movement of cars to and from trains for the loading and unloading at railroad or Postal Service mail handling facilities, the pickup and set-out of cars at en route points, and the delivery of cars to or receipt of cars from connecting lines.

(c) *Prompt placement.* Contracts with railroad companies may require the

company to provide for switching and placing cars at designated post office or other mail handling facilities so as to permit prompt loading, separating, and unloading of mail. If the railroad company fails to perform the agreed services, the contracting officer shall initiate immediate corrective action.

(d) *Trailers, vans, and containers.* When, under contract or agreement, ramping, deramping, shuttle, interlining on rubber and/or hostling is required, railroads are expected to meet the scheduled or availability times predetermined as meeting the needs of the Postal Service.

(e) *Advance placement of RPO cars.* When required, railroad companies must suitably spot RPO cars and make them available for distribution in advance of the schedule departure of the train at the time specified in the contract. If advance distribution time is lost because of the railroad's failure to spot the car, the supervisor must report the failure to the postmaster having jurisdiction.

§ 550.3-3 Loading and unloading of mail.

(a) *Railroad to furnish employees.* Contracts may require a railroad to furnish the station employees to handle mail, to load and pile mail into and unload mail from storage units and baggage cars, and to load mail into and receive from doorways of RPO cars. Mail intended for direct delivery to a mobile clerk must not be placed in an RPO car unless a mobile clerk or an authorized postal representative is on duty.

(b) *Loading instructions for railroads.* Instructions for loading storage mail must be furnished railroads who agree to perform such services by Postal Service officials, so that railroad employees will have full information as to the requirements.

(c) *Time limits.* In collaboration with railroad officials, contracting officers will take necessary action to establish reasonable time limits for unloading storage mail at important railroad stations or terminals so outgoing connections may be assured and delivery to local post offices, postal stations, or postal terminals will not be delayed. Railroads shall be briefed when failure to observe the time limits causes delay to mail.

(d) *Loading delays.* Corrective action for delays in loading causing late dispatch of mail shall be treated as provided in paragraph (c) of this section.

§ 550.3-4 Designation of trains for local service.

Trains for the dispatch and receipt of mail at any station or point serving a post office will be specified in the terms of a contract.

§ 550.3-5 Station services.

(a) *Transfer offices.* Suitable office space for transfer clerks to perform their duties will be leased when needed.

(b) *Letterboxes.* Where the public convenience is better served, the contracting officer may authorize a railroad to place letterboxes in its stations for the

receipt of firstclass mail other than that for local delivery.

(c) *Terminal service.* Will be provided in accordance with the contract provisions.

§ 550.3-6 Mail exchanges.

Railroads and other contract carriers or postal representatives will exchange mail in accord with contract terms.

§ 550.4 Storage service—general requirements of line-haul contracts.

§ 550.4-1 Scope.

This service covers the transportation and handling of made-up mail in bulk. Requirements shall include the maintenance and cleaning of equipment. At railroad stations the loading and unloading of storage units shall be performed by company employees, unless otherwise agreed. Service shall be paid for in units as provided by contract.

§ 550.4-2 Measurement of equipment.

(a) *Standard equipment.* A standard storage car for passenger train operations shall have an inside length of 60 feet, be at least 8 feet 6 inches wide, and 7 feet high. The cubic capacity of vans or trailers used in rail service shall be in accordance with the terms of the contract.

(b) *Nonstandard equipment.* The Postal Service at its option may accept storage cars which are more or less than 60 feet in length, inside measurement.

(c) *Determination of inside length.* In determining the inside lengths of storage cars, vans or trailers, fractions of a foot (6 inches or under) shall be disregarded and credit allowed for a full foot if over 6 inches. Interior fittings or obstructions will be measured for deduction from mail pay length and shall be computed on the equation of 69 cubic feet being equal to 1 linear foot of floor space. No deduction shall be made in storage units for the space occupied by interior fittings provided they do not occupy, in the aggregate, more than 1 linear foot of space. Where the aggregate exceeds 1 linear foot of space, the entire space occupied shall be deducted. Such deductions will be reflected in the listing of mail pay length in the official registers.

§ 550.4-3 Official registers.

(a) *Publishing.* The Postal Service will publish official registers and corrections thereto listing all cars, trailers and vans in use in the transportation of storage mail showing the inside length, the mail pay length, and all data affecting the mail pay length. These measurements may be the basis for determining the compensation. The railroads must furnish this information promptly to the Postal Service on both new and rebuilt equipment.

(b) *Checking for accuracy.* When there is any question as to the accuracy of the mail pay length of any car, trailer, van, etc., shown in the official registers, the contracting officer will check the equipment; and if error is found, he will immediately complete Form 5181, Report of Improper Storage Car or Van, thereafter making appropriate distribution of the Form.

§ 550.4-4 Loading and spacing of storage cars.

(a) *Destination.* Destination cars shall be loaded solidly so far as practicable at initial point of the run. Safety devices are not to be obstructed. In cars not provided with safety rods, mail shall be piled to a height of 8 feet. Cars of less height shall be loaded to the ceiling or safety devices.

(b) *Working cars.* (1) *Loading.* In working cars, one end or the middle section between the doorways will be loaded solid without aisle, wherever practical. With due regard for required separations, mail will be piled to the same height as in destination cars. In computing the space occupied, a car will be regarded as loaded when it is filled to capacity except for necessary aisles and doorways and diagrammed separations not completely filled.

(2) *With aisle.* The aisle in a working car will not exceed 18 inches in width at floor level and will extend through as much of the car as will provide access to separations and permit passage by clerks or trainmen in the performance of their duties.

(3) *Intermediate separations.* When mail for dispatch at intermediate points is carried in through cars, it will be piled to permit prompt dispatch at such points without unnecessarily delaying the train.

§ 550.5 Payment procedures—terminal handling service.

§ 550.5-1 Rates and charges.

As specified by agreement.

§ 550.5-2 Terminal and piece handling services.

(a) *Storage service—charges.* (1) *Basis.* The terminal charge may be stated as a per car/van charge or in an amount per foot of mail handled, or per piece handled.

(2) *Determining volume.* All mail loaded into or unloaded from working cars will be by count and be so recorded. The total count of pieces loaded and unloaded will be recorded on appropriate records. The volume of mail loaded into and unloaded from destination units shall be recorded by measurement.

(3) *Mail left in car at destination.* When a storage car is received at the final destination point of its placarded run and mail for a particular point beyond the destination is not fully unloaded but the car is filled out and transferred to another train by agreement between the railroad and the contracting officer, then the railroad company will be entitled to a prorated of the car terminal charge on the basis of the mail actually unloaded. The loading railroad is entitled to a terminal handling charge only on the basis of mail actually handled at that point.

(4) *Payment.* Terminal charges shall be paid as specified by contract.

(b) *Exceptions to application of terminal and piece handling charges.* (1) *Storage cars and lesser units.* Terminal charges are not allowed for rehandling of mail when:

(i) *Car out of service.* A railroad orders a car out of service after mail has been loaded for onward dispatch.

(ii) *Interchange refused.* The receiving railroad at an interchange point refuses to operate a car because of size, type, or bad order, and transfer of the mail to another car is required.

(iii) *Mail carried by in error.* Mail is carried by a station in error and returned in another train.

(2) *Failure by USPS to furnish advance notice when car not needed.* If, after receipt of late notice from USPS that a car is not needed, the car is removed and the mail already loaded into it is transferred to other space in the train at the direction of the local postal representative, an additional terminal charge will become due.

(3) *RPO cars.* Terminal charges will not apply to mail loaded into or unloaded from an RPO car or apartment while mobile clerks are on duty.

(4) *Loading stopped.* When the weight of the mail is exceptionally heavy and a car satisfactory to the Postal Service is furnished, full payment may be allowed for loading to less than space capacity; but payment may not exceed that for the weight-carrying capacity of the car, as converted to feet on the basis of 1,000 pounds per linear foot.

(5) *Loading or unloading by other than employees of the railroad or its agents.* (i) *Definition of terms.* Loading or unloading services as used in this section are defined respectively as: (a) the loading, separating, and piling of mail in the car and (b) the unloading, separating, and delivering of mail to postal installations and transportation media.

(ii) *At mailers' plants or postal facilities.* (a) Terminal charges applicable at origin and destination: When loading or unloading is performed by other than employees of a railroad or its agent, terminal charges shall not be paid. The symbol "PL" (plant loaded) or "POL" (post office loaded), whichever is applicable, shall be properly entered on Form 5118, Line-Haul Mail Storage Service and Related Terminal Services, and the placard of destination storage cars.

(b) Terminal charges are applicable only when service of loading/unloading is performed by employees of a railroad or its agent.

(iii) *By highway contractors.* (a) When mail at a point is loaded by a highway contractor, terminal charges shall be withheld in the same manner as for plant loaded cars.

(b) When only a portion of the mail is loaded by a highway contractor and the remainder by railroad employees, the terminal charge will be credited to the railroad company for that mail loaded by the railroad or its agent.

(iv) *By mobile clerks in storage cars at intermediate points.* When storage mail is transferred between working storage cars and RPO cars or loaded in or unloaded from working storage cars at intermediate points by mobile clerks, no terminal charge will be allowable on mail so transferred or handled.

§ 550.6 Preparation and processing of forms.

§ 550.6-1 General.

(a) *Scope.* This section describes the forms used by postal and railroad personnel to record services performed.

(b) *Application of rates and charges.* Postal data centers will be responsible for the proper application of the prevailing rates and charges. When a disagreement arises between railroads and postal data centers as to the terms applicable to railroad mail transportation, postal data centers shall present the facts to the contracting officer for determination. If agreement cannot be reached at that level, the case shall be referred to the Regional Postmaster General or his authorized representative.

§ 550.6-2 Forms for line-haul mail storage services.

(a) *Form 5118, Line-Haul Storage Service and Related Terminal Services.*

(1) *Preparation.* Transfer clerks shall prepare this form in quintuplicate at each station daily by routes for all trains, listing each car or unit on flat car in mail service entering or leaving the line, working, or being respaced. At points where transfer clerks are not assigned, the contracting officer may when he deems circumstances warrant, require a railroad representative to prepare any necessary Form 5118. The form shall be completed as follows:

(i) *Heading.* Fill in all spaces.

(ii) *Column 1.* Show train number.

(iii) *Column 2.* Show point where car or unit is originally loaded.

(iv) *Column 3.* Show destination point where car or unit is to be completely unloaded.

(v) *Column 4.* Show car or unit initials or marks.

(vi) *Column 5.* Show car or unit number.

(vii) *Column 6.* Show mail pay length as recorded on placard.

(viii) *Column 7.* Show type of car by appropriate symbol (D, D-R, I.D., S&R, or W).

(ix) *Column 8.* For working storage cars, show actual piece count on arrival. For destination and destination-relay cars, show footage in car or unit on arrival.

(x) *Column 9.* Show in feet the mail unloaded from destination and destination-relay cars as indicated on the placards. For interline differential cars show pieces unloaded from each "I.D." car.

(xi) *Column 10.* Show actual number of pieces of mail unloaded from each S&R or W (working) car.

(xii) *Column 11.* Show actual feet loaded in each D, and D-R car or unit in 1-foot graduations. For "I.D." cars, record in pieces.

(xiii) *Column 12.* Show actual piece count of working storage mail loaded in each car or unit. Credit shall be given for mail loaded in storage in lieu of RPO space as reported on Form 5061, Statement of Vacant Space in RPO Car, with proper explanation noted in "Comments".

(xiv) *Column 13.* Line-haul shall be reported in Column 13 as follows:

(a) Show total pieces in car leaving station for each Working, Set-Out, Set-In, S&R, or I.D. car.

(b) Show actual feet of car space occupied by the mail in each D and D-R car in 1-foot graduations.

(xv) *Column 14.* Show actual or visual linear footage of car space occupied by the mail including the aisle necessary to service the separations in each Working, Set-Out, Set-In, S&R, or I.D. car when 295 pieces or more are entered in Column 13.

(2) *Authenticating Forms 5118.* Form 5118 shall be signed jointly by the transfer clerk and railroad representative at the close of each tour. If the railroad representative does not concur in space recorded on Form 5118, the railroad's protest and the transfer clerk's comments shall be entered in the "comments" column or by attachment of an explanatory report.

(3) *Reconciliation of Form 5118 with train baggage report.* (i) Where there is a difference in the count of pieces recorded on a train baggage report and the count as shown on Form 5118, the Form 5118 will govern at the points where it is prepared insofar as the "on" and "off" count at these points are concerned. The train baggage report will govern at all other points.

(ii) Form 5118 recording as taken from car placard shall be accepted as the unloading record at final destination or relay point for destination and destination-relay mail.

(iii) All mail will be counted in a working storage car. Mail volumes shall be determined independently for the purposes of computing line haul and terminal payments, respectively. Form 5366, Report of Mail Arriving-Leaving and train baggage reports will show working storage car mail by actual count as well as footage. The actual count will be used by the train baggage report for recording the volume of mail carried in a working storage car.

(4) *Distribution.* The following distribution of Form 5118 shall be made promptly at the end of each 24-hour period.

(i) Original and triplicate copies to the contracting officer.

(ii) Duplicate and quadruplicate copies to railroad company, and

(iii) Quintuplicate copy retained at originating point unless otherwise instructed.

(b) *Form 5366, Report of Mail Leaving-Arriving—(1) Preparation.* This form is prepared at train side by Transfer Clerks for each train and date showing the number of pieces and/or feet of mail loaded into each car worked at the railroad station and the record of all mail cars leaving the station.

(2) *Distribution.* Instructions shall be issued by the contracting officer as to the number of copies required and their distribution.

(c) *Form 5048, Mail Storage Car Unloading Record, and Form 5048A, Record of Mail Storage Car Loadings.* Postal

employees shall prepare these forms at all points where the contracting officer deems the indicated information is necessary. Instructions shall be issued by the contracting officer as to the places at which these forms will be prepared, the number of copies required, and their distribution.

(d) *Form 5061, Statement of Vacant Space in RPO Cars—(1) Preparation.* RPO supervisors shall prepare this form in triplicate in accordance with instructions issued by the contracting officer as to the manner and places where this form will be issued. The following information shall be recorded on this form.

- (i) Railroad company involved.
- (ii) Date of issuance.
- (iii) RPO line and train involved.
- (iv) Train date.
- (v) Pieces loaded in storage in lieu of RPO car.
- (vi) Point of loading (RR. station).
- (vii) Signature.

(2) *Where issued.* Form 5061 is designated to be used as a single action form or as a multiple entry form. Where the railroad desires notice at each station involved, the RPO supervisor shall deliver the original copy of the form to the railroad representative at the station. Otherwise, the form shall be completed to cover the entire trip, a separate entry being made for each station involved in "in lieu" loadings and delivered to the railroad representative at the end of the run.

(3) *Agreement to waive issuance.* Agreements may be made with individual railroad companies to waive the issuance of Form 5061 by RPO supervisors. In such cases, the contracting officer shall promptly advise the railroad company of the amount of vacant space in RPO and apartment RPO cars each trip based on trip reports. This may be done by preparing Form 5061 in the office of the contracting officer or by issuing a letter or memorandum covering several days' operation.

(4) *Distribution.* The original shall be delivered to the designated railroad representative. The duplicate and triplicate copies shall be forwarded to the contracting officer with the related trip reports (Form 5012, Mobile Unit Trip Report).

(e) *Form 2558, Statement of Space Used—(1) Use.* This form is printed in quadruplicate and is designed for use by the Postal Service in recording and compiling both line-haul and terminal handling data for each train and date where mail is transported in more than one car or where the payload fluctuates over the train run.

(2) *Supporting Documents.* Documents supplying the information necessary for preparation of Form 2558 include the following:

(i) Form 5118, Line-Haul Mail Storage Service and Related Terminal Services.

(ii) Station Reports (railroad equivalent of Form 5118).

(iii) Train baggage (TBM) reports—unpriced.

(iv) Form 5012, Mobile Unit Trip Report.

(v) Form 5051, Storage Car Mail Loaded, Unloaded, and Transferred.

(vi) Form 5061, Statement of Vacant Space in RPO Cars.

(vii) Any special reports affecting the preparation of Form 2558.

(3) *Classification of trains.* (i) It is essential that standard procedures be established and that each train be classified according to the number of cars in mail service. Classifications shall be mutually determined by the contracting officer and the railroad.

(ii) Trains which normally carry more than one car in mail service on one or more days of the week shall be classified as "space pooled" trains. The contracting officer shall direct Form 2558 to be prepared for those trains even on those days when only one car is in mail service.

(iii) Trains which normally carry one car in mail service shall be classified as "space nonpooled" trains. The railroad will price out the TBM reports on these trains. In those unusual and occasional instances when a "space nonpooled" classified train carries additional cars in mail storage service, the railroad will determine the net mail load transported in accordance with space-used regulations and price out both the line-haul and the terminal services on either the TBM report or a summary sheet attached to the related TBM report.

(iv) The classification of a train shall remain consistent throughout the billing period. However, a train's classification may be changed at the beginning of any billing period to properly reflect changing trends in mail volume. Such changes must be mutually agreed to by the railroad and the contracting officer.

(v) *TBM report listing more than one car in mail service.* Trains shall not be classified. The number of cars in mail service each day will determine whether Form 2558 shall be prepared as directed by the contracting officer for the day's service or whether the railroad will price out the TBM report. (NOTE: The price-out of the TBM report or the preparation of Form 2558 may change from day to day within the billing period.)

(4) *Preparation—(i) Prepared by.* Form 2558 shall be prepared in quadruplicate by the railroad space accounting unit under the guidance of the contracting officer. This form shall be executed within 7 working days following date of service.

(ii) *Train date.* The date a train is scheduled to leave the initial point on a route shall be used for recording mail service performed in the train.

(iii) *Recording services performed.* Form 2558 shall be completed as follows.

(a) *Heading:* Complete all spaces.

(b) *Section captioned "Line-Haul Storage":* Indicate placarded origin and destination of the car; car initials; car numbers; and classification D, D-R, I.D., W, or S&R. Section captioned "Station and Volume of Mail": At the top of columns (1) through (12), as needed, abbreviate the name of station stops.

Show appropriately whether the station is a lesser unit junction or nonjunction point by placing a check (✓) in the box as designated. Subcolumns headed (a) are used for cars loading and/or unloading mail en route. The piece count is taken from Column 13 of Form 5118 and when the figure is 590 or less, it shows actual count. When piece counts exceeds 590, the appropriate space in subcolumn (a) is slashed from top right to lower left showing the actual count above the line and the converted piece count based on space used (Column 14—Form 5118) below the line. In working cars, doorway credits of 3 feet will be earned when the space occupied by the mail in the car is over 30 feet and use of doorway on either side is necessary for loading and/or unloading at intermediate stations on the car's run. Doorway credits shall be earned between junction points on the basis of the maximum volume of mail carried between established division or junction points. When doorways are used to service intermediate stations, credit shall be earned only between the junction before and the junction beyond the intermediate station of exchange. When a doorway is used to exchange mail at a junction point, credit will be earned only back to the next prior junction point. Doorway credits will be recorded in feet in subcolumn (b) (footage) under the station entry.

(c) Items to be entered in line 13 shall be obtained from the TBM report or Form 5051. The entry will reflect the maximum plus balance, if any, of mail put off or taken on at local points between junctions. The recording of this total shall be backed up to the previous applicable junction (full car or lesser unit).

(d) Line 14 will indicate net pieces and feet at each station.

(e) Line 15: Enter under title "Pieces" the items applicable as taken from Form 5061 prepared by the RPO supervisor. Deduct pieces on line 15 from those on line 14 and convert to feet for entry in the "Feet" column. In computing pay for line-haul service, railroad space unit offices shall give full effect to the number of pieces shown on Form 5061. The contracting officer shall make allowance for only the minimum number of pieces that could be accommodated in the RPO car at any point over its run, with one exception. In the case of constantly ascending available vacant space in the RPO car over its entire run, the actual piece loading covered by each Form 5061 shall be taken into consideration.

(f) Compute line 16 by adding footage shown in lines 14 and 15 at each station.

(g) Line 17 will be completed when adjustment is necessary to compute pay footage allowable. Figures in line 16 shall be used for pay purposes where adjustment is not necessary.

(h) Leave line 18 blank. Line-haul charges will be developed at Postal Data Center.

(i) Lines 19, 20, 21, and 22 shall be completed from data on Forms 5118 (by train totals in columns 9, 11, and 12) or the TBM report (at junction points

where Form 5118 or Station Reports are not prepared).

(j) Line 23 entries shall be totals computed from TBM reports for mail loaded at intermediate points and from Form 5051 for handling charge purposes (entries shall be made under the previous junction point column).

(k) Lines 19, 20, 21, 22, and 23 shall be totaled and rated and the No. 2 copy computed by Postal Data Center.

(l) Line 24 of No. 2 copy only shall be computed by Postal Data Center.

(m) Line 25, total of all terminal charges, will be developed by Postal Data Center.

(iv) *Certifying Form 2558.* (a) The contracting officer or his designee will certify each Form 2558 and priced TBM as follows: "I certify that the above service has been performed and that supporting documents are on file in this office". This signed statement must appear on the second copy which is sent to postal data center. A facsimile stamp of signature will suffice.

(b) When the contracting officer finds it necessary to correct information that was previously certified on a Form 2558, he will make the necessary correction on his file copy of the Form 2558, show date of correction, prepare a photostat copy of the corrected form, certify in usual manner, and forward to postal data center with instructions to substitute it for the copy originally submitted.

(5) *Recording of destination and destination-relay cars at nonjunction points.* (i) Destination and destination-relay cars originating or terminating at a point between established division or junction points are considered as originating or terminating at the intermediate point for the purpose of line-haul compensation.

(ii) Such cars shall be identified in section headed "Line-Haul Storage" (Form 2558) and recorded in section headed "Stations and Volumes of Mail" using a separate column. The name of the intermediate station and that it is a nonjunction point should be entered at the top of the column. Pricing will be computed independently at the appropriate prorate of a 60-foot car.

(a) *Originating cars.* From the originating intermediate point to the first full car junction point.

(b) *Terminating cars.* From the last full car junction point to the intermediate point.

The footage in such cars shall not be merged with other mail in the train between the intermediate point and the first/last full car junction point.

(6) *Recording working storage mail as loaded or unloaded by other than railroad employees.* With the exceptions as provided for below, one-half of the applicable terminal rate will apply when mail is loaded by other than railroad employees. A deduction of one-half of the applicable terminal rate will apply when the unloading is performed by other than railroad employees. The applicable postings shall be made in line 21 or 22 of Form 2558, as follows:

(ii) *Loading.* To determine the proper posting of terminal charges for the mail loaded into a train at a point, add all of the pieces loaded in the working storage cars by railroad employees and one-half of the total number of pieces loaded by other than railroad employees. When the net total is in excess of 590 pieces, prorate to footage and post in line 21. When 590 pieces or less, post in line 22.

(ii) *Unloading.* When mail in working storage cars is left in the car or cars at placarded destination or is unloaded by other than railroad employees, post a deduction for either feet or pieces as applicable in accordance with the following:

(a) When there are 590 pieces or less in the working storage cars in the train for unloading at any one point, post in line 22 a deduction of one-half of the total number of such pieces that were left in the car or cars and/or unloaded by other than railroad employees.

(b) When there are more than 590 pieces in the working storage cars in the train for unloading at the point, post in line 21 a deduction of one-half the total of such pieces (prorated to footage) of mail left in the car or cars and/or unloaded by other than railroad employees.

(7) *Empty mail equipment moving in mail service at special agreement rates.* A separate Form 2558 shall be used in computing charges for this service, and railroads shall submit billing on a separate Standard Form 1034, Public Voucher for Purchases and Services Other Than Personal, identified as "Movement of Empty Mail Equipment."

(8) *Using Form 2558 for Exceptional service.* (i) The railroad space accounting unit, under the guidance of the contracting officer, shall prepare a Form 2558 for mail transported in one-car trains which operate without a baggage-man and in which mail is not worked en route between the terminal points and no conductor's report of mail transported is issued.

(ii) The Form 2558 shall be prepared from data reported on Form 5118 by either the railroad or the postal representative, except each day's recording of mail handled in each train shall be posted to a separate column of Form 2558 and priced each day for line-haul and weekly for terminal service with a total for line-haul and terminal earnings for each week.

(9) *Distribution of Forms 2558.* Original retained for file by the contracting officer or the person he designates. First carbon and third carbon to the railroad. Second carbon to postal data center.

(f) *Forms 994 and 2524—(1) Form 994, Certification of Contract Railroad Mail Transportation Service Performed.* This is a negative-type certification prepared by the contracting officer in duplicate, showing the railroad route number, contract number, period of service (28-day or monthly), and type of services performed and/or exceptions to services required under the contract terms. The original of Form 994 is sent to the postal data center.

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(2) **Form 2524, Bill for Temporary Service in Lieu of Railroad Service.** This form is used when there is a temporary interruption of railroad service. Temporary service in lieu is arranged for locally by the contracting officer or postmaster who is responsible for the movement of mail under emergency conditions due to disruption of train service. The contracting officer shall prepare the forms showing all essential data relative to the contract terms and the amount due the temporary carrier. The carrier must sign the form. The form shall then be certified by the contracting officer and original copy only forwarded to the postal data center.

(g) **Use of Form 5020-B, Railway Mail Service Authorization.** Form 5020-B is a blanket or flat order used in effecting major changes in railroad mail transportation services.

(h) **Forms prepared by railroads.** The railroad will be responsible for the preparation of the following basic operating records of service performed:

(1) **Train baggage man (TBM) report.** Prepared daily by train baggage man (or conductor) reporting all working storage cars operating in U.S. mail service.

(ii) "Space pooled" TBM reports will be separated and copy forwarded to the contracting officer or the person designated, on the day of receipt in the mail billing office.

(iii) "Space nonpooled" TBM reports will be calculated and priced out by the railroad and the original forwarded to the contracting officer or the person designated, within 7 working days following service date.

(iv) Report will be prepared in sufficient copies to furnish railroad mail billing department with the original and second copy. (The third and fourth copies, if required, will be distributed in accordance with local railroad instructions.)

(2) **Form 5118, Line-Haul Mail Storage Service and Related Terminal Service.** Prepared by railroads upon request of the contracting officer at designated stations where transfer clerks are not assigned.

(1) **Claim submission—standard forms 1034 and 1034-A (public voucher for purchases and services other than personal).** These forms shall be used to claim the total line-haul and terminal charge amount due for service performed on each railroad route.

(2) Separate line-haul and terminal charge adding machine tapes (for each payment period) shall be prepared from the daily train totals shown on Forms 2558 and the priced-out train baggage man reports.

(3) A Summary Listing itemizing the total pay claimed for each train shall be prepared in duplicate showing train number, line-haul pay due, and terminal charge pay due. Original will accompany standard form 1034. Second copy will be retained by railroad.

(4) Where contracts provide for annual-rate deductions from line-haul or terminal charges, 7/365 (leap year, 366 days) or 28/365 of the per annum amount shall be entered as a deduction from each claim as applicable.

(5) The railroad will forward standard forms 1034 and 1034-A and supporting documents direct to the postal data center within 10 working days following the close of the 7- or 28-day period.

(6) Additional amounts due for services rendered in any one 28-day postal accounting period will be claimed in a single supplemental billing.

§ 550.6-3 Special contract movements.

(a) **Form 5071, Car/Van Movement Record—(1) Services covered.** Form 5071, Car/Van Movement Record, will be used for recording, certifying, and as a basis for compensation for all services performed by railroads under the terms of Document 97, 98, and 99, special contracts except detention charges.

(2) **Preparation and distribution.** Instructions for preparation and distribution are printed on reverse of original form.

(3) **Application—(i) Initiating offices.** Form 5071 will be prepared by Transfer Clerk, transit mail expeditor, or other designated personnel at offices of dispatch or at interline points according to instructions for each individual carline.

(ii) **Carline instructions.** The contracting officer will issue specific instructions on sample Form 5071, for preparation and forwarding of form for each new carline originating in the region on the following basis:

(a) **Single or double-trailer rate at origin and single rate thereafter, through to destination.** (1) Forward Form 5071 original to destination region.

(2) Destination region certifies for service from origin through to destination.

(b) **Single or double-trailer rate at origin, double-trailer rate at an intermediate segment.** (1) Forward Form 5071 original to region at first interline point where double-trailer rate applies.

(2) Region at interline (pairing) point completes Form 5071 and certifies for service from origin to his interline point.

(3) Van control at interline pairing point is notified of movement; arranges to pair the unit for onward dispatch; prepares new Form 5071 or includes the passing unit on Form 5071 prepared for local originating units and/or other passing units; forwards new Form 5071 to destination region or next pairing point, if any.

(4) Region at destination or next pairing point certifies for service from first pairing point through to destination (or next pairing point).

(5) Follow the same procedure for succeeding segments.

(c) **Exception.** As a special case, treat ALL eastbound movements entering the Penn Central System at Chicago and St.

Louis as though terminating at each of those respective points. Chicago and St. Louis, respectively, will then rebill all such movements onward on Form 5071. This is necessary to prevent excessive adjustments where units of the same carline may move under alternate rate systems.

(iii) **Dissemination of instructions.** Copy of specific instructions on sample Form 5071 for each carline should be furnished as follows:

(a) Dispatching units.
(b) Postal data center.
(c) All five regional level contracting officers.
(d) Headquarters (2 copies).

(4) **Additional instructions—preparation and certification.** Instructions to dispatching personnel for preparation of Form 5071 for individual carline should include all particulars required for accurate certification and pay:

(i) **Control number.** Dispatching office will enter the region number at the left-hand side of the Control Number (01, 02, etc.). This will be the region charged with the obligation at origin or at intermediate pairing point, depending on the line haul segment. The postal data center will add the digits necessary to complete the control number for use in computer processing and data analysis.

(ii) **Detention charges and services not covered.** Detention charges and services not specifically included in appropriate 97, 98, or 99 contracts, such as switching service covered by a separate contract, or loading or unloading covered by separate nonrail contract, will not be recorded or certified on Form 5071. Certify for such services separately on Form 994. On Form 5071, indicate the use of such other contract service or alternate handling as follows:

(a) **Contract terminal handling.** Where loading or unloading is performed under terms of a separate nonrail or terminal company contract, enter "C" in appropriate column opposite entry on Form 5071 (under "PO" in Column 12 or 19).

(b) **Plant loading.** Enter "PL" in Column 12 (under "PO").

(c) **Contract shuttle service.** Enter "C" (under "PO") in appropriate column (13 or 18) if shuttle or local drayage is performed under terms of a separate contract.

(iii) **Certification—(a) Verification.** Verify all computations and entries prior to affixing signature.

(b) **Region number.** Enter region number in corner of Title block (06, 07, etc.).

(c) **Validation.** The railway space assistant preparing final certification of Form 5071 will validate the photocopy to be forwarded to the Postal Data Center, St. Louis, by initialing that copy in ink in the certification block to the left of the signature block.

(d) **Forwarding completed certifications.** Forward respective copies of certifications as completed each day. Do not hold or accumulate.

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(iv) **Miscellaneous.** See illustrations for further example and detail.

(5) **Audit and control—(i) Periodic Review.** Contracting officers of certifying regions will be responsible for periodic review and spot-audit of certifications for accuracy and adherence to prescribed procedure.

(ii) **Controls.** Certifying regions will establish necessary controls and check-off procedures to prevent double certification and to insure against inadvertent duplicate submission of certifications already forwarded:

(a) **Check off.** Space assistants will check off on Form 5048 each unit as it is receipted for on Form 5071. An item already checked may not be receipted for a second time without thorough recheck against possible double certification.

(b) **Record.** Certifying regions will maintain a record of the distribution of copies of completed certifications. Entries should include but need not be limited to the following:

(1) Carline (origin and destination).
(2) Date(s) of service.

(3) Date certification completed.
(4) Date of distribution of copies.

§ 550.6-4 Storage cars.

(a) **Mail loading diagram and storage mail standpoint dispatch scheme—(1) Purpose.** (i) To provide uniform procedures for the loading and dispatch of storage mail to prevent delays in mail and additional handling costs.

(ii) To facilitate coordination between regions for improvement of dispatches and use of space in all storage cars, trailers, vans, and containers.

Form 5071, Car/Van Movement Record. The form is a complex grid with multiple sections for data entry. It includes fields for 'POST OFFICE DEPARTMENT', 'CONTROL NO.', 'FROM', 'TO', 'ORIGIN & DESTINATION', 'ENTRY POINT', 'ROUTING', 'LOCAL SERVICES', 'TERMINAL CHARGES', 'SHUTTLE FEES', and 'OTHER SERVICES'. It also has a section for 'ITEMS 1 THROUGH 16 PREPARED AT ORIGIN OR PAIRING POINT FROM OPERATING DATA AND AS DIRECTED BY THE CONTRACTING OFFICER'. The form is designed to be filled out by a contracting officer and then certified by a railway space assistant.

If prompt corrective action is not taken, damages may be assessed. If late operation continues, consideration should be given to moving the mail by other means. No damages will be assessed for late operation of trains that handle vans or cars of bulk nonpreferential mail at special contract rates. Delays resulting from misroutings or mishandlings may result in line-haul adjustments or damages or both, depending on the gravity of the situation.

(e) The damages assessed in each case shall be such sum as the contracting officer may impose in view of the gravity of the delinquency, and shall be deducted from the railroad's pay for service on the route on which the delinquency occurred.

(f) Liquidated damages will not be assessed if the irregularity is the result of circumstances beyond the control of the carrier, such as floods, washouts, wrecks, etc.

(g) Persistent irregularities that cannot be resolved regionally may be referred to appropriate Headquarters officials.

(h) Uniformity between the various regions in the assessment of damages for similar degrees of gravity for the same delinquency is desirable. This applies particularly in the case of damages assessed against railroads operating in more than one region.

§ 550.7-4 Other responsibilities.

(a) *Joint stations.* (1) At joint stations connection mail is considered to be in the custody of the outgoing company. An exception to this rule is when station trucks are not promptly handled and the outgoing train departs. In the latter instance the irregularity should be briefed against the responsible company.

(2) At joint stations mail for the local post office, terminal, airport mail facility, or for transfer to other railroad stations is considered to be in the custody of the incoming carrier, and any irregularities in the handling at the station prior to transfer should be briefed against the incoming company.

(b) *Terminal points.* A railroad route under the jurisdiction of one region operating into a terminal under jurisdiction of another region shall be considered under the supervision of the contracting officer to which the terminal is assigned.

(c) *Damaged mail.* (1) When any railroad company or other mail contractor exchanging mail with a railroad company delivers a parcel, sacked or outside, in a damaged condition, not bearing the endorsement "Received in bad order condition at _____," the damage will be considered to have occurred while in the custody of the delivering carrier, for purposes of assessing damages for irregularities.

(2) Mail handled by two or more lines and found damaged is briefable against the company having custody when the damage was discovered.

(3) Postal employees must not accept mail without calling the attention of the contractor's employee to the damage.

The name of the carrier's employee notified must be shown on Form 5257. Report of Damaged Parcel Post. General statements such as rough handling and improperly packed are not acceptable. State how the rough handling occurred and explain how the parcel was packed if the damage was due to improper packing.

§ 550.7-5 Reporting.

(a) *Reporting accidents and injuries.* The contracting officer shall notify the mail traffic manager of the railroad company of accidents resulting in injuries to postal employees on duty on railroad property which indicate there is a possible railroad liability. They should include:

- (1) Name and address of each postal employee injured.
- (2) Information concerning the type of injury.
- (3) Cause of injury.
- (4) Time and place of the accident.
- (5) All other pertinent information available.

(b) *Reporting irregularities.* (1) All postal employees shall observe the service performed by railroad companies and shall report immediately all failures, irregularities, and delinquencies that come to their attention. Form 5257, shall be prepared and forwarded to the postmaster having jurisdiction over the route on which the irregularity occurred. Form 5367, Notice of Unsatisfactory Condition of Postal Car or HPO Vehicle, and Form 5179, Transfer Office Report of Railroad Mail Irregularity, shall be prepared and distributed according to instructions on the form.

(2) Following is an effective way for reporting late train operations:

(i) Key mail exchange points will be selected by the contracting officer for each route.

(ii) Information will be obtained on late arrivals (16 minutes or more) at those key points.

(iii) Form 5180, Late Train Operations, will be prepared, compiling the required detail from Form 5012, Form 5118, or other documentation as available. These will cover a weekly period beginning Saturday, 0001 hours, to Friday, 2400 hours (train date and time). It will not be necessary to report volumes of mail missing connections.

(3) On receipt of reports of irregularities and delay to transit mail, the postmaster shall determine whether the delinquency is chargeable to negligence or failure of the carrier. If it cannot be established locally, the report must be sent promptly to the contracting officer.

(4) When irregularities indicate that a case is briefable, Form 5178, Notification of Irregularity Service Delay or Damage to Parcel Post shall immediately be prepared in triplicate by the postmaster for the consideration of the contracting officer. Each brief should be confined to similar irregularities occurring at a given point or involving a given train or trip although failure on 2 or 3 successive days may be included in one brief. The postmaster shall send four copies of the brief, with supporting

papers, to the contracting officer who will determine the remedial action necessary or if liquidated damages should be assessed. The fifth copy of the brief shall be retained in the postmaster's files.

(5) Reports of carrier irregularities which the postmaster may consider minor in nature and not repetitive or for which no brief is prepared shall be forwarded to the contracting officer for filing and future reference.

(6) If the railroad company fails to reply to Form 5178 within 30 days, it shall be considered as acceptance of responsibility for the irregularity. As Forms 5367 and 5179 cover delinquencies of a more urgent nature, reply from the railroad company must be received within 10 working days or 15 days, respectively.

(7) If the railroad requests additional time to complete its investigation of irregularity briefed on Form 5178, an extension of 15 days may be granted.

§ 550.7-6 Notification.

(a) *Preparation of Form 2575, Notification of Penalty Action.* When the contracting officer decides that damages will be assessed, Form 2575, Notification of Penalty Action, will be prepared showing point or train number, date, type of mail, number of pieces, nature of irregularity, and the amount of damages. These can be prepared on a 7-day basis to conform with railroad pay period on a 14-day basis or on a 28-day accounting period basis. Should the number of items require additional listings, the continuation (plain sheets) must show: Page _____ of _____, Route No. _____, Fine No. _____, Railroad _____, Date _____ of _____. In such cases, original (page 1) will carry notation, "continued" at the bottom of space for listing irregularities, the signature, and total damages in the designated spaces. Distribution of the copies shall be made as prescribed on Form 2575.

(b) *Exceptions.* When the contracting officer having jurisdiction does not agree in the action taken, he shall so advise the originating contracting officer and if agreement cannot be reached, he shall forward all papers to Headquarters for review.

(c) *Carrier's appeal.* If agreement cannot be reached after reconsideration by the contracting officer, the carrier should request submission of the file to Headquarters. This request should cover the specific items under protest and convey complete detail in support of contention.

§ 550.7-7 Remission of damages.

Contracting officers may remit damages assessed when additional information or evidence indicates they were not fully justified. The contracting officer shall notify the railroads and the postal data center of his decision for remission. This notification shall be by letter and the postal data center may properly credit the railroads' accounts with the amount of damages and either issue a check or approve the addition of remitted damages to the next bills rendered by the railroads.

§ 550.8 Basic administrative policies.

§ 550.8-1 Appearance before State commissions in railroad discontinuances.

(a) *Testimony.* Railroad companies occasionally request that the Postal Service furnish testimony before State regulatory commissions in proceedings involving petitions for discontinuance of train service. The Postal Service does not authorize the voluntary giving or furnishing of such testimony.

(b) *USPS position.* Since such proceedings often involve controversial issues which are primarily the concern of the particular community or the railroad company, the USPS has maintained a neutral policy. It is the USPS position that if train service is withdrawn, adequate mail transportation by other means will be provided. Railroad companies are afforded full opportunity to supply substitute highway service in lieu of the discontinued train service when justified on the basis of service and cost.

(c) *Authorization.* When a request is received from a railroad company for a postal official to testify before a State commission relative to a change in train service, the company should be advised of the above policy and the request politely refused. If the postal official is subpoenaed to appear, he will report to the appropriate Senior Regional Official and after approval will comply and testify simply with respect to the relevant facts regarding the postal service involved.

(d) *Statistics—railroad mail revenue.* When railroad labor organizations request data on payments to railroads, the request should be referred to Headquarters for approval. When approval is given, the data will be developed from records available and submitted in postal accounting period form. An information copy will be furnished to the mail traffic officer of the railroad involved. Although an effort should be made to supply the best information available, it will not be necessary to attest to the accuracy of the figures.

§ 550.8-2 Association of American Railroads.

(a) *Policy.* The USPS is desirous of improving its railroad mail operations through coordination and cooperation on problems of mutual interest with the railroad industry. This is accomplished at the national level by close liaison between the Postal Service and the Association of American Railroads, in handling matters of national scope. Regional Railroad Subcommittees of the AAR, are established in each region to coordinate and cooperate with contracting officers and their representatives on regional matters of mutual interest.

(b) *Implementation.* Contracting officers and their designated representatives should maintain close liaison and cooperation with the subcommittee to obtain full use of the services provided in settling mutual matters of local or regional nature.

PART 560—PURCHASE AND ADMINISTRATION OF NONCONTRACT TRANSPORTATION—AIR

Sec.	
560.1	Domestic air carrier mail operations authorized under Civil Aeronautics Board regulations.
560.1-1	General requirements.
560.1-2	Air carrier responsibilities.
560.1-3	Reports, records, and forms.
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560.1-5	Flight operations.
560.1-6	Payment to air carriers.
560.1-7	Air service for Alaska.
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560.1-9	Dispatching mail by air.
560.2	International Transportation of mail by air under Civil Aeronautics Board regulations.
560.2-1	General requirements.
560.2-2	Dispatch to other countries.
560.2-3	Handling and routing to exchange offices.
560.2-4	Routing and division.

AUTHORITY: The provisions of this Part 560 issued under 39 U.S.C. 401, 5001, 5002, 5005, 5007, 5401.

§ 560.1 Domestic air carrier mail operations authorized under Civil Aeronautics Board regulations.

§ 560.1-1 General requirements.

When authorized by certificate to transport mail, or when transporting mail pursuant to Part 298, Economic Regulations, Civil Aeronautics Board (CAB), any air carrier shall provide necessary and adequate facilities and service for the transportation of mail and shall transport mail when required by the U.S. Postal Service. Air carriers must be responsive to the exacting transmission requirements of the Postal Service. Mail must be efficiently and expeditiously transported and transferred as ordered on appropriate post office dispatch documents and related coding on pouch labels.

§ 560.1-2 Air carrier responsibilities.

(a) *For transporting mail.* Air carriers must transport and transfer mail as ordered on dispatch documents and related coding on pouch labels.

(b) *For protecting mail.* Air carriers are responsible and accountable for mail in their custody. Mail must not be left exposed on trucks or otherwise subjected to depredation or weather. Carriers who transport mail between point of exchange with the post office and aircraft ramp positions must provide suitable closed vehicles that will (1) prevent mail from being lost or dropped en route and (2) protect mail from depredation and weather. Every precaution must be taken to protect mail from fire. Mailhandlers must be identified by badges or distinguishing caps or clothing or must be prepared to show their airline identification cards on request of postal employees concerned.

(c) *For cooperating with postal inspectors.* All employees of air carriers engaged in transporting mail must cooperate with and assist postal inspectors in their duties.

(d) *For acknowledging correspondence.* Air carriers must answer promptly all correspondence from officials of the Postal Service.

(e) *For preparation and submission of forms and reports.* Air carriers must submit required forms and reports promptly. They must comply with the provisions of forms to insure proper payment for service given.

(f) *For giving priority to airmail.* (1) From each point served, the normal mail load for each trip must be accepted and transported by the carrier.

(2) The normal mail load for each trip is determined, at the option of the air carrier, for each day of the week on (i) basis of the mail tendered to that trip on the same day of the week for the 5 previous weeks or (ii) basis of the weight of mail tendered to the trip on Tuesday, Wednesday, Thursday, and Friday of the preceding week. When a holiday occurs on one of those days, substitute the same day of the second previous week. In either method of computing the average, exclude mail tendered under abnormal conditions. When a carrier elects to use one of the two methods, it must continue to use the selected method in determining normal mail load.

(3) No part of the mail load, either by air boarding or through mail, will be dispatched when a trip requires additional fuel.

(4) Mail in excess of normal mail load must be given priority over all other traffic except confirmed revenue passengers and their baggage. Mail aboard a plane must not be removed to accommodate local boarding passengers or extra fuel.

(5) In loading, unloading, transferring mail to connecting planes, and delivering mail to the designated postal representative, mail must be given preference over all other cargo.

(g) *For providing quarters.* (1) At air stops. When requested to do so by the Postal Service, air carriers must furnish adequate and suitable quarters at air stops for the receipt, dispatch, distribution, and transfer of mail, unless and until otherwise provided by the Postal Service.

(2) *Location of quarters.* Quarters must be located to provide expeditious handling of mail to and from planes and be conveniently accessible to mail carrying vehicles.

(3) *Requests for changes in quarters.* Air carriers or postal officials must request changes in existing quarters or establishing new quarters through the regional office.

(h) *For obtaining routing from postal unit.* (1) *Interrupted transportation.* Any carrier in possession of mail for which he does not have proper routing knowledge will immediately request the necessary information from the local postal unit.

(2) *Overload situations.* When all available mail cannot be transported on an intended flight, the air carrier with the overload situation must promptly inform postal personnel at the airport mail

facility or air stop post office and obtain instructions concerning priority to be given in loading mail that can be accommodated. Anticipate potential overload situations as much in advance of flight time as possible. Off-loading of mail already on board in order to carry mail for destinations of greater postal advantage will not be required if this would entail unreasonable delay in departure of the flight.

(i) *For preparing and submitting schedules*—(1) *Preparation.* Air carriers shall prepare schedules as follows:

(i) Arrange schedules north to south and east to west, with flights listed in chronological order left to right.

(ii) Show on related schedules for each route all restrictions on the transportation of mail.

(2) *Submission.* (i) Air carriers shall submit with proposed new schedules a brief explanatory letter or cover sheet detailing proposed changes.

(ii) Copies of changes to existing schedules must be filed with Headquarters not less than 10 days prior to effective date. For major schedule changes, carriers are requested to give not less than 20 days notice so that the Postal Service may have sufficient time to process these schedule changes. The date of filing will be the date of receipt by Headquarters.

(iii) Air Carriers shall distribute copies of proposed new schedules as follows:

(a) Two copies to Headquarters. Send related ADP cards also to Headquarters.

(b) One copy to the official responsible for air transportation of mail in each region.

(3) *Designation of service.* Air carriers will be notified of flights designated for transportation of mail.

§ 560.1-3 Reports, records, and forms.

(a) *Guidance.* Reports, records, and forms applicable to the movement of mail by air must be complete, accurate, and legible. Responsible regional officials will provide necessary guidance to insure proper and timely submission of required records and reports requested of air carriers and postal units. Handbook M-31 describes the reports and forms used in the movement of mail by air.

(b) *Postmasters' records.* Postmasters operating airport mail facilities and transfer offices or servicing air stops and terminal points must maintain records and submit reports as directed by the region.

(c) *Routing correspondence and reports*—(1) *Local.* Correspondence on mutual local operations is handled directly between the local carrier and local air stop postal unit or field service representatives. Refer matters listed in subparagraph (2) of this paragraph to the region.

(2) *Regional.* Correspondence to and from air carriers on policy, schedules, operations, fining, quarters, irregularities, and changes in dispatch billing procedures and forms; omissions and failures of carriers to perform; division of mail; service requirements; actions in-

volving Civil Aeronautics Board orders and rulings; first-class mail by air; and other matters of regional nature shall be conducted by the responsible regional offices involved. Questions of interregional impact or of Headquarters concern, as specified elsewhere in Postal Service regulations, will be sent to Headquarters.

(d) *Reporting accidents.* (1) Air carriers must make an immediate telegraph or telephone report of any accident resulting in possible damage or loss of mail. The report must be made to the responsible official in the region where the accident occurred. Mail should not be distributed, except to prevent further damage, or until released by a representative of the National Transportation Safety Board or a Federal Aviation Administration official. It must be guarded until a postal official arrives.

(2) When aircraft accidents occur while mail is in transportation channels, the postal unit nearest the scene will, pending receipt of instructions from the postal region, coordinate with appropriate officials; assist with mail recovery operations; and return mail to postal channels as quickly as possible after it is released by investigative authorities.

§ 560.1-4 Penalties and irregularities.

(a) *Authority.* Under title 49, U.S.C., section 1471, air carriers transporting mail must observe all applicable rules and regulations issued by the Postmaster General. A penalty can be imposed against air carriers for failure to comply.

(b) *Purpose of penalties.* Financial penalties are not intended to produce revenue to the Postal Service, but to bring forcibly to the carriers' attention unsatisfactory conditions, and to encourage their correction.

(c) *Handling of irregularities.* The type and description of the most frequent irregularities caused by improper handling of mail by air carriers and reporting procedures are in Handbook M-31. Irregularities applicable to handling of airmail, nonpriority mail, and air taxi operators are included. Irregularities are not confined to this list but may include also any serious infraction, unsatisfactory service, or unusual situations detrimental to the Postal Service.

(d) *Reporting irregularities.* Postal personnel must promptly report all failures, irregularities, and deficiencies that come to their attention. Unit supervisors must promptly review reports to insure that all pertinent information relating to mishandling is included.

(e) *Notification to air carrier.* Local station manager of carriers involved in an irregularity are given a report of the incident within 24 hours after occurrence. For quality control purposes, Headquarters provides each carrier with a monthly consolidated report of irregularities, carrier performance statistics, and a record of fines assessed, if applicable.

§ 560.1-5 Flight operations.

(a) *Scheduled operations*—(1) *Maintaining schedules.* Air carriers transporting mail pursuant to rates prescribed

by the Civil Aeronautics Board will operate designated flights as shown in filed schedules, except when prevented from doing so by weather or other causes beyond their control.

(2) *Off-schedule operations.* If a carrier operates other than by the published schedules, it must notify all on-line postal units as soon as possible, except that advice need not be given of delays of less than 30 minutes.

(b) *Originating section, resumed flights, and delayed operations.* Delayed scheduled trips may operate with available mail from the initial terminal or intermediate points. When a scheduled trip has been canceled at the initial terminal or at some intermediate point, a section may be originated at any intermediate point on the route.

(c) *Commissions of service.* If a scheduled stop will not be made by a trip, the air carrier must immediately notify the local postal representative. If service is to be suspended for 1 week or more, the carrier must immediately notify the appropriate Headquarters and Regional offices and the postal units concerned. The same offices must be notified when service is to be resumed.

(d) *Emergency trips and extra sections.* Emergency trips and extra sections operated by the air carrier may be used for transportation of mail. It may be placed on the plane at an unscheduled stop when offered for dispatch by the local postal representative, except that mail will not be accepted if the air carrier is not authorized to serve that city.

(e) *Holding orders.* In unusual situations, the Postal Service may require the holding of planes at junction points for the connection of mail. If any air carrier desires to take exception to a holding order, a complete statement giving the particulars will be submitted by the air carrier promptly to Headquarters.

§ 560.1-6 Payment to air carriers.

Procedures on preparing and submitting required forms and bills for payment for transporting domestic mail by air are in Handbook M-31, Air Service Instructions. Claims for payment will be forwarded by the air carrier to the Director, Postal Data Center, Transportation Claims Section, Box 1557, Main Post Office Building, Dallas, TX 75299.

§ 560.1-7 Air service for Alaska.

The general policies and procedures outlined in §§ 560.1 and 560.2 apply equally to States-Alaska and intra-Alaska mail moved by air. Policies and procedures that relate solely to intra-Alaska air transportation of mail are outlined in Postal Service Publication 162, Conditions of Service for Air Transport of Intra-Alaska Mail.

§ 560.1-8 Noncontract air taxi service.

(a) *General.* The Economic Regulation of the Civil Aeronautics Board (14 CFR Part 298) describes how non-contract type of air taxi mail service is authorized.

(b) *Notice of intent.* (1) When the Postmaster General determines that air

taxi mail service is required under conditions not applicable to purchase by contract, or that purchase by advertised or negotiated contracts is not practicable, the Postal Service will file a Notice of Intent to use air taxi service with the Civil Aeronautics Board. Regular service will be instituted only when the Postal Service notifies the air taxi operator that the Notice of Intent and Final Mail Rate has become effective.

(2) An effective Notice of Intent or Civil Aeronautics Board exemption for service over an air taxi mail route pertains only to the operator named in the notice or exemption order. The authority of an air taxi operator to transport mail, by exemption or Notice of Intent, may be transferred only with the consent of and action by the Postal Service and the Civil Aeronautics Board.

(c) *Continuity of service.* Air taxi service provided under Notice of Intent procedures may be terminated by either party, without cause, on 30 days' written notice, except that the Postal Service may terminate for cause with no advance notice.

(d) *Penalties for irregularities.* Operators are subject to financial penalties for mishandling mail and for certain operational irregularities, as prescribed in P.S. Publication—Transportation of Mail by Air Taxi Operator Except Those Operating Under Rates Applicable to Scheduled Certificated Air Carriers.

(e) *Cooperating with postal inspectors.* All air taxi operators and their employees engaged in the transportation of mail under this part must cooperate with and assist postal inspectors in performing their duties which may include opening pouches and sacks and examining mail in them.

(f) *Safety.* (1) Air taxi operators must comply with all Federal Aviation Administration safety regulations applicable to air taxi operators involving transportation of passengers, whether or not they are covered by specific instructions from the Postal Service.

(2) Conditions detrimental to a safe operation will be reported by air taxi operators to responsible regional postal officials for consideration and appropriate corrective action.

(3) Operators must comply with specific safety requirements outlined in P.S. Publication 171.

(4) Serious offenses and violation of established postal and Federal Aviation Administration safety requirements may result in mail being withheld from flights until the condition is corrected.

(g) *Performance*—(1) *Standards.* Each operator must provide service and meet performance standards established by the Postal Service.

(2) *Mail handling.* (i) The operator will transport and transfer mail as ordered on dispatch and related coding on pouch labels, or instructions from postal transfer employees. Mishandlings that result in delayed delivery of the mail may subject the operator to a financial penalty.

(ii) Exchange of mail at each airport will be at the time and place authorized by the region.

(3) *Protection.* The operator is responsible and accountable for mail in his custody. The operator assumes responsibility for the mail from the time it is tendered to him for loading until it is unloaded and delivered to post office custody. The following requirements must be observed:

(i) Mail must not be left exposed or otherwise subject to possible theft, rifling, or damage by weather.

(ii) When a damaged pouch is discovered, it will be turned in to the first available postal unit for repouching and redispach.

(4) *Air taxi publication.* Mail loading, unloading, and other specific responsibilities are in publication 171.

§ 560.1-9 Dispatching mail by air.

(a) *Policies and procedures.* The general policies and procedures governing the movement of airmail and nonpriority mail by air are in Handbook M-31.

(b) *Dispatch documents and records.* (1) Postmasters are responsible for the administration and proper preparation of dispatch documents. Strict supervision will be maintained in preparation of these documents to prevent erroneous payment to air carriers.

(2) Mail dispatched by air must be documented and recorded as outlined in Handbook M-31. Appropriate pouch labeling instructions are also included in the handbook.

(3) Handbook M-31 also prescribes in detail the appropriate forms for dispatch and transfer of mail in Alaska, by air taxis, for mail transported under authorized equalization agreements, and for the dispatch of mail by air under emergency conditions.

(c) *Nonpriority mail (NPM) by air*—(1) *Authorization.* The movement of nonpriority mail by air is authorized for transportation by aircraft between designated points on a space-available, non-priority basis.

(2) *Priorities.* Air carriers will transport NPM on a space-available basis to the destination shown on the dispatch record and pouch label. The Civil Aeronautics Board order prescribes that no air carrier shall transport NPM if such transportation impedes the carriage of priority airmail, passengers, passenger baggage, air parcel post, air express, or regular air freight, except that NPM that has been loaded in the aircraft need not be removed to permit carriage of regular air freight received later or received at an intermediate point. The movement of NPM by air shall have priority over the movement of deferred air freight.

§ 560.2 International transportation of mail by air under Civil Aeronautics Board regulations.

§ 560.2-1 General requirements.

The Postal Service may dispatch mail for international transportation by air on air carriers holding a certificate issued by the Civil Aeronautics Board authoriz-

ing them to engage in the air transportation of mail.

§ 560.2-2 Dispatch to other countries.

(a) Only those postal facilities designated as international airmail exchange offices by the responsible office at Headquarters are authorized to make up and dispatch airmail to other countries.

(b) International airmail exchange office procedure will be governed by Handbooks T-1, Instructions for Handling and Reporting International Airmail at Exchange Offices, and M-31; special instructions as may be issued; and the provisions of the Universal Postal Convention.

§ 560.2-3 Handling and routing to exchange office.

Instructions covering the handling and routing to the appropriate U.S. international exchange office will be published and distributed by each region in a Regional International Standpoint, All Classes, Airmail Scheme. The routing instructions and the scheme format will be furnished by Headquarters.

§ 560.2-4 Routing and division.

(a) *Division of airmail.* (1) Airmail for competitive points will be divided equally between competitive flights of U.S. air carriers as nearly as practicable if such flights are scheduled to depart within 4 hours and arrive at destination airport within 2 hours of each other. When one carrier operates multiple competitive flights scheduled to depart within 4 hours and arrive at an airport within 2 hours of a competitive flight or flights of another carrier, the airmail will be divided equally between air carriers rather than between flights. For each application of these principles, the time period of 2 hours at destination will start with the first scheduled arrival of a flight or flights not included in an earlier division. A divided share of airmail will not be subject to further division.

(2) No division will be made when any divided share is less than 125 kilograms. When a divided share is regularly less than 125 kilograms, each of the competing carriers will be given all of the mail on alternate weeks, but no attempt will be made to balance cumulative total volumes.

(3) Mail will be divided only between competing single plane service except when single plane service is not available.

(4) Mail tendered to an air carrier for transportation pursuant to a contract or to a special rate applicable to a particular market and based on volume tenders or some other condition not generally applicable to all markets in which mail is transported will not be included in the foregoing rule regarding division. In any event, mail will not be tendered to air carriers serving common destinations when transportation and handling costs are not equal—except where justified by the public interest.

(5) When a U.S. air carrier initiates a flight of value requested by the Postal Service, all available mail will be tendered to that flight. Subsequent schedules

competitive to the designated flight will not participate in the market without specific instructions issued by Headquarters.

(b) *Instructions for dispatch.* (1) When single plane service is not available, an on-line connection will be given preference over an interline connection. Interline transfers will not be used unless arrival at destination airport will be advanced by at least 6 hours.

(2) When a transfer is required, transfer at a domestic point will be given preference over the transfer at a foreign point.

(3) Interline transfers of civil and military mail in another country are permitted with the consent of the Postal Administration at which the transfer will take place. Special instructions will be issued by Headquarters in these cases.

(4) Except as authorized by Headquarters interline and on-line transfers will not be authorized at a foreign point unless there is a minimum of 2 hours between schedules involving only passenger flights and 3 hours between schedules which involve cargo flights.

(c) *Policy for dispatch of MOM (Military Official Mail).* MOM for competitive points will be divided equally between competitive flights of U.S. air carriers as nearly as practicable if such flights are scheduled to depart within 4 hours and arrive at destination airport within 2 hours of each other. When one carrier operates multiple competitive flights scheduled to depart within 4 hours and arrive at an airport within 2 hours of a competitive flight or flights of another carrier, the MOM will be divided equally between air carriers rather than between flights. For each application of these principles, the time period of 2 hours at destination will start with the first scheduled arrival of a flight or flights not included in an earlier division. A divided share of MOM will not be subject to further division. See paragraph (a) (2) of this section.

(d) *Policy for dispatch of SAM (Space Available Military Mail).* (1) SAM Mail will be transported by U.S. air carriers on a space-available basis after all other revenue traffic has been accommodated.

(2) SAM Mail to competitive points will be tendered on an equitable basis each 24 hours insofar as practicable with regard to available space. See paragraph (a) (2) of this section.

(3) SAM Mail will be dispatched only to single carrier service; interline transfer will not be permitted except as required and when special instructions are issued.

(e) *Air carrier operations.* (1) *Filing of schedules.* Air carriers will submit schedules and changes affecting overseas and international service in sufficient time to assure receipt by Postal Service Headquarters, not later than 10 days prior to the effective date of such schedules. Three copies should be filed with the appropriate office at Headquarters, one with the responsible office in each Region concerned, and three copies with the carriers' claim for mail transporta-

tion charges. Air carriers will also provide copies of schedules to Military Postal Headquarters and to overseas military postal activities from which military mail is dispatched to and from points served.

(2) *Schedule changes.* If a schedule is filed which changes the times for an existing flight or includes additional flights—either of which would become eligible for a divided share of mail—such flights shall not, except on special instructions from Headquarters, be tendered a divided share of mail until such a schedule has been in effect for 30 days.

(3) *Equalization of charges.* When an air carrier elects to equalize its charges on a given segment, routing of mail under such equalization will not be employed by the Postal Service unless all classes of mail moving over the segment are subject to equalization.

PART 570—PURCHASE AND ADMINISTRATION OF NONCONTRACT TRANSPORTATION—SURFACE

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570.1	Domestic surface transportation of mail [Reserved].
570.2	International surface transportation of mail.
570.2-1	General requirements.
570.2-2	American flag preference.
570.2-3	Dispatch to other countries.
570.2-4	Handling and routing to exchange office.

AUTHORITY: The provisions of this Part 570 issued under 39 U.S.C. 401, 5001, 5002, 5005, 5007, 5203, 5206, 5207, 5208, Public Law 91-375 (Chapter 56).

§ 570.1 Domestic surface transportation of mail [Reserved].

§ 570.2 International surface transportation of mail.

§ 570.2-1 General requirements.

The Postal Service may require a common carrier by water to transport mail as freight or express when:

(a) There is no competition on a water route and the rate or compensation asked is excessive; or

(b) No acceptable bid or proposal is received in response to an advertisement for bid or a solicitation for proposals covering service on the route.

§ 570.2-2 American flag preference.

U.S. surface mail for international destinations shall be carried on vessels of U.S. registry except:

(a) When there is no direct service provided by U.S. registry company and satisfactory service cannot be provided by a U.S. registry company on a transshipment basis; or

(b) When rates charged by the U.S. registry company are noncompetitive and in excess of those rates normally paid by the U.S. Postal Service to other U.S. registry companies for the water transportation of mail for comparable distances.

§ 570.2-3 Dispatch to other countries.

(a) Only those post offices designated as international surface exchange offices

by the appropriate office at Headquarters are authorized to make up and dispatch surface mail to other countries.

(b) International exchange office procedures will be governed by Handbook T-4; special instructions as may be issued; and the provisions of the Universal Postal Convention.

§ 570.2-4 Handling and routing to exchange office.

Instructions covering the handling and routing to the appropriate U.S. international exchange office will be published and distributed by each region in a Regional International Standpoint Surface Scheme. The routing instructions and the scheme format will be furnished by Headquarters.

SUBCHAPTER H—PROCUREMENT SYSTEM FOR THE U.S. POSTAL SERVICE

PART 619—PURCHASE OF MAIL TRANSPORTATION AND RELATED SERVICES BY CONTRACT

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AUTHORITY: The provisions of this Part 619 issued under 39 U.S.C. 401, 404, 410, 2008(c), 5001-5605 as enacted by Public Law 91-375.

§ 619.000 Scope of part.

(a) This part sets forth policies and procedures governing the purchase of mail transportation and directly related services by contract. It is limited in scope to the purchase by contract of those services authorized in Chapter V of Title 39, United States Code, as enacted by the Postal Reorganization Act of 1970.

(b) Regulations governing the purchase of mail transportation services from regulated transportation companies at published rates not involving direct contractual relationships appear in the Postal Service Manual, Chapter 5 (39 CFR, Subchapter G) and in applicable regulations of the Civil Aeronautics Board and the Interstate Commerce Commission.

(c) Internal procedures relating to the management of mail transportation will be published from time to time in internal issuances.

Subpart 1—General

§ 619.101 Applicability.

These regulations shall apply to the purchase of mail transportation services pursuant to contract.

§ 619.102 Policy.

§ 619.102-1 Surface transportation.

The U.S. Postal Service will usually purchase domestic and international surface transportation service for mail through contracts. It may also, when its needs require, purchase transportation service at rates prescribed by regulatory agencies.

§ 619.102-2 Air transportation.

The U.S. Postal Service will usually purchase air transportation service for mail at rates prescribed by regulatory agencies. It may also, when its needs require, purchase service by contract subject to the restrictions in Title 39 United States Code, Section 5402.

§ 619.102-3 Emergency transportation.

Where an emergency exists which is adversely affecting mail transportation, purchase of contract service will be accomplished without the formalities of advertising or negotiation. See § 619.106.

§ 619.102-4 Competition.

All contracts, whether by advertising or by negotiation, shall be made on a competitive basis to the maximum practicable extent.

§ 619.102-5 Advertising.

Contracts for the transportation and associated terminal handling of mail shall be made by formal advertising except as provided in § 619.102-6. Purchasing by formal advertising shall be in accordance with detailed requirements and procedures set forth in Subpart 2 of this part.

§ 619.102-6 Negotiation.

If the use of formal advertising is not feasible and practicable, and if prior approval at Headquarters has been granted, contracts for the transportation and associated terminal handling of mail may be negotiated in accordance with the detailed requirements and procedures set forth in Subpart 3 of this part.

§ 619.103 Definitions.

The following definitions are applicable to this part:

§ 619.103-1 Bidder.

Bidder means one who offers to transport the mail for a fixed amount in accordance with the terms of a posted advertisement.

§ 619.103-2 Offerer.

Offerer means one who negotiates for the transportation of mail in accordance with the terms of a request for proposals.

§ 619.103-3 Mail.

"Mail" means United States or foreign transit mail and the containers in which such mail is tendered for transportation, and includes supplies and equipment of the Postal Service.

§ 619.103-4 Advertised contract.

"Advertised contract" means a contract entered into as the result of a printed notice with definite requirements requesting that sealed bids for the handling of mail over a specific route be submitted.

§ 619.103-5 Negotiated contract.

"Negotiated contract" means a contract entered into after negotiations following a request for proposals.

§ 619.103-6 Regulatory agencies.

"Regulatory agencies" means the Interstate Commerce Commission, in the case of railroads, motor carriers, bus companies, express companies, and freight forwarders and the Civil Aeronautics Board, in the case of air carriers.

§ 619.103-7 Air carrier.

"Air carrier" means anyone engaged in air transportation.

§ 619.103-71 Scheduled certified air carrier.

"Scheduled certificated air carrier" means an air carrier operating regular schedules over routes for which it holds a certificate of public convenience and necessity from the Civil Aeronautics Board authorizing the transportation of mail.

§ 619.103-72 Supplemental air carrier.

"Supplemental air carrier" means an air carrier certificated by the Civil Aeronautics Board to engage in passenger and freight charters but not to carry mail or operate regular schedules.

§ 619.103-73 Air taxi operator.

"Air taxi operator" means an uncertificated air carrier limited to the use of small aircraft transporting mail under contract to the Postal Service or pursuant to authority granted, and rates prescribed, by the Civil Aeronautics Board.

§ 619.104 Types of contract service.

Types of service which may be purchased include but are not limited to:

§ 619.104-1 Highway and railway post office contracts.

Require special vehicles equipped for acceptance, receipt, distribution, storage, dispatch, and delivery of mail by postal clerks.

§ 619.104-2 Contract terminal contracts.

Require equipment, facilities, and/or services for the receipt, storage, processing, and dispatch of mail.

§ 619.104-3 Air taxi contracts.

May be advertised or negotiated as deemed appropriate when the Postal

Service determines that schedules of certificated air carriers are not adequate. These contracts may be up to a 4-year term, but must be canceled before expiration date if a new carrier is certificated and provides schedules which are deemed adequate by the Postal Service.

§ 619.104-4 Certificated air carrier contracts.

May be negotiated for transportation of mail by aircraft between any of the points a certificated air carrier is authorized by the regulatory agency to engage in this service. Such contracts shall be for the transportation of at least 750 pounds of mail per flight; and no more than 10 percent of the domestic mail transported under any such contract or 5 percent, based on weight, of the international mail transported under any such contract shall consist of letter mail.

§ 619.104-5 Uncertificated route contracts.

Contracts with air carriers may be made to transport mail by aircraft between points which the regulatory agency has not authorized a certificated air carrier, or combination of air carriers, to engage in the transportation of mail. All classes may be transported in such manner and under such terms and conditions as deemed appropriate by the Postal Service. These contracts may be up to a 4-year term but must be canceled before expiration date if a new air carrier is certificated and inaugurates service.

§ 619.104-6 Area bus contracts.

May be entered into under such terms and conditions as the Postal Service prescribes and without advertising for bids, for the transportation of mail in passenger-carrying motor vehicles, by passenger common carriers, or by motor vehicles over the regular routes on which the carrier is permitted by law to transport passengers.

§ 619.104-7 Experimental contracts.

May be entered into for testing and developing new means or methods of transportation and associated terminal services or new materials handling techniques to determine whether or not the service or equipment being tested will be of any value to the Postal Service. Such contracts may be made for the length of time needed for proper evaluation. While these contracts normally will not exceed 1 year, they may be made for terms not to exceed 4 years if negotiated and 6 years if advertised.

§ 619.104-8 Contracts for the international transportation of mail by ocean vessel.

May be purchased without advertising for bids.

§ 619.104-9 Passenger train contracts.

May be negotiated with rail carriers when the Postal Service determines that passenger train service will furnish satisfactory, economical transportation.

§ 619.104-10 Basic surface transportation contracts.

May be purchased by advertising or, where allowed under § 619.102-6 by negotiation. These may provide for the transportation of mail between cities using nonpassenger motor vehicles, boats, or rail equipment. They may also provide for transportation by motor vehicle within a metropolitan area. Such contracts may include features providing for intermodal and/or container service; for box delivery, collection, and other services similar to that which is furnished by rural carriers; and for transport-related terminal services.

§ 619.105 General contract provisions.

§ 619.105-1 Negotiated surface contract—posting of requests for proposals.

Contracts for domestic surface transportation which are negotiated for the services described in § 619.104, except for area bus service, may be entered into only after a notice has been posted in advance for a period of not less than 15 days in post offices on the post roads to be served, and interested parties have been given sufficient opportunity to offer to negotiate.

§ 619.105-2 Contract cancellation indemnity.

Indemnity shall be paid for contract cancellation, in accordance with contract terms. Highway post office contractors may elect to waive all indemnity in return for a negotiated contract for highway service for the remainder of the contract term not in excess of the prevailing rate in the area.

§ 619.105-3 Contract rate adjustment.

Adjustment of contract rates during the term for changed conditions may be made under the provisions of the contract.

§ 619.105-4 Contract term.

Except where special conditions or use of special equipment warrant, the term of an advertised or negotiated contract may not exceed 4 years. Where the circumstances or equipment required so warrant it, an advertised contract may be made for a term greater than 4 but not exceeding 6 years.

§ 619.105-5 Contract inspection and service start.

Service may not be initiated under any advertised or negotiated contract until 15 days after copies of such contract are available for inspection by having been filed (a) with the Civil Aeronautics Board for air carrier contracts, or the Interstate Commerce Commission for highway or rail contracts; (b) in the office of the contracting officer; (c) in the office of the administrative postal official; and (d) in the case of surface contracts, in post offices along the route to be served at which deposits and/or collections are to be made. This does not apply to emergency contracts, area bus

contracts, or contracts providing for the transportation of mail by surface modes in international service.

§ 619.106 Emergency service contracts.

Emergency service is the transportation of mail and performance of related services under emergency conditions. It shall be used only when time does not permit the purchase of the needed service under normal contractual procedures. Such arrangements shall be terminated at the earliest practicable and feasible date on which regular service can be provided through normal contractual procedures.

§ 619.106-1 Purchase procedures.

Emergency service contracts may be purchased without procedures applicable to regular purchase.

§ 619.106-2 Service requirements.

Each emergency contract shall require service for the duration of the emergency.

§ 619.106-3 Service start.

Service may begin as soon as the contractor and the contracting officer have executed a contract.

§ 619.106-4 Termination.

Each emergency contract shall provide for termination on not less than 24 hours' written notice of the end of the mail transportation emergency.

§ 619.106-5 Contract type.

An emergency contract shall be a fixed-price contract with no provision for adjusting compensation.

§ 619.107 Insurance requirements.

(a) Prior to award of any contract, the successful bidder or offeror will be required to establish that there is an insurance policy in effect covering all motor vehicles to be used under the contract, providing, as a minimum, the following types of coverage:

- (1) Limit for bodily injuries to or death of one person: \$10,000.
- (2) Limit for bodily injuries to or death of all persons injured or killed in any one accident: \$20,000.
- (3) Limit for loss or damage in any one accident to property of others (other than mail): \$5,000.

(b) If greater minimums are required by State or Federal laws, those minimums shall apply in place of the foregoing.

(c) The maintenance of insurance coverage complying with the above restrictions shall be a continuing obligation of the contract, and the lapse or termination of insurance coverage without replacement coverage being obtained shall be grounds for termination of the contractor's right to perform under the contract.

Subpart 2—Advertised Contract Service—General

§ 619.201 General.

The types of service which may be purchased by advertising are described

in § 619.104. Routes are operated under formal contracts, awarded after competitive bidding to the lowest responsible bidder submitting a bid in accordance with the terms of the advertisement. Any service for which the contract term will be more than 4 years must be advertised.

§ 619.202 Establishing and terminating service.

§ 619.202-1 Contract terms.

Advertised contracts are normally made for periods not in excess of 4 years or for the remainder of a term set for the area in which the route operates. Where the Postal Service determines that special conditions or the use of special equipment warrants, contracts may be made for periods not in excess of 6 years.

§ 619.202-2 Extensions and renewals.

§ 619.202-21 Extensions.

Every advertised mail transportation contract shall provide that the contract may be extended for a maximum period of 12 months beyond its normal term on written notice by the contracting officer issued no later than 15 days before the normal expiration date. No extension in excess of 4 months may be made, however, unless Headquarters approval has first been granted.

§ 619.202-22 Renewals.

When the terms of a contract so provide, it may be renewed by agreement of the contractor and the contracting officer at the existing rate for a term no greater than 4 years or, when special conditions or the use of special equipment warrants, no greater than 6 years. The compensation level of the expiring contract shall be applicable to the renewal contract.

§ 619.202-23 Terminations.

§ 619.202-31 For convenience.

If a contract, other than an emergency service contract, is terminated for the convenience of the Postal Service, liquidated damages shall be paid in accordance with the provisions of the terminated contract.

§ 619.202-32 For breach.

If a contract is terminated for a breach, or the contractor is removed, the liability of the contractor shall be as stated in the contract and performance bond.

§ 619.203 Contract inspection and service start.

Service may not be initiated under any advertised contract until 15 days after copies of such contract are available for inspection by having been filed (a) with the Civil Aeronautics Board for air carrier contracts, or the Interstate Commerce Commission for highway or rail contracts; (b) in the office of the contracting officer; (c) in the office of the administrative postal official; and, in the case of surface contracts, (d) in post offices along the route to be served at which deposits and/or collections are to be made. This does not apply to emergency contracts, area bus contracts, or

contracts providing for the transportation of mail by surface modes in international service.

§ 619.204 Advertisements.

§ 619.204-1 Posting requirement.

Each advertisement inviting sealed bids for transporting mail shall be posted in post offices on each route for which service is sought.

§ 619.204-2 Posting period.

Each advertisement shall be posted in time to allow at least 30 days for the submission of bids, unless circumstances described in the advertisement warrant a shorter period for bids.

§ 619.204-3 Contents.

Each advertisement shall contain, as a minimum, the points to be served, the schedules to be operated, estimated mail volume to be transported, and instructions for obtaining the bid package.

§ 619.205 Bid package.

A bid package will be furnished to any person requesting it and will contain all of the contract obligations.

§ 619.206 Eligibility requirements.

§ 619.206-1 Persons ineligible to contract.

(a) All officers and employees of the Postal Service.

(b) Any regular member of the household of an officer or employee of the Postal Service.

(c) A partnership or corporation, if a member of the partnership, or an official of the corporation, is an officer or employee of the Postal Service, or a regular member of the household of an officer or employee of the Postal Service. A contractor who later becomes a regular member of such a household will continue to be an eligible contractor insofar as the present contract term is concerned but will not, while such membership continues, be eligible to obtain additional contracts or renewal contracts.

(d) Any individual who has been convicted of a felony, knowingly associates with felons, or has a record of convictions for serious moving traffic violations may not be considered an eligible contractor unless the Contracting Officer determines that such individual has been rehabilitated and has become a responsible citizen.

§ 619.206-2 Person eligible to contract.

(a) Any individual 21 years of age or older; any partnership where at least one of the partners is 21 years of age or older; and any corporation may hold mail transportation contracts, except that contractors for the transportation of mail by air are subject to the following citizenship requirements.

(b) An individual, if he is at least 21 years of age and is a U.S. citizen.

(c) A partnership, if any partner meets the qualifications of paragraph (a) of this section.

(d) A corporation, if it is organized under the laws of the United States or any political subdivision thereof, and

at least 75 percent of the voting interest is owned by U.S. citizens.

(e) Chapter 5 of the Postal Service Manual (39 CFR, Subchapter G) contains special requirements applying to box delivery routes relating to the residence of contractors for such service.

(f) These provisions are not applicable to Foreign Flag steamship companies.

§ 619.206-3 Other requirements.

§ 619.206-31 Supervision.

No bid for a contract shall be considered unless the bidder submitting it can assure either personal or representative supervision over the operation of the route and can be easily contacted in event of emergencies, to give personal or representative attention to the problem at hand.

§ 619.206-32 Restraint on competition prohibited.

No contract shall be made with any bidder who has entered into or proposed any combination to prevent the making of any bid or proposal for carrying mail or who has agreed, or given or promised any consideration, to induce another person or carrier not to bid for such a contract. The Postal Service may terminate the contract of any contractor so offending and may disqualify such a person or carrier from contracting for transporting mail under future contracts.

§ 619.207 Bond.

§ 619.207-1 General requirement.

Each bid must be accompanied by a bond executed by a qualified surety company. The amount of the bond will be shown in the advertisement.

§ 619.207-2 Exceptions.

A performance bond is not required if the contract:

(a) Requires the mail to be transported by:

(1) An ocean carrier;

(2) An air carrier certificated to transport mail; or

(3) A rail carrier in railway equipment.

(b) Is for emergency service.

(c) Is an area bus contract.

§ 619.207-3 Terms.

If the bid is accepted, and thereafter the contractor fails to fully comply with the terms of, and in the manner required by the contract, the surety shall then be liable for the amount of bond as liquidated damages to be recovered in a civil action: *Provided, however*, That the surety, after written notice of the contractor's breach, may elect, within 5 days, to complete a contract other than one for air service or to be responsible for the added expense of repurchase of service to the end of the term of the breached contract.

§ 619.207-4 Surety company qualifications.

The surety company executing the bond must be included in the current list of surety companies approved by the Treasury Department as acceptable on

Federal bonds and published as Treasury Department Circular No. 570, available upon request from the Assistant Comptroller (Chief Auditor), Bureau of Accounts, U.S. Treasury Department. The agent representing the company must also have authority to underwrite advertised transportation contract bonds on behalf of the company, at the time the bid or proposal is submitted. A bond executed by or through any organization of mail contractors, or any of its officers or employees, will not be recognized as valid.

If a portion of the premium, a commission, or any other thing of value related to the bond will inure to the benefit of any organization of mail contractors, or any of its officers or employees, such a bond will be recognized as valid.

§ 619.208 Bids.

§ 619.208-1 General conditions.

Bids for the transportation of mail shall be sealed. The Postal Service will keep them sealed until the published closing date and hour and then they will be opened and marked in the presence of two or more officers or employees of the Postal Service designated by the contracting officer. Bids may be withdrawn at any time up to the time fixed for their receipt, as stated in the advertisement by serving notice to the Postal Service in writing.

§ 619.208-2 Abstract of bids.

The contracting officer shall complete an abstract of the details of all bids submitted for carrying the mail. He shall preserve the originals of these until disposed of as provided by postal regulations.

§ 619.208-3 Acceptance of bids.

Every sealed bid shall remain available for acceptance for a period of 60 days from the date of opening.

§ 619.208-4 Contract award.

The bid which is accepted as the lowest responsible and responsive shall be the contract form. When it is accepted and signed by the contracting officer it shall constitute the contract for the specified service at the rate stated therein.

§ 619.208-5 Reservations.

The Postal Service reserves the right to:

(a) Reject all bids whenever the public interest requires.

(b) Reject bids from parties who fully or negligently failed to perform a former contract, provided they have been determined to be irresponsible.

§ 619.208-6 Certification.

The contractor must certify that he has not employed any person to solicit or secure the contract by any agreement for a commission, percentage, brokerage, or contingent fee. He must agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

§ 619.208-7 Tie bids.

When the lowest acceptable bids are at the same rate, preference shall be given

to the present contractor if his is one of the bids. Otherwise, the selection shall be made by lot.

§ 619.208-8 Restriction on postmasters and other postal employees.

Postmasters and other postal employees may not:

(a) Act as agents of prospective contractors, with or without compensation.

(b) Divulge the amount of any bid or proposal they have certified.

§ 619.209 Late bids.

Bids received at the office designated in the advertisement for receipt of bids after the time specified for receipt of bids will not be considered unless sent by registered or certified mail and satisfactory evidence is presented to establish that late receipt was due solely to delay in the mail. However, a modification which makes the terms of the otherwise successful bid more favorable to the Postal Service will be considered at any time it is received and may thereafter be accepted.

Subpart 3—Purchase of Negotiated Contract Service—General

§ 619.301 Use of negotiation.

§ 619.301-1 Basic policy.

It is the policy of the Postal Service to purchase transportation services from responsible sources at fair and reasonable rates calculated to result in the lowest ultimate overall cost to the Postal Service for the service to be provided.

§ 619.301-2 General requirements.

Negotiated purchase of transportation shall be on a competitive basis to the maximum practical extent. When a proposed purchase appears to be noncompetitive, the contracting officer is responsible not only for determining that competitive purchasing is not reasonably available, but also for acting whenever possible to avoid the need for subsequent noncompetitive purchases.

§ 619.301-3 Factors to be considered.

During the course of negotiations, attention shall be given to the following and any other appropriate factors:

(a) Comparison of prices quoted and consideration of other prices for similar service.

(b) Comparison of the business reputation, capacity, and responsibility of the respective parties who submit offers.

(c) Consideration of the quality of the service offered including the same or similar service previously furnished.

(d) Consideration of the size of the business concern.

(e) Consideration as to whether the prospective supplier will have an adequate supply of qualified labor.

§ 619.302 Circumstances permitting negotiation.

§ 619.302-1 Impracticable to secure competition by formal advertising.

Contracts for the transportation of mail may be negotiated if the nature of service required makes it impracticable to secure competition by formal ad-

vertising. The following are illustrative of this circumstance:

(a) When the service can be obtained from so few sources as to make advertising impracticable.

(b) When bids have been solicited pursuant to the requirements of Subpart 2 of this part and no responsive bid has been received from a responsible bidder.

(c) When the contemplated procurement is for stevedoring, terminal, warehousing, or switching services, and when either the rates are established by law or regulation, or the rates are so numerous or complex that it is impracticable to set them forth in the specifications of a formal invitation for bids.

(d) When it is impossible to draft for an invitation for bids adequate specifications or any other adequately detailed description of the required property or services.

§ 619.302-2 Experimental, developmental, or research work.

Contracts may be negotiated without formal advertising if for experimental, developmental, or research work, subject to criteria in § 619.102.

§ 619.302-3 Negotiation after advertising.

Contracts may be negotiated without formal advertising if the contracting officer determines that bid prices after advertising therefor are not reasonable or have not been independently arrived at in open competition. No contract shall be negotiated under this subsection, however, unless:

(a) Notification of intention to negotiate and reasonable opportunity to negotiate have been individually given to each responsible bidder which submitted a bid in response to the advertisement for bids (this requirement being in addition to any general requirement for posting notices of intent to negotiate contracts which may be contained elsewhere in these regulations); and

(b) The negotiated rate is the lowest negotiated rate offered by any responsible offeror and does not exceed the lowest bid rate previously submitted by a responsible bidder.

§ 619.303 Negotiation techniques.

§ 619.303-1 Responsibility of contracting officers.

Contracting officers are responsible for performing or having performed all administrative actions necessary for effective contracting. The contracting officer shall exercise reasonable care, skill, and judgment and shall avail himself of all of the organizational tools necessary to accomplish the purpose as, in his discretion, will best serve the interests of the Postal Service.

§ 619.303-2 Preparation for negotiation.

§ 619.303-21 Preliminary data.

Knowledge of the type of service to be purchased is essential to sound pricing. Before soliciting quotations, every contracting officer should develop, where feasible, an estimate of the proper price level or value of the service to be purchased.

§ 619.303-22 Supply sources.

Selection of qualified sources for solicitation of proposals is basic to sound pricing. Proposals should be invited from a sufficient number of competent sources to ensure adequate competition.

§ 619.303-23 Required posting of notices.

In addition to individually soliciting proposals from specific parties, when the service to be negotiated involves transportation by rail or by motor vehicle, a request for proposals must be posted in post offices along the route to be served at least 15 days in advance of the commencement of negotiations. This requirement does not apply to area bus contracts.

§ 619.303-24 Request for proposals.

Requests for proposals shall contain the information necessary to enable a prospective offeror to prepare a quotation properly. Each request shall contain, as a minimum, the time and place of the negotiation meeting, if one is to be held; the points between which service is sought; estimated mail volumes; and a statement that service considerations may outweigh cost and that they may result in award of the contract to an offeror other than the offeror submitting the lowest rate, unless it is known in advance that this condition will not apply. If a price breakdown is required, the request for proposals shall so state. Requests for proposals shall specify a date for submission of proposals. Any extension of time granted to one prospective offeror shall be granted uniformly to all. Each request for proposals shall be released to all prospective offerors at the same time, and if public posting in post offices is required, at the same time as such posting takes place. No offeror shall be given the advantage of advance knowledge that proposals are to be requested.

§ 619.303-25 Negotiation package.

A negotiation package will be furnished to any person requesting it, and will be available after conclusion of the negotiation meeting, if any. The package will contain the general contract requirements.

§ 619.303-3 Type of contract.

The objective of the negotiation process is to negotiate a contract type and rate that includes reasonable contractor risk and provides the contractor with the greatest incentive for effective and economical performance.

§ 619.303-4 Conduct of negotiations.

Evaluation of offerors' or contractors' proposals including price revision proposals by all personnel concerned with the purchase, as well as subsequent negotiations with the offeror or contractor, shall be completed expeditiously. Complete agreement of the parties on all basic issues shall be the objective of the contract negotiations. Oral discussions or written communications shall be conducted with offerors to the extent necessary to resolve uncertainties relating to the rate to be paid and the nature of

the service to be provided. Cost and profit figures of one offeror or contractor shall not be revealed to other offerors or contractors.

§ 619.303-5 Selection of offerors for negotiation and award.

(a) After receipt of initial proposals, written or oral discussions shall be conducted with all responsible offerors who submitted proposals within a competitive range, rate and other factors considered, except that this requirement need not necessarily be applied to:

(1) Purchases in which time considerations will not permit such discussions; or

(2) Purchases in which it can be clearly demonstrated, from the existence of adequate competition or accurate prior cost experience with the type of service involved, that acceptance of the most favorable initial proposal without discussion would result in fair and reasonable rate. In this event, however, the request for proposals must contain a notice to all offerors of the possibility that award may be made without discussion of proposals received, and, hence, that proposals should be submitted initially on the most favorable terms which the offeror can submit to the Postal Service. In any case where there is uncertainty as to the rate or service aspects of any proposals, the contracting officer shall not make award without further exploration and discussion prior to award. Also, when the proposal most advantageous to the Postal Service involves a material departure from the stated requirements, other offerors which submitted proposals shall be given an opportunity to submit new proposals on a service basis which is comparable to that of the most advantageous proposal.

(b) Whenever negotiations are conducted with more than one offeror, no indication shall be given to any offeror of a rate which must be met to obtain further consideration, since such practice constitutes an auction technique, which must be avoided. Likewise, no offeror shall be advised of his relative standing with other offerors as to rates or be furnished information as to the rates offered by other offerors. After receipt of proposals, no information regarding the number or identity of the offerors participating in the negotiations shall be made available to the public or to anyone whose official duties do not require such knowledge. Whenever negotiations are conducted with several offerors, while such negotiations may be conducted successively, all offerors selected to participate in such negotiations shall be offered an equitable opportunity to submit such rate, service, or other revisions in their proposals as may result from the negotiations. All such offerors shall be informed of the specified date (and time if desired) of the closing of negotiations and that any revisions to their proposals should be submitted by that date. In addition, all such offerors shall be informed that after the specified date for the closing of negotiations, no information (other than preaward notice of unacceptable propos-

als) will be furnished to any offeror until award has been made.

(c) When, during negotiations, a substantial change occurs in the Postal Service's requirements or a decision is reached to relax, increase, or otherwise modify the service requirements, such change or modification shall be made in writing as an amendment to the request for proposals, and copies shall be distributed in the same manner as the request for proposals was.

§ 619.303-6 Record of negotiation.

At the conclusion of each negotiation, the contracting officer shall prepare a memorandum setting forth the principal elements of the negotiation, for inclusion in the contract file. The memorandum shall include the following information:

(a) The name, position, and organization of conferees representing the contractor and the Postal Service;

(b) The purpose of the negotiation;

(c) A summary of the contractor's proposals;

(d) The most significant facts or considerations controlling the establishment of the rate; and

(e) Such other facts as are deemed significant.

§ 619.303-7 Award of contract.

§ 619.303-71 Form of contract.

Following selection of the offeror whose offer is judged to be the lowest or whose service proposal will be most advantageous to the Postal Service, he will be requested to execute a contract specifically describing the service to be required and the rate to be paid therefor. Following the offeror's execution of the contract, his compliance with the bond requirements described in § 619.207, and his compliance with such other requirements and regulations of the Postal Service as are appropriate, the contract shall be executed by the contracting officer.

§ 619.303-72 Contractor eligibility.

All offerors must comply with the eligibility requirements stated in § 619.206, and the successful offeror will be required to demonstrate his eligibility and to furnish the certification described in § 619.208-6 at the time of contracting.

§ 619.303-73 Dissemination of information.

Promptly after awarding contract, following negotiation, the contracting officer normally shall give written notice to the offerors of the successful offeror and his price. When the price accepted is not the lowest price offered, those offerors submitting a lower price may be advised of the reasons why their proposals were not accepted.

§ 619.303-8 Contract inspection and service start.

§ 619.303-81 General contract filing requirements.

Service may not be initiated under any negotiated contract until 15 days after copies of such contract are available for inspection by having been filed (a) with the Civil Aeronautics Board for air car-

rier contracts, or the Interstate Commerce Commission for highway or rail contracts; (b) in the office of the contracting officer; (c) in the office of the administrative postal official; and (d) in the case of surface contracts, in post offices along the route to be served at which deposits and/or collections are to be made. This does not apply to emergency contracts, area bus contracts, or contracts providing for the transportation of mail by surface modes in international service.

§ 619.303-82 Special contract filing requirements for certificated air carrier contracts.

In addition, any contract with a certificated air carrier for the transportation of mail by aircraft between any of the points between which the carrier is authorized by the Civil Aeronautics Board to engage in the transportation of mail shall be filed with that agency at least 90 days before its effective date. Unless the Civil Aeronautics Board shall determine otherwise not later than 10 days prior to the effective date of the contract, such contract shall become effective.

§ 619.303-9 Extension and renewal.

Negotiated contracts may not be extended or renewed. They may be renegotiated or advertised.

Subpart 4—Air and Highway Transportation Contract Purchasing

§ 619.401 Purchasing contract service.

§ 619.401-1 Advertisement versus negotiation.

Sections 619.102-5 and 619.102-6 describe the conditions under which advertised and negotiated service is to be used.

§ 619.401-2 References.

§ 619.401-21 General.

See Subpart 1 of this part for procurement regulations applying to all types of contract service.

§ 619.401-22 Advertised service.

See Subpart 2 of this part for regulations governing the procurement of transportation contract service by advertising.

§ 619.401-23 Negotiated service.

See Subpart 2 of this part for regulations governing the procurement of transportation contract service by negotiation.

§ 619.402 Issuance of solicitations.

The Contracting Officer will issue advertisements or requests for proposals (RFP) when:

§ 619.402-1 When issued.

(a) A new route is to be established.

(b) A temporary emergency route is to be placed under an advertised or negotiated contract.

(c) Route conditions have changed materially and agreement with contractor cannot be reached.

(d) A contractor is appointed to a classified postal position. The contractor must waive any indemnity before release.

(e) It is necessary to determine a competitive price due to major changes proposed in the service.

(f) It is necessary to issue advertisements or RFP's for a new contract effective with the beginning of a new contract term for the following reasons:

(1) Contractor does not desire to renew.

(2) Contract is being serviced under a subcontract.

(3) A subcontract was in effect within the last 6 months of a contract term.

(4) The route is in charge of a surety or legal representatives of the estate of a deceased contractor.

(5) Material change is proposed in the route which is not acceptable to the contractor.

(6) Consolidation of routes when all contractors are interested in proposed service.

(7) Contract rate is too high and contractor is not agreeable to a fair and equitable downward adjustment.

§ 619.402-2 Preparation and approval.

The Contracting Officer will prepare Advertisements for Bids and Requests for Proposals on preprinted mats Form 5435, Solicitation for Mail Transportation Contract. The form will be appropriately marked to indicate whether it is an Advertisement for Bids or a Request for Proposals.

§ 619.402-3 Specifications.

§ 619.402-301 General.

(a) Specifications should be designated to permit each person to compete on equal terms. They must be sufficiently definitive to permit preparation and evaluation on a common basis. The minimum requirements must be stated with sufficient clarity and exactness to inform everyone of all factors and permit evaluation of such factors within reasonable limits.

(b) In addition to providing information, the specifications become the basic requirements of the contract after award. This makes it essential that all operating and cost factors are sufficiently detailed to clearly define the contract requirements. Proper specifications will prevent many contract adjustments and provide a sound basis for adjustment when contract changes are made.

§ 619.402-302 Equipment requirements.

Clearly state all equipment requirements including the minimum number of each type required to fulfill the service. List restrictions such as height, length, cube, and lift capacity only when they are applicable.

§ 619.402-303 Ventilation requirements.

Temperature control and air circulation requirements for the protection of baby chicks, bees, and other live mailable matter should be based upon the amount of traffic, distance of haul, and normal temperature of the area traveled. Static ventilators will normally supply the amount of air circulation needed. Temperature control requirements should be expressed only in cases where weather extremes prevail. A statement will be in-

cluded in all advertisements and RFP's where the service is dedicated solely to the transporting of baby chicks, as follows:

Equipment furnished must provide for temperature control and air circulation devices that will maintain a 90° F. temperature inside the baby chick boxes and a fresh air supply of 2 cubic feet per minute, per 100 baby chicks.

§ 619.402-304 Motive power.

Motive power should be described as sufficient to maintain schedule or designated service with maximum load. The number of axles, or drive wheels, should be stated only when power or weight carrying requirements dictate more than minimums.

§ 619.402-305 Weight requirements.

In States where license purchase is selective by weight carrying designations, the advertisement or RFP should contain a statement that equipment must be licensed to the maximum weight carrying capacity permitted by law, or to a specified figure.

§ 619.402-306 Time and scheduling requirements.

Operating schedules and service requirements must be listed in detail to provide all interested parties with all time elements of labor requirements. Clearly set out time designations for reporting when practicable, or equipment spotting times where applicable. Schedules should be based upon measured length of route, speed restrictions, traffic conditions, and variable load factors. Trial runs should be made when possible. Footnote any schedule requiring an above average miles per hour running time or flight time. Do not show estimated annual mileage.

§ 619.402-307 Loading and unloading requirements.

Loading and unloading requirements should clearly state who will furnish the labor. Designate assistance by postal employee or contract drivers at en route points where volume dictates arrival and departure times in the schedule plate. All terminal service requirements should be coordinated with installations affected before specifications are posted.

§ 619.402-308 Nonannual rate solicitations.

If bids or proposals are not to be submitted at annual rates, include in the advertisement or RFP a condition as follows:

Bids or proposals submitted in response to this advertisement or request for proposals must be at trip, mileage, piece, or other unit rate.

When a round-trip is desired, so state.

§ 619.402-309 Air taxi mileage rate.

Advertisements or RFP's for air taxi service requesting bids or proposals at a mileage rate should specify that payment will be made based on published great circle mileage.

§ 619.402-310 Route identification.

On all advertisements or RFP's identify by note at bottom, the present route or

routes. If new service, so state. Do not show the previous rate of pay.

§ 619.402-311 Box delivery and collection service.

Box delivery and collection service requirements should be stated as follows:

(a) When no box service is to be required, use the statement: Contractor will not be required to deliver and collect mail along the route as specified in section 4(b) of the Contract General Provisions.

(b) When only delivery and collection of ordinary mail is desired, use the statement: Contractor will be required to deliver and collect mail along the route as provided in section 4(b)(1) of the Contract General Provisions.

(c) When it is desired that all services outlined in section 4(b) of the Contract General Provisions be afforded patrons, use the statement: Contractor will be required to perform box service to patrons and perform all other related duties as specified in section 4(b) of the Contract General Provisions.

(d) Advertisements for box delivery and collection service shall set forth the counties in which a bidder must live to be eligible.

§ 619.402-312 Shuttle service requirements.

On routes where it is contemplated that contractors' equipment may be moved to or from a loading dock or within a facility maneuvering area by Postal Service-owned and operated or contract-owned and operated tractors, the following paragraphs should be included in the advertisements:

Contractors' equipment may be moved to or from a loading dock by Postal Service-owned and operated or contract-owned and operated tractor; and the following apply:

If the equipment is in the custody of the owning contractor when the damage occurs, and such damage resulted from the act or omission of an officer or employee of the Postal Service, the Postal Service shall be liable for such damage, excluding fair wear and tear, when a claim is properly documented and submitted to the contracting officer.

If the equipment owned by a contractor is damaged, while in the custody of the Postal Service or a contractor other than the owner, except for contractors providing services to other contractors under an interline agreement, and is being employed in connection with a mail transportation contract, the Postal Service shall be liable for such damage, excluding fair wear and tear, when a claim is properly documented and submitted to the contracting officer, unless the Postal Service determines that such damage was caused solely by the act of an independent third party.

§ 619.402-313 Numbering.

All advertisements and RFP's will be serially numbered. Each region will assign and maintain regional listings. New numerical listings will commence January 1 of each calendar year. The first number will indicate the proper serial number of the advertisement or RFP and the second number, the year of issuance. Example: Advertisement No. 15-70 is the 15th advertisement of the 1970 calendar year.

§ 619.402-314 Administrative official.

Place in each advertisement or RFP the title and the address of the Postal Service installation's head who will provide for the local administration and supervision of the route and who will be known as the administrative official.

§ 619.402-315 Attachments.

As a last condition of each advertisement or RFP, add the following:

Attached as part of this advertisement (or request for proposals) are the following forms: (List the forms showing number, edition date, and title).

§ 619.402-4 Posting period.

Dates for submitting bids and proposals and beginning service depend on individual requirements. All advertisements and RFP's for highway service, except area bus service, must be posted at least 30 days. If impracticable to post for that length of time, they must contain an explanatory note why 30 days' posting is not possible. Short-term advertisement and RFP's must be held to the absolute minimum and must be posted for at least 15 days, except for emergency service.

§ 619.402-5 Advertised contract period—current and new terms.

Advertisements for service to begin the last year of a contract period will generally be for 4 years and extended at the end of this period to cause the contract to expire at the same time as other contracts in the State. In other cases, the original contract period will be from the desired effective date to the end of the contract period for the State involved. However, if service under the contract will require a large investment for equipment a full 4-year contract would be advisable and proper with renewal at the end of the contract term for a period necessary to cause the contract to expire at the same time as other contracts for the State involved. Where the contracting officer determines that special conditions or the use of special equipment warrants contracts which are advertised may be made for periods not in excess of 6 years. Contracts for the transportation of mail by air may not exceed 4 years in duration.

§ 619.402-6 Distribution.

After the advertisement or RFP has been approved, the contracting officer will reproduce sufficient copies, and after attaching any attachments referred to in the advertisement or RFP to each, will distribute as follows:

(a) Sufficient copies to the postmaster at each office named in the advertisement or RFP to give to each potential bidder or offeror. If sending an advertisement for advertised contract service, also send a sufficient supply of Form 5468-5468A/2751B, Contract Service Bid and Bond Worksheet, to make certain that enough copies are available for all prospective bidders. Form 5472, Advertisement for Proposals to Carry Mail, will be used to transmit copies of the advertisements for advertised contract service to the postmasters listed in the

advertisement. If sending RFP, the contracting officer will prepare a cover letter to send the request to postmasters.

(b) One copy to custodian along with Form 5473, Abstract of Proposals Received, completed except for name, rate, and signature of opening committee. Form 5473 will be prepared with a typewriter. This applies only to advertisements, not RFP's.

(c) One copy to the contractor or subcontractor whose route is being advertised.

(d) One copy to each surety company actively engaged in this class of bonding.

(e) Copies of advertisements or RFP's will not be sent to individuals or companies or agents of bonding companies except upon request for a specific advertisement or RFP. The contracting officer will maintain a list of individuals and companies who have indicated an interest in bidding or submitting proposals to negotiate. He will use Form 5436, Inquiry of Prospective Bidder, to determine the type of service these individuals and companies are interested in. In lieu of sending them a complete bid package, the contracting officer will prepare a form letter briefly describing the service being advertised to send to interested individuals, companies, or agents of bonding companies. The letter should state that if they are interested in submitting a bid or proposal, they should obtain a bid package from the administrative postal official.

§ 619.402-7 Withdrawal.

After issuance and distribution of the advertisement and before closing date for receipt of bids or, in the case of negotiated contracts, before the commencement of negotiations, the contracting officer may withdraw the advertisement or RFP as follows:

(a) Instruct postmaster to whom the advertisement or RFP was mailed for posting to withdraw it from public notice and return it.

(b) Send copies of withdrawal notice to postmasters to whom the advertisement or RFP was mailed, with instructions that a copy be sent to each person who was furnished a copy of the original advertisement or RFP.

(c) Send a copy of the withdrawal notice as information to all other persons to whom the advertisement or RFP was distributed.

(d) Instruct the bid custodian to return any bids or proposals received, unopened, with a copy of the withdrawal notice.

§ 619.402-8 Corrections and amendments.

There will be no corrections or amendments to advertisements or RFP's which have been posted. If any correction or amendment is needed, the advertisement or RFP will be withdrawn and a new one will be prepared with the desired corrections or amendments.

§ 619.403 Contracting requirements.

§ 619.403-1 Bond.

§ 619.403-11 Advertised contracts.

Each bid must be accompanied by a bond executed by a qualified surety com-

pany. The obligation under the bond is that if the bid is accepted by the Postal Service the accepted bidder will perform service according to the terms of the advertisement and contract. If the accepted bidder fails to perform service as required, his surety is liable for the amount of the bond. If the accepted bidder fails to perform the required service, the surety may, upon receipt of notice of the failure, perform the service in lieu of paying damages to the Postal Service, except that this shall not apply to air taxi contracts.

§ 619.403-12 Negotiated contracts.

At the time of his execution of the contract, the accepted offeror will be required to furnish a bond of the nature described above.

§ 619.403-2 Substitution of surety—advertised contracts.

After submission of the bid, the bidder cannot change his surety, except that he may submit a new bid to replace the original, provided it is received by the contracting officer prior to expiration of time specified or receipt of bids.

§ 619.403-3 Amount of bond required.

The amount of bond will be shown on each advertisement or RFP. It will be based on the actual present pay if a bid or proposal close to the present pay is expected, and on the estimated cost of the route if a bid or proposal higher than present pay is expected or if a new route is being established, as shown in the following chart:

Estimated or present pay	Bond
\$0-\$866	\$600
\$867-\$1,785	1,200
\$1,786-\$2,642	1,800
\$2,643-\$3,769	2,400
\$3,770-\$4,692	3,000
\$4,693-\$6,083	3,600
\$6,084-\$7,083	4,200
\$7,084-\$8,083	4,800
\$8,084-\$9,083	5,400
\$9,084-\$11,000	6,000
\$11,001-\$14,000	8,000
\$14,001-\$20,000	10,000
\$20,001-\$30,000	15,000
\$30,001-\$40,000	20,000
\$40,001-\$50,000	25,000
\$50,001-\$60,000	30,000
\$60,001-\$70,000	35,000
\$70,001-\$80,000	40,000
\$80,001-\$90,000	45,000
\$90,001-\$100,000	50,000
\$100,001-\$125,000	60,000
\$125,001-\$150,000	70,000
\$150,001-\$175,000	80,000
\$175,001-\$200,000	90,000
Over \$200,000	100,000

§ 619.403-4 Eligibility to bid or submit proposals.

In addition to the requirements of § 619.206, no one may hold a contract for air taxi service unless he holds a valid certificate issued by the Federal Aviation Administration with appropriate operations specifications authorizing categories, classes, and conditions for Airplane Multiengine, Land VFR and IFR Day and Night, Passengers and Cargo (Auto pilot where applicable). The effective date of the Operations Specifications must show an authorization period of 6 months or longer.

§ 619.404 Processing bids.

§ 619.404-1 Receipt and protection prior to opening.

The contracting officer will designate two officers of the Postal Service who perform little or no travel to receive and maintain custody of bids prior to their release to the opening committee. Neither of them will be from an organizational unit immediately responsible for the purchase of air or highway transportation service. A suitable container with key or combination lock will be used to store the bids. Access to the container will be restricted to the two custodians, one of whom will:

(a) Note the time of receipt and the advertisement expiration date on the envelope containing bids. If envelopes are received damaged or open, seal them and mark damaged or open when received, as appropriate. If tampering is indicated, submit the facts with the envelope to the postal inspector in charge. When envelopes are not properly endorsed, open them and determine the route, re-seal, and complete the envelope endorsement. Place all envelopes in the locked container.

(b) Prevent unauthorized opening of envelopes endorsed as containing bids and the disclosure of bids while in their custody.

(c) Not accept bids presented in person unless sealed in an envelope properly endorsed; not examine such bids while the advertisement is pending.

(d) When advertisement is withdrawn return any bids received, unopened, with a copy of the withdrawal notice.

(e) When a written withdrawal notice is received from a bidder who has submitted a bid more than 24 hours before the closing date, return the bid, unopened, and retain the withdrawal notice with the remaining bids. Accept any substitute bid presented by the withdrawer before the closing date and treat it as any other bid received.

(f) Release bids only to the opening committee, on the date of opening. At the time they are given to the opening committee, also give the properly completed Form 5473.

§ 619.404-2 Opening and marking.

§ 619.404-21 Committee.

The Regional Postmaster General or Senior Assistant Postmaster General, as appropriate, will appoint an opening committee consisting of three or more officers, at least one of whom will be from the office of the contracting officer. However, no members will be from an organizational unit immediately responsible for the purchase of air or highway transportation contract service. Sufficient committee members will be appointed to assure the presence of the minimum number to provide timely opening of bids. Two or more members, no more than one of whom will be from the office of the contracting officer, will, after closing time, conduct the opening as follows:

§ 619.404-211 Bids received within the time stated in advertisement.

Obtain the bids from the custodian, open them and place the date of opening

in the upper right corner of each bid. The member opening the bids and a witnessing member will initial the upper right corner of each bid. Destroy the envelopes.

§ 619.404-212 Bids (and modifications) received after expiration of the time stated in the advertisement.

(a) Determine whether bids will be considered as being on time or after time. Bids received after the specified time limit will not be considered unless they are received before award is made and they are sent by registered mail, or by certified mail for which an officially dated post office stamp (postmarked) on the original receipt has been obtained. The opening committee must determine that late receipt was due solely to delay in the mail. However, a modification which makes the terms of the otherwise successful bid more favorable to the Postal Service will be considered at any time it is received and may thereafter be accepted.

(b) The time of mailing late bids by registered or certified mail shall be deemed to be the last minute of the date shown in the postmark on the registered mail receipt or registered mail wrapper or on the receipt for certified mail unless the evidence is furnished from the post office station of mailing which establishes an earlier time. In the case of certified mail, the only acceptable evidence is:

(1) Where the receipt for certified mail identifies the post office station of mailing, evidence furnished by the bidder submitting the bid which establishes that the business day of that station ended at an earlier time, in which case the time of mailing shall be deemed to be the last minute of the business day of that station; or

(2) Any entry in ink on the receipt for certified mail showing the time of mailing and the initials of the postal employee receiving the item and making the entry, with appropriate written verification of such entry from the post office station of mailing, in which case the time of mailing shall be the time shown in the entry. If the postmark on the original receipt for certified mail does not show date, the bid shall not be considered.

(c) Open and mark the envelope containing bids determined as being on time with the date and time it normally should have arrived before the closing date and attach it to the bid. Mark bid with the adjusted arrival date, initial it in the upper right corner, and place it with the bids received on time.

(d) Mark bids determined as being after time in the upper right corner with the actual date and time of receipt and the initials of the opening and witnessing members. Attach the envelope to the aftertime bid and retain it separately from the ontime bids.

§ 619.404-213 Completion of abstract procedure.

Enter with typewriter the names of bidders submitting bids and the bid rates on the Form 5473 furnished by the custodian, arranged from the lowest to the

highest. In the case of air taxi mail service bids, also enter bidder's Federal Aviation Administration certificate number, name, and title of person signing bid, together with complete name, model, and any modification of aircraft proposed for use on route. For example: Cessna, Model 402A (Supercharged). List aftertime bids at the bottom of the abstract. Bids received after the initial opening will be listed on a separate abstract. Members of the committee conducting the opening will sign the abstract listing and turn over all bids and abstract to the contracting officer for processing.

§ 619.404-22 Distribution of abstracts.

(a) The contracting officer will reproduce sufficient copies of the abstract for distribution as follows:

(1) Each bidder. (Mail immediately.)

(2) Surety companies involved. (Mail immediately.)

(3) Administrative official—mail after bid has been accepted.

(4) Permanent record. After award has been made, place the route number on a copy, indicate thereon to whom award was made and file with contract.

(5) Postal data center—mail signed original after bid has been accepted.

(b) No notations will be made on the Form 5473 mailed to the bidders and surety companies as set forth in (1) and (2). When low bid is rejected, a letter will be addressed to the rejected bidder giving reasons for rejection with a copy to the surety company that furnished bond. Also send copy to the postal data center with Form 5422, Notice of Acceptance—Mail Route Proposal.

§ 619.404-23 Identical bids.

If identical bids in excess of \$10,000 per annum are received under any advertisement, even though they may not be the lowest received, the contracting officer will prepare Form DJ-1500, Identical Bid Report for Procurement, in accordance with the instructions furnished with the form. The report will be prepared promptly after action is taken to award or not to award. Do not suspend award or reject bids for failure to furnish information concerning employer identification or parent company relationship. The original and two copies of the report will be forwarded to the Assistant General Counsel, Transportation Division, Law Department, together with a copy of the advertisement and a copy of the abstract of bids received.

§ 619.404-24 Public attendance at openings.

The public may attend and observe opening procedures.

§ 619.404-3 Unaccepted bids.

Unaccepted bids will be filed chronologically and destroyed after 3 years.

§ 619.405 Processing proposals to negotiate.

Proposals to negotiate will be treated in accordance with the provisions of Subpart 3 of this part, and in conformity with pertinent parts of the Request for Proposals.

§ 619.406 Award of contract—advertised contract service.

§ 619.406-1 Requirements.

§ 619.406-11 To lowest responsible bidder.

All advertised contracts must be in the name of U.S. Postal Service and must be awarded to the lowest responsible and responsive bidder posting the required performance bond.

§ 619.406-12 Delayed award.

In executing the bid form, the bidder and the surety agree that the bid may be accepted within 60 days from the opening date of the bid without further notice.

§ 619.406-13 Tie bids.

When the lowest acceptable bids are at the same rate, preference will be given to the present contractor, if his is one of the tie bids. Otherwise, the selection will be made by lot.

§ 619.406-14 Aftertime bid.

When no other bid is received within the time limit stated in the advertisement, consider an aftertime bid.

§ 619.406-15 Request for withdrawal of bid.

The obligation under bond is that the bidder will perform the service required in the advertisement if the bid is accepted. The contracting officer will not permit withdrawal of a bid except when the advertisement is withdrawn.

§ 619.406-2 Examination of bid and bond.

The contracting officer must examine the bid and bond as follows:

§ 619.406-21 For listing and intent.

Determine if bids are correctly recorded from the lowest to the highest and are for the advertised service. If it covers only part of the service or is for different service, ask bidder's intent. When it is intended for the advertised service, obtain bidder's and sureties' certificate to that effect and attach it to the proposal. If not intended for the advertised service, note on the abstract and remove the bid from competition.

§ 619.406-22 For sufficiency of bond.

Amount of the bond stated on the bid form must not be less than the amount stated in advertisement. Otherwise, the bid is not acceptable.

§ 619.406-23 For authority to execute bond.

(a) If the bond is by a company not shown on the list of acceptable sureties companies approved by the Treasury Department, verify whether the company has been or is approved.

(b) Surety companies which are actively engaged in this type of business normally will furnish a list of officials designated to execute bonds and will issue necessary amendments. If a bond is executed by an agent not on the list, contact the surety company involved and obtain written proof of his authority. If the agent did not have authority to execute the bond at the time of execution, reject the bid.

cut the bond at the time of execution, reject the bid.

§ 619.406-24 For legal residence of bidder.

Box delivery routes only.

§ 619.406-25 For eligibility of bidder.

§ 619.406-26 For equal employment opportunity representations.

Determine whether the bidder has furnished information called for under this heading.

§ 619.406-3 Correction of defects in bids.

(a) The contracting officer must return bids as follows for correction of defects:

(1) To the postal official executing the certificate for name of bidder and signatures of witnesses.

(2) To the postmaster at address of the bidder for execution of the certificate as to bidder (or an explanation as to why he cannot in good conscience do so). Before the original bid is sent to a postmaster, a copy should be made and retained in case the original is lost. Instruct the postmasters that all corrections of defects should be made in his presence or in the presence of a specifically designated postal officer or employee. The form will not leave the custody of a postal representative.

(b) If a bid has an unexplained alteration, the contracting officer must obtain a certificate of bidder and surety that the alteration was made before the bond was signed and sealed.

(c) If payments at the rate of the bid would amount to more than \$10,000 during the term of the contract and the bidder failed to furnish the information called for in the equal employment opportunity representations, ask him to do so, explaining that his refusal to furnish this information and to file any required compliance reports will make it necessary to reject the bid.

(d) If bidder failed to show identifying number (Social Security No. or Employer Identification No.) on bid, obtain this number before accepting the bid.

§ 619.406-4 Rejection of bids.

§ 619.406-41 Individual bids.

The contracting officer will reject bids under the following circumstances:

(a) Insufficient amount of bond shown on the bid.

(b) Surety company not approved.

(c) Agent of surety company not qualified.

(d) Failure of bidder on box delivery routes to meet legal residence requirements.

(e) Bidder not eligible.

(f) Failure of bidder or bidders to sign in the space specifically designated for such signature.

(g) Failure of surety company agent to sign.

(h) Failure of bidder to have the bond executed on a form containing all required conditions.

(i) Bid signed by an agent for an individual bidder and not accompanied with evidence of authority of the agent to sign for the bidder.

§ 619.407 Award of contract—negotiated contract service.

§ 619.407-1 Execution of proposal.

(a) When an offeror has arrived at a firm offer to be made to perform the service specified in the RFP, either before or after negotiating sessions, he will complete a Form 5468. The form will reflect the price, which the offeror has offered to perform the specified service for. The offeror will attach a complete description of the service offered to the Form 5468 covering it. In the event that the offeror desires to offer alternative types of service for different prices, he shall complete a Form 5468 for each such type of service. No Form 5468 submitted by an offeror shall be considered responsive unless a bond of the nature described in § 619.401-1 is furnished.

(b) An offeror may withdraw any previously submitted Form 5468 and may submit new Form 5468s at any time prior to the time set in the RFP for termination of negotiations.

(c) Form 5468-A will not be completed for negotiated contracts. If a completed Form 5468-A is erroneously submitted, it will immediately be destroyed and the contents of it shall under no circumstances be disclosed to anyone.

§ 619.407-2 Acceptance of proposal.

(a) When the contracting officer selects the most advantageous offer, he shall examine the bid and bond as outlined in § 619.406-2. If the Form 5468 is defectively completed, it shall be returned to the offeror for correction. Offers determined to be the most advantageous shall not thereafter be rejected unless it is determined that the offeror is not eligible (see § 619.403-4); that he is not responsible; that he willfully or negligently failed to perform a former contract; or that rejection is otherwise in the public interest. In the case of such rejection, the file must be fully documented so as to clearly and convincingly establish the grounds for rejection.

(b) If the most advantageous offer calls for the use of motor vehicles, the successful offeror must establish that there is in effect an insurance policy conforming to Postal Service standards prior to being awarded the contract. Failure to do so is grounds for rejection of his offer.

§ 619.407-3 File documentation.

In addition to the file documents otherwise required, all Form 5468 offers on file at the time specified in the RFP for the termination of negotiations shall be included in the contract files. Also, documentation required in Subpart 3 of this part will be included. Where the contract is not awarded to the offeror offering the lowest price, a memorandum specifying the circumstances leading to the award, signed by the contracting officer, will also be included.

§ 619.408 Contract copy distribution.

When the contracting officer makes the decision to accept a bid or proposal, he will sign the Form 5468 in the appropriate space for his acceptance in the

presence of two witnesses who will also sign in the appropriate spaces; and after detaching Form 5468-A, Contract Service—Worksheet, he will have sufficient copies of Form 5468 reproduced. He will then prepare Form 5422, Notice of Acceptance—Mail Route Proposal, and after assigning a serial number to it, will make distribution of copies of the bid and Form 5422 as follows:

(a) The original bid or proposal and a copy of Form 5422 will be sent to the postal data center.

(b) A copy of Form 5422 will be sent to the surety company executing accepted bidder's or offeror's bond.

(c) Attach a copy of the advertisement or RFP (Form 5435), a copy of the Contract General Provisions (Form 5411-A) for highway routes and Form 27 for air taxi routes, a copy of POD Notice 82, and all special addendums and attachments to the bid or offer, thereby forming the contract package. Send a copy of Form 5422 and a copy of the contracting package to:

(1) The accepted bidder or offeror (Original of Form 5422). Also, include copy of Department of Labor pamphlet entitled How the Fair Labor Standards Act and the McNamara-O'Hara Service Contract Act Apply to Contract Mail Haulers and a copy of Department of Labor Form SC-1 (combination letter and poster).

(2) If payments under the contract are to exceed \$10,000 during the term for which the contract is awarded, complete appropriate portion of Form 5424, EEO Posters and Compliance Report Forms, and send to contractor with four copies of poster entitled Equal Employment Opportunity.

(3) If payment under the contract amount to \$50,000 or more during the term thereof, complete appropriate portion of Form 5424 and send to contractor two copies of SF 100, Equal Employment Opportunity—Employer Information Report EEO-1.

(4) Administrative Official: Also call his attention to the requirement that contractor employees be screened.

(5) Send two photocopies of the front of the signed original Form 5468 attached to two copies of the advertisement or RFP to the Interstate Commerce Commission if this is a contract for highway transportation, and the Civil Aeronautics Board if this is a contract for air transportation. In addition, if this is a negotiated contract, a copy of the description of service attached to the Form 5468 by the successful offeror will be involved.

(6) If this is a contract for highway transportation, send one copy, for posting, to each post office served by the route at which deposits and/or collections are to be made.

(7) File: After attaching a copy of the abstract (Form 5473), marked as required, file numerically by State. Form 5468A/2751B will also be retained by the contracting officer in this file, except that in the case of negotiated contracts these forms will not be used.

(d) Distribution of the copies in paragraphs (3) and (4) of this section must be made so they will be available for inspection in the offices involved at least 15 days prior to the effective date of the contract.

(e) When a bid is to be accepted from a corporation, the contracting officer must require the proposed accepted bidder to furnish evidence in duplicate of the signing official's authority to sign the bid before the bid is accepted. Such evidence may consist of:

(1) Certified copies of the proceedings pursuant to which the individual was elected or appointed officer or agent.

(2) Part of the corporation's bylaws showing authority of officer or agent.

(3) Certified copies of board of directors' or stockholders' resolution conferring such authority.

A copy of the evidence will be sent to the postal data center and the other copy will be retained by the contracting officer in his contract file.

§ 619.409 Renewal of advertised contracts.

§ 619.409-1 Renewal authority.

Advertised contracts may be renewed for additional terms, without advertising, at the existing rate of compensation prevailing at the end of the contract term by mutual agreement between the holder and the Postal Service, for a period not in excess of 4 years, except where the Postal Service determines that special conditions or use of special equipment warrants, contracts may be renewed for a period not in excess of 6 years.

§ 619.409-2 Renewal surveys.

All highway and air taxi contract routes will be reviewed periodically by the contracting officer to determine whether service requirements have changed. Routes operated under contracts expiring in a given year will be surveyed during the fall of the year preceding the expiration.

§ 619.409-3 Renewal documentation.

All actions taken regarding renewals will be thoroughly documented whether or not a contract is renewed. Form 5427, Contract Route Review, will be prepared in each case to assist in the documentation. The form will be completed and signed by the contracting officer. If it is determined that the information on Form 5406 is necessary to fully document the renewal decision, the information should be requested from the administrative official.

§ 619.409-4 Selection.

The contracting officer will determine the contracts to be renewed, based on information on Forms 2750, 5406, 5407, 5427, 5485, and other data developed in connection with renewal. Form 5403, Inquiry Concerning Renewal of Contract Route, will be used to determine whether a contractor desires renewal of contract. All negotiations with contractors will be thoroughly documented whether or not the contract is renewed. The following contracts will not be renewed:

(a) Emergency.

(b) Those operated by a surety or by legal representative of a deceased contractor that have not been sublet.

(c) Those operated by subcontractors.

(d) Those in which the contracting officer has permitted the contractor to terminate a subcontract effective during the last 6 months of the contract term and resume charge of service.

(e) Those that have been or will be readvertised for the new term.

§ 619.409-5 Preparation and execution.

The contracting officer will:

(a) Address Form 5401, Instructions for Execution of Form 5410, Contract Route Renewal Bond and Contract, to the contractor dated 10 days in advance. The bond on renewal contract should correspond to current contract rate, or the contract rate to be effective at the beginning of the renewal contract term if a change is known. Send a tissue copy of Form 5401 to any surety companies that have specifically requested this information, and hold the original until date shown on it.

(b) Prepare Form 5410, original and sufficient copies, by filling out items 1a, 2, 3, and 4, attaching a copy of Form 5411-A, Highway or Water Contract General Provisions, in the case of highway contracts; a copy of Form 2750 in the case of air taxi contracts; and a copy of PS Notice 82, Additional General Provisions for Service Contracts, to each and send to the contractor with Form 5401.

(c) After Form 5410 is returned by the contractor, determine whether it has been properly executed. Check for residence requirements (box delivery routes only). When the contract has been properly executed by the contractor, surety, and contracting officer, prepare Form 5494, Notice of Renewal—Contract Route, serially number Form 5494, attach a copy of Form 5410, 5411-A, or 2750, and Notice 82, thereby forming the renewal contract package, and mail immediately to the following:

(1) The contractor.

(2) Postal data center with original copy of Form 5410.

(3) Administrative official.

(4) The Interstate Commerce Commission if this is a contract of surface transportation and the Civil Aeronautics Board if this is a contract for air transportation. (Two copies.)

(5) Surety on contract.

(6) If this is a renewal contract for highway transportation, send one copy, for posting, to each post office served by the route at which deposits and/or collections are to be made.

(7) File: Distribution of the copies in subparagraphs (3), (4), (5), and (6) of this paragraph must be made so they will be available for inspection in the offices involved at least 15 days prior to the effective date of the renewal contract.

(d) Follow procedures outlined in § 619.408(c)(1).

§ 619.409-6 Restriction on subcontracts.

§ 619.409-61 Nonrenewable.

A contract may be entered into with a subcontractor only after it has been ad-

vertised or negotiated. Contracts operated by subcontractors may not be renewed. They must be readvertised or negotiated if service is to be continued.

§ 619.409-62 Termination of subcontract.

If the contracting officer permits the contractor to terminate a subcontract within 6 months of the expiration of the contract term, the contracting officer will readvertise or negotiate the service.

§ 619.410 Extension of advertised contracts.

§ 619.410-1 Extension authority.

Contracts contain a provision under which they may be continued in force beyond their stated expiration date for a period not exceeding 1 year.

§ 619.410-2 Policy.

A contract should not be continued beyond its expiration date if such action would impose a hardship on the contractor.

§ 619.410-3 Orders.

Orders extending term of contract will be issued on Form 5440-C in the case of highway contracts and Form 2752 in the case of air taxi contracts, as follows:

(a) When termination date is known, issue order to read:

Contract for service on this route is continued in force to _____ (date)

(b) If a contract is extended, and is discontinued before expiration of the period specified in the order authorizing the extension, the contractor will be allowed indemnity payment as provided for in his contract.

(c) When termination date is uncertain, but termination is expected, issue order to read as follows:

Contract for service on this route is continued in force after June 30, 19____, from one 4-week accounting period to another, but not later than June 30, 19____, exact termination date to be stated in a subsequent order. After termination date is determined, issue appropriate order establishing the termination date. Orders issued should terminate service at the end of an accounting period, where possible. If it is necessary to terminate a contract at a date other than the end of the accounting period, the contractor should be allowed indemnity for the number of days remaining in the accounting period.

(d) If it is necessary to extend a contract because a renewal contract has not been executed before the expiration date of the contract, and either renewal is expected, but formal contract papers have not been signed, or renewal is uncertain because no renewal agreement has been reached with the contractor, issue order to read:

Contract for service on this route is continued in force to _____

(1) Every effort should be made to have the renewal contract executed before extension date; however, if it is not possible then another extension order may be issued up to maximum allowable.

(2) The renewal contract would then be prepared to become effective either

on January 1 or July 1, whichever is appropriate.

§ 619.411 Emergency service.

§ 619.411-1 Authority.

Emergency service is the transportation of mail under emergency conditions and may be used only when time does not permit purchase of the needed service under normal contractual procedures. Reasons for obtaining emergency instead of regular service should be fully documented. Emergency service will be terminated at the earliest practicable and feasible date on which regular transportation can be provided through normal contractual procedures.

§ 619.411-2 Soliciting proposals.

§ 619.411-21 Method.

(a) Whenever possible competitive proposals will be obtained for the emergency service. Proposals may be solicited from anyone known to have the capability of providing the desired service. As many proposals as possible, generally not less than three (3), will be obtained.

(b) When soliciting proposals by letter to postmasters and prospective operators, proceed as follows:

(1) Furnish copies of completed Form 5467, Proposal for Temporary Emergency Service.

(2) Explain to whom proposals must be sent and time limit for receipt. If possible, allow at least 10 days for obtaining proposals.

(c) When time does not permit solicitation of emergency proposals as provided for in paragraph (b) of this section, the contracting officer may obtain them personally or by telephone. Even in such emergencies, endeavor to obtain as many as possible. Document reasons precluding normal solicitation of emergency proposals.

§ 619.311-22 Bond waiver.

No bond is required with the proposal or contract.

§ 619.411-23 Abstract of proposals.

An abstract of proposals received will be prepared on Form 5473, Abstract of Proposals Received, and distributed in accordance with § 619.404-22, except copy will not be sent to the surety companies.

§ 619.411-3 Preparation of solicitation.

The contracting officer will complete Form 5467 to show statement of service, frequency, schedule, and any other special provisions; and he will reproduce it in sufficient quantity as follows:

(a) For distribution to postmasters and prospective operators.

(b) As a statement of service to be attached to notice of acceptance.

§ 619.411-4 Contract terms.

A contract for emergency service will be for a short, but indefinite term. Contract will provide for the following:

(a) Termination on not less than 24 hours' notice by the Postal Service and not less than 15 days' notice by the contractor without the allowance of any indemnity or extra pay in lieu of indem-

nity to the contractor. Whenever possible, the contracting officer shall give more than 24 hours' notice, up to a maximum of 15 days' notice.

(b) Pay cannot be adjusted. Increases or decreases must be handled by renegotiating new emergency contracts.

(c) Contract cannot be sublet.

§ 619.411-5 Award of contract.

§ 619.411-51 Review.

The contracting officer will analyze proposals to determine whether services offered are commensurate with cost and whether the individual or firm submitting the lowest proposal is responsible and owner of suitable equipment or financially able to get it. Have a personal investigation made if any of these points are doubtful.

§ 619.411-52 Acceptance of proposal.

See §§ 619.406 and 619.408, except that Form 5467 will be substituted for Form 5468 and the 15 days' advance filing requirement to the Interstate Commerce Commission or Civil Aeronautics Board will not apply. Copies will be sent to the appropriate agency as soon after commencement of the service as possible.

§ 619.411-53 Additional instructions.

The contracting officer must prepare necessary instructions to all concerned and furnish postmasters at each terminal of route with arrival and departure schedule for conspicuous posting.

Subpart 5—Domestic Water Transportation Contract Purchasing

§ 619.501 Purchasing regulations.

Contracts for the domestic transportation of mail by water shall be treated the same as contracts for the transportation of mail by highway for purposes of purchasing.

Subpart 6—Area Bus Contract Purchasing

§ 619.601 Authority.

39 U.S.C. 5214—Agreements with Passenger Common Carrier by Motor Vehicle—The Postal Service may enter into contracts, under such terms and conditions as it shall prescribe and without advertising for bids, for the transportation of mail in passenger-carrying motor vehicles, by passenger common carriers, or by motor vehicles over the regular routes on which the carrier is permitted by law to transport passengers.

§ 619.602 Policy.

§ 619.602-1 Term.

Contracts will generally be made for terms of 2 years.

§ 619.602-2 Cancellation.

Contracts contain a provision for cancellation upon 30 days' notice by either party.

§ 619.602-3 Nonrenewable.

Contracts are not renewable. Ninety days before the termination date of each contract, negotiations for a new contract must be commenced if continuance of the service is necessary.

§ 619.602-4 Rates.

Contracts will generally provide for a flat rate per piece of mail carried.

§ 619.602-5 Area to be covered.

Every effort will be made to insure the fact the contractor will carry the mail over the entire system of the carrier, under one contract, and at one rate of pay. However, if for some reason the contractor refuses to enter into such a contract, or the services of the contractor are needed for only a small segment of the system, a contract may be negotiated for specific segments.

§ 619.602-6 Necessity for contract.

When considering whether a contract is justified, the following should be taken into account:

(a) Whether there are any air taxi segments or existing routes covering the service and, if so, whether the cost of using such service would be more economical.

(b) The number of pieces to be handled annually should be estimated.

(c) The annual cost of using a motor vehicle passenger common carrier to transport the mail should be estimated, and it should be determined that no other form of transportation exists that would be less expensive to handle the mail involved at the desired service standards.

§ 619.603 Implementation.

§ 619.603-1 Contract forms.

Form 5408, Area Bus Contracts with attachment; and Form 5408-A, Contract General Provisions, Area Bus Contracts, will be used in awarding contracts.

§ 619.603-2 Authorization and discontinuance of service.

The contracting officer will designate the scheduled trips of the company on which mail will be transported. Form 5440-C, Contract Route Service Order, will be used to establish and discontinue segments of the contract.

Subpart 7—Terminal Handling Contract Purchasing

§ 619.701 Policy.

Terminal handling services may be purchased by advertising or negotiating.

§ 619.702 Types of contracts.

§ 619.702-1 Rail.

This contract provides for the loading and unloading of mail on a railroad's system in conjunction with line haul services provided by that railroad company. This type of contract will be negotiated.

§ 619.702-2 Terminal handling contracts.

This contract provides for the loading and unloading of mail into and out of trucks and/or rail units, related transportation services, and provision of plant, equipment and manpower for these services. This type of contract may be advertised or negotiated.

§ 619.703 Contract format.

§ 619.703-1 General.

Each contract for terminal handling services will be individually written in a

manner so as to clearly describe the service required; the compensation to be paid, if any; and the conditions of service.

§ 619.703-2 Preamble.

Each contract shall contain a preamble stating the names of the parties, the date of the contract, and the effective date of the contract.

§ 619.703-3 Mail involved.

Each contract shall contain a section specifying the class or classes of mail involved.

§ 619.703-4 General terms and conditions.

Each contract shall contain a section clearly describing the services to be provided by the contractor and/or the Postal Service, as appropriate. It shall also contain a provision clearly establishing the liability of the contractor and the Postal Service for damage to the contractor's equipment.

§ 619.703-5 Compensation.

Each contract shall contain a section clearly describing the rates to be paid for the services required, and the method or methods by which such rates are to be computed. The procedures by which payment is to be made shall also be specified.

§ 619.703-6 Equal opportunity.

Under applicable Department of Labor regulations (41 CFR Ch. 60), an Equal Opportunity Clause conforming to those regulations will be included in all contracts.

§ 619.703-7 Service Contract Act.

A copy of PS Notice 82, Additional General Provisions for Service Contracts, will be attached to each contract entered into under this part which calls for total compensation to be paid under the contract in excess of \$2,500.

§ 619.704 Termination.

Each contract shall provide for its termination by either party's giving the other written notice of such termination at least 60 days in advance. Such termination shall take effect on the last day of the standard Postal Service payment period ending on or next following the desired termination date. Contracts may provide for indemnity to be paid the contract in the event of termination by the Postal Service. In the absence of a clause providing for indemnity, however, none shall be paid upon termination by either party.

§ 619.705 Contract term.

Contracts entered into under this part may not exceed 4 years in duration except that where conditions warrant, advertised contracts may be for terms of 6 years. Negotiated contracts are non-renewable and may not be extended. Unless circumstances otherwise warrant, such contracts will normally be entered into for a 4-year term.

§ 619.706 Liquidated damages.

Contracts entered into under this part may contain a provision providing for

the computation, assessment, and recovery of damages incurred by the Postal Service as a result of irregularities and/or omissions in the handling of mail by the contractor under the contract.

Subpart 8—Rail Transportation Contract Purchasing

§ 619.801 Policy.

All contracts for the transportation of mail by railroad will be negotiated.

§ 619.802 Types of contracts.

§ 619.802-1 General.

Rail contracts may provide for the transportation of mail in rail cars or in trailers, vans, and/or containers on flat cars, or a combination.

§ 619.802-2 Freight train service.

This contract provides for the transportation of mail by freight train.

§ 619.802-3 Mail train service.

This contract provides for the transportation of mail in special trains established for the primary purpose of transporting mail, on schedules established by the Postal Service.

§ 619.802-4 Passenger train service.

This contract provides for the transportation of mail by passenger train.

§ 619.802-5 Combination service.

This type of contract provides for the transportation of mail by a combination of two or more of the types of service enumerated in §§ 619.802-2, 619.802-3, and 619.802-4.

§ 619.802-6 Car switching.

This type of contract provides for the switching of cars at specified points on the contractor's lines or the switching of cars into and out of postal facilities.

§ 619.803 Contract format.

§ 619.803-1 General.

Each contract for the transportation of mail by rail will be individually written in a manner so as to clearly describe the service required; the compensation to be paid, if any; and the conditions of service.

§ 619.803-2 Preamble.

Each contract shall contain a preamble stating the names of the parties, the date of the contract, and the effective date of the contract.

§ 619.803-3 Mail involved.

Each contract shall contain a section specifying the class or classes of mail involved, and, where appropriate, the terminal points between which such mail will be transported.

§ 619.803-4 General terms and conditions.

Each contract shall contain a section clearly describing the services to be provided by the contractor and/or the Postal Service, as appropriate. Service requirements contained in the contract may include, but need not necessarily be limited to, the following:

- (a) Line haul service.
- (b) Terminal service.
- (c) Drayage service.
- (d) Interline service.
- (e) Dropoff service.
- (f) Use of contractor's vans and/or trailers for over-the-road service.
- (g) Trailer and/or van detention.

Each such contract shall also contain a provision clearly establishing the liability of the contractor and the Postal Service for damage to the contractor's equipment.

§ 619.803-5 Compensation.

Each contract shall contain a section clearly describing the rates to be paid for the services required, and the method or methods by which such rates are to be computed. The procedures by which payment is to be made shall also be specified.

§ 619.803-6 Equal opportunity.

Under applicable Department of Labor regulations (41 CFR Ch. 60), an Equal Opportunity Clause conforming to those regulations will be included in all contracts.

§ 619.804 Termination.

Each contract shall provide for its termination by either party's giving the other written notice of such termination at least 60 days in advance. Such termination shall take effect on the last day of the standard Postal Service payment period ending on or next following the desired termination date. Contracts may provide for indemnity to be paid the contractor in the event of termination by the Postal Service. In the absence of a clause providing for indemnity, however, none shall be paid upon termination by either party.

§ 619.805 Contract term.

Contracts entered into under this part may not exceed 4 years in duration. Such contracts are nonrenewable and may not be extended. Unless circumstances otherwise warrant, such contracts will normally be entered into for the full 4-year term.

§ 619.806 Liquidated damages.

Contracts entered into under this part may contain a provision providing for the computation, assessment, and recovery of damages incurred by the Postal Service as a result of irregularities and/or omissions in the handling and/or transportation of mail by the contractor under the contract.

Subpart 9—International Transportation of Mail by Vessel Contract Purchasing

§ 619.901 Policy.

Contracts for the transportation of international surface mail will be purchased by negotiation.

§ 619.902 Issuance of requests for proposals.

Requests for proposals (RFP's) will be issued under the following conditions:

§ 619.902-1 New containerization necessary.

When mail volumes being transported on a "loose sack" basis (i.e., being transported as freight or express at rates published by the Postal Service, and not under contract) warrant containerization, the contracting officer shall issue RFP's. RFP's may also be issued when new container ship operations are introduced in trade areas where they have not heretofore been available.

§ 619.902-2 Expiration of contract.

If, upon expiration of a contract for international surface transportation of mail, it is found to be in the public interest to continue the transportation involved under contract, a new contract for the service will be negotiated and RFP's will therefore be distributed.

§ 619.902-3 Increased competition.

If new shipping companies commence operations in a trade area in which there has heretofore been little or no competition, an existing contract may be terminated and a new contract covering the service involved may be negotiated, provided it is determined that the increased competition will result in a significantly lower rate than the rate being paid under the existing contract.

§ 619.902-4 Service deterioration.

Where the quality of service being provided under the contract becomes unacceptably deficient, the contract may be terminated and a new contract covering the service involved may be negotiated.

§ 619.902-5 Service otherwise necessary.

Contracts may be negotiated when otherwise necessary to provide international surface transportation of mail.

§ 619.903 Contract format.

§ 619.903-1 General.

Each contract for the international transportation of mail by vessel will be individually written in a manner so as to clearly describe the service required; the compensation to be paid, if any; and the conditions of service.

§ 619.903-2 Preamble.

Each contract shall contain a preamble stating the names of the parties, the date of the contract, and the effective date of the contract.

§ 619.903-3 Mail involved.

Each contract shall contain a section specifying the class or classes of mail involved, and, where appropriate, the terminal points between which such mail will be transported.

§ 619.903-4 General terms and conditions.

Each contract shall contain a section clearly describing the services to be provided by the contractor and/or the Postal Service, as appropriate.

§ 619.903-5 Schedule of service.

Each contract shall contain a section clearly setting forth minimum schedules

for the transportation of mail. Such schedules generally shall provide for a frequency of service of not less than once a week, normally conforming to the contractor's published schedules.

§ 619.903-6 Liability.

Each contract shall contain a section clearly establishing the liability of the contractor and the Postal Service for damage to the contractor's equipment.

§ 619.903-7 Compensation.

Each contract shall contain a section clearly describing the rates to be paid for the services required, and the method or methods by which rates are to be computed. The procedures by which payment is to be made shall also be specified.

§ 619.903-8 Equal opportunity.

Under applicable Department of Labor regulations (41 CFR Ch. 60), an Equal Opportunity Clause conforming to those regulations will be included in all contracts.

§ 619.904 Termination.

Each contract shall provide for its termination by either party's giving the other written notice of such termination at least 30 days in advance. Such termination shall take effect on the last day of the standard Postal Service payment period ending on or next following the desired termination date. No indemnity shall be paid in the event of termination by either party.

§ 619.905 Contract term.

Contracts entered into under this part may not exceed 4 years in duration. Such contracts are nonrenewable and may not be extended. Unless circumstances otherwise warrant, such contracts will normally be entered into for the full 4-year term.

§ 619.906 American flag preference.

Contracts entered into under this part shall require the transportation of U.S. surface mail for international destinations on vessels of U.S. registry except:

(a) When there is no direct service provided by a U.S. registry company and satisfactory service, comparable to existing foreign flag service, cannot be provided by a U.S. registry company on a transshipment basis, or

(b) When rates charged by the U.S. registry company are noncompetitive and in excess of those rates normally paid by the Postal Service to other U.S. registry companies for the water transportation of mail for comparable distances.

Subpart 10—Other Contract Purchasing

§ 619.1001 Types of contracts.

This part contains regulations applicable to the purchase of the following types of contracts:

§ 619.1001-1 Certified air carrier contracts.

See § 619.104-4 for description.

§ 619.1001-2 Uncertificated route contracts.

See § 619.104-5 for description.

§ 619.1001-3 Experimental contracts.

See § 619.104-7 for description.

§ 619.1002 Policy.

Contracts covered by this part will be procured by negotiation, except, in the case of experimental contracts, advertised procurement may be made if the contracting officer determines the use of that method to be feasible.

§ 619.1003 Distribution of requests for proposals (RFP).

§ 619.1003-1 Certificated air carrier contracts.

RFP's will be sent to all certificated air carriers authorized by the Civil Aeronautics Board to engage in the transportation of mail between the points for which service is to be contracted. RFP's will generally be distributed at least 15 days in advance of the commencement of negotiations unless the contracting officer determines that waiver of this requirement would be in the public interest.

§ 619.1003-2 Uncertificated route contracts.

RFP's will be sent to all air carriers operating in the general area to be served. RFP's will generally be distributed at least 15 days in advance of the commencement of negotiations unless the contracting officer determines that waiver of this requirement would be in the public interest.

§ 619.1003-3 Experimental contracts.

RFP's will be sent to all potential sources within the area in which the contract is to be performed which could reasonably be expected to have an interest in negotiating for the contract. In addition, if the service to be negotiated is national in scope and it is anticipated that total compensation which will be paid under the contract will exceed \$5,000, the contracting officer may, at his discretion, have a synopsis of the proposed procurement action published in the Commerce Business Daily under the procedures outlined in the Federal Procurement Regulations (see 41 CFR, Subpart 1-1.10). RFP's will also be posted in post offices along the route to be served. RFP's will be distributed at least 15 days in advance of the commencement of negotiations. This requirement is mandatory and no exceptions to it will be made.

§ 619.1004 Contract format.

§ 619.1004-1 General.

Each contract entered into under this part will be individually written in a manner so as to clearly describe the service required; the compensation to be paid, if any; and the conditions of service.

§ 619.1004-2 Preamble.

Each contract shall contain a preamble stating the names of the parties, the date of the contract, and the effective date of the contract.

§ 619.1004-3 Mail involved.

Each contract shall contain a section specifying the class or classes of mail involved, and, where appropriate, the terminal points between which such mail will be transported.

§ 619.1004-4 General terms and conditions.

Each contract shall contain a section clearly describing the service to be provided by the contractor and/or the Postal Service, as appropriate. Each such contract shall also contain a provision clearly establishing the liability of the contractor and the Postal Service for damage to the contractor's equipment or to the mail.

§ 619.1004-5 Compensation.

Each contract shall contain a section clearly describing the rates to be paid for the services required and the method or methods by which such rates are to be computed. The procedures by which payment is to be made shall also be specified.

§ 619.1004-6 Equal opportunity.

Under applicable Department of Labor regulations (41 CFR Ch. 60), an Equal Opportunity Clause conforming to those regulations, will be included in all contracts.

§ 619.1004-7 Service Contract Act.

A copy of PS Notice 82, Additional General Provisions for Service Contracts, will be attached to all contracts entered into under this part except for contracts with common carriers for the carriage of mail by rail, air, bus, or ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, or vessels over regularly established routes, and except for those under which the total compensation which will be paid will be \$2,500 or less.

§ 619.1005 Special contract provisions.

§ 619.1005-1 Certificated air carrier contracts.

Each certificated air carrier contract shall contain the following restrictions:

(a) That it is subject to cancellation by virtue of an action of the Civil Aeronautics Board at any time up to 10 days prior to the effective date.

(b) That at least 750 pounds of mail will be carried on each flight operated under the contract.

(c) That no more than 10 percent of the domestic mail and 5 percent of the international mail (determined by weight) may consist of letter mail. These percentages apply to total volume transported under the contract, however, and not to the volumes transported on individual flights.

§ 619.1005-2 Uncertificated route contracts.

Each uncertificated route contract shall contain the following clause:

Notwithstanding any other provision of this contract, if, during the term of the contract, the Civil Aeronautics Board authorizes any air carrier to engage in the transportation of mail by aircraft between any of the points named in the contract, the contract

shall be terminated effective on the date of inauguration of scheduled service by such carrier: *Provided, however,* That the Postal Service and the contractor may mutually agree to continue service under the contract between any remaining points served by the contractor between which the Civil Aeronautics Board has not authorized any air carrier to engage in the transportation of mail by aircraft.

§ 619.1005-3 Experimental contracts.

Experimental contracts shall provide that they have been entered into for the purpose of providing transportation services to the Postal Service, and that notwithstanding the fact that they are designed to test and develop new methods and/or materials for use in the mail transportation field, their immediate and paramount purpose is the transportation of mail.

§ 619.1006 Bond requirements.

Bonds will generally not be required for contracts entered into under this part, except that in the case of experimental contracts, the contracting officer at his discretion may require that the contractor post a performance bond. However, a performance bond may not be required unless the RFP requires such a bond.

§ 619.1007 Termination and indemnity.

(a) Each contract shall provide for its termination by either party's giving the other written notice of such termination at least 60 days in advance. Such termination shall take effect on the last day of the standard Postal Service payment period ending on or next following the desired termination date. Experimental contracts, however, shall provide that this requirement may be waived by the contracting officer if he finds such waiver to be in the public interest. Contracts may provide for indemnity to be paid the contractor in the event of termination by the Postal Service. In the absence of a clause providing for indemnity, however, none shall be paid upon termination by either party. Contracts requiring the contractor to furnish specialized equipment suitable primarily for postal purposes may contain a special indemnity clause covering such equipment. This clause may provide for indemnity of up to 100 percent of the lesser of the following figures:

(1) The unamortized value of the equipment as of the date of termination; or

(2) The costs of converting the equipment into a form suitable for commercial use.

(b) In the event such a clause is included in the contract, the following schedules shall be attached to the contract and shall constitute a part of it:

(1) A schedule listing all equipment covered by the special indemnity clause. Any equipment not listed in this schedule will not be covered by the clause; and

(2) A schedule clearly describing the method or methods used by the contractor in computing the amortization of all equipment covered by the special indemnity clause.

§ 619.1008 Contract terms.

Contract terms are negotiable, except that they may not exceed 4 years in duration (or, in the case of an advertised experimental contract for rail, highway, or domestic water service, 6 years). Generally, however, air contracts will be limited to 2 years, and experimental contracts to 1 year. This rule may be waived only if the contracting officer determines that it is in the public interest to do so.

[FR Doc. 77-1132 Filed 6-29-77; 8:46 am]

SUBCHAPTER N—PROCEDURES

PART 912—PROCEDURES TO ADJUDICATE CLAIMS FOR PERSONAL INJURY OR PROPERTY DAMAGE ARISING OUT OF THE OPERATION OF THE U.S. POSTAL SERVICE

Regulations codified in Part 912 are amended to read as set forth below. This revision reflects enactment of the Postal Reorganization Act (Public Law 91-375, approved August 12, 1970). However, changes of a substantive nature are not being made. Accordingly, effective July 1, 1971, Part 912 is revised to read as follows:

Sec.	Claims responsibility.
912.1	Character and limit of claims.
912.2	Time limit for filing.
912.3	Place of filing.
912.4	Definition of claim.
912.5	Who may file.
912.6	Evidence and information to be submitted.
912.7	Limitation on U.S. Postal Service authority.
912.8	Final denial of claim.
912.9	Action on approved claims.
912.10	Review of adjudication.
912.11	Exclusiveness of remedy.
912.12	Review by legal officers.
912.13	Attorneys' fees.
912.14	Conclusiveness of remedy.

AUTHORITY: The provisions of this Part 912 issued under 28 U.S.C. 2671-2680; 28 CFR 14.1-14.11; 39 U.S.C. 409.

§ 912.1 Claims responsibility.

The General Counsel is responsible for settlement of claims made against the U.S. Postal Service under the Federal Tort Claims Act and 39 U.S.C. 2603, with authority to redelegate the functions to General Counsel staff members and other Postal Service employees.

§ 912.2 Character of limit of claims.

(a) Procedure for adjudication of claims for personal injury or property damage arising out of the operation of the U.S. Postal Service, under the provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b), 1402(b), 2401(b), and 2671-2680), and 39 U.S.C. 401, 402, 409, and 2603.

(b) Claims for damage to or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of an employee of the U.S. Postal Service while acting within the scope of his employment under circumstances where the United States, if a private person, would be liable to the

claimant for such damage, loss, injury, or death, are adjudicated in accordance with the law of the place where the act or omission occurred. The authority of the U.S. Postal Service to award compensation for claims accruing on or after January 18, 1967, is limited to \$25,000. The Postal Service may, however, award compensation under this Act for claims accruing on or after January 18, 1967, in an amount in excess of \$25,000 after obtaining prior written approval of the Attorney General or his designee. (See also § 912.7.)

(c) Where the General Counsel, or his designee, finds a claim for damage to persons or property resulting from operation of the U.S. Postal Service to be a proper charge against the United States and it is not cognizable under 28 U.S.C. 2672, he may adjust and settle it under authority of 39 U.S.C. 2603.

§ 912.3 Time limit for filing.

(a) *Claim.* The statutory time for filing a claim under the Federal Tort Claims Act is 2 years from the date the claim accrues.

(b) *Suit.* The statutory time for filing suit is 6 months after the date of mailing by certified or registered mail of notice of final denial of the claim by the Postal Service, 28 U.S.C. 2401(b). See also § 912.8.)

§ 912.4 Place of filing.

A claim is usually filed with the postmaster of the office within the delivery limits of where the accident happened, but may be filed at any office of the Postal Service, or sent directly to the General Counsel.

§ 912.5 Definition of claim.

For purposes of this part, a claim shall be deemed to have been presented when the U.S. Postal Service receives from a claimant, his duly authorized agent or legal representative, an executed Standard Form 95, Claim for Damage or Injury, or other written notification of an incident, accompanied by a claim for money damages in a sum certain for injury to or loss of property, personal injury, or death alleged to have occurred by reason of the incident. Standard Form 95 may be obtained from postmaster, postal inspectors, or other local Postal Service establishments.

§ 912.6 Who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property, his duly authorized agent, or legal representative.

(b) A claim for personal injury may be presented by the injured person, his duly authorized agent, or legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially com-

pensated by an insurer with the rights of a subrogee may be presented by the parties individually as their respective interests appear, or jointly.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 912.7 Evidence and information to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including monthly or yearly salary or earnings, if any, and the duration of his last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him for support at the time of his death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the agency or another Federal agency. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request, provided that he has, upon request, furnished the report referred to in the first

sentence of this subparagraph and has made, or agrees to make available to the agency, any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of his claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payments for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time for employment, a written statement from his employer showing actual time lost from employment, whether he is a full- or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price and salvage value, where repair is not economical.

§ 912.8 Limitation on U.S. Postal Service authority.

(a) An award, compromise, or settlement of a claim by the Postal Service under the provisions of the Federal Tort Claims Act in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjudicated, determined, compromised, or settled by the Postal Service under the provisions of the Federal Tort Claims Act only after consultation with the Department of Justice when, in the opinion of the Postal Service:

(1) A new precedent or a new point of law is involved.

(2) A question of policy is or may be involved.

(3) The United States is or may be entitled to indemnity or contribution from a third party and the agency is unable to adjust the third party claim.

(4) The compromise or a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised, or

settled by the Postal Service under the provisions of the Federal Tort Claims Act only after consultation with the Department of Justice when the Postal Service is informed or is otherwise aware that the United States or an employee, agent, or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

§ 912.9 Final denial of claim.

Final denial of an administrative claim shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the agency action, he may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

§ 912.10 Action on approved claims.

In any case where the General Counsel or his designee, upon consideration of all the evidence submitted, finds that compensation is due a claimant, payment will be made by the U.S. Postal Service and in due course a settlement check will be forwarded to the claimant or his representative.

§ 912.11 Review of adjudication.

(a) The approval and acceptance of any adjudication of any claim made by the General Counsel or his designee constitutes final action so far as the Postal Service is concerned.

(b) If a claim is disallowed or if the claimant is unwilling to accept the amount awarded, the claimant may resort to the U.S. courts for relief. Conditions under which relief may be sought in the courts may be found in title 28 U.S.C. 2675 and other pertinent sections of the Code referred to therein. Before such suit is brought, the pertinent provisions of title 28 of the United States Code should be examined by the claimant.

§ 912.12 Exclusiveness of remedy.

The provisions of 28 U.S.C. 2679 provide that the remedy against the United States, as provided by sections 1346 (b) and 2672 of title 28, for injury or loss or personal injury or death resulting from the operating by an employee of the Government of any motor vehicle while acting within the scope of his employment is exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

§ 912.13 Review by legal officers.

The authority to adjust, determine, compromise and settle a claim under the provisions of the Federal Tort Claims Act shall, if the amount of a proposed compromise, settlement or award exceeds \$1,000, be exercised only after review by a legal officer of the Postal Service.

§ 912.14 Attorneys' fees.

The provisions of 28 U.S.C. 2678 should be consulted in determining the amount of the attorneys' fees.

§ 912.15 Conclusiveness of remedy.

Acceptance by the claimant, his agent, or legal representative, of any award, compromise or settlement made pursuant to the provisions of the Federal Tort Claims Act, shall be final and conclusive on the claimant, his agent, or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

DAVID A. NELSON,
General Counsel.

[FR Doc.71-8933 Filed 6-29-71; 8:45 am]

U.S. POSTAL SERVICE

STATUS OF REGULATIONS

Disposition of former title 39, United States Code; status of Regulations of the U.S. Postal Service.

Following are the texts of Postal Service Orders 71-9 and 71-10 issued by the Postmaster General on June 21, 1971, to be effective July 1, 1971.

[Order No. 71-9]

DISPOSITION OF FORMER TITLE 39, UNITED STATES CODE

Except for provisions relating to classes of mail, rates of postage, and fees for postal services that are continued in effect by section 3 of the Postal Reorganization Act, and except for personnel provisions continued in effect by Postal Service Order No. 14, all provisions of former title 39, United States Code, are hereby revoked. This order shall not be construed to revoke regulations which incorporate the text or substance of provisions of former title 39, United States Code.

This order shall become effective on July 1, 1971.

[Order No. 71-10]

STATUS OF REGULATIONS OF THE U.S. POSTAL SERVICE

1. The regulations of the Postal Service consist of: (1) The resolutions of the Governors and the Board of Governors of the U.S. Postal Service and the bylaws of the Board of Governors; (2) this and other Postal Service Orders which shall be published as an appendix to the Postal Service Manual; (3) the Postal Service Manual, and those portions of the former Postal Manual retained in force on a temporary basis; (4) the Headquarters Manual, Regional Instructions, handbooks, delegations of authority and other regulatory issuances and directives of the Postal Service or the former Post Office Department. Any of the foregoing may be published in the FEDERAL REGISTER and the Code of Federal Regulations.

2. The resolutions of the Governors and the Board of Governors of the U.S. Postal Service and the bylaws of the Board of Governors take precedence over all regulations issued by other authority. Except as otherwise provided in this paragraph, "Postal Service Orders" take precedence over all other regulations.

3. The adoption, by reference or otherwise, of any rule of law or regulation in this or any other regulation of the Postal Service shall not be interpreted as any expression on the issue of whether such rule of law or regulation would apply to the Postal Service if it were not adopted as a regulation, nor shall it restrict the authority of the Postal Service to amend or revoke the rule so adopted at a subsequent time.

4. By virtue of section 5(a) of the Postal Reorganization Act, all regulations of the Post Office Department, which are in effect at the time the U.S. Postal Service commences operations, shall continue in effect according to their

terms until modified or repealed by the Postal Service. Except as they may be made applicable by some other regulation of the Postal Service, all regulations of other agencies of the United States that might be deemed to be continued in effect by section 5(a) of the Postal Reorganization Act are hereby made inapplicable to the Postal Service.

5. This order shall become effective on July 1, 1971.

(39 U.S.C. 401, 410, as enacted by Public Law 91-375; sec. 5 (a), (f) of Public Law 91-375)

DAVID A. NELSON,
General Counsel.

[FR Doc.71-8934 Filed 6-29-71; 8:45 am]

PROCUREMENT OF PROPERTY AND SERVICES

Interim Regulations

Notice is hereby given that, effective July 1, 1971, the date of commencement of operations of the U.S. Postal Service, the interim regulations set out below are adopted by the Postal Service. These regulations, which reflect enactment of the Postal Reorganization Act (Public Law 91-375), will govern the acquisition, disposal, or management of property and services for the Postal Service (excluding property and services relating to the transportation of mail), pending the issuance of a comprehensive manual of postal procurement regulations to be issued in codified form.

These regulations supersede regulations contained in Part 936 of Title 39, Code of Federal Regulations, dealing with rules of procedure for contract financing; and also Chapter 39 of Title 41, relating to procurement regulations of the Post Office Department.

Accordingly, the regulations which follow are adopted as interim regulations of the Postal Service, effective July 1, 1971.

(39 U.S.C. 401, 410, 2008(c) as enacted by Public Law 91-375)

DAVID A. NELSON,
General Counsel.

I. Adoption of regulations derived from provisions of former title 39, United States Code. No provision of former title 39 of the United States Code dealing with the acquisition, disposal, or management of property and services shall apply to the Postal Service.

In lieu thereof the following regulations, which are derived in part from the former Code sections cited in brackets, are adopted:

1. Contracts for envelopes and other supplies. (a) The Postal Service may contract, for a period not to exceed 4 years, for—

(1) Stamped envelopes for sale to the public;

(2) Envelopes for use by the executive departments and agencies, subject to applicable regulations under section 431 of title 40, United States Code;

(3) Postal cards and stamps;

(4) Miscellaneous equipment and supplies for the Field Postal Service; and

(5) Printing of post-route maps.

(b) Adhesive stamps prescribed by the Postal Service may be manufactured by the Department of the Treasury, in conformity with an agreement satisfactory to both the Postal Service and the Secretary of the Treasury. (Sec. 2004)

2. Contracts for money order supplies. Except when it procures them from the Government Printing Office, the Postal Service shall obtain money order supplies in accordance with these regulations. It shall enter into contracts for a period of not more than 4 years containing such conditions as it may prescribe. (Sec. 2005)

3. Contracts for rental of equipment and services. The Postal Service in accordance with these regulations may enter into contracts for a period of not more than 4 years for—

(1) The rental of cancelling machines;

(2) The hire of vehicles for mail delivery services. (Sec. 2006)

4. Purchase of motor-truck parts. The Postal Service may make agreements without advertising with motor vehicle manufacturers for the purchase of parts for nonpassenger motor vehicles under such arrangements as it deems most advantageous to the Postal Service. (Sec. 2007)

5. Hire of vehicles from employees. The Postal Service may hire, by contract or on an allowance basis, vehicles from postal employees, other than supervisors, for use in mail delivery services. (Sec. 2008)

6. Contracts for delivery of special delivery mail. The Postal Service when it deems it expedient, may contract for the immediate delivery of all special delivery mail from any post office at any price less than the rates established for such mail. (Sec. 2009)

7. Contracts for postal stations. (a) The Postal Service may enter into contracts for the conduct of contract stations for a term not exceeding 3 years. It may renew contracts at the same or lower contract price, for additional terms not exceeding 3 years unless:

(1) It finds that the renewal is not in the interest of the Postal Service, or

(2) Not later than 90 days before the end of a contract term the Postal Service receives a request in writing that the contract be opened for competitive bidding at the end of the term.

Upon such a finding by it or upon receipt of such a request, the Postal Service shall terminate the contract, with respect to which the finding has been made or the request has been received, at the end of the current term and shall advertise for bids thereon in accordance with these regulations.

(b) Notwithstanding subsection (a) of this section contracts for rural stations and branches may be awarded for indefinite terms. (Sec. 2011)

8. Leases. (a) The Postal Service may lease, on such terms as it deems appropriate, real property necessary in the conduct of its affairs.

(b) The term of a lease may not exceed 20 years when made for quarters—

(1) For post offices at which the postmaster does not furnish quarters on an allowance basis; and

(2) At public airports.

(c) The Postal Service may rent quarters for postal purposes without entering into a formal written contract where the amount of the rental does not exceed \$1,000 per annum.

(d) When a leased building or part thereof becomes unfit for use for the purpose rented, the Postal Service may not pay rent until it is put in satisfactory condition by the lessor, or at its option it may cancel the lease. (Sec. 2102)

9. *Additional leasing authority.* In addition to the authority provided by the preceding section the Postal Service may—

(1) Negotiate and enter into lease agreements for periods not exceeding 30 years for the erection by the lessor of buildings and improvements for postal purposes as the Postal Service deems appropriate, on lands sold, leased, or otherwise disposed of by the Postal Service to, or otherwise acquired by, the lessor;

(2) Acquire by purchase, condemnation, lease, donation, or otherwise, and on such terms as it deems appropriate, real property and interests therein, for use for postal purposes; and

(3) Dispose of real property, and interests therein, acquired for use or used for postal purposes by sale, lease, or otherwise, on such terms as it deems appropriate. (Sec. 2103 as it appears in Public Law 86-682)

10. *Date of orders, entries, contracts.* An officer or employee who—

(1) Makes an order, entry or memorandum on which an action is to be based, allowance made, or money paid; or

(2) Enters into a contract or other obligation on behalf of the Postal Service; or

(3) Files or receives on behalf of the Postal Service any paper relating to contracts or allowances;

shall indicate thereon the date of the action. (Sec. 2205)

II. *Adoption of regulations of other departments and agencies.* Except as adopted in Part II of these regulations, and subject to the provisions of section 410 of title 39, United States Code, as enacted by the Postal Reorganization Act, Public Law 91-375, no rule or regulation of any other department or agency relating to the acquisition, disposal, or management of property or services shall apply to the Postal Service.

Any regulation of another Department or agency which is adopted as a regulation of the Postal Service may be modified, altered, or amended solely at the discretion of the Postal Service. No modification thereof by any other agency shall be considered binding upon the Postal Service unless specifically adopted by the Postal Service. In accordance with the foregoing the following regulations are adopted as regulations of the Postal Service:

a. *Federal Procurement Regulations.* The Federal Procurement Regulations

(Title 41, Code of Federal Regulations, Chapter 1) in effect, on July 1, 1971, shall be the basic regulations governing the procurement of property and services by the Postal Service. Any reference herein to the Federal Procurement Regulations System or prescription thereof by the General Services Administration shall be construed in a manner consistent with the foregoing provision that these regulations exist as regulations of the Postal Service; and any reference to any statute or Executive order as authority for any section of such Federal Procurement Regulations shall be construed consistently with the power of the Postal Service under 39 U.S.C. section 401(2) to adopt, amend and repeal such rules and regulations as it deems necessary to accomplish the objectives thereof.

The Federal Procurement Regulations shall apply to the Postal Service in their entirety except as set forth below:

1. Subpart 1-1.7—*Small Business Concerns.* Subpart 1-1.7 is hereby deleted in its entirety and the following substituted therefor. "It is the policy of the Postal Service to encourage the participation of small business concerns in its procurement of property and services to the maximum extent practicable consistent with procurement objectives and its mandate to provide prompt, reliable, and efficient postal service."

2. Subpart 1-1.8—*Labor Surplus Area Concerns.* Subpart 1-1.8 is deleted in its entirety and the following substituted therefor. "It is the policy of the Postal Service to encourage the participation of concerns in areas of persistent and substantial labor surplus in its procurement of property and service to the maximum extent practicable consistent with procurement objectives and its mandate to provide prompt, reliable, and efficient postal service."

3. Section 1-1.1003-2(a)(10) *General requirements.* Section 1-1.1003-2(a)(10) is amended to delete the requirement that a determination thereunder be concurred in by the Administrator, Small Business Administration.

4. Section 1-2.406-3 *Other mistakes disclosed before award.* Section 1-2.406-3 is amended to provide that no mistake disclosed before award, notwithstanding subparagraph (e) thereof, shall be subject to removal to or review by the Comptroller General.

5. Section 1-2.406-4—*Disclosure of mistakes after award.* Section 1-2.406-4 is amended to provide that any mistake disclosed after award shall be determined by the General Counsel; that, such authority shall not be limited by the dollar amount set forth in subparagraph (b); and that, notwithstanding subparagraphs (g), (i), and (j), such determination shall not be subject to removal to or review by the Comptroller General.

6. Section 1-2.407-8 *Protests against award.* Section 1-2.407-8 is hereby deleted in its entirety and the following substituted therefor.

(a) The Comptroller General does not have jurisdiction to determine protests against Postal Service contracting procedures or awards, but the Postal Service

will consider and determine such protests to the extent described, and under the conditions set out, in this § 1-2.407.8.

(b) A protest against the terms of a solicitation will be considered only if submitted in writing and received by the contracting officer or the General Counsel at least 5 days prior to the date set for the submission of bids or offers. Other protests will be considered only if submitted in writing and received by the contracting officer or the General Counsel within 5 days after the information on which the protest is based became available to the protestor: *Provided, however,* That no protest will be considered if received more than 5 days after award of the contract in question. A protest against the terms of a solicitation must identify the solicitation and set forth a complete statement of the alleged defect that would render legally invalid or improper any award of a contract based on the solicitation. In all other cases, the protestor shall have 5 days, after filing of an initial protest, to perfect and submit a complete statement of the ground and facts relied upon.

(c) Where a protest that is obviously meritorious or obviously of no merit has been filed with the contracting officer, he shall (with the concurrence of the head of the procuring activity and either Regional Counsel or Assistant General Counsel, whichever is appropriate) either (1) issue an amendment to the solicitation, or return unopened all bids or offers received and issue a new, revised solicitation; (2) determine whether the bid or offer in question is or is not responsive; (3) determine whether the bidder or offeror in question is or is not responsible; (4) reevaluate offers; or (5) take such other action as is appropriate in the circumstances. A contracting officer's decision, made pursuant to this subparagraph (c), shall be issued within 5 days after receipt of the protest; all protests which cannot be resolved under the authority of this subparagraph (c) shall, within 5 days after receipt, be referred to the General Counsel.

(d) In the case of a protest filed initially with the General Counsel, he shall, within 1 day after receipt thereof, telephonically notify the contracting officer and transmit a copy of the protest together with any accompanying documents to the contracting officer. Any additional statements or documents subsequently filed with the General Counsel shall, within 1 day after receipt, be transmitted to the contracting officer.

(e) The contracting officer, within 5 days after referring a protest to the General Counsel or receipt of notification that a protest has been filed with the General Counsel shall, if appropriate:

(1) In the case of a protest against the terms of a solicitation, notify all known prospective bidders or offerors that a protest concerning the terms of the solicitation has been lodged, and the basis of the protest; or

(2) In the case of any other type of protest, notify all bidders or offerors who may be affected that a protest has been filed, furnishing a brief but complete

statement of the grounds on which the protest is based.

Each such notice shall inform the recipient that he may, if desired, submit his views and relevant information to the General Counsel (with a copy to the contracting officer) and that such a submission will be considered if the recipient within 5 days after the date of such notice advises the General Counsel of his intent to make such a submission and files such a submission within 10 days thereafter.

(f) Within 10 days after referring a protest to the General Counsel or after receiving notice that a protest has been filed with the General Counsel, the contracting officer shall transmit to the General Counsel a report which shall include (as may be applicable):

(1) A copy of the protest;

(2) A copy of the bid or offer submitted by the protestor and a copy of the bid or offer against which the protest is directed;

(3) A copy of the solicitation, including the specifications or portions thereof which are relevant to the protest;

(4) A copy of the abstract of bids;

(5) The evaluation of offers;

(6) Any other documents relevant to the protest together with any additional evidence or information pertinent to or necessary for a determination of the validity of the protest; and

(7) A statement setting forth the contracting officer's findings, actions, and recommendations in the matter, which shall be fully responsive to the allegations of the protest.

A copy of the contracting officer's statement (subparagraph (7) above) shall be concurrently forwarded by him to the protestor and the head of the procuring activity (if other than the contracting officer).

(g) The protestor or any other bidder or offeror affected by such protest may request a conference with the contracting officer or General Counsel. To be considered, any such request must be made prior to the contracting officer's decision, or, in the case of a protest referred to or filed with the General Counsel, within 5 days after the date of the notice of protest referred to in paragraph (e) above. If a conference is requested, the contracting officer or General Counsel shall set a date within 10 days after receipt of request therefor. The contracting officer or General Counsel may determine, where appropriate, whether or not the circumstances justify an extension of any time limit specified in this § 1-2.407-8.

(h) When the time for acceptance of bids or offers may expire before a protest will be resolved, the contracting officer should request an extension of the time for acceptance (with the consent of sureties, if any) from each bidder or offeror whose bid or offer might be eligible for acceptance.

(i) On protests filed with or referred to the General Counsel, his decision shall be made no later than 15 days after receipt of all information submitted in accordance with the provisions of this § 1-2.407.8.

(j) The time periods set out herein are based on calendar days. In appropriate cases (for example, where a solicitation includes a wage-rate decision which may expire unless these procedures for resolution of a protest are accelerated), the contracting officer or the General Counsel, as the case may be, shall have the right to require that submissions be furnished within shorter periods of time than those specified herein. In unusual cases (for example, where the decision rests on a close question of law and requires extensive research or where it becomes necessary for the contracting officer to obtain, correlate, and analyze a significant amount of additional information), the General Counsel may extend the period for submission of the contracting officer's report or the period for reaching and issuing a determination.

(k) The General Counsel's decision on each protest filed with or referred to him shall be dispositive of the matter and shall be furnished to the contracting officer, with a copy to the protestor and to any other person or firm who has submitted information or a statement of position with respect to the protest. The General Counsel shall maintain a file of all decisions.

(l) When a protest has been filed in accordance with the provisions of this § 1-2.407-8 award will not be made until the matter has been resolved unless the head of the procuring activity, with the concurrence of the General Counsel, approves a determination by the contracting officer that the Postal Service will be seriously injured financially or otherwise by delaying award until the protest has been resolved and that, therefore, award should be made without awaiting the decision. When authorized to award a contract prior to resolution of a protest, the contracting officer shall immediately send a notice of the award or proposed award to the protestor and to any other persons or firms who submitted information or views on the protest.

(m) Where a protest filed after award is eligible for consideration under the provisions of this § 1-2.407-8, the contractor shall be furnished immediately with a notice of the protest and the basis thereof. The contracting officer shall, with the advice of counsel, determine whether or not it would be to the best interests of the Postal Service to allow the contractor to proceed, seek mutual agreement with the contractor to suspend contract performance on a no-cost basis, or issue a unilateral stop order.

(n) The General Counsel may designate an authorized representative to perform any of his functions relating to the resolution of protests.

7. Section 1-3.216 *Technical or specialized supplies.* Section 1-3.216 is hereby added as a circumstance permitting negotiation:

§ 1-3.216 *Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.* (a) *Authority.* Purchases and contracts may be negotiated if for technical or special property that the Postmaster General determines to require a substantial initial investment

or an extended period of preparation for manufacture and for which he determines that formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property.

(b) *Application.* The authority of this section may be used for the procurement of technical or specialized supplies—for example: Letter and sack sorters, encoders, character and code readers, and similar items of equipment; major components of any of the foregoing; and any supplies of a technical or specialized nature which may be necessary for the use or operation of any of the foregoing. Such procurement generally involves:

(i) High starting costs which already have been paid for by the Postal Service or by the supplier;

(ii) Preliminary engineering and development work that would not be useful to or usable by any other supplier;

(iii) Elaborate special tooling, already acquired;

(iv) Substantial time and effort already expended in developing a prototype or an initial production model; and

(v) Important design changes which will continue to be developed by the supplier.

The authority of this section will, in general, be used in situations where it is preferable to place a production contract with the supplier who had developed the equipment, and thereby either assure to the Government the benefit of the techniques, tooling, and equipment already acquired by that supplier, or avoid undue delay arising from a new supplier having to acquire such techniques, tooling, and equipment. However, this exception should not be used to avoid duplication of private investment unless this duplication would be likely to result in additional cost to the Postal Service.

(c) *Limitation.* The authority of this section shall not be used unless and until the Postmaster General or the Deputy Postmaster General has determined, in writing that:

(i) The supplies are of a technical or special nature requiring a substantial initial investment or an extended period of preparation for manufacture; and

(ii) Procurement by formal advertising either:

(A) Would be likely to result in additional cost to the Postal Service by reason of duplication of investment, or

(B) Would result in duplication of necessary preparation which would unduly delay the procurement.

8. Part 1-16 *Procurement forms.* Standard procurement forms shall be modified to conform with any changes, alterations, or deletions accomplished by this regulation. Effective as of the date of the commencement of operations of the U.S. Postal Service, any reference in any form appearing in this Part to "United States of America" and "Government" shall be modified to read "United States Postal Service" and "Postal Service" respectively.

b. *Federal Property Management Regulations.* Except as provided in Part II b of this order, or by agreement between parties, or as required where the Postal Service is a tenant in a building controlled by the General Services Administration, or as required when the Postal Service is a user of supplies or services furnished by the General Services Administration, the Federal Property Management Regulations (Title 41, Code of Federal Regulations, Chapter 101) shall not apply to the Postal Service.

1. Part 101-11—Records Management and Subchapters, E—Supply and Procurement, F—Telecommunications and Public Utilities, G—Transportation and Motor Vehicles, and H—Utilization and Disposal shall apply to the Postal Service to the same extent as though the Postal Reorganization Act had not been enacted.

2. Part 101-19—Management of Building and Grounds of the Federal Property Management Regulations is hereby adopted as a regulation of the Postal Service, applicable to the operation and maintenance of buildings and grounds jurisdiction of which is vested in the Postal Service by the Postal Reorganization Act; *Provided, however,* That Subpart 101-19.4—Standard Practices for Financing shall not apply. Financing the operation and maintenance of such buildings and grounds occupied jointly by the Postal Service and other agencies shall be the subject of Agreements to be made between the Postal Service and such other agencies.

Any authority or responsibility formerly vested in the General Services Administration or its Administrator by this Part 101-19, other than set forth in Subpart 101-19.6—Federal Fire Council, is hereby vested in the Postal Service. Accordingly, any reference to "GSA" or "General Services Administration" or "Administrator" shall be construed in a manner consistent therewith. Any reference to "Federal" building(s) shall be construed to mean "Postal" building(s).

III. *Labor standards in postal leases.*—A. *Payment of prevailing wages in postal lease agreements.* Pursuant to 39 U.S.C. 410(d) any Lease, Agreement to Lease, or Rental Agreement for net interior space in excess of 6,500 square feet, in any building or facility or part of any building or facility to be occupied for purposes of the Postal Service, and any modification of such Lease or Agreement which requires the construction, modification, alteration, repair, painting, decoration, or other improvement of the building or space, or improvement at the site, shall include the following contract clause. Any such Agreement which requires only maintenance work necessary to keep the building or space in such condition that it may be continuously used at an established capacity and efficiency for its intended purpose shall not include this clause.

(CONTRACT CLAUSE)

PAYMENT OF PREVAILING WAGES (39) U.S.C. 410(D)

(a) All mechanics and laborers employed in the construction, modification, alteration, repair, painting, decoration, or other improvement of the building or space covered

by this agreement, or improvement at the site of the building or facility covered by this agreement, other than maintenance work necessary to keep the building or space in such condition that it may be continuously used at an established capacity and efficiency for its intended purpose, shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations (29 CFR Part 3)), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the lessor or subcontractor and such laborers and mechanics. A copy of such wage determination decision shall be kept posted by the Lessor at the site of the work in a prominent place where it can be easily seen by the workers.

(b) The lessor may discharge his obligation under this clause to workers in any classification for which the wage determination decision contains:

(1) Only a basic hourly rate of pay, by making payment at not less than such basic hourly rate, except as otherwise provided in the Copeland Regulations (29 CFR Part 3); or

(2) Both a basic hourly rate of pay and fringe benefits payments, by making payment in cash, by irrevocably making contributions pursuant to a fund, plan, or program for, and/or by assuming an enforceable commitment to bear the cost of, bona fide fringe benefits contemplated by 40 U.S.C. 276a, or by any combination thereof. Contributions made, or costs assumed, on other than a weekly basis shall be considered as having been constructively made or assumed during a weekly period to the extent that they apply to such period. Where a fringe benefit is expressed in a wage determination in any manner other than as an hourly rate and the lessor pays a cash equivalent or provides an alternative fringe benefit, he shall furnish information with his payrolls showing how he determined that the cost incurred to make the cash payment or to provide the alternative fringe benefit is equal to the cost of the wage determination fringe benefit. In any case where the lessor provides a fringe benefit different from any contained in the wage determination, he shall similarly show how he arrived at the hourly rate shown therefor. In the event of disagreement between or among the interested parties as to an equivalent of any fringe benefit, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(c) The assumption of an enforceable commitment to bear the cost of fringe benefits, or the provision of any fringe benefits not expressly listed in section (b)(2) of 40 U.S.C. 276a or in the wage determination decision forming a part of the contract, may be considered as payment of wages only with the approval of the Secretary of Labor pursuant to a written request by the lessor. The Secretary of Labor may require the lessor to set aside assets, in a separate account, to meet his obligations under any unfunded plan or program.

(d) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination decision and which is to be employed under the contract shall be classified or reclassified in accordance with the wage determination decision, and shall report the action taken to the Secretary of Labor. If the interested parties

cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics to be used, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(e) Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the aforesaid Bureau of Apprenticeship and Training. The allowable ratio of apprentices to journeymen in any craft classification shall be not greater than the ratio permitted to the Lessor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed.

The lessor shall furnish written evidence of the registration of his program and apprentices as well as of the ratios allowed and the wage rates required to be paid thereunder for the area of construction, prior to using any apprentices in the work.

(f) The lessor shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve them for a period of 3 years thereafter for all laborers and mechanics employed in the work covered by this clause. Such records shall contain the name and address of each such employee, his correct classification, rate of pay (including rates of contributions for, or costs assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the lessor has obtained approval from the Secretary of Labor as provided in paragraph (c) of this clause, he shall maintain records which show the commitment, its approval, written communication of the plan or program to the laborers or mechanics affected, and the costs anticipated or incurred under the plan or program.

(g) The lessor shall submit weekly a copy of all payrolls to the Contracting Officer. The lessor shall be responsible for the submission of copies of payrolls of all subcontractors. The copy shall be accompanied by a statement signed by the lessor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. Submission of the Weekly Statement or Compliance required under this agreement shall satisfy the requirement for submission of the above statement. The lessor shall submit also a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by paragraph (c) of this clause.

(h) The lessor shall make the records required under this clause available for inspection by authorized representatives of the Contracting Officer and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

(i) The lessor shall comply with the Copeland Regulations of the Secretary of Labor (29 CFR Part 3) which are incorporated herein by reference.

(j) The Contracting Officer may withhold or cause to be withheld from the lessor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Lessor or any subcontractor on the work the full amount of wages required by the contract.

(k) If the lessor or any subcontractor fails to pay any laborer or mechanic employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the lessor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

(l) The lessor agrees to insert this clause including this paragraph (l) in all subcontracts hereunder. The term "lessor" as used in this clause in any subcontract shall be deemed to refer to the subcontractor.

B. *Regulations.* The following provisions shall apply to any lease agreement containing the clause set forth in Part III A hereof.

1. *Department of Labor regulations.* Pursuant to 40 U.S.C. 276c and Reorganization Plan No. 14 of 1950 (3 CFR, 1949-53 Comp., p. 1007), the Secretary of Labor has issued Parts 3 and 5, Title 29, Subtitle A, Code of Federal Regulations (29 F.R. 97 and 13462 as amended by 36 F.R. 304), covering the administration and enforcement of statutes providing for prevailing wage determinations. These Regulations, as they pertain to prevailing wage determinations, are made applicable to the Postal Service lease agreements described in Part III A hereof, by 39 U.S.C. 410(d)(2).

2. *Laborers, mechanics, and the site or work.* (a) As provided in this section, the requirements of the lease agreement clause apply only to work performed by mechanics and laborers at the site of the work.

(b) Mechanics and laborers are those working predominantly with their hands or with construction tools and equipment. The requirements do not apply to office workers, superintendents, technical engineers, or scientific workers, but they do apply to cooks, storekeepers, and working foremen. The requirements apply to mechanics and laborers whether they are employed by the lessor, the general contractor or by a subcontractor or any tier.

(c) The site of the work may include the sites of job headquarters, storage yards, prefabrication or assembly yards, quarries or borrow pits, batch plants, and similar facilities if they are set up for and serve exclusively the particular construction operation and are reasonably near the construction site. Transportation of materials, equipment, or personnel to and from the construction site by employees of construction contractors or subcontractors is covered by the requirements; however, such transportation by common carriers, material suppliers, or manufacturers is not subject to the requirement.

3. *Administration and enforcement.* The contracting officer shall ascertain that the lessor is fully informed of the prevailing wage provisions of the lease and of his responsibilities thereunder. Unless it is clear that the lessor is otherwise fully informed, the lessor shall be so informed either by conference or by letter as soon as possible after the award of the contract.

4. *Wage determinations.* Detailed instructions for requesting wage determinations for specific contracts and for requesting general wage determinations are contained in 29 CFR 5.3 (29 F.R. 100). The following is a summary of the substance of those instructions:

(a) *Requests for wage determinations for specific contracts.* Requests shall be submitted to the Solicitor of Labor, Department of Labor, Washington, D.C. 20210, on Department of Labor Form DB-11. Only those classifications shall be checked on the form which will be needed in the performance of the work. Needed classifications not on the form may be added. Requests shall:

(1) Include a sufficiently detailed description of the work to indicate the type of construction involved, i.e., heavy, highway, building, or other type.

(2) Include the location of the project, giving the distance in miles and the direction from the nearest point of reference.

(3) Include an evaluation as to whether the project is a building, heavy, highway, or other type of construction project.

(4) Be accompanied by an available pertinent wage payment information, unless the wage patterns in the areas are clearly established.

(b) *Requests for general wage determinations.* A general wage determination may be requested for use on individual leases for a particular type of construction in a particular area whenever (1) the wage patterns in such area for the particular type of construction are well settled, and (2) a large volume of the particular type of construction in the area is anticipated.

(c) *Time of Submission of requests.* Requests for wage determinations should ordinarily be submitted at least 30 calendar days before they are required for advertising for bids for, or negotiation of, the contract for which the determinations are sought.

(d) *Limitations.* Each wage determination is effective for 120 calendar days from the date of the determination, and is void if no lease award is made within that period. Accordingly, if it appears that a wage determination will expire before a lease can be awarded, a new determination should be requested at a date which will permit its receipt and issuance to prospective bidders by amendment of the invitation for bids before the date set for bid opening. In individual cases, upon a written finding by the head of the agency, that due to unavoidable circumstances a wage determination expired after bid opening but before award, the Solicitor of Labor may extend the period of effectiveness of the wage determination whenever he finds it necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business.

(e) *Modifications.* Modifications by the Secretary of Labor of a wage de-

termination shall be made part of the proposed contract if received prior to the award of the lease; *Provided, That,* in procurement by advertising any modification received by the contracting officer less than 10 calendar days before the opening of bids shall be disregarded unless it is determined that such modifications reasonably can be furnished to bidders by means of an amendment of the invitation for bids in time to be considered in the preparation of their bids. Copies of modifications received by the contracting officer should be time-date stamped to show the date of receipt.

(f) *Posting.* The contracting officer shall ascertain that a copy of the wage determination is kept posted at the site of the work in a prominent place where it can be easily seen by the workers.

5. *Additional classification.* As provided in paragraph (d) of the clause set forth in Part III A, the contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination forming a part of the lease, and which is to be employed on the contract work, shall be classified or reclassified conformably to such wage determination, and shall report the action taken to the Secretary of Labor. In the event of disagreement between or among the interested parties as to the proper classification or reclassification, the contracting officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

6. *Apprentices.* As provided in paragraph (e) of the clause set forth in Part III A, the lessor, the general contractor, or subcontractor is required to furnish written evidence of registration of his program and apprentices, as well as of the ratios allowed and the wage rates required to be paid thereunder for the area of construction before using any apprentices on the work.

7. *Subcontracts.* The contracting officer shall obtain a list of all subcontracts, together with a description of the work to be performed thereunder. This list will be useful in obtaining compliance with the requirement for submission of payrolls by the contractor and subcontractor.

8. *Payrolls and statements.*—(a) *Submission.* Within 7 calendar days after the regular payment date of the payroll week covered, the lessor is required to submit, or cause to be submitted for himself, his general contractor, if any, and the subcontractors, (1) Copies of weekly payrolls in compliance with the clause set forth in Part III A and (2) Weekly statements of compliance as required by the Copeland Regulations incorporated in the contract by the clause set forth in Part III A. (For form of weekly statement of compliance, see 29 CFR 3.3.)

(b) *Examination.* Such examination of the payrolls and statements shall be made as may be necessary to assure compliance with contract, statutory, and regulatory requirements. Particular attention should be given to the correctness of classifications and disproportion-

ate employment of laborers, helpers, or apprentices.

(c) *Preservation.* Payrolls and statements shall be preserved by the contracting officer for a period of 3 years from the date of completion of the work and shall be produced at the request of the Secretary of Labor at any time during such period.

9. *Investigations.* (a) Such investigations as may be necessary to assure compliance with contract, statutory, and regulatory requirements shall be made. Work of 6 months or less duration shall be investigated before acceptance is made, if feasible. Work of longer duration shall be investigated with such frequency as may be necessary to assure compliance. Such investigations shall include interviews of employees on a sampling basis.

(b) Special investigations in detail shall be made when required by complaints or other evidence of violations. Complaints of violations shall be given priority.

(c) Statements, written or oral, made by an employee shall be treated as confidential and shall not be disclosed to the employer without the consent of the employee.

10. *Reports of violations.* (a) *Enforcement reports.* (1) Where underpayments total less than \$500, are nonwillful, restitution has been effected and future compliance assured, no report need be made to the Department of Labor except where the investigation was requested by that Department. In those cases, the contracting officer shall submit a factual summary report in accordance with 29 CFR 5.7(a)(1).

(2) Where underpayments total \$500 or more, or are willful, the contracting officer shall furnish to the Department of Labor, as soon as practicable, a detailed enforcement report. Such reports shall include a statement of the findings as to the violations and information as to restitution made, payment deductions contract terminations, and the names and addresses of the workers, contractors, and subcontractors concerned.

(3) Where there is substantial evidence that violations are willful and in breach of the False Affidavits Act (18 U.S.C. 1001) or other criminal statute, the matter shall be forwarded to the Attorney General for prosecution and the Secretary of Labor shall be informed of such action.

(b) *Semiannual enforcement reports.* The Postal Service shall furnish the Secretary of Labor, by July 31 and January 31 of each calendar year, semiannual reports on compliance with and enforcement of the prevailing wage provisions of 39 U.S.C. 410(d) covering the periods January 1 through June 30 and July 1 through December 31, respectively. Such reports shall be prepared in the manner

prescribed in circular memoranda issued by the Secretary of Labor, and may be combined with the Postal Service reports of general labor standards compliance.

11. *Suspensions and deductions of contract payments.* In the event of failure or refusal by the lessor, the general contractor or any subcontractor to pay all or any part of the wages due workers, the contracting officer may suspend rental payments to the lessor in amounts equal to such unpaid wages which may be due until either restitution has been made directly by the contractor or subcontractor concerned or deductions against payments are made as provided in this section 11. If such failure or refusal appears continuing and willful, or in the event of any other failure or refusal to comply with lease, statutory, and regulatory requirements, the contracting officer may suspend all future rental payments to the contractor until such violations have ceased. If restitution is not made directly by the contractor or subcontractor within a reasonable time, the contracting officer shall prepare a Schedule of Withholdings Under the Davis-Bacon Act, Standard Form 1093, which amounts shall be deducted from the payments made to the lessor and shall be disposed of in accordance with Postal Service procedures.

12. *Restitution.* The lessor, the general contractor, or subcontractor may make restitution of amounts due workers at any time. Where wage underpayments are found, the contracting officer shall request that the lessor make, or cause to be made, restitution to employees or to plans, funds, or programs for any type of fringe benefit listed in the applicable wage determination.

13. *Contract termination.* Under no circumstances will a lease agreement be terminated merely for the failure of the lessor, the general contractor, if any, or a subcontractor to pay prevailing wages as required by 39 U.S.C. 410(d)(1).

14. *Cooperation with Department of Labor.* The Postal Service shall cooperate with representatives of the Department of Labor in the inspection of records, interviews with workers and all other aspects of investigations undertaken by the Department of Labor. When requested, the Postal Service shall furnish to the Secretary of Labor any available information with respect to lessors, contractors, subcontractors, their leases and the nature of the work.

C. *Contract Work Hours and Safety Standards Act.* Pursuant to 39 U.S.C. 410(b)(4)(E) the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) is made applicable to the Postal Service. Accordingly, any Lease, Lease Agreement or Rental Agreement which requires or involves the employment of laborers and mechanics shall contain the following clause:

(CONTRACT CLAUSE)
CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

1. *Overtime compensation.* (a) The lessor shall not require or permit any laborer or mechanic in any workweek in which he is employed on any work under this agreement to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, whichever is the greater number of overtime hours. The "basic rate of pay", as used in this clause, shall be the amount paid per hour, exclusive of the lessor's contribution or cost for fringe benefits and any cash payment made in lieu of providing fringe benefits, or the basic hourly rate contained in the wage determination (if applicable), whichever is greater.

(b) In the event of any violation of the provisions of paragraph (a), the lessor shall be liable to any affected employee for any amounts due, and to the Postal Service for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by paragraph (a).

(c) The Contracting Officer may withhold from the lessor, from any moneys payable under the lease, such sums as may administratively be determined to be necessary to satisfy any liabilities of the lessor for unpaid wages and liquidated damages.

2. *Health and safety standards.* (a) To the extent this agreement is for construction, alteration, and/or repair, including painting and decorating, the lessor shall not require any laborer or mechanic employed in the performance of this agreement to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety as determined under standards promulgated by the Secretary of Labor under the authority of 40 U.S.C. 333. (See 29 CFR 1518)

(b) In the event it is determined that the lessor has failed to comply with this provision regarding health and safety standards, the Postal Service, in its discretion, may cancel this agreement, contract for the balance of the work or term, and charge the additional cost, if any, incurred thereby to the lessor.

3. *Subcontractors.* The lessor agrees to insert this provision, including this paragraph 3. *Subcontracts.* The lessor agrees to include its inclusion in all subcontracts of lower tier. The term "lessor" as used in these clauses in any subcontract shall be deemed to refer to the subcontractor.

IV. These regulations do not apply to the acquisition, disposal, or management of property and services relating to the transportation of the mails.

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PART III



DEPARTMENT OF LABOR

Office of the Secretary

Interagency Committee on Construction; Stabilization of Prices and Compensation

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 10]

INTERAGENCY COMMITTEE ON CONSTRUCTION: STABILIZATION OF PRICES AND COMPENSATION

Notice of Proposed Rule Making

The President issued Executive Order No. 11588 (36 F.R. 6339) on March 29, 1971, pursuant to the Economic Stabilization Act of 1970 (84 Stat. 799, as amended), in order to stabilize wages and prices in the construction industry, having determined for reasons detailed in the order and in a statement issued therewith that such action with respect to this industry is essential to the maintenance of a strong national economy. Under the provisions of the order, the Interagency Committee on Construction is established with authority and responsibility to develop criteria for the determination of acceptable prices and compensation in the construction industry in consultation with the Secretary of Labor, with the Construction Industry Stabilization Committee established by the order, and with other agencies of the Federal Government, and to issue with the approval of the Secretary of Labor necessary rules and regulations to implement and effectuate the provisions of the order and the criteria established by the Interagency Committee.

Notice is hereby given that it is proposed, pursuant to the foregoing authority, to add to subtitle A of Title 29 of the Code of Federal Regulations a new Part 10 as set forth below, promulgating regulations of the Interagency Committee on Construction with the approval of the Secretary of Labor. The proposed part would prescribe "criteria for the determination of acceptable prices in construction contracts" as well as "for acceptable compensation, including bonuses, stock options and the like" as provided in section 8 of the Executive order and would provide for the application of such criteria and determinations to be made thereunder pursuant to the provisions of sections 9 and 10 of the order. The proposed criteria are designed to assure that prices paid for construction will be decreased in line with decreases in labor costs resulting from actions of the Construction Industry Stabilization Committee, and that compensation paid to overhead personnel in the industry will not be increased disproportionately to comparable levels of pay of other workers. The proposed part also sets forth, in § 10.4, provisions previously adopted concerning organization of the Interagency Committee, channelization of functions, and pertinent procedures concerning matters within its jurisdiction. Functions and procedures concerning the application of the proposed criteria, set forth in other sections of the proposed Part 10, are proposed rules.

PROPOSED RULE MAKING

Interested persons are accorded 30 days from publication of this notice in the FEDERAL REGISTER to submit in writing any data, views, or arguments regarding the proposal by mailing them to the Interagency Committee on Construction, Room 10000, U.S. Department of Housing and Urban Development Building, Washington, D.C. 20410.

The proposed 29 CFR Part 10 reads as follows:

PART 10—INTERAGENCY COMMITTEE ON CONSTRUCTION: STABILIZATION OF PRICES AND COMPENSATION

GENERAL

Sec.	
10.1	Scope and purpose.
10.2	Definitions.
10.3	Coverage.
10.4	Interagency Committee organization and procedure.
10.5	Variations in special cases.

STABILIZATION OF PRICES FOR CONSTRUCTION

10.10	Price limitation.
10.11	Acceptable prices for construction.
10.12	Wage stabilization adjustments.
10.13	Assurance of acceptable prices on Federal and federally assisted projects.
10.14	Assurance of acceptable prices on nonfederally involved projects.
10.15	Rights, obligations, and benefits where contract price adjustments are required.
10.16	Investigations and recordkeeping.

STABILIZATION OF COMPENSATION

10.20	Limitations imposed on compensation.
10.21	Certifications of compliance.
10.22	Records relating to compensation.
10.23	Agency responsibilities.
10.24	Violations.

AUTHORITY: The provisions of this Part 10 issued under secs. 202 and 203, 84 Stat. 799 as amended; 12 U.S.C. 1904 note; secs. 8, 9, and 10, E.O. 11588, 36 F.R. 6339.

GENERAL

§ 10.1 Scope and purpose.

(a) Executive Order 11588 issued on March 29, 1971 by the President pursuant to the Economic Stabilization Act of 1970 (84 Stat. 799, as amended), established the Interagency Committee on Construction and provides, in pertinent part, that the development, in consultation with the Secretary of Labor, with major Government procurement agencies, and with the Construction Industry Stabilization Committee (CISC) established by the order, of "criteria for the determination of acceptable prices in construction contracts" as well as "for acceptable compensation, including bonuses, stock options and the like" is a responsibility of the Interagency Committee. This Committee is authorized, under section 10 of the order, to issue with the approval of the Secretary of Labor such rules and regulations as will effectuate the purposes of the order and as may be necessary to provide for the expeditious and effective conduct of the

responsibilities assigned under its provisions.

(b) This part, which may also be cited as Regulation No. 1 of the Interagency Committee on Construction, prescribes criteria and procedures for application pursuant to the Executive order, relating to the acceptability of prices charged by and paid to construction contractors for the construction projects they undertake and to the acceptability of increases in compensation of owners and general overhead personnel of contractor organizations in the construction business. The criteria prescribed in this part are intended to support and help make effective the actions taken by the Construction Industry Stabilization Committee under the provisions of the order, which places responsibilities in the CISC for determining whether wage and salary increases negotiated in collective bargaining agreements in the construction industry are acceptable, and accordingly for approving or disapproving such increases.

§ 10.2 Definitions.

(a) "Executive order" or "order" means Executive Order 11588 (36 F.R. 6339).

(b) "Interagency Committee" means the Interagency Committee on Construction composed of officers and employees of Federal departments and agencies as designated by the Secretary of Housing and Urban Development pursuant to Executive Order 11588.

(c) "CISC" means the Construction Industry Stabilization Committee established by the Executive order to assure that wage and salary increases contained in labor contracts negotiated with unions representing employees in the construction industry are acceptable in accordance with the criteria contained in the order and in the Committee's rules set forth in Part 2001 of this title.

(d) "Board" means each Craft Dispute Board jointly established by national contractor associations and national and international unions pursuant to the provisions of Executive Order 11588 and regulations of the CISC in Part 2001 of this title.

(e) "Chairman" means the Chairman of the Interagency Committee appointed pursuant to Executive Order 11588.

(f) "Construction" means (1) all work relating to the erecting, constructing, altering, remodeling, painting, or decorating of installations such as buildings, bridges, highways, and the like, when performed on a contract basis, but shall not include maintenance work performed by workers employed on a permanent basis in a particular plant or facility for the purpose of keeping such plant or facility in efficient operating condition; (2) the transporting of materials and supplies to or from a particular building or project by the workers of the contractor or subcontractor performing the construction or the manufacturing of materials, supplies, or equipment on the

site of a project by such workers; and (3) all other work classified as construction in 5.2(g) of this subtitle.

(g) "Construction industry" includes every person, firm, company, or entity engaging in or undertaking any construction as defined in paragraph (f) of this section and every employee employed by such person, firm, company, or entity for the performance of work relating to a project of construction. Where a person, firm, company, or entity has its enterprise organized into separate parts or divisions, and one or more, but not others of such parts or divisions engages in or undertakes construction as above described, those parts or divisions which are not involved in construction are not deemed part of the construction industry, within the meaning of the regulations in this part. Also excluded from the construction industry are materialmen, fabricators, and suppliers of architectural, engineering, and other services or supplies to members of the industry generally, except those operations of such suppliers of materials or services which are performed in connection with specific projects of construction in such manner as to make them a part thereof.

(h) "Construction contract" or "contract" includes any construction subcontract regardless of tier as well as the primary contract unless otherwise specified.

(i) "Construction projects" means all projects in which construction, as defined in the Executive order and paragraph (f) of this section, is undertaken. Included are new and currently on-going projects, whether Federal, federally assisted, or other projects. As referred to in this part—

(1) "Federal projects" include all projects performed under direct contract with a department, agency, or independent establishment of the Federal Government.

(2) "Federally assisted" projects include all projects performed under contract with a non-Federal entity and with Federal financial assistance, in whole or in part, in the form of grants, loans, guarantees, insurance, or otherwise.

(3) "Federally involved" projects include all projects described in subparagraphs (1) and (2) of this paragraph.

(4) "Nonfederally involved" projects include all projects performed under contract with non-Federal entities or persons, public or private, without any financial assistance from the Federal Government.

(j) "Compensation" means the total amount of remuneration in basic pay, bonuses, stock options, commissions and the like, including employer contributions for retirement and health programs and other fringe benefits, paid per year by a construction firm or organization or by any organization or entity or division or part thereof undertaking construction, except a public body, to the owners thereof (exclusive of dividends on classes of corporate stock listed on a

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stock exchange or customarily traded over the counter), or to any class or classes of individuals employed by such firm, organization, entity, or division or part thereof to perform managerial supervisory, sales, architectural, secretarial, and other such functions, and which compensation is taken into account (as, for example, overhead expenses) in computing the contract price to be charged the purchaser for work on a construction project (all such individuals are referred to in this part as "overhead personnel"); but nothing in the foregoing definition shall be deemed to include any wage or salary payments or economic benefits established pursuant to collective bargaining agreements, increases in which are, under the Executive order, subject to review by the CISC.

(k) "Acceptable compensation" means, with respect to bonuses, commissions, or other similar payments, that level of compensation which is calculated according to formulae or procedures that applied prior to March 29, 1971; and with respect to remuneration of overhead personnel on an hourly, weekly, or other periodic basis and related payments, "acceptable compensation" means that level of compensation which does not, after the effective date of the regulations in this part, in general increase the ratio that typically prevailed during the period 1968-1970, or that portion thereof for which records are available, between the compensation paid to overhead personnel on such basis and the wage and salary rates prevailing for construction laborers and mechanics in the area where such overhead personnel are headquartered, or, in the alternative, the ratio between the compensation of such overhead personnel and the pay levels prevailing in such area for "white collar" employment, whichever ratio has been adhered to or has remained relatively stable more constantly in the past. Compensation greater than that defined herein as acceptable shall be deemed unacceptable under the Executive order in the application of the regulations in this part, unless the Interagency Committee determines it to be acceptable by the granting of a variance upon an adequate showing as provided in § 10.20(b).

(l) "Hourly labor cost" means the average cost per hour attributable over a specific period to remuneration, including economic benefits, for the services of a specific classification of employees, whether or not members of any union, employed in a craft or branch of the construction industry to perform duties of a character performed by any class or classes of laborers, mechanics, apprentices or other employees whose wage or salary increases are subject to review by the CISC under the Executive order. Such cost includes the earnings per hour at hourly or other periodic rates of pay or at incentive, task, or other rates on whatever basis computed,

as well as the cost per hour of economic benefits of any kinds included in the term "wage or salary" as defined in the Executive order and applied by the CISC, including costs of such payments as for vacation, pension, health and welfare, for defraying costs of apprenticeship or other similar programs and for other bona fide fringe benefits, whether or not paid to a fund, and other direct wage costs determined by the collective bargaining agreement or employment agreement applicable to such employees. Not included are such payments as those for traveling expenses, or other expenses, incurred by the employees in furtherance of their employer's interests and properly reimbursable by the employer or payments, such as workmen's compensation insurance, which the employer is required by law to make.

(m) "Wage or salary" means all wage or salary schedules and economic benefits established pursuant to a collective bargaining agreement in the construction industry (Executive order, section 11(b)).

(n) "Person, firm, company, or entity" includes individuals, corporations, public bodies, partnerships, joint ventures, and any organized group of persons.

(o) "Labor contract" means a collectively bargained agreement which is effective to bind the parties with respect to wages or salaries, subject only to such approval as is required by the Executive order and under the procedures set forth in the CISC regulations published as Part 2001 of this title.

(p) "Federal agency" includes the United States, the District of Columbia, and any executive department, independent establishment, administrative agency, or instrumentality of the United States or the District of Columbia, including any corporation, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or by any of the foregoing departments, establishments, agencies, or instrumentalities.

(q) "Agency head" means the principal official of the Federal agency and includes those persons duly authorized to act in his behalf.

§ 10.3 Coverage.

(a) Except as otherwise provided in paragraph (b) of this section, construction projects covered by this regulation are any undertaking as defined in § 10.2(f) involving or expected to involve labor services performed by two or more construction mechanics or laborers.

(b) Exempt from the requirements of this regulation are—

(1) All contracts involving the sale of construction services of only a single person who neither employs one or more employees nor employs one or more subcontractors, whether such contracts themselves are primary or subsidiary contracts; and

(2) Other specific projects or classes of projects or contracts or classes of contracts which may from time to time be determined by ruling of the Interagency Committee, based upon criteria and procedure hereinafter set forth.

§ 10.4 Interagency Committee organization and procedure.

(a) The Interagency Committee is composed of its Chairman and eight other members. It has adopted the following procedures.

(b) Five members of the Interagency Committee or their designees shall constitute a quorum.

(c) Decisions of the Interagency Committee shall be by majority vote.

(d) Requests of or submittals to the Interagency Committee may be made by mailing them to the Chairman, Interagency Committee on Construction, Room 10.000, U.S. Department of Housing and Urban Development Building, Washington, D.C. 20410.

(e) The Interagency Committee shall convene at the request of its chairman or any two of its members.

(f) The Chairman may make appropriate arrangements to provide such staff personnel for the Interagency Committee as may be determined to be necessary to carry out its functions under the order and the provisions of this part.

(g) The Interagency Committee may utilize such subcommittees and make such delegations of functions as it determines to be necessary to effectuate the purposes of the order.

§ 10.5 Variations in special cases.

The Interagency Committee may, with the approval of the Secretary of Labor, make variations, tolerances, or exemptions from provisions of the regulations in this part in special cases where it finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship or serious impairment in the conduct of Government business. Such action in cases of federally involved construction will be taken only upon application submitted through the Federal agency having jurisdiction with respect to the project and after consideration of its recommendations. Such action in cases of nonfederally involved construction will be taken only upon application submitted by the petitioner to the Interagency Committee, which may seek the advice of other Federal agencies as appropriate.

STABILIZATION OF PRICES FOR CONSTRUCTION

§ 10.10 Price limitation.

No construction firm, company, or entity performing construction work shall charge a price for construction greater than, and no person, firm, company or entity shall pay a price for construction greater than the price level established as acceptable for such construction by § 10.11, unless such construction is specifically exempt from the application of this part under the provisions of § 10.3.

§ 10.11 Acceptable prices for construction.

The maximum price level acceptable for construction which is subject to the provisions of the Executive order and this part shall be the construction price arrived at between the parties, whether through competitive bidding, negotiation or otherwise, less the amount of any wage stabilization adjustment required pursuant to the provisions of § 10.12 and computed as provided therein. No maximum price level established under this section shall, however, be less than that prevailing for such construction on May 25, 1970.

§ 10.12 Wage stabilization adjustments.

(a) Wage stabilization adjustments shall be computed and applied as provided in this section whenever a wage or salary increase proposed or scheduled to be placed in effect pursuant to a collective bargaining agreement has been determined by a Board or the CISC to be unacceptable under the provisions of section 3 or 4 of the Executive order and certification of such determination has been made by the Secretary of Labor. Such action shall be taken whether the disapproved increase was newly negotiated or was a deferred increase provided as part of a collective bargaining agreement negotiated prior to the date of the order and scheduled to take effect after such date.

(b) (1) After such certification that a wage or salary increase has been determined to be unacceptable under the order, a wage stabilization adjustment for each affected contract shall be computed as provided in paragraph (c) of this section.

(2) For purposes of this section any contract pursuant to which any construction work is undertaken shall be deemed an affected contract if—

(i) the contractor or any subcontractor for the work is, after the date on which the disapproved increase would have been effective if found acceptable, obligated to provide labor services in connection with the contract work which involve the employment of any employees in any craft or branch of the construction industry to perform duties of a character performed in such craft or branch by the class or classes of laborers, mechanics, apprentices, or other employees for whom such disapproved increase had been negotiated, and if

(ii) the rates of pay or fringe benefits received by such employees of the contractor or subcontractor or by some of them would normally have been raised to a higher level as a result of the increase which was disapproved, in the absence of the review requirements of the order or of the failure to secure approval of such negotiated increase thereunder.

(3) No contract involving construction which is awarded on the basis of bids submitted or negotiations concluded after the certification that a wage or salary increase has been determined to be unacceptable under the order shall, for

purposes of this section, be considered a contract affected by the disapproval of such increase, for which a wage stabilization adjustment is required.

(4) No contract involving construction shall, for purposes of this section, be deemed an affected contract or be subject to a wage stabilization adjustment hereunder if, as in certain "cost-plus" type contracts, its provisions ensure that the price payable by the purchaser of the construction services for items dependent on the remuneration, including fringe benefits, received by employees engaged in the performance of the contract will include not more than the actual costs to the contractor.

(c) (1) The wage stabilization adjustment for a contract subject to the provisions of paragraph (b) of this section shall be the amount computed as provided in the following subparagraphs of this paragraph (c), representing the decrease in cost to the contractor or subcontractor, attributable to disapproval under the Executive order of the negotiated wage increase, of the services of the individuals employed in the performance of his contract.

(2) Each affected class of employees shall first be determined. Each such class includes all those employees employed, after the date on which the disapproved increase would have been effective if found acceptable, to perform duties of a character performed in the same craft or branch of the construction industry by a specific class of laborers, mechanics, apprentices, or other employees for whom a wage increase previously negotiated was rendered ineffective by the disapproval action. There shall then be determined, for each affected class of employees employed on the contract work in the specified craft or branch for which the wage or salary increase was disapproved, the difference per hour in labor cost between the unacceptable wage and salary level which would have prevailed under the labor contract if the increase had not been disapproved and the acceptable pay level actually prevailing on the contract construction after certification of the disapproval. The determination shall be made by subtracting the hourly labor cost (as defined in § 10.2(1)) at such acceptable level from the hourly labor cost at such unacceptable level. For this purpose the acceptable pay level shall be deemed to be either the preexisting level, if the rates of pay and economic benefits of employees in the affected class continue at that level following certification of the disapproved increase, or, if such rates or benefits have been increased to a higher level as a result of a subsequent approval under the order of a lesser increase than previously disapproved, then such higher level shall be deemed the acceptable level.

(3) The difference in hourly labor cost resulting from disapproval of the wage or salary increase, computed in accordance with subparagraph (2) of this paragraph for each affected class of employees, shall then be multiplied by the

number of hours worked by employees of that class on the contract construction from the beginning of the period during which such increase would have been effective if it had not been disapproved. The resulting figure represents the portion of the wage stabilization adjustment directly attributable to employment of workers of that class on the contract.

(4) The amounts determined for each class of affected employees by the computation in subparagraph (3) of this paragraph shall then be added together. Whenever the calculation of any portion or portions of the contract price for items other than remuneration of the employees in the affected classes depends wholly or in part on the amount of such remuneration, there shall also be computed a difference in price for such items proportionate to the difference between remuneration of such employees during the period involved at the unacceptable level which was disapproved and the acceptable level actually in effect during such period, and the amount of such difference shall be added to the above sum. The resulting total is the wage stabilization adjustment to be subtracted, as provided in § 10.11, from the construction price otherwise arrived at by the parties to the contract in order to determine the maximum acceptable price level for that contract. The price thus determined shall constitute the maximum legal price to be paid and accepted for such construction work, and all final and progress payments shall be adjusted to reflect the reduction in price to a legal level.

(d) Every contract described in paragraph (b) of this section is subject to the wage stabilization adjustment provisions of this section, regardless of whether the employees employed in its performance are covered by a collective bargaining agreement. No variance shall be granted unless the affected contractor shows to the satisfaction of the Interagency Committee that the putting into effect of the negotiated wage increase which was certified as unacceptable would not, on the basis of his past practice, have been followed by a commensurate increase in the pay of his employees performing like work in the same area.

§ 10.13 Assurance of acceptable prices on Federal and federally assisted projects.

Federal departments and agencies are to assure that appropriate provisions to facilitate contract adjustments so as to arrive at acceptable prices are included in all contracts for Federal and federally assisted construction projects on which solicitations for bids or proposals are issued 30 days or more after the effective date of the regulations in this part. The inclusion of such provisions in all contracts not yet entered into on such effective date is also desirable, and should be effected by the Federal agency wherever practicable under applicable statutes and procedures. Each new con-

tractor, as well as contractors on contracts currently in effect, should in any event be advised of the provisions of the regulations in this part relating to acceptable prices for the contract construction to be performed. Departments and agencies shall also, through whatever procedures they have available, secure necessary price adjustments on any contract for a Federal or federally assisted project whenever such adjustments are required under the provisions of this part as a result of certification by the Secretary of Labor of the disapproval of a negotiated wage or salary increase pursuant to the Executive order and applicable regulations. All price adjustments should be initiated as soon as practicable after the disapproval action.

§ 10.14 Assurance of acceptable prices on nonfederally involved projects.

The parties to contracts for nonfederally involved construction projects which are entered into after the effective date of the regulations in this part should take steps to insure that explicit provision for any price adjustments that may be required under the provisions of §§ 10.10-10.12 is made in the prime contract and any subcontracts thereunder. Upon publication in the FEDERAL REGISTER of any certification by the Secretary of Labor of a wage or salary increase as unacceptable under provisions of the Executive order and applicable regulations, the parties to any contract that may be affected thereby under the provisions of §§ 10.10-10.12 shall promptly take the action required for compliance with those provisions. In anticipation of the need for such compliance, the parties to presently existing contracts should endeavor to find ways to make appropriate price adjustments if these should be required.

§ 10.15 Rights, obligations, and benefits where contract price adjustments are required.

(a) Whenever, pursuant to the provisions of §§ 10.11 and 10.12, the construction price arrived at between the parties must be reduced by the amount of a necessary wage stabilization adjustment in order to keep the construction price at a level acceptable under the provisions of the regulations in this part, such reduction shall inure to the benefit of the person or entity purchasing the project work and, where Federal financial assistance to such purchaser is provided for the project, a proportionate adjustment in such assistance may be made by the Federal agency. Any necessary adjustment in the price on the primary contract shall include the amounts of adjustment attributable to the labor savings on the subcontracts thereunder, if any, and the prime contractor shall be responsible therefor to the purchaser of the project work and for effecting the corresponding adjustments on his subcontracts.

(b) No contract, agreement, or arrangement for construction shall be rendered void, voidable, or otherwise unenforceable by reason of the establishment under the regulations in this part

of a price ceiling lower than the price originally arrived at by the parties, the only effect of such ceiling being to reduce the construction price to reflect the decrease in cost to the construction contractor resulting from a decrease in labor costs as a result of wage stabilization action taken under the Executive order.

(c) Private rights of action in law and in equity shall be available to private parties to enforce the regulations in this part relating to acceptable prices for construction in addition to all actions authorized by law to the Federal Government to carry out the purposes of these regulations and the Executive order. In the case of claims relating to construction contracts on private or nonfederally involved projects, disputants shall have normal access to litigation proceedings and/or may request mediation and/or expert testimony from an official of a Federal department or agency with jurisdiction over Federal or federally-assisted construction projects affected by the same disapproval action of the CISC that gives rise to the dispute on the private project.

§ 10.16 Investigations and recordkeeping.

(a) Officials in Federal departments and agencies shall have authority to investigate all construction contracts on federally involved projects under their jurisdiction that are affected by the wage stabilization adjustment provisions of § 10.12 of this part and shall have authority to take whatever action is customary in settling or assisting in settling claims on such contracts. Necessary coordination and direction will be provided by the Interagency Committee with the approval of the Secretary of Labor. The Secretary of Labor may direct that investigations be made of contracts on nonfederally involved projects in appropriate cases.

(b) All contractors shall maintain records, to be preserved for at least 1 year after completion of the work on a construction project and to be available for inspection and copying to the Interagency Committee, Federal agencies concerned, and their authorized representative or designees, which are adequate to establish the hourly labor cost to be used in calculating wage stabilization adjustments under § 10.12. Payroll records maintained in accordance with the regulations of the Secretary of Labor in Part 5 of this subtitle and Part 516 of this title will be acceptable for this purpose.

STABILIZATION OF COMPENSATION

§ 10.20 Limitations imposed on compensation.

(a) Criteria established for determining whether compensation in the construction industry, as defined in § 10.2(j), is at a level acceptable under the provisions of Executive Order 11588 are set forth in the definition of "acceptable compensation" in § 10.2(k). The payment to overhead personnel of compensation at a level greater than that defined as acceptable compensation in § 10.2(k), except to the extent specifically

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authorized by a variance issued as provided in paragraph (b) of this section, is payment of unacceptable compensation within the meaning of the order, and it shall be a violation of the order for any construction firm, contractor, or other seller of construction services, after the effective date of the regulations in this section, to make any such payment or to place into effect any increase in compensation of overhead personnel which would result in the payment of unacceptable compensation as herein determined.

(b) The Interagency Committee may, pursuant to the provisions of § 10.5, allow a variance from the established criteria for determining acceptable compensation where the need for such adjustment has been adequately demonstrated in cases such as those of new firms, new employees, or of the extension of compensation schedules already used in one part of a firm or organization to other parts. A contractor asserting that his pay practices as established in the past justify the application of different criteria has the burden of showing what such practices are and why an adjustment of the criteria to conform with them is necessary and proper.

§ 10.21 Certifications of compliance.

(a) Certifications from sellers of construction services assuring compliance with the provisions of this part relating to acceptability of compensation paid to overhead personnel shall be furnished as provided in this section, and records in support thereof shall be maintained and preserved as provided in § 10.22. Such certifications and supporting records are required of all contractors and subcontractors performing or seeking to perform work on federally involved projects. Persons purchasing or seeking to purchase construction services on non-federally involved projects may request the sellers to certify that compensation paid to their overhead personnel is in conformance with the provisions of § 10.20 of the regulations in this part. In the event of any refusal of the request the refusal may be reported to the Chairman of the Interagency Committee for such action as the Committee may deem appropriate.

(b) It shall be a condition of every Federal and federally assisted construction contract, and of every bid or negotiation for such a contract that the contractor file with the Federal agency concerned with the project a signed certification to read as follows:

This is to certify that the compensation paid to overhead personnel of this firm is and will continue to be in conformance with the provisions of § 10.20 of Regulation No. 1 issued by the Interagency Committee on Construction (Title 29, Subtitle A, Part 10, Code of Federal Regulations); that supporting records are and will continue to be maintained and preserved as required by § 10.22 of such Regulation and will be made available for inspection and copying to the Federal agency concerned and to the Interagency Committee, the Secretary of Labor and their authorized representatives or designees; and that like certifications will be obtained from

all firms involved in all subcontracts on all Federal and federally assisted projects undertaken by this firm and kept available for inspection with this firm's records relating to each such project.

Each head of a Federal agency administering programs for Federal or federally assisted construction shall assure that necessary procedures for the filing of such certifications are provided within 30 days after the adoption of the regulations in this section. Within 30 days after promulgation of such procedural provisions, each primary contractor currently engaged on a contract for federally involved construction and each seller of construction services who has submitted a bid or proposal in response to a solicitation for a proposed contract for federally involved construction shall file such a certificate with the appropriate Federal agency in accordance with the procedures provided therefor. After the promulgation of such procedures, each seller of construction services submitting a bid or proposal in response to a solicitation for a federally involved project shall file such a certification therewith or at such time prior to contract award as the Federal agency head may designate.

(c) Prior to final acceptance of a construction project each primary contractor for a Federal or federally assisted project or his authorized representative shall furnish a signed certification in accordance with the procedures provided by the Federal agency head, reading as follows:

This will certify that the compensation paid to overhead personnel of this firm is and has been maintained in conformance with the certification filed previously as a condition for this contract, that certifications of similar conformance have been received from all firms involved in subcontracts on this project, and that appropriate records have been maintained to support these certifications which will be preserved and made available as provided in 29 CFR 10.22.

§ 10.22 Records relating to compensation.

(a) Every construction firm, contractor, or other seller of construction services shall maintain records adequate to establish conformance to the provisions of § 10.20. Records of the following types will satisfy the requirements of this section:

(1) The rates of total compensation being paid to all overhead personnel in the firm or organization;

(2) The rates of wages currently being paid to laborers and mechanics, including apprentices, employed on projects undertaken by the firm in the area or areas where overhead personnel are headquartered;

(3) Relevant comparisons of compensation and laborer and mechanic wages currently being paid in such area, or "white collar" pay there, as the case may be, together with comparisons of compensation paid and such other pay during the period 1968-70 or that portion thereof for which records are available;

(4) Formulae or other procedures currently being used to determine commissions and similar forms of compensation together with such formulae used prior to March 29, 1971;

(5) Certification for each subcontractor working on the project that information on compensation paid by the subcontractor firm or organization which meets the requirements of subparagraphs (1), (2), (3), and (4) of this paragraph has been placed in the appropriate records of such subcontractor. To the extent that such information is available from records maintained and available in accordance with the regulations of the Secretary of Labor in 29 CFR 516 prescribing recordkeeping requirements under the Fair Labor Standards Act, such records will be acceptable for this purpose.

(b) The records required by paragraph (a) of this section shall be updated at least annually until final settlement of the construction contract to which they relate. They shall be maintained for 1 year after final settlement of the contract, and shall be made available for inspection and copying to the Interagency Committee, Federal agencies concerned, and their authorized representatives. Reports thereon from contractors subject to the Fair Labor Standards Act may be required, if deemed necessary, as provided in § 516.8.

§ 10.23 Agency responsibilities.

(a) Each Federal agency head shall exercise such authority as may be available to him to take such steps as may be necessary and appropriate to assure compliance with the compensation stabilization provisions of the regulations in this part by sellers of construction services on projects with which the agency is concerned, including the making of such examinations and investigations as the agency head may deem necessary or appropriate to assure such compliance or verify the accuracy of any certification furnished pursuant to § 10.21, and resolution of disputes under the disputes clause of the contract. Each agency head shall make reports periodically to the Interagency Committee at such intervals and on such matters as may be required by the Committee and at any other time at the specific request of its Chairman. To assure compliance on non-federally involved projects as well as on federally involved projects the Secretary of Labor may take any action authorized under the provisions of the Fair Labor Standards Act or other legislation administered by the Department of Labor.

(b) The Secretary of Labor or his duly authorized representative may, where he deems it reasonably necessary to the proper execution of enforcement responsibility under this section, and in response to requests from the Interagency Committee, utilize the authority available to him under the Executive order and pertinent statutes to serve upon any person subject to obligations under § 10.20-10.22 an order directing him

to produce specific documents in his possession. Such orders shall be served by certified mail, shall describe the documents sought and shall specify the time and place where they are to be produced.

§ 10.24 Violations.

(a) Upon the recommendation of the Interagency Committee, and after evidence received through investigation or otherwise provides reason to believe that a contractor or subcontractor on a federally involved project has disregarded his responsibilities assumed pursuant to the regulations in this part, the Secretary of Labor may authorize an administrative determination, after opportunity to the contractor to be heard, as to

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whether the contractor may be relied upon as a responsible contractor to carry out his obligations under future federally involved contracts, and if such determination is that he may not be so relied upon, may debar such contractor and any firm in which he may have an interest from future participation in contracts for Federal and federally assisted construction work, for a period not to exceed 3 years.

(b) Contractors found in violation of any certification required under the regulations in this part shall be referred immediately to the attention of the Interagency Committee and the CISC. The Interagency Committee shall recommend appropriate disciplinary action to the Secretary of Labor, including debarment

of the violator as provided in paragraph (a) of this section.

(c) Any other action authorized by law shall be available to the Secretary of Labor to carry out the purposes of the Executive order and the regulations in this part.

Signed at Washington, D.C., this 24th day of June 1971.

For the Interagency Committee on Construction.

GEORGE ROMNEY,
Chairman.

Approved:

J. D. HODGSON,
Secretary of Labor.

[FR Doc. 71-9215 Filed 6-29-71; 8:45 am]

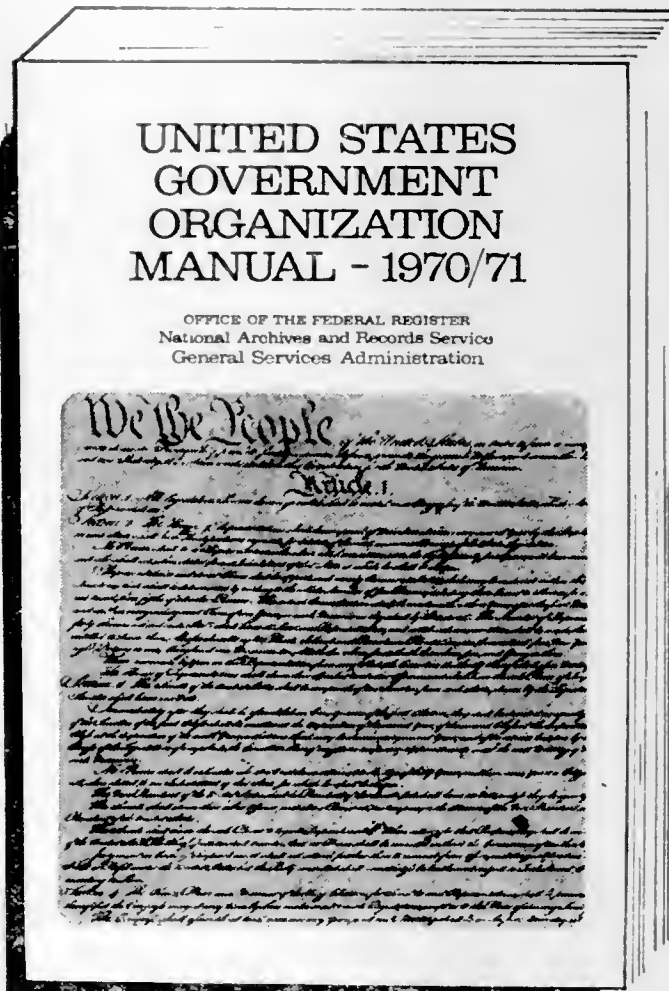
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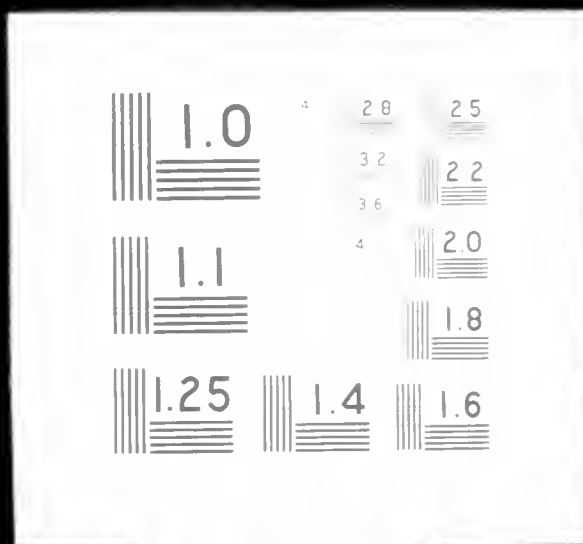
presents essential information about Government agencies (updated and republished annually). Describes the creation and authority, organization, and functions of the agencies in the legislative, judicial, and executive branches. This handbook is an indispensable reference tool for teachers, students, librarians, researchers, businessmen, and lawyers who need current official information about the U.S. Government. The United States Government Organization Manual is the official guide to the functions of the Federal Government, published by the Office of the Federal Register, GSA.



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RESOLUTION CHART



100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "I shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length by 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and $100 \div 20 = 5$.

Examine "I shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and $7.9 \times 5 = 39.5$ lines per millimeter recorded satisfactorily. $10.0 \times 5 = 50$ lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.

